

**ASSESSING THE IMPACT OF COMMON MARKET PROTOCOL ON FREE  
MOVEMENT OF CITIZENS WITHIN THE EAST AFRICAN COMMUNITY  
(EAC)**

**BY**

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## DECLARATION

### Declaration by Candidate

This project report is my original work and has not been presented for the award of any degree in any other university.

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## **DEDICATION**

I dedicate this research to my beloved wife Dr. Farhiya Ibrahim who has given me the strength and support that I needed during this period. I also dedicate the work to my son Zakariye, my daughter Ubah and may God Bless them all.

## **ACKNOWLEDGEMENT**

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## ABSTRACT

The principle of objective of this study was to investigate the impact of Common Market Protocol on the free movement of citizens among EAC member countries. This is based on the persistent question as to whether economic integration improves free movement of citizens or it simply regularizes a process that has been going on for years. The free movement and mobility of citizens of member states is one of the key pillars of almost all Regional Economic Communities, yet it remains the most contested. The specific objectives of the study include; analysis of the legal and policy framework that regulate free movement of citizens of partner states within the East African Community. The second specific objective was to assess the trends, patterns and volumes of migration related to EAC establishment. The third is to analyse the challenges and successes from free movement within the EAC. Using both the institutional and functionalist theory of international relations, this study explains why economic integration is desirable by most states, yet one of the key pillars which is freedom of movement of non-citizens create several normative and empirical challenges. The study is largely based on desktop research which involved collection and analysis of documents including treaties, protocols, different government reports and cross interviews with a few migration officials. The main finding is that although the legal framework for free movement in EAC is quite progressive, the implementation lag behind owing to what the study attributes to sovereignty issues, lack of prioritization and capacity issues. Most of the timelines set for the milestones for the common market protocol, the monetary union have all elapsed while some important provisions to facilitate free movement have not been put in place.

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## ABBREVIATIONS

CET	Common External Tariff
COMESA	Common Market for East & Southern Africa
EAC	East African Community
EACC	East African Communities Cooperation
EACSO	East African Common Services Organization
EAHC	East African High Commission to European Community
ECSC	European Coal and Steel Community
ECOWAS	Economic Community for West African States
EEC	European Economic Community
EPA	Economic Partnership Agreement European
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GFS	General Fund Services
GNP	Gross National Product
HDI	Human Development Index
IGAD	Inter-governmental Authority Drought Development
ILO	International labour Organization
IMF	International Monetary Fund
IPAs	Investment Promotion Authorities
MDGs	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
NTAs	Non-Tariff Barriers
OAU	Organization of African Unity

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Introduction**

In an increasingly globalizing world and the need for greater economic growth and development, free movement of citizens, within regional economic union initiatives is seen as a practical consideration. This has been proven to be a major source of economic and social growth for the European, Asian and Latin American regions (ADB, 2018).

Africa has not fared very well in this realm partly because of colonial legacies but partly because of the global economic system whose architecture confines Africa to be a source of raw materials. While currently there are 54 sovereign states in Africa, the geo-political arrangements and the rationale for creating these states had little to do with the interests of African people and their leaders. The emergence of the current nation-states in the continent was practically driven by the interests of colonial powers who sought to secure economic and political control of resources in Africa (Trudi, 2011).

Externally driven interests resulted in a number of factors that continue to confine the continent to the peripheries of the World economy. First, the creation of boundaries and border areas was meant to protect the natural resources and markets for the exclusive use of the individual colonial powers (Hughes, 1997:279). Since the resources were carted away to Europe, economic growth in most Africa countries did not follow the logical sequences of supply and demand in integrated market place. Erecting boundaries while sitting in boardrooms in Europe did not allow for organic growth of states that would integrate economic realities, population size, political and administrative capabilities. This also led to the reduction of the possible benefits of

economies of scale in production and distribution of goods and services (Amin, 1995).

Secondly the fragmentation resulted in small African countries with even smaller population which in turn meant smaller domestic markets. For example, 16 African countries have less than 2 million people (Trudi, 2011). These include; Djibouti, Gabon, Comoros, Guinea Bissau, Swaziland, Lesotho, Mauritius Seychelles, and Cape Verde. Seychelles for example has only 97 000 thousand people yet it is a sovereign state. Third, many neighbouring African countries were forced to produce similar products for European countries meaning they could not effectively trade amongst themselves. This legacy continues today and has ensured that European Union remains Africa's most important trade, Investment and development partner.

One of the solutions to these fragmentations is regional economic integration. Economic regional integration refers to the effort by and among nations to come together and form themselves into regional trading bloc with the aim of promoting economic and political cooperation among them. Regional economic integration is perceived by many countries as a vehicle of maximizing economic gains with neighbouring countries through the creation of larger and efficient markets as well as encouraging more production of goods and services. Some of the most successful integrated economic markets have benefited while managing the challenges that continue arise. African countries have experimented with RECs since the colonial period. These attempts have been strongly encouraged by African Union who views them as the precursor to the African Economic Community and eventually to a political Union.

Currently, the AU recognizes 8 Regional Economic Communities in the Continent including Economic Community of West African States (ECOWAS), East African Community (EAC), Common Markets for Eastern and South Africa States (COMESA), Economic Community of Central African States (ECCAS), South African Development Community (SADC), the Arab Maghreb Union (AMU) Intergovernmental Authority on Development (IGAD) and South African Custom Union (SACU). These communities have not been successful in achieving most of their goals. The African Union raised certain salient issues in 2019 evolution report. It notes that the RECs recognized by AU face serious challenges including human capacity constraints, overlapping membership, weak implementation of key regional integration programmes and projects (AU, 2019). Going by this report it is possible to conclude that RECs are facing serious governance challenges. The RECS tend to have common objectives including creating common markets, enabling free movement of people, goods and services and creating a monetary union of sorts. Attaining these objectives are not without challenges. This study analyses how economic integration has impacted free movement of people within the EAC community and how in turn free movement has impacted integration efforts.

## **1.2 Background to East African Community**

Formal economic and social integration in the East African Region commenced with, among other things, the construction of the Kenya Uganda Railway 1897 - 1901, the establishment of the Customs Collection Centre 1900, the East African Currency Board 1905, the Postal Union 1905, the Court of Appeal for Eastern Africa 1909, the Customs Union 1919, the East African Governors Conference 1926, the East African Income Tax Board 1940 and the Joint Economic Council 194 (EAC, 1999; Cooksey, 2016).



**Figure 1.1: MAP of East African Region before the Inclusion of South Sudan**

The independent governments therefore consolidated these efforts and formed the East African Community (1967-1977). These integration efforts were possible because the three founding members of the East African Community of Kenya, Uganda and Tanzania share along history even before the advent of colonialism including cultural similarity, political formations, trade, intermarriages and conflicts and cooperation. The following considerations informed the integration strategies; a)

Geographical factors. The three countries share common boundaries in several fronts. This makes the possibility of movement and trade very practical and attractive, b) Shared history including the advent of Arab and Portuguese rule, slave trade, trade, political formations , c) Transnational communities; the boundaries that were drawn at the Berlin conferences and even later changes divided same communities into different territories effectively scattering nations into different states, d) Shared natural resources and transport corridors including lake Victoria, the Nile, the Rift Valley, e) Common opportunities and threats, similar products, large economic market, competition, instability.

After the collapse of the EAC in 1977, the member states negotiated and signed an agreement on asset and liability division in 1984 in Harare. Among the agreements was also to explore the possibilities of future cooperation. In 1991, the Heads of the three East African state agreed to revive the East African Cooperation. A tripartite Commission was formed in 1993 with responsibilities of working on the modalities. The treaty re-establishing the EAC was signed in 30th Nov. 1999 and became effectively in July 2000.

The collapse of the EAC in 1977 offers scholars and researchers of regional integration valuable lessons and opportunity to interrogate how decision-making, national politics and external influences can undermine or strengthen RECs. The reasons often cited for the collapse include; Ideological differences especially between the Kenyan and Tanzanian leadership; Structural problems affecting the running of common services; Limited participation by the people in decision making; Lack of compensatory mechanism for addressing inequalities; Sharing the costs and benefits of integration; Political instability in Uganda

During its revival, the three member states of Kenya, Tanzania and Uganda noted that, the main reasons contributing to the collapse of the first East African Community in 1977, included “lack of strong political will, lack of strong participation of the private sector and civil society in the co-operation activities, the continued disproportionate sharing of benefits of the Community among the Partner States due to their differences in their levels of development and lack of adequate policies to address this situation”(EAC, 1999;1).

The EAC founding treaty conceived the integration in four phases. The first phase entailed the creation of customs Union which was achieved in 2005, the second phase was creating a common market which was established through the common market protocol which became effective in July 2010, the third phase is supposed to be creation of a common monetary unit and the finally to have a political Union (EAC, 1999). In both the EAC founding treaty and the Common Market Protocol (CMP), free movement of people, capital, goods and services are seen as a key pillar in the integration process. This study assesses the progress made so far with regard to achieving free movement of people as conceived by the partner states.

### **1.3 Statement of the Problem**

One of the Key aspects of regional integration is the free movement of people, goods and services. The EAC has instituted an array of legal frameworks that permit regional mobility in diverse areas including labour, residence, education and commerce. These are specified in the founding treaty, the Common Market Protocol and other various protocols and agreements. Yet there are still considerable hurdles experienced by citizens of East African Community in moving (EAB, 2018; Kanyangoga, 2010). This study seeks to analyse why citizens do not fully enjoy the freedom of movement as enshrined in the EAC treaty and other policy documents.

For example, Tanzania, a founding partner has been criticized by the other member states of slowing down the integration process, although the Tanzanian government continues to reaffirm its commitment to that process that will see Tanzanians vote for or against integration through a national referendum (Cooksey, 2016). Uganda and Rwanda also experience frequent border closure which greatly undermine movement of people and goods. It also seeks to document the potential impact of such on the spirit and letter of the EAC integration.

## **1.4 Objective of the Study**

### **1.4.1 General objective**

The main purpose of this study will be to establish the effect of Economic Intergradation on mobility and migration within the East African Community

### **1.4.2 Specific objectives**

The following specific objective guided the study;

- i. To analyse the legal and policy framework regulating mobility and migration established by the EAC member states.
- ii. To assess the types, trends and transformations in mobility and migration enabled by Economic integration of EAC
- iii. To analyse the benefits and challenges resulting from EAC economic integration

## **1.5 Research Questions**

- I. What are the legal and policy frameworks regulating mobility within the EAC?
- II. What are the types, trends and transformations in mobility in EAC?

- III. What are the benefits and challenges experienced in moving within the EAC?

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

In light of the time constraint, this study is limited in scope, its preliminary findings will shed a light for more intensive studies in future. The study was conducted between Feb to July 2019 by using an analysis of EAC founding treaty, the Custom Union since 2005 and the Common Market Protocol which together form the basis of free movement within the region. Data was collected by use of document analysis techniques, it would have presented more findings had it been possible to visit all the partner states and collect primary data with different stake holders. However, time and financial constraints dictated that only a small element of the study be conducted upon which greater generalization was made.

### **1.7 Significance of the Study**

The findings generated from this Study are expected to lead to a better understanding of not only the dynamics of how regional integration works: but specifically the experience of the East African integration process. This is of great significance to academicians and researchers in that it increases to the body of literature and knowledge in the area of international relations, diplomacy, economics and legal studies. This leads to a larger pool of academic material on economic integration which leads to a better understanding. This might lead to arrival at an African specific model of integration. The findings therefore do not only draw an insight into the working of the East African Community (EAC), but also help in projecting what tangible economic Impacts the Integrating states are to accrue.

This study sheds some light on what other regional integration bodies have achieved and leads to identification of gaps that the EAC experience must fill if any tangible benefit is to be realized. It reveals some of the challenges 2nd weaknesses the East African integration process faces. The findings lead to policy orientation aspects that ensure the smooth operations of the EAC. Policy makers in all the member states need to be aware of pertinent issues that determine to a large extent the success or failure Of the EAC integration They act as stimulant far further research of a policy nature in this area that help to cover the gaps that may have been left by this study due to its constraints in terms of time and cost.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter summarizes both theoretical the information from other researchers who have carried out their research in the same field of study. The literature review starts by looking at the concept of economic integration and free movement. It then examines the experiences of free movement in other Regional Economic Communities (EU, ECOWAS, SADC and ASEAN). This is followed by analysis of the two theoretical frameworks, institutional and functional theories which anchor the study. The thrust of the review is to compare free movement in the EAC with other experiences to help highlight strengths and gaps that EAC leaders can learn from.

#### **2.2 The Concept of Economic Integration**

Economic integration is understood as attempts to create a common market by joining the economies of member states, which may take any one or combination of four main forms, namely, free trade area, customs union, common market or economic community. Balassa conceives economic integration as a process rather than an event (Balassa, 1961). A free trade area is defined as a group of two or more countries that eliminate customs duties and other trade restrictions for products originating from member countries, with each member country retaining the authority to charge their own tariffs to goods from outside the integrated area (GATT, 1994). A customs union is further defined as a single customs territory that eliminates duties and other trade restrictions on all or substantially all the goods and services originating from member states and binds members to apply substantially the same external duties and other trade regulations to non-members (GATT,1994).

A common market provides a deeper and broader scope of integration by encompassing the elements of a customs union by providing for free movement of goods and services, workers and capital and the harmonization of trade laws and policies among member states as well as the creation of a common legal regime to in place of national systems in certain areas (Groves, 1995). An economic community, which is the most advanced form of regional economic integration, goes further to harmonize the monetary and fiscal policies of member states (Gillis et al, 1998).

While Economic integration encompasses many salient aspects, the current study examines the concept of free movement of citizens within regional economic communities. As the study proceeds it will of necessity touch on the other pillars of RECs which include trade, monetary union and the governance structures put in place to achieve the aspirations of the partner states. We will therefore relate the treaty and protocols of EAC and consider their scope of integration, their structures for interactive markets in the context of multiple memberships and for resolution possible conflicts in arising from multiple memberships to competing RECs, and investigate the effect of multiple memberships to RECs on the members' compliance to their obligations under the various RECs (Deya, 2007).

Regional Economic Communities have become preferred forms of organizing economic and social activities because of the potential gains as perceived by member states (Salvatore, 1983). Some benefit represents a one-time improvement in the member countries' internal trade, dynamic gains are longer-term increase in investments in export driven production of goods and services. (Gillis et al, 1998)

Some of the immediate gains can be realized at the inception of the regional economic community while others are long term and may be analyzed according to whether

their effect is trade creating or trade diverting. Regional integration is characterized as creating opportunities for trade when it lowers duties on imports from all member countries and facilitates the production by member countries of the goods they have a comparative advantage in. While this increases competition and promotes efficiency that eventually supplies cheaper goods for the common market, it may also lead to the closure of the less efficient industries in other member countries and make them to bear the costs of the economic integration (Gotto, 2011).

Regional integration may also be trade diverting when it protects locally produced goods from external competition of imports from non-member countries. Where the external imports are cheaper than the internal community imports, the less efficient internal industries that produce more expensive goods are subsidized by the other member countries through the external tariffs. While this benefits the exporting member country, it makes the importing countries to bear the costs of the inefficient industries. Consequently, it is clearly apparent that the treaty creating the regional economic community ought to incorporate appropriate policy and institutional structures to equitably share in the benefits and costs of static gains of integration.

Regional integration also creates and expands the market for goods and services from that of individual member countries to the combined market of member countries. The expanded market is considered beneficial to trade because it increases economies of scale, improves efficiency through competition, leads to specialization and stimulates investments for longer term production both for the internal common market and for export. Thus, regional integration may accelerate free trade by driving the efficiency of regional industries to enhance their competitiveness in the overall global export market (Clunies-Ross, 1996)

## **2.3 Global Experience with Free Movement of Citizens within RECS**

### **2.3.1 European Union**

Free movement of citizens within an integrated economic market implies that citizens can move, live and work in a partner state without the need for a work permit. In European Union which was founded in 1957 by the Rome treaty millions of citizens have benefited from free this provision even though there are still people opposed to it. The system allows citizens to work, study and retire anywhere within the EU. This is partly because in EU, workers from other EU member states have full access to welfare state in the country they are currently working. This has led to some claims that is referred to as ‘benefit tourism’ to mean those who move to take advantage of more generous welfare states in other EU member states (Osterman, 2019).

In the European Union, this freedom of movement has been extended to citizens of 28 partner states. It is estimated that by 2012, 14.1 million Europeans worked and lived in a partner state other than their own. In terms of common markets, this arrangement allows people to fill jobs that are either created by demographic changes and advancement in technology. The mobility of labour force also creates an equilibrium in the labour market and allows surplus labour to move to areas of scarcity. This has the potential of keeping wages in check while reducing unemployment rates.

However nationalistic undertones against free movement still remain strong even within the EU. Migrant workers are still being accused of taking jobs from the locals and exerting too much pressure on welfare systems. Interestingly several studies have reaffirmed the position that migrant workers often bring net benefits to host countries (Hutt, 2016).

### **2.3.2 Free Movement of People in Africa**

Despite the many benefits that have been documented about free movement of goods, people and services as part of the economic integration, Africa countries lag behind in facilitating the movement of citizens of other African countries. For example, African Development Bank Report (2018) records that 51 states in Africa still demand and charge visa fees from other Africans, while 24 countries offer visa on arrival to citizens of other Africans. Only 25 % of African states have no visa requirements for citizens of other African countries (Fagbayibo, 2019). This, he attributes to what he calls ‘trust deficit’ between African countries and the unjustified obsession with state sovereignty.

He attributes this deficit to the ingrained African mental framework against free movement and migration. He observes that the first problem is the perception that there are not enough resources to go around (poverty mentality) and therefore Africans cannot share the little they have. The second problem is the assumption that migration only benefits the sending countries and not the host country through remittances. Literature however demonstrates that migrants contribute significantly to the economies of their hosts. The third problem is the failure to adopt the Pan African mentality which would make Africa the home of all Africans regardless of where they are. He observes that the current dialogue about intra-African migration is unhelpful as governments, civils societies and other groups talk at cross purposes. This study examines efforts taken by EAC to help bridge the gap between the aspiration of free movement and the practices on the ground. Following is the experience of Economic Community of West African States with Free Movement of Citizens.

Although regional organizations such as the Economic Community of West African States (ECOWAS), the South African Development Community (SADC), the East African Community (EAC) and the Common Market for East and Southern Africa (COMESA) have introduced rules for free movement of nationals between their member states, these agreements have generally been poorly implemented or contradicted by the restrictive policies and practices of member states (Adepoju, 2001; Ricca, 1990).

Despite the legal and political hurdles Africans remain highly mobile within the continent. As the table below indicates, movement within Africa exceeds movement from Africa to other parts of the world. This is partly facilitated by the RECs which the African Continental Free Trade Area (AFCFTA) seeks to emulate

**Table 1. Estimated total stocks of migration from, to, and within Africa**

Year	Migrants from Africa to the rest of the world	From the Rest of the World to Africa	Within Africa
1960	1 830 766	2 811 930	6176385
1980	5 418 096	1872502	7966359
2000	8 734478	1532746	1050000

Source: de Haas, 2016

### **2.3.3 Developments on Free Movements by African Union**

There is an attempt to ease freedom of movement within the African Continent itself which follows the old Pan Africanism ideas. The first collective attempt was the establishment of Economic Community in Abuja Nigeria in 1991 which came into force on May 14<sup>th</sup> 1994. Because of several reasons including political instability and economic downturns, much has not been achieved with regards to actualizing this community. However, in March 2018, African States took a giant step and signed the long-awaited African Continental Free Trade Area

agreement. The AFCFTA injects new impetus towards the realization of African Economic Community and one of the pillars is the freedom of movement initiative which aims at removing obstacles to travel, trade and investments within the continent for citizens of African states. It encourages member states to adopt Visa Open policies which are meant to open borders for Africans (AU, 2018).

This was followed by the signing of Protocol on Free Movement of Persons, Rights of Residents and Establishment which was adopted in 2018 by 30 African states during the launch of AFCFTA. The protocol aims at removing travel restrictions for African citizens. In 2016, the African Union already agreed to issue African Union Passport for the African Heads of states and high level representatives. The aim is to eventually issue African citizens with African Union Passport. These attempts borrow heavily from those of the Regional Economic Communities including the experiences with ECOWAS and EAC and are seen as an endorsement to the efforts of these regional bodies.

#### **2.3.4 Free Movement in ECOWAS Region**

In May 1979, ECOWAS adopted the protocol relating to the free movement of persons, residence and establishment giving citizens the rights to enter, reside and establish economic activities in the territories of member states. The protocol was set to be implemented in three phases over a period of 15 years. The three phases were to start with a) Visa-free entry which was to be completed in the first 5 years b) the second phase rights of residency which was again to be regularized within the following five years and c) rights to establishment and start any legal economic activities. According to this agreement, ECOWAS countries would have achieved 100% freedom of movement by 1994. This was

not the case as some important milestones were not achieved within this period (Adepoju, 2001).

The ECOWAS common passport which was meant to exempt holders from visa requirements within the region was only regularized in December 2000. Besides the Visa exemption, the passport is also meant to function as an international travel document. In addition to this ECOWAS partner states have also agreed to issue a joint visa (ECOVISA) for Non-ECOWAS citizens that is recognized by all the partners within the region. However, member states retain the right to refuse admission into their territory of any ECOWAS citizen who would not be allowed according to their domestic laws.

#### **a) Challenges to Free Movement in ECOWAS**

One of the main challenges in realizing free movement in ECOWAS is the slow implementations of the administrative and bureaucratic requirements. For example, the implementation of phases two and three have not been realized fully after more than three decades of the protocol. While phase was meant to allow citizens of partner states who had obtained ECOWAS residence permit to stay in any of the countries it also obligated the member states to grant migrant workers equal treatment with nationals in terms of security of employment, participation in social cultural activities, re-employment in case of job losses and possibilities of retraining.

Phase three on the other hand was to facilitate the right to establishment which would allow citizens of partner states the freedom to access, carry out and manage economic activities. However, Adepoju et al (nd) observe that even with

these elaborate measures in place complete freedom of movement has not been achieved in the region. Several reasons are attributed to this failure;

**b) Bureaucratic Weaknesses**

First, most member states have not established proper national monitoring committees as required by the amended protocol meaning that there is no particular organ that directly collects information and reports on the success and challenges. Where such committees exist their work is not clear nor effective, partly because of lack of capacity and probably funding. This weakness leads to lack of accurate migration and mobility information that can be stored in a centralized data base. This also means that some immigration and security officials lack awareness that citizens of ECOWAS member states can enter their territories without certain documentations.

**c) Clearance and resident permit charges**

While ECOWAS protocol on free movement does not contemplate or prescribe any charges for entry visa, there are reports that there are unofficial payments either offered by the would be migrants themselves or demanded by officials on the borders. This has been observed especially for those who travel by road and have to cross land border states. Since these charges are not formally sanctioned it is possible that they are illegal levies which can hinder free movement of citizens. Often this happens because of lack of information.

The other widely experienced challenge in the region by citizens seeking to move freely are the charges instituted by almost all countries in issuing resident permits and related documentations. Furthermore, these fees are not uniform and each country has its own rates. For example, Ghana charges a high of USD 200

while Benin charges about USD 40. These charges are no different from what the partner states charge citizens from non-partner states. So even though the freedom of movement is anticipated in word, in deed it is quite different.

#### **d) Inadmissibility rules**

The inadmissibility rules in each of the member states give immigration officials wide latitude in deciding who can and cannot enter even if they are citizens of partner states. While some of these laws try address issues of security by prohibiting criminal elements who may be escaping prosecution from their home countries others invariably target those who may be moving for economic reasons. For example, in several countries in ECOWAS, those seeking resident permits are required to have proof of ability to sustain themselves in their new resident. This locks out those who may be moving to seeking employment especially the unskilled workers and youth.

### **2.4 Refugees and asylum seekers in ECOWAS**

Like other regions in the continent, ECOWAS has had fair share of conflicts and displacement especially those that rocked both Liberia and Sierra Leone in the 1990s. Currently displacement is being experienced in Mali, Nigeria and Chad. There are over 261000 refugees in the ECOWAS region. The ECOWAS protocol on the free movement of people does not specifically address the issue of refugees and asylum seekers in the region. However, there is an underlying assumption that as citizens of partner states refugees and asylum seekers qualify to be treated according the provisions of the protocol.

## **2.5 East African Community**

The EAC has passed through three discernible phases which will be discussed below, especially as they relate to free movement of people and citizens.

### **2.5.1 Precolonial Movement in the Development of EA**

The interactions among the peoples of what is today geographically described as East Africa can be traced back to the years before actual recorded history was started as it is today (Oliver and Atmore, 2005). The interactions can be linked to the time when the various language groups, the Bantus, Nilotes and Cushite's moved from their earlier regions of settlement to the areas that they initially occupied in pre-independence East Africa. This was at a time when political boundaries as they exist today had not been drawn (Ghai, 1967). Today there exist language groups that are to be found in more than one country in the region. For instance, the Maasai are to be found in Kenya and Tanzania while the Luo are found in Kenya and Uganda, and Tanzania. East Africa also came into contact with Arabic traders who were the force behind the growth of inland trade particularly slave trade (Gjerso, 2015).

The coastal areas of Kenya and Tanganyika came into contact with the Arab world as can be manifested by the deep Arabic-Swahili culture the coastal areas. Zanzibar was also another vital force in East African contact particularly under the leadership of the Sultanate. This was later followed by the Portuguese who mainly had dealings with the coastal areas which were close to their main transportation avenue (Gregory, 1981). By the 1880s when the British started arriving in East Africa, the region had already come into close contact with the outside world. It could not have been imagined that the British would be the ones to start the rewriting of East African history (Oliver and Atmore, 2005).

### **2.5.2 Movement during Colonial Period**

Colonial interests started around 1885 when the British started conceiving the region as a protectorate of the British Empire (Gjersø, 2015). They were drawn to the region because of three main objectives: the need to secure control of the Nile headwaters in order to protect the British position control of Egypt and the Suez Canal, to monitor German imperial interests in the region and opening the Kenyan hinterland via rail transport to introduce large scale farming. This time the region comprised of Tanganyika (the mainland), Uganda, Kenya and Zanzibar (Kyle, 1996).

British interests in the region came at a time when the Germans were also interested in the region. A compromise led to Tanganyika coming into the hands of the Germans while Kenya and Uganda came under the control of Britain, Rwanda and Burundi on the other hand were initially under the influence of Germany until after the First World War which saw them under Belgium as part of the Ruanda-Urundi territory administered under the League of Nations Trust (Gjersø, 2015). Likewise, Tanganyika eventually came under the control of Britain as mandated territory under the League of Nations (Ekoko, 1979). Kenya and Uganda have had the most extensive interactions particularly considering that the two started off as British Protectorates. Economic policies and activities were coordinated for administrative ease and this led to harmonization of the provision of key services like the Kenya Uganda railway 1897-1901 Customs Collection Centre (1900), African Currency Board 1905), the Postal Union, Court of Appeal for Eastern Africa (1909), Customs Union (1919) and the East African Governors Conference (1926). Tanganyika was to join some of these at a later time when it became a British mandated territory after WW1 (Cooksey, 2016). This colonial consolidation led to increased movement

of labour especially in the agricultural plantations and those working in the transport sectors as well as

### **2.5.3 East African Cooperation: Post-Independence Era**

The history of the East African Cooperation capture the aspirations of Uganda, Kenya and Tanzania (after the union between Tanganyika and Zanzibar in 1964). Tanganyika was the first to attain independence in 1961, followed by Uganda in 1962 and finally Kenya and Zanzibar in 1963 (Brett, 1973; Cooksey, 2016). Rwanda and Burundi although initially not part of the first East African Cooperation arrangement gained independence in 1962, The EAHC was scrapped in 1961 and replaced by the East African Common Services Organization (EACSOL). This was to manage many of the integrated services in the mode that had been undertaken by EAHC (Source). The political leadership of the three countries after independence and the union of Tanzania saw the need for continued integration of the three countries for purposes of continuance of services under African direction and customization. The countries that African leaders inherited from their powers were ill-equipped to create the kind of societies their citizens expected, this also came at a time when East-West hostilities between USA and USSR were beginning to take root, this is what saw the extensive discussions and negotiations towards setting up of a framework for East African Cooperation (Reith and Boltz, 2011). The initial thought had been to move towards a political federation had proved to be a challenges as Kenya was perceived to be gaining more from it due to its bigger economy.

#### **2.5.4 East African Community Integration Efforts (1979-2000)**

The EAC integration process is a key attempt by the five member states to attain economic growth and development for their people. Initially, the integration efforts were undertaken by the three members of the initial EAC that collapsed in 1977: Kenya, Uganda and Tanzania (Reith and Boltz, 2011). The birth of the EAC as it is today can be traced back to May 14, 1984 when the East Africa Community Mediation Agreement was signed to allow for the division of the assets and liabilities of the defunct EAC that collapsed in 1977 (EAC, 2012). The Agreement provided that the three countries agreed to explore and identify areas for future cooperation and to make arrangements for such cooperation. This was taking into consideration that the EAC's collapse in 1979 had been occasioned by lack of strong political will, lack of strong participation of the private sector and the civil Society in the cooperation activities and the continued disproportionate sharing of the benefits of the cooperation among partner states. This was due to their different development levels and lack of adequate policies to address this situation (Deya, 2007; Cooksey, 2016; Ley 1976).

The Heads of State of Kenya, Uganda and Tanzania continued to meet with the culmination of the signing of the Agreement for the Establishment of the Permanent Tripartite Commission for East African Cooperation on November 30, 1993. Efforts towards formal East African Cooperation began with the setting up of the Secretariat of the Permanent Tripartite Commission on March 14, 1996 in Arusha, Tanzania. The three Heads of State directed the Commission to commence the process of upgrading the Agreement establishing the Permanent Tripartite Commission for East African Cooperation into a treaty in their second meeting on April 29, 1997 (EAC, 2012). This was later reiterated by the Heads of State in another summit on January 22, 1999 when they resolved to sign the treaty establishing the EAC by end of July 1999. In the

same summit, other crucial issues to the formation of the EAC undertaken were the signing of a Memorandum of Understanding on Foreign Policy Coordination, zero tariff rates that were to be adopted by July 1. 1999, implementation of COMESA's tariff reduction, getting up a mechanism to deal with terrorism in the region (this was after the Nairobi and Dar-es-Salaam terror attacks the US Embassies in August 1998) and the postponement of the admission of Rwanda and Burundi to the EAC. Rwanda and Burundi had been involved in deliberations and negotiations of the EAC treaty prior to their admission as members albeit as interested parties who were awaiting direction on their request for admission, (EAC, 2020)

The question of the admission of the new members had been extensively discussed during a preparatory meeting by the three Foreign Affairs Ministers on January 21, 1999. Uganda had been in support of the admissions but Kenya and Tanzania voted against it on the ground that modalities on the admission of new members was still being debated. The greatest result of the January Summit was the signing of the Memorandum on Foreign Policy Coordination. This was to provide a cooperation framework where the three member states were to take a common stand at international fora and also the provision for assistance in countries where one of the partner states did not have a diplomatic mission. This way, visa applications for nationals of one state could be processed in one of the missions representing the region. It is at this time that the idea of political federation of the three states was raised and to this end, a suggestion was given on the creation of a regional assembly with limited powers. (EAC, 2011)

A cooperation framework was progressing rapidly at this time and on April 1. 1999' the East African passport was officially launched. With this came the confirmation

that the EAC planned to establish a free trade area in July and a CET by the year 2000. A delay in the elimination of tariffs was advised by a high level task force to July 2000 as well as the pegging of a maximum CET to 25%- This was followed by a meeting of experts at the EAC Secretariat from June 28 to July 1999 which resulted in redrafting of trade provisions of the draft EAC treaty. This task force agreed on the creation of a customs union, removal of internal tariffs and the removal of non-tariff barriers to importation of goods origination from the partner states within twelve months of the EAC treaty coming into force. The EAC treaty was signed in Arusha on November 30, 1999 and entered into force on July 2000 after ratification by member states and the deposit of the Instruments of Ratification with the Secretary General. Consequently, the EAC was officially inaugurated on January 1, 2001(EAC, 2012). The treaty provided for four stages of the integration process a customs union, a common market, a monetary union (with a single currency) and finally a political federation. Of particular significance is the fact that EAC strategy lays special attention to economic cooperation and development with a very strong focus on the social dimension.

The move by the leadership of Kenya, Uganda and Tanzania to seize another opportunity for cooperating was a courageous one. It was an affirmation that there indeed existed areas for cooperation and also that the global economic environment had changed tremendously. The economic realities of the 20<sup>th</sup> Century were pointing to the need for larger and better organized economies to effectively compete with other more developed economies. At this point a vibrant private sector and civil society had started to spring up. This also a time when political pluralism had gained a footing in East Africa (Cooksey, 2016). Kenya for instance had reverted to a multi-party political dispensation with the repealing of Section 2A of the constitution,

Tanzania was already taking such steps to widen its democratic space, Uganda was also under immense pressure to conform after the movement revolution led by Yoweri Kaguta Museveni in 1986. This was also a time when the Bretton Woods institutions and other international lending Institutions and donors were using conditional aid and lending. The condition was the need to undertake multiparty democracy. The three partner states saw a great opportunity for cooperation in the following areas; trade and investment and industrial development monetary and financial policy, infrastructure and services and standardization and quality (Cooksey, 2016).

### **2.5.5 The Revived EAC East African Community**

The current EAC is constituted of seven countries including Kenya, Uganda, Tanzania, Rwanda, Burundi and now South Sudan (accepted on 1st March 2016). The East African region has a population of 147 million by 2019 which was projected to 202 million by 2050 (Davood, 2013). On average 80 % of the population reside in rural area while the literacy rate is about 78%. Kenya leads in adult literacy at 87% and Burundi at the bottom with 67%. The community covers a total area 1.8 million square kilometres (not including Southern Sudan) which forms an attractive economic block in terms of consumer market but also in terms of available labour. Apart from Kenya and Tanzania the rest of the partner states are landlocked underscoring the importance of both Tanzania and Kenya in the EAC economy. The first experiment with EAC which was composed of the three ex-British colonies of Kenya, Tanzania and Uganda collapsed in 1977. Before it collapsed however important infrastructure including railway, roads, telecommunication and electricity was already in place. The East African Community shares a number of similarities and also differences. These include similar cultures, territory and partly colonial experiences although Rwanda

and Burundi were not colonized by the British. The post-colonial governing experiences have been mixed with Uganda, Rwanda and Burundi experiencing military coups and intermittent conflicts while Tanzania and Kenya remaining relatively stable. The EAC economy has been growing at average of 3.7 % which has been higher than the 3.2 % of other Sub Saharan Africa. While the average per capita is \$ 411 there is a big variation with Burundi with at \$147 and Kenya \$467 in 2010. These differences and similarities have strong influence on migration flows and the underlying macro-economic factors.

A glance through history highlights that the people and countries of East Africa have traditionally been bound by commonalities: colonial heritage, cross-border affinities, common culture and language. Extensive migration and barter trade was a feature of economic and social life that predated colonization (Ogalo 2010; Miguel 2004). Before colonization borders did not have the same meanings we attribute to them today

Along standing indigenous pattern of (informal) cross-border trade has continued to thrive in the borderlands of East African nation-states. In today's East African Community (EAC), cross-border trade is 'lauded for expanding economic opportunities that draw from regional advantages' (Khadiagala 2010, p. 275).

Renewed interests in East African regional integration arrangements have been heightened over the last decade in response to the global economic climate. The current EAC framework accentuates a move away from elite-driven development (a strategy of previous failed East African integration efforts) towards a process which is 'people-centred' (EAC 1999). A referendum mechanism has been highlighted in this regard, to gain citizen consent of political federation: 'a public referendum in the

three partner states would appear the most natural policy choice' (Wako Report, 2004). While mobilization of a ballot vote is yet to occur, citizens are to be directly consulted to legitimize the EAC's future political agenda, underlining the importance of an investigation of citizen support. Even though debate over the EAC is paramount in partner states, literature on attitudes towards East African regional integration is extremely limited. It is common place to acknowledge the occurrence of East African migration, cross border trade and personal travel and building on this observation.

In attaining all its objectives the EAC is guided by the principles of mutual trust, political goodwill and sovereign equality, peaceful co-existence and good neighbourliness, peaceful settlement of disputes, good governance (including adherence to the principles of democracy, rule of law, stability, transparent social justice, equal opportunities; gender equality as well as the recognition, promotion and protection of human and peoples' rights (in accordance with the provisions of the African Charter on Human and Peoples' Rights), equal distribution Of benefits and cooperation for mutual benefits

Even to date, East Africans continue to enjoy close ties with their respective East African neighbours especially Ugandans and Tanzania. The formalization of this shared history through eventual political integration into a single through a single federation is already underway through the East African Community (EAC 1999). In this Community, Burundi, Kenya, Rwanda, Tanzania, and Uganda already have a unitary customs union; are moving toward a single currency (the East African shilling); and eventually a single political state. This future Federation of East Africa or United States of East Africa, at 1.82 million square kilometres, will be the third largest African nation (and 17th largest in the world) by area with 135.4 million

people, the second largest African population (and the 10th largest population in the world), behind Nigeria; and finally, at USD 85 billion, the 7th richest African economy, behind Nigeria, South Africa, Egypt, among others, but ahead of Ethiopia, the DRC, Mozambique, among many others (EAC 2014). Given that the mandate for political integration of these EAC states rests on its citizens through a referendum, understanding East African citizens' perceptions toward East African integration is very important.

The argument is that border proximity to an 'out-group' should have an effect on perceptions of that group. This implies that more contact or interaction should lead to familiarity and greater feelings of social proximity, and thus positive relationships (Henrikson 2000; Newman 2003; Mirwaldt, 2010; Gravelle, 2014). This would predict that the closer citizens live (and interact) to their East African neighbours, the more likely they will support East African integration. On the contrary, Blalock (1967) suggests that in some cases, increased contact between groups perpetuates competition for resources, for example, land, employment or natural resources. This would predict that the closer Tanzanians live (and interact) with their East African neighbours, the more likely they will *reject* East African integration. The effect of more or less social interaction, thus, does not unambiguously predict Tanzanians' support or rejection of East African integration. Social interaction's effect on Tanzanians' attitudes toward integration is thus an empirical question. This study will consider the mobility of the citizens across the borders of East African states. More specifically, an important question this study seeks to answer is how does the effect of Common Market shape the mobility of citizens of partner states across their borders.

## **2.6 Theoretical framework**

### **2.6.1 Customs Union Theory**

The customs union theory in addressing the welfare dimension of regional integration is closely similar to functionalism as advanced by Jacob Viner (1956). The theory postulates that a customs union can result in either trade creation or trade diversion. Viner defines a custom union as the process of "elimination of intra-trade barriers and the equalization of tariffs on Imports from non-member countries. In ideal economic integration a customs union is the third stage of integration after a preferential trade area and a free trade area. The EAC integration process however deviates from this structure in that the customs union is the first stage in the economic integration process. A custom union aims at the formation of a Single customs territory. With regard to the economic activity of integration partners, trade becomes a fundamental focus with the main aim being the realization of economies of scale in a bid to realize economic development. The EAC bloc for instance is able to eliminate diseconomies of scale occasioned by the fragmented nature of their markets and economies while operating in separation, the customs union came into effect on 1<sup>st</sup> January 2005 after ratification of the Customs Union Protocol" This marked a crucial turning point for the EAC integration process. It Clearly signalled that at last, the dream of integration was becoming a reality.

The customs union seeks to attain harmony between the five member states through the realization of common external tariff to be applied in trade dealings among all the member states with non-member states, elimination of internal tariffs, common rules of origin for application by all states common standards for all products produced and imported, harmonized trade policies and a common export promotion mechanism, Customs Unions become effective when the output of inefficient producers replaced

after the elimination of tariffs in the region with cheaper imports Of more efficient producers within the region to the benefit of both producers and consumers. Trade diversion effects on the other hand occur when imposition of CET puts suppliers from countries outside the integrating area in a competitive disadvantage by encouraging imports from less efficient producers within the integrating area. The good of this for the EAC is that imports that have traditionally been obtained from countries outside the EAC can now be replaced with intra-EAC Imports. This Leads to the overall increase in trade for the region.

Trade expansion from economies of for the EAC region is geared to lead to economic growth as this will result in an increase in the GDP of the region collectively and for member states individually, in 2000, prior to the admission of Rwanda and Burundi, total GDP was distributed as follows.

**Table 2. Distribution GDP for Kenya, Tanzania and Uganda in 2000.**

Country	GDP in USD (billions)
Kenya	10.35
Tanzania	9.027
Uganda	6.17

**Source: EAC Secretariat, 2004**

Average population in 2001 was 30 million people, Creation of the customs union therefore implied an economies region with a single market or over 90 million people with a GDP of approximately USD 30 billion, With Rwanda and Burundi included at populations of 10.117,0 IOE 216, 190 respectively.

According to 2009 estimates, this pushes the total population to approximately 120 million for the entire region" Upon harmonization of all the trade aspects it leads to creation of a formidable market that would be highly attractive to investors.

The Customs union is the regional tool to boost the visibility of the region in its dealings with Other regions. There are quite a number of challenges that have to be overcome before tangible results are realized, the customs union faced and still faces today challenges touching a national sovereignty, non-tariff barriers to trade, language barriers, inaccurate trade data due to unrecorded cross-border trade, a weak dispute settlement mechanism and the overlapping membership the EAC members to other regional bodies

In comparison to the European Union (EU) customs union, there are many lessons that the EAC can learn from the former. It is vital to point out that the EAC envisages its integration to move through five stages; Preferential Trade Area Free Trade Area (2000). Customs Union Common Market 2010,) Single Currency 2015) and finally a Political Federation (2013)." The progress made in this regard will depend to a large extent the responsiveness of decision makers to address any problems that arise over the course of the integration process to ensure that the right management framework is place for sufficient policy and operational changes to facilitate a smooth flow of the process,

The greatest challenge will remain the transformation of the growth realized from trade expansion to tangible and sustainable development of the people. This poses a great economic challenge where there are inequities in factors of production with ownership skewed negatively to the very wealthy, the growth in trade is intended to be for the good of the local person in every country. The biggest test will be for the

EAC to come up with policy prescriptions that will enhance the ability of all countries to reap substantial benefits from the growth and opportunities that will arise as a result of the integration,

This theory bears the largest impact in rendering an informed understanding of the EAC integration, Rapid growth and development of the economies will be realized after sustained expansion of the trade that the region engages in both within and also with other regions and non-member countries. It also has better implementation in the region without numerous modifications as it is propounded on a tariff regime which remains at host in the control of member states.

### **2.6.2 Institutionalism**

Institutionalism as a theoretical framework for explaining regional integration stems from the contributions of March and Olsen (1989) who argued that institutions are important because of the impact they yield on political outcomes, Institutions intervene between the preferences of actors and the policy outcomes that are desired. Institutions do not therefore carry political actors along a defined path nor do they follow their preferences. They are able to channel the access of the actors to attain the resultant changes which are the intents that the institution seeks to follow, Institutionalism has had variants in the form of historical institutionalism and rational Choice institutionalism, the former regards the period of an institution's origins as crucial to understanding later developments. For instance, to comprehend and project on the future of the EAC, one needs to place its origin and the beginning of East African cooperation to that time in history. Understanding the context in time when this was conceived aids in a proper contextualization of its aims and objectives. Historical institutionalism must develop a means of analysing phases of institutional development beyond the path

und time of an institution's formation, Rational choice institutionalism on the Other hand assumes that actors will only engage in rational pursuits of their self-interest. Institutions therefore act as a moderating force with regard to the strategies that political actors adapt in the pursuit of these self-interests. Rational institutionalism therefore is premised on a set of detailed formal rules and regulations- This may however be compromised in cases where these rules are misinterpreted or where actors recourse to informal rules, These direct the rational approach- It is assumed that any decision options have to be subjected to an elaborate process of identifying the costs and benefits of each option and then based on a ranking, all options subjected to a detailed scrutiny prior the most optimal option being selected- This however may not find practical application in many issues that arise in an integration area. For instance, security imperatives in one country in the integration area that affect to a large extent the trade aspects of another member may be compromised since security decisions though calculated are offering spontaneous reactions, for instance some demonstrations in Nairobi, Kenya may affect passage of to land locked Rwanda, Uganda and Burundi. Security agents in Kenya would therefore take the most appropriate measures at the time and these would not be rationally deliberated

### **2.6.3 Functionalism**

Regional integration efforts in Africa have faced the Challenge of refusal by member states to always stand by their obligation as stipulated in the Objectives and regulations governing regional arrangements. This is both politically and economically driven; the first aspect can only be addressed through a political process. Member States must realize the benefits accruing to their citizens from the process of regional integration. While weighing the welfare benefits to citizens vis-

a-vis the costs of ceding some level of control to regional body, a country is at a better position to determine whether they should pursue an integration process further. Muga (2014) argue that sustained political and ideological will on the part of individual member governments is critical to the success of any regional economic grouping. Functionalism as a theory was postulated for explaining or advocating the need for creation of regional organizations. This was advanced by Mitrany who argued that the link between authority and a definite territory can be broken; it seeks the attainment of a regional organization that would not be rooted the territorial confines of the states forming it. In a characterized by economic interdependence, functionalism assumes that social, technical and humanitarian problems can be prioritized and salved. This is because in a world of economic interdependence common economic interests create the need for International institutions and rules. Functionalism has been critic used for its assumption that states can be able to cooperate even in areas where their vital interests are at risk of being ceded to a supranational organization. This would result in a state-like supranational organization that could easily be dominated by the powerful states in the regional arrangement.

Regional integration from a functionalist approach can best be seen from a weakening of the State apparatus through the transfer of loyalties to a supranational organization. This is hard to attain and can only be arrived at through realization of results from cooperation in one area. Once that is realized, the integrating units can then move onto a different aspect. This is to be repeated in all the elements or the integration up to point where it is realized that these are best handled not by the state but by the supranational entity. This can be seen to commence from economic then social and ultimately technical cooperation, this ultimately can lead to the

attainment of political harmony leading to resolution of political conflicts and elimination of Cooperation among nations pursuing different political-economic structures and at different levels of economic development would seem unworkable in the current global political systems. The functioning of international institutions like the International Labour Organization (ILO), International Monetary fund (IMF), World Bank and the LIN agencies do not support the idea that functional cooperation can be realized separate from a political environment present in the member states (Keohane, 1984).

The application of functionalism to the EAC recognizes that the regional integration takes place at an intersection of diverse interests of the multiple states which differ in political culture, ideology, economic, political and legal systems, these differences have to be managed in the right manner if any sustained relationship urging the integrating states is to be realized. From a functionalist angle, it is not enough that the individual citizens of the countries have some welfare gains to be realized from the integration. There must be the will by the authorities at the leadership of these countries to work together towards a mutual goal for all states, should there be a feeling that one state or some States are deriving more benefit than the others, then the cooperation is in jeopardy.

Mitrany in postulating the approach of functionalism saw regional organizations as likely to result in inter-regional conflict. This was due to the reluctance by states to cede their authority to a regionalism super-national body. In the case of the EAC, there is need for sovereignty by the five states to be transferred to the regional body, With properly crafted expectations and obligations, greater cooperation can be enhanced. It is this notion that leads to the functionalist principle that people can

consequently be weaned away from loyalty to the nation-state by the experience of fruitful international cooperation. For this to be realized, great and deliberate organization must be in place as a result, a common understanding of the end result desired. This in the case of the EAC led to a move towards negotiation for harmonized policies towards a market driven integration initiative. There were however some concerns that at the time of undertaking the integrating exercise. Some members were at an advantaged position over others. A case in point was the case of taxation and in particular Value Added Tax (VAT) and excise duty. This was to lead the arrival at a Common External Tariff (CET) for the region (Oppong, 2007).

With the general aim of attaining greater general welfare for the citizenry, functionalism tends to paint a picture of an EAC that will attain an equalization of social conditions that would result in economic development. Should this fail, then a conflict is to be expected. Individual citizens will evaluate the gains realized or lost during the integration vis-à-vis those prior to the integration process. It is vital to note that whereas the populace would anticipate rapid changes in their economic standing results of tangible economic growth leading to economic development would most likely not be witnessed in the short run- This is the period in which enabling statutes and mechanisms meaningful integration are to be effected and policies found not to be working as initially conceptualized monitored and reviewed. The most immediate reaction would be a shift towards mistrust of the integration, if no tangible benefits are realized in the short run, citizens might pressure their governments to reconsider the relevance of the integration body or to demand a pull out altogether. It remains the functionalist assertion that the individual is free to enter into a variety of relationships.

As the EAC moves towards the latter stages of the integration process and in particular the political federation, more observation of the political happenings will best be understood from a functionalist approach. The aspiration of- this highest and most refined facet of integration points to the resilience and determination of the architects and vision bearers of the integration. A political federation can only be formed out of a common belief in the fact that the political and economic welfare of the populations in the member states lies in a common perception or what contributes to the common good for all. This comes against the realization that over the many years that different economic and development paradigms have been tried out in the member countries failure to attain the desired progress is as a result of wrong strategic positioning. This is of particular importance bearing in mind the diverse challenges faced in today's increasingly globalized society. At no other time is a rethinking of the most ideal path for growth and development of the region needed than now. With diverse lessons from the first EAC integration attempt the political leadership has the onus of driving the process at the greatest heights for success.

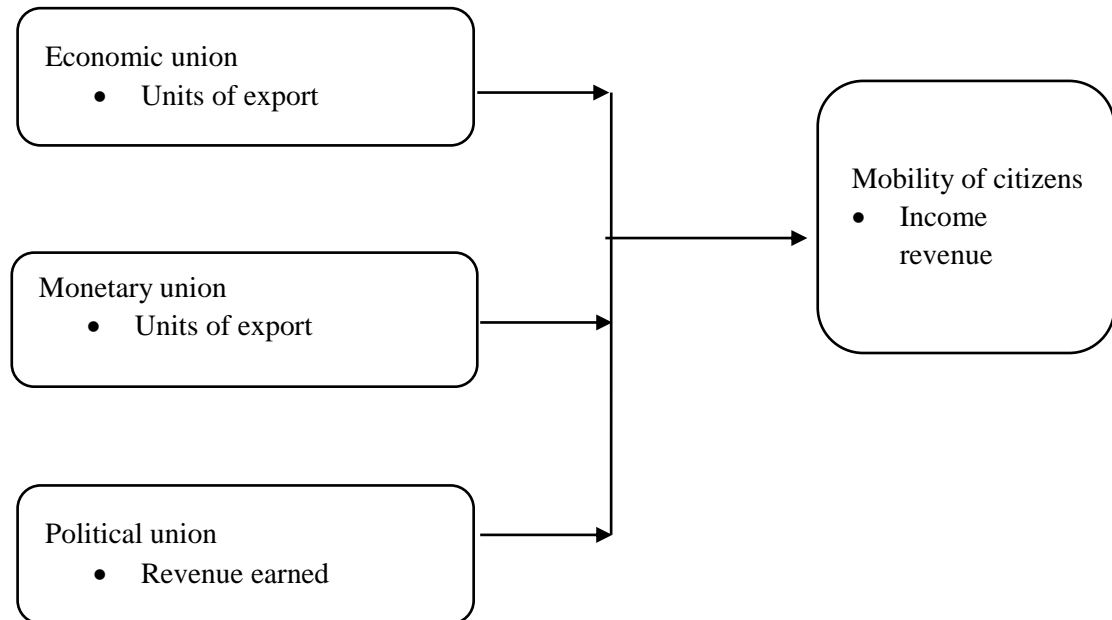
The functionalist strength of separation of the economic and social aspects from the political is convenient when separation of the three aspects is required for a detailed understanding of the integration. In as much as the three aspects are greatly interconnected, some element of isolation is necessary to allow for a focused scrutiny of the integration. Its logic of attaining functional cooperation finds great applicability in the EAC where member states have provided for the formation of a political federation. This would greatly neutralize the problem of ceding national sovereignty to a supranational organization.

Functionalism has been reviewed over time in explaining the role of supranational entities. For instance, it fails in analysing the total environment within which

functional arrangements would diminish the need for state-centred political Structures. This is supported by the fact that up to date no supranational organization has come up in the ideal form. The UN is yet to attain such a Status. Secondly, the issue of human welfare is an idealistic utilitarian social undertaking that presupposes that human conduct can be guided. This however finds support in that all pursuits of more are geared towards attainment of a better life at least for himself if not for others. Perhaps the biggest weakness than can be pointed out about this theory is its positioning in time. It was developed at a time when Mitrany saw international economic and social cooperation as pre-requisites for solution of political conflicts and elimination of war. One may argue that in the twenty first century interactions, the interconnectedness of the global age has made the occurrence of war less frequent affair, trust as this may be one cannot however ignore the fact that in every State there is the natural urge to assert itself in terms of the pursuit of its national interests. These unfortunately may not always be for the good of the population since bad aspirations by a few individuals can be branded national interests,

The potency of functionalism particularly in informing an understanding of the case of the EAC lies in the fact that it sets out with the objective of translating itself into a political federation as the ultimate goal. This aspect alone sets it apart from other approaches in that by seeking to create a supranational political entity, it provides an ideal opportunity for its assumptions to be tested. The cases where functionalism has been used to analyse regional happenings and in particular Europe have led to a negative verdict being passed the functionalist approach. The numerous modifications that succeeded it prove that their proponents saw great weaknesses in this approach. Different happenings like the EAC and the different model for its

integration begs for a chance to relook at the efficacy of functionalism in its original farming



**Figure 2.1: Conceptual Framework**

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the methods and procedures followed in conducting the research with the aim of evaluating the relationship between economic integration and mobility of citizens between partner states. The chapter, therefore, presents data collection and analysis, validity and reliability and ethical considerations.

#### **3.2 Research Design**

This study seeks to investigate the relationship between Common Market Protocol and mobility of citizens within the East African Community. According to Denvir & Millet (2003), a research design provides the glue that holds a project together. The design is used to structure research, to show how all the major parts of the project, which include sample or groups, measures, treatments or programs, and methods of assignment that work together to try to address the central research question. This study shall adopt a descriptive design that aimed at establishing the effect of adoption of Common Market Protocol and mobility of citizens between partner states. Because the study seeks to establish a relationship between two variables the research employed a descriptive research design. (Kothari, 2004) describe a descriptive research design as a methodology that seeks to portray the characteristics of a particular individual, situation or a group accurately.

#### **3.3 Study Area**

The study area is the East African Community which is constituted of six countries including Burundi, Kenya, Rwanda, Uganda, South Sudan and Tanzania. However, given the lack of data and documentation from South Sudan, it is not analysed here.

The research was primarily based on analysis of existing documents, where possible some data was derived from the foreign embassies of individual states.

### **3.4 Data Collection Methods**

#### ***Types of Data***

This study used both primary and secondary documents. Primary documents included the treaties signed by the partner states including the EAC Founding Treaty (1999), the Customs Union Protocol (2005), and the Common Market Protocol (2009). Government reports, reports from the EAC secretariat were also considered primary documents. Secondary data was obtained from both published and unpublished materials including peer reviewed journals, text books, thesis and government documents in libraries and the internet and from websites of ministry of foreign and internal affairs. The study also used available secondary data sources such as the World Bank Reports, African Union documents as well as periodic reports. Comparing the different sources help to validate the effectiveness of the secondary data collected.

### **3.5 Data Analysis**

Since the research was mostly desktop review, two strategies were deployed for data analysis. The first was to arrange the documents in terms of the themes already identified in the research statement which included legal and policy documents such as treaties, protocols and legal texts from the various countries. The other theme is the report on trends, patterns and types of migration, some of the sources include research reports IOM, EAC secretariat, World Bank, United Nation Development (UNDESA). The third theme is the success and challenges which has been addressed by several reports from EAC itself, reports from member states and the media.

After arranging documents according to themes, we proceeded to do content analysis to understand the implications and meaning of the documents what they entail in terms of implementations. The discussions that are presented in the next three chapters is therefore a reflection of this process.

### **3.6 Ethical Considerations**

Some key ethical issues arise across the stages and during the research process. Research methods for business students (third edition). Everyone involved in a research project or process is responsible for maintaining good ethical standards. The following ethical standards shall be observed among others: (Saunders P et al., 2007). This research has been designed and was reviewed and undertaken to ensure integrity and quality. The research subjects will be informed fully about the purpose, methods and intended possible uses of the research, what their participation in the research entails and what risks, if any, are involved; The confidentiality of information supplied by research subjects and the anonymity of respondents shall be respected; Research participants will be involved in a voluntary way, free from any coercion;

## **CHAPTER FOUR**

### **LEGAL AND POLICY FRAMEWORKS FOR FREE MOVEMENT OF PEOPLE IN EAC**

#### **4.1 Introduction**

In this chapter, we analyse the legal and policy framework set up by EAC to regulate the free movement of citizens. These legal frameworks include the founding treaty which is by and large a political commitment. Then we look at the Common Market protocol which investigates the relevant pillars necessary for creating a common market including free movement of goods, labour and capital. We also examine some of the specific steps that each member state is expected to take in order to realize the objectives. The chapter concludes by assessing the attempts at the empirical implementation of the policies and laws.

Although there has always been movement within the East African countries, the 1967 treaty ensured that mobility was one of the key elements of the cooperation. While it acknowledged that the collapse of the EAC had a strong bearing on the movement of people, goods, and services, it is unclear how the volumes, patterns and trends of movement were actually affected. However, the collapse was preceded by civil conflicts especially in Uganda that generated refugees and asylum seekers.

#### **4.2 EAC Founding Treaty and Free Movement**

The EAC founding treaty is quite categorical on freedom of movement of people, goods and services. Under article 104 of the founding treaty, the partner states resolved to formulate measures to achieve free movement of persons, labour and services and to enjoy the right of establishment and residence of their citizen within the community. It says in part

‘The Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community’ (Part 1)

This was to be followed by further agreement as member states were required to ‘.....the Partner States agree to conclude a Protocol on the Free Movement of Persons, Labour, Services and Right of Establishment and Residence at a time to be determined by the Council. (Part 2)

The treaty remains largely a statement of intent before it is domesticated by each member state and implemented. Overtime there have been some progress made as regards the implementation, but almost all targets that require political decision making and legislations have not met the timelines. The Common market protocol discussed below gives a detailed process of implementation.

#### **4.3 EAC Common Market Protocol**

The most significant framework that directly and extensively address the question of movement and migration in EAC partner states is the Common Market Protocol that came into effect on the 1<sup>st</sup> July 2010. It encompassed migration and mobility at different levels. Article 5 of the protocol provides for the rights and freedom of citizens with regard to mobility which includes ease of cross border movement of persons, adoption of integrated border management, removal of restrictions on movement of labour, services and the right of establishment and residence with the borders of member state.

For the purpose of uniform identification of EAC citizens in relations to Article 8 of the protocol, the member states agreed to establish a common system of issuing identification documents to their nationals. Article 9 provides that citizens are expected to use a valid common standard travel documents. States also have the

latitude to use machine readable and electronic national identity cards as travel documents.

Article 10 of the protocol in addition guarantees free movement of workers who are citizens of other partner states within their territories. In addition, citizens of partner states enjoy the freedom to apply for employment on partner states, conclude contracts and enjoy the rights and freedom of association.

Under Article 11 the partner states agreed to mutually recognize the academic and professional qualifications granted by member states, experienced obtained, licenses or certificate granted in other states and to harmonize their educational curricula, examination standards, certification and accreditation of education and training institutions. This article was meant to achieve the complete free movement of labour within the EAC.

Recognizing that there are differences in labour policies within the member states, Article 12 provides that partner states to harmonize labour policies, laws, and national laws and programmes to enable free movement of labour within the community. In addition, national social security policies laws, and systems of partner systems of partner states were to be reviewed and harmonized.

Establishment of citizens of partner states is provided for in Art 13 and 16 which allows nationals of partner states to establish business and provide services within their territories. Article 16 allows the free movement of service, supplies who are nationals of partner states within the community.

#### **4.4 Implementation of the provisions of Common Market Protocol.**

##### **A. Awareness**

The EAC in its reports has decried the lack of awareness as one of the biggest Non-Tariff Barrier to integration process. Lack of information creates loopholes for corruption or simply misapplications of the regulations of the CMP regarding free movement of people, goods and capital (EAC,2019).

Due to the slow pace and teething problems of the implementations, the EAC secretariat has organized several sensitization workshops and training sessions the latest being one in Moshi Tanzania held on June 2019 for labour and immigration officers from the member states. The aim of this particular workshop like several others before it was to enhance skills of the officers and improve the capacity to implement the EAC Common Market Protocol. This workshop was a follow up of previous ones carried out since 2014 (EAC, 2019).

On the Protection of refugees, the EAC and UNHCR signed an MOU on 9<sup>th</sup> March 2010 which among other things identified 5 areas of cooperation including conflict prevention and peacebuilding, Early warning and response, movement of persons, immigration and movements and the promotion and protection of human rights within the EAC.

##### **B. Issuance of EAC E-Passport**

Following the agreement to issue common travel documents some member states have already rolled out the E-Passport. Since 2018 Kenya, Uganda and Rwanda have issued the common E-Passport. The passport has certain common features including a chip that has the same information that is printed on passport front data pages, the holders name, date of birth and other relevant information. It also holds a biometric

identification, a digital photo and security features to prevent an authorized scanning. The passport serves the dual purposes as a travel and identification document. The passport can now be used for travel outside of the EAC community and slowly gaining acceptance. However, Burundi has not implemented the E-passport due to lack of requisite capacity while Tanzania had committed complying by 2019 although the process is still going on.

### **C. Tourist Visa**

In compliance with the CMP, Kenya, Uganda and Rwanda initiated the common East African Tourist Visa in 2014. The Visa allows holders access all the three countries during its validity for a maximum of 90 days. Tourism is understandably a mobility based industry and its important that both tourist guides and the tourist themselves can cross the borders without any hindrance. The Visa costs only USD 100 (Ksh. 10 000). The Visa can be applied for online currently which makes it easy for travellers to apply before they travel. Rwanda reported that in 2014 just a few months after adopting the tourist Visa, collection fee went up and it collected USD 45 200 instead of the usual USD 18 000. However, this Visa does not take away the authority of member states to have specific other requirements including security and public health clearance. After 5 years wait, Tanzania also adopted the EAC tourist Visa in 2019. Burundi and South Sudan have yet to adopt the Visa.

### **D. Work Permits**

The CMP stipulates two types of work permits. The first is issued to those who have received offer of employment in a partner state. The second permit is for those who are self-employed or engaged in economic activities. According the CMP regulation (6) a citizen from partner state can apply for work permit in partner state as long as it

is done within 15 days of entry. According to Annex ii of the CMP, regulation (15) work permits can only be given to a certain category of workers. All the member states have specified the types of professionals and occupations from EAC they grant work permits. Although this is seen as discriminative in some quarters, some progress has been achieved. Kenya, Uganda and Rwanda removed work permit fees for EAC citizens. Tanzania still charges USD 500 for work permits from EAC citizens. In Burundi work permit is charged at 3% of total annual earnings for those employed.

The second type of work permit is covered under the Annex iii, which entails the right to establishment. According the regulation (6) self-employed individuals are expected to apply for work permit within 30 days as they wait to establish themselves. They are then issued with special pass which allows them to engage in economic activity in the territory of their host states. To be granted work permit, self-employed persons need to have proof of enough capital, license or registration and proof that one is currently involved in what they are applying to undertake. The work permit is for an initial period of two years with the possibility of renewal. States however still retain the right to deny, cancel or revoke work permits as provided for by regulations 7 and 8 of Annex iv.

However, the fee waiver in the other states does not mean that citizens should not have the work permit. They have to apply and be granted the permit except the fee is waived. This means that partner states still have the latitude of refusing to grant work permits to EAC citizens. According to East Africa Business council, the different countries have additional requirements which are not within the regulations (EABC, 2018).

## **E. Resident Permits**

According to annex iv of the protocol, EAC citizens can apply for resident permits on the basis of having been granted work permit or dependant pass. In this case work permit covers both who are employees and those who are self-employed in the territories of a partner state. To apply for resident permit one has to produce a valid identification documents as well as a work permit or dependant pass. The permit is supposed to be issued within 30 days of application. This implies that the duration of resident permit is tied to the duration of the work permit. While these regulations are in place, data that can guide the improvement of such policies are patchy from all the government bodies concerned. The partner states including Kenya, Burundi, Uganda and Rwanda have removed fees requirement for resident permit for EAC citizens.

### **4.5 Refugees and Asylum Seekers**

With regards to refugees and asylum seekers which is a broad reality in the EAC, Art 124 (5) (H) of the treaty partner states agreed to establish a common mechanism for management of refugees. Article 7 (8) of the protocol recognizes that movement of refugees will continue to be governed by the relevant international convention.

The EAC recognized at the outset that migration occupies ‘a very central place in the regional integration process’. Effective management will lead to realization of the core objectives of the EAC Common Market Protocol which is characterized by free, safe and orderly movement of persons. The EAC is also alive to the realities that migration has its own dynamics, challenges including irregular migration, human smuggling and human trafficking and other cross border crimes like armed robberies and motor vehicle thefts.

he benefits of cross border migration include increased legal labour migration, which positively contributes to remittances, transfer of technology, increased cross border trade which benefit both receiving and sending countries.

## **CHAPTER FIVE**

### **PATTERNS AND TRENDS OF MOBILITY AND FREE MOVEMENT IN EAC**

#### **5.1 Migration Data in East Africa Community**

Accurate migration and mobility related data in EAC continues to be a challenge. While the EAC countries have tried to document different categories of migrants in their national data bases such as the national censuses, they are far from accurate for several reasons. Researchers and policy makers have had to do with estimations with hope that such information can then be used to as basis for building more accurate information. In 2000, before the EAC became fully functional, the World Bank estimated that a total of 777 678 people migrated within the partner states of EAC. When the Customs Union took effect in 2010 there was almost 80% increase with 1 154 377 people migrating. In 2013, the number declined to 1 106 487 (World Bank, 2013).

Examining migration within the EAC by regions of origin it becomes apparent that interregional migration remains the most dominant form of mobility within the EAC. Documentation indicates that nationals of the partner states constituted slightly about 50% of all migrants within the region by 2000. In 2013 as a result of the customs union the percentage increased to 52.8% although this is still lower than Europe at 59% partly because the European Union has reduced the barriers to movement (Shimeles, 2010)

**Table 3. Kenyans residing in other East African Countries**

Country	1960	1970	1980	1990	2000	2007	2019
Uganda	2853	33 323	39 950	46 795	35 108	33 571	
Tanzania	17 062	39 074	38 473	37313	61 151	123 410	
Rwanda	643	572	953	1431	4634		
Burundi	551	534	867	1226	3973	2743	

1. World Bank, *Migration and Remittances Fact book*, 2013.

#### *International migration*

Migration in East African countries is dominated by immigration from other African countries and also emigration to partner states. The region including Ethiopia and Djibouti holds about 4.2 million international migrants representing 21% of all international migrants in Africa (ACP, 2011). The EAC partner states host 63% of 4.2 million international migrant stock in the larger East Africa region. It is estimated that between 2005 and 2010 international migrants increased by around 10000. Kenya with a larger economy hosts 17.8%, Tanzania 15.7%, Uganda 15.4% and Rwanda 11%. However, within the same period Tanzania experience negative international migrant growth of -.3.8% due to naturalization of former Burundian refugees numbering about 155 000. Uganda experienced -.02 % while Burundi -5.9 % (ibid). While the majority of cross border migration is within the EAC, the characteristics of the migrants in not known. For example, education, skills and how each of the labour markets responds to them. The EAC labour migration protocol will intensify these movements and further reformulation of policies based on accurate data are need to reduce friction between member states.

## 5.2 Intra-Regional Migration

Intra-regional migration remains important in the EAC because of shared borders, variation in seasonal climate and a shared colonial history. Some of the major drivers of migration in the region remain education, cultural ties, commerce and labour (Black 2004; Shitundu 2006; Nyaoro, 2010). While this data forms a basis for further research it is far from accurate or comprehensive. Furthermore, lumping about 11 countries in the region together does not allow for much detail. It is estimated that 40% of all migrants within the EAC partner states are from Member states. Uganda at 82% and Tanzania at 87% have citizens from other EAC members among the international migrant stock. Of the 395 000 international migrants in Kenya 65 % are from EAC (KNBS, 2010). The migration data in EAC like in the rest of Sub Saharan Africa is missing, incomplete or out dated (World Bank, 2011). While UNHCR compiles credible estimates of refugees and asylum seekers in the region, Intra-regional migration is not well documented. This implies that policy formulations are based on inaccurate information or non-existent data. Indeed, reactions by partner states negate the very spirit of free movement in the region. Kenya, Uganda and even Tanzania have occasionally apprehended and jailed citizens of the region for being in their country illegally. While the relevant data for this type of migration can be gleaned from UNDESA and UNDP, it is general and has not been disaggregated for consumption.

Some data indicate that Kenya has diverse migrant population with only 16 % being citizens of EAC partner states. Burundi and Tanzania have the highest number of EAC citizens residing in their territories. For Burundi, 70% of all migrants are EAC citizens while for Tanzania, the proportion is 59% with Uganda following at 51%. Intra-regional movement therefore remains the most important form of mobility in the

region confirming what other researchers have indicated before (Adepoju et al nd, De Haas, 2016)

### **5.3 Labour Migration in EAC**

Modern Labour migration in the EAC begun in earnest with advent of colonialism. The Kenya Uganda railway construction first brought migrant labourers from their Indian colony. The European settlers then introduced commercial large scale plantation which required cheap labour in Kenya, Uganda and Tanzania (Kyle, 1996). The World System Theory) attributes this migration to the disruptions caused by nascent capitalism. Labour migration remains an important flunk in the migration continuum in EAC. In colonial times, labour migration was oriented from Rwanda, Burundi and Zaire to Kenya, Uganda and Tanzania (De Haan, 2000). The post independent EAC was characterized by rapid rural-urban migration which prompted Todaro to develop his model of explaining of labour migration argument based on studies in Kenya (Todaro, 1969). The first EAC on its part allowed free labour migration within the region until its collapse in 1978 (Black, 2004). Oucho (2007) identifies the following labour related migration

- A) Rural to rural migration – hundreds of thousands of East Africans found themselves in coffee, tea, sisal and cotton plantation which entailed , moving from ones rural home to another rural area (Black )
- B) Rural-urban migration- East Africans also moved to work in agro-based industries in urban areas, or as domestic workers for government officers
- C) Urban to urban migration-Also called urban circulation, either because of the nature of work or the skills that individuals have
- D) Seasonal migration-mostly in agricultural and fishing sector.
- E) Migration of highly skilled persons working with international organizations, regional organizations, higher education sector and cooperate organizations
- F) Undocumented / irregular labour related migration

While there is

evidence of these types of migration in each partner country, there is little information.

The CMP differentiates workers from business people and other service providers and grants workers; a) *Apply* for employment; b) Accept offers of employment; c) Conclude contracts and take up employment in accordance with the said contracts, national laws and administrative actions without any discrimination; d). Move freely within the territories of the Partners States for the purpose of employment; e). Stay in the territory of the Partner State for the purpose of employment (right of residence); f). Enjoy freedom of association and collective bargaining for better working conditions in accordance with national laws of the Partner State; g). Enjoy the rights and benefits of social security accorded to workers in that territory; h) Be accompanied by the spouse and child who are entitled to be employed or engage in any economic activity.

#### **5.4 Education Related Mobility**

Education remains one of the key drivers of intra-regional mobility especially at tertiary level. In East Africa this can be attributed to the fact that the British Colonial government set tertiary colleges that served the entire East African colony. For example, the Federal University of East Africa was established in 1948 in Makerere Uganda (Oanda and Matiangi, 2018). Although the university was eventually split with Kenya, Tanzania converting their colleges into universities the relationships remained fairly strong. Although the EAC collapsed, the Inter University Council of East Africa is one of the institutions that remained and was revamped upon the signing of the founding treaty in 1999. The IUCEA was mandated to develop systems that among other things would enhance students' mobility and labour across the partner states and enhance the economic transformation of the region. The Heads of

states through a declaration in 2017, committed to establishing a common framework of reference to facilitate comparability, compatibility and mutual recognition of higher education systems and qualifications attained with the EAC.

The CMP in Annex i gives regulations regarding student mobility in the region. First students are expected apply for student pass upon receiving admission or within 30 days of arrival of the partner state. Such a student would require a valid travel document, a letter of admission, confirmation of sponsorship or availability of funds to support their education. However, those enrolled for short courses of less than two months do not require a student pass. Member states including Rwanda, Kenya, Uganda also agreed to charge citizen of partner states the same fees as nationals.

The student pass however prohibits seeking and getting employment in partner state unless it is course related internship or industrial attachment (Regulation 7, Annex I). In case a student pass holder gets employment they are required to apply for appropriate work permit following the laid down procedures.

The table below indicates the enrolment of East African Citizens in Each of the member country by 2012. South Sudanese citizens are not included though a significant number are in Uganda and Kenya.

**Table 4: Enrolment in Tertiary Institutions by Nationalities within the EAC**

<b>Country</b>	<b>Burundi</b>	<b>Kenya</b>	<b>Rwanda</b>	<b>Tanzania</b>	<b>Uganda</b>	<b>EAC</b>
<b>Burundi</b>	19 920	67	220	206	310	20 723
<b>Kenya</b>	10	250 029	56	690	8316	259,101
<b>Rwanda</b>	129	35	76 022	219	1469	77 874
<b>Tanzania</b>	30	357	60	165 513	612	166 572
<b>Uganda</b>	3	253	101	370	143005	143732
<b>Total</b>	20 092	250 741	76 459	166 998	153 712	668 002

**Source: Oanda and Matiangi, 2018**

While the data is slightly old it is an indicator that education related mobility is thriving in the EAC. States such as Rwanda and Burundi which joined the EAC only in 2009 now send and attract students from Kenya, Uganda and Tanzania. In 2012 about 922 students from other EAC states had enrolled in Burundi. The government of Burundi also entered into a bilateral agreement with Kenya on exchange of students and teachers and the mutual recognition of educational qualifications. According to EAC agreements, there is going to a credit transfer system that would allow students to enrol in any college university with credits earned in any of the partner states.

The member states have also agreed to treat citizens from partner states who enrol in colleges the same way as their nationals in terms of fees payment. 5

### **5.5 Remittances**

A remittance from developed countries to East Africa is better documented than intra-regional remittances (World Bank 2011, Kinuthia, 2013). Kenya and Uganda receives the most remittances from Europe and USA. However, each country in the region has different experiences. The top remittance is Kenya 1.7b USD, Uganda received 773 million USD and Rwanda 91 million USD. Tanzania received 17 million while Burundi only 3 million USD. This totals to about 2.6 billion USD (ACP, 2011). However, the dynamics about this data is hardly known. On the other hand, the region sent out a total of 649 million USD in outflows. Again the destination for these outflows is not clear. It is for example believed that more than 50% of remittances pass through informal channels, some being goods and services. Research in Kenya and Uganda has shown how urban migrants maintain strong links with rural homes and send large sums of remittances. While World Bank, UNDESA and other researchers have documented official remittances each country from outside Africa,

they have not mapped intra-regional remittances. This study will attempt to estimate the volumes from official statistics but also from the migrants themselves.

Inter-regional remittances have improved with implementations of Customs Union and the CMP in recent times. Remittances tends to reflect the number of migrants from EAC countries to the partner states and also remittances from outside the region.

**Table 5: Bilateral remittances in 2014 (in million USD)**

Country Of Origin	Country of Destination					Remittance % from EAC
	Burundi	Kenya	Rwanda	Tanzania	Uganda	
<b>Burundi</b>		1.73	18.07	26.91	1.38	78.35
<b>Kenya</b>	0.27		1.28	36.91	59.45	30.47
<b>Rwanda</b>	6.48	2.72		49.12	185.32	93.91
<b>Tanzania</b>	26.83	111.77	8.81		35.21	31.61
<b>Uganda</b>	1.99	83.70	22.94	27.17		77-94
<b>Remittance to EAC as %</b>	73.12	12.81	39.87	35.97	26.17	

**Source: World Bank, 2015**

As an indicator of migration, remittances points to how mobility works in EAC. Partner state such as Burundi receives considerable percentage from EAC countries. While the percentage Kenya receives does not look much the volume is more and although this is submerged in the remittances figures from outside the EAC region. Some disparities may also reveal the source of fear that countries such as Tanzania have. For example, while Kenyans in Tanzania remit about USD 111 million in 2014, Tanzania only received USD 35.2 Million only (World Bank 2015).

## **5.6 Refugees and Asylum Seekers in EAC**

The migration stream is dominated by refugees and asylum seekers flows especially from Southern Sudan, Somalia and Democratic republic of Congo. By 2010 there were about 1 million documented refugees (ACP, 2011). The undocumented numbers may be even higher. Burundi who is a member country continues to be a producer of refugees. The UNHCR has done a commendable job in documenting refugee movement in the region, however the participation of refugees in the labour market has never been actually documented despite the fact the countries such as Uganda have more liberal attitude towards refugee integration in the labour market.

In 2010 Internal Displacement Monitoring Centre (IDMC) projected that there were about 3.5 million internally displaced persons in the larger East Africa region (IDMC, 2010). However, 44% of them are in Somalia and not within EAC. However, Uganda has 12.6%, Kenya 11% and Burundi 2.5 %. (the case of Burundi is likely to have changed since 2015 because of disputed elections. Hosting a large number of displaced persons may have impact on labour markets. For example, reduced production due to conflicts may mean surplus labour within a given region.

The refugee and asylum seekers numbers in EAC regions is relatively high compared to other parts of the continent. For example, by 2017, Uganda became the biggest host refugees in Africa with 1 277 467 refugees followed by 838 722 and then Kenya at 490 656, South Sudan 272 935 (UNHCR, 2017) . Majority of refugees in Uganda are from South Sudan which is a member state of the EAC. Because of the perception that Uganda have more friendly refugee policies compared to other EAC members it has attracted more refugees than others. The implication that in future if member states adopt uniform asylum policies then refugee hosting will be a shared responsibility

whereby once a refugee is accepted in one territory then it is assumed that they will be free to move within the entire region.

### **5.7 Irregular and Undocumented Migration**

East Africa, like many countries in the continent is not free from irregular migration. Irregular migration entails many aspects, but broadly defined it ‘involves crossing border without proper authority or violating conditions for entering country (Jordan and Duvell, 2002:15). These could be migrants who enter a country irregularly or those who become irregular because of failing to renew their permits, visas or meeting other laid down requirements. Countries in the EAC including Kenya, Tanzania and Uganda have been cited as either origin, transit or destinations of irregular migrants. Because of first changing political, economic and social context, coupled with heavy bureaucracies, irregular migration is common in EAC (Merchand et al, 2016).

Closely related to irregular migration is the problem of human smuggling and trafficking. Given the underground nature of these activities there are no clear numbers however, Kenya and Tanzania are claimed to be transit points to the southern route of human smuggling especially of persons from the Horn destined to Southern Africa. These are problems that would require collaboration between the partner states to manage without causing friction.

## **CHAPTER SIX**

### **SUCCESS AND CHALLENGES FACING FREE MOVEMENT IN EAC**

#### **6.1 Achievements**

##### **6.1.1 Integrated Border Management System**

Border management is a key mechanism for economic integration and overall mobility and migration management. It is noteworthy that within Economic blocks border management acquires more of an administrative understanding than the traditional militaristic views of border controls and patrols. Border management in RECS entails both the facilitation of travel of people as well as controlling movement without creating hurdles. In the EAC, managing migration is seen as a key responsibility of national governments, facilitating effective international relations and full participation in regional institutions (EAC, 2015).

Like all other social and economic process migration does have both positive and negative consequences thus need for better and collaborative efforts. Transparent and comprehensive border management can therefore help reduce the negative impacts while promoting the positive aspects. For example, better border management facilitates the bonafide travellers by allowing efficient passage of entry and exit but provides disincentives to those who seek to circumvent legal entry requirements. Current border system management includes trained personnel, audit capabilities, inter agency and international cooperation and partnerships with carriers and industries from all the partner states.

In order to institute effectiveness border management, the partner states were required to advice the council of ministers on steps to be taken to ease border crossing for citizens of partner states, reciprocal opening of border posts, operational hours of border posts, manning of such border posts, infrastructure required and standards

needed for border management. Partner states were also to guide on the harmonization of immigration procedures and evaluation of border management.

### **6.1.2 Twenty-Four Hour Border Management**

Before the CMP came into effect there were a lot of delays in crossing borders because of the multiple clearance and certifications required. This was worsened by the fact that borders only operated for 8hrs a day or at best 12 hours. This created backlogs especially on the Kenyan side. CMP allowed for the harmonization of immigration and clearance procedures which has greatly reduced the time taken at the immigration offices and the clearance of goods.

### **6.1.3 One Stop Border posts**

One of the commitments was to create one stop border posts that would integrate immigration clearance, goods inspection and security checks. This has been largely accomplished as there are now more than 13 one stop posts in the region. The one stop border posts are credited with greatly reducing travel period between Mombasa-Kampala Kigali from 30 days to about 9 days which although still long is tremendous improvement.

In Kenya the following border posts operate on a 24-hour basis; Jomo Kenyatta Airport, Mombasa International Airport, Namanga, Lunga Lunga, Taveta, Malaba and Busia (Ogolla, 2014).

### **6.1.4 Increased Trade and commerce**

From 2000 onwards there have been significant increase in inter-regional trade in terms of volumes. The customs union and the removal of external tariffs has contributed to this improvement but also the CMP. The Society for International Development estimates that intra-regional trade increased from USD 2.2 billion in

2005 to USD 4.1 billion in 2010, which over 95% within a period of 5 years. The EAC secretariat estimates that there was about 40% growth from 2005 to 2009 before CMP took effect, meaning that after upon the adoption of CMP in 2010 there was a huge increase in the volume of trade (EAC, 2011:9).

The CMP has also heralded some changes. For example, Uganda Exports to Kenya increased from USD 15.5 Million to USD 172 Million in 2009. Tanzania's exports to Kenya increased three fold from USD 95.5 Million to USD 300 million during the same period (Mwapachu, 2016). This phenomenal growth is attributed to the implementation of the customs union even before the CMP took effect. However, the disagreements over issues of rules of origin keeps cropping up and creating disagreements between Tanzania and Kenya and Kenya and Uganda. This is worsened by the fact that each of the partner states belong to more than one REC (Cooksey, 2016)

## **6.2 Challenges**

### **6.2.1 Inhibitive Regulatory and Legal Frameworks of Member states**

The different countries still retain laws and regulations that undermine the spirit of the CMP and free movement of citizens of EAC. A brief look at each of the partner states illustrates this point.

#### **A) Uganda**

According to Ugandan authority, free movement within its territory is not absolute is only allowed to promoted the public welfare and in the best interest in the country especially for public health and national security. For this reason, Uganda only gives visitors pass for maximum of two months or 60 days against CMP stipulation of 6 months for EAC citizens. However, Uganda joined Rwanda and Kenya and removed

the requirement to pay for work permit from EAC citizens in 2015 in a reciprocal basis. Citizens are however still expected to apply for work permit even though they are not charged for it. This does not mean that the application for work permit cannot be declined. Secondly students from EAC are free to enter and register in Uganda but they require pupils pass within 15 days of entering Uganda.

## **B. Rwanda**

Rwanda provides EAC citizens with visitors pass for maximum of 6 months without the requirement for a visa. For work permit, Rwanda used to levy Franc 20 000 for work permit, trade, business, services, semi-skilled workers and artists from the region. However, in 2012, Rwanda removed the work permit requirement on a reciprocal basis becoming the first EAC partner state to do so. For EAC citizens learning in Rwanda, they benefit from the same fees as nationals and are entitled to apply for government of Rwanda support.

## **C. Tanzania**

Tanzania has two sets of laws that apply to free movement of people. One set of laws apply in mainland Tanzania while the other set of laws apply only in Zanzibar. Tanzania had been slow in implementing CMP resolutions because of the fear by the public of the public and nationals of losing jobs and opportunities to migrants from partner states. This fear is attributed to the fact that Kenya and Uganda have comparative advantage when it comes to language especially English which is the language of business. Tanzania is therefore apprehensive of social dumping, inadequate national capacities, fear of economic losses and the reluctance of Tanzanian citizens of moving to partner states. So far Tanzania and Burundi still charge EAC citizens for work permits The EAC Business Council observed that in

2018, Tanzania imposed a fee of USD 500 for work permit to allow workers from partner states into Tanzania (EAC Business Council, 2018).

#### **D. Kenya**

Kenya on the other hand has put age restrictions on those wishing to move for employment purposes at a minimum of 35 years. In addition, employers have to ascertain that such people will be earning a salary of USD 2000 monthly who can enter the labour market. This is despite that only a very small fraction of Kenyan workers earns USD 1000 a month. Strictly speaking such requirements only allow those employed by UN or huge multinationals to work in Kenya.

Kenya and Tanzania still have problems concerning these requirements and in 2017, Tanzanian authorities expelled Kenyans doing business for lack of proper documentations and payment of fees, Kenya retaliated and expelled Tanzanians working in Namanga town back to Tanzania. These measures often discourage people besides occasioning business losses and creating unemployment.

#### **6.2.2 Bureaucratic and Capacity challenges**

Given that most of the implementations have to be carried out by the partner states themselves, the lack of capacity remains a critical challenge especially in creating enabling environment with dedicated resources, technology and personnel to help achieve the intended goals. For example, all partner states have not carried out labour market surveys to allow them review the schedule on free movement of labour/workers. So to date the schedule has not changed yet the labour market is rapidly evolving. Because of bureaucracy there is always delay of issuance of work permits delay in the issuance of residence permit. Such delays not only inconvenience but also create opportunities for corruption and exhortations.

### **6.2.3 Arrests and detentions**

One of the troubling challenges to free movement of EAC citizens is the frequent arrests and detention by authorities in partner states. The arrests of citizens is quite common and is done by all the member states. For example, within the shared waters of Lake Victoria, Ugandans, Kenyans and Tanzanians authorities routinely arrest fishermen from the other countries ostensibly for illegal fishing or being in their territory illegally. Often such people are either detained for long periods of time or just sent to jail (East African Weekly, 2019). Even government officers from partner states are immune to such arrests. In April 2019, the Kenya police arrested 5 Ugandan police officers pursuing criminals for trespassing into Kenya near Busia border (Daily Nation, 23<sup>rd</sup> April, 2019). In July 2019, Ugandan authorities arrested 30 Kenyans fishing in Lake Victoria (East African, 27<sup>th</sup> July, 2019). These arrests are often misinformed and have raised concerns among politicians in each of the member states. In Kenyan such arrests have been discussed in the floor of parliament.

While each partner state retains the authority to admit or exclude certain individuals from their territories these arrests do have negative results. First, they undermine the spirit and goodwill of citizens in supporting integration especially those who reside near border regions and secondly, some of them are outright unlawful which creates tension between security officers, border officials and other agencies.

### **6.2.4 Political Disagreements and Border Closures**

While citizens of EAC are desirous of freely movement and conducting their businesses, political differences sometimes stand on their way. For example, owing to political differences, the border between Rwanda and Uganda was closed in February 2019. Rwanda claims that Uganda plays a destabilizing role in Rwanda by supporting

groups opposed to President Kagame's administration. Uganda claims that Rwanda closed the boundary to stop the goods coming from Uganda into Rwandan market.

Uganda on the other hand retaliated by frequent arrests and harassment of Rwandans in its territory. For example, on July 25<sup>th</sup> 2019, Uganda arrested and detained 40 Rwandan nationals in Kampala accusing them of being a threat to the security of the country (New Times of Rwanda, 26/ 11/ 2019). In November 2019, Uganda up scaled and arrested 200 Rwandans in Kampala without valid explanations (Ariadolu, 25/7/2019). Unverified reports claim that Ugandan citizens who try to cross Rwandan borders are shot on sight.

Just as political differences between leaders was evident and contributed to the collapse of the initial EAC, the current EAC leadership also seems to experience the same differences. The political leadership of Uganda and that of Rwanda are proving to be a hindrance to free movement of their citizens which undermines the objective of achieving the goals of the Common Market Protocol.

#### **6.2.5 Political Instability, Conflicts and Violence around EAC**

Conflicts and tensions with the larger East African region and the Great Lakes area continue to complicate the pace and deepening regional integration. For example, while Somali and Democratic Republic of Congo are members of the EAC but the political instability and violent conflicts spill over to neighbouring countries. The EAC countries have not taken a uniform strategy of dealing with such issues. Tanzania is reported to be at loggerheads with Malawi, Burundi and Rwanda although the election of Dr Pombe Magafuli as President of Tanzania has seen relationships with Rwanda improve (Cooksey, 2016:21). Kenya has been accused as not being neutral in dealing with Somali Conflict, while Uganda and Rwanda have been

accused of supporting different factions in DRC. While there might be little evidence to support such allegations, they can potentially create mistrust between partner states. This is further complicated by the hundreds of thousands of refugees from these countries within the different partner states. Militant groups especially Al Shabaab have used Somalia territory to launch deadly attacks in Kenya and Uganda creating security complications for the region.

Although the number of violent conflicts in EAC have significantly reduced both Burundi and South Sudan still have unresolved issues and large number of displaced persons. The civil war in South Sudan creates insecurity and lawlessness that prevents free flow of goods and services in and out of the country. The different groups still abduct aid workers, transporters and non-citizens in their territory. Lack of one central authority means redressing disputes is still problematic. Uganda while hosting the largest number of refugees from South Sudan has been severally accused of being involved in the conflicts.

These conflicts and tensions not only create bad blood, they also slow down any implementation of agreements reached by partner states. The disruption of public order in South Sudan for example, forced heads of partner states to consider suspending their membership. It also means that significant resources are diverted towards security forces rather than creating capacity in areas that would improve free movement of goods, capital and labour.

### **6.3 Conclusions and Recommendations**

This research set out to analyse the contributions of Economic Integration towards free movement of people within the East African Community. A detailed analysis entailed examination of legal and policy frameworks that have been put in place to

regulate movement. The second level of analysis was to assess the patterns and trends to see if there have been significant changes in movement of people as a result of the Economic integration. The task was to evaluate the success and challenges experienced by citizens of EAC in moving within the region.

Our findings indicate that the aspiration for freedom of movement is captured in the EAC founding treaty and elaborated in the Common Market Protocol which gave member states a period of 5 years to domesticate the protocol and implement the regulations governing free movement. The EAC partner states were expected to remove visa requirements for citizens, issue a common passport and similar travel documents, issue free work and resident permits and allow for equal employment and rights of establishment. While the member states have taken initiatives, they are not at the same level and the timelines have not been uniformly met. Some member countries such as Tanzania are reluctant to cede some of their authorities to EAC because of unequal economic development but also because of strong nationalistic sentiments within the population. Even in states such as Kenya and Uganda where some progress has been made, the governments still retain reservations on what type of professionals can be granted work and resident permits. Kenya has stipulated that only professionals who will be earning USD 2000 and are above the age of 35 years would be permitted which locks a large section of youths from the EAC partner states (EACBC, 2018).

In terms of trends on mobility in the region, it is evident that since the customs union came into being, followed by the CMP, there has been increase in the ease of movement for citizens within the partner states. However, owing to limited capacity of government agencies in collecting data it is not possible to accurately state the numbers. However, it seems that the biggest achievement of CMP is to regularize and

formalize a process that has been going in the region without government involvements. Labour migration as well as education related mobility still remain the largest areas of mobility within the region. While trade and commerce has tremendously increased, it is not clear by what percentages EAC member states have changed their residences. Conflict induced mobility also remains a large part of movement in the region although the partner states have not come out clearly on how to collectively protect refugees. It seems each country follows its own policies unlike what happens in the EU. While dialogue has been going between EAC member states and UNHCR to find a common ground, Tanzania has become less friendly to refugees and asylum seekers from EAC. While the government of Tanzania had naturalized 162 000 refugees in 2014, it also expelled Burundi refugees during the same period.

While challenges on free movement of people remain there are notable successes that can be built upon to make the case for deepening integration. For example, removing the work and resident permit fees is a positive outcome, because it reduces bureaucracy and shortens the time needed to start moving. The adoption of integrated border management systems as well as having borders operate on 24 hours greatly reduces the inconvenience and delays that used to occur at the border points between member states. While such borders are not yet perfect there is a big improvement in the transportation and clearance of goods and services.

#### **6.4 Recommendations**

While the EAC has made great strides in integration effort, much needs to be done which depends on revision of existing policies and enhancing member states capacity to enforce the regulations. Some areas for further investigation should include; analysis of awareness of public officers of partner states on their role in implementation free movement regulations; secondly an assessment of the capacity of

the partner states to implement the regulations in terms of technology, human resources and funds. Thirdly, the partner states should move towards creating a dedicated centralized data base that can help monitor and evaluate the impact of CMP in the integration process. Without accurate and up to date data policies remain blind hardly ever achieve their goals.

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