

**THE RELATIONSHIP BETWEEN POVERTY AND CRIMINAL BEHAVIOR IN  
KENYA; A CRITICAL ANALYSIS ON THE CRIME OF THEFT.**

**BY**

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**LLB/7179/52/DF**



**A RESEARCH DESERTATION SUBMITTED TO THE FACULTY OF  
LAW IN PARTIAL FULFILMENT FOR THE AWARD OF  
BACHELOR OF LAWS DEGREE OF KAMPALA  
INTERNATIONAL UNIVERSITY**

**JUNE 2010**

## DECLARATION

I Opiyo Harmon Odiwuor do hereby declare that the work presented here in this dissertation is my own, save where acknowledged and it has never been submitted or examined in any University as an academic requirement for any award.

Signed



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14/7/2010

Signed



Mr. Ssali Joseph Mary (Supervisor)

Date of Approval

14 July 2010

## ACKNOWLEDGEMENTS

I am forever indebted to my parents Mr. and Mrs. Jeremiah Opiyo Jonyo for constant encouragements throughout my studies. I am equally grateful to my lecturer Mr. Ssali Joseph Mary who has been my supervisor without his help I would not have been able to get my work off the ground.

I wish to thank my sisters Lillian and Christine for their understanding and the support they gave in my quest. I thank them for patiently putting up with my meandering mind during that time. You were the glue that held me together and I would never have made it without you. May the almighty God reward your sacrifices.

Lastly but not least I thank all my friends and classmates who offered their support and encouragements throughout the difficult moments. Am grateful to Nabwire Juliet, the Mahoganies and Margaret Njuguna; not to mention others. I will never be able to thank you enough.

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## LIST OF ABBREVIATIONS

AIDs	-	Acquired immune Deficiency Syndrome
ALLER	-	All England Law Report
BBC	-	British Broadcasting Corporation
E.A	-	East Africa Law Report
NGO	-	Non Governmental Organization
Prof	-	Professor
TV	-	Television

## LIST OF STATUTES

The Penal Code Act Cap 73 Laws of Kenya.

## LIST OF CASES

Sewava Vs Uganda(1996) EA. 487

Edwards vs. Ddlin (1976) 3 ALLER 705

Edwards vs. Ddlin (1976) 3 ALLER 705

R Vs McGrwoth(1890) LR ICCR 105

Hilbert Vs. McKiernan (1948) 2KB 142



# CHAPTER ONE

## 1.0 INTRODUCTION

A developed nation always gives law the benefit of championing peace and stability. In this regard everybody is endowed with the ability to realize what is right and what is wrong in a bid to maintain law and order.

The Kenyan legal system includes agencies for generating and administering law as well as groups of people who by reason of education, experience and expertise, have the resources of enabling peace and tranquility. However there is also a group of people who by reason of economic disadvantage lack such knowledge so as to give forth what others in the periphery expect them to give. They therefore find themselves trapped in a legal system that outrages their conscience. As a consequence, they have two recourses; they may abide by the laws until such a time that they be changed or they may choose to disobey. Disobedience thus, is the way to criminal behavior.

Human-being needs a sense of being a person of sense and value in the society. However, in a society that rewards success and penalizes failure, to be economically disadvantaged is to live in 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 attitudes they convey through words, posture or and 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 this study. To be able to address these challenges, one must be able to have an awareness of the challenges

facing the people living in slums. In this way it would be more possible to present ways of ameliorating crime.

There should be an insistence that law is ethically valid and conform to the requirements of the systems of rights the purpose of which the state exists to maintain. It 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 provide for their grievances takes too much time and are less adequate, would 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 criminal behavior will be the dependent variable.

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

## **1.1 BACKGROUND OF THE STUDY**

Slums are looked at as harboring all sorts of evil people ranging from thieves, prostitutes, gangs, robbers, illiterates, drug addicts and violent political activists. In a BBC report by one Tommy Oladipo on the film Kibera Kid, the slum is depicted as a place not worth living because of insecurity, very poor health conditions, poor infrastructure and poor communication network. In a report by Cyrus Ombati in the East African Standard, Poverty Fueling Crime, Says Police boss, the former police chief is quoted as saying that “What you see in the society is as a result of joblessness and poverty.” In their website, RODI, crime is rampant in Kenya and most of the commonly committed crimes are poverty related. Upon his visit to Australia, the Opposition Leader of Kenya, as he then was, Hon. Raila Odinga, was

quoted as saying that most people are driven by poverty to resort to corruption and crime in order to survive. It is therefore a perception of the many that crime is associated by poverty. Theft is in the very air of the residence of Kenyan urban. Police statistics of the years 2007 to 2009 show theft as one of the major crimes committed by those who have since been reported, arrested charged, tried, convicted, and/or sentenced.

This study therefore is aimed at giving an in-depth analysis on why the people who make the choice of stealing are concentrated heavily in the lower class than in the middle class or the upper class. It will examine how people think about criminals; visa avis their poor state of living and the prevention of criminality in slums.

## **1.2 STATEMENT OF THE PROBLEM**

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

There is appalling poverty in slums which is concealed from the views of the many. There are only perceptions and few researches that show why poor people are most likely to commit crime than rich people. In Kenya for example, there is a wide perception that most criminals come from slum 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 be criminals.

### **1.3 OBJECTIVES OF THE STUDY**

1. To find out why people who commit crimes are drawn heavily from slums than in the suburbs.
2. To find out how lack of opportunity forces people to violate the law
3. To find out the weaknesses of and the challenges of the law enforcing agencies
4. To give recommendations as to the reforms in the criminal justice system in Kenya i.e. ways of which criminal behavior can be ameliorated

### **1.4 HYPOTHESIS**

1. Deviant behavior in slums is due to lack of opportunities
2. Poverty leads to criminal behavior in slum areas

### **1.5 SCOPE OF THE STUDY**

This study covers poverty as a risk of victimization, and how criminal behavior (theft) can be prevented. It targets criminals from the slums and not victims of crime. It is aimed at providing ways of preventing criminal behavior.

### **1.6 SIGNIFICANCE OF THE STUDY**

The purpose of this study is to draw facts that are needed to determine why the incident of poverty and criminal behavior 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 is 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 CHAPTERS

This paper will be divided into four chapters

Chapter one contain 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 relationship between poverty and criminal behavior. Finally the fourth chapter considers observations, recommendations and conclusions.

## 1.8 REVIEW OF RELATED LITERATURE

In a bid 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 levels of education can predispose people to criminal behavior.

Adolphe Quetelet in the book *Adolphe Quetelet and the origins of positivists 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 factors related to crime<sup>1</sup>. Quetelet's findings however are on the causes of crime and not the relationships 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 crime<sup>2</sup>. Equally, Emily Quirkheim viewed crime as an inevitable aspect of society, with uneven distribution of wealth and other differences among people. However these literatures do not point the

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<sup>1</sup> Beirne Piers (March 1987). "*Adolphe Quetelet and the origins of positivists Criminology*" American Journal of Sociology 92(5) PP 1140-1169

<sup>2</sup> Hayward. Keith J. (2004). *City Limits: Crime, Consumerism and the Urban Experience*. Routledge PP 89 ISBN 1904385036

reasons why crime is more 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 link the relationship between poverty and criminal behavior.

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 levels of poverty often experience breakdown in 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 eventually creates an environment ripe for deviant behaviors<sup>3</sup>.

On the other hand, Bursik Jr in their work *Social Disorganization and Theories of crime and Delinquency: Problems and prospects* suggested that a poverty concentration effect may cause those neighborhoods to be isolated from the mainstream of society and become prone to violence<sup>4</sup>. I am inclined to agree with the above literature however it does 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.

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<sup>3</sup> [www.wikipedia.com/criminology](http://www.wikipedia.com/criminology)

<sup>4</sup> Bursik Jr., Robert J (1988). "*Social Disorganization and Theories of crime and Delinquency: Problems and prospects*". Criminology 26:P519-539

would lead to eradication or eventual elimination of poverty<sup>5</sup>. This work discusses poverty eradication and helps showing what poverty is. From his work, it 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 7 years, they have already been absorbed into the culture of poverty and they are not psychologically geared to take full advantage of changing their condition. Psychological premise 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 deprivations. "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 exist.

Absolute poverty can be defined by 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 national per capita income.

World Bank economists Ahluwaha, Carter and Chenery 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 show substantive decline in absolute poverty though no means an eradication of it. Absolute poverty can be

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<sup>5</sup> Robert Chambers. (1983) Rural Development — Putting The Last First. Essex, England: Longmans Scientific and Technical Publishers; New York: John Wiley

measured by 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 car 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 some one 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 as being worse to a condition perceived as being better off.

Subjective measure of poverty simply reflects how individual perceive themselves in relation to what is considered good. Social indicators of poverty include 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 considers three components that includes; mortality rate, life expectancy or longevity and levels of education.

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

Level of education given by general school enrolment, drop out rate and gender disparity in 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 forms basis on which to involve the poor people from the slum area who for such long time have been neglected in the process of development 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 values and ideologies used by particular society to determine its levels of poverty. This explains why crime rate is high in developing countries than in developed countries.

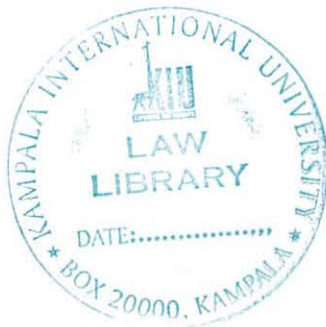
What is considered is not basic to the slum people. They have adopted to live without some of the things that one considered basic. Therefore to them this "necessities" becomes luxuries although they are needed to make their lives better. This argument shows why it's basically hard to agree upon state social welfare that cause basic livelihood for the poor people. This is according to absolute measure of poverty.

In effect therefore this research builds on the above literatures to show how poverty influences crime.

## 1.9 METHODOLOGY

This study aims at showing why poverty influences criminal 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 documents and archives, newspapers and news letters, NGO reports, Text books and reports from libraries.



## CHAPTER TWO

### POVERTY AND CRIME

#### 2.1 What is poverty?

Poverty refers to the condition of not having the means to afford basic human needs such as clean water, nutrition, health care, clothing and shelter<sup>6</sup>. Poverty is usually measured as either absolute or relative (the latter being actually an index of income inequality). Absolute 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 day<sup>7</sup>.

Economic aspects of poverty focuses 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

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<sup>6</sup> <http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?lextype=3&search=poverty>

<sup>7</sup> <http://www.newsweek.com/id/160070>;

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/0..contentMDK:20153855~menuPK:373757~pagePK:148956~piPK:216618~theSitePK:336992,00.html>

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 power<sup>8</sup>.

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 society<sup>9</sup>.

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. .

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<sup>8</sup> Amartya Sen, 1985, *Commodities and Capabilities*, Amsterdam, New Holland, cited in Siddiqur Rahman Osmani, 2004, *Evolving Views on Poverty: Concept, Assessment, and Strategy*.

<sup>9</sup> H Silver, 1994, *Social Exclusion and Social Solidarity*, in *International Labor Review*, 133 5-

### 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<sup>10</sup>. 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 suggests that changing economic opportunities, explains most of the movement into and out of poverty as opposed to shift in values<sup>11</sup>. Overpopulation and lack of access to birth control methods is also one of the causes of poverty<sup>12</sup>.

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<sup>10</sup> "Wars cost Africa \$18 billion US a year: report". CBC News. October 11, 2007

<sup>11</sup> Moore, Wilbert. 1974. *Social Change*. Englewood Cliffs, NJ: Prentice Hall

<sup>12</sup> "Birth rates 'must be curbed to win war on global poverty'". The Independent. January 31, 2007

#### 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 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 programs<sup>13</sup>.

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 judgement 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

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<sup>13</sup> <http://www.gdrc.org/icm/poverty-causes.htm>

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 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 Ksh 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<sup>14</sup>.

It is an attitude, a belief, that one is so poor, so helpless, that one can not 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.

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<sup>14</sup> <http://www.scn.org/cmp/modules/emp-pov.htm>



## 2.3 CRIMINOLOGY

Criminology is the scientific study of the nature, extent, causes, and control of criminal behavior 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 *criminologia*<sup>15</sup>.

In the mid-18th century, criminology arose as social philosophers gave thought to crime and concepts of law. Over time, 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 panopticon, 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

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<sup>15</sup> Deflem, Mathieu (2006). *Sociological Theory and Criminological Research: Views from Europe and the United States*. Elsevier, pp. p. 279.

that the more swift and certain the punishment, the more effective it is in deterring criminal behavior<sup>16</sup>.

### 2.3.2 Positivist School

The Positivist School presumes that criminal behavior is caused by internal and external factors outside of the individual's control. The scientific method was introduced and 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 criminology<sup>17</sup>. 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<sup>18</sup>.

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<sup>16</sup> Beccaria, Cesare (1764). Richard Davies, translator. ed. *On Crimes and Punishments, and Other Writings*. Cambridge University Press. pp. p. 64.

<sup>17</sup> Siegel, Larry J. (2003). *Criminology. 8th edition*. Thomson-Wadsworth. pp. p. 7.

<sup>18</sup> McLennan, Gregor. Jennie Pawson, Mike Fitzgerald (1980). *Crime and Society: Readings in History and Theory*. Routledge. pp. p. 311

### 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 stressed the importance of social factors. However, contrary to criminological 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 hygienism, which alleged a direct influence of the social environment on the brain and compared the social itself to a brain, upholding an organicist position<sup>19</sup>. Furthermore, Lacassagne criticized the lack of efficiency of prison, insisted on social 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 psychoticism 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 (1938), Albert Bandura (1973), and the topic of "nature vs. nurture".)

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<sup>19</sup> Renneville, Marc. La criminologie perdue d'Alexandre Lacassagne (1843-1924). *Criminocorpus*, Centre Alexandre Koyré-CRHST, UMR n°8560 of the CNRS, 2005 (French)

### 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 crime<sup>20</sup>. Rawson W. Rawson utilized crime statistics to suggest a link between population density and crime rates, with crowded cities creating an environment conducive for crime<sup>21</sup>.

### 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 Chicago<sup>22</sup>. 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-

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<sup>20</sup> Beirne, Piers (March 1987). "Adolphe Quetelet and the Origins of Positivist Criminology". *American Journal of Sociology* **92**(5): pp. 1140–1169.

<sup>21</sup> Hayward, Keith J. (2004). *City Limits: Crime, Consumerism and the Urban Experience*. Routledge. pp. p. 89. ISBN 1904385036

<sup>22</sup> <http://en.wikipedia.org/wiki/Criminology>

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, interactionism, 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 conflict perspective in sociology and sociology of crime. As this perspective is itself broad enough, embracing as it does a diversity of positions<sup>23</sup>.

#### **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 School<sup>24</sup>. Social disorganization theory postulates that neighborhoods plagued with poverty and economic deprivation tend to experience high rates of population turnover<sup>25</sup>. 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<sup>26</sup>. 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.

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<sup>23</sup> Hester, S., Eglin, P. 1992, *A Sociology of Crime*, London, Routledge.

<sup>24</sup> Bursik Jr., Robert J. (1988). "Social Disorganization and Theories of Crime and Delinquency: Problems and Prospects". *Criminology* 26: p. 519–539.

<sup>25</sup> Morenoff, Jeffrey, Robert Sampson, Stephen Raudenbush (2001). "Neighborhood Inequality, Collective Efficacy and the Spatial Dynamics of Urban Violence". *Criminology* 39: p. 517–60.

<sup>26</sup> Merton, Robert (1957). *Social Theory and Social Structure*, Free Press.

#### 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 deterioration<sup>27</sup>. 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 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 did<sup>28</sup>. 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 retreat or drop out into deviant subcultures.

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<sup>27</sup> Bursik Jr., Robert J. (1988). "Social Disorganization and Theories of Crime and Delinquency: Problems and Prospects". *Criminology* supra.

<sup>28</sup> Merton, Robert (1957). *Social Theory and Social Structure*. Free Press.

#### 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 class<sup>29</sup>. Some youth, especially from poorer areas 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 subculture<sup>30</sup>.

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 gang leaders under the observation of adults<sup>31</sup>.

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<sup>29</sup> Cohen, Albert (1955). *Delinquent Boys*. Free Press.

<sup>30</sup> Kornhauser, R. (1978). *Social Sources of Delinquency*. University of Chicago Press.

<sup>31</sup> Cloward, Richard, Lloyd Ohlin (1960). *Delinquency and Opportunity*. Free Press.

## 2.4.2 Individual theories

### 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' backgrounds<sup>32</sup>. Both Athens and Rhodes reject 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 why people do not become criminal. Travis Hirschi identified four main characteristics: "attachment to others", "belief in moral validity of rules", "commitment to achievement" and "involvement in conventional activities"<sup>33</sup>. The more a person features those 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 criminal<sup>34</sup>. Hirschi 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 mean; 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

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<sup>32</sup> Rhodes, Richard (2000). *Why They Kill: The Discoveries of a Maverick Criminologist*. Vintage.

<sup>33</sup> Hirschi, Travis (1969). *Causes of Delinquency*. Transaction Publishers.

<sup>34</sup> Gottfredson, M., T. Hirschi (1990). *A General Theory of Crime*. Stanford University Press.



economic status, a factor that distinguishes families with delinquent children from those who are not delinquent is this control exerted by parents or chaperonage<sup>35</sup>. This theory however does not relate the reasons why poor people are likely to commit crime but to the *vises*. 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 Husserl and George Herbert Mead, as well as sub cultural theory and conflict theory<sup>36</sup>. This school of thought focused on the relationship between the powerful state, media 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' 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 Lemert, in the mid 20th century<sup>37</sup>. Stanley Cohen who developed the concept of "moral panic" (describing societal reaction too 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 dos not relate to the aims of the research.

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<sup>35</sup> Wilson, Harriet (1980). "Parental Supervision: A Neglected Aspect of Delinquency". *British Journal of Criminology* 20.

<sup>36</sup> Mead, George Herbert (1934). *Mind Self and Society*. University of Chicago Press.

<sup>37</sup> Becker, Howard (1963). *Outsiders*. Free Press.

#### 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 les Q. Wilson, Gary Becker's 1965 article titled "Crime and Punishment"<sup>38</sup> "and George Stigler's 1970 article "The Optimum Enforcement of Laws." 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.

Gary Becker, for example, acknowledged that many people operate under a high moral and ethical constraint, but considered that criminals rationally see that the benefits 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 the fine and minimize surveillance.

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<sup>38</sup> Gary Becker. "Crime and Punishment". in *Journal of Political Economy*. vol. 76 (2). March-April 1968. p.196-217

With this perspective, crime prevention or reduction measures can be devised that increase effort required to commit 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 Bentham 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 easy to reduce it until 5%, difficult to reduce it under 3% and nearly impossible to reduce it to zero (a feat which would cost the supermarket so much in surveillance, etc., that it would outweigh the benefits). This reveals that the goals of utilitarianism and classical liberalism have to be tempered and reduced to more modest proposals to be practically applicable.

Such rational choice theories, linked to neoliberalism, 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 Lawrence Cohen, draws upon control theories and explains crime in terms of crime opportunities that occur in everyday

life<sup>39</sup>. 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 police<sup>40</sup>. 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 measures<sup>41</sup>. 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.

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 late-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

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<sup>39</sup> Felson, Marcus (1994). *Crime and Everyday Life*. Pine Forge.

<sup>40</sup> Cohen, Lawrence, and Marcus Felson (1979). "Social Change and Crime Rate Trends". *American Sociological Review*

<sup>41</sup> Eck, John, and Julie Wartell (1997). *Reducing Crime and Drug Dealing by Improving Place Management: A Randomized Experiment*. National Institute of Justice

strain theory and symbolic interactionism, Jock Young, in *The Exclusive Society*<sup>42</sup>, uses the metaphor *bulimia* to depict the tense opposition between inclusion and exclusion. Simon Hallsworth and Keith Hayward adopt in their respective works *Street Crime* and *City Limits*<sup>43</sup>, 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*<sup>44</sup>, Steve Hall, Simon Winlow and Craig Ancrum draw upon Continental philosophy and Lacanian psychoanalysis 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 Types of crime

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

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<sup>42</sup> Young, J. (1999), *The Exclusive Society*, London: Sage

<sup>43</sup> Hallsworth, S. (2005), *Street Crime*, Cullompton: Willan ; Hayward, K. (2004), *City Limits*, London: Glasshouse

<sup>44</sup> Hall, S., Winlow, S. and Ancrum, C. (2008) *Criminal Identities and Consumer Culture*, Cullompton: Willan

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 The Crime of Theft**

A person who fraudulently and without claim of right, takes anything capable of being stolen or fraudulently converts to the use of any person other than the general or special owner thereof, any property is said to steal that thing or property<sup>45</sup>.

The general punishment of theft is three years<sup>46</sup>. However, special provisions are made in other cases for example stealing a will which makes the offenders liable under section 276 to

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<sup>45</sup> Section 268(i) of penal Code Act Cap 68 Laws of Kenya.

<sup>46</sup> Penal Code Act section 275

imprisonment for ten years. In this research paper however, reference is not made to the special cases.

Theft is an offence against possession and not ownership. A thief can never become the legal owner of anything he has stolen<sup>47</sup>.

The things which are capable of being stolen are tabulated in section 267 of the penal code.

The most important are;

- a) Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen.
- b) Every inanimate thing which is the property of any person and which is capable of being made movable, 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.

## **2.8 Analysis on the definition of theft**

A person is deemed to have acted fraudulently if he intends permanently to deprive the general or special owner of his property e.g. to steal money. A person is also deemed to act fraudulently if he intends to deal with the property in such a manner that it cannot be returned in the conditions in which it was at the time of the taking or conversion e.g. a gold ring hired from a jeweler which is melted down.

It should be noted however that a person who takes goods under a claim of right is not guilty of theft. In Sewava Vs Uganda<sup>48</sup>, the appellant was charged with the theft of six doors and

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<sup>47</sup> Edwards vs. Ddlin (1976) 3 ALLER 705

twelve iron sheets which he had in fact sold, but which he claimed were his property. The appellant was convicted but the magistrate never devoted his mind to the claim of right. The conviction was quashed on appeal to the High court of Uganda. Sir Udo Udama CJ (as he then was) cited with approval theft following passage in Stephen's "History of the Criminal Law of England" Vol. III, at page 124.

*"Fraud is inconsistent with a claim of right made in good faith to do the act complained of. A man who takes possession of property which he really believes to be his own does not take it fraudulently, however, unfounded his claim may be. This is not only, is nearly the one case in which ignorance of the law affects the legal character of acts done under its influence."*

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, by intimidation, 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.

Theft by trick occurs when a person obtains possession of the property by a trick without the real consent of the owner. If the owner consents to transfer the property in goods, there is no theft, although it could be the offence of obtaining goods with false pretence.

Theft by intimidation takes place when a person obtains goods from another person as a result of threats of violence. The leading English case is R Vs McGrwoth<sup>49</sup> where the

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<sup>48</sup> (1996) EA. 487

<sup>49</sup> (1890) LR ICCR 105



complainant was prevented from leaving an auction room until she had paid the auctioneer for some cloth. The auctioneer was convicted for theft of the money.

Theft as a result of mistake, takes place when a person parts with possession of property by mistake and the offender on discovering the mistake decides to keep the property. The commonest example would be a person giving too much change and the offender, realizing this decides to keep the excess change.

Theft by finding takes place where a person believes at the time of finding that the owner can be discovered by taking reasonable steps. For example a person who found a valuable diamond ring and who decided to make a gift to his wife would be guilty of theft by finding.

In *Hilbert Vs. McKiernan*<sup>50</sup>, it was held that finding and taking of lost golf ball to be theft.

The thing stolen must have an owner. There is no definition of the term owner in the penal code although the expression “general or special owner” is used in section 268(2) (a). “Special owner” is defined as including “any person who has any charge or lieu upon the thing in question or any right arising from or dependant upon holding possession of the thing in question. This embraces a garage proprietor who has possession of a car for repair purposes and from whom it is stolen or a person who has purchase agreement. It is to be understood in the later case that the hirer does not obtain ownership from the finance company until all the installments have been paid and the option to purchase has been exercised.

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(1948) 2 KB 142

## **CHAPTER THREE**

### **RELATIONSHIP BETWEEN POVERTY AND CRIMINAL BEHAVIOR**

#### **3.0 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 relationship between poverty and criminal behavior be exposed as is it the main reason of this paper. Poverty involves a conflict between the ideal and the reality, the element of unemployment, the question of power and crime opportunities.

#### **3.1 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 streets. In essence, the ideal is what a person desires to achieve in life for example the desire to have decent 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 search of 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 others. In the event of the 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 a relationship between poverty and criminal behavior

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 every thing 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, every thing lies virtually in the realm of the possible.

### **3.2 Power Relations**

A larger society like Kenya has goals and values that are expected to be achieved by the persons who live in it. 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 behavior of lower classes in their way of achieving many of the goals and values of the larger society is of concealing their failure from others as best as they can.

Poor life is thus a response to the restraints imposed by the Kenyan emphasis on success. Lacks of opportunities like education, economic, and socio-political, affects profoundly and limit the choices that individuals and groups can make. Poor lives often make people 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 by 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.

### **3.3 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 for 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.

### 3.4 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 the would be 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 pedestrians 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.

## **CHAPTER FOUR**

### **OBSERVATIONS, RECOMMENDATIONS AND CONCLUSION**

#### **4.0 OBSERVATIONS**

##### **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 behavior 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 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, vocations 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, in a phrase, the masters 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 a 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 student speakers sounded a different theme. The need to survive.

#### **4.3 Cultural influence**

It is hard to be poor; 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 behavior is more frequent among the poor than among members of the middle class.

I can argue that because Kenyan culture imbues everyone with the opportunity to achieve

success 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 messages 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 in 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.

#### **4.4 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 Loresho 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”, the sale and use of hard and soft drugs, prostitution and pimping, and other crimes. I was impressed, too, by their detailed knowledge of which fences, numbers 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 mostly think about people who have got to the top in strictly illegal ways. “The ones I see are the ones who interest me,” an ex-offender says, recalling his childhood. “If it had been doctors and lawyers who drove up and



parked in front of the bars in their cat lacks, 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.

#### **4.5 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 in 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, including “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 friends 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 only pay cash which can be used to continue the play life of the growing

children, for movies, candies, sweets, harmonicas, 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, new knowledge, new ways of seeing the world, new interests.”

Other factors are needed, too. There must be a cynical attitude toward the police and toward property belonging to business firms and government agencies. There must be older criminals who use adolescents as messengers or lookouts, and to whom the youngsters look for approval. And there must be a conflict between delinquent youngsters and older, more settled people who are their victims, and who call for police protection. “All these elements are part of the atmosphere of the environment” 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 enterprises, selling heroin, cocaine, marijuana and other drugs; loan-sharking; male and female prostitution; pimping and after-hours sales of alcoholic beverages; and hustling and theft in all their manifold forms.

#### **4.7 Theft in Poverty stricken areas**

Theft is in the very air that lower-class youngsters breathe. It is visible not just because of its frequency, but because crimes such as burglary and stealing from parked cars are not isolated acts by isolated individuals. On the contrary, the individual act of theft is just beginning of an elaborate process whereby stolen merchandise is acquired, converted, redistributed and

reintegrated into the legitimate property stream. . About 95 percent of poor people will buy “hot goods”, one of informants told me. It’s a bargain; they’re 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 some 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 feel an even greater need than members of the middle class to define themselves through consumption.

Far from being considered dishonest, patronizing the stolen property system 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 maldistribution of income from which they suffer.

At the same time, poor people’s readiness to buy stolen merchandise contributes significantly to their own poverty. Thieves do not limit their scores to middle-class targets; juveniles, addicts, and other impulsive and semiprofessional thieves tend to prey on their own communities, where apprehension is less likely. The result is a vicious circle: normally law-abiding people who have been victimized by burglary or some 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 is 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 go 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 likely to be available wherever they turn: in beauty parlors, barbershops, restaurants and bars, newsstands, after-hours clubs, gambling joints, appliance stores and repair shops, jewelry stores, pawnshops, liquor stores, dry-cleaning stores, auto repair and body shops, auto accessory 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 on the side.

For safety's sake, professional thieves prefer to deal with the same fence or fences 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 know what the market price is for stolen merchandise of a particular sort and plan their scores accordingly

## **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. If 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 field 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. It reduces to man wanting more and more as days pass by.

### **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 police 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.



Hopefully the experience of knowing a policeman 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.

### **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 gentlemen may be less inclined to 'bend' the law if they knew that the penalty for getting caught would be being rolled naked in custard and horse manure on live television.

### **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.

1. Provide them with pensions so that they have no need to return to crime.
2. 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.
3. 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 ball over a line, so why not create similar opportunities for agile and dexterous individuals to similarly cash in on their abilities.

4. 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

5. 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.

### **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:

1. Practical new ideas could emerge to help prevent crime.
2. Young people would have better awareness of the 'reality' of crime.
3. Lateral thinking techniques could be learnt and applied to a serious social issue in a meaningful way.
4. The police might be encouraged to use lateral thinking tools themselves.
5. It could convince educationalists that lateral thinking techniques should be more widely taught in schools.
6. Similar initiatives could be launched in other countries (different social problems could be addressed).
7. Companies willing to sponsor the competition would get excellent exposure.
8. A child who might have drifted into crime may instead help to prevent it.

The level of unemployment seems to correlate with crime rates. Unfortunately tourists are often perceived rich and easy victims by criminals. For example, a hotel in Nairobi was recently attacked and robbed the first night after a new group of tourists had arrived. Everything, even their shoes, was taken, and some violence was involved. Crime and violence is now causing some serious damage for tourism.

### **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 color-coded zones like for example: blue (secure places), yellow (beaches), green (parks, 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). This information could be included in tourist maps and city guide books. Benefits for CPF volunteers might include:

Provide useful work to do for those people who are unemployed people could be trained to work as "rent-a-chauffeurs/guides/guards", this could operate in a similar fashion as the existing rent-a-car and taxi 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 they stay 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).

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. This will help poor students have the chance to study. They can find good jobs after graduating.

## **CONCLUSION**

In the face of growing demand for equity, there is great need to ensure that criminal behavior is ameliorated. My evaluation is that poverty influences criminal behavior thus eradicating it 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.

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