Uncontrolled Immigration and Transnational Organized Crime in the Horn of Africa

By Cliff Ooga Obwogi

International Peace Support Training Centre (IPSTC)
P.O. Box 24232 - 00502, Westwood Park Rd, Karen Nairobi, Kenya
Author Email: cliffooga@gmail.com

Abstract: *This paper closely examines the role of immigration control policies in countering organized immigration crime in the Horn of Africa with a specific focus on Kenya. It illustrates the impact of uncontrolled immigration on organized immigration crimes in the region and how the Government of Kenya can develop actionable policies on immigration to help fight organized crime. The paper seeks to contribute to the grey literature on immigration which has increasingly been associated with security challenges. It was established that the revised immigration control policies have enhanced regional security through combating organized immigration crimes in the Horn of Africa. The paper further proffers recommendations to policymakers such as those in the Ministry of Immigration, governments in the affected countries in the Horn of Africa region in fighting immigration-related crimes through enhancing their knowledge of improving security through proper management and handling of immigration control policies.*

Keywords: Transnational organized crime, Security, Trafficking, Uncontrolled Immigration, Organized Crime, Border Management

Introduction

On the international stage, there have been reported incidences of organized immigration crimes. These migration-related crimes comprise people smuggling, human trafficking, counterfeit goods trade, terrorism and people obtaining counterfeit travel documents. People smuggling and human trafficking have led to the victims being subjected to exploitation, domestic servitude, slavery, and organ harvesting. Counterfeit goods are a threat to public health and safety. Terrorism disrupts peace, endangers the lives of people, brings violence, worsens humanitarian support and affects education. Moreover, terrorism destroys economic, social-cultural, and political life (UNDOC, 2002).

Fraudulent travel and identity documents are a crucial enabler of organized immigration crime, as migrants enter countries of interest using false documents acquired from criminal syndicates involved in organized immigration crime. Additionally, forged documents are used for

fraudulent visa applications, illegal entry, resident permit applications and in the acquisition of any other legitimate travel documents. Organized immigration crime generates easy money for criminal groups. The proceeds are used to fund other forms of organized crime, thus endangering the lives of the migrants and threatening national security (UNDOC, 2002).

In the case of the Horn of Africa, instances of organized immigration crime through human trafficking, human smuggling, counterfeit goods, terrorism and fraudulent travel documents have been increasing. Both state and non-state actors, national and international organizations have given damning reports on organized immigration crimes as they happen in South Sudan, Ethiopia, Kenya, Somalia, Eritrea and Sudan. The countries have mixed migration which involves cross-border movements of people, including those seeking better lives and opportunities, refugees, and victims of trafficking. The drivers of mixed migration are conflicts, ethnic persecution, climate change, environmental degradation, and desire for a better life. The prevailing conditions create an opportunity for organized criminal networks involved in organized immigration crimes to thrive (Aswani, & Wanda, 2010).

The majority of the illegal immigrants find their way into Kenya. Persons involved in organized immigration crimes across borders undermine immigration control and endanger the national security of Kenya and may cause frosty relations between states as individuals enter or depart from the country illegally. Kenya has frameworks to guide immigration processes and prevent organized immigration crimes. Despite these frameworks, organized immigration crimes continue to be reported among those moving into or out of Kenya. This study, therefore, aims at examining the role of immigration control policies in countering organized immigration crime in Kenya and coming up with recommendations that will aid policymakers to revert the trend(National Crime Research Centre, 2018).

This paper seeks to illustrate the impact of uncontrolled immigration on organized immigration crimes in the Horn of Africa and how the government can develop actionable policies on immigration to help fight organized crime. While immigration has been associated with security challenges that have called for heightened immigration processes, not many studies have focused on immigration management in the regional economic communities, more so focusing on the Horn of Africa. This paper also highlights how enhanced immigration control policies have enhanced regional security through combating organized immigration crimes in the Horn of Africa. The findings will be helpful to policymakers such as those in the Ministry of Immigration, governments in the affected countries in the Horn of Africa region in fighting immigration-related crimes through enhancing their knowledge of improving security through proper management and handling of immigration control policies.

This paper is structured as follows: Introduction, Review on various components related to the uncontrolled immigration and transnational organized crime, Conclusion and Recommendations.

Bureaucratic Model of Organized Crime

In the 1960s, the bureaucracy model of organized crime became known by mafia detectors such as Joe Valachi when he was being interrogated by the US senate. The model was also brought to the fore by Donald Cressey in his scientific work of the Federal Taskforce on organized crime (Standing, 2003). The model is common in criminal justice and it turns up in public debates,

where there are godfathers in charge of a specialized division. In the 1970s, many scientists such as Smith 1975, Albini 1971 and Reuss-Ianni 1972 criticized the organized crime concept. Some of the scientists used empirical findings while others used a theoretical position to confront the model (Haller, 1992). The majority criticized the model as naive and had facts about the criticism. Donald Cressey described the American-Italian families only during a certain period and overemphasized structural features and level of organization (Albini, 1988).

According to UNDOC, "This description of organized criminal groups sees it as a government-like or military-like structure, in which illegal activities are organized and approved by superiors and carried out by lower-level operatives who are part of the group" (UNDOC, 2022).

Critics of the model mostly focus on illegal markets in the emerging markets with a strong state. The model does not put into consideration that organized crime and illegal markets existed before. Groups such as Yakuza of Japan, Russian Mafia Silican Mafia have been in existence, but Paoli (2003) describes them as brotherhoods and that they are tied together by status. A group of people recruited through initiation rituals becomes brothers and they show altruistic behaviour in the long term. The mafia through their bosses expose their capacities and can do anything including risking their lives to reach their goals (Kleemans, 2014). Mafia groups are multifunctional and groups use them to attain certain goals in life.

Transnational Organized Crime, Immigration, and Security

Nearly all countries in the world have experienced organized crimes (Falode, 2021). Transnational crimes are very lucrative as the illegal activities behind them bring out a turnover of trillions of dollars annually (Edwards, 2012). To combat violence, relevant stakeholders have to prevent crime, control and minimize risk. In the international arena, in the 1960s, a number of initiatives were supported to combat crime and one of the initiatives was border management, increased police-community interaction all directed to the society (Bobic, 2014).

Border management on the other hand is a complex process because it comprises actors with conflicting interests. As stated by O'Dowd (2002), borders are places of political and economic opportunity for both the host country and other interest groups (Anderson & O'Dowd, 1999). Borders have a major role as a silent tribute to a state's sovereignty. In the last few years, the world has witnessed major border processes; when the Soviet Union and Yugoslavia were dissolved; new countries were created on the world map, resulting in the creation or externalization of new borders. Internalization of the borders at the European Union led to the creation of a single market, the Schengen area (O'Dowd, 2002). These are some of the significant processes that have had an impact on the border management of the countries in question. In some countries, borders maintain the primary function as barriers, while others have not and to others, borders are indicators of sovereignty.

Borders have been exposed to security shocks and thus borders are not just the geographical borders in some countries like the United States of America but viewed from the perspective of trade and security. America has a Container Security Initiative (CSI) and a Customs-Trade

Partnership Against Terrorism (CTPAT) which mark the starting points for countries with concerns of trade and security(O'Dowd, 2002).

With the benefit of globalization, technological processes have improved and it is also easy to move and cross from border to border. This has contributed to an increase in criminal activities. There are many clandestine activities that are illegal but profit-driven in nature and therefore can weaken a state's health and safety, reduce income obtained through duties and taxes, and impact the security of the country (Polner, 2011).

Globalization and Organized Crime

Globalization has compressed the universe into a global village but negatively impacted organized crime. As far back as 1998, globalization had already affected the way criminals conduct their activities: "globalisation has been accompanied by a dramatic increase in transnational crime" posing "a threat not only to our citizens and their communities, through lives blighted by drugs and societies living in fear of organised crime; but also a global threat which can undermine the democratic and economic basis of societies through the investment of illegal money by international cartels, corruption, a weakening of institutions and a loss of confidence in the rule of law" (G8 Birmingham Summit, 1998). These took place among the G8 in 1998 in Birmingham.

Organized crimes facilitated by the benefits of globalization; especially technological advancements are some of the challenges facing the world today. Criminal elements capitalize on sophisticated technology to network, organize and recruit their followers. Organized crimes such as human smuggling andtrafficking, drug trafficking have grown to an uncontrollable dimension. Cases or organized crimes such as hostage-taking and kidnapping in the Niger Delta, Boko Haram acts in North-Eastern Nigeria, crippling of the government of Somalia by Al Shabaab, have been on the increase (Enu& Odey, 2021).

The sovereignty of a state is defined in terms of, among other factors, its capacity to control its borders (Rudolph, 2005). Taken at that, one can rightly argue that the function of immigration control or management is at the centre of a country's sovereignty. On the other hand, sovereignty is a matter of national security. It would follow then that immigration has a security role over and above its facilitative role. When people travel, they are guided by several reasons. Some of the reasons are promoting the need for the facilitative role, while others enable the security focus (Hamisi, 2012). While people travel to seek medication, transfer skills, work and do business, some travel to commit crimes.

Meyers (2000) posits that the essence of immigration policy is that it shapes demography, culture, economy, and the day's politics (Meyers, 2000). A sovereign state must have the capacity to control those who are coming into or leaving the country. That role puts immigration squarely at the security consideration of the country on the one hand – as a factor of sovereignty, and a facilitative role since people must move across the borders. Meyers' argument kicked off the discussions that would eventually theorize immigration policy which carries the dichotomy

of immigration regulations, rules and procedures guiding the admission of foreign citizens, and the conditions provided to residents in the state (Meyers, 2000).

Whether immigration borders need to be controlled or managed has been a topical issue for a while. The best summation of this debate is articulated by Taylor (2005) who saw the usage of the two terms as a paradigmatic shift where the notions of enforcement, harassment, and conceited effort needed to be disabused so that immigration guards take a more self-effacing and professional look at their roles at the border (Taylor, 2005). Kalonaityte saw effective management as one where controls remained within the destination countries – a model that would see effective departures and partial arrivals administered as passengers leave a given jurisdiction, allowing lesser processes in the receiving country (Kalonaityte, 2010).

With scholarship divided on what marks the difference between control and management, Mitsilegas goes beyond the lexicographic differences of the concepts to look at the details of effective immigration processes (Mitsilegas, 2012). He maps out the need for legal harmonization where countries must choose to take a global law on immigration control or take a domestic legal and policy approach or, better still, a moderation of the two approaches, in Mitsilegas estimation, whichever approach should be one that can facilitate the free movement of people. With this regard to the universal declaration of human rights, countries need to introduce handmaiden components that spur effective immigration control that is security conscious. For him, security should be conceptualized through the various cross border crimes. Some of the issues brought to our attention include the technological disruptions of immigration processes and secondly the need for collaboration among the different agencies- either handling facilitation or security. The question of agencies includes the role of non-state actors such as carriers, security agencies, embassy staff, foreign countries, consulates for visa policy and the economic community (Lahav, 2003).

Noting that immigration crimes can be highly organized, immigration processes and legislation must be grounded to fight human smuggling and trafficking, terrorism, money laundering, credit card fraud, among other crimes. Bjelopera and Finklea argue that criminals are always a step ahead and government officials need to be aware of them. In Kenya, immigration processes demand that the entry of a visitor must meet a set of standards (Bjelopera&Finklea, 2012). There needs to be a physical presence of the visitor, a valid reason for travel, a valid and acceptable travel document; such a person must not be on the travellers' watch list and must have a physical address of the place they are visiting. While these define the processes, the legal framework was revamped in 2012 for several reasons.

Aswani and Wanda (2012) advance reasons why immigration law had to be aligned to the constitution was to accrue some of the benefits brought about by the constitutional dispensation. To them, the current immigration act came into force to meet a few measures (Aswani & Wanda, 2010). Firstly, it is meant to align immigration practice to the new Constitutional order. In 2010, Kenya promulgated a new constitution, and laws had to be aligned to this new order. Chapter 3 of the Constitution introduces a paradigm shift on the matter of citizenship to which immigration law needed to be aligned. Secondly, the act has merged the different legislations that addressed immigration practice. The new law now amalgamated what was previously contained in many acts of parliament.

The act moderates the usage and meaning of discretion. In making immigration decisions, the officers were given leeway as to the line of decisions they were to make. Discretion has been subject to many conversations. The new act thus assigns tasks explicitly to the Cabinet Secretary, Director of Immigration Services, and officers. In the act, there is a comprehensive list of prohibited immigrants. A Prohibited Immigrant is a non-Kenyan who is ordinarily not supposed to enter Kenya for their presence is undesirable. The act now mentions some of the organized crimes, including drug trafficking, terrorism, money laundering, human trafficking and smuggling, illicit arms trade, among others(Aswani & Wanda, 2010).

The act reviews the fines imposed on some immigration offences and deter immigration offenders and recidivists who saw the less punitive laws as a reason to commit a crime. Stakeholders have been included in the management of migration in Kenya. The previous law had not imposed fines for non-compliance where carriers or hoteliers fail to reveal the identities of those who seek their services. Further, there is the institutionalization of the services that were apart from the law, such as the issuance of visas and passports, so that the veracity of documents is well understood. Lastly, the act has harmonized work permit categories in line with the East African Community Common Market Protocol (Ouma, 2021).

While these benefits were to see a reduced report on organized crime, it is apparent that statistics are still high. Securitization of immigration came to the fore after the 9/11 terrorist attack in the United States of America (USA) (Chami, Brown, & Roy, 2021). During this attack, it emerged that irregular migrants were among the attackers. Soon after the attack, the policy shift in the USA meant that immigration services are to be regarded as part of their national security. Security threats associated with immigration have been exercised through conflicts that facilitated cross-border crimes (Chami, Brown, & Roy, 2021).

According to Interpol report on securing borders from transnational crime, nowadays, it has become very easy for people and goods to cross sea, land and air borders and therefore, the borders need safeguarding more than ever (Abiodun &Fajimbola, 2021). The security personnel at the borders need to be trained on policing capabilities such as investigating criminal and stolen travel documents which are key in tracking the movement of criminals and potential victims (Interpol, 2021). Border management officers such as customs, immigration, narcotics should be included in these pieces of training.

Border Management Enhancing Transnational Organized Crime

Horwood took a reflective route to understand how trafficking continues to happen as irregular migrants seek to move from Somalia and Ethiopia to South America. While this paper confirmed the existence of smuggling, one can pick lessons of how the crime is organized— even pulling in networks from the security forces(Horwood, 2009).

Martin and Bonfanti speak to the difficulty in securing data on human trafficking and migrant smuggling, indicating that the situation is further complicated by petty rivalry among government units (Martín & Bonfanti, 2015). At the centre of the rivalry is the fact that some officials are corrupt and incompetent to discharge their duties. The authors suggest a technological disruption that would enable the proper monitoring of what happens at the borders (Horwood, 2009).

Studies have linked immigration and security, and even further exploring how human trafficking and smuggling plays in this space. Irregular migration has been seen as a cause of insecurity. Shaw contends that a country must decide what needs to be classified as insecurity. To him, irregular migration, such as human trafficking or smuggling, is not an objective and universal threat but remains subject to a country's settings. For some countries, irregular immigrants pose more an economic threat than a security risk. In contrast, in others, the danger is more security than a social problem. This contention speaks to the intrigues that governments in the larger horn of Africa have been for years faced with many conflicts.

The 55th session on the commission of narcotic drugs held in Vienna in 2009 affirms that drug crime is a threat to development and security (United Nations, 2009). Internationally, drug trafficking has been linked with international security issues such as terrorism, war, migration and state instability. Illegal drugs make international and national security to be complex and acute because they threaten political and social stability, compromise human rights, economic development and the rule of law. For instance, the production of Opium in Afghanistan contributes to 10% of GDP and therefore the business can finance terrorism while fueling corruption (United Nations, 2011).

Kenya is more vulnerable to money laundering since it is a financial hub and a pioneer in mobile banking in East Africa. The technology can easily facilitate the use of formal and informal channels through corruption, cybercrime, smuggling of illicit drugs charcoal trade, wildlife trafficking and illegal timber. Kenya is more attractive to laundering due to its geographical position and proximity to Somalia, whose ports are vulnerable to the smuggling of goods and people (Wambui, 2021). However, the government of Kenya has put in place anti-money laundering initiatives such as the proceeds of crime and money laundering act 2009 (revised in 2012) and the setting up of anti-narcotics police.

Conclusion

The security of a given country is directly affected by the security of the neighbouring countries. Although some could argue that the illicit economy of organized crime provides livelihood opportunities and a source of resilience, organized crime has severely impacted Africa's development. They have resulted in environmental damage, use and abuse of drugs amongst the poor and the marginalized, abuse of human rights, violence and economic distortions. An increase in transnational crimes organized by illegal groups and the flow of drugs and counterfeit goods call for a coordinated global response and enforcement of international laws in stopping cross border crimes.

To the Government, this paper recommends stringent measures to be put in place to control illegal immigration. This can be done through controlling the crossing border points to ensure that illegal immigrants do not enter our territory. Regular security patrols be conducted along the border to check against illegal immigration. If illegal immigration is controlled, then to a large extent other underlying crimes will be curbed such as human trafficking, illicit arms trade, drug trafficking among other crimes associated with illegal immigration.

To policy makers, it is recommended that, policies in place should be implemented to defeat illegal immigration and other inherent vices. All stakeholders should be rallied to support this endeavour so as to make it succeed.

To the academia, it is recommended that more research should be carried out to inform policy on the best practices that need to be put in place to scientifically control illegal immigration into the country. Otherwise, if effective measures are not put in place, then this practice will compromise national security as well as international security.

About the Author

Maj. (Dr) Cliff Ooga Obwogi is a Researcher, Trainer and Lecturer in the Disciplines of Peace Support Operations, Media, Peace and Conflict Studies, Conflict/Crisis Management. He holds a Bachelor of Education Arts in English and Literature from Kenyatta University, a Diploma in Military Science from Egerton University, a Master of Arts in Communication Studies from the University of Nairobi and a PhD in Peace and Conflict Studies from Masinde Muliro University of Science and Technology. He has vast experience in Media, Peace & Conflict studies and Peace Support Operations. Maj (Dr) Obwogi is currently working at the International Peace Support Training Centre as a Researcher and also a Lecturer of National Defence University-Kenya.

References

Abiodun, F., &Fajimbola, J. O. (2021). Security and Intelligence Challenges in Guinea- Bissau, Africa's Narco-State and Issues Beyond Borders.

Albini, J. L. (1988). Donald Cressey's contributions to the study of organized crime: an evaluation. Crime & delinquency, 34(3), 338-354.

Anderson, J. and O'dowd, L. (1999). "Borders, border regions and territoriality: contradictory meanings, changing significance." Regional studies 33, no. 7 (1999): 593-604.

Aswani, D. R., & Wanda, D. O. (2010). Border Management and Immigration Practice.Unpublished Paper, Department of Immigration, Nairobi.

Bjelopera J. P. & Finklea, K. M. (2012). Organized Crime: An Evolution Challenge forU.S. Law Enforcement. Congressional Research Service.

Bobic, M. (2014). ransnationalorganised crime and errorism: Nexus needing a human security framework. Global crime.

Chami, G., Brown, C., & Roy, N. (2021). he securitization of Post-9/11 reception patterns of refugees, asylum seekers, and migrants: deconstructing he Venezuelan Exodus (A case study). Migration and Development.

Edwards, A. (2012). Transnational organised crime. In Transnational and comparative criminology, Routledge-Cavendish.

Enu, D. B., & Odey, C. (2021). Organised crimes in a globalised world: Implications for Social Studies Education.

Falode, A. J. (2021). Guns, Arms trade and transnational Crime in Africa. In The Palgrave Handbook of Small Arms and Conflicts in Africa (pp. 411-425). Palgrave Macmillan, Cham.

Haller, M. H. (1992). Bureaucracy and he mafia: An alternative view. Journal of Contemporary Criminal Justice.

Hamisi, Fauzia Abdalla (2012). Factors affecting effective combating of immigration crimes in Kenyan immigration Department. (Unpublished Masters Dissertation), University of Nairobi.

Horwood, C. (2009). In Pursuit of the Southern Dream: Victims of Necessity: Assessment of the irregular movement of men from East Africa and he Horn o South Africa. International Organization for Migration.International migration review.

Interpol (2021). Operation Stop: securing borders from transnational crime.

Kalonaityte, V. (2010). the case of vanishing borders: Theorizing diversity management as internal border control. Organization.

Kleemans, E. R. (2014). Theoretical perspectives on organized crime. The Oxford handbook of organized crime.

Lahav, G. (2003). Migration and security: he role of non-state actors and civil liberties in liberal democracies. HUWU paper.

Martín, I., & Bonfanti, S. (2015). Migration and Asylum Challenges in Eastern Africa: Mixed Migration Flows Require Dual Policy Approaches Migration Policy Centre. Policy Briefs, mar.

Meyers, E. (2000). theories of international immigration policy—A comparative analysis.

Mitsilegas, V. (2012). Immigration control in an era of globalization: Deflecting foreigners, weakening citizens, and strengthening he state. Indiana Journal of Global Legal Studies.

National Crime Agency (2023). https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/organised-immigration-crime. Retrieved on 11 March 2023.

National Crime Research Centre (2018).https://www.crimeresearch.go.ke/wp-content/uploads/2020/11/Borderland-related-Crimes-and-Security-Threats-in-Kenya-Published-Report.pdf. Accessed on 11 March 2023.

O'dowd, L. (2002). The changing significance of European borders. Regional & Federal Studies.

Ouma, P. (2021). Stereotyping and regional integration in the East African community: Challenges and opportunities. In Intra-Africa Migrations. Routledge.

Polner, M. (2011). Coordinated border management: from theory to practice. World Customs Journal.

Rudolph, C. (2005). Sovereignty and territorial borders in a global age. International studies review.

Standing, A. (2003). Rival views of organised crime. Institute for Security Studies Monographs.

Taylor, S. (2005). From border control to migration management: the case for a paradigm changein the Western response to transborder population movement. Social policy & administration.

UNDOC (2002). https://www.unodc.org/pdf/report_2002-06-26_1/report_2002-06-26_1.pdf. Retrieved on 11 March 2023.

UNDOC(2022). Hierarchical model of organized criminal groups.Retrieved from https://www.unodc.org/e4j/en/organized-crime/module-7/key-issues/hierarchicalmodel.

United Nations (2009). Drug Crime is a threat o development and Security. 55th Session Paper of he Commission of Narcotics. Vienna.

United Nations (2011). Organized Crime and Drug trafficking major threats o international peace and Security, UNODC Security council.

Wambui, M. (2021, September 2). Kenya ranked among world's major money laundering, fraud hotbeds. Nairobi News. Retrieved from https://nairobinews.nation. co.ke/editors-picks/kenya-ranked-among-worlds-major-money-laundering- fraud-hotbeds.

Wilson (2023). https://opentextbc.ca/humansecurity/chapter/transnational-crime/. Retrieved on 11 March 2023.