

THE CRITICAL ANALYSIS ON THE EFFECTS OF POVERTY ON CRIME.

A CASE STUDY OF KENYA METROPOLIS.

BY

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DECLARATION

I BAYAH J. FREDRICK do hereby declare that the work presented here in this dissertation is my own, save where acknowledgment and it has never been submitted or examined in any university as an academic requirement for any award.

Signed.....

Date 15th SEPTEMBER 2015

APPROVAL

This research paper on "THE CRITICAL ANALYSIS ON THE EFFECTS OF POVERTY ON CRIME" has been supervised by me and is due for submission to the Faculty of Law of Kampala International University.

Supervisor: Tukirirwa Precious

Signature: 

Date: 15/9/2015

DEDICATION

This work is dedicated to my dearest parents Zacharius Bayah and Loice Bayah who never gave up on me. May the Lord bless them abundantly.

ACKNOWLEDGEMENT

I am forever indebted to my parents for their constant encouragements through my studies. I am equally grateful to my supervisor Twikirize Parton who has been supervising; without her help I would not have been able to get my work done

I wish to thank my brother for his understanding and the support he offered. I thank him for patiently being there for me during that time. You were the glue that held me together and I would never have made it without you. May the lord almighty reward you for your sacrifice.

Lastly, sincerely am thanking my best friends and classmates who offered their support and encouragement throughout the difficult moments.

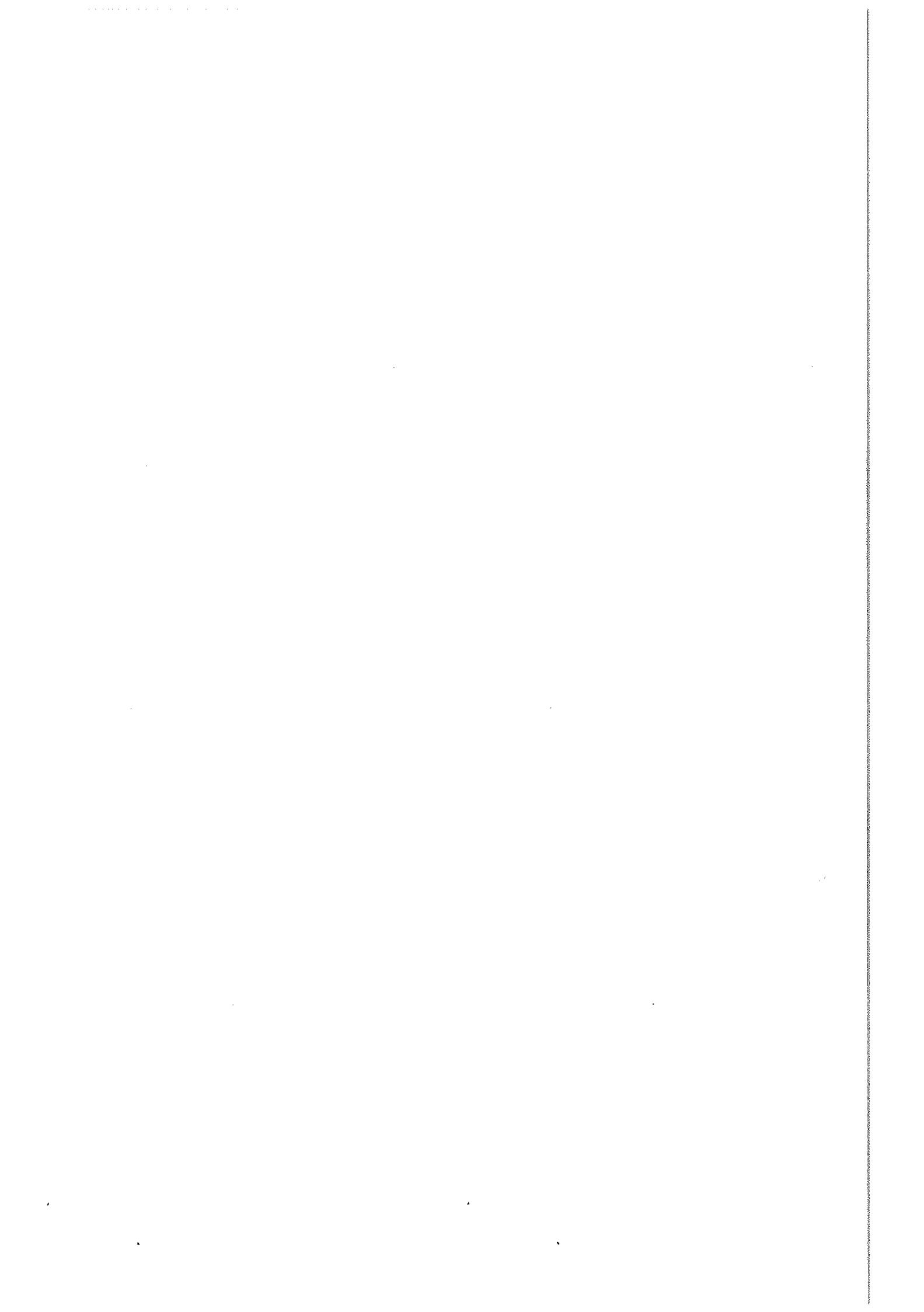
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CHAPTER ONE

1.0 Introduction

It is said that a look at the laws of the country is looking at the people of the country themselves¹ the law thus reflects the aspirations, fears and even the strength of the people. The Kenyan Legal System is entrenched with the spirit of shunning from what causes discomfort to the people and embraces what brings pleasure to them² by this tenet the Kenyan laws strictly outlaw any acts that are criminal in nature.

The Kenyan legal system includes agencies for generating and administering laws as well as groups of people who by reason of education, experience and expertise, have the resources of enabling peace and tranquility. The constitution creates the office of the Director of Public Prosecution that is mandated with the duty directing the Inspector General to investigate criminal matters³ the DPP is given unlimited powers to start or continue any preceding that is criminal in nature bar at the courts of martial⁴.

The DPP's office doesn't work in a stand-alone mode, it is augmented with other bodies namely judiciary⁵ and the National Police Service⁶. The judiciary is vested with the responsibility of trying any suspected deviants and if found guilty a punitive sentence is passed against them. The Police service is meant to arrest any deviants, investigate matters and charge them if they break any laws of the land in accordance with the constitution.

¹ Emilie Durkheim Mirror Thesis Theory.

² Jeremy Bentham Utilitarian Principle.

³ Article 157(4) of the Kenyan Constitution.

⁴ Article 157(6) of the Kenyan Constitution.

⁵ Chapter 10 of the Kenyan Constitution.

⁶ Chapter 14 of the Kenyan Constitution.

Human beings need a sense of being a person of sense and value in the society. However in the society, that rewards success and penalize failure, to be economically disadvantaged is to live in a continual doubt of one's self. The struggle for identity in this state is therefore desperate because of the degree to which their sense of self lies depends on the success they might enjoy. This sense of self is shaped too by the way the elite group acts towards them and the attitude they convey through words, postures or facial expression. This brings in confrontations that see them struggle by all means to achieve whatever it takes to have identity; to the extent that they will view crime as their next way of achieving the realities of life. The frustrations resulting from the way they live are therefore relative to the study. To be able to address these challenges one must be able to have an aware of the challenges facing the people in slums. In this way it would be more possible to present ways of ameliorating crime.

There should be an instance that law is ethically valid and conform to the requirements, the systems of rights the purpose of which the state exists to maintain. It is therefore important that the incidence of state-institutions should be unbiased and those who operate them be able to assume the principles of constitutional democracy. In this way, the perception of the poor that the remedies the state provides for their grievances takes too much time and are less adequate to be changed.

This study is an assessment on why poor people are more likely to commit crimes than rich people.

Poverty is the independent variable while offence will be the dependent variable. (Effects of poverty).

This chapter presents background of study, statement of the problem, objectives, hypothesis of the study, significance of the study, scope of the study, and synopsis of chapters.

1.1 Background of the Study

Kenya has a population of over 40 Million people, 60% of this population live below the poverty line of less than 1 US dollar per day leading to poor standards of living. There is massive population explosion and pressure on the meagre resources like land, water, health, education, infrastructure, agriculture and some micro-finance enterprises in the region. Due to the vicious cycle of poverty, there is gross violation of human rights as per the Geneva Convention that every person has the right to life, liberty and security. Other fundamental human rights violated in Kenya included article 2 of the Declaration of Human Rights where men and women are to be treated equally which is not the case, instead they are subordinates and not allowed in decision making especially on assets. The country has been a high population growth of youths (70%) who have neither trained, completed school or dropped out of school due to unemployment have resulted to violent crimes in the country such as murder, assault, rape, prostitution, theft, burglary, armed gangsters, banditry, trade in illicit drugs like bhang, chang'aa (local beer). Article 5 of the Declaration of Human Rights states that no one shall be subjected to torture cruel inhumane or degrading treatment or punishment, economic or political liberty. The rights of the inhabitants of Kenya have been highly contested leading them to fall into traps of violent crimes in the country. Poverty as a social phenomenon has affected the entire population in the country, poverty and inequality often results due to social instability, diseases, environmental degradation, struggle for natural resources and constraints on the basic needs in the society. In 1992 it was estimated that 42% of the approximately 525 million people in Sub-Saharan Africa lived below the poverty line of US \$ 370 per capita and the number was expected to increase by 50% in the year 2000. It is noted that women, children, old age, disabled and the orphans are the most affected with poverty. The unstable micro-economic environment, poor development policies which yield to low economic growth not consistent with economic growth, poor infrastructure, dependency ratio in the area is also high. There is need for proper planning, decision making and economic empowerment of Kenyan people to alleviate poverty in the region. The District budget allocation should be allocated, reviewed and strategic plans made to oversee the Constituency Development Fund (CDF) Local

Government Transfer Fund (LATF), Women Development Fund, and Youths Fund to help improve the income of the people for better standards of living. "People must not be allowed to become so poor that they offend or are hurtful to the society. It is so much that misery and plight of the poor but the discomfort and the costs of the community which is crucial to the view of the poverty. Poverty due to low income creates problems for those who are not poor".

1.2 Statement of the problem

Kenya like many other countries in Africa is still grappling with the herculean task of establishing a stable democratic political, economical and constructional order that welds a heterogeneous and collection of the tribe into one nation; assure the rule of law and human rights and dignity to its citizen and creates an enabling environment for development. Being economically disadvantaged is therefore a disease that hinders this kind of development.

There is appalling poverty in the slum which is concealed from the virus of the many. There are only perceptions and few researches that show why people are most likely to commit crime than rich people. In Kenya for example there is a wide perception that most criminal come from slums areas like Mathare Mukuru, Kibera and that it is their living conditions that warrant this. Some of these people are therefore sometimes victimized or easily mistaken to criminals.

1.3 Objectives of the study.

The major objective of the study was to investigate the influence of poverty on crime in Kenya.

1. To determine economic factors that lead to a vicious cycle of poverty.
2. To investigate how poverty causes crime in Kenya.
3. To establish development plans to alleviate poverty in Kenya.
4. To assess type of crimes and when they are committed in Kenya and they are solved.

1.4 Hypothesis

1. High crime rates in slums is due to lack of opportunities
2. Poverty leads to theft in slum areas.

1.5 scope of the study

This study covers poverty as a risk of victimization and how criminal behaviors (theft) can be prevented. It targets criminals from the slum and victims of the crime. It is aimed at providing ways of preventing theft as one of the criminal behavior.

1.6 significance of the study

The purpose of this study will be drawing facts that needed to determine why the incident of poverty and criminal behaviors are typical. In this way we can properly decide pecuniary measures to be taken, for example to propose new laws and policies. In addition, it hoped that this study will help in understanding how poverty causes crime and strategies for its amelioration. This study also aims at underscoring the realities of that subject individual to resort to unnecessary means in achieving their identities in life.

1.7 synopsis of chapter

This paper will be divided into four chapters

Chapter one contains introduction, background, statement of the problem, objectives, methodology, literature review and synopsis of chapter. The second chapter discusses poverty and crime, the third chapter discusses the effects of poverty on criminal offence. The fourth chapter considers observations recommendations and finally the fifth chapter is conclusion.

1.8 Review of related literature

In abide to explain this phenomenon, we make use of the sociological positivism school of thought on criminology that postulates those societal factors such as poverty,

membership of subcultures or low level of education can predispose people to criminal offences.

Adolphe Quetelet in the book *Adolphe Quetelet and the origin of positivist criminology* made use of data and statistical analysis to gain insight into relationship between crime and sociological factors. He found that age, gender, poverty, education, and alcohol consumption were important factor related to crime⁷. Quetelet findings however are on the causes of crime and not the relationship between poverty specifically and criminal behavior.

Rawson W. Rawson utilized crime statistics to suggest a link between population density and crime rates, with crowded cities creating an environment conducive for crime⁸. Equally **Emily Durkheim** viewed crime as an inevitable aspect of society, with uneven distribution of wealth and other different among people. However these literatures do not point the reason why crime often associated with the poor. Rawson's work is only on the relationship between overpopulation and crime. This paper will however use their findings to the effects of poverty and criminal offences.

Robert Ezra Park and Ernest Burgess of the University of Chicago identified, in 1920s, five concentric zones that often exist as cities grow, including the zone in transition which was identified as the most volatile and subject to disorder. They argue that urban neighborhoods with high level of poverty often experience breakdown in social structure and institutions such as family and schools. This results into social disorganization which reduces the ability of these institutions to control behaviors and eventually creates an environment ripe for deviant behaviors⁹.

On the other hand Bursik in their work *social disorganization and theories of crime and delinquency: problem and prospects* suggested that a poverty concentration effect may cause those neighbours to be isolated from the mainstream of the society and become

⁷ Berne piers (march 1987) "Adolf Quetelet and the origin of positivism Criminology" American Journal of sociology 92(5) pp 1140- 1169

⁸ Hayward Keith. J (2004). City limits crime consumerism and the experience. Routledge pp 89 ISBN 19043385036

⁹ www.wepedia.com/crimenology

prone to violence¹⁰. I am inclined to agree with the above literature however it is little to show why the people who make the choice of criminal violence are concentrated heavily in the lower class than in the higher class which this research is aimed at enhancing.

Robert Chamber's five enforcing elements include isolation, vulnerability, physical weakness, powerlessness and poverty. He argues in his work rural development-putting the last first that comprehensive approach to elimination of the five elements if successful, would lead to eradication of poverty¹¹. This work discusses poverty eradication and helps showing what poverty is. From his work, we can easily show how poverty influences crime.

Culture of poverty as studied by **Louis Lewis** suggests that culture of poverty is a design for living which is transmitted from one generation to the next. The assumption is that by the time the children reach the age of 17 years, they have already been absorbed into the culture of poverty and they are not psychologically geared to take full advantage of changing their conditions. Psychologically premises as an explanation of poverty, the mental state of the poor people may at times, determine whether the poor would remain entangled or escape the poverty deprivation. "Poverty is a state of the mind as much as state of national poverty, according to **Dennis Goulet**. He adds and says that poverty is a consciously experienced state of deprivation rendered especially intolerable as more and more people acquire information about development of other societies and realize that technical and institutional means for abolishing poverty, misery and diseases do indeed exists.

Absolute poverty can be defined by a number of people living below minimum level income on imaginary international poverty line such line knows no national boundary and it is independent of the level of the national per capita income.

¹⁰ BURSIK Jr. Robert J (1988) "social Disorganization and theories of crime " and diligence problem and prospect, chronology 26: P519-539

¹¹ Robert Chambers. (1983) *Rural Development – putting the last First*. Essex, Enland: Longmans scientist and Technologist publishers: New your: john Wiley.

World Bank economists Ahluwaha, Carter and Chancery (Ahluwalia. Montek S. 1976 b) Inequality, poverty and development, Journal of Development Economics 3pp. 307-342) concluded that 40% of populations of developing countries live in absolute poverty defined in terms of the levels that are insufficient to provide adequate nutrition. International poverty line help showing substantive decline in absolute poverty though no means an eradication of it. Absolute poverty can be measured by the state welfare system and the social welfare state benefits that includes identified needs that are considered basic although no agreed upon to different people living in different places of the world. It would be taken that food, sanitation water provision health care and sanitation are basic to some people but others would add electricity provision, having television and a care to the list.

Relatively the social welfare system and state welfare benefits can be quantified in terms of the poverty line. Poverty line is a prescribed value above it someone is considered as being better off and below it one is considered as poor.

Use of objectivity in measuring poverty, define development as moving from a condition that one would be perceived and being better off.

Subjective measure of poverty simply reflects how individual perceive themselves in relation to what considered good. Social indicator of poverty includes physical quality of life index and human development index. Generally the social indicators focus on improved quality of the life of the poor besides the improved economic growth. Physical quality life index consider three components that includes; mortality rates, life expectancy or longevity and level of education.

Simple analysis would be life expectancy indicates improved health care, provision of water, sanitation, water provision improved and other necessities that accords basic living. Mortality rates shows reduced maternal mortality and also infant mortality rates.

Level of education given by general school enrolment, drop-out rate and gender disparity in the educational opportunities. This indicator considers primary secondary and tertiary institutions

It would be true or not true to say that improved quality of the poor people would follow a defined, designed sequence that is one stage of growth leads automatically to another. Improvement in the quality of the poor people's life is a multi-dimensional process involving the participation of all stakeholders from all over the world.

Therefore this form basis on which to involve the poor people from the slum area who for such along time have been neglected in the process of developing decision making.

There is no clear approach on how the indicators of poverty should be determined and how poverty should be measured. The indicators of poverty usually differ from one place to another depending on the material culture available in each society and the value and ideologies used by a particular society to determine its levels of poverty. This explains why crime rate is highly in developing counties than in developed countries.

What is considered is not basic to the slum people. They have adopted to live without some of the things that one considered basic. Therefore to them these necessities become luxuries although they are needed to make their lives better. This argument shows why it's basically hard to agree upon state social welfare that causes basic lively-hood for the poor people. This is according to absolute measure of poverty. In effect therefore this research builds on the above literature to show how poverty influences crime.

1.9. Methodology.

This study aims at showing why poverty influences crime behavior. The rationale of this chapter is to bring out how the data was collected. This research is qualitative and heavily depended on prior published documents; secondary data, government and archives, news papers and newsletters, NGO reports, Text books and reports from libraries.

CHAPTER TWO:

2.0 POVERTY AND CRIME

2.1 What is poverty?

Poverty is the state of being extremely poor. Poverty refers to the condition of not having the means to afford basic human needs such as clean water, nutrition, health care, clothing and shelter¹². Poverty is usually measured as either absolute or relative (the latter being actually an index of income inequality).

Poverty refers to a set of standard which is consisted over time and between countries.

The World Bank defines extreme poverty as living on less than US\$1.25 per day per person and moderate poverty as less than \$2 per day¹³.

Economic aspects of poverty focus on material needs, typically including the necessities of daily living, such as food, clothing, shelter or safe drinking water. Poverty in this sense may be understood as a condition in which a person or community is lacking in the basic needs for a minimum standard of well being and life, particularly as a result of a persisted lack of income.

Analysis of social aspects of poverty links conditions of scarcity to aspects of the distribution of resources and the power in a society and recognizes that poverty may be a function of the diminished "capacity" of people to live the kinds of lives they value. The social aspects of poverty may include lack of access to information education, health care or political power¹⁴.

¹² <http://encarta.msn.com/encnet/features/dictionaryResults.aspx?lextype=3&search=poverty>

¹³ <http://www.newsweek.com/id/160070>:

¹⁴ Amartya Sen., 1985, *Commodities and Capabilities*, Amsterdam, New Holland, cited in Siddiqur Rah man Osmani. 2004, *Evolving Views on Poverty: Concept, Assessment, and Strategy*.

Poverty may also be understood as an aspect of unequal social status and inequitable social relationship and experienced as social exclusion dependency and diminished capacity to participate or to develop meaningful connections with other people in the society¹⁵.

A common method used to measure poverty is based on incomes or consumption levels. A person is considered poor if his or her consumption or income level falls below some minimum level necessary to meet basic needs. This minimum level is usually called the "poverty line". What is necessary to satisfy basic needs varies across time and societies. Therefore, poverty lines vary in time and place, and each country uses lines which are appropriate to its level of development, societal norms and values.

2.2 Causes of poverty

2.2.1 Barriers to opportunities

The unwillingness of governments to give full-fledged property rights of land to their tenants is cited as the chief obstacle to poverty. This lack of economic freedom inhibits entrepreneurship among the poor.

New enterprises and foreign instruments can be driven away by the results of inefficient instructions, notably corruption, weak rule of law and excessive bureaucratic burdens.

Lack of financial services as a result of restrictive regulations such as the requirement for banking license, makes it hard for even smaller micro saving program to reach the poor. .

¹⁵ H. Silver. 1994. Social Inclusion uiulSocial Solulariiv. In International Labor Review. 1335

2.2.2 Lack of Opportunities

Poor health and education severely affects productivity. Inadequate nutrition in childhood undermines the ability of individuals to develop their full capability. Infectious diseases such as malaria and tuberculosis can perpetuate poverty by diverting health and economic resources from investment and productivity.

2.2.3 Political instability

Wars, political instability, also discourage investment. Civil wars and conflicts in Africa cost the continent some \$300 billion between **1990** and **2005**¹⁶. Shocks in business cycle affect poverty rates increasing recession and declining booms. In Kenya for example, the post election violence that occurred in late **2007** and early **2008** seriously affected the business cycle leading to high cost of living making poor people poorer.

Cultural factors such as discrimination of various kinds can negatively affect productivity such as age discrimination, stereotyping, gender discrimination, racial discrimination and caste discrimination. Max Weber and the modernization theory suggest that cultural values affect economic success. He suggested that changing economic opportunities, explains most of the movement into and out of poverty as opposed to shift in values¹⁷. Overpopulation and lack of access to birth control methods is also one of the causes of poverty¹⁸.

2.2.4 Corruption

In many developing countries, political power is disproportionately centralized. Instead of having a network of political representatives distributed equally throughout society, in centralized systems of governance one major party, politician, or region is

¹⁶ "Wars cost Africa \$18 Billion US a /ear: report". CBC news. October 11 2007

¹⁷ Moore. Wilbert. 1974. *Social change*. Englewood cliff. NJ: prentice hill:

¹⁸ "Birth rates 'must be curbed to win war on global poverty" the independent. January 31 2007

responsible for decision-making throughout the country. This often causes development problems. For example, in these situations politicians make decisions about places that they are unfamiliar with, lacking sufficient knowledge about the context to design effective and appropriate policies and programs¹⁹.

Corruption often accompanies centralization of power, when leaders are not accountable to those they serve. Most directly, corruption inhibits development when leaders help themselves to money that would otherwise be used for development projects. In other cases, leaders reward political support by providing services to their followers.

When resources that are intended to be used for community services or facilities, are diverted into the private pockets of someone in a position of power, there is more than morality at stake here. In this training series, we are not making a value judgment that it is good or bad. We are pointing out, however, that it is a major cause of poverty. The amount stolen from the public, that is received and enjoyed by the individual, is far less than the decrease in wealth that was intended for the public.

It is ironic that we get very upset when a petty thief steals one thousand shillings worth of something in the market, yet an official may steal a thousand dollars from the public purse, which does four thousand dollars worth of damage to the society as a whole, yet we do not punish the second thief. We respect the second thief for her or his apparent wealth, and praise that person for helping all her or his relatives and neighbours. In contrast we need the police-to protect the first thief from being beaten by people on the street.

The second thief is a major cause of poverty, while the first thief may very well be a victim of poverty that is caused by the second. Our attitude, as described in the paragraph to the left, is more than ironic; it is a factor that perpetuates poverty. If we reward the one who causes the major damage, and punish only the ones who are really victims, then our misplaced attitudes also contribute to poverty. When embezzled money is then taken out of the country and put in a foreign (e.g. Swiss) bank, then it

¹⁹ <http://www.gdrc.org/icm/poverty-causes.htm>

does not contribute anything to the national economy; it only helps the country of the offshore or foreign bank. Corruption for example in Kenya led to an estimated 2 billion Cash to be stolen by the Kenyan leaders in the years 1989-1994 (the Goldenberg Scandal). Lack of opportunities can further be caused by the failure of government to provide essential infrastructure

2.2.5 Historical Factors

One of the most important barriers to development in poor countries is lack of uniform, basic infrastructure, such as roads and means of communication. Some development scholars have identified colonial history as an important contributor to the current situation. In most countries with a history of colonization, the colonizers developed local economies to facilitate the expropriation of resources for their own economic growth and development.

2.2.6 Dependency

Dependency results from being on the receiving end of charity. In the short run, as after a disaster, that charity may be essential for survival. In the long run, that charity can contribute to the possible demise of the recipient, and certainly too ongoing poverty .

It is an attitude, a belief, that one is so poor, so helpless, that one cannot help one's self, that a group cannot help itself, and that it must depend on assistance from outside. The attitude, and shared belief is the biggest self justifying factor in perpetuating the condition where the self or group must depend on outside help.

2.3 Criminology

Criminology is the scientific study of the nature, extent, causes, and control of criminal offence in both the individual and in society. Criminology is an interdisciplinary field in the behavioral sciences, drawing especially upon the research of sociologists

particularly in the sociology of deviance and psychologists, as well as on writings in law. Areas of research in criminology include the incidence, forms, causes and consequences of crime, as well as social and governmental regulations and reaction to crime. The term "criminology" was coined in 1885 by Italian law professor Raffaele Garofalo as criminologia²⁰

In the mid-18th century, criminology arose as social philosophers gave thought to crime and concepts of law. Overtime, several schools of thought have developed.

2.3.1 Classical School

The Classical School, which developed in the mid 18th century, was based on utilitarian philosophy. Cesare Beccaria, author of On Crimes and Punishments (1763-64), Jeremy Bentham, inventor of the panoptic on, and other classical of philosophers argued that first people have free will to choose how to act. Secondly, deterrence is based upon the notion of human being as a hedonist who seeks pleasure and avoids pain, and a rational calculator' weighing up the costs and benefits of the consequences of each action. Thus, it ignores the possibility of irrationality and unconscious drives as motivational factors. Thirdly, punishment, of sufficient severity, can deter people from crime, as the penalties outweigh benefits, and that severity of punishment should be proportionate to the crime and fourthly that the more swift and certain the punishment, the more effective it is in deterring criminal offence.

In measuring poverty, define development as moving from a condition that one would be perceived and being worse to a

2.3.2 Positivist School

The Positivist School presumes that criminal offence caused by internal and external factors outside of the individual's control. The scientific method was introduced and

²⁰ Deflem Mathieu (2006). Sociological Theory and Criminological Research: views from Europe and the United States. Elsevier.pp.p.279

applied to study human behavior. Positivism can be broken up into three segments which include biological, psychological and social positivism.

2.3.3 Italian School

Cesare Lombroso, an Italian prison doctor working in the late 19th century, was one of the largest contributors to biological positivism and founder of the Italian school of criminology²¹. Lombroso took a scientific approach, insisting on empirical evidence, for studying crime; he suggested that physiological traits such as the measurements of one's cheek bones or hairline, or a cleft palate, considered to be throwbacks to Neanderthal man, were indicative of "atavistic" criminal tendencies. This approach, influenced by the earlier theory of phrenology and by **Charles Darwin** and his theory of evolution, has been superseded. **Enrico Ferri**, a student of Lombroso, believed that social as well as biological factors played a role, and held the view that criminals should not be held responsible when factors causing their criminality were beyond their control. Criminologists have since rejected **Lombroso's** biological theories, with control groups not used in his studies .

2.3.4 Lacassagne School

Lombroso's Italian school was rivaled, in France, by **Alexandre Lacassagne** and his school of thought based in Lyon and influential from 1885 to 1914. The **Lacassagne** School rejected Lombroso theory of "criminal type" and of "born criminals", and strained the importance of social factors. However, contrary to craniological tendencies influenced by **Durkheim's** social determinism, it did not reject biological factors. Indeed, **Lacassagne** created an original synthesis of both tendencies, influenced by positivism, phrenology and hygienist, which alleged a direct influence of the social environment on the brain and compared the social ~~to~~ to a brain, upholding an organicist position²² . Furthermore, **Lacassagne** criticized the lack of efficiency of prison, insisted on social

²¹ Sic gel. Larry J. (2003). *Criminology*. 8th edition. Thomson-Vadsworth. pp. p. 7.

²² Renneville, Marc. La criminologie perdue d' Alexandre Lacassagne (1843-1924), Criminocorpus. Centre Alexandra korye- CRHCT.UMR n-8560 of the CNRS 2005(French)

responsibilities toward crime and on political voluntarism as a solution to crime, and thus advocated harsh penalties for those criminals thought to be unredeemable ("recidivists") for example by supporting the 1895 law on penal colonies or opposing the abolition of the death penalty in 1906.

Hans' Eysenck (1964, 1977), a British psychologist, claimed that psychological factors such as extraversion and neuroticism made a person more likely to commit criminal acts. He also includes a psychotism dimension that includes traits similar to the psychopathic profile, developed by **Hervey M. Cleckley** and later Robert Hare. He also based his model on early parental socialization of the child; his approach bridges the gap between biological explanations and environmental or social learning based approaches, (see e.g. social psychologists **B.F. Skinner** 09.) **Albert Bandura** (1973), and the topic of "nature vs. nurture".

2.3.5 Sociological positivism

Sociological positivism postulates that societal factors such as poverty, membership of subcultures, or low levels of education can predispose people to crime. **Adolphe Quetelet** made use of data and statistical analysis to gain insight into relationship between crime and sociological factors. He found that age, gender, poverty, education, and alcohol consumption were important factors related to crime²³. **Rawson W. Rawson** utilized crime statistics to suggest a link between population density and crime rates, with crowded cities creating an environment conducive for crime²⁴.

²³ Berne pierse (March 1987). "Adolphe Quetelet and the origins of positivist criminology". American journal of sociology 92(5): pp. 1140-1169.

²⁴ Hyward, Keith J (2004). City limits: crime, consumerism and the urban experience. Routledge .pp.p.89 ISBN 190435036

2.3.6 Chicago School

The Chicago School arose in the early twentieth century, through the work of **Robert Ezra Park**, **Ernest Burgess**, and other urban sociologists at the University of Chicago²⁵. In the 1920s, Park and Burgess identified five concentric zones that often exist as cities grow, including the "zone in transition" which was identified as most volatile and subject to disorder, in the 1940s, **Henry McKay** and **Clifford R. Shaw** focused on juvenile delinquents, finding that they were concentrated in the zone of transition.

Chicago School sociologists adopted a social ecology approach to studying cities, and postulated that urban neighborhoods with high levels of poverty often experience breakdown in the social structure and institutions such as family and schools. This results in social disorganization, which reduces the ability of these institutions to control behavior and creates an environment ripe for deviant behavior. Other researchers suggested an added social- Psychological link. **Edwin Sutherland** suggested that people learn criminal behavior from older, more experienced criminals that they may associate with.

2.4 Theories of crime

Theoretical perspectives used in criminology include psychoanalysis, functionalism, interactions', Marxism, econometrics, systems theory, postmodernism, etc.

2.4.1 Social structure theories

This theory is applied to a variety of approaches within criminology in particular and in sociology more generally as a conflict theory or structural

²⁵ <http://www.wikipedia.org/wiki/criminology>.

conflict perspective in sociology and sociology of crime. As this perspective is itself broad enough, embracing as it does a diversity of positions²⁶ .

2.4.1.1 Social disorganization (neighborhoods)

Social disorganization theory is based on the work of **Henry McKay** and **Clifford R. Shaw** of the Chicago School²⁷ . Social disorganization theory postulates that neighborhoods plagued with poverty and economic deprivation tend to experience high rates of population turnover²⁸ . These neighborhoods also tend to have high population heterogeneity. With high turnover, informal social structure often fails to develop, which in turn makes it difficult to maintain social order in a community . This theory is applicable in this paper in that poverty has an element of over population and it can be rightly argued that where there are large population, crime rate is also high.

2.4.1.2 Social ecology

Since the **1950s**, social ecology studies have built on the social disorganization theories. Many studies have found that crime rates are associated with poverty, disorder, high numbers of abandoned buildings, and other signs of community deterioration²⁹ . As working and middle class people leave deteriorating neighborhoods, the most disadvantaged portions of the population may remain. **William Julius Wilson** suggested a poverty "concentration effect", which

²⁶ Hester S. Eglin, P 1992, a sociology of crime, London, routledge

²⁷ Bursik Jr. Robert (1988). Social disorganization and theories of crime and delinquency: problems and prospects" criminology 26: p. 519-539

²⁸ More off, Jeffrey. Robert Sampson. Stephen Raudenbush (2001) "Neighborhood Inequality Collective, Efficacy and Spatial Dynamics of Urban Violence " criminology 39: p 517-60

²⁹ Bursik Jr. Robert (1988). Social disorganization and theories of crime and delinquency: problems and prospects" criminology supra

causes neighborhoods to be isolated from the mainstream of society and become prone to violence.

2.4.1.3 Strain theory

Strain theory, (also known as Mertonian Anomie), advanced by American sociologist **Robert Merton**, and suggests that mainstream culture, especially in the United States, is saturated with dreams of opportunity, freedom and prosperity; as **Merton** put it, the American Dream. Most people buy into this dream and it becomes a powerful cultural and psychological motivation. **Merton** also used the term anomie, but it meant something slightly different for him than it did³⁰. This theory helps to understand how culture influences the minds of the poor to commit crime.

Durkheim. **Merton** saw the term as meaning a dichotomy between what societies expected of its citizens, and what citizens could actually achieve. Therefore social structure of opportunity majority some of them will turn to illegitimate means (crime) in order to realize it. Others will drop out into deviant subcultures.

2.4.1.4 Sub-cultural theory

Following on from the Chicago School and Strain Theory, and also drawing on **Edwin H. Sutherland's** idea of differential association, sub cultural theorists focused on small cultural group" fragmenting away from the mainstream to form their own values and meanings about life.

Albert K. Cohen tied anomie theory with Freud's reaction formation idea, suggesting that delinquency among lower class youths is a reaction against the social norms of the middle class³¹. Some youth, especially from poorer areas

³⁰ Merton. Robert (1988). Social structure. Free press

³¹ Cohen Albert (1955). Delinquent Boys. Free press

where opportunities are scarce, might adopt social norms specific to those places which may include "toughness" and disrespect for authority. Criminal acts may result when youths conform to norms of the deviant subculture³²

Richard Cloward and Lloyd Ohlin suggested that delinquency can result from differential opportunity for lower class youth. Such youths may be tempted to take up criminal activities, choosing an illegitimate path that provides them more lucrative economic benefits than conventional over legal options such as minimum wage-paying jobs available to British sub cultural theorists focused more heavily on the issue of class, where some criminal activities were seen as imaginary solutions' to the problem of belonging to a subordinate class. A further study by the Chicago school looked at gangs and the influence of the interaction of 11 gang leaders under the observation of adults³³.

2.4.2.1 Trait theories

At the other side of the spectrum, criminologist **Lonnie Athens** developed a theory about how a process of brutalization by parents or peers that usually occurs in childhood results in violent crimes in adulthood. **Richard Rhodes'** Why They Kill describes Athens' observations about domestic and societal violence in the criminals' backgrounds³⁴. Both **Athens** and **Rhodes** rejects the genetic inheritance theories.

2.4.2.2 Control theories

Another approach is made by the social bond or social control theory. Instead of looking for factors that make people become criminal, those theories try to explain

³² Kornhauser R. (1978). Social sources of delinquency. University of Chicago press

³³ Cloward Richard .Lloyd Ohline (1960). Delinquency and opportunity. Free press

³⁴ Rhodes Richard (2000). Why they kill: discoveries of a Maverick Criminologist. Vintage

why people do not become criminal. **Travis Hirsch** identified four main characteristics: "attachment to others", "belief in moral validity of rules", "commitment to achievement" and "involvement in conventional activities³⁵. The more a person features his characteristics, the less are the chances that he or she becomes deviant (or criminal). On the other hand, if those factors are not present in a person, it is more likely that he or she might become criminal³⁶. **Hirsch** expanded on this theory, with the idea that a person with low self control is more likely to become criminal. A simple example: someone wants to have a big yacht, but does not have the means; to buy one. If the person cannot exert self-control, he or she might try to get the yacht (or the means for it) in an illegal way; whereas someone with high self-control will (more likely) either wait or deny themselves that need. Social bonds through peers, parents, and others, can have a countering effect on one's low self-control. For families of low socio economic status, a factor that distinguishes families with delinquent children from those who are not delinquent is this control exerted by parents or chaperonage³⁷. This theory however does not relate the reasons why poor people are likely to commit crime but to the vice versa. Thus its applicability is limited in this research so far as it relate to self control among the lower classes.

2.4.2.3 Symbolic Interactions

Symbolic interactions draw on the phenomenology of **Edmund Musserl** and **George Herbert Mead**, as well as sub cultural theory and conflict theory³⁸. This school of thought focused on the relationship between the powerful state, media

³⁵ Hirsch. Travis (1969). Causes of Delinquent. Transaction publishers

³⁶ Gottfredson M T Hirschi (1990) A general theory of crime. Standard University press.

³⁷ Wilson Harriet (1980)." Parental supervision: A neglected Aspect of Delinquency" British Journal of criminology
20

³⁸ Mead George Herbert (1934) mind self and society, University of Chicago press

and conservative ruling elite on the one hand, and the less powerful groups on the other. The powerful groups had the ability to become the 'significant other'¹ in the less powerful groups' processes of generating meaning. Should to some extent impose their meanings on the latter, and therefore they were able to 'label' minor delinquent youngsters as criminals. These youngsters would often take on board the label, indulge in crime more readily and become actors in the "self-fulfilling prophecy" of the powerful groups. Later developments in this set of theories were by Howard Becker and Edwin Lambert, in the mid 20th century³⁹. Stanley Cohen who developed the concept of "moral panic" (describing societal reaction to spectacular, alarming social phenomena such as post-World War Two youth cultures e.g. the Mods and Rockers (in the UK. in 1964), AIDS and football hooliganism). This theory is not applicable in this paper as it does not relate to the aims of the research.

2.4.2.4 Rational Choice Theory

Rational choice theory is based on the utilitarian, classical school philosophies of Cesare Beccaria, which were popularized by Jeremy Bentham. They argued that punishment, if certain, swift, and proportionate to the crime, was a deterrent for crime, with risks outweighing possible benefits to the offender. In *Dei delitti e delle pene* (On Crime and Punishment, 1763-1764), Beccaria advocated a rational penology. Beccaria conceived of punishment as the necessary application of the law for a crime: thus, the judge was simply to conform his sentence to the law. Beccaria also distinguished between crime and sin, and advocated against the death penalty, as well as torture and inhumane treatments, as he did not consider them as rational deterrents.

This philosophy was replaced by the Positivist and Chicago Schools, and not revived until the 1970s with the writings of Ies Q. Wilson, Gary Becker's 1965 article

³⁹ Becker Howard (1963). *Outsiders*, Free Press

titled "Crime and Punishment"⁴⁰ "and **George Stigler's** 1970 article "The Optimum Enforcement of Laws."¹¹ Rational choice theory argues that criminals like other people, weigh costs/risks and benefits when deciding whether or not to commit crime and think in economic terms. They will also try to minimize risks of crime by considering the time, place, and other situational factors.

Gray Becker, for example acknowledged that many people operate under a high moral and ethical constraints, but considered that criminal rationality see that benefit of their crime outweigh the cost such as the probability of apprehension, conviction, punishment as well as their current set of opportunities from the public policy perspective, since the cost of increasing the fine is marginal to that of the cost of increasing surveillance, one can conclude that the best policy is to maximize surveillance.

With this perspective, crime prevention or reduction measures can be devised that increase effort required committing the crime, such as target hardening. Rational choice theories also suggest that increasing risk of offending and likelihood of being caught, through added surveillance, are effective in reducing crime; likewise to police or security guard presence, added street lighting, and other measures.

One of the main differences between this theory and **Jeremy Bentham's** rational choice theory, which had been abandoned in criminology, is that if Bent ham considered it possible to completely annihilate crime through the, panopticon, Becker's theory acknowledged that a society could not eradicate crime beneath a certain level. For example, if 25% of a supermarket's products were stolen, it would be very easy to reduce this rate to 15%. Quite to reduce it until 5%. Difficult to reduce it under 3% and nearly impossible to reduce it to zero which would cost the supermarket so much in surveillance, etc. that it would out weight the benefits. This reveals that the goals of utilitarianism and

⁴⁰ Grey Becker "Crime and punishment" in journal of political economy. Vol 76 (2) March-April 1968 p. 196-217

classical liberalism have to be tempered and reduced to more modest proposals to be practically applicable.

Such rational choice theories linked to neo-liberalism, have been at the basics of crime prevention through environmental design. This theory point toward punishment of crime than reasons for crime thus its application is limited for this research.

2.4.2.5 Routine Activity Theory

Routine activity theory, developed by **Marcus Felson** and **Laurence Cohen**, draws upon control theories and explains crime in terms of crime opportunities that occur in everyday Life⁴¹. A crime opportunity requires that elements converge in time and place including, a motivated offender, suitable target or victim and lack of a capable guardian. A guardian at a place, such as a street, could include security guards or even ordinary pedestrians who would witness the criminal act and possibly intervene or report it to police⁴². Routine activity theory was expanded by **John Eck**, who added a fourth element of "place manager" such as rental property managers who can take nuisance abatement measures⁴³ . This theory implies that where there is no security, criminal act do occur. As will be observed, it is in poor areas where security is minimal.

2.5 Contemporary Cultural and Critical Criminology

Today's cultural and critical criminologists try to move beyond simplistic ontological conceptions of human beings as hedonistic and opportunistic 'rational choosers' whose behavior can be manipulated by adjustments of costs, benefits, opportunities and technologies of control.

⁴¹ Felson, Marcus (1994). Crime and every dat life. Pine forge

⁴² Cohen, Lawrence and Marcus Felson (1979). "Social change rate trends". American sociological Review

⁴³ Eck, John and Julie wartell (1997) reducing crime and drug dealing by improving place management. A randomized experiment national institute of justice.

Early romantic accounts of crime/delinquency as a form of seduction or proto-political resistance to the powerlessness and dull monopoly of working life are now being challenged by hue-modern hybrid theories. These theories examine the way criminals are incorporated into consumerism's value-system and fantasies, as argued by **Robert Reine** in his book *Law and Order*, yet initially excluded in their economic and social lives. Combining elements of strain theory and symbolic interactionism. Jock Young, in *The Exclusive Society*⁴⁴ , uses the metaphor bulimia to depict the tense opposition between inclusion and exclusion. **Simon Halls worth** and **Keith Hay-ward** adopt in their respective works *Street Crime and City Limits*⁴⁵ , and in further work Hayward reintroduces the term 'narcissism' to explain the insecure yet aggressive, acquisitive sentiments and motivation behind criminality. In *Criminal Identities and Consumer Culture*⁴⁶ , **Steve Hall**, **Simon Winlow** and **Craig Ancrum** draw upon Continental philosophy and Lacanian psycho-analysis to take late-modern hybrid theories to a new level of sophistication as they explain how the dynamic tension between inclusion and exclusion prolongs the narcissistic subject through the life-course in an aggressive struggle for identities of social distinction expressed by the acquisition and display of consumer culture's status-symbols. This theory helps to explain the conflict that manifests between the lower classes and the middle or upper classes.

2.6 Type of crimes.

Both the Positivists and Classical Schools take a consensus view of crime that a crime is an act that violates the basic values and beliefs of society. Those

⁴⁴ Young. J. (1999). *The Exclusse Society*. London: Sage

⁴⁵ Halls worth. S. (2005). *Strict Crime*, Cullompton: Willan: Hayward. K. (2004). *City Limits*. London: Glasshouse

⁴⁶ Hall. S. Winlow and Ancrum. C (2008) criminal identities and consume culture : Cullompton: Willan

values and beliefs are manifested as laws that society agrees upon. However, there are two types of laws:

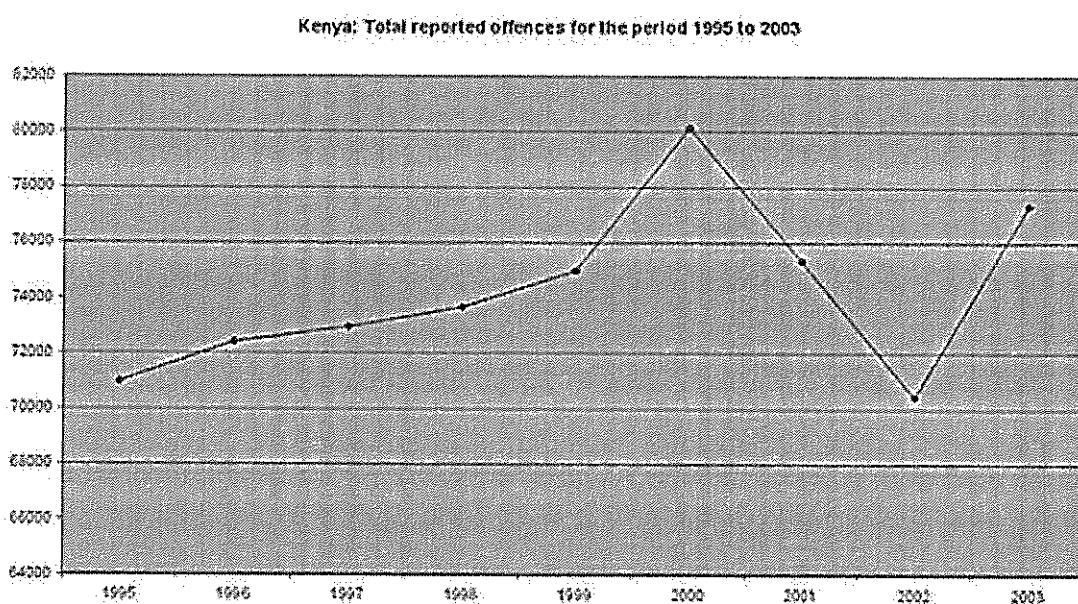
Natural laws are rooted in core values shared by many cultures. Natural laws protect against harm to persons (murder, rape, assault etc) property (theft, larceny, robbery etc), and form the basis of common law systems.

Statutes are enacted by legislatures and reflect current cultural mores, albeit that some laws may be controversial, e.g. laws that prohibit marijuana use and gambling. Marxist Criminology, Conflict Criminology and Critical Criminology claim that most relationships between State and citizen are non-consensual and, as such, criminal law is not necessarily representative of public beliefs and wishes: it is exercised in the interests of the ruling or dominant class. The more right wing criminologists tend to posit that there is a consensual social contract between State and citizen. Under this, there are felonies and misdemeanor. A felony means an offence which is declared by the law to be a felony or if not declared to be a misdemeanor, is punishable, with death or with imprisonment for three years or more. A misdemeanor means an offence which is not a felony. It is a fundamental right under the constitution that every person has a right of protection of his property. Therefore, definitions of crimes will vary from place to place, in accordance to the cultural norms and mores, but may be broadly classified as blue-collar crime, corporate crime, organized crime, political crime, public order crime, state crime, state-corporate crime, and white-collar crime.

2.7 Crime Statistics.

Crime context

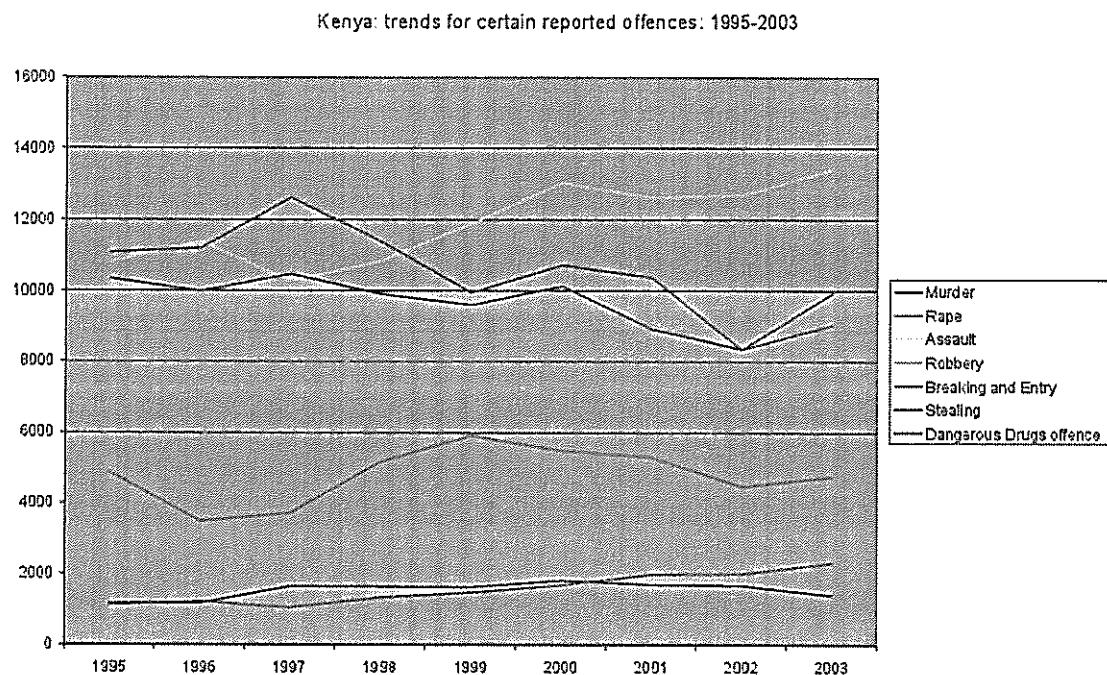
Kenya's total number of reported crimes from 1999 to 2003 has climbed steadily and then oscillated wildly toward the end of the period, as best illustrated by Figure 1.2



The crime trends for reported offences most commonly under the spotlight reveal that most of these crimes had followed the trend of the total reported crimes during the same period, but with more moderate increases and decreases. The exception is the crime of Stealing: in 1999 there were 9 591 reports, in 2000 it increased to 10 129, and then was brought down sharply to 8 919 reported incidents in 2001. It dropped further in 2002 to 8 340, but then within 2003 rose back up to previous levels at 9 916 reported incidents. Only the murder rate – generally the most accurate of crime figures, and seldom under-reported

– decreased toward the end of the period.

Figure 2 illustrates these trends.



A 2002 victim of crime survey in Nairobi, under the auspices of the UN-HABITAT Safer City Nairobi, found that:

- High levels of insecurity and fear of crime were reported in Nairobi;
- Reporting levels are low because people do not believe that the police can assist them;
- The key crime problems that require attention in the city are violent crime and corruption;
- 37% of all Nairobi residents had been a victim of robbery during the previous year;
- 22% had been a victim of theft during the previous year;
- 18% had been a victim of assault during the previous year;

- 29% of all homes had fallen victim to a burglary during the previous year;
- 30% of all commercial enterprises had fallen victim to a burglary during the previous year;
- Most burglaries occur on Fridays and Saturdays, showing that people in the home is not a deterrent;
- Firearms tend not to be the weapons used against victims, but the perception is that firearms are linked to the increase in crime levels;
- A significant proportion of Nairobi citizens believed that there is 'nothing' they can do to help reduce crime in the city, and knowledge about alternative means of preventing crime or changing behaviour to reduce risk of victimisation is limited; and
- Most interviewees think that crime is caused by poverty and unemployment, thus underscoring the degree of "social paralysis" and civic inaction.

Across Kenya, the 2005 Afrobarometer survey of national public attitudes on democracy shows that 41% of people surveyed felt that safety from crime compared to a few years prior to the survey was "Better", and that most (50%) felt that the government was handling the reduction of crime "Fairly well". On the other hand 24% felt that the government was handling the reduction of crime "Fairly badly" and 18% "Very badly". Bearing in mind that most persons in Nairobi thought that crime could be predominantly described to poverty and unemployment, it is thus not surprising that most of the respondents felt that crime and security was not the most important problems facing the country that the government should address: Highest on the list of problems was Unemployment (20%); Poverty/destitution (10%); Managing the economy better (9%); Famine (8%); and then followed education, roads and crime at 6%.

This notwithstanding, public attitudes regarding accessing help from the police were predominantly low: 41% (an almost even distribution between rural and urban respondents as well as male and female respondents) indicated that obtaining help

from the police when needed was "Difficult", and 24% said that it was "Very difficult" – these being mostly urban males and females.

Also over-ridingly poor were responses indicating levels of trust in the police: 32% trusted the police "Just a little"; 27% "Not at all" (mostly urban males); and only 23% said "Somewhat" (mostly urban females).

Regarding police involvement in corruption, 39% of respondents said that "Most" police were involved in corruption, and 24% said that "All" police were involved in corruption. These responses were fairly evenly spread between urban and rural respondents, as well as male and female respondents. About a third (31%) of all slum dwellers thought that there had been an increase in crime. Another 46% felt that crime had increased. The remaining 23% were split between those who said it had remained the same (18%) and those who did not have any idea (5%). These perceptions also differed significantly between the slum areas. From the slum point of view, Kibera residents seemed to feel that crime in the past year had increased. While only less than 30% of the residents in each of the slum said crime had increased in the past one year, Kibera had a majority of 46%. It was only in Kibera and Mukuru where the least proportion of residents (38%) indicated that crime had reduced. Topping the list was the issue of high levels of unemployment among the youth (61%). This was attributed to the fact that most youth had finished or dropped out of school, and with no gainful employment, they resorted to criminal activities to make a living. Initial findings from study indicated that at least 62% of the slum residents did not have any sort of permanent or well paying employment. Comparatively, the same reason was given in all the slums at the same overall percentage of 60% and above save for Korogocho slum dwellers whose only 48% attributed the crime levels to unemployment. The same issue was raised in the **FGDs (Focus group Discussion)**, for example, in Kibera, one respondent said:

...One of the reasons for crime is total idleness... you find that, if you are not employed... you find some people are just there, they are just there doing nothing... so, when they are just there, they just do the thinking, they are defeated on what to

do [don't have anything to do, so they engage in criminal activities] (**Kibera FGD, Men**).

Theft sec 267 Things capable of being stolen (1) Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen. (2) Every inanimate thing which is the property of any person, and which is capable of being made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it. (3) Every tame animal, whether tame by nature or wild by nature and subsequently tamed, which is the property of any person is capable of being stolen

The taking means that there must be trespass. There must also be a carrying away but only a slight removal is necessary. The taking can be by a trick, or by intimidation, or under mistake on the part of the owner and by finding. These are all means of committing theft which form part of the activities of some slum dwellers.

295. Definition of robbery. Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained, is guilty of the felony termed robbery. **296. Punishment of robbery** (1) Any person who commits the felony of robbery is liable to imprisonment for fourteen years. (2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds, beats, strikes or uses any other personal violence to any person, he shall be sentenced to death.

[Act No. 40 of 1952, Sch.] Daniel Njoroge Mbugua vs Republic. Daniel Njoroge Mbugua who was charged before the Principal of Magistrate Court at Kikuyu with the offence of robbery with violence contrary to section 296(2).The particulars of the offences were that - "On the 5th day of June, 2005 at Karua village in

Kiambu District within Central Province jointly with another not before court while armed with offensive weapon namely toy pistol robbed George Gaitho Kung'u of cash, in the sum of Kshs. 2000/= and at or immediately before or immediately after the time of such robbery, threatened to use actual violence upon the said George Gaitho Kung'u." The ingredients of the offence of robbery with violence were further elaborated by the Court of Appeal in the case of **Oluoch vs Republic (1985)KLR** Where it was held that robbery with violence is committed in any of the following circumstances. a) the offender is armed with any dangerous and offensive weapon. b) the offender is in company with one or more persons. c) At or immediate before or immediate after time of robbery, he wounds, beats, strikes or uses any other person violence to any person, he shall be sentenced to death. **297. Attempted robbery** (1) Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a felony and is liable to imprisonment for seven years. (2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the assault, he wounds, beats, strikes or uses any other personal violence to any person, he shall be sentenced to death. Sub-programme B concentrates on securing the borders of Kenya with specific emphasis on the arrest and seizure of stolen vehicles and firearms, narcotics and illegal goods, and the arrest and detention of illegal immigrants. It also outlines co-operative work with policing agencies in neighbouring countries under the umbrella organisation of the Eastern African Regional Police Chiefs Co-ordinating Organisation. This is preventive work aimed at transnational and organised crime and founded on the understanding that supply-sided reduction of crime facilitators, such as guns and drugs, plays a role in the prevention of crime.

Sub-programme C outlines the activities of the police during the period under review regarding incidents of public violence. Here the preventive role of the police lies in the understanding that control of civic unrest situations, such as strike actions and civic protest actions, prevents outbreaks of random violence and the protection of property.

203. Murder Any person who of malice aforethought causes death of another person by an unlawful act or omission is guilty of murder. **S uicide** As well as widespread depression, young people in Kenya have an alarmingly high rate of attempted suicides. In the CSA survey, as many as 6.8 percent of males and 10 percent of females (in other words, one in ten young Kenyan women) reported having attempted suicide at least once (see Table 3.19). Globally, three times more women than men report attempting suicide, but men are more likely to succeed. In Sub-Saharan Africa men are almost five times more likely to die from suicide than women. While there are no national figures on suicide rates for young people in Kenya, global figures from WHO indicate a worldwide suicide rate of 19.2 per 100,000 among 15 to 24 year old males and 5.6 per 100,000 among females in the same age group. **204. Punishment of murder.** Any person convicted of murder shall be sentenced to death. **213. Causing death defined** A person is deemed to have caused the death of another person although his act is not the immediate or the sole cause of death in any of the following cases— (a) if he inflicts bodily injury on another person in consequence of which that other person undergoes surgical or medical treatment which causes death. In this case it is immaterial whether the treatment was proper or mistaken, if it was employed in good faith and with common knowledge and skill; but the person inflicting the injury is not deemed to have caused the death if the treatment which was its immediate cause was not employed in good faith or was so employed without common knowledge or skill; (b) if he inflicts bodily injury on another which would not have caused death if the injured person had submitted to proper surgical or medical treatment or had observed proper precautions as to his mode of living; (c) if by actual or threatened

violence he causes such other person to perform an act which causes the death of such person, such act being a means of avoiding such violence which in the circumstances would appear natural to the person whose death is so caused; (d) if by any act or omission he hastened the death of a person suffering under any disease or injury which apart from such act or omission would have caused death; (e) if his act or omission would not have caused death unless it had been accompanied by an act or omission of the person killed or of other persons. **303.**

Definition of breaking and entering (1) A person who breaks any part, whether external or internal, of a building, or opens by unlocking, pulling, pushing, lifting or any other means whatever any door, window, shutter, cellar flap or other thing intended to close or cover an opening in a building, or an opening giving passage from one part of a building to another, is deemed to break the building. (2) A person is deemed to enter a building as soon as any part of his body or any part of any instrument used by him is within the building. (3) A person who obtains entrance into a building by means of any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any aperture of the building left open for any purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the building. **252.**

Assault on persons protecting wreck Any person who assaults and strikes or wounds any magistrate, officer or other person lawfully authorized in or on account of the execution of his duty in or concerning the preservation of any vessel in distress, or of any vessel or goods or effects wrecked, stranded or cast on shore, or lying under water, is guilty of a misdemeanour and is liable to imprisonment for seven years. **253. Other assaults** Any person who— (a)assaults any person with intent to commit a felony or to resist or prevent the lawful apprehension or detainer of himself or of any other person for any offence; or (b)assaults, resists or wilfully obstructs any police officer in the due execution of his duty, or any person acting in aid of that officer; or (c)assaults any person in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or respecting any trade, business or manufacture or respecting any person concerned or employed therein;

or (d)assaults, resists or obstructs any person engaged in lawful execution of process, or in making a lawful distress, with intent to rescue any property lawfully taken under such process or distress; The violence against women survey cast further light on the 16% who had been victims of assault.

- 71% of the respondents had been physically abused, most incidents occurring in the home (86%);
- 33% of these respondents said that the abuse happened countless times;
- In 66% of the cases the perpetrator was a partner or spouse;
- 45% of respondents had been sexually abused, rape occurring in 40% of these cases;
- 21% of these respondents said that this form of abuse (sexual abuse) happened to them countless times;
- In 54% of the cases of the respondents who indicated that they had been sexually abused, the abuser was not a partner or spouse.

Defilement sec 8.(1) A person who commits an act which causes penetration with a child is guilty of an offence termed defilement. (2) A person who commits an offence of defilement with a child aged eleven years or less shall upon conviction be sentenced to imprisonment for life. (3) A person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years. (4) A person who commits an offence of defilement with a child between the age of sixteen and eighteen years is liable upon conviction to imprisonment for a term of not less than fifteen years. (5) It is a defence to a charge under this section if - (a) it is proved that such child, deceived the accused person into believing that he or she was over the age of eighteen years at the time of the alleged commission of the offence; and (b) the accused reasonably believed that the child was over the age of eighteen years. (6) The belief referred to in subsection (5) (b) is to be determined having

regard to all the circumstances, including any steps the accused person took to ascertain the age of the complainant. (7) Where the person charged with an offence under this Act is below the age of eighteen years, the court may upon conviction, sentence the accused person in accordance with the provisions of the Borstal Institutions Act and the Children' s Act. (8) The provisions of subsection (5) shall not apply if the accused person is related to such child within the prohibited degrees of blood or affinity. Young people especially girls living in the slums tend to start having sexual experiences earlier than their peers elsewhere in Kenya. By the age of 16, girls who live in the slums are twice as likely to have had sex as their peers in the rest of the country (42.8 percent versus 20 percent). There is also little gender difference in sexual initiation for young people living in the slums in contrast with the rest of their peers. The psychological and social impacts of this entrenched pattern of abuse are profound. For example, young people who are sexually abused suffer higher rates of depression than others (20 versus 8 percent for males and 8 versus 7 percent for females). They are also more likely to report drinking alcohol (55 versus 32 percent for boys and 33 versus 20 percent for girls). Abused youths are also much more likely than their peers to use drugs (40 versus 17 percent for boys and 16 versus 6 percent for girls). To these psychological effects, we should add the potentially fatal consequence of contracting HIV/AIDS. Young people living in poverty are more likely than others to be depressed. As we have already seen, young people who do not have enough food to eat at home are six to nine times more likely to report being depressed to the point of giving up nearly all the time. Similarly, those who beg for money are two to three times more likely than their peers to be seriously depressed. Physical and sexual abuse — both highly prevalent in Kenyan society — are related to severe depression as well. As a result, 10.2 percent of young males and 6.9 percent of young females report being depressed nearly all the time to the point of giving up. These rates of depression — especially for males — are significantly high. Globally, rates of depression tend to be higher for females than for males.

DOMINIC KIBET MWARENG VS REPUBLIC

The appellant was charged with the offence of defilement contrary to section 8(1) as read with section 8(2) of the Sexual Offences Act.

Rape. Rape is the most highly under reported crime in Kenya. It is estimated that only 1 out of 20 women in Kenya will report a rape and only 1 in 6 will seek medical assistance. Relying on reported cases will therefore not provide a genuine picture of what is truly happening on the ground. Victims of rape tended to be women of all ages ranging from 9 month old to 105 years of age.

Rape among women was more likely to be perpetrated by men unknown to them. Thus among women who said they were raped during the post election violence 40% were raped by unknown men as opposed to 20% who were raped by relatives or men who were intimate with the victims.

Among those rapes reported to the police a higher proportion (60%) were said to have been committed by strangers.

The Police found that most rapes were carried out by multiple perpetrators.

In most cases, women were raped with the threat of physical injury, and often with the use of knives or at gunpoint. Almost half of all rapes occurred inside the homes of victims.

Data available to CSI Nairobi indicates that the current rapes (April 2008) are being perpetrated by persons known to the rape survivor (53%).

Findings from the rape analysis undertaken by CSI Nairobi show that, most of rapes occurred more frequently than the average on Saturdays (23.7% of all reported cases), particularly between 19h00and01h00.

Table of Estimated Statistics

Province	population	Estimated Rape cases	Population Percentage (%)
Central	3,923,900	4,658	11.5
Coast	2,975,400	3,564	8.8
Eastern	5,322,400	6,359	15.7
Nairobi	2,845,400	3,400	8.4
North Eastern	1,326,000	1,580	3.9
Nyanza	4,984,900	5,954	14.7
Rift valley	8,418,100	10,044	24.8
Kenya	33,947,100	40,500	100

* Population Statistics from Central Bureau of Statistics Web.

* 40,500 is a highly SHOCKING AND DISTURBING estimate.

However it is conservative. Indeed we contend the figure could be MORE THAN 3 times higher.

James Ng'ang'a Njau vs Republic

The appellant James Ng'ang'a Njau was charged with the offence of Rape contrary to section **3(1)** of the Sexual Offences Act **No.3 of 2006**.

CHAPTER THREE:

3.0 THE EFFECTS OF POVERTY ON CRIME.

3.1 INTRODUCTION

The question that presents itself in this chapter is how poverty influences the culture of criminality, in this chapter it is aimed that the effects between poverty *and* criminal offences be exposed as is main reason of this chapter. Poverty involves of a conflict between the ideal and the reality, the element of unemployment, the question of power and crime opportunities.

3.2 The Ideal and the Reality

Poor life involves an almost unbearable tension between the ideal and the reality, between the desired adherence to the need of the larger society and the insistent demands of life on the street. In essence, the ideal is what a person desires to achieve in the life for example the desire to have descent food, housing, clothing which to the reality one cannot achieve. The consequence therefore will be to achieve them through all the available means necessary. Necessary here would mean illegal means. This in turn will be repeated since human beings have a tendency of not being satisfied. Thus a deviant behavior will result.

Poverty drives people's senses of self to invest considerable- energy in such excitement which is to say activities that can tell them they do exist and matter. Thus poverty creates a sense of self-pity to which the lower class would make sure is concealed from the views of the others. In this event of concealment of this they are faced with circumstances that call for their survival. That is how to be seen in the society. In return poverty inflicts into the minds of the lower classes a culture that requires them to equal, others in the society through deviant means. Thus the effects of poverty on crime.

Actions of an illegal sort allow individuals from the lower classes to defy rules hence a deviant behavior, the consequent outcome being crime. Poverty therefore creates a euphoria that involves a seeming indifference to future consequences of one behavior.

Poverty in addition, creates a choice between immediate gratification and no gratification at all. That is a future in which everything is uncertain except the ultimate destruction of ones hopes and eventual realization of one fears, for those who are eager to make it in life, crime often seems to offer immediate, faster and more effective route to success. The most visible successful people in the poor neighborhoods are members of organized crime. Crime thus is a major employer as well as a principal source of credit. To the poor through crime, everything lies virtually in the realm of the possible.

3.3 Power Relations

A larger society like Kenya has goals and values that are expected to be achieved by the Persons who live in upper class. However there is a variance on how these are achieved since not every person has the same opportunities as others. There is a distinction of class that is the lower class, the middle class and the upper class. The behaviour of lower classes in their way of achieving many of the goals and values of the larger society is of concealing their failure from other as best as they can.

Poor life is thus a response to the restrain imposed by the Kenyan emphasis on SLICES.

Lack of opportunities like education, economic, and socio-political, affects profoundly and limit the choices that individuals and groups can make poor lives often people make create a life that is more of a reaction the middle or upper classes values. That is in revenge to unequal distribution of resources, poor people

strive so hard to balance this in bridging the gap through stealing from them. Poverty creates a distinction of people into classes whereby; others feel inferior while others feel superior. Poor people see nothing wrong in stealing from others in either the middle or upper classes,

3.4 Unemployment

Unemployment presents a threat to social order in Kenya. The gross imbalance that has tended to develop between education expansion and relatively limited economic growth in Kenya causes an orientation among the poor towards a society marked by disaffection and alleviation thus resulting in a behavioral disposition which is basically an anomic. In situations where the dominant success goals of a society are out of balance, with the means of achieving those goals, individual's mode of adaptation and response may include conformity and rebellion.

Given the dynamics of Kenya's deteriorating employment situations, conformity to existing success goals is a mode of adaptation which has been closed to all but few of the Kenya's" unemployed. When the institutional system of a society becomes regarded as illegitimate barrier to the achievement of culturally legitimized goals, the stage is set for rebellion as a mode of adaptive response. The rebellion may take the form of crime for example theft. This analysis makes clear that crime is the logical outcome of poverty. In addition it shows the readiness of the lower class to fight where, possible against the erosion of' their power or identity

3.5 Crime Opportunities

In addition, poverty plays a central role in creating and maintaining an environment in which crime flourishes. This can be seen by the way the law enforcing agencies relate to would be the offenders. Many of the officers are more

reluctant to interfere in the activities of the poor because either way they stand a chance to benefit. Their response to track criminals is thus short-lived.

Marcus Felson explains crime in terms of crime opportunities that occur in everyday life. He says that a crime opportunity requires that elements converge in time and place including a motivated offender, suitable target or victim and lack of capable guardian.

A guardian at a place could include guards or policemen or ordinary pedestrian's who would witness the criminal act and possibly intervene and report the crime to the police.

This observation of Felson might be true but it is contrasting in poverty stricken areas like slums. In the lower classes, guards are either few or do not exist, policemen are also few, pedestrians care the less. This is quite different with the upper class; this in turn creates an opportunity in which crime can flourish.

3.6 Political Activity.

On gaining her independence in **1963**, Kenya adopted the one party system thereafter as its governance method as it justified by the notion that it could unite the varying tribal groups. However, the one party system was characterized by political intolerance as seen in the government use of coercion and excessive force in curbing opposition.

Even with the introduction of multi-party democracy in the **1990,s** violence related to political activities was still a characteristic feature in the Kenyan political arena. This was especially so during election periods and the run up to general elections, a trend that has continued to date. Murder, destruction of property and violent confrontation between opposing groups have been witnessed in the run-up to the **1992, 1997, 2002, and now 2007** general elections.

Ethnicity is another related issue that cannot be ignored as a fact that has contributed to political tensions and violence. Founded on the former colonial policy of divide and rule, ethnicity was used as a tactic used to play ethnic communities against each other. The colonizers bestowed political and economic favor on communities that best served their political and economic interests. As a result ethnic political elite with close contact to colonial powers inherited the accrued benefits, both political and economic. Ethnic divisions within the communities even after the departure of colonialists have thus become a common feature in the political process in Kenya⁴⁷. Deeply entrenched loyalties to one's community among the ruling class have had a bearing on who enjoys the national cake in politics. This perceived notion by many Kenyans⁴⁸ has created situations of tension and violence in the electioneering process. The 2007 disputed presidential results have clearly demonstrated this with the worst case of post-election violence in Kenya's history being experienced. A crisis of insecurity and a general sense of fear have affected families, individuals and business operations in Kenya. Death, displacement of families, destruction of property and livestock, are some of the worst results of the 2007 Post Election violence⁴⁹.

3.7 Criminal gangs and vigilante groups.

In Kenya, gangs arose in response to the security gap characteristics of many low income areas and slums. The existence of criminal gang and vigilant groups in urban areas is founded on public anxiety about the levels of crime within the areas gangs and vigilante groups, who were considered to have elements of criminal behavior are seen as a source of the increasing incidences of violence especially in the context of informal and slum settings. Gangs compete to collect rent from heavily populated

⁴⁷ Elkins C: The standard January 7th 2008 Ethnic woes legacy of colonial power game.

⁴⁸ Daily Nation February 29 2008 Kenyans pit tribe via sms

⁴⁹ Media reports indicate that over 800 people died 300,000 people displaced and property and infrastructure worth billions of shillings destroyed. The Daily Nation Jan 21 2008 Effects of post-election violence.

areas; they then keep the income instead of passing it to the landlords. Hiring gang members and outside groups to collect rent thus creating a cycle of violence. For instance the Taliban; formed in the late 1990's, was seen as a response to the growing criminal incidences in the Kariobangi area. In addition to providing private security the Taliban⁵⁰ are said to protect the livelihood of businesses and retailers in Kariobangi North. However, this group mainly formed along ethnic lines has been implicated in the perpetuation of violence as evidenced in the first quarter in the first quarter of 2001 and 2003 confrontations over rent disputes in Kariobangi and Mathare valley with a rival gang, Mungiki.

Mungiki gained a following in the informal and slum areas where they were seen to provide the much needed security in addition to water and transport service. It spread to other low income and informal settlements mainly in Nairobi; particularly the slums of Korogocho, Githurai, Kariobangi, Mathare, Kayole and Dandora. Mungiki⁵¹ a sect with nationalistic leanings, were thrust into the criminal scene in the early 1980's. They gradually become a law unto themselves, extorting bribes, trying 'suspects' and have been implicated in torture and killing. Incidences of Mungiki attacks which have been heightened insecurity include the killing and beheading of four people in parts of Nairobi and Central province. Other vigilante groups and gangs that have been mentioned with regard to crime and increase of insecurity include Kamjeshi, Jeshi la mzee, Jeshi la Embakasi, Sungu Sungu, Kosovo boys, Amachoma, Chinkororo and Dallas Muslims.

⁵⁰ These groups are preferred by residents because they are available, unlike police who patrol the areas regular schedules. See Wairungi Kimenju and Singo private security in Kenya.

⁵¹ Media reports indicates a total of 112 people have killed in gang related violence and police shockings by June 23rd June 2007 Gang mayhem Twelve killed by Mungiki attacks.

Criminal gangs have re-emerged in the city slum areas in the wake of post-election violence that characterized the 2007 elections. In the areas hardest hit by the violence members of some communities have embraced gangs to provide security. In Nairobi prevalence of gang activity has been reported in the informal settlement and slum areas of Kariobangi, Huruma and Mathare. The Taliban and Mungiki⁵² gangs are cited to be providing security for residents in these areas. Landlords have also hired gang members to ensure that their property is not destroyed; property owners are also using the gangs to evict tenants who have occupied their houses forcibly⁵³.

⁵² These groups were banned by then president Moi in 2002

⁵³ The Daily Nation January 24th 2008 outlawed gangs re-emerged in city slums to offer protection.

CHAPTER FOUR:

4.0 CHALLENGES TO ASSESS THE TYPE OF CRIMES AND HOW THEY ARE COMMITTED.

4.1 Introduction

Why are violent criminals drawn so heavily from the ranks of the poor? The answer lies not in the genes, but in the nature of the lives poor people lead and of the communities in which they reside. The close association of criminal offence with urban lower-class life is a direct result of the opportunities that are not available. The question posed in this chapter is not why particular individuals in poor areas choose a life of crime; it is why the people who make that choice are concentrated more heavily in the lower class than in the middle or working class.

To explain this phenomenon, I have come up with some theories that show the reasons for the choice of criminal behaviors.

4.2 Observations

4.2.1 The Choice Theory

Children growing up in urban slums and ghettos face a different set of choices than do youngsters growing up in middle-class neighborhoods, and they have a radically different sense of what life offers. By the time children are six or eight years old, their view of the world has been shaped by their surroundings and by their parents' as well as their own experiences. Children of the upper class and upper-middle class develop what the psychiatrist **Robert Coles** calls a sense of "entitlement" "Wealth does govern the minds of privileged children, gives them a peculiar kind of identity which they never lose, whether they grow up to stockbrokers or communards", that identity

grows out of the wide range of choices with which privileged children live-choices about toys and games, food and clothing, vocational and careers. Their identity grows out of their sense of competence as well for they live in a world in which their parents and by reflection. They themselves exercise authority in which they influence and often control their environment. They are the master of their fate: their world.

To the "children of poverty." those who want something badly enough usually do not get it, no matter how hard they work or how long they wait. Nothing about their own lives or the lives of their parents or relatives or friends suggests that "if you really work for the rewards you will get them." Quiet the contrary; poor children grow up in a world in which people work hard and long, for painfully meager rewards. It is a world too, in which parents and relatives are at the mercy of forces they cannot control a world in which illness, accident, recession, an employer's business reverses, or a foreman's whim can mean the loss of a job and a long period of unemployment, and in which 11 bureaucrat's arbitrary ruling can mean denial or loss of welfare benefits and thereby of food, clothing fuel, or shelter.

Understandably, poor children come to see themselves as the servants, not the masters of their fate. When i was doing research on secondary education in Nairobi Academy schools with a predominantly middle-class population, the valedictorians typically spoke of how they and their classmates would affect and change Kenyan society. In schools with a lower-class

Student body, the students speaks sounded a different theme. "The need to survive".

4.2.2 Cultural Influence

It is harder to be poor in Kenya for Kenyan Culture has always placed a heavy premium on success. Winning is not the main thing it is the only thing. Criminal offences are more frequent among the poor than among members of the middle class. I can argue

that because Kenyan culture imbues every one with the opportunity to achieve through conventional means: and the cultural emphasis on success is greater now than it used to be: Everyday of the week, in the films they see, the television programs they watch, and the public schools they attend, poor people are bombarded with message-; about: success - vivid images of the life style of the middle class.

Television, in particular drives home the idea that one is not a full-fledged Kenyan unless one can afford the goods and services portrayed in the commercials and in⁵⁴ the viewed programs. To poor people, the TV screen provides a daily reminder, of the contrast between their own poverty and the affluence enjoyed by the rest of society.

4.2.3 Crime As Occupation

It should not be surprising that many poor people choose the routes to success that seem open to them. To youngsters growing up in lower-class neighborhoods, crime is available as an •occupational choice, much as law. medicine, or business management is for adolescents 'raised in Loreto or Kileleshwa - except that lower-class youngsters often know a good deal more about the criminal occupations available to them than middle-class youngsters do about their options. In my conversations with young respondents. I was struck by the depth of their knowledge about robbery, burglary, "fencing", sale and use of hard and soft -drugs. Prostitution pimping and other crimes, I was impressed too, by their detailed knowledge of which faces number of operators, and other criminals were paying off which police officers as well as by their cynicism about governmental corruption in general.

It is not simply a matter of opportunity: role models are important as well. When they think about who's got the power in their neighborhood. They most think about people who have got to the top in strictly illegal ways. The ones see are the ones who interest me." an ex- offender says, recalling his childhood. "If it had

⁵⁴ KNHCR Chairman, Maina Kiai

been doctors and lawyers who drove up and Parked in front of the bars in their cardiac. I'd be a doctor today. But it was not: it was the men who were into things, the pimps, the hustlers and the numbers guys.

In some lower-class neighborhoods, youngsters learn to become criminals almost as a matter of course, "Education for crime must be looked upon as habituation to a way of life." The late Frank Tannenbaum wrote in 1938. In his neglected classic, *Crime and the community*. "As such, it partakes of the nature of all education. It is a gradual adaptation to and a gradual absorption of, certain elements in the environment". Since it would be hard to improve upon **Tannebaum's** description, I shall quote from it at length.

4.2.4 Education For Crime

The development of a criminal career has "elements of curiosity, wonder, knowledge. Adventure," **Tannenbaum** wrote. "Like all true education, it as its beginnings play it starts in more or less random movements, and builds up toward techniques, insights, judgments, attitudes" Like all true education, it also uses whatever is available in the environment, i ncluding "'such humble things as junk heaps, alley ways, abandoned houses, pushcarts, railroad tracks, coal cars." Children begin with things that can be easily picked up and carried away and easily used or sold.

Education for crime is a social process as well - "part of the adventure of living in a certain way in a certain environment." **Tannenbaum** 'continued. "But both the environment and the way of using it must already be there." if his career is to develop. The young criminal must have encouragement, support and instruction from his friend and elders. Particularly from what **Tannenbaum** calls "the intermediary," i.e. the fence, even if he is nothing more than a Junk dealer or peddler, the fence will "purchase bottles, copper wire, lead pipes, bicycles, and trinkets. He will not pay cash which can be used to continue the play life of the

growing children for movies, candles, sweets, harmonica, baseball bats, gloves and other paraphernalia, but if he is a friendly and enterprising fence he will throw out suggestions indicate where things can be found, will even supply the tools with which to rip and tear down lead pipes or other marketable materials. And the young gang will accept the suggestions and carry out the enterprise as a part of a game each act providing a new experience, knowledge, new ways of seeing the world, new interests".⁵⁵

Other factors are needed; too, there must be a cynical attitude towards the police and towards property belonging to business firm and government agencies. There must be older criminal who use adolescents as messengers or lookouts and to whom the youngest look for approval. And there must be conflicts between delinquent youngest and older more settle people who are their victims and who call for police protection, all these elements are part of the atmosphere of the government within which education for crime proceeds.

The slow persistent habituation of an individual to a criminal way of life occurs frequently and naturally in lower class neighborhoods because so many criminal opportunities are available: numbers operations, bookmaking and other illegal gambling enterprise selling heroin. Cocaine, marijuana and other drugs: loan sharking; male and female prostitution; pimping and after hour sales of alcoholic beverages, and hustling and theft in all their manifold form.

4.2.5 Theft In Poverty Stricken Areas.

Theft is in the very air that lower class youngest breath, it is visible not just because of its frequency, but because crime such as burglary and stealing from parked cars are not isolated act by isolated individuals. On the contrary, the individuals' act of theft is just beginning of an elaborated process whereby stolen merchandise is acquired,

⁵⁵ The Daily Nation 2008; Refugees fear returning to their homes.

converted, redistributed and reintegrated into the legitimate property stream. About 95 percent. Of the poor people will buy "hot goods", one of informants told me it is bargain; they are not going to turn it down.

Reluctance to turn down a bargain is not unique to the lower class. Many middle-class people knowingly buy stolen merchandise, and sonic respectable merchants increase their profits by selling stolen goods unbeknownst to their customers. Because they lack the job titles and other devices that shore up middle-class people's sense of self, members of the Lower class fell an even greater need than members of the middle class to define themselves through consumption.

Far from being considered dishonest, patronizing the stolen property is a way of evening the score, of getting one's fair share in an unfair world. From a lower-class perspective, buying a name-brand item at 50 percent or more below list price is a means of correcting a social imbalance, of redressing the misdistribution of income from which they suffer.

At the same time, poor people's readiness to buy stolen merchandise contributes significant to their own poverty. Thieves do not limit their scores to middle-class target juveniles, Addicts, and other impulsive and semi-professional thief tend to prey on their own communicate where apprehension is less likely. The results is a vicious circle normally abiding people who have been victims by burglary or sonic other form of' theft feel justified in buying hot merchandise to recoup their losses as cheaply as possible but! their patronage, in turn, make it easier for thieves and fences to dispose of their ware and encourage further theft.

Corruption aside, lower-class people's readiness to support the stolen property system is upheld by the benign view the rest of society takes toward fencing. Judges, prosecutors, police, and the public *at large* share a myopic legal tradition that focuses on individual acts of theft rather than on the stolen property system as a whole. One consequence is that judges rarely give prison sentences to fences,

preferring to reserve the harsh penalty of incarceration for people they deem dangerous. Prosecutors and police administrators, in turn, are reluctant to proceed against fences. Building a strong case against a fence requires the investment of a great deal of prosecutorial and/or police time and effort, and the investment appears to be a proper allocation of resources when the end result its likely to be no more than probation or a fine for the convicted fence. From a police perspective, therefore, it often makes more sense to offer a fence protection in exchange for information. But from the perspective of people living in lower-class neighborhoods, the fact that fences *no* free, while burglars go to prison, serves to reinforce their cynicism about the law and law enforcement.

Be that as it may, for residents of lower-class neighborhoods, stolen merchandise is like to be available wherever they turn: in beauty parlors, barbershops, restaurants and bars, news-stands, after-hours clubs, gambling joints, appliance stores and repair shops, jewellery stores. Pawn-shops, liquor stores, dry-cleaning stores, auto repair and body shops, auto necessary stores, used-car lots, lumberyards, and retail clothing stores, as well as from cabdrivers, truck drivers, delivery and "route" men, and so on. Some of these outlets are primarily sellers of stolen merchandise, with the legitimate business serving only or mainly as a front. Most are more or less legitimate businesses whose owners supplement their incomes by selling stolen merchandise.

For safety's sake, professional thieves prefer to deal with the same fence on a regular basis a fence is far more likely to "finger" an unknown or occasional thief than one on whom he depends for his inventory. When thieves know before hand what their take will be. They may negotiate a price in advance: and simply knows what the "MM puce" is for stolen merchandise on a particular sort and plans their scores accordingly.

4.2.6 Employment Status.

Slum areas were considered regions of urban poverty. This was directly attributed to the ability of the residents to secure income earning activities. The work of many of the slum residents involved low income earning activities such as casual labour. For example, about one third of the slum adult population comprised casual labourers. Another quarter was absolutely jobless. A comparison between the settlements showed that there was no significant difference as far as work status was concerned. However, the incidences of involvement in casual work were higher in **Mathare** than in any other slum areas. Additionally, the incidence of self employment accounted for about a quarter (24%) of employment. This was slightly more pronounced in **Korogocho (31%)**.

4.2.7 Ethnicity.

Slums result from rural-urban migration. Typically, those who moved from the rural to urban areas to look for work stayed with their family members, distant relatives or village mates. This therefore led to the concept of ethnocentric slum habitation. This essentially meant that in slums, most people lived in ethnic colonies. For example in Kibera slums, there existed villages such as Kisumu Ndogo where majority of the inhabitants came from the Luo community. Additionally, in Laini Saba, The Kamba formed the majority of the inhabitants.

As far as ethnicity was concerned, four major communities dominated. First, the Kikuyu and Luo were prominent in the slums with 25% and 27% respectively.⁵⁶ In the second tier were the Luhya and Kamba who had at least 15% each. From each slum perspective. Kibera was dominated by Luhya and Luo, Mathare by Luo and Kikuyu, Mukuru by Kamba and Kikuyu while Korogocho was dominated by Luo and Kikuyu as well as Nubians were found in Kibera alone and accounted for 2% of all slum population and 7% of all Kibera population.

⁵⁶ International Journal of Current Research, Vol 3, issue, pp, 275-285, Dec 2011.

4.2.8 Educational Attainment.

The slum population could be described as semi-illiterate. About three in four (75%) adults in the area had primary and secondary school education. Another 15% indicated that they had or were pursuing tertiary education. Comparing the different slum settlements. Mukuru dwellers were significantly more learned than their counter part the other slums. More than six in ten adults from **Mukuru** slums had secondary school level education and better compared to their counterparts in the other three slums.⁵⁷

⁵⁷ International Journal of Current Research, Vol 3, issue 12, pp. 275-285, Dec 2011.

CHAPTER FIVE:

5.0 GENERAL CONCLUSION AND RECOMMENDATIONS.

5.1 Conclusion:

In the face of growing demand for equity, there is great need to ensure that crime is ameliorated. My evaluation is that poverty influences crimes thus eradicating them is eradicating crime. Poverty has presented a situation of intensified social disorder that has divided the Kenyan society. The only way to fight crime is to fight poverty. Remove poverty and crime will subsidies.

The preceding conclusions hold true, I think, for much of the third world" countries. For the process of stratification and consolidation that lie in the roots of social conflicts in Kenya are common place throughout Africa, Asia, and Latin America.

Thus the fabric and texture of life in urban slums and ghettos provide environment in which opportunities for criminal activity are manifold, and in which the rewards for engaging in crime appear to be higher than the penalties for crime, and higher than the rewards for avoiding it. It seems to me that the kind of neighborhood you come up it may make all the difference in which way you go and where you end up. Therefore I can confirm that deviant behaviors in slums are due to lack of opportunities and that poverty leads to criminal offences in slums.

Crime is an inevitable phenomenon in most societies; however unsustainable levels of insecurity and crime create a culture of suspicion, intolerance, and inefficiency and frustrate sustainable development. In Kenya factors that exacerbate crime and insecurity have their roots in social and institutions deficiencies such as corruption, weak institutional frameworks and inadequacy of policy to address insecurity, inequality of opportunities and

weak family ties.⁵⁸ The above issues are clearly reflected in the study analysis with poverty and inequality having a bearing in most crimes.⁵⁹

Political activities have also come to the fore as having a huge bearing the situation of security as demonstrated by the onset of the 2007 post-election violence. Crime and the issue of security is thus a multi-faceted phenomenon that affects all aspects all aspect of society be the government, business interest and individuals. It is therefore imperative that gaps that create opportunities for insecurity and crime to thrive be identified and addressed via policy, government, community and civil society participation and involvement. Several measures have been undertaken by the government and civil society, these measures include: (a) The establishment of National Steering Committee for Peace Building and Conflicting Management. (b) The development and implementation of community based policing programmes.

(c) The establishment of a National Focal Action plan on Arms Control and Management Project which support community based approaches to improve security. Civil Society, Non-Governmental Organizations and individuals have also been playing an increasing role in addressing the issue of insecurity and crime. On a community level, several initiatives have been started to address insecurity and crime, such as; the **Kibera Interface Initiative and Nairobi Central Business District Association**; the later is currently involved with the Group 4 Security group in the installation of CCTV in ten most crime prone areas. However going by the 2007 post-election violence as witnessed to date, much as has been done to address the root cause crime and insecurity.⁶⁰

⁵⁸ The Daily Nation 2008; Refugees fear returning to their homes.

⁵⁹ Kibera Interface Initiative and Nairobi Central Business District Association.

⁶⁰ See the standard; February 07 2008; The impact of poll violence.

5.2 Recommendation

Unless the poor are determined not to be poor, poverty cannot be solved. Poverty is best abolished by the development of consciousness. Next best is to develop infrastructure; including organization and education. Aid to other countries is not wise; it is egotistic by the giver, and for the recipient destroys self-reliance, and creates hostility. A country like the US wants to help end poverty it can help with infrastructure. Planning, but not aid. The best approach is to overcome its own poverty, which will vibrate out as life responds to break poverty in corresponding places on earth.

Usually when aid comes in, self respect goes out. Worse than that the very capacity of self reliance is undone essentially. Self is the Soul of a nation. It is seen as self-respect and self reliance. They are not worth parting with. It is a truism in the lie J of development that a Society will really develop when its members take it into their own hands. Any work of the government or other agencies may do the initial spade work, but it is not capable of consummating the process of development a high degree of Prosperity reduces to man, wanting more and more as days pass-by .

5.2.1 The 'Adopt-A-Cop' Programme

One of the problems with crime prevention is that there is often a feeling of distrust for the police among young people. The 'Adopt-a-cop' programme would involve officers spending time with the community out of uniform. Having dinner at different people's homes. Helping with local youth groups and generally mixing with the people they protect.

Hopeful the experience of knowing policemen as a friend would make it easier for young people to approach other policemen and lessen the attitude of 'them and

us' that is the cause of some kinds of 'frustration-crime' committed as a way of thumbing a nose at society in general, and the police in particular.

5.2.2 Game-Show Justice

In the past there were several methods of punishment that included a strong element of public 'humiliation'. The stocks and pillory provided a way of heaping the maximum discomfort on people who broke the rules of the community and provided a convenient way of allowing justice to be seen to be done to the satisfaction of the community.

The modern equivalent of the stocks on the village green would be a live television show – humiliation. Society ladies and gentle men may be less inclined to bend the law if they knew that the penalty for getting caught would be rolled naked in custard and horse manure on live television.

5.2.3 Career Options For Habitual Criminals

There are quite a few things that can be done to stop opportunist crime, but it is much harder to tackle the problem of career criminals who use crime as a way of life. These are people often skilled at what they do who need some kind of alternative employment to utilize their abilities and energy.

The following suggestions could be ways of using such people in a win-win situation.

- i) Provide them with pensions so that they have no need to return to crime
- ii) Set them up in business helping the police and other bodies in crime prevention.
They can be used to test out methods of stopping criminals.

- iii) Create some kind of competitive spectator event in which the skills of the criminal can be used creatively for general enjoyment. After all, there are big aggressive men who earn a fortune by using their skill to carry a hail over a line, so why not create similar opportunities for agile and dexterous individuals to similarly cash in on their abilities.
- iv) Employ them as non-executive directors on the boards of companies to provide creative input - they may have a different perspective from other board members.
- v) Employ them as magistrates. They understand the situation of criminals better than local worthies, so they may be able to judge other criminals more imaginatively and effectively.

5.2.4 Schools Project/Competition

Local police could go into schools and discuss crime prevention with teenagers, who would be invited to suggest alternative approaches.

This could be followed up with a national competition for schools to produce the best ideas lateral thinking techniques could be introduced (where they were not already being used) to improve the quality and the quantity of the ideas. Many benefits could accrue from this action:

- i) Practical new ideas could emerge to help prevent crime.
- ii) Young people would have better awareness of the 'reality' of crime.
- iii) Lateral thinking techniques could be learnt and applied to serious social issues a meaningful way.
- iv) The police might be encouraged to use lateral thinking tools themselves

- v) It could convince educationalists that lateral thinking techniques should be more widely taught in schools
- vi) Similar initiatives could be launched in other countries (different social problems could be addressed).
- vii) Companies willing to sponsor the competition would get excellent exposure
- viii) A child who might have drifted into crime may instead help to prevent it

The level of employment seems to correlate with crime rates. Unfortunately tourists are often perceived rich and easy victims by criminals. For a hotel in Nairobi was recently attacked and robbed the first night after a new group of tourist arrived.

Everything, even their shoes, was taken, and some violence was involved. Crime and violence is now causing some serious damage for tourism.

5.2.5 Crime Prevention Force

There is great opportunity for creative thinking in this problem area. But prevention would probably require changing perceptions, which is difficult. On the other hand it might be more effective in reducing crime rates than trying to catch the "bad guys" after the damage has been done. It might be possible and necessary to design and create an effective Crime Prevention Force (CPF) where it would be possible for volunteers to contribute in a constructive way. This would be different from traditional methods, where the energy is used dealing with the damages, instead of preventing them in the first place. Crime prevention should be focused on the most dangerous times (night, tourism season) and places (known high-risk areas of city, popular tourist attractions, public transportation system, hotels) - it might be useful to divide cities and other potential problem areas in colour-coded zones like for example: blue (secure places), yellow (beaches), Green (park forests}, white (airports, hotels, business), red

(restaurants, entertainment and night-life), and black zones (dangerous, crime-infested areas, 'those places that should be avoided at all cost').⁶¹

This information could be included in tourist maps and city guide books.

5.2.6 Benefits for CPF volunteer might include

Provide useful work to do for those people who are unemployed people could be trained to work as "rent-a-chauffeur's/guides/ guards", this could operate in a similar fashion as the existing rent-a-car and tax services Extra payment offered for effective results (personal tips earned from customers, and special periodic bonuses according to results. Of course, the employees would be paid only if the overall crime-free. A special bonus could be paid, if the overall crime rate in the area drops. Social respect as a special reward (the media could play a big behavior reinforcement role 'here).

¹ The Standard; January 21st 2008: surviving uncertainty.

5.2.7 Who would pay for this CPF-project?

The money would come from those who would eventually have *to* pay for the costs of crime anyway, i.e. The government and the tourist industry. The customers would probably be willing to pay/tip for effective services. The project should be able to pay for itself; it should not increase the public expenditure.

Secondly, the government should encourage education and give benefit to poor people. By education, people can be improved their understanding and their attitude become better. Especially, the government needs to invest in the education fund. The above shows the support of Emuhaya Constitutional Development Fund (CDF) is putting place on social support to improve the region, reduce poverty and the rate of criminal activities the youth may engage in. Emuhaya District Institution like Equity Bank and Kenya Commercial Bank have engaged the poor communities in small micro finance business through loaning credit systems. The Bank support activities like education, sports, and poverty reduction activities in 2010. Equity Bank sponsored Kenya Secondary Certificate of Examination students 720,000 Kenya shillings to pursue University Education in the University of their choice.⁶² This has help poor students have the chance to study. They can find good jobs after graduating.

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