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Better Migration Management
Horn of Africa



Migration in Kenya

A COUNTRY PROFILE 2018



Implemented by:



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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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A COUNTRY PROFILE 2018

Prepared for IOM by
George Odipo, consultant

FOREWORD

The Government of Kenya in partnership with the International Organization for Migration (IOM) is delighted to present the second edition of Kenya's Migration Profile supported under the Better Migration Management (BMM) programme funded by the European Union and the German Federal Ministry for Economic Cooperation and Development (BMZ).

The updated migration profile has been developed in recognition of various new initiatives and development in the field of migration in Kenya. Given the emerging trends in migration governance, the Government of Kenya through the National Coordination Mechanism on Migration (NCM), has been committed to finalizing the Kenya National Migration Policy. It aims to provide a roadmap to address the impacts and challenges of migration and is informed by relevant international, regional and national frameworks including the Kenya Vision 2030, the Big 4 agenda, the Sustainable Development Goals (SDG), the Global Compact for Migration, Migration Governance Framework, the African Union Migration Framework and the Intergovernmental Authority on Development (IGAD) Regional Migration Policy Framework aimed at promoting safe, orderly and humane migration.

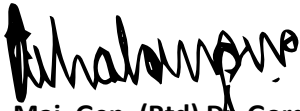
The Kenya's Migration Profile provides a broad framework to Kenya's migration situation at a glance. It has brought existing information from different sources in a structured manner at both the national and regional levels and a means to identify and develop strategies to address data and policy development needs.

Key areas highlighted in the profile are emerging migration trends, the impact of migration on demographics, socioeconomic development, health and environment and lastly, migration governance which encompasses migration policy, laws and regulations.

As the Government of Kenya, understanding the country's migration situation at State level can play an important role in enhancing Kenya's national security and safeguarding its social economic development as migration has a direct impact on both individual well-being and State welfare.

To claim national ownership of updating the migration profile exercise, the Government of Kenya, NCM took the lead together with IOM in consultation with other stakeholders in updating Kenya's Migration Profile.

The Government of Kenya wishes to thank IOM through the BMM programme for its continued support and partnership in assisting to compiling the updated report on migration. We also thank the NCM members who provided feedback and inputs during the review process. It is our hope that the updated Migration Profile will provide useful overview of migration data and trends in Kenya, and act as a tool for informing policy making and for better migration management for Kenya.



Maj. Gen. (Rtd) Dr. Gordon Kihalangwa, CBS

Principal Secretary

State Department for Immigration and Citizen Services

PREFACE

The first Migration Profile for Kenya was published in 2015, and with the dynamic nature of migration, many new developments in legal, operational and policy guidelines initiated by the Government of Kenya are now in place. This updated edition of the Migration Profile, covering the years 2015–2018, represents the joint efforts to collect and consolidate data given the emerging trends in migration governance.

IOM, the United Nations Migration Agency, is committed to the principle of humane and orderly migration that benefits all migrants and society. IOM works with its partners to address the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through safe migration; and uphold the human dignity and well-being of migrants.

IOM Kenya in partnership with the National Coordination Mechanism on Migration (NCM) in Kenya under the Ministry of Interior and Co-ordination of National Government have been working together on various migration issues, including preventing irregular migration and promoting positive impacts of migration within and from the Horn of Africa.

Migration patterns and trends have profound consequences for demographic, social, political and economic conditions. These trends and patterns are critical for informing policymaking and for improved national accounting and planning.

I would like to express my deepest appreciation to NCM for their leadership, with special thanks to Dr. George Odipo for his leadership in making this Migration Profile update possible, and to all stakeholders of the Technical Working Group for their active participation and invaluable contributions. It is my hope that this updated edition will be used by a wider cross-section of local stakeholders in order that migration and development processes become truly inclusive and sustainable.



Michael Pflinger
Chief of Mission
IOM Kenya

CONTENTS

Foreword.....	iii
Preface	v
List of tables	ix
List of figures	x
Technical working group	xi
Abbreviations and acronyms.....	xiii
Country map and key statistics	xv
Executive summary.....	xvii
Part A: Introduction	1
A.1. Context	1
A.2. IOM migration governance framework	10
Part B: Migration types, trends and characteristics	19
B.1. Introduction	19
B.2. Internal migration	20
B.3. Triggers and drivers of internal displacement.....	32
B.4. Urbanization status.....	33
B.5. International migration.....	43
B.6. Resettlement trends by country of origin.....	53
B.7. Trafficking and smuggling	61
Part C: Impact of migration	73
C.1. Introduction	73
C.2. Migration and socioeconomic development	73
C.3. Migration and sustainable development	79
Part D: Migration governance and related policies	81
D.1. Introduction	81
D.2. Kenya national immigration policy	81
D.3. Legal and policy frameworks on migration.....	84
D.4. Environment/disaster policy frameworks.....	85
D.5. Border management and security	86
D.6. Citizenship and regular migration.....	91
D.7. Irregular migration.....	98
D.8. Migration and cross-cutting policies.....	102
D.9. Migration policy implementation and coordination.....	109

Part E: National dialogue on the global compact for migration.....	117
E.1. Introduction.....	117
E.2. National dialogue on Global Compact for Migration.....	117
E.3. Focus of global compact.....	120
E.4. International cooperation and governance of migration	122
E.5. Migrants and diaspora in sustainable development	123
E.6. Smuggling of migrants, trafficking in persons and contemporary forms of slavery	125
E.7. Legal framework.....	126
E.8. Irregular migration and regular pathways.....	128
 Part F: Legal frameworks on migration in kenya	 131
F.1. Introduction.....	131
F.2. National legislation frameworks and policies.....	131
F.3. International cooperation on migration management.....	158
F.3. Regional migration policies and treaties	173
F.4. International Migration Treaties.....	181
 Part G: Key findings and recommendations.....	 189
G.1. Migration governance framework.....	189
 Annexes.....	 203
Annex A: International glossary	203
Annex B: National glossary	207
Annex C: National data sources.....	209
Annex D: Non-governmental organizations working on refugee affairs and assistance in Kenya.....	211
Annex E: Key international and regional migration instruments	212
Annex F: Regional migration agreements, treaties and bills	213
 References.....	 215

LIST OF TABLES

Table 1:	Demographic vital statistics, 2018.....	2
Table 2:	Population distribution in Kenya by age and sex, 2018.....	2
Table 3:	Key demographic characteristics for Kenya's population in 2017	2
Table 4:	Country status by 'Building Blocks' of Effective Migration Management	15
Table 5:	Per cent distribution of migrants by place of birth and enumeration.....	21
Table 6:	Per cent recent migrants by age, sex, rural–urban and regional, 2009	24
Table 7:	Number of male migrants per 100 female migrants by place of migration and age, 2009	25
Table 8:	Urban population by regions, 2009.....	36
Table 9:	Population by major urban centres, 2009.....	37
Table 10:	Urbanization trends in Kenya, 1948–2009	38
Table 11:	Urbanization trends by region, 1989–2009.....	38
Table 12:	Urban population by size category of urban centres, 1962–2009	39
Table 13:	Urban formal and informal settlements population by region, 2009	41
Table 14:	Formal and informal settlements population by urban centres, 2009	42
Table 15:	Number of passports issued, foreign nationals registered and work permits issued, 2014–2017	44
Table 16:	Business visitors by country of residence, 2014–2016.....	44
Table 17:	Total tourists at Jomo Kenyatta International Airport/Moi International Airport by region of origin.....	46
Table 18:	Displacement summary, January 2018	48
Table 19:	Refugees and asylum seekers in Kenya, 2016–2017	49
Table 20:	Refugees and asylum seekers stock by main location in Kenya, 2016–2017	50
Table 21:	Urban refugees and asylum seekers (Nairobi) by country of origin, 2015–2017	51
Table 22:	Demographic characteristics of refugees and asylum seekers in Kenya.....	52
Table 23:	Refugees and asylum seekers by registration, status determination and resettlement status.....	54
Table 24:	Resettlement submission by country of origin.....	55
Table 25:	Resettlement submission by country of resettlement	55
Table 26:	Refugee resettlement by country of origin	56
Table 27:	Refugees by third country of resettlement	57
Table 28:	Resettlement submissions by country of origin, 2015–2017	58
Table 29:	Resettlement Departures by Country of Origin, 2015–2017.....	58
Table 30:	Resettlement departures by country of resettlement, 2015–2017.....	59

Table 31: Resettlement submissions by country of resettlement, 2015–2017.....	60
Table 32: Voluntary repatriation from Kenya by country of origin	61
Table 33: Source, transit and destination countries for migrant smuggling	66
Table 34: Major sources of Kenya diaspora remittances by regions, 2016–2018.....	74
Table 35: Types of disasters and their impacts	78
Table 36: Policy Framework on Migration of the Government of Kenya	131
Table 37: Legal framework of the Government of Kenya (2006–2012)	132
Table 38: Visas granted by the Government of Kenya	141
Table 39: Work permits granted by the Government of Kenya	141
Table 40: Passes granted by the Government of Kenya.....	142
Table 41: Institutions involved in migration governance, Government of Kenya	148
Table 42: Summary of Kenya Policy towards the diaspora	172
Table 43: Migration Issues in the IGAD Migration Policy Framework.....	175
Table 44: Migration issues in the AU Continental Migration Policy Framework, 2006	176
Table 45: African Union Treaties signed by the Government of Kenya.....	177
Table 46: International Treaties and the Government of Kenya (as of 2018)	182
Table 47: United Nations Conventions adopted by the Government of Kenya (as of 2018).....	183

LIST OF FIGURES

Figure 1: Five domains of the Migration Governance Index	13
Figure 2: Top ten counties with net gains in recent migrants	23
Figure 3: Pastoral and transhumance regions in the IGAD Region.....	27
Figure 4: Pasture regions and prioritized cross border transhumance routes	28
Figure 5: Prioritized cross border transhumance routes.....	29
Figure 6: Cross-border clusters	31
Figure 7: 11-City primacy index in Kenya, 1948–2009	40
Figure 8: Number of tourists by country of origin at Jomo Kenyatta International Airport, 2017	45
Figure 9: Smuggling and trafficking routes in the East and Horn of Africa.....	62
Figure 10: Southward route (through Kenya towards South Africa)	65
Figure 11: Monthly remittance inflows	76

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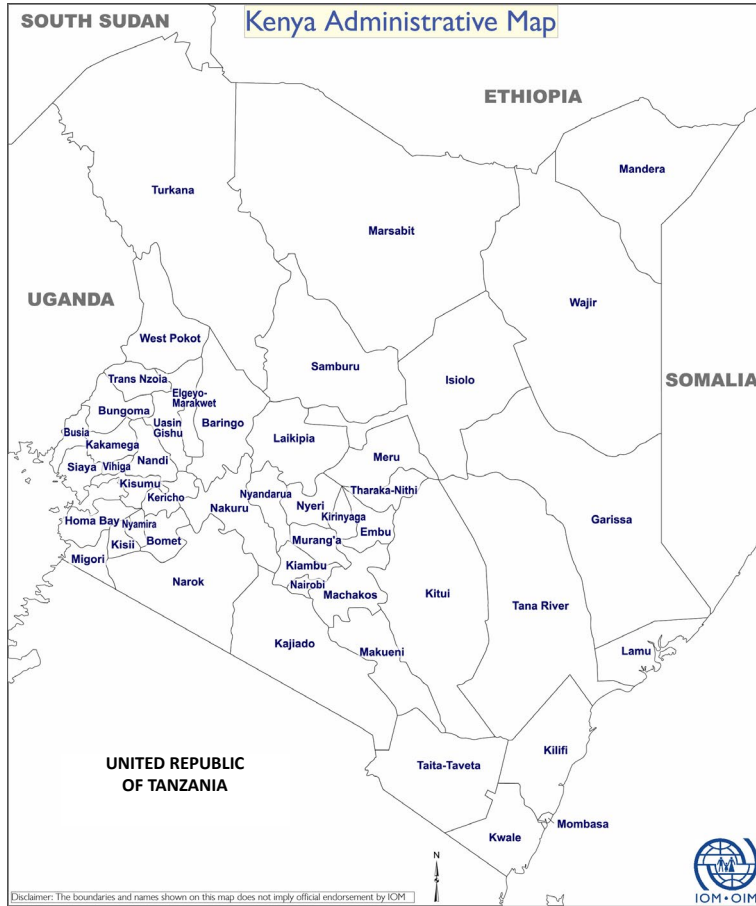
* NCM was officially launched in 2016 by the Government of Kenya under the IGAD Regional Migration Framework. IOM was designated by the IGAD to technically support the establishment of the NCMs in the IGAD region.

ABBREVIATIONS AND ACRONYMS

ACHPR	African Charter on Human and Peoples Rights
AKA	Also Known As
AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
COMESA	Common Market for Eastern and Southern Africa
CRC	Convention on the Rights of the Child
DCS	Department of Children Services
EAC	East African Community
GDP	Gross Domestic Product
GHGs	Green House Gases
HIV	Human Immunodeficiency Virus
HLD	High Level Dialogue
IAWG	Inter-Agency Working Group
ICAO	International Civil Aviation Organization
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and Communication Technology
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Persons
IGAD	InterGovernmental Authority on Development
ILO	International Labour Organization
IOM	International Organization for Migration
IPCC	Inter-Parties on Climate Change
KHRC	Kenya Human Rights Commission
KNBS	Kenya National Bureau of Statistics
KPHC	Kenya Population and Housing Census
MECLEP	Migration, Environment and Climate Change: Evidence for Policy
MGI	Migration Governance Index
MDA	Migration for Development in Africa
4Mi	Mixed Migration Monitoring Mechanism Initiative
MMTF	Mixed Migration Task Force
MPI	Migration Policy Institute
MTP	Medium Term Plan

NCCAP	National Climate Change Action Plan
NCCRS	National Climate Change Response Strategy
NCCS	National Council for Children's Services
NCM	National Coordination Mechanism on Migration
NCPD	National Council for Population and Development
NGO	non-governmental organization
NLMP	National Labour Migration Policy
OAU	Organization of African Unity
OHCHR	Office of the High Commissioner for Human Rights
PISCES	Personal Identification Secure Comparison and Evaluation System
RCP	Regional Consultative Process
RMMS	Regional Mixed Migration Secretariat
SDG	Sustainable Development Goal
SIU-CID	Special Investigations Unit –Criminal Investigation Department
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
UNAIDS	United Nations Programme on HIV/AIDS
UN	United Nations
UNCT	United Nations Country Team
UNCTC	United Nations Convention Against Transnational Crime
UN DESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USD	United States dollar

COUNTRY MAP AND KEY STATISTICS



Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

Geography					
Total area, sq. km2	582,646				
	2009	2010	2011	2012	2013
Human and social development					
Life expectancy at birth for females, annual averages	60	61	62	63	n.a.
Life expectancy at birth for males, annual averages	57	58	59	59	n.a.
Enrolment (primary), millions ²	1,914,422	2,193,071	2,370,049	2,405,504	2,465,605

¹ Sources: ^a1999 Kenya Population and Housing Census; ^b2009 Kenya Population and Housing Census.

² KNBS (2014). *Economic Survey 2014*. Nairobi: KNBS, p.42.

Enrolment (secondary), millions ³	1,472,634	1,653,384	1,767,720	1,914,823	2,104,262
GDP per capita (Current), KES ⁴	62,981.6	66,807.2	77,061.2	83,723.7	90,876.2
Human Development Index, HDI ⁵	0.516	0.522	0.527	0.531	0.535
Remittances and other financial flows					
Remittance inflows, thousands to millions USD ⁶	609,156	641,943	891,129	1,170,892	1,290,577
Remittance outflows, millions USD ⁷	60.80	19.10	25.86	14.51	n.a.
Foreign direct investment (net inflows), millions USD ⁸	366,792.3	401,100.8	462,490.4		
Official development assistant (net inflows), billions USD ⁹	1.776	1.628	2.482	2.654	n.a.
Remittance inflows, percentage of GDP ¹⁰	2.1	2.1	2.7	3.0	n.a.
		2000	2005	2010	2050
Population					
Total estimated population	41.8 million ¹¹				
Total, millions	28,688,599	33,445,119	38,610,097	100,960,657	
Female, millions	15,504,079	17,201,337	18,764,959	48,640,000	
Male, millions	14,704,286	16,243,783	17,743,296	48,901,000	
Urban, millions	5,429,790a	7,719,000	12,023,570b	44,302,000	
Urban, % of total population	19.3a	n.a.	31.3b	n.a.	
Rural, thousands	23,258,809a	n.a.	26,586,527		
Rural, % of total population	80.7	n.a.	68.7	n.a.	
International migration					
Net migration rate per 1,000 population (%)	0.9	0.7	0.7	n.a.	
International migration stock, thousands	311,716	n.a.	411,532	n.a.	
International migrants as % of total population ¹²	2.4	2.2	2.0	n.a.	
Female migrants as % of all international migrants	0.2	50.8	50.8	n.a.	
Foreign population (non-nationals), thousands ¹³	755,351	780,071	817,452	n.a.	

³ Ibid. p.47.

⁴ KNBS (2014). *Economic Survey*, 2014. p.9.

⁵ UNDP, Human Development Index (HDI). <http://hdr.undp.org/en/content/human-development-index-hdi-table>

⁶ Central Bank of Kenya www.centralbank.go.ke/index.php/diaspora-remittances

⁷ <http://knoema.com/WBRIO2013/migration-and-remittances-factbook-2013?country=1001000-kenya>

⁸ KNBS (2014:281).

⁹ http://data.worldbank.org/indicator/DT.ODA.ALLD.CD/countries/1W?order=wbapi_data_value_2012%20wbapi_data_value%20wbapi_data_value-last&sort=asc&display=default

¹⁰ World Bank <http://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?display=default>

¹¹ KNBS (2014).

¹² NCPD (2013). Kenya Population Situation Analysis. Nairobi: NCPD p.219.

¹³ Ibid. p.219.

EXECUTIVE SUMMARY

Kenya is a multi-ethnic, multi-cultural and multi-religious country, home to one of the largest refugee populations in Africa and some of the world's oldest refugee camps. Ongoing policy developments are shaping migration management, and Kenya's role and strategic location in East Africa continues to influence migration flows and structure migration systems in the country.

Migration trends

Irregular migration and human trafficking

Kenya is a regional hub for irregular migration as a destination, origin and transit country towards South Africa, the Middle East and North Africa, West Africa, Europe and North America. Kenya is also a source, transit, and destination country for human trafficking. In recent years, the Government has made significant efforts to address the problem of trafficking for instance, by launching a national referral mechanism, issuing new registration requirements and a code of conduct for private labour recruitment agencies, including training on the issue in its police training curricula, and assigning labour attachés to Kenyan missions in key destination countries. Key areas which remain to be addressed include the protection and treatment of victims. Smugglers use existing trade routes frequented by nomadic ethnic groups from the Horn of Africa to North Africa and beyond. Some countries in Eastern Africa operate primarily as transit countries, whereas others are major source countries. There are three main destinations for migrants from Eastern Africa, which are Europe, the Middle East and Southern Africa. The route to Southern Africa via Kenya, the United Republic of Tanzania, Malawi and Mozambique to South Africa is where the majority of irregular migrants are destined.

Immigrant populations

The vast majority of immigrants in Kenya are from other African countries and, of these the majority are from East African countries or partner states. There has been an increase in the number of foreign nationals registered, during the years 2014–2016, with a decline in the year 2017 as follows: 22,326 (2014); 25,091 (2015); 37,033 (2016); and 29,318 (2017), respectively. There was a decline in the number of work permits issued between the years 2014 and 2016. During the period 2014–2016, the following variations were witnessed: year

2014 (10,540); year 2015 (7,683) and year 2016 (5,851). However, there was an increase in the year 2017 (8,366); which could be attributable to an increase in the number of foreign companies setting base in Kenya, and an improvement in the economy of the country. A comparative assessment of the years 2015 and 2016 shows an increase in the number of business visitors coming to Kenya from all the regions of the world. For instance, in the year 2016, there were about 70,700 business visitors from Europe, departing from Kenya, compared to 70,500 in the year 2015. The trend is similar for business visitors from North America (21,800 in 2016 compared to 20,200 in 2015); Africa (54,500 in 2016 compared to 49,700 in 2015); Asia (35,200 in 2016 compared to 33,900 in 2015), and; Oceania (Australia, New Zealand and others) was 7,200 in the year 2016 compared to 7,100 in the year 2015.

Refugees and stateless persons

Kenya hosts one of the largest refugee populations and asylum seekers in the world, approximated to be 488,415 as of January 2018. There are two main refugee camps, Dadaab in Garissa County and Kakuma in Turkana County. The majority of the refugees and asylum seekers in Kenya originate from Somalia (58.2%). Other major nationalities are South Sudanese (22.9%), Congolese (7.3%); and Ethiopians (5.7%). This large concentration of humanity in an environmentally fragile eco-system presents both ecological and resource challenges. Political and economic instability in the neighbouring countries continues to contribute to transnational crimes in the country among them international terrorism. By the end of 2017, over 65,000 refugees were reported to be living in Nairobi. Nairobi hosts the largest urban refugee population, with the majority living in Eastleigh. The urban refugee population of about 174,349 individuals is spread in four areas of Eastleigh: Eastleigh South, Eastleigh North, Airbase and the informal settlement of Kiambio. The trend of resettlement departures by country of resettlement show that since the year 2015 through to 2017 there was an increase in the year 2016, but a decline in the year 2017. The United States was the country of preference for resettlement over the years, followed by Canada and Australia, in that order.

Emigration

Estimations of the size of the Kenyan emigrant community vary. Key drivers of emigration appear to be access to employment and education opportunities. Top destinations are the United Kingdom, the United States, and other African countries, particularly the United Republic of Tanzania and Uganda. However Kenyans can be found in most regions of the world, including Asia, the Middle

East, Latin America and the Caribbean, and Oceania. Migration to the Middle East for employment appears to be trending upwards, particularly to Saudi Arabia. Departures of citizens exceed arrivals of foreigners, meaning that Kenya has a net emigration rate. As of 2014 this net emigration rate was -0.22 per 1,000 persons. However, the skilled emigration rate is an estimated 35 per cent, raising concerns about loss of skilled personnel in key sectors. The health sector is a particular concern, with estimates of the emigration rate of health professionals reaching as high as 51 per cent.

Internal displacement

Kenya is affected by internal displacements as a result of conflict, natural disasters, climate change and environmental degradation, and forced evictions. In general, there is a paucity of data on internal displacements, with most of the available information focused on the post-elections displacements of 2007. Displacements due to political violence have occurred following every election held in the country (in 1992, 1997, 2002 and 2007) with the most recent post-election displacements being the most severe, with over 650,000 persons displaced. New instances of violence-related displacement continue to occur regularly, although on a much smaller scale. In 2013, 182,282 persons were displaced as a result of disasters. Data is lacking on the number of persons displaced as a result of climate change and environmental degradation, which particularly affects pastoralists, but anecdotal evidence suggests that pastoralists have to move further from traditional grazing areas and for longer periods of time in order to find pasture and water for their livestock. Development and environmental protection projects have resulted in forced evictions.

Impact of migration

Migration and demographics

As of 1 January 2018, the population of Kenya was estimated to be 49,167,382 people. This is an increase of 2.65 per cent (1,269,299 people) compared to population of 47,898,083 the year before. In 2017, the natural increase was positive, as the number of births exceeded the number of deaths by 1,280,316. However, due to levels of emigration in 2017, the overall population of Kenya declined by 11,017 people. The sex ratio of the total population was 1.000 (1,000 males per 1,000 females) which is different from the global sex ratio; as the global sex ratio in the world was approximated as being 1,016 males to 1,000 females in 2017.

Migration and economic development

Migration has contributed to economic development in different ways, with most of the focus being on the financial contributions of the Kenyan diaspora which has been estimated to about 185 billion Kenyan shillings in 2017, forming one of the highest contributions to the GDP. In addition, the number of tourists visiting Kenyan destinations as well as for business has attracted some revenue that has also impacted on the national GDP. There has been evidence of contribution through foreign investment where multinational companies have established offices within the country as well as a host of world renowned hotels in urban and semi-urban areas that have contributed to the national economy. Furthermore, the improvement of mobile money transfer has expanded the reach of the services beyond the Kenyan borders making it easier to transact businesses and send money across different parts of the country.

Remittance inflows to Kenya declined by 1.7 per cent in July 2017 compared to inflows recorded in June 2017 reflecting lower inflows from North America, However, when compared to inflows recorded in July 2016, inflows in July 2017 increased by 13.1 per cent. The decline in remittances is further accentuated when expressed in United States dollars because of the weakening of the Euro, the British pound and the Ruble against the United States dollar. The 12-month cumulative inflows to July 2017 were 7.7 per cent higher at USD 1,777 million compared to USD 1,650 million over the same period in 2016. The 12-month average inflows to July 2017 also sustained an upward trend to USD 148.1 million from USD 137.5 million over the same period in 2016. Remittances as a share of GDP stabilized at 2.4 per cent over the twelve months to July 2017.

Migration, employment and the labour force

The majority of the Kenyan labour force is engaged in informal or subsistence farming. Poverty, lack of development, and lack of opportunities in rural areas are key drivers of out-migration. Migration has a significant impact in certain sectors, for example, in the health sector where a sizeable portion of health professionals emigrate. Youth are more heavily affected by unemployment: as of 2009, 15.8 per cent of youth aged 15 to 19 and 13.1 per cent of youth ages 20 to 24 were unemployed, compared to the overall unemployment rate of 8.6 per cent. Youth unemployment is likely a key driver or rural–urban migration and of youth emigration. The Government of Kenya's Youth Employment Scheme Abroad aim to match Kenyan youth to employment opportunities abroad; between 2008 and 2013, 13,535 youth went abroad for employment under this scheme.

Migration and social development

With regards to living conditions and poverty, rural Kenyans who migrate to informal settlements and become part of the urban poor face significant disadvantages with respect to morbidity, mortality, access to health services, and risky sexual behaviours. With regards to education, Kenya produced teachers for the international labour market, yet faces teacher shortages in the country.

Migration and health

Kenya is a major transit country for migrants from the East and Horn of Africa travelling south to South Africa or north to the Middle East and Europe. Many of the migrants are undocumented and often face a number of social, legal and economic challenges, such as immigration status and language barriers, that deter them from accessing vital health-care services. Since Kenya's first national consultation held in May 2011, various milestones have been achieved. These include the creation of a Technical Working Group by the Ministry of Health to spearhead the migrant health agenda and an analysis of the legal and policy framework on migration and health in Kenya (2013). This has resulted in government ownership of the need to provide more migrant-friendly health services. Other achievements include a study on health vulnerabilities of urban migrants in greater Nairobi that provided strategic information for monitoring migrants' health; and the launch of a National Strategy on HIV/AIDS and STI Combination Prevention along Transport Corridors.

Disparities in access to health-care services between rural and urban areas contribute to rural–urban migration as Kenyans seek access to the better services available in urban areas. Rural migrants, however, do face health risks if they live in informal settlements, where there are higher levels of morbidity and mortality, as well as higher levels of risky sexual behaviours and drug use. There is a link between mobility and HIV infection, as populations along transport corridors remain substantial contributors of new infections and comprise populations that are not adequately covered by existing prevention efforts. Recent studies have demonstrated that throughout Africa many new HIV infections occur along major transport corridors and truck-drivers have overall higher prevalence rates of HIV and sexually transmitted infections than non-truck driving male counterparts. In Kenya, HIV prevalence is 15 per cent amongst truck drivers. High levels of transactional sex, multiple concurrent partnerships, low consistency in condom use, drug and alcohol use, and sexual and gender-based violence, amongst other factors, contribute to vulnerabilities to HIV transmission along transport corridors. The health vulnerabilities of urban

migrant populations have been documented in Kenya, particularly in Eastleigh, where IOM found that the vast majority of migrants residing in Eastleigh have irregular migration status and are therefore deprived of basic health services due to fear or distrust of authorities and the limited availability of health services specifically targeting urban migrants.

Migration and environment

Kenya is vulnerable to flooding and drought. Climate change and environmental degradation has contributed to increase in the frequency and severity of both. As agriculture is the most important sector of employment in the country, climate change and environmental degradation is of key concern. Residents from environmentally vulnerable communities have adopted migration as both an adaptation and income diversification strategy. Pastoralists in particular are vulnerable to climate change, and loss of livestock due to famine and drought has forced some pastoralists to abandon their traditional livelihoods and migrate to settled communities in search of work. Those that remain in traditional livelihoods have at times resorted to migrating further afield and for longer periods of time in the search of pasture and water for their livestock. Rural to urban migration places additional pressures on urban infrastructures and can contribute to urban pollution. Kenya's refugee camps are situated in environmentally fragile locations, and the presence of large refugee populations has contributed to environmental degradation such as deforestation and pollution from solid waste.

The most common environmental hazards in Kenya are drought and floods. For example, 80 per cent of Kisumu residents say they have experienced floods several times while 91 per cent of Kitui residents have not experienced any flood occurrence, illustrating the flood-prone nature of Kisumu County due to its proximity to the flood plains of Lake Victoria and the drought-prone nature of the arid and semi-arid lands of Kitui County (MECLEP Kenya, 2017). Severe droughts and irregular rainfall have been experienced by 84 per cent of Kisumu residents and 91 per cent of Kitui residents. Nairobi county has experienced less of these two common hazards (30 per cent have experienced floods several times while 70 per cent have not experienced any drought or irregular rainfall), confirming its status as a destination urban county where the effects of climate and environmental change are less pronounced (MECLEP Kenya, 2017).

Migration governance

Policy framework

There are four key policy documents relevant to migration: Kenya Vision 2030, the National Migration Policy, the National Labour Migration Policy, and the National Diaspora Policy. The Kenya Vision 2030 is the Government of Kenya's national planning strategy, and is implemented through a series of five-year Medium Term Plans. The overall vision of Kenya 2030 is to “transport Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by the year 2030” through three pillars: economic, social, and political. Minor references are made to migration in Vision 2030, but it does not adequately mainstream migration as a potential contributor to national development. The National Migration Policy remains in draft form, as does the National Labour Migration Policy. A National Diaspora Policy was launched in early 2015, and aims to, inter alia: mainstream diaspora issues into national plans; provide opportunities for Kenyans in the diaspora to contribute to national development; safeguard the basic rights and living standards of the diaspora, and establish the necessary institutions for the coordination and administration of diaspora issues.

Laws and regulations

The Constitution of Kenya (2010a) permits dual citizenship and limits the grounds upon which citizenship can be revoked. Article 39 provides every person with the right to freedom of movement and the right to leave Kenya while Article 42 specifies the economic and social rights every person is entitled to. Other key national laws relevant to migration include the Kenya Citizenship and Immigration Act and related regulations, the Kenya Citizens and Foreign Nationals Management Service Act; the Refugees Act; the Security Laws Amendment Act; the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act; and the Counter Trafficking in Persons Act. With regard to international legislation, Kenya has adopted the Convention relating to the Status of Refugees, the United Nations Convention Against Transnational Organized Crime and its protocols on trafficking in persons and migrant smuggling, but is not a signatory to a number of key international treaties and conventions relevant to migration, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Kenya has signed a number of relevant regional agreements such as the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, the Treaty for the Establishment of the East African Community, and the

Protocol on the Establishment of the East African Community Common Market, but it has not signed or ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Institutional framework and international cooperation

There are a number of government ministries, departments, and agencies with migration-related functions. Key ministries include the Ministry of Interior and Coordination of National Government, the Ministry of Foreign Affairs and International Trade, the Ministry of Devolution and Planning, the Ministry of East African Affairs, Commerce and Tourism; and the Ministry of Labour and Social Protection. A number of international organizations and United Nations agencies, amongst them IOM, the United Nations High Commission for Refugees, the International Labour Organization, and the United Nations Office on Drugs and Crime, as well as international and national non-governmental organizations, work on migration issues in Kenya. To further strengthen inter-agency coordination in migration management and governance, in 2016 the government launched the National Coordination Mechanism on Migration (NCM) comprised of key stakeholders in migration management and non-state actors. Its key purpose is to facilitate inter-agency coordination on migration issues at national and regional level.

As a follow-up to the 2016 Global Compact for Migration, discussions were organized at national level to create awareness among national level stakeholders about the Global Compact; help countries formulate positions; and to consolidate recommendations for consideration by the co-facilitators in developing the zero draft of the Compact. In the East and Horn of Africa, national multi-stakeholder consultations were organized in Uganda, Kenya, Djibouti, Somalia, and Ethiopia. The consultations drew participants from government ministries, civil society organizations, UN agencies and the private sector in order to gather substantive input and concrete recommendations to inform the development of the Global Compact for Migration. The National Dialogue on the Global Compact for Kenya was held in Nairobi on 17 October 2017. The National Dialogue was organized by the NCM, and discussed a range of issues, including the need to invest in elements of the Sustainable Development Goals that seek to address factors contributing to forced migration and which impede the ability of migrants to live and work in a safe environment and lead productive lives.

Recommendations

Recommendation 1: The Government of Kenya should develop and implement a comprehensive migration governance framework, including through the finalization and implementation of the National Migration Policy and the National Labour Migration Policy.

Recommendation 2: The Government of Kenya should strive to meet its responsibilities and obligations towards asylum seekers and refugees under international law.

Recommendation 3: The issue of forced migration should be incorporated into the migration governance framework and appropriate policies and programmes together with partners and stakeholders.

Recommendation 4: The Government of Kenya and concerned stakeholders should make explicit linkages between urban planning and migration in both policy and programming.

Recommendation 5: The Government of Kenya should continue its efforts to ensure that it meets the minimum standards for addressing the problems of trafficking and smuggling.

Recommendation 6: The Government of Kenya and concerned stakeholders should increase cooperation to improve the capacity of relevant ministries, departments and agencies to effectively implement migration policies, laws and regulations.

Recommendation 7: The Government of Kenya should ensure linkages are made between the migration governance framework and the national security policy.

Recommendation 8: The Government of Kenya should ensure that migration governance policies take account of environment disaster management.

Recommendation 9: The Government of Kenya, migrants, and diaspora should work together to realize the full potential contributions of migration to national development.

Recommendation 10: Appropriate training institutions should be established or strengthened to support the contributions of migration to development.

Recommendation 11: The Government of Kenya should consider establishing a Migration Research Unit.

Recommendation 12: The Government of Kenya should consider mechanisms to promote open source access to migration data for researchers, scholars, and experts for analysis of underutilized datasets.

Recommendation 13: The International Organization for Migration (IOM) and other institutions should continue to expand its capacity development initiatives in Kenya.

Recommendation 14: Additional research projects are needed to fill knowledge gaps on key migration issues and to provide an evidence base for policy.

PART A: INTRODUCTION

A.1. Context

Location and geography

Kenya is situated in the eastern part of Africa; it is surrounded by the countries of Uganda, South Sudan, Ethiopia, Somalia and the United Republic of Tanzania and has a coastline on the Indian Ocean. Kenya lies on the equator and encompasses a total area of 582,646 km², of which 571,466 km² are covered by land and the rest by water.

Kenya has a pleasant, tropical climate but there are large regional climatic variations influenced by several factors such as altitude; temperatures drop by around 6°C for every 1,000m above sea level (or 3.5°F per 1,000 ft). Kenya day time temperatures average between 20°C/68°F and 28°C/82°F. The climate is characterized as mostly warm with pockets of cool and wet areas, particularly in the highland regions. Coastal areas and the northern parts of the country are mostly arid and hot. Kenya has dry and wet seasons. There are long (March to May) and short (October to December) rainy seasons interspersed with dry spells in the months of January to March and May to October. Topographically, the country is sub-divided into two major regions, namely: the lowlands, which include the coastal and Lake Basin; and the highlands, which constitute much of both sides of the Great Rift Valley.

Population and demographic indicators

The overall population trend shows a decline due to out-migration despite an increase in birth rates as well as immigration. As of 1 January 2018, the population of Kenya was estimated to be 49,167,382 people (UN DESA, 2018). This was an increase of 2.65 per cent (1,269,299 people) compared to population of 47,898,083 the year before (UN DESA, 2018). In 2017, the natural increase was positive, as the number of births exceeded the number of deaths by 1,280,316 but due to emigration, the population of Kenya declined by 11,017 people. This trend is expected to continue. By the beginning of 2019, Kenya's population is projected to increase by 1,302,936 people and reach 50,470,318 (UN DESA, 2018). The natural population growth is expected to be positive, with births continuing to exceed the number of deaths by 1,314,244 (UN DESA, 2018). If out-migration remains the same as for the year 2017, the population will decline

by 11,308 due to the number of people who leave Kenya to settle permanently in other countries (emigrants) being higher than the number of non-citizens who move into Kenya in order to settle as either permanent or temporary residents (immigrants). The population of Kenya is expected to increase by 3,570 persons daily in 2018 (UN DESA, 2018). According to United Nations estimates, the vital demographic statistics for 2018 are shown in Table 1, the population distribution in Table 2 and key demographic characteristics in Table 3.

Table 1: Demographic vital statistics, 2018

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

Source: UN DESA, 2018.

Table 2: Population distribution in Kenya by age and sex, 2018

Age	Male	Female	Total	
			Absolute	Per cent
Under 15	10,452,002	10,299,092	20,751,094	42.2
15-64	13,616,415	13,480,221	27,096,636	55.1
65+	595,417	724,236	1,319,653	2.7

Source: UN DESA, 2018.

Table 3: Key demographic characteristics for Kenya's population in 2017

Demographic characteristics	Indicators
Births	1,697,029
Deaths	416,713
Natural increase	1,280,316 people
Migration	Net migration: -11,017 people
Males	24,583,691 males as of 31 December 2017
Females	24,583,691 females as of 31 December 2017
Population density (May 2018)	84.7 people per square kilometre (219.4/m ²)
Total area of Kenya (sum of land and water areas within international boundaries and coastlines)	580,370 km ² (224,082 mi ²)
Child dependency ratio	76.6 per cent
Total dependency ratio	81.5 per cent
Aged dependency ratio	4.9 per cent
Total Life expectancy (both male and female)	59.5 years
Male life expectancy at birth	58.9 years

Demographic characteristics	Indicators
Female life expectancy at birth	60.1 years
Adult male literacy rate	81.08 per cent (11,523,522 persons). 2,688,310 are illiterate
Adult female literacy rate	74.9 per cent (10,638,712 persons). 3,565,745 are illiterate
Total youth literacy rate	85.9 per cent
Male youth literacy rate	85.21 per cent
Female youth literacy rate	86.59 per cent

Source: UN DESA, 2018.

Migration management in Kenya

IOM defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is (IOM, 2011a). IOM concerns itself with migrants and migration-related issues and, in agreement with relevant States, with migrants who are in need of international migration services (IOM, 2011a). On the other hand, migration is defined as the movement of a person or a 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; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification (United Nations, 2017).

Migration management is a term used to encompass numerous governmental functions within a national system for the orderly and humane management for cross-border migration, particularly managing the entry and presence of foreigners within the borders of the State and the protection of refugees and others in need of protection. It refers to a planned approach to the development of policy, legislative and administrative responses to key migration issues. Together with birth (fertility) and death (mortality), migration forms a third fundamental yet often ignored element in determining population growth and structure.

International migration affects all countries in one way or another, either as countries of origin, transit or destination. The dynamism and number of international migrants in Kenya is rapidly increasing and this trend is likely to persist in the foreseeable future. Migration, if well managed, can benefit both

countries of origin and destination. Benefits include remittances, creation of employment opportunities and the acquisition of new knowledge, skills and capital transfer.

On the other hand, poorly managed migration has the potential to destabilize national and regional security and development; for example, as has been the case with Al-Shabaab in Somalia and Boko Haram in north-eastern Nigeria. Over the years the incoherence in migration governance and management, and related non-observance of migrants' rights has negative implications in terms of international terrorism, increased transnational crimes, xenophobia, discrimination and exploitation among others, according to publicly available sources. Kenya is no exception to this global phenomenon; hence the need to develop a national policy that maximizes the opportunities created by migration and at the same time addresses its challenges.

Updating Migration in Kenya – A Country Profile 2015

The Government of Kenya is in the process of formalizing a policy framework to manage migration. During the period 2006 to 2018, there have been major policy and legal developments on migration issues. Yet, many of the policies remain in draft form; this has delayed strategy formulation, implementation and migration mainstreaming. Key gaps which remain in terms of mainstreaming migration into development plans include safeguarding the rights of citizens, internal migrants such as internally displaced persons and international migrant workers and refugees. The lack of proper coordination, capacity and information-sharing has hampered the finalization and implementation of policies (NCM, 2017).

The National Coordination Mechanism on Migration (NCM) consultative workshop on the draft migration policy held in March 2017 and January 2018 aimed at reviewing and updating the *Migration in Kenya – A Country Profile 2015*. It is within this context that a revision of the aforementioned 2015 country profile was produced in order to take account of emerging trends in migration and border governance occurring between 2016 and 2017 and to develop a coherent migration governance framework for Kenya. The *Updating of Migration in Kenya: A Country Profile 2015* project collates existing migration data and migration policy frameworks relevant to migration governance in Kenya, as enshrined in the constitution and ratified treaties and conventions at the national, regional and international levels, as well as the United Nations Development Assistance Framework and Kenya's Medium-Term Plan II.

IOM Kenya in partnership with the NCM which comes under the Ministry of Interior and Co-ordination is implementing a programme known as *Better Migration Management* which is co-funded by the Deutsche Gesellschaft für Internationale Zusammenarbeit and the European Commission. The intervention is based on four components:

- (a) Strengthen national governments in pursuing a whole of government approach to migration and border governance;
- (b) Strengthen the capacity of all institutions and agencies responsible for migration and border management;
- (c) Improve the identification, assistance and protection of victims of trafficking and vulnerable migrants, especially women and children, in the Horn of Africa; and
- (d) Raise awareness of alternative livelihood options including safe migration.

IOM supports the process of developing a comprehensive national migration policy including by *Updating of Migration in Kenya: A Country Profile 2015* as a contribution to component one.

Sources and types of data

In terms of migration data sources in Kenya, these are diverse but there are challenges in the coordination and sharing of data among various stakeholders working in the field of migration. The sources include the media and research reports produced by international agencies. There is no single agency or organization that collects all forms and types of migration data. While the Government of Kenya collects partial migration data gathered during census exercises and day-to-day migration data through the Immigration Department, it could do more to collect data on irregular migration across national borders. Mostly, there is need to coordinate stakeholders working in the field of migration to share data, so as to avoid the duplication of roles and activities, and to develop evidence-based migration guidelines based on shared and coordinated data collection. As in other regions, there is little publicly available evidence to show that this is happening.

Data collected in the region is from organizations with a global mandate on migration, refugee or smuggling issues (IOM, UNHCR and UNODC, respectively) or organizations with a specific mandate to look at mixed migration in the region, including migrant smuggling (such as RMMS). International non-governmental organizations may collect data on specific persons of concern to

their programmes, including smuggled migrants, victims of human trafficking and mixed migration flows of refugees, asylum seekers and other migrants. For example, Human Rights Watch captures data on protection issues and human rights of irregular migrants in the region. Most attention is on mixed migration research, which partly covers smuggling though mixed migration and smuggling are not synonymous.

Other organizations with relevant data include:

- Independent research centres and organizations located in the region such as the Tanzanian Mixed Migration Task Force or in other parts of the world such as the International Centre for Migration Policy and Development.
- Regional expert groups, such as the African, Caribbean and Pacific Observatory on Migration, funded by the European Union.
- Donor initiatives including the Emergency Trust Fund for Africa and regional initiatives including the forthcoming Forced Displacement and Mixed Migration Secretariat setup by IGAD which will be looking to reinforce the state of research in the region in the coming years.

A popular tool for data collection on migration issues is the Data Migration Tool often referred in short as the DTM Migration Kit. It is an effective tool used for advanced data management. The tool is designed for the multi-vendor environment, and to provide support or enhance usage of existing migration databases. It allows the user, database administrator or developer to import data from popular formats, to export database content, and to acquire data from different data sources.

No single agency has taken up the responsibility of collecting migrant smuggling data. Organizations present in East Africa with an interest in but which may not systematically collect data on migrant smuggling include: UNODC; RMMS; UNHCR; Human Rights Watch; Global Initiative against Transnational Organized Crime; Global Alliance Against Traffic in Women; IOM; Médecins Sans Frontières; Amnesty International; and International Rescue Committee. There may be some data on smuggling as part of wider data which may also be available online, for example:

- Regional migrant smuggling data with trends, dynamics and observations produced by UN DESA, UNODC, RMMS, and IOM. Specific data may include, for example, UNHCR's research aimed at understanding the use of the services offered by smugglers to access safe countries. These organizations also produce guidance documents to enable agencies to understand the dynamic nature of migrant smuggling in Eastern Africa. IOM's existing data is based on smaller samples, sometimes focusing

more on human trafficking and including migrant smuggling as a process by which traffickers transport their victims. IOM's insight has led to the identification of trafficking/smuggling routes frequented by migrants. In addition, the migration profiling exercise by IOM is an important way of taking stock of migration in countries and identifies gaps as well as changes in trends and policy.

- Ad hoc journalistic reports on arrests, deportation and the business of migrant smuggling, and in particular data on smuggled migrants arrested at border points, are made by the media (international and local).
- Advocacy reports by Human Rights Watch and Amnesty International highlight protection issues faced by smuggled migrants.
- Regional governmental authorities such as IGAD which recently conducted an assessment of human trafficking and migrant smuggling from Eastern Africa to Europe (RMMS, 2014b). Though the focus of the study was on Somali and Eritrean migrants, the report provided a snapshot of smugglers, their networks, the smuggling routes and protection risks faced by migrants travelling through the desert and in Libya.
- International law enforcement agency, the European Border and Coast Guard Agency (known as Frontex) captures data on smuggled people, arrests and deportations of irregular migrants. INTERPOL provides guides, tools and training on migrant smuggling and border management issues to governments through its Smuggling Training Operations Programme. This programme trains law enforcement officers from INTERPOL Member States to detect criminal activities, including those involved in providing fraudulent documentation to irregular migrants. In Eastern Africa, training has been provided to Kenya and Uganda in 2011 and Rwanda in 2013 which has given them access to INTERPOL's resources, such as the Stolen and Lost Travel Documents Database.
- Government-led research efforts have funded experts to take stock of irregular migration, and through that, smuggling in the region. The Australian Government's funding of a research programme and occasional paper series included a piece by Christopher Horwood in 2015 presenting an overview of irregular migration flows in the Horn of Africa, the challenges and implications for source, transit and destination countries (Horwood, 2015). Within the scope of the paper on irregular migration, Horwood reviews the geographic nodes of smuggling in the region – from Kenya as a regional hub for the organization of smuggling, to Bossaso, Puntland as the “epicentre” of smuggling in the region (Horwood, 2015:42) – the role and the cost of smuggling in facilitating irregular migration out of the region. Symptomatic of the rest of the research in the region, smuggling is viewed through the lens of irregular migration research.

The available data is thus collected in the process of identifying human trafficking victims, and is therefore not specifically focused on smuggling. This data is used as proxy indicators of migrant smuggling to understand the phenomenon in the region. Similarly, ongoing research on mixed migration has the twin focus of researching irregular migration through the prism of forced and voluntary migration, as well as methods of migration. The issue of smuggling can fall under such research themes. Hence, most, if not all, the data on smuggling is collected indirectly, without specific smuggling indicators and rather through the use of proxy indicators. Given the number of organizations which come across smuggling issues in the region, but which are not focusing on smuggling as their core area of data collection and analysis, East Africa presents an opportunity for partnerships on smuggling data collection and analysis. The partnerships could involve the development of data collection tools to be adopted by partner agencies in capturing smuggling data to ensure uniformity and reduce duplication.

The RMMS Mixed Migration Monitoring Mechanism initiative is a step in that direction as the data is captured by trained volunteers working along the migratory routes where information on abuses on smuggled and/or trafficked migrants or access routes is captured. The latest project of RMMS focuses on migration originating from the Horn of Africa, and targets Eritrean, Ethiopian, Djiboutian and Somali people on the move, who are highlighted in this chapter and in the research of RMMS as the main populations of smuggled persons in the region. Hence, although the project does not focus on smuggling, it looks at “smuggler-dominated movements” (RMMS, 2016a, 2017a, 2017b). The website’s infographics section includes a section on smugglers that provides the option to filter the information by current smuggler location, origin, gender, the state of the smuggling business from the perspective of smugglers themselves, and the benefits of smuggling as a source of employment in the region. The questions used aim to assess whether smuggling is a profitable business, a business on the rise or on the decline, and the employment background of smugglers. The approach taken is one that is market-driven, trying to assess the cost-benefit and economic trade-offs inherent to the business of smuggling.

Migration policies and guidelines

Increased understanding of the situation of migrants should provide the basis for the formulation of policies and programmes that promote their equality and safeguard their well-being. For instance, the *World Survey on the Role of Women in Development* (UN, 2014) made a number of recommendations for improving the situation of women who are migrants or refugees as well as for

those who have been the victims of trafficking. The recommendations include a call on Governments to:

- Ratify and implement all international legal instruments that promote and protect the rights of migrant women and girls;
- Review their national migration legislation and regulations in order to identify discriminatory provisions and modify them;
- Develop legal literacy programmes to promote better understanding of the human rights of women;
- Develop policies and programmes to enhance the access of migrant women legally present in their territories to employment opportunities, safe housing, education and language training, health care and other services;
- Support research and improved data collection activities to provide a basis for the formulation of gender-sensitive migration policies and programmes.

Migration governance and human rights

Conventions, laws and practices governing the rights of migrants in receiving countries affect migrants. Migrant workers who are recruited as domestic workers or those who are unauthorized workers in the country of destination are often vulnerable. Depending on the destination country, they may have no protection or recourse in case of abuse. For instance, labour market segmentation based on gender and the segregation of women in traditionally female occupations (nursing, secretarial work, garment industry work and so on) mean that migrant women are often paid less than migrant men who are concentrated in higher-paying occupations (ILO, 1975).

A number of international instruments outline the human rights of migrants; yet, many national laws regulating the admission and stay of international migrants include provisions that negatively impact the human rights of migrants. For instance, laws may include provisions that prevent migrants from being accompanied by their spouses and children or that make it difficult for them to achieve family reunification. In addition, the types of occupations that most migrant women work in, such as domestic labour, mean that they may not receive adequate protection under labour laws.

Mainstreaming gender issues

Gender is a key organizing principle of society and is central to any discussion of the causes and consequences of international migration, including the process of decision-making involved and the mechanisms leading to migration (United Nations, 2006). Previous approaches to documenting and understanding international migration often disregarded the migration of women, just as analytical frameworks either ignored the participation of women in international migration, their contributions and/or assumed that the causes and consequences of international migration were similar for migrant women and men; thereby avoiding investigations of how migration and its outcomes varied by gender.

Understanding the causes and consequences of international migration from a gender perspective would therefore acknowledge that hierarchical social relations related to gender do shape the migration experiences of either migrant women or men. Importantly, understanding whether migration occurs due to gender inequality or that, migration helps to perpetuate gender disparities is important to guide the formulation of policy and measures to address the specific needs of either gender that migrate (Oishi, 2002; United Nations, 1995 and 2001).

Remittances, community development and livelihoods

International migrants contribute to the economic development of their countries of origin through their competencies and skills, remittances and their increased experience when they return home. Often, migrants help family members to migrate by paying for the costs of the move. Remittances sent back are then used to improve the well-being of other family members and to improve family incomes. In countries of destination, migrants may be able to improve their own standard of living. In many countries, migrants also form and participate in diaspora non-governmental organizations that lobby for better migration laws, good governance and global partnerships among countries.

A.2. IOM migration governance framework

IOM's Migration Governance Framework provides guidance on how a State can effectively and efficiently undertake and leverage migration governance. The framework expounds the essential elements for facilitating orderly, safe, regular and responsible migration and the mobility of people through planned and well-managed migration policies. It is worth noting that on the matter of human mobility and its related human rights issues, there is a clear relationship between

emergency, rehabilitation and development interventions and migration is a relevant and key component of all. Emergency assistance should be provided in ways that supports long-term development to ensure a smooth transition from relief to rehabilitation. At the same time, economic growth and sustainable development are essential for the prevention of, preparedness for and resilience against natural disasters and other emergencies. The Migration Governance Framework seeks to present, in a consolidated, coherent and comprehensive way, following set of three principles and three objectives which, if respected and fulfilled, would ensure that migration is humane, orderly, and benefits both migrants and society (IOM, 2015b):

(a) Principles:

- (i) Adherence to international standards and the fulfillment of migrants' rights: Humane and orderly migration requires compliance with international law, whereby, all individuals within a State's territory, regardless of nationality or migration status are treated without discrimination, in order to preserve their safety, physical integrity, well-being and dignity. Protecting the rights of individuals includes combating xenophobia, racism and discrimination, ensuring adherence with the principles of equality and non-discrimination, and ensuring access to protection.
- (ii) Migration and related policies are best formulated using evidence and whole-of government approaches: Migration policy must be based on facts and a well-founded analysis of the benefits and risks the movement of people poses to the State. Thus, strategies that assure timely collection, analysis and use of credible data and information on, among other things, demographics, cross-border movements, internal displacement, diasporas, labour markets, seasonal trends, education and health should be in place, so as the State can ensure that migration and mobility policy advance its broader interests.
- (iii) Good migration governance relies on strong partnerships: Governing migration requires partnerships to broaden the understanding of migration, and to develop comprehensive and effective approaches. Migration and mobility implicate multiple actors that involve States and their neighbours, subnational authorities, local communities, migrants and their families, Diasporas, employers and unions. In addition, there are dozens of intergovernmental and non-governmental organizations whose mandates touch on migration and humanitarian action.

(b) Objectives:

- (i) Migration governance and related policy should seek to advance the socioeconomic well-being of migrants and society;
- (ii) Migration governance should be based on effective responses to the mobility dimensions of crises;
- (iii) Migration should take place in a safe, orderly and dignified manner.

Indicators for measuring migration governance

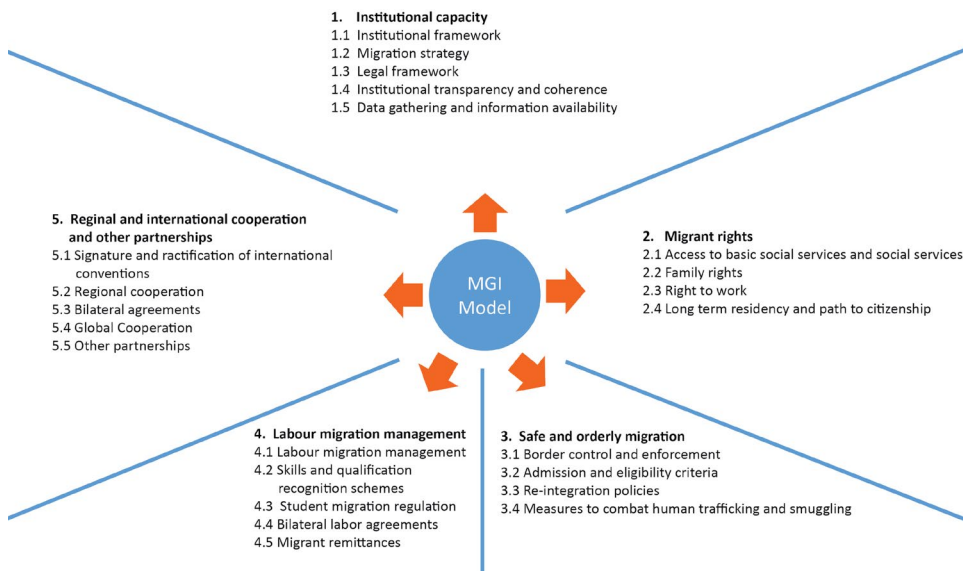
The need for better migration management is becoming more acute as the numbers of migrants, refugees and displaced people continue increasing to high record levels. The question, however, is what constitutes well-governed migration, what would it consist of and how would it be measured? This section discusses a new proposition, namely the Migration Governance Index and describes its features and intentions (RMMS, 2016b). The MGI was commissioned by IOM and designed by the Economist Intelligent Unit. In its inaugural publication of April 2016 (IOM, 2016), the MGI presented a new methodology for measuring migration governance and tested it on 15 countries worldwide as part of Phase One. A second phase will aim to replicate the same exercise in a larger number of countries, Kenya included.

The new indicators aim to respond to the need for a measurement tool as highlighted by the inclusion of explicit migration objectives in the Sustainable Development Goals adopted by the United Nations General Assembly in September 2015. Although migration relates to various goals and targets in the SDGs, Target 10.7 features migration directly and tasks nations to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”. The Migration Governance Index uses 73 qualitative questions to define well-managed migration and measure performance across five domains identified as the “building blocks” of effective migration management. The domains are:

- Institutional capacity
- Migrant rights
- Safe and orderly migration
- Labour migration management
- Regional and international cooperation and other partnerships

Each domain has subcategories and the full range of areas covered is shown below (Figure 1).

Figure 1: Five domains of the Migration Governance Index



Source: IOM/Economist Intelligence Unit, 2016.

Deficiencies around safety measurements

The RMMS notes (RMMS, 2016b) that when measuring “safe and orderly migration” (sub categories 3.1 to 3.4 in Figure 1 above) only refer to aspects reflecting ‘orderly’ migration and omit to mention any relating to ‘safe’ migration. Some critics (RMMS, 2016b) have cited the inherent problem of combining safe and orderly into one target as noted by the drafters of the SDGs themselves. Specific safety criteria are relevant because of the rise of irregular migration due to the lack of availability of legal migration channels, which will continue to result in the movement of people via irregular and increasingly unsafe channels.

Additionally, MGI domain 2 on “Migrants Rights” focuses on migrants who are in-country already, overlooking the fact that there is a human rights obligation to also safeguard the rights of those who are on the move transiting sovereign territory – an unavoidable reality that is part of the irregular phenomenon and where most violations occur. The notes for target 10.7 in the SDGs say, “Effective governance under the rule of law is also required to prevent abuse and exploitation of migrants, contain xenophobic hostility, and

sustain social cohesion” (United Nations, 2015a). It could be argued that such an explicit reference should have led to an indicator on safety alone. Equally, the MGI assessment model does not focus on these aspects.

Deficiencies around return measurement

Another observation concerns the implementation of policies and laws related to the return (forced or voluntary) of migrants involved in irregular flows and asylum seekers whose applications have been refused. Adhering to such rules (such as the Return Directive of the European Union, 2008) could be seen as a critical aspect of an effective migration policy – maintaining the credibility of the refugee regime while signaling to smugglers and those in irregular flows that countries are serious about refusing those without access entitlement. While indicators used to inform the MGI cover issues of return from the reintegration side, measurement of adherence and implementation of return appears to have been left out entirely by the MGI domains and the many indicators that inform it.

Avoidance of ranking

The wisdom of not accumulating findings (IOM/EIU, 2016) to create an absolute ranking is that this system allows the observer to see where each country has successes and failures without offering a single absolute score. The domains are quite diverse and combining scores would offer little idea of the actual state of migration governance in a particular country. For instance, from the findings (Table 4), Ghana, scored well (Mature) on regional and international cooperation (the same as Germany), but scored poorly (Nascent) on labour migration management (where Germany scored ‘Developed’). Despite the caveats, the findings for Phase One (Table 4) show that the Philippines scores best, better than Canada and Italy, while the Republic of Korea does better than Sweden.

This is not the only attempt to measure aspects of migration management. The Organisation of Economic Co-operation and Development has ongoing measuring projects (Immigration Policies in Comparison - IMPIC and International Migration Law and Policy Analysis - IMPALA), while the European Research Council-funded Determinants of International Migration (DEMIG) project, which seek to capture, and measure policy used by various countries. The difference is that the new MGI will attempt to offer an index for a far wider number of countries in all global regions and also intends to run indefinitely offering multi-year measurements that can chart improvement and progress.

The 15 pilot countries (Table 4) were, according to IOM, selected on the basis of regional balance, broad migration trends, and economic performance although they appear to include few low-income countries, for instance, from the East and Horn of Africa. The MGI includes both qualitative and quantitative indicators with what is referred to as ‘rigorous weighting and scoring system’ aimed at ensuring validity of the index and consistency across countries. However, it is noted that the designers are emphatic that the MGI should not establish a global ranking of States on migration policy. Additionally, they argue that a global comparison would also have limited meaning as countries face different challenges and opportunities in relation to migration, and have largely different resources to allocate to migration management. Instead of ranking, the index aims to act as a ‘benchmarking framework’ that offers insights on ‘policy levers’ that countries can action to strengthen migration governance.

Table 4: Country status by 'Building Blocks' of Effective Migration Management

Country	Institutional capacity	Migrants rights	Safe and orderly migration	Labour migration management	Regional and international cooperation
Bahrain	Emerging	Emerging	Developed	Emerging	Developed
Bangladesh	Emerging	Emerging	Emerging	Developed	Mature
Canada	Mature	Developed	Developed	Developed	Mature
Costa Rica	Developed	Developed	Developed	Emerging	Mature
Germany	Mature	Developed	Mature	Developed	Mature
Ghana	Developed	Emerging	Mature	Nascent	Mature
Italy	Developed	Developed	Emerging	Developed	Mature
Mexico	Developed	Emerging	Emerging	Developed	Developed
Morocco	Developed	Emerging	Emerging	Emerging	Developed
Philippines	Mature	Migrants rights	Mature	Developed	Mature
Republic of Moldova	Developed	Developed	Mature	Developed	Mature
Republic of Korea	Mature	Developed	Mature	Developed	Mature
South Africa	Mature	Developed	Developed	Developed	Mature
Sweden	Developed	Mature	Developed	Developed	Mature
Turkey	Mature	Developed	Emerging	Developed	Developed

Source: IOM/Economist Intelligence Unit, 2016.

Note: Bandings are based on a scale of 0–10 where 10 is best. Nascent: 0-2.49; Emerging: 2.5–4.99; Developed: 5-7.49; Mature: 7.5–10.

Utility of the index

The MGI's designers (IOM/EIU, 2016) assert that its broad focus gives policymakers a 360-degree overview of important areas where national policies can be improved. However, any attempts to measure results will be forced to lean on preconceived notions of praise-worthy practice, with a tacit or implicit notion of what 'good' governance should be. It is worth noting that one country's preferred and responsible policy may include government action that another country would regard as oppressive and a violation of migrants' rights. Thus, in a context where migration policy is increasingly politicised and polemical, the MGI is bound to be contentious although the MGI debut contribution to the sector deserves to be widely welcomed.

Gaps in 'Migration in Kenya – Country Profile 2015'

In addition to the five domains of effective migration management discussed above, consideration of the relationship between place and mobility, inequality and security concerns, and limitations of migration data and/or relative paucity of information that exists in Kenya, both at national and county levels for the purposes of planning and programming are concerns that needs addressing. Developed countries, such as European Union countries face similar challenges; for example, few systematically or routinely gather information on the migrants. It is worth noting that, unfortunately, existing recording systems are not designed to identify people by migration status.

Generational differences are a key feature of studies on return migration. For instance, a large proportion of those returning, such as, children of refugees/emigrants who have never lived or visited the place they are returning to bring to the fore questions about who constitutes a return migrant, and should this include the descendants of migrants. It is worth noting that diasporic people who return to their historical homelands may take with them children who are leaving behind their places of birth and travelling to countries in which they have never set foot.

This complicates the concept and task of repatriation, especially where people are defined by region as opposed to country of origin. In other cases, people are defined more by ethnic origin rather than their length of stay, or children of migrants and migrants are referred to as one group irrespective of whether they are second generation and born in the country in which they reside in. The growing phenomenon of unofficial and hence unrecorded migration poses another obstacle to understanding the real pace and scope of contemporary

movement and all the ways in which population movement affects policy, planning and programmatic undertakings in Kenya. Notwithstanding, unofficial migration may be even more important a process than official migration in terms of how it affects insecurity, which in the recent past and to date continues to be of concern to current and future national development.

PART B: MIGRATION TYPES, TRENDS AND CHARACTERISTICS

B.1. Introduction

There are two major types of migration; internal and international. Internal migration is a process of movement that involves changing the usual place of residence (for at least a period of six months) to a new place of residence (migration from place of origin to the place of destination) within the national boundaries of a country, by crossing the smallest administrative boundary. Population characteristics such as total size, growth rate, and distribution are influenced indirectly through changes in the three basic determinants of population change, namely, fertility, mortality, and migration. Of the three demographic components, human beings respond best to hazards and other environmental catastrophes through mobility as an adaptation strategy, rather than either multiplication or death.

The most notable types of migration in Kenya are rural–rural, rural–urban, urban–rural and urban–urban; which can be categorised as either lifetime or recent migration. Lifetime migration occurs whenever there is a change in a person’s residence from his/her place of birth. Recent migration (as computed using Kenya 2009 Census) refers to a person’s place of census registration vis a vis where he/she lived one year prior to the census date (that is, August 2009). International migration refers to the movement across international boundaries (changing one’s usual place of residence to another by moving from one country to another country) for at least six months. For both internal and international migration, some movements are permanent, while others are temporary, short time periods. Migration flows affecting Kenya can be broadly categorized as follows:

- Traditional internal and cross-border migration flows linked to nomadism and pastoralism, including those induced by climate change and periodic droughts;
- Forced migration flows due to man-made and natural disasters in Kenya and the neighbouring region, resulting in internal (IDPs) and cross-border displacement (refugees);
- Irregular migration flows due to poverty and lack of livelihood options, including human trafficking and smuggling;

- Mixed migration flows along key migration routes used by various groups of migrants including economic migrants, victims of trafficking and smuggling, asylum seekers and others.

B.2. Internal migration

Internal migration refers to migration across regional administrative boundaries within a country. Internal migration can be categorized by type (in-migration and out-migration) and direction of flow (rural–rural, rural–urban, urban–rural, and urban–urban). However, limited data exist with respect to the directional flow aspects of internal migration due to the difficulty of measuring and conceptualizing such movements. National studies on internal migration are scarce and often limited to analysing in-migration and out-migration between regional administrative boundaries – which is as much as the census data can capture. Furthermore, migration studies of the 1970s and 1980s largely focused on rural-to-urban migration based on sample surveys of migrants and on rural–urban bias and economic theories of push and pull factors (Rempell, 1981).

Despite inadequate attention given to migration in national censuses, migration is one of the three components of population change, in addition to birth and mortality. As such, migration influences the population distribution, structure, composition and size of a country. A systematic understanding of internal migration is critical in any development process and formulation of appropriate policies. Internal migration influences human-capital flows; rural–urban linkages, and information flows and innovations. Furthermore, the dynamics of internal migration are indirectly related to various aspects of regional inequalities that must be addressed. Sustainable Development Goal 10 Target 10.7 calls for “facilitating orderly, safe, regular and responsible migration and mobility of people” including through the implementation of planned and well-managed migration policies.

At national level, international migration is a key component of national population change. Migration has risen to the top of the political and social agenda across the world. Stakeholders working on migration have advocated for the greater inclusion of migration issues in development planning. The African Union Policy Framework on Migration in Africa (African Union, 2017) encourages Member States to integrate migration and development policies, particularly in their poverty reduction strategies and national development plans.

Intraregional migration flows

The general pattern of migration in Kenya, from pre-independence through post-independence period is characterized by movement from rural areas to major urban centres of Nairobi, Mombasa, Kisumu, Eldoret and Nakuru, among others, in search of jobs, education and health facilities. Four regions are known for out migrations, namely, Nyanza, Central, Western and Eastern regions. On the other hand, Rift Valley has continued to be an important in-migration area, particularly, for labour migrants recruited as farm labourers in the larger plantations to provide cheap labour. Equally, some people migrate to Rift Valley to settle because, comparatively, Rift Valley has large arable land, thereby being attractive to those who would want to settle or do farming (Wakajumma, 1986; Odipo, 1995).

Table 5 depicts a matrix of migrant population by place of birth. It is an indicative volume of lifetime regional migration flows. Central, Eastern and Nyanza regions contributed most of the migrants in Nairobi according to the 2009 census. However, compared to 1999 census, the intercensal net-migration pattern had changed, with the Eastern region overtaking Nyanza region, while Western region's contribution to internal migration declined (Table 5). The matrix also shows that the majority of internal migration streams are between neighbouring regions (Table 5). On the other hand, trends of international lifetime migration appear to have changed; in 1999, the highest proportion of population born outside the country was enumerated in Western and Nyanza regions. In 2009 the patterns remained the same in all regions except the North Eastern region which saw a very large increase of migrants coming from outside Kenya (Table 5).

Table 5: Per cent distribution of migrants by place of birth and enumeration

Place of enumeration, 2009	Place of birth								
	Nairobi	Central	Coast	Eastern	North Eastern	Nyanza	Rift Valley	Western	Outside Kenya
Nairobi	0	24.2	2.8	23.5	2	18.4	8.6	15.6	4.9
Central	16.4	0	2.7	24.8	0.6	8.6	34.7	9.8	2.4
Coast	5.3	12.2	0	33.6	4.7	17.7	8.4	12.6	5.4
Eastern	15	33.5	8.6	0	6.6	9.3	17.5	7.8	1.7
North Eastern	1.1	1.9	3.2	8.4	0	1.3	6.5	3.4	74.1
Nyanza	17.7	4.5	8.1	3.7	1.4	0	20.7	35	8.9
Rift Valley	5.5	28	2.1	9.2	0.9	21.7	0	27.9	4.5
Western	9.2	5.8	12	3.1	0.7	28.9	33.3	0	7.1

Place of enumeration, 1999	Place of birth								
	Nairobi	Central	Coast	Eastern	North Eastern	Nyanza	Rift Valley	Western	Outside Kenya
Nairobi	0	26.4	3.1	19.6	0.6	21	5.8	18.7	2.1
Central	14.2	0	3.3	25.9	0.7	11.8	25.5	13.4	3.5
Coast	7.8	15.5	0	31.5	2.5	22.7	4.8	14.8	3.9
Eastern	21.1	31.2	10.5	0	8.7	7	12.6	3.9	3.4
North Eastern	5.5	14.8	13.9	31.5	0	11.4	9.1	7.6	4.7
Nyanza	16.3	4.1	6.9	4.2	0.4	0	18.4	37.3	9.8
Rift Valley	3.8	33	1	5.8	0.4	25.8	0	27	2.1
Western	13.3	7.2	4.6	2.9	0.4	29.6	29.6	0	10.4

Source: Agwanda (forthcoming).

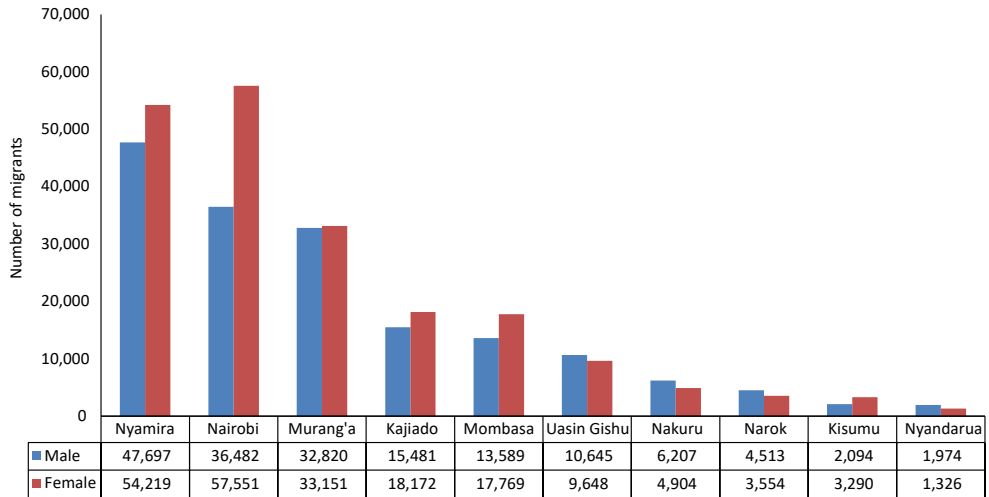
Note: * Place of birth or enumeration means the region of birth or enumeration. As at the time of enumeration of persons in the year 2009, the areas now referred to as regions were called provinces (As from 28 August 2018, the date of the promulgation of the Kenya 2010 Constitution, the name was changed from 'provinces' to 'regions').

The 2009 Kenya Population and Housing Census (KPHC) analytical report on migration (Republic of Kenya, 2012c) states that Nairobi, Central, Coast, Nyanza and Rift Valley regions recorded net gains in recent migration, while Eastern, North Eastern and Western regions recorded net losses in 1999. Nyanza region which recorded a net gain of recent migrants (28,492) in 1999, recorded a net loss of recent migrant (-41,643) in 2009; whereas, the Eastern region that recorded a net loss of recent migrants in 1999, had doubled its net loss of recent migrants in 2009 (at -42,603 and -95,594, respectively) (Republic of Kenya, 2012c). The Rift Valley region remains one of the most favoured in-migration areas, after Nairobi, which recorded 93,033 in-migrants in 2009 compared to 192,110 in 1999. The attractiveness of Nairobi can be attributed to people moving in from all parts of Kenya in search of jobs, and educational institutions; while the Rift Valley remains attractive due to the availability of large tracts of land for agricultural activities and settlement, plus the availability of jobs in urban centres.

In the Central region, the counties of Muranga and Nyandarua had net gains in recent migrants with the majority being females in Muranga, and males in Nyandarua (Figure 2). In the Coast region, Mombasa County had a net gain while the rest of the counties had net losses of migrants. In the Rift Valley, only Kajiado, Uasin Gishu, Nakuru, Narok, Laikipia, Kericho and Trans Nzoia had net gains in population. In the Eastern region, Meru County was the only county with a marginal net gain. In Nyanza region, Nyamira and Kisumu counties had net gains in their population; whereas, no county in North Eastern or Western regions had a net gain. Conspicuously, Nyamira County in Nyanza region had

the highest net gain in population, followed by Nairobi and Muranga counties. Net migration to Nyamira and Muranga counties might be due to migration for settlement, retirement or marriage.

Figure 2: Top ten counties with net gains in recent migrants



Source: Republic of Kenya (2012c).

However, the high recent net migrants to Nyamira could be a reflection of the return of the IDPs of the post2007/2008 election violence. Net gains in Kajiado County could be a reflection of the spill over of migrants to Nairobi who might have failed to secure housing in Nairobi, in addition to settlement in the satellite towns of Kitengela, Ongata Rongai, Ngon'g and Kajiado. It is also noted that the five counties with the highest absolute gains in migration also show that more women than men migrated in these areas. However, among the 10 top migration counties, more male net migrants were in Uasin Gishu, Nakuru, Narok and Nyandarua counties. This shows a changing pattern in internal migration in Kenya from that noted during the colonial legacies of labour migration whereby the patterns of net in-migration were to the cities of Nairobi, Mombasa and Kisumu; the settlement scheme areas of Bura, Mwea Tebera and sugar-belt regions of Nyanza, and; the White Highlands of Central and Rift Valley.

Rural–urban migration

Human mobility in Kenya contributes to an expansion of urban settlements, changing household sizes and composition. Table 6 depicts distribution of migrants by destination, region of origin, age and sex. In the Central and Coast regions, most migration was to urban centres situated in the regions; particularly, in-migration and labourers to the large coffee plantations of Nyeri, Kirinyaga and Kiambu counties, and tea plantations in Kiambu County. In general, male migration was predominant in the urban areas, as compared to female migrants who were predominant in the rural areas; a migration pattern that was prevalent during the colonial era (that is, pre-1963), when male adults moved to urban centres for job purposes, so as to get income to pay hut-tax to the colonial administration. In terms of regional distribution, the Coast region had the highest percentage of migrants (59.5%) in the urban areas, whereas Western had the highest (77.4%) migration in rural areas.

Table 6: Per cent recent migrants by age, sex, rural–urban and regional, 2009

Region	Place	Males					Females				
		0–14	15–24	25–59	60+	Total	0–14	15–24	25–59	60+	Total
Central	Rural	65.6	12.9	20.4	1.1	46.6	66.8	15	17	1.3	44.4
	Urban	44.4	21.9	32.9	0.9	53.4	43.3	30.3	25.1	1.3	55.6
Coast	Rural	76.4	9.3	13.4	0.9	40.5	81.2	8.4	9.2	1.2	37.4
	Urban	50.6	21.6	26.6	1.2	59.5	49.3	27.4	21.3	2.1	62.6
Eastern	Rural	77.6	11.1	13	0.8	66.9	83.6	7.8	7.7	0.8	65.8
	Urban	50.6	18.2	30.3	0.8	33.1	53.1	24.1	21.4	1.3	34.2
North Eastern	Rural	82.4	7.8	8.9	1	73.7	86.3	5.4	7.4	0.9	74.8
	Urban	64.9	13.2	20.7	1.2	26.3	73.4	14.1	11.3	1.3	25.2
Nyanza	Rural	78.4	9.1	12	0.5	66.4	74.7	14.6	10.1	0.6	65.9
	Urban	59.1	18.3	22.1	0.5	33.6	57.2	26.1	15.9	0.8	34.1
Rift Valley	Rural	72.5	11.9	14.7	0.9	62.3	75.9	11.9	11	1.2	60.6
	Urban	46.7	25	27.4	0.9	37.7	47.5	30.3	20.9	1.3	39.4
Western	Rural	82.3	7.4	9.9	0.5	77.4	77.8	12	9.6	0.6	77.5
	Urban	60	17.3	22.1	0.5	22.6	58.7	24.1	16.6	0.7	22.5

Source: Republic of Kenya, 2012c.

Table 7 shows migration by age-sex and place of destination. In general, it shows that those of ages 0–14 constitute the highest proportion of migrants in all the regions in Kenya, followed by those in the age group 25–59 (Republic of Kenya, 2012c). It is only in the Western region where migrants' sex ratio is nearly the same, both in the rural and urban areas although there are some variations in

the different age categories. In the age group 15–24 (youth population), females dominate in mobility in rural Eastern region, North Eastern and Coast; while males dominate in movements in rural Nyanza and Western regions. Except for North Eastern region, the dominant movement is to rural areas (Table 7).

Table 7: Number of male migrants per 100 female migrants by place of migration and age, 2009

Region	Age group					
	Place of destination	0–14	15–24	25–59	60+	Total
Central	Rural	98	86	120	85	105
	Urban	103	72	131	69	96
Coast	Rural	94	111	146	75	108
	Urban	103	79	125	57	95
Eastern	Rural	93	142	169	100	102
	Urban	95	76	142	62	97
North Eastern	Rural	95	144	120	111	99
	Urban	88	94	183	92	104
Nyanza	Rural	105	62	119	83	101
	Urban	103	70	139	63	99
Rift Valley	Rural	96	100	134	75	103
	Urban	98	83	131	69	96
Western	Rural	106	62	103	83	100
	Urban	102	72	133	71	100

Source: Republic of Kenya, 2012c.

Forced migration: Internally displaced persons

According to the United Nations Guiding Principles on Internal Displacement (1996), “Internally displaced persons (IDPs) are persons or a group of persons who have been forced or obliged to flee or to leave their homes of habitual residence, in particular as a result of or in order to avoid effects of armed conflict, situation of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border”. Internal displacement in Kenya is attributed to the following key factors:

- Conflict, including politically instigated violence and resource-based conflicts;
- Natural or man-made disasters (such as fire, floods, landslides and drought);
- Violations of human rights causing arbitrary displacement (such as development-induced displacement and reforestation).

At the international level the UN Guiding Principles on Internal Displacement (1998) serve as an international standard to guide governments as well as international humanitarian and development agencies in providing assistance and protection to IDPs. The principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement and set forth guarantees for safe return, resettlement and reintegration. Although they do not constitute a binding instrument, these principles reflect and are consistent with international human rights and humanitarian law and analogous refugee law.

The Pact on Peace, Stability and Development in the Great Lakes Region (commonly known as the Great Lakes Pact) entered into force on 21 June 2008. The pact provides legal framework governing relations between the Member States, which are: Angola, Burundi, Central African Republic, Congo the Democratic Republic of, the Congo, Kenya, Rwanda, Sudan, the United Republic of Tanzania, Uganda and Zambia. The content comprises of ten protocols of which two are directly related to IDPs and in coherence with the UN Guiding Principles:

- Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children (Article 11).
- Protocol on the Protection and Assistance to Internally Displaced Persons (Article 12).

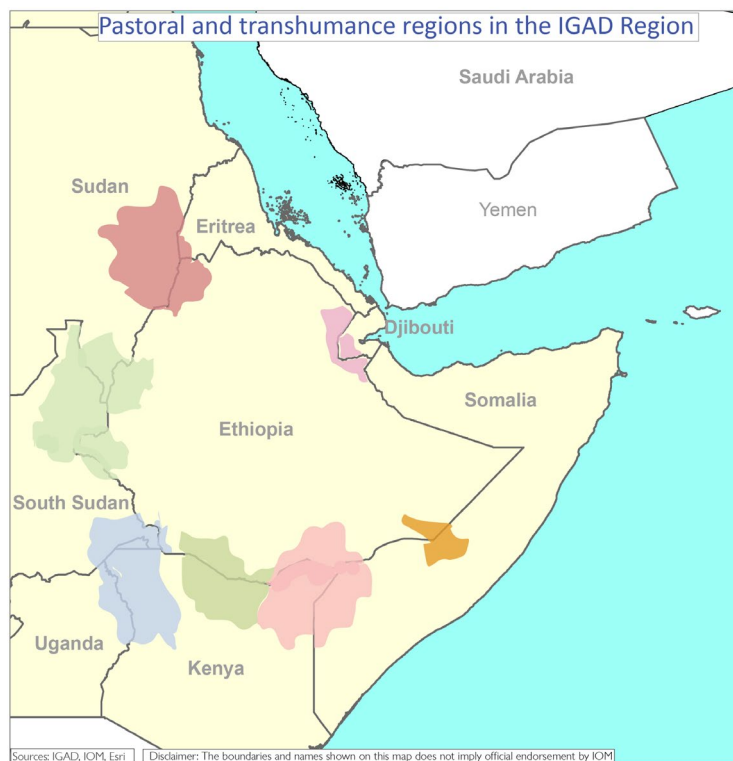
In October 2009, the African Union adopted the Convention for the Protection and Assistance of Internally Displaced Persons in Africa, (also known as the Kampala Convention). Building on the Guiding Principles and the experiences, laws and policies of African States, the Convention is the first regional instrument in the world to impose legal obligations on States in relation to the protection and assistance of IDPs. Since its adoption, the Convention has been signed by 29 countries and ratified by two. A number of African Union Member States are working towards ratification. The Convention will come into force once it has been ratified by 15 of the 53 African Union Member States. Kenya is yet to ratify the Convention and integrate it into national law.

At the national level Kenya still has not adopted a legal framework recognizing and providing for the protection and assistance of IDPs. The 2010 Constitution of Kenya articulates a Bill of Rights that protects the basic rights of IDPs. A draft IDP policy currently under consideration by the cabinet seeks to elaborate on these rights. It was drafted by the Ministry of State for Special Programmes with the support of the Protection Working Group on Internal Displacement (PWGID).

Pastoralism, mobility and displacement

Drought-related displacement of pastoralists may seem like a paradox given that pastoralists are inherently mobile. Indeed, a conventional notion of a pastoralist is a nomad who ‘follows the rains’ to find fodder and water, especially when there is a drought (IGAD, 2018). It can be difficult to distinguish among voluntary nomadic movements, involuntary migration and displacement, particularly in the context of drought. These represent different points along a continuum of human movements where elements of choice and coercion mingle. The process of displacement results from pastoral livelihoods reaching a critical threshold below which pastoralism is not sustainable. Figure 3 shows areas inhabited by large pastoral communities along the common borders of countries in the IGAD region that continually migrate in search of water and pasture across borders.

Figure 3: Pastoral and transhumance regions in the IGAD Region



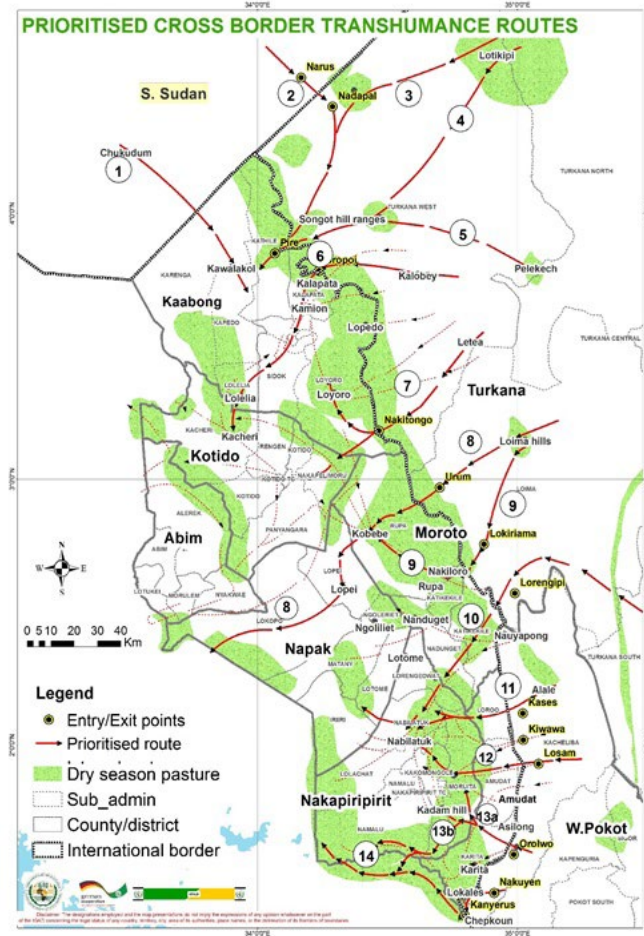
Source: IGAD, 2018.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

Conflict-related to shared land and water

Communal land ownership tenure systems grant pastoralists equal rights to exploit resources, but in practice the use of grazing areas is regulated between and within communities. Thus, drought-related migration in search of pasture and water by one community into areas that belong to others often causes conflict between pastoralists – or between pastoralists and settled farmers. Figures 4 and 5 show pastoralist regions and prioritized cross border transhumance routes in the IGAD region (IGAD, 2018).

Figure 4: Pasture regions and prioritized cross border transhumance routes

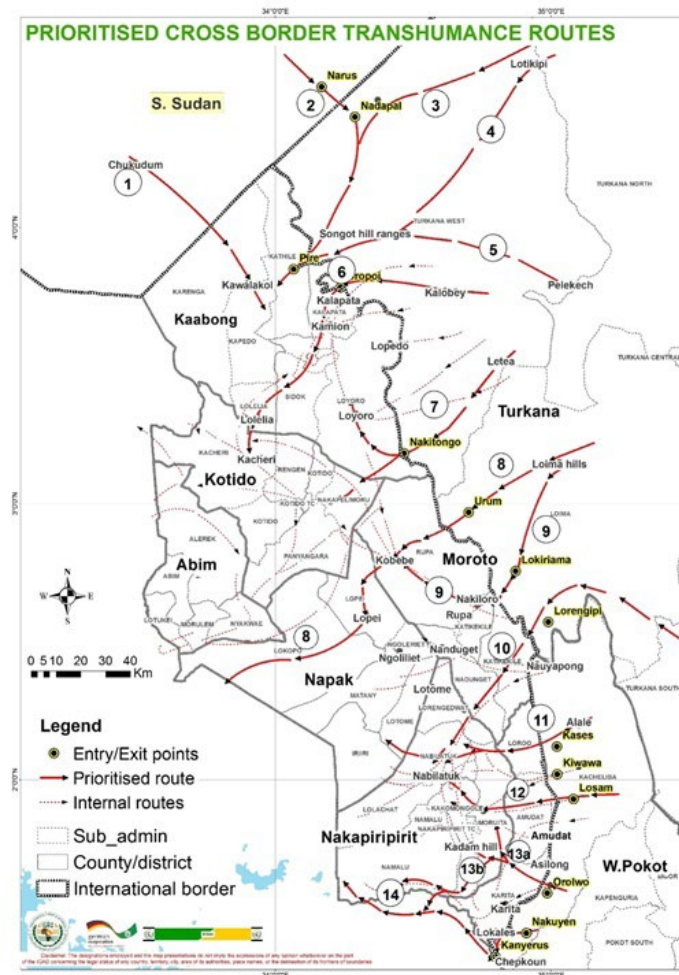


Source: IGAD, 2018.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

The conversion of quality grazing land to semi-private crop production undermines traditional systems of herd mobility because the converted land is often land that had previously been set aside for dry season grazing. Pastoralists' adaptive migration during droughts also involves movement across or (temporary) use of agricultural or other land. Its more intensive utilization can result in conflicts, often with an ethnic dimension, over sharing of land and water.

Figure 5: Prioritized cross border transhumance routes



Source: IGAD, 2018.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

IGAD Transhumance Protocol

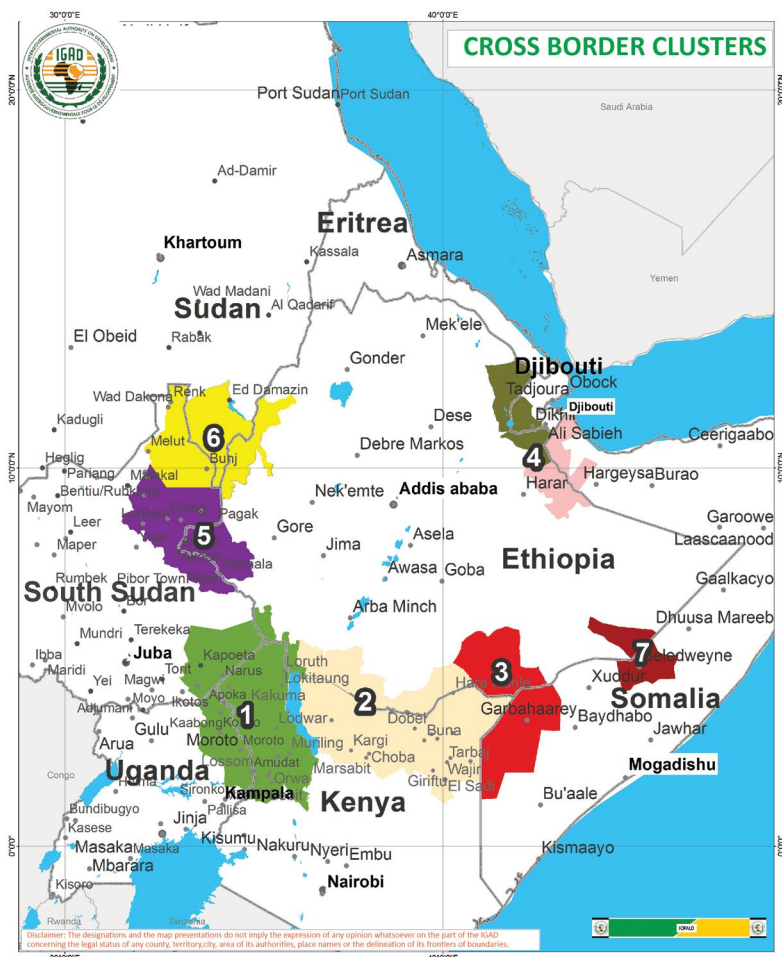
Transhumance is the seasonal movement of pastoralists and their herds from their usual grazing areas in search of water and pasture. The IGAD Transhumance Protocol (IGAD, 2018) only applies to transhumant livestock, with the objective of:

- Facilitating safe and humane passage of transhumant livestock and herders across the borders of IGAD Member States for water and pasture;
- Strengthening existing local cross-border pastoral agreements;
- Providing legal protection to the transhumant herders.

Raids, cattle rustling and small arms proliferation

Raids and livestock rustling entail the forceful acquisition of livestock, usually cattle (IGAD, 2018). This form of theft is a regular feature among pastoralists in arid and semi-arid lands and is particularly prevalent during droughts when it serves as a means of restocking decimated herds. The proliferation of small arms and commercialization of cattle rustling has led to more large-scale violent cattle raiding between neighbouring pastoral communities. In response, pastoral communities often arm themselves for protection against hostile groups. The threats caused by the increasing numbers of human deaths and livestock losses due to cattle rustling and other organised raids can influence pastoralists' mobility and/or migratory decisions as well as herd size. This can, in turn, undermine their asset base and livelihood robustness. For example, armed conflicts – and the fear of them – leave large grazing areas unused, which accelerate overcrowding and overgrazing problems in relatively secure areas. Figure 6 shows cross border clusters in the IGAD member countries; that is, the areas or regions where pastoralism is practised in a large scale as a means of livelihood. Thus, because of climatic effects (drought), pastoralists experience circular migration throughout the years in search of pasture and water for their livestock. Many a times, pastoralists do crossover to neighbouring countries in search of pasture and water.

Figure 6: Cross-border clusters



- | | |
|---|--|
| 1 IGAD Cluster 1 (AKA Karamoja Cluster) | 5 Proposed cross border cluster: Ethiopia and South Sudan |
| 2 IGAD Cluster 2 (AKA Somali Cluster) | 6 Proposed cross border cluster: Ethiopia, Sudan and South Sudan |
| 3 Proposed new areas in Somalia | 7 Proposed cross border cluster: Ethiopia and Somalia |
| 4 IGAD Cluster 4 (AKA Dikhil Cluster) plus proposed new areas in Somaliland | |

Source: IGAD, 2018.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

There are seven clusters, namely: (i) IGAD Cluster 1 (AKA Karamoja Cluster); (ii) IGAD Cluster 2 (AKA Borana Cluster); (iii) IGAD Cluster 3 (AKA Somali Cluster); (iv) IGAD Cluster 4 (AKA Dikhil Cluster) plus proposed new cluster in Somaliland; (v) Proposed cross border cluster: Ethiopia, Sudan and South Sudan; and (vi) Proposed cross border cluster: Ethiopia, Somalia.

Cross-border incursions and armed conflict

Pastoralists inhabiting borderlands are also susceptible to cross-border incursions. Continual Kenya's military incursions in Somali and along the borders of Kenya and Somalia has impacted displacement of pastoralists, thereby, indirectly influencing access to grazing areas, livestock marketing and human and animal mortality.

B.3.Triggers and drivers of internal displacement

Triggers are proximate precipitating events that leave people with little choice but to flee their homes. These are visible events in the wider environment that can threaten people's physical or economic security. Synonyms are: cause, hazard, shock, tipping point. Examples include: armed attacks, earthquakes and forced eviction. Drivers refer to the less visible factors that pre-date and contribute to the immediate and more visible trigger. Over time, they link, overlap and accumulate to a point where human rights abuses occur, or a crisis erupts.

Triggers may or may not lead to displacement as people evaluate the level of threat posed by an event to their immediate physical and economic security and their capacity to flee their homes. While these events directly trigger displacement, they come about as a result of the complex interaction of multiple underlying drivers. Triggers can combine or occur in succession, giving rise to complex patterns and dynamics of displacement and significantly erode people's coping capacities in the process. Displacement tends to be described exclusively in relation to its immediate trigger. For data collection and reporting purposes this serves to estimate the scale of different displacement situations. However, analysing and responding to displacement in this way conceals the reality that displacement is a complex phenomenon that results from a combination of multiple underlying drivers, often interacting over decades. Categorizing displacement into broad triggers such as conflict, natural hazards or development projects also underestimates the degree of human agency involved in the decision to move, masking the individual's or household's subjective assessment of threat and their physical ability to move.

The most common drivers of displacement are political. Conflict and disasters do not take place in a political vacuum. Protracted displacement situations as well as obstacles to solutions are often political in nature. IDMC's research has shown that the majority of displacement crises, particularly protracted ones, are the result of political blockages that prevent adequate

protection and assistance reaching IDPs and limit prospects for resolution of displacement crises. The scope and severity of displacement situations are determined by political factors that include state fragility, weak governance, corruption, prioritizing economic interests over IDPs. Displacement can also be a symptom of pre-existing patterns of social exclusion, inequality and discrimination, affecting the poor and marginalized.

In Kenya, Ethiopia and Somalia, for example, pastoralists might be expected to report drought or conflict as their main reason for flight, but, counter-intuitively, often identify economic and social factors as the primary cause of their movement. Since the displaced do not necessarily identify the exact causal chain that often drives them to flee, national household survey findings should be combined with other research methodologies to probe deeper into the complex reasons for flight.

B.4. Urbanization status

Urbanization is a strong transformative force which is reshaping the world's urban and rural landscapes. More than half of the global population now lives in urban areas, and it is estimated that from 2015 to 2030 (UNDP, 2016) the urban population will increase by more than one billion people in the cities of Africa and Asia. By 2030, 60 per cent of the global population will live in cities. Over 90 per cent of that urban growth will occur in cities and towns of the developing world, mostly in Africa and Asia (UNDP, 2016). Given that urbanization is inevitable, the main challenge is not to slow it down but to learn how to deal with the rapid growth. Any urban development policies should aim to reduce the challenges and maximize opportunities offered by the urbanization process. Furthermore, taking a proactive view towards inevitable and massive urban growth is crucial as cities emerge as important actors in the global political arena for sustainable development. Sustainable Development Goal 11 Target 11.3 calls for enhancing inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries by 2030.

According to the 2009 Census, the number of Kenyans living in urban areas increased to 12 million. This represents 31.3 per cent of the total population in the year 2009. However, demographic, social, economic and political variables have impacted greatly on the urbanization process, resulting in varied provincial and county urbanization levels and trends. Well planned and managed urbanization is a critical component of sustainable development. Cities, their spatial frameworks and governance systems constitute key levers for delivering

this transition and providing sustainable ways of accommodating population growth while also responding to the needs of surrounding rural people and their economies including vulnerable populations. The world's cities as centres of creativity, innovation and enterprise have the potential to deliver significant economic and social benefits to the people who inhabit them.

Countries around the world need to develop strategies that integrate urban, suburban, peri-urban and rural areas and address the social and economic and environmental pillars of sustainable development. Cities, if well planned, can reap the efficiencies of economies of scale as governments can more easily deliver essential infrastructure and services at lower cost per capita than in rural areas. Cities have the potential to improve people's access to education, health, housing and other services, and to expand their opportunities for economic productivity (Republic of Kenya, 2012a). By planning for urbanization, countries can address the challenges and harness opportunities from urban population growth. Urban challenges necessitate countrywide approaches that decentralize policy development, following the principle of subsidiarity: the level of government closest to the people most affected by it is empowered and resourced to develop, implement and monitor approaches specific to local need and opportunity.

Urbanization level

Urbanization is an essential but often neglected component of the demographic transition and of development at large. Internal migrations incepted city growth in the first phase of the urban transition and, more recently, urban spatial expansion (informal settlements, sub-urbanization). While natural growth has taken over in latest phase of the urban transition, migration remains one of the main contributors to urbanization and urban sprawl in Kenya. The urbanization patterns in Kenya are as diverse as the sociodemographic characteristics of the migrants; not to mention the effects of devolved system of government that has led to a shift of focus among migrants and job seekers, from the large urban centres to county headquarters and other medium size towns. Circular migration between urban and rural areas, between cities or between villages, becomes more frequent. Similarly, despite environmental constraints and economic downturn, migrations to peri-urban areas remain important and extend to increasingly distant areas. Apart from census data, that is collected after every ten years, internal migrations in Kenya are under-documented and under-studied, in spite of their role in urbanization and population history, of their high number and of their socioeconomic relevance for households and communities.

Urban household structure

Definitions of households have conventionally emphasized co-residence, sharing the same meals, cooking from one pot and undertaking joint or coordinated decision-making. However, households remain fluid in size, composition and location. Being the basic unit in which economic production, consumption, inheritance, child-rearing, and shelter are organized, a critical analysis of households is important. Household dynamics have direct or indirect implications on household members' socialization process, gender roles, livelihood strategies, poverty and inequality, and expenditure, consumption patterns and migration decisions. Furthermore, modern developments and interplay of social, economic and environmental factors have resulted into new forms of family and household formation, composition and structure. For example, households are becoming less extended and nuclear. There is also an increase in the number of single-person households, one-parent families, female headship, and in separations and divorces.

The changing nature of the structure of households reflects on a number of issues that have far-reaching implications for patterns of consumption, housing, long-term care of the elderly and intergenerational support and, therefore, demands on the State. Single parents with children represent a significant proportion of all households in countries in all regions. Trends in the proportion of single-parents disaggregated by rural–urban residence and administrative units may show that children living in single-parent households may more often experience economic poverty and limited access to basic services such as education and health.

Urban population by regions

Nairobi being both a capital city and a county, it is the most urbanized province in Kenya with its entire population being urban (Table 8). Nairobi is followed by Coast and Central regions which have more than one-third of their populations living in urban centres. Nyanza, Rift Valley and Eastern have between 21 and 25 per cent of their populations living in urban areas. North Eastern and Western are the least urbanized provinces in Kenya with less than 20 per cent of the population living in urban centres.

Table 8: Urban population by regions, 2009

Province	Total population	Rural population	Urban population	Per cent urban population in province	Per cent of total urban population
Kenya	38,412,088	26,388,518	12, 023,570		
Nairobi	3,109,861	-	3,109,861	100	25.9
Central	4,370,124	2,868,781	1,501,343	34.4	12.5
Coast	3,291,225	1,869,714	1,421,511	43.2	11.8
Eastern	5,640,797	4,448,772	1,192,025	21.1	9.9
North Eastern	2,301,837	1,893,246	408,591	17.8	3.4
Nyanza	5,421,889	4,086,898	1,334,991	24.6	11.1
Rift Valley	9,955,646	7,599,156	2,356,490	23.7	19.6
Western	4,320,709	3,621,951	698,758	16.2	5.8
Western	4,320,709	3,621,951	698,758	16.2	5.8

Source: Author using 2009 Kenya Census.

In addition, Table 8 shows that Nairobi has the largest share of the total urban population in the country, followed by Rift Valley. The two provinces contribute 45.5 per cent to the total urban population. They are followed by Central, Coast, Nyanza and Eastern, each with between 10 and 13 per cent share of total urban population. Being least urbanized, Western and North Eastern's contribution to the total urban population is relatively small.

Population by major urban centre

Table 9 presents the population of major urban centres with a population size of more than 150,000 people in 2009. The major urban centres contribute half of the total urban population in Kenya. The capital city of Nairobi leads the urban hierarchy with 3.1 million people and a disproportionate per cent share of total urban population. Mombasa is the second largest urban centre with 0.9 million inhabitants, followed by Kisumu, Nakuru and Eldoret. The other major urban centres – Kikuyu, Ruiru, Kangundo-Tala, Naivasha, Thika and Machakos – are apparently satellite towns located near Nairobi, with much of the infrastructural services, such as housing, water and transport, shared among the residents. However, peri-urban population is much higher than the core urban population in Kangundo-Tala and Machakos. Similarly, Kisumu and Naivasha have more than half of their population living in peri-urban areas. Out of the total urban population, 2.9 million are residing in peri-urban areas due to the high rate of urbanization in the major cities. This has led to most of the residents who initially lived in the core urban areas to shift to the peripheral areas. This is either due to the high costs of living experienced in the core urban centres, or

the unavailability of sufficient housing facilities in the core urban centres, due to high population increase in the cities.

Table 9: Population by major urban centres, 2009

Urban centre	Total population	Core urban population	Peri-urban population	% of total urban population
Kenya	12,023,570	9,090,412	2,933,158	
Nairobi	3,109,861	3,109,861	0	25.9
Mombasa	925,137	905,627	19,510	7.7
Kisumu	383,444	254,016	129,428	3.2
Nakuru	367,183	343,395	23,788	3.1
Eldoret	312,351	247,500	64,851	2.6
Kikuyu	264,714	200,285	64,429	2.2
Ruiru	240,226	238,329	1,897	2.0
Kangundo-Tala	218,722	13,119	205,603	1.8
Naivasha	170,551	91,898	78,653	1.4
Thika	151,225	136,386	14,839	1.3
Machakos	150,467	40,819	109,648	1.3

Source: Author using 2009 Kenya Census.

National trends of urbanization

Table 10 shows the trends of urbanization in Kenya between 1948 and 2009. At the time of Kenya's first population census in 1948, there were 17 urban centres with an aggregate population of 285,000 people. The urban population was proportionately small (5.3% of the total population), with majority of the urban dwellers being non-Africans. Since then the number of urban centres, the urban population and the proportion of people living in urban centres has been increasing. The number of urban centres increased to 91 in 1979 and to 230 in 2009. The urban population increased to 2.3 million in 1979 and to 12 million in 2009. The proportion of people living in urban centres increased to 15.1 per cent in 1979 and to 31.3 per cent in 2009. In all censuses, the urban population has been disproportionately concentrated in Nairobi and Mombasa.

The growth of urban centres both in numbers and population accelerated immediately after independence, when Africans were allowed to migrate to towns without any legal and administrative restrictions. This explains the high urban growth rates in 1969 and 1979, largely a consequence of rural-to-urban migration. However, as the population become more urbanized, the urban growth rate declined from a peak of 7.7 per cent in 1979 to 3.4 per cent in 1999. In 2009, the urban growth rate rose to a high of 8.3 per cent.

Table 10: Urbanization trends in Kenya, 1948–2009

Year	Total population	No. of urban centres	Urban population*	Per cent of urban to total population	Intercensal growth rate (%)
1948	5,407,599	17	285,000	5.3	-
1962	8,636,263	34	747,651	8.7	6.3
1969	10,956,501	47	1,076,908	9.8	7.1
1979	15,327,061	91	2,315,696	15.1	7.7
1989	21,448,774	139	3,878,697	18.1	5.2
1999	28,159,922	180	5,429,790	19.3	3.4
2009	38,412,088	230	12,023,570	31.3	8.3

* See the 1999 Analytical Report on Migration and Urbanization (Kenya 2004) for the 1999 urban population

Source: Author using 2009 Kenya Census.

Regional trends of urbanization

The urban population of each region has been increasing in time except for Eastern Region which had a negative growth rate in 1999. Table 11 presents the share of each region's urban population to the total urban population of the country, as depicted during the period 1969 through 2009.

Table 11: Urbanization trends by region, 1989–2009

Province	% Share of total urban population				
	1969	1979	1989	1999	2009
Nairobi	47.0	35.7	34.1	38.4	25.9
Central	4.3	5.6	8.0	6.7	12.5
Coast	26.3	17.6	15.2	16.5	11.8
Eastern	3.5	10.1	9.2	5.3	9.9
North Eastern	-	2.7	2.3	2.7	3.4
Nyanza	4.1	9.0	9.1	7.9	11.1
Rift Valley	13.8	14.8	17.3	17.4	19.6
Western	1.0	4.6	4.8	5.2	5.8

Source: Author using 2009 Kenya Census.

Generally, Nairobi has had the largest share of the total urban population ranging between 30 and 47 per cent. On the other hand, North Eastern has had the least share of not much more than 3 per cent. Central, Nyanza, Rift Valley and Western have had consistent increase in the proportion of their urban population to the total. The rest of the provinces have experienced fluctuations.

Urban centres by population size category

For two decades, Nairobi is the only mega city with a population of over 1 million (Table 12). While Nairobi continues to have the largest share of the urban population, the importance of small and medium-size urban centres is beginning to emerge in the urban hierarchy. Small urban centres are considered to be those with a population of less than 10,000 people, while medium-size urban centres have a population of more than 10,000 but less than 100,000 people.

Table 12: Urban population by size category of urban centres, 1962–2009

Year	Category of urban centres by population size							
	1 million and over		100,000–999,999		10,000–99,999		2,000–9,999	
	No.	Total population	No.	Total population	No.	Total population	No.	Total Population
1962	0	-	2	523,075	5	105,712	27	118,864
1969	0	-	2	756,359	9	79,267	36	153,282
1979	0	-	6	1,321,566	24	717,855	64	276,275
1989	1	1,324,570	5	1,046,588	40	1,080,726	93	426,813
1999	1	2,083,509	4	1,214,927	62	1,508,180	113	623,174
2009	1	3,109,861	22	4,617,114	97	3,665,486	110	631,109
No.= Number of urban centres								

Source: Author using 2009 Kenya Census.

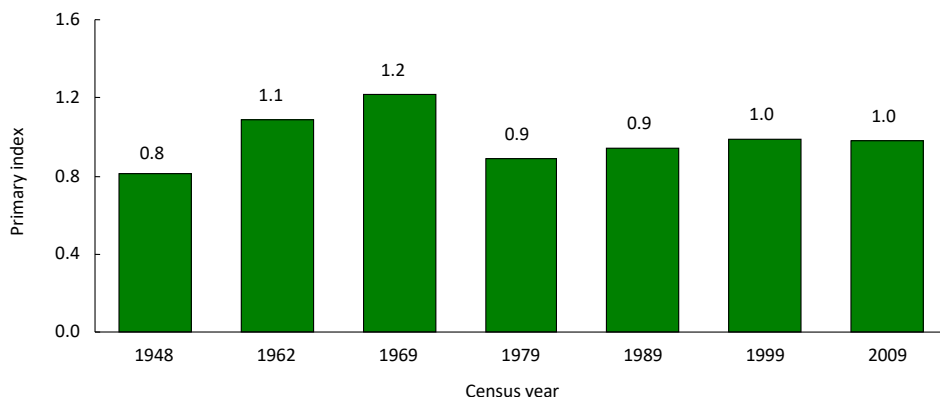
Table 12 demonstrates that the numbers and populations of small and medium-size urban centres have shown an upward trend over the years and is expected to do so in future. Generally, most of the urban centres in Kenya are small and medium-size; that is, towns with a population total of less than 100,000. In the year 2009, these urban centres were 207 in number, with a total population of about 4.3 million people. They contributed 35.7 per cent to the total urban population in the country. It is also important to note that urban centres in the population size category 100,000–999,999 dramatically increased in number and population in 2009.

Urban primacy

Urban primacy occurs when the largest city in a country dominates the urban hierarchy in terms of its population size. Urban primacy is quantitatively measured in terms of a two-city, a four-city or 11-city primacy index. This report uses the 11-city primacy index which is the ratio of the population of the largest

city in the country or region to the combined population of the next 10 cities in population rank. According to the United Nations Economic Commission for Africa (UNECA, 1989) a primacy index of less than 1 is “low”; 1–2.9 is “medium” while 3 and above is “high”. Figure 7 gives the 11-city primacy index for Kenya over the years.

Figure 7: 11-City primacy index in Kenya, 1948–2009



Source: Author using 2009 Kenya Census.

Although the primacy index is generally “low”, Nairobi remains the most preferred city in terms of in-migration. For example, the primacy index rose from 0.8 in 1948 to 1.22 in 1969. However, the growth of medium-size urban centres have stabilized the primacy index to an average of 0.9, even as Nairobi continues to have the largest share of the urban population. The dominance of one or two major urban centres is also evident regionally in the provinces and counties. These dominant urban centres contribute the largest percentage of urban population in each province. For example, Garissa and Mandera in North Eastern, Machakos and Embu in Eastern, Nakuru and Eldoret in Rift Valley, Thika and Nyeri in Central, Kakamega in Western, Kisumu in Nyanza and Mombasa in Coast (Republic of Kenya, 2012b).

Urban settlements: Formal and informal

This section provides a comparison between formal and informal settlements. The section is divided into two sections. The first section highlights the formal and informal settlements population, while the second section presents selected characteristics of both settlements. However, more attention will be given to the urban informal settlements while providing comparative data for the formal settlements.

Urban informal settlement is a settlement characterized by at least two of the following: inadequate access to safe water; inadequate access to sanitation and other infrastructure; poor structural quality of housing/overcrowding; and (-) insecure residential status. According to the 2009 Census results, only 15 per cent of the urban population lives in informal settlements. Nairobi, as a capital city and province, contributes a larger share (62%) of the total urban informal settlement population in the country (Table 13).

Nairobi is followed by Coast, Nyanza and Rift Valley. The contribution of Central, Eastern, Western and North Eastern to the total urban informal settlement population is very minimal. The same trend is observed within the regions. Nairobi has more than one-third of its population living in informal settlements, followed by Coast (20%) and Nyanza (14%). The rest of the provinces have a very small proportion of their population living in informal settlements (Table 14).

Table 13: Urban formal and informal settlements population by region, 2009

Province	Total urban population	Formal settlement population	Informal settlement population	% of informal settlement population in province	% of total informal settlements population
Kenya	12,023,570	10,221,871	1,801,699		
Nairobi	3,109,861	1,985,402	1,124,459	36.2	62.4
Central	1,501,343	1,477,343	24,000	1.6	1.3
Coast	1,421,511	1,132,461	289,050	20.3	16
Eastern	1,192,025	1,168,376	23,649	2	1.3
North Eastern	408,591	405,046	3,545	0.9	0.2
Nyanza	1,334,991	1,147,824	187,167	14	10.4
Rift Valley	2,356,490	2,218,012	138,478	5.9	7.7
Western	698,758	687,407	11,351	1.6	0.6

Source: Author using 2009 Kenya Census.

Formal and informal settlements population by county

Most of the counties do not have informal settlements. Where they exist, the population of residents living in them is relatively small. West Pokot County has the highest per cent of its urban population (66%) living in informal settlements. The county is followed by Taita Taveta (43%), Nairobi (36%), Kisumu (36%), Uasin Gishu (21%), Mombasa (24%) and Kilifi (16%). The rest have less than 10 per cent of their population living in the informal settlements (Republic of Kenya, 2012b).

Formal and informal settlements population by urban centre

Eleven out of the 36 urban centres have more than 10,000 of their population living in informal settlements. Seven have an informal settlement population of between 5,000 and 10,000 people. Thirteen have between 1,000 and 5,000 people living in informal settlements. The last five towns have an informal settlements population of less than 1,000 people. As shown in Table 14, the city of Nairobi has the largest share of the total informal settlement population. Nairobi is followed by Mombasa, Kisumu and Eldoret. The rest have less than one per cent of their population living in informal settlements. However, when the three cities are compared, Kisumu leads with the high proportion (46.9%) of informal settlements' population.

Table 14: Formal and informal settlements population by urban centres, 2009

	Urban population	Formal settlements		Informal settlements		Per cent share of total informal settlement by an urban centre to the total national informal settlement population
		Population	Per cent share in urban centre	Population	Per cent share in urban centre	
Kenya	12,023,570	10,221,871		1,801,699		
Nairobi	3,109,861	1,985,402	63.8	1,124,459	36.2	62.4
Mombasa	925,137	707,269	76.5	217,868	23.5	12.1
Kisumu	383,444	203,536	53.1	179,908	46.9	10.0
Eldoret	312,351	239,653	76.7	72,698	23.3	4.0
Thika	149,289	132,945	89.1	16,344	10.9	0.9
Nakuru	367,183	351,688	95.8	15,495	4.2	0.9
Naivasha	170,551	159,623	93.6	10,928	6.4	0.6
Machakos	150,467	145,899	97.0	4,568	3.0	0.3
Kikuyu	264,714	264,349	99.9	365	0.1	0

Source: Author using 2009 Kenya Census.

Contrary to expectations, the majority of urban centres do not have informal settlements. Only 36 urban centres recorded informal settlements population. Existing literature indicates that informal settlements are a characteristic of most urban centres, especially in sub-Saharan Africa where lack of affordable housing is a major concern (Republic of Kenya, 2012a).

Conclusion

The high rate of urbanization in Kenya is a potentially devastating development problem that must be addressed. The problem is that the urban population is growing very fast while the economic growth and development transformation necessary to support it and enhance the quality of urban life are not occurring at the same rate (Stren and White, 1989). This calls for a sustainable urban and regional planning policy. The available literature shows that there appears to be a much emphasis by the government and urban and municipal councils on the provision of services and too little on involving people and their resources in city planning and development processes for renewed growth. Such actions as the 1993 Nairobi We Want Convention bringing all stakeholders together, could be a good starting point (Karuga, 1993). Thus, a partnership in urban development should be encouraged and strengthened by the government and all stakeholders in the management of cities.

B.5. International migration

The United Nations recommendations on Statistics of International Migration defines an international migrant as any person who has changed his or her country of usual residence, distinguishing between “short-term migrants” (those who have changed their country of usual residence for at least three months, but less than one year) and “long-term migrants” (those who have done so for at least one year). Migration in the East Africa region is facilitated by various factors. Within the East African Community region, national identification cards, temporary permits and border passes are acceptable identification documents. Equally, citizens travelling within the Common Market for Eastern and Southern African do not need passports. Table 15 shows the trend in the number of passports issued, foreign nationals registered, and work permits granted during the period 2014 to 2017. The number of such documents issued is reflection of the number of persons travelling both to and from the country. During the years 2014 and 2015, there was a decline in the number of passports issued from 183,042 to 151,589, respectively. However, there was an upsurge in the following year 2016 (156,040) followed with a drop in the year 2017 (136,990). Nonetheless, there has been an increase in the number of foreign nationals registered, during the years 2014 to 2016, with a decline in the year 2017 as follows: 22,326 (2014); 25,091 (2015); 37,033 (2016), and; 29,318 (2017), respectively.

Table 15: Number of passports issued, foreign nationals registered and work permits issued, 2014–2017

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

Source: Republic of Kenya (2014b, 2015, 2016a and 2017a).

Note: Means the same as “Aliens registered” in previous reports; b Means the same as “Entry Permits” in previous reports.

Table 16 also shows a decline in the number of work permits issued between the years 2014 and 2016. During the period 2014 to 2016, the following variations were witnessed: year 2014 (10,540); year 2015 (7,683) and year 2016 (5,851). However, there was an increase in the year 2017 (8,366) which could be attributable to an increase in the number of foreign companies setting base in Kenya and an improvement in the economy of the country.

A comparative assessment of business visitors in Kenya between the years 2015 and 2016 (Table 16) shows that there was an increase in the number of business visitors coming to Kenya in the years 2016 from all the regions of the world. For instance, in the year 2016, there were about 70,700 business visitors from Europe compared to 70,500 in the year 2015. The trend is similar for business visitors from North America (21,800 in 2016 compared to 20,200 in 2015); Africa (54,500 in 2016 compared to 49,700 in 2015); Asia (35,200 in 2016 compared to 33,900 in 2015); and Oceania (Australia and New Zealand and others) was 7,200 in the year 2016 compared to 7,100 in the year 2015.

Table 16: Business visitors by country of residence, 2014–2016

Country/region of residence	2014 ('000)	2015 ('000)	2016 ('000)
Germany	10.9	9.1	9.3
United Kingdom	26.3	28.0	25.8
Switzerland	2.2	2.1	1.8
Italy	11.4	7.5	7.4
France	4.2	4.0	4.3
Total Europe	79.9	70.5	70.7
United States of America	21.2	15.5	17.4
Canada	4.9	4.7	4.3
Total North America	26.1	20.2	21.8
Uganda	7.1	9.4	9.6
United Republic of Tanzania	4.8	4.4	5.0

Country/region of residence	2014 ('000)	2015 ('000)	2016 ('000)
Other African countries	33.8	36.0	39.8
Total Africa	45.7	49.7	54.5
India	12.3	12.0	13.9
Japan	2.0	1.6	1.7
China			
Israel	0.6	2.6	2.3
Total Asia	35.2	33.9	35.2
Australia and New Zealand	4.4	3.4	3.2
Other countries	1.7	3.7	3.9
Total	6.1	7.1	7.2
Total	193.0	181.4	189.3

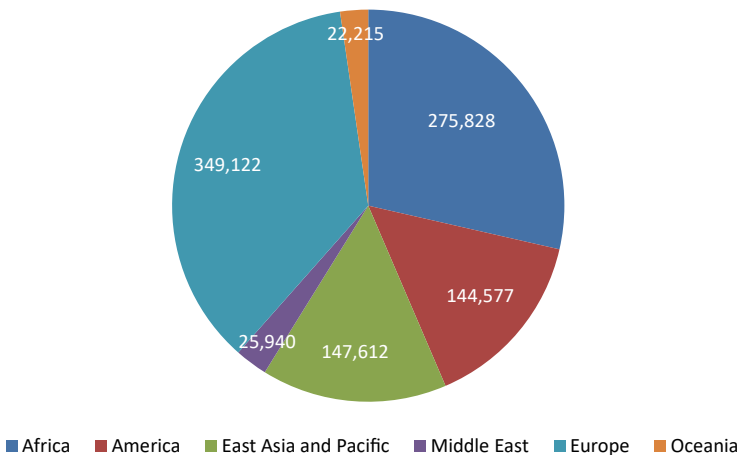
Source: Republic of Kenya (2014b, 2015 and 2016a).

Note: *Main sources of business visitors by country. The data reflects not all countries by region, but only the main sources.

Circular mobility (travellers and visitors)

Figure 8 shows the total tourist numbers recorded at Jomo Kenyatta International Airport by their countries of origin. In this document, tourists are categorized as either travellers or visitors, but not as migrants. Tourists and travellers are categorized as visitors because they stay in the country for less than six months. The largest number of foreign visitors (tourists/travellers) to Kenya came from Europe (349,122) followed by those from Africa (275,828), East Asia and the Pacific (147,612) and America (144,577), in that order.

Figure 8: Number of tourists by country of origin at Jomo Kenyatta International Airport, 2017



Source: Author using 2009 KPHC dataset.

Over the years, the Department of Tourism documents the number of tourists coming to Kenya by country of citizenship. Table 17 shows the number of tourists who entered Kenya by air or sea only from the main countries of origin by different region during the year 2017.

Table 17: Total tourists at Jomo Kenyatta International Airport/Moi International Airport by region of origin¹⁴

Country of residence	2017
Asia	
India	59,180
China	53,477
Japan	7,573
Republic of Korea	6,750
Pakistan	5,219
Middle East	
United Arab Emirates	12,829
Israel	3,122
Oman	1,859
Islamic Republic of Iran	1,294
Saudi Arabia	1,576
Africa and Indian Ocean	
South Africa	39,416
United Republic of Tanzania	22,110
Uganda	61,542
South Sudan	10,360
Ethiopia	16,662
Nigeria	16,165
Americas	
United States of America	113,831
Canada	21,451
Brazil	1,824
Mexico	1,944
Argentina	1,081
Oceania	
Australia	18,621
New Zealand	2,422
Fiji	152
Papua New Guinea	8
Europe	
United Kingdom	106,762
Italy	44,216
Germany	49,148
France	22,108
Netherlands	18,769

Source: Government of Kenya, 2018.

¹⁴ Total number of tourist arrivals in Kenya through Jomo Kenyatta and Moi International Airports in the year 2018.

Refugees/asylum seekers

During the period 2015–2017, there was a significant migration crisis affecting the world including Africa and Europe. Between 2015 and 2016, the number of refugees in the 28 countries of the European Union increased by 273,000 to 1.6 million. During the same period, the number of refugees worldwide increased by 1.4 million to 16.5 million. However, the European migration crisis, particularly those crossing the Mediterranean Sea from North Africa, appears to be abating. To date, the number of people making the dangerous crossing to Europe has fallen from a record high in 2015. Yet, the fundamental drivers of distress migration persist. As of November 2017, Kenya hosted the third largest number of refugees in Africa, after Ethiopia and Uganda. 489,071 refugees and asylum seekers are hosted in Kenya including 285,705 Somali, 27,979 Ethiopian, 35,490 Congolese, and 111,045 South Sudanese refugees. During 2017, a trickling return of refugees to Somalia has been observed, while the influx of refugees from South Sudan continues. Limited numbers of returnees to Ethiopia, Rwanda, Burundi and Democratic Republic of the Congo are expected in the year 2018 (UNHCR Kenya, 2018).

Refugees/Asylum Seekers Trends and Routes, 2016–2018

Table 18 shows that by the end of January 2018, Kenya was hosting a total of 486,460 refugees and asylum seekers in Dadaab, Kakuma and Nairobi according to UNHCR (57,454 asylum seekers and 429,006 refugees). This number marks a decrease since the over half a million refugees and asylum seekers recorded in 2014 and 488,415 refugees and asylum seekers recorded in 2017 (UNHCR Kenya, 2018). Approximately 57 per cent of the entire caseload is Somali refugees and asylum seekers followed by South Sudanese and Congolese refugees and asylum seekers at 23 per cent and 7.4 per cent respectively with Dadaab hosting majority of these (UNHCR Kenya, 2018). While adults between the ages of 18 and 59 comprise the highest number of refugees and asylum seekers, children between the ages of 5 and 11 comprise the second highest number at 22.5 per cent of the entire caseload according to UNHCR (Table 22).

Table 18: Displacement summary, January 2018

	Somalia/ Somaliland	Yemen	South Sudan	Ethiopia	Eritrea	Djibouti	Kenya	Uganda
Refugees	14,866	280,539	286,256	901,253	2,246 (Somali)	26,915	429,006	1,395,146
Asylum seekers	14,725		192,279					57,454
Internally displaced people	2.1 mil	2.014 mil	1.9 mil	1.6 mil				
In need of humanitarian assistance/ food aid	5.4 mil	22.2 mil		8.5 mil			3.5 mil	2.3 mil

Source: UNHCR Kenya, 2018.

Refugees/asylum seekers levels, trends and characteristics

Kenya hosts one of the largest refugee and asylum seekers in the world, totaling approximately 488,415 as at January, 2018. Due to Kenya’s geographical location amidst countries in Eastern Africa and the Horn of Africa which have suffered many civil strife and wars during the last three decades, and being a relatively peaceful country, alongside the United Republic of Tanzania, and also having a relatively better transportation network and stable economy, it has often been the most likely choice of settlement for refugees and asylum seekers in the region. Two refugee camps, Dadaab in Garissa County and Kakuma in Turkana County host a large number of refugees and asylum seekers. The majority of refugees and asylum seekers in Kenya originate from Somalia (58.2%). Other major nationalities are South Sudanese (22.9%), Congolese (7.3%); and Ethiopians (5.7%). This large concentration of humanity in an environmentally fragile eco-system presents both ecological and resource challenges. Political and economic instability in the neighbouring countries continues to contribute to transnational crimes in the country, including international terrorism, according to information in the public domain.

All persons fleeing persecution must be protected according to both international and national law. Article 12(3) of the African Charter on Human and People’s Rights grants the right to seek and obtain asylum. The process should be fair, just and timely. Strengthening the response to refugee crises and assistance is therefore a critical policy issue. The Department of Refugee Affairs (DRA) and the United Nations High Commissioner for Refugees (UNHCR) under the 2006 Refugees Act and the 2009 Refugees Regulations jointly manage refugee affairs in Kenya. The National Refugee Act of 2006 (DRA, 2016), which became operational in 2007, outlines the rights and duties of refugees and

asylum seekers. It also established institutions to manage refugee affairs in the country. The objective of the act is to:

- (a) Protect and assist refugees and asylum seekers, as enshrined in UNHCR, regional and national statutory documents;
- (b) Facilitate due registration of refugees and asylum seekers;
- (c) Facilitate the resettlement of refugees; and
- (d) Coordinate the work of international and national organizations and institutions involved in ensuring the welfare of refugees and asylum seekers.

Kenya has remained an important destination country in East Africa for refugees and asylum seekers. In the year 2016, the total number of refugees and asylum seekers was 494,863, while in the year 2017 it dropped marginally to 488,415 (Table 19 and Table 20). However, a comparative analysis by camps shows that in Dadaab there was an increase from 176,785 to 238,152 during the years 2016 and 2017, respectively. Equally, in Kakuma camp the number increased from 154,947 in the year 2016 to 185,154 in the year 2017. Conversely, in Nairobi, the numbers dropped from 67,152 in the year 2016 to 65,109 in the year 2017; however, the data for Alinjogur camp in the year 2017 was missing, but in 2016 the total number of refugees and asylum seekers was 95,979.

Table 19: Refugees and asylum seekers in Kenya, 2016–2017

	2016				
	Total	Alinjogur	Dadaab	Kakuma	Nairobi
Refugees/asylum seekers	494,863	95,979	176,785	154,947	67,152
Registration	41,329	194	212	26,604	14,414
Refugee status determination					
Applied	18,119	258	539	5,816	11,506
Recognized	5,155	83	137	4,227	708
Rejected	16	0	0	13	3
Pending					
Resettlement submissions	52,601				
Resettlement departures	32,817				

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

Source: UNHCR Kenya, 2018.

Table 20: Refugees and asylum seekers stock by main location in Kenya, 2016–2017

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

Source: UNHCR Kenya, 2018.

Urban refugees

By the end of 2017, over 65,000 refugees were reported to be living in Nairobi according to UNHCR's Statistical Summary of 31 December 2017 (UNHCR Kenya, 2017). UNHCR estimates the overall population in Nairobi was over 67,000 urban refugees in 2016, and about 61,000 in 2015 (Table 21). The Department of Refugee Affairs began registering urban refugees in March 2014 but stopped the process due to the insecurity at the time.

Nairobi hosts the largest urban refugee population, with the majority living in the Eastleigh area in Nairobi, which has a local population of about 43,000 according to the 2009 national census. The urban refugee population of about 174,349 individuals is spread in four areas of Eastleigh: Eastleigh South, Eastleigh North, Airbase and the informal settlement of Kiambio (UNHCR and Danish Refugee Council, 2012:15).

Table 21: Urban refugees and asylum seekers (Nairobi) by country of origin, 2015–2017

Country of origin	2015	2016	2017
Somalia	32,623	30,019	19,733
Ethiopia	8,385	9,473	9,651
Sudan	169	169	166
South Sudan	1,043	2,300	5,454
Uganda	670	732	720
Democratic Republic of the Congo	14,536	19,346	24,063
Burundi	1,300	2,163	2,611
Rwanda	960	1,102	1,045
Eritrea	1,481	1,526	1,273
United Republic of Tanzania	-	-	-
Other	184	322	423
Total	61,351	67,152	65,109

Source: UNHCR Kenya, 2018.

Demographic characteristics of refugees and asylum seekers

Age-sex ratio is an important variable in demographic analysis of any population; just as it is among refugee populations. Table 22 shows that those of age 18 to 59 (40.1%) constitute a significant proportion of refugees and asylum seekers in Kenya. This has implications in terms of labour security and general development in the countries of origin, just as it has negative impacts in the country of destination, if they are not able to avail any gainful economic activities.

Table 22: Demographic characteristics of refugees and asylum seekers in Kenya

Total Kenya	Age group	Sex				Total		
		Female		Male				
		#	%	#	%	#	%	
	0-4	37,293	7.50	39,123	7.90	76,416	15.40	
	11 May	57,616	11.60	62,447	12.60	120,063	24	0.30
	17 December	39,264	7.90	48,402	9.80	87,666	17.70	
	18-59	103,208	20.90	95,089	19.20	198,297	40.10	
	60 and above	6,729	1.40	5,692	1.20	12,421	2.50	
	Total	244,110	49.30	250,753	50.70	494,863		
Nairobi	Age group	Sex				Total		
		Female		Male				
		#	%	#	%	#	%	
	0-4	2,550	3.80	2,819	4.20	5,369	8.00	
	11 May	4,782	7.10	5,042	7.50	9,824	14.60	
	17 December	4,819	7.20	4,778	7.10	9,597	14.30	
	18-59	20,253	30.20	20,232	30.10	40,485	60.30	
	60 and above	1,119	1.70	758	1.10	1,877	2.80	
	Total	33,523	49.90	33,629	50.10	67,152		
Alinjigur	Age group	Sex				Total		
		Female		Male				
		#	%	#	%	#	%	
	0-4	7,446	7.80	7,962	8.30	15,408	16.10	
	11 May	11,829	12.30	12,553	13.10	24,382	25	4
	17 December	7,668	8.00	8,683	9.00	16,351	17.00	
	18-59	19,901	20.70	16,760	17.50	36,661	38.20	
	60 and above	1,613	1.70	1,564	1.60	3,177	3.30	
	Total	48,457	50.50	47,522	49.50	95,979		
Dadaab	Age group	Sex				Total		
		Female		Male				
		#	%	#	%	#	%	
	0-4	14,796	8.40	15,368	8.70	30,164	1	7.10
	11 May	22,535	12.70	23,917	13.50	46,452	26	3
	17 December	14,298	8.10	16,157	9.10	30,455	1	7.20
	18-9	34,982	19.80	29,047	16.40	64,029	36.20	
	60 and above	2,851	1.60	2,834	1.60	5,685	3.20	
	Total	89,462	50.60	87,323	49.40	176,785		

Kakuma	Age group	Sex				Total		
		Female		Male		#		
		#	%	#	%			
0–4	12,501	8.10	12,974	8.40	25,475	1	6.40	
11 May	18,470	11.90	20,935	13.50	39,405	25	4	
17 December	12,479	8.10	18,784	12.10	31,263	2	0.20	
18–59	28,072	18.10	29,050	18.70	57,122	36.90		
60 and above	1,146	0.70	536	0.30	1,682	1.10		
Total	72,668	46.90	82,279	53.10	154,947			

Source: UNHCR Kenya, 2018.

B.6. Resettlement trends by country of origin

In January 2018, resettlement was still ongoing within the country with 44,721 people having submitted their cases. Of these, Somalis, Ethiopians and Congolese refugees comprised the highest percentage of refugees being resettled, but significantly lower from previous years (2011–2017). The top countries for resettlements were the United States of America and Australia although the number of slots has also significantly reduced from between 2011 and 2017. The highest caseload of voluntary repatriation was witnessed in 2016 and 2017. In January 2018, a total of 77,910 refugees and asylum seekers had been repatriated with a majority (98%) being Somali (UNHCR Kenya, 2018).

In Kenya, IOM and UNHCR have been actively involved in the assistance and response to the needs of returnees, whether voluntary or forced. IOM, through its assisted voluntary return and reintegration programme, assists migrants who need to return home voluntarily but lack the means to do so. These include rejected asylum seekers, or those likely to face rejection of their claim, irregular migrants, victims of trafficking, unaccompanied migrant children, elderly people and those with particular medical needs. The programme provides them with pre-departure assistance, transportation and post-arrival reception, including transport, health support, and reintegration assistance in cooperation with NGOs. Table 23 shows data on registration, status determination and resettlement.

Table 23: Refugees and asylum seekers by registration, status determination and resettlement status

Status	Total		Alinjogur		Dadaab		Kakuma		Nairobi	
	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017
A. Refugees and asylum seekers	494,863	488,415	95,980		176,784	238,152	154,947	185,154	67,152	65,109
B. Registration	41,424	37,185	194		212	282	26,604	23,288	14,414	13,615
C. Refugee Status Determination										
1. Applied	18,119	19,542	258		539	460	5,816	9,087	11,506	9,995
2. Recognized	5,155	1,202	83		137	0	4,227	127	708	1,075
3. Rejected	16	0	0		0	0	13	0	3	0
4. Pending	43,764	56,514	737		1,837	1,599	17,171	25,837	24,019	29,078
D. 2016 Resettlement submissions	7,163	1,940								
E. 2016 Resettlement departures	9,286	3,921								
F. 2016 Voluntary repatriation	33,743	35,411								

Source: UNHCR Kenya, 2018.

Analysis of resettlement submission trend by country of origin (Tables 24 and 25) shows that from 2010 to 2012 the three leading resettlement submissions were by refugees from Somalia, Ethiopia and Democratic Republic of the Congo (i.e. 2010: Somalia - 8,143; Ethiopia – 752; Democratic Republic of the Congo – 223. In 2011: Somalia – 8,439; Ethiopia – 1,617; Democratic Republic of the Congo – 218. In 2012: Somalia – 2,170; Ethiopia – 700; Democratic Republic of the Congo – 230).

Table 24: Resettlement submission by country of origin

Country of origin	2010	2011	2012	2013	2014	2015	2016	Total
Somalia	8,143	8,439	2,170	3,985	4,325	3,909	4,147	35,118
Ethiopia	752	1,617	700	1,181	830	941	785	6,806
Sudan	602	175	30	29	158	541	104	1,639
Democratic Republic of the Congo	223	218	230	1,783	1,132	1,326	1,143	6,055
Eritrea	67	25	20	111	73	116	55	467
Uganda	13	13	5	24	88	108	107	358
Burundi	15	17	22	58	46	121	81	360
Rwanda	45	13	24	22	31	78	26	239
South Sudan			33	214	111	420	701	1,479
Other	18	1	5	5	11	26	14	80
Total	9,878	10,518	3,239	7,412	6,805	7,586	7,163	52,601

Source: UNHCR Kenya, 2018.

Table 25: Resettlement submission by country of resettlement

Country of submission	2010	2011	2012	2013	2014	2015	2016	Total
United States	8,463	8,849	1,019	5,304	5,239	6,764	6,105	41,743
Australia	595	281	50	932	53	107	310	2,328
Canada	23	129	821	254	705	69	75	2,076
United Kingdom	280	657	585	155	363	378	397	2,815
Sweden	352	391	402	342	397	81	262	2,227
Netherlands	8	109	114	145	16	130		522
Denmark	132	6	14	16	14	29	6	217
Norway	16	72	218	218	12	11	5	552
France	-	-	-	29			1	30
Other	9	24	16	17	6	17	2	91
Total	9,878	10,518	3,239	7,412	6,805	7,586	7,163	52,601

Source: UNHCR Kenya, 2018.

However, in the years 2013–2016, the refugees from the Democratic Republic of the Congo overtook those from Ethiopia in terms of the numbers applying for resettlement submissions (i.e. in the year 2013: Ethiopia (1,181) and Democratic Republic of the Congo (1,783); in the year 2014: Ethiopia (830) and Democratic Republic of the Congo (1,132); in the year 2015: Ethiopia (941) and Democratic Republic of the Congo (1,326); and in the year 2016: Ethiopia (785) and Democratic Republic of the Congo (1,143). However, in total, the refugees from Somalia, followed by those from Ethiopia and Democratic Republic of the Congo, applied most for resettlement as compared to those from other countries in Africa. Both governments of destination and origin countries view ‘return migration’ as an important policy option for refugees, asylum seekers, and economic migrants, and categorized in the following way:

- Return of refugees after the end of conflict;
- Reversal of the ‘brain-drain through the return of skilled professionals to developing countries; and/or
- Expulsion of unsuccessful asylum seekers and irregular migrants.

Return migration

Tables 26 and 27 depict the number and trends of refugee resettlement by the countries of origin and resettlement in third countries (UNHCR Kenya, 2018).

Table 26: Refugee resettlement by country of origin

Country of origin	2010	2011	2012	2013	2014	2015	2016	Total
Somalia	2,776	2,102	1,442	2,612	3,562	3,142	5,521	21,157
Sudan	103	213	102	61	82	46	123	730
Ethiopia	606	906	806	469	480	645	1,265	5,177
Rwanda	44	35	26	26	21	28	56	236
Uganda	13	7	14	2	36	69	70	211
Democratic Republic of the Congo	179	234	192	308	560	874	1,621	3,968
Burundi	6	35	14	13	23	30	70	191
Eritrea	39	48	25	25	57	28	121	343
South Sudan	-	-	35	88	92	136	412	763
Other	7	1	3	-		3	27	41
Total	3,773	3,581	2,659	3,604	4,913	5,001	9,286	32,817

Source: UNHCR Kenya, 2018.

Table 27: Refugees by third country of resettlement

Country of resettlement	2010	2011	2012	2013	2014	2015	2016	Total
United States of America	2,783	2,083	1,688	2,040	3,751	3,610	7,665	23,620
Canada	280	541	213	464	302	174	452	2,426
Australia	183	182	141	311	160	514	580	2,071
Sweden	327	329	88	331	229	341	238	1,883
United Kingdom	199	208	460	260	279	308	267	1,981
Netherlands	-	81	29	-	87	2	70	269
Norway	-	58	18	159	78	32	3	348
New Zealand	-	10	-	4			5	19
Denmark			10	22	7	7	4	50
Other	1	89	12	13	20	13	2	150
Total	3,773	3,581	2,659	3,604	4,913	5,001	9,286	32,817

Source: UNHCR Kenya, 2018.

Resettlement departure trends by countries of origin shows that the three main source countries of origin are Somalia, Ethiopia and Democratic Republic of the Congo, in that order, respectively. On the other hand, the three major refugee countries of resettlement are the United States, Canada and Australia. It is also observed that resettlement departure trends by country of origin has been declining since 2010 up to 2013, and then showing an upward trajectory since then, to the present. The same trend is observed in refugees by countries of resettlement.

Return migration that does not result in re-emigration may be considered sustainable and therefore desirable from the perspectives of host and home governments. Recent literature, however questions the dual assumptions that return migration must be permanent and that re-emigration indicates failed return; arguing instead that perpetual circulation may be a feature of sustainable return.

Resettlement submissions

The trend of resettlement submissions by country of origin during the period, shows that there has been a decline from 7,586 (2015) through to 7,163 (2016) and 1,940 in the year 2017 (Table 28).The most number of refugees by resettlement submission were those from Somalia, followed by the Democratic Republic of the Congo and Ethiopia, in that order.

Table 28: Resettlement submissions by country of origin, 2015–2017

Country of origin	2015	2016	2017
Somalia	3,909	4,147	929
Ethiopia	941	785	237
Sudan	541	104	4
South Sudan	420	701	143
Uganda	108	107	47
Democratic Republic of the Congo	1,326	1,143	424
Burundi	121	81	100
Rwanda	78	26	10
Eritrea	116	55	26
United Republic of Tanzania	-	-	-
Other	26	14	20
Total	7,586	7,163	1,940

Source: UNHCR Kenya, 2018.

Resettlement departures by country of origin

The trend of resettlement departures by country of origin show that between the years 2015–2017 there was an increase in the year 2016, but a decline in the year 2017. The highest number of refugee resettlement departures by countries of origin was from Somalia, followed by Democratic Republic of the Congo and then Ethiopia, in that order (Table 29).

Table 29: Resettlement Departures by Country of Origin, 2015–2017

Country of origin	2015	2016	2017
Somalia	3,142	5,521	2,070
Ethiopia	645	1,265	594
Sudan	46	123	177
South Sudan	136	412	259
Uganda	69	70	46
Democratic Republic of the Congo	874	1,621	643
Burundi	30	70	45
Rwanda	28	56	22
Eritrea	28	121	62
United Republic of Tanzania	-	-	-
Other	3	27	3
Total	5,001	9,286	3,921

Source: UNHCR Kenya, 2018.

Resettlement departures by country of resettlement

The trend of resettlement departures by country of resettlement show that between the years 2015 to 2017 there was an increase in the year 2016, but a decline in the year 2017. The United States was the country that the majority of refugees who departed opted to resettle in over the years, followed by Canada and Australia, in that order (Table 30).

Table 30: Resettlement departures by country of resettlement, 2015–2017

Country of origin	2015	2016	2017
United States	3,610	7,665	2,451
Canada	174	452	663
Australia	514	580	459
Sweden	341	238	75
United Kingdom	308	267	248
Netherlands	2	70	-
Norway	32	3	7
New Zealand	-	5	11
Denmark	7	4	-
Other	13	2	7
Total	5,001	9,286	3,921

Source: UNHCR Kenya, 2018.

Resettlement submissions by country of resettlement

Table 31 shows that resettlement submissions by country of resettlement in the year 2017 were a reverse of that in 2015. For instance, in the year 2015, United States was the leading place of resettlement with 6,764 resettled persons followed by Australia at 107. However, in the year 2017, Australia led the resettlement table with 736 persons resettled compared to 391 resettled in the United States (Table 31).

Table 31: Resettlement submissions by country of resettlement, 2015–2017

Country of origin	2015	2016	2017
United States of America	6,764	6,105	391
Canada	69	75	158
Australia	107	310	736
Sweden	81	262	353
United Kingdom	378	397	180
Netherlands	130	-	-
Norway	11	5	6
France	-	1	88
Denmark	29	6	-
Other	17	2	28
Total	7,586	7,163	1,940

Source: UNHCR Kenya, 2018.

Table 32 shows that between the years 2008 and 2009, there was a drastic drop in the number of refugees who voluntarily returned to their countries of origin. This was followed a continual drop in those voluntarily going back home, up to the year 2014. Thereafter, the numbers returning home went up. Often, emigrants who have integrated abroad may find that their reintegration at home is best facilitated through a transnational lifestyle that allows them to maintain their international and social networks. Transnational circulation has positive impacts on the home society because it seems to strengthen the bond between migrants and home communities, thereby promoting development. However, secondary migration is at times, a recipe for multiple opportunities and obstacles alike, such as: legal status; access to resources; socioeconomic well-being; sociopolitical integration; maintenance and dissolution of family life.

Table 32: Voluntary repatriation from Kenya by country of origin

Country of origin	Year									Total
	2008	2009	2010	2011	2012	2013	2014	2015	2016	
Sudan	9,876	665	64	28						10,633
Burundi	6	2	1		4					13
Rwanda	-	1	2	2	1					6
Mozambique	-	-	5							5
Somalia	-	-	6	69	4		485	6,097	33,737	40,398
Democratic Republic of the Congo	-	-	3	2	7	3				15
Ethiopia	1	-	-							1
Uganda	1	-	-	4	1					6
Other	-	-	2	6					6	14
Total	9,884	668	83	111	17	3	485	6,097	33,743	51,091

Source: UNHCR Kenya, 2018.

B.7. Trafficking and smuggling

The United States’ Department of State Report on “Trafficking in Persons, 2017 Report on Kenya” notes that the Government of Kenya does not fully meet the minimum standards for the elimination of trafficking, even though, it is making significant efforts to do so. The report indicates that the Government of Kenya demonstrated enhanced efforts compared to the previous reporting period of 2016; thereby, Kenya still remains on Tier 2. Tier 2 countries are those countries whose governments do not fully meet the Trafficking Victims Protection Act (TVPA) minimum standards but are making significant efforts to bring themselves into compliance with those standards.

According to the aforementioned report, the Government of Kenya demonstrated increasing efforts by launching a national referral mechanism; issuing new registration requirements and a code of conduct for private labour recruitment agencies; and including human trafficking and the anti-trafficking law in its basic police training curricula. The Ministry of Labour assigned labour attachés to Kenyan missions in Qatar, the United Arab Emirates, and Saudi Arabia to protect citizens employed in those countries. However, the government did not meet the minimum standards in several key areas. It did not allocate any new funding to the victim assistance fund, compared to the seven million Kenyan shillings (equivalent USD 70,000) it allotted during the previous reporting period (U.S. Department of State, 2017). Kenyan authorities continued to treat some victims as criminals, and the availability of protective services for adult victims remained negligible. Some structural challenges in sectors of the government perpetuated traffickers’ ability to obtain fraudulent identity documents from

complicit officials.

Smuggling routes

Smugglers use existing trade routes frequented by nomadic ethnic groups from the Horn of Africa to North Africa and beyond (RMMS, 2017b). For instance, the Raishaida from Eritrea continue their nomadic lifestyle moving across the border to Sudan and the Tuareg in North Africa. In contrast, the routes to Southern Africa are manned by a network of smugglers operating in the country of origin and the transit countries, both on land and sea (RMMS, 2017b). The choice of the destination depends on whether the migrant has networks residing in those locations (that is, family/friends) or based on the options provided by the smuggler. It is noticeable that migrants from Eastern Africa, especially Ethiopians and Somalis, prefer South Africa as a destination; however, the true numbers destined for that location are unknown (RMMS, 2017b) (see Figure 9).

Figure 9: Smuggling and trafficking routes in the East and Horn of Africa



Source: IOM (2012) and RMMS (2017b).

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

The smuggling of migrants from Ethiopia into Kenya mostly occurs near Moyale, which is situated at the border between Ethiopia and Kenya, and, to a lesser extent, in Mandera, which borders Kenya, Ethiopia and Somalia (Barasa and Fenandez, 2015). Ethiopian citizens do not require a visa to enter Kenya, but they do require official documents and/or passport which many Ethiopians do not possess. Those Ethiopians without the required documentation seek out smugglers to help them acquire the necessary documents or guide them into Kenya without passing through official border crossings (RMMS, 2017a).

Having entered Kenya, regularly or irregularly, Ethiopians then use smugglers to organize their subsequent travel to the United Republic of Tanzania, or the entire journey to South Africa. When the overland route is perceived to be unsafe due to armed conflict or other reasons, some smuggled migrants choose to undertake maritime travel over some distances, heading South on the Indian Ocean in boats to Southern Africa. Malawi is also frequently used as a transit country on the Southern route. For smuggled migrants transiting through Malawi, the smuggling journey involves travel through northern Malawi towards Dzaleka camp, which is situated near the capital, Lilongwe. Dzaleka camp is reportedly used as a rest stop for smuggled migrants before continuing the onward journey to South Africa. Another popular transit country on the Southern route is Mozambique. The Mixed Migration Monitoring Mechanism Initiative data indicate that Somalis have been choosing to bypass Kenya and the United Republic of Tanzania on the Southern route and instead travel by air or sea to Mozambique (RMMS, 2017b).

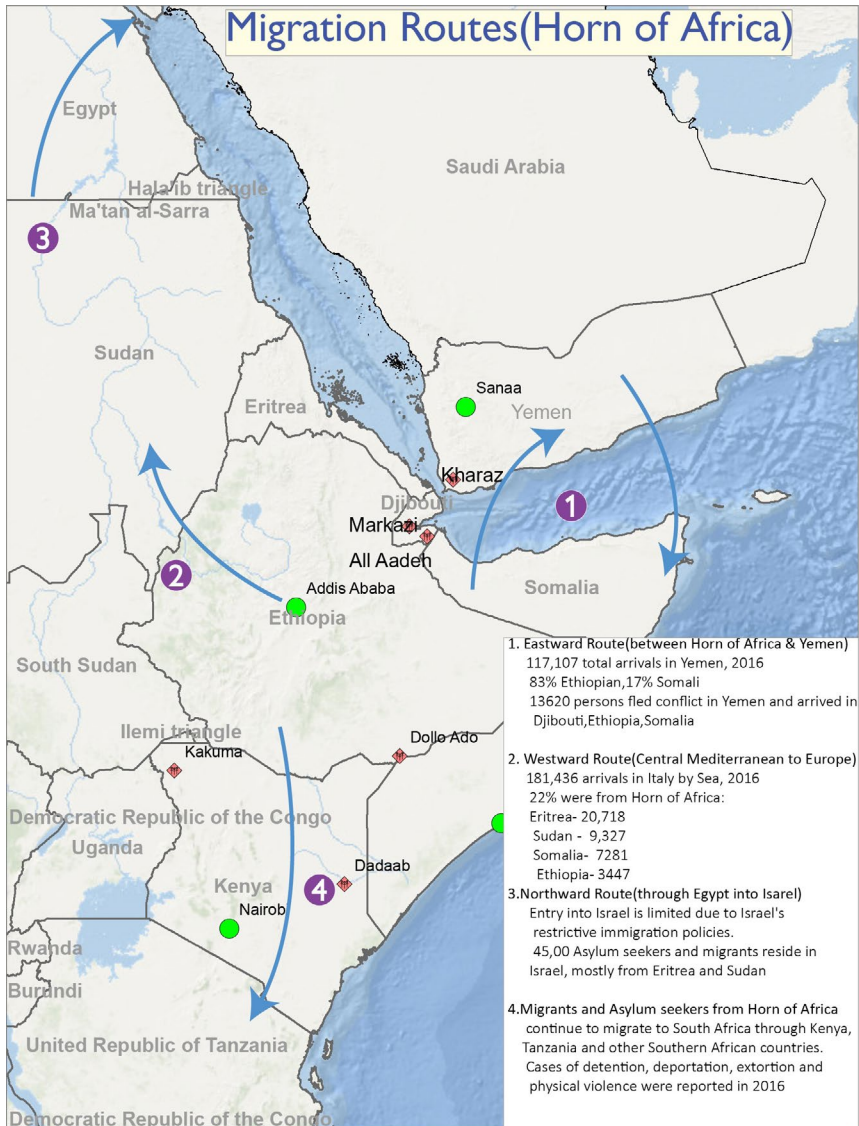
In 2014, 11 per cent of migrants from the Horn of Africa were transiting through Mozambique, rather than Kenya or the United Republic of Tanzania, compared to only 1.6 per cent using the route via Mozambique prior to 2013 (RMMS, 2014a). The journey from the Horn of Africa to Mozambique is believed to be safer than other Southern routes, with no reported deaths, and only 5 per cent of interviewed migrants reporting that they witnessed or had heard of someone who disappeared (RMMS, 2014b). Another factor that may be influencing the decision of migrants travelling on the Southern route to transit via Mozambique may be that it is reportedly relatively easy for Ethiopians to acquire a tourist visa in Mozambique, allowing them to travel overland through the country to South Africa. Most smuggled migrants from the Horn of Africa travelling on the Southern route, however, continue to enter South Africa through Zimbabwe. RMMS research in 2015 indicated that 100 per cent of the migrants who travelled from the United Republic of Tanzania to Mozambique, subsequently crossed into Zimbabwe before reaching South Africa (RMMS, 2015).

An additional push factor for the irregular migration of Somalis to Europe and other destinations is the fear of many Somali refugees of having to return to Somalia after having been displaced for decades by conflict. Many Somalis who return to their home country end up in camps for internally displaced persons or find themselves living in areas where security is inadequate. As a result, Somali refugees living in refugee camps in Kenya, particularly at the complex at Dadaab, may decide that irregular migration is a better option than returning home to Somalia (RMMS, 2016a).

The mixed migration landscape in and from the Horn of Africa and Yemen region continued to be affected by a number of multifaceted dynamics in 2016. A combination of ongoing and renewed conflict, persecution, endemic poverty, drought, and a weak protection space contributed to complex population movements throughout the year. Policy debate around mixed migration continued to be dominated by the arrival of migrants and refugees in Europe and efforts to stop the flows. People on the move within mixed population flows faced significant protection challenges, ranging from abuse, extortion and death.

Migrants and asylum seekers from the Horn of Africa continue to irregularly migrate south towards South Africa, transiting through Kenya, the United Republic of Tanzania and other Southern African countries. The findings of the paper by Nassim and Oucho (2016) estimates that between 13,400–14,050 Somalis and Ethiopians enter South Africa irregularly every year, slightly lower than the 17,000–20,000 estimated in 2008/2009, and that the number of people leaving the Horn of Africa via the southern route is between 14,750–16,850 a year. Based on reports on fees paid to smugglers, RMMS also estimated that the illicit migrant smuggling economy on the southern route is worth at least USD 47 million per annum, up from USD 40 million in 2008/2009 (Nassim and Oucho (2016). The southward route runs through Kenya towards South Africa (Figure 10).

Figure 10: Southward route (through Kenya towards South Africa)



Source: Regional Mixed Migration Secretariat, 2017b.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

Destination of smuggled migrants

Some countries in Eastern Africa operate primarily as transit countries, whereas others are major source countries. There are three main destinations for migrants from Eastern Africa, which are Europe, the Middle East and Southern Africa. The routes taken depend on the mode of transport used by the smuggled migrant:

- Europe via the Sudan to Libya or Egypt where they access Europe from West Balkans via the former Yugoslav Republic of Macedonia and the Central Mediterranean route to Italy. Most of the migrants are Somalis, Eritreans, Sudanese and Ethiopians;
- Middle East to Yemen via the Somali cities of Hargeisa and Bossaso;
- Southern Africa via Kenya, Malawi, Mozambique and the United Republic of Tanzania, to South Africa where majority of the irregular migrants are destined.

Table 33 below outlines the source, transit and destination countries of migrant smuggling. Somalia, Eritrea, Ethiopia and Djibouti have been identified as major source countries of migrant smuggling. Somalia and Djibouti also operate as transit countries for migrants travelling by sea, land or air to the Middle East and South Africa (RMMS, 2014a). Uganda, Kenya and the United Republic of Tanzania are the main transit countries given the more stable conditions than other neighbouring States, such as Somalia, Ethiopia and Burundi. There has been little evidence to show that they are source countries for migrant smuggling (RMMS, 2013a). Uganda is a transit country for nationals from the Democratic Republic of the Congo. Equally, South Sudanese do also migrate into Uganda as refugees and/or asylum seekers. On the other hand, Sudan is not a major source country for irregular migration (IOM, 2012).

Table 33: Source, transit and destination countries for migrant smuggling

Source country	Transit countries/territories	Destination countries
Somalia	Djibouti, Kenya, Malawi, Mozambique, United Republic of Tanzania	Europe, Kenya, South Africa, Yemen
Djibouti		Yemen
Ethiopia	Djibouti, Kenya, Libya, Malawi	Europe, Lebanon, Saudi Arabia, South Africa, United Arab Emirates
	Mozambique, Puntland, Somalia	
	Somaliland, Sudan, United Republic of Tanzania, Yemen, Zambia, Zimbabwe	
Eritrea	Libya, Kenya, Sudan	Europe, Egypt, Israel, Kenya

Source: RMMS, 2017b.

Smuggling by sea

Migrant smuggling through the sea tends to be for shorter journeys and is favoured by migrants who lack the financial resources to fund their trip. There are two major sea routes used to smuggle migrants to the Middle East and Southern Africa. Migrants bound for the Middle East use the Gulf of Aden route exiting from Hargeisa and Bossaso in Somalia and Puntland, Somaliland and Djibouti and transit through Yemen heading to Saudi Arabia and other Middle Eastern countries. There is a continuing emigration from Yemen to other countries in the region and afar due to the ongoing conflicts in the country between the Houthi rebels and the Yemen government forces (RMMS, 2018).

Migrants using the South African route exit through Kismayo and Mogadishu in Somalia by boat and travel to Mombasa, Kilifi, Lamu and other unregulated ports in the north coast of Kenya. In Kenya, migrants can opt to take another boat to Mozambique or proceed by land via the United Republic of Tanzania, Malawi, Mozambique and finally South Africa. Ethiopians have used South Africa as a transit route for the Americas, but the journey is costly as counterfeited refugee documents or fake documentation have to be purchased in transit countries. Ethiopian migrants often need resources to access their desired destination. It is observed that Ethiopian migrants from a poor background, however, could only afford to migrate to Sudan instead of Yemen (RMMS, 2017b).

Smuggling by land

Land routes are for both short and longer journeys with migrants from Ethiopia and Eritrea transiting Kenya through the porous borders of Isiolo and Moyale in northern Kenya. Continual arrests often are made at Moyale, Isiolo and Marsabit (Barasa and Fernandez, 2015:39). Refugee camps in Nairobi (Eastleigh) and Mombasa are smuggling hubs that temporarily house transit migrants bound for different locations (Gastrow, 2011). Ethiopians, Somalis and Eritreans destined for Europe have been transported through Addis Ababa where they are met by brokers who transport them to Sudan on the way to Libya. Hawala agents operating in Khartoum manage the finances and transport of migrants through Ethiopia into Sudan (Sahan Foundation/IGAD, 2016:21). Uganda has been a transit country for nationals from Central Africa, especially nationals from the Democratic Republic of the Congo either migrating to Uganda or Kenya to seek asylum and/or settle.

Smuggling by air

Air routes have been linked to Kenya as a major transit country for smuggled migrants that can afford air travel because of Kenya's air connectivity and networks to other parts of the world is more developed than in other countries in the region. By air, migrants can travel directly and indirectly to Europe. Indirect travel is done through other African countries, especially via West Africa or Middle East to Europe. Other destinations by air include South Africa to Europe or the Americas (ICMPD, 2008). In the case of Eritrea, smuggling by air is viewed as "first class treatment", where smugglers organize specific "flight connections to remote international destinations, from where European visas are obtained for their passengers" (Sahan Foundation/IGAD, 2016:28).

Smuggling routes in source and transit countries are poorly regulated by authorities due to the lack of resources at border points, making it difficult for law enforcement to intercept irregular movements, especially along large coastlines such as the 110km coastline from Likoni to Vanga, which has opened up 176 illegal entry points (Barasa and Fernandez, 2015:43). According to the Tanzanian authorities, it is "challenging for the officers stationed at these border crossing points, as the volume of crossing per day is impossible to track. The lack of computerized data capture likewise limits the ability for offices to check and verify travellers' information" (Ramkishun, 2015). The lack of effective legislation or policies to manage and police irregular flows of migration has allowed migrant smuggling to persist. This is also made worse by corrupt practices of law enforcement operational at the border points and within the country (RMMS, 2013b). Furthermore, migrant smuggling is not high on the agenda for countries in Eastern Africa as more pressing issues such as security and the current refugee crisis takes precedence (RMMS, 2013b).

Smuggler services and networks

The services provided by smugglers in Eastern Africa are linked to well-established smuggling networks operating in the country of origin, transit and destination countries. In Eastern Africa, engaging the services of a smuggler requires the services of middlemen. These middlemen recruit potential migrants, provide information about the destination country or cost of smuggling, as well as necessary service to smugglers who lease out their services (such as renting boats or accommodation for transit migrants). These middlemen can be viewed as subsidiary smugglers as they are profiting from smuggling by supporting or promoting the services of a smuggler.

Conflict, insecurity and the lack of rule of law within countries, such as Eritrea, Ethiopia and Somalia have allowed migrant smuggling to thrive. In Somalia in recent years, insecurity caused by Al-Shabaab attacks has pushed people to seek alternative destinations beyond the region. In Eritrea, the Government instituted a “shoot on sight” policy in early 2015 along its borders to reduce the number of young people fleeing the country (IGAD, 2016:29). The continuous droughts and famines in Ethiopia become a recruitment ground for migrants for brokers or agents. Middlemen and smugglers take advantage of these conditions by creating a desire to migrate for a potential migrant by enticing them on job opportunities in destination countries. They also increase the costs based on the smuggling/ trafficking route they take. (IGAD, 2016)

Characteristics of smugglers and smuggled migrants

According to UNODC, there are indicators of strong links between individuals within the local government and the migrant smuggling network (RMMS, 2013a). Corruption feeds into the smuggling process as officials gain a significant percentage of the smuggling revenue. Middlemen working with or as smugglers in the smuggling network play different roles, and they have been identified in Eritrea, Ethiopia, Kenya and Somalia.

Taxi, bus and lorry drivers, as well as bush guides and those who enter into contracts with and accompany migrants on irregular crossings, are all considered smugglers, because they derive benefit from the movement. Smuggled migrants, on the other hand, tend to be individuals seeking better livelihoods that their country or location at the time cannot provide for them (Barasa and Fernandez, (2015:33) argued that “smuggled migrants do not view themselves as victims of a crime, despite the abuse they experience during, and as a result of, the smuggled process”. Migrant smuggling has become a survival strategy adopted by migrants who are seeking a better life. UNODC described the different types of smuggled migrants using sea smuggling services in general, but they do not describe the characteristics of the smuggled migrants from Eastern Africa.

Protection

The government and advisory committee developed and implemented guidelines to assist all relevant stakeholders, including law enforcement and social service officials, in referring potential victims of trafficking to appropriate services. The Department of Children Services (DCS) officers continue to participate in police investigations, identify child trafficking victims, and provide them with counselling and ad hoc referrals to service providers. DCS and a local

NGO continue to jointly operate a national 24-hour toll-free hotline for reporting cases of child trafficking, labour, and abuse; the hotline's main call centre is located in a government-owned building in Nairobi. During the reporting period, the hotline received 1,195 reports of child trafficking; however, the government did not report disaggregated statistics between labour exploitation and sex trafficking. DCS continued to operate eight drop-in referral centres in Eldoret, Garissa, Malindi, Siaya, Kakamega, Nairobi, Nakuru, and Mombasa that provided counselling, guidance, and referrals to other centres for an unknown number of victimized children, including trafficking victims, who could not return to their homes. DCS also funded and operated four rescue centres in Garissa, Malindi, Thika, and Machakos where child victims of violence, including trafficking victims, could stay for three months before returning home or being referred to NGO facilities. The government reported its centres provide assistance to all child victims identified during the reporting period (NCM, 2018b).

The government made efforts to implement the 2014 Victim Protection Act, which aimed to improve support provided to all trafficking victims, including accommodation, food, medical treatment, psychosocial care, police protection, and the establishment of a fund to assist victims. During the reporting period, the government allocated seven million Kenyan shillings (equivalent USD 70,000) to the victim assistance fund for the first time.

Prevention

The government increased efforts to prevent human trafficking. The advisory committee, the governing body for anti-trafficking efforts, met regularly during the reporting period and implemented Kenya's national action plan for 2015–2020. Additionally, the advisory committee is working with partners to develop a database to share relevant ministry information across all 47 counties; in the interim, information is shared through Department of Children Services (NCCS, 2010). The advisory committee through the represented offices and Department of Children Services disseminated awareness materials and case studies in efforts to educate local communities on potential indicators of trafficking (NCCS, 2010). The National Council for Children's Services (NCCS) was established under Section 30 (1) of the children Act 2001 as a body corporate with perpetual succession and a common seal, to exercise general supervision and control over the planning, financing and coordination of child rights activities and to advise the government on all aspects related to children. The Council was inaugurated on 27 September 2002. It has its smallest units (Area Advisory Councils (AACs)) in 47 counties, 229 sub-counties, divisions and other devolved structures. The overall role of AACs is to coordinate and guide children activities in their areas of operation.

Kenya has been identified as a source, transit, and destination country for victims of human trafficking. Internal trafficking occurs within Kenyan borders mainly for purposes of domestic labour and sexual exploitation, whereas international or cross-border trafficking occurs due to purposes of forced labour, domestic servitude, and sexual exploitation. The Ministry of Labour and Social Protection developed new policies for Kenyans seeking employment opportunities abroad to ensure their work contracts comply with specific standards set within the ministry; however, the policies were not implemented by the end of the reporting period due to a lack of capacity within the ministry. Ministry of Labour (MOL) continued requiring agencies sourcing jobs abroad in the hospitality and service sectors to obtain MOL approval of all contracts prior to prospective migrants signing the contracts and departing for employment. Whenever the Ministry of Labour and Social Protection deems the contract credible, they are required to be signed before the officer and applicants must register with the Kenyan embassy in the host country.

The government made efforts to reduce the demand for commercial sex acts, but did not report efforts to reduce demand for forced labour. The Ministry of Foreign Affairs provided anti-trafficking training for its diplomatic personnel and vetted employment (NCM, 2018b). Sustained efforts are needed to identify trafficked persons, to improve the capacities of Ministry of Foreign Affairs and International Trade, the Department of Immigration and other relevant law enforcement actors to cooperate with service providers in the rescue and referral of trafficked persons, and in the delivery of assistance services to such cases. Through funding support from the British High Commission, IOM undertakes a series of capacity-building trainings for the Ministry of Foreign Affairs and International Trade and the Department of Immigration Services, as well as the Special Investigations Unit (SIU) of the Criminal Investigations. The trainings are focused on human trafficking concepts and trends, differences between smuggling and trafficking and how to identify, investigate, refer, and protect actual or potential victims of trafficking.

Mostly in response to requests from the Kenya Police Services, IOM conducts a series of module-based trainings combined with on the job training, to members of SIU-CID to build their knowledge of human trafficking, their skills in investigating trafficking allegations, their ability to protect and refer trafficked persons, and their ability to prepare anti-trafficking cases for referral to prosecutorial authorities. Part of IOM's assistance, includes the provision of direct assistance services to the victims of human trafficking by referring trafficked persons to relevant agencies for appropriate services, or provides direct assistance services itself where and when relevant based on the individual case.

PART C: IMPACT OF MIGRATION

C.1. Introduction

Migration is a key enabler for social and economic development in countries of origin and destination. With the growth in human mobility set to continue and likely to accelerate in the coming decades, governments, social partners (workers' and employers' organizations), the private sector and civil society increasingly recognize the relevance of migration to all pillars of sustainable development. It is also important for the human development of individuals and their families, enlarging their capabilities, opportunities and choices. Migrants are also important for the transmission of "social remittances" including the transfer of new ideas, information and technology (NCM, 2018b).

However, there are also social costs related to migration, including for children and older persons who remain in place of origin, as well as the challenge of the so-called "brain drain". The migration of highly educated or skilled segments of the population can have negative impacts on development, especially in small developing countries. In destination countries, the skills of migrants are often underutilized due to difficulties in obtaining legal documentation and recognition for qualifications acquired abroad. Governments should embrace the contributions that migrants and migration make to countries of origin and destination, address the challenges associated with migration, and improve data collection and dissemination on the contributions of migration and migrants (NCM, 2018b).

C.2. Migration and socioeconomic development

Migration has contributed to economic development in different ways, with most of the focus being on the financial contributions of the Kenyan diaspora which have been estimated to about 185 billion shillings in 2017 (Central Bank of Kenya, 2018) and one of the largest contributions to the GDP. In addition, the number of tourists and business investors has positive effect on revenue collection, which impacted on Kenya's GDP during the period. There is evidence of contribution through foreign investment via multinational companies establishing offices in the country such as Game (South African enterprise), Carrefour (French) as well as a host of world-renowned hotels in urban and semi-urban areas. Furthermore, the improvement of mobile money transfer has expanded the reach of the services beyond the Kenyan borders making it easier to transact businesses and send money across different parts of the country (NCM, 2018b).

Diaspora remittance, contribution and use

Remittances generally refer to money and social transfers from migrants to relatives and others in the country or community of origin. The term remittances have primarily focused on money sent by migrants to their families or community members in the place of origin, third countries or through existing diaspora banking services provided in the country. Remittances play an important role in Kenya's economy impacting the macro and microlevels of economic development at national and county level. The Central Bank of Kenya conducts a survey on remittance inflows every month through formal channels that include commercial banks and other authorized international remittance service providers in Kenya. Remittances are an important and regular source of foreign exchange in the money market. Table 34 depicts the major sources of Kenyan remittances by regions of the world from the year 2016 up to 2018.

Table 34: Major sources of Kenya diaspora remittances by regions, 2016–2018

Year	Month	North America	Europe	Rest of world	Total remittances (USD '000)
2018	1	116,399.30	64,936.08	27,586.18	208,921.56
	2	115,971.11	63,816.12	30,574.35	210,361.58
2017	1	66,391.21	44,119.35	31,892.54	142,403.10
	2	65,326.37	46,686.26	30,653.19	142,665.82
	3	69,975.64	48,958.00	28,596.10	147,529.74
	4	70,821.58	44,765.29	23,017.34	138,604.21
	5	77,297.81	55,441.04	28,761.94	161,500.79
	6	76,199.74	54,972.83	23,703.49	154,876.06
	7	73,485.90	54,511.54	24,311.83	152,309.27
	8	86,261.06	55,640.74	24,509.92	166,411.72
	9	101,047.32	53,706.19	21,344.66	176,098.17
	10	104,480.91	55,296.43	25,726.53	185,503.87
	11	97,826.67	53,770.60	23,583.92	175,181.19
	12	114,388.29	61,244.18	28,187.36	203,819.83

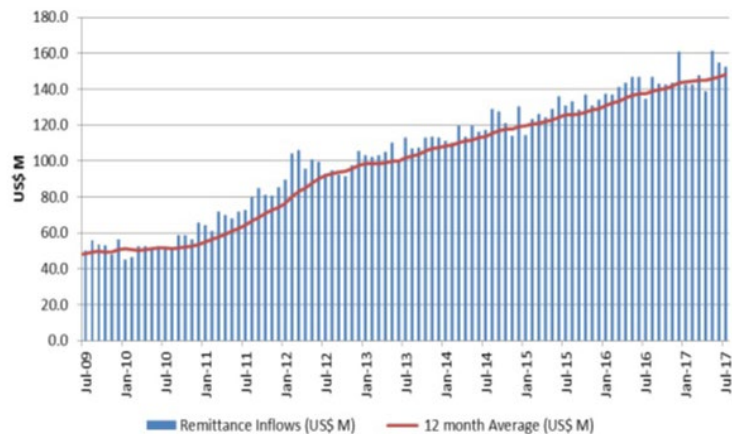
Year	Month	North America	Europe	Rest of world	Total remittances (USD '000)
2016	1	63,516.78	40,630.03	33,346.85	137,493.66
	2	62,011.30	41,798.22	33,169.46	136,978.98
	3	68,851.76	43,807.06	28,448.09	141,106.91
	4	72,073.42	40,622.10	30,829.98	143,525.50
	5	68,708.94	46,615.85	31,435.13	146,759.92
	6	69,922.45	41,988.44	34,747.47	146,658.36
	7	65,506.33	40,494.70	28,660.36	134,661.39
	8	70,877.31	43,276.03	32,590.94	146,744.28
	9	72,598.20	42,151.73	28,438.39	143,188.32
	10	74,182.45	42,035.32	26,336.75	142,554.52
	11	75,534.79	42,486.12	25,669.73	143,690.64
	12	82,154.35	46,782.18	32,004.12	160,940.65

Source: Central Bank of Kenya, 2018.

Remittance inflows to Kenya declined by 1.7 per cent in July 2017 compared to inflows recorded in June 2017 (Table 35) reflecting lower inflows from North America. However, when compared to inflows recorded in July 2016, inflows in July 2017 increased by 13.1 per cent. The decline in remittances is further accentuated when expressed in United States dollars because of the weakening of the Euro, the British pound and the Ruble against the United States dollar.

12-month cumulative inflows to July 2017 were 7.7 per cent higher at USD 1777 million compared to USD 1650 million over the same period in 2016. 12-month average inflows to July 2017 also sustained an upward trend to USD 148.1 million from USD 137.5 million over the same period in 2016 (Figure 11). Remittances as a share of GDP stabilized at 2.4 per cent over the twelve months to July 2017.

Figure 11: Monthly remittance inflows



Source: Central Bank of Kenya, 2018.

The Government of Kenya recognizes the importance of the contribution of the Kenyan diaspora to the economy and national development. Kenya's Vision 2030 (Republic of Kenya, 2007) considers diaspora remittances as one of the flagship projects under the financial sector. Both the Kenya Foreign Policy and Diaspora Policy (Republic of Kenya, 2014e; 2014a) underscore the significance of the Government's engagement with the Kenyan Diaspora which is aptly described as "the 48th County of Kenya" by the President of the Republic of Kenya (H.E. Uhuru Kenyatta).

Given the increased amount of remittances sent across the globe and their potential and actual impact in receiving countries, after years of deliberation through various platforms including the Global Forum on Migration and Development, the United Nations General Assembly included migration as the tenth Sustainable Development Goal. Target 10(c) focuses on reducing the transaction cost of remittances to less than 3 per cent by 2030. The African Institute for Remittances established in 2015 and headquartered in Nairobi aims at developing mechanisms and improving policy framework for remittances in Africa. It is thus important to identify ways to maximize the development benefits of remittances and improve transfer mechanisms, including reducing costs of transferring remittances to Kenya; with the objectives being to:

- Leverage the potential impact of remittances on socioeconomic development;
- Reduce the transfer costs of remittances;
- Develop appropriate legal and regulatory frameworks for remittances, payment and settlement systems.

Migration and health

Kenya is a major transit country for migrants from the East and Horn of Africa travelling south to South Africa or north to the Middle East and Europe. Many of the migrants are undocumented and often face a number of social, legal and economic challenges, such as immigration status and language barriers, that deter them from accessing vital health-care services. The meeting sought to promote dialogue that will help the government and development partners to include migrants in mainstream national health policies and strategies. Since Kenya's first national consultation held in May 2011, various milestones have been achieved (Republic of Kenya, 2011). These include the creation of a Technical Working Group by the Ministry of Health to spearhead the migrant health agenda and an analysis of the legal and policy framework on migration and health in Kenya in 2013. This has resulted in government ownership of the need to provide more migrant-friendly health services. Other achievements include a study on health vulnerabilities of urban migrants in the greater Nairobi that provided strategic information for monitoring migrants' health; and the launch of a National Strategy on HIV/AIDS and STI Combination Prevention along Transport Corridors.

Migration and environment

The most common environmental hazards in Kenya (see Table 35) are droughts and floods. For example, 80 per cent of Kisumu residents say they have experienced floods several times while 91 per cent of Kitui residents have not experienced any flood occurrence, illustrating the flood-prone nature of Kisumu County due to its proximity to the flood plains of Lake Victoria and the drought-prone nature of the arid and semi-arid lands in Kitui County. Severe droughts and irregular rainfall have been experienced by 84 per cent of Kisumu residents and 91 per cent of Kitui residents. Nairobi county has experienced less of these two common hazards (30% have experienced floods several times while 70% have not experienced any drought or irregular rainfall), confirming its status as a destination urban county where the effects of climate and environmental change are less pronounced.

Table 35: Types of disasters and their impacts

Disaster subgroup	Disaster type	Occurrence	Total deaths	Affected	Homeless	Total affected
Biological	Epidemic	32	4,856	6,881,995	0	6,881,995
Climatological	Drought	14	196	48,800,00	0	48,800,000
Gheophysical	Earthquake	2	1	0	0	0
Hydrological	Flood	48	1,350	2,969,894	6,200	2,976,123
Hydrological	Landslide	4	56	0	0	26
Metereological	Storm	1	50	0	0	0
Total		101	6,509	58,651,889	6,200	58,661,603

Source: Nyaoro, Schade and Schmidt 2016:55.

The Migration, Environment and Climate Change study (MECLEP Kenya, 2017) in Kenya set out to provide evidence linked to the national adaptation plan process. Its objectives were to: (a) To reduce vulnerability to the impacts of climate change, by building adaptive capacity and resilience, and; (b) To facilitate the integration of climate change adaptation, in a coherent manner, into relevant new and existing policies, programmes and activities, in particular development planning processes and strategies, within all relevant sectors and at different levels, as appropriate (UNFCCC, 2011).

To mitigate these adversities, it is imperative for communities living in these regions to have adaptation and coping strategies in forms of generational community practices necessary to reduce vulnerability to drought stresses in addition to prepare for possible future climatic adversities. The Intergovernmental Panel on Climate Change reports (IPCC, 2001; 2007; 2012) defines adaptation as an adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities. Adaptation therefore involves adjustments in reducing the vulnerability of households to climatic variability and change (Adger et al., 2007).

Migration as adaptation strategy

Adaptation to climatic changes is a necessary component of planning at all levels. Adaptation is often understood in a broader sense, as all activities and measures that are taken by vulnerable groups and individuals to cope with a changed situation that was triggered by events from the environmental, social and political spheres. Adaptation to climate change is a positive behavioural response mechanism to mitigating hazards. Adaptation is defined as adjustments in natural or human systems in response to actual or expected climatic stimuli and their impacts which moderates harm or exploits any beneficial opportunities

(IPCC, 2001). To mitigate the effects of climate change, the study recommends that the Government of Kenya and the respective County Governments of Kisumu, Kitui and Nairobi integrates human mobility considerations into National Adaptation Plans (IOM, 2014; Melde and Lee, 2014), a recommendation which was also echoed in the Nansen Initiative consultative process on human mobility in the context of disasters and climate change (The Nansen Initiative, 2015).

Migration and population dynamics

Population dynamics are at the centre of the main development challenges of the twenty-first century and must therefore be addressed in the post-2015 development agenda. There is an increasing awareness that population dynamics and its components need to be addressed in designing new development strategies, policies and programmes. Towards this effort, the Rio Declaration, agreed at the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, as well as the Programme of Action adopted at the International Conference on Population and Development in Cairo in 1994, called for policies that promote sustainable consumption and production; which is the hallmark of the green economy, as well as policies that address population dynamics. More recently, the importance of population dynamics for sustainable development was emphasized by the Luxemburg Declaration formulated by a Global Science Panel in 2011, the Global Agenda of the World Economic Forum in 2012, in the outcome document of the United Nations Conference on Sustainable Development, Rio+20, entitled *The Future We Want* in 2012, and the report by the United Nations Task Team on the Post-2015 Development Agenda entitled *Realizing the Future We Want for All* (United Nations, 2015c).

C.3. Migration and sustainable development

The 2030 Agenda for Sustainable Development not only includes several migration-related targets, but also encourages countries to disaggregate targets by, inter alia, migratory status as it recognizes the positive contribution of migrants for inclusive growth and sustainable development. International migration is a multi-dimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. The declarations emphasize that Governments should increase international, regional and bilateral cooperation with a comprehensive and balanced approach to ensure orderly, regular and safe processes of migration, and promote policies that foster the integration and reintegration of migrants and ensure the portability of acquired benefits (United Nations, 2015a).

Migration is intimately related to labour demographics that are crucial to economic viability and development of countries worldwide. Women and men migrants replenish economies with much needed skills and innovation and buttress social security systems in countries or cities with ageing populations. Migrants have been, and continue to be, instrumental in job creation through entrepreneurship, in supplying necessary goods and services, and filling gaps in the labour market. The money that migrants gather and send back home financial remittances as well as transfers of their knowledge and skills help sustain households in places of origin, can lead to community empowerment, and may even address some of the negative aspects of high fertility and ageing by facilitating household members' access to health care, education and other services (United Nations, 2015b).

The rapidly increasing dominance of cities places the process of urbanization among the most significant global social trends of the twenty-first century. Urbanization and city growth are caused by a number of different factors including rural–urban migration, natural population increase, and annexation. However, because fertility is generally higher in rural than in urban areas, the principal reasons for rising levels of urbanization are rural–urban migration, annexation (the expansion of existing urban areas into adjacent space); and reclassification i.e. the growth and subsequent reclassification of what were previously considered rural villages as small urban settlements (United Nations, 2015c).

According to the Kenyan Poverty Reduction Strategy Paper (International Monetary Fund (IMF), 2010), migration brings to Kenyan society many opportunities and challenges in terms of security, labour opportunities in urban areas, HIV risks, small arms and trafficking in persons, environmental pressure in urban areas as well as large scale emigration of the highly skilled. However, despite the aforementioned negative impacts of migration, several studies suggest that rural-urban and international migration as well as cross border trade have had numerous positive impacts on the well-being of Kenyan households and on poverty reduction (Ogutuu, 1997; Lucas, 2007; Masinjila, 2009; UNDP, 2009). Furthermore, there is an increasing recognition among both the public authorities and civil society about the potential of Kenyan Diasporas to contribute to the country's development (Ghai, 2004; Okele, 2008; Kiiru, 2010).

PART D: MIGRATION GOVERNANCE AND RELATED POLICIES

D.1. Introduction

Migration governance in Kenya is guided by the following policy documents among others:

- (a) Kenya Vision 2030, which is the Government of Kenya’s national planning strategy, and is implemented through a series of five-year Medium-Term Plans. The overall vision of Kenya 2030 is to “transport Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by the year 2030” through three pillars: economic, social, and political. Minor references are made to migration in Vision 2030, but it does not adequately mainstream migration as a potential contributor to national development.
- (b) The Draft National Migration Policy.
- (c) The Draft National Labour Migration Policy.
- (d) The National Diaspora Policy, which was launched in early 2015, and aims to, inter alia: mainstream diaspora into national plans; provide opportunities for Kenyans in the diaspora to contribute to national development; safeguard the basic rights and living standards of the diaspora, and establish the necessary institutions for the coordination and administration of Diaspora issues.

D.2. Kenya national immigration policy

The main goal of the draft 2018 Kenya Migration Policy (NCM, 2018b) is to set a migration development and management road map, mainstream the role of migration in national security and development in order to strengthen the migration and development nexus. The general objective of the national migration policy is to enhance the socioeconomic development and security in the country by developing structures, institutions and operational frameworks for effective migration governance. The specific objectives of the policy are to:

- (a) Promote, protect and safeguard national and regional security by integrating national core values in migration governance and effective enforcement of laws;

- (b) Promote interagency and interstate cooperation and coordination on migration management;
- (c) Mainstream the role of migration in national development by incorporating the diaspora in national policy making processes; promoting remittances and investment in the country;
- (d) Address the challenges of irregular migrants and forced displacements by strengthening migration development and management;
- (e) Promote migrants' rights by protecting victims of smuggling and trafficking in persons and other vulnerable migrant groups;
- (f) Manage migration data in a coherent manner.

The Kenya National Migration Policy sets clear migration goals and objectives for the country within this framework. It is informed by the July 2001 African Union Lusaka Council of Ministers' (African Union - Council of Ministers, 2001) decision that laid down the foundation for the development of the African Union Migration Policy Framework for Africa (AU MPFA) by African States. This was adopted by Heads of States and Governments in Banjul, Gambia in July 2006 (African Union, 2006). Resolutions by Regional Economic Communities (RECs), among them the EAC and IGAD support the development of national migration policies. The development of the policy is necessitated by the following:

- (a) Rising migration flows and its impact on national security and economic development;
- (b) Border management challenges that threaten peace and security;
- (c) Need for strengthening structures for the protection of refugees and combating migrant smuggling and trafficking in persons;
- (d) Inadequate structures for effective migration management;
- (e) Need for harmonization of administrative and management of relevant migration laws and procedures;
- (f) Need to promote employment through concerted labour migration export;
- (g) Recognition of diaspora in national economic development;
- (h) Recognition that migration is an engine for regional and international cooperation;
- (i) Need to coordinate migration governance in Kenya;
- (j) Need to eliminate duplication of effort and wastage of resources.

The policy addresses the development and management of international migration and efficient delivery of migration services. It establishes a comprehensive and integrated migration governance framework for Kenya, centred on key thematic areas, including:

- (a) Migration and security;
- (b) Migration and development;
- (c) Facilitation of international mobility;
- (d) Forced migration;
- (e) Cross-cutting issues in migration;
- (f) National coordination and international cooperation; and
- (g) Migration data, information management and capacity-building.

The key principles of the policy (NCM, 2018b) are to mainstream migration in the socioeconomic and national security structures for implementation within a broader social policy framework; more efficient management of migration flows; partnership with stakeholders; and fair treatment of migrants. Fundamental to the policy is the recognition of the importance and impact migration has on the overall economy and security; the cross-cutting nature of migration issues across government departments, the civil society and international humanitarian organizations. The policy, therefore, embraces international good practices in migration management and at the same time addresses the emerging global paradigm shift in migration management and development. It also enhances national, regional and global security by initiating efficient and effective border management.

The policy establishes institutional frameworks, procedures and operational guidelines (NCM, 2018b). It specifies roles and responsibilities of migration stakeholders. The policy is anchored on principles outlined in national, regional and international legal instruments regulating and controlling the international movement of persons. The principles enhance the capacity of the authorities to manage migration in a manner consistent with world's good practices while remaining responsive to the ever-changing migration dynamics. The National Migration Policy is based on existing legislation, regulations, administrative circulars and policy guidelines issued by the relevant authorities from time to time. These legislations are introduced to give the Policy the prerequisite legal base. However, not all policy principles are supported by legislative provisions. Some are founded on administrative guidelines and national practice.

D.3. Legal and policy frameworks on migration

Legal and policy frameworks on migration are predicated on both domestic and international legal instruments with migration agenda ratified by the government and relevant international norms prescribing the authority of States in managing migration. The national legal instruments (IOM, 2015a) include but are not limited to the following:

- Constitution of Kenya 2010
- Kenya Citizenship and Immigration Act. 2011
- Kenya Citizens and Foreign Nationals Management Service Act 2011
- Refugees Act, 2006
- Counter-Trafficking in Persons Act 2010
- Children’s Act No.8 of 2001
- Witness Protection Act, Cap. 79 Laws of Kenya
- Extradition (Contiguous and Foreign Countries) Act, Cap. 76
- Extradition (Commonwealth Countries) Act Cap. 77
- Immunities and Privileges Act, Cap. 179 Laws of Kenya
- Prevention of Terrorism Act 2012
- Proceeds of Crime and Anti-Money Laundering Act 2009
- Security Laws Amendment Act 2014
- National Government Coordination Act, 2013
- Registration of Persons Act, 2015
- Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012
- Access to Information Act, 2016
- Ethics and Anti-Corruption Commission Act, 2011

Existing policy frameworks on migration(IOM, 2015b)are informed by both the regional and international migration management legal instruments, such as:

- East African Community Common Market Protocol, 2010
- EAC One Stop Border Post Act, 2016
- African Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention)
- African Union 1999 Convention on Combating and Prevention of Terrorism
- Border Security Controls and Extradition Protocols, among them, the United Nations Convention for the Suppression of Terrorist Bombing (1997)

- UN Security Council Resolution 1373 calling for States to Enforce Efficient and Effective Migration Management and Controls of the Borders, Issuance of Identity Papers to Prevent Terrorist Movements
- UN General Assembly Convention against Transnational Organized Crime and the two Protocols dealing with Human Trafficking and Smuggling
- Bilateral and multilateral regional and international migration management treaties, such as the EAC, IGAD, COMESA and the African Union
- ILO Convention on the Rights of Migrant Workers and their Families, numbers 97 and 143
- 1961 Vienna Convention on Diplomatic Relations and the 1963 Convention on Consular Relations
- International Civil Aviation Authority, Chicago Convention and Protocol No. 9303 on travel documents and related protocols
- 1951 Convention Relating to the Status of Refugees and the attendant issues and the 1967 Protocols adopted in New York
- International migration management cooperation through bilateral and multilateral agreements including Regional Consultative Processes
- Universal Declaration on Human Rights of 10 December 1948

D.4. Environment/disaster policy frameworks

In 2010, the Conference of Parties to the UNFCCC, meeting in Cancun, known as the Cancun Adaptation Framework and Human Mobility Framework recognized the potential impact of climate change on the movement of people. It therefore called upon Parties (paragraph 14(f)) to enhance action on adaptation under the Cancun Adaptation Framework, by undertaking among other measures, the following: “to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels.”

African Nations adopted the African Regional Strategy for Disaster Risk Reduction in 2004 which provides for a common approach to shared risks throughout the region. The Government of Kenya and civil society organizations have also actively participated in the development of disaster risk reduction and disaster management treaties, policies, strategies and plans including the 2005–2015 Hyogo Framework for Action under the United Nations Office for Disaster Risk Reduction - UNISDR (Government of Kenya, 2009; 2010a).

In Kenya, the management of climate change and environment is guided by a number of policies, laws, and strategies. While some identify climate-induced migration, many propose dealing with the causes of migration in-situ rather than encouraging migration as a viable adaptation strategy (the only exception is the 2012 National Policy for the Sustainable Development of Northern Kenya and other Arid Lands (Republic of Kenya, 2012d; 2012e). This corresponds with the general perception that migration is indeed a climate change adaptation strategy, nevertheless advocate for addressing the root causes of environmentally/ climate-induced migration at the source, where possible, with migration only encouraged when all else fails. Critical of the 'resilience' discourse, Methmann and Oels (2015:51) have argued that climate change-induced migration is starting to be presented or viewed as a rational adaptation strategy whereby the movement of populations is rendered acceptable and rational. In other words, climate change is now being interpreted and presented as "a matter of fact rather than as a social problem that could still be tackled by significant emission reductions and lifestyle changes by residents in the major developed economies". Still, adaptation in whatever form is inevitable since the amount of greenhouse gases (GHGs) already emitted into the atmosphere has caused climate change (Methmann and Oels, 2015:51).

D.5. Border management and security

Borders are not only lines demarcating land and marine boundaries where States exercise their sovereignty but also functional instruments where synthesis of socioeconomic, security, cultural and political interaction takes place. Beyond their topography, borders are important security and growth points in a globalized world characterized by transnational mobility of people, capital, goods and services (NCM, 2017). A functioning border security system guarantees easy movement of people and goods, while protecting the State against social, economic, health and security risks that human mobility generates.

Border security systems have become important to the national and global security agenda (NCM, 2017). They involve State protection and mitigate threats to its stability, and the lives and properties of its citizens. Effective border management is essential to a good national migration system. Developments around the world, especially the advent of globalization, have resulted in an increased pace of movement across international boundaries, thus exerting increased pressure on existing border control mechanisms. The problems of 'mixed migration flows' of persons across national borders have raised new challenges that require the strengthening of the capacity of border management personnel to analyse the evolving dynamics of international

migration and to distinguish between persons who have legitimate versus non-legitimate reasons for entry and stay. The recommended border management and security enhancement mechanisms and strategies include: passenger profiling; document examination; border patrol; interagency and cross border cooperation; and border community engagement as important components of border security and management.

National security and transnational crimes

Among other strategies, the Kenyan National Action Plan for the implementation of the United Nations Security Council Resolution 1325 reaffirms the vital role of women in the prevention and resolution of conflicts. The national plan, aptly titled *Kuhusisha Wanawake ni Kudumuisha Amani* (involving women is to sustain peace), focuses on prevention of violence, protection of women, participation of women in decision-making, and promotion of women's efforts in relief and recovery efforts. The Kenyan National Action Plan acknowledges in its introduction the threat posed by radicalization and violent extremism and pays some attention to women's roles in this phenomenon, whether as perpetrators of violence or agents of prevention.

Transnational and organized crimes

Transnational crimes transcend the national boundaries and require the engagement of a multiplicity of actors both at national and international jurisdictions. Transnational crimes such as terrorism and organized crime networks including human trafficking, migrant smuggling, cyber-crime and money laundering pose great security challenges to the international community. Kenya has been under terrorist threats since the first attack in Nairobi in the 1970s. The threat was escalated by the establishment of Al-Qaeda cells in East Africa which led to the first major bombing ever witnessed in the East African countries of Kenya and the United Republic of Tanzania following twin bombings at Dar-Es-Salaam and Nairobi in 1998.

Subsequent attacks by the Al-Shabaab terrorist group in Kenya over the last ten years have continued to disrupt public order and undermine security thereby affecting both nationals and migrants. The African Union Mission to Somalia intervention force to which Kenya contributed troops, aims at reversing these negative impacts and enhancing national security and stability in the region. It is proposed in the 2018 draft Kenya Migration policy that transnational crimes, with particular reference to terrorism, as a State security issue that threatens and undermines migration, security and development be managed

and controlled (NCM, 2018b). The objectives highlighted in the 2018 draft Kenya Migration Policy are to:

- (a) Ensure that the national security policy or any security sector reforms of the country takes cognizance of migration-related issues;
- (b) Ensure that human security issues are considered in the light of migration dynamics and subsequent challenges and conditions;
- (c) Establish inter-State and inter-county coordination mechanisms to address migration-conflict interrelations within Kenya and between the country and its neighbours;
- (d) Establish mechanisms for conflict resolution and peace building in affected areas;
- (e) Using evidence-based approach to counter the recent emerging and sophisticated international crime through collaboration with international community;
- (f) Strengthen capacity of key stakeholders;
- (g) Establish centralized data collection and database on all transnational crimes.

Integrated approach to border management

A number of State agencies are placed at the borders to perform security and regulatory functions either individually or in collaboration with other stakeholders. The multiplicity of agencies and non-State agencies operating at the borders coupled with myriad functions highlight the need for effective border management. Central to border security and management is the realization that irrespective of national systems and levels of development, the performances of individual border agencies generally improve when the levels of cooperation between the various entities are enhanced. No individual security agency or State can efficiently and effectively manage the borders with its characteristic composite security challenges single handedly. In this regard, proper management of global migration flows and border security require the concerted efforts of all relevant stakeholders.

An integrated border management strategy incorporating broad-based national and international coordination and cooperation among all the relevant State border security agencies and civilian actors involved in migration management and trade facilitation is therefore a strategic and practical system of dealing with border opportunities, challenges and risks (NCM, 2018b). A comprehensive and integrated border management mechanism is critical to effective border management.

According to the World Customs Organization, integrated approach to border management entails greater coordination between border agencies to achieve improved regulatory efficiency and effectiveness in order to reduce the time required to move goods and people across the borders (NCM, 2018b). Most of the challenges at the borders can be addressed through a coordinated approach rather than unilateral actions by border agencies. The establishment of one-stop border posts is geared towards integrating the efforts of border officers at the national and international levels. It is in realization of the importance of effective border management that the Government of Kenya through the Security Laws (Amendment) Act 2014 amended the Kenya Citizenship and Immigration Act 2011 (Republic of Kenya, 2014c) thereby establishing a Border Control and Operations Co-ordination Committee (Republic of Kenya, 2014c). The committee is charged with coordinating security functions performed by the various State agencies with border functions at the designated entry and exit points.

Passenger profiling

Passenger profiling involves carrying out a risk analysis on all passengers passing through a border control with the aim of sorting out bonafide passengers (NCM, 2018b). In profiling the passengers, it is the policy of the Department of Immigration Services to be guided by relevant security information system available. Where electronic passenger profiling system such as personal identification, secure comparison and evaluation system (PISCES) exist, the officers shall use the system to profile passengers as it provides efficient and effective identification of high-risk travellers and reduces document and identity fraud. It provides complete situational awareness by combining all available information from multiple agencies and delivering real-time security information and insights.

Document examination

The Department of Immigration Services is mandated to regulate entry and exit of persons in Kenya (NCM, 2018b). An immigration officer's daily roster consists of examination of various types of travel documents especially passports presented by both foreigners and citizens seeking various immigration services. These documents serve an important purpose of identifying the document holder as the basis for granting various types of immigration permissions such as entry passes, visas, permits, residency, and asylum among others. Immigration enforcement functions and provision of various services to foreign nationals are closely contingent upon the assessment based on passport entries and general

examination. The appropriate use of valid travel documents and the presence of capable border control officials who have been fully trained in document examination constitute the cornerstone of safe and orderly migration.

Any weakness in the capacity of frontline border officers to examine and verify travel documents poses a major risk to national security and further contributes to unsafe and irregular migration. International terrorism and transnational criminal networks thrive on fake identities and questionable travel documents. The 2018 draft Kenya Migration Policy (NCM, 2018b) recognizes the importance of effective travel document examination as a means of perpetuating regular cross border mobility and upholding the integrity of the borders.

Community engagement and policing

The 2018 draft Kenya Migration Policy (NCM, 2018b) recognizes the importance of local communities as key stakeholders in the management of border security. Border communities comprise interdependent, cultural and socioeconomic systems that impact on border security and which require meaningful attention. Border communities possess intimate knowledge of terrain, criminal networks, irregular crossing points and timings among other relevant information. When properly engaged, the border communities can become important assets in border management. This policy is therefore designed to promote substantive community engagement. There shall be collaboration among all relevant State agencies and other initiatives such as *'nyumbakumi'*¹⁵ to build supportive linkages with border communities for purposes of enhancing security within the border areas. The strategic approach is to involve communities of interest in addressing emergent migration border security challenges including irregular migration, terrorism, cross border conflicts and a myriad of other transnational crimes.

Border surveillance

Due to limited resources, it is not possible to establish border control points at close proximity to ensure effective surveillance in areas between border control points (NCM, 2018b). This means that large areas between official border control points have no permanent presence of security officers. To achieve the mandate of controlling and regulating entry and exit of persons

¹⁵ Nyumbakumi is a Kenyan security concept based on, 'knowledge about who lives within ones neighbourhood', such that, within ten neighbouring households, the occupants should be able to have full knowledge and acquaintance among themselves, and monitor any strange/criminal behaviours, and where need be report to security authorities for action.

in Kenya, the areas between the border controls points must be adequately patrolled to detect, deter and deal with irregular migration and migration related crimes. In order to realize the goal, the government intends to establish effective surveillance along the land and sea borders with the objective being to:

- (a) Adopt integrated approach to border management involving all relevant border security agencies;
- (b) Enhance border patrol surveillance mechanism between border control points;
- (c) Enhance economies of scale arising from common use of equipment, infrastructure, ICT including artificial intelligence such as biometrics and facial recognition, joint training and verification;
- (d) Reduce time for processing passengers and goods at the borders and improve efficiency in delivery of services;
- (e) Establish and strengthen engagements with border communities;
- (f) Enhance travel document integrity and security of the borders through effective document examination methodologies;
- (g) Strengthen and secure national borders by promoting safe, orderly, and regular migration while deterring irregular cross border mobility;
- (h) Improve capacities of border officials through training and provision of appropriate of infrastructure and border security equipment;
- (i) Collaborate with other border security agencies and existing initiatives such as nyumbakumi by tapping into their diverse perspectives in order to constructively engage border communities;
- (j) Repeal and update laws relating to border management, updating standard operational procedures and infrastructure as necessary;
- (k) Assemble, analyse and publish border control data for informing and updating policy; and,
- (l) Promote international relations, economic and regional social integration.

D.6. Citizenship and regular migration

Citizenship

The National Migration Policy seeks to enhance the benefits and resolve the challenges related to dual citizenship and transnationalism. Dual citizenship enables emigrants to access basic rights and freedoms accorded by both the country of destination and origin. Challenges include limited awareness of civic responsibilities, divided loyalty, non-payment of taxes, conflicting legal regimes and unequal advantages.

The Constitution of Kenya 2010, the Kenya Citizenship and Immigration Act 2011, amended in 2015 and the Kenya Citizenship and Immigration Regulations 2011 provide a framework for citizenship requirements (NCM, 2018b). A Kenyan citizen holding the citizenship of any other country shall register as a dual national of Kenya thus conferring on the person concerned fundamental rights enjoyed by all Kenyans. As the population of Kenya emigrants increases, so does the number of those who seek dual citizenship. The Kenyan Government endeavours to promote the positive outcomes arising from dual citizenship and transnationalism, through migration management and public awareness of their rights and responsibilities; with the objective to:

- (a) Assess the impact of dual citizenship and transnationalism on development;
- (b) Create public awareness on the benefits of dual citizenship, transnationalism and the relevant laws;
- (c) Evaluate the impact of national legislation on dual nationals; and
- (d) Encourage acquisition of dual citizenship by Kenyan emigrants.

The achievement and realization of these policy goals requires the institution of the following strategic measures:

- (a) Promoting civic education on dual citizenship;
- (b) Compiling registers of dual citizens with ample information on the migrant profiles;
- (c) Promoting cooperation and dialogue with dual citizens;
- (d) Creating incentives for the return and contribution of dual citizens for national development;
- (e) Conducting research and data gathering on Kenyan and non- Kenyan transnationals;
- (f) Carrying out surveys on dual citizens to establish their commitment to the development of Kenya and their country/ies of destination; and
- (g) Developing a mechanism to encourage the return of Kenyans with foreign citizenship by simplifying processes of regaining citizenship.

Facilitation of international mobility

The immigration service shall remain committed to facilitate humane and orderly migration in order to realize the full potential of migration related development (NCM, 2018b). Effective facilitation of migration shall be enhanced through continuous improvement in the issuance of travel documents and

visas. The facilitation of international travel shall be guided by International Civil Aviation Organization (ICAO) principles on orderly and safe migration. As travel between countries increases, passports are necessary to facilitate global mobility and are one of the most frequently used travel and identity documents.

Global security is partially linked to the authenticity of travel and identity documents. This has necessitated calls for the international standardization of passports, enhanced security features, secure and efficient issuance systems. ICAO is mandated by the United Nations to standardize international travel documents under a document commonly referred to as Document 9303 (ICAO, 2015). Document 9303 as referred to by ICAO is a machine-readable travel document.

The Constitution of Kenya 2010 Chapter 3 Article 12(1) recognizes that all citizens are entitled to a passport and other identity documents (Republic of Kenya, 2010a). The importance of a passport cannot be denied considering that in addition to facilitating international travel, it confirms nationality and confers certain privileges to the holder. The facilitation of international travel and trade in the East African region has been enhanced through the actualization of One Stop Border Posts. The arrangement comprising co-location of entry and exit controls of both bordering countries on one side actualizes only 'one stop' rather than the 'two-stops' by carriers and travellers. Such joint controls considerably reduce the time taken to process travellers and goods across the border and thereby benefit a large number of stakeholders (NCM, 2018b). Through the issuance of travel documents, visas, and the provision of consular services abroad, the Department of Immigration Services remains committed to the facilitation of entry, transit and departure of travellers at land, sea and air borders. The National Migration Policy aims to safeguard the integrity and credibility of the Kenyan travel and identity documents, in order to enhance their international acceptability.

Passports and other travel documents

An important aspect of border management is the issuance of travel and identity documents which are authentic and ICAO compliant through a transparent system (Republic of Kenya, 2017c). ICAO standards advocate for the continuous updating of security features in travel documents to make them more difficult to tamper with and easy to detect threats to document integrity. The Department of Immigration Services is to periodically upgrade the travel documents in line with the contemporary ICAO standards. The e-passport has wider applications for border crossing and has the potential of being used with

automated border control gates which offer higher levels of accuracy, speed and security. The integrated security circuit (chip) mechanism used in e-passports makes the document difficult to forge and thereby improves the integrity of travel documents. The provision and use of credible travel and identity documents supports efforts to make cross border movements safer, faster and easier for travellers.

The 2018 draft Kenya Migration Policy considers appropriate use of valid travel documents and the presence of capable border control officials who have been fully trained in the Border Management Information System as constituting the cornerstone of safe and orderly migration (NCM, 2018b). The policy recognizes source documents such as birth certificates, identity cards, marriage certificates, adoption certificates and death certificates among others as the first important official registration or records for the issuance of travel documents. These documents are indispensable for secure issuance of secure travel documents. The security of travel documents is therefore, greatly enhanced by the use of authentic and genuine breeder documents that is used to obtain other forms of identification documents.

In this regard, the Immigration Department aims to work closely and collaborate with other departments and agencies which register citizens, and process and issue breeder documents, namely the National Registration Bureau, Department of Civil Registration and the *Integrated Population Registration System*. Secure travel documents enhance both national and international security and it is the responsibility of all countries to ensure that credible source documents are used in the issuance of travel documents.

The Immigration Department aims to work closely with the relevant national and international refugee agencies such as UNHCR to ensure that only eligible refugees are issued with refugee travel documents. In doing so, the 2018 draft Kenya Migration Policy aims to remain cognizant of the inherent rights of the refugees in order to:

- (a) Facilitate international travel by issuing credible travel documents;
- (b) Enhance security and credibility of travel documents to conform to ICAO standards;
- (c) Put in place mechanisms for efficient, effective and transparent issuance systems;
- (d) Coordinate the authentication of breeder documents with agencies involved;
- (e) Promote the free movement of persons and labour;

- (f) Enhance cross border facilitation of travel and trade through actualization of One-stop border post.

In order to achieve the intended policy objectives, the following strategies are proposed by the National Coordination Mechanism on migration (NCM, 2018b):

- (a) Enhancing online linkages with other agencies involved in the issuance of breeder documents;
- (b) Decentralizing application receiving centres for easy access of services;
- (c) Enhancing accountability and integrity in passport issuance procedures;
- (d) Putting in place mechanisms for efficient, effective and transparent issuance of travel document that meet international standards set by ICAO;
- (e) Improving the issuance processes and the validation of source documents by introducing and tapping into an integrated data sharing system;
- (f) Automating and networking all passport issuing processes and record management;
- (g) Working closely with the relevant refugee agencies to ensure that only eligible refugees are issued with the refugees' identification documents;
- (h) Adopting automated border control gates at the ports of entry; and
- (i) Establishing OSBPs in all strategic borders in Kenya in collaboration with neighbouring States.

Visas

A visa is a security screening mechanism for persons intending to travel to a foreign country. Visa policy shall be guided by considerations on national security, economic benefits, the ease at which tourist and other visitors may obtain visas and visa issuance locations (Republic of Kenya, 2017c). It should be noted that possession of a visa is not the final authority to enter Kenya. The final authority lies with the immigration official at the port of entry. The 2018 draft Kenya Migration Policy views the visa regime as constituting an essential instrument for enhancing safe, orderly and regular migration flows. The policy intends to enhance efficiency and reliability in the visa issuance system. This reflects a wider agenda to make services more accessible and convenient by providing secure and reliable digital alternatives. Visa exemptions are available to

nationals/persons covered under agreements entered between the Government of Kenya and other governments and/or international organizations. While most countries have centralized visa issuance, Kenya has encouraged issuance of visas at ports of entry and through the e-visa platform.

The policy intends to achieve its goals by striving to:

- (a) Facilitate and regulate the entry of foreign nationals into Kenya by determining their eligibility to enter the country under the relevant Immigration laws;
- (b) Promote diplomatic relations and international courtesies with friendly States and organizations;
- (c) Effect a pre-entry checks on all persons intending to enter Kenya;
- (d) Promote tourism, investment and documentation of travellers;
- (e) Promote intra-Africa mobility;
- (f) Address emerging security threats through regular review of the visa regulations;
- (g) Build a national biometric data base of transnational criminals and visa regulations violators;
- (h) Enhance online visa issuance systems (e-visa); and
- (i) Harmonize regional visa regimes and legislations particularly among the East African Community Partner States.

The achievement of the policy is predicated on the following strategies:

- (a) Strengthening visa vetting and processing procedures;
- (b) Securing visa applications and processing by enhancing online visa applications (e-Visa);
- (c) Building a national biometric data base of transnational criminals and visa regulations' violators; and
- (d) Undertaking regular review of the visa regulations to address emerging security threats and the dynamism of migrants.

Consular services

Consular services in missions¹⁶ abroad are key to assistance and facilitation of international travel. Such assistance may take the form of provision of replacements of travel documents, assistance in case of distress, and issuance of visas to foreign nationals who wish to visit Kenya. The Department of Immigration

¹⁶ Missions' refer to Kenyan embassies and high commission offices in foreign countries.

considers that consular services are an integral part of the facilitation of international travel for citizens and residents of the host country (Republic of Kenya, 2017c). It is envisaged that the purpose of the consular services shall be to: (a) provide consular services to Kenyans abroad and residents of the host country, and (b) safeguard national interests of Kenya including promotion of trade.

Notwithstanding, it is anticipated that the achievement of the set objectives will materialize by:

- (a) Creating mechanisms to support Kenyans in distress and emergency situations abroad;
- (b) Putting effective measures in place for Kenyans to acquire consular services; and
- (c) Considering increasing consular representation in countries with large Kenyan diaspora and major sources of tourists.

Return, readmission and reintegration

A fundamental element of State sovereignty is the right to decide who, and under what circumstances, a person is granted territorial access (NCM, 2018b). Nevertheless, Article 13 of the United Nations Declaration on Human Rights (1948) stipulates that: (1) Everyone has the right to freedom of movement and residence within the borders of each State and (2) Everyone has a right to leave any country, including his own and to return to his country (United Nations, 2015c).

Return migration management and the reintegration of returned migrants their status notwithstanding, poses significant challenges and is a key issue on the agenda of national and international policymakers. The 2018 draft Kenya Migration Policy addresses the inherent gaps in migration management, and it is aimed at being able to:

- (a) Strengthen government capacity to manage return migration;
- (b) Facilitate the return, readmission and reintegration of Kenyan emigrants;
- (c) Raise awareness about job opportunities in Kenya;
- (d) Assist returning migrants with re-engagement in their sector of work;
- (e) Create awareness among Kenyans about the positive contribution of returnees; and
- (f) Create a database of the returnees.

The objectives of the policy will be realized upon the actualization of the following strategies, namely:

- (a) Creating standards and procedures based on reliable data, law and policy for the return, readmission and reintegration of returned migrants in line with relevant international legal instruments;
- (b) Drafting guidelines for the evacuation of Kenyan nationals abroad during situations of political crisis, deportation or natural disaster;
- (c) Instituting mechanisms for monitoring the returned migrants' welfare and contribution to national development especially those with scarce or highly desirable skills and practical aptitudes;
- (d) Establishing readmission committees to assist and integrate returnees;
- (e) Developing a framework for the reintegration of returned migrants;
- (f) Establishing a database of Kenyans residing abroad;
- (g) Promoting sociocultural acceptance of returnees and the protection of returnee (and family) rights;
- (h) Creating bilateral and multilateral partnerships on migrant return and reintegration;
- (i) Offering rehabilitation services to forced returnees;
- (j) Providing incentives for returning migrants to restart work in their area of expertise and advertise this among the emigrant and the Kenya population;
- (k) Raising awareness on the real experience of migrants within their communities so as to prevent undue pressure on returnees, due to expectations from their communities which may push them to irregularly migrate upon their return; and
- (l) Developing a mechanism to encourage the return of Kenyans with foreign citizenship by simplifying processes of acquiring permanent residency.

D.7. Irregular migration

Trafficking in persons

According to article 3, paragraph (a), of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, human trafficking is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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” (UN, 2000).

While human trafficking and migrant smuggling are two distinct crimes, frequently the two phenomena overlap. In the context of increasing control over borders to prevent irregular migration, many potential migrants turn to organized criminal groups to arrange their border crossings. Smuggled migrants are generally unaware of the risks involved in these transactions and they often become victims of abuse by organized crime syndicates. In addition, they are vulnerable to becoming victims of human trafficking.

The legal frameworks for international cooperation on these issues are the two protocols to the United Nations Convention against Transnational Organized Crime: (a) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and (b) the Protocol against the Smuggling of Migrants by Land, Sea and Air. These documents guide the normative and legal response to human trafficking and smuggling crimes at the international level and provide guidance to Member States to develop policy and legal frameworks to ensure that these instruments can be implemented at the national level (Republic of Kenya, 2010b). The adoption of the Trafficking in Persons Protocol triggered the development of specific legislation addressing and criminalizing trafficking in persons at the national level. Before the Protocol came into force, many countries did not have any legislation addressing human trafficking, or only had legislation that covered trafficking of women and children for sexual exploitation. According to the UNODC, the number of countries with legislation criminalizing all or most forms of trafficking doubled between 2003 and 2008, and this positive trend has continued thereafter (UNODC, 2012).

According to U.S. Department of State Trafficking In Persons Report (2010), Kenya is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation. Kenya borders Somalia, Ethiopia, South Sudan, Uganda and the United Republic of Tanzania, which are known sources of victims. The report ranks Kenya as a Tier 2 country, among governments that are making significant efforts to meet the minimum standards of the Trafficking Victims Protection Act of 2000 (United Nations, 2000), which states that the purpose of combating human trafficking is to punish traffickers, to protect victims, and to prevent trafficking from occurring. Nonetheless, the Government of Kenya has made efforts to implement the 2014 Victim Protection Act, which aims to improve support provided to all trafficking victims, including accommodation, food, medical treatment, psychosocial care, police protection, and the establishment of a fund to assist victims. The Counter-Trafficking in Persons Act No. 8 of 2010 (Republic of Kenya, 2010b;

United Nations, 2010), which was assented to on the 13 September 2010 is an Act of Parliament to implement Kenya's obligations under the United Nations Convention Against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. In addition, Act No. 12 of 2012 is also aimed to provide for the offences relating to trafficking in persons and for connected purposes.

Smuggling of migrants

Rise in international travel has brought about the challenge of irregular migration whereby migrants transit, stay and depart from States without regard to the relevant existing migration procedures and laws. This has led to various forms of irregular status arising ranging from overstays, illegal entries and exits, migrant smuggling, human trafficking, among others. It is government policy to control irregular migration in order to promote safe, secure and orderly migration. Kenya is identified as a source, transit and destination country for trafficked and smuggled persons (Nassim and Oucho, 2016). Relevant government ministries, departments and agencies, international humanitarian agencies and civil society remain important players in mitigating this phenomenon.

Growing economic disparities, unemployment, poverty, and increased barriers to regular migration are contributing to the growth of irregular migrants in the country (U.S. Department of State, 2016). The government has committed itself to mitigating this phenomenon by instituting appropriate legal frameworks to deal with it. To this end the government has ratified the UN Convention against Transnational Organized Crime and its 2000 Protocols to Prevent, Suppress and Punish Trafficking in Persons and Against the Smuggling of Persons under Palermo Protocol and enacted the Counter Trafficking in Persons Act 2010 (Republic of Kenya, 2010b).

The particular needs of migrants on the basis of their gender needs to be provided for at all stages when responding to trafficking in persons and migrant smuggling throughout the criminal justice process. In particular, all actions undertaken in relation to children need to be guided by the principles of protection and respect for children's rights as set out in the United Nations Convention on the Rights of the Child (United Nations General Assembly – Convention on Rights of the Child, 1989). According to IOM, irregular migration flow from Kenya is mainly to Southern African countries, the Middle East, North Africa, West Africa, Europe and North America. Children and girls are particularly vulnerable to trafficking into sex tourism. Human trafficking in Kenya is said to have a value of USD 40 million on the black market (Nassim and Oucho, 2016).

In order to effectively manage trafficking in persons in Kenya, the NCM (2018b) proposes in the 2018 draft Kenya Migration Policy, the need to:

- (a) Develop strategies of bringing to justice perpetrators of human trafficking and migrant smuggling crimes while treating the victims with compassion and assisting them accordingly;
- (b) Collaborate with other security and justice system officers both at national and international levels in collecting information and effectively investigating and prosecuting cases of human trafficking and smuggling;
- (c) Strengthen, support and enforce the Counter-Trafficking in Persons' legislation;
- (d) Raise community awareness to prevent irregular migration and its challenges;
- (e) Assign adequate budgetary allocation for assistance to human trafficking victims;
- (f) Develop common regional counter measures that incorporate legal channels and orderly migration;
- (g) Render protection and support to victims of trafficking and not prosecute them for trafficking and immigration related offences;
- (h) Strengthen law enforcement and implementation of existing laws;
- (i) Enhance the investigation and prosecution capacities of government officials dealing with trafficking in persons;
- (j) Ensure the rights of the vulnerable; especially women and children victims of human trafficking and smuggling are protected;
- (k) Enhance information, data collection and research on human trafficking and migrant smuggling to improve on the understanding and counter the vice;
- (l) Support the ratification and domestication of all international conventions and legal instruments proscribing trafficking in persons and migrant smuggling;
- (m) Provide humane treatment to migrants and return safely victim of trafficking to their countries of origin;
- (n) Encourage regional consultative processes and dialogue on irregular migration law enforcement and reinforce joint cross border programming between neighbouring States;
- (o) Train key stakeholders on how to combat irregular migration; and
- (p) Adopt comprehensive information collation systems on trafficking in persons and migrants smuggling as well as data bases in line with data protection guidelines.

D.8. Migration and cross-cutting policies

Introduction

Disequilibrium in economic opportunities, poverty, food insecurity, health disparities, and gender inequalities among other factors are prime influences in the migration decision-making process. They interact to a greater or lesser degree depending on the specific context, to drive migration. Environmental factors, including those related to climate change and natural disasters directly and indirectly impact resilience. It is therefore paramount to develop a policy framework that addresses the linkage between migration and these cross-cutting issues.

Migration and trade

Trade boosts development and reduces poverty by generating growth through increased commercial opportunities and investment, as well as broadening the productive base through private sector development (NCM, 2018b). Migration facilitates export diversification by allowing persons to access new markets. It broadens supply sources of goods and new materials which open up new production possibilities. Through migration, exchange of know-how, technology, investment in research and development including best practices between trade partners is facilitated. By opening up borders and removing unnecessary barriers, business opportunities are expanded by opening up access to new markets. At the national level, trade strengthens ties between nations by bringing people together in peaceful and mutually beneficial exchanges and as such contributes to peace and stability. At the microlevel, it creates employment opportunities by boosting economic sectors that create stable jobs and usually higher incomes, thus improving livelihoods and discouraging migration for employment. As mentioned earlier, the development of one stop border posts is a strategy towards the enhancement and improving cross-border trade among countries in the region that are sharing common international borders.

The development and implementation of the EAC Common Market Protocol has greatly improved regional trade and economic integration within the East African region as a result of the free movement of persons, goods, labour and the right of establishment. Migration, especially temporary/short term, is a prominent factor in cross-border trade. The objectives of the Protocol are to:

- (a) Increase capital flows to Kenya through cross border trade;
- (b) Support export promotion and investment by Kenyan enterprises within the region and beyond;

- (c) Promote Kenya as a favorite destination for foreign direct investment, tourism, and conferencing;
- (d) Expand access to traditional markets and explore new destinations for Kenya's exports; and
- (e) Strengthen regional economic communities and organizations' abilities in identifying emerging global markets, and promote fair trade and equitable bilateral, regional and multilateral trade agreements.

In order to achieve the set objectives of the Protocol, the following strategies are envisaged:

- (a) Promoting economic growth by fostering cross border trade, productive investment and employment;
- (b) Strengthening regional cooperation and coordination on migration and trade;
- (c) Putting in place mechanisms that take into account temporary movement of persons in bilateral and multilateral trade agreements;
- (d) Enhancing coordination and dialogue between all government agencies dealing with migration, trade and labour issues; and
- (e) Developing and implementing national and regional strategies, policies and programmes that facilitate cross-border traders.

Migration and tourism

The potential of Kenya's tourism is enormous and needs to be explored. The tourism sector in Kenya attracts both local and international tourists. Tourists contribute to the development agenda of the country through foreign exchange, trade, and creation of employment in the tourism sector among others. Tourism to some extent contributes to irregular migration when tourists violate migration laws of the host country. Additionally, the cultural values of the country are eroded when western cultures are embedded in the social fabric (NCM, 2018b). The draft 2018 Kenya Migration Policy seeks to harness the positive contribution of tourism to socioeconomic development, while at the same time minimizing possible negative consequences of tourism; hence, its objectives are to:

- (a) Mainstream tourism in national development agenda; and
- (b) Enhance Kenya's global status as a tourist destination of choice.

In light of this, the policy strategizes to:

- (a) Encourage online visa application services in tourist market countries;
- (b) Create awareness about tourist visas during tourism trade fairs; and
- (c) Advocate for migration and tourism management legal framework.

Migration and education

The strategic location of Kenya, coupled with stability, sound education systems and host to a number of reputable international organizations, has continued to attract educational migration (NCM, 2018b). The Department of Immigration aims to continue to support the transfer of knowledge and skills through issuance of Student, Internship and Research Passes to foreign nationals who come to Kenya for studies or research purposes in collaboration with the Ministry of Education and other educational institutions. The department undertakes to expedite the processing of educational documentation for students with the aim of encouraging them to come to Kenya and for citizens to study abroad.

The Department on Immigration's proposal in the draft 2018 Kenya National Migration Policy is predicated on the intention to:

- (a) Collaborate with the Ministry of Education and other stakeholders to initiate mechanisms that attract foreign students to take up study opportunities in Kenya;
- (b) Encourage periodic meetings of education stakeholders to undertake discourses on educational and human resource issues of interest to Kenya;
- (c) Involve private sector in training of migrants including refugees so as to utilize them in national development;
- (d) Support Kenyan students studying abroad; and
- (e) Document and maintain record of all foreign students, interns and researchers admitted in learning and research institutions or as private individuals.

The following measures would enable the achievement of the draft 2018 Kenya Migration Policy:

- (a) Developing guidelines in conjunction with the Ministry of Education and other stakeholders in management of educational migrants;

- (b) Ensuring that educational institutions do submit periodic reports to the Department of Immigration Services and other relevant institutions on the status of foreign students;
- (c) Establishing a retention programme for migrants and foreign students with essential expertise to our economy;
- (d) Marketing educational facilities through educational fairs both locally and abroad;
- (e) Encouraging and support educational exchange programmes; and
- (f) Conducting periodic audit of foreign students.

Migration and health

Sustainable Development Goal number 3 is geared towards ensuring healthy lives and promoting well-being for all at all ages (SDG 4) (United Nations – Sustainable Development Goals, 2015a). This advocates for inclusion of migrants in health policy considerations. Transnational diseases such as AIDS, tuberculosis, H1N1, yellow fever, Ebola virus elicit great public attention owing to their ease of spread across borders. Migrants face risks of exposure to epidemics and communicable diseases, either because of lack of knowledge or fear (particularly, among the irregular migrants), and they often feel left out of health care (prevention and treatment) by the host governments. To the contrary, health schemes and budgets in Kenya take care of all persons living in Kenya, without discrimination on migrant populations. Nonetheless, to continue improving on health care, health of migrants has to be brought to the fore of migration policy discourse. An enhanced migration health policy therefore aims to:

- (a) Establish mechanisms in collaboration with Ministry of Health and other stakeholders in promoting health tourism in Kenya;
- (b) Adopt international framework on migration and health;
- (c) Create government capacity to respond to migration-health challenges; and
- (d) Promote regional and international cooperation on migration health nexus.

To achieve the above aims, the following strategies are needed:

- (a) Raising awareness on migration health, challenges and opportunities;
- (b) Identifying and addressing health risks posed by irregular migration;
- (c) Mainstreaming migration into national health policy planning;
- (d) Ensuring impartial and standardized border health surveillance;

- (e) Intensifying research and data gathering on migration-health nexus;
- (f) Facilitating cooperation on migration–health challenges among regional and international stakeholders;
- (g) Developing emergency response standard operating procedures for transnational epidemics; and
- (h) Providing all migrants access to basic health care including reproductive health and treatment of chronic diseases and other services.

Migration and human rights

The Constitution of Kenya 2010 grants enjoyment of rights of all people and realization of the bill of rights as stipulated in Chapter three. The Kenya Citizenship and Immigration Act, 2011 implements the fundamental rights enshrined in the constitution. Additionally, Kenya is a signatory to international instruments that protect human rights namely; The Refugee Convention 1951, International Covenant on Civil and Political Rights 1967, Convention on the Rights of the Child 1994, ILO conventions 97 and 143 (United Nations, 2016b). Kenya is also a signatory to regional instruments promoting human rights like the African Charter on Human and Peoples Rights. Kenya has adopted an all-inclusive approach to human rights and this policy aims to achieve meaningful human rights goals across all sectors for migrants.

The attainment migrants’ human rights obligations, the following objectives are envisioned in the draft 2018 Kenya Migration policy:

- (a) Uphold and respect human rights for all;
- (b) Ensure that migrants who are detained by public authorities are treated humanely and fairly regardless of their immigration status, nationality, gender, and have access to legal protection and administrative justice; and
- (c) Establish mechanisms in collaboration with individual migrants and their representatives for the fulfilment of their rights.

The following strategies would enhance the achievement of the above enlisted objectives:

- (a) Undertaking legal and institutional review to ensure migrant rights are protected;
- (b) Ensuring that all migrants have access to the courts, lawyers, judicial system and relevant government agencies including the opportunity

- to contest repatriation/expulsion procedures in a manner consistent with international law, standards and norms; and
- (c) Providing modalities for migrants' realization of their rights through forming migrant associations.

Migration and gender

The feminization of migration continues to receive global attention at national and international policy levels. Women migrants account for about half of international migrants (NCM, 2018b). Women can be found in the most vulnerable employment situations such as domestic work and sex work and are often subjected to abusive treatment at work. It is in line with this that the draft 2018 Kenya Migration policy aims to adopt gender-sensitive and rights-based approach in the management of migrants. The major objectives of the policy are to:

- (a) Encourage gender-sensitive approaches in migration management in Kenya;
- (b) Design a scheme for detecting and containing irregular migration along gender lines, in particular the trafficking and smuggling of women and girls; and
- (c) Create inter linkages with stakeholders managing migrant affairs.

The proposed strategies for implementing this policy are:

- (a) Strengthening inter-agency approach in management of the needs of female migrants by ensuring that their health needs, human rights and labour rights are respected;
- (b) Developing migration policies that allow women and men to migrate for employment through safe, orderly and regular channels;
- (c) Working with other non-governmental agencies to counter migrant trafficking and smuggling as well as harsh working conditions that target and victimize migrant women; and
- (d) Promoting information campaigns aimed at raising awareness about the gender dimension of migration, in conjunction with policymakers and other agencies involved in preventing irregular migration.

Migration and persons with special needs (vulnerable groups)

Persons with special needs include migrants, children, youth, women, the elderly and persons living with disabilities. Forced migration due to conflict, poverty and environmental disasters is often a contributory factor to a migrant's decision to move within and outside their countries in search of livelihood, and also in the need for protection. The draft 2018 Kenya Migration Policy (NCM, 2018b) mentions the need to:

- (a) Create awareness on the migration of the elderly, the youth and children and persons living with disabilities;
- (b) Develop mechanisms that promote rights of vulnerable groups in the course of their migration; and
- (c) Design and adopt such programmes for facilitation of vulnerable groups' migration.

These will policy objectives will be achieved by:

- (a) Enactment of laws that protect the rights of vulnerable migrant groups;
- (b) Provision of special facilities for migrating vulnerable groups at all borders; and
- (c) Ensuring that the training and resettlement needs of vulnerable groups are considered and that every effort is made to facilitate their migratory needs.

Migration and ethics

The government strives to sustain public confidence and trust in public service delivery. All employees must maintain high standards of professionalism, impartiality, integrity, and ethical conduct to ensure effective delivery of migration services. The draft 2018 Kenya Migration Policy (NCM, 2018b) suggests mechanisms aimed at enhancing organizational transparency, accountability and efficiency in service delivery with the objectives being to:

- (a) Entrench integrity and ethics in service delivery; and
- (b) Enhance application of existing laws, regulations and international norms in migration management.

The draft 2018 Kenya Migration Policy, equally underscores the undertaking of the following interventions:

- (a) Implementing the public officer's code of conduct and ethics;
- (b) Developing a Code of Conduct and Ethics for the Service and collaborate with the country's anti-corruption agencies on training on matters of integrity and ethics;
- (c) Establishing an independent Integrity and Ethics Committee to oversee integrity within the service;
- (d) Ensuring that all officers adhere to the provisions of Chapter Six of the Constitution and Public Officers Ethics Act;
- (e) Promoting the highest standards of ethical practices and professionalism; and
- (f) Providing a mechanism to address migrants' complaints and concerns.

D.9. Migration policy implementation and coordination

Migration management and governance issues comprise both opportunities and challenges, which need to be addressed using a multipronged approach; that is, taking into consideration the national, bilateral and multilateral concerns.¹⁷ Security, development, the exponential rise in population mobility, data management, forced migration, refugees, education, health, human rights, gender, environment and climate change, among other issues affect States both positively and negatively at national, regional and global levels. Enormous resources are required to harness the opportunities provided by migration. Similarly, migration challenges require varying types of resources if they are to be surmounted. State agencies, international organizations, non-governmental organizations, civil society, private sector and the academia operate at varying levels of economic, technological, political and sociocultural development. Given the challenges faced, the State needs assistance in discharging its migration function. To that end, the 2018 draft Kenya *Migration Policy* takes cognizance of the significance of national coordination and international cooperation for purposes of pooling resources for effective and coherent migration governance; with the following objectives:

- (a) Promote inter-agency collaboration, coordination and cooperation at the national and international level;

¹⁷ Refer to Chapter 5 and 6 of this document where there is detailed discussion of the same. Reference is made on the NCM on Migration; Advisory Committees on Counter-Trafficking in Persons; Regional Coordination and Cooperation (i.e. IGAD, African Union, etc), and; International Cooperation (e.g. Global Compact for Migration).

- (b) Foster common understanding among migration stakeholders for harmonious policy formulation and execution;
- (c) Coordinate formulation and implementation of bilateral, regional, and international legal instruments and initiatives both at national and county levels; and
- (d) Facilitate mobilization of resources for migration governance projects and initiatives.

The strategies for realizing these objectives are:

- (a) Strengthen the national coordination mechanism on migration with a secretariat to act as the focal point for engagement with key partners and to promote whole of society approach to migration governance;
- (b) Anchor the NCM in law;
- (c) Enhance engagements with national, regional and international governmental, non-governmental forums, civil society, faith-based groups, private sector and the academia on migration dialogue;
- (d) Strengthen Border Control Operations Coordination Committee with a secretariat to promote integrated border management and bilateral Joint Border Commissions and initiatives with neighbouring countries and external partners; and
- (e) Develop viable migration management proposals for engagement with international partners.

Migration policy implementation

Implementation of the 2018 draft *Kenya Migration Policy* (NCM, 2018b) will require an integrated approach involving the coordination and collaboration of all stakeholders. It shall be implemented through a multi-disciplinary structure incorporating the Department of Immigration Services, NCM, government sectoral ministries, security agencies and international organizations with migration functions. This approach will ensure that synergies of the various agencies are fully exploited. The NCM, headed by the Director of Immigration Services, is to collate and follow-up all the activities of stakeholders. All responsible institutions will have a reporting mechanism to the secretariat and follow-up processes established.

The NCM shall ensure the Policy and its objectives are introduced and embedded in the operations and activities of stakeholders. The objective is to bring on board all stakeholders in ensuring a comprehensive and coordinated approach to migration development and management. The NCM shall ensure

coordination in the implementation of the policy and keep abreast with changing migration trends to avoid ad hoc interventions. The NCM shall have quarterly meetings in a calendar year or as need be. The stakeholders shall develop action plans and implementation strategies to actualize this policy.

Management of migration data, information, ICT and research

Management of Migration Data

The increasing importance in migration issues in the economic development and security of States calls for the collection and analysis of credible migration data (NCM, 2018b). The formulation of a migration policy should be anchored on reliable, verifiable and comprehensive data and research. The effectiveness and efficiency of any organization is measured by the quality of data collected, analysed and used in its planning and operations. The Department of Immigration Services and other government agencies collect volumes of migration data. The 2018 draft *Kenya Migration Policy* makes provision for the establishment of migration data collection and management mechanism for evidence-based decision-making, with the objectives being to:

- (a) Collect, analyse and utilize migration data in operations, decision-making and policy formulation;
- (b) Establish a migration database of all migration activities; and
- (c) Promote migration data and information exchange mechanisms within government agencies and regional partners.

Equally, the aligned strategies are:

- (a) Enacting laws that enhance the collection, storage and dissemination of migration data;
- (b) Capacity-building of staff in data collection, management, analysis, usage and application of world's best practice in data management;
- (c) Mainstreaming use of data with a view to improve efficiency, security and the operational capacity of the department;
- (d) Collaborating with the Kenya National Bureau of Statistics and other relevant agencies to produce migration statistics and dissemination; and
- (e) Publishing a statistical year book on all activities of all agencies with migration functions.

Information Management

The Department of Immigration and other migration stakeholders collect, collate, protect and store public information in the course of operations. This information is critical for national security, and economic development. If not protected, this information can be accessed by clandestine transnational actors for criminal activity. The 2018 draft *Kenya Migration Policy* proposes modalities and systems for management of this information. The objectives are to:

- (a) Establish clear legislation on protection, access, use and sharing of migration information; and
- (b) Establish modalities, principles and regulations for access and use of migration information.

The following strategies are necessary for realizing these objectives:

- (a) Promoting lawful access, use and sharing of migration information;
- (b) Forming standard guidelines on access and use of immigration information;
- (c) Establishing an information protection unit in the ICT sections of migration management agencies; and
- (d) Establishing information protection strategies for both hard and digital information.

Information Communication Technology

The government is to continue to be proactive in its approach to embrace information and communication technology by advocating for a strategic plan to introduce intra and inter-agency integrated information and communication technology in all operations (NCM, 2018b). The aim is to develop the capacity for online sharing of information, enhance efficiency, security, integrity and accountability with a view to promote transparency. The objectives being to:

- (a) Develop capacity for migration governance through information sharing;
- (b) Improve protection of State and border security through the use of ICT;
- (c) Enhance service delivery by migration service providers; and
- (d) Improve migration research and data collection.

To that end, the following strategies would work towards the realization of the policy:

- (a) Strengthening the use of technology in all migration processes;
- (b) Enhancing employees' training in ICT, making it a precondition for all newly recruited officers to possess computer skills;
- (c) Automating the entire migration processes to improve on time management, service delivery, security and revenue collection;
- (d) Promoting networking with other government agencies for easy sharing and access of information to all users;
- (e) Networking all ports of entry for real-time updates and efficient processing and documentation of travellers;
- (f) Enhancing transparency by establishing online system for checking the progress of all documents under process; and
- (g) Promoting efficiency and security of documents by maintaining electronic files of all personal records held by the government agencies.

Migration Research

Successful institutions have devoted significant resources, energy and time on research. This is in line with the dynamic nature of business and governance globally. The 2018 draft Kenya Migration Policy (NCM, 2018b) intends to institutionalize research as an important element of migration management, with the intention being to:

- (a) Institutionalize academic and multidisciplinary research on migration issues which support policy decisions at national and international levels;
- (b) Equip and inculcate research skills with the aim of creating a pool of researchers who inform decision-making processes;
- (c) Establish working relationships with other agencies engaged in migration research and training both locally and internationally for the provision of best practices;
- (d) Establish a specialized research unit dealing with migration governance;
- (e) Develop migration resource centre with requisite tools and equipment for research and publication;
- (f) Collaborate and coordinate with national, regional and international agencies responsible for migration research; and
- (g) Strengthen the management of migration statistics.

Capacity-building on key implementors on migration governance

Migration management requires an enabling legal and policy framework and competent workforce with relevant skill-sets acquired through adequate regular training and manpower development (NCM, 2018b). The Immigration Department aspires to establish the Kenya Migration Institute to deliver the highest quality of training and testing in migration management and governance. The establishment of the institute is in progress, as a proposal of the National Coordination Mechanism for migration. This is a significant step by the Government of Kenya to enable officers to acquire functional knowledge; skills and competencies; attitude and character that meet the professional standards. The 2018 draft Kenya Migration Policy is intended to provide a framework for building capacity and required competencies to enhance the performance of migration practitioners, with the objectives being to:

- (a) Establish a migration institute that offers quality training and testing in migration management and governance;
- (b) Develop a curriculum which conforms to the training needs of migration stakeholders; and
- (c) Provide timely, accessible and continuous specialized training in migration studies which will equip graduates with the knowledge, skills and relevant attitudes to improve performance standards, advance careers and guarantee institutional competitiveness in an increasingly global society.

The following strategies are intended to facilitate implementation of the policy:

- (a) Advancing immigration officers' analytical, technical and managerial competencies to support institutional goals, national and international migration processes;
- (b) Establishing and strengthening the research and training unit in the department and re-orient it towards this key role through provision of requisite personnel and resources;
- (c) Training of all immigration officers in migration-related subjects; and
- (d) Training of key officers in data analytics and research methodologies.

Public participation

The implementation and operationalization of the 2018 draft Kenya Migration Policy requires public participation, for purposes of involvement, a buy-in and ownership of the policy. This is an important aspect for a successful policy; as it calls for the need to inform and educate the public on services available, mode of delivery and delivery locations. The information needs to be communicated clearly and in such a manner that is easy to comprehend; with the objective being to:

- (a) Inform the public on the policy framework;
- (b) Promote customer services;
- (c) Establish appropriate feedback mechanisms for consumers of migration services; and
- (d) Ensure effective and efficient service delivery systems.

In addition, the following are strategies aimed at the realization of the set objectives:

- (a) Availing information on services offered and policy change to the public;
- (b) Ensuring information is available at embassies, immigration offices all ports of entry and other relevant offices;
- (c) Opening more customer care desks at the headquarters, regional offices and at all major ports of entry;
- (d) Holding annual open days to inform the public on policy, legislation, regulations, migration procedures and services;
- (e) Disseminating regular publication of customer information booklets and newsletters; and
- (f) Working with county government to disseminate information.

Resource mobilization

The national government is to make budgetary allocation for coordination activities of the NCM Secretariat. County governments are encouraged to make provision for migration-related activities in their respective annual budgets. In order to encourage the whole of society approach in migration governance, all stakeholders with migration functions including civil society, the private sector, NGOs, and international partners are encouraged to support the successful implementation of the 2018 draft Kenya Migration Policy and of all migration-related activities in Kenya through technical assistance, financial support and other material contributions.

Monitoring and evaluation of migration governance policy and programmes

There shall be a monitoring and evaluation system to ensure that the objectives of the policy are met and a feedback mechanism established. The 2018 draft Kenya Migration Policy shall be continually monitored and evaluated against set indicators and benchmarks. To ensure effective Monitoring and Evaluation process, the NCM Secretariat in collaboration with stakeholders is to develop a monitoring and evaluation system for the policy; with the objective of:

- (a) Establishing a monitoring and evaluation mechanism;
- (b) Introducing and pursue institutional objectives, targets and service delivery time frames; and
- (c) Periodically review the policy to address the dynamic nature of migration issues, changing economic, security and political environments.

The strategies for implementation are:

- (a) Organizing stakeholders' forums for policy review and feedback;
- (b) Developing monitoring and evaluation framework; and
- (c) Setting sectional output targets spelled out in the respective performance contracts.

PART E: NATIONAL DIALOGUE ON THE GLOBAL COMPACT FOR MIGRATION

E.1. Introduction

On 19 September 2016, the United Nations General Assembly adopted the New York Declaration for Refugees and Migrants (United Nations, 2016a). As the first ever UN declaration on migration adopted at this level, it sent an important political message that migration and refugee matters rank high on the international agenda. The Declaration also underscores the pressing need for a comprehensive approach to human mobility and the importance of enhancing global cooperation on migration. Crucially, United Nations Member States made a commitment to launch a process of intergovernmental negotiations which culminated in the adoption of the Global Compact for Safe, Orderly and Regular Migration in an international conference held in Morocco in December 2018.

E.2. National dialogue on Global Compact for Migration

As stipulated in the Modalities Resolution for the Global Compact for Migration, with the help of IOM, discussions were organized among Member States of the United Nations and other relevant stakeholders to examine regional and subregional aspects of international migration and to provide inputs, in accordance with their respective mandates, to the preparatory process of the Global Compact (NCM, 2018a). These were aimed at creating awareness among national level stakeholders about the Global Compact; helping countries formulate positions; and consolidating recommendations for consideration by the co-facilitators in developing the zero draft of the compact. In the East and Horn of Africa, national multi-stakeholder consultations were organized in Uganda, Kenya, Djibouti, Somalia and Ethiopia. The consultations drew participants from government ministries, civil society organizations, United Nations agencies and the private sector in order to gather substantive input and concrete recommendations to inform the development of the Global Compact for Migration (NCM, 2018a). The ‘Modalities for the intergovernmental negotiations of the global compact for safe, orderly and regular migration’ resolution (A/71/L.58) (2017) adopted by the General Assembly on 6 April 2017 outlines the process for the intergovernmental negotiations on the Global Compact for Migration. The National Dialogue on the Global Compact for Migration for Kenya was held in Nairobi on 17 October 2017. The National Dialogue was organized by

the NCM (NCM, 2018a), and the issues of human rights and drivers of migration were discussed as elaborated further below.

Human rights of all migrants

The Constitution of Kenya, 2010 provides the legal foundation for application of the human rights-based approach to migration governance in Kenya. The Preamble expresses commitment to nurturing and protecting the well-being of the individual, the family, communities and the nation. Articles 2 and 20 (1) provide that the Constitution is the supreme law. The Bill of Rights applies to all laws. Article 2 (6) indicates that the general rules of international law form part of the laws of Kenya. Article 3 expresses the obligation of every person to respect, uphold and defend the Constitution. Article 10 (2) highlights the national values and principles of governance including, the rule of law, human dignity, social justice, human rights, non-discrimination, protection of marginalized, good governance, integrity and sustainable development. Article 19 explains that the Bill of Rights is integral to a democratic State and framework for social, economic and cultural policies. Recognition and promotion of human rights as anchored in the Constitution of Kenya, 2010 seeks to promote social justice as well as ensuring the realization of the potential of all human beings. It also seeks to promote the values of an open and democratic State based on human dignity, equality, equity and freedom.

The national dialogue made the following recommendations for consideration in the development of the Global Compact for Migration:

- (a) Respect international norms with emphasis on migrants' rights;
- (b) Fight against racism and xenophobia and the need to ensure the respect and dignity and the protection of the rights to which migrants are entitled under the applicable international law especially the right to equal treatment based on the principles of non-discrimination;
- (c) Ensure policy and legislation frameworks provide comprehensive protection for vulnerable migrants without exceptions and avoid the practice of detention in favour of reception centres for migrants;
- (d) Ensure the inclusion of migrants in the host countries internal identification and documentation systems to increase their recognition and provide access to basic services;
- (e) Carry out capacity-building training programmes for judicial and law enforcement officials on human rights and protection of migrants to identify victims of trafficking and put referral systems in place;

- (f) Include the need to address protection of rights of migrants in transit especially where in countries of crisis, where there is no functioning government;
- (g) Include a clause on the need for capacity-building for government officials on migrant rights protection;
- (h) The need to address negative media narrative that is biased against migrants and leads to negative treatment and the criminalization of migrants;
- (i) The need to address specifically the gender perspective of migration especially the treatment of domestic workers;
- (j) Stresses the need to push for the commitment of Member States to ratify and implement the regional and continental legal frameworks on protection of migrants; and
- (k) Include the need to address special rights of circular migrants in border communities.

Addressing drivers of migration

The factors that lead people to migrate, voluntarily or involuntarily, permanently or temporarily, and that perpetuate movement once it has begun, are commonly referred to as “drivers” of migration. How drivers interact in different dimensions (scale, location, distance and duration) affects how governments and the international community can respond in order to effectively protect migrants, govern migration and harness its benefits. In Kenya, the three key broad drivers are:

Economic and demographic drivers

Disequilibrium in economic opportunities, poverty, food insecurity are prime influencers in the migration decision-making process and interact to greater or lesser degrees, depending on the specific context, to drive migration. In Kenya, the lack of employment and livelihood opportunities; lack of access to fundamental human rights and basic services; poor/inadequate governance and security wage differentials, and aspirations propel young people away from their homes in search of employment and income opportunities (Republic of Kenya, 2012a). It is worth noting that demographic change is closely related to economic opportunity and serves to drive migration.

Environmental drivers

The relationship between the environment, climate change and migration are equally complex in Kenya. Environmental factors, including those related to climate change and natural disasters, directly and indirectly impact the resilience and vulnerability of individuals, households and communities, and may lead to migration. The association between climate change and migration depends heavily on its interaction with other factors, including the perception of risk by affected communities, and varies among and within communities. Most people displaced by disasters in Kenya remain within its boundaries (IOM, 2017) but cross-border disaster displacement also occurs due to drought, floods, storms, as well as non-climate related disasters (for instance, earthquakes and nuclear disasters). Climate variability has adverse effects on human displacements; mainly due to floods and droughts.

Man-made crises

Man-made crises are today among the primary root causes of mobility and migratory flows in Kenya (IOM, 2017) and have an important impact on population movements and spatial distribution, more generally. The lack of respect for international human rights and humanitarian law has compounded growing displacement of many as a consequence of their deteriorating living conditions. Negative socioeconomic impacts of war and its legacies or permanent unrest may drive migration through negative impacts on labour markets, livelihoods, food and health security, social service delivery and through political instability and social tensions (including the psychological pressure on people living near conflict situations) and the growth of criminal networks.

E.3. Focus of global compact

The Government of Kenya through the NCM proposed that the Global Compact should strive towards achieving the following:

- (a) Invest in the elements of the Sustainable Development Goals that seek to address factors contributing to forced migration and impede their ability to live and work in a safe environment and lead productive lives. These include poverty alleviation, conflict prevention and reduction;
- (b) Create inclusive societies with effective, accountable and inclusive institutions that provide access to justice for all, enjoyment of human rights protection, including access to social protection, quality

- education, health care and decent work, amongst others;
- (c) At the regional level, States must provide more effective governance of labour markets in the form of harmonized labour policies, strengthened human rights protection for all migrant workers without discrimination. They should also promote the conclusion and application of bilateral and multilateral coordination frameworks and agreements aimed at ensuring the organization of migration for employment and coordination and portability of social security rights and benefits;
 - (d) Adopt a comprehensive approach in the review of the migration-related aspects of the 2030 Agenda for Sustainable Development to ensure coherence;
 - (e) Introduce incentives to retain high skilled professionals, for example in the health and education sectors, to enable them to stay in their country of origin or return;
 - (f) Dedicate investments to addressing the drivers of migration in sectoral programmes and local development initiatives, including through programmes for youth job creation and skill development;
 - (g) Encourage the establishment of national ministries of Diaspora to strengthen engagement with Diaspora organizations to invest in local economic opportunities and enterprises in countries of origin, including on disaster recovery and risk reduction as well as climate change adaptation;
 - (h) Reduce adverse drivers of irregular migration, through conflict prevention by:
 - (i) Early action to address the political differences that lead to or perpetuate violent conflict;
 - (ii) Ensuring that no one is left behind, including in peace agreements, development programmes and humanitarian assistance so as to avoid further instability and violence;
 - (iii) Ensuring the sustainability of peace through strengthening democracy and the rule of law, through building stronger, more resilient, accountable State institution with adequate checks and balances promoting the rule of law, and by working to establish effective democratic control over the armed forces.

E.4. International cooperation and governance of migration

Migration Governance in Kenya is coordinated through the National Coordination Mechanism on Migration (NCM). The NCM combines key Government of Kenya ministries, departments and agencies with migration-related functions at national and county levels and meets regularly to discuss pertinent migration issues. The principles of the migration governance framework are:

- Adherence to international standards and fulfillment of migrants' rights;
- Policy formulation using evidence and “whole-of-government’ approach;
- Engaging with partners to address migration and related issues.

IOM envisages migration governance as premised on the following objectives:

- Advancing the socioeconomic well-being of migrants and society;
- Effectively addressing the mobility dimensions of crises;
- Ensuring that migration takes place in a safe, orderly and dignified manner.

On the regional front, Kenya is a partner State of various economic blocks. As a member of the EAC, Kenya has ratified the EAC Common Market Protocol established in November 2009. Kenya is also a signatory to the free market protocol by the African Union which it signed in January 2018. The objective of the Common Market Protocol is to widen and strengthen cooperation among partner States by removing restrictions on the movement of persons, goods, labour, capital and services. It became effective in July 2010 after ratification by all partner States. Similarly, as a Member State of the Intergovernmental Authority on Development (IGAD), Kenya takes cognizance of, and gives priority to the ongoing regional initiative towards free movement of persons and transhumance in the IGAD region. The aim of this protocol is to enhance regional economic integration and development. It also seeks to improve on the existing avenues for legal migration and mobility of persons and livestock in the region.

The National Coordination Mechanism on migration (NCM, 2018a) proposed that the Global Compact for migration should:

- (a) Encourage joint border governance and cross-border cooperation and commit to building the capabilities of Member States to that end;

- (b) While acknowledging the security concerns of Member States, call for proper recognition of the potential benefits of migration and legitimate migration flows;
- (c) Support sustainable return, resettlement, reintegration initiatives including resource allocation and condemn forced returns;
- (d) Support migration governance capacity-building initiatives in African countries including the development of comprehensive national migration policies;
- (e) Urge the international community to implement the commitments made by developed countries to support the development efforts of countries of origin and transit and to contribute to the achievement of Sustainable Development Goals and the 2015 Addis Action Agenda on Finance for Development recognizing that such development will contribute to legal, voluntary and orderly migration;
- (f) Support the need to create a national and regional coordination mechanism on migration while at the same time encouraging existing dialogue processes in order to promote synergies and sharing of best practices in the continent;
- (g) Support the need to encourage interconnection of border management systems in order to facilitate smooth movement and identification of false travel documents, and;
- (h) Support the need to recognize regional protocols on movement of persons for integration, development, legal migration and mobility.

E.5. Migrants and diaspora in sustainable development

The Government of Kenya recognizes the significant contribution of Kenyans living abroad to its national development. Diaspora Diplomacy is one of the five pillars of Kenya's Foreign Policy. The Diaspora Policy emphasizes the need to mainstream and empower the Kenya diaspora to participate in the national development agenda. The contribution of migrants and diaspora include:

- Financial capital – by sending remittances and investing in Kenya
- Human capital – by transferring knowledge and skills to Kenya
- Social capital – through their transnational networks in their host countries and in Kenya, which enables them to create links for new opportunities and ventures
- Political capital – by lobbying, advocating and mediating for positive political change

Remittances

In Kenya, remittances are channeled into: (a) productive activities such as businesses, investments, property and real estate; (b) savings; (c) credit; and (d) household consumption.

Impacts of remittances

The impacts of remittances in the economy include: (a) economic growth; (b) foreign exchange stabilizer; (c) social security and support; (d) savings and credit; and (e) business and entrepreneurship

Kenya's position on remittances

As in many countries, Kenya's remittances are associated with certain challenges (NCM, 2018b), such as:

- (a) High cost of transfer especially, within the intra-African corridors;
- (b) Inadequate measurement of data on remittances;
- (c) Lack of enabling legal and regulatory policies for a constructive environment for market competition and efficiency; and
- (d) Lack of leveraging remittances for financial inclusion.

Kenya's strategy on remittances

- (a) Implementation of SDG 10.7 on lowering the cost of remittances;
- (b) Supporting the activities of the African Institute for Remittances;
- (c) Collaboration with partners to address market imperfections; and
- (d) Signing bilateral agreements on issues such as double taxation, bilateral labour agreements, and retirement benefit schemes.

The NCM proposed that the Global Compact for Migration should include provisions that will:

- (a) Encourage States to work closely with financial institutions to ensure that they come up with incentives to encourage the diaspora to invest back home;
- (b) Urge States to develop regional and domestic payment systems to meet the needs of migrants and their families and facilitate international transfers; and

- (c) Support pilot programmes that link remittances to financial products such as housing loans, health insurance, consumer loans, student loans, education funds, pension plans, enterprise loans, indigenous rotating saving schemes.

E.6. Smuggling of migrants, trafficking in persons and contemporary forms of slavery

Section 3 of the Counter Trafficking in Persons Act, 2010 (UNODC, 2010), defines Trafficking in persons as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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”.

According to the U.S. Department of State, Human Trafficking Report Kenya, 2017 (U.S. Department of State, 2017) forms of trafficking prevalent in Kenya are labour and sex-related, standing at 44 per cent and 55 per cent, respectively. Trafficking involves children, men and women at 33 per cent, 26 per cent and 41 per cent respectively. Contemporary forms of exploitation include; debt bondage, exploitation of prostitution, trade in human organs and forced labour.

The report goes on to say that Kenya is a source, transit and destination country for human trafficking. Two main trafficking routes have been identified: the north-eastern route which transits Garissa on the Kenya–Somalia border; and the western route between Kenya and Uganda at the Busia–Malaba border point. A trend of migration and trafficking from Kenya to the Middle East has been noted, where Kenyans are at risk of exploitation in domestic servitude, massage parlors or brothels, or of being forced into manual labour.

Children and girls are particularly vulnerable to trafficking into sex tourism. The U.S. Department of State report 2018 (U.S. Department of State, 2018) indicates that the Government of Kenya maintained law enforcement efforts. However, it notes that challenges associated with incomplete data make it difficult to fully assess efforts undertaken to mitigate human trafficking. Section 1 of the Counter-Trafficking in Persons Act of 2010 criminalized sex and labour trafficking and prescribed a sufficiently stringent punishment of no less than 30 years imprisonment or a fine of not less than 30 million Kenyan shillings (equivalent USD 290,700). However, it can be plausibly argued that by

allowing for a fine in lieu of imprisonment for sex trafficking, these penalties are not commensurate with those for other serious crimes, such as rape. Sections 14 and 15 of the Sexual Offenses Act of 2006 criminalized the facilitation of child sex tourism and “child prostitution” and prescribed punishment of no less than 10 years imprisonment, penalties that were sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. During the year 2017, the government reported an increase in the number of cases it prosecuted under the anti-trafficking law compared to previous years in which it more commonly utilized the 2006 Sexual Offenses Act, exhibiting a stronger understanding of how to effectively employ the anti-trafficking law.

E.7. Legal framework

Kenya has signed or ratified various international treaties and conventions geared towards addressing issues related to trafficking in persons. These include:

- United Nations Protocol to Suppress and Punish Trafficking in Persons, especially Women and Children
- United Nations Convention on the Rights of the Child
- Convention on the Elimination of all Forms of Discrimination against Women
- International Labour Organization Conventions 138 and 182 on Minimum Age and Worst Forms of Child Labour, respectively.

The East African Legislative Assembly (EALA) passed a resolution to prosecute human traffickers by recommending to the Council of Ministers of the East African legislative Assembly to take urgent action to prevent trafficking in persons, protect the victims and persecute the perpetrators of trafficking (EALA, 2016). EALA is also keen to see a regional law on anti-trafficking in persons enacted so as to address the cross-border aspect of trafficking in persons. EALA also urged the EAC Partner States to enact comprehensive anti-trafficking of persons legislation in accordance with the Palermo Protocol, which incorporates the prevention of trafficking in persons, protection of the victims and the prosecution of offenders (EALA, 2016).

At the national level, the Government is guided by the Constitution of Kenya, 2010 and the following legal frameworks:

- The Constitution of Kenya, 2010
- The Counter-Trafficking in Persons Act, 2010
- The Children Act, 2001 Victim Protection Act, 2012
- Witness Protection Act, 2014
- The Kenya Citizen and Immigration Act, 2011

- The Mutual Legal Assistant Act, 2011
- The National Plan of Action for Combating Human Trafficking 2013–2017
- National Referral Mechanism Guidelines, 2016
- The National Plan of Action against Commercial Sexual Exploitation of Children 2013–2017
- The National Children Policy Kenya, 2010
- National Plan of Action for Children in Kenya 2015–2022

The National Coordination Mechanism (NCM, 2018a) proposed that Global Compact for Migration should endeavor to:

- (a) Urge Member States to coordinate and share information as well as intelligence to crack down on smuggling and trafficking networks;
- (b) Support the capacity-building of judicial and law enforcement agencies, propose stiffer penalties for perpetrators and enhance resource allocation for the dedicated counter-trafficking and smuggling units;
- (c) Call for reinvigorated campaigns targeting actual behavioural change and countering false narratives of smugglers and traffickers;
- (d) Establish and strengthen age and gender sensitive protection mechanisms for victims of trafficking;
- (e) Establish and strengthen the capacity of law enforcement agencies to identify victims of trafficking as well as establish and strengthen referral mechanism (including reception centres) in collaboration with various non-State actors; and
- (f) Enable and invest in community-based networks for detecting and reporting trafficking and smuggling networks.

In the year 2017, the Government of Kenya demonstrated commitment to protection efforts as it improved the identification of and institutional protections for children domestically and adults abroad; however, such services for adult victims in-country remained negligible (U.S. Department of State, 2017). Authorities reported identifying and referring to care at least 352 trafficking victims in 2017, of which the vast majority, 267, were subjected to forced labour, seven to sexual exploitation, and the remainder unknown; this was compared with its identification and protection of 530 victims in 2016, although many were likely involved in smuggling (U.S. Department of State, 2017). During the reporting period, the government provided 60 million Kenyan shillings (equivalent USD 581,400) from the national government budget for anti-trafficking efforts, including implementation of the National Referral Mechanism and the victim assistance fund, which is a marked increase from no funds provided during

the previous period (U.S. Department of State, 2017). By the end of 2017, the government fully implemented the national referral mechanism and trained relevant stakeholders on its identification and referral provisions (Government of Kenya, Ministry of Labour, 2017). According to multiple government and civil society stakeholders, identification of child trafficking victims remained stronger than for adults. Identification sources included direct referrals to NGOs from victims or witnesses; reactively by police during investigations; or calls to the government-operated, gender-based violence or NGO-run hotlines (Government of Kenya, Ministry of Labour, 2017).

E.8. Irregular migration and regular pathways

Kenya has become a hub for irregular migration as a destination, origin and transit country to South Africa, the Middle East, North Africa, West Africa, Europe and North America. The Regional Mixed Migration Secretariat reveals that Kenya is a transit country for irregular migrants from neighbouring States who seek to reach destinations in Africa and the Middle East (RMMS, 2018). Kenya provides a direct air route to Europe, other African countries and the Middle East, and a sea route from Asia and towards Europe via West Africa.

The National Coordination Mechanism on Migration (NCM, 2018a) proposed that the Global Compact for Migration should:

- (a) Promote bilateral labour agreements among Member States and with countries of the destination aligned to international standards;
- (b) Create decent employment opportunities by reducing existing skills gaps as well as mechanisms for job matching;
- (c) Ensure labour mobility coherence among Member States of the UN, ratification and domestication of international labour standards;
- (d) Advocate for campaigns to raise awareness about benefits and opportunities of regular pathways of labour migration;
- (e) Develop a pool of talent to identify skills needed in the continent and further seek to negotiate with the rest of the world on their recognition; and
- (f) Provide necessary funding to promote research in our continent on the skills required and how to get them.

In 2017, the government fully implemented the rules published in 2016 which outlined registration requirements for hundreds of private employment agencies that place Kenyans in work abroad (Government of Kenya, 2017b). These requirements included informing Kenyan employees seeking work abroad

about their prospective wages, visa fees, airfare, and medical examinations, and specifying that any administrative costs imposed on the employee should not exceed one month's salary. The Ministry of Labour and Social Protection through the State Department of Labour required contracts deemed credible to be signed in the presence of a labour ministry officer and required applicants to register with the Kenyan embassy in the host country.

To continue addressing the exploitation of Kenyan nationals in Arabian Gulf States, in addition, the Ministry of Labor and Social Protection assigned labour attaches already working in Kenyan missions in Qatar and Saudi Arabia. Attaches began working in the United Arab Emirates during the reporting period to assist citizens employed there (Republic of Kenya, 2017b). The government also concluded bilateral labour agreements with Saudi Arabia and Qatar to coordinate efforts to reduce cases of exploitative labour and other abuses against Kenyans abroad, to include trafficking; it was under negotiations for such agreements with the United Arab Emirates and Kuwait.

PART F: LEGAL FRAMEWORKS ON MIGRATION IN KENYA

F.1. Introduction

Kenya shares more than 4,000km of borders with Ethiopia, Somalia, Uganda, South Sudan, and the United Republic of Tanzania. Some of these countries continue to experience armed conflict and natural disasters, increasing the likelihood of refugee inflows and irregular migration through porous borders. Migrants cross over in search of refuge and livelihoods. In the Kenya's National Development Plan blueprint, Kenya Vision 2030, migration is not mainstreamed in Kenya's development plans. However, it highlights on the legal frameworks and efforts required to mobilize the Kenyan diaspora for development.

F.2. National legislation frameworks and policies

The overall policy and legal framework for migration in Kenya is set out in tables 36 and 37 and further discussed in the sections below.

Table 36: Policy Framework on Migration of the Government of Kenya

Year	Policy	Content
2007	Kenya Vision 2030	The country's development programme based around three pillars Economic, Social and Political. To be implemented in successive five-year medium-term plans. Provides development policies that integrate African Union frameworks.
2009	National Migration Policy Draft	In 2009, the Ministry of Immigration and Registration of Persons, with the support of the IOM, drafted a National Migration Policy, forwarded to the Cabinet and to the Kenyan Parliament for debate and approval.
2010	National Labour Migration Policy Draft	Mission: To manage labour migration for the benefit of labour migrants and their families and provide up to date Labour Market Information to inform on development of human resource development policies and strategies.
2015	National Diaspora Policy	The Policy outlines the legal and institutional framework for an effective management of Diaspora affairs including participation in national development.

Source: IOM, 2015c.

Table 37: Legal framework of the Government of Kenya (2006–2012)

Year	Law	Content
2006	Refugee Act	Establishes the Department of Refugee Affairs, Ministry of Immigration.
2009	Draft National Policy for Disaster Management for Kenya	Identifies disasters, details requirements for effective Disaster Reduction activities and to a safer, resilient and sustainable society. Lacks mainstreaming of migration.
2009	Refugee (Reception, Registration and Adjudication) Regulations	Recognizes two types of refugees – Statutory refugee and Prima Facie.
2010	National Climate Change Response Strategy	First national policy on climate change providing evidence of climate impacts.
2010	Constitution	Separates powers between the executive, legislature and judiciary; Devolution with national and county-level Government; ends gender discrimination, dual citizenship prohibition, restricts revokals.
2010	Counter Trafficking in Persons Act	Defines and recognizes trafficking in persons as a crime, punishments for perpetrators, and protects victims.
2011	Citizenship and Immigration Act	Regulates citizenship, visa, border control, including work permits and passes.
2012	Citizens and Foreign Nationals Management Service Act	Administers laws: registration of citizens, immigration and refugees.
2012	Citizenship and Immigration Regulations	New measures include higher fees, employer compliance inspections, reclassification of entry/work permits, and cancellation of the business visa.
2012	Directive for urban refugees to relocate to camps	Requires all refugees living in cities to relocate to designated refugee camps, shutting down urban registration.
2012	National Climate Change Action Plan 2013-2017	Recognizes that extreme climate events lead to displacement of communities and migration of pastoralists, resulting in conflict over resources; climate drivers as a cause of migration and internal displacement.
2012	Prevention, Protection and Assistance to IDP and Affected Communities Act	Institutional framework, roles and responsibilities for State and non-State parties. Government is responsible for the implementation of a comprehensive approach to addressing internal displacement.
2012	Refugee Bill	Recognizes, protects and manages refugee affairs. Requires that every refugee and asylum seeker be issued an ID card and commits to principles of non-refoulement of asylum seekers, refugees and their families. Lays out responsibilities of a Commissioner of Refugee Affairs.

Source: IOM, 2015c.

Kenya Vision 2030

Kenya's National Development blue print is known as Kenya Vision 2030. It is the country's 'development blueprint covering the period 2008 to 2030. Its adoption came after the successful implementation of the Economic Recovery Strategy for Wealth and Employment Creation 2003–2007 which has led the

country on a path of rapid economic growth since 2002, with GDP rising from 0.6 per cent to 6.1 per cent in 2006 (Republic of Kenya, 2007; 2012f; 2013; Government of Kenya, 2006). Kenya's national medium-term plans were produced through a consultative process involving Government, private sector, civil society and development partners. Kenya Vision 2030 is to be implemented in a series of successive five-year medium term plans through flagship programmes/projects falling under three pillars: economic, social and political. The overall vision is to "transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all of its citizens by the year 2030" (Republic of Kenya, 2007). The three-pronged pillar strategy aims at maintaining:

- Economic Pillar: A sustained economic growth of 10 per cent per annum;
- Social Pillar: A just and cohesive society enjoying equitable social development in a clean and secure environment;
- Political Pillar: An issue-based, people-centred, result-oriented, and accountable democratic Government.

The vision does not mainstream migration, nor does it highlight the benefits of migration on the country's economic, social and political development. Minor references are made to "drawing in more remittances from Kenyans abroad" and "pursuing a comprehensive remittances strategy "as part of the flagship projects(Republic of Kenya, 2014a; 2014e; 2018b).

More clarity will be needed on the mainstreaming of migration in development policies in Kenya when designing the Medium-Term Plans. The omission of migration issues in the current development agenda of Kenya is a lost opportunity and shows the need for more awareness-raising on the role of migration in development. Similarly, the Government of Kenya's Draft Urban Policy is awaiting clearance by the Cabinet (Civil Society Urban Development, 2016). The Draft Urban Policy does not address issues relating to refugees or internal migration, which have led to rapid urbanization rates, limited absorption capacities and challenges in terms of urban planning. Migration issues need to be mainstreamed in the development plans of national and county governments. However, the draft National Urban Development Policy is part of the Government's efforts to implement the provisions on urban development contained in the Constitution, particularly in Article 176 and 184 dealing with devolution, classification and management of urban areas, including popular participation (Civil Society Urban Development, 2016).

Kenya draft National Migration Policy

In 2009, the then Ministry of Immigration and Registration of Persons, with the support of the IOM, drafted a National Migration Policy, which was forwarded to the Cabinet and to the Kenyan Parliament for debate and approval. The draft policy was presented on the first day of a two-day Stakeholders Workshop on the Immigration Policy for Kenya in 2009 (NCM, 2009). The workshop was designed to offer a platform for inter-ministerial discussions on the draft policy, before being forwarded to the Cabinet and to the Kenyan Parliament for approval. The policy is currently in the final stages of validation and adoption. The Government of Kenya has in place legal framework guiding in the management and governance on migration. The legal framework can be broadly categorized into three groups, namely: national legislation and policies; regional migration policies and treaties; and international migration treaties. As a follow up of the Stakeholders' Workshop on Immigration Policy in 2009, NCM held two stakeholder workshops in the years 2017 and 2018; both, focusing mainly on the discussions and improvement on the content and structure of the draft Kenya Migration Policy. During the July 2018 Workshop at the Great Rift Valley Lodge in Naivasha, deliberations were made, and finalization of the draft Kenya Migration Policy made. Equally, validation of the Updated *Kenya Migration Profile 2015* was done, as its content was to enhance the content of the Kenya Migration Policy.

National Coordination Mechanism on Migration

The National Coordination Mechanism on Migration (NCM) (Republic of Kenya, 2017c) is part of the efforts made by the Intergovernmental Authority on Development (IGAD) to implement the African Migration Policy Framework (AMPF) adopted by African Union Heads of States and Government in Gambia in 2006. The IGAD Member States in 2012 adopted a Regional Migration Policy Framework (RMPF) to address migration regional dynamics on the East and the Horn of Africa. Consequently, with a view to actualize the framework, IOM partnered with IGAD and Member States to support the establishment and strengthening of National Platforms for Migration Coordination Mechanism within IGAD Member States. Therefore, the need for a coordinated and coherent manner of handling migration issues regionally and nationally led to the establishment of the Kenya NCM. The main objective of the mechanism is to strengthen migration coordination both at the regional and national level. This is a government led inter-agency coordination platform that will be responsible for national migration management. It is a brain child of the IGAD and IOM. However, it borrows heavily from the African Union African Migration Policy

Framework resolution of Gambia, 2006. It also draws on the 2015 migration profile for Kenya.

The NCM Secretariat, with the support of the IOM, became operational in 2016 after a meeting held in Naivasha which participants adopted the terms of reference and endorsed an assessment report carried by IGAD in 2015. The Secretariat is currently based at the Department of Immigration Services at Nyayo House, Nairobi. The purpose of NCM is to:

- (a) Provide a platform for stakeholders to enhance common understanding on migration at both national and regional levels;
- (b) Address the twin problem of duplication and waste of resources; and
- (c) Coordinate migration management activities and address resultant challenges collectively.

NCM's mandate and objectives are:

- (a) Bring together migration stakeholders for continuous dialogue and cooperation on migration-related issues;
- (b) Foster common understanding among key stakeholders on migration trends;
- (c) Facilitate the formulation of a comprehensive policy on migration management
- (d) Establish, develop and implement a monitoring and evaluating framework;
- (e) Establish, develop, and manage information collection and dissemination system;
- (f) Enable stakeholders contribute to the regional and national migration discourse in a coordinated manner;
- (g) Promote, develop and implementation of international, continental and regional migration related policies;
- (h) Provide oversight on migration;
- (i) Facilitate mobilization of resources.

NCM Membership includes:

- (a) Relevant government Ministries and Departments;
- (b) Agencies with migration functions;
- (c) Non-State actors.

Kenya draft National Labour Migration Policy

In 2010, the drafting of a National Labour Migration Policy for Kenya began, recognizing the role of the government in protecting labour migrants and regulating labour migration. The draft Labour Migration Policy is currently in the process of being reviewed and finalized for validation and adoption. The policy will contribute to highlighting the important linkage between migration and development by easing pressures of unemployment; skills transfers acquired abroad and remittances for development. To date, rules and regulations have been developed to feed the drafting of this National Labour Migration Policy.

The vision of the policy is “to make the Ministry of Labour and Social Protection, a world class centre for managing labour migration and provision of labour market information” while the mission of the Policy is to “manage labour migration for the benefit of women and men labour migrants and their families, and provide up to date Labour Market Information on development of human resource development policies and strategies (Government of Kenya, 2007).”

The National Labour Migration Policy outlines the following key objectives:

- (a) Developing market-driven skills and keeping a skills’ inventory;
- (b) Addressing concerns of return and reintegration;
- (c) Registration, regulation and monitoring of foreign employment agencies;
- (d) Portability of social security for labour migrants and their families;
- (e) Regional integration and international cooperation and labour migration;
- (f) Capacity-building and training in the management of labour migration;
- (g) Combating human trafficking;
- (h) Establishment and maintenance of a comprehensive labour migration Data Management Systems and harnessing the potentials of ICT;
- (i) Quality assurance management;
- (j) Integrity and ethics; and
- (k) HIV/AIDS.

The proposed NLMP’s implementation plan calls for the establishment of an Interministerial Labour Migration Committee to oversee the implementation of the policy with the National Employment Authority as the Secretariat. An interministerial Vetting Committee currently meets to vet agencies that recruit Kenyan labour migrants. The Committee is anchored in the Security Laws

(Amendment) Act 2014 (Republic of Kenya, 2014c) and comprises representatives from the Ministry of Foreign Affairs and International Trade, Ministry of Interior and Coordination of National Government, Ministry of Labour and Social Protection, Social Security and Services, the Kenyan Police, airport authorities and Kenya Association of Private Employment Agencies.

Kenya National Diaspora Policy

To engage and facilitate interactions with Kenyan citizens abroad, and as per the Constitution of Kenya which gives the right to vote and to dual citizenship to all Kenyan citizens living abroad. A National Diaspora Policy started to be developed in 2013, with a consultation process in 2014 including diaspora feedback in the drafting process (Republic of Kenya, 2014a). Kenya's National Diaspora Policy was launched on 20 January 2015. The policy outlines the legal and institutional framework necessary for effective management of diaspora affairs including their participation in national development. The policy was developed to facilitate a mutually beneficial relationship between the country and the Kenyans abroad.

The specific objectives of this policy are to:

- (a) Develop strategies aimed at mainstreaming diaspora in to national plans;
- (b) Mobilize Kenyans in the diaspora to form umbrella associations;
- (c) Provide opportunities for Kenyans in the diaspora to contribute to national development;
- (d) Develop measures that enhance protection of Kenyans in the diaspora in order to safeguard their basic rights and living standards;
- (e) Develop mechanisms for dialogue and cooperation with the diaspora; and
- (f) Establish the necessary institutions for the coordination and proper administration of diaspora issues.

The 2018 Draft Kenya Migration Policy (NCM, 2018b) indicates that the key focus areas for targeted interventions are meant to:

- (a) Offer adequate consular services to Kenyans abroad;
- (b) Reduce the cost of remitting money;
- (c) Create incentives to further diaspora investments in Kenya;
- (d) Protect Kenyans in the diaspora, notably in labour practices;
- (e) Launch a coordinated, comprehensive and centralized database;

- (f) Tap into diaspora skills, to allow for transfer and recognition of skills;
- (g) Strengthen the institutional framework to coordinate diaspora issues;
- (h) Develop reintegration mechanisms for returnees in the home society;
- (i) Ensure participation of the diaspora in democratic processes at home; and
- (j) Develop mechanisms for data collection and management on the diaspora.

According to the Diaspora Investment Club, diaspora remittances are much larger than the Foreign Direct Investment, tourism earnings and overseas development aid. The Diaspora Investment Club argues that the Government of Kenya needs to draw attention to this major contribution by the diaspora and to find effective ways and means of injecting it into national development. The Diaspora Investment Club (DACL) is an offshoot and initiative of the Kenya Diaspora Alliance (KDA), and spearheaded by New Vision Kenya (NVK). Yet the Kenya Diaspora Alliance is a Registered Trust, and a Federation of the Diaspora Investment Club is KDA's business and investment arm. The National Diaspora Policy was adopted in the year 2015. At the August 2014 United States–Africa Leaders Summit in Washington D.C., President Kenyatta announced measures to benefit the Kenyan diaspora and encouraged Kenyans abroad to act collectively in pursuit of greater investment in their home country as well as greater participation in democratic political processes at home. The Deputy Speaker of the National Assembly also expressed the Parliament's (that is, the Kenya National Assembly) willingness to support efforts to facilitate investment by the diaspora, as well as the readiness to play a major role in facilitating more trade between Kenya and the United States.

The Ministry of Foreign Affairs and International Trade stated that the Government of Kenya is considering embarking on a registration process for all Kenyans in the diaspora. The Cabinet Secretary further mentioned plans to open up more missions in foreign countries with sizeable Kenyan citizens as part of measures to improve services for Kenyans living abroad (Republic of Kenya, 2014e). These are useful proposals that, if realized, would enhance the diaspora's engagement in Kenya's development and in improving diaspora-homeland citizen relations.

Constitution of Kenya, 2010

The Constitution of Kenya 2010 outlines the separation of powers among the executive, legislature and judiciary and establishes the devolved system of government. With regard to migration, the Constitution makes provision for the acquisition, retention and or revocation of citizenship. It also has provisions for dual citizenship. However, on the right to choose one's place of residence, it is only Kenyan citizens that have that right. The following articles below are particularly important when discussing the rights of citizens and non-citizens on Kenyan territory.

Article 39 on Freedom of movement and residence states that:

1. Every person has the right to freedom of movement.
2. Every person has the right to leave Kenya.
3. Every citizen has the right to enter, remain in and reside anywhere in Kenya.

Article 42 on Economic and social rights states that:

1. Every person has the right -
 - (a) To the highest attainable standard of health, including the right to health-care services, such as reproductive health care, among others;
 - (b) To accessible and adequate housing, and to reasonable standards of sanitation;
 - (c) To be free from hunger, and to have adequate food of acceptable quality;
 - (d) To clean and safe water in adequate quantities;
 - (e) To social security; and
 - (f) To education.
2. A person shall not be denied emergency medical treatment.
3. The State shall provide appropriate social security to persons who are unable to support themselves and their dependents. The rights under article 42 are enjoyed by both citizens and non-citizens.

Admission and residence of migrants

Kenya Citizens and Foreign Nationals Management Service Act, 2011

The Kenya Citizens and Foreign Nationals Management Service Act 2011 establishes the Kenya Citizens and Foreign Nationals Management Service; provides for the creation and maintenance of a national population register and the administration of the laws relating to births and deaths, identification and registration of citizens, immigration and refugees and for connected purposes.

Kenya Citizenship and Immigration Act 2011

The Kenya Citizenship and Immigration Act 2011 regulates matters related to citizenship, issuance of travel documents, immigration and connected purposes. The Kenya Citizenship and Immigration Regulations 2012 operationalize the Act. With regards to immigration, the Act and Regulations enforce new measures: (a) Section 56 of the Act grants that in a time of war or emergency the Kenyan Government may place movement restrictions on certain foreign nationals or restrict their entry. It addresses all matters of migration and citizenship in line with the Constitution and ratified international conventions; (b) The Regulations introduced employer compliance inspection and re-classified entry/work permits.

Tables 38, 39, and 40 summarize the type of visas, work permits, immigration status and passes granted by the Government of Kenya, respectively, in accordance with the Kenya Citizenship and Immigration Act 2011. Table 38 depicts the types of visa and their purpose, namely ordinary, transits, diplomatic and courtesy/official visa; while Table 39 depicts the types of work permits by purpose (that is, Class A, B, C, D, F, G, I and K). On the other hand, Table 40 depicts the different types of passes, categorized as: permanent residence; dependent; student; research and interns; visitor; transit; prohibited immigrant; special, and; re-entry.

Table 38: Visas granted by the Government of Kenya

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

Source: Government of Kenya, 2018.

Table 39: Work permits granted by the Government of Kenya

Type of work permit	Purpose
Class A	Issued to persons engaging in prospecting for minerals or mining in Kenya with mining rights or licenses.
Class B	Issued to persons engaging in the business of agriculture or animal husbandry with requisite permissions.
Class C	Issued to members of a prescribed profession who intends to practice that profession in Kenya.
Class D	Issued to persons offered specific employment by a specific employer, the Government of Kenya, a United Nations Organization or other approved agency.
Class F	Issued to persons in specific manufacture.
Class G	Issued to persons in a specific trade, business, consultancy or profession in Kenya and has the requisite license, registration or permission.
Class I	Issued to approved religious or charitable activities.
Class K	Residence permit – will not be issued unless a person can prove that s/he has funds or has full and free disposition on assured annual income of at least USD 24,000 or its equivalent in Kenyan shillings.
Class M	Free of charge for refugees to take up employment or engage in a specific trade, business or profession.

Source: Government of Kenya, 2018.

Table 40: Passes granted by the Government of Kenya

Type of pass	Purpose
Permanent residence	Are eligible: spouses of citizens married for at least 3 years, citizens by birth who have renounced or lost such citizenship, children born overseas if not citizens, work permit holders who hold such permits for at least 7 years and have lived in Kenya for at least 3 years preceding the application. Permanent residents have the right to employment, property and do not require re-entry passes.
Dependant	Spouses, children or other persons. Require re-entry passes to enter Kenya.
Student	Issued to persons who have been accepted as students by an approved educational or training establishment.
Research and interns	Foreign nationals seeking to conduct research or participate in internships in Kenya for up to 12 months.
Visitor	Free of charge to persons entering Kenya for the purpose of a holiday, or as a visitor or for any other temporary purpose. Not to exceed 6 months from date of entry.
Transit	Free of charge to persons who enter Kenya for the purpose of travelling to a third destination, valid for 3 days.
Prohibited immigrant	Issued to persons who are prohibited/inadmissible.
Special	Issued to foreigners temporarily conducting business, trade or profession. Validity of 6 months. Business visitors apply for a special pass since the business visa has been scrapped.
Re-entry	Issued to holders of a Dependants' Pass only. Issued for the period of absence from Kenya, not to exceed 2 years.

Source: Government of Kenya, 2018.

Refugees Act 2006

The Refugees Act 2006 makes provision for the recognition, protection and management of refugees and for connected purposes. The Refugees (Reception, Registration and Adjudication) Regulations 2009 operationalize the Act. The Act establishes various institutions charged with specific mandates in the management of refugees and asylum seekers namely the Refugee Affairs Secretariat, the Refugee Affairs Committee, the Commissioner for Refugee Affairs, Camp Officers and the Refugees Appeal Board. It outlines the criteria for recognition, disqualification, exclusion, cessation, withdrawal and cancellation of refugee status. It also provides for various identification documents issued to refugees and asylum seekers. It spells out the rights and duties of refugees and asylum seekers as well as the principle of non-refoulement.

The Regulations on the other hand outline the procedures undertaken during reception, registration, documentation, adjudication and general refugee management matters. Since it came into effect, the Refugees Act 2006 has been amended twice through the Security Laws Amendment Act of 2014 and the

Statute Law (Miscellaneous Amendment) Act of 2017 in order to streamline the management of refugees in the country. As at June 2018, Kenya had two major refugee camps, that is Dadaab Refugee Complex situated in Garissa County and Kakuma Refugee Camp situated in Turkana County and a small percentage of refugees residing in various urban centres across the country.

Prevention, protection and assistance to Internally Displaced Persons and Affected Communities Act 2012

This Act provides for the prevention, protection and provision of assistance to Internally Displaced Persons and Affected Communities and gives effect to the to the Great Lakes Protocol on the Protection and Assistance to IDPs, and the UN Guiding Principles on Internal Displacement and for connected purposes. It outlines the institutional framework, roles and responsibilities for State and non-State actors, and bestows the responsibility to implement the Act on the national authorities in collaboration with the county governments and other non-State actors. It focuses on interventions before, during and after displacement.

The IDP Act provides a comprehensive approach to addressing internal displacement caused by conflict, other forms of violence, natural disasters and development. It states that the government shall bear the primary duty and responsibility for:

- (a) Preventing and protecting from internal displacement;
- (b) Protecting and assisting IDPs;
- (c) Creating conditions conducive to and providing durable and sustainable solutions for IDPs.

This includes adequate provision of basic social and health services in areas inhabited by IDPs, areas for the settlement of IDPs and adequate provision of social and economic rights as specified in Article 43 of the Constitution. The main gains of the IDP Act are:

- The creation of a National Consultative Coordination Committee on IDPs;
- The set-up of a fund to protect and assist IDPs;
- The call for the creation of a comprehensive database to register IDPs;
- The Government's responsibility to profile IDPs within 30 days of any crisis resulting in displacement;
- The Government's responsibility to raise awareness and inform the public;
- The recognition of the rights of IDPs to documentation, basic services and socioeconomic well-being; and

- The guidelines for IDPs to access humanitarian assistance to protect their fundamental rights.

The Ministry of State for Special Programmes designated as the institutional focal point for the resettlement of IDPs and the coordination of disaster risk reduction programmes, along with the establishment of a National Consultative Coordination Committee on Internally Displaced Persons. It was the Committee's responsibility to serve as an impartial and humanitarian focal body liaising with all regional Government and non-governmental stakeholders to uphold the rights of IDPs. The Ministry of State for Special Programmes was later absorbed by the Ministry of the Interior and Coordination and the Ministry of Devolution and Planning. The National Disaster Operations Centre and National Drought Management Authority have the lead on functions relating to disaster management and response. Through the Executive Order No 1. of 2018 the management of IDPs has been placed under the Ministry of Devolution and Arid and Semi-Arid Lands State Department for Devolution.

National humanitarian fund

The Act creates the National Humanitarian Fund which consists primarily of donations by bilateral and multilateral donors, grants, donations, and contributions from any person or institution. The Act stipulates that the Fund shall be used to meet expenditures relating to:

- The protection and assistance to IDPs and the provision of a durable solution including: their former homes or alternative settlement sites, the replacement of their basic household effects, enabling them to restart their basic livelihood, the reconstruction of destroyed basic housing and rehabilitation of community utilities and institutions.
- The prevention of internal displacement through preventive mechanisms, public awareness campaigns, sensitization, training and education on the causes, impact and consequences of internal displacement.

IDP database

The law additionally states the Government's legal responsibility to create a comprehensive database containing the names of all displaced people in Kenya. This was partly based on the lessons learned, and the failure to register, IDPs in the 2007/08 election violence aftermath.

Stateless persons

The Constitution of Kenya 2010 contains a progressive Bill of Rights, and a revised chapter on citizenship. The Kenya Citizenship and Immigration Act 2011 defines a stateless person and sets out requirements for citizenship by registration for stateless persons. However, the definition of a stateless person limits eligibility for registration to persons who were in the country by 12 December 1963. Nonetheless, Kenya is not party to the UN Conventions on statelessness (UNHCR, 2018). Kenya has a draft national action plan to eradicate statelessness that is yet to be finalized. In 2016, the Government recognized and registered the Makonde community who had been stateless since the 1930s (UNHCR, 2016). The Government recognizes that other communities and individuals remain stateless persons within its borders. The working estimate of stateless persons, migrants and their descendants in Kenya stands at 18,500 (UNHCR, 2016).

Trafficking in persons

Counter-Trafficking in Persons Act, 2010

The Counter Trafficking in Persons Act 2010 implements Kenya's obligations under the United Nations Convention Against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; and provides for the offences relating to trafficking in persons and for connected purposes. It is the first step the Government has taken in legally defining and recognizing trafficking in persons as a crime, to help protect the vulnerable and assist survivors, and deter perpetrators. The previous absence of legislation and resources had led to low enforcement rates (Republic of Kenya, 2010b). Before this Act, trafficking cases were adjudicated under the Penal Code, Children's Act (2001) and the Sexual Offenses Act (2006). The Counter Trafficking in Persons Act specifies punishments for those involved in such crimes – including the promotion of trafficking, acquisition of travel documents by fraud or misrepresentation, facilitation of entry into or exit from Kenya, interference with documents and travel effects, and TIP for organized crime. The law also protects victims of trafficking in persons in Section 14, which states that victims are not to be held liable for offence.

The U.S. Department of State 2017 Trafficking in Persons report places Kenya on its Tier 2 Watch List. It recognizes progress in enacting programmes to help victims, both physiologically and in the provision of legal representation. With regards to protection, the Department of Children's Services (Republic of

Kenya, 2018a) leads several key initiatives including the expansion of drop-in referral centres and a national 24-hour toll-free hotline for reporting cases of child trafficking, labour and abuse, operated with a national NGO. These require additional funding and support. The evaluation of prosecution measures by the Government was ranked as modest and prevention measures as minimal by the U.S. Department of State Report on Trafficking in Kenya. Key gaps remain the establishment of the National Assistance Trust Fund for Victims of Trafficking, and the delayed nomination of the Counter-Trafficking in Persons Advisory Committee members under the leaders of the Ministry of Labour and Social Protection in the spring of 2014. The U.S. Department of State 2017 Trafficking in Persons Report – Kenya calls on the Government of Kenya to implement the counter-trafficking law and recommends:

To investigate and prosecute trafficking offenses, and convict and punish trafficking offenders, including Government officials suspected of complicity in human trafficking; continue to use the anti-trafficking law or Section 14 of the Sexual Offenses Act to prosecute and punish child sex tourists; provide additional training to all levels of the Government, particularly first-line responders, on identifying and handling trafficking crimes; allocate adequate resources to police, labour, and social services staff to ensure implementation of the prosecution and protection mandates within the Counter-Trafficking in Persons Act of 2010; establish an official process for law enforcement officials to refer trafficking victims for assistance; continue to increase oversight of and accountability for overseas recruitment agencies; increase protective services available to adult trafficking victims, particularly those identified in and returned from the Middle East; organize routine meetings of the Counter-Trafficking in Persons Advisory Committee to ensure progress in the Government's efforts to fully implement the Counter-Trafficking in Persons Act of 2010 and increase effective coordination; establish the board of trustees to oversee the National Assistance Trust Fund for Victims of Trafficking and allocate money to endow this fund; institute a unified system for collecting trafficking case data for use by all stakeholders; and launch and implement the national plan of action.

In order to reduce the magnitude and extent to which perpetrators of human trafficking get involved in inhumane activities, implementation is required at three levels, namely: prosecution, protection and prevention. However, for effectiveness of the three afore-mentioned mitigation strategies, there is need for all countries to partner and collaborate in the war against human trafficking, at multilateral and bilateral levels, rather than operating unilaterally.

Development of National Referral Mechanism

In an effort to assist Victims of Human Trafficking in Kenya, the Government of Kenya recently developed a guideline to assist in towards that endeavour. The National Referral Mechanism (NRM) was initiated with the aim to assist Victims of Human Trafficking in Kenya. It is a government strategy that brings together stakeholders from different sectors to work towards countering trafficking in persons, in efforts to promote regular migration (Government of Kenya, 2017). The Counter-Trafficking in Persons Advisory Committee (advisory committee) meets regularly and is developing a data collection mechanism to improve tracking of anti-trafficking efforts across Kenya's 47 counties. The advisory committee established and implemented its annual work plan; its accomplishments in 2015 included developing standard operating procedures for prosecutors and training approximately 50 trainers from key anti-trafficking officials. The government reported substantially increased trafficking prosecutions and convictions. In 2015, the government identified 153 child trafficking victims in only three of Kenya's 47 counties. The government allocated seven million Kenyan shillings (equivalent USD 70,000) to the victim assistance fund for the first time during the reporting period (Republic of Kenya, 2017b).

Smuggling

Country protocol against the smuggling of migrants by land, sea and air convention against transnational organized crime

The importance of smuggling in East Africa is recognized both within and outside the region. Recent initiatives focus on training law enforcement on how to handle migrant smuggling. These include the European Union-Horn of Africa Migration Route Initiative under the Khartoum Process (2014), which targets both trafficking and smuggling of migrants in the region with a dual view to ending smuggling and addressing the root causes of the migration. The Khartoum Process is a platform for political cooperation among the countries along the migration route between the Horn of Africa and Europe. It aims at identifying and implementing concrete projects to address trafficking in human beings and the smuggling of migrants. In May 2014, the AUC and the EC convened in Khartoum, Sudan, for a preparatory meeting to a Regional Conference on Human Trafficking and People Smuggling that took place in November 2014. In addition, there is the Somalia-Kenya Forced Migrant Rights Initiative (2014–2017), (Hovil, 2017), which targets migrant smuggling and human trafficking with the aim of creating safe environment for forced migrants and smuggled migrants. The European Union has been heavily involved in launching counter-smuggling initiatives in

East Africa. The European Union’s Khartoum Process aims to improve migration governance and help countries to fight smuggling of migrants and trafficking in human beings.

Most recently, the European Union has launched a new fund called the European Union Emergency Trust Fund for Africa (Fact Sheet: Migration – EU Emergency Trust Fund for Africa, 2018 (EU, 2018); Valletta Summit on Migration, 2015), and expanded its Regional Development and Protection Programme to tackle the root causes of irregular migration in and out of the region. One focus of these funds will be on the Horn of Africa. Commentators – including the Inter-agency Working Group on Disaster Preparedness for East and Central Africa – have highlighted the conflation of the terms smuggling and trafficking in policy discussions led by the European Union in the region (International Agency Working Group (IAWG), 2015:3), and the insufficient recognition of the political and security environments that drive forced displacement.

Institutional Framework on Migration

This section reviews the functions of ministries and Government agencies in Kenya (Table 41) dealing with migration management and diaspora issues. International organizations assisting national migration management, NGOs and CSOs are presented here for a comprehensive review of the institutional framework on migration governance.

State Institutions and Agency Mandates on Migration

Table 41: Institutions involved in migration governance, Government of Kenya

Name	Roles and responsibility
Parliament	In charge of approving policies, including policies on migration management.
Ministry of Interior and Coordination of National Government	Houses the Department of Immigration, Department of Refugee Affairs and the Kenya Police Service.
Department of Immigration	In charge of all immigration and registration issues, as well as emigration of Kenyans travelling and residing abroad.
Department of Refugee Affairs	Manages and coordinates asylum and refugee affairs, under the Ministry of Interior and Coordination.
Kenya Police Service (KPS)	Responsible for orderly migration and control of unauthorized migrants.
Ministry of Foreign Affairs and International Trade	Manages Kenya’s foreign policy, bilateral and multilateral relations, and liaisons with international and regional organizations. It further manages Kenya’s foreign missions and embassies, and has incorporated diaspora diplomacy as a key strategic pillar.

Name	Roles and responsibility
Directorate of Diaspora Affairs	Mandated to harness the potential of the Kenyan Diaspora for socioeconomic development, provide advice to the Government of Kenya on relevant policies on the Kenyan Diaspora, promote their interests in programme design and implementation, serve as a forum for enhancing ties with Kenyans abroad, and provide liaison services with public and private agencies. The Directorate of Diaspora Affairs is housed in the Ministry of Foreign Affairs and International Trade.
Ministry of Devolution and Planning	Acts on three spheres: devolution, planning, office of management and budget. The Ministry covers interGovernmental relations and capacity-building of Counties; planning through national development plans as it houses Kenya's Vision 2030 and semi-autonomous Government agencies: the National Bureau of Statistics and National Council for Population and Development. The Ministry coordinates policy priority areas and initiatives in line with constitutional imperatives.
Kenya National Bureau of Statistics (KNBS)	National custodian of data relating to population and sectoral programmes.
National Council for Population and Development (NCPD)	National policy and programme coordinating body for Kenya's population programme.
Ministry of Commerce, Tourism and East Africa Region	Provides the latest and charts future prospects regarding Kenya in the EAC and other regional economic communities including the Common Market for Eastern and Southern Africa (COMESA) and Intergovernmental Authority on Development (IGAD).
Ministry of Labour and Social Protection, Social Security and Services	The Ministry handles labour issues as well as social security and other services to Kenyans across board. The Ministry is responsible for skills inventory, labour market information from employers and private employment agencies, facilitating administrative requirements for labour migration.
Department of Children Services (DCS)	Coordinates the promotion and protection of children's rights as provided in national and international laws and conventions. The DCS is mandated by the Children's Act to act on behalf of the State and with actors (police, hospitals, children's institutions) to ensure that children receive protective services. The DCS works through field services divisions, an orphans and vulnerable children secretariat, alternative family care units, and statutory institutions (child protection centres, remand homes, and rehabilitation schools). The DCS oversees programmes to ensure child protection, against abuse and neglect. In this regard, the DCS's mandate includes the protection of children from violence, trafficking and exploitation.
Ministry of Agriculture, Livestock and Fisheries	Formulates and implements legislations, regulations and policies on three forms of livelihoods: agriculture, livestock and fisheries. Promotes a sustainable and competitive agriculture to enhance food security, income generation, and employment creation and provide a way out of poverty for Kenyans.
Ministry of Transport and Infrastructure	Manages all transport networks and infrastructure such as energy and ICT that stimulate and sustain migration.
Ministry of Environment, Water and Natural Resources	Portfolios that underline environmental and natural resource perspectives of migration.
Ministry of Health	Health of internal migrants, immigrants and emigrants, access to health providers and services for migrants.

Name	Roles and responsibility
Youth Enterprise Development Fund (YEDF)	Tasked to reduce youth unemployment. The Youth Employment Scheme Abroad (YESA) has been developed as a pillar of YEDF to provide for external employment opportunities for Kenyan youth.
Central Bank of Kenya	Kenya's monetary authority keeps records on Kenyan diaspora remittances to the country, putting in place regulatory framework to monitor cross border money transfer activity and compare it with ODA and FDI.
Protection Working Group on Internal Displacement (PWGID)	Platform for Cooperation on IDP issues chaired by the Ministry of Justice, National Cohesion and Constitutional Affairs, Kenya National Commission on Human Rights

Source: IOM, 2015c.

State agencies contributing to migration governance

These include ministries and semi-autonomous government agencies with portfolios that include migration or migration-related activities:

- **Ministry of Interior and Coordination of National Government**

This ministry houses the Department of Immigration Services, which is mandated to take charge of all immigration issues as well as the emigration of Kenyans travelling/residing outside the country. It deals with matters stemming from immigration and national security and reviews immigration laws and regulations. The Department of Immigration Services has a mandate over the migration of foreigners (including issuing permits, citizenship, residency, visas and passes), the registration of persons in Kenya (including identification documents which Kenyan bona fide and naturalized citizens are authorized to possess), border management of Kenya's borders with contiguous State, and outside travel including emigration of Kenyan citizens (issuance of passports and other travel documents, and provision of consular services abroad). The Ministry houses:

- National Registration Bureau – which includes the identification and registration of all Kenyans 18 years or above, producing and issuing secure identification documents, and managing a database of registered person;
- Civil Registration Department – which registers births and deaths, processes vital statistics and certificates;
- Integrated Population Registration System – one of the flagship projects of the Jubilee government announced and launched on 11 March 2015 as the central database on all Kenyan citizens and foreign nationals resident in the country. The system is designed to consolidate population registration information into a single database for ease of verification. It is composed of two parts: a

National Population Register and a unique Personal Identification Number that serves as a reference in all transactions regarding that person. The Integrated Population Registration System is designed to facilitate service provision and replace old systems of population data management.

The ministry houses the Kenya Citizens and Foreign Nationals Management Service which was established in the 2011. The Department of Refugee Affairs is headed by the Commissioner for Refugees and is in charge of administering refugee affairs laws and policies. Data management at the ministry is being strengthened through the IPRS due to delays in information delivery, non-optimal process of computerization of data, records needing to be digitalized and the lack of a computerized system at entry points.

- **Kenya National Bureau of Statistics**

This is the semi-autonomous government agency mandated to be the national custodian of data relating to population and elements of sectoral programmes in the country. Sources of data range from censuses to surveys to routine data from administrative structures. KNBS holds migration data from successive decennial censuses carried out in the four decades 1969–2009 (Republic of Kenya, 2006).

- **National Council for Population and Development**

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

- **Youth Enterprise Development Fund**

Initiatives in youth empowerment in Kenya include the Youth Employment Development Fund and the Youth Employment Scheme Abroad. While the fund endeavours to enhance the capacity of youth to engage in entrepreneurship, the scheme tries to place youth in gainful employment overseas. These are the two pillars of the fund, which has been tasked to address youth unemployment, notable by linking youth to international work opportunities (Republic of Kenya, 2018c).

- **Ministry of Foreign Affairs and International Trade**

With the growing significance of and attention paid to the Kenyan diaspora, the Directorate of Diaspora Affairs of the Ministry of Foreign Affairs and International Trade plays a crucial role in migration in the context of international relations and global interests. Included in its role are the following:

- Oversight of families of Kenyans experiencing certain difficulties;
- Obtention of death certificates, autopsy reports and other official documents pertaining to deceased Kenyans and forwarding the same to family members;
- Authentication of documents being sent for use in foreign countries;
- Supervision of the National Diaspora Policy; and
- Monitoring and evaluation (where necessary) of the impact and implications of the Dual Citizenship Act 2011.

To highlight the importance of remittances in diaspora affairs, a separate African Institute for Remittances has been established within the African Union Commission and based in Nairobi (African Union, 2014). This Institute will assist all Member States, remittance senders and recipients, to manage remittances for the benefit of development. It will work on providing technical assistance to Government institutions, training and capacity-building programmes, studying remittance flows within Africa, conducting policy research and dialogue on remittances for development in African countries, developing content, technology platforms and partnerships between African central banks and remittance service providers, and disseminating data on good practices through annual reports, workshops and other events for stakeholders contributing to the region's development and policy agenda. On 28 November 2014, the African Union Commission and the Kenyan Government ratified the hosting agreement for the African Institute of Remittances and officially launched the Institute at the Kenya School of Monetary studies where the same institute will be hosted. The Ministry also has the capacity to provide advice on migration issues for the World Trade Organization, including the Doha Mode 4, which deals with migration of 'natural persons' for services. Over the years, Kenya has emigrants in the Middle East and the developed North in the absence of a national policy guarding against their interests.

The Directorate of Diaspora Affairs (Republic of Kenya, 2018b) is in charge of engaging with the diaspora to participate in the development of the country. It has setup an online diaspora portal so that Kenyans in the diaspora can register online to access information on investment opportunities as well as provide

details of their location, occupation and other additional details that can help the ministry in terms of determining the skills and expertise available from their diaspora. The Directorate of Diaspora Affairs is also home to a unit on diaspora issues and a liaison officer in charge of coordination with Parliament and the devolved Government. Focal points sensitize other State entities and highlight the investment opportunities of the diaspora.

- **Ministry of Labour and Social Protection**

This ministry has a database system and unit, originally established with support from IOM, to register migrant workers. The Ministry handles labour issues as well as social security and services to Kenyans. Its role includes the following:

- Promotion of harmonious industrial relations in the country in consultation with bodies such as the Kenya Federation of Employers and the Central Organization of Trade Unions that handle affairs of employers and workers respectively; and
- Ensuring compliance with labour laws, international labour standards and codes of practice as well as review of labour standards and domestication of international conventions and domestication of international conventions.

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

- **Ministry of Commerce, Tourism and East African Affairs**

This ministry implements the council's decisions and overseas implementation of programmes and policies to best realize regional integration. It promotes public/private sector participation in the East African region, creates awareness on regional integration matters, and implements directives of the summit and the council of ministers. The ministry covers cross-cutting issues including education, gender, health, social development, sports and culture, labour and migration, cross-border mobility, trade, and women's protection. It recognizes that the free movement agreement has not been harmonized across countries, and there is room for progress to be made in the future to develop a system for the free movement of East Africans within the EAC.

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

- **Ministry of Agriculture, Livestock and Fisheries**

This ministry deals with three forms of basic livelihoods for the vast majority of Kenyans. Agriculture remains the mainstay of the country's economy and the basis of subsistence of both individuals and households. Migration interrelates with agriculture by reducing farm labour in out-migration and increasing it in in-migration nodes of commercial farming. Kenya's rural-rural migration has thrived for decades within the framework of this model. While some commercial farming areas are devoted to crop husbandry, others rely on livestock farming and still others on both. In Kenya's arid and semi-arid lands, nomadic pastoralists move in search of pastures and water for their livestock, yet lack a policy response to their needs. In effect, pastoralists in Kenya range both within and across national borders with no overarching policy to govern these internal and cross-border movements. With regards to fisheries, as both internal and international migration occur in the fishing industry, the limited knowledge and respect of national boundaries will remain an important focus requiring special attention on policies to regulate migration in the fisheries.

- **Ministry of Transport and Infrastructure**

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

- **Central Bank of Kenya**

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

- **Ministry of Environment, Water and Natural Resources**

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

- **Ministry of Health**

The mission of the Ministry of Health is to build the highest standard of health for all persons living in Kenya through sustainable client-centred health services to eliminate communicable diseases, reduce violence and injuries, provide essential health care, minimize exposure to health risks and strengthen collaboration with other sectors. The provision of services for non-Kenyans remains inadequate to date. The Ministry held the first Kenya National Consultation on Migration Health in May 2011 in Mombasa; with the second national consultation on migration health held in 2014 to highlight the Government's willingness to strengthen migration health in Kenya, in support of Millennium Development Goals 4, 5 and 6 of universal access to health services for migrants. The National Consultation on Migration Health found key areas to be addressed by the Ministry notably to improve the level of information on health issues faced by migrants, data collection tools, equitable access to health care, and to address the "lack of migrant sensitive and inclusive legislation, policies and programmes that promote migrant health."

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

- **African Development Bank**

The African Development Bank is committed to sustainable economic development and social progress contributing to poverty reduction in Kenya and is committed to the objectives set under the SDGs, throughout which migration and displacement are mainstreamed. The bank has in recent years released working papers and economic briefs on Kenya's migration trends, patterns and determinants, including trends around Kenyans abroad.

NGOs and Civil society organizations

Kenya is home to at least 100 NGOs working on refugee affairs. This includes both international and national NGOs. These NGOs mainly focus on humanitarian assistance to refugees, although increasingly they also assist internally displaced persons and other vulnerable uprooted populations. See Annex D for list of NGOs.

Other civil society organizations/migrant and diaspora organizations

Kenya is home to the Kenya Diaspora Alliance (KDA, 2017), a group of returnees who show the potential for return and investment, create awareness on domestic policies for those abroad, review the impact of remittances and investments, and search for projects to facilitate reintegration upon return with the intention of helping returnees adjust upon return home. As such, they do not facilitate return but facilitate investment opportunities and information sharing. Migrant associations exist that galvanize their common interests and aspirations to operate as well-knit groups with a common purpose. Their interests include both the migrants' welfare in their current location and their involvement in homeland development.

Diaspora organizations remain concerned by the high costs and commissions of channels for sending money home. The Government of Kenya has stated it intends to take steps to improve the capacity of the diaspora to invest in Kenya. In equal measure, the AU initiative that resulted in the establishment of an African Institution of Remittances is aimed at addressing and alleviate African diaspora concerns (African Union, 2014). The African Institute of Remittances develops the capacity of Member States of the African Union, remittance senders and recipients and other stakeholders to implement concrete strategies and operational instruments to use remittances as development tools for poverty reduction (African Union, 2014).

Trade unions and private employment agencies

Central Organization of Trade Unions: the workers' union has a large membership of migrant workers from different parts of Kenya employed in particular sectors. It is responsible for negotiations regarding workers' welfare including remuneration, rights and separation obligations (e.g. pension or gratuity).

The Government of Kenya recognizes about 900 employment and recruitment agencies, while the private sector notes that they are about 150 such agencies (Republic of Kenya, 2017b). These agencies are in charge of collecting information on migrant workers, facilitating their registration, pre-departure training and employment abroad.

According to Government officials, there are more unrecognized and unofficial brokers operating as recruitment agencies, than the 45 (officially known and certified) Private Employment Agencies (PEAs) (ASMAK, 2018). Although all PEAs are required to pass a clearance, registration and certification process, many acts with impunity.

Money transfer organizations

Most money transfers and remittance flows have grown through electronic platforms like Western Union or M-PESA (M for mobile and PESA for 'money' in Swahili), a mobile money transfer services that allows for sending, receiving and basic banking transactions through mobile telephones. As a result, money transfer organizations are limited in number as they do not present advantageous financial services for migrants and their families. Mobile transfers have been heralded as a good practice in Kenya and (Republic of Kenya, 2018d) their use is now mainstreamed across groups living and residing in Kenya. African Institute of Remittances (African Union, 2014) works in collaboration with respective governments to provide guidance and support in money transfer issues. AIR aims to facilitate cheaper, faster, and more secure remittance flows from Europe to Africa. The core objectives of the African Institute for Remittances project are to: (a) Facilitate the process leading to the creation of the Institute, and; (b) Build the capacity of the Member States of the African Union, remittance senders and recipients and other stakeholders to develop and implement concrete strategies and operational instruments to use remittances as development tools for poverty reduction. This project is led by African Union with the support of the World Bank and the European Commission, and in cooperation with the African Development Bank and the International Organization for Migration (Republic of Kenya, 2018d).

Professional associations

A number of professional associations in Kenya play an important role in matters pertaining to migration within, into and out of Kenya. They include associations of teachers, medical and health personnel. The Nursing Council of Kenya receives requests for license verification for migration and through this

tracks information on the intentions of nurses to migrate abroad for professional purposes. NCK responds to requests for verifications from different countries when a Kenyan nurse applies to migrate abroad – as such it may receive more than one request for each nurse. To eliminate duplication when calculating the number of nurses intending to migrate, verification requests are linked to each nurse’s index number.

Anti-trafficking organizations

At the time of the study, there was very little data on human trafficking numbers in Kenya, which was identified as a shortcoming in terms of understanding the extent of human trafficking in the country. Anti-trafficking organizations that provide direct assistance to trafficked persons usually collect their own internal data, but no centralized mechanisms for data collection and analysis exist. No modalities for data sharing between service providers, NGOs, government agencies, and law enforcement agencies on trafficking complaints, referrals, investigations, or prosecutions exist, hampering the anti-trafficking sector’s ability to develop evidenced-based programmes.

F.3. International cooperation on migration management

This section is indicative of the ongoing work in the area of migration and development and provides a rapid overview of current and planned international cooperation and programmes. The issue of cross-complementarities and synergies is addressed, along with suggestions for areas of future interventions. IOM has been closely working with the Government of Kenya to strengthen migration management and national capacity. IOM’s technical cooperation programmes in Kenya began in 2004, and have focused on capacity-building in migration management, integrated border management, regional integration, administration of labour migration programmes, and health promotion for migrants.

Kenya is in the process for developing standard operating procedure for data management, with the support of Better Migration Management, and funding from European Union and the Government of Germany (through GIZ). In addition, there are a number of key advances being made in recent years with the support of IOM, which among others include: the introduction of standard operating procedures for border management (IOM, 2018), the enactment of anti-trafficking legislation, the development of a national plan of action to combat human trafficking, and the establishment of a labour migration data management facility. Other key advances include, the development of national

strategy on HIV/AIDS and sexually transmitted infections, particularly, along major transport corridors, the development of national guidelines for HIV response in emergency settings, development of national action plan at Sixty-First World Health Assembly WHA61.17 (WHO, 2008), and the improvement of the skills of civil society and Government officials on a broad range of migration management issues including integrated border management, human rights of migrants, protection of trafficked and vulnerable migrants, health promotion for migrants, and community stabilization for migration-affected communities and populations. However, institutionalization of these results remains a challenge, and additional efforts to develop and implement comprehensive migration management policies are required.

International cooperation on return, reintegration and relocation

IOM and UNHCR have been actively involved in the assistance and response to the needs of returnees, whether voluntary or forced. IOM, through its assisted voluntary return and reintegration programme, assists migrants who need to return home but lack the means to do so. These include rejected asylum seekers, or those likely to face rejection of their claim, irregular migrants, victims of trafficking, unaccompanied migrant children, elderly people and those with particular medical needs. The programme provides them with pre-departure assistance, transportation and post-arrival reception, including transport, health support, and reintegration assistance in cooperation with NGOs (Government of Kenya, Government of Federal Republic of Somalia and UNHCR, 2013).

International cooperation on mixed migration

Mixed migration task force

IOM and UNHCR co-chair the Kenya Mixed Migration Task Force, which was established in 2012. Kenya MMTF is a multi-agency forum for information-sharing and joint advocacy on the protection and humanitarian needs of irregular migrants, inclusive of refugees, asylum seekers, trafficked and smuggled persons, and migrant workers who move in mixed migration flows through or into Kenya. The Regional Mixed Migration Secretariat is hosted by the Danish Refugee Council and provides administrative support to the Kenya MMTF. The 2013 RMMS publication: *Mixed Migration in Kenya: The Scale of Movement and Associated Protection Risks* (RMMS, 2013b) was compiled by the members of the Kenya MMTF.

Regional Mixed Migration Secretariat

The Regional Mixed Migration Secretariat (RMMS) was created in 2011 by UNHCR, IOM, DRC, INTERSOS and the Yemen Mixed Migration Task Force to support agencies, institutions and forums in the Horn of African and Yemen to improve the management and response to mixed migration flows. INTERSOS is an Italian humanitarian organization on the first line that works all over the world bringing assistance to people in danger victims of natural disasters. The establishment of the RMMS in Nairobi (Kenya) was a response to key recommendations from the Regional Conferences on Mixed Migration in the Gulf of Aden, attended by agencies and authorities from the region (held in Yemen in 2008 and Djibouti in 2009). At that time the phenomenon of mixed migration of complex flows was emerging with high levels of human rights abuse and limited understanding of the dynamics behind it and no dedicated entity focusing on migration problem. Since its inception the RMMS has produced a significant body of research on mixed migration (Mixed Migration in Kenya – Mixed Migration Centre, 2011) which includes the following:

- (i) Desperate Choices (2012): conditions, risks, and protection failures affecting Ethiopian migrants in Yemen;
- (ii) Global Migration Future (2012): using scenarios to explore future migration in the Horn of Africa and Yemen;
- (iii) Migrant Smuggling in the Horn of Africa and Yemen (2013): the political economy and protection risks;
- (iv) Mixed Migration in Kenya (2013): the scale of movement and the associated protection risks;
- (v) Responses to Mixed Migration in the Horn of Africa and Yemen (2013): policies and assistance responses in a fast-changing context;
- (vi) Letter of the Law (2014): regular and irregular migration in Saudi Arabia in a context of rapid change;
- (vii) Going West (2014): Contemporary mixed migration from the Horn of Africa to Libya and Europe;
- (viii) Abused and Abducted (2014): The plight of female migrants from the Horn of Africa in Yemen;
- (ix) Behind Bars (2015): The detention of migrants in and from the East and Horn of Africa.

RMMS further compiles a monthly summary report of all relevant movement in the Horn of Africa and Yemen subregion with statistics, analysis of political events and policy changes affecting mixed migration. It has as a result

become a key information resource for all stakeholders on migration in and out of Kenya.

Urban Refugee Protection Network

UNHCR is the lead for the network which brings together humanitarian agencies working on refugee issues within urban areas. The Refugee Consortium of Kenya actively works in this thematic group. The focus of the network is on working with asylum seekers and refugees in the city of Nairobi, coordinating programmes benefiting them and ensuring that needs are met through quality programming. The network convenes every two months to discuss protection issues and receive updates from each theme group. The six groups are:

- Advocacy and Legal
- Child Protection
- Education and Livelihoods
- Gender-based Violence
- Health
- Psychosocial

Since 2012, the Government of Kenya no longer registers IDPs, and a directive for urban refugees to relocate in camps limiting the protection and assistance offered to urban refugees was passed. It is in such times that networks like this are needed to ensure that the government lives up to its legal responsibilities under international, regional and national law.

Kituo Cha Sheria, Centre for Legal Empowerment

The Urban Refugee Intervention Project seeks to provide legal assistance to stateless people, asylum seekers, deportees, IDPs and refugees through support from UNHCR and the International Rescue Committee. The Urban refugee programme caters for 65,715 (as at the end of January 2018) asylum seekers and refugees residing mainly in Nairobi and other urban locations including Mombasa, Nakuru, Eldoret, Kitale, Meru-Maua, Isiolo and Bungoma (UNHCR Kenya, 2018). Once well established, the programme will expand beyond Nairobi to Mombasa, Kakuma, Dadaab, Garissa and other parts of Kenya through volunteer networks and branch offices. It will consolidate referral networks, peer organizations and advocate for durable solutions – local integration, voluntary return and resettlement. It will also seek to include the protection of IDPs through specific partnerships and advocacy on the rights of internally displaced persons. Kituo, a national NGO, became well known of the

larger public through its advocacy efforts and petition impeding the Government of Kenya from carrying out its 2012 directive to relocate urban refugees to camps, succeeding in obtaining a High Court ruling overturning the implementation of the directive on the grounds that it was unconstitutional. Later, the same High Court judge allowed the re-implementation of the directive.

Refugee Consortium of Kenya

The Refugee Consortium of Kenya is a national NGO established in 1998 to promote and protect the rights of refugees, asylum seekers, IDPs and other forced migrants. Its mandate is three-fold: provision of legal aid services and psychosocial counselling, advocacy for policy change and legislation development in line with international instruments, awareness-raising through research and information dissemination. The organization has been a leader in defending the rights of forced migrants and has authored leading research on urban refugees, asylum under threat, lessons from the national policy framework on internal displacement which have become key reference documents on migration issues and migration management in Kenya.

Danish Refugee Council

The Danish Refugee Council focuses on building the self-reliance for refugees in Kenya through three pillars:

- Pillar 1: Equipping them with skills
- Pillar 2: Enterprise development
- Pillar 3: Linking them to financial services that are Shariah compliant in the case of Muslim refugee communities

A major breakthrough in achieving Pillar 2 was the recent granting of business permits to refugees. Additional improvements are required to allow the Danish Refugee Council to effectively implement these three pillars. These include:

- Providing documentation for refugees – a critical step to properly identify refugees and a key requirement for provision of services;
- Offering options outside of camps: providing access to local markets for refugees, as well as improvements on registration, alien cards, business spaces and permits for refugees.

Norwegian Refugee Council

The Norwegian Refugee Council has been active in Kenya since 2006, through assistance to refugees in Dadaab with lifesaving activities covering food security, water and sanitation interventions, and more recently through its Information, Counselling and Legal Assistance Programme as part of its strategy on durable solutions. In 2014, the Norwegian Refugee Council expanded its programme in Kakuma with shelter activities and the Youth Education Pack. The Norwegian Refugee Council is expanding its programme to urban refugees, and targeting host communities in Turkana and Garissa, in border areas around camps, as well as other areas beyond the camps.

The organization is making efforts to identify solutions for protracted refugees through options beyond camp assistance. The Norwegian Refugee Council (2017) study sought to gain a better understanding of ways in which assistance can facilitate a higher degree of self-reliance and provide alternatives to traditional camp-based assistance. The study identifies the encampment policy as restricting refugee self-reliance, while it highlights major protection concerns among urban refugees. It singles out work permits as a strong pillar of livelihood that should be prioritized through legal aid programmes. It recommends the establishment of community-based organizations or cooperative societies to involve a wider section of people, including host community members.

International cooperation on resettlement and cultural orientation

Resettlement is one of three durable solutions offered to refugees, available for those who cannot or are unwilling to return home. As such, it remains a key protection tool. The process begins with UNHCR, mandated to assist refugees in resettling in a third country. Resettlement assistance is a process involving closely the Government of Kenya, UNHCR, IOM and other partners such as RefugePoint, HIAS Kenya and other NGO partners. The process begins with UNHCR with the identification, interview and submission of refugee applications for resettlement consideration. When refugee applications are accepted under cooperative agreements, IOM, RefugePoint, HIAS Kenya and other mandated NGOs proceed with the resettlement services which include case processing, health assessments, pre-departure orientation, and movement and in some cases post-arrival support.

In order to avoid duplication of services, partners are required to cross-check cases under resettlement programmes to ensure that refugee status is checked, and to prevent potential fraud. NGOs are active in resettlement assistance – RefugePoint, HIAS Kenya, as well as Church World through its Resettlement Support Centre in Nairobi, convene with other entities and UNHCR on a monthly basis for a best interest determination panel and work through administrative centres in Nairobi and key refugee hosting areas in Kenya – notably Dadaab and Kakuma – to facilitate resettlement assistance.

International cooperation on internal displacement

The Norwegian Refugee Council will continue to try to address the needs of the internally displaced persons in Kenya, mainly in Mandera, Wajir and Marsabit counties due to inter-communal conflicts. The displacement numbers have been unclear, but the conflicts are often resource-based. In Marsabit County, the displacement is not only internal but also cross-border since the warring communities are spread across the Kenya and Ethiopia border. As of 2017, IOM has been piloting its displacement tracking mechanism, a standardized global tool on displacement tracking, in seven counties in an effort to provide humanitarian actors with improved information on displacement in the County and to improve skills in displacement tracking. USAID and the Rockefeller Foundation have developed the Global Resilience Partnership that offers protection to vulnerable populations on the basis of climate adaptations and preparedness. ReliefWeb has reported that the partnership has improved the resilience of pastoralists in Kenya through strengthening the disaster early warning system (Government of Kenya, 2010b).

In 2010, the Government of Kenya introduced the National Climate Change Response Strategy. One of the strategies outlined with regards to urban areas that receive rural residents pushed out due to climate change is the need to plan urban areas with projects increase in population through the development of proper housing and waste disposal to accommodate the population (Government of Kenya, 2010b). In addition, there is a need to conduct further research on the impact of climate-related migration to gather evidence of developing effective strategies for handling the effects of climate change. To this effect, IOM is implementing a migration, environment, and climate change project in Kenya, which aims to:

- (a) Strengthen knowledge and information-sharing with new evidence on migration and the environment;
- (b) Enhance Government capacity to take action on environmental migration; and

- (c) Facilitate policy coherence and cooperation both nationally and regionally.

Migration and environment: policies and frameworks

Disaster management and climate change matters receive more attention under the current Second Medium-Term Plan 2013–2017 (MTP II) (Government of Kenya, 2013). Under Ending Drought Emergencies, the link between migration and the environment is acknowledged by noting that “[c]ompetition between communities over natural resources increases insecurity, which in turn increases the risk of vulnerability to drought, by impeding migration, curtailing access to services and resources, destroying assets, and damaging intercommunal relations”. The section on environment, water and sanitation similarly recognizes the relationship between migration and the environment, specifically with regards to land and environmental degradation, stating that “land degradation leads to socioeconomic problems such as food insecurity, insufficient water, regular loss of livestock, limited agricultural development and out-migration, specifically from rural areas”.

The section on population, urbanization and housing recognizes the increasing rural–urban migration as an emerging issue and challenge, and improving the knowledge and information base on population issues including migration is one of the strategic priorities identified. The section on infrastructure prioritizes Implementation of the Resettlement Action Plan for persons displaced along the railway reserve in Nairobi. The need to finalize policies on refugees, and migration, is recognized under the section on governance and rule of law, while the elimination of child trafficking and the resettlement of IDPs and forest evictees form part of planned activities.

National Climate Change Response Strategy (NCCRS) 2010

This identifies some of the impacts of climate change on human settlements as the displacement and migration of populations from disaster-prone areas due to destabilization of their natural resource-dependent livelihood sources (Government of Kenya, 2010b). Most such migration is from rural to urban areas where assistance, income opportunities and infrastructure may be perceived to be more accessible and readily available. The strategy recommends proper urban planning taking into consideration the expected increased urban population due to climate-induced migration. Biofuels and charcoal production (for instance, utilization of the invasive *Prosopis juliflorain* Northern Kenya) is recommended as a potential adaptation strategy that can act as a source of income for poor

families and therefore alleviate poverty, stem rural–urban migration, as well as reverse environmental degradation. Promotion of research on socioeconomic implications of climate change, such as, climate change-related migration, is also recommended.

National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, 2012

This addresses three distinct policy challenges particular to Northern Kenya and other arid lands. Two of these are relevant to climate-induced migration and adaptation, namely “how to protect and promote the mobility and institutional arrangements which are so essential to productive pastoralism”, and how to ensure food and nutrition security across the arid and semi-arid lands “where unpredictability is certain to increase as the impact of climate change deepens” (Government of Kenya, 2012: v). The policy is concerned that “traditional mechanisms for managing climate variability, such as mobility and the use of drought reserve areas, are being closed off” (p. 20) (Vision 2030 Development Strategy for Northern Kenya and other Arid Lands) (Government of Kenya, 2012).

Restrictions on livestock mobility is identified as a key policy constraint affecting climate resilience of communities in the arid and semi-arid land areas: “The primary policy challenge is how to protect and promote mobility and, in line with the Constitution, support the customary institutions which underpin pastoralism in a society which is otherwise sedentary and gravitating towards more individualized modes of organization and production” (Government of Kenya, 2012). Nevertheless, it is optimistic that the Government recognizes mobility as a rational and sophisticated response to environmental conditions even though its realization is for many pastoralists in Kenya curtailed by settlements, administrative boundaries, conflict, and land alienation. The policy calls on the Government to ensure that devolved structures accommodate mobility and resource-sharing across administrative boundaries and draw on the knowledge and experience of customary institutions.

National Climate Change Action Plan 2013–2017

This was developed to operationalize the NCCRS (Government of Kenya, 2013). The National Climate Change Action Plan (NCCAP) highlights some of the impacts of climate change in Kenya as prolonged droughts; frost in some of the productive agricultural areas; hailstorms; extreme flooding; receding lake levels; and drying of rivers and other wetlands. Other climate change hazards and impacts such as widespread disease epidemics, and depletion of glaciers on

Mount Kenya are enumerated. Many of these extreme climate events, the policy notes, have led to displacement of communities and migration of pastoralists into and out of the country resulting in conflicts over natural resources. Climate drivers, particularly extreme events such as flash floods and severe and persistent droughts, are identified as responsible for IDPs. Building capacity to manage climate risks in urban centres will therefore become necessary, particularly since cities such as Nairobi and Mombasa are predicted to play a vital role in Kenya's future economic development. Echoing the NCCRS, it recommends research to assess migration as an adaptation or coping mechanism for climate variability, and to identify alternatives to allow people to remain in their communities, that is, discourage environmentally-induced migration.

Climate Change Act, No. 11 of 2016

This aims to develop, manage, implement and regulate mechanisms to enhance climate change resilience and low carbon development for Kenya's sustainable development (Republic of Kenya, 2016b). This includes building resilience and enhancing adaptive capacity through the formulation of relevant programmes and plans, and mainstreaming climate change disaster risk reduction into strategies and actions of both public and private entities. The Act makes no specific reference to climate-induced migration or even how to deal with such phenomenon. However, pursuant to Article 70 of the Constitution (the right to a clean and healthy environment), Section 23 of the Act mandates the Environment and Land Court to enforce rights relating to climate change especially where a petitioner's effort towards adaptation to the effects of climate change is infringed upon. As read with Article 43 of the Constitution (the right to water, adequate food, health, social protection and education) these provisions are particularly important in enhancing the adaptive capacity of urban poor migrants and internally displaced pastoral communities. In addition, the Climate Change Fund is established under Section 25 of the Act and shall be applied to, among others, climate change research (such as, policy formulation and scientific research) and the implementation of climate change adaptation actions.

Kenya National Adaptation Plan 2015–2030

This was published in July 2016 (Government of Kenya, 2016). The Plan, among others, aims to enhance resilience of vulnerable populations to climate shocks through adaptation and Disaster Risk Reduction strategies. Under infrastructure, it notes that increased flooding in urban areas and droughts which drive rural populations to urban areas in search of assistance and employment puts pressure on public facilities. This is an acknowledgement

of climate induced migration and displacement. With regard to population, urbanization and housing, the vulnerability of those living in marginal lands in urban areas to hazards such as floods is noted as a major concern. Ensuring that continued population growth is matched with climate resilient urban development and green housing by enhancing the adaptive capacity of the urban poor through provision of affordable housing and related infrastructure are some recommended adaptation strategies. The Plan identifies the Ending Drought Emergencies Framework which focuses on 23 most drought-prone counties. Adaptation actions to be undertaken under the framework include eliminating the conditions that perpetuate vulnerability, enhancing productive potential, and strengthening institutional capacity. Some of the six pillars of the Programme include peace and security, sustainable livelihoods, disaster risk management, and human capital.

Community Land Act, No. 27 of 2016

The Community Land Act, No. 27 of 2016 (the Act) came into force on 21 September 2016 (Republic of Kenya, 2016c). The Act aims at giving effect to Article 63 of the Constitution of Kenya, 2010 (the Constitution) which provides for a classification of land known as community land, and the management and administration of community land. This provides for, among others, protection of community land rights as well as the management and administration of community land. Thus, an Act of Parliament was meant to give effect to Article 63 (5) of the Constitution; to provide for the recognition, protection and registration of community land rights; management and administration of community land, and; to provide for the role of county governments.

This Act responds to failures of individualization of tenure on customary land rights by repealing the Trust Land Act (Cap 288) and the Land (Group Representatives) Act (Cap 287). Statutory recognition of community land is particularly significant in the ASALs, where communal tenure and mobile pastoralism remain dominant. Pastoralists move across boundaries and have relied on mobility, within and across national borders, for the optimal use of scarce rangeland resources. In this Act, conversion of community land to private land will require approval by a two-thirds majority of the registered community members. The Act provides an elaborate process of adjudication (demarcation and delineation of boundaries) and subsequent registration of community land. By guaranteeing secure tenure, this law can potentially enhance resilience and adaptive capacity of communities through sustainable utilization of resources that accrue on community land.

Conversely, registration may discourage migration since unauthorized movement beyond delineated boundaries might as well be trespass. Ethnicity is a key plank in what constitutes 'community land' yet, in Kenya, ethnic communities claim specific regions. Thus, community land might as well be claimed as exclusive territory for specific ethnic communities with potential consequences, such as, conflicts. Indeed, conflicts contribute to degradation of the rangelands as mobility is constrained. The Act, however, engenders alternative methods of dispute resolution and recognizes the authority of the two levels of government to regulate land use planning, noting the transboundary nature of rangeland ecosystems. The foregoing promotes compatible land use both within and across national borders. Under benefits sharing, investments in the community lands shall involve, among others, participation of community members, impact assessment and monitoring, payment of compensation and royalties, remediation of any negative impacts, and capacity-building and technology transfer.

Mining Act 2016, No. 12 2016

The Act provides for compensation to land owners in cases where a mineral right (prospecting and/or mining) has been given to someone else (Republic of Kenya, 2016d). Such compensation can be claimed in case the mining activity causes damage to buildings and other immovable property affects the water table or affects water supply; or causes any loss of earnings or sustenance in case of land under cultivation or grazing. These provisions are consistent with Part VIII (Compulsory Acquisition of Interests in Land) of the Land Act, No. 6 of 2012. Under the Act, communities can continue to graze and use their land provided it does not affect ongoing mining activities.

Natural resources (benefit sharing) bill 2014

Although yet to be enacted into law, the bill proposes a system of benefit sharing in resource exploitation between resource exploiters, the national government, county governments and local communities (Republic of Kenya, 2014d). The bill proposes the establishment of a Benefits Sharing Authority to coordinate preparation and implementation of benefit sharing agreements and determine royalties payable. It sets the revenue sharing ratio/guidelines between the national and county governments, and county and communities.

Draft national policy for disaster management in Kenya

Recognizing the country's vulnerability to disaster risk and the importance of reducing such risk, the National Policy for Disaster Management in Kenya was drafted in 2009 (Government of Kenya, 2009). This draft serves to protect households and communities at risk of natural hazards, and serves to provide the institutional, policy and legal framework to effectively manager disaster risk reduction and timely response. Its goal is to lead to a safer, resilient and more sustainable Kenyan Society.

The policy identifies disasters, and emphasizes the requisite preparedness by the Government, communities and other stakeholders to lead to effective Disaster Risk Reduction activities. This entails a shift from short-term relief to development. It aims at alleviating suffering by providing timely and appropriate response mechanisms. The policy further:

- Provides background information on disasters and disaster management in Kenya, categorizing disasters as the following: environmental, man-made, epidemics, diseases, pests and geological disasters.
- Presents the contextual analysis of disaster management in Kenya, identifies strengths and weaknesses of the system, and defines terms such as disaster risk, contingency planning and resilience.
- Focuses on upcoming tasks to establish an effective disaster management system, including the key principles of:
 - Disaster Early Warning, Information and Prediction System;
 - Mainstreaming disaster management in development programmes;
 - Linking Early Warning and Disaster Response;
 - Establishing a semi-autonomous agency responsible for disaster management;
 - Providing flexible financial and response procedures; and
 - Reinforcing coping strategies of vulnerable and affected communities.
- Establishes a legal and institutional framework, including the setup of the National Disaster Management Agency.
- Deals with resource mobilization, management and accountability, through the establishment of a National Disaster Management Fund.
- Covers monitoring and evaluation for more timely and effective interventions.

The Draft National Policy for Disaster Management does not, however, effectively mainstream migration in its response: it only acknowledges rural–urban migration and just briefly mentions the challenge of disaster management in the process of relief, repatriation rehabilitation and resettlement toward recovery of IDPs.

National climate change response strategy and national climate change action plan

The 2010 Strategy was the first national policy on climate change and provides evidence of climate impacts (Republic of Kenya, 2010c). A comprehensive climate change action plan and national adaptation plan, 2013–2017, was built into the Kenya Vision 2030, to direct the country’s plan for reducing vulnerability to climate change. NCCAP feeds into the national development plan by addressing both sustainable development and climate change. It ensures that development objectives can be met without compromising the environment and natural resources. It recognizes that extreme climate events have led to displacement of communities and migration of pastoralists, resulting in conflicts over resources, and that climate drivers are one of the causes of regional migration and internal displacement. It also recognizes migration as a coping mechanism to climate change and natural disasters.

Diaspora policies

The Kenyan Vision 2030 recognizes a role for Kenyan emigrants in the country’s economic development. However, while initial efforts had a largely economic focus, there has been an evolution of thinking and a much broader understanding of diaspora engagement has emerged (Mwagiru, 2011). A belief in the potential role of emigrant communities in national development has long been recognized by the countries of the African Union, of which Kenya is a member (Ratha et al., 2011). On 20 January 2015, Kenyan President Uhuru Kenyatta launched Kenya’s first Diaspora Policy. The event represented a significant step in the development of Kenya’s approach to diaspora engagement, which has been evolving over the course of the past 15 years (see Table 42).

Increased focus on the diaspora in Kenya is evidenced by ensuring that one of five pillars in Kenya’s Foreign Policy Framework of 2009 is about the diaspora; most so, by revisions to the National Constitution, to allow dual citizenship, automatic citizenship for children of a Kenyan parent irrespective of place of birth and voting rights. These developments demonstrate initial efforts to facilitate diaspora engagement in Kenya. In May 2014, Kenya finalized its first

Diaspora Policy and restated the importance placed on diaspora in foreign policy: ‘through this policy, we seek to deepen our engagement and partnerships with the Kenyan Diaspora in order to leverage and harness their skills and expertise for national development’.

Table 42: Summary of Kenya Policy towards the diaspora

Year	Main development	Source(s)
2001	Kenya is a signatory to the African Unions Constitutive Act (2001), which promotes the participation of African professionals within the continent and in the Diaspora.	Kenyan Foreign Policy Framework (2009)
2004	National Diaspora Council of Kenya formed; however, remained rather inactive.	Ratha et al., (2011), MPI (2014)
2002–2007	The government of Kenya facilitates consultations with diaspora members about how best to support their involvement in national development.	Ratha et al., (2011)
2007	Creation of a Diaspora Technical Team by the government of Kenya, the Kenya Private Sector Alliances (KEPSA) and diaspora representatives. The team prepared a report ‘Maximizing the Potential and Input of the Kenyan Diaspora in the Political Process, Wealth Creation, Employment Generation and Poverty’ in preparation for the Kenya Diaspora Bill 2007.	Ratha et al., (2011)
2009	Diaspora Committee moved from the Ministry of Planning and Development to the Ministry of Foreign Affairs in response to Presidential Circular No. 1 of 2008.	Ratha et al., (2011)
2009	Diaspora Diplomacy becomes a pillar of Kenyan Foreign Policy (Article 46, 47, 48).	Kenyan Foreign Policy Framework (2009)
2010	Non-resident rights (dual citizenship, automatic citizenship for child of a Kenyan parent, voting) embedded in new constitution.	The Constitution of Kenya (2010)
2010	Organization of investment forums (e.g. Kenya Diaspora Investment EXPO 2010) in the United Kingdom and the United States.	Ratha et al., (2011)
2011	The Ministry of Foreign Affairs releases a Draft Diaspora Policy.	Draft Kenya Diaspora Policy (2011)
2011	Diaspora Bond issued to support infrastructure projects.	MPI (2014)
2012	Kenya ratified the Amendment to the African Union Constitutive Act Article 3(q) that ‘invites and encourages the full participation of the African Diaspora as an important part of our continent in the building of the African Union’.	Kenya Diaspora Policy (2014)
2012	Study Visit to India and Morocco to better understand diaspora engagement strategies.	Kenya Diaspora Policy (2014)
2013	Kenya’s offer to host the African Institute for Remittances is accepted in January 2013 by the Executive Council of the Africa Union.	Kenya Diaspora Policy (2014)
2014	Publication of Kenyan Foreign Policy.	Kenya Diaspora Policy (2014)
2015	Publication of Kenyan Foreign Policy.	Kenya Foreign Policy (2014)

Year	Main development	Source(s)
2015	On 20 January 2015, Kenyan President Uhuru Kenyatta officially launches the Kenyan Diaspora Policy.	Kenyatta (2015)
Forthcoming	The Kenyan Diaspora Policy outlines plans to establish a National Diaspora Council of Kenya to oversee the implementation of the Kenyan Diaspora Policy.	Kenya Diaspora Policy (2014)

Source: IOM, 2015.

F.3. Regional migration policies and treaties

East African Community

Treaty for the Establishment of the East African Community

The EAC groups the Governments of Burundi, Kenya, Rwanda, Uganda and the United Republic of Tanzania, with headquarters in Arusha, United Republic of Tanzania. The Treaty for the Establishment of the East African Community was signed on 30 November 1999 and entered into force on 7 July 2000 following ratification by Kenya, Uganda and the United Republic of Tanzania. The EAC is a regional integration initiative aimed at widening cooperating among partners in political economic and social fields.

The East African Community Common Market Protocol

The Treaty was reinforced by the Protocol on the Establishment of the East African Community Common Market (often known as the EAC Common Market Protocol), which entered into force on 1 July 2010 and stipulates the free movement, notably of goods, persons, workers, services and capital, along with upholding rights of establishment and residence. It provides for a standardized identification system, recognition of academic and professional qualifications of partner States as well as the harmonization of laws, policies and programmes. It allows for the freedom to work in a Member State. Although progress is being made on implementing this protocol, harmonization of national legislations will take time and negotiation.

IGAD Regional Migration Policy Framework

The IGAD Regional Consultative Process on migration was established in 2010 with a core function of promoting the common position of the IGAD Member States and African Union as provided in the Migration Policy Framework for Africa and to facilitate regional dialogue and cooperation on migration policy

issues amongst the IGAD Member States. The overall objective of the IGAD-RCP is to facilitate dialogue and regional cooperation in migration management amongst IGAD Member States by fostering greater understanding and policy coherence in migration as well as strengthening regional institutional and technical capacities to implement the Migration Policy Framework for Africa and other AU and IGAD policies on migration Table 43).

The IGAD RCP aims to achieve the following specific goals:

- To establish a mechanism for continuous dialogue and cooperation among IGAD Member States on migration and related issues, enhancing their capacity to manage migration within a regional context, consistent with the Migration Policy Framework for Africa.
- To enhance knowledge and foster a common understanding by policymakers, officials and stakeholders of the causes, dimensions patterns, trends and impact of migration in the IGAD region.
- To help develop and strengthen regional institutional and governmental capacities to address the challenges of migration management in a cooperative and knowledge-based manner.
- To focus on priority areas identified by IGAD Member States namely, technical cooperation and capacity-building, information collection, dissemination and sharing and progress toward formulation and harmonization at the national and IGAD level of legislation.
- To provide technical assistance and training programmes to help build capacity in multifaceted aspects of migration management.
- To develop and enhance dialogue and cooperation between the IGAD Member States and countries members of other regions as regards the different dimensions of migrations and migrants into and out of IGAD countries.

The IGAD Member States have and continue to experience common challenges of movement of mixed migrant populations whether in search of economic opportunities or as a result of forceful displacement due to civil strife, disasters such as floods, and droughts amongst other reasons have also seen displacement of populations. Table 45 provides a summary of migration issues in the IGAD region.

Table 43: Migration Issues in the IGAD Migration Policy Framework

Issues	Element	Specific concern
Other issues deserving special attention	Migration, poverty and conflict	Conflict, insecurity, environmental degradation and poverty as root causes.
	Migration and Health	Linkages with communicable diseases (HIV/AIDS).
	Migration and Environment and Trade	Environmental degradations and disasters.
		World Trade Organization (WTO) instruments (DOHA mode 4).
Migration and the elderly	Determinants and consequences.	
Prioritization of migration issues	Upholding the humanitarian principles of migration	Human and migrants rights, Women's rights; Rights of the Child, and their implementation.
	Border management and security	Internal and external security that arising from migration. It is imperative for countries to make border management a policy priority.
	Promotion of regular and labour migration	Migration brings efficiency in labour market and skills and knowledge transfer, cultural diversity, stopping migrants trafficking and smuggling and strengthening the broader globalization process.
		Information, proper documentation necessary for destination various needs of migrants in the countries of destination and for educating host communities.
	Integration of migrants into host communities	Successfully integrated migrants have a greater chance of feeling a sense of belonging in the host society, thus leading productive social and economic lives to the benefit of both their States of origin and the host State.
	Migration and development	Developmental impact of migration is the contribution of the Diaspora to their State of origin through remittance, and stimulating trade in host countries, among others.
	Capacity-building	For strengthening the human and institutional capacities of Member States to properly handle migration and migration related issues.
	Promotion of policy relevant research and capacity on migration	Policymakers need to base their decisions on well- informed and well-researched problem analysis: causes, determinants, of different types of migration and migrants in a given country, and research on the effects of a particular policy on the different aspects of migration (security, health, and integration, among others).

Source: IOM, 2015.

African Migration Policy Framework: The African Union Agenda

African Union has shown a lot of commitment towards the development of country specific migration policies.¹⁸ The AU attaches a lot of importance on migration, the bulk of which occurs within the African continent itself. The last decade witnessed a flurry of frameworks on migration focusing on Africa, European Union–African Union relations and migration issues of interest to different parties.¹⁹ The starting point is recognition of migration issues in the African Migration Policy Framework which lights the issues; thereby highlighting their basic elements and indicating special concerns where applicable (Table 44).

Table 44: Migration issues in the AU Continental Migration Policy Framework, 2006

Migration issue	Element	Specific concerns
Strategies for managing migration	Migration realities and trends	
	Need for a comprehensive migration policy	
	Labour migration	National Labour Migration Policies, Structures and Legislation
		Regional Cooperation and Harmonization of Labour Migration Policies Integration
		Labour movement and regional economic integration
	Border movement	Border management issues
	Irregular migration	Migrant smuggling
		Human trafficking
		Return and Readmission
		National and International Security and Stability

¹⁸ In 1991, the Summit of the Member States of the Organization of African Unity adopted the Abuja Treaty which among other things recommended that all RECs work towards eventually coalescing into the African Economic Community; this recommendation was affirmed by the Constitutive Act of the African Union which, in 2001, replaced the defunct OAU.

¹⁹ The major documents include: (i) the First European Union-African Union Ministerial Conference on Migration and Development held in Rabat, Morocco on 10 and 11 July 2006; (ii) the Migration Policy Framework for Africa adopted by the Assembly of the African Union in Banjul in June 2006; (iii) the Joint Africa-EU Declaration on Migration and Development adopted in Tripoli on 22-23 November 2006; (iv) the "Findings of the Global Forum on Migration and Development series held annually since that in Brussels on 9–11 July 2007; (v) the Second Euro-African Summit held in Lisbon from 8 to 9 December 2007; (vi) the seminar on "Migration: human rights perspective" organized by the Inter-Parliamentary Union (Geneva, 24–26 October 2007); and (vii) the Resolution of the 118th Assembly of the Inter-Parliamentary Union on "Migrant Workers, People Trafficking, Xenophobia and Human Rights" held in Cape Town on 18 April 2008.

Migration issue	Element	Specific concerns
	Forced displacement	Refugees and asylum seekers
		Internally Displaced Persons
		Protracted displacement situations
		Crisis prevention, management and conflict resolution
		Principles of non-discrimination
		Integration and reintegration
		Stateless persons
	Internal migration	Urbanization
		Push and pull factors
	Migration data	Collection and analysis of migration data
		Regional migration data exchange
	Migration and development	Collaboration with African Diaspora
		Brain drain
		Remittance Transfers
	Inter-State and inter-regional cooperation	Cross-border “common language”
		Exchanges, strife and tensions
		Other forms of cooperation

Source: African Union, 2006.

Regional agreements relating to migration

The African Union treaties signed by the Government of Kenya are shown in Table 45 and further discussed in the paragraphs below.

Table 45: African Union Treaties signed by the Government of Kenya

African Union Treaty	Status	Date
African Union Cultural Charter for Africa (1976)	Ratified	1981
African Charter on Human and People’s Rights (ACHPR, Banjul, 1981)	Ratified	1992
Convention on Specific aspects of Refugee Problems in Africa (1969)	Ratified	1992
African Charter on the Rights and Welfare of the Child (1990)	Acceded	2000
Protocol on the establishment of an African court on Human and People’s Rights (1997)	Signed	2003
Protocol on the Rights of Women in Africa (Maputo, 2005)	Signed	2003
African Union African Youth Charter (2006)	Ratified	2008

Source: Kenya Human Rights Commission, 2014.

- **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) (Maputo Protocol)**

The protocol includes in its definition of violence against women, arbitrary restrictions on or deprivation of fundamental freedoms, in private or public life, in peace time and during situations of armed conflict or war (Article 1(j)). "Reference to situations of armed conflict is important, because it brings within the protocol female asylum seekers and refugees, as well as other categories of war-affected women (African Union, 2003)."

In addition to national and international legal instruments, the Government of Kenya is party to regional instruments affecting migration governance. These support and further enhance legal instruments to provide a framework for cooperation and coordination at the regional level, down to the national Government and county levels. They govern freedom of movement and integration at the regional level, refugee affairs, internal displacement, mixed migration and disaster-induced cross-border migration, as detailed in this section.

- **OUA Convention Governing the Specific Aspects of The Refugee Problem In Africa 1969**

The 1951 UN Refugee Convention was regionally confirmed by the 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa. The African Union's definition adds to the UN Convention definition, expanding it to include (African Union, 1969):

- Those compelled to leave their country owing to external aggression, occupation, foreign domination, events seriously disturbing public order;
- Those who do not have to prove a direct link with danger; however, requiring only the refugee's judgement of harm, sufficient to abandon a home.

In addition to the two refugee conventions, other international and regional documents also contain provisions that have been used to protect refugees. Some of these are particularly pertinent to specific aspects of the refugee experience: the separation of political dimensions such as conflict from a State's obligation to protect, for example, and the particular vulnerability of certain groups such as women and children.

- **African Charter on Human and People’s Rights, 1981**

Known as the Banjul Charter, the African Charter on Human and People’s Right (ACHPR) is an international human rights instrument designed to protect human rights and basic freedoms. It affirms the right to free movement, the right to seek asylum if persecuted, and prohibits mass expulsions of non-nationals. Article 12(3) ensures that “every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions”. It recognizes the right to leave and return to any country, including the country of origin. The charter was ratified by Kenya in 1992 but has not been signed (African Union, 1981).

- **Kampala Convention 2009**

This has neither been signed nor ratified by the Government of Kenya. The 2009 Kampala Convention (the African Union's Convention for the Protection and Assistance of IDPs which came into force in December 2012 following ratification by 15 countries) explicitly obliges States party to the convention to “protect and assist persons who have been internally displaced due to natural hazards or human made disasters, including climate change.” Kenya has neither signed nor ratified the Kampala Convention. Falling short of the 2009 Kampala Convention, Kenya’s IDP Act, The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (2012) outlines an institutional framework with roles and responsibilities for State and non-State parties with regards to IDPs. The fact that the 2009 Kampala Convention has neither been signed nor ratified is a major concern for stakeholders in the identification and safeguarding of the rights of IDPs. This legal gap is one to be addressed by the Government of Kenya, given the potential of ongoing increases in the numbers of internally displaced persons due to conflict, natural disasters and development-led disasters.

- **Intergovernmental Authority on Development’s Regional Consultative Process on Migration**

IGAD members – Kenya, Ethiopia, Uganda, Djibouti, Somalia and Sudan – work to address migration, notably with initiatives targeting human trafficking, smuggling and border management. The RCP provides a platform to discuss migration issues and links IGAD Member States with other countries (transit and destination) and stakeholders in migration (civil society organizations and migrants) (RMMS, 2013b).

- **African Union Migration Policy Framework 2006**

The framework provides guidelines to assist Governments and the EAC in the formulation and implementation of migration policies, at both national

and regional levels. It is a non-binding framework that covers a range of mixed migration issues, including labour migration, border management, irregular migration, forced displacement, human rights, internal migration, the impact of migration on development, data management, State cooperation and partnerships over migration. It was designed to help mainstream migration in regional initiatives like the EAC and to contribute to facilitating their implementation.

- **The Nansen Initiative**

The Nansen Initiative on disaster-induced cross-border displacement is a major initiative that seeks to clarify the rights of natural disaster-induced IDPs, and a key instrument in insuring their protection. It underwent a regional consultation process in Nairobi, Kenya in 2014. Representatives of six countries from the Greater Horn of Africa – including Djibouti, Ethiopia, Kenya, Somalia, South Sudan and Uganda – as well as the United Republic of Tanzania and Yemen convened in May 2014 for the third Nansen Initiative Regional Consultation on Natural Hazards, Climate Change, and Cross-Border Displacement in the Greater Horn of Africa: Protection people on the move. Participants identified actions to be undertaken, namely:

- Preventing and mitigating the impact of displacement through resilience building and disaster risk reduction measures;
- Cross-border movement of pastoralists must be mapped, reconciled with cross-border security needs, supported in accordance with national and regional frameworks such as the 2010 AU Policy Framework for Pastoralism in Africa. Furthermore, a regional approach to ecosystem management will be developed;
- Promoting of migration opportunities for people affected by environmental degradation and change, facilitating seasonal migration, and improving and developing new data management tools and analysis on such forms of human mobility;
- Protecting people displaced across international borders in the context of disasters, considering applying the 1969 AU Refugee Convention’s expanded definition of a refugee through its inclusion of persons fleeing “events seriously disturbing public order,” and engaging with the African Court and Commission on Human and People’s Rights; and
- Enabling international coordination and cooperation for cross-border displacement in disaster contexts to ensure that donor priorities are aligned with the context and promote the conclusions of the Nansen Initiative Greater Horn of Africa

Regional Consultation in World Summits, regional, international and multilateral agreements, treaties and conventions on Climate Change, as well as IGAD’s regional consultation process on migration.

F.4. International Migration Treaties

Introduction

Kenya is party to key international treaties and multilateral agreements relating to migration, including international conventions and covenants, United Nations conventions and regional African Union treaties. Kenya’s previous dualist legal system required that international treaties and obligations take effect after implementation through domestic legislation. This had resulted in significant delays in the full implementation of treaties as the production of new laws and amendments led to national debate. The constitutional reform of 2010 changed the system to a monist system, with regards to the domestic effect of international law. Now, the Constitution of Kenya 2010 recognizes international law as part of Kenyan law.

- Article 2(5) of the Constitution states that “the general rules of international law shall form part of the law of Kenya (Oduor, 2013).
- Article 2(6) confirms that “any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.”
- Article 94(5) reserves law-making powers to Parliament: “No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation”.

The apparent contradiction between articles 2(6) and Articles 94(5) led to challenges in the implementation of treaties into national law. Thus, an act was passed by Parliament, the Treaty Making and Ratification Act (Kenya National Assembly, 2018) which gave “effect to article 2(6) of the Constitution and to provide the procedure for the making and ratification of treaties and connected purposes. This Act is unclear about the retroactive implementation of its tenets to previously signed international treaties and conventions, but leaves the room for advocacy in this regard. This section reviews international, regional and sub-regional agreements on free movement, human rights documents, and provides an inventory of bilateral agreements relating to migration (for instance on readmission, on ethical recruitment of health professionals – transfer of social benefits, recognition of qualifications and experience).

International treaties and conventions

Status in relation to key treaties

Kenya's status in relation to a number of treaties and agreements as summarized in tables 46 and 47. Table 46 shows treaties which have or have not been signed by the Government of Kenya. Table 47 shows the treaties which have been adopted by the Government of Kenya.

Table 46: International Treaties and the Government of Kenya (as of 2018)

Treaty	Signed	Date
International Covenant on Civil and Political Rights (1996)	Yes	1972
Optional Protocol I to the ICCPR (1976)	Yes	1972
International Covenant on Economic, Social and Cultural Rights (1966)	Yes	1972
Optional Protocol I to the ICESCR (2008)	No	
Convention on the Elimination of all forms of Racial Discrimination (1965)	Yes	2001
Declaration under Article 14 allowing individual complaints	Yes	2001
Convention on the Elimination of all forms of Discrimination against Women (CEDAW, 1979)	Yes	1984
Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women (1999)	No	
Declaration on the Elimination of Violence Against Women (1993)	Yes	
Convention Against Torture and other Cruel, Inhumane or Degrading Treatment (1984)	Yes	1997
Convention on the Rights of persons with Disabilities (2006)	Yes	2008
Optional Protocol to the Convention	Yes	2008
Convention on the Rights of the Child (CRC, 1989)	Yes	1990
Optional Protocol I to the CRC (2000)	Yes	2002
Optional Protocol II to the CRC (2000)	No	
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW, 1990)	No	
Optional Protocol CMW Art. 11 Individual complaints procedure	No	

Source: Kenya National Human Rights Commission, 2018.

Table 47: United Nations Conventions adopted by the Government of Kenya (as of 2018)

UN Conventions	Adopted	Date
UN Refugee Convention (1951)	Yes	1966
Protocol to the Refugee Convention (1967)	Yes	1981
ILO Equal Remuneration Convention (C100 – 1951)	Yes	2001
ILO Discrimination (Employment and Occupation) Convention (C111 – 1958)	Yes	2001
UN Convention against Transnational Organized Crime (2000)	Yes	2004
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000)	Yes	2005
UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime (2000)	Yes	2005
ILO Indigenous and tribal Peoples Convention (C169 – 1989)	No	
UNESCO Convention against Discrimination in Education	No	
UN Convention Relating to the Status of Stateless Persons (1954)	No	

Source: Kenya Human Rights Commission, 2018.

Treaties not signed and/or ratified

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

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

This recognizes the vulnerabilities of migrant workers and promotes humane and lawful working conditions based on the need for workers' protection abroad. It sets out to adjust legal standards, ensure the rule of law and combat exploitation or mistreatment of migrant workers and their families at all points during the migration cycle (departure, transit and arrival). Nonetheless, by the year 2018, this Convention has been ratified by 79 States out of 154 States, while 33 have not taken any action. In 2010, a letter from the Respect Migrants' Rights: Ratify the Migrant Workers Convention steering committee was sent to the President of Kenya to urge ratification (United Nations, 2010). The network includes UN agencies – OHCHR, ILO, UNESCO, IOM; international organizations; and civil society organizations – International Federation for Human Rights, Amnesty International, International Trade Unions Confederation, International Catholic Migration Commission, Human Rights Watch, and Migrant Forum in Asia, Migrants Rights International, Public Services International and World Council of Churches.

- **United Nations Convention relating to the Status of Stateless Persons (1954)**

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

- **ILO Indigenous and Tribal Peoples Convention (C169 – 1989)**

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

Treaties signed and/or ratified

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

- **UN Refugee Convention (1951) and its Protocol (1967)**

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

- **Declaration on the elimination of violence against women**

This defines violence as “any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life.” Forced displacement has been recognized as being likely to result in such violence, pointing to an urgent need for domestic international instruments such as CEDAW to come into practice

in Kenya. CEDAW refers to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). It is an international treaty adopted in 1979 by the United Nations General Assembly; and it is described as an international bill of rights for women, that was instituted on 3 September 1981 and has since been ratified by 189 States.

- **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984**

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

United Nations agencies and international organizations

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

United Nations Country Team

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

United Nations Office for the Coordination of Humanitarian Affairs

Although coordination of humanitarian response rests with the Government of Kenya at both national and county levels, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) chairs the monthly meetings of the Kenya Humanitarian Forum. At the district level, OCHA supports the work of District Commissioners chairing the District Steering Groups and

District Disaster Management Committees. Although the UN Cluster System is not present in Kenya, the Government-led sectoral approach is supported by global Cluster lead agencies, such as UNHCR, IOM, UNICEF and WFP, among others.

United Nations High Commissioner for Refugees

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

United Nations Population Fund

The United Nations Population Fund (UNFPA) handles population dynamics (fertility, mortality and migration) that determine population change, structure and distribution. UNFPA has been funding successive population censuses over the last four decades (1969–2009) from execution of enumeration of population to analysis of the data collected and dissemination of the results generated. UNFPA is a development agency supporting Kenya Vision 2030 in line with the United Nations Development Assistance Framework to contribute to progress towards achieving the Millennium Development Goals and the International Conference on Population and Development. Its publications include the 2013 Kenya Population Situation Analysis Report, which provides an overview of population dynamics and development, as well as urbanization, internal migration, and international migration figures and trends.

United Nations Environment Programme

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

United Nations Human Settlements Programme

UN-Habitat is responsible for the promotion of socially and environmentally sustainable human settlements, rural and urban alike, and the achievement of adequate shelter for all. In urban areas, with fragile ecosystems and rapidly increasing urban populations attributed partly to migration, UN-Habitat provides support to urban planning and the rehabilitation of infrastructure and services to ensure livable urban settlements. In Kenya, UN-Habitat focuses on strategic advisory input to the Government of Kenya on urban planning and leads the flagship slum-upgrading project. Activities include the preparation of a master plan with the Ministry of Land and Housing in areas highly impacted by displacement (as a result of post-election violence or as a result of man-made displacement).

United Nations Office on Drugs and Crimes

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

UN-WOMEN

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

International Organization for Migration

IOM is committed to the principle that humane and orderly migration benefits migrants and society. In Kenya, IOM aims to:

- (a) Contribute to mitigation of and resilience to climate change and environmental degradation in arid and semi-arid lands;
- (b) Promote effective human rights-based approaches to the management of mixed migration flows to, from, and across Kenya;
- (c) Contribute to safety and security along Kenya's borders;
- (d) Contribute towards enhances human security through peacebuilding and conflict prevention in northern Kenya and Rift Valley;
- (e) Contribute to emergency preparedness and response;
- (f) Support migrants' equitable access to health care in Kenya; and
- (g) Contribute to Kenya's development through effective management of labour migration.

World Bank Group

The World Bank Group has demonstrated significant involvement in migration from the perspective of migrant remittances and foreign development investment. In Kenya, the World Bank supports the Government's Vision 2030 for sustainable growth, inequality reduction and resource management. The World Bank maintains up-to-date World Development Indicators such as gender, education and development statistics and indicators referred to throughout this report.

PART G: KEY FINDINGS AND RECOMMENDATIONS

G.I. Migration governance framework

Recommendation 1: The Government of Kenya should develop and implement a comprehensive migration governance framework, including through the finalization and implementation of the National Migration Policy and the National Labour Migration Policy.

The Government of Kenya's commitment to build a migration governance framework will mean finalizing two policies that are currently in draft form: The Migration Policy and the National Labour Migration Policy. The Government's commitment to enhancing Kenya diaspora's input into development has taken a step forward with the finalization and launch of the country's first-ever National Diaspora Policy. The success of these policies will depend: firstly, on concrete and achievable implementation strategies; secondly, on the ability to design a migration framework that goes beyond voluntary and labour migration to encompass the variety of migration experiences, namely both forced and voluntary migration, in a coherent framework to maximize the benefits of migration while minimizing its negative impacts; and thirdly, on the willingness of migrants and diaspora members to register with the Government. The Government of Kenya will need to find the right balance to uphold its obligations under international conventions and laws while maintaining its sovereign right to control its borders and territory (NCM, 2017).

Recommendation 2: The Government of Kenya should strive to meet its responsibilities and obligations towards asylum seekers and refugees under international law.

Given the importance of Kenya as a safe haven for refugees and asylum seekers, Kenya's migration governance framework needs to recognize Kenya's responsibility vis-à-vis migrant needs, including the situation of asylum seekers and refugees who are entitled to benefit from a specific legal regime under international law. While acknowledging the importance of securing borders and controlling migration flows, this report emphasizes the need to preserve asylum space by respecting the right to entry, the principle of non-refoulement for asylum seekers and of voluntary repatriation and return for refugees. There is need for enhanced sensitization among stakeholders on refugee law for better migration management and governance.

1. Kenya's migration framework should include the need to train, better inform and disseminate information on refugee rights to authorities, increase the number of officials at border points knowledgeable on these issues so that they can direct asylum seekers to the right procedures for seeking asylum in Kenya. In addition, the central Government should work with the county authorities to assess the resources needed each year to provide a reasonable budget on all resources available and/or lacking at the border posts. This will ensure that the border posts are well equipped to handle any potential challenges they may encounter in the process of border management.
2. A monitoring and evaluation system should be developed and implemented in order to close the data gaps around migration to inform policies.
3. The Department of Refugee Affairs requires further investment in resources, training and capacity-building. Additional capacity-building will be required to provide the department with the necessary tools to achieve its mandate.

Recommendation 3: The issue of forced migration should be incorporated into the migration governance framework and appropriate policies programmes together with partners and stakeholders.

Forced migration, namely refugee and IDP movements have been dealt with at the margin of broader migration policies. It needs to be mainstreamed. With regards to IDPs, the priority is to recognize their existence by engaging in a counting exercise and profiling of IDPs in Kenya. Accurate data on the IDP population remains unknown due to its political sensitivity. During the period 1 January to 31 December 2017, it is estimated that there were 24,000 persons displaced due to conflicts and violence (IDMC, 2017). However, by 22 May 2018, new displacements due to disasters pushed the IDP population up to 35,000 people (IDMC, 2018). The Draft National Policy for Disaster Management does not effectively mainstream migration in its response, only acknowledging rural–urban migration and briefly mentioning the challenge of disaster management in the process of relief, repatriation, rehabilitation and resettlement and recovery of IDPs. Mainstreaming forced migration and internal displacement in the National Policy for Disaster Management is a necessity.

1. The fact that the 2009 Kampala Convention has neither been signed nor ratified is a major concern for stakeholders in the identification and safeguarding of the rights of IDPs. This legal gap should be addressed by the Government of Kenya given the potential for further increases in the

- numbers of internally displaced persons due to conflict, natural disasters and development-led disasters. The Government of Kenya should ratify the Kampala Convention to ensure that Kenyans internally displaced due to conflict, natural disasters or man-made disasters are not deprived of their rights. Ratification will be the first step towards the implementation of the Kampala Convention in Kenya and provide a platform for UN agencies, international organizations, and international and national NGOs to provide much needed protection support and durable solutions for IDPs as stipulated in the Prevention, Protection and Assistance to IDPs and Affected Community Act, 2012.
2. Kenya should continue upholding the importance of the Nansen initiative and global dialogue on natural disaster induced, climate change and cross border displacement to define a cooperation framework to address the impact of the environment on displacement, and vice versa. The current legal instruments are not sufficiently protective of natural disaster induced IDPs.

Recommendation 4: The Government of Kenya and concerned stakeholders should make explicit linkages between urban planning and migration in both policy and programming.

The disconnect between urban planning and migration policy development is especially concerning given the Kenyan context. The Government of Kenya's Draft Urban Policy is waiting for clearance by the Cabinet. The Draft Urban Policy does not address issues relating to refugees or internal migration, which have led to rapid urbanization rates, limited absorption capacities and challenges in terms of urban planning. Refugees and IDPs, as well as rural–urban migrants, choose to relocate to urban areas where they have a stronger access to jobs and services.

UN-Habitat's programmes in Kenya are informed by the Government's priorities. Thus far, migration has not been prioritized as such. The assumption has been that specialized agencies should take the lead on matters relating to refugees and the internally displaced. Yet, these specialized agencies have a humanitarian mandate. As a result, there is room to enhance the migration-development nexus through UN-Habitat in Kenya. Given the importance of migration in the urbanization of Nairobi, Mombasa and Kisii, the three largest cities of Kenya, UN-Habitat should, in its programming, consider further cooperation on migration – linking up with other specialized agencies.

Recommendation 5: The Government of Kenya should continue its efforts to ensure that it meets the minimum standards for addressing the problems of trafficking and smuggling.

The State Department Trafficking in Persons Report of 2017 (U.S. Department of State, 2017) notes that the Government of Kenya does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Efforts include launching a National Referral Mechanisms, issuing new registration requirements and a code of conduct for private labour recruitment agencies and including human trafficking and anti-trafficking law in its basic police training curricula. There are still a number of areas where the government does not meet minimum standards, for instance the lack of allocation of new funding to the victim assistance fund, the treatment of some victims as criminals, and the lack of availability of protective services for adult victims. Specific measures which can be taken include:

- (a) Increase protective services available to adult trafficking victims, particularly those identified in and returned from the Middle East;
- (b) Implement a formal process for law enforcement officials to refer trafficking victims for assistance, including adult trafficking victims and repatriated Kenyans;
- (c) Ensure data collection is obtained from all 47 counties for anti-trafficking efforts, including victim assistance;
- (d) Vigorously investigate and prosecute trafficking offenses and convict and punish trafficking offenders, including government officials suspected of complicity in human trafficking;
- (e) Provide additional training to all levels of the government, particularly front-line responders, on identifying and handling trafficking crimes;
- (f) Allocate adequate resources to police, labour, and social services staff to ensure implementation of the prosecution and protection mandates within the Counter-Trafficking in Persons Act of 2010;
- (g) Allocate sufficient resources for anti-trafficking efforts throughout the country; increase oversight of and accountability for overseas recruitment agencies;
- (h) Establish the board of trustees to oversee the National Assistance Trust Fund for Victims of Trafficking;
- (i) Utilize formal procedures to encourage victims' cooperation in the investigation and prosecution of trafficking crimes;
- (j) Conduct awareness campaigns throughout the country, including rural areas.

Recommendation 6: The Government of Kenya and concerned stakeholders should cooperate to improve the capacity of relevant ministries, departments and agencies to effectively implement migration policies, laws and regulations.

Kenya borders the United Republic of Tanzania to the south, Somalia to the east, Ethiopia to the north, South Sudan to the north-west, and Uganda to the west. At all the international boundaries of Kenya, there exist border-post and points for the management and administration of migration-related issues, such as migration of persons, movement of goods and services, in addition to the management and collection of data that supports/assists the country in diplomacy related issues with its neighbouring countries. However, much of the borderline remains porous, rendering effective management of migration difficult. This calls for the realization that effective implementation of laws, regulations, and policies will require an effective and capacitated workforce to manage the ever-increasing demand at border points.

Improvements are needed in the skills and knowledge of some officials, and in the administrative procedures for migration governance. For example, in practice many refugees and asylum seekers share the same migration routes as smugglers and irregular migrants. Proper administrative procedures are needed at the borders to formalize asylum claims. At the moment, refugee rights and principles of international protection are not sufficiently well known or integrated by officials at the border. Beyond border areas, within Kenya, authorities will require greater sensitization to refugee law to prevent any violations, including harassment or forceful returns and relocations that are in violation of the refugee law. Efforts should be made to train, better inform and disseminate information on refugee rights to authorities, and to increase the number of officials at border points knowledgeable on these issues and who can direct asylum seekers to the right procedures for seeking asylum in Kenya. Similar efforts are needed to improve the capacity of immigration and police officials and prosecutorial authorities to investigate human trafficking offenses and to protect victims of trafficking.

Equally, the existence of porous borders remains a significant challenge to the country in the effective management of migration. Thus, improvements are needed in border management infrastructure, systems, and personnel. The Department of Refugee Affairs requires further investment in resources, training and capacity-building. Steps which may be taken include:

- (a) Furnish border security officers with appropriate document examination equipment and relevant border management information systems;

- (b) Conduct continuous training of border control personnel and improve their administrative effectiveness, to meet the emerging challenges of modern border control;
- (c) Establish a mechanism to periodically update border security and management procedures and laws to enhance efficiency and effectiveness of border operations;
- (d) Sensitize local border communities on their role in enhancing border security;
- (e) Optimize new border management technologies, including technical training for those entrusted with border management.
- (f) Establish mechanisms and protocols of sharing necessary information with local communities to ensure timely responses to migration issues.
 - (i) Ensure reliable data collection and storage regarding movements across the border.
 - (ii) Strengthen cooperation and coordination at the national and county level among security agencies.
 - (iii) Engage in community profiling to identify risks, threats and vulnerabilities existing within the border communities which impact on migration security.
 - (iv) Develop and implement, in collaboration with neighbouring country governments and regional institutions, effective cross-border mechanisms to solve conflicts and raise the standard of living of citizens in border communities.
 - (v) Engage border communities using diverse methodologies and based on trust, inclusivity, respect, commitment, flexibility and mutual understanding.
 - (vi) Adopt relevant border surveillance strategies including foot, boat, vehicular, and aerial (including Unmanned Aerial Vehicles) means to monitor and patrol the areas between border control posts.

Recommendation 7: The Government of Kenya should ensure linkages are made between the migration governance framework and the national security policy.

Transnational crime in the East Africa region affecting Kenya and its neighbouring countries, Somalia and the United Republic of Tanzania, comprises organized criminal activity with a particular focus on human trafficking and smuggling, as well as drug and firearm control. Transnational organized crimes

require cross-border cooperation as the threats resurface in different countries and different guises if they are not effectively eliminated. There is a need for a new level of coordination between Kenya and its neighbours building on existing international, regional and bilateral cooperation mechanisms in place and the building of transnational networks amongst intelligence, police and immigration.

Specific measures which can help address this issue include:

- (a) Adoption of a national security policy that takes cognizance of human security issues and links migration to both human and national security;
- (b) Strengthening the capacity of government in preventing conflict and establish conflict management and resolution mechanisms. This would promote peace, security and stability, not only in Kenya but throughout the subregion and Africa as a whole;
- (c) Strengthening collaboration between government agencies and non-State actors, to establish early warning mechanisms for preventing the occurrence of conflict;
- (d) Enhancing diplomatic initiatives to defuse volatile situations before they lead to conflict and displacement;
- (e) Including a risk-assessment mechanism in the country's security architecture, so as to determine the effect of social, political and economic conditions, events and activities;
- (f) Providing counter-terrorism training for security personnel and enhance their capacity to handle national and regional security concerns;
- (g) Ensuring the proper dissemination of the national security policy, so that security personnel, migrants, residents and other stakeholders share responsibility for the maintenance of national security.
 - (i) Adopting multi agency partnership approach among national security agencies.
 - (ii) Promoting international collaboration in intelligence and information sharing among States.

Recommendation 8: The Government of Kenya should ensure that migration governance policies take account of environment disaster management.

Environmental degradation leading to climate change and climate fluctuations due to drought and other disasters have significant influence on both voluntary and involuntary internal migration (rural–rural as well as rural–urban) and, to a smaller extent, immigration. Climate change has had a clear impact on

the movement of people, especially pastoralists as the extreme temperatures experienced can lead to loss of livestock and can force them to change their traditional livelihoods as land resources shrink and rain-fed agriculture becomes untenable. Specific aspects which require further attention include:

- (a) There is need to provide migration indicators that focus on the specificities of location of disadvantaged groups and the extent to which these factors overlap with adverse habitat conditions, whether these involve lack of services, exposure to environmental risks, distance from places of work or schools, and shortages of housing and infrastructure.
- (b) Poverty maps may be useful for the first of these considerations because they enhance the understanding of the distribution of poverty and the geographic and biophysical conditions of where the poor live and thus help in designing interventions to reduce poverty. These maps should be produced at minor administrative levels. Consultation can also be made from the practice by economists at The World Bank that allow the estimation of poverty rates at much higher spatial resolution than generally available. Many countries now prepare poverty maps as a standard output of their census operations, usually based not on the income concept of poverty, but on the Unsatisfied Basic Needs concept. There are also a number of international initiatives such as the Poverty Mapping Project of the Centre for International Earth Science Information Network.
- (c) Composite indices such as dissimilarity measures (segregation of the poor) and other more sophisticated ones (see REtrieval of DATa for small Areas by Microcomputers (REDATAM) Report no. 10)(Economic Commission for Latin America and the Caribbean (ECLAC), 2008) can be constructed for the case of metropolitan areas.

Recognizing the country's vulnerability to disaster risk and the importance of reducing such risk, the National Policy for Disaster Management in Kenya was drafted in 2009 (Government of Kenya, 2009). This draft serves to protect households and communities at risk of natural hazards, and serves to provide the institutional, policy and legal framework to effectively manager disaster risk reduction and timely response. Its goal is to lead to a safer, resilient and more sustainable Kenyan Society. The policy identifies disasters, and emphasizes the requisite preparedness by the Government, communities and other stakeholders to lead to effective Disaster Risk Reduction activities. This entails a shift from short-term relief to development. It aims at alleviating suffering by providing

timely and appropriate response mechanisms. To effectively and efficiently mitigate environmental disasters, the policy:

1. Provides background information on disasters and disaster management in Kenya, categorizing disasters as the following: environmental, man-made, epidemics, diseases, pests and geological disasters.
2. Presents the contextual analysis of disaster management in Kenya, identifies strengths and weaknesses of the system, and defines terms such as disaster risk, contingency planning and resilience.
3. Focuses on upcoming tasks to establish an effective disaster management system, including the key principles of:
 - Disaster Early Warning, Information and Prediction System;
 - Mainstreaming disaster management in development programmes;
 - Linking Early Warning and Disaster Response;
 - Establishing a semi-autonomous agency responsible for disaster management;
 - Providing flexible financial and response procedures; and
 - Reinforcing coping strategies of vulnerable and affected communities
 - Establishes a legal and institutional framework, including the setup of the National Disaster Management Agency.
 - Deals with resource mobilization, management and accountability, through the establishment of a National Disaster Management Fund.
 - Covers monitoring and evaluation for more timely and effective interventions.

Recommendation 9: The Government of Kenya, migrants, and diaspora should work together to realize the full potential contributions of migration to national development.

Migration can contribute to development both economically and socially. Thus far, the economic potential of the Kenyan diaspora – estimated at three million individuals, a figure on the rise – has been seen through the prism of financial remittances. According to the Central Bank of Kenya, in 2017, financial remittances were estimated at Kenyan shillings 1,039,889 billion (Central Bank of Kenya, 2017). As a result, the National Diaspora Policy was framed to provide strategies to mainstream the Kenyan Diaspora community in the development agenda.

Build the trust of the Kenyan diaspora in the Government's capacity to enhance development at home is key enhancing the involvement of diaspora in the development agenda of Kenya. It is important to build trust between the diaspora and the home Government through targeted interventions, such as:

- (a) Offering adequate consular services to Kenyans abroad;
- (b) Reducing the cost of remitting money;
- (c) Creating incentives to further diaspora investments in Kenya;
- (d) Protecting Kenyans in the diaspora, notably roundabout practices;
- (e) Launching a coordinated, comprehensive and centralized database;
- (f) Tapping into diaspora skills and allowing for transfer and recognition of these;
- (g) Strengthening the institutional framework to coordinate diaspora issues;
- (h) Developing reintegration mechanisms for returnees to ensure full integration to the home society; and
- (i) Ensuring adequate participation of Kenyans in the Diaspora in democratic processes at home.
- (j) Civil society organizations can be paired up through a mapping of such agencies to increase ties between like-minded organizations in and outside of Kenya working towards their homeland's development.

Recommendation 10: Appropriate training institutions should be established or strengthened to support the contributions of migration to development.

As Kenya strives to formulate policies to manage global migration, there is a commensurate need for an all-inclusive migration training institute in order to train migration practitioners on migration management. The need to have relevant knowledge on migration-related issues makes it essential for the Government of Kenya to have a migration training institute which will be responsible for training and educating personnel, migration practitioners and interested parties on migration management both nationally and regionally.

The Government of Kenya should seek to develop a migration training institute which will offer migration management and other courses at certificate, diploma and post-graduate diploma levels. It will integrate the training of personnel of all departments in the Directorate of Immigration and Registration of Persons (DIS, NRB, CRS, RS and IPRS) as well as other government officials and individuals with interest in migration management studies both nationally and regionally. The institute should also see the creation of a migration research unit which will ensure centralization of, and access to systematically collated

migration data in a coordinated manner. In line with the aforementioned, in the draft Kenya National Migration Policy, the National Coordination Mechanism on Migration (NCM, 2018b) proposes the establishment of Kenya Institute of Migration Studies that will be responsible for building capacity of personnel working in the migration field in the country and region (both in the government and private sector).

Recommendation 11: The Government of Kenya should consider establishing a Migration Research Unit.

Ensuring an open source access to migration data for researchers, scholars and experts for analysis of underutilized datasets. An assessment of migration data management in Kenya in 2017 (NCM, 2017) showed that despite Kenya having adequate migration data in various institutions, these data are not sufficiently coordinated, shared, analysed and disseminated.

The assessment found that many of the existing sources of migration data that could potentially yield important migration data for analysis and policymaking, including administrative databases and registries, are underutilized. In addition, many of the institutions surveyed have limited capacity, resources and facilities for the collection, processing, sharing and analysis of migration data. This in turn has made the access and use of migration data difficult.

The most cost-effective way to respond to this dilemma is to make the data public such that researchers and scholars can have access and use the data. This will provide a free and open source of information for the Government to use to plan and implement policies. The more information and analysis come out of the databases, the better equipped Kenyan authorities will be to manage migration in and out of Kenya.

Recommendation 12: The Government of Kenya should consider mechanisms to promote open source access to migration data for researchers, scholars, and experts for analysis of underutilized datasets.

This report calls for the establishment and maintenance of a comprehensive labour migration Data Management Systems and harnessing of the potentials of ICT; a coordinated and centralized database on the Kenyan diaspora; and the creation of a comprehensive database to register IDPs, as well as urban refugees, as part of the Government's legal responsibilities under national and international law. These initiatives are costly in terms of financial and human resources, and require well-trained staff in several disciplines: migration,

statistics and data analysis. Continuing investments in capacity-building through embedded positions and condiments is critical to the enhancement of the capacity of the Government of Kenya's staff and that of other stakeholders working in the area of migration. IOM Kenya actively engages on capacity-building and migration management initiatives, which has directly enhanced the capacity of the Government to upgrade its data collection and analyse its datasets. IOM had established a database system and unit within the Ministry of Labour and Social Protection. This database and unit require additional investments, funds and time to ensure that they can generate information for stakeholders.

Recommendation 13: the International Organization for Migration (IOM) and other institutions should continue to expand its capacity development initiatives in Kenya.

Filling the data gap through tailored research studies including evidence-based and policy-oriented research projects on the following areas:

- A profile of the country's IDP population – including a socioeconomic, demographic, and protection profile. The exercise will start with an overview of internal displacement drivers and move towards unlocking solutions to displacement, pathways to durable solutions and protection responses. The exercise will require Government support and broad stakeholder engagement to provide representative data and an up-to-date estimate of the IDP population in Kenya, as facts and numbers are currently unofficial and remain as rough estimates;
- A profile on immigrants in Kenya to identify the reasons (push and pull factors) for their migration to Kenya, their length of stay, nature of employment and impact on Kenya's local and national development. This study may include the perceptions that immigrants have of migration in Kenya as a monitoring and evaluation activity to determine best practices and failed attempts. This will in turn lead to identifying challenges to address through training and capacity-building;
- An understanding the social remittances (e.g. knowledge/skills transfer, values to benchmark, and so on) that Kenyan diaspora make to ensure that the contributions of the Kenyan diaspora are acknowledged and recognized in practice. Kenyan diplomatic missions abroad will act as resources in conducting surveys or interviews among Kenyan nationals in the destination countries provided this is based on enlisting the trust confidence of Kenyans;

- Assessment of the flow and impact of regular monetary remittances, both international and domestic, as one of the objectives for the newly established African Institute of Remittances; and
- Assessment of the impact of climate change on displacement in Kenya, and methods for increasing the resilience of communities in Kenya, to prepare these communities to cope with adverse environmental shocks and to mitigate the negative effects of climate change on forced migration. To date, the majority of migration statistics do not provide information on the influence of environmental change on migration drivers. A longitudinal study can provide the perspective required to fill in this information gap.

Recommendation 14: Additional research projects are needed to fill knowledge gaps on key migration issues and provide an evidence base for policy.

Government-led research with funding from the Australian Government has enabled experts to take stock of irregular migration and human smuggling in the region. A case example is a research programme and occasional paper series included a piece by Christopher Horwood in 2015 presenting an overview of irregular migration flows in the Horn of Africa, the challenges and implications for source, transit and destination countries (Horwood, 2015). Within the scope of the paper on irregular migration, the research reviews the geographic nodes of smuggling in the region – from Kenya as a regional hub for the organization of smuggling, to Bossaso, Puntland as the “epicentre” of smuggling in the region (Horwood, 2015:42) – the role and the cost of smuggling in facilitating irregular migration out of the region. Symptomatic of the rest of the research in the region, smuggling is viewed through the lens of irregular migration research. This data is used as proxy indicators of migrant smuggling to understand the phenomenon in the region. Similarly, ongoing research on mixed migration has the twin focus of researching irregular migration through the prism of forced and voluntary migration, as well as methods of migration. Nonetheless, there is need for further and more research in the field of migration to enable stakeholders working in the area of migration and the Government of Kenya to institute evidence-based programmes, and policies, respectively.

ANNEXES

Annex A: International glossary

Term	Definition	Source
Asylum seeker	A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In case of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds.	IOM Glossary (2011:12)
Bilateral labour migration agreements	Formal mechanisms concluded between States, which are essentially legally binding commitments concerned with inter-State cooperation on labour migration. The term is also used to describe less formal arrangements regulating the movement of workers between countries entered into by States as well as a range of other actors, including individual ministries, employer organizations, etc.	IOM Glossary (2011:13)
Border officials	A generic term describing those officials whose primary task is to guard the border and enforce the immigration (and possibly customs) laws of the State. Also termed 'border guards', 'border police' or 'aliens police'.	IOM Glossary (2011:15)
Circular migration	The fluid movement of people between countries, including temporary or long-term movement which may be beneficial to all involved, if occurring voluntarily and linked to the labour needs of countries of origin and destination.	IOM Glossary (2011:19)
Citizenship/nationality	Legal bond between an individual and a State.	IOM Glossary (2011:65)
Cross-border migration	A process of movement of persons across international borders.	IOM Glossary (2011:23)
Diaspora	Diasporas are broadly defined as individuals and members or networks, associations and communities, who have left their country of origin, but maintain links with their homelands. This concept covers more settled expatriate communities, migrant workers based abroad temporarily, expatriates with the nationality of the host country, dual nationals, and second-/third- generation migrants.	IOM Glossary (2011:28)
Emigration	The act of departing or exiting from one State with a view to settling in another.	IOM Glossary (2011:32)

Term	Definition	Source
Forced migration	A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects).	IOM Glossary (2011:39)
Foreigner	A person belonging to, or owing an allegiance to, another State.	IOM Glossary (2011:40)
Immigration	A process by which non-nationals move into a country for the purpose of settlement.	IOM Glossary (2011:49)
Internal migration	A movement of people from one area of a country to another area of the same country for the purpose or with the effect of establishing a new residence. This migration may be temporary or permanent. Internal migrants move but remain within their country of origin (e.g. rural to urban migration).	IOM Glossary (2011:51)
Internally displaced person	Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border (Guiding Principles on Internal Displacement, UN Doc E/CN.4/1998/53/Add.2.)	IOM Glossary (2011:52)
Irregular migration	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.	IOM Glossary (2011:54)
Labour migration	Movement of persons from one State to another, or within their own country of residence, for the purpose of employment. Labour migration is addressed by most States in their migration laws. In addition, some States take an active role in regulating outward labour migration and seeking opportunities for their nationals abroad.	IOM Glossary (2011:58)

Term	Definition	Source
Migrant worker	"A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (Art. 2(1), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990).	IOM Glossary (2011:62)
Minority	Although there is no universally accepted definition of minority in international law, a minority may be considered to be a group which is numerically inferior to the rest of the population of a State and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity directed towards preserving their culture, traditions, religion or language.	IOM Glossary (2011:63)
Mixed flows/ mixed migration	Complex migratory population movements that include refugees, asylum seekers, economic migrants and other migrants, as opposed to migratory population movements that consist entirely of one category of migrants.	IOM Glossary (2011:63)
Refugee	A person who, "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. (Art. 1(A) (2), Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol). In addition to the refugee definition in the 1951 Refugee Convention, Art. 1(2), 1969 OAU Convention defines a refugee as any person compelled to leave his or her country "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality." Similarly, the 1984 Cartagena Declaration states that refugees also include persons who flee their country "because their lives, security or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances, which have seriously disturbed public order."	IOM Glossary (2011:79-80)
Refugee status determination	A process (conducted by States and/or UNHCR) to determine whether an individual should be recognized as a refugee in accordance with applicable national and international law.	IOM Glossary (2011:81)
Remittances	Monies earned or acquired by non-nationals that are transferred back to their country of origin.	IOM Glossary (2011:83)
Return migrants	The movement of a person returning to his or her country of origin or habitual residence usually after spending at least one year in another country. This return may or may not be voluntary. Return migration includes voluntary repatriation.	IOM Glossary (2011:86)

Term	Definition	Source
Rural–rural migrants	Internal migrants who move from one rural area to another, consisting also of both short and longer distance movements of traders, pastoralists and agricultural workers.	IOM Glossary (2011:87)
Rural–urban migrants	Internal migrants who move from rural to urban areas, often in response to poverty, low agricultural incomes, low productivity, population growth, shortages, fragmentation and inequitable distribution of land, environmental degradation, and the relative lack of economic opportunities in rural areas.	IOM Glossary (2011:87)
Stateless person	“A person who is not considered as a national by any State under the operation of its law” (Art. 1, UN Convention relating to the Status of Stateless Persons, 1954). As such, a stateless person lacks those rights attributable to nationality: the diplomatic protection of a State, no inherent right of sojourn in the State of residence and no right of return in case he or she travels.	IOM Glossary (2011:95)
Trafficking in persons	“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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” (Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000). Trafficking in persons can take place within the borders of one State or may have a transnational character.	IOM Glossary (2011:99–100)
Tourism	Movement of one person or a group of people, whether internationally or within one country, for purposes of leisure, sport, or discovery. Tourism does not imply a change of habitual residence for those participating, and it is not a form of migration in the strict sense, even though the term “tourism migration” is occasionally used.	IOM Glossary (2011:99)
Visitors	In the migration context, the term is used in some national legislation to designate a non-national authorized to stay temporarily on the territory of a State without participating in a professional activity.	IOM Glossary (2011:105)

Annex B: National glossary

Term	Definition	Source
Deportation	Means the action or procedure aimed at causing an illegal foreign national to leave the country either voluntarily or compulsorily or under detention in terms of this Act and the verb 'to deport' has a corresponding meaning.	Kenya Citizenship and Immigration Act (2011)
Diaspora	The Kenyan diaspora consists "of Persons of Kenyan Origin (PKO) and Non-Resident Kenyans. PKO status designates foreign citizens of Kenyan origin or descent. On the other hand, Non-resident Kenyan status is for Kenyan citizens holding a Kenyan passport and/or having dual citizenship and residing outside the country whether for employment, business, vocation, education or any other purpose".	Ministry of Foreign Affairs and International Trade National Diaspora Policy Draft (2014:7)
Dual citizenship	A citizen of Kenya by birth who acquires citizenship of another country shall be entitled to retain his citizenship of Kenya subject only to the provisions of this Act and the limitations set out in the Constitution in relation to dual citizenship.	Kenya Citizenship and Immigration Act (2011:7)
Foreign national	A person who is not a citizen of Kenya.	Kenya Citizenship and Immigration Act (2011)
Habitual residence	A stable, factual residence of a person, in Kenya.	Kenya Citizenship and Immigration Act (2011)
Integrated internally displaced persons	These are those IDPs who did not return to their homes but did not stay in camps. Instead, they took up residence with friends and families, or rented accommodation in urban areas. Their presence in an area is not obvious because they are mixed with the general population.	KHRC (2011:ix)
Internally displaced person	Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border.	KHRC (2011:8)
Migrant worker	Means a person who migrates to Kenya with a view to being employed by an employer and includes any person regularly admitted as a migrant worker.	Employment Act (2008)
Minority	A minority is "any ethnic, linguistic or religious group within a State, which is in a non-dominant position in the State... a group consisting of individuals who possess a sense of belonging to that group, and who are determined to preserve and develop their distinct ethnic identity. [Minorities are] likely to be discriminated against or marginalized on the grounds of their ethnicity, language and religion".	Makoloo (2005:7)

Term	Definition	Source
Remittances	Remittances refer to money sent by a person in a foreign land to his or her home country. Due to the huge sums involved, remittances are now being recognized as an important contributor to the country's growth and development.	Central Bank of Kenya, www.centralbank.go.ke/index.php/rate-and-statistics/diaspora-remittances
Rural-rural migrants	Typically undertaken in search of pasture and (arable) land, more often than not, due to population pressure and/or landlessness at the point of origin. Migration from one rural area to another also occurs in the search for employment or better opportunities in the rural agricultural plantations.	NCPD (2013:206)
Rural-urban migrants	People emigrate to towns in search of employment; better opportunities, infrastructure and services; and because of family and social networks.	NCPD (2013:206)
Satellite/transit camps	These camps were set up by IDPs themselves after leaving the main camps. They are located close to their farms in pre-displacement areas.	KHRC (2011:ix)
Self-settlement/self-help camps	These were created by IDPs who collectively bought land and subdivided it amongst themselves. Others moved with their tents to donated land. Such sites are often remote and underserved.	KHRC (2011:ix)
Stateless person	Means a person who is not recognized as a citizen by any State under the operation of the laws of any State.	Kenya Citizenship and Immigration Act (2011)
Trafficking in persons	person commits the offence of trafficking in persons when the person recruits, transports, transfers, harbours or receives another person for the purpose of exploitation by means of— <ul style="list-style-type: none"> a. threat or use of force or other forms of coercion; b. abduction; c. fraud; d. deception; e. abuse of power and vulnerability; f. giving payments or benefits to obtain consent of the victim of trafficking in person; or g. giving or receiving payments or benefits to obtain consent of a person having control over another person. 	Counter-Trafficking in Persons Act (2012)
Tourist	It means a person travelling to and staying in a place outside his or her usual abode for more than twenty-four hours, but not more than one consecutive year, for leisure, business or other purpose, not being a work-related activity remunerated from within the place visited.	Tourism Act (2011)
Urban-urban migration	People who are occasionally transferred from one town (station) to another, as well as traders and business people seeking (more) viable economic activities.	NCPD (2013:206)
Visitor	Refers to a person travelling to a place outside his or her usual abode for not more than one consecutive year for leisure, business or other purposes, not being a work-related activity remunerated from the place visited.	Tourism Act (2011)

Annex C: National data sources

Data source	Responsible agency	Level of computerization	Types of data captured	Web page
Economic Survey Census Data, population census	Kenya National Bureau of Statistics (KNBS)	Reports on population, census and annual economic reports	Immigrant data by work permit holders, tourism data generated from the Ministry of East African Affairs, Commerce and Tourism.	www.knbs.or.ke/index.php
Immigration data on all foreign nationals in Kenya	Department of Immigration	Data held within the department	Immigration data including: international student passes, work permit holders and deportees.	www.immigration.go.ke/
National Population Register (NPR) for Kenyan nationals and foreigners	Integrated Population Registration System	E-Visa and e-border management system that collects biometric information of persons entering and exiting the country	The Civil Registry System records births and deaths in Kenya and of Kenyans abroad.	No active website at the time of this study.
Diaspora and labour migration data including remittances	Ministry of Foreign Affairs and International Trade	Data held within the department	Diaspora across the globe; remittances; diaspora web portal.	www.mfa.go.ke/ http://diasporaportal.eurocom.co.ke/
Data on labour migrants in Kenya	Ministry of Labour and Social Protection	Data held within the department	Data on labour migration to the Middle East; bilateral agreements; list of approved recruitment agencies; youth labour in Kenya; data on the registration of the National Social Security Fund and the National Employment Bureau (NEB).	www.labour.go.ke/
Data on refugees and asylum seekers in the camps with UNHCR and other stakeholders as well as National Registration Board	Department of Refugee Affairs	Data held within the department for internal consumption	Refugee Status Determination; Camp and urban refugee registration.	No active website available at the time of this study.

Data source	Responsible agency	Level of computerization	Types of data captured	Web page
International Remittance data	Central Bank of Kenya	Real time data on display on their website as well as reports.	Monthly and yearly remittances data for Kenyans resident outside of the country	www.centralbank.go.ke
Generates data from census, survey data compiled by other Government agencies, organizations	Kenya Data Portal	Publications and data on real-time	Data on socioeconomic and population of Kenya	http://kenya.opendataforafrica.org/
Various agencies and organizations	Kenya Socio-Economic Database (Keninfo)	Online software that helps to organize and display data from different agencies and organizations	Collects data on 206 indicators on: Communication, Demography, Economic growth, Economy, Education, Environment, Equity and Poverty Reduction, Governance, Health, Information and Communication, Nutrition, Protection and Women. These indicators are also classified into global and local Millennium Development Goals (MDGs), the Economic Recovery Strategy goals and Kenya Vision 2030 economic development plan as well as sector specific performance indicators. It contains data for 123 time periods (standard years, year ranges and quarters) from 1962 to 2009	www.knbs.or.ke/publications/
	Kenya National Data Archive	Software that allows access to data and reports		http://statistics.knbs.or.ke/nada/index.php/catalog
Data from KNBS; World Bank; Kenya ICT Board; Ministry of Information and Communications; and Socrata	Kenya Open Data	Free online access to data on Kenya	Data categories include: Environment and natural resources; national accounts and inflation; agriculture; counties; education; employment; energy; financial sector; health sector; Justice; Land and climate; Manufacturing industry; Migration; Population; Poverty; Public Finance; Tourism; Transport and communication; and water and sanitation.	http://www.opendata.go.ke/

Annex D: Non-governmental organizations working on refugee affairs and assistance in Kenya

NGOs working on refugee affairs in Kenya	
Action Africa Help International	Kenya Voluntary Development Association
Action Against Hunger	Kitui Development Centre
Action First For Progress	Kokos Medicine Therapy International
Action For Empowerment - Kenya	Legal Advice Centre (Kituo Cha Sheria)
Agrosphere	Life And Rights Protection
Al Muntada Development Project	Link Empowerment Programme
Amagoro Share International	Lutheran World Federation Department For World Services
Amurt International	Lutheran World Relief East And Southern Africa Regional Office
Article 19: Global Campaign For Free Expression	Medair East Africa
Avsi Foundation	Mercy Corps
Care International	Minority Communities In Africa
Centre For Domestic Training And Development	Mubarak For Relief And Development Organization
Centre For Social Justice And Responsibility	Namoni Community Development Organization
Charitable Aid For Peace And Development Organization	Njarange Area Project Kenya
Christian Aid (UK)	Noble Actions International Organization
Church World Service And Witness	Nomadic Assistance For Peace And Development
Coopt-Cooperazione Internazionale	North South Humanitarian Organization
Cultural Video Foundation	Norwegian Church Aid
Danish Refugee Council	Norwegian Refugee Council
Diakonie Emergency Aid	Nyaguki Organization For Empowerment And Capacity Building
East African Refugee Voluntary Assistance	Oxfam Gb
El-Taller Organisation	Peace Building, Healing And Reconciliation Programme
Empowering Lives International - Kenya	Peace Officers For Christ International
Environment Networks In Cities	Peace Winds Japan
Everbest Youth Environmental Organization	Refuge Point International
Filmaid - Kenya	Refugee Consortium Of Kenya
Francis Xavier Project	Refugee Education Trust- Kenya
Fraternity For Rural Development And Research	Research And Education Centre For Family Life International
Friends For Children Development Initiative	River Of Life International
German Agro Action	Save Somali Women And Children
Goal Ireland	Save The Children Fund (UK)

NGOs working on refugee affairs in Kenya	
Good Deeds Charity USA	Sister Arise Project
Great Mercy Development Centre	Skills Active Forward Kenya
Group For Transcultural Relations - Gruppo Per Le Relazioni Trasculturali	Sustainable Project Administration Services
Handicap International	Tarikh - Tana River Children Aid
Help Child/Mother Organization	Terre Des Hommes Foundation
Heshima Kenya	The Centre For Victims of Torture
Hisan	The Windle Charitable Trust
Humanitarian Initiative Just Relief Aid	Universal Welfare Ladder Organization
Institute Of Education For Disabled People	Wajir Peace And Development Agency
International Committee For The Development of Peoples	Women And Child Care Organization
International Lifeline Fund	Youth Care And Positive Development Concern
International Medical Corps	
Islamic ReliefKenya	

Annex E: Key international and regional migration instruments

International convention, multilateral or bilateral agreements	Year	Status (signed, ratified; entry into force; accession)
International Covenant on Civil and Political Rights	1976	Accession
International Covenant on Economic, Social and Cultural Rights	1972	Signed
Convention on the Elimination of all forms of Discrimination against Women (CEDAW, 1979)	1984	Signed
Convention Against Torture and other Cruel, Inhumane or Degrading Treatment	1997	Signed
Convention on the Rights of persons with Disabilities	2008	Signed
Convention on the Rights of the Child (CRC)	1990	Ratified
Optional Protocol I to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	2000	Signed and Entry into Force
UN Refugee Convention	1966	Accession
Protocol to the Refugee Convention	1981	
ILO Equal Remuneration Convention (C100 – 1951)	2001	Signed
ILO Discrimination (Employment and Occupation) Convention (C111 – 1958)	2001	Signed
UN Convention against Transnational Organized Crime	2005	In Force

International convention, multilateral or bilateral agreements	Year	Status (signed, ratified; entry into force; accession)
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime	2005	Signed
UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime	2008	Signed
C029 Forced Labour Convention	1964	In Force
C143 Migrant Workers (Supplementary Provisions) Convention, 1976 (No.146)	1990	In Force
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	2003	In Force

Annex F: Regional migration agreements, treaties and bills

Regional agreements, treaties and bills	Year	Status (signature, ratification, entry into force, other)
AU Cultural Charter for Africa (1976)	1981	Ratified
African Charter on Human and People's Rights (ACHPR, Banjul, 1981)	1992	Ratified
Convention on specific aspects of Refugee Problems in Africa (1969)	1992	Ratified
African Charter on the Rights and Welfare of the Child (1990)	2000	Acceded
Protocol on the establishment of an African court on Human and People's Rights (1997)	2003	Signed
Protocol on the Rights of Women in Africa (Maputo, 2005)	2003	Signed
African Union African Youth Charter (2006)	2008	Ratified
The East African Community Cross Border Legal Practice Bill (2014)	-	
The East African Community Integration (Education) Bill (2014)	-	
The East African Community One Stop Border Posts Bill (2012)	-	
The East African Community Common Market (Free Movement of Workers) Regulations (2009)	-	
Convention for the Establishment of the Lake Victoria Fisheries Organization (1994)	1996	Ratified
Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)	1974	In force

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