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**Patterns, Policy and Legal Issues on International
Labour Migration in Tanzania**

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1.0 INTRODUCTION

Migration has been a process in existence from time immemorial. However, it is only in the last three decades that migration has become an issue of growing concern to the international community. This is partly a question of numbers. The International Organization for Migration and the United Nations estimate that, today over 175 million people live temporarily or permanently outside their country of birth or citizenship, more than doubled from a total of 75 million in 1975; and more people than ever are moving or trying to move from one country to another.¹

But it is not simply the scale of international migration that has changed. The motivations for the movement as well as its social and economic relevance have become more complex. It may no longer be possible to make a simple distinction between countries of origin, transit and destinations. Many countries both generate and admit large numbers of international migrants. Furthermore, there is no single, well-developed theory to explain the volume and direction of these movements. Economic as well as political and social factors play roles in the interpretation of empirical evidence about migration, and there is growing attention to environmental linkages as well. Increased attention to the volume and directions of international population movements has been also accompanied by growing awareness that migration is linked to the process of economic development and globalisation. Developing countries, which both send and receive the majority of international migrants, are seeking to understand better the role of migration in the development process. Industrial countries, for their part, are examining the ways in which their trade, aid, investment, and development assistance policies affect and are affected by international migration, especially from developing countries.

In line with the international trends, the issue of international migration is now taking on greater significance in Tanzania. Although data is very scarce, it may be safe to assert that there has been an increase growth in the movement of people to and from Tanzania in the last two decades. Some of this movement takes the form of migration of skilled, low skilled or even unskilled workers moving the country to developed economies such as Western Europe and America and even neighbouring countries of Southern African including South Africa, Botswana and Namibia. The movement to Tanzania is mainly in a form of forced migration of people from particularly neighbouring countries of Burundi, Rwanda and Democratic Republic of Congo. A significant proportion also involved movement of foreigners seeking employment in Tanzania.

Notwithstanding the fact that international migration has been moved to the top of the policy agenda in Tanzania, documentation and analysis of these trends and their importance for policy makers has been relatively limited at national level in Tanzania, particularly since the

¹ International Migration Report 2002, United Nations Population Division/IOM, 2002.

country's independence. Up till now, studies on migration in Tanzania have mainly focused on forced cross-border migration and internal migration to Dar es Salaam and to a far lesser degree, to other towns in Tanzania (i.e. rural-urban movements).

This study aims at understanding trends, policy and legal issues on international migration to Tanzania. Particular attention is given to labour migration. It is anticipated that with the rising globalisation and regionalisation labour migratory pressures will most likely increase in the country. The study is an attempt not only to find out what is happening in international labour migration in the country but also to investigate the causes of various trends and put forward assumptions on their future development. It is envisaged that the study will contribute to an informed debate on how best to manage international labour migration taking into account the concerns of various interests and actors in and outside the country.

1.1 Organisation of the Study

The study is divided into six sections including this introductory one. The next section (Section 2) provides a theoretical background on the relationship globalisation and international migration. *Section three* examines patterns and issues of the contemporary international migration to Tanzania focusing on labour. A brief historical overview of migratory trends as it relates to Tanzania is included hereunder. *Section four* discusses the policy and legal aspects of labour migration to Tanzania. The future prospect of labour migration in Tanzania is covered in *Section Five*. The section basically looks at the potential links between policies on migration and those on regional cooperation and integration with specific reference to the Treaty establishing the East African Community (EAC). Section six provides some conclusions on international labour migration in Tanzania.

1.2 Methodology

The study is based primarily on a review of research literature, official reports and information from various government departments. The research also involved numerous interviews and consultations with a variety of persons in relevant government departments, academics, private organisations, employers and employees.

The study has been undertaken within the context of the globalisation project from the fact that the migration issue so often figures in connection with a variety of other concerns about the changing national economic, political and strategic environment in which the Tanzanian government and society in general will have to operate in coming decades, and which in turn are associated very broadly with globalisation. Against this, a theoretical background between globalization and international migration is therefore provided in the following section.

2.0 INTERNATIONAL MIGRATION WITHIN A CONTEXT OF GLOBALISATION

The relationship between globalisation and migration has been extensively debated in academic circles and in such forums as the UN Population Conference, and the International Organisation for Migration.² However, in these debates, the presumed relationship between globalisation and reduced or increased international migration has not been sufficiently proven. While some studies demonstrate that globalisation has increased opportunities to migrate, other analysis project demonstrates that it is precisely this process that spawn migration process. Both conclusions may have foundation and are usually based upon specific case studies. This section revisits the theoretical background on the linkage between globalisation and international migration.

2.1 Globalization as it Relates to International Migration

Globalization is simply understood as a set of processes that are global in scope, that transcend the territorial borders of states. It often refers to the rapid increase in the share of economic activity taking place across national boundaries.³ This goes beyond the international trade in goods and includes the way those goods are produced, the delivery and sale of services, and the movement of capital.⁴ Migration denotes an enormous variety of different kinds of human movement.⁵

The growing economic interdependence of states has been a widely acknowledged component of globalization. The immediate effects of this on global population movements have been less easy to determine. However, as ILO study put it, “the evidence points to a likely worsening of migration pressures in many parts of the world processes integral to globalisation have intensified the disruptive effects on modernization and capitalist development.”⁶ This argument is supported by the fact that many developing countries face serious social and economic dislocation associated with persistent poverty, growing unemployment, loss of traditional trading partners, and what has been termed a ‘growing crisis of economic security’.

² The United Nations International Conference on Population and Development (ICPD) was held from 5-13 September 1994 in Cairo, Egypt.

³ Sarah Collinson, “Globalisation and the dynamics of international migration: implications for refugee regime”, UNHCR Working Paper No. 1, May 1999.

⁴ Ibid.

⁵ Saskia Van Hoyweghen Mobility, “Territorial and sovereignty in Post Colonial Tanzania, UNHCR Working Papers, New Issues in Refugee Research No. 49/2001, Geneva.

⁶ Stalker, P., Workers without Frontiers: The Impact of Globalisation On International Migration, ILO, Geneva, 2000.

There is a consent among the scholars that the globalisation process has been mainly characterized by elimination of restrictions on the free movement across borders of capital, goods and resources, technology and services.⁷ Meanwhile, money and finance-which traditionally operated almost entirely in a territorial political economy - can now circulate almost anywhere and everywhere across the world in an instant. However, as the relative reach, power and mobility of capital has increased, that of labour has declined. In other words, while economic production and trade are increasingly taking place on a transactional global basis, people are still bound within nation-states by the instruments of citizenship and sovereignty. As a matter of fact, the global and national economic policies are creating enabling environments for the free flow of goods, services, capital and technology. But, in contrast, there is no parallel mechanism allowing movement of labour - although it is a major factor of production. Movement of labour, even as a service provider, is rather prevented by administrative, legal and institutional barriers by nation states.

Furthermore, many theorists have argued for the loss of sovereignty of the nation-state which results from increased denationalization and national economies. This stands in stark contrast to the issue of immigration policies and decision relating to entry, residence, and rights of foreigners which are detected by individual states. It has been observed that while governments do little to interfere with flows of trade and finance, it does interfere (control) when it comes to flows of human beings. Governments of both developed and developing countries are in favour of restriction of free movement of people (labour) in their territories. In fact, while the technological innovation has facilitated the global mobility of capital and constrained state control over commercial and financial flows, new technology is facilitating ever closer monitoring and control over the movements of people - at least by those governments and institutions that have the wealth and supporting infrastructure to afford and operate this technology. Most migrants (workers) remain very firmly tied to the territorial world of state system, with border controls to restrict their movement remaining as tight as at any point in the past.

In deed, the recent economic globalisation has not accelerated movement of labour over the past three decades at a pace comparable to globalisation during the period 1870 to 1914. This can be illustrated by the case of United States which is the largest receiving country. The number of immigrants today is considered high but in reality it is less than the beginning of 19th century. Data provides that in 1914, the total number of immigrants was 1.2 million, which was 1.5 percent of the total American population, while in 1996 they came to 911,000 which was only 0.35 percent of the population.⁸ Furthermore, data indicates that in late 19th century there were no restrictions on the labour movement. The number of new immigrants

⁷ Ohmae K., *The Borderless World* (New York, Harper Business, 1999).

⁸ Stalker, P., (above).

per 1,000 inhabitants in the world in 1990 was lower than it was in 1970.⁹ Hence, the global movement of people has not matched the progressive globalisation of capital and many commodities, in other ways.

It is in this context that there has been no ‘globalisation’ of migration trends and dynamics if understood in terms of standardization. The above evidences suggest that international migration has been excluded from the current process of economic globalisation. Trade and finance are moving in much more impressive quantities: in 1996 global exports of goods represented around 29 per cent of world GDP, and the inflow of foreign direct investment accounted for around 6 per cent of gross domestic investment.¹⁰ Global labour migration on the other hand, is more limited, involving around 120 million people – equivalent to 2.3 per cent of world population.¹¹ It is not at all clear, therefore, how migration sits right there at the center along with the internationalization of capital as a fundamental aspect of globalization.

2.2 Some Consequences of Globalisation on International Migration

There are a number of developments associated with globalization that one might expect to have a relatively predictable impact on international migration. The most instructive analysis of globalisation and its implications for migration comes from significant power shift from states to markets, and, importantly, to markets in which production, marketing and financial structures and processes are for a world market, rather than for a local or national market. The shift in power is therefore to actors whose power and responsibilities transcend territorial frameworks. These include ‘transnational’ companies (TNCs) and the institutions of financial markets. TNCs, for instance - which now account for around a third of the world’s private productive assets - operate in markets that are largely unconstrained by national borders. As a direct consequence, the TNCs demands to government ease movements of executives, managers, and other key personnel from one country to another. The TNCs also demand skilled labour, when labour shortages appear, whether in information technology or seasonal agriculture, companies also seek to import foreign workers to fill jobs. It has been therefore asserted that globalisation increases labour mobility by creating an environment conducive to movement of people. It demands movements of both unskilled and highly skilled labour. New market institutions including MNCs demanding frequent movement of labour, especially highly skilled, leading people to move quickly and frequently. Thus, when migratory and economic policies are explicitly aimed at preventing labour mobility, the market mechanism that these policies try to establish aims at increasing rather than reducing migration flows.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

We observe that initiatives are taken to facilitate movement of service workers within the WTO General Agreement on Tariffs and Trade (GATT) and in the context of a variety of regional free trade agreements, including the SADC. For example, WTO member states are negotiating for inclusion, in the General Agreement on Trade in Services (GATS), of provisions for the mobility and facilitated circulation of skilled workers to provide services. The expansion in the free circulation of service workers is linked, in part, to the increasing importance of trade in services in the world economy. It has been argued that the increased circulation of capital, goods, and information under the impact of globalization, deregulation, and privatization has forced the question of the circulation of people onto the agenda.¹²

Similarly, the development of communications and transportation technology make it possible or encourage more people to move, particularly those seeking safe haven from intolerable conditions. The ease of travel today- faster and cheaper, the widespread awareness of conditions in other lands, family and ethnic ties, opportunities even requirements for international experience to advance in business, in professions, in careers – all facilitate migration. It has also made many aware of the options and conditions elsewhere.

We have tried above to indicate that the relationship between globalisation and international migration rests on the premise that more profound and far reaching changes have taken place in the structure, dynamics and forms of global financial and commercial flows over recent decades than they have in the underlying structure, dynamics and forms of international migration, despite the increasing scale and diversity of migration flows in different parts of the world. Although migration is not subject to such profound and far reaching change in terms of its' own basic forms and dynamics, the globalisation of financial, commercial and other international relations is bringing about enormous and significant changes in the broader political, economic and social context in which cross and trans-border migration takes place. This in turn, is raising a host of new challenges and problems in those areas of national, regional and international governance that are connected with international migration. Against this background, the next part discusses trends, patterns and issues on international labour migration to Tanzania.

¹² Sarah Collinson (above).

3.0 INTERNATIONAL LABOUR MIGRATION IN TANZANIA

3.1 Historical Evolution of Labour Migration in Tanzania

Migration of people within and between countries in search of ‘employment’ has occurred all through history and it is by no means a new phenomenon in Tanzania. However, the process was uncommon until the colonial period. Under both, German and British rule, there were substantial flows of migrant workers within the country as well as between colonies.

The most important sources of international labour immigrants during the colonial Tanzania were the then Belgian mandates territories of Rwanda and Burundi.¹³ Most of the Rwandese and Burundian labourers were mainly poor peasants recruited by the sisal and coffee plantations of Tanga and eastern provinces. Labour immigrants were also recruited from Mozambique (the then Portuguese East Africa) together with warwanda, migrants from this source were essential components of the sisal cutters in Tanga and Morogoro. Another source of labour immigrants was the then neighbouring colony of Northern Rhodesia (Zimbabwe) who were the main source of wage labour in the mining sectors such as the Lupa goldmines in southwest Tanganyika. Overall, Gulliver estimates that in 1953, some 10% of the territorial wage labour of 36,5000 men were immigrants.¹⁴ Of these slightly more than half came from Rwanda, Burundi and Mozambique while the rest were mainly from Kenya, Northern Rhodesia and Nyasaland (Malawi).

The additional sources of migrant labour during the colonial period were among indentured Asian migrants. In 1891, for instance it is documented that the German East African Corporation contracted some 462 Chinese and Javanese indentured labours from Singapore to work on its coffee and tobacco plantations in Usambara, eastern Tanzania.¹⁵ Employment of several indentured Asian migrants labourers continued well during the British rule though most of labourers were now from the British India. Most of the Indian immigrants were mainly employed by the British colonial administration to build railways and fill the clerical and middle ranks of the administration in the territory. However, by 1922, Governor Byatt had proposed instituting an African civil service to replace clerical personnel recruited from India.¹⁶

¹³ Walter Rodney, Kapepwa Tambila, and Laurent Sago: Migrant Labour in Tanzania During the colonial Period: Case studies of Recruitment and Conditions of Labour in the Sisal Industry, Institute fur Afrika-Kunde, Hamburg, 1983.

¹⁴ Gulliver PH., “A Report on the Migration of African Workers to the South from the Southern Highlands Province with special reference to Nyakusa of Rungwe District, Dar es Salaam, Government printer 1995” quotes in Shivji Issa G., *Law States and the Working Class in Tanzania*, Heinemann, London, 1986.

¹⁵ Thaddeus Sunseri, *VILIMANI: Labour Migration and rural Changes in Early Colonial Tanzania*, Heinemann, Portsmouth, 2002.

¹⁶ Shivji Issa G., *Law States and the Working Class in Tanzania*, Heinemann, London, 1986.

Like labour immigration, the emigration for employment purposes from colonial Tanzania was mainly a cross border process. In like manner the Northern Rhodesians migrated from their homeland towards migrant mine labour in the Lupa goldfield and plantations labour as far away as Tanga, the Tanganyikans from the south-west found their way to the copper mines of Rhodesia. Similarly, there was a substantial number of Tanzanians migrated to work in the diamond mines of South Africa. Some data provides that by 1954, about 21,000 Tanganyikans were employed in Rhodesia and South Africa.¹⁷ According to other records, by 1920, there were about 183 Tanganyika migrant labours in the gold mining industry in South Africa. The number of these mineworkers grew from 5,496 in 1950 up to 14,025 in 1960.¹⁸

Subsequent outflow of labour emigrants from colonial Tanzania was towards Uganda. However, the movements mainly involved people from the neighbouring areas such as the Lake province (now Kagera and Kigoma regions). The 1953-4 Annual Report of the Lake province estimated that over one-third of the male populations of Biharamulo and Ngara District was absent working on the coffee farms of Europeans in Uganda.¹⁹ The emigrants from Kigoma region worked not only for Europeans but also for Baganda coffee growers in Uganda. In 1954, a total population of Tanganyika's migrant labour in the country was estimated to stand at 8,000.²⁰ Minor examples of reciprocal migrant labour have been cited with respect to Kenya and Tanganyika. However, there are no data for this pattern.

3.1.1 Post-independence

The volume and importance of labour movements especially those across international boundaries became substantially reduced in the post-independence Tanzania. At one level, the entry of foreign workers during 1960s-1970s was based on the planned economy system and on provisions of international aid to the country particularly from other former socialist block.

On the other hand, the post-colonial period coincided with the high flows of refugees from neighbouring countries. The first were Rwandese Tutsi who fled ethnic violence in Rwanda. Later, people fleeing fighting in Mozambique and Burundi also entered the country. In 1970s about 72,000 Burundian refugees fled to Tanzania and by 1974 growing to 120,000.²¹ This number remained stable until in 1977 whereby the country hosted about 35,000 refugees from

¹⁷ No. 15 above.

¹⁸ ILO, Labour Migration to South Africa in the 1990s, Policy Paper Series 4, February 1998.

¹⁹ Tanzania National Archives, Recruitment of Labourers for work outside the Territory, 10218/1-11, 1927-1938.

²⁰ Note 13 above.

²¹ Saskia Van Hoyweghen, 2001. Mobility, territoriality and sovereignty in post colonial Tanzania, UNHCR Working Papers, New Issues in Refugee Research, No 49, Geneva: UNHCR.

Rwanda, 130,000 from Burundi and 50,000 from Mozambique. Since then, forced migration has been a major feature of international migration to Tanzania.

3.2 The Contemporary Labour Migration to Tanzania

The historical evolution shows significant cross-national labour migration particularly from Burundi, Rwanda, and Mozambique. Most of these migrants entered into the territory to engage in menial work as labor immigrants in colonial plantations (mainly sisal) and the mining sector. This trend has been changing and becoming more complex. In contrast to the historical inflows, today it is assumed that, most though not all of foreign migrants are entering into the country mainly to perform skilled work. Yet little is known about these trends. How many labour migrants the country has admitted so far? Who are these migrants? What are they doing in the country? What is the extent of emigration of skilled Tanzanians? What issues emerged from these trends? The rest of this section will try to answer these questions.

3.2.1 Migration Statistics and Data

Before discussing the current patterns and trends in labour migration to Tanzania, it is important to raise some issues about data and statistics on migration. In Tanzania like in many other African countries, data on the migration flows is limited and not totally reliable. In the first place, migration data is simply not accessible to the public at large. The government does not publish migration data or make them available to the public. Though, we are in possession of some immigration figure from the Department of Immigration, Department of Labour and the Tanzania Investment Centre, some important information on profile of migrants are lacking. As migration involves human beings, we would like to get much information than just numbers. Information on gender, skills, occupations, wages and sectors (employing migrants workers) are simply not available in Tanzania.

Secondly, the available data does not cover all migrant workers as migrants who find themselves in an irregular situation are not counted among migrants officially registered by the immigration department. Similarly, there is completely lack of statistics on emigration from Tanzania to other countries and this has compelled us to focus more on immigration to Tanzania. Nonetheless, the available data on immigration can shed light on certain aspects of international labour migration in Tanzania and thus generate knowledge-based discussions on international migration issues.

3.2.2 The Extent of Labour Migration

Subject to data limitation mentioned above, it is estimated that Tanzania has seen a marked rise in the flow of labour migrants. As indicated in Table 1, about 809 new applications for work permits were recorded in the year 1991. This number rose to 1,700 permits applications

during 1995 and then increased about two times in 1999 when a figure of 2,592 new permits applications was recorded. The latest records show that from July 2002 until May 2003, there are about 2,551 applications for work permits class B lodged with the Labour Department. This figure is in exclusion of permits class B lodged at the Tanzania Investment Centre.²²

Table 1: Application for work permits in Tanzania: 1991-2002

Year	Number of applications lodged to the Labour Department
1991	809
1992	1,300
1993	1,400
1994	1700
1995	1,700
1996	1,600
1997	1,044
1998	2,300
1999	2,592
2000	*
2001	*
2002	*
July 2002-May 2003	2,551**

* Data missing;

** Figure does not include applications for work permits for the investors as Since July 2001, these applications are processed through the Tanzania Investment Centre. Source: The Labour Commission, 2003.

Regarding the actual number of permits issued, about 2,025 work permits class B (which are normally issued for hired employment) were issued for the year 2000. This number increases to 32% in the year 2001 whereby a total of 2,669 permits were issued. In 2002, the number of foreigners issued with class B permit fell to 2,160 presents a decrease of 19% of the total permits issued in the previous year. In total, it is estimated that for the last three years, Tanzania has admitted about 6,854 hired foreign workers in various sectors of the country's economy. This figure could provide an indication of the total number of foreign workers in the country from the fact that work permits are issued for a period of two years and may be extended up to three years period.

²² Since July 2001, applications for class B permits which are investment related are processed through the Tanzania Investment Centre (TIC).

Table 2: Work Permits (Class B) Granted in Tanzania: 2000-2002

Year	Permits Granted
2000	2,025
2001	2,669
2002	2,160
Total	6,854

Source: Immigration Department, 2003

It is important, however, to indicate that the statistics in *Table 2* do not reflect the exact number of foreigners working in Tanzania since there is quite a big number of foreign workers who have exemption for work permits (*Table 3*). Most of these foreigners mainly include expatriates in government projects or organs. In addition, it needs to be pointed out that foreigners with self employment who are normally awarded a class A permit are not included in the above figure in *Table 2*. This group include investors and business entrepreneurs. *Table 3* also reveals the total number of permits issued to foreign nationals for self-employment during the last three years.

Table 3: Recent trends on foreign non-hired employment: 2000-2002

Year/Permit	Class A	Certificate of Exemptions	Total
2000	1,064	1,141	2,205
2001	119	1,305	1,424
2002	127	3,259	3,386
Total	1,310	5,705	7,015

Source: Immigration department, 2003

Overall, the total number of foreigners who are legally exercising an economic activity in the country for the last three years is 13,869. If this is viewed from labour perspective, international labour migration to Tanzania is very insignificant. According to the 2000/2001 Integrated Labour Force Survey, Tanzania labour force for this period is estimated to be 17,827,578 million people. Then, the share of migrant labour in the country constitutes only 0.7 per cent of the total work force. In comparison to its neighbouring country, the Kenya's Ministry of Labour and Human Resource Development data indicates that the country issues about 16,000 work permits to foreigners each year. This means that Tanzania's labour migrant population is lower than that of Kenya.²³

3.2.3 Sources

Historically, labour migration to Tanzania involved mainly people from neighbouring countries. In contrast, data provides that Tanzania is currently attracting labour immigrants from countries outside Africa.

²³ Kenya Ministry of Labour and Human Resource Development, 2003.

The nationality of the main group of foreign nationals holding work permits class B in the year 2000 are Indian (22%) followed by South African (14%), East and Central African (as region) 11%, British (9%) and Chinese (7%). The others on the list are West European(6%), Canadians (4%), Scandinavian (4%), American (2%). Furthermore, West Africa (as a region), German and East European nationals counted 1% of total number of foreign immigrants admitted in the year 2000 (Table 4). It is therefore clear that the contemporary labour migration involves people far from African continent. In comparison with other African countries, South Africa is emerging as a main source of labour immigrants in Tanzania.

Apart from changing sources of labour immigrants, there has also been a tendency for the foreign labour population in Tanzania to come from higher-income countries. This trend can be explained by the structure shift in the economy, combined with the rising capital-labour ratios have meant a preference for skilled over unskilled labour in the country.

Table 4: Resident permits Class B by nationality: 2000

Country	Number of permits	Per cent
American	48	2
British	190	9
British Indian	2	-
Canadian	83	4
Chinese	150	7
Congo DR	41	2
East and Central Africa	218	11
East European	23	1
German	21	1
Indian	449	22
Israelis	2	-
Lebanese	69	3
North Africa	-	-
Oman	3	-
Scandinavian	79	4
Somalis	4	-
South Africa	284	14
West Africa	13	1
West European	129	6
Yemen	2	-
Others	215	11
Total	2,025	100

Source: Immigration Department

3.2.4 Sectors attracting labour immigrants

According to interviews held, it has been revealed that many foreign migrants are employed in the private sector particularly those owned by foreign nationals (or have shares). The most dynamic development has been achieved by the services sector. In this sector, foreign nationals are particularly employed in trade and education sector.

Table 5: Resident permits Class A, B and Certificate of Exemptions by nationality: 2000

Country/Year	Class A	Class B	Exemptions	Total	%
American	16	48	136	200	5
British	137	190	335	662	16
British Indian	77	2	-	79	2
Canadian	7	83	27	117	3
Chinese	19	150	70	239	6
Congo DR	8	41	18	67	2
East and Central Africa	372	218	112	702	17
East European	11	23	3	37	1
German	14	21	38	73	2
Indian	78	449	54	581	14
Israelis	12	2	49	63	1
Lebanese	20	69	89	178	4
North Africa	13	-	1	14	0
Oman	14	3	2	19	0
Scandinavian	5	79	23	107	3
Somalis	4	4	-	8	0
South Africa	16	284	21	321	8
West Africa	201	13	4	218	5
West European	8	129	53	190	4
Yemen	26	2	-	28	1
Others	6	215	106	327	8
Total	1,064	2,025	1,141	4230	100

Source: Immigration Department, 2003

Table 6 indicates that migrants were heavily concentrated in the manufacturing sector. They are also concentrated in the mining and construction sectors. Another sector, which seems to attract foreign immigrants, is Tourism. Nonetheless, there has not yet been a systematic assessment of these conclusions because of data limitation. Table 6 includes data for only one Tripartite Committee sitting on work permits which has determined only 77 applications. This represents a small size of permits applications determined by the Committee. In fact, the Committee sits twice in every month determining almost the same volume of applications.

Lack of data on immigration by sector therefore leaves the debate open to speculative arguments, which is unfortunately not good for sound policy formulation on migration issues.

Table 6: Permits applications by sector: July-December 2002

Sector	Permits applied in the sector	Distribution according to nationalities
Manufacturing	14	Indian (3), Chinese (8), Pakistan (1) Japanese (1), South African (1)
Mining	13	South African (7), Australian (3) Dutch (1), Canadian (1) Philippine (1)
Construction	8	Indian (5), Chinese (2) South African (1)
Tourism	8	British (4) South African (3), American (1)
Transport and shipping	7	Indian (7)
Health/medical services	4	Kenyan (2), German (1), French (1)
Tailoring	3	Indian (2) Pakistan (1)
Education	1	British
Security and risk services	3	British (1), Kenya (2)
Consultancy	2	Kenyan (1), Zambian (1)
Electrical and chemical	1	Indian
Wholesale distributor	2	Indian
Sales Business machines	2	Indian (1) Kenyan (1)
Technician	2	Indian
Sales of furniture	1	Indian
Jewell-Goldsmith	1	Pakistan
Holding investment company	1	Indian
Floor milling	1	Lebanese
Aluminium works	2	Chinese
Sales-soft drinks	1	Kenyan
Total	77	

Source: Department of Labour, Tripartite committee sitting No 17 of 30 December 2002

3.2.5 Skills, qualifications, and occupations

Contrary to the popular belief that expatriates coming to Tanzania are experts in the highly technical field and rare professions, the vast majority of foreign migrants them are merely managerial and supervisory jobs. For example, TIC data show that technical fields accounts for less than 20% of the jobs taken up by expatriates who come to Tanzania. For instance, from June 2001 to June 2003, TIC registered a total of 2307 expatriates; 842 of whom are managers and supervisors, only 40 of them are engineers. The others are finance officers (171), technicians (86) and 1861 who are in a miscellany of field of operations.²⁴

²⁴ Tanzania Investment Centre, Dar es Salaam, 2003.

3.2.6 Feminisation of migration

For many decades, migration to Tanzania revolved around male migrants on the account of biased employment opportunities, the type of work available and an inequitable provision of education. In recent years, Tanzania has been experiencing an increasing share of female workers migrating on their own for work in the country. For example, data in 2002 shows that 10 per cent of the total work permits issued to foreign nationals were granted to female.

Table 7: Resident permits and exemptions by sex: 2002

	Class A	%	Class B	%	Exemption	%
Male	107	84.25	1,933	89.49	705	72.75
Female	20	15.74	227	10.50	267	27.55
Total	127	100	2,160	100	969	100

Source: Tanzania Immigration Department

3.2.7 Temporary migration of labour

Labour migration in Tanzania is mostly on fixed term contract representing temporary migration. Permanent migration still takes place on a limited scale particularly for Indian immigrants. The 2001 Immigration statistics show that India has the largest share of its people granted Tanzanian citizenship. It is followed by other countries, which are not the contemporary sources of labour migration in Tanzania (Table 8).

Table 8: Foreigners granted citizenship by 2001

Nationality	Number of people	Percentage
Indian	43	42.16
Burundian	20	19.61
Kenyan	16	15.69
Yemenis	8	7.84
British	4	3.92
Pakistan	4	3.92
Russia	2	1.96
Somalian	1	0.98
Sudanese	1	0.98
Congolese	1	0.98
Rwandese	1	0.98
Ugandan	1	0.98
Total	102	100

Source: Immigration Department, 2003

3.2.8 Undocumented labour immigrants

Along with the international trends, irregular movements have dominated labour migration flows in Tanzania in recent years. Most of these movements involve people from neighbouring countries, mainly Kenya and Uganda. Some of these undocumented immigrants are educated Kenyans and Ugandans who are employed (without government documentations) in the education sector particularly in private pre and post primary schools.²⁵ The process also includes some Indians who are mainly employed in private businesses. In 2000, about 700 Asian immigrants found to be working without appropriate permits.²⁶ There were also cases of undocumented expatriates from Pakistan, Italia and French. The other group of undocumented labour immigrants are the Congolese, who most of them are in the informal sector (music, saloon and tailoring).²⁷ In comparison with Kenya, Tanzania's undocumented labour immigrants is insignificant as Kenya is estimated to receive each year between 40,000 and 50,000 illegal immigrants particularly from Gujarati and Pakistani unskilled or semi skilled labourers.²⁸

3.3 Reasons for Immigration

This is a complex issues which cannot be generalised easily. Generally, the traditional explanation of migration as a movement from poor to rich nations or from a country ruled by a dictatorial regime to a country that is political more moderate and stable is too simplified. As far as Tanzania is concerned, the increase in terms of labour immigration specifically from more developed economies is closely related to the increased level of foreign investment in the country (Table 9). The increase in the FDI has often been followed by a large number of workers from the investors' country.

Table 9: Trends in FDI in Tanzania, 1990-2001

Year	Amount in US \$ million
1990	0
1991	0
1992	12.0
1993	20.0
1994	50.0
1995	150.0
1996	148.5
1997	157.8
1998	172.2

²⁵ "Private schools lead in employing Kenyans and Ugandan", 2003.

²⁶ "Dar Recalls All Work permits, *The East Africa*, January 22, 2001

²⁷ *ibid.*

²⁸ Kenya Ministry of Labour and Human Resource Development, 2003.

Year	Amount in US \$ million
1999	183.4
2000	192.8
2001	224.4

Source: The Economic Survey, 2001, The United Republic of Tanzania

According to the TIC by September 2001 United Kingdom and South Africa are among the countries with highest share of FDI into the country.²⁹ The composition of labour migration in Tanzania would seem to be mainly a product of increased FDI from these sources. Similarly, the increased flow of foreign immigrants is due to the fact that the type of employment opportunities created as a consequence of FDI are those jobs that require high and specific skills, and most of these jobs are taken by people from the investors country.

The impact of FDI on labour migration to Tanzania is further explained by a number of work permits channelled through the Tanzania Investment Centre (TIC). For instance, TIC processed about 984 applications for class B permits which were investments related in 2002 (Table 10). This figure accounts for about 36% of total 2,669 class B permits issued in the same year. It follows from these discussions that the more open Tanzania has become for foreign investment, the more opportunities have arisen for foreign workers to enter into the country.

Table 10: Applications for work permits (Class B) channelled through the Tanzania Investment Centre: July 2001 to June 2003

Month/Year	2001	2002	2003
January	*	94	106
February	*	77	126
March	*	70	154
April	*	59	103
May	*	73	108
June	*	68	161
July	80	93	*
August	58	81	*
September	62	103	*
October	66	95	*
November	45	63	*
December	39	108	*
Total	350	984	758

Source: Tanzania Investment Centre (* data missing)

²⁹ Estimates investment according to TIC by September 2001 (by country) UNCTAD, 2001.

Besides change in government policies towards market economy, the trends in labour migration can also be explained by the structure shift in the global economy. Globalisation combined with rising demands for skilled over unskilled labour have opened doors for foreigners to seek employment in Tanzania. Similarly, as more and more multinationals shift their industries to developing countries such as Tanzania, the numbers of those willing to migrate from other developed countries where these industries are based has only increased. In sum, the drastic growth of the Tanzanian economy over the last few decades opened a new chapter in the context of labour immigration into the country.

3.4 Emigration of Tanzania Labour

Historically, there was little emigration of Tanzanians towards the western world. Today, there are some indications that there is a sharp increase in the number of Tanzanians migrant workers, both women and men working abroad. The movement composed both legal and illegal as well as skilled and unskilled. Most of skilled Tanzanians migrate to more developed economies particularly in North America and Western Europe. A significant number of Tanzanians also proceed to SADC countries mainly Botswana, South Africa and Swaziland. Most of the unskilled Tanzanians migrate to South Africa.

However, information on emigration in Tanzania like in many other countries is generally not reliable. This is because people departing from their country of citizenship are often reluctant to be classified officially as emigrants until such time as they have obtained at least permanent residence status in their country of destination. The only effective way to obtain reliable estimates of the extent of emigration is to bring into the equation the immigration statistics of the countries of destination as well. This is a difficult process and can usually only be done long after a particular emigration event occurred. This paper will not attempt therefore to determine the extent of Tanzania labour emigration as well as features and patterns emerged from this process. Having stated that, we highlight a number of issues emerging from the discussed trends and patterns of the current international labour migration in Tanzania.

3.5 Emerging Issues on International Labour Migration in Tanzania

Like many countries in the world and Africa, the issue of international migration is now taking on greater significance in Tanzania. Different issues have emerged on international migration and most of these issues have some theoretical significant as well as important policy implications. Some of the current concerns that have been evolved in the debates include:

3.5.1 Economic development

Labour migration has been linked with broader aspects of the national economy. Some argued that there is a close correlation between labour migration and trade and investment benefits accruing by the country. As trade and finances have become increasingly regulated and promoted, there are increasingly demands for skilled workers, who most of them will be coming from the investors' countries. However it is not yet clearly determined what precisely are the costs and benefits of the labour migration to the national economy? Is it possible to attract FDI flows but restrict inflows of labour into the country?

3.5.2 Demands of market economy

Trade liberalization and global socio-economic changes driven by information and communications technologies (ICT) has resulted in the economic interdependence of states i.e. globalisation. Driven by commercial market forces, globalization particularly liberalization of trade and capital has certainly marked an increase in demand of skilled workers in the country. Related to this, is the issue of access to information. The introduction of new communications technologies has provided far easier access to labour market information. As labour market information is becoming a global service through the World Wide Web, has thus added to attraction of skilled workers in the country. Will foreign (skilled) labours take away jobs from Tanzanians? Should Tanzania participate in this world liberalization of the economy- in terms of goods, capital and labour? Is Tanzania ready to join this world labour market? Globalisation, in turn, is raising a host of new challenges and problems in areas of national authorities that are concerned or connected with international migration.

3.5.3 Unemployment of locals

Migrant labours, particularly from neighbouring countries have been moving into the country for many decades. But, many Tanzanians are agreed however that both legal and undocumented labour immigrants from neighbouring countries and far has increased dramatically since 1990s. There are also changes apparent in the characteristics of recent migrants compare to those who moved during earlier phases as geographical areas of origin in sending countries, a wider range of skills and occupations are evident. Does this mean that immigration poses a threat to the national local labour market?

3.5.4 Education and qualifications

Tanzania is facing various demands of a market-oriented economy. One such demand is that citizens compete for jobs in employment on the basis of their skills and work experience or their own ingenuity. At present, it has been argued whether the present education and vocational system at all levels is relevant to the basic needs of the labour market in terms of

the practical application of the knowledge and skills acquired through education and training. Can Tanzanians workers compete with the foreign workers both in Tanzania and abroad? This raises further issues including how could the country increase the quantity and quality of educated and trained labour force; how could the country restructure employment (i.e. education and training to reorient the labour force towards skilled and high-tech employment)?

3.5.5 Quest for regional integration

Tanzania is moved towards economic regional integration. This form of international cooperation is covering a number of sectors in the national economy such as tourism, manufacturing and trade. As regional economic integration proceeds, the interests of Tanzania as a sovereign state become increasingly bound up with those of her partner governments. Migration is one of those areas which need to be harmonised in order to achieve objectives of regional economic integration. What directions should employment and migration policies take in order to strengthen the integration? Or put simply, how can the government implement regional integration objectives such as free movement of persons?

3.5.6 Gender equality

The proportion of women who are involved in migration flows is increasing rapidly. Many of these women act as pioneers of the migration chain. However, instead of being regarded as migrants in their own right, women have been viewed largely as those left behind, or otherwise as mere appendages to male migration. On the other hand, their status as women, as migrants or non-nationals, and as workers in gender-segregated labour markets makes international women migrant workers particularly vulnerable to various forms of discrimination, exploitation and abuse. It is debated among others whether should women have equal opportunities and treatment as men in immigration and migration policies? The feminisation of international migration raises crucial policy issues and concerns for the Tanzanian government.

These are some of the issues currently raised in migration debate in Tanzania. Most of these issues basically reflect divergent national priorities and differing visions of future regional integration. In generally, these issues could be put in one sentence; that is, should the government of Tanzania encourage labour migration, discourage it or remained neutral?

The next part examines the legal and policy framework on labour immigration to Tanzania.

4.0 POLICY AND LEGAL FRAMEWORK ON LABOUR MIGRATION

Migration, both across borders and within the same country, is not usually seen as desirable. Hence, it is not surprising that the government's responses have been mainly for controls and restrictions on migrants. In some cases, the institutional response is designed to give preference to certain groups of immigrants. We discuss below the policy and legal aspects regarding foreign labour migration to Tanzania.

4.1 The Migration Policy

Migration policies are generally developed by countries to achieve certain economic and social aims. Migration policies can be defined as those government interventions that regulate the arrival or departure of foreigners according to their nationality, purpose of their arrival and duration of their stay. Once inside the country, further ensure that the foreigners comply with their conditions of entry and regulate whether they are allowed to work or not.

4.1.1 The Policy prescriptions

At present, there is no comprehensive policy on (labour) migration in Tanzania. However, there are fragmented policies in which touch on issues of labour migration. From the fragmented policies such as the National Employment Policy of 2000, The National Employment Promotion Policy of 1997 and the Public Policy on the Employment of non-citizens (1999), one can deduce that the government policy involves efforts to control labour migration. This can expressly be found specifically in the National Immigration Act No. 7 of 1995. From this law, one can deduce that the policy that has so far been developed and adopted by the government is to regulate the entrance and stay of foreigners seeking employment in Tanzania. The law prohibits non-nationals to engage in any paid employment under an employer resident in Tanzania except under a permit issued in accordance with the provisions of the Act.

The principle objective of the strict attitude towards foreign labour in Tanzania is the protection of the local labour market. The country has experienced an increased number of job seekers in the labour market. The latest 2000/2001 Integrated Labour Force Survey indicates that about 12% of population is unemployed.³⁰ According to this survey, the unemployment problem is more severe among the youth aged 10 to 34 years than in older age groups because a majority of them enter the labour market for the first time without any work experience or skills. Consequently, Tanzania turns out an estimated 750,000 jobless youths annually.³¹ To address this problem, policies, particularly National Employment Promotion

³⁰ United Republic of Tanzania, Integrated Labour Force Survey, 2000/01

³¹ *ibid.*

Policy of 1997, and the National Employment Policy 2000 have been developed to promote employment opportunities of Tanzanians as well as increase productivity of the labour force to ensure full utilization of available human resources capacity. Thus, in a situation where domestic job opportunities are extremely limited, attraction of foreign labour to the country has been extremely discouraged. Foreign workers may be admitted into the country only when it is proven that there are no nationals with similar qualifications. Labour immigration in this situation remains, in deed, the least alternative in the labour market in Tanzania.

Notwithstanding to the fact that labour immigration remains the least alternative in the labour market in Tanzania, they are some instances whereby (in a considerable situation) the practice of Tanzanian government suggests facilitation rather than regulation of flows of foreign workers into the country. This practice is envisaged in a number of national policies such as the National Investment Promotion Policy, the Education and Training Policy (1995), the National Higher Education Policy (1999) and the Mining Policy of 1998. In situations where labour migration may help the country realise her development goals and objectives such as promotion of FDI, the government's practice has been to facilitate rather than regulate immigration of foreign nationals for employment purpose. It is important to state here that, the government on the other hand, has not taken any steps that would either promote or restrict emigration of skilled and unskilled Tanzanians.

4.1.2 The Key actors

Labour migration involves many actors. The main ones include the Department of Immigration (Ministry of Home Affairs), Labour Department in the Ministry of Labour and Youth Development, the Tanzania Investments Centre (TIC), Private sectors and employers. We briefly highlight the role of each actor in terms of labour migration.

The Immigration Department: The department under the Ministry of Home Affairs has a final say on who should stay and who should not in the country. While application for permits Class A are made directly to this department, application for class B are to be channelled through Department of Labour and the TIC. The two departments recommend for the grant of the permit or no. However, the final decision to grant the permit is vested with the Immigration department. The department also has a role of formulating and implement policy on migration matters.

The Labour Department: Generally, this organ is responsible for employment issues in the country. As far as labour migration is concerned, the department envisaged with power to determine the need for foreign personnel in Tanzania. For many years however the department has no reliable information on the actual availability of skills in the local labour

market and hence difficulties in processing work permits for foreigners.³² However, in 2001, the Labour Exchange Centre, as a unit of the Employment Section of the Ministry of Labour was opened. The Centre's functions among others, is to register applicants for employment and obtaining precise information from employers on available vacancies. In other words, the centre is supposed to be a useful database of the country's human resource capacities. The centre is expected to generate information that will be used by the government at national, regional, district and local levels to formulate employment policies.

The Tanzania Investment Centre (TIC): is a primary agency of government which coordinate, encourage, promote and facilitate investment in Tanzania and to advise the Government on investment related matters. All the Government departments and agencies are required by law to cooperate fully with TIC in facilitating investors. As far as labour migration is concerned, the TIC as established by the Tanzania Investment Act No. 26 of 1997 is responsible, among others, to obtain necessary residence/working permits and visas to foreigners wishing to establish business in Tanzania. Thus since May 2002, application for work permits class B related to investment are processed through this organ.

Table 11: Status of new application for work permit class B lodged to the Labour department for a period of July 2002- May 2003

Item	Quantity
Total Application received	2,551
Recommended for permits to be granted	2,282
Rejected/refuse approval	171
Pending applications	98
Granted	??

Source: Labour department, Ministry of labour 2003

The Civil Service Department: This department is mainly responsible for employment of foreign experts in public organs. The framework guidelines and procedures of recruitment of expertise are provided in the Public Policy on the Employment of non-citizens of 1999. This law provides exemptions for work permits of expatriates in the government projects.

Association of Tanzania Employers (ATE) and Workers Organisations: Enforcement of Labour migration policy cannot be complete if we don't mention the employer and employees. In fact, since July 2002, application for Class B permits are now being processed through a tripartite committee comprised of government, workers and employers' representatives.

³² Ms Regina Rweyemamu, Commissioner for Labour as quoted in the East African, September 10, 2001.

It follows from the above discussion that labour migration affects the concerns of most branches of government and non-state actors. However, it seems clearly that, the elaboration of migration policy has been dominant in the Ministry of Home Affairs.

4.1.3 Who benefits and suffer?

We have indicated that the de-facto policy on labour migration is to limit employment of foreigners into the country. But a basic underlying question is who benefit or suffer from this government intervention? In the first place, it is assumed that labour migration will significantly reduce employment opportunities of Tanzanians. Thus by limiting labour migration into the country is an opportunity to provide jobs to Tanzanians. However, it is difficult to determine the extent to which migrants contribute directly to Tanzania's high level of unemployment. The limited data on the job displacement of Tanzanians by foreign workers suggest that migration is not the primary factor in the current crisis of joblessness in Tanzania. This is not to say that the inflow of labour migrants does not have discernible impacts on the Tanzanian labour market. Rather, restriction of foreign labour inflows could have an impact on the country's economy. The Tanzanian labour market reveals a high demand and growing demand for skilled workers.³³

Reflecting the impact of globalisation, revival of the Tanzania's economy and the explosive growth in the information and communication technology, there has been a significant increase in labour demands for skilled workers in Tanzania. Companies need people with skills in order to be competitive in the globalised world. Although Tanzania produced about 1,000 graduates every year, it is widely accepted that most of them lack the required experience. It is almost agreed that there is a shortage of skills in the country and getting qualified manpower is not that easy as the education system is not geared towards producing graduates ready to enter the labour market. As one of our findings is that labour migration mainly involves people with skills who seek employment in private companies, it comes out clearly that the main sector suffering from migration control policy is the private sector. But this is not the only sector to suffer, universities and medical institutions seem to be on the list. Although Tanzania has got a number of qualified academicians and doctors, most of them have either left the country or have joined the private sector. There has been a shortage of doctors and university dons. In order to remedy the situation, it was expected that the government would open doors for people with skills and expertise to enter into the country. It would have been better if the government leave the market forces to play a bigger role in demand for manpower than limiting the admission of foreign manpower.

³³ United Republic of Tanzania, Integrated Labour Force Survey, 2000/01

4.2 The Law and Practice

The Immigration Act, 1995 (No. 5) and regulations made under it are the main legal instruments which administering the movement and documentation of people entering the United Republic of Tanzania. Part IV of the Immigration Act entitled “Conditions of entry and residence” provides for labour migration, resident permits and conditions attached to the holders of such permits. In addition, there are a number of legislation which touch issues of labour immigration. The most relevant is the Tanzania Investment Act, No 26 of 1997 and the Mining Act, 1998. It is worth noting that in 1999, the government adopted the National Employment Promotion Services Act (NEPS) No.9 of 1999. The Act, yet to become operational, among others provides principles for employment of foreigners in Tanzania. We elaborate below some legal elements incorporated in the above-mentioned instruments.

4.2.1 Limiting access of foreigner’s employment

Section 16 (1) of the Immigration Act prohibits non-nationals once they are in the country to engage in any paid employment under an employer resident in Tanzania except under a permit issued in accordance with the provisions of the Act.³⁴ It also prohibits foreigners to engage, for gain or reward, in any prescribed trade, business profession, or other occupation except in accordance with terms of an appropriate permit issued in accordance with the Act.³⁵ It follows from these provisions that there is a limitation on part of non-nationals in accessing employment in the country as non-nationals seeking to work in Tanzania are required to work in the country only when they have resident permits to do so. The only test is to fill skills gaps in the country. This requirement mainly seeks to limit access of employment to foreigners while promoting employment of nationals.

The limitation on employment of foreigners in the country seems to be strengthened by non-operative Employment Promotion Services Act, 1999. The Act, once became operational, will prohibit foreigners to be employed in certain occupations that will be gazetted to be employment or class of employment of Tanzania citizens only.

There are always exceptions to the general rule. There are a number of laws which provide ample opportunities for employment to foreigners in Tanzania. The TIC Act for example allows investors who qualify for Tanzania Investment Centre (TIC) Certificate of Incentives to employ up to 5 foreign experts. Similarly, Section 10 of the Mining Act No. 5 of 1998 allows the Minister of Minerals to enter into agreement with the mining Investors. Under these agreements, the investors and the minister, among others, agreed on the unlimited number of foreign workers to be engaged in the extraction of minerals. This is to recognise the needs of having in place appropriate skills at work places. In addition, the Refugees Act,

³⁴ Section 16 (1) the Immigration Act, 1999.

³⁵ Section 16(2) the Immigration Act, 1999.

No. 2 of 1998 - which defines conditions for status and registration of refugees - does also provide avenues for employment of foreigners. Section 32 of the Act provides, *inter alia*, that refugees may be eligible for any type of work in the country.

4.2.2 Permit regulations and procedures

Foreigners wishing to work in Tanzania must obtain official permission to do so before they enter the country. Usually, the prospective employer of a foreign worker is required to apply to the Director of Immigration for the Residence Permits Class "B" which is issued to any non-national who has been offered a specific employment in Tanzania. As a matter of practice, applications for class B permits are channelled through the Labour Department for the approval. However, the Director of Immigration always makes the final decision. This decision is subject to appeals to the Minister of Home Affairs, whose decision is final and is not subject to any inquiry by any court of law in the country.³⁶

Work permits only apply to employment with the employer mentioned in the work permit, for certain kinds of jobs and in certain specified location.³⁷ If a foreign worker changes employer, or the location of the work, even with the same employer, it is necessary to apply for another permit or for original permit to be changed. Contrary to that, the permit shall immediately cease to be valid and the presence of that person in Tanzania shall be unlawful.³⁸

Table 12: Status of New application for work permit class B lodged to the Labour Commission for a period of July 2002- May 2003

Item	Quantity
Total Application received	2,551
Recommended for permits to be granted	2,282
Rejected/refuse approval	171
Pending applications	98
Granted	??

Source: Department of Labour

Permits are also issued to foreign nationals for the purposes of running economic business or activities. According to the law, Class A permits are issued to non-nationals who intends to enter or remain in Tanzania and engage in trade, business, profession, agriculture, animal husbandry, prospecting of minerals or manufacture. Although application for Class A permits is made directly to the Director of Immigration Services, the TIC is required to determine the potential of the investment. The permits will be granted if accompanied by a Certificate of

³⁶ There is an outcry among the human rights defenders and public generally with regard to this position since it contravenes principles of rule of law and one's right to be heard.

³⁷ Section 19(2).

³⁸ Section 20(2).

Investment issued by the TIC. Likewise, the TIC assessment of the suitability of a foreign investment is not final with regard to the grant of permit to foreign investors or business entrepreneurs.

4.2.3 Temporary immigration

The legal framework suggests that labour migration is a temporary process in Tanzania. Under provisions of the Immigration Act, residence permit are issued for a period not exceeding three years and may be renewed for any period not exceeding two years. The total period of validity of the permit (original and of its renewals) shall not in any case exceed five years. This position provides to ensure that all migrants remained migrants and never settled in Tanzania. In few instances however, permits may be extended for a longer period. The requirement for such extension, in accordance with the Employment Policy, is that no Tanzanian citizen is available for the job.

4.2.4 Legal rights of foreign labour immigrants

Foreign nationals in possession of work permits are entitled to some legal rights enjoyed by Tanzanian citizens in respect of living and working conditions. The Employment Ordinance Act, cap 366, which regulates conditions of employment and employees such as contracts, wages and recruitment, is applicable to all other legal aspects of foreign labour migration in Tanzania. The ordinance also makes provision for remedies, jurisdiction and procedure of court. Other legislations and guidelines to be followed by foreigners are included in the Regulations of Wages and Terms of Employment Ordinance, Chapter 300, Social Security laws (National Social Security Fund Act No: 28 of 1997) and Security of Employment Act, 1964. With regard to Social Security Act, foreign employees can only be exempted if they can prove to be involved in another pension programme in their countries. In addition, professionals such as doctors, accountants, auditors, engineers, advocates and notaries are required by other laws to be registered and licensed to practice in the country. The emphasis is placed on sound professional qualifications and practical experience of alien immigrants.

In contrary to labour rights of citizens, foreign labour migrants are not permitted to change their employer, activity or occupations. Moreover both permits may be cancelled in the event of interruption of the employer and employee. In this case, the foreign worker is required to leave the country.

4.3 Challenges on Implementation of the Policy and Law

The implementation of the immigration policy and enforcement of the legislation has been subjected to a number of challenges which are elaborated hereunder: -

4.3.1 Illegal employment of foreign labour

In most cases employees prefer to employ foreign workers under a legal employment relating. However in certain cases employers are opting for an illegal employment. This, to some extent, is a reaction against over complex bureaucratic procedures for obtaining residence and work permits. For example, there have been repeated complaints, particularly from construction firms of a need to continually applying for new work permits every time the location of work changes. In such cases rules are often broken, when the employer omits to obtain the new permits. On the other hand, informal admission of foreign labour “black market” is also compounded by lack of control of employment officers and by insufficient cooperation with the respective policy departments.

4.3.2 Power to issue work permits

The power to issue work permits is vested with the Director of Immigration. The position has already produced conflicting interests among the actors. It has been observed that there happen instances where the Labour department recommends for resident permit to be issued and the Immigration department decides otherwise. In some cases, the department grants work permits even if the application was not recommended by the Labour Department. This is also the case for the TIC. One case has been cited where the TIC has cancelled a South Korean national’s investment certificate and advised the Immigration Department to annul his residence status. But he was instead given a Class A resident permits.³⁹ This suggests that elaboration of the policy on labour migration has been dominated by the Immigration department. In other words, the labour migration management responsibilities have been shifted from labour ministry to home affairs, thus transforming contexts for policy elaborations and implementation from that of labour market regulation to that of policing and national security. To the vast extent that migration is about work, the ministry of labour is supposed to retain a certain role in administration of migrant worker policies, because labour migration inevitably has direct implications on labour market regulations, conditions of work and other fundamental areas of competence.

4.3.3 Lack of consultation and coordination among the actors

There is little intra-governmental consultation among government ministries or department concerned with labour migration and even less effective cooperation and coordination and concurrence between various actors. It has been observed that there happen instances where the labour department or TIC approves/recommends for resident permit for alien immigrant but refused by the immigrant department. In other occasions, the Labour Department have not recommended for the issue of work permits but when this person appealed, then the Immigration department issued permit without the approval or aware of the Labour

³⁹ Interviews with the relevant officials, 2003.

Department.⁴⁰ This suggests that there is little intra-governmental consultations among government ministries or department concerned with labour migration and even less effective cooperation and coordination and concurrence between various actors.

In addition, there is lack of coordination between the government agencies in terms of labour migration. For example, the coordination or cooperation between the Immigration Department and the Police force specifically in searching for and apprehend illegal aliens. The police tend to view the issue of illegal immigrants as mainly a Department of Immigration problem that should be dealt with by the Department and does not expend precious time and resources to the effort themselves. Instead, the illegal labour immigrants who are caught by the police are usually those who have been arrested for criminal activities, upon which it is discovered that they are also work in the country illegally.

4.3.4 Challenges of globalisation

The process of globalisation is perhaps the greatest challenge the country face today in terms of the implementation of the immigration policy and the law. While it is true that globalisation expands the opportunities for unprecedented human advance, it has at the same time narrowed opportunities and eroded national policies securing protection of its labour market. Globalisation forces enterprises to adapt to the changing needs of the global market in order to remain competitive. This also means a need for skilled and experience labour whether from inside or outside the country. We need to determine whether the indigenous force has education, skills that match the demands of the rapidly evolving global economy. Closely related to this, is the issue of regional integration. There are obligations arising under EAC and SADC treaties requiring response from Tanzania's Immigration policy. The country is increasingly called upon to harmonize its immigration and citizenship policy and laws with provisions of treaties establishing the EAC and SADC. This issue is more elaborated in the next section.

⁴⁰ Ibid.

5.0 THE PROSPECTS ON LABOUR MIGRATION IN TANZANIA

Despite limitation on foreign labour migration, it is predicated that the flow of migrants will continue to grow and be further strengthened in the future. One of the reasons is the growth of Tanzanian economy where multilateral industries open branches in the country. Another reason for labour migration to increase in the future is that strong restriction will not be placed on the entry of foreigners particularly those from eastern and southern African countries. This case is elaborated further by the case of the East African Community.

5.1 A Case for Regional Integration: the East African Community

The Treaty Establishing the East African Community (EAC) was signed on 30 November 1999 (and entered into force on July 7th 2000). The EAC aims at promoting and strengthening the balanced and sustainable integration of economic, social, cultural and political aspects of the three member states i.e., Tanzania, Kenya and Uganda. In achieving this objective, the treaty provides for the establishment or enhancement of co-operation in (i) Trade Liberalisation and development, (ii) Investment and Industrial development (iii) Monetary and Financial matters, (iv) Development of the Infrastructure and Services, (v) Development of Human Resources (vi) Development of Agriculture and Natural Resources; and (vii) Provisions of a Conducive Environment for Development.

5.2 Migration Issues

In order to develop human resources in the region, the Treaty provisions, among others, geared towards “free movement of persons, labour, services, right of establishment and residence.”⁴¹ However, realising the partner states’ different levels of socio-economic development, the Treaty provides for the conclusion of a Protocol on the Free Movement of Persons, Labour, Services and Rights of Establishment and Residence at a time to be determined by the Council.⁴² The Treaty goes on to provide that in order to facilitate free movement of labour, partner states will ease border crossing by its citizens, review and standardise labour laws and regulations related to labour standards.

Although, the Council has not yet decided on the exact date for the establishment of the protocol, it recently adopted a decision to scrap out existing impediments to ensure free movement of people within Kenya, Tanzania and Uganda.⁴³ The Council consented that free movement of people, goods and services within East Africa, was critical towards attainment of major objectives of the Treaty.

⁴¹ Chapter Seventeen

⁴² Article 104(2)

⁴³ Fourth Extraordinary Meeting of EAC Council of Ministers, held in Arusha, April 8-9, 2003.

5.3 Implications for Tanzania

The EAC development suggests possible changes in trends on migration not only for employment purposes but also for permanent residence in the partner states. This is because, once the East African common market is established, the East African will be able to take up employment and carry out business in any of the three countries without requiring a work or business permit. Provisions in this area vindicate the involvement of the human factor, as a cornerstone of progress, in the building and development of the EAC. In the spirit of the EAC, the Kenyans and Ugandan will be free to enter into Tanzania and seek employment. Similarly, Tanzanian labours will be free to enter in Uganda and Kenya for employment purposes. The question to be addressed, and which is not within the scope of this paper, is whether Tanzania's labour market will be able to compete with that of Kenya and Uganda? As argued by scholars, a free labour movement does not necessarily imply that everybody can automatically work wherever they choose.

The recruitment of workers, either skilled or unskilled, will no longer depends on persons' nationality, but on her/his qualification. As argued by some economists, countries export and import goods not on the basis of whether they produce and sell the product, but whether the society really wants to buy the product.⁴⁴ Within the context of market economy, the East African citizens will compete for jobs in employment on the basis of their skills and work experience or their own ingenuity but not on the basis of nationalities.

Fears among the Tanzanians have already recorded with regard to the proposed free movement of East African labour as it lacks skilled and specialists in many sectors. The Tanzania Chamber of Commerce, in particular, has already pre-empted that the country's labour market will be flooded by skilled personnel from Uganda and Kenya. However, it is argued that Tanzanians could become competitive in other sectors where it has competitive advantage. One of cited by the TCCIA in which Tanzania could have competitive advantage is the health sector. Tanzania has specialists of regionally and internationally acceptable standards and experiences in the field and thus could do better than her neighbours. It has already been suggested by some analysts that in order for the East African countries to benefit from the proposed free movement of labour among themselves, worker's areas of speciality need to be clearly stipulated. This will help to curb the movement of unskilled labour which could jeopardise the few available jobs for locals thus fuelling unemployment in the respective member states and particularly in Tanzania.

⁴⁴ Aris Ananta, 'Economic Integration and Free Labour Area: an Indonesian Perspective' in *Labour Migration in Indonesia: Policies and Practices* (1999) by Sukamdi, Abdul Haris and Patrick Brownlee, Population Studies Center Gadjah Mada University.

The prospects for increase in movement of labour in the country, is also determined by other development such as the SADC. The government has been called to harmonize its immigration and citizenship policy and laws with provisions of SADC. Likewise, people from SADC countries will be free to enter and seek employment in each SADC states. It is therefore argued that labour migration in the future is likely to increase rather than decrease in Tanzania and it should not be thought of a transient or temporary phenomenon. Facilitation of movement of people particularly with skills in the country could help in the process of development. For example, Botswana is among the countries in the region (Africa) which has been successful because of foreign labour migration. At the time of its independence in 1966 its economy consisted of little more than animal husbandry. However, diamond mining began in the 1970s and subsequently the country's economy began to grow. Foreign skilled labour was imported to foster development. Botswana also implemented a strategy of human resource development, and this later paid off as a wide range of positions previously held by expatriates were later filled locally. However the income and position held by nationals are, on the whole, lower than those of expatriate staff.

International migration has becomes therefore part and parcel of the changing global economy. Thus, if the general trend is to liberalized trade and the movement of goods, capital and services, it becomes increasingly difficult to defend the exclusion of persons or their (voluntary) migration.

6.0 SOME CONCLUSIONS

This study attempted to analyse the trends, issues and policies on labour migration in Tanzania. The extent of our analysis however has been restricted by the lack of comprehensive and reliable data on labour migration in Tanzania, an issue that we highlight throughout the paper. Nonetheless, available data indicates that international migration for employment is increasing in magnitude in Tanzania and the range of skills and sectors are involved. The trend is seen largely as the result of market reforms (FDI flows) and rising of private companies/entities in the country. This trend coincided with the policies on regional integration and cooperation.

Issues and different opinions have emerged on these trends. They range from economic development, under-employment, education and qualifications, increasing crime, human rights, gender, poverty, and economic inequalities.

We observed that the de-facto policy arrangements reflect a limitation of labour migration into the country. The applicants for a work permit must demonstrate that no suitable citizen is available to take up the position and that a citizen will be trained to take up the position within stipulated time. On the question of the future development of labour migration in Tanzania, we indicated that the migration will expand in the coming years. This view is mainly based on the current context of rapidly increasing regional cooperation and integration, the expansion of FDI and the growing demand for highly qualified and specialised workers. It may therefore be surmise that the government should attempt to formulate a suitable migration policy that full take into account the national labour markets while enhancing the positive role of migration in growth and development.

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