



EXAMINATION REPORT ON THE

SYSTEMS, POLICIES, PROCEDURES AND PRACTISES OF THE MINISTRY OF IMMIGRATION AND REGISTRATION OF PERSONS

DEPARTMENT OF IMMIGRATION

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LIST OF ABBREVIATIONS

AG	Attorney General
DCA	Directorate of Civil Aviation
DPM	Directorate of Personnel Management
EPZ	Export Promotion Council
EPZA	Export Processing Zones Authority
FDU	Forgery Detection Unit
GI	General Indexing
JKIA	Jomo Kenyatta International Airport
IPC	Investment Promotion Centre
KAA	Kenya Airports Authority
NSIS	National Security Intelligence Service
NRB	National Registration Bureau
PISCES	Personal Identification Secure Comparison and Evaluation System
PSC	Public Service Commission
PIO	Principal Immigration Officer
SAGA	Semi Autonomous Government Agency

ABSTRACT

This Report contains findings and recommendations of the examination into the systems, procedures and practices in the Department of Immigration. The examination was carried out by a Team of Officers from the Kenya Anti-Corruption Commission between August and September 2005. The purpose of the examination was to identify opportunities and avenues for corrupt practices in the systems, policies, procedures and practices in various functional departments of the Department of Immigration and to make recommendations on how to seal the identified loopholes

The Examination team examined all the functional areas of the Department at the headquarters, sub- regional offices, selected border control points such as airports, seaports and other entry points. Furthermore, interviews were conducted with various stakeholders and officers in other related departments. These include the Department of the Registrar of Persons, Civil registration Bureau, Ministry of Trade, Kenya Association of Manufacturers, United Nations High Commission for Refugees (UNHCR) and Ministry of Foreign Affairs among others. (See appendix 1 for the list of areas visited).

Findings arising from the Examination reveal that there exist opportunities for corruption and corrupt practices in all the areas examined. This Report covers a wide range of findings which are presented in the following nine sections:

The first section identifies weaknesses which include the absence of a comprehensive government policy on immigration and an outdated legal framework that does not take cognisance of emerging issues such as terrorism, human and drug trafficking.

The second section highlights problems inherent in the general operations and administration of the Department of Immigration. Key among them is inadequate supervision, lack of operational manuals and guidelines in the performance of immigration functions in spite of wide discretionary powers, absence of a service charter, lack of clearly defined channels of complaints for staff and the public, budgetary and other resource constraints.

The third section deals with human resource management issues and highlights the disciplinary processes, lack of a clear staff development policy, staff shortage, low remuneration, among other findings. These undermine the officers' optimum performance and create fertile ground for corrupt practices.

The **fourth section** highlights weaknesses on issues relating to management and control of immigrants. These include:

- Possible forgeries of travel documents
- Abuses in the issuance and extension of visas
- Inadequate security checks at points of entry
- Indiscriminate renewal of work permits
- Lack of sufficient mechanisms for dealing with illegal immigrants
- Lack of a clear policy and legal framework on refugees
- Absence of clear guidelines on application and granting of citizenship
- Porous boundaries and

- Use of intermediaries to gain access into the country.

The fifth section covers issuance of travel documents such as passports, temporary permits and certificates of identity. The findings range from use of insecure passports which are prone to forgery, lack of appropriate equipment to authenticate primary documents such as birth certificates required in the preparation of travel documents, poor record keeping of requisitioned and issued passports, delays in the process of issuance of travel documents to a weak penalty regime to deal with irregularities.

The sixth section is concerned with financial management issues. Corruption loopholes in financial management exist in such areas as accountability of documents used for revenue collection locally and in the Kenya Missions abroad, banking systems, and lack of safes in revenue collection points among other weaknesses.

The seventh section deals with internal audit and highlights, among other weaknesses, the lack of an independent internal Audit Section; lack of necessary facilities for effective discharge of auditor's functions; poor documentation of audit reports and disregard and delayed action on queries raised in the reports

The eighth section covers weaknesses on issues of procurement. Weaknesses include manual stores inventory, the lack of pre-qualified suppliers, lack of market surveys and inappropriate personnel to handle procurement issues.

The ninth section captures issues on records management. The Department has not developed a records management structure and a training programme for the registry staff among other inadequacies.

Additionally, the Report has highlighted issues for further consideration in order to improve the management of the Department of Immigration. These include registration of births and of persons. It also covers problems associated with porous boundaries, refugees and immigration related investigations.

Recommendations have been made for all the findings in the Report. Some of the recommendations call for administrative actions, while others propose the design of appropriate controls.

KACC is mandated to secure the revision of methods of work and procedures that in the opinion of the Commission may be conducive to corrupt practices. The Commission expects the Department of Immigration to immediately embark on the implementation of the Recommendations This will include the preparation of an Implementation Schedule to be submitted to KACC one month after the submission of the Report for discussion. Based on the Implementation Schedule, KACC will continuously assess and monitor the agreed targets.

1.0. INTRODUCTION

The **Department of Immigration** is a Service Department and an integral part of the security arm of the Government. Until 1950, it was a section of the Police Department with a legislative framework dating as far back as 1906 when the Immigration Restriction Ordinance was enacted. Currently, it is one of the Departments within the Ministry of Immigration and Registration of Persons, which was created recently under the Office of the President. Until the creation of the Ministry, the Department of Immigration was under the Office of the Vice President and Ministry of Home Affairs. Registration of Persons was carried out under the Office of the President. The merger of the two Departments to form the Ministry is an attempt to bring them closer due to the inevitable linkages in their functions. Outside this Ministry is the Registrar of Births and Deaths, which also has linkages in the functions of the other two Departments.

The Department has the following functions:

- Issuing of travel documents to citizens
- Control of entry of non- citizens in Kenya
- Granting of Citizenship to non- Kenyans
- Regulation of employment of non-Kenyans
- Registration and monitoring of the movement of non-Kenyans within the country
- Investigating and prosecuting offences committed under immigration law
- Managing all ports of entry
- Provision of consular services in Kenya missions abroad.

Operationally, the Department is organized to cover the headquarters, Nairobi, Coast, and Western Regions. There are two sub regional offices namely Eldoret and Garrissa. In addition, the Department manages 14 border controls, 7airports, and 5 seaports. At the Headquarters the Department is divided into the following Sections namely:

- Administration/personnel
- Passport
- Entry Permits (Work Permits)
- Visa
- Aliens ad Refugees
- Investigation and Prosecution
- Citizenship
- Physical Immigration Services
- Kenyanisation
- Finance and Accounts
- Computer
- Registries and Microfilming
- Training and Research

The functions of the Department are derived mainly from general government policy as well as various statutes including:

- The Constitution
- The Citizenship Act (Cap 170- Laws of Kenya),
- The Immigration Act (Cap 172 – Laws of Kenya)
- The Aliens Restriction Act (Cap 173- Laws of Kenya)
- The Geneva Conventions Act (Cap198 – Laws of Kenya)

These laws set the criteria for:

- Admitting nationals of other countries into Kenya
- Procedures for regulating their stay in the country and determining when they should leave
- The procedures for acquisition of citizenship
- Issuance of various immigration documents including passports, passes, and entry permits to businessmen, missionaries, professionals, manufacturers and persons working with various private and international organizations.

Various regulations have been created to facilitate the implementation of the statutes. Some of the most important regulations are Visa Regulations, which are reviewed from time to time.

At the heart of the statutes is the need to enforce Kenya's international obligations but at the same time to maintain Kenya's sovereignty over all its activities and resources; and to guarantee and maintain security within its borders.

However for some time, it has emerged that these statutes do not address political, economic and social dynamics, which have emerged, since their enactment in the formative years of independence. Furthermore, they have not kept pace with contemporary globalisation of world affairs and have been exploited by unscrupulous local and foreign individuals. Cognizant of this fact, there have been attempts to introduce changes particularly to the relevant provisions in the Constitution, the Immigration Act, the Citizenship Act, and the Aliens Restriction Act. These attempts have not borne fruit hence contributing to many security problems facing the nation. Some of the most critical concerns cited by the Department and other interested parties have centred on the following gaps in the law and illegalities namely:

- The inadequacy of legislation to deal with terrorism and drug trafficking
- Lack of finality of the Minister's order to remove an undesirable immigrant
- Lack of power to require owners and agents of premises such as hotels and other boarding houses to produce on demand the manifest of aliens hosted in the premises. (This makes it difficult to track down illegal aliens).
- Poor penalty regime for offences committed under immigration law
- Lack of provisions in the Immigration Act to deal with human trafficking. (Kenya therefore continues to serve as a factory for forged passports and a conduit for smuggling of persons to other destinations)
- Forgeries of foreign documents and visas

The Department has also, for the last few years, expressed concern regarding various problems in the implementation of the law and general operations of the Department. Indeed there have been attempts to address some of these concerns by setting up task teams to advise on the way forward.

Some of the concerns include:

- Forgeries of foreign travel documents and visas
- Shortage of staff leading to delays in service delivery
- Long distances between ports of Entry
- Frivolous applications for work permits
- Abuse of provisions on renewal of permits
- Unavailability of equipment at ports of entry e.g. computers, and document verification machines
- Poor communication and information management systems
- Poor staff development
- Inadequate funding

Some of the legal weaknesses and concerns stated above underscore the underlying causes for inefficiencies and lack of integrity in the operations of the Department.

Very wide powers have been conferred on the Minister in charge of immigration as well as immigration officers. For example, the Minister has wide discretionary powers to consider all applications for citizenship and is not required to assign any reasons for refusal of an application. Similarly, immigration officers exercise wide powers and have immunities conferred by law on police officers for purposes of investigation. Needless to say, these powers have to be exercised with the utmost sense of integrity because any lapses could compromise the security of the Nation in far reaching ways.

Inefficiencies, corrupt practices, and lack of vigilance in the exercise of these powers could lead to issuance of immigration documents to persons whose intentions are to engage in illegal activities such as smuggling, terrorism, money laundering and drug trafficking.

The dangers posed by the inefficiencies are exacerbated by porous borders which can be exploited by aliens with ill intentions- hence the need for exceptional vigilance on the part of immigration officials and other relevant government departments that must serve efficiently to safeguard national security.

Indeed, concern has been raised over the years regarding cases of non-nationals from neighbouring countries who obtain birth certificates fraudulently and later use the certificates to regularize their citizenship. (Bossier R. Omega: 'Constitution and Citizenship' in When the Constitution Begins to Flower Claripress Ltd -2002) P 92-93. Thus, although the Minister in charge of immigration is expected to exercise extreme caution in granting approvals for citizenship, his/her role and that of immigration officers may be undermined by laxity in other departments which have to be depended upon to provide

background checks on applicants seeking citizenship and various immigration documents. The Departments responsible for security and registration of births have a critical role in ensuring that restrictions on non-nationals are effectively implemented in order to safeguard Kenya's sovereignty.

Illegal issuance of immigration documents to immigrants without following required procedures not only undermines state security but also denies the country much needed revenue. Furthermore it erodes the image of the country as a safe destination for tourism and investment.

Some of the Departments that work closely with the Department of Immigration include:

- The Department of Police, which provides custody and escort, services in respect of offenders under the Immigration Act. Officers from the other arms of the Police Department such as the Criminal Investigations Department (CID) assist the department to carry out investigations concerning offences under the Penal Code.
- National Security Intelligence Service (NSIS), which provides the Department with administrative support and relevant intelligence information of different types whenever required.
- Provincial Administration is called upon to authenticate various documents, which form part of the security documents issued by the department.
- The Departments of Civil Registration and Registration of Persons Bureau provide information for personal legal records, which form part of the documents required for issuance of travel documents to bona fide citizens.
- The Ministry of Lands and Housing which has the responsibility of providing adequate houses within the proximity of working stations.
- The Ministry of Foreign Affairs provides consular services through the Kenya Missions Abroad
- The Attorney General provides the Department with legal advice and assistance whenever required and also prosecutes offenders under the Immigration Act.
- The Judiciary determines all cases prosecuted under the Immigration Act.

The Department of Immigration in its efforts to issue entry permits that encourage transfer of expertise and investment unavailable locally relies on the advice of the following Agents among others:

- Ministry of Labour & Human Resources
- Investment Promotion Centre (IPC)
- Export Processing Zones Authority (EPZA)
- Export Promotion Council (EPZ)
- Directorate of Civil Aviation (DCA)
- Registration of Boards of various professional bodies e.g. Medical Registration Board etc.
- The Prisons Department which has responsibility over persons jailed under the Immigration Act.
- In order to perform the required duties at the airports, the Department relies on the support of Kenya Airports Authority (KAA)

- The Refugee Department, which registers and monitors the movement of refugees within the country.

In spite of the critical roles played by the above Departments/Agencies, the Examination Team focused on the Immigration Department because of its central role in the implementation of the relevant law on citizenship and immigration. Related departments/ agencies were examined generally for linkages and useful insights.

The Department of Immigration also generates substantial revenue, which is partly used to finance Kenyan Missions abroad. However, national development statistics captured in the Economic Surveys and Statistical Abstracts do not pay attention to the contribution to the National economy by the Department and tend to focus more on arrivals of immigrants either for tourism or for business.

2.0. BACKGROUND

The Kenya-Anti Corruption Commission (KACC) is mandated to ensure that public resources are well managed through prudent and transparent systems that leave no room for corrupt practices. This examination was carried out in accordance with this mandate which is stipulated in the Anti Corruption and Economic Crimes Act 2003 Section 7 (1) (f) and (g). According to these provisions the Commission is empowered:

- To examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that in the opinion of the Commission, may be conducive to corrupt practices;
- To advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices.

2.1. PROBLEM STATEMENT

The examination was triggered by persistent reports and complaints by members of the public through the media and to the Kenya Anti-Corruption Commission (KACC) which suggested the existence of various forms of corrupt practices in the Department of Immigration. The reports indicated that corruption was rife in the Ministry particularly in the Department of Immigration. The then Minister for Immigration and Registration of Persons also expressed concern about rampant corruption in the Ministry and requested the Commission to offer appropriate advice on ways of eliminating it. Some of the reported ways and methods used to perpetuate corruption in the Department were reported as follows:

(a) Soliciting for bribes and extortion

Officials solicit for bribes with the promise that they will facilitate quick processing of immigration documents such as passports, visas, work permits and others. This is sometimes done through the use of middlemen. In most cases those who fail to pay the bribes are so frustrated to the extent that it takes a very long time to process the required documents. In cases where aliens are involved, they are threatened with deportation when they fail to comply. It is reported that Immigration Officers work in cahoots with Police Officers to extort money from foreigners seeking for immigration documents.

(b) *Illegal issuance of passports*

The Department of Immigration was also accused of illegally issuing Kenyan Passports to Non-Kenyans. It was alleged that the scam involves exchange of a lot of money. Some of the non-Kenyans who apply for Kenyan passports are alleged to be involved in illegal drug business, human trafficking as well as those escaping from the war torn neighbouring countries.

(c) *Illegal issuance and renewal of work permits*

Some companies collude with Immigration Officers to acquire temporary work permits for foreign employees who masquerade as expatriates and consultants. Once the work permits are obtained, Kenyans are relieved of their jobs and replaced with the foreigners. When work permits expire, Immigration Officers are bribed to renew them even when the approved period has expired. In some cases, foreigners exit the country temporarily and upon return they are issued with the necessary immigration documents immediately.

(d) *Other corruption related malpractices included:*

- *Fake immigration documents*

It was alleged that there exists a parallel market for some immigration documents particularly work permits, which do not have adequate security features.

- *Deliberate “loss” of immigration documents once they have been lodged at the Immigration Department for processing. This frustrates the applicants who end up bribing the immigration officers to “assist” in tracing these documents. Some reports indicated that once bribes are given, the documents are promptly retrieved.*
- *Maintenance of parallel receipt books by cashiers*
- *Sale of application forms especially for citizenship*
- *Leakage of information*

All these complaints suggested existence of weaknesses and loopholes, in the policies and methods of work applied by the Department of Immigration. They were also a reflection of poor governance systems that could compromise national security. Accordingly, KACC found it necessary to assess the degree of accountability, transparency and integrity in the key functional areas in the Department of Immigration. The purpose was to identify weaknesses, loopholes, avenues and opportunities that may be used for corrupt purposes and thereafter to offer appropriate advice.

2.2. OBJECTIVES

The overall objective of this examination was to offer appropriate advice to the Department of Immigration on ways and means of promoting and sustaining transparency, accountability and integrity through application of systems of work that offer no room for corrupt practices. The specific objectives were:

- a) To identify weaknesses, avenues and loopholes for corrupt practices through studying and examining the systems, policies, procedures and practices in the operations of the Department.
- b) To make recommendations on how to seal corruption loopholes in order to promote and sustain transparency, accountability and integrity in the process of issuing immigration documents.
- c) To secure revision of methods and procedures of work that in the opinion of the Commission may be conducive to corrupt practices in the process of issuing immigration documents.

2.3. TERMS OF REFERENCE

The terms of reference for this exercise were:

- a) Studying the existing policies, guidelines, procedures and practices applied in the issuance of passports, work permits and visas by the Department of Immigration.
- b) Analysing the adherence to policies, guidelines and procedures in the performance of the Department's functions.
- c) Ascertaining the effectiveness of these systems in enhancing integrity in the operations of the Department.
- d) Identifying and profiling areas of weaknesses, loopholes and avenues for corruption in the areas of revenue collection, procurement of immigration documents, records management and service delivery by the Department.
- e) Assessing the effectiveness of the feedback systems between the Department of Immigration and the National Security Intelligence Service.
- f) Assessing the appropriateness of records management practices by the Department.
- g) Preparing a report of findings and making recommendations on how to seal identified corruption loopholes.

2.4. SCOPE

The exercise was conducted in the offices of the Department of Immigration at the head office, field, border entry points and the Ports.

2.5. METHODOLOGY

In order to effectively address the above terms of reference, the following methods were applied:

- a) Formal and informal interviews
- b) Observations of:
 - Surroundings
 - Physical facilities
 - Work processes
 - Clients behaviour
- c) Spot checks and mystery surveys to check compliance
- d) Analysis of secondary information from:
 - Policy documents.
 - Operational circulars and manuals.
 - Other accountable documents

2.6. REFERENCES

- The Constitution of Kenya
- The Immigration Act, (Cap 172 - Laws of Kenya)
- Aliens Restrictions Act,(Cap 173 - Laws of Kenya)
- The Kenya Citizenship Act (Cap 170 - Laws of Kenya)
- Employment Act, (Cap 226 - Laws of Kenya)
- Anti Corruption and Economic Crimes Act, 2003
- Public Officer Ethics Act, 2003
- Exchequer and Audit Act Procurement Regulations Legal Notice No. 51 of 2001
- Public Procurement and Disposal Act
- Public Archives and Documentation Act, (Cap19-Laws of Kenya)
- Government Financial Management Act, No. 5 2004
- Government Financial and Regulations Procedures,
- Relevant International Conventions
- Visa regulations
- Ministerial circulars and manuals.
- Policy manuals & circulars
- Management Reports
- Rules and Regulations manuals
- Treasury circulars
- Relevant reports, legislation and materials from other jurisdictions

3.0. FINDINGS AND RECOMMENDATIONS

3.1. POLICY AND LEGAL ENVIRONMENT

The Department of Immigration is charged with implementing its mandate as described in the various laws that address immigration issues in the country. The core laws are:

The Constitution
The Aliens Restrictions Act
The Immigration Act
The Citizenship Act

These laws embody the government policy on immigration.

1. There is no comprehensive Government Policy on immigration in the Country.

The Permanent Secretary Ministry of Immigration and Registration of Persons should spearhead the formulation of a comprehensive government policy on immigration bearing in mind national interests. The policy should define in clear terms the principles on which all immigration functions in the Country should be carried out. It should also set the desired legal framework and the measures to be taken for implementing the policy.

2. The existing Laws and Regulations governing immigration do not address emerging issues such as terrorism, human and drug trafficking among others. The Department has made suggestions for the amendment of these Laws but these suggestions have not been implemented. This is a threat to the security of the State.

The Minister for Immigration and Registration of Persons in collaboration with the Attorney General should urgently spearhead the review of laws governing immigration to address the emerging issues. The review process should take into account already proposed amendments by the Department. Ideally the review process should be preceded by formulation of a comprehensive policy.

3. The laws governing issuance of various immigration documents are not harmonised to remove uncertainty in the role of immigration officers. For instance, the Kenya Citizenship Act does not make reference to the role of immigration officers, yet activities under the Immigration Act and the Kenya Citizenship Act are performed by the Immigration Officers on instruction of the Minister and the Principal Immigration Officer. This could lead to abuse of office as officers assume authority not conferred by the law.

The Minister for Immigration and Registration of Persons in collaboration with the Attorney General (AG) should spearhead the review of the laws governing immigration with a view to having all the Acts dealing with immigration issues consolidated. Alternatively, the laws should be harmonised in a way that eliminates anomalies.

4. The penalties prescribed under the Acts governing immigration matters are too lenient to deter offenders. This undermines state security and control of illegal immigrants.

The Minister for Immigration and Registration of Persons in collaboration with the Attorney General should spearhead the review of laws governing issuance of various immigration documents with a view to instituting stiffer and deterrent penalties

5. The Kenya Citizenship Act gives the Minister immense powers and unfettered discretion in granting citizenship. The Minister may grant or reject an application and his/her decision is final. This is subject to abuse as there are no clear guidelines and criteria on which the Minister may base his/her decisions.

The Attorney General should embark on the process of reviewing the Kenya Citizenship Act to ensure adequate checks to the powers of the Minister. Consideration should be given to the creation of an advisory body to process applications and advise the Minister. All applicants should be gazetted to enable Kenyans raise any objections to the applications. Successful applicants should also be gazetted and aggrieved parties should have a right of appeal against the Minister's decision.

6. The Immigration Act empowers the Immigration Officer to carry out statutory duties without specifying different levels of responsibility. Thus in some cases officers without sufficient experience to carry out the statutory functions of an immigration officer nevertheless make weighty decisions. This is risky and can create inefficiency in the discharge of the immigration function.

The Minister for Immigration and Registration of Persons in conjunction with the Attorney General should initiate review of the Immigration Act to clearly spell out the ranks, qualifications and additional responsibilities of Immigration Officers as may be deemed necessary to accommodate new problems in immigration services.

7. The Immigration Act defines a passport but does not clearly stipulate the requirements for its acquisition. Application forms state requirements that have been developed administratively. In certain instances the requirements differ depending on cultural, religious and social factors. For example, more stringent requirements have been developed to deal with applications from communities living along some Borders. This may expose the Department to litigation as applicants seek to challenge discriminatory requirements.

The Minister for Immigration and Registration of Persons in conjunction with the Attorney General should explore ways of either amending the current Immigration Act to provide clear guidelines or enacting a Passports Act to provide for issuance of passports including specific requirements to be incorporated in application forms.

8. The Immigration Act is outdated and does not address emerging crimes such as human trafficking, which immigration officers have to deal with. The examination team was informed that currently there is enhanced regional movement of Ethiopians, Somalis and to some extent Eritreans to South Africa using Kenya as a transit point. Pakistanis are also being trafficked into the country as a final destination.

The Minister in conjunction with the AG should spearhead a comprehensive review of the Immigration Act. The review should take into consideration relevant international instruments. It should also impose stiffer penalties for all violations of the law.

3.2. HUMAN RESOURCE MANAGEMENT

1. There is a serious staff shortage in the Immigration Department. This affects service delivery by the Department. At the time of the Examination, the Department had a staff complement of 979 compared to the approved establishment of 1,750.

The Permanent Secretary Ministry of Immigration and Registration of Persons should carry out a comprehensive staff rationalization and needs assessment in order to guide a needs driven recruitment in liaison with the Directorate of Personnel Management (DPM) and the Public Service Commission (PSC).

2. All Immigration officers undergo an induction course after recruitment. However subsequent training is very limited because of budgetary constraints. In most instances further training is provided without clear criteria.

The Principal Immigration Officer should carry out a training needs assessment that will be used as a basis for soliciting for additional funds from the Treasury and donors. The assessment will assist in the identification of staff to be trained and determination of appropriate training to prepare the staff for emerging immigration challenges.

3. Salaries of Immigration officers are too low in comparison with staff from other agencies who work closely with the Department of Immigration particularly at the Entry Points. Such agencies are the Kenya Revenue Authority (KRA) and the National Security Intelligence Service (NSIS) at various entry points.

Immigration officers stagnate in one grade for many years before promotion. This destroys staff morale and contributes to the inclination of staff to participate in corrupt activities.

The Permanent Secretary Ministry of Immigration and Registration of Persons in consultation with the Public Service Commission (PSC) and the Directorate of Personnel Management (DPM) should initiate the process of revising the scheme of service for Immigration Officers with a view to re-grading and upgrading of posts and making it easier for upward mobility.

The Permanent Secretary Ministry of Immigration and Registration of Persons should initiate the process of transforming the Immigration Department to a Semi-Autonomous Government Agency (SAGA) along the lines of the NSIS with a view to improving the overall service delivery and staff pay.

4. In some stations, clerical staff perform immigration duties for which they have not been trained. For example, at the Mombasa Airport profiling of foreigners before issuance of entry visa is sometimes done by a clerk.

The PIO should ensure that only trained and appointed immigration officer's carry out immigration duties and this should never be left to clerks.

5. At the time of the Examination, there was only one officer handling all personnel matters for the Department.

The Permanent Secretary should set up a Human Resource Department and streamline personnel matters for members of staff in the Ministry of Immigration and Registration of Persons.

6. Some members of staff upon transfer continue to be paid housing allowance based on the Nairobi rate, which is higher than the rate for other towns.

The Permanent Secretary should clean the payroll immediately and subsequently ensure prompt adjustment pay roll upon transfer of any member of staff.

7. Most officers interviewed have not yet read the Public Service Code of Regulations. In addition, the Department has not developed a Code of Conduct and Ethics for Immigration Officers and other members of staff.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that on recruitment, all officers are sensitised on the provisions of the Code of Regulations and the Public Officer Ethics Act. In addition the Permanent Secretary should develop a professional Code of Conduct for all immigration officers in consultation with related Immigration Bodies. The Code so developed should embody international standards.

8. The Department has adopted transfers as a method of disciplining errant officers some of whom are posted to border control points. Due to ineffective supervision, these officers continue to engage in malpractices without being detected.

At times transfers of staff are made arising from integrity issues. In such cases, the affected staff are not clearly informed in the letter of transfer. They are usually called aside and informed of their mistakes and the decision to transfer them verbally.

Transfers should immediately cease to be used as a form of discipline. Officers with disciplinary cases should be disciplined appropriately, rather than being transferred to harsh border control points.

The PIO should thoroughly investigate all malpractices and ensure that those who are found guilty are appropriately disciplined. KACC on its part will investigate this action further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.

9. There is notable delay in resolving disciplinary cases some of which have taken over one year.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Public Service Commission for the speedy resolution of all pending staff disciplinary cases.

10. Some immigration officers were trained to serve as prosecutors in July 2005. To be allowed to serve as such, they are supposed to be gazetted by the Attorney General, but at the time of the Examination, this was yet to be done. Consequently, the Department continues to rely on police prosecutors, who at times are not keen and well versed with immigration matters.

The Department is inadequately resourced in terms of vehicles and equipment for effective discharge of its duties. Of serious concern is the investigation and prosecution section whose duties are central to dealing with illegal immigrants.

The PIO should provide the investigation and prosecution section with adequate vehicles and post additional personnel to enhance their work. In addition the Personal Identification Secure Comparison and Evaluation System (PISCES) should be installed to ensure effective checking of prohibited immigrants on the watch lists.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Attorney General for the speedy gazetting of the already trained immigration officers to serve as Prosecutors and for training of more prosecutors.

11. At the time of the Examination, a junior clerical officer not well versed with the responsibilities bestowed upon him was heading the Procurement Section. Obvious mistakes were notable from the Bin Cards, Fuel Receipts, among others.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Ministry of Finance to provide a qualified Procurement Officer for the Ministry.

12. The training undertaken by new immigration officers is not adequate and thus they need to work under very close supervision by the senior and more experienced officers for a period of time. The examination team noted that in some stations there were new officers working under minimal supervision.

The PIO should ensure that newly recruited officers work closely with the experienced officers as part of the induction process.

13. Immigration officers are not adequately trained to handle emerging issues such as terrorism and human trafficking. In the past, they have cleared people who eventually turn out to be terrorists or were involved in human trafficking.

The PIO should ensure that Immigration Officers are adequately trained to handle emerging challenges of terrorism and human trafficking. The training should be conducted in collaboration with the NSIS and the Anti-Terrorism Unit.

3.3. MANAGEMENT AND CONTROL OF IMMIGRANTS

ISSUANCE OF ENTRY PERMITS

Entry permits have been classified into various categories. These include those issued *gratis*, those issued to investors in different areas, pupils passes, Visas, those issued to Missionaries, Professionals, Refugees and others. This part covers the processes involved in the issuance of all permits.

3.3.1. Application and Granting of Visas

1. Before being granted an entry visa, the Applicant must provide
 - A return air ticket to his country of origin or domicile,
 - Show that he/she has sufficient means of subsistence for the visa period, and
 - A valid passport or other acceptable travel document.

The Department has not yet defined what sufficient means of subsistence entails to guide Immigration Officers at the entry points to make appropriate decisions.

The PIO should initiate review of the visa regulations to provide guidance on what should be considered to be sufficient means of subsistence.

2. The maximum period a visa holder can stay in the country is three months in the first instance at the expiry of which the visitor should leave the country. The Team was informed that some immigration officers advise foreigners to go out to the neighbouring countries and come back to be issued with a fresh visa whenever they need to extend their stay. This can go on for a long time and could result in imbalances in the ratio of locals vis a vis foreigners.

The Minister for Immigration and Registration of Persons in conjunction with the PIO should set a time limit for re-entry of foreigners with clear criteria for waivers for certain permit holders. The PIO should advise all officers at the borders to be vigilant and stick to the rule that permits expire after the period provided for in the Act.

3. The current visa is a wet stamp, impressed on the passport of the applicant and signed by hand by the issuing officer after payment is made. Some of the loopholes in this kind of visa include:
 - The possibility of the wet stamp being produced in the parallel market in collusion with the immigration officers.
 - An Immigration Officer keeping a parallel visa stamp may misappropriate the revenue collected.

The Minister and the PIO should devise a mechanism of phasing out issuance of visas at the entry points and introduce requirement for all visitors to obtain

relevant visa before coming into the country. The visa should be imprinted on the passport with a digitised photograph of the applicant. This is the practice in many other jurisdictions such as in Asia, Europe, and America among others.

4. The Department has an on-line computerized system referred to as Personal Identification Secure Comparison and Evaluation System (PISCES) at JKIA and Moi International Airport for checking passports and Prohibited Immigrants (PI's) from all parts of the world. However, this system has not been installed at the Border Points. The Border Points are given a bulky print out bearing the names of PI's. This makes it very difficult for them to check before granting an entry visa hence the possibility of PI's coming into the country through such entries. Unscrupulous officers can exploit this weakness and allow illegal immigrants into the country.

The team learnt that the PISCES system at Wilson Airport had burnt down during a blast and by the time of the Examination a new one had not been installed.

The PIO should equip all border entry points with modern information technology to help detect any illegal immigrants entering the country. The PS should liaise with PS National Security to improve border security surveillance

5. The team noticed that some foreigners coming through the Wilson Airport go through the VIP lounge and avoid immigration checks. They proceed to their hotels only for the travel agents to bring their passports later for stamping. On the day the team visited the Airport a tour operator brought five passports he claimed belonged to American businessmen and personal friends of the American President who had passed through the VIP lounge. The foreigners had already been booked into their hotels before the necessary checks by the passport control desks. The team interviewed the tour company representative who said this was a common practice at the Airport. This practice poses a very serious security threat to the Country.

The PIO should ensure consistent enforcement of guidelines for clearance of all passengers including those using the VIP lounge to avoid security lapses. All visitors should be cleared at the port of entry. Additionally, the PIO should strategically install Closed Circuit Televisions (CCTVs) at all points of entry for monitoring movements of visitors and activities at these points. This system is being used all over the world particularly in security sensitive areas.

6. Due to poor communication between Immigration headquarters and the border control points prohibited/illegal immigrants may cross the border control point before information on such immigrants has reached the point.

The PIO should ensure that computerisation and networking of all border control points with the head office is done as a matter of urgency to deter any prohibited immigrants from entering the country.

7. The Department has a list of Countries whose residents are required to acquire visas (Referred Visa) before arriving at the ports of entry. This is meant to check the coming in of undesirable visitors in advance. The team noticed that this was not being observed and waivers are granted at the entry points particularly Jomo Kenyatta International Airport. The Immigration officers said that they are pressurized to waive such conditions by certain embassies.

The PIO should ensure that Visa rules are applied across the board without options of waivers.

8. Immigration officers working at the Ports and some Border Points do not operate on a 24-hour shift. Aliens who arrive after office hours are advised by security personnel stationed at these points to report to the Immigration Offices the following day. This makes it possible for some prohibited immigrants to easily enter the country.

The PIO should liaise with the PS National Security to ensure that travellers arriving after office hours for immigration officers are not allowed out of the ports without clearance.

9. The Immigration Act empowers Immigration Officers to extend visas and other permits. Some of the immigration officers abuse these powers and extend the immigration documents outside the requirements of the Law. For instance, an Immigration Officer in Mombasa extended visas for a group of 63 Bangladeshi nationals. The officer has since been charged in court for abuse of office and suspended from duty. There were reports that this practice is still going on.

The PIO should enforce the compliance with legal requirements. In addition the Department should maintain a record of extensions of all permits, which should be scrutinized, from time to time to pre-empt abuse.

10. Crewmembers coming by ships that dock at the ports are issued with Shore Passes to allow them ashore. These passes are printed by shipping companies and handed over to the immigration officers. These passes are ordinary cards without any security features. At times some shipping agents prepare shore passes in advance for ships still in the high seas. Besides, there is no system of making follow-ups on those who have been issued to ensure they come back to their ships.

The PIO should come up with a standardised document for clearing crewmembers coming ashore. The document should have adequate security features to prevent forgery. In addition the PIO should ensure that the crewmembers are physically checked before issuing them with the shore passes.

11. It is a requirement to issue entry visas to Crewmembers signing off to take a flight back to their countries of origin or any other destination. At the time of the Examination, the Kilindini immigration office only had the

transit visa receipt book, which is, pre-printed at the \$20.00 rate. As such, receipts were being altered to reflect the full visa fees of \$50. This could lead to loss of government revenue where original receipt, may be altered without reflecting the alteration on the duplicate.

Due to high incidences of loss of revenue, the Department has put up a regulation restricting the amount to which one receipt may be issued and forbidding issuance of group receipts. However, the practice of group receipting is still going on in some offices particularly in Kilindini where visa receipts are at times issued in the name of the paying company instead of being issued in the name of the traveller.

The PIO should ensure that the Kilindini Immigration Office stocks sufficient quantities of full and transit visa receipt books and uses the right books for receipting visa fees. The PIO should further enforce the regulation requiring that group receipting be stopped. Any officer found to be flouting this requirement should be disciplined.

12. Visa regulations require that all visitors coming into the Country including children should be granted entry visas.. However, there is laxity among immigration officers as illustrated by a case recorded in the Namanga Occurrence Book on 10th July 2005 in which a lady from UK with 2 children was travelling to Tanzania through JKIA. One of the children did not have an entry visa for Kenya. On their way to Tanzania via Namanga, the officers discovered this omission but only warned her and advised her to pay for the child's visa on her way back to Kenya. Such omission could abet child trafficking, which is currently a major concern globally.

The PIO should ensure that all visa regulations are adhered to. The PIO should further define appropriate mechanisms for dealing with any conflicts between the rule and the practice. Where there is evidence of negligence, the officers involved should be appropriately disciplined.

13. Pakistani Nationals were initially required to acquire Referred Visas. Currently they can be granted visas on arrival. In brokering this agreement, the Department did not specify the arrival point for restriction and security check. The team was informed that this loophole is being exploited whereby Pakistanis, some of who could be on the watch lists, change their passport details, fly to neighbouring countries and then enter Kenya through border control points, such as Malaba, unnoticed. For instance, one Ayub Shafu, who had been deported after being found to be a drug trafficker changed his name to Mohamed Sheikh, and managed to enter the country through Malaba. He was only identified later in Mombasa after he was arrested again. The officer who cleared him at Malaba was only transferred to another border control point. No disciplinary measure was taken against the errant officer.

The recommendation made elsewhere in this report to the effect that all visitors acquire visas from their Countries of origin should be upheld. In the meantime the Minister for Immigration and Registration of Persons and the PIO should

rework the agreement with the Government of Pakistan to limit the clearance for Pakistani Nationals to the JKIA. Once this is done it should be communicated to all border points and security agencies for implementation.

14. There are cases of forged Kenyan visas and entry permits. Some offenders have been arrested and prosecuted e.g. Atakili Amaha Zemarian in criminal case No. 945 of 2005. However, the penalties imposed are not severe enough to deter offenders.

The Permanent Secretary Ministry of Immigration and Registration of Persons should start the process of requiring all visitors to acquire visas from their countries of origin. In addition, the Minister for Immigration and Registration of Persons should liaise with the Attorney General to enhance the penalties imposed by the Immigration Act on offenders.

15. Some immigrants whose visas have expired and have overstayed offer bribes to immigration officers to allow them exit the country without being penalised. This is a loophole since the immigration officers have discretion to decide whether or not to penalise the immigrants for overstaying depending on the explanation received. There is also a perception by immigration officers that when one is leaving the country, that person will not be of any threat.

The PIO should ensure that the border control points are computerised and networked such that it will be possible to detect when a visa has expired. Penalties against expired visas should be applied without exception. There should be no room for discretion.

3.3.2. Work Permits

1. Employers applying for work permits for foreign employees are required to provide the name and qualifications of a Kenyan employee to understudy the foreigner indicating the period by which the Kenyan will have taken over from the foreigner. However the Department continues to renew work permits for these foreigners indiscriminately.

The Principal Immigration Officer should develop a monitoring mechanism to ascertain that a competent Kenyan understudy is always in place. This will entail revamping the capacity of the Kenyanisation section of the Department. Furthermore renewal of work permits should be limited to the stipulated time.

The PIO should institute an on-line computerised system for the maintenance of data on all those who have been issued with work permits. The data should consist of the employer and period of the work permit among others. Those whose work permits are due to expire should be notified at least two months before expiry and advised to leave.

2. Work Permits and Pupils Passes issued by the Department can easily be forged or printed in the parallel market because they are in form of letters written on plain paper.

The PIO should redesign the work permits and pupils passes into cards with special features to prevent forgeries, as is the case currently.

3. Generally, issuance of work permits is supposed to be limited to specialized skills, which are not readily available in the local market. The Department has not yet compiled a skills inventory to provide guidance in making decisions relating to the issuance of work permits. This has led to many non-skilled foreigners performing jobs that could easily be done by Kenyans.

There is no limit to the number of expatriates/foreign employees that a particular firm should employ at any given time. This only aggravates the unemployment situation in the Country.

In some instances the Department consults relevant professional associations and Ministries before issuance of work permits. However this has not helped in terms of approving employment of foreigners even when the skills they possess are available locally.

Some Ministries when negotiating for donor-funded projects agree to employ manpower supplied by the donor or investing country. Some of the projects and Ministries involved are: EPZ and Ministry of Trade, Strabag and Ministry of Roads, Sondu Miriu and Ministry of Energy, various Universities and Ministry of Education, among others.

The Permanent Secretary, Ministry of Immigration and Registration of Persons in conjunction with the Permanent Secretary, Ministry of Labour and Human Resources should develop a policy framework on employment of expatriates in the public and private sectors. The policy should provide restrictions on employment of unskilled labour from foreign countries. It should also establish a mechanism of ensuring that negotiations for all donor funded projects adhere to policy guidelines on restrictions relating to employment of unskilled labour. The Attorney- General should ensure that all agreements on donor projects honour the restrictions.

In addition, the Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with the Permanent Secretary Ministry of Labour and Human Resources should compile a list of approved skills for foreigners, highlight areas of need and the criteria for issuance of work permits for related jobs. This should be done in consultation with various professional bodies, Universities, Colleges and Ministries.

4. Although employers are required to complete a form (Form 22) in which they declare the number of expatriates working in their organisations, the returns are not dependable as some are not accurate while very many do

not even make the returns. In addition, the Department does not make much use of the information provided in the forms and the exercise is basically a routine exercise. Expatriates could exploit this loophole.

The PIO should make it compulsory for all organisations to send annual returns to the Department giving information on the number, profession and responsibilities of foreigners working in these organisations. This will assist in undertaking spot checks to be followed by deportation of those found to be working illegally irrespective of their immigration status. The information so supplied should be stored in digital form for purposes of monitoring and tracking by relevant agencies.

The PIO should ensure that all the information filled in form 22 is synthesized and analysed and follow-up action taken where necessary.

5. Some intermediaries are used in the processing of work permits. They include lawyers among others, who write letters requesting that processing of the work permits be hastened.

The Permanent Secretary Ministry of Immigration and Registration of Persons should sensitise the employers on procedures for issuance of work permits. The PIO should enforce the requirement that processing of work permits will be strictly on those forwarded by specific employers.

6. The Immigration Act does not provide a limit to the number of times a work permit may be renewed. Presently a work permit is granted for a period of two years and a renewal can be granted for a further two years without any limit on consecutive basis. Thus many people end up qualifying to apply for citizenship, which is, pegged to 5 years in Commonwealth countries and 7 years in others.

The Minister for Immigration and Registration of Persons in conjunction with the Attorney General should amend the Immigration Act to provide for maximum number of times for renewal of work permits and increase the number of years a foreigner should live in the country uninterrupted, before qualifying to apply for citizenship.

7. The only requirement for granting of work permits to Missionaries is registration of the religious organisation in which he/she is coming to serve. Sometimes, the organisation makes an application on behalf of the Missionary. The team was informed that some foreigners come in as missionaries and end up being involved in illegal activities. (There have been reports of some missionaries being caught at the entry points with illegal drugs and substances).

The PIO should develop a criterion for vetting foreign missionaries, which should include their levels of training and their contribution to the intended mission work among other requirements.

8. There are delays in processing of work permits because of poor record tracking system.

The PIO should ensure computerisation of the registry to avoid misplacement of files and attain accurate tracking of files from office to office. The PIO should also ensure prompt communication of action taken on a specific application.

9. The Team found out that some officers are not thorough in the scrutiny of documents before issuance of permits. In one case an applicant who had been arrested for being in the country illegally ended up being granted a work permit on re-application. The applicant had changed professions three times from being a tailor to a preacher.

The PIO should ensure enforcement of requirements for granting of work permits. In addition Immigration Officers should be well trained to ensure complete examination of files.

10. The Department has created a steering committee that meets once a week to approve or reject applications for work permits. The committee has representatives from Ministries of Labour, Foreign Affairs, Education, Tourism, Trade, and Directorate of Personnel Management (DPM). Records on the deliberations of the Committee are scanty and do not provide reasons for acceptance or rejection of the applications.

Recommendations by the Committee are not final and the PIO listens to appeals and has the discretion to make independent decisions on the appeals. This is a loophole in that there are no checks on the PIO in the handling of the appeal.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that clear records, outlining the rationale for either rejecting or accepting an application for a work permit are maintained. Furthermore, a clear system of ensuring confidentiality of such records should be developed. The Steering Committee should work within a clear legal framework and the Minister should facilitate this. There should be clear rules to regulate the work of the Committee. Ideally, an Oversight Body should be established to over see the work of the Committee.

11. The team was informed that there are certain foreigners mainly from Pakistan dealing with imports and sale of motor vehicles without valid work permits. The investigation section of the Immigration Department indicated that it has verbal instructions not to arrest these foreigners. This is a clear indication that these aliens have paid bribes to some senior officers of the Department for protection.

The PIO should investigate this matter with a view to taking the necessary legal action against the foreigners and to discipline officers involved in the scam.

12. The team was informed that immigration officers receive bribes amounting to Kshs. 50,000.00 to process work permits.

The Permanent Secretary should investigate the matter with a view to prosecuting and disciplining the officers involved. KACC on its part will investigate this action further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.

3.3.3. Registration of Aliens

1. All foreigners coming into the country for more than three months are required to register as aliens and acquire an Aliens Registration Card. However, this information is poorly communicated and intermediaries extort money from foreigners through false promises of providing assistance in order to facilitate registration.

The team was informed that some employers delay in the application for Aliens Registration for their foreign employees and usually use this as bait in exploiting such employees

The PIO should post clear messages at the entry points and at the Kenya Missions Abroad to advise foreigners on the requirements for registration as aliens should they stay in the country for more than three months

2. The Department has subcontracted the Department of Registration of Persons to prepare the Aliens Registration Cards. The process takes so long such that some foreigners complete the approved period sometimes two years before they acquire the cards. The reason given for the delay was that the information collected from aliens has to be physically taken to Nairobi for onward transmission to National Registration Bureau. Some of them leave the country before the cards are issued. This has resulted in many uncollected cards lying at the Aliens Section, which could lead to such cards being issued to the wrong persons corruptly.

The Permanent Secretary Ministry of Immigration and Registration of Persons should network the Departments of Immigration and Registration of Persons for faster delivery of services.

3. The examination team was informed that there exists a parallel market for Aliens registration cards.

The PIO and the Registrar of Persons should ensure that aliens cards have adequate security features to secure their authenticity. In addition, the Registrar should follow up this matter in order to bring to book those involved in the scam.

4. Some aliens do not freely present themselves for registration due to fear and lack of understanding. Some of those seeking registration fail to give accurate information.

The PIO should provide adequate information to foreigners to sensitise them on the advantages of being registered as aliens. This will assist in demystifying the process.

3.3.4. Dealing with Illegal Aliens

All matters dealing with illegal aliens are investigated and prosecuted under the Immigration Act, Aliens Restriction Act, the Kenya Citizenship Act and the Penal Code. The Department has investigators and Prosecutors in the head office and a few at border points.

1. The team was informed that some Immigration and Police officers leak information pertaining to restraining illegal aliens. Such information includes swoops, and deportation among others. Information is leaked in exchange of bribes as “protection fees” in order for the aliens to continue operating in the Country illegally.

The Permanent Secretary and the Commissioner of Police should take disciplinary action against officers who receive bribes by leaking information on the operations of the Department. KACC on its part will investigate this action further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.

2. Illegal aliens and Prohibited Immigrants are usually confined in holding grounds before deportation. The Team was informed that the Airlines, which bring in these aliens, are expected to return them back to the Boarding Points. However, this is not being done.

Some holding grounds are in a deplorable state. Aliens held in the grounds are provided with one meal per day by the Department of Immigration.

Some entry points do not have holding grounds hence the illegal aliens are handed over to the Police Department. There have been reports and complaints that the Police release some of these immigrants before the Department of Immigration has finalised arrangements for their deportation.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Managing Director, Kenya Airports Authority for the provision of adequate space for holding grounds. These holding grounds should be adequately equipped with all basic facilities.

The PIO should develop a policy on PI's held at the entry points and also provide adequate budgetary allocation to take care of their basic needs. In addition the Permanent Secretary Ministry of Immigration and Registration of Persons should enforce the regulation requiring Airlines which bring in PI's to take them back to the Boarding Points.

The Minister for Immigration and Registration of Persons should, in accordance with Section 3 (1) of the Alien Restriction Act, impose penalties on Airline pilots who aid and abet aliens in contravention of the law.

3. The fine of Kshs 3000.00 or six months jail term for offences under the Alien Restriction Act is too lenient and non-deterrent. In addition the Act does not specify any actions against Kenyans who harbour illegal aliens.

The Minister for Immigration and Registration of Persons in conjunction with the AG should review the Alien Restriction Act and provide for stiffer penalties and punishment of Kenyans harbouring Aliens.

4. The Immigration Department is charged with the responsibility of deporting illegal immigrants. However, there are some immigrants who refuse to disclose their nationality. Such immigrants are at times kept in police cells due to limited spaces at the immigration holding grounds. There are no legal provisions for deporting such stateless immigrants until such a time when they voluntarily disclose their nationality. For example the case of Scott James Edward who was arrested and charged in court in 1996, Criminal Case No.1254 of 1996 for possessing a forged Australian passport. An order to deport him was made but to date, he has refused to disclose his true nationality and is being detained at industrial area prison. In another criminal case No. 497 of 2005, Pheneas Chapatula, from Malawi was arrested at Voi for being in the country illegally. When contacted, the Malawian High Commission denied that he was their citizen. At the time of the Examination he was still being detained at industrial area prison. In case No.3057 of 2004, Said Salim, a Yemeni passport holder, was found to be in the country illegally. He denied being a Yemeni and is still being held at industrial area prison.

The Minister for Immigration and Registration of Persons in collaboration with the Attorney General should embark on a process of formulating the policy and legal framework for dealing with stateless persons. Consideration should be given to the signing and ratification of the relevant UN conventions such as the 1954 Convention relating to the status of stateless persons and the 1961 Convention on the Reduction of Statelessness.

5. Aliens found to be in the country illegally are charged before a court of law. At times magistrates impose fines and do not make repatriation orders. This leads to a situation where the illegal immigrant pays the fine and is subsequently set free. This situation also grants immigration officers discretionary powers as to how to deal with the illegal immigrant and opens up a loophole for corruption.

The PIO should ensure that an adequate number of Immigration Officers are trained and gazetted as prosecutors to handle immigration cases. Such prosecutors will be able to apply for the necessary orders during sentencing.

6. Immigration officers usually carry out checks to ascertain that all immigrants in various areas are in the country legally. However, the team was informed that in most cases they turn this enforcement exercise into a money minting exercise through bribes. This has led to an influx of immigrants from neighbouring countries.

The PIO should investigate the activities of immigration officers involved in investigations. Any officer found to be involved in bribery should be prosecuted and disciplined in accordance with the civil service code of conduct. KACC will also take the necessary action under the Anti-Corruption and Economic Crimes Act.

7. The prosecution section handles cases at lower courts level. However, when cases are referred to the High Court by way of appeal or judicial review, the section relies on the state counsels from the AG chambers. Some of the State Counsels handling the cases are not adequately versed with immigration matters and as such the cases are not properly prosecuted.

Sometimes illegal immigrants seek injunctions to block their deportation orders. Some of the injunctions given by the courts are so vague that they do not give a definite time limit within which a hearing should take place. For instance, one Sudanese national by the name of Emad Hassan got an injunction in 1999 barring his deportation until the next hearing date which kept on being postponed and was only deported in July 2005.

The Permanent Secretary Ministry of Immigration and Registration of Persons should request the Attorney General to second State Counsels to assist in all court matters involving the Department.

In addition the Minister for Immigration and Registration of Persons and the AG should petition the Chief Justice to ensure that all the courts strictly adhere to the rules in relation to injunctions, judicial reviews and constitutional references as provided for in the Legal Notices No 36/2000, 128/2001 and 6/2006.

8. There are cases of impostors who extort money from aliens claiming to be immigration officers. These cases are common in Kericho and Mbale. This means that they might be working closely with some of the Kenyan nationals.

The PIO should ensure that Immigration officers undertaking investigations are issued with special identification and in addition come up with a hotline for complaints or confirmation. In addition, members of the public should be informed of their duty to demand identification documents from people claiming to be Immigration Officers.

9. The team was informed about cases where prohibited immigrants arrested by immigration officers and referred to the police for interrogation on other criminal charges are not referred back to the Immigration Department for repatriation. Their whereabouts remain unknown.

The PIO should liaise with the Commissioner of Police to ensure that arrested prohibited immigrants handed over to police for questioning on other suspected criminal charges are handed back to Immigration Authorities for necessary action. Where such immigrants are convicted and custodial sentence imposed the Commissioner of Police should inform the Department of Immigration in order to keep track of the culprits.

10. Aliens found in the country illegally are supposed to be fined, imprisoned and/or repatriated to their countries of origin. However, there are disparities in sentencing and fining of the culprits. The fines imposed are too lenient in comparison with the repatriation costs incurred by the Government.

The Minister in conjunction with the AG should review the Immigration Act with a view to enhancing custodial sentences. A minimum and deterrent custodial sentence should be provided.

11. Much as the immigration officers have powers to arrest, they lack the necessary skills and facilities to enable them do their work effectively. They rely on Police Officers for purposes of conducting raids and eventual arrest as well as prosecution. The over reliance on the police opens an avenue for the police to be compromised.

The PIO should ensure that officers dealing with investigations are trained and also provided with adequate facilities to enable them do their work efficiently. In addition, the Immigration Officers dealing with prosecutions should be gazetted to enable them handle immigration cases independently.

12. Illegal aliens of Somali origin are supposed to be deported through Liboi. However, in view of the porous nature of the border, it is alleged that the deportees quickly find their way back into the country.

The PS Ministry of Immigration and Registration of Persons in conjunction with PS security should beef security surveillance along the borders of the North Eastern region.

13. Immigration Officers are not able to prosecute immigration offenders due to lack of cooperation from the police department. This leads to a situation where charges prepared and preferred by immigration officers against illegal aliens are dropped in court and instead lighter charges substituted. At times the Police Officers change the names of the aliens arrested at the time of registering the cases for immigration in courts. This discrepancy poses a problem at the time of deportation. This has made it difficult for immigration officers to enforce the law and carry out their duties efficiently.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary National Security to bring about harmony between police and immigration officers in the prosecution of illegal aliens. The PIO should ensure that a sufficient number of immigration officers is trained and posted to Regional Offices to carry out investigation and prosecution work.

14. There are houses and hotels built along the coastal shoreline. These buildings can be easily accessed by boat and even small ships and can thus be used by prohibited immigrants to enter and leave the country illegally. The situation is worsened by the fact that the immigration department does not have patrol boats to effectively police the coastal shoreline. The immigration department thus relies on navy and marine authority to patrol the Indian Ocean shoreline. Furthermore, Immigration Officers have no authority to obtain information from citizens suspected to be harbouring aliens.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that the Immigration Department acquires patrol boats to effectively carry out its duties. The PS should also liaise with the PS National Security for effective security patrol along the shorelines. The review of Immigration law proposed elsewhere in this Report should take account of proposals to enable Immigration Officers question locals upon reasonable suspicion.

The Permanent Secretary Ministry of Lands should ensure that riparian reserves are not encroached upon in all construction along the coastline. All constructions, which violate riparian rights, should be demolished.

15. The Team was informed that some District Commissioners and officers presiding over the vetting committee meetings retain the application forms after the meetings and include additional application forms alongside those vetted. This allows illegal aliens to acquire Kenyan ID cards

The Minister for Immigration and Registration of persons in conjunction with the AG should come up with a legislative framework for regulating vetting committees. This framework should provide for the qualifications of the members of the Committee; the vetting process before issuance of National Identity cards; and authentication of final submissions of the minutes of the vetting process; and names of successful applicants sent to the National Registration Bureau offices.

3.3.5. Registration and Management of Refugees

The Kenya Government does not have an appropriate structure for handling refugee matters. The UNHCR and the Refugee Secretariat handle most issues related to the management of refugees. Currently there are approximately 240,000 refugees in the country.

1. The management of refugees by the UNHCR conflicts with the government practice of encampment.

UNHCR takes a long time to process the refugee recognition papers and instead issues letters, which enable refugees to move freely in the country, thus protecting them from arrest and encampment. This is a security threat to the Country.

The UNHCR takes care of overall refugee matters in the country. However, Kenya as a sovereign state also has an interest in the management and control of refugees. Despite this interest, the country has not been able to achieve full control due to the overriding mandate of UNHCR.

The Minister for Immigration and Registration of Persons in consultation with the Attorney General should fast track the Refugee bill in order to ensure an appropriate legal framework on management of refugees taking into account national interests as well as Kenya's obligations under relevant UN Conventions and regional instruments on refugees and other displaced persons.

2. Although the Refugee Secretariat is domiciled at the Immigration Department, it is autonomous from the control and supervision of the Department.

The Minister for Immigration and Registration of Persons in consultation with the Head of Civil Service should create a section within the Department of Immigration to deal with issues pertaining to Refugees

3. Letters issued by the UNHCR to those who intend to register as refugees are easily forged. This is made easy by the fact that the UNHCR does not provide the Immigration Department with data on registered refugees for crosschecking where there is doubt.

The PS should liaise with UNHCR to have a database of refugees created and linked with the Immigration Department among other interested parties.

4. Law enforcement officers are not familiar with UNHCR documents and may not easily detect any forged documents held by Refugees.

The PS should liaise with PS Internal Security and UNHCR to sensitise law enforcement officers on the various refugees and aliens identification documents.

5. The UNHCR issues travelling documents to refugees in the camps to facilitate their movement to Nairobi. These documents are easily forged as the Photograph of the holder is merely scanned and identity may not be easy. The Team was informed that some members of the Somali

community use the documents to facilitate entrance of Somali nationals into the country.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with UNHCR to ensure that documents being issued to refugees have additional security features that will facilitate easy detection of forged documents. Enforcement officers should be trained on how to identify genuine documents.

6. The Team was informed that there are instances where dismissed Immigration Officers make fake identification documents and pose as Immigration Officers to extort money from refugees and other aliens.

The Permanent Secretary should follow up on this matter and report this to relevant agencies for further investigation and prosecution. *KACC on its part will investigate this action further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.*

3.3.6. Processing and Granting of Citizenship

1. The Citizenship Act does not define the “Minister” responsible for Citizenship matters. However, traditionally the Minister responsible for Immigration also exercises the power of granting citizenship. Immigration officers therefore provide the necessary administrative support in processing applications for Citizenship without a clear legal mandate.

The AG should initiate appropriate review of the Kenya Citizenship Act with a view to providing clear roles of Immigration Officers and/or other support services in the entire process.

2. One of the requirements for granting citizenship is that the applicant will be a suitable citizen of Kenya. However, the Act does not define the criterion of determining suitability. This is a subjective criterion that can be easily abused.

The AG should review the Citizenship Act and provide the criteria of determining suitability of an applicant. Part of the criteria should relate to the applicant’s ability to demonstrate that he or she will benefit the country in some particular way. Such benefit could include professional expertise and investment in economic ventures that will create wealth for the country.

3. Due to corrupt practices involved in granting citizenship, applicants are willing to pay huge amounts in bribes for accessing an application form. The Team was informed that applicants pay between Kshs 200,000 to 500,000 for the Form. As such the PIO has opted to issue the forms from his office where they are supposedly kept under lock and key. This kind of arrangement is open to abuse.

The PIO should ensure strict adherence to the law in granting citizenship and ensure that all those involved in the process work within prescribed guidelines

and regulations. In addition, the PIO should make it easy for applicants to access citizenship application forms from an open counter. The forms should be issued without any charges just like all the other forms used for applying for other documents. This will remove the need to offer a bribe in order to get the form.

4. A study of records selected at random in the citizenship section shows there is a clear trend of applications and citizenship being granted mainly to Asians. This may be due to abuse of the discretion to grant citizenship.

The AG should review the Kenya Citizenship Act to include quarters in granting citizenship to applicants from various countries over a period of time e.g. annually.

5. Although the government policy on Citizenship is embodied in the Constitution and the Kenya Citizenship Act, there are no comprehensive guidelines on the process of application and granting of citizenship.

The Minister and the Permanent Secretary for Immigration and Registration of Persons should initiate the process of developing a policy and guidelines on application and granting of citizenship. The policy should precede the review of the Citizenship Act recommended elsewhere in this Report. (See the recommendation of finding 5 of 3.1 on Policy and Legal Environment and recommendations of findings 1, 2 and 8 in this Section)

6. The team observed that there is too much interaction between applicants/members of the public and officers working in the citizenship section. Communication to applicants is basically verbal thus work is personalised creating room for corrupt practices.

The Minister for Immigration and Registration of Persons in liaison with the PIO should restructure the Citizenship Section and provide counters for receiving applications after which correspondence should only be made in writing, be documented and filed for easy retrieval and future reference. Further the PIO should computerize all information on citizenship making it possible to retrieve such information on-line.

7. The conditions on the period of stay in the country before granting citizenship are not strictly observed as exemplified by the case of Soniya Hayat who had been in the country for a period of 10 months before her application for citizenship. In spite of this, her application was successful and she was granted a citizenship certificate No. A023531 on 20th July 2005. This disregard of the law implies improper considerations and casts aspersions on the conduct of the approving authority. It is a manifestation of the problems arising from the unchecked discretion of the Minister under the Act.

The Attorney General should review the Kenya Citizenship Act as recommended above. (See the recommendation of finding 5 of 3.1 on Policy and Legal Environment).

8. The Kenya Citizenship Act does not specify the period within which a foreign woman married to a Kenyan should have been legally married before being granted Citizenship. In one case, citizenship was granted only nine months after entry into the country. The team was informed that this has resulted to “marriages of convenience” which are difficult to ascertain. Immigration officers can use this lack of clarity in the law to extort money from applicants in order to fast track the process of granting citizenship.

The Attorney General should review the Kenya Citizenship Act so as to introduce a clause that stipulates the minimum period for issuance of citizenship for foreign persons married to Kenyans. As one of the conditions the Act could provide for 10 years continuous cohabitation so as to prevent marriages of convenience. Furthermore the applicant should not be a prohibited immigrant. The review should take account of the experiences in other jurisdictions.

9. The legal requirements, procedures and processes for granting citizenship are not clearly defined and publicised. In practice, the initial application for citizenship is sent to the Minister through the Principal Immigration Officer. The Minister grants permission for submission of prescribed forms to the applicant. The process is slow and subjective and is a fertile ground for corruption.

The Minister for Immigration and Registration of Persons in consultation with the Advisory body proposed in this Report should develop and publicise clear guidelines on application procedures for citizenship. The guidelines should include the qualification of the applicants as provided by the law, fees payable and duration of processing the application.

3.3.7. Problems Resulting from Porous Boundaries, Neighbouring Communities, Insecure Border Points and Use of Intermediaries

1. Illegal aliens travelling to Nairobi from the North Eastern Border Points avoid security checks at the Garissa/Tana Bridge, by using small boats popularly known as ‘mwaus’ to cross River Tana and subsequently board vehicles/buses past the bridge. The same also happens at Modikae junction whereby illegal aliens choose to use the Isiolo-Nairobi route. It is alleged that brokers use a powerful satellite communication system installed in the buses, popularly known as ‘makrat’ to communicate to drivers of the buses carrying illegal aliens to beat the immigration/security checks.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with Permanent Secretary Internal Security and the Department of Defence should beef up immigration/security checks on all routes from border points in North Eastern province leading to Nairobi.

2. Form four students leaving school after completion of their studies are normally given application forms and introduction letters by their school principals to enable them to be issued with National Identity cards. These students are not normally subjected to any vetting once they produce the introduction letters. However, it is alleged that different persons, in most cases Somalis, take over the application forms and introduction letters issued to the students and use them to obtain National Identity cards. Once a different person has been issued with a National Identity card, he/she will later on sign a deed poll to change his/her name. The student will also later on apply to be issued with an National Identity card.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that the students being issued with national Identity cards are vetted and that the whole process of issuing National Identity cards is completed at the respective schools.

3. The Team was informed that there is a thriving human trafficking business conducted by brokers, whereby illegal aliens of Somali and Ethiopian origin are transported by road from Liboi, Mandera and Moyale to Nairobi in Eastleigh, each at a cost of Kshs.100, 000. It is alleged that the main brokers stay in Eastleigh, with agents in Garissa. It is further alleged that the brokers have links with UNHCR such that once the Immigrants land in Eastleigh, they are quickly issued with refugee recognition papers. It is alleged that UNHCR officers issue the papers at a fee of Kshs.50,000. In one case a minibus, registration number KAS 018V, was intercepted in Garissa carrying 19 Ethiopians and the driver confessed that the vehicle goes to Moyale weekly to pick up the immigrants. The agents in Garissa make advance arrangements in collusion with some police officers at the checkpoints, so as to clear the way for smooth passage. At times these illegal aliens use Kenyan National Identity cards and papers normally issued to Kenyans for identification pending issuance of the National Identity Card.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with Permanent Secretary Internal Security to ensure that there are mobile checks on the passengers travelling from Garissa to Nairobi. In addition, The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that the Immigration Officer in Moyale who cleared the 19 Ethiopians and the Fingerprints Officer at the Garrisa/Tana Bridge are immediately investigated and appropriate action taken against them. KACC on its part will investigate this action further and ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.

The Permanent Secretary Internal Security should ensure frequent transfers of police officers manning immigration check points. The Permanent Secretary Ministry of Immigration and Registration of Persons should hasten the processing of National Identify cards to avoid abuse of waiting papers.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with the Permanent Secretary Ministry of Foreign Affairs should develop a framework for registration and management of movement of refugees within the Country.

4. All travellers from Garissa to Nairobi are expected to be cleared at the Garissa/Tana bridge immigration checkpoint. Regular police, immigration officers and finger print examiners man the bridge. This is to ensure that any illegal aliens are checked and arrested. Any passing vehicle is expected to stop at the bridge and passengers are expected to produce their National Identity cards or travel documents for checks. However, the immigration officers at times are not at this checkpoint. The team was informed that the police clear some illegal aliens at a negotiated fee, which is normally facilitated by the brokers.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with PS Internal Security should beef up security at the Garissa/Tana Bridge and take up appropriate action against officers involved in clearing illegal aliens

5. Along the coastline there are many docking areas for ships and boats coming from the neighbouring countries such as Somalia, Comoros, Seychelles and Tanzania and other countries. The KPA pilots or any other security arm of the Government rarely escort these vessels. This exposes the country to insecurity associated with illegal/prohibited immigrants such as trade in drugs and terrorism. .

The Minister for Immigration and Registration of Persons should work closely with other security agencies to create a special Unit charged with the sole responsibility of maintaining security along the coastline. The special Unit should consist of Marine Police, Customs and Immigration Departments.

6. The Team was informed that truck drivers and loaders from Congo obtain a three-month Visa and later make frequent visits to the country through uncontrolled entry points on the Kenya borders. By doing so they avoid paying visa fees on subsequent entries until the initial visa expires. The Department loses revenue through such tricks.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with the Permanent Secretary Internal security should properly manage all the border areas to maintain security and to avoid loss of revenue. In addition, the visa period for truck drivers and loaders should be reduced to a maximum period of six weeks.

7. The Team was informed that the North Eastern region has many illegal aliens of Somali Origin who live with Kenyan relatives or in the refugee camps and constantly apply for Kenyan documents, namely: birth certificates and ID cards for purposes of acquiring passports illegally. Although the Department checks suspect passport application documents and further vets and profiles the applicants, there are aliens who still

obtain the Kenyan passports. A vetting committee does the vetting process.

The PIO should enhance vetting of applicants of primary documents such as ID cards and Birth Certificates. Furthermore, the Minister in liaison with the Attorney General should introduce subsidiary legislation to recognize and regulate vetting Committees. The law should provide penalties for approval of applicants who are non-Kenyans.

8. There is a bilateral agreement between Kenya and Rwanda allowing Rwandese to be issued visas *gratis*. However, the Team was informed that most of the Rwandese coming into the country are young people, who may not be willing to leave the country on expiry of their visa term. This situation is likely to perpetrate corrupt practices as some of these people may influence Immigration Officers to be illegally granted work permits, while others may seek for Kenyan Identity Cards.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with Permanent Secretary Internal security to come up with a monitoring and follow up mechanism with a view to handling the challenges brought by the Rwandese and other immigrants from the neighbouring countries.

9. There is an agreement between the Somalis of Kenya and Somalia that they can move 25kms on either side of the border in search of pasture and water. This agreement has been used by the Somalia Somalis to enter the country with the intention of not going back.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with PS Internal security should investigate this allegation and ensure that the Somalis entering Kenya have identification documents and that they are closely monitored.

10. The Team was informed that in Vanga there is a human trafficker strategically occupying part of the immigration area that specifically organises the passage of people of Somali origin from Kenya to other parts of the world (Tanzania, Mozambique, and South Africa). Attempts to intervene in his operations have called for demonstrations and death threats to Immigration officers.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with Permanent Secretary Internal Security should urgently investigate the activities of the alleged human trafficker and take appropriate action.

11. The Isebania sub-region office faces a major challenge when dealing with the community that is spread out across both borders (Kenya / Tanzania). This is especially when those leaving across the borders have some unifying social functions such as funerals and weddings, have to acquire travel documents. A case in point is one in which the Immigration Officer is forced to use his own discretionary powers when issuing Temporary

Permits to members of a family attending a social function across the border. Either party could easily abuse this kind of arrangement.

The PIO should explore the law with a view to coming up with some affordable travel documents that can easily facilitate movement between the two regions.

12. Given the nature of the shared border, there is the general tendency of primary school children from neighbouring countries crossing over to study in Kenya without any form of passes. This kind of arrangement is also subject to abuse.

The PIO should liaise with the Director of Education to collect information on all foreign students and pupils in order process pupils' passes.

13. Public Service Vehicles plying across all Border Points stop at a distance before reaching the immigration offices and ask passengers to alight and go to the immigration office. The immigration officers are not normally keen to ensure that every traveller has alighted and gone through the immigration procedures. This weakness could be used by P.Is to go through the system undetected.

The PIO should tighten controls around the border offices and ensure that Immigration Officers monitor the buses and passengers.

14. Intermediaries are a major challenge to the operations of the immigration activities in all offices including borders. There are cases where they give misleading information to Applicants of immigration documents in order to create an opportunity to solicit for bribes. In some cases the brokers are also associated with forgeries such as those linked to visa stamps. In some border points, brokers have set a fee of \$ 5.00 for assisting in the filling of the entry/departure cards.

The PIO should ensure that the Department clears the agents away from its operations and insist on dealing with the applicants only. He should also sensitise them on the dangers and consequences of using brokers/ agents.

3.4. ISSUANCE OF TRAVEL DOCUMENTS

The Department issues various types of travel documents. These are:

- Kenyan Passports
- Certificate of Identity (CIN)
- Temporary Permits
- East Africa Passports

3.4.1. Passports

1. In order to apply for a Passport, the applicant must have two key identification documents namely, a Birth Certificate and National Identity Card. The Team was informed that these documents are easily prone to forgeries thus enabling non-Kenyans to be issued with passports.

Some of the offices visited are not equipped with appropriate machines for checking the authenticity of National Identify Cards. Where the Civil Registration Department or the Registrar of Births and Deaths are consulted, they only visually confirm authenticity.

The Permanent Secretary Ministry of Immigration and Registration of Persons should computerise and network the National Registration Bureau (NRB), Civil Registration and Immigration Department for quick authentication of National Identity cards.

The Registrar of Births and Deaths should initiate changes to ensure that Birth Certificates reflect the nationality of the holder. The Registrar of Persons should also initiate vetting of application forms for national identity cards in the same way passports are vetted. In addition all the Departments issuing primary documents should be computerised and networked with the Immigration Department. In every instance that an applicant submits a Birth Certificate the Registrar of Births should certify the authenticity of the Birth Certificate and where forged documents are presented, the culprits should face the full force of the law.

2. In most cases the Department requires additional documents such as letters of invitation before processing passports. These documents are even harder to authenticate and only complicate the process.

The PIO should liaise with the Attorney General on this matter to ensure that it is taken into account when developing a legislative framework on passports as recommended elsewhere in this Report.

3. The current Kenyan passport is prone to forgery. The passport laminate can easily be removed and photographs substituted. Most forgery cases involve photograph substitutions. Prior to the examination proposals to obtain tamper proof passports and a new passport issuing system had been made. However the process of implementation of the proposals was frustrated by cancellation of a tender made pursuant to initial approvals.

As a matter of urgency, the Permanent Secretary Ministry of Immigration and Registration of Persons should embark on the process of procuring a new passport issuing system which should be informed by proposals made in the past. The proposals should be reviewed in order to address emerging issues. Furthermore the procurement process should be conducted in accordance with the law and authorised budgetary provisions. It should also take cognisance of the importance of obtaining the latest technology through competitive bidding in order to ensure maximum security features on the passports.

4. Although the Department has set a specific period of time for processing of travel documents, it rarely meets the time limit and henceforth there is too much delay. This creates disillusionment with the members of the public who in the course of looking for assistance fall prey to bribe seekers.

In some cases, the delays may be attributed to failure by the applicants to provide all the necessary details required to commence processing of the passports. In addition, the application form does not provide space for quick contact of the applicant such as telephone number.

The PIO should redesign the passport application form providing simplistic details on all attachments and information required before processing the application. The form should also provide space for quick contacts such telephone and email numbers. This is in addition to the preparation of a Service Charter recommended elsewhere in this Report.

5. There are many intermediaries in the line of issuance of passports who solicit bribes from applicants. These intermediaries include some members of staff of the Department, politicians and other individuals who approach applicants promising to fast track the process. In certain instances reliance on these intermediaries is perpetuated by illiteracy, delays, ignorance, and laziness. There is also a perception that these documents are difficult to obtain. During the examination, the Team observed that in almost all offices, officers were handling completed passport application forms. This meant that the applicants had not presented themselves for profiling. At one point, the Team met a Member of Parliament accompanied by an applicant in order for the passport to be fast tracked. Furthermore, some of the intermediaries exploit the lack of knowledge of applicants in order to extort money from them. The team was informed that some of the agents refuse to give original receipts to the applicants to prevent them from making follow-ups.

The PIO should initiate an effective public sensitisation programme countrywide up to grassroots level to create awareness on the operations of the Department and procedures of obtaining immigration documents. This can be achieved by use of certain media such as Radio, Newspapers, Chiefs Barazas, and sensitisation clinics among others. The sensitisation programme will create public confidence in the Department and improve its image.

The PIO should ensure that procedures for issuance of immigration documents requiring applicants to physically come to the immigration office are strictly

adhered to and institute appropriate disciplinary action against staff who violate these procedures. Exceptions to these procedures should be clearly stated.

6. Sometimes the General Indexing (GI) of passport applicants takes too long. In some instances, Immigration Officers use this as a bait to extort bribes from the applicants promising to hasten the process.

The PS should liaise with the security vetting Department to work out modalities of vetting the applicants and where possible come up with a time period within which it should be done.

7. Due to the porous nature of the boundaries, the Department of Immigration requires extra documents as proof of citizenship by applicants residing in border regions before issuing passports. These extra documents include;
 - School leaving certificate,
 - Vetting note by a vetting committee,
 - Letter from area Chief,
 - Inoculation mark, among others.

Despite all these precautions, cases of non-Kenyans from neighbouring countries being issued with passports are still high. The team was informed that members of vetting committees usually solicit for bribes from residents of the neighbouring countries in order to facilitate them to acquire Kenyan Passports.

The Government should make it mandatory for Birth Certificates to be issued at birth throughout the country and provide the necessary services required to meet this obligation. In addition, the Birth Certificate should be redesigned to include the nationality/citizenship of the parents.

8. It is a requirement that all applicants for passports aged between 18 and 70 go through a vetting process. This process is referred to as General Indexing. However, this is not always done. Some immigration officers confirmed that they use their discretion on which applications to forward for Indexing.

The PIO should come up with a criterion for determining which applications should be forwarded for indexing. This will check the discretion exercised by the officers and assist in discovery of anomalies.

9. Immigration officers in issue rooms have the sole responsibility of requisitioning blank passport books straight from procurement and supplies section. They also keep all cancelled passports. However, there is no consistency in the management of spoilt passports. In some instances they are simply cancelled and at other times they are perforated. The Team found some spoilt passports, which were neither cancelled nor perforated making it possible for them to be used. In

addition, the Department does not maintain an inventory of passports spoilt during processing.

The Department keeps records indicating the number of passports applied for and those already issued. However, the Issue Register maintained only reflects those that have been issued. Consequently, it is not easy to ascertain pending applications.

It is a requirement that all Passports must be recorded in the Issue Register before being issued. However the register maintained at the passports issuing counter shows missing details of certain passports an indication that the passports were taken before they reached the issuing counter. Sometimes officers who are involved in fast tracking usually take such passports to the applicants.

The PIO should ensure that the requisitioning process of blank passports is well documented and those handling them do account for Passport issue, cancelled and remaining balances on daily basis. Spoilt passports should be well cancelled and perforated to ensure that they will not be issued fraudulently. Cancelled passports should be in custody of a different officer from an issuing officer for accountability purposes.

The PIO should also introduce a register for recording applications and issuance of Passports. This will facilitate better supervision and also enable the PIO to information in the register for determining an appropriate duration for processing of Passports.

The PIO should facilitate computerization of movement of documents by installing a tamper proof system that will record, monitor and track the movement of passports.

10. Despite the fact that the passport collection room in Nyayo House has been fitted with a burglar-proof door the collection room is frequented by unauthorized person's. This poses a significant threat to loss of passports. There are also many uncollected passports lying in the room some dating as far back as 1999. The passports can be easily stolen and forged through photo substitution or used in other illegal activities.

The team observed crowding at the passport collection counters at the head office, Mombasa and Kisumu occasioned by delays and failure to give accurate information to applicants on the actual date of collection.

PIO should implement a Department regulation that ensures that applicants collect passports from the passports collection counter. The Passports collecting room should only be accessible to those officers assigned such duties. In addition, uncollected passports should be well secured to prevent any losses.

11. The Team was informed that sometimes the General Indexing Office advice against processing a passport is not always adhered to. This was attributed to scanty information in support of the advice. Such a situation creates a loophole that immigration officers could exploit to extort money from applicants.

The Permanent Secretary Ministry of Immigration and Registration of Persons should hold consultations with the Officer in Charge of GI in order to work out modalities of ensuring that there is adequate flow of information to justify the advice. All cases of disapproval must be referred to senior Immigration Officers in order to ensure accountability and confidentiality.



Uncollected passports lying in the collection room at the Head office some dating as far back as 1999.

12. In some offices application forms for passports are issued at a fee of Kshs 40.00. A separate miscellaneous receipt is maintained for that purpose.

The PIO should ensure that the regulation that the forms are issued for free is followed and those found to be collecting money for giving out the form should be disciplined.

13. The Team was informed that immigration officers ask for Kshs. 10,000 as bribes for processing passports. Officers receive the bribes using various methods such as concealing money in envelopes, newspapers, application forms, among others. The officers also negotiate and receive the money outside the offices to avoid detection. These bribes are shared among immigration officers involved in processing of these documents.

The Permanent Secretary Ministry of Immigration and Registration of Persons should investigate these reports and take appropriate disciplinary action against all those involved. KACC on its part will investigate this action further and

ensure that the offenders are punished in accordance with the Anti-Corruption and Economic Crimes Act.

14. The Team was informed that sometimes various applicants for documents present forged employers letters, and Birth Certificates. There are huge disparities in fines imposed for offences related to use of false documents, such as a Birth Certificate. In such cases where false documents are used in support of applications for immigration documents, the courts apply the Penal Code instead of the Immigration Act, which does not provide for the offences.

As part of the law review exercise recommended elsewhere in this Report the Minister for Immigration and Registration of Persons in conjunction with the Attorney General should consider the most appropriate statute for offences and penalties for false documents used in support of applications for immigration documents.

3.4.2. Temporary permit

1. In applying for the Temporary Permit, which is issued to Kenyans to travel to the East African Countries, the Applicant, is supposed to secure recommendation from the Provincial Administration and specifically the Chief. This is a loophole in that many signatures will be forged as is the case where such is a requirement. The requirement for an Area Chief to recommend an applicant is not practical.

The PIO should revise the application forms to allow public service employers and any other available Provincial Administration Officials to recommend Applicants for Temporary Permits. This should be followed by administrative guidelines to all Immigration Officers and public servants.

2. Each border point is assigned a number of districts to deal with in order to ensure that no residents of other districts apply for Temporary Permits in a station not covered their district. This regulation is not being observed in practice.

Sometimes, Immigration officers issue letters to persons who cannot afford the fees for temporary permits. This practice is common at the border points and is normally used to assist those seeking medical help in the neighbouring countries. The Team found out that the officers do not maintain a record of the letters. This creates a loophole that could be exploited by corrupt persons.

The PIO should make the temporary permits cheaper so that many people intending to seek medical services in Uganda can afford them. In addition, the PIO should ensure that only residents in the area prescribed are issued with the temporary permits.

3.4.3. Certificate of Identity

1. The Certificate of Identity, (CIN) issued by the Department has no security features and can be easily printed and photographs can also be substituted. The Team found out that this document is used to illegally bring in many people across the border mainly from Somalia.

The PIO should design an appropriate well-secured CIN to secure it from fraudulent usage.

3.5. FINANCIAL MANAGEMENT

1. The Department collects substantial amounts of revenue annually yet its budgetary allocations are too little to meet its recurrent and development needs. The budgetary allocations that the Department receives from the Treasury are insufficient to meet its needs and far much less than the collections. This greatly hampers its service delivery.

The Permanent Secretary Ministry of Immigration and Registration of Persons should prepare well-informed budget proposals justifying the need for additional allocations from the Treasury

2. Some Kenya missions abroad issue entry visas and collect visa fees. The revenue resulting from the issuance of entry visas is not remitted to the Department but is instead used by the collecting Mission. No returns of revenue collected are forwarded to the Department of Immigration and also to the Ministry of Foreign Affairs. This deprives the Department of revenue and also creates a loophole for misappropriation of revenue by the collecting missions.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Ministry of Foreign affairs to ensure that Foreign Missions that collect entry visas do furnish the Immigration Department with monthly returns of the actual revenue collected. An annual audit is also necessary.

3. Entry visas are issued by way of wet stamps whereby the passport of an applicant is stamped and the validity period of the visa indicated therein. A payment receipt reflecting how much was paid by the applicant is supposed to be issued. In certain instances, the cashiers fail to issue receipts leading to loss of government revenue. The wet stamps used for issuance of entry visas leave no audit trail on money collected in this manner, as there is no way of verifying how many passports were stamped. A good example of such acts was captured at the Namanga border point where an American traveller paid \$60 for a transit visa, costing \$50, that was not receipted and neither was he given the \$10 change due to him. During the Team's visit to Namanga, the said traveller recorded a statement about the incident and left for Tanzania without being refunded his \$10 or being issued with a receipt.

To improve on accountability, the Permanent Secretary Ministry of Immigration and Registration of Persons should implement the issuance of visas from the countries of origin as recommended elsewhere in this Report. In the mean time, the PIO should ensure that all revenue received is receipted through close supervision of cashiers. In addition, the PIO should take appropriate disciplinary action against officers involved in non-receipting of revenue collected and extortion of customers.

4. The visa fees payable in currencies other than US dollars are normally varied from time to time vide circulars issued by the PIO. However, the

receipt books are not immediately changed to reflect the new rates. Officers continue to use receipt books reflecting the old rates but use the new rates for accounting. At the time of this Examination, the visa fees payable in sterling pounds had been lowered to 10 and 30 sterling pounds for transit and full visa respectively. However, the pre-printed receipt books still showed 15 and 35 sterling pounds respectively. In such a situation, the officer could charge the old rate and account using the new rate and misappropriates the difference.

The PIO should avoid frequent changes in the visa charges and put in place visa charges lasting for at least one year. Any changes should only be implemented when receipt books bearing the prevailing rates have been printed and issued.

5. Some cash collection points are not equipped with secure cash boxes. Some Cashiers who have been issued with them prefer keeping cash in their pockets or desk drawers, some of which are not secured. The examination team noticed that most of the cash collection points manned by officers with basic accounts training were better organised than those handled by clerks who had got no accounts training.

The PIO should ensure that all cash collection points are equipped with appropriate cash boxes for the temporary custody of cash collected. The PIO should further ensure that Cashiers with basic accounts training are deployed to carry out revenue collection duties.

6. The Department uses manual receipting system in all its revenue collection functions. Furthermore, the receipts in use are not security printed. At JKIA and Nyayo house headquarters, receipts in use for revenue collection are sealed unlike in all other areas. Despite these shortcomings, the cashiers are not closely supervised. This makes it possible for forged receipt books to be in use since they can be easily printed in the market.

The PIO should computerise the revenue receipting function as a means of controlling revenue loss. In the meantime, the PIO should ensure that all receipt books are sealed before being issued to Cashiers, who should be closely supervised.

7. Payment for work permits is made by a bankers' cheque, which is normally receipted and the permit promptly issued. However, there are instances in which these cheques bounce. In such instances, follow-up have to be made on the issuers of the bounced cheques for recovery of the lost amount, a tedious and time consuming exercise.

The PIO should ensure that work permits are given out only after cheques have been cleared by the banks to avoid cases of making follow-up on bounced cheques.

8. The Office of the President handles all accounting matters of the Immigration Department. For this reason, all payment vouchers for

payment of suppliers are sent there where they are supposed to be subjected to further examination, after being examined by the Department. This causes delays in the department's attempts to pay suppliers on time. For example, as at 30th June 2005, the Department owed De La Rue over Kshs.39 million. This led to the supplier declining to deliver all passports that should have been supplied. The supply agreement entered into between the Department and the Supplier stipulates that payment has to be received before delivery of passports. As a result, the Department had run out of stock of the 'B' series of passports at the time of conducting this examination.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with Permanent Secretary Ministry of Finance to create a budgetary vote for the Ministry of Immigration and Registration of Persons and to appoint an accounting officer as appropriate.

9. All money collected and banked in the Ministry of Immigration and Registration of Persons accounts, by the Immigration Department, has to be transferred to the Office of the President account. To effect the transfers, the Senior Accountant issues a cheque to the Office of the President. This is not an efficient, foolproof and cost effective way of making transfers.

The PIO should stop usage of cheques to transfer funds and instead negotiate with the bankers to have the money in the Ministry's bank accounts periodically transferred to the Office of the President via electronic fund transfer.

10. There is no information on visa counters informing travellers of the various visa charges and those that are exempted from payment. In addition there is also no information for travellers to the effect that they obtain a receipt for the visa fees paid. For this reason, some travellers may end up being extorted or pay for visas without a receipt being issued.

The PIO should devise an appropriate information board detailing the visa charges and other relevant information. The information board should be appropriately placed such that all incoming travellers have a clear view of it. In addition the PIO should also come up with information leaflets on visa charges and other related information to be distributed to among others, embassies and airlines.

11. Immigration officers receiving travellers are supposed to profile visitors, receive money and issue receipts for visas at the same time. When a large number of travellers come in at the same time, this work overwhelms immigration officers and causes delays in clearing travellers. Consequently, profiling of travellers is not adequately carried out.

The introduction of a system for travellers to acquire visas before leaving their Countries of origin proposed elsewhere in this report will provide appropriate framework where Immigration Officers will be left with the duties profiling visitors only thus reduce delays.

12. The Immigration Department collects visa fees in foreign currencies, namely; US Dollars, Sterling Pounds, Euros and Swiss Francs. However, the Immigration Department has not opened the respective foreign currencies accounts. All these foreign currencies are translated into Kenya shillings at an exchange rate determined by National Bank of Kenya at the time of banking. The exchange rates offered to the Department by the bank are low compared to the prevailing market rates offered by other banks. As a result, the department incurs huge foreign currency losses. This practice also opens a loophole for exchange rate bargaining between the Department and Bank officials which is a recipe for corruption.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Treasury with a view to urgently opening foreign currency accounts, i.e. US dollars, Sterling pound, Euros and Swiss Francs accounts, that should be used for banking of all visa fees collected in the respective currencies, so as to stem foreign currency losses.

13. The Immigration Department utilizes manual receipts with pre-printed rates, for collection of visas fees. The Cashiers are supposed to raise a receipt for each individual payee and tick the corresponding box for the currency amount collected. However, there are numerous inconsistencies in the way the receipts are raised. These inconsistencies are;

- Ticking boxes corresponding to all currencies instead of just one,
- Not indicating the amount collected,
- Many cancelled receipts without any explanation,
- Group receipting instead of individual receipting,
- Signing without indicating the name of the collector, and
- Using a transit visa receipt book to collect full visa fee, among others.

The Team observed that the Lunga Lunga immigration office was still using receipt books for 2003 that have since been withdrawn from circulation.

The recommendation for visitors to have visas processed from their Countries of origin will eliminate inconsistencies in receipting. As this is being implemented, the PIO should make sure that receipt books in circulation are recalled back when new ones with different features are issued.

14. PISCES system installed at the airport captures the names and nationality of travellers who have passed through the airport on a given date. However, it does not capture the amount paid by each traveller for visa fees or whether the visa was issued *gratis*. In the absence of this financial feature in the system, financial data is manually prepared. The PISCES system experts contend that it can be easily expanded to have the financial analysis feature.

The PIO should liaise with PISCES system experts to add the financial analysis feature to the existing application.

15. Revenue collected in most of the offices is not banked intact on a daily basis, yet some of the offices do not have safes. This creates a loophole for the revenue at hand to be misappropriated or used for other purposes. For example, at the Moi International Airport, the Examination Team found many cases of over and under banking. For instance between 20th and 22nd August 2005, the total revenue collected was 10,010 euros, 13,270 US dollars, 3,130 sterling pounds and 140 Swiss Francs, against total banking of 14,580; 25,250; 2,900 and 140 respectively. This led to an over banking of 4,570 euros, 11,980 US dollars and an under banking of 230 sterling pounds. No proper explanation was given for this anomaly. As at 25th August 2005, the officer in charge at Malindi, had a cash deficit of Kshs.48, 560, for cash collected between 9th and 24th August 2005. At the Namanga station banking of collected revenue is done towards the end of every month. As at 31st August 2005, a total of Kshs.244,800 as revenue collected had not been banked, out of which only Kshs.144,000 was available, leaving a shortage of Kshs.100,800.

The PIO should ensure that all revenue collected is banked daily and intact to forestall any misuse. Disciplinary measures should be taken against a member of staff who violates this requirement. In addition, the PIO should investigate the anomalies found in the stated stations and take appropriate disciplinary measures. The PIO should also equip all cash collection points with appropriate safes for safe custody of cash.

16. Funding for regional Immigration offices is passed through the District Treasuries. The District Accountants make all payments and petty cash reimbursements. However, some of the immigration offices experience delays in getting reimbursements. Sometimes this compels the affected offices to use the revenue they collect before it is banked.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Treasury to ensure availability of adequate funds at the district treasuries serving immigration offices to forestall use of revenue for expenditure purposes.

17. Temporary Permits (TPs) are accountable documents and receipts in themselves. As such those issued from districts are normally surrendered to the district treasuries upon being completed for verification and audit purposes by the district Accountants and Auditors. However, they are not normally returned to the immigration offices after verification.

The PIO should ensure that all TPs taken for verification and audit purposes are returned to the Department for safe custody since they are immigration documents.

18. Officers who are issued with receipt books do not sign for them at the time of issuance. For instance, one immigration officer at the Moi International Airport, Mombasa, was issued with receipt books in May but signed on 24th August 2005. This makes it difficult to ascertain and account for all receipt books in circulation.

The PIO should ensure that all immigration officers being issued with receipt books sign for them immediately as evidence of having received.

19. The Malindi immigration office issues passport application forms at a fee of Kshs.40 and issues a receipt. The passport applicants will then be free to either return them to the office or forward them to the Mombasa regional office. However, no record of application forms collected from the Mombasa regional office is maintained.

The PIO should stop charging for passport application forms at the Malindi office, as the system is prone to abuse. In addition the PIO should put up a notice at all immigration offices notifying members of the public that passport application forms are issued free of charge.

20. In some immigration offices, all the money collected by the Department of Immigration is banked in an account shared by the National Registration Bureau, Police and the District Treasury. Although the immigration officers collect money in foreign currencies, no foreign currency accounts have been opened. This is likely to cause confusion in accounting for the money collected by the Immigration Department.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Treasury to ensure that the Immigration Department has got its own collection account separate from the other departments, denominated in all currencies in which revenue is banked in all districts.

3.6. INTERNAL AUDIT

1. Receipt books used at the Jomo Kenyatta International Airport for collection of visa fees have not been audited since February 2004. Where they have been audited, no written Reports of the Audit Exercise reach the Accounts Office.

The PIO should ensure that all receipt books from 2004 are audited immediately. Furthermore the PIO should ensure that all receipt books are audited as soon as they are completed to ascertain accountability of money collected. A copy of the Audit Report should always be given to the accounts office.

2. The Internal Audit section carries out an independent appraisal of systems in the Department but does not always document its findings. In most instances, the findings are discussed verbally with the Management.

The PIO should ensure that the Internal Audit Section maintains audit reports on all audit assignments. This will aid the Department in instituting desired system changes.

3. The Internal Audit section does not maintain audit working papers. These are necessary to provide evidence of the work done by the internal Audit.

The PIO should ensure that internal auditors maintain proper working papers for future reference as evidence of the work done.

4. The Internal Audit section lacks independence. For the section to carry out any audit, they must get permission from the PIO, to whom they are answerable. A proposal to enable the section to audit issuance of immigration documents last year had not been responded to by the time of this Examination.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that Internal Auditors are free of any interference in the performance of their duties in accordance with the various Treasury Circulars such as Circular Number 16 and 18 of 2005. The Internal Auditors should always refer cases of obstacles to the Director of Internal Audit for intervention.

5. The work of the internal audit section is hampered by shortage of facilities such as vehicles for visiting field offices.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that internal auditors are properly equipped to carry out their duties. This should entail setting aside vehicles and other facilities specifically for the audit section.

6. The Internal Audit Section at times raises audit queries addressed to management. However, the management either takes too long to respond or disregards these queries altogether.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that management responds to audit queries within the stipulated period of time to enable internal auditors conclude their work as expected. This is in accordance to Treasury Circular number 18 of 2005

3.7. PROCUREMENT

1. At the time of the Examination, the Department had not pre-qualified suppliers for the 2005/06 financial year, although bids had already been received from interested suppliers. Where quotations are used for the purchase of goods and services, a minimum of three are required. For any item being purchased, there are normally more than three pre-qualified suppliers. The decision as to who is issued a quotation form is at the discretion of the Head of Procurement Section.

The Permanent Secretary should ensure that pre-qualification of suppliers is done at the beginning of every financial year and institute a method of rotation of suppliers for all goods and services required by the Department.

2. A contract to De La Rue for printing and supply of passports expired on 30th June 2005. At the time of the Examination a decision had not yet been made whether to extend the contract or not especially in the wake of the *Anglo- Leasing Scandal*. The Department had already run out of stock of 'B' series passports. This jeopardises service delivery to passport seekers.

The Permanent Secretary Ministry of Immigration and Registration of Persons should urgently embark on the process of procurement through competitive bidding as recommended elsewhere in this Report. (See Recommendation No. 3 of 3.4.1 on Passports) Tendering for printing of passports and other travel documents should be done frequently in order to ensure that the Department obtains the latest and most secure technology in the market; gets value for its money and removes all aspects of monopoly by any one of its suppliers. For example the contract for the supply of the services should have an express provision to the effect that the artwork is surrendered to the Department at the end of the contract.

3. The Department has not yet established stock re-order levels for all its stock items. As a result, the head of procurement has the sole discretion of determining when to re-order.

The PIO should ensure the formulation of stock re-order levels for all stock items as a means of guiding the Department's stock requisitions.

4. The Department issues LPO's for procurement of goods without specifying the delivery date. This gives room for suppliers to supply goods at their own pleasure to the disadvantage of the Department.

The Permanent Secretary should ensure that LPOs contain sufficient information to enable the supplier to deliver goods of correct description, quantity and within a specified time. This will help to avoid disputes over non-compliance or short deliveries.

5. The Department is charged exorbitant prices by its suppliers on most goods. For instance 256 MB flash disks are being supplied at a price of Ksh.8,150.00 compared to the going rate of Kshs. 4,000.00

The PS should ensure that comprehensive market surveys are done covering all items. This will enable the Department get value for its money in all supplies.

6. At the time of the Examination, an Assistant Procurement Officer was heading the procurement section. This raises doubts as to his ability and independence in guiding the procurement process.

The PIO should ensure that a Senior Procurement Officer at the rank of other Section Heads is deployed to the Department. This will enable the department to get appropriate advice on procurement issues.

7. The Department maintains manual stores inventory. The inventory is not updated making it difficult to make informed re-ordering decisions and to supervise movement of items.

The PIO should ensure that all BIN cards are updated and also computerise the stock management in order to improve accountability and efficiency.

3.8. RECORDS MANAGEMENT

1. Majority of the staff working in record areas in the head office and regional offices do not have basic training in records management. Out of the 47 staff working in the Nairobi passport registry only the supervisor has basic training in records.

The Department does not have a criterion for deployment of staff in the record areas. In some cases, officers are deployed to Record Areas for being non-performers or as a disciplinary action.

The Department does not have a clear structure of supervision for all officers working in record areas.

The PIO should come up with a records management structure and ensure that officers working in record areas are equipped with basic training in records management. The training is available at the Kenya Polytechnic and other training institutions. Further the PIO should take advantage of the one-week workshop on records management that is conducted by the Kenya National Archives and Documentation Service for the registry staff and officers working in document processing areas. The PIO should also ensure proper supervision and allocation of duties to registry staff in a manner that safeguards against file losses and also ensure that the registry staff works with clear job descriptions.

2. The records management functions have not been centralised. Each region, section and station manages its records differently from the others. The system of allocating passport numbers varies from one region to another making it possible for an applicant to get more than one passport without registering loss or returning previous passports. For instance, in the Nairobi passport registry file reference numbers "R" are used while in Mombasa passport numbers are used. The Kisumu regional office uses the region centre reference Number (KU) while Eldoret uses (EL) reference number.

The PIO should seek the assistance of records management experts particularly from the Kenya National Archives and Documentation Centre to develop a centralised file numbering system, which should be controlled from one office. This task should be accorded utmost priority.

3. The Indexing system in the department has not been harmonised or computerised. The Nairobi passport registry for example maintains a manual card index for over 1.2 millions passport application that are squeezed in several cabinets. Searching for a card becomes a tedious exercise and it is possible to miss a card during retrieval. The registry at the Mombasa office maintains an alphabetical indexing system based on the first name. One register is divided into different alphabetical entries and a new one is opened when the space for one particular alphabet is

exhausted. This system creates confusion in the search for files since the physical files are not arranged according to the indexes.

In its endeavour to ease the problem of retrieval, the department has started computerising its indexes in Nairobi with the first phase focussed on passports applications between the years 2002 to the present. The program started while this assignment was on course.

The PIO should come up with a standardised indexing system based on file reference “R” number for all passport applications in the region and ensure the programme of computerising the card indexes is extended to the regions, effectively monitored and done to completion.

4. The regional offices and stations do not maintain a subject file index and do not have a standardised procedure for handling written communications to and from the Department. The regional sub-stations do not maintain a register for receiving or dispatching incoming or outgoing mail. As such it is difficult to ascertain whether crucial documents have been created or sent to the region. Documents have to be searched for in all files when requested for. In addition there is no segregation of confidential letters from open correspondence. The Team observed that documents had to be searched in many files before retrieval.

The PIO should come up with a classification scheme for all records created or received in the Department in consultation with the Kenya National Archives and Documentation Service.

5. The Mombasa Regional office does not have a proper repository for storage of files. Some files bundled together with sisal twines are strewn on the floors and along corridors with no form of arrangement. Members of the public also walk into the offices, thereby coming into contact with these documents that have been kept openly in spite of the caption on the door to the registry reading “restricted”. Retrieval of files depends on familiarity. This creates a situation where only certain members of staff can retrieve a file. Consequently, this is an avenue for delays and extortion of money and other benefits from applicants.

The Permanent Secretary Ministry of Immigration and Registration of Persons should immediately acquire other premises for the Regional office or expand the office in order to create enough room for maintenance of records.

6. Entry and departure cards are poorly managed such that it is difficult to access them even when a complaint has been lodged for misappropriation of revenue collected from issuance of visas or for any other reasons. At the Jomo Kenyatta International Airport, arrival and departure cards and passenger manifests are kept in the stores and are not well organised for ease of retrieval in case of an inquiry. These cards are normally taken to the headquarters after some time in this disorganised state.

In some instances the cards are not duly completed and the immigration officers merely stamp them without ensuring their completion. As a result information that would be vital about the traveller is not captured.

The PIO should ensure that entry and departure cards are duly completed before being endorsed by the immigration officers. The cards should be scanned and information well stored for future reference. They should also be kept in such a manner that their retrieval is easy. Disposal of these cards and passengers' manifest should be in line with the provisions of the Public Archives and Documentations Act, Cap 19 laws of Kenya and Government Financial and Regulations Procedures, Sections 23.4 and 23.5 on preservation and disposal of accountable documents.

Information in the cards should be used by the Department to capture relevant information for future planning. This information should be shared with other interested Departments such as Ministry of Foreign Affairs and Ministry of Tourism.



Entry and departure cards in regional offices packed in gunny bags. There are no existing records on documents earmarked for disposal.

7. In most of the registries files are stored in stacks of 50 to 100 in tiny pigeonholes, which cannot accommodate the files comfortably. Files are therefore squeezed making retrieval difficult and sometimes folios may be tattered or lost.

The PIO should install mobile shelves and create adequate file space in all offices. The filing pockets should be numbered according to file numbers contained therein.



Files stacked in tiny pigeonholes at the Headquarters' registry. It is difficult to retrieve or return a file to its respective place.



The Mombasa regional registry is full to capacity and cannot accommodate more records



Disorganised files kept in the racks and on the floor in one of the registries.

8. Once an applicant's file has been opened by any Section, the rest of the document processing areas like citizenship and the permit section use this file for any subsequent transactions including those for other family members. However, there is no computerised linkage between sections.

Furthermore, sections tend to manage semi-registries and keep documents for a long time. This makes it possible for an applicant to forge documents that can be issued by one section to obtain documents from another section.

The PIO should comprehensively computerise all records in the department for easy sharing of information and ensuring access security levels.

9. The Immigration Department has started a microfilming program as a way of enhancing security for their documents. However, the microfilming program is moving at a very slow pace and copies are still kept in Nyayo house together with the original documents. This defeats the purpose for back up security microfilming in case of a fire disaster. Some microfilms are left undeveloped for a long time, due to acute water shortage. This exposes the microfilms to the risk of expiry. In addition, the microfilming program has not been extended to other regional offices.

The PIO should fast track the microfilming of all documents and identify an off-site storage for the back up copies. The back up room should be fitted with fire fighting equipment and other disaster control facilities. Further the PIO should ensure adequate supply of water to facilitate speedy processing of these microfilms. In order to enhance quick access of microfilms, the Department could consider digitising the microfilms

10. Access to document processing and storage areas including the registry in all the regions is not restricted. In all offices, members of staff freely move into the record areas and retrieve files. In the regional offices, members of the public move in and out of the record areas without much restriction. In some areas, files are moved from one building to another without any form of security. This poses a risk where members of the public could walk away with files.

The PIO should secure all records areas and ensure that only designated officers have access to these areas for accountability. In addition, the Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that immigration functions are housed in one building for ease of file movements.

11. All record areas have not been installed with safety equipment for use in case of emergencies. Besides, the microfilm records, which act as the backup, are not secured and are maintained in the same building. Thus the security of these records is not guaranteed.

The PIO should as a matter of urgency install smoke detectors and fire extinguishers for the security of records. Fire drills should be carried out regularly to ensure that these equipments are always in good condition. Records should be maintained in fireproof binders and/or cabinets. In addition the PIO should move backup records outside the Nyayo house for safety, as is the practice the world over.

12. The Department lacks a retention and disposal schedule. At the Moi International Airport records are kept in gunny bags without a detailed list. The Jomo Kenyatta immigration office transfers these records to the stores at the headquarters with no form of arrangement or transfer list. The border offices for example Lunga Lunga, Busia and Namanga put their closed records in gunny bags and deposit them in poorly maintained stores.

The PIO should develop a records retention and disposal schedule for all records created in the Department with the assistance of the National Archives. The schedule should detail methods of disposal and/or transfer of documents to the National Archives for permanent preservation in accordance with the Public Archives and Disposal Act Cap. 19, laws of Kenya.

3.9. GENERAL OPERATIONS AND ADMINISTRATIVE ISSUES

1. The budgetary allocation for the Ministry in the current financial year is reflected under the Office of the President. This is because at the time of the formation of the Ministry, the budgetary process was almost complete. This makes it difficult for the Department to access funds on demand, thereby affecting its efficiency in the delivery of its services.

The Permanent Secretary Ministry of Immigration and Registration of Persons should initiate the process of creating a budgetary vote and appoint an Accounting Officer for the Ministry in liaison with the Permanent Secretary Ministry of Finance. This will also enhance accountability of the Department.

2. Immigration officers in most offices perform their duties with no operational manuals and guidelines and with little supervision. This is in spite of the discretion they exercise in the performance of their duties. In some instances officers are only instructed verbally when moved to different sections.

The Department has a Border Operations Manual for reference by immigration officers. This Manual is not updated and some borders such as Busia have not received the manual yet.

The Principal Immigration Officer (PIO) should initiate the development of operational guidelines in line with the Immigration Act to guide all the officers in the performance of their duties and in the exercise of discretion.

The PIO should update the existing Border Operations Manual to reflect all the current issues that are likely to be faced by border immigration officers and circulate it to all of them.

3. The Immigration Department is a service department yet it has not yet developed a Service Charter that can be used to measure its effectiveness in service delivery. This has contributed to the poor service delivery and corrupt practices in issuance of immigration documents.

The PIO should fast track the development of a Service Charter for the Department.

4. Many service seekers get confused and lost in Nyayo House and other Immigration offices due to improper labelling of offices. This results in unnecessary human traffic as the public moves from place to place in search of assistance leading to proliferation of brokers who offer to assist them only to solicit bribes from them in the process. Some of the Brokers are officers of the Immigration Department. In some stations and sections of the Department, service counters are not clearly labelled.

The Permanent Secretary should ensure that clear directions to offices and charges for various documents are posted on notice boards for guiding and informing members of the public. Further, a notice giving directions to the offices of the Department should be displayed on the ground floor of the building.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that all necessary information required by the members of the public is clearly displayed. Updated information should also be posted on the Internet for easy access to Kenyans and foreigners wishing to visit the country. Such information should include the application processes, fees and duration required to complete the process among others.

5. Immigration officers are all uniformed but other cadre of staff working in the Department are not uniformed making it difficult to identify them.

The PIO should provide all cadres of staff with uniform for identification. This will build team spirit and promote a corporate image in the Department

6. In some instances, officers who are transferred from one place to another do not formally hand over the operations of the office they were occupying. This affects continuity and effective discharge of duties. In some cases even receipt books and revenue reports are not handed over which may lead to loss of government revenue.

The PIO should ensure that officers who are transferred prepare detailed hand over notes, which should be signed by the immediate supervisor, and a copy retained in the office for information and accountability.

7. The Department does not have clearly defined channels of complaints for both the staff and members of the public. This is in spite of the nature of the services offered by the Department and the many complaints levelled against its service delivery.

The PIO should put in place appropriate complaint and feed back channels and ensure that complaints by members of public and staff are promptly handled and adequate feedback provided to the complainants. In addition, the establishment of such a complaints mechanism should be publicized.

8. Regulations, rules, decisions on immigration matters are normally communicated to the region via circulars, telephone, fax. However, what happens on the ground is totally different from what is contained in the Circulars. A case in point is one in which there is a circular to the effect that Pakistani nationals can obtain visas on arrival. However, there is verbal instruction that all of them should go through JKIA and not any other entry point. This kind of communication results in confusion in

decision-making and the officers do suffer punitive measures for compliance or non-compliance with the instructions.

The PIO should ensure that verbal instructions are immediately followed by written instructions and guidelines on how such instructions should be implemented.

9. The Department has a Research and Training Section yet simple monthly returns coming to the section are not consolidated to facilitate the department to make informed decisions on issues such as deployment levels.

The PIO should ensure that officers with clear background in research are deployed to carry out research duties. The PIO should also ensure proper preparation and storage of relevant reports within the sections.

10. There is conflict between the Research and Training Section and the Personnel Section as to which one of them should handle the training aspect.

The Permanent Secretary Ministry of Immigration and Registration of Persons should reformulate the structure of the Department in order to streamline Programmes and activities and delineate the responsible section for ease of operations.

11. Most regional offices have been assigned vast areas of jurisdiction. For example, the Coast region comprises of Mombasa office, Airport, Kilindini, Old port, Taveta, Shimoni, Malindi, Lunga Lunga, Kiunga, and Lamu. The region is headed by a DPIO who oversees the operations in all the aforementioned areas. However, the supervision is limited to phone calls and circulars while visits are only made when senior Government Officials such as Ministers visit these offices.

The PIO should equip all regional offices with adequate personnel, equipment and vehicles to assist in effective supervision including on spot checks on all the immigration offices in the regions. The PIO should ensure that all region Heads submit to him monthly supervision reports.

12. The Immigration Department lacks adequate space for administration and operations. This is so at the Headquarters, the Airports and most of the regional offices and border points.

The Department does not have interview rooms for investigations in some regional offices and Border Points hence informants and suspects are interviewed in the open.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Ministry of Public Works, the Ministry of Finance and the Managing Director, Kenya Airports Authority (KAA) to secure adequate office space to enable the Department carry out its operations effectively.

13. The Forgery Detection Unit (FDU) is equipped for detection of any forgery of travel documents but is understaffed. Very few immigration officers have been trained to use the machines.

The PIO should ensure that immigration officers who have been trained speedily train others how to use the FDU equipment so as to enhance operations of the unit.

14. Almost all the entry points are not well secured to deter illegal aliens entering the country. This includes the Airports, the Coastline and the Border Points. (As a demonstration, at the JKIA the Examination Team accompanied by the Immigration Officers passed through one of the routes and managed to walk out of the Airport past security officers who did not raise any concerns). The team used the route connecting two Simba restaurants situated at the international arrivals and departures. One restaurant serves travellers while the other restaurant is open to the public. This poses significant security concerns for the country.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Internal Security and the Managing Director, Kenya Airports Authority (KAA) with a view to permanently blocking the route connecting the two restaurants and all other openings at the Airports, which may be used for illegal exits.

The Minister for Immigration and Registration of Persons should work closely with all the security arms of the Government in order to effectively secure the coastline and other porous borders.

15. In some stations, officers work under very difficult circumstances where they have no access to basic necessities such as water and housing. For example in Lunga Lunga, officers live in deplorable conditions. They buy water obtained from a river and live in condemned houses. In some areas, officers live in shared houses. This results in apathy, low productivity and creates room for corrupt practices through offers and/or soliciting for bribes and favours from the community.

The Permanent Secretary Ministry of Immigration and Registration of Persons should ensure that officers are provided with all the necessary basic facilities so as to improve their working and living conditions.

16. Although the functions of the Immigration Department have a very close bearing to National Security, in some stations, the Department is not represented in the Area Security Committees.

The Permanent Secretary Ministry of Immigration and Registration of Persons in conjunction with the Permanent Secretary Internal Security should harmonise the issue of security committees and have the Department of Immigration incorporated into the Committees. Other Agencies that work closely with the

Department of Immigration need to be trained in Immigration matters so as to understand security issues related to immigration as well as the relevant law.

17. Interdepartmental relationships with departments that perform related functions especially at the border points are not well harmonised.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Permanent Secretary Internal Security and Commissioner General, KRA, to come up with a working guidelines.

18. The team was informed that some retired Immigration Officers have been 'licensed' to offer Consultancy Services on immigration matters. This has the potential to interfere with the Department's operations and complicate further the process of acquiring immigration documents.

The PIO should investigate this matter and initiate consultation with the Attorney General regarding the legality and operations of immigration based consultancy services.

In addition, given that immigration services impact upon the security of the state, the Minister should initiate consultations with the Attorney General with a view to deregistration of any private agency purporting handle immigration matters.

19. The Department has introduced personalized visa stamps for accountability. However at the time of the Examination, some officers had not been issued with Personal stamps and were using stamps of other officers. In case of any discrepancies, the person whose stamp has been used will be held responsible.

As a temporary measure, the PIO should ensure that each officer performing clearance of foreigners at the entry points do so with personalised stamps, which should be under the custody of the station manager. The ultimate solution should be to change from issuing visas, which are imprinted on the passports with a digitised photograph at the country of origin.

20. Some stations do not prepare monthly reports. Furthermore they do not maintain records of staff meetings making it difficult to assess their performance.

The PIO should ensure that all stations compile monthly reports and that deliberations of staff meetings are documented.

21. Garissa airstrip was gazetted in 2004 as an airport for entry and departure for certain flights, which provide humanitarian services to Southern Sudan and Somali. The immigration officers have to be present at the airport to

clear the passengers. However, there is no immigration office at the Airport and officers operate from their vehicle.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Managing Director of Kenya Airports Authority to put up an office at the Garrisa Airport for effective discharge of immigration duties.

3.9.1 Location of Some Offices

1. Lunga Lunga immigration office is not ideally located as it is 6kms away from the Tanzanian border. This is a serious security loophole, as people easily enter the country through uncontrolled entry routes, commonly referred to as 'panya' routes unnoticed.

Although there are plans to move the immigration office from Lunga Lunga to a more convenient location, the security concerns demand that the Permanent Secretary Ministry of Immigration and Registration of Persons expedites these plans.

2. The Namanga border is poorly organised with offices, shops, restaurants, and hawkers, strewn all over, including temporary structures on the Kenyan side before reaching the Border Control office. In some instances the hawkers assist the immigrants to enter the Country through unauthorized routes. The office is located far from the border point making it possible travellers from Tanzania to mingle with locals before being cleared by immigration authorities. This makes it difficult for the Department of Immigration to effectively control and monitor physical immigration difficult. In addition, this poses a serious security risk and also opens a loophole for extortion by Immigration officials.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Commissioner General, KRA, to ensure that the proposed plan to locate the Immigration and Customs offices in one premises is implemented in the immediate term.



Namanga border point. Immigrants mingle with hawkers and other persons before presenting themselves at the immigration offices (covered by the trees)



Offices of brokers at Namaga border point.

3. Some offices along the coastline such as at the Kilindini Harbour are not located in strategic positions making it possible for crewmembers to disembark and enter the country without notice.

The Permanent Secretary Ministry of Immigration and Registration of Persons should liaise with the Kenya Ports Authority to provide strategically placed offices from where Immigration Officers will easily monitor the movement of crewmembers and other seafarers.

4.0. GENERAL ISSUES FOR FURTHER CONSIDERATION

4.1. Transforming the Department Of Immigration to a Semi-Autonomous Institution

The Department Of Immigration serves as one of the security arms of the Government with onerous functions that should be supported by adequate financial and human resources. There is need to consider the merits and demerits of transforming the Department to a semi-autonomous institution.

4.2. Computerization

The urgency of computerizing and networking of all the functions of the Department and provision of necessary equipment for checking authenticity of documents cannot be underestimated. Such a venture would enhance the accuracy in making decisions in the issuance of documents by the Department and will be a boost to the security of the Country. The initial step to achieve this was halted due to the infamous *Anglo Leasing scandal*.

4.3. Porous Boundaries

Cross-border movements and the war torn Great Lakes region, pose a major challenge in the management of illegal immigrants. Communities living along the boundaries have relatives on either side and freely cross over for visits. Pastoralists along the borders also cross in search of pastures while school going children on both sides of the border also cross over to attend schools, colleges and universities, without necessary entry passes. There are cases of some Kenyans, in border regions especially the Northern part of the country, registering as refugees so as to get food rations. This assumed refugee status becomes a problem when they apply for national identity cards later.

The coastline is vast with many uncontrolled docking points for small ships and boats this may easily be used by illegal immigrants and those engaged in illicit trade and terrorism. Established of a special Unit dedicated to surveillance of the coastline is critical in resolving the problem.

4.4. Refugees

Kenya is a party to the 1951 UN Convention relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The 1951 Convention accords refugees the same rights accorded to nationals of a foreign country in respect to wage earning employment. Due to the porous nature of the Kenyan boundaries and the conflicts in the Great Lakes region, the influx of refugees to the country is sometimes insurmountable. Such a right may reduce employment opportunities for

Kenya nationals and overstretch the country's meagre resources. It may also pose enormous security risks to the country.

While Kenya must abide by her obligations under International law, she cannot do so at the expense of her sovereignty and the need to protect the national labour market. This matter requires scrutiny.

4.5. Advisory Body on Citizenship

The Citizenship Act has conferred on the Minister immense unchecked powers to grant citizenship. This position can be rectified through legislative review that should embody, among other mechanisms, an advisory body to assist the Minister arrive at an objective and well thought out decision. This matter should be considered for interim and effective administrative measures as the law review proposals are being worked out.

4.6. Registration of Births and Persons

The key documents for granting of Kenyan Passports are the Birth Certificate and the National Identity Cards. The Birth Certificate is the key document for the registration of persons through issuance of a National Identity Card. The Government mounts campaigns from time to time intended to encourage registration of children at birth. Regrettably this has been an elusive goal. Many loopholes exist in the registration of persons some of which are driven by political factors as opposed to the needs of preserving the State.

4.7. Hostile Border Communities

At times the Department faces hostility from the community that it serves. For instance, in Lamu, the immigration office was burnt down by residents in protest against perceived discrimination against some communities living in the region. In North Eastern Province, local police officers believe that they have a duty to help their brothers in Somalia. This makes it difficult to control movement of aliens into and out of the Kenyan boundaries.

4.8. Language Barriers

At the airport, there are various travellers arriving and departing who do not necessarily speak and understand English. However, the immigration officers are not adequately trained in many foreign languages to enable them communicate effectively with non-English speakers. Where language barriers exist, tour operators are called in to assist.

4.9. Investigations and Prosecution of Offenders

The investigation of immigration offences is a big problem. The investigators are often accused of intimidation and extortion. Furthermore, the few cases taken to court are poorly prosecuted.

4.10. Partnerships

The Department does not seem to work well with other related Ministries and interested bodies locally and internationally. This sometimes creates conflicts especially where other interests may conflict with those of the Immigration Department. For instance, the Ministries of Trade and Industry, the Investment Promotion Centre (IPC) currently referred to as the Kenya Investment Authority, the Export Promotion Centre (EPC), the Ministry of Tourism and Tourism Promotion Board (TPB) are mainly interested in wooing foreign investors and tourists. These interests pose a great challenge to the Department of Immigration in the performance of its functions. It is therefore imperative for the Department to initiate dialogue with all interested parties in order to forge a common understanding in dealing with foreigners.

CONCLUSION

This Report has highlighted weaknesses and corruption loop holes in the systems, procedures and policies applied by the Department of Immigration in carrying out its day-to-day functions. At the very outset it has been noted that there is no comprehensive government policy on immigration. A clear and comprehensive policy is key in, among other things, deterring unlawful immigration, and defining the scope and coverage of the immigration functions and the mandate of immigration officers vis a vis other officers such as the Minister in charge of immigration matters. It is also necessary in setting out procedures for handling revenue generated by the Department of Immigration in various activities such as collection of visa fees and, issuance of passports. Several weaknesses in the Department, for example, lack of guidelines on the role of immigration officers in the process of granting citizenship, can be traced to lack of a clear policy on immigration and inadequacies in the law.

The legislative framework on immigration is confusing. The relevant statutes are scattered and therefore difficult to implement effectively. Moreover the law has not kept pace with recent developments in the international arena as well as emerging problems associated with immigration such as terrorism and human trafficking. It also confers wide unchecked discretionary powers to the Minister on matters of citizenship and to immigration officers on weighty matters such as issuance of and renewal of travel documents and entry permits. This provides opportunity for immigration officers to create their own rules and to extort money and favours from clients. This underscores the urgency with which the government needs to embark on a comprehensive review of the relevant law.

The law review must take into consideration the need to codify and simplify the relevant statutes as well as the need to provide appropriate checks on discretionary powers, In addition there is need to enhance the penalty regime for immigration offences and to incorporate principles enshrined in relevant international instruments.

The porous nature of the Kenyan boundaries presents a critical challenge in the management of illegal immigrants. The problem of illegal immigrants is exacerbated by the instability in the neighbouring countries. Furthermore the East Africa Cooperation offers partners a platform for free movement of their citizens and therefore more human traffic than would otherwise be expected along the borders. The Cooperation is expanding with more countries in the region showing interest. Corrupt practices within the Kenyan Immigration department are likely to dent Kenya's image in the global arena and yield negative consequences such as:

- The possibility of issuing travel documents to criminals engaged in drug trafficking, terrorism, money laundering and human trafficking
- Heightened insecurity leading to more countries joining in issuance of travel advisories to their citizens to avoid visiting Kenya

- The possibility of the international community branding Kenya as a major conduit for international crime.

The multiplier effect is to undermine public confidence in the ability of the government to provide protection to its citizens and to maintain a positive national image that should earn respect from the international community. Furthermore insecurity is likely to dampen tourism and foreign investment and consequently it would undermine economic development.

Multiple approaches will be required to seal corruption loopholes in the management of illegal immigrants. These will include an appropriate policy framework, legislation, better physical facilities, enhanced human resource capacity, and advanced technology to ensure security of documents and records as well as various administrative measures. A strong partnership between the main stakeholders will help realize the objective of sealing corruption loopholes through the multi pronged approach. In addition, effective surveillance of the Kenyan coastline and boundaries in collaboration with neighbouring countries will be imperative.

The criterion for an alien to qualify for Kenyan citizenship is not comprehensive and has been the subject of abuse. This issue together with the issue of dual citizenship and other immigration matters must be handled in the law reforms proposed in this Report as well as in the constitutional review process underway and be informed by practices in other jurisdictions.

With close co-ordination and cooperation between the various stakeholders, such as security organs, the United Nations and trade and tourism entities, the adoption of broad based approaches on immigration matters can realize the objectives of minimizing corruption in the Department of Immigration. The Department of Immigration should enlist the support of the public in the fight against corruption through sensitisation on the rights of the applicants for various immigration documents. The role of the public is critical particularly in reporting corrupt conduct in the Department. This can be enhanced through establishment of clear channels of complaints and feedback.

Finally, the recommendations made in this Report, cannot be effective without the support and commitment of the Minister, the Permanent Secretary and Senior managers in the Department. It will therefore be necessary for the senior management to spearhead the implementation of these recommendations in order to prevent corruption and the revenue losses in the Department. The Kenya Anti-Corruption Commission will expect the Permanent Secretary and the Principal Immigration Officer to prepare an implementation Plan on the recommendations of the Report and will be at hand to offer necessary guidance.

APPENDIX 1

OFFICIALS INTERVIEWED, OFFICES AND PLACES VISITED

IMMIGRATION'S HEAD QUARTERS NAIROBI

1. The Minister, Ministry of Immigration and Registration of Persons
2. Permanent Secretary, Ministry of Immigration and Registration of Persons
3. Ag. Principal Immigration Officer (P.I.O)
4. Administration/personnel section
5. Passport section
6. Entry Permits (Work Permits) section
7. Visa section
8. Aliens ad Refugees section
9. Investigation and Prosecution section
10. Citizenship section
11. Physical Immigration Services section
12. Kenyanisation section
13. Finance and Accounts section
14. Computer section
15. Registries and Microfilming section
16. Training and Research section

OTHER DEPARTMENTS

1. Registration of Persons
2. Civil registration

REGIONAL OFFICES

1. Mombasa Regional Office
2. Kisumu Regional Office
3. Eldoret sub-regional Office
4. Garrisa Regional Office
5. Malindi Office

BORDER AND ENTRY POINTS

Air and seaports

1. Jomo Kenyatta international Airport
2. Wilson Airport
3. Moi International Airport
4. Malidi Airport
5. Kisumu Air port
6. Eldoret Air port
7. Kilindini Sea Port
8. Mombasa Old Port
9. Ngomeni
10. Vanga

BORDER ENTRY POINTS

1. Lunga Lunga
2. Namanga
3. Isibania
4. Malaba
5. Busia

STAKEHOLDERS

1. Permanent Secretary Ministry of Tourism
2. Permanent Secretary Ministry of Trade
3. Ministry of Foreign Affairs
4. National security Intelligence Service (NSIS)
5. United Nations High Commission for Refugees (UNHCR)
6. Kenya Investment Authority (KIA)
7. Kenya Association of Manufacturers (KAM)
8. National Economic Social Council (NEESC)