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Job Satisfaction among Public Primary School Teachers in Selected Regions in Tanzania

Siston Masanja

**Agency for the Development of Education
Management (ADEM)**

Abstract

Job satisfaction among employees has attracted the interests of researchers and writers because it is associated with productivity. This study investigated the extent to which teachers are satisfied with the teaching job in Tanzania. The study was carried out against a backdrop of a few comprehensive studies having been undertaken on teachers' job satisfaction, especially during a period of rapid education expansion in Tanzania. The data was collected using a questionnaire administered by 996 primary school teachers in three regions and six local government authorities. Descriptive statistics were conducted to compute mean scores of the responses for each of the facet of job satisfaction to determine teachers' perceptions on various factors in their job using Statistical Package for Social Sciences (SPSS Version 20). The study found that teachers were, intrinsically, satisfied with the teaching job in general. On the other hand, they were dissatisfied with promotion opportunities available for them. From these results, it is concluded that despite the assumed difficulties facing teachers, they are happy to become teachers. Based on the findings, the study recommends for the government and other authorities responsible for teachers to heighten the promotional opportunities for teachers to raise job satisfaction and motivation levels amongst them.

Keyword: Job satisfaction, Intrinsic Job Satisfaction, Extrinsic Job Satisfaction, Promotion

1.0 Introduction

Employees' job satisfaction has attracted the interests of many researchers and writers because it has the potential of enhancing organisational productivity (Van Scotter, 2000; Hoy & Miskel, 2001; Mullins, 2004). For example, Van Scotter (2000) asserts that job satisfaction has stimulated a great deal of research interests, partly because it is important in its own right and partly because of its association with other important outcomes such as employee turnover, absenteeism, productivity and organisational commitment. Mullins (2004) indicates that job satisfaction results in workers' organisational commitment and their intention to stay. According to Henke *et al* (1997), job satisfaction has gained inspiration both for humanitarian and economic reasons as it can translate into loyalty and good mental health whereas low job satisfaction can have negative effects, such as high turnover and poor mental health. In the same veins, Chen, Shiau and Wang (2006) point out that job satisfaction has been found to influence, significantly, job performance, absenteeism, turnover, and psychological distress among employees because dissatisfied workers are prone to excessive turnover, burnout and absenteeism. In the education context, teachers are main actors in nurturing pupils, supervising learners in the learning process and controlling the discipline of pupils. Thus, teachers need to be highly satisfied for them to facilitate and meet the expectations of the pupils, parents, the government and other stakeholders who need quality education. In this regard, studies have suggested that high quality education and successful reforms of educational systems are

combined outcomes of a well-trained, motivated, committed and satisfied teaching staff. For example, Chen *et al* (2006) contend that teachers, as employees of educational organisations, need to be satisfied with their work environment so that they can promote quality teaching and learning. Similarly, Perie and Baker (1997) argue that high quality teaching staff constitute the cornerstone of a successful educational system, primarily because teachers interact on a daily basis with other teachers and pupils that form the fulcrum of the educational process. Mwollo-Ntallima (1981) supports this view by pointing out that teachers continue to play a crucial role in education, which has remained a labour-intensive industry geared towards moulding and nurturing human behaviour. This nurturing requires a human touch and social interaction rather than mechanistic relationships. Thus, teachers' job satisfaction is vital in engendering effective performance of day-to-day activities in their schools as it contributes to the production of positive traits, such as loyalty, low turnover, productivity, citizenship behaviour, commitment to the organizational goals and compliance with the directives.

In Tanzania, the history of teacher's status and teaching profession has undergone significant transformation from the pre-colonial, colonial, independence to-date. During the pre-colonial era, education was conducted by traditional teachers to transmit wisdom and pass on essential survival skills from one generation to another. In this regard, Semali and Stambach (1997) argue that indigenous or traditional knowledge encompasses what local people know and do, and what they have known and done for generations. In addition, Nyerere (1968) points out that in pre-colonial education, young people learned by living and doing under every adult serving as a teacher to the young apprentices. In fact, teachers in the pre-colonial era were highly respected by the society and their status was high, hence they were highly

satisfied and motivated. On the other hand, colonial teachers were formerly trained with their focus of teaching being to change people's minds and attitudes to suit the colonial interests. Although teachers served the colonial interests during the colonial era, they were considered wise and good due to the fact that the teaching profession was the only salaried job that was opened to Africans (Muze, 1987). The importance of teachers remained unchanged during independence because they were crucial in promoting the socio-economic well-being of the society. However, after independence many jobs were left vacant by Europeans who left for indigenous people to fill them. Consequently, the opening up of many work opportunities left by foreigners soon after independence marked the turning point for the status of teachers in Tanzania because better paying and more attractive jobs in accountancy, politics, administration and tax collection forced teachers to abandon teaching job and go for more lucrative engagements.

The worsening status of teachers in comparison with other jobs due to their poor workplace and living conditions irks not only teachers but also educational stakeholders. Joint Monitoring Report (URT, 2010) signposts that teachers' morale is low because of delayed, low salaries, a perceived low status in society, the unavailability of teaching facilities, delayed and inconsistent promotions, ad-hoc reviews of the curricula and unpaid leave allowances. These factors have been triggering job dissatisfaction among teachers. Davidson (2007) also observes that the vast majority of teachers in Tanzania are unhappy with their salaries, housing arrangements, benefits, workload, and the prestige accorded to them by the community.

Despite the indisputable value of job satisfaction among teachers in enhancing their teaching performance and performing other school duties, there are scanty studies on the matter in the context

of Tanzania in recent years. Generally, studies available are outdated and even then focus on the reforms in education sector done recently in Tanzania. Moreover, many of these studies have largely focused on the extrinsic factors of the job satisfaction of teachers with very little work being done on the intrinsic factors of the teaching job. As such, the current study sought to determine the intrinsic level of satisfaction among teachers in recent years of education expansion and make recommendations based on the findings. Specifically, the study set out to provide an answer to the question: To what extent are primary school teachers satisfied with the teaching job under the increased enrolment in Tanzania?

2.0 Theoretical and Empirical Perspectives

Job satisfaction among employees has been explained and perceived differently by researchers in education and human resources management disciplines because of the inherent complexity in defining it. For example, Mullins (2004) conceptualises job satisfaction as an attitude, an internal state that can be personal feeling of achievement, quantitatively or qualitatively. On the other hand, Currivan (1999) defined job satisfaction as the degree of positive emotions that an employee feels towards his/her job. According to Mau, Ellsworth and Hawley (2008), employees are satisfied or dissatisfied when they compare their work situation in their organisation with that of other workers in different institutions. Organisational administrators need to grasp well these positive or negative emotions of an employee towards a certain job because positive emotions lead to reduced turnover, high productivity, loyalty, secured work facilities, high job morale, and other tangible benefits (Currivan, 1999; Gaertner, 1999; Van Scotter, 2000). Conversely, negative emotions can result in vandalism, low productivity, employee turnover, low job morale among

employees and low commitment. As Weiss (2002) argues, people generally form attitudes towards their respective jobs by considering their feelings, beliefs and behaviour.

Inevitably, different people perceive job satisfaction depending on the context of the study undertaken. In this study, teachers' job satisfaction is linked with the positive emotions of an individual teacher as a result of assessment or appraisal of both intrinsic factors (responsibility, achievement, the work itself, recognition and advancement) and extrinsic factors (salary, promotion opportunities, working environment, and community support) of the teaching job.

The Herzberg Dual-factor theory informed the study in examining the teachers' level of satisfaction with various aspects of their job. "Two-Factor" Theory was developed by Herzberg, Mausner and Syderman in the late 1950s as an extension of Maslow's Hierarchy of Needs. Whereas Maslow includes five needs in his hierarchy, the Herzberg Two-factor theory modified these into two clusters: "satisfiers" (high level needs) and "dissatisfiers" (low level needs). According to Herzberg, Mausner and Syderman (1959), job satisfaction among employees is influenced both by internal (intrinsic) or "motivators" and external (extrinsic) or "de-motivators" factors of the job, with varying levels of effects. The Two-Factor theory suggests further that achieving motivators enhances satisfaction; however, when the motivators remain ungratified, only minimal dissatisfaction occurs among workers. Yet when hygiene factors (de-motivators) such as working conditions and salary are unachievable, the employees develop negative attitudes, hence their job dissatisfaction.

This study applied Two-Factor theory in measuring teachers' job satisfaction because it fits the demand and nature of schools in Tanzania. In the school context, internal factors (intrinsic) of

teachers' job satisfaction stem, primarily, from within the teaching itself such as liking and enjoying teaching, seeing pupils achieve their dreams, and enjoying when pupils pass their examinations. Internal factors of job satisfaction are associated with teaching itself and are powerful satisfiers for teachers (DuBrin, 1992). These "satisfiers" or "motivators" promote the psychological growth of employees. On the other hand, external or "de-motivators" as sources of teachers' job satisfaction operate outside the teaching job and out of the control of teachers and are largely found in society. These factors include the social status accorded to teachers by the society, perceived support from the system, curriculum change, support services and promotional opportunities (Dinham and Scott, 1998). Contrary to internal factors, external or hygiene factors promote physiological satisfaction and serve mostly as de-motivators among teachers if school administrators fail to address them properly. This study focused on intrinsic and a few extrinsic factors because many studies in Tanzania have largely tended to focus more on extrinsic than on intrinsic factors. Extrinsic factors seem to occasion so much dissatisfaction among teachers. Thus, the review of the literature focused on studies dealing with intrinsic factors in developed and developing countries and, finally, in Tanzania.

Job satisfaction among teachers has been studied widely in both developed and developing nations. In the United States, Lanzo's (2003) study on the level of job satisfaction of middle school teachers from peri-urban public schools in Essex County, New Jersey, found that teachers were satisfied with their job in general. On the other hand, the same teachers were particularly dissatisfied with their salary and promotion opportunities and the high level of stress they had to contend with. In Cyprus, Zembylas and Papanastasiou (2006) found Cypriot teachers to be highly satisfied with the salary, especially because of light working hours in

schools and holidays. Zembylas and Papanastasiou (2006) found that teachers in Cyprus were also satisfied with working with children, and loved seeing them grow and achieve their learning goals, which contributed to societal and achievement of personal goals. In contrast to Zembylas and Papanastasiou (2006), Oplatka (2007) revealed that teachers in developing countries teach not out of internal motives such as interest and a commitment to nurturing young minds, but rather due to external incentives and, chiefly, lack of other occupational opportunities in their preferred areas. In Kenya, Silima and Poipoi (2010), who conducted a study on factors affecting public secondary school teachers' job satisfaction, found that major factors affecting teachers' job satisfaction were the workplace conditions, education policies, delayed promotions, workload, inadequate in-service training courses and poor inter-personal relationships.

In Tanzania, as already mentioned, the few external studies on teachers' job satisfaction focused more on extrinsic than on intrinsic factors of job satisfaction. For example, Msuya (2016) studied the role of extrinsic (hygiene factors) and socio-demographic factors in determining job satisfaction in Tanzania's public secondary schools. The results show that, generally, teachers were satisfied with hygiene factors such as recognition for work accomplished, relationships with co-workers and job security. In contrast, Mlyuka (2016) who studied relationships between teachers' job satisfaction and job performance found that primary school teachers were disgruntled with working conditions, supervision recognition from leaders and society, limited promotion chances available to them and lack of in-service training to update their skills. Furthermore, Mroso's (2014) study on factors contributing to job satisfaction in public primary schools found that teachers were satisfied with environmental factors such as relationships with co-workers and

were unhappy with job content factors, for example, salary, benefits, rewards, promotion and training.

In relation to the intrinsic factors, Masanja (2013) one of the very few in this area, conducted a study on the effects of workplace conditions on teachers' job satisfaction. His findings revealed that teachers were satisfied with the teaching job but dissatisfied with promotions. Also his findings indicate that workplace conditions affected the teachers' job satisfaction positively. From the same standpoint, previous studies have shown that teachers were happy with the teaching job in general. For example, a study by Puja (1976) had found that teachers were interested in their job in general because teaching guaranteed job security. In addition, Mwolo-Ntallima (1981) reported that secondary school teachers in Tanzania were satisfied with their job because teaching made them innovative and resourceful and provided them with job security. Moreover, the Joint Monitoring Visit Report for Basic Education (URT, 2010) shows that teachers' morale and job satisfaction were high in Tanzania despite the diverse environments in which they work. Furthermore, Ngimbudzi (2009) in his study on job satisfaction among teachers found that secondary school teachers were satisfied with the teaching job.

On the whole, many of the factors in their previous studies were associated with dissatisfiers or extrinsic factors leaving aside satisfiers or intrinsic factors. This study, therefore, contributes knowledge on the teachers' level of satisfaction with intrinsic factors of the teaching job in the particularised context of Tanzania amidst the recent country's expansion of education.

3.0 Methodology

The survey design was employed to guide data collection from the sample of the targeted population. The survey design facilitated the collection of information from a relatively larger number of cases within a short time and little resources. In that regard, Remenyi et al. (1998) support the use of the survey design by pointing out that surveys are a common research approach in the field of business and management that offer opportunities to collect a large quantity of data or evidence quickly and conveniently. Likewise, Saunders et al. (2006) hold that surveys are frequently employed in business and management studies as they allow the collection of a large amount of data from a sizeable population in a highly economical way. In addition, survey design permits generalization of findings to the whole population by studying a selected number of people that fitted the purpose of this study. Primary schools in Tanzania are too numerous and so widely scattered, geographically, that covering them all in a single study may not be that feasible. According to URT (2017), there were 16,140 government-run primary schools scattered in 26 regions (provinces) with 179,291 teachers in Tanzania.

Teachers' job satisfaction questionnaire was adopted and modified from the Minnesota Satisfaction Questionnaire (MSQ) to collect data from the respondents. The MSQ is a data collection tool consisting of 22 facets of job satisfaction that were designed to measure satisfaction levels of employees across organisations. The MSQ was deployed in this study because of its high reliability as attested by a wide variety of studies on different occupational groups that have previously employed it. According to Jewel and Kirby (1990), the MSQ manual facilitates the determination of general, intrinsic and extrinsic job satisfaction scores. Moreover, the MSQ had already been applied by Nguni

(2005) and Masanja (2013) in the localised context of Tanzania to measure various facets of teachers' job satisfaction and produced positive results on job satisfaction in Tanzania's schools. To ensure validity, the questionnaires were cross checked and modified to fit the Tanzanian context.

The regions selected in this study included high performers in the Primary School Leaving Examination (Dar es Salaam) moderately performed regions (Morogoro) and lowly performed region (Dodoma) in which their Grade Pass Rates were 75.2 percent, 49.9 percent and 38.2 percent respectively (URT, 2014). Higher performing region represented all the higher performers whereas moderate and low performing regions represented the moderate and lower performers respectively. In these three regions, both rural and urban districts were selected for investigation to capture operational characteristics of responding teachers in either context. Simple random sampling of teachers was done at schools to reduce bias, as each individual had an equal chance of being selected for investigation. All teachers who stayed at the school for at least six months were eligible for investigation. Two probability cards were prepared, one written "YES" and the other "NO" that were distributed randomly to teachers. Only those who picked YES cards were given chance to fill the questionnaires to give their opinions on the matter. The study was done in February and March, 2017 in all three regions of Dar es Salaam, Dodoma and Morogoro.

Out of 1200 teachers expected to participate in the study, 996 (83%) teachers filled the questionnaires. In the three regions, Dar es Salaam counted 356 (35.7%) teachers, Dodoma 252 (25.3%) and in Morogoro, the turn up was 387 (38.9%) teachers.

4.0 Results

The objective of this study was to investigate the extent to which teachers were satisfied with various facets of their profession. The resultant data show that they were satisfied with the teaching job in general. Details are presented in Table.

Table 4:1 Satisfaction of Teachers with Various Facets of their Job (N=996)

Facets of Job Satisfaction	Maximum	Mean	SD
I find my job satisfying	5	3.71	1.134
I am committed to making our school one of the best in the district	5	4.54	1.658
If I could start again, I would choose to become a teacher again	5	3.06	1.495
I always want to be available in school	5	3.70	1.205
I am looking forward to remaining at this school	5	3.81	1.189
I am proud of my job	5	3.92	1.185
I am looking forward to remaining a teacher	5	3.99	1.971
Teaching gives me a chance to tell pupils to do what they are supposed to do	5	3.99	1.089
The goals and priorities of our school are clear	5	4.01	1.067
Teaching gives me a chance to obtain recognition from the community	5	4.25	.959
Teaching gives me a chance to help others to succeed	5	4.26	.957

Facets of Job Satisfaction	Maximum	Mean	SD
Teaching provides me with security of work	5	3.79	1.322
I am happy with my job	5	3.81	1.169
Most days, I am happy with my job	5	3.82	1.719
I am happy to educate pupils	5	4.47	.750
The school administration treat teachers fairly	5	4.08	1.670
My job allows me to employ my competency in teaching	5	4.28	.885
Teaching helps me to make many friends within a short time	5	3.97	1.081
Teaching gives me a chance to undertake other assignments in the community	5	3.56	1.249
Teaching job gives me a chance for professional development	5	3.82	1.172
I am satisfied with the promotion opportunities available to teachers	5	2.22	1.273
Teaching gives me a chance to work independently	5	3.34	1.308

NB: Mean=3.83; SD=1.250318; N=996

Table 4.1 shows the responses of the teachers on the extent to which they were satisfied with their teaching job. The data show that teachers were positive with many of the facets of the teaching job in general (M=3.83) except for their chances for promotion (M=2.22). The data also show that teachers were more satisfied with making their school one of the best in the district (4.56); having clear school goals (M=4.01); getting opportunities for recognition from the community (M=4.25); teaching providing an

opportunity to help others succeed ($M=4.26$); being happy with educating pupils (4.47) and the teaching job making use of teachers' competencies ($M=4.28$). On the other hand, the data also show that teachers were less satisfied with promotion opportunities ($M=2.22$).

Generally, data in Table 4.1 show that the mean scores for job satisfaction, among teachers, is above midpoint ($M=3.83$). These data indicate that the majority of the teachers (76.6%) were generally satisfied with the teaching job, but not with the promotion prospects, which was rated low. Results also show that teachers were more satisfied with intrinsic factors (satisfiers) than they were with extrinsic factors (dissatisfiers). Furthermore, the data show that teachers would opt to remain in the teaching profession. Generally, the study results indicate that teachers were happy when it came to the intrinsic factors of the teaching job but dissatisfied with the limited promotion opportunities available to them.

These study results confirm those of several studies in Tanzania. For example, Mwollo-Ntallima (1981) in his study reported that secondary school teachers in Tanzania were satisfied with their job because it made them innovative and resourceful in addition to providing job security. The findings are also consonant with those of Towse *et al.* (2002), which indicate that, although many initially treated teaching as the "last resort" in the pecking order of their preferred occupations due to its low status and pay, the majority, it turned out, actually intended, in the final analysis, to become classroom teachers. Additionally, the study findings are consistent with those of Nguni (2005) and Masanja (2013) who found that teachers in Tanzania were satisfied with their profession in general. The findings of Ngimbudzi (2009) are also consistent with those of the current study. Ngimbudzi (2009) found that teachers were satisfied with the meaningfulness and

social benefits of their job, but were dissatisfied with the pay, fringe benefits, bonuses and promotion opportunities. Also, the findings of the current study are consistent with recent studies by Msuya (2016) and Nyamubi (2017), which reported that secondary school teachers were satisfied with their teaching job. The current study findings are also congruent with those of various studies carried out in other countries. For example, Henke *et al.* (1997) reported that teachers were satisfied with their work in the American educational system. The current study findings also consistently concur with those of Lanzo (2003), who found that, although teachers were dissatisfied with the aspects of salary, opportunities for promotion and high levels of stress, the majority were satisfied with their job in general. Koustelios, Theodorakis and Goulinmaris (2004) also came up with similar findings on primary and secondary school teachers' job satisfaction in Greece. Furthermore, the current study findings reflect those of Zembylas and Papanastasiou (2006), whose study on the sources of teachers' job satisfaction in Cyprus found that teachers were intrinsically satisfied with the teaching job.

The low satisfaction level registered among teachers, in terms of promotion opportunities, has also been reported by various previous studies conducted in Tanzania and elsewhere. Puja (1976) reveals that teachers were disinterested in their limited opportunities for professional development and chances for promotion. Some 33 years later Ngimbudzi (2009) also reported similar findings, indicating that teachers were dissatisfied with the promotion procedures and processes. Mlaki (2011) also found that lack of promotional opportunities caused stress among head teachers and teachers alike in Tanzania. The results on low satisfaction due to inconsistencies in promotion opportunities among teachers also feature in the Joint Monitoring Report (URT,

2010), which affirms teachers' disenchantment with promotion systems in Tanzania.

However, the findings of current study contrast with those of some studies conducted in Tanzania on teacher's job satisfaction. For example, Mosha (2000) observes that teachers, from primary to the university level were inadequately motivated and remunerated hence, many of the continually sought ways of earning extra money to meet their basic needs, which in the large scheme of things compromised their teaching preparation and went against their ethics. In the same vein, Sumra (2004) found that, although many teachers were recruited in recent years, little effort had been devoted to improving their working conditions. Likewise, the Joint Monitoring Report (URT, 2010) confirms that teachers' morale was low because of delayed and low salaries, a perceived low status for teachers in society, the unavailability of teaching facilities, ad-hoc reviews of the curricula and unpaid leave allowances.

As mentioned earlier in this manuscript, in the school context there are intrinsic and extrinsic factors affecting job satisfaction among teachers. According to Dinnham and Scott (1998), intrinsic factors (satisfiers) such as student achievement and teacher self-growth tend to satisfy workers uniformly, whereas extrinsic factors (dissatisfiers), such as interpersonal relationships, administrative responsibilities and working conditions tend to dissatisfy them, if not adequately attended to. In other words, the satisfaction in one group of factors is not necessarily satisfaction in the other group of factors. In Tanzania, many of the studies that measured intrinsic factors of the teaching job established that teachers were actually interested in the teaching job (Puja, 1975; Nguni, 2005; Masanja, 2013) whereas those that focused on extrinsic factors indicated that they were unhappy with the

teaching job (Mosha, 2000; Sumra, 2004). Thus, the two groups of factors need different strategies to boost satisfaction levels of teachers as each of the two factors have a bearing on job satisfaction.

5.0 Conclusion and Implications

The present study has examined and determined the extent to which teachers are satisfied with the teaching job in Tanzania. It has established that teachers are intrinsically satisfied with the teaching job, on the one hand, but dissatisfied with promotion opportunities available to them, on the other hand. The study findings imply that despite of assumed difficulties facing teachers, they are happy to remain teachers. However, it is not the aim of the current study to conclude that overall, teachers in Tanzania were satisfied with their teaching job due to the complex nature of measuring satisfaction level among employees using one of the two groups of factors (intrinsic and extrinsic). The teaching job satisfaction found in this study ought to be qualified. After all, in the school context, teachers' job satisfaction tends to be affected by both intrinsic and extrinsic factors of the teaching job. Thus, satisfaction with facets of one of the two groups of factors does not necessarily mean teachers have overall satisfaction in their teaching job. As such, and in accordance with the extant literature reviewed, it is rational to deduce that teachers are intrinsically satisfied with the teaching job but dissatisfied with other factors such as promotion. Thus, educational policy-makers and administrators should exert much more efforts in improving teachers' working environment, bearing in mind that teachers are generally happy with the teaching job. Moreover, the government should take serious actions to ensure that there is consistency in promoting teachers to get rid of this seemingly intractable problem among the teachers.

As the data for this study were analysed within some limitations, other future studies can be conducted with that in mind. Firstly, this study mainly covered intrinsic factors of the teaching job at the expense of extrinsic factors. As a result, it has been difficult to conclude, categorically, that teachers in Tanzania are satisfied with the teaching job. Thus, it is recommended that future studies should factor in both intrinsic and extrinsic factors of the teaching job to determine the overall satisfaction of teachers with their job and get a composite picture of the situation. Secondly, this study applied the quantitative research approach that has limitation in terms of capturing the feelings of respondents. As such, a mixed research approach can be applied in future studies on job satisfaction to address this limitation.

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Linking smallholder farmers to Global Value Chains: Evidence from tobacco farmers in Urambo, Tanzania

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Abstract

Despite the controversies inherent in tobacco production and its use globally, it still features among five strategic cash crops designated for export in Tanzania. As a result, tobacco farmers are increasingly linked to global agricultural chains through contract farming arrangements. There has been a lacuna in the literature regarding development dynamics facing smallholder farmers in the global south as most research work has focused more on firms and industries in developed and newly industrialized countries of Asia. Thus, zooming on farmers and bringing them on board expands our understanding on the globalization tendencies and how they affect farmers. Using the Global Value Chain approach, this paper examines how smallholder farmers in Urambo district performed after their integration into the global tobacco value chain. A survey of 228 households categorized into urban and rural farmers organized into primary cooperative societies was conducted in 2015

followed by qualitative interviews in 2016. T-tests and Chi square tests were used to compare performance between the two categories across the three-year study period complemented with thematic analysis for qualitative data. Results indicate that tobacco farmers' performance is related neither to their location, their cooperatives nor tobacco buying-companies. The conclusion is that performance of smallholder farmers between the categories is the same across the study period as they are subjected under similar contractual conditions. The findings have important implications on the agriculture policy regarding inputs distribution system and a need to expand local market by way of attracting more investments.

Key words: Contract farming, farmers' performance, Global Value Chain, Primary Cooperative Society, Globalization

1.0 Introduction

Economic growth in the western world has resulted into globalization processes and tendencies through which an influx of global economic actors to the south is witnessed. Most of these actors are multinational companies (MNCs), which, among many reasons, seek economic efficiencies through careful coordination of their globally dispersed production activities. After entry in foreign markets, MNCs are linked up with local firms, with the latter being suppliers. The intensity of these tendencies and processes has compelled market restructuring in many developing countries. Market restructuring and reforms have rendered export-oriented cash crops in these countries to be increasingly connected to global value chains (GVCs) ending up in the North (Barrientos, et al.,

2011; Fold and Larsen, 2011). While some literature associates rural development mostly with the role of the state (Singh and Ovadia, 2018; Ovadia and Wolf, 2018) and the way smallholder farmers are increasingly linked to global market players (Bowles et al., 2018; Schipmann and Qaim, 2011; Navas-Alemán, 2011), other scholars are skeptical with this approach due to a perception that powerful players in the market are mostly exploitative in nature (Ochieng, 2010). However, studies conducted in different countries such as Argentina, India, Indonesia and Italy suggest that even if firms collaborate with global lead firms, only those with innovative capability benefit from their collaborations (Marin and Bell, 2010). Moreover, in trying to inquire more, studies inspired by the GVC tradition have been predominantly focused on firms, especially those involved with manufacturing across industries (Gereffi, 1999; Gereffi et al., 2005). There is less scholarly attention accorded to people. Even when people are brought into the discussion, it is in the perspective of employees of the studied firms (Barrientos, 2011). So, a study about individuals – in this context – farmers – rather than firms – is likely to broaden our understanding on how the insertion of smallholder farmers into global agricultural value chains has an influence on what they do and how they do it. Thus, the main objective of this paper is to explore and reflect on tobacco farmers' performance after being inserted into the tobacco global value chain. In order to do that and understand the performance dynamics better, farmers were divided into urban and rural categories and compared on the basis of selected measurable parameters.

Tobacco smallholder farmers in Urambo have been linked to the global tobacco value chain via contract farming (CF) arrangements — under which farmers receive inputs credits to produce tobacco which, upon harvest, is sold to contracted

tobacco processing-companies (here in after buying-companies) at predetermined prices. This type of out grower contract schemes has been identified as a common strategy in poor – mono crop – dependent areas (Goger et al., 2014). A lot of studies has been done on the motives for CF (Walker, 2009; Masakure and Henson, 2005), contract design attributes (Abebe, et al., 2013) and the impact of CF on welfare and farm incomes for participating contract farmers (Bellemare, 2012; Miyata, et al., 2009). Furthermore, this literature, cautiously though, has indicated that CF results in increased productivity and farm incomes of households (Ilembo, 2015; Oya, 2012). Few scholars such as Bellemare (2010) and Bellemare and Novak (2017) have moved the discussion further to indicate that smallholder farmers who get integrated into agricultural value chains through CF are likely to increase their level of food security more than those who do not participate. Similarly, the GVC literature argues that getting connected into specific value chains opens opportunities for contracted suppliers to upgrade in areas where lead firms do not feel threatened (Tokatli, 2013). Unlike other crops studied by other researchers such as Bellemare (2010, 2012) and Barrett et al., (2012) where farmers had an opportunity to choose either to participate in CF or not to, tobacco farmers have no option but to participate by default as all tobacco produce is sold through cooperative societies that have contracts with buying-companies.

Firms operating in the tobacco sector either as leaf buyers, processors or cigarette manufacturers in Tanzania are ultimately integrated with producers, most of whom are smallholder farmers. In other words, just as small manufacturing firms become suppliers to large global companies elsewhere, smallholder farmers also play a similar role in developing countries. Despite this emerging linkage, our understanding on

what happens in this dyadic relationship between farmers and buying-companies in the agriculture sector remains blurred because of the downstream focus of previous studies, as most of them dealt with supplier-firms in the manufacturing sector. From this background, a similar understanding about development possibilities among smallholder producers, who occupy the upstream segment of the chain from the developing country context is compelling. For example, it is not clear whether smallholder farmers have at their disposal the upgrading possibilities just like their counterparts in the manufacturing industry are. In order to shed lights on the matter, this paper takes a point of departure from Tokatli (2013) and Humphrey and Schmitz (2002) who have coincided in arguing that buyers are opportunistic in the sense that they are willing to provide avenues for developmental possibilities to their suppliers in areas where they are likely to enhance their own competitiveness and impose barriers in other areas where they are suspicious about nurturing their own competitors. In the end, this paper seeks to contribute to knowledge by unveiling that performance of smallholder tobacco farmers in Tanzania is constrained not only by their inability to respond to buyers' requirements but also, more importantly, their ability to deal with global market dynamics.

The paper progresses in the following order. Section two presents both theoretical and empirical literature review. The third section is on materials and methods, which is succeeded by the presentation of the results in section four. The fifth section presents the discussion and conclusions and limitations of the paper are presented in the last section.

2.0 Literature Review

In order for local firms to benefit from their collaborations with foreign firms, they are required to meet the pre-determined industrial standards such as prices, on-time delivery, product quality and quantity, as well as social, environmental and labour standards. If local firms fail to make it, a mismatch is likely to occur between global business demands and local endowments. In the attempt to understand the various processes within Globalization and its consequences on different economic actors across parts of the world, a number of scholars have favoured the GVC to be instrumental to contemporary development research (Werner, et al., 2014; Gereffi, 2014; Fold, 2014). By definition, a value chain is a sequence of relative value of activities required to bring a product or service from conception through the different phases of production (involving a combination of physical transformation and the input of various producer services), delivery to final consumers, and final disposal after use (Humphrey and Schmitz, 2002). In his early formulation, Gereffi perceives a global value chain as a series of different sets of labour and production processes within each segment and the material flows between them, linking producers and enterprises in developing countries to those in developed ones (Gereffi, 1994; 1999). The GVC approach proposed four analytical dimensions, namely, input-output structure, territoriality, governance structure and institutions (Gereffi, 1999). The input-output structure basically attempts to map the flows of materials or products along the chain (value-adding sequence). On its part, territoriality focuses on spatial dispersion of the activities across regions and countries. The relationships that exist between value chain actors have been portrayed analytically through governance structures, reflecting the way chain actors operate (Gereffi, et al., 2005). Institutions are

presented as formal and informal rules, regulations and organizations guiding the interactions within the areas where value chains touch down (Nielson and Pritchard, 2009).

Governance structure, which has been used extensively in analytical works among GVC advocates such as Gereffi, et al., (2005), Humphrey and Schmitz (2002), Pietrobelli and Rabellotti (2011), Navas-Alemán (2011) puts its core focus on the vertical implementation of economic activities through inter-firm linkages. It derives its analytical rigour from the so-called lead firms that have powers to assign and control performance of activities of other actors in the chain through definition of products, specification of procedures, and standards along the chain (Gereffi et al., 2005). Conventionally, the processes through which developing country's producers learn how to become efficient is known as upgrading. The GVC literature refers to the opportunities for developing country's producers to make better products more efficiently and with more skilled workers, and was originally introduced through the 'institutional framework' (Gereffi, 1999). In his work, Gereffi discusses how subordinate participation in a GVC may provide small producers an indirect access to markets, technologies and knowledge at lower costs than they would otherwise be.

The tobacco value chain in Urambo involves a number of actors some of whom are internal and others external to it. Internal actors include farmers, cooperatives, inputs suppliers, tobacco-buying companies and cigarette companies both local and global. External actors include the tobacco Board, Tobacco Council and village governments. By applying the GVC framework, we argue [as recommended by Fold (2014) and Nielson and Pritchard (2009)] that it is possible to understand better the dynamics entailed in the tobacco value chain. The

framework has the ability to examine power relativism between actors and the developmental potential among farmers. Through GVC, the study depicts the way smallholder producers learn how to produce better, achieve desired quality, being responsive, increase volume, or any possible combinations of these.

Buyers' requirements become more important when they dictate what should be produced, which quantity, when and of what quality. Thus they need to be compatible with the locally available resources if the local people have to benefit from the trade interactions. The requirements are key to influencing corporate decisions regarding procurement activities and thus defining the position held by sellers along the chain. Local assets such as specific knowledge, skills and expertise should be instrumental to local development, especially when they match the requirements of lead firms (MacKinnon, 2012). But, meeting these requirements has not been easy, especially to small and less efficient producers (Barrientos, et al., 2011).

Kadariusman and Nadvi (2012) claim that in Indonesia, for example, leading export sectors such as garments and electronics are well integrated in the respective GVCs to the extent that local producers have become globally competitive. They however, 'admit that growing by 'climbing' on GVCs is neither free nor smooth for local producers since they have to qualify in terms of prices, on-time delivery, product quality and quantity, as well as social, environmental and labour standards. The possibility to achieve these parameters is highly dependent on the kind of relationships that they forge with industrial lead firms. However, the same qualifiers become entry barriers to GVCs for some local firms and producers who cannot meet them are consequently excluded from the market (Nadvi, 2008;

Nadvi and Waltring, 2004). In the end, the ability to develop depends on how best local producers are able to comply with set standards, which in turn may also depend on the absorptive capacity they have, which is always path-dependent (Yeung, 2015).

In the apparel industry, which has been extensively studied, Gereffi (1999) affirms that firms from the Newly Industrialized Economies (NIEs) in Asia (mainly Hong Kong, Taiwan and South Korea) managed to upgrade and sustain their competitive advantage following industrial restructuring in the region. This success is attributed to a strong and deliberate emphasis on the shift from a strong focus on export processing zones to complete and sophisticated manufacturing of industrial products required in the developed world. The kind of upgrading that was evident included, for example, moving from cheap to expensive products, small to large orders, from standardized mass production to differentiated merchandise as well as from simple assembly of imported inputs to more integrated forms of Original Equipment Manufacturing (OEM) and Original Brand Manufacturing (OBM) (Gereffi, 1999:52). These upgrading opportunities enabled Asian suppliers to become full-package suppliers and most competing manufacturers globally.

With regards to insertion of smallholder farmers into global value chains through contract farming, a number of literature has focused on factors that determine smallholder farmers' participation on one hand and how agri-business firms choose to engage farmers into CF arrangements on the other. While farmers' willingness to participate is influenced by expected positive average returns from value chain participation (Barrett et al., 2012), the agri-business firms' willingness to engage farmers in CF is determined by geography, farmer type and by contracted commodity. If carefully analyzed, such factors

translate into less transaction costs associated with contracting and more compliance levels to requirements as might be initially anticipated (Bellemare, 2010, 2012; Barrett, 2008; Barrett et al., 2012). As firms are interested in acquiring enough quantities at desirable quality levels, area-specific characteristics either observable or non-observable such as distance, road quality, production technologies and availability of credit facilities become distinctive features between farmer locations. Institutional ‘thickness’ is usually un-observable but constitutes equally important attributes such as strong leadership, low rate of side-selling and ability to repay loans. In essence, geographic consideration becomes the basis for differentiation between farmers capable of meeting requirements and those who cannot (Barrett et al., 2012). Thus some firms may select cooperatives to buy tobacco from based on the demarcation between urban and rural areas.

3.0 Materials and Methods

This study was conducted in Urambo district in Tanzania. Tobacco has been grown in Urambo since 1950s. It is the main cash crop to farmers living in the area. It is the largest tobacco-growing zone in the country. Though obtaining accurate and up-to-date data remains to be a challenge due to free entry and exit of farmers from tobacco cultivation (hereafter CF), some sources indicate that out of 116, 000 estimated tobacco farmers in Tanzania, 45,000 are found in Urambo district alone (URT, 2014/2015; Geist et al, 2009). Moreover, Tabora and Urambo districts produce about 68% of total tobacco produced in Tanzania. Of all tobacco production, only 25% is consumed locally. There are three tobacco-buying companies. For ethical reasons, the companies are named as Tobacco Company I, II and III. Company III started buying from farmers in 2013/2014

season replacing huge volumes it used to buy from the other two companies. Farmers are organized through primary cooperative societies (PCSs) in all 16 wards making up the district. At the time of this study, there were 41 PCSs in total.

This study is conceived as a mixed-method research design in which cross sectional data were collected. We used both quantitative and qualitative methods in a complementary way as suggested by Ovadia and Wolf (2018). The use of descriptive quantitative analysis complemented with qualitative analysis is especially important when valid results are sought (Ovadia and Wolf, 2018:1058). Prior to fieldwork, PCSs were categorized into urban and rural. PCSs located within 15 kilometres radius of the Urambo urban centre were classified under the urban category while those located beyond 15km were considered rural. The 15 Kilometre, distance was borrowed from the Urambo district officials who used the same in disbursing resources to extension officers. Following these categories, two main assumptions were subsequently developed regarding CF operations. Based on previous studies such as Bellemare, (2010; 2012), the first assumption was that urban PCSs would receive more visitations by extension officers for supervision compared to rural PCSs and have more access to most social services such as education. According to Barrett et al., (2012), distance, road quality and water availability are among observable attributes that researchers can see and judge in the field. For example, Barrett (2008 :308) concluded that participation patterns in market-based channels among smallholders are not uniform across all farmers. Their observed differences are attributed to households' endowments of productive assets, production technologies as well as their geographic location. Similarly, Bellemare (2012) argues "...contract farming activities in the

developing world are usually concentrated in easily accessible areas, usually close to paved roads or airports”.

Further, in addition to receiving less number of visitations, rural farmers also possess low level of education that could directly or indirectly affect the quality of produce, cultivated land size and productivity (Bellemare, 2010). In developing countries like Tanzania, the urban-rural dichotomy is important since as one moves away from a major urban centre one is likely to encounter, among others, less accessibility to information, poor infrastructure and poor access to extension services. With regards to membership, we also assumed that if a farmer has membership with a rural PCS, s/he was considered to reside in the same location. The second assumption was based on the first. It was assumed that buying-companies were selective in terms of which farmers to engage in contract based on geographic attributes as observed by Barrett et al., (2012). This decision would be based on a number of farmer characteristics such as farm size, extent of inputs use, quantity and quality of produce (Michelson, 2013; Barrett et al., 2012). In order to match buyer requirements, farmers had either to increase productivity to get more yields or increase land size allocated for tobacco and maintain a low productivity level in order to meet the same quantity requirements. On their part, companies had to invest more in training programmes and extension services if they wanted to reap more from farmers as it has been argued that farmers trust more private extension officers than public counterparts (Bellemare and Bloem, 2018). In the end, it was hypothesized that farmers’ performance would differ between farmers in the urban category from their rural counterparts.

In order to obtain the desired sample size, a list of all PCSs was obtained and arranged into urban and rural categories. Then, the identified all PCSs working under respective buying companies within the rural and urban strata. Independent treatment of buying companies was important in this study since companies differ in their operations and requirements. There were 41 PCSs in total. From the list of PCSs, the study calculated the ratio between tobacco buying-companies and the PCSs. The ratio was found to be 25:11:5 among companies I, II and III, respectively. As a rule of thumb in statistics, at least 30% of PCSs were sampled from each company. In order to ensure proportionate representativeness of the sample, 11 PCSs were selected with a ratio of 6: 3: 2 for companies I, II and III respectively. The selection of PCSs was focused on obtaining a mixture of both vibrant and somehow dormant PCSs. Since the unit of analysis was heads of households who were members of PCSs and had cultivated tobacco for the past three consecutive seasons, a full list of registered farmers in each PCS was obtained. From the list, systematic random sampling was employed to obtain at least 20 heads of households from each sampled PCS. The choice of 20 heads from each PCS was based on both a minimum 30% statistics requirement and the variation in number of members among PCSs for which the least populated PCS had 65 members. The total sample size was 228 households. While quantitative data were collected through a questionnaire survey administered by authors and assisted by five enumerators who had been trained for three days. Qualitative data were obtained through interviews with tobacco buying-companies and PCS leaders, complemented by six focus group discussions held with selected farmers. The data analysis was conducted using t-tests and Chi Square tests for measuring farmers' performance between rural and urban categories while qualitative data from interviews and FGDs were both analyzed

by categorizing and clustering into selected themes as well as explanation building technique for FGD data.

Since the overall objective of the paper was to explore and reflect on farmers' performance after their insertion into the tobacco GVC, the study used cropland allocation, quality and productivity as variables of interest. Cropland allocation was defined as the land size in acres that was under tobacco cultivation in each season across the study period. Productivity was measured in terms of kilograms of tobacco harvested per acre by individual farmers or cumulatively at the cooperative society level. Quality of tobacco was measured by categorizing/compressing the 72 tobacco grades into high, moderate and low grades. A farmer's tobacco produce was considered to be high, moderate or low grade, depending on the dominance of the grades received by a farmer in a particular season. The three variables are conceptually related to each other in the following logic. Allocation of the production volume to a farmer in the next season is based on the previous production history in terms of actual productivity that is usually compared against the minimum productivity standard of 544 Kgs per acre. Thus a farmer is allocated a number of acres (cropland allocation) basing on standard productivity. In order to ensure quality produce, besides extension services provided by a company's extension officers, farmers are required to have two curing barns for every acre of tobacco cultivated. Normally a productive farmer is more likely to harvest quality tobacco from each piece of land allocated for tobacco production.

4.0 Results

4.1 Descriptive statistics

The respondents of the survey were heads of households who had cultivated tobacco for the three consecutive seasons and

were also members of the primary cooperative societies. Out of eleven PCSs studied, four belonged to urban and seven to rural categories. Out of 228 respondents, 81(35.53%) were farmers with membership to urban PCSs while 147(64.47%) belonged to rural PCSs. As summarized in Table 1.0, only 16(7.02%) out of all respondents were female household heads. Among them, six were married, three were single, and other three divorced while four were widowed. The overall picture portrayed by these results is that there are few female-headed households in the study area. Further, it could also imply that not many women are included into the global tobacco value chain.

Table 1.0. Characteristics of respondents

		Sex of household head		Total
		Male	Female	
Marital status of the household head	Married	207	6	213
	Single	3	3	6
	Divorced	2	3	5
	Widowed	0	4	4
Total		212	16	228

Source: Field data, 2015

With regard to investment in education as presented in Table 2.0, tobacco smallholder farmers in Urambo are generally less educated. Majority of respondents had primary school education only – which is achieved after seven years of continuous study. However, 24 households, which are 10.5% of the sample size, had all members less than primary school or no education at all.

These findings are consistent with the Education Policy and Data Centre (2014) and the National Education Profile update in which 11% of youth at the national level were found to have no formal education and 15% had not completed primary education. Generally, 204 (89.47%) households reported that at least one member had completed primary education, 56(24.56%) households had at least one member with secondary education, five (2.19%) households had at least one member with college education while only one (0.44%) household had at least one member with university education. The general picture portrayed by these results is that majority of the respondents and their household members exit the education system at the end of the primary education irrespective of their assumed residence location. This tendency happens despite the fact that education is instrumental in achieving other life-long capabilities as argued by HLPE (2013). Lack of or low education among farmers was reported by buying-companies to pose a challenge on the awareness of and use of protective equipment during tobacco spraying and other hazardous activities (interviews with company I and III in Morogoro, August 2016).

Table 2.0. Number of households with various education exit levels

	Urban	Rural
Primary	None = 11	None = 13
	At least one = 70	At least one = 134
Secondary	None = 54	None = 118
	At least one = 27	At least one = 29
College	None = 80	None = 143
	At least one = 01	At least one = 04
University	None = 80	None = 147
	At least one = 01	At least one = 00

Source: Field data, 2015

4.2 Land allocation

Generally, 96% of the respondents owned at least one acre. Only nine respondents had no land and therefore relied on renting in land. The average land sizes were 16.72, 18.43 and 20.38 acres for the 2012/13, 2013/14 and 2014/15 seasons, respectively. There is an increase in average land size owned by farmers over the three years. This means that farmers had been accumulating more land every year. There is no land problem among tobacco farmers in Urambo. However, the average land size allocated for tobacco production was 2.5 acres (approximately one hectare) per farmer, which is only 15% of individual landholdings.

Land allocation for tobacco differed between urban and rural farmers. In all three studied seasons, farmers from the urban category had allocated and cultivated more land than their counterparts in the rural as indicated by figure 1.0. An independent samples t-test depicted that mean values between the two categories for all three seasons were statistically significantly different ($p = .000$). Table 3.0 presents the results of the analysis of the means for land size allocated for tobacco across the three studied seasons.

A paired samples t-test was conducted to compare mean scores between production seasons for all farmers combined together regardless of their location. There was no statistically significant difference (at $p = .440$) between 2014/15 and 2013/14 seasons whose mean values were 2.74 and 2.68 acres, respectively. A similar test was carried out for the 2013/14 and 2012/13 seasons whose mean values were 2.68 and 2.42 acres, respectively. Results indicated a statistically significant difference (with a p -value = .000). Finally, a comparison was conducted between 2012/13 and 2014/15 as farthest seasons with mean values of

2.42 and 2.74 acres, respectively. The results indicated a statistically significant difference (at $p = .000$) between them.

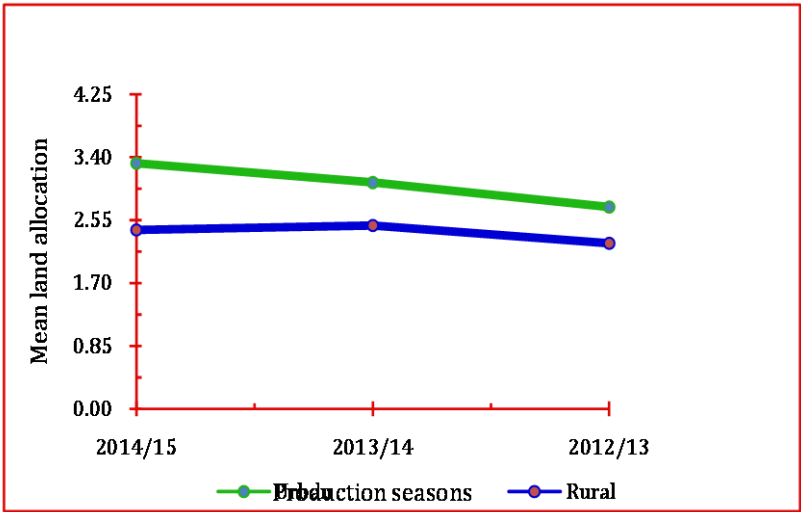


Figure 1.0. Mean land allocation for tobacco by categories
Source: Field data analysis

Table 3.0. A t-test to compare year means for land cultivated tobacco in acres

Source: Field data, 2015

Production season	Location of PCSs		Remarks
	Urban	Rural	
2014/15	3.32	2.42	Significant
2013/14	3.06	2.48	Significant
2012/13	2.73	2.24	Significant

4.3 Productivity

Productivity in kilogrammes per acre was used to assess whether there were differences in the way urban and rural farmers responded to buyers' requirements regarding quantity under the prevailing inputs credit scheme. The analyses were at three levels, that is, between urban and rural farmers, all farmers combined across the three seasons and between famers under different buying companies.

At the urban-rural dichotomy level, results indicated that farmers from the urban category registered higher yields per acre on average throughout the three seasons than those from the rural as indicated in figure 2.0. However, a further analysis using an independent samples t-test indicated no statistically significant differences in mean scores between the two categories (see Table 4.0).

A paired samples t-test was conducted to compare productivity levels between production seasons for all farmers combined

together. The first pair included 2014/15 and 2013/14 seasons whose average scores were 519.51kgs and 552.78kgs, respectively. The second pair consisted of 2013/14 and 2012/13 seasons with mean scores of 552.78kgs and 539.50kgs, respectively. The third pair, which was meant to capture the general trend, included 2014/15 and 2012/13 as furthest seasons whose mean values were 519.51kgs and 539.50kgs, respectively. Despite differences observed, results for all the respective pairs indicated no statistically significant differences across the three seasons.

Since it was hypothesized that number of visitations by extension officers from buying companies differed from one company to another, productivity levels between PCSs working under different buying companies were also compared by taking all PCSs under one buying company against those under other buying companies across the three production seasons. Six PCSs were under Company I, three PCSs were working with Company II while two PCSs worked with Company III. Results from paired samples t-test for PCSs under Company I indicated, statistically, significant differences between the three seasons. Productivity declined from an average of 544.57kgs in 2012/13 to 513.99kgs per acre in 2014/15 season. Farmers under Company II though had a five-kilogramme marginal increase on average, indicated no statistically significant differences across the three seasons. Similarly, results from PCSs working under Company III depicted no statistically significant differences across the studied production seasons.

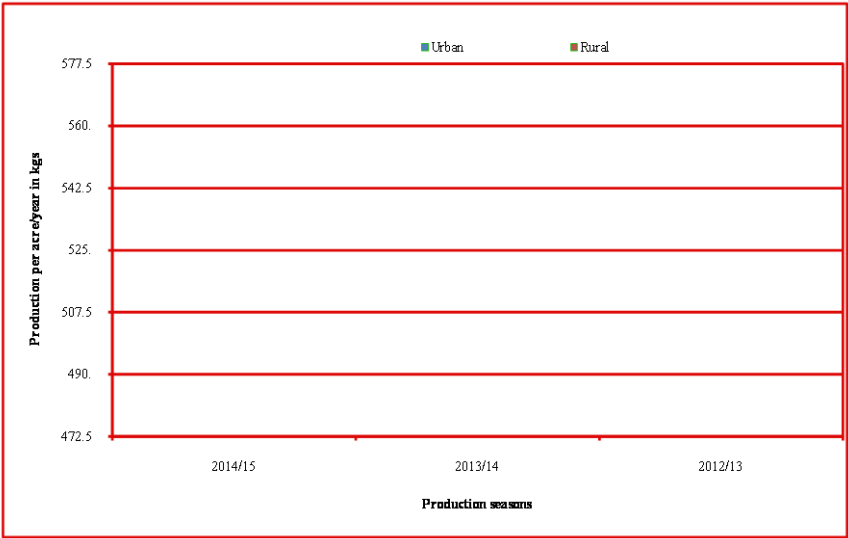


Figure 2.0 Mean tobacco productivity per acre per year between urban and rural categories

Source: Field data, 2015

Table 4.0: Mean productivity of tobacco between Rural and Urban farmers (in Kgs/acre/year)

Production season	Location of PCSs		Remarks
	Urban	Rural	
2014/15	540.15	508.14	Not significant
2013/14	566.38	545.28	Not significant
2012/13	544.10	536.96	Not significant

Source: Field data, 2015

4.4 Quality

The way farmers responded to requirements of the buying companies may be assessed in the way they had been able to improve the quality of leaf tobacco sold. In order to test whether performance in grades of tobacco was related to PCS location (i.e. urban or rural), the Chi-square test for independence was conducted. Table 5.0 presents a summary of the grade scores for both urban and rural PCSs by indicating the percentages in brackets besides the number of farmers receiving respective grades.

In terms of Chi-Square tests, all three seasons indicated no statistically significantly different performance in grades earned by farmers. By comparing farmers' performance between urban and rural categories in the 2014/2015 production season, the Chi-Square value was .254 with a P-value equal to .881 while 2013/2014 and 2012/2013 production seasons had Chi-Square and P-values of 2.599 at $P = .273$ and 1.024 at $P = .599$, respectively.

Table 5.0: Quality analysis of tobacco grades between urban and rural PCSs

Location PCSs	2014/15 season			2013/14 season			2012/13 season		
	High	Mod	Low	High	Mod	Low	High	Mod	Low
Urban	19(23.46)	10(12.35)	52(64.20)	21(25.93)	13(16.05)	47(58.02)	19(23.46)	13(16.05)	49(60.69)
Rural	22(14.97)	26(17.69)	99(67.35)	32(21.77)	33(22.45)	82(55.78)	27(18.37)	34(23.13)	86(58.50)
Total	41(17.98)	36(15.79)	151(66.23)	53(23.25)	46(20.17)	129(56.58)	46(20.17)	47(20.61)	135(59.21)

Source: Field data, 2015

5.0 DISCUSSIONS

This study analyzed the way tobacco farmers from urban and rural PCSs in Urambo performed in relation to requirements of the global buying companies. In the analysis presented in Table 3.0, the mean values for land allocated to tobacco farming between urban and rural are, statistically, significantly different across all three consecutive seasons. Despite many other reasons that may be attributed to farmers' performance, the results imply that tobacco farmers from urban PCSs had been allocating more land than their counterparts in the rural (see also figure 1). Partly, this can be due to being compliant to most contractual requirements and thus receive more volume allocation from buying-companies. The other possibility is that farmers are less efficient (see Table 4.0) thus increasing land size to achieve the same throughput. However, it was further indicated that only less than half, that is, 35(43.2%) of respondents from the urban category had increased their land allocation for the crop while the rest either maintained or decreased across the years.

Compliant farmers increase the probability that production volume allocation from buying companies will also increase to their PCSs. The increases in turn favour individual farmers' allocation that also increases their economic capacity to re-invest in tobacco and other income generating activities. Since more allocation means increased demands, in terms of labour and inputs, farmers from the urban category commented that other off-farm activities such as shops, house rents and bricklaying that were established out of tobacco incomes, made them able to service their increased farm sizes. The implication of the findings is that other incomes generated from off-farm activities are used to re-invest in tobacco farming thus indicating farmers' continued willingness to engage in tobacco farming. Although the general trend in the rural category is

a decrease in land allocation for the crop, yet 59 (40.1%) individual rural farmers had also increased allocation. This may be due to the fact that farmers are allocated production volumes by PCSs basing on individual characteristics such as productivity, compliance levels and trustworthiness. This tendency may favour some farmers to allocate more land as a result of increased incomes from tobacco sales while others wouldn't. While this is in agreement with Barrett et al., (2012) who had indicated that firms would always seek to minimize transaction costs by contracting farmers who are compliant with requirements, it may slightly de-emphasize the supremacy of geography in terms of farmer recruitment to CF.

However, the results within each location category were mixed. In the urban category, it was depicted that only one PCS had been increasingly allocating more land across the three seasons. Despite the fact that this PCS registered a decline in 2013/14, yet there is an increase in land allocation within the PCS though at a decreasing rate. The rest of the PCSs indicated no statistically significant differences between the three seasons. This means that the differences observed between urban and rural categories are mainly influenced by a single PCS. Basing on this finding, it would therefore be misleading to generalize that all urban PCSs and hence farmers cultivate more tobacco than their rural counterparts. During interviews with PCS leaders, it was found that PCS-specific characteristics have influenced its success. Emphasizing on the matter, the PCS Manager noted the following:

We are firm on managing the PCS. We have imposed stringent rules regarding the use of money our members earn from tobacco. We need everyone to have a modern house or they risk denial of production volumes and inputs next season. We pay their money on time and in full. This has created trust between our members and us. With these

attributes, the buying-company allocates many production quantities though not to the level we would want them to.

Referring to the above quoted narrative, more cropland allocation for farmers belonging to this PCS is not influenced by its location but how well its leaders are committed to monitoring the performance of their members. In turn, the respective buying-company has been convinced to allocate more volumes that enable most farmers to expand their farm sizes.

In the rural category, which consisted of seven PCSs, differences existed both within and between PCSs across the studied seasons. For example, while Amani, Katuma, Chapajembe and Maendeleo indicated no statistically significant differences in their mean values across all three seasons, Kasela indicated overall statistically significant differences. These results suggest that farmers from Kasela PCS have increased land allocation for tobacco. To the contrary, Isunda Uduki decreased, significantly, its average land allocation for the crop across the three seasons. Kalembe farmers also decreased tobacco land allocation between 2013/14 and 2014/15 seasons although the difference is not statistically significantly different from the land allocated in 2012/13 season. This also reflects the argument that variations within and between PCSs falling under the same category are due to decisions made by buying companies when allocating production volumes. Each PCS has its own merits and history in terms of debts, side-selling practices, leadership and general performance on which allocation decisions are based. For example, when required to comment on why farmers were not expanding their farms, PCS leaders noted the following:

It's because companies introduced good agricultural practices (GAP) knowledge in cultivating tobacco. For example, initially, a farmer could cultivate three acres by

having only one barn but after education was provided farmers were now hesitant to increase more acres because they could not afford construction of barns as GAP require.

The implication that the narratives above bear is that after introduction of GAP, farmers would now become more productive, something that does not seem to be true as indicated in the productivity analysis. When asked to respond to this, PCS leaders said that farmers sell some of the inputs they receive instead of applying it all on their tobacco farms. Even those who did not sell part of inputs, they experienced delays in inputs delivery from distributors.

The overall land allocation for tobacco (regardless of location and PCSs) had been increasing even though the increase between seasons is not, statistically, significantly different. This finding implies that tobacco farmers in Urambo district had been expanding their tobacco fields year by year though at a decreasing rate. These findings are in agreement with Geist *et al.*, (2009) who concluded that cropland allocation in Urambo had been increasing by one per cent per annum from 2003 and beyond. Increase in cropland allocation indicates willingness and ability of farmers to produce but this would also call for more local markets beyond the quotas imposed by global buyers. This would not only increase farmers' incomes for their livelihood, but also increase revenues for their PCSs in particular and national economy at large.

In terms of productivity, results indicated that urban farmers had higher yields in all three seasons (see figure 2.0). Nevertheless these differences were not, statistically, significant as presented in Table 4.0. Despite the differences in cropland allocation across seasons as observed earlier, productivity remained almost the same. These results give an impression that any income variations (if any) observed among farmers from either category would be a result of

farm size expansion and not necessarily production efficiency. Through qualitative interviews with PCS leaders, it was found that neither PCSs (therefore farmers) nor the buying companies have influence on the inputs distribution system. Some contracted distributors do the work and have no contract with either party but with a farmers' cooperative Union (WETCU). These distributors relax and become irresponsible without being held accountable. Farmers are adversely affected by delays in inputs delivery, which in turn affects the implementation of good agricultural practices, and hence low productivity to all farmers who depend on such scheme. In essence, this finding points to another policy concern. There is need for policy review to determine the position of PCSs and buying-companies in the inputs supply issue. Giving more powers to PCSs over the inputs distribution could help farmers scale up their productivity provided that extension officers are able to monitor for the proper use of inputs.

Moreover, at the PCS level, an analysis was conducted to capture some changes that might have happened, in terms of yields per acre per year, in the three seasons studied. The results from all pairs in all PCSs across the three seasons were remarkably strange as they deviated from previous studies' findings regarding the urban-rural division. While findings from previous studies suggested some significant differences, results from the current study indicate that all PCSs had no, statistically, significant differences in yields across all seasons except only one PCS, namely, Maendeleo which indicated a significant (at $p = .041$) decline from 566.95kgs in 2013/14 season to 503.59kgs in the 2014/15 season. Despite this decrease, yet there was no, statistically, significant difference between 2014/15 and 2012/13 seasons to suggest a common pattern across the three seasons for this PCS. This means that the differences observed in productivity are only for a short term but tend to wither away when longer periods are considered.

When buying-companies were used as isolation mechanism, productivity of farmers under Company I was found to be statistically significantly different between 2014/15 and 2012/13 seasons. There was a decline in productivity between seasons. It fell below the recommended standard productivity of 544Kgs per acre. These results suggest that the overall productivity had decreased in the span of three years despite the marginal increase in 2013/14 season. Moreover, PCSs under Company II indicated a statistically significant decrease in productivity between 2014/15 and 2013/14 seasons in which the average yields in kilograms per acre were 520.13 and 552.73, respectively. Conversely, farmers registered a significant increase in 2013/14 season compared to the preceding season. In general terms, however, the three-year comparison test indicated no statistically significant differences in productivity. These results suggest that farmers under Company II did not change significantly in terms of productivity in the three consecutive seasons. Similarly, for PCSs working under Company III there were no statistically significant differences between them. From this background, no differences are indicated despite varied efforts exerted by buying-companies in training farmers on various production activities.

When all farmers were combined irrespective of their PCSs, location or buying-companies, a paired samples t-test indicated, statistically, significant differences between 2014/15 and 2013/14 seasons. This suggests that productivity had decreased between the two seasons. Moreover, there were no, statistically, significant differences in productivity between 2014/15 and 2012/13 seasons. This gives a conclusion that when all respondents were combined together in respective seasons, there was inadequate evidence to suggest that productivity had increased over the three seasons. While Barrett et al., (2012) attributed low productivity to extensive

use of family labour coupled with the use of poor farming technology, this study argues for non-compliance with good agricultural practices such as improper use of inputs which is partly due to either delay of inputs or sale of some of them and less or no use of modern curing barns.

With regards to quality, the general trend is deterioration of tobacco quality that farmers sold across the three studied seasons. The Chi-Square test revealed that there were no, statistically, significant differences across the three seasons for the tobacco produced by all farmers. This means that performance of farmers into certain grades is not related to where they or their PCSs are located. This is especially true when soil quality is similar as farmers from the urban category are also likely to have their lands located in the rural. However, in 2013/14 season, farmers from all PCSs registered better grades compared to other two seasons. During interviews with PCS leaders, it was found that better grades in that season were due to adequacy of rainfalls. The distinctive quality performance in this season underscores the importance of weather in addition to other possible factors. Main reasons for more or less inferior grades received by most farmers across seasons included bad perceived classification by company classifiers, bad weather, inadequate number of curing barns and delays of inputs. Weather conditions and the inputs provision system are not based on a division between urban and rural PCSs. However, despite the noted poor performance among farmers, buying-companies insist that there has been a gradual improvement in terms of quality as quoted below:

Although the grades received by farmers do not present impressive statistics, there has been a gradual improvement in quality when compared with what we used to get from them when we began business (Company I representative, 2016)

6.0 CONCLUSION AND POLICY IMPLICATIONS

The main focus of the paper was to reflect on smallholder tobacco farmers' performance after a compulsory requirement that they become integrated into the global tobacco value chain. We took a point of departure from Tokatli (2013) and Humphrey and Schmitz (2002) who argued that local firms working with foreign lead firms can upgrade in the areas which do not lead to competition against incumbent lead firms but would encounter difficulties in other areas where lead firms feel threatened. The discussion presented above shows that although tobacco farmers were divided into urban and rural and between buying-companies, the integration into the same global value chain makes them perform in a similar way. This is because contract farming as a vertical integration strategy operated by tobacco buying-companies imposes similar conditions to all farmers independent of their locations. For example, when restrictions on production volumes were introduced in 2013/14, they applied to all farmers. Moreover, the arrangement for inputs credits is handled by the same commercial banks with same compliance requirements from all farmers across PCSs. Similarly, the Union handles the procurement, acquisition and distribution of inputs to all farmers under similar conditions. Neither farmers, individually nor their PCSs, have power to act on buying-companies and inputs distributors should they not fulfill their contractual obligations properly. Despite the variations existing either between or within categories, the results were found not, statistically, significantly different. This means that farmers' integration into the global tobacco value chain has rendered no differences in terms of farmers' performance regardless of their location. There could be varied reasons for this – some of which are internal to farmers themselves such as lack of improved productive assets and lack or low level of education, which is an important asset for comprehension and implementation of various

technical requirements such as good agricultural practices that are necessary for tobacco farming.

Unlike the apparel and electronics industries where suppliers developed to become global competitive suppliers, smallholder tobacco farmers in Urambo have no guarantee to becoming better off even if they responded exactly to what buyers required. This is because the quantity demanded in particular production seasons was far below the production capacity of most farmers, the effect of which was meager net cash received by farmers. Policy implications from these findings point out that too much dependency on the export market for tobacco will not help majority of smallholder farmers to get rid of poverty at a desired pace. Policy makers should design policies, which attract more inward investors in the tobacco sector. In so doing, the domestic consumption and production volumes demanded would increase and the country would start exporting cigarettes instead of tobacco. Basing on the assumptions underlying this study and the results presented here, it can be concluded that neither the rural-urban division of PCSs nor buying-companies matter in farmers' performance. Decisions made at the industry level affect all farmers in a similar way.

Finally, the current study is limited in two main ways. First, a span of three years may not provide enough evidence to draw some general conclusions. Future research could employ panel data to improve the analytical horizon. Second, the division between urban and rural PCSs and their farmers may not be a clear cut isolating mechanism in terms of geography and agronomical characteristics. The two categories have overlapping characteristics not warranting such a sharp demarcation.

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National Legal Framework for Equal Social Security Rights and Protection of Migrant Workers within the East African Community Law: Case of Kenya

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Abstract:

This article examines the legal framework for protection of social security rights of cross-border migrant workers in Kenya in the light of supranational legal rules streaming from the East African Community Treaty. It focuses on how the Kenya National Social Security Fund Act, 2013 complies with the Treaty and the Common Market Protocol. It investigates how far Kenya has gone in removing legal restrictions against equal access to social security rights as between national workers and cross-border migrant workers in line with the provisions of the EAC Treaty and the CMP. Challenges standing in the way of legal protection of migrants' rights to equal social security benefits in the framework establishment of the Treaty are examined. Data for this paper is based on doctrinal research. The results of this study shows that Kenya has made significant strides towards constitutional incorporation of the social economic rights and harmonisation or approximation of its previously inconsistent national social security laws so as to conform to EAC Treaty. The article reveals that Kenya is not capable of efficiently moving alone in implementation of the Treaty. It is recommended, inter alia, that in order to comply with the EAC law, Kenya and all other EAC Partner States need to put in place social security legal framework that is closely

coordinated so as to eliminate unequal treatment in social security systems. Kenya should engage all EAC Partner States to adopt, conform and enact efficient social security laws that effectively implement the EAC Treaty obligations.

Key Words: social security, migrant workers, common market, equality of treatment, EAC Treaty, portability, harmonisation.

UJMDD Classification: Law



1.0 Introduction

Social security is often referred to in the EAC legislative instruments (the EAC Treaty, 1999 and the Common Market Protocol, 2009) but no definition has been provided. Thus, social security may be described as a scheme(s) under which individuals become entitled to receive certain benefits as a result of having paid contributions either voluntarily or mandatorily into a social security scheme during their periods of employment or other economic activity. It is in the context of the latter description of social security that the EAC Common Market Protocol (CMP) and the Kenya social security law both provide for some legal mechanisms for ensuring that equal treatment among workers of national origin and migrant workers in cross-border labour mobility and portability of social security benefits are guaranteed. Both the EAC supranational and national legal regimes provide for standards that are applicable in ensuring that paramount social security benefits are guaranteed on equal footing as between national and migrant workers of foreign origin within the EAC Partner States.

Internationally, the ILO legal framework underscores the importance of legal regimes for regional-wide provision of statutory social security benefits within legally established regional economic communities such as the EAC. The UN International Covenant on the Protections of the Rights of All Migrant Workers and Members of their Families (ICPRMW) sets internationally agreed level on the minimal degree of legal protection that migrants generally should enjoy.ⁱ Among other things, the kind of international legal framework recognizes the rights of migrant workers to enjoy a number of internationally recognized social security benefits. These benefits include: old age benefit, retirement pension, maternity benefit, sickness benefit, survivors benefit, invalidity or disability benefit, unemployment benefit, death grants, social assistance benefits, and occupational injury benefits.ⁱⁱ

On a multilateral level such as the EAC legal framework, equal social security benefits may be partly or fully provided for under existing national legal regime or under a negotiated and concluded region-wide legal instrument. This may involve the EAC Partner States entering into a multilateral agreement on social security or bilateral agreement on social security among Member States. This article examines the legal framework for protection of social security rights of cross-border migrant workers in Kenya in the light of supranational legal rules streaming from the East African Community (EAC) Treaty. It presents as to how the Kenya National Social Security Fund Act, 2013 conforms to the treaty. It examines the extent to which Kenya has gone in removing legal restrictions against equal access to social security rights as between national workers and cross-border migrant workers in line with the provisions of the EAC Treaty.

Challenges standing in the way of legal protection of cross-border migrant workers' rights to equal social security benefits in the framework establishment of the treaty are pointed. The applicable legal framework under the EAC treaty and the common market protocol ⁱⁱⁱ and the Kenya National Social Security Fund Act, 2013 is examined and assessed alongside the treaty for the establishment of the EAC. The aspect of equality of treatment in social security rights for cross-border migrant workers is investigated with a view to identifying the extent to which the EAC CMP provides in as far as the subject of equal treatment of national and migrant workers within the EAC intra-regional labour mobility is concerned. The state of harmonisation of national social security laws in Kenya is also examined and analysed in order to establish the state of realignment of her national law with that of the EAC Treaty and the CM protocol. Therefore, this article is divided into seven parts. Part one introduces the subject of the study. Part two presents the background information while part three explains the problem under the study. Part four presents the methodology that was used to arrive at the given findings. Part five examines the East African community law, free movement of workers and social security rights. Part six presents the state of compliance with EAC Treaty on equal protection of migrant workers in Kenya. Finally, part seven contains concluding remarks and recommendations.

2.0 Background

The Partner States of the East African Community (EAC) signed the EAC Treaty on 30 November 1999 and the Treaty entered into force on 7 July 2000. Within this Treaty, Member States of the community undertook, among other things, to adopt concrete measures to achieve free movement of persons, labour and services for benefits of the peoples of the region. Every EAC Member State

is contractually required to ensure that the EAC citizens enjoy the right of establishment and residence within the community. Therefore, the concept of free movement of workers beyond national borders within the EAC falls in the broad category of free movement of persons, labour and services under the EAC CMP. The rights of migrant workers are meted within the framework implementation of the CMP. The EAC Partner States are at different levels of making law reforms towards fulfillment of their EAC Treaty obligations including protection of rights of workers in mobile conditions within the community.

Despite the legal framework for free movement of workers in the EAC, it is also true that in the world of international labour migration, national restriction against migrant workers is a common phenomenon. In the area of social security rights of labour migrants within the EAC, the subject of equal social security rights between workers of national origin and foreign labour migrants may be accounted for in the nature of national legal framework of Partner States. Also, the legal regime through which the EAC common market operates may serve to underpin the levels of equal protection guaranteed to intra-regional labour migrants. This is so because, a common market is not the same thing as a political integration. Moreover, in the EAC, little attention has been placed on political integration which is often seen as a failed attempt even before it started.^{iv}

In the actual implementation of a common market, there are some legal restrictions regarding the exercise of certain activities. Some legal limitations exist in the areas pertaining to realization of equal social security rights by aliens in national jurisdictions of the EAC Partner States. In some other regional communities elsewhere, such legal restrictions may remain in place without affecting the quality of the common market rights and opportunities. However, in the

EAC, the latter has not always been the case in some instances. Nevertheless, the EAC countries are at different levels in attracting foreign capital investment within their territorial borders which in turn has led to increased number of migrant workers crossing national borders for employment within the EAC Partner States.

In many instances, migrant workers often face different social economic risks pertaining to their migration status as they seek for employment from one country to another within the integration region. Among such risks include the apparent lack of equal protection in social security rights as between nationals and migrant workers in conditions of cross-border labour migration. For example, currently, the EAC appears to be reluctant to implement fully the free movement of goods, people, labour, services and capital which are the cornerstone to the stable Common Market. There has been reported some series of instances of Member States failing to apply Community laws, or applying them arbitrarily. Cross-border services remain deeply constrained, and the right of establishment, on which the free movement of services and labour depends, is reportedly blocked in many areas either by arbitrary laws or by unacceptable practices.^v It has been echoed in many circles of the EAC institutions and in national jurisdictions that none of the EAC Partner States fully respect the principles of non-discrimination and equal treatment of member-state nationals, which the EAC Treaty provides for.

Among the several challenges facing the social security provision within the EAC, is the apparent lack of harmonised social security legal framework within national jurisdictions of the EAC Partner States.^{vi} The latter is an apparent gap that affects the attainment of desired equal treatment of EAC cross-border migrant workers in the area of social security.

3.0 Problem Statement

The broad spectrum of the subject or concept of equality of treatment of nationals and migrant workers in the area of social security rights within the national jurisdictions of EAC Partner States may be generally derived from key provisions of the EAC CMP, 2019. Various legal provisions in the CMP provide for different conditions within which labour migrants may find certain foundational basis for claiming equal legal protection of their social security rights. Some EAC legal provisions which provide foundational framework for protection of migrant workers' social security rights within the community include: principles of the common market (Article 3); free movement of persons (article 7); free movement of workers (article 10); harmonisation of labour policies, laws and programmes (article 12); national treatment (article 17); domestic regulation (article 20); harmonisation of social policies (article 39); and approximation and harmonisation of policies, laws and systems (article 47).

From the foregoing cited provisions of the EAC CMP, it may generally be derived that, equality of treatment in social security is a principle which requires certain standards to be fulfilled by the EAC community Member States. The principle demands that, persons to whom the protocol applies are entitled to enjoy the same benefits and be subject to the same obligations under the legislation of any EAC Member State as the nationals of a Member State. It is expected that even when a person is residing in another EAC Member State, the principle of equal treatment shall apply. Thus, it is common that all the persons whether residents of EAC Member States or not, are prone to social economic risks. As a matter of international human rights law, migrant workers equally deserve the same social security rights and obligations in any Partner State as the citizens of any other EAC Member State. This translates into

a legal condition that, it is not legally permissible to include legal provisions in a national legislation of any EAC Member State which results into discrimination against the citizens of other Member States who are protected under the Community law.

Consequently, the extent to which the EAC law and national legislation in Kenya provides for and extend or guarantee equal social security rights to migrant workers within the EAC and beyond the EAC, remains unclear. This /article seeks to provide some answers to the present state of the problem pertaining to the extent to which Kenya is legally compliant with the EAC law in the area of equal social security rights for migrant workers. Perceived obstacles that stand in the way of enforcement of the EAC Treaty on equal social security rights to migrant workers are investigated so as to expose proximal answers to the problems.

4.0 Methodology

Data used in this paper was obtained through doctrinal method. The author collected and analysed a body of EAC laws, together with relevant Kenya national legislation. Some secondary sources such basic legal textbooks and published journal articles were gathered and reviewed. The author also critically reviewed written commentaries on some foreign case law and some community and national legislation. These methods and processes involved description of existing body of law on the subject under investigation. Attempt was made to interpret and apply laws using legal research approach skills. The author was able to provide analysis of the state of the Community law and national law on the subject matter. As a result, the author has demonstrated how the EAC law has been developing, and where applicable, has shown some judicial reasoning and legislative enactments that have been analysed and upon which various opinion were provided.

The comparative legal scholarship methodology was applied because the subject of investigation crosses beyond the traditional categories of law operating within national jurisdictions. This methodology sought to integrate public and private international law with domestic law because both the EAC Community and national laws have been examined. Another reason for employing the comparative legal scholarship is due to the fact that, there has been an increasing impact of supra-national legal rules as well as the influence of international legal materials on national jurisdictions as well as on the law of regional organisations.^{vii} This trend has created a demand for the increasing need for legal scholars to refer to legal materials from a variety of jurisdictions, thus, it was thought appropriate to employ comparative legal research methodology in the study. In the next part below, it is presented a brief analysis of the EAC law on the free movement of workers and social security rights.

5.0 East Africa Community Law, Free Movement OF Workers and Social Security Rights

5.1 Legal Framework for Free Movement of Workers in the EAC

The legal framework for free movement of workers in the EAC is traceable from the Treaty establishing the EAC of 1999 which was amended on 14th December, 2006 and 20th August, 2007. Articles 76 and 104 of the EAC Treaty provide for the established of EAC CMP. The Common Market (Free Movement of Workers) Regulations, 2009 provide in Article 2(4) for free movement of persons and labour which translates into a guaranteed of rights of migrant workers. Article 10 of the CMP provides for broader Partner States' obligations concerning the free movement of

workers in the Community. This includes the EAC States' obligation to guarantee the free movement of workers who are citizens of the other Partner States within their territories.^{viii} Therefore, the Free Movement of Workers Regulations are geared at ensuring that there is uniformity among the Partner States in the implementation of Article 10 of the CMP.

According to Article 10 (2) of the CMP, all EAC Partner States are duty bound to implement EAC law that prohibits discrimination of the workers of the other Partner States (migrant workers) based on their nationalities. The latter is in relation to employment, remuneration and other conditions of work and employment. The CMP permits the free movement of workers in the whole region of the EAC. Migrant workers are entitled to apply for employment and accept offers of employment actually made in any Partner States.^{ix} Therefore, the signing of the CMP contributed to the increased migration of workers across the EAC countries.

Some restrictive conditions against employment of non-nationals still exist and are variably implemented by each EAC Partner States in the free movement of workers regulations. However, the EAC Treaty generally allows migrant workers to move freely within the territories of the Partner States subject to limitations imposed by Partner States in their national laws. Notably, under Article 10(3) (a) of the CMP, the employment of non-nationals in each of the Partner States has been made subject to national immigration laws and employment laws of respective Partner States. According to Article 10 of the CMP, the citizens of other Partner States are legally entitled to be administratively treated in the manner the nationals are treated.^x This implies that the workers of other Partner States in matters of employment, social security and other conditions of employment should be treated according to the principles of equality of treatment without any discrimination.

The Schedule of implementation of the provisions on free movement of workers that is annexed to the Regulations on Free Movement of Workers has been variably implemented by the Partner states. This variation in implementation of the provisions on free movement of workers is due to the fact that each EAC Partner State has its own set of priorities depending on the national conditions in the domestic labour markets. Under the schedule of implementation since 2010, a member State has been given discretion to determine the timing and the type of opening of its doors to allow admission of migrant workers from fellow member States.

Further, under Article 10(10) of the EAC CMP, the EAC law has left the discretion upon the Partner States to choose to apply the provisions on the free movement of workers contained in Article 10 if the rights of workers so involved concern the public service. Thus, the EAC law has excluded the application of the provisions on free movement of workers in cases involving public service, unless the national laws and regulations of a host Partner State so permit.^{xi} One of the problematic parts of the EAC CMP is that the EAC has not established full-fledged rights of the EAC citizenship enjoyable equally across the whole region due to some restrictions which are permissible under the EAC law. These restrictions should be gradually removed, and this has been a source of delays due to the fact that each Partner state moves at own pace, depending on set of national priorities and domestic challenges. The EAC CMP directs Member States to ease cross-border movement of workers and to adopt an integrated border management system so that the citizens of the Community may enjoy the rights conferred by the EAC Treaty and subject to the duties that are imposed by the Treaty. Since 1999, the Partner states

have continued with gradual removal of restrictions on movement of labour in the region at different paces.

Further, the subject of implementation of the process of harmonisation of a number of national laws, including those impacting on the rights of migrant workers, requires, among others, each EAC Partner State to embark on a multi-sectoral involvement, and that needs intensive consultations and study on the repercussions in the domestic legal order. Under Article 104 (3) (e) of the EAC Treaty, the member States agreed to harmonise their labour policies, legislation and occupational health and safety regulations, among others, in order to implement the provisions of the Treaty and the accompanying Protocols as well as related annexes.^{xii} It is from this background that article 12 of the EAC Common Market Protocol has, specifically provided for the Partner States to harmonise their labour policies, national laws and programmes so as to facilitate the free movement of labour within the Community.^{xiii}

Under EAC CMP of 2009, particularly in Article 47, it is provided that all Partner States are required to approximate their national laws and to harmonise their policies and systems for purposes of implementing the Protocol. However, actual practical steps of implementation depend on the types and nature of directives that should be issued by the EAC Council of Ministers. Under the Treaty and the Protocol, the Council is legally mandated to issue various directives and regulations for purposes of harmonisation and approximation of laws, systems and policies of the Partner States.^{xiv}

The subject of equal rights of labour migrants is justified because, no any EAC citizen moving within any one of the EAC countries will ever feel happy at all when the nationality condition is attached

to a particular right entitled to a person by virtue of being a human being. The right to security against factors causing social insecurity especially those threatening human life is a right of every person without distinction based on race, caste, colour, nationality, station in life, among others. This is one of the reasons as to why the EAC has put regional labour migration policy of non-discrimination and is enforced through the framework of the EAC CMP. The next sub-part briefly elaborates the concepts of rights and duties of EAC citizenship in the context of national laws of Member States.

5.2 Rights and duties of EAC citizenship

Citizenship in its classical sense and under international law would ordinarily involve duties as well as rights of people described as citizens.^{xv} Bronwen considers citizenship as synonym to nationality whereby different types of belonging to a political community are shown. Ordinarily, there are rights attached to a citizenship but also obligations.^{xvi} For example, the citizenship condition may become typical qualification for someone to join the army. Community citizenship has been stated in the EAC law but elaborate duties attached to the EAC citizenship seem to be lacking. The citizenship in the EAC appears additional to citizenship of the Member States of nationality. Even the EAC Treaty, 1999 and the EAC CMP do not seem to intend to replace the citizenship of the national States with EAC citizenship. The EAC citizenship seems subordinated to national citizenship and the legal paradigm that operates in the EAC generally indicates that it is the holding of the nationality of one of the EAC Member States that automatically gives rise to citizenship of the Community.

Consequently, each Member State of the EAC continues to run own national immigration laws and nationality affairs according to own rules for the grant of nationality, and this seems to be intrinsically perceived as the right of each Partner State to have that

freedom. This forms the essence of intra-regional workers being referred to as foreign migrant workers within each EAC sovereign State. Although the EAC CMP requires each Member State of the Community to harmonise their national laws in order to align them with the EAC law, it remains the rule of the thumb that when it comes to nationality and citizenship, each country has her separate internal rules for identifying nationality of other countries and for granting citizenship. Foreign workers from within the EAC are equally classified as migrant workers. It is important to state that despite there being freedom of EAC Partner States to grant nationality and admit migrant workers from other territories; an international rule of practice requires that a sovereign State is not expected to use its internal legal rules to deny recognition of the nationality of another Member State or discriminate non-nationals.

5.3 General principles for equality of treatment in social security under the EAC CMP

5.3.1 Provisions governing equal treatment in social security under the Protocol

According to the CMP in Article 29 (2) (b), the principle of equality of treatment or freedom from discrimination on grounds of nationality appears to be one of the fundamental rights conferred by the EAC Treaty. This forms a basic ingredient of the Community citizenship. The EAC Partner States may design practices to be adopted for social security rights for migrant workers and portability of benefits that better support mobile labour within the Community. Prohibition of discrimination of EAC nationals and investors on grounds of their nationality in matters within the scope of the EAC Treaty is one of the foundational principles of the Community.

Restrictions based on nationality may exist in legislation or in practical implementation of the provisions of the EAC CMP thereby hindering the freedom of movement of workers (labour), persons, goods and services and capital. Prohibition of discrimination has continued to become more attached to citizenship of the EAC and it resembles that of constitutional guarantees contained in national constitutions of EAC Member States. In the *EAC Report of the 30th Meeting of the Council of Ministers* of 2014^{xvii} the Council of Ministers referred the issue of developing regional laws on the various aspects of the Common Market Protocol to the Sectoral Council on Legal and Judicial Affairs for consideration by 15th November 2014 (EAC/CM 29/Decision 08).^{xviii} This indicates that national laws of EAC Partner States are not harmonized in as far as social security laws are concerned.

The EAC CMP has been implemented by the Partner States in different stages and steps through the accompanying annexes (Annexes I, II, III and IV) to the Protocol. The CMP and the Free Movement of Workers Regulations, 2009^{xix} provide for equality of treatment of migrant workers. According to Regulation 13 (1) (d) of the Free Movement of Workers Regulations, 2009, it is provided that the Partner States shall put in place domestic legal mechanism to implement the principle of *equal treatment* of all citizens in employment. Specifically the said Regulation 13 (Annex II) provides, among other things that should ensure that the same treatment is accorded to the workers from other Partner States as is accorded to the nationals of the Partner State with regard to: contribution to a social security scheme.

Taken without any qualifications, by implementing article 13 of the EAC CMP on the right of establishment and also Regulation 13 of the Free movement of Workers Regulations (Annex II) on equality

of treatment, it would mean that any citizen of any Member State present in a State other than that of his or her own nationality must be treated in exactly the same manner as nationals of the host State in the same situation. Any difference of treatment between a national and non-national would need to be objectively justified on grounds that did not relate to the nationality of the individual concerned. However, the EAC policy and legal framework recognizes the rights of regular migrant workers but abhors illegal or irregular labour migration. Thus, lawful migrant workers from one country to another within the EAC have the right to seek for employment in any of the Contracting States and to enjoy equal treatment with nationals in terms of employment conditions and the right to social security.^{xx}

Discriminatory treatment of citizens based on their nationalities is a violation of the Treaty and other applicable Protocols and regional instruments governing the EAC Partner States. This is the reason why the EAC CMP provides under Article 10(9) that the national laws and administrative procedures of a Partner State that have the principal aim or effect of denying the citizens of other Partner States the employment that has been offered should not be made to apply in the recruitment process.^{xxi} This means that the law may on the face of it look non-discriminatory but its effect, when it is implemented, results into discrimination of non-nationals against nationals. This type of the law is prohibited by the EAC law and whenever a partner state has such a law, the same should not be applied on matters of the EAC.

The EAC law requires each Partner State to work towards translating the standards established by the Community into their domestic legal order by way of harmonisation of their internal policies and laws^{xxii}. However, challenges still remain in many areas of the cooperation due to some notable delays in signing and

implementation of various EAC Council Directives.^{xxiii} Harmonisation of internal laws has the objective of making them come in line with the uniform EAC law. This would involve either repealing wholly or in part all contradictory national legislations that appear to be either expressly or impliedly discriminatory in consequence or in conflict with the EAC law. It may as well require partner states to effect amendments to such domestic legislations so that to make them compatible with the EAC law.

By the standards of human rights protection and rule of law under Article 7(2) of the EAC Treaty^{xxiv} and the accompanying CMP read together with annexes I, II, III, and IV of 2009^{xxv}, the unequal treatment in employment and in social security is in principle a violation of fundamental principles of equality of treatment impliedly contained in the Treaty and directly provided in the Protocol and accompanying regulations.^{xxvi} The rule of law, social justice and the maintenance of universally accepted standards of human rights is one of the operational principles of the Community. The principle of equality of treatment in social security, among other things, is also provided in the East African Community Common Market (Right of Establishment) Regulations, 2009.^{xxvii} These regulations make provisions for implementation of the provisions of article 13 of the CMP. The Protocol allows migrant workers in self-employment in the Partner States to take up and pursue economic activities in host states based on the principles of fairness, accountability, consistency and transparency in accordance with the provisions of the Common Market Protocol without any discrimination and they have a right to join any social security scheme and be accorded equal treatment with a national.^{xxviii}

Migrant workers are entitled to join existing social security schemes of the host Partner State(s) and to receive no less

favourable treatment than the nationals as expressed in paragraph (f) of sub-article (3) of Article 10 of EAC CMP. Migrant workers are entitled to enjoy equal rights to social security benefits as accorded to national workers of the host Partner State. Although the EAC CMP is intended to promote deeper economic integration, there are still some public policy issues that are permitted restrictive conditions to immigration of EAC citizens. Such restrictions still exclude non-nationals from entitlements to pension rights, employment in civil and public service of the Governments of the Partner States. Article 10(11) of the CMP states that the free movement of workers in the EAC is permissible subject to certain limitations that may be imposed by the host Partner State on grounds of public policy, public security or public health. The Partner States have agreed to such restrictions or limitations to the right of establishment imposed by the host Partner States.^{xxix}

The actual legal and administrative mechanisms that have to be followed in ensuring that specific types of social security benefits are accessed by migrant workers based on the principle of equality of treatment with nationals is provided for in Article 10(4) of the EAC CMP. The provision provides: *For the purposes of the implementation of subparagraph (f) of paragraph 3, the Council shall issue directives and make regulations on social security benefits.* Also, within the terms of Article 16 of the EAC Treaty, 1999 all the regulations, directives and decisions of the Council taken or given in pursuance of the provisions of the Treaty are obligatory and mandatorily binding on the Partner States. This binding nature is on all organs and institutions of the Community other than the Summit, the Court and the Assembly within their jurisdictions. They are also binding on those to whom they may under the Treaty be addressed.^{xxx} Note, however, that the EAC as a regional institution recognizes the differences between national legislations that are in force in the member states. This practice is

common even under the international organizations such as the ILO and the UN as well as other regional organizations.

Notably, various ILO reports on Application of international labour standards recognize that in carrying out the compliance work by countries, it is admitted fact that modes of implementation may be different in different States, and thus ILO is cognizant of different national realities and legal systems.^{xxxii} Therefore, the same applies in the EAC whereby whatever regulations or directives that may be passed by the EAC Council of Ministers regarding implementation of basic principles of social security and protection of migrant workers should take into account individual national differences of the partner states. Impliedly, any standard code on social security in the EAC or any such regulation has to aim at guaranteeing equality of treatment for all workers in formal employment and self-employment in Partner States irrespective of their country of origin.

5.3.2 Harmonisation of social security laws under EAC CMP

According to Article 39(1) of the EAC CMP, the coordination and harmonisation of social policies help to promote and protect decent work and improvement of the living conditions of the citizens of the Partner States.^{xxxii} By concluding the CMP, the Partner States are under legal obligation to coordinate and harmonise their social policies relating to promotion and protection of human and peoples' rights,^{xxxiii} as well as implementing the principles of good governance, the rule of law and social justice^{xxxiv} Article 12 of the CMP provides.

1. "The Partner States undertake to harmonise their labour policies, national laws and programmes to facilitate the free movement of labour within the Community.

2. *The Partner States undertake to review and harmonise their national social security policies, laws and systems to provide for social security for self-employed persons who are citizens of other Partner States."*

Article 12 (2) of the EAC CMP directs a continuous review and harmonisation of national social security policies, laws and systems of the EAC countries as one of the key objectives of the protocol. This Article is of particular importance to the benefit of migrant workers because if this is achieved, it is likely to provide for social security for self-employed persons who are citizens of other Partner States (migrant workers). Self-employed persons of other Partner States are an additional category of migrant workers to the group of formally employed migrant workers who are covered by social security schemes. It is commonly understood that, traditionally, the group of migrant workers in the formal sector employment is the one that has for long period of time been primarily benefiting in one way or another from existing formal social security schemes (both public and private) of host states. The EAC CMP seems to have broken this tradition by including coverage of self-employed persons. This is seen in sub-article 2 of article 12 which provides for possibility of social security benefits coverage of self-employed migrant persons who are citizens of partner states. With this final remark on the state of harmonisation of social security laws under EAC CMP, the discussion turns to part six of this article below which addresses the subject of compliance with the EAC law on equal protection of migrant workers in Kenya.

6.0 Compliance with EAC Law on Equal Protection of migrant workers in Kenya

6.1 Constitutional guarantee to equality of treatment in social security

The Constitution of Kenya, 2010 has entrenched the subject of equality in the preamble in which equality is enumerated as one of the six key values upon which socio-political and economic governance as well as legal control should be based.^{xxxv} The ambit and effect of the application of the principle of equality of treatment and opportunity is given legal force in Article 10 (2) (b) of the Constitution of Kenya. In the latter Article, the Constitution entrenches national values and principles of governance which bind every person and has to be observed by all Kenyan State organs, State officers, public officers and all persons when interpreting or applying the Constitution. The principles and values of good governance include ‘human dignity’, ‘equity’, ‘social justice’, ‘inclusiveness’, ‘equality’, ‘human rights’, ‘non-discrimination’ and ‘protection of the marginalized.’^{xxxvi} The principle of equality of treatment is applicable in making or implementing national policy decisions.^{xxxvii}

Article 20 of the Constitution^{xxxviii} entrenches equality and equity as key values that are protected and promoted in interpretation and application of the Bill of Rights. Article 21 (1) of the Constitution imposes duty on the Government of Kenya to observe, respect, protect, promote and fulfil the fundamental human rights and freedoms of all people in Kenya, without discrimination.^{xxxix} Substantially, the Constitution shows positive steps taken by Kenya on theoretical part to ensure that every individual person in Kenya has the right to claim equal treatment and liberties with others subject to limitations imposed by the municipal law.

In Article 27(1) the Constitution further provides that: *“Every person is equal before the law and has the right to equal protection and equal benefit of the law”*. Therefore, equality of treatment of ‘every person’ under the Constitution extends to include, among other things, the *‘full and equal enjoyment of all rights...’*^{xli} It should be pointed out that there is no direct reference to migrants’ rights or migrant workers’ rights in the Constitution of Kenya. However, it is a Constitutional obligation of the State of Kenya to protect “minorities,”^{xli} “marginalized groups,”^{xlii} “every person”^{xliii} and “any persons” without discrimination. Broadly interpreted, the latter impliedly includes equal protection of migrant workers. The word-‘every person’ is broad enough to include coverage of migrant workers. Note also that sub-Article (4) of Article 27 of the Constitution of Kenya, 2010 provides:

“The State shall not discriminate directly or indirectly against any person on any ground, ‘including’, race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth”.^{xliv} (Emphasis added).

The foregoing cited provision does not expressly prohibit discrimination based on nationality or national extraction or migration status generally. On the face of the section, one may contend that the extent of protection of migrant workers in Kenya under this provision is unclear. But approaching the same section from another angle, the phrase in sub-article (4) of Article 27 opens with the words: “the State shall not discriminate directly or indirectly on any ground, *including...*” In my view, the list of prohibited grounds of discrimination contained in Article 27 is not exhaustive. The word “*including*” invites interpretation to the effect that there are other prohibited grounds of discrimination other than those expressly listed in the provision. This implies that,

any migrant worker complaining of violations of human rights including unequal treatment based on nationality may be entitled to lodge a complaint to the Kenya Human Rights and Equality Commission or any judicial authority challenging discrimination based on nationality.^{xliv} The latter interpretation approach is fortified by the provision on construing the Constitution of Kenya contained in Article 259(4) (b) which provides that ...”*in this Constitution, unless the context otherwise requires... (b) the word “includes” means “includes, but is not limited to ”.*^{xlvi}

In Article 39 of the Constitution^{xlvi} it is also provided that every person has the right to freedom of movement,^{xlvi} and every person has the right to leave Kenya^{xlvi} and that it is the right of every citizen to enter, remain in and reside anywhere in Kenya.^l The ‘right to freedom of movement’ and the ‘right to leave Kenya’ are the rights of “every person” and therefore, are expressions so inclusive of migrant workers from other countries. No specific guarantee or protection of rights of foreign immigrants from other countries is provided other than the right of Kenyans to freedom of movement and residence. The right to enter, remain in and reside anywhere in Kenya is exclusively reserved for Kenyan citizens only as provided for in sub-article 3.

In terms of Article 43 (1) of the Constitution of Kenya, the right to social security for “every person” is a constitutional guarantee and is entrenched as a bill of rights. Therefore, every person in Kenya has the right to social security.^{li} It is provided in sub-article (3) of same Article that: “*the State shall provide appropriate social security to persons who are unable to support themselves and their dependants*”,^{lii} and this may take form of social assistance by the Government. Expressly, the Constitution attempts to implement the international human rights instruments providing for social economic rights, particularly the ICESCR of 1966 which refers to

the right to social security as a human right issue. The Constitution provides that “*Every person is equal before the law and has the right to equal protection and equal benefit of the law.*”^{liii} The Constitution of Kenya interprets the words ‘equality of treatment’ as including the full and equal enjoyment of all rights and fundamental freedoms.^{liv} Further, Article 27 (6) of the Kenyan Constitution, 2010 provides:

(6) “To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.”

Eliminating past discrimination may include but not limited to repealing past laws that fostered inequality of treatment between nationals and foreigners. Further, Article 59 of the Constitution of Kenya establishes the Kenya National Human Rights and Equality Commission for purposes of promoting, investigating, encouraging and recommending on matters of equality of treatment and observance of human rights. One of the duties and functions of the Commission includes acting as the principal organ of the State in ensuring compliance with obligations under treaties and conventions relating to human rights^{lv}.

6.2 How the Kenya NSSF Act is re-aligned to EAC law on equality of social security rights for migrant workers

6.2.1 Types of benefits under the Act

The Kenya National Social Security Fund (NSSF) Act, 2013^{lvi} has outlined a wide range of general principles on implementation of social security rights and equality of treatment of migrant workers

in Kenya and within the wider EAC. The Act provides for pension fund benefits of the following class: (a) retirement pension; (b) invalidity pension; (c) survivors' benefit; (d) funeral grant; and (e) emigration benefit.^{lvii} The social security legal framework under the Kenya NSSF Act, 2013 provides for benefits provisioning mechanism in Kenya beyond the EAC and legal rules applicable in outside Kenya but within the EAC.

6.2.2 Exportability of benefits in Kenya beyond the EAC

The Kenya NSSF Act deals with subject of overall social security provisioning mechanism by providing general standards, and in this case, the relevant provision applicable to migrant workers is section 64. Sub-section (1) of the latter section provides as follows:

“To give effect to any agreement providing for reciprocal arrangements with the government of any country beyond the East African Community in which a fund scheme similar to the Fund has been established, the Cabinet Secretary may make Regulations to give effect in Kenya to any such arrangements and for modifying or adapting this Act in its application to cases affected by such arrangements”^{lviii}.

The provision cited above shows the room for reciprocal social security agreements with countries beyond the EAC for social security benefits of migrant workers under the NSSF Act, 2013. The law embraces basic principles of social security portability or transferability of benefits for migrant workers. Such arrangements also include maintenance of acquired rights, aggregation of benefits and equality of treatment. These must be agreed upon including application of the same principles in provision of benefits to third country nationals as they are applied to national workers. In case the EAC countries agree to ratify a mutual recognition agreement

in matters of social security for benefits of migrant workers, then certain arrangements are essential to ensure equality of treatment. However, the Kenya NSSF Act does not allow reciprocal arrangements to confer a right to double benefit.^{lix}

6.2.3 Rules applicable for benefits payment where employee resides outside Kenya but is within the EAC Member States

It is already stated that, reciprocal agreements are essential because the legislation of the country of payment of benefits is to be made clear under the agreement. The Kenya NSSF Act under section 64(3) provides that:

“Where the employee resides outside Kenya but is within the East African Community Member State, the Board shall coordinate with the social security scheme of the Member State, or a similar scheme by whatever name called, to ensure that: ...there is actual physical transmission of contributions and benefits under paragraph (d) to the Fund in order to facilitate the totalisation of contributions and benefits under this section.”^{lx}

Paragraph (d) referred to above provides that: “... where an employee decides to return to Kenya, the exportability of the benefits of the member as at the date of that decision takes place.” Thus, as far as equality of treatment in social security in Kenya within the EAC is concerned, the Kenya NSSF Act has provided for the establishment of legal coordination framework among other EAC countries. The Act proposes portability of social security benefits outside Kenya. The Board has a duty to put mechanisms for actual physical transmission of social security contributions and benefits to the Kenya NSSF. Under this Act, migrant workers and other entitled migrants can access social security benefits on equal principles with nationals if the Kenya NSSF Act is accordingly

modified to make it suitable for conclusion of social security agreements in respect of specified agreed benefits.^{lxi} The Act says that the said modifications may include provision for securing certain acts, omissions and events having any effect for the purposes of the law of the country in respect of which the reciprocal agreement is made so as to have corresponding effect for the purposes of this Act^{lxii}. However, any portability of social security benefits may be made subject to reciprocal agreements which are designed to take into account the avoidance of double benefits payment.^{lxiii}

6.2.4 Benefits payment in Kenya for emigrating worker

Section 39 of the Kenya NSSF Act^{lxiv} provides that a member to social security Fund as a matter of mandatory requirement is entitled to an emigration benefit if a member migrates from Kenya to another country. That other country must be the country other than a country within the EAC with which a reciprocal agreement is made pursuant to section 64 of the NSSF Act.^{lxv} An emigrating person from Kenya to another country outside the EAC without any present intention of returning to reside in Kenya will benefit from this regulation that permits payment of emigration benefits. The law provides that the emigration benefits must be equal to the member's Pension Fund Credit.

The pre-condition for practical enforceability of payment of benefits beyond the EAC is existence in place of social security fund in the foreign Contracting State that is similar to the Kenyan NSSF Fund as established under the NSSF Act. Moreover, the NSSF Act, 2013 provides for maintenance of acquired rights to social security benefits. The Act allows determination of rights which have accrued both to a member under the Act and under the law of that other country beyond the EAC. The determination is intended to make sure that applicable rights are made available to

the insured migrant worker and they are appropriately and accordingly determined and administered.^{lxvi}

As such, Kenya has made substantial stride under the NSSF Act, 2013 regarding embracing principles of social security portability mechanism in an attempt to implement equality of treatment and legal protection of migrant workers within the EAC and beyond. The Kenya law sets mechanism for making it possible to pay benefits or allow exportability, maintenance of social security benefits rights, aggregation and equal treatment anywhere within the EAC.

6.2.5 Mandatory procedures to be followed by beneficiaries for benefits portability

For efficient administration of social security benefits portability, the Kenya NSSF Act, 2013 has provided for various procedural principles to be followed by beneficiaries. The principle of *mandatory registration with social security schemes* of a host State is the first requirement under the Act in order for migrant workers to benefit from entitlement to benefits. The Kenya NSSF Board of trustees established under section 5 of the Act^{lxvii} is mandated to coordinate with the social security schemes of other EAC Member States for social security benefits arrangements for benefits of Kenyans in Diaspora working within the EAC. Any Kenyan national who is an employee but resides outside Kenya within any EAC Member State, such employee needs to register with the scheme for benefit from supposedly agreed legal arrangements for reciprocal provision of social security benefits. Such employee from Kenya employed outside the home country must be registered with any social security scheme of the host State provided that the social security scheme in which the migrant worker has registered

with a Board is similar to the scheme obtainable in the emigrant's home country.

Basically, the purpose of registration with social security schemes of a host State is to ensure that he acquires membership in the national social security scheme of the EAC Member country.^{lxviii} Section 63 further provides that EAC Partner States may have similar scheme like that of Kenya and in this case the exact name of the scheme may be irrelevant. As long as the migrant resides and work for gain in a Member State there should be coordinated arrangements for registration of that migrant worker.^{lxix}

The principle of *Applicable law* in administration of social security benefits under the Kenya NSSF Act provides that, where the employee is residing and working for gain outside Kenya but is within the EAC Member State, the Board of Trustees of the Kenya NSSF is mandated to coordinate with the social security scheme of the Member State, or a similar scheme by whatever name called. The purpose is to ensure that the member makes the required contributions in the said foreign scheme. A migrant worker from Kenya to the other EAC countries is by virtue of the law of Kenya required to make social security contribution in accordance with the law of the Member State.^{lxx} The Kenya social security law requires that migrants' contributions and corresponding benefits should be preserved and protected whether they are due or not.

The third principle established under the NSSF Act 2013 is the principle of cross-border *portability (exportability) of benefits*. The Act provides that, where the employee resides outside Kenya but is working and residing within any of the EAC Member State he may access social security benefits portability.^{lxxi} The scheme is mandated to coordinate social security scheme of the Member State having similar scheme and provisions to ensure exportability of

benefits beyond national borders. Portability occurs where a worker who is a member to social security schemes is enabled to preserve the actuarial value of accrued pension rights or other benefits when moving from one country or job to another.^{lxxii} In this regard, Kenya is considered as having adopted the mutual international social security practice among nations by enshrining a legal framework that guarantees exportability of benefits.

In an event a migrant employee chooses to return to Kenya, the law allows exportability of benefits of the member in a foreign State as at the date of labour migrant's decision to exercise the right of return to his or her home country.^{lxxiii} The legislation imposes obligation on the NSSF Board to ensure that there is coordination with social security schemes of other Member States within the EAC for actual physical transmission of contributions and benefits due for exportability. Transfer of benefits is to be made back to the National Social Security Fund in Kenya in order to facilitate the totalisation of periods of contributions and benefits for purposes of crediting the benefits into the individual account of the Member or beneficiary.^{lxxiv} The benefits are supposed to be credited into the appropriate account of the member as soon as it is practicable. Depending on the nature of individual membership and period of contributions, the employee's account may be either 'pension fund credit' or a 'provident fund credit' within the terms of section 24 of the Kenya NSSF Act.^{lxxv}

The fourth principle concerns the rule of *payment of retirement benefits of a Kenyan migrant worker in EAC Countries*. The Act provides that a Kenyan emigrant who resides and works for gain outside Kenya but remains within the EAC Member State, payment of retirement benefits to such migrant worker should be coordinated by the Kenya NSSF through its Board. The coordination is made with the social security scheme of the

Member State where that emigrant is employed and has made contributions.^{lxxvi}

Upon retirement of the migrant worker in foreign territory within the EAC, that member who contributed in the foreign scheme is subjected to the Kenya NSSF Act in terms of member's retirement benefits. Therefore, social security benefits coordination for exportability or portability beyond national borders but within the EAC becomes relevant in payment of retirement benefits to migrant workers. The legal framework for provision of death grants or survivors benefits to migrant workers in foreign country outside Kenya but within the EAC is provided for under the Kenya NSSF Act, 2013. The Act provides that where the employee was residing outside Kenya but within the EAC Member State, but dies while still in that Member state, the NSSF Board is charged with the duty to coordinate death grants and survivors' benefits. The Board has to pursue that member's account in the foreign social security scheme with a view to an appropriate and just conclusion of the member's social security rights.^{lxxvii} The NSSF Fund has a duty to coordinate with the social security scheme of the Member State, or a similar scheme for that purpose.

The fifth principle for proper management of social security for migrant workers under the Kenya NSSF Act is the principle of establishment of *mutual administrative assistance in social security* for workers on mobility in the EAC. The Act makes provisions for mutual administrative assistance between Contracting States, particularly where a reciprocal social security agreement exists. The Act provides that internal laws may be modified by making provisions as to administration and enforcement of migrants' social security rights at both ends of contracting parties.^{lxxviii} The objective of this mechanism is to ensure that there is close collaboration between Kenya's and other EAC Contracting Parties'

administrations and institutions responsible for administering social Security.

The provisions of section 64 of the Kenya NSSF Act were entrenched in order to guarantee the proper application of the EAC standards so that there are enabling provisions dealing with relations between competent authorities of Kenya and those of Contracting States. The administrative assistance must exist between Kenya and other countries so that to afford one another the required execution of obligations for facilitating working relations between the authorities and institutions concerned. The rights of emigrants and immigrants are as contained in the NSSF Act or in any regulations applicable. The NSSF Act, 2013 mandates the Kenyan Cabinet secretary to make regulations to give effect in Kenya to any such arrangements and for modifying or adapting the Act in its application to cases affected by social security reciprocal arrangements.^{lxxix}

The mutual administrative assistance in social security is also involved in enabling cooperation between social security authorities of Contracting States, particularly regarding proper keeping of records of social security beneficiaries who engage in labour mobility from one country to another. The overall objective of this mechanism is to create efficient managements of social security rights of migrant workers and enable speedier determination, coordination and payment of benefits to the beneficiaries. The subject of mutual administrative assistance in social security is not as easy as one would think, and this is because it involves the application of social security laws of Kenya (country of origin) and other country (destination country) which is any EAC Member State.

The EAC Treaty recognizes the fact that each EAC Partner State has its own laws and jurisdictions which are not necessarily the same with those of the other fellow Partner State. The reality among the EAC countries is that each Partner State proceeds to enact laws to comply with the EAC Treaty at the time of her own choosing, even when there is agreement to fast-track the process of legislation. Even harmonisation of their national laws has not been so efficient. Harmonisation helps to make national laws compatible with regional EAC law contained in the EAC Treaty, 1999 and the EAC CM Protocol upon which various directives and regulations are issued and agreed upon by the Member States. In recognition of the existing disparity among the EAC social security laws and schemes, the Kenya NSSF Act has provided in section 64 that:

“(3) Where the employee resides outside Kenya but is within the East African Community Member State, the Board shall coordinate with the social security scheme of the Member State, or a similar scheme by whatever name called, to ensure that—(i) the Board makes every endeavour to work with the foreign scheme of the Member state to ensure that the records pertaining to the member are preserved until all rights and entitlements of the member in the foreign scheme are fully exhausted in favour of the member and that there is no liability whatsoever in the foreign scheme with regard to the member.”^{lxxx}

From the foregoing quoted provision, it may be argued that the right of migrant workers in Kenya to freely access social security benefits on equal footing with nationals within the EAC depends on the extent to which social security laws of other EAC partner States have been accordingly harmonised to conform to the EAC law. Internal harmonisation of national social security laws for possible mutual reciprocal arrangements between these States based on agreed terms and conditions is key to achieving equal

treatment. Such agreed terms would be enforceable if they are contained in a multilateral treaty on social security for migrant workers or bilateral arrangement. However, the binding nature of any reciprocal or multilateral treaty or arrangement among EAC Partner States will depend on the type or nature of clauses put in place.

7.0 Conclusion and Recommendations

7.1 Conclusion(s)

The paper has shown that Kenya has made significant strides towards Constitutional incorporation of the social economic rights and harmonisation or approximation of its inconsistent national social security laws to conform to the standard law of the EAC. Also, the Kenya NSSF Act, 2013 has largely laid a clear framework for dealing with migrant workers' social security rights when they migrate, terminate employment or return home or die while employed outside Kenya. The effectiveness of this law, however, is dependent on existence of such similar legal mechanism in other EAC Partner States. Currently, there is a lack of EAC regional wide social security benefits portability Code within the community for implementation of equality of treatment provisions for migrant workers that are contained under the CMP. This explains why Kenya is not capable of moving fast alone in the implementation of equality of treatment clauses enshrined in the EAC Treaty despite her efforts to comply with the EAC Treaty. The latter has the effect of limiting the extent to which Kenya may implement the EAC legal provisions on equality of treatment of foreign labour migrants with nationals.

Also, Kenya has not fully harmonised all her national social security laws, but the latter is not the subject of the present paper and therefore shall need a separate treatment altogether.

7.2 Recommendations

The paper recommends, among other things, that, despite progress made in upgrading the law to implement the protocol, Kenya should take further deliberate steps to strengthen her social security laws by enacting or amending the NSSF Act so as it effectively implements the exportable benefits on equal footing with nationals. As it is today, the NSSF Act, 2013 does not state if at all nine branches of benefits are all capable of being paid outside the country under the EAC framework. Also, because of legislative progress made by Kenya in the area of social security rights for cross-border- migrant workers- within the EAC, it is recommended that Kenya may need to explore the avenues of engaging the rest of the EAC Partner States to collectively embark on creating a regional wide social security policy which should take on board the protection of social security rights for cross-border migrant workers. This policy should impose obligations on each Member State to adopt, conform and enact efficient social security laws that seriously reflect effective State compliance to their regional obligations under the EAC treaty.

Finally, establishing a regional wide Convention in the EAC that deals with social security portability of benefits in the region similar to the ECOWAS *General Convention on social security of 2013* is another positive step that should be considered for. The latter was adopted on 7 December 2012 during the Conference of Ministers of Labour and Social Welfare in Dakar, Senegal, thereby reaching a new milestone in the implementation of regional free movement protocols. For the first time the Convention was initiated in 1993 but it could not take off until 2013 when it materialized. The ECOWAS *General Convention* takes into account the objectives of the International Labour Organization on Equal Treatment of 1962. (Convention 118). It also recognizes the preservation of social security rights under Convention 157 of

1982. Both these conventions aimed at the effective realisation of equal treatment for migrant workers and the preservation of their social security rights.^{lxxxix}

The prototype model Convention of the ECOWAS underscores the importance of the principle of equality of treatment in social security and portability of benefits within a regional organisation. It also underpins the importance of maintenance of social security rights in the course of regional wide labour migration for employment in a regional economic community

Dimensioning SMEs Performance in Emerging Economies: Case of the Welding Industry in Tanzania

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Abstract

Although there is substantial progress in identifying factors that influence SMEs performance, past studies have ended up with mixed results, the situation that is attributed by use of heterogeneous performance measures. Use of single performance indicators in each data analysis necessitates use of large number of equations like in multiple linear regression analyses and generalization of results becomes ambiguous. This study aimed at developing dimensions of SMEs performance in welding industry in Tanzania. Guided by the Resource Based Theory, learning orientation, strategic resources management and entrepreneurial orientation were adopted independent variables while competitive advantage was adopted mediating variable between independent variables and SMEs performance. Using a cross sectional research design, 300 owners-managers of welding industry SMEs were surveyed. A sample was drawn from Dar es Salaam, Mbeya and Morogoro urban centres. Structural Equation Modelling data analysis technique was used to develop measurement and structural models. SMEs performance was tested for construct

reliability using Cronbach's alpha and construct validity was tested using factor loadings and average variance extracted values. Research hypotheses were tested at 5% level of significance in two stages viz. when performance is used as a construct and when performance measures are used in isolation. Similar results were obtained in both stages, thus, it was concluded that SMEs performance is a unidimensional construct consisting of growth in assets, sales and number of employees. It has been recommended to future studies to replicate this study in other industries in order to ascertain whether the present findings are specific to the welding industry or applicable to other industries as well.

Keywords: Assets, employees, sales, SMEs performance, welding industry

1.0 Introduction

Small and Medium Enterprises (SMEs) play an important role in promoting socio-economic development through creation of employment and income generation (Fatoki, 2012; Mata & Aliyu, 2014; Nur *et al.*, 2014; United Republic of Tanzania [URT], 2003). According to the National Baseline Survey Report on Micro, Small and Medium Enterprises in Tanzania, the country had more than 3.1 million enterprises employing more than 5.2 million people and their contribution to the Gross Domestic Product (GDP) was more than 27% (United Republic of Tanzania [URT], 2012). Despite the importance to socio-economic development, SMEs in Tanzania face various problems or constraints that hamper their performance and thus not only retard their contribution to the economic and social welfare, but also

lead to failure or closure of business. Tanzania like other countries experiences a high number of closed enterprises each year. For example, two years prior to SMEs survey, business closure was 31.4%% in Dar es Salam, 24.9% in other urban centres, 13.6% in rural areas, 55.5% in Zanzibar and on average 18% countrywide (URT, 2012).

Although there is substantial progress in identifying factors that influence SMEs performance in extant literature, past studies have ended up with mixed results (Shepherd & Wiklund, 2009). Such mixed results emanate from the fact that there is no consensus among scholars on generic SMEs performance measures (Mahmood & Hanafi, 2013a; Mahmood & Hanafi, 2013b). SMEs performance measures can be grouped into two categories viz. financial performance measures and non-financial performance measures. Financial performance measures include performance indicators such as profit before tax, profit per employee, growth in revenue and growth in number of employees (Chong, 2008). Non-financial performance measures include performance indicators such as customers' satisfaction, customers' referral rate, growth in customers' base and market (Chong, 2008). In order to gain potential benefits of both performance measures, firm owners-managers combine both financial and non-financial indicators to measure performance (Chong, 2008; Maduekwe & Kamala, 2016).

Based on broad literature review, Shepherd and Wiklund (2009) identified sales, employees, profit, assets, and equity as five commonly used performance indicators or measures. However, during data analysis of factors influencing SMEs performance, these performance indicators are normally used in isolation to describe performance. Use of single performance indicators in each analysis does not only necessitate use of a large number of

equations like in multiple linear regression analyses, but also generalization of results becomes ambiguous. For example, a certain factor may influence sales while the same may have no influence on assets and profits but since the factor influences sales, one may conclude that the said factor has influence on SMEs performance (Shepherd & Wiklund, 2009).

Although it is broadly accepted that SMEs performance construct is relevant and commonly used as a dependent variable in strategic management literature, past studies have not paid proper consideration on the dimensionality of SMEs performance (Santos & Brito, 2012; Shepherd & Wiklund, 2009), hence a knowledge gap. Bridging the knowledge gap on dimensionality of SMEs performance is of vital importance as research results obtained from heterogeneous performance indicators pose ambiguity in translating them. This study used the quantitative research paradigm to develop the dimensionality of SMEs performance as a composite construct comprising growth in assets, sales and number of employees. It has been suggested that, use of such composite measures of performance may produce results that are more consistent (Shepherd & Wiklund, 2009).

2.0 Literature review

In an attempt to search for factors influencing SMEs performance, by using the Resource Based Theory (RBT), a composite theory derived from the Resource Based View (RBV) and the Knowledge Based View (KBV) (Theriou *et al.*, 2009) this study blended the models developed by Ireland *et al.* (2003), Herath and Mahmood (2013) and Chai and Sa (2016). Therefore, learning orientation, strategic resources management and entrepreneurial orientation were adopted as independent variables. Competitive

advantage was adopted as a mediating variable between the independent variables and SMEs performance.

Past studies on learning orientation and entrepreneurial orientation have shown that results regarding their influence on SMEs performance are not consistent, some studies have found positive and significant influence of these constructs on SMEs performance (Calantone *et al.*, 2002; Amin, 2015; Zulkifi & Rosli, 2013; Campos & Valenzuela, 2013) while other studies have found insignificant or partially significant influence of these constructs on SMEs performance (Nybakk, 2012; Suliyanto & Rahab, 2012; Chenuos & Maru, 2015, Okangi & Letmathe, 2015). Since the dimensions of learning orientation and entrepreneurial orientation have been consistently used across various studies, mixed results undoubtedly emanate from use of heterogeneous measures of SMEs performance as argued in Shepherd and Wiklund (2009) and Santos and Brito (2012).

Learning orientation reflects the knowledge management capabilities component of the Resource Based Theory. In one hand, some past studies have found positive and significant influence of learning orientation on SMEs performance (Amin, 2015; Calantone *et al.*, 2002; Eshlaghy & Maatofi, 2011; Mahmood & Hanafi, 2013a; Yeni, 2015) and on the other hand, some past studies have found insignificant influence of learning orientation and SMEs performance as in the work of Nybakk (2012). Despite the mixed results, past studies that support the influence of learning orientation on SMEs performance seem to outweigh those studies that do not support that assertion, thus it is hereby hypothesized that;

H₁: Learning orientation positively influences SMEs performance

Strategic resource management reflects the strategy that is used by the firm to execute its business as postulated in the Resource Based Theory. The strategy is centred on effective utilization of both tangible and intangible resources to create competitive advantage and wealth. However, strategic resources management construct is not well researched, literature lacks empirical evidence on its influence on SMEs performance. Nevertheless, past studies have shown that strategic resource management is an important component of strategic entrepreneurship which has direct influence on SMEs performance (Ireland *et al.*, 2003; Dogan, 2015; Foss & Lyngsie, 2011). In a bid to search for empirical evidence, it is hereby hypothesized that;

H₂: Strategic resources management positively influences SMEs performance

Entrepreneurial orientation reflects the firm resources owned or controlled by the firm in form of intangible resources (Barney, 1991; Grant, 1996). Resources are important in inception of the firm strategy to create competitive advantage for better performance as postulated in the Resource Based Theory. Entrepreneurship literature has shown that sometimes entrepreneurial orientation has exhibited a partial influence on SMEs performance (Chenuos & Maru, 2015, Okangi & Letmathe, 2015) and in most cases, the construct has shown positive and significant influence on SMEs performance (Amin, 2015; Amin *et al.*, 2016; Bengesi, 2013; Campos & Valenzuela, 2013; Fatoki, 2012; Mahmood & Hanafi, 2013a; Mata & Aliyu, 2014; Rauch *et al.*, 2009; Yeni, 2015; Zehir *et al.*, 2015). Based on these findings, it is hereby hypothesized that;

H₃: Entrepreneurial orientation positively influences SMEs performance

Past studies on learning orientation and entrepreneurial orientation have been concentrating in studying the direct influence on SMEs performance (Grinstein, 2008). In order to broaden knowledge on the extent these constructs influence SMEs performance, it has been recommended to consider indirect influence of those constructs on SMEs performance as argued in Grinstein (2008). Using the Resource Based Theory, literature has shown that learning orientation through strategic resource management influences SMEs performance and entrepreneurial orientation through strategic resources management influences SMEs performance (Theriou *et al.*, 2009). Furthermore, some studies have reported the influence of learning orientation through entrepreneurial orientation on SMEs performance (Wang, 2008; Ma'toufi & Tajeddini, 2015). Based on these findings, this study hypothesizes that;

H₄: Learning orientation positively influences strategic resources management

H₅: Entrepreneurial orientation positively influences strategic resources management

H₆: Learning orientation positively influences entrepreneurial orientation

The Resource Based Theory recognizes firm performance as a resultant of competitive advantage created from firm resources and strategies (Theriou *et al.*, 2009). Past studies have demonstrated that entrepreneurial orientation influences firm's competitive advantage (Mustafa, Rehman, Zaidi & Iqbal, 2015) and firm's competitive advantage is also influenced by learning orientation (Martinette & Obenchain-Leeson, 2012). Although

literature lacks empirical evidence, it has been suggested that firm's competitive advantage is influenced by strategic resources management (Ireland *et al.*, 2003; Dogan, 2015; Foss & Lyngsie, 2011). In addition to the above hypotheses, the study further hypothesizes that;

H₇: Learning orientation positively influences competitive advantage

H₈: Strategic resources management positively influences competitive advantage

H₉: Entrepreneurial orientation positively influences competitive advantage

Despite the recognition by the Resource Based Theory that firms competitive advantage is important in promoting SMEs performance, empirical evidence on the influence of competitive advantage on SMEs performance is still scanty in literature (Mahmood & Hanafi, 2013a; Mahmood & Hanafi, 2013b). Few studies have found that competitive advantage influence SMEs performance (Ismail, Rose, Abdullah & Uli, 2010; Majeed, 2011; Muafi & Roostika, 2014; Wijetunge, 2016; Zhou, Brown & Dev, 2009). This study furthermore, hypothesizes that;

H₁₀: Competitive advantage positively influences SMEs performance

3.0 Methodology

Sample size

The sample size may be determined using statistical methods when enough data describing the population are available or the sample size may be determined using the rule of thumb based on

some acceptable guidelines (Creswell, 2012; VanVoorhis & Morgan, 2007). Since there is no information on the population characteristics of welding industry SMEs in urban centres in Tanzania, it was difficult to determine the sample size using statistical methods and thus the rule of thumb was used to determine the sample size based on selected data analysis technique viz. Structural Equation Modelling. According to Hair, Black, Babin and Anderson (2010) factor analysis requires a minimum sample size of 120 subjects for factor loadings ± 0.5 or above which are considered practically significant and Structural Equation Modelling requires 15-20 observations for each independent variable or predictor. This study has four predictors (with the number of observations in brackets) viz. Learning Orientation (17), Strategic Resources Management (11), Entrepreneurial Orientation (14) and Competitive Advantage (12). The highest number of observations among predictors is 17, taking 15 as the appropriate minimum observations, a minimum sample size was found to be 255.

Due to the sensitivity of Chi Square statistic in determining the model's goodness of fit i.e. the larger the sample size, the higher the likelihood for model failure (Barret, 2007), Structural Equation Modelling requires sample size ranging between 100 and 400 subjects (Hair *et al.*, 2010). Based on the preceding discussion, the sample size of 300 subjects was considered adequate for this study.

Sampling technique

A non-probability sampling technique was employed due to lack of knowledge of population or sampling frame characteristics such as a list of firms and proportions of each stratum as demanded by probability sampling technique (Cooper & Schindler, 2011; Zikmund, 2003). Like in other emerging economies, it is difficult to find a database or any list of welding

SMEs in Tanzania due to informality of the industry and SMEs in general, thus, the non-probability sampling technique was considered appropriate for this study.

Through street reconnaissance in the research area, streets with high densities and low densities of welding SMEs were identified from which firms to be included in the sample were purposively selected. In streets with high densities, one firm was selected among three firms the researchers came across and in streets with low densities, one firm was selected among two firms the researchers came across. This sampling technique as described above has been successfully used in Isaga (2012), hence its adoption in this study.

Data collection

Data collection commenced from November 1, 2017 to January 31, 2018. Subjects were interviewed using a structured questionnaire. This method reduces the number of non-responses and ensures comprehensive collection of relevant information to verify the research hypotheses (Kothari, 2004; Singh, 2006). A survey method with cross sectional design was used to collect data from 300 owners-managers of welding SMEs in Dar es Salaam, Mbeya and Morogoro urban centres. Respondents were asked to rank their agreement or disagreement to questions on a structured questionnaire using five points Likert scale (from “strongly disagree” = 1 to “strongly agree” = 5) to all questions related to learning orientation, strategic resources management, entrepreneurial orientation and competitive advantage constructs. Respondents were also asked to respond on the extent SMEs performance indicators have changed for the past three years with reference to December, 2016 as a base year using five points Likert scale (from “a lot less” = 1 to “a lot more” = 5).

Data analysis

Development of measurement model

Measures for learning orientation, strategic resources management, entrepreneurial orientation, competitive advantage and SMEs performance have been adopted from past studies as shown in Table 1.

Table 1. Measures for model constructs

Construct	Dimension	No. items	Abbreviation	Reference
Learning Orientation (LO)	Commitment to learning	Four	Total CLE	Calantone <i>et al.</i> (2002)
	Shared vision	Four	Total SVI	
	Open-mindedness	Four	Total OMI	
	Intra-organizational knowledge sharing	Five	Total IOR	
Strategic Resources Management (SRM)	Structuring resource portfolio	Five	Total SRE	Ireland <i>et al.</i> (2003)
	Bundling resources to form capabilities	Three	Total BRE	
	Leveraging capabilities	Three	Total LCA	
Entrepreneurial Orientation (EO)	Pro-activeness	Three	Total PRO	Campos <i>et al.</i> (2012)
	Risk taking	Three	Total RTA	
	Competitive aggressiveness	Two	Total CAG	
	Autonomy	Three	Total AUT	
	Innovation	Three	Total INN	
Competitive Advantage (CA)	Differentiated products	Three	Total DPR	Ramaswami <i>et al.</i> (2006)
	Market sensing	Four	Total MSE	
	Market responsiveness	Five	Total MRE	
SMEs Performance (PER)	Growth in assets	One	AST3	Shepherd & Wiklund (2009)
	Growth in sales	One	SAL3	
	Growth in number of employees	One	EMP3	

Source: Literature review (2017)

Prior to development of measurement model, total score for all dimensions of LO, SRM, EO and CA constructs were computed

using Statistical Package for Social Sciences (SPSS) computer software. Confirmatory Factor Analysis was performed by the aid of Analysis of Moment Structures (AMOS) computer software to develop the measurement model.

In order to obtain an acceptable measurement model, some items were deleted from the model due to high modification indices (MI) and some were covaried as shown in Table 2. Measurement model goodness of fit was assessed using p-value for minimum Chi squared statistic (Cmin), ratio of minimum Chi squared statistic to degree of freedom (Cmin/df), Comparative Fit Index (CFI) and Root Mean Squared Error of Approximation (RMSEA). Model fit indices with non-significant p-value, $Cmin/df < 3.0$, $CFI > 0.90$ and $RMSEA < 0.06$ indicate good model fit (Zainudin, 2015).

Table 2. Actions on measurement model

Action	Description	Remarks
Total CLE item of LO construct deleted	The item had MI = 24.342 with Total PRO item of EO construct	Covarying not allowed because the items belong to different constructs. Deletion of Total PRO item did not improve the model goodness of fit indices
Total INN item of EO construct deleted	The item had MI = 17.523 with Total RTA item of EO construct	Covarying the items and deletion of Total RTA item did not improve the model goodness of fit indices.
Total CAG item of EO construct deleted	The item had MI = 8.151 with Total PRO item of EO construct	Covarying the items and deletion of Total PRO item did not improve the model goodness of fit indices
Total IOR item of LO construct deleted	The item had MI = 7.715 with Total BRE item of SRM construct	Covarying not allowed, the items belong to different constructs. Deletion of Total BRE did not improve the model goodness of fit indices
Total BRE and Total LCA items of SRM covaried	Correlation between LO and SRM constructs was 0.89	Covarying of the items reduced the correlation between LO and SRM constructs to 0.87 and p-value was improved from 0.170 to 0.203

Development of structural model

Using the valid measurement model, the structural model was developed using Latent Variable Path Analysis which is part of Structural Equation Modelling (SEM) technique. Covariance arrows (curved double headed arrows) on the measurement model were removed and replaced by regression arrows (straight single headed arrows) between the factors to convert the measurement model into a structural model. The structural model indicates the influence of one variable to the other using regression coefficients. It was used to determine the direct and indirect influence of independent variables on SMEs performance viz. to test the research hypotheses (Suhr, 2006) using AMOS computer software. Research hypotheses were tested at 5% ($p\text{-value} \leq 0.05$) level of significance i.e. p - value less than or equal to 0.05 indicated evidence to reject the null hypothesis which is sufficient evidence to support the alternative hypothesis and p -value greater than 0.05 indicated no evidence to reject the null hypothesis which is sufficient evidence that the alternative hypothesis is not supported.

In order to validate the performance measurement dimensions, ten hypotheses were tested in two stages. The first stage involved hypotheses testing using performance as a construct comprising of growth in assets, sales and number of employees dimensions. The second stage involved hypotheses testing when growth in assets, sales and number of employees were treated as individual (isolated) measures of performance. Hypotheses tested into the two stages were compared to ascertain differences or similarities and thereafter conclusion on dimensionality of SMEs performance was drawn.

Results

Measurement model

Figure 1 shows the developed measurement model.

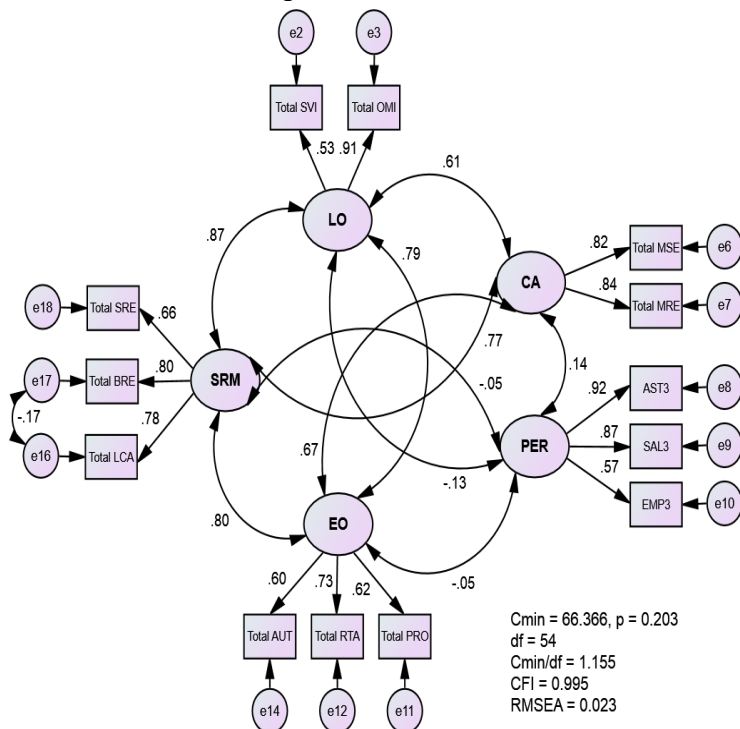


Figure 1. Measurement model

Factor loadings are shown by straight lines pointing out from LO, SRM, EO, and CA and PER constructs (unobserved variables) to dimensions (observed variables).

All factor loadings were found to be positive, greater than 0.5 and significant at 5% level of significance. Correlations among the

model constructs are shown by covariance (curved) arrows. In one hand, correlations among LO, SRM, EO and CA constructs were found to be positive and significant and on the other hand, correlations among LO, SRM and EO constructs with PER construct were found to be non-significant. Model fit indices were found to be within acceptable ranges viz. Cmin with insignificant p-value ($p = 0.100 > 0.05$), $Cmin/df = 1.253 < 3.0$, $CFI = 0.992 > 0.90$ and $RMSEA = 0.029 < 0.06$ confirming that the measurement model was acceptable.

This study assessed construct reliability using Cronbach's alpha which is the commonly used indicator; Cronbach's alpha greater than 0.7 indicates good internal consistency (construct reliability) (Pallant, 2005). Cronbach's alpha values for model constructs were found to range from 0.814 to 0.881 (Table 3) which are greater than 0.7 implying that construct reliability for LO, SRM, EO, CA and PER constructs was achieved.

Convergent validity was assessed using factor loadings (Table 3). Statistically, significant factor loading greater than 0.5 indicate good convergent validity (Zainudin, 2015).

Table 3. Assessment of construct reliability and validity

Constru ct	Item	Factor loading	Significance	Cronbach' s alpha	AVE
LO	Total SVI	0.54	***	0.861	0.555
	Total OMI	0.91	***		
SRM	Total SRE	0.66	***	0.835	0.561
	Total BRE	0.80	***		
	Total LCA	0.78	***		
EO	Total PRO	0.62	***	0.814	0.426
	Total RTA	0.73	***		
	Total AUT	0.60	***		
CA	Total MSE	0.82	***	0.881	0.689
	Total MRE	0.84	***		
PER	AST3	0.92	***	0.824	0.643
	SAL3	0.87	***		
	EMP3	0.57	***		

Referring to Figure 1, all factor loadings were statistically significant at 5% level of significance. Factor loadings for LO items were 0.53 and 0.91, factor loadings for SRM items ranged between 0.66 and 0.80 and factor loadings for EO items ranged between 0.60 and 0.73. Factor loading for CA items were 0.82 and 0.84 and factor loadings for PER items ranged between 0.57 and 0.92. These findings on factor loadings indicated that, convergent validity for LO, SRM, EO, CA and PER constructs was achieved. Furthermore, convergent validity was assessed using AVE value. AVE was obtained by summing up the squares of the factor loadings for all items in each construct and then dividing by the number of items. AVE values for LO, SRM, CA and PER constructs were found to be greater than the threshold value of 0.5 (Zainudin, 2015). AVE value for EO construct was found to be 0.426 which is less than 0.5, implying that EO failed convergent validity using this criterion. However, since all factor loadings for EO items were found to be greater than 0.5 and

statistically significant at 5% level of significance, convergent validity for EO construct was deemed achieved.

Since AMOS software is incapable of assessing construct discriminant validity; by the aid of SmartPLS 3 software, construct discriminant validity was determined using the Fornell-Larcker criterion. The criterion requires all AVE values to be higher than all correlation values viz. Square root of AVE value higher than correlation value indicates good evidence of construct discriminant validity (Zainudin, 2015). Results for construct discriminant validity are shown in Table 4.

Table 4. Assessment of construct discriminant validity

	CA	EO	LO	SRM
CA	0.919			
EO	0.512	0.782		
LO	0.482	0.588	0.855	
SRM	0.638	0.603	0.690	0.830

The bolded numbers on the diagonal of Table 4 are square root of AVE values while other values are correlation values. Since square root of AVE values are higher than correlation values in both row and column of each construct, discriminant validity for LO, SRM, EO and CA constructs was achieved viz. the factors under assessment are unique or distinct.

Structural model

Hypotheses testing using SMEs performance as a construct

The structural model (Figure 2) was used to test hypotheses during performance dimension validation process.

Straight line arrows indicate the influence of each construct on the other and the numbers above the arrows are regression

coefficients between any two constructs. Results for hypotheses testing when PER is used as a construct are shown in Table 5.

Table 5. Hypotheses testing results when PER is used as a construct

N o.	Hypothesis			Composite PER		Significa nce	Decision
				B	p		
H ₁	PER	<---	LO	-.269	.241	Insignificant	Unsupported
H ₂	PER	<---	SRM	-.111	.690	Insignificant	Unsupported
H ₃	PER	<---	EO	-.008	.962	Insignificant	Unsupported
H ₄	SRM	<---	LO	.619	***	Significant	Supported
H ₅	SRM	<---	EO	.312	.031	Significant	Supported
H ₆	EO	<---	LO	.790	***	Significant	Supported
H ₇	CA	<---	LO	-.328	.140	Insignificant	Unsupported
H ₈	CA	<---	SRM	.867	***	Significant	Supported
H ₉	CA	<---	EO	.235	.141	Insignificant	Unsupported
H ₁₀	PER	<---	CA	.392	.007	Significant	Supported

Results from hypotheses testing using PER as a construct revealed that among the ten hypotheses, five hypotheses were not supported viz. hypotheses H₁, H₂, H₃, H₇ and H₉ and five hypotheses were supported viz. hypotheses H₄, H₅, H₆, H₈ and H₁₀ by the collected data (See Table 5)

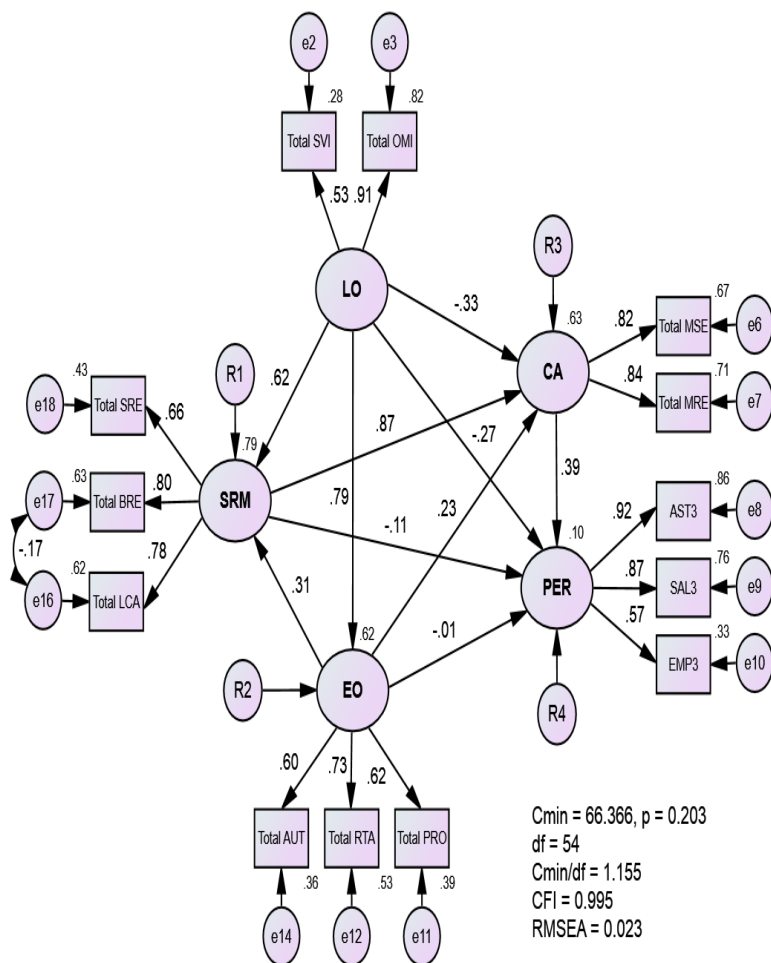


Figure 2. Structural model

Hypotheses testing using individual dimension of SMEs performance

Although measurement and structural models for individual dimensions of performance are not presented in this paper due to space inadequacy, hypotheses testing results are shown in Table 6. Results have shown that, among the ten tested hypotheses using AST3, SAL3 and EMP3 as individual (isolated) dimensions of PER, five hypotheses viz. hypotheses H₁, H₂, H₃, H₇ and H₉ were not supported and five hypotheses were supported viz. hypotheses H₄, H₅, H₆, H₈ and H₁₀ by the collected data.

Table 6. Hypotheses testing results using individual PER dimensions

No	Hypothesis			PER = AST3		PER = SAL3		PER = EMP3	
				B	p	β	p	β	p
H ₁	PER	<---	LO	-.245	.261	-.195	.382	-.375	.110
H ₂	PER	<---	SRM	-.049	.853	-.200	.463	-.002	.995
H ₃	PER	<---	EO	-.061	.715	.058	.732	.123	.471
H ₄	SRM	<---	LO	.619	***	.631	***	.619	***
H ₅	SRM	<---	EO	.313	.031	.301	.041	.314	.030
H ₆	EO	<---	LO	.790	***	.794	***	.790	***
H ₇	CA	<---	LO	-.331	.139	-.340	.143	-.335	.136
H ₈	CA	<---	SRM	.871	***	.873	***	.876	***
H ₉	CA	<---	EO	.233	.144	.240	.135	.233	.147
H ₁₀	PER	<---	CA	.357	.011	.333	.018	.300	.033

Discussion of results

This study mainly aimed at developing the dimensions of SMEs performance using firm growth performance measures. This section discusses the relationships of the model constructs as

described by the research hypotheses. Findings of this study are compared from findings of past studies based on the dimensions of firm growth performance. Finally, applicability of western theories in developing countries like Tanzania is also discussed. The tested research hypotheses were formulated to facilitate comparison of results when performance is used as a uni-dimensional construct consisting of growth in assets, growth in sales and growth in number of employees measures and when individual performance measures are used in isolation. Past studies in firm growth have encountered mixed results and lack of comparability due to lack of consistent firm growth measures and the use of samples from different populations (Shepherd & Wiklund, 2009).

The idea of measuring SMEs performance as a construct is reflected in the work of Calantone *et al.* (2002) who used four measures of firm performance viz. return on investment, return on assets and return on sales and overall profitability. Firm performance was treated as a construct. Through Structural Equation Modelling, the study found that learning orientation had a positive and significant influence on firm performance. In another study, Amin (2015) used three performance measures to describe SMEs performance construct. However, the author did not mention the measures apart from just pointing that the measures were adopted from past studies. Analysis using Structural Equation Modelling technique showed that individual measures of entrepreneurial orientation viz. innovativeness, proactiveness and risk taking had positive and significant influence on SMEs performance. Additionally, the study found positive and significant influence of learning orientation on SMEs performance.

The findings from Calantone *et al.* (2002) and Amin (2015) are contrary to the findings of this study which has found no significant influence of learning orientation, strategic resources management and entrepreneurial orientation on SMEs performance. The possible explanation for this difference is the use of heterogeneous SMEs performance measures and samples drawn from different populations (Shepherd & Wiklund, 2009). While the sample for this study was drawn from the welding industry, the sample in Calantone *et al.* (2002) was drawn from broad spectrum of the United States industries and the sample in Amin (2015) was drawn from electronic, electrical, food and beverage industries. Furthermore, presence of competitive advantage as a mediating variable in this study is also a probable cause of insignificant direct influence of learning orientation, strategic resources management and entrepreneurial orientation on SMEs performance. The mediating variable is an attribute or characteristic that influences the relationship between the independent variable and the dependent variable, it transmits the influence of the independent variable on the dependent variable (Creswell, 2012). Full mediation occurs when the relationship between independent variable and dependent variable goes to zero when the mediating variable is added to the equation but when the relationship shrinks in the presence of the mediating variable then partial mediation is said to have taken place (Mahmood & Hanafi, 2013a; Mahmood & Hanafi, 2013b; Namazi & Namazi, 2016). Since learning orientation, strategic resources management and entrepreneurial orientation constructs have low regression coefficients on SMEs performance which are not significant i.e. the coefficients are not different from zero, it is possible that full mediation occurred between the relationship of a combination of learning orientation, strategic resources management and entrepreneurial orientation on SMEs performance through competitive advantage construct.

Although literature is in deficit of studies investigating the influence of entrepreneurial orientation on SMEs performance under the mediation of competitive advantage, Mahmood and Hanafi (2013a) found partial mediation on that relationship. In another instance, Mahmood and Hanafi (2013b) found a full mediation on the influence of learning orientation on SMEs performance under the mediation of competitive advantage. Despite the differences between the findings of this study and the findings from past studies, hypotheses testing using performance as a construct consisting of growth in assets, sales and number of employees produced similar results as those obtained when the hypotheses were tested using individual items of SMEs performance (Table 5; Table 6).

Findings from this study inform that the relationship of the combination of learning orientation, entrepreneurial orientation and strategic resources management constructs on SMEs performance is fully mediated by competitive advantage construct. These findings confirm that knowledge is the source of all other resources and strategies and that the firm's strategy to undertake its business to create competitive advantage depends on available resources as postulated in the Resource Based Theory (Theriou *et al.*, 2009).

Before concluding the discussion of research findings, it is worthy to discuss the applicability of western theories in developed world. In an attempt to dimension SMEs performance, this study used the Resource Based Theory, the composite theory derived from the Resource Based View and the Knowledge Based View. Guided by this theory, the study adopted learning orientation, strategic resources management and entrepreneurial orientation constructs as independent variables and competitive advantage

construct was adopted as a mediating variable and SMEs performance was adopted as a dependent variable. However, all adopted constructs have been developed in the western world thus their applications in developing countries like Tanzania may be limited due to the fact that many individuals in developing countries work as subsistence entrepreneurs and not as economic entities as theorized in the western world (Eijdenberg, 2016).

Like in western world, use of heterogeneous firm performance measures is as well an obstacle in generalization of research findings obtained from past studies in Tanzania. For example, Philemon and Kessy (2016) treated SMEs performance as a construct consisting of eight items viz. profitability, sales, cash flow, market share, asset level, number of employees, number of branches and overall realization of the firm's objective. The work of Okangi and Letmathe (2015) used profit as a measure of firm performance and Kapaya, Shayo, Jaensson & Stanslaus (2018) used net profit as a measure of SMEs performance. Shepherd and Wiklund (2009) argued that use of heterogeneous performance measures is one among the factors that expedite mixed results in firm growth studies.

Furthermore, entrepreneurship studies in Tanzania seem to incline more on studying the influence of entrepreneurial orientation on firm performance as compared to other constructs. Some dimensions of entrepreneurial orientation have been found to have a positive and significant influence on SMEs performance, for example risk taking dimension positively and significantly influences SMEs performance (Philemon & Kessy (2016), risk taking positively and significantly influences SMEs performance but pro-activeness negatively and significantly influences SMEs performance (Okangi & Letmathe, 2015) and autonomy negatively but significantly influences SMEs performance

(Kapaya *et al.* (2018). Based on these studies, no significant influence of other entrepreneurial orientation dimensions viz. innovativeness and competitive aggressiveness on SMEs performance have been found.

Taking the influence of entrepreneurial orientation as a guide in determining the applicability of western theories in Tanzanian context, this study deleted innovativeness and competitive aggressiveness dimensions of entrepreneurial orientation due to high modification indices with other dimensions. Although used in further data analysis in past studies, innovativeness and competitive aggressiveness were found to have no significant influence on SMEs performance (Philemon & Kessy, 2016; Okangi & Letmathe, 2015; Kapaya *et al.*, 2018) implying that the regression coefficients between these dimensions and SMEs performance are not different from zero. Findings of this study are thus in line with past studies regarding the applicability of innovativeness and competitive aggressiveness in Tanzanian context.

In general, given the differences in productivity, labour cost, location and resources availability (Ng, Zakaria, & Adul-Rahaman, 1999) and differences in paradigm in which western world entrepreneurs and developing countries' entrepreneurs operate (Eijdenberg, 2016), it can be concluded that some western theories are applicable in Tanzanian context but some are not applicable. This conclusion is in line with the conclusion of Isaga (2012) who concluded the same when investigating entrepreneurship and the growth of SMEs in Tanzania's furniture industry, thus one size does not fit all (Eijdenberg, 2016). This study has therefore obtained empirical evidence demonstrating that growth in assets, sales and number of employees measure the same construct viz. SMEs performance. These findings suggest

that growth in assets, sales and number of employees are reliable and valid measures of SMEs performance construct. The findings are in line with the findings of Shepherd and Wiklund (2009) who found concurrent validity between employee growth and sales growth and concurrent validity between sales growth, employee growth and assets growth.

Conclusion and recommendation

Though growth in assets value, growth in sales volume and growth in number of employees seem to be heterogeneous measures viz. ‘oranges’ and ‘apples’ as contended in Shepherd and Wiklund (2009), their combination measure the same underlying construct which is SMEs performance. This study has contributed to the body of knowledge through provision of an understanding that SMEs performance is a unidimensional construct consisting of growth in assets, sales and number of employees.

This study is undoubtedly another step in establishing knowledge on SMEs performance measures in a bid to establish a robust body of knowledge regarding the dimensionality of SMEs performance.

Taking into account that some western theories are applicable in developing countries but some are not applicable, we strongly recommend future studies to replicate this study in other industries in order to ascertain whether the present findings are specific to the welding industry or applicable to other industries as well.

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Challenges and Opportunities of Managing Procurement Records in Tanzania: Exploratory Case of Selected Procuring Entities

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Abstract

This paper examined challenges and opportunities of managing procurement records in Tanzania. The study used exploratory case design whereby fifteen procuring entities were purposively sampled from Dar es Salaam. Data were collected through in-depth expert interviews supplemented by direct on-site observations. Data analysis was done by thematic analysis where thematic categories were descriptively described, analysed, and qualitatively interpreted. Findings of the study revealed that management of procurement records in the selected procuring entities is faced by a number of challenges, namely: disintegrated regulatory and institutional frameworks; lack of procurement records management guidelines; inappropriate staffing of personnel; inadequate and insufficient records storage space,

equipment, and facilities; and insufficiency of security and safety measures. It has been revealed that, despite challenges, there are some opportunities. For procuring entities that have no direct contacts with the Records and Archives Management Department (RAMD), could use the regulatory requirements to establish effective procurement recordkeeping systems in order to comply with the records and archives management (RAM) best practices and standards. Procuring entities could capitalise on empowering institutional actors in the RAM professionalism or best practices and therefore improve knowledge, skills, and competences on efficient management of procurement records. Since records are institutional resources, procuring entities are required to budget funds to procure adequate storage space, equipment and facilities for all types of procurement records. Lastly, once storage space, equipment and facilities are adequately available, procuring entities could capitalise on instituting safety and security measures in managing procurement records and archives.

Keywords: *records, management, procurement, archives, recordkeeping*

1.0 Introduction

Tanzania has considered and taken several initiatives to revitalise the management of procurement records in the public offices. The foremost initiative was to enact the public procurement legislation (Cap. 410) in 2001 that adopted a regulatory provision that mandates Tanzania Procuring entities to maintain and archive procurement records. In 2002, the national RAM legislation (Cap. 309, Act No. 3 of 2002) was enacted to establish the Records and Archives Management Department (RAMD) in order to provide

for the proper administration and management of public records and archives throughout their records life-cycle. Furthermore, in 2011 the President's Office (Public Sector Management) initiated the National Records and Archives Management Policy in the order to foster efficient management of records and archives in Tanzania. However, the policy was preceded by the enactment of RAM legislation. Due to this precedence, the existing national RAM legislation is not broad enough to cover and guide the management of both public and private records (URT, 2011).

It is more than a decade since the start of implementation of records management initiatives in the management of procurement records in Tanzania procurement recordkeeping systems. However, weaknesses have been observed in the procurement recordkeeping systems. These weaknesses inter alia were observed on the availability of complete procurement records and on the proper arrangements of procurement records in Tanzania procurement recordkeeping systems (URT, 2016a; 2017a; URT, 2016b; URT, 2017b). Most of the audited Tanzania procuring entities have been recorded and documented with improper procurement recordkeeping on the completeness and arrangements of the available procurement records (URT, 2007; URT, 2016a; URT, 2017a; URT, 2016b; URT, 2017b).

Despite weaknesses found in the Tanzania procurement recordkeeping systems; yet, procurement is a functional process that needs a great deal of records in the business transactions in order to legitimize the processes and activities thereto. In-so-much, an efficient recordkeeping system is a necessary evil. Therefore, to study management of procurement records practices is vital. However, few empirical studies on management of procurement records were carried out in Tanzania. For instance, a study was conducted in one case in an institution in Dar es Salaam

where poor procurement recordkeeping was recorded and documented due to inadequate staffing in the procurement management unit (PMU) as functional unit (Stephen, 2013). In another instance, challenges facing recordkeeping were studied at Kisarawe District Council in the Cost Region. The study recorded and documented a very poor score of 20 per cent in recordkeeping (Naluyaga, 2014). Individual studies to assess the efficiency of the national procurement and supply systems were conducted by the World Bank in 1996 and 2003 respectively. Both studies had recorded and documented weak procurement recordkeeping systems in the Tanzania national procurement system (World Bank, 1996, 2003).

Empirical evidence support that, there is: inadequate staffing of personnel for the management of records in Tanzania public offices (Stephen, 2013; Marwa, 2015), inadequate records storage space, equipment and facilities (Ndenje-Sichalwe, 2010; Marwa, 2015), and insufficient security and safety measures in managing records (Ndenje-Sichalwe, 2010). Based on these empirical evidence; the general impression is that, little has been done with respect to efficient RAM practices in Tanzania (Ndenje-Sichalwe, 2010; Lufunyo, 2013; Marwa, 2015). Empirically, it is evident that Tanzania public offices are being faced by acute regulatory and institutional resource challenges which include lack of skilled personnel, inadequacy of recordkeeping space, and lack of informed records security and safety policy for the general public records and archives management. However, little is known on the challenges and opportunities of management of procurement records in Tanzania procurement recordkeeping systems. Therefore, this paper emanates from a study that intends to examine the challenges and opportunities of management of procurement records in Tanzania procuring entities.

Institutionalization of records and archives management (RAM)

has been recognised by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) since 1980's. In response to the institutionalization of RAM, the UNESCO Division of General Information Programme developed a coordinated long-term Records and Archives Management Programme – RAMP (Ketelaar, 1985). The RAMP was aimed, among other things, to promote the formulation of policies and plans and disseminate methods, norms and standards of records and archives management (Ketelaar, 1985). Globally, records and archives management has received an attention due to its significance in supporting and informing the broader and more complex areas of information management, enterprise content management, knowledge management, document management, collaborative working processes and business processes management, among others (Biraud, 2003).

Within the RAM discourse, various authoritative professional authors in this field have researched, written and provided thesis and anti-thesis within and across the contexts of professionalism frontiers. From the Schellenberg (1956) who pioneered the records life-cycle concept to others who refined it and provided varied interpretations on the RAM principles and models (Charman, 1984; Atherton, 1985; McKemmish and Piggot, 1994; Upward, 1994; Upward, 2000a; Upward, 2000b; Shepherd and Yeo, 2003; Penn, Pennix and Coulson, 1994; Goodman, 1994). Records and archives management have been studied and treatises written across Africa (Asogwa, 2012; Mampe and Kalusopa, 2012; Unegbu and Adenike, 2013) and Tanzania in particular (Chachage, 2005; Ndenje-Sichalwe, 2010). In Tanzania, for instance, the RAM practices have been researched and discussed on either successes or failures (Ndibalema, 2001; Lyaruu, 2005; Ndemanyisho, 2014). The nature of records and the relationships among records and between them and the activities from which

they result are subjects of continuing debate (Yeo, 2007; Yeo, 2008). The debate on the RAM discourse in the management and care of procurement records is still on (Kendo and Getuno, 2016; Namukasa, 2017).

Public procurement is based on legitimacy of procedures. For legitimate procurement procedures and adequate public records, Article 9 of the United Nations Convention against Corruption (UNCAC) requires, inter alia, soundness of procurement records (United Nations, 2013). The soundness of procurement records was established under Article 25 of the United Nations Commission on International Trade Law (UNCITRAL) Procurement Modal Law 1994 as amended which states that procuring entity shall maintain a record of the procurement proceedings (United Nations, 2014). This international regulatory and institutional requirement found in the UNCITRAL Public Procurement Modal Law was adopted under Section 61(1) of Act No. 7 of 2011 with attendant Regulation 15(1) of Government Notice No. 446 of 2013 with amendments. Proper records management controls, managing who can access and modify key documents and records have been identified as an integral part of achieving compliance (Alfresco, 2009; Weisinger, 2011).

It has been studied, recorded and documented that most of African countries have been characterized by records management crisis (International Records Management Trust – IRMT, 1999a; World Bank and IRMT, 2000). Generally, records management has been faced by regulatory and institutional crisis. In Kenya; for example, records of procurement transactions in many cases were found to be inaccurate or incomplete whilst in some cases they were absent altogether (Njeru, 2015; Nyaboke-Marende, 2015). Poor management of procurement records has been observed in Uganda (Republic of Uganda, 2008; Republic of Uganda, 2009; Republic

of Uganda, 2010; Tumuhairwe and Ahimbisibwe, 2016; Namukasa, 2017). Problems in procurement records management were also observed in Tanzania (World Bank, 2003; United Republic of Tanzania – URT, 2007; Stephano, 2013; Naluyaga, 2014; URT, 2014a; URT, 2015a; URT, 2016a; URT, 2017a; URT, 2014b; URT, 2015b; URT, 2016b; URT, 2017b). However, Tanzania has recognised the impact of poor records management on the efficiency of government operations and on accountability. Therefore, Tanzania has been working to strengthen its records and archives management systems (IRMT, 2011; URT, 2011). Tanzania has taken several initiatives to improve management of procurement records in several perspectives. The foremost initiative, since the enactment of the public procurement law in 2001, was to incorporate a provision that provides for the governance and regulating management of procurement records and archives (vide Act No. 3, 2002; Act No. 21, 2004; Act No. 7, 2011 with amendments). In 2011, through the President's Office (Public Sector Management) Tanzania had initiated the National Records and Archives Management Policy of 2011 to foster proper management of records and archives. The policy was preceded by the enactment of the Records and Archives Management (RAM) Act No. 3 of 2002. However, the enactment of records and archives management legislation did not consider most of the policy issues as enunciated in the policy document (URT, 2011).

It is more than a decade now since the start of implementation of records management initiatives in the management of procurement records in Tanzania procurement recordkeeping systems. However, weaknesses have and continue to be observed in the procurement recordkeeping systems. These weaknesses inter alia are observed on the availability of complete procurement records and on the proper arrangements of procurement records in

the Tanzania procurement recordkeeping systems (URT, 2016a; 2017a; URT, 2016b; URT, 2017b). The audited Tanzania procuring entities have been observed, recorded and documented with improper procurement recordkeeping on the completeness and arrangements of the available procurement records (URT, 2007; URT, 2016a; URT, 2017a; URT, 2016b; URT, 2017b).

Most of the audited Tanzania procuring entities had improper management of procurement records (URT, 2014a; URT, 2015a; URT, 2016a; URT, 2017a). Apart from improper management of procurement records, there is an issue of records and archive management having two legislations. Here, Act No. 7, 2011 as amended is mandating procuring entities to maintain and archive records of the procurement processes whilst Act No. 3, 2002 is providing for management of public records and archives throughout their life-cycle. Despite the existence of established regulatory and institutional frameworks, Tanzania procuring entities had no guidelines on how to manage and care for procurement records. There are regulatory and institutional constraints within the institutional arrangements that would be either challenges or opportunities in the management and care of procurement records in Tanzania procuring entities. However few known studies have been conducted to study challenges facing procurement records management in Tanzania procuring entities.

Therefore, by trying to fix the gap in empirical literature, this paper tries to examine the challenges and opportunities in managing procurement records in Tanzania procuring entities by exploring selected cases deliberately drawn from the Tanzania procuring entities found in the city of Dar es Salaam. The paper is organised into six main sections. First, there is introduction that provides for the background and identifies the gap that this paper tries to fill. Second section provides for the theoretical and

empirical frameworks; whereas, third section describes the methodology section which is followed by findings and discussion. Lastly, the paper has a conclusion.

2.0 Theoretical and Empirical Frameworks

This paper is anchored on the theory of constraint (TOC) in line with the elements of the Resource Based Theory (RBT). The TOC has been widely known as a management philosophy coined by Goldratt (1990) that aims to initiate and implement breakthrough improvement through focusing on a constraint that prevents a system from achieving a higher level of performance. Essentially, the TOC states that every firm must have at least one constraint. Constraint is defined as any element or factor that limits the system from doing more of what it was designed to accomplish (Goldratt and Cox, 1992). If the TOC is integrated with the Resource Based Theory (RBT) it could be used to examine the challenges and opportunities in the management of procurement records in the Tanzania procuring entities. According to the TOC in conjunction with the RBT, the procuring entities – as public institutions must be faced by one or more constraints in dealing with management and care of procurement records.

Records management, by its nature; is a system (Read and Ginn, 2007; Read and Ginn, 2011). Records management, as a system, like any other systems in the operations of organisations in accomplishing its tasked goals is faced by constraints in making things happen as per their organisational mandates (Goldratt, 1990; Goldratt and Cox, 1992). The owner of a system is assumed to establish its goal (Goldratt and Cox, 1992). The fundamental goal of most records management systems is to ensure that records are created, received, maintained, used, and disposed in an efficient way (vide ISO-14589:1 2001, 2016).

Management and care of procurement records in Tanzania, as a phenomenon, is influenced by a number of factors (sic, constraints). This paper has focused on only four constraints inter alia: regulatory and institutional frameworks; capacity of personnel involved in managing procurement records; adequacy of records storage space, equipment and facilities; and sufficiency of security and safety measures. Out of these constraints there evolve challenges and opportunities. The challenges and opportunities in managing procurement records need to be tapped in order to improve the efficiency of RAM practices in management and care of procurement records. Therefore, there is an essence of applying theory of constraints (TOC) in examining challenges and opportunities culminating management of procurement records in Tanzania procuring entities.

Various empirical studies have been conducted on the fields of RAM. Studies on the RAM practices have been carried out in the United Nations (Biraud, 2013), in the North America and Europe (Foscarini, 2009; Hay-Gibson, 2011), and in the United States (Schwella, Burger, Fox and Müller, 1996). Sabokrooh (1989) conducted a specialised study in records management in teaching hospitals in the Islamic Republic of Iran. Whereas, there are found specific studies on RAM practices in the East and Southern Africa Regional Branch of the International Council on Archives (ESARBICA) member countries (Wamukoya and Mutula, 2005), in the sub Saharan Africa (Asogwa, 2012), in Botswana (Mampe and Kalusopa, 2012), and in South Africa (Kanzi, 2010; Marutha, 2013) based on successes or failures.

Studies on the RAM have been conducted in Kenya (Chimwani, Iravo, and Tirimba, 2014; Kendo and Getuno, 2016), in Uganda (Luyombya, 2010; Namukasa, 2017), in Ghana (Tagbotor, Adzido, and Agbanu, 2015), and in Tanzania (Kitalu, 2001; Ndibalema,

2001; Chachage, 2005; Lyaruu, 2005; Ndenje-Sichwale, 2010; Ndemanisho, 2014) to name a few empirical studies. However, most of these reviewed studies were on the mainstream records and archives management but not specific on the management and care of procurement records. However, very few empirical studies, as reviewed before this study, were focused and specialised on management and care of procurement records.

Procurement process is an activity that generates, receives, uses and maintains multitudes of records in the business transaction processes and their associated activities within and across the envisaged stages. Therefore, to study procurement records management practices is very vital. For instance, challenges facing public institutions in implementing procurement legislation were studied at the Office of the Registrar of Political Parties in the city of Dar es Salaam. This study recorded, revealed and documented poor procurement records keeping due to inadequate staffing in the procurement functional unit (Stephen, 2013). In another case study, challenges facing procuring entities in complying with procurement regulations were studied at Kisarawe District Council. It was observed, recorded and documented a very poor score of 20% in recordkeeping (Naluyaga, 2014). Ndemanisho (2014) and Marwa (2015) studied recordkeeping at individual cases whereby they observed, recorded and documented poor records management practices respectively. The general observable impression is that, little has been done with regard to compliance with respect to the records and archives management systems (Ndenje-Sichalwe, 2010; Lufunyo, 2013; Ndemanisho, 2014; Marwa, 2015).

3.0 Methodology

This paper is based on an explorative case study. Exploratory case study was a precursor study to refine and define questionnaire statements to be used for the survey study which is the second phase of this study that had been proposed to be conducted into two stages. The explorative case study was used to examine challenges and opportunities of managing procurement records in the selected Tanzania procuring entities in the city of Dar es Salaam. The explorative case study methodology was considered appropriate to give this study an in-depth expert insight on the challenges and opportunities for managing procurement records. Explorative case study has been considered sufficient due to the fact that some researchers who investigated existing records and archives management practices in Tanzania have successfully used it (Chinyemba and Ngulube, 2005; Ngulube and Tafor, 2006; Ndenje-Sichalwe, 2010).

The paper has used a convenient sample of fifteen case institutions. Case institutions were purposively chosen from a population of 193 public procuring entities found in the city of Dar es Salaam. Dar es Salaam has been considered since it has almost 41% of the total procuring entities in Tanzania (URT, 2015c). It is Dar es Salaam where most of the audited procuring entities had been observed to have weaknesses in management and care of procurement records (URT, 2014a; URT, 2015a; URT, 2016a; URT, 2017a).

This paper needed primary data. Data were collected using the in-depth expert interviewing protocol through the interview guide. There was also an observation checklist (IRMT, 1999b; OECD, 2009) that was used to collect direct on-site observations. Collection of data through the use of these two methods was done

to ensure triangulation of data. The in-depth expert interviews were conducted with fifteen selected heads of internal audit units (HIAUs) and three heads of procurement management units (HPMUs) within and across fifteen case institutions, and two consultants who were doing procurement audit. Case respondents were coded as: HIAU (with subscript 1 to 15) representing heads of internal audit units; HPMU (with subscript 1 to 3) represented heads of PMUs; and CONS (with subscript 1 to 2) representing consultants. The direct on-site observations were conducted in the fifteen conveniently chosen case institutions. In the case of direct on-site observations, the observation checklists were used to record the observed data.

This study collected qualitative data. Data from the in-depth expert interviews and direct on-site observations were collated during analysis and reported back into themes and categories. The analysis was qualitative in terms of thematic categories based on the envisioned challenges and opportunities. Themes and categories were descriptively described, analysed and interpreted with interpretations within and across the presentation of findings.

4.0 Findings and Discussions

Findings from interviews supplemented by direct on-site observations do hereby provide the essence of challenges and opportunities facing the management and care of procurement records in the studied cases. Thematic categories presented here for the envisaged findings and discussions are, inter alia, the challenges and opportunities in managing procurement records based on: regulatory and institutional frameworks; capacity of institutional actors; records storage space, equipment, and facilities; and security and safety measures for managing procurement records and archives. These are the constraining

factors according to the TOC in line with the elements of the RBT.

4.1 Challenges

4.1.1 Regulatory and Institutional Frameworks

The records and archives management (RAM) phenomenon is built upon regulatory and institutional frameworks (IRMT, 1999a; Smith, 2007; Read and Ginn, 2007; Read and Ginn, 2011). The RAM frameworks are provided inter alia in the public procurement legislation (vide Act No. 7, 2011 as amended) and the records and archives management legislation (vide Act No. 3 of 2002) and their attendant regulations. For procurement business transactional processes and the associated activities, institutional arrangements that are routinely involved in the procurement records life-cycle are inter alia: the accounting officers who have the overall responsibility for the public procurement management (vide Section 36(1) of Act No. 7, 2011 as amended), heads of Procurement Management Units (vide Section 38 (1) of Act No. 7, 2011 as amended), and user departments (vide Section 39(1) (i) of Act No. 7, 2011 as amended). It has been recorded and documented that:

Records and archives management has to be managed under regulatory and institutional frameworks. There must be established rules of the game whereby the institutional actors and their associated organs to create, receive, use, maintain, dispose or archive records. This is the essence of efficient RAM in an organisation (source: HIAU₃).

In every institutional setting, there is a need of framework that is sufficient for proper records and archives management. Once the regulatory is disintegrated there are the possibilities of disintegration of activities leading to poor coordination between the key actors within the organisational setup (source: HIAU₅).

Institutional actors within every procuring entity must be defined by within the regulatory framework and their jurisdictional functions aligned within the context of effective RAM. There must be checks and balances within the regulatory and institutional frameworks (source: HIAU₇).

Despite institutional arrangements as established under Act No. 7 of 2011 (as amended) that are either creating, receiving or using procurement records; the majority of records are supposed to be managed and cared by the heads of PMUs as mandated under Section 38 (l) of Act No. 7 of 2011 (as amended). Functionally, the PMUs are doing a lot in managing the entire procurement process and activities (vide S. 38 (a) of Act No. 7, 2011 as amended). This is evidenced as:

It is envisaged that procurement activities are performed by the PMUs. Other functional departments should always be informed on the matters and issues related to records and archives from the central repository office – the PMU (source: HIAU₁).

Maintenance and archive of records in every procuring entity is under the PMU and user departments. Despite this observation, management and care of records should be instilled across institutional actors within the PE's institutional arrangements where procurement activities are carried out (source: HIAU₈).

The regulatory and institutional challenge to be found in this scenario is the fragmentation of regulatory frameworks. In general, there is a mandatory requirement given under Act No. 7 of 2011 (as amended under Act No. 5, 2016) that procuring

entities should maintain procurement records for specified time periods. Here, institutional actors do create, receive, use, and maintain procurement records in their day-to-day procurement transactional processes and activities as they are provided in the institutional mandates as established by the given legislations. Most of functional activities in managing and caring procurement records are vested under the PMU. The following evidence substantiates this claim:

PMUs are compelled by law [Act No. 7, 2011 as amended] to maintain and archive records. Failure of which is non-compliance with the given legislation. However, most of them [PMUs] have no guidelines on effecting efficient management and care of the envisioned procurement records (source: summarised from CONS₁ and CONS₂).

Likewise, Section 9 of Act No. 3 of 2002 provides that heads of public offices (*sic*, accounting officers) shall be responsible for the creation and maintaining of adequate documentation of the functions and activities of their respective public offices through the establishment of good recordkeeping practices, inter alia: creating and managing current records with appropriate filing system; drafting retention and disposal schedules; and transferring semi-current records into the custody of the Director of Records and Archives Management Department – RAMD (vide Section 9 (a), (b), (c), and (d) of Act No. 3, 2002).

We, the heads of PMUs, do maintain and archive procurement records on behalf of the accounting officers. Basically, our duties are to ensure that records are kept for preservation for the duration required in providing the needed support to the procurement transactional processes and activities (source: summarised from HPMU_{1, 2, and 3}).

Essentially, the heads of public offices are required to co-operate

with the Director of the RAMD in the management of semi-current records (vide Section 10 of Act No. 3, 2002). However, findings of the interviews and direct on-site observations have revealed that this institutional mandate is still a challenge to most of the studied case institutions. This is supported by revelations of the respondents:

This PE does not have direct contact with the RAMD. Even the name [RAMD] is sought new to me (source: HPMU₁).

What is this thing, RAMD? Anyway, I do create, receive, use, maintain, archive and sometimes dispose records; but, this organisation has no direct contacts with the RAMD on matters related to semi-current or else non-current records (source: HPMU₃).

The existence of the dual legislations on records and archives management posits other regulatory and institutional challenges. One, the overall custodian of records in any public office is the head of public office (vide S. 9 of Act No. 3, 2002) despite this fact records are managed on his behalf by heads of PMUs, user departments, and other functional units within the procuring entities. Two, procurement records within and across the procuring entities' institutional arrangements are managed by designated institutional actors on behalf of the accounting officers. However, the line distinguishing the institutional mandate of the accounting officers and other institutional actors in creating, receiving, using, maintaining, and disposing procurement records is not clearly set between the dual legislations.

The challenge is: *which proceeds the latter and in what institutional capacity?* The dual legislations exhibit a clear gap on how to differentiate the regulatory and institutional capacities in

management and care of procurement records. All case respondents have had opinion that procurement records should be governed, administered, and managed by the aforesaid regulatory and institutional frameworks. However, the existence of dual legislations on the same issue should be harmonised to foster efficient management of procurement records. The procurement auditors (CONS₁ and CONS₂) and HPMU₃ respectively had the following to substantiate this claim:

Many of the institutional actors are unaware on the existence of dual regulatory requirements for proper management of procurement records and archives management respectively. Despite, regulatory framework must ensure existence of institutional frameworks to support efficient procurement recordkeeping (source: CONS₁).

[Most of] institutional actors are bound to create, receive, use, maintain and dispose records, as routine activity, due to the nature of the procurement functional activities. However, the requirements for the accounting officers to liaise with the Director of RAMD on matters of managing procurement records are not taken into account. This is a critical challenge to most of the Tanzania procuring entities (source: CONS₂).

Institutional actors are unaware of the dualism of regulatory frameworks operating under the same institutional arrangements in the procurement records management (source: HPMU₃).

Findings from 73.33% studied case institutions indicate that there is no direct interface between accounting officers and the director

of RAMD for the matters related to managing semi-current and non-current procurement records. Procurement records do not undergo the normal recordkeeping activities as they are specialised and being kept for preservation by specific institutional actors within the procuring entities' institutional arrangements. Due to the re-arrangements of the procurement institutional frameworks, respondents have failed to identify when the accounting officers do co-operate with the RAMD on matters related to the management of procurement records. There is regulatory gap that has been substantiated as:

The PPRA had [until this study was conducted] not made procurement records guidelines. This management gap has made a number of procuring entities manage and care procurement records through business as usual method. There are no rules that guide institutional actors on how procurement records should be managed and cared in terms of organisation, filing, keeping (for preservation) and appraising (source: CONS₂).

To this date, the responsible institution in the mezzo level had not initiated the use of procurement records management guidelines as required by Regulation 88(5) of the GN No. 446, 2013 as amended by GN No. 333, 2016. This is a clear challenge that exists between the principal legislation(s) and how procurement records have to be efficiently managed and cared. In principle, most of the Tanzania procuring entities are being faced by this regulatory challenge.

4.1.2 Capacity of Institutional Actors

For generality of staffing, the institutional actors in the PMUs for the studied case institutions are sufficient as required. This is in compliance with Section 37(1) of Act No. 7 of 2011 (as amended) that requires every procuring entity to have a PMU which is

staffed to an appropriate level. However, thirteen (86.67%) of the studied cases were observed to have had no personnel who were technically knowledgeable, skilled and competent in the RAM. This is contrary to Section 37(2) of Act No. 7 of 2011 (as amended) that categorically requires PMU to have procurement and other technical specialists together with the necessary supporting and administrative staff. In the other extreme, only two (13.33%) of the studied cases had been found to have specialised personnel with technical and administrative knowledge, skills, and competence in the RAM. This observation is vividly substantiated as:

Most of PMUs in Tanzania had strived hard to maintain the required number of professional [specialists] staff in line with the requirements of the [appropriate] staffing levels (source: HPMU₁).

The [critical] issue on the PMU staffing is centred on employing technical and administrative staffs that are required by the procurement law to support the proper functioning of the PMUs (source: HPMU₂).

The technical and administrative staffs that are dearly needed by the PMUs in procuring entities' institutional arrangements include the RAM personnel. However, few are employed and are staffed with the specialised RAM professionalism (source: HPMU₃).

It is evident that the significant challenge on the capacity of institutional actors is lack of or inadequate RAM personnel. Most of the studied cases were observed to have had appropriate number of specialists in the procurement and supply chain management cadres, but not on the RAM cadre. This posits an institutional challenge on balancing the organisational human

resource in terms of adequacy and sufficiency in ensuring proper management of procurement records. These findings are similar with that of Stephen (2013) and Marwa (2015) that revealed inadequate staffing of RAM personnel at the studied cases in Dar es Salaam.

4.1.3 Records and Archives Storage Space, Equipment and Facilities

Findings indicate that two (13.33%) of the studied cases had adequate and sufficient records storage space, equipment and facilities. Each of these two studied cases has two specialised containers and a records registry where procurement records are kept and archived. However, the critical challenge here is on the randomness of the semi- and non-current procurement recordkeeping where entry is not strict to the extent that recorded and archived files are not properly organised and arranged ensemble for easy accessibility and retrieval. These observations are similar with the study conducted in Botswana by Kalusopa and Ngulube (2012).

Kalusopa and Ngulube (2012) revealed that storage and preservation of records were weak. The studied institutions had no recordkeeping management units. Due to weak storage and preservation of records, it was established that the institutions needed rationalisation of their storage requirements and improve the accessibility of semi-current records that were bundled together with current files on shelves. With regard to the adequacy of the equipment, the studied institutions revealed that 71.1% of the institutions reported that they used equipment that did not sufficiently cater for records storage whilst 28.9% indicated sufficiency. Some of these findings concur with Kemoni (2007). Other studies, like those of Wamukoya and Mutula (2005) in the ESARBICA and Nengomasha (2009) in Namibia, confirm the

pattern.

4.1.4 Security and Safety of Records and Archives

Findings have indicated that two (13.33%) of studied cases had somehow security and safety measures for the procurement records and archives. Here, there are specialised containers and records registry offices where procurement recorded and archived files were kept under lock. Records and archives in these two studied cases were well secured with safety considerations at hand. Accesses to the records and archived files were strict. Thirteen (86.67%) of the studied cases had been observed to have no security and safety measures for the procurement records. These observations are compliant with the findings of Kitalu (2001), Ndibalema (2001), Lyaruu (2005), Ndenje-Sichalwe (2010), and Marwa (2015) respectively. Generally, procurement records were observed to be kept and stored without considering their nature, complexity, and vitality. The procurement records security and safety risks were observed to be high.

4.2 Opportunities

5.2.1 Regulatory and Institutional Frameworks

Despite the disparity in observations by eleven (73.33%) cases, it was observed that four (26.67%) cases have direct liaisons with the RAMD on matters related to the management of procurement records and archives thereto. This is an indication of compliance of 26.67 per cent with the requirements of Section 10 of Act No. 3 of 2002. Coupled with the requirements of Section 10 of Act No. 3 of 2002, procuring entities are obliged to comply with Section 61(1) of Act No. 7 of 2011 as amended provides:

A procuring entity shall maintain a record of its procurement proceedings in which it is involved, including decisions taken and the reasons for it and such record shall be kept for a period of not less than five years from the date of completion

of the contract and be made available when required to the Minister and the Controller and Auditor General (S. 61(1), Act No. 7 of 2011).

Findings indicate that studied cases are compliant with the given provision. There is an indication of 100 per cent compliance with creating and using records. However, the critical challenge is on how procurement records are kept, cared and maintained. Findings through direct on-site observations have revealed that most of the procurement transactional records (especially current and some of the semi-current records) were kept and stored in the PMU offices and some copies of these recorded and documented procurement record files were kept by the user departments within and across the studied cases. Whereas, some top secret and classified recorded and documented procurement record files were kept by the accounting officers. These included project procurement contracts and procurements contracts under public-private partnerships (PPPs) to mention a few examples.

Despite the existence of recorded and documented procurement record files within the procuring entities' institutional arrangements, the completeness of recorded information in the record files is an issue to be checked. More often, during audit exercise you may find out missing documents within the given procurement record files (source: CONS₂).

However, most of the interviewed internal auditors (HIAU_{1,2,...,15}) had an opinion that the PMUs were compliant with their mandates provided under Section 38 (l) of Act No. 7 of 2011 (as amended) in maintaining and archiving records of the procurement and disposal process. Also, some user departments were observed to have complied with requirements of Section 39(1) (i) of Act No. 7 of 2011 (as amended) that requires these institutional actors to

maintain and archive records of contracts management. What have been observed is on the degree of compliance with the proper procurement recordkeeping. Complying with the requirements of the procurement legislation in line with the records and archives management legislation on the same matters related to records and archive management in the public procurement sector is dwindling between low and moderate. These findings comply with the observations of the PPRA audits (URT, 2014a; URT, 2015a; URT, 2016a; URT, 2017a) and the CAG audits (URT, 2014b; URT, 2015b; URT, 2016b; URT, 2017b) respectively. Generally, efficient procurement recordkeeping is moderate for the PMUs and low for the user departments.

4.2.2 Capacity of Institutional Actors

Institutional actors are people who are stationed and working within and across the procuring entities. Institutional actors are the creators, receivers, users, maintainers, and disposers of records in the institutional settings. Records, of any kind, whether mainstream, general or specialised are created, used, maintained, and disposed by people within and across the institutional arrangements. This setting, as generally accepted by the records and archives management practices and standards, is the requirement of the RAM professionalism. That, institutions in their day-to-day businesses, processes, and activities require institutional actors to deal with records and archives as institutional assets (*sic*, resources). The findings from all fifteen cases indicate that institutional actors are mandated to create, use, maintain, and archive records for their routine and strategic business transactions in the course of either initiating procurement transactions or decision making or reviewing the performance of the institutional processes and activities (for audit purposes).

It is established that sufficiency of institutional actors for proper

management of procurement records in the studied fifteen cases is between moderate and large. However, the study revealed that the perceived knowledge of the institutional actors on records and archives management is low as most of the personnel have not received any specialised training on records and archives management – as a profession requiring specialised training. Despite this observation, the study revealed that most of the personnel dealing with procurement records management are moderately to largely skilled and competent to manage the record creation and use requirements for the level of enabling the execution of the day-to-day procurement business transactional processes and activities. Internal auditors have the following to say:

This organisation has enough personnel in the PMU and user departments to manage functional activities. However, the issue is sufficiency of knowledgeable, skilled and competent personnel on the RAM activities (source: HIAU₅).

We do not have problems with specialists in the procurement functional cadres within the PMUs. The problem with our organisation is staffing the administrative and supportive cadres including RAM within the PMUs and across the user departments (source: summarised from HIAU₁₀, HIAU₁₃ and HIAU₁₅).

The direct observed challenge here is on how to maintain and care for procurement records. Most of the studied cases had been observed to have no records appraisal and retention schedules. Due to inadequate knowledge, skills and competence on the RAM best practices; observations revealed that filing (classification and arrangement) and preservation (or conservation) of procurement records were ineffectively and inefficiently done. This is

attributed to the inadequacy of administrative and supportive staff with RAM professional or technical requisites.

4.2.3 Records and Archives Storage Space, Equipment and Facilities

Proper records and archives management requires space for storage (keeping) of records in their basic forms. Essentially, institutions need adequate and sufficient space for keeping and storing records in their forms either current, semi-current, or non-current (extinct) records. However, findings in the previous studied cases in Dar es Salaam has shown that non availability of working tools and equipment in the recordkeeping systems is a common phenomenon (Kitalu, 2001; Ndibalema, 2001; Lyaruu, 2005; Ndenje-Sichalwe, 2010, Marwa, 2015). Inadequacy and insufficiency storage space, equipment and facilities could be used as an institutional resource challenge. Here, top management would be motivated to use the status of inadequacy and insufficiency to streamline their financial budgets in fostering the acquisition of records storage space, equipment and facilities respectively. However, the situations in the studied cases seem otherwise.

4.2.4 Security and Safety of Records and Archives

Findings reveal that the studied cases have insufficient security and safety measures. These finding are similar with that of Ndenje-Sichalwe (2010). However, good records management practice means identifying vital records and information and then developing a records security policy (Kalusopa and Ngulupe, 2012). In practice, records need proper arrangement for securing them. Therefore, according to Kalusopa and Ngulube (2012), Institutions are obliged to develop policies and standards to support the protection and security of records throughout their life-cycles until they can safely destroy or delete them. In

principle, the studied cases had no policies and standards for protection and security of records through the records continuum model. Records, either active or inactive, need maintenance of the high level of security both externally and internally at all times (Smith, 2007). As advocated by Smith (2007), one should not contemplate transferring records to a records centre if it is not completely secure.

5.0 Conclusion

Based on the findings, it is hereby concluded that management of procurement records in the studied cases in Tanzania is faced by a number of constraints, inter alia: disintegrated regulatory and institutional frameworks; lack of procurement records management guidelines; inappropriate staffing of personnel specialised on records and archives management; inadequate and insufficient records storage space, equipment, and facilities; and insufficiency of security and safety measures for managing procurement records and archives. Despite these challenges, there were envisaged opportunities. In theory, the studied challenges and opportunities need some policy analysis and regulatory frameworks harmonisation.

There should be public procurement management and public records and archives management policy analysis and harmonisation for implementation with revised or amended national RAM legislation to encompass the essence of procurement recordkeeping systems in Tanzania. In the managerial perspectives, for procuring entities that have not directly liaised with the RAMD could use the regulatory requirement to establish effective procurement recordkeeping systems in order to comply with RAM best practices and standards. This will improve the practices of managing

procurement records within the Tanzania procuring entities. The Tanzania procuring entities are envisaged to capitalise on empowering institutional actors in the RAM professionalism, best practices and standards and therefore improve knowledge, skills, and competences on efficient management of procurement records.

Since records are institutional resources, Tanzania procuring entities are required to think of budgeting funds to procure adequate storage space, equipment and facilities for all types of procurement records. Once storage space, equipment and facilities are adequately available; procuring entities could capitalise on instituting safety and security measures in managing procurement records within and across their institutionalised procurement processes and activities and ensure effective and efficient management of procurement records. Contextually, this study was limited to fifteen case institutions found in Dar es Salaam. However, case institutions were carefully selected. Therefore, the findings of this study could be extended to other procuring entities across Tanzania.

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End Notes

ⁱSee ICPRMW, 1990.

ⁱⁱSee the Social Security (Minimum Standards) Convention, 1952 (No.

ⁱⁱⁱ See Common Market Protocol, 2009.

^{iv}See <https://www.the-eastaffrican.co.ke/oped/comment/EAC-political-federation/> The East African: “Time for EAC to lower its sights; throw out federation dream”, by Wachira Maina, Tuesday May 30 2017. Accessed 13 March 2019.

^v See <https://www.the-eastaffrican.co.ke/oped/comment/EAC-political-federation/> The East African: “Time for EAC to lower its sights; throw out federation dream”, by Wachira Maina, Tuesday May 30 2017. Accessed 13 March 2019.

^{vi}<https://www.eac.int/press-releases/1159-eac-partner-states-need-to-harmonise-100-laws-to-conform-to-the-common-market-protocol> EAC Partner States need to harmonise 100 laws to conform to the Common Market Protocol. Accessed 13 March 2019.

^{vii} See Palmer, V. V.(2005). From Lerotholi to Lando: Some Examples of Comparative Law Methodology, American Journal Comparative Law, 53 : 26

^{viii} See *EAC CMP*, Article 10(1).

^{ix} Ibid, Article 10(3) (a).

^x See *EAC CMP*, Article 10(3) (c).

^{xi} Ibid, Article 10(10).

^{xii} See *the EAC Treaty, 1999* (as amended), Article 104 (3) (e).

^{xiii} Ibid, Article 104 (3) (e); *the EAC CMP*, Article 12(1) and (2).

^{xiv} Ibid, Article 12(3)

^{xv} See detailed discussion in Donner, Ruth. (1994). *The Regulation of Nationality in International law*, 2nd Edition, Martinus Nijhoff,

^{xvi} Manby, Bronwen, (2010). *Citizenship Law in Africa Comparative Study*, 2nd Edition, Open Society Foundations, New York, p.ix.

^{xvii} Held in Nairobi, Kenya on 20th – 28th November, 2014.

^{xviii} Ref: EAC/CM/30/CM/2014), EAC Secretariat Arusha, Tanzania, p.5.

^{xix} See Annex II. Note however that the roadmap for implementation of annex II ended in 2015.

^{xx} Ibid. Article 10 (2), (4).

^{xxi} *EAC CMP*, Article 10(9).

^{xxii} Ibid, Article 12 (1) and (2).

^{xxiii} *EAC Report of the 30th Meeting of the Council of Ministers Nairobi, Kenya 20th – 28th November, 2014*, Ref: EAC/CM/30/CM/2014), EAC Secretariat Arusha, Tanzania, p.8.

^{xxiv} See *EAC Treaty, 1999* (as amended).

^{xxv} *EAC CMP*, Article 10; Free Movement of Persons Regulations (Annex I), *Free Movement of Workers Regulations (Annex II* , Right of Establishment Regulations (Annex III); and Right of Residence Regulations (Annex IV);

^{xxvi} See *the EAC CMP*, Art 13; Annex III, Regulation 13.

^{xxvii} Annex III.

^{xxviii} See Annex III, Regulation 2.

^{xxix} *EAC CMP*, Article 13 (8).

^{xxx} See *the EAC Treaty*, Article 16.

^{xxxi} See ILO (2006). *Application of International Labour Standards (I), Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A)-ILO: Geneva, p.2; ILO. (2016). *Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), Application of International Labour Standards (I)*, I. L. C. 105th Session, Geneva, p.9.

^{xxxii} Article 39(1).

^{xxxiii} Article 39(2) (b).

^{xxxiv} See *the EAC CMP*, Article 39 (2) (a).

^{xxxv} See *Constitution of Kenya, 2010* (Revised 2012), preamble.

^{xxxvi} *Ibid*, Article 10(1) and (2).

^{xxxvii} *Ibid*, Article 10 (2) (b)

^{xxxviii} *Ibid*, Article 20(4) (a).

^{xxxix} *Ibid*, Article 21 (1).

^{xl} *Ibid*, Article 27(1) and (2).

^{xli} *Ibid*, Articles 21(3); and 56.

^{xlii} *Ibid*.

^{xliii} *Ibid*, Articles 20(1); 43(1); 47(1); 50(1) and (2);

^{xliv} Ibid, Article 27 (4).

^{xlv} Ibid,Article 59(2) (e).

^{xlvi} Ibd, Art.259 (4) (b).

^{xlvii} Ibid, Article 39 (1), (2) and (3).

^{xlviiii}Ibid, Article 39(1).

^{xl ix} Ibid, Article 39 (2).

^l Ibid, Article 39 (3).

^{li} Ibid, Article 43(1) (e).

^{lii} Ibid, Article 43 (3).

^{liii} Ibid, Chapter 4 Part 2 sub-article 2(1).

^{liv} Constitution of Kenya, 1999, Chapter 4 Part 2 sub-article 2.

^{lv} Ibid, Article 59(2) (g).

^{lvi}No. 45 of 2013.

^{lvii}NSSF *Act*, No. 45 of 2013, section 34 (1).

^{lviii} Ibid, section 64 (1).

^{lix}Ibid. section 64(2) (a).

^{lx}*Ibid*, section 64(3) (e).

^{lxi}Ibid, section64 (2) (1).

^{lxii} Ibid.

^{lxiii} Ibid.

^{lxiv}No.45 of 2013.

^{lxv}Section 64(1).

^{lxvi}*Kenya NSSF Act*, section 64(2) (c).

^{lxvii} Also see *Kenya NSSF Act*, section 2-Interpretation; and section 5.

^{lxviii} Ibid, section 64(3) (a).

^{lxix}Ibid.

^{lxx} Ibid, section 64(3) (c). This partly complies with ILO Convention No. 157 of 1982 on applicable legislation.

^{lxxi}Ibid.

^{lxxii}Pasadilla, Gloria O., &Abella, Manolo. (2012). “Social Protection for Cross-Border Workers in East Asia”, In: Holzmann, Robert and Werding, Martin (organizers), *Portability of Social Benefits: The Economics of a Critical Topic in Globalisation*: Venice International University, Venice Summer Institute, p.1.

^{lxxiii} See the NSSF Act, op.cit, s. 64(3) (d).

^{lxxiv} Ibid, section 64 (3) (e).

^{lxxv} Ibid, section 24; and section 64(3) (e) and (f).

^{lxxvi} Ibid, section 64(3) (g).

^{lxxvii} Ibid, section 64(3) (h).

^{lxxviii} Ibid, section 64 (2) (c).

^{lxxix} Ibid, section 64(2) (c).

^{lxxx} Ibid, section 64(3) (i).

^{lxxxi}<http://www.africa-eu-partnership.org/.../ecowas-extends-social-security-migrant-workers- facilitate -intra-regional mobility>. Accessed on 16 August, 2017.
