

Linkages between Punishment and Recidivism: Analysis of Factors Influencing Re-Convictions in Kenya

Omboto John Onyango¹, Wairire Gidraph. G², Chepkong'a Mike³

^{1,2,3}Department Of Sociology And Social Work –University Of Nairobi, Kenya

Corresponding Author: Omboto John Onyango

Abstract: Recidivists Are Chronic, Multiple Or Prolific Offenders. They Continue To Commit Crimes In Spite Of Punishment. Recidivism Is A Universal Problem Which Has Continued Over The Years. This Study On The Link Between Initial Punishments Offenders Receive For Their First Convictions, And Subsequent Reoffending Was Conducted In Nairobi County-Kenya. The Study Involved Recidivist Prisoners At Kamiti Maximum Security Prison And Langata Prison; Male And Female Institutions Respectively. A Sample Of 167 Participants Was Purposively Selected For The Study, And Data Collected By Use Of Questionnaires, Focus Group Discussions And Key Informant Interviews. Both Quantitative And Qualitative Techniques Were Further Employed In Data Analysis. The Study Established That There Is No Significant Link Between Punishment And Recidivism Since Other Factors Such As Poverty And Peer Pressure Among Many Others Are Largely Responsible For The Vice.

Key Words: Recidivism, Initial Punishment, Factors Responsible For Recidivism, Kenya.

Date of Submission: 16-04-2018

Date of acceptance: 02-05-2018

I. INTRODUCTION

Recidivism Refers To A Return To Crime After A Convict Had Been Punished For The First Time. The Term Is Often Interchangeable With 'Repeat Offending', 'Reoffending' And 'Reconviction'. Recidivists Are Described As 'Chronic', 'Multiple' Or 'Prolific' Offenders Since They Continue To Commit Crimes Despite Punishment (Payne 2007; Maltz, 2001). Punishment Is Authoritative Imposition Of A Penalty For Criminal Wrong Doing To Prevent Criminal Conduct And To Provide Retribution (Bohn & Halley, 1997). The Penalties Normally Awarded By The Courts Include Death Penalty, Imprisonment, Fines, Forfeiture Of Property, Suspended Sentence, Compensation, Restitution, Probation Service And Community Service Order (Musyoka, 2013).

Even Though It Is Expected That Punishment Should Control Recidivism Due To Its Capacity To Deter, Incapacitate, Or Rehabilitate The Convict; Empirical Studies Have Shown That Punishments Have Not Succeeded In This Internationally And Locally. For Instance In Argentina, Tella And Schargrodsky (2013) Established That The Yearly Prison Recidivism Rate Was At 22.37% For The Offenders Released From Prison, And 13.21% For Those Released After Being Under Electronic Monitoring. In Britain, Recidivism Level Has Been As High As 70% In Some Prison Institutions (UNODC, 2012).

The Problem Is Also Immense In Africa. For Instance, In Kampala -Uganda, Recidivism Rate Among Community Service Offenders Rose From 9% To 12% Between The Year 2004 And 2010 (Ssebuggwawo, 2010), While In Nigeria, In The Year 2010 And 2011, More Than 50% Of The 25,380 Offenders Who Were On Trial Were Recidivists (Osayi, 2015). In Kenya, Despite Government Measures To Improve On The Effectiveness Of The Main Forms Of Punishment, Recidivism Has Remained A Serious Problem As Indicated By The Government's Own Study Which Established That That The Number Of Recidivists In Prisons Increased By 76.9% From 12,949 In The Year 2012 To 22,910 In 2013 (KNBS 2014).

II. LITERATURE REVIEW: FACTORS THAT INFLUENCE RECIDIVISM AMONG THE CONVICTS

According To Mcneil (2010), Among The Factors That Influence The Likelihood Of An Inmate To Recidivate Is Whether Or Not He Or She Had Been Committed To Prisons Previously With More Prior Convictions Leading To Greater Chances Of Recidivism. In Agreement, Castillo.Et.Al. (2004) Confirm This By Stating That The First Offender Groups, Who Are Offenders With Neither Prior Convictions Nor Criminal Conduct, Have Consistent Patterns Of Lower Recidivism Rates. Another Factor Is Whether The Inmate Is Supervised After Release. The Supervised Inmates Are More Likely To Recidivate. This Is Probably Because They Are More Closely Monitored. The Younger The Age Of The Prisoner At The Time Of Release, According

To Mcneil (2010), The Higher The Chances Of Recidivism. On Gender, Paranjape (2005) Observed That The Males Are More Prone To Recidivism Than Females; He This Attributes To The Male Physical Strength And Adventurous Attitude. However, Men Compared To Women Also Have A Lot Of Socioeconomic Responsibilities.

Indiscipline And Infractions While In Prison By An Inmate Is Also A Factor In Recidivism. Mcneil (2010) Established That Prisoners Who Have More Disciplinary Reports Record Higher Recidivism Rates. This May Be Based On The Fact That Indiscipline Negates On Their Participation On Reformation Programs. Education Level Is Also A Factor In Recidivism, The Study Established That Those With Lower Levels Of Education Recidivate Much More Than The Well Educated. This Finding Is Corroborated By Kagendo (2003) Who Confirmed That 82% Of The 207 Recidivists In Kenyan Prison Institutions Had Very Few Years Of Formal Education. That A Majority Of Those With Lower Level Of Education Are Recidivists Is Probably Due To The Fact That The Well-Educated Are More Likely To Be Employed After Discharge Rehabilitation Compared To Their Colleagues With Poor Education.

Confirming The Influence Of These Factors On Recidivism Bohm & Haley, (1997) Observe That Recidivism Rates Are Highest For The Ex-Prisoners During The First Year Of Release From Prison, In Younger Persons, People With Less Education, Among Those Who Were Unemployed Before Imprisonment, Those Who Were Drug And Alcohol Addicts Before Imprisonment, Those Who Have Higher Rates Of Misconduct In Prison, And Those Who Did Not Participate In Education Programmes While In Prison. These Scholars Argue That Recidivism Is Not In Any Way Related To Gender Or The Length Of The Prison Term.

However, According To Williams, (2001) Offenders With Brain Dysfunction Are Likely To Become Recidivists Given That They Are Not Able To Learn From The Past Punishment Awarded To Them, Cannot Fathom The After Effects Of Their Actions, And Are Impulsive In Their Actions. In Concurrence Salenkin, Rogers, Ustad & Sewell, (1998) Cite Studies That Show That Male Inmates Who Are Psychopaths Are Likely To Recidivate Within The First Year Of Release. Further, Inmates With Mental Sickness Are Twice As Likely To Have Their Parole Or Probation Revoked, And Are At An Elevated Risk For Re-Arrest (Vanderloo & Butters, 2012).

To Rehabilitate This Category Of Convicts With Mental, Emotional Or Brain Dysfunctions Requires The Input Of Trained Psychiatric Doctors To Handle Their Conditions To Full Recovery. The Failure Of Community Based Rehabilitation Strategies Is Also To Blame For Recidivism. For Instance, Reifen (1972) Blames Juvenile Recidivism On Insufficient And Inadequate Special Community Services. In Support Of This, Crouch (1993) Observed That Law Breakers In Low Social Class Fear The Supervision Of Probation Thus Prefer Imprisonment Of Two (2) Or Three (3) Years Instead.

Recidivism Has Also Been Blamed On The Failure Of The Institutional Corrections. For Instance, Several Scholars Have Observed That Prisoners Get Hardened, And, On Release, Continue With Criminal Tendencies. This Has Lead To The Arguments That Prisons Are 'Schools Of Crime' Where The Inmates Only Lean To Engage In More Serious Crimes Than The Ones They Were Convicted Of (Kagendo, 2003; Gendreau, Goggin & Cullen, 1999). Prison Institutions Have Also Been Termed As Criminogenic (Odegi-Awuondo, 2003; Mushanga, 1976); That Is, They Encourage Criminal Tendencies Rather Than Reform And Rehabilitate Offenders. In Addition, Goodstein (1993) Opines That Prisons Might Be To Blame For Recidivism Because They Instil Acquiescent And Compliant Behaviour Which Causes Institutional Dependence. In Agreement, Kamunyu (Nd) Observed That Giving Of Orders That Must Be Complied With During Imprisonment, And Decision Making By Prison Authorities On Basic Issues Concerning The Prisoners' Life Make The Inmates To Be Institutionalized And Operate Like Mechanical Actors. In The End, The Inmates Become Dependent On Prison Institutions.

However, Venter, Hoffman And Goudine (2006) Postulate That Where Recidivism Is Attributed To Imprisonment, It Is Due To The Fact That Rehabilitation Interventions Are Provided Too Late And Many Of The Programmes Are Focused On The Process Rather Than Results. The Scholar Recommends That Halfway Houses Should Be Provided In Good Time, And That Prison Rehabilitation Should Focus On The Prisoner Empowerment. This Advice Is Important To The Kenyan Government Given That Halfway Homes Just Like Parole Have Never Been Established Yet They Are Vital For Rehabilitation Of The Offenders Released From Prison Institutions (GOK, 2005).

On His Part, James (2015) Posits That Lack Of Offender Reentry Programmes Present A Serious Challenge To The Prevention Of Reoffending. He Opines That The Offender Reentry Programmes Are Of Three Distinct Categories; First, Are The Programmes That Take Place While The Offender Is Still In Prison Custody. These Seek To Prepare The Offender For Discharge. The Second Form Refers To The Programmes That Take Place During The Time Of The Offenders Release To Assist Them In Receiving The Services They May Need, And Third Are The Long Term Programmes That Assist The Offenders To Permanently Reintegrate In The Community. Despite These Arguments Associating Recidivism Purely To Imprisonment, Reoffending, As A Social Problem, Cannot Be Blamed On Imprisonment Per Se Since It Is Not Possible To Predict Future

Behaviour On The Basis Of Training Programmes, And Other Reformation Measures In Prisons Because There Are Many Intervening Variables Such As Environmental Influences That May Impede The Effects Of Reformation And Rehabilitation Programmes After The Offender Is Released Back Into The Society (Mcneil, 2010).

Nevertheless, To Ensure That Rehabilitation Of Offenders Through Imprisonment Is Fully Accomplished, Tewkbury (1997) Opines That It Is The Responsibility Of Prison Authorities To Provide Treatment For The Inmates, And Contain Them In Conducive Environments. For The Same Purpose, Briggs (1975) Posits That Prison Institutions Must Put Up Measures To Preserve And Enhance A Person's Dignity And Self-Respect While Playfair and Sington (1965) Emphasize Those Correctional Institutions Must Strive To Train The Inmates So As To Counter Any Possible Contamination By Fellow Felons.

III. THEORETICAL FRAMEWORK

This Study Employed Deterrence Theory Of Punishment To Analyze An Effective Punishment; And Strain, And Labeling Theories Of Crime To Understand Recidivism. Deterrence Theory Of Punishment Argues That The Purpose Of Any Kind Of Punishment Is To Prevent Future Criminal Activities By Inflicting Pain On Convicted Offenders. The Theory Posits That If Punishment Is Not Severe Enough Such That It Overcomes The Pleasure Derived From Crime; That Is, When The Proportionality Is Lacking, Then The Individuals Will Not Be Deterred From Further Criminal Activities (Wright, 2010). Further, It Postulates That Whether Or Not An Offender Will Be Deterred From Committing Crime In Future Is Based On The Alacrity And Certainty Of Punishment For The Crime Committed. The Former Refers To The Swiftswness With Which The Punishment Is Awarded To The Offender After The Crime Is Committed.

According To Strain Theory, Crime Commission Is Caused By The Frustrations Individuals Suffer In Their Attempt To Achieve The Society's Goals Through Legitimate Means. The Strain Suffered, According To Merton, Produces A Number Of Deviants Such As Rebels, Innovators Such As Robbers And Thieves, And Other Deviants Like Vagrants, Drunkards, Alcoholics, Drug Addicts, Or Pariahs (Joyce, 2011). These Individuals, The Study Argues, Are Not Only Potential Criminals But Also Easily Become Recidivists Because, As Rebels, Drunkards, Drug Addicts And Alcoholics, They Would Not Benefit Fully From The Punishment Meant To Reform And Rehabilitate Them As First Time Convicts. Based On This Theory, The Study Postulates That Regardless Of The Punishment Awarded, The Ex-Convicts May Still Indulge In Criminal Behaviour If They Continue To Lack The Legitimate Means To Acquire Their Basic Needs.

According To Labeling Theory Of Crime, Criminal Behavior Starts With The Society Labeling Some Acts As Criminal And Goes Ahead To Label Individuals Who Commit Such Acts As Criminals. This Makes Such Individuals To Internalize The Negative Label, And As Time Goes, The Person Takes On The Traits That Define The Real Criminal, And Commits The Criminal Acts That Conform To The Label (Williams, 2001). Tannenbaum, (1938) And Lemert, (1951) Explain That The Criminal Behaviour Is Further Reinforced By The Fact That The Individual Labeled A Criminal Suffers The Injustices Of The Label Such As Failure To Be Accepted By Employers, Police Profiling, And Strained Relations With The Law Abiding Members Of The Society. The Study Argues That Social Stigma And Discrimination That Comes With Labeling Can Definitely Lead To Recidivism, For Instance, If An Ex-Convict Is Denied An Employment Opportunity That Would Assist Him Or Her To Support Themselves And Their Dependents Through Legitimate Means.

IV. STUDY AREA AND METHODOLOGY

This Study Was Conducted At Kamiti Maximum Security Prison And Langata Women Prison Both Situated In Nairobi County. The Institutions Are Under Kenya Prisons Service Department And Are Respectively The Largest Male And Female Prison Institutions In Kenya. At The Time Of The Study Kamiti Had Approximately 1800 Male Prisoners Under The Care Of About 700 Prison Officers, While At Langata Women Prison There Were About 600 Female Inmates Under Approximately 350 Members Of Staff. The Two Are Maximum Security Prison Institutions, And Given Their Structure And Location In The Capital City, They Mainly Contain Some Of The Most Serious Male And Female Offenders In The Country. Kamiti Is The Oldest Penal Institution In Kenya Having Been Established In 1954 By The Colonial Government. It Is Located To The North East, About 15 Kilometers From The Nairobi City Central Business District And Is Accessed Through The Thika Super-Highway. From The Highway The Prison Lies About Seven Kilometers Off Roysambu Roundabout. Langata, Also The Oldest Prison For Women In The Country Is Located Along Langata Road About 5 Kilometers South Of Nairobi Central Business District.

This Study Employed Survey Design. According To Picardi And Masick, (2014) A Survey Research Design Is The Most Commonly Used Method; It Includes Self Report Measures Such As Use Of Questionnaires And Assessments As Well As Interviews And Are Mainly Used For Collecting Data On Attitudes, Beliefs, Preferences, From A Representative Sample Of A Population. This Design Was Chosen Because The Study Needed To Gather Information On Personal Characteristics And Opinion Of Respondents. This Design Also

Requires A Representative Sample That Reflects Major Characteristics Of The Study Population. The Units Are Thus Selected In A Manner That Ensures Balanced Representation Of The Population Of Interest. Data For The Study Was Collected By Use Of Questionnaires, Key Informant Interviews And Focus Group Discussions. Non-Probability Sampling Methods Were Employed In Selecting The Respondents. A Sample Size Of One Hundred And Sixty Seven (167) Male And Female Recidivists Who Were Purposively Selected Filled Questionnaires. The Study Also Engaged Key Informants And Focus Group Discussion Members. The Numbers Of Key Informants Were Twelve (12) Prison Officers At Kamiti Prison, Seven (7) At Langata Women, Four (4) Police Officers, And Four (4) Probation Officers. Two Focus Group Discussions Were Held, One At Kamiti And The Other At Langata. At Kamiti The Members Were Twelve (12), While At Langata Prison They Were Five (5). Focus Group Discussion Members Were Serial Recidivists.

V. RESULTS AND DISCUSSIONS: FACTORS INFLUENCING RECIDIVISM

The Study Established That Weaknesses In Imprisonment As A Punishment, Poverty, Drive For Revenge, Peer Pressure, Drug And Alcohol Abuse, Ignorance Or Lack Of Knowledge, Land Conflicts, Domestic Conflicts, And Social Stigma And Discrimination Are The Factors Influencing Recidivism Among Convicts In Kenya.

Concerning Imprisonment, The Study Established That Majority Of The Respondents Were Awarded This Form Of Punishment For Their First And Subsequent Convictions. However, The Wide Use Of Imprisonment May In Itself Have Influenced Reoffending As This Form Of Punishment Is Riddled By Several Weaknesses. For Instance The Study Found Out That A Prison Condition In Kenya May Be Hostile For Effective Reformation And Rehabilitation While At The Same Time There Is A Possibility Of Prisoners Being Institutionalized. On The Harshness Of Prison Life, KPFGDM-2 (Kamiti Prison Focus Group Member Number-2) Observed That: "Here In Prison Life Is Also Full Of Suffering, You Cannot Change When Suffering".

On Institutionalization Of Prisoners, KPFGDM-8 Who Claimed To Have Been A Street Boy And Have Recidivated Four Times Remarkd:

"For The Very Poor Like Me, Prison Life Is Not Bad; In The Streets I Used To Suffer But When I Was Imprisoned At Industrial Area Prison For The First Time For The Offence Of Snatching A Lady's Bag, I Found Free Food And Somewhere To Sleep Unlike In The Streets Where I Lived, Life Outside Prison Is For The Rich. Now Even If I Am Discharged, I Will Steal To Come Back."

Another Member Of The Focus Group KPFGDM-1 Asserted:

"Imprisonment Is The Main Form Of Punishment Thus People Who Have Not Been To Prison Fear Committing Crime Because They Don't Want To Be Here, But If You Have Been Here, You No Longer Fear Because You Realize It Is Not As Bad As People Outside There Say; Moreover, People Quickly Adjust."

Another Factor Why Imprisonment In Kenya May Further Influence Re-Offending Rests On The Capacity And Integrity Of Prison Officers, And Possibility Of Contamination Of Petty Offenders In Prison Institutions. For Example Kamiti Prison Key Informant 1 (KPKI-1) Observed:

"We Keep On Receiving Sex Offenders, Yet We Can't Rehabilitate Them. I Am Aware The Convicts Require Experts Such As Clinical And Psychological Counselors To Assist Them; Some May Require Psychiatrics Which Prisons In Kenya Do Not Have, So We Mix Them With Other Convicts And Send Them To The Industry To Train In Carpentry, Tailoring, Metal Work And The Like Which Is Wrong Because They Do Not Need Those Skills To Get Out Of Crime. Moreover, Some Of These Sex Offenders Were In Other Professions Such As Teaching. Even For Other Categories Of Offenders In Medium And Minimum Prisons, We Engage Them More In Vocational And Farming Training At The Expense Of Counseling. These Activities Seem To Be More Directed At Earning Prisons And The Larger Government Revenue Than At Benefiting The Convict. If Not, Of What Benefit Is Knowledge On Farming For A Convict Who Doesn't Have Any Piece Of Land? We Concentrate So Much On Activities Which Cannot Rehabilitate Many Of The Prisoners We Host. Prisons Department Should Recognize This Fact And Employ True Rehabilitators Not Merely Safe Custody Level Officers As Is The Case. The Government Should Realize That Most Convicted Offenders End Up In Prisons."

On Integrity And Character Of Prison Officers KPFGDM-10 Remarkd:

"You Cannot Be Reformed By These Afandes (Prison Officers,) They Are Harsh And Need Favours From Us. If You Have Money, You Can Send Them To Buy For You Bangi (Cannabis) At A Small Fee, So We Recruit Them Into Crime Instead Of Them Reforming Us. What Do You Think Someone Who Was Imprisoned Because Of Bangi Think When He Sees It Available Here And Commonly Used?"

Concerning Criminalization Of Petty Offenders In Prisons, KPFGDM-3 Had Put It Thus:

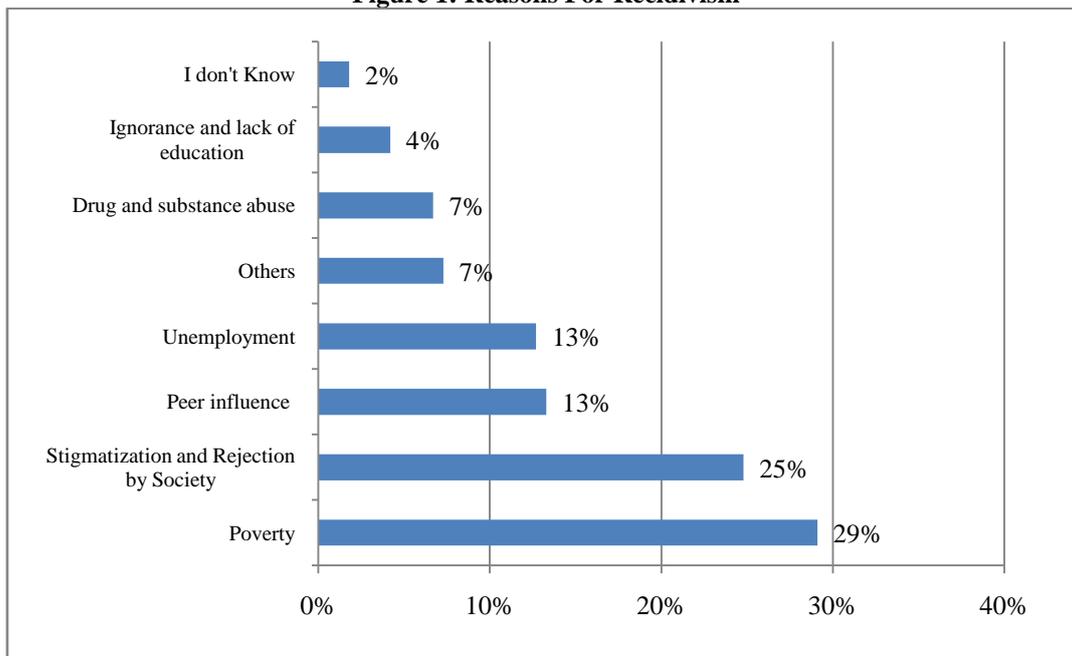
"Bad Influence From Fellow Prisoners Is The Reason Why Some Of Us Are Here. A Prison Such As Kamiti Is For Bad People; We Are Bad People All Put Together, And We Can Only Get Very Bad By Contact With One Another And It Is Worse For Petty Offenders Who Come Here And Those Who Never Committed The Crimes They Are Convicted Of. This Bad Influence Should Be Addressed. When We Were At The

Industrial Area Prison, We Laughed At And Mocked A Watchman Who Was Charged With Failure To Prevent A Crime. We Told Him: You Are Very Foolish, You Were Guarding A Lot Of Money Without Stealing, And Now You Are Here With Us Robbers On A Fake Charge, How Could You Stop Robbers Armed With Guns Using A Club? If You Get Out, Steal. This Guy Promised To Steal And Rob When He Leaves Prison And He Did And Is With Me Here At Kamiti. Also, After Release From Prisons, The Former Prisoners Who Find Life Difficult Contact The Colleagues Met In Prisons With Whom They Form Vicious Criminal Gangs And Commit More Serious Offences”.

That The Weaknesses Inherent In Imprisonment As A Form Of Punishment That Impede Reformation Of Convicts May Influence Re-Offending Had Been Confirmed By Mcneil (2010) Who Asserted That The Likelihood Of An Inmate To Recidivate Is Influenced By Prior Imprisonment, With Previous Prison Terms Leading To Greater Chances Of Recidivism. These Weaknesses Established By Other Scholars Include Fights Among Prisoners, And At Times Among Prisoners And Prisons Staff, Coercion And Other Acts Of Indiscipline By Prisoners (Mbugua, 2011; Paranjape, 2005; Colvin, 2000; Steiner, 2008); Poor Physical And Social Prison Conditions Which Lead To Contamination Of Petty Offenders (Kagendo 2003; Gendreau And Cullen, 1999; Odegi-Awuondo, 2003; Mushanga, 1976); Brutality By The Warders Which Embitters The Convicts Into Revenge Against The General Society On Release (Odera-Orika, 1985); Instilling Of Institutional Dependence (Goodstein, 1993); Overcrowding And Congestion (Omboto, 2013) Among Other Weaknesses.

Apart From Imprisonment Related Reasons, Asked To Give The Reasons Why They Continue To Commit Crimes Despite The Past Punishment(S), 29% Of The Respondents Indicated That They Are In Crime Due To Poverty, 25% Blamed Their Continued Criminality On Stigmatization And Rejection By Society Members, While 13% Each Indicated That Their Reoffending Was Due To Lack Of Employment, And Peer Influence. The 7% Of The Respondents Cited That It Was Due To Drug And Substance Abuse, As Another 7% Blamed Their Recidivism On Other Factors Such As Easy Way Of Earning A Living, The Need To Revenge Against Those Who Offend Them, Corruption, Land Conflicts, Psychosocial Issues Among Others. Few Respondents At 4% Cited Ignorance And Lack Of Formal Education. While Another Smaller Proportion; 2% Indicated That They Did Not Know Why They Continue To Commit Crime Despite Punishment. Figure 1 Indicates The Findings.

Figure 1: Reasons For Recidivism



Source: Researcher (2016)

During Focus Group Discussions, These Factors Were Elaborated On By The Two FGD Members At Kamiti Prison And Langata In Nine Categories As Follows:-

- Poverty, Which Is Reflected In Lack Of Employment Or Capital To Start Business On Which One Can Support Themselves And Their Families Is A Major Factor In Re-Offending.
- Bitterness Or A Drive To Revenge Where One Feels He Or She Was Unfairly Convicted Or The Punishment Awarded Was Too Harsh.

- Peer Pressure From Bad Friends With Whom One Has Been Involved With In Crime, Who Normally Pull Back Their Colleagues Into Committing Crimes Despite Punishment Even When They Feel They Should Stop.
- Drug And Alcohol Consumption Of Which The Members Observed That Once One Is Hooked On Drugs And Alcohol, Punishment Has No Power Over Them, More So, If They Use Crime As A Source Of Money To Buy The Drugs And Alcohol.
- Ignorance Or Lack Of Knowledge As Normally Exemplified In The Cases Of Grievous Harm Resulting From Fights In Situations Where One Takes The Law Into Their Own Hand Instead Of Registering Complaints With The Police.
- Land Conflicts Commonly Witnesses When Relatives Disagree On How A Family Land Should Be Sub-Divided. The Group Observed This Could Lead To Murder Cases Among Others.
- Domestic Issues Or Conflicts Between Family Members And Spouses Are Also Responsible For Continued Criminality.
- Social Stigma And Discrimination From Community Members, And Bitterness From Crime Victims Who Never Forgive Convicts Even After Punishment.

On Poverty As Factor Influencing Reoffending In Convicts, A Police Officer Who Was One Of The Key Informants; PKI-2 Observed That:

“Poverty Characterized By Lack Of Employment And Lack Of Capital For Business Are Factors That Fuel Re-Offending; Therefore The Root Cause Of Crime And Reoffending Which Is Poverty Should Be Addressed Instead Of Over Reliance On Punishment”.

That 29% And 13% Of The Respondents Blame Poverty And Unemployment For Their Reconviction Is In Agreement With The Findings On The Socio-Demographics Characteristics Of The Respondents Which Established That A Majority Come From Lower Social Class, And Thus May Have Been Pushed Into Crime By Poverty. The Findings Are Consistent With The Opinions Of Other Scholars Such As Bohm & Haley (1997) Who Identified Unemployment As One Of The Causes Of Re-Offending In Convicts.

Concerning Stigma And Discrimination From The Community, And Rejection The Ex-Convicts Particularly Ex-Prisoners Encounter From Family Members, KPFGDM-5 Put It Thus:

“Immediately People Learn That You Were Once Prisoner, They Drift Away Even When You Have Not Offended Them In Any Way. I Left Prison And Got Employed By An Asian In His Factory In Industrial Area Here In Nairobi. When He Learnt That I Was Once A Prisoner, I Got Fired. At The Work Place A Stool Got Broken And I Offered To Repair It, Which I Did Very Well. The Boss Was Quite Impressed And Asked Where I Had Trained, But When I Became Honest With Him And Informed Him That I Had Learnt The Skill At Kamiti Medium Prison, He Fired Me On The Spot Accusing Me Of Not Having Informed Him That I Am A Criminal. I Had Worked With Them For Seven Months Without Any Mistake. I Deeply Regret This Incident. I Stayed For Over A Year Without A Job Which Forced Me To Steal, And That Was The Onset Of My Criminal Life As I Later Became A Robber For Which I Am Now Condemned To Die.”

On His Part, KPFGDM-9 Observed:

“When You Have Been Falsely Accused, You Do Not See The Need Of Not Committing A Crime, After All You Are Guilty Whether You Did It Or Not.”

KPFGDM-7 Summed The Extent Of Stigma Thus:

“To The Public, Once A Criminal, Forever A Criminal, The Offenders Are Not Expected To Change”.

According To Tannenbaum (1938) And Lemert (1951) Social Stigma And Discrimination Worsens The Rate Of Recidivism Because It Leads To Police Profiling And Close Monitoring Of Ex-Convicts. The Individuals Labeled Criminals Also Suffer From Other Injustices Of The Label Which Include Failure To Be Accepted By Employers, And Strained Relations With The Law Abiding Members Of The Society. In Kenya This Observation Is Correct As Former Convicts Are Denied Certificate Of Good Conduct By The Government On The Basis Of Their Past Criminal History. Without This Document, Most Employers Including The Government Declines To Offer Job Opportunity.

On Bitterness And The Need For Revenge By Crime Victims, Langata Prison FGD Member Number-1 (LPFGDM-1) Who Had Been Reconvicted Four Times And Attributed Her Problems To The Victim Of Her First Crime Who Kept Accusing Her Falsely And The Area Chief And The Police That Were Either Compromised Or Could Not Believe Her Asserted:

“My First Offence Was Stealing By Servant For Which I Was Imprisoned For Three (3) Years But Served One Year Due To Remission And Amnesty. When I Went Back To The Estate, The Lady I Had Stolen From In The Shop Demanded That I Pay Her Back Her Money But Because I Didn't, She Accused Me Of A Different Offence And I Was Arrested.”

KPFGDM-6 Observed:

“After You Have Been Punished By The Court, The Crime Victims Still Follow You Up To Pay Them.”

As A Result Of Social Stigma And Discrimination, Rejection By Family And Relatives, And Bitterness From Crime Victims, Some Ex-Convicts Make A Conscious Decision To Go Back To Crime. The Above Findings And Arguments Show That Several Factors That Influence Re-Offending Lie Outside The Punishment And It Can Only Be Curbed By Controlling These Factors.

Regression Analysis On The Effects Of Psycho-Social Factors On Recidivism

Regression Analysis Was Conducted On The Relationship Between Recidivism And Various Psycho-Social Factors, The Findings Are Shown In Table 1.

Table 1: Variables In Equation

Variable	B	S.E.	Wald	Df	Sig.	Exp(B)
Personality	0.134	0.343	4.267	1	0.033	1.814
Alcohol And Drug Use	0.6204	0.462	6.281	1	0.026	2.163
Interpersonal Relationship And Discipline	0.023	0.424	0.043	1	0.086	1.024
Family Relations	-0.57	0.68	2.015	1	0.044	0.504
Occupation	0.911	0.823	1.119	1	0.998	0
Childhood Upbringing	-0.302	0.459	3.894	1	0.057	0.631
Marital Relationship	0.014	0.661	2.788	1	0.067	0.428
Community Acceptance	-0.056	0.776	2.872	1	0.023	0.398
Constant	2.246	0.487	1.004	1	0.997	3.225

Source: Researcher (2016)

As Shown In Table 1, Only Four Of The Independent Variables Made A Unique Statistically Significant Contribution To The Model (Personality, Alcohol And Drug Abuse, Community Acceptance And Family Relations). From The Results, It Was Revealed That The Strongest Predictor Of Recidivism Was Alcohol And Drug Abuse, Recording An Odds Ratio Of 2.163. This Indicates That Respondents Who Had Engaged In Alcohol And Drug Abuse Were Over 2 Times More Likely To Experience Re-Conviction, Other Factors Being Constant.

The Odds Ratio Of 0.398 For Community Acceptance Was Less Than 1, Indicating That For Every Increase In Community Acceptance, The Respondents Were 0.398 Times Less Likely To Re-Engage In Crime, Other Factors Constant. This Finding Is Consistent With Williams (2001), Tannenbaum (1938) And Lemert (1951) Who Established That Rejection By Community Members Due To Social Stigma Is Responsible For Reconviction In Offenders. That Alcohol And Drug Abuse Increases The Likelihood Of Re-Conviction Also Confirms Earlier Findings By Bohm & Haley (1997) That Majority Of Offenders Who Turn Into Recidivists Are Those Addicted To Drugs And Substances.

VI. CONCLUSION

The Study Established That Factors Not Related To Punishment Largely Influence Whether The Offender Will Recidivate Or Not. These Extra-Punishment Factors Can Be Categorized Under Socio-Economic, Individual, And Community Based Factors. Under Socio-Economic Factors Is Poverty Which Is The Major Cause Of Reoffending For Most Poor Offenders From The Lower Social Class Who, Unfortunately, Are The Majority. Poverty Is Characterized By Lack Of Employment Or Capital To Start Business From Which The Ex-Convicts Can Earn A Living Through Their Own Sweat. This Lack Forces This Category Of Ex-Convicts To Eke Out A Living Through Crime. Domestic And Land Conflict Is Also Another Socio-Economic Factor Responsible For Recidivism Among A Few Convicts. Domestic Conflicts Occur In Troubled Marriages While Land Conflict Is Common Where Relatives Disagree On How Family Land Should Be Sub-Divided.

The Individual Factors Responsible For Recidivism Are Weaknesses Inherent In An Individual Offender, Which Influences Reoffending. These Factors Established In A Few Convicts Include Bitterness And Drive For Revenge, Inability To Withstand Peer Pressure, Drug And Alcohol Abuse, And Ignorance Or Lack Of Knowledge. The Community Based Factors Are Social Stigma And Discrimination, And Labeling Of Ex-Convicts Despite Punishment Received For Their First Crimes Which Largely Hinder Their Resettlement In The Community. However, The Study Also Established That There Are Intra- Punishment Factors Which Influence Re-Conviction. These Are Ineffective Punishments That Would Not Control Recidivism. Punishment

Theorists Posit That For A Punishment To Be Effective It Must Be Severe, Swift And Certain. The Offenders Must Also Have Known The Punishment Prescribed For The Crimes Before Committing Them. Based On These Premises, This Study Established That At Times Punishments Awarded To The Convicts May Not Prevent Reoffending Because They Are Ineffective. The Study Also Established That Imprisonment, Though The Most Widely Applied Form Of Punishment May Be Ineffective Against Recidivism Due To Inherent Weaknesses Associated To It.

REFERENCES

- [1] Bohm, R.M. & Haley, K.N. (1997) Introduction To Criminal Justice. New York: Glencoe, Mcgraw Hill.
- [2] Briggs, D. (1975). In The Place Of Prisons-Towards A New Society. London: Maurice Temple Smith Limited.
- [3] Castillo, R., Sessions, III.,W.K., Steer, J.R., Hinojosa, Horowitz, M.E. & O'neill (2004) Recidivism And The "First Offender": A Component Of The Fifteen Year Report On The US Sentencing Commission's Legislative Mandate.USA Sentencing Commission.
- [4] Colvin, M. (2000) Crime And Coercion. New York: St. Martin's Press.
- [5] Crouch, B.M.C. (1993) "Is Incarceration Really Worse? Analysis Of Offenders' Preference For Prison Over Probation. Justice Quarterly, 10, USA.
- [6] Gendreau, P., Goggin, C. & Cullen, F.T. (1999). The Effects Of Prison Sentences On Recidivism. Correction Research.
- [7] GOK(2005) Towards Improving Methods Of Imprisonment. Nairobi: Kenya Prisons Service. KPS.
- [8] Goodstein, L. (1993). Inmates Adjustment To Prison And The Transition To Community Life. Justice Quarterly, 10.
- [9] James, N. (2015). Offender Reentry: Correctional Statistics, Re-Integration Into The Community, And Recidivism. Congressional Research Service.
- [10] Joyce, P. (2011). Criminology And Criminal Justice: A Study Guide. New York: Routledge.
- [11] Kagendo, R.S. (2003). Factors Precipitating Recidivistic Behavior Among The Kenyan Prisoners: A Sociological Interpretation. (Unpublished MA Project) University Of Nairobi, Kenya.
- [12] Kamunyu, M.P. (Nd). Crime Prevention: Current Issues In Correctional Treatment And Effective Counter-Measures - 145th International Training Course: Participants And Observers Papers. Retrieved From [Http://www.unafei.or.jp/english/pdf/rms/no57-23.pdf](http://www.unafei.or.jp/english/pdf/rms/no57-23.pdf)
- [13] KNBS. (2014). Economic Survey. Nairobi: GOK.
- [14] Lemert, E.M. (1951). Social Pathology. New York: Mcgraw Hill.
- [15] Maltz, M. D. (2001). Recidivism. Orlando, Florida: Academic Press Inc.
- [16] Mbugua, M. J. (2011). The Effects Of Prisons Reforms On Inmates Discipline In Kenya: The Case Of Nairobi Remand Prison. (Unpublished MA Project) University Of Nairobi, Kenya.
- [17] Mcnaeil, W.A. (2010). 2009 Florida Prison Recidivism Study, Releases From 2001 To [2008. Dcresearch@mail.Dc.State.Fl.Us.](mailto:Dcresearch@mail.dc.state.fl.us)
- [18] Mushanga, T. (1976). Crime And Deviance: Introduction To Criminology. Nairobi: Kenya Literature Bureau.
- [19] Musyoka, W. (2013). Criminal Law: Nairobi: Law Africa Publishing Limited.
- [20] Odegi – Awuondo, C. (2003). The Industrial Criminal. HEKIMA Journal Of The Humanities And Social Sciences, 2.
- [21] Odera Oruka, H. (1985). Punishment And Terrorism In Africa. Nairobi: Kenya Literature Bureau.
- [22] Omboto, J.O. (2013) The Challenges Facing Rehabilitation Of Prisoners In Kenya And The Mitigation Strategies. International Journal Of Research In Social Sciences, 2.2.
- [23] Osayi, K.K. (2015). Socio-Cultural Factors Affecting Re-Integration Of Discharged Prisoners In Anambra State, South East Nigeria, International Journal Of Social Science And Humanity, 5, 1.
- [24] Paranjape, N.V. (2005). Criminology And Penology. Allahabad : Central Law Publications.
- [25] Picardi, C.A. & Masick, K.D. (2014) Research Methods : Designing And Conducting With A Real World Focus. London: Sage Publications.
- [26] Playfair, G. & Sington, D. (1965). Crime, Punishment And Cure. London: Martin Secker And Warbug Ltd.
- [27] Pyne J. (2007). Recidivism In Australia: Findings And Future Research. Australian Institute Of Criminology, Australian Government. Quasi-Experimental Research . The Annals Of The American Academy Of Political And Social Science, Sage Publications, 578.
- [28] Reifen, D. (1972). The Juvenile Court In A Changing Society – Young Offenders In Israel. Jerusalem.
- [29] Salenkin, R.T., Rogers, R., Ustad, K.L. & Sewell, K.W. (1998). Psychopathy And Recidivism Among Female Inmates. Law And Human Behaviour, 22,1.

- [30] Ssebuggwawo, A. (2010). Community Service And Recidivism: A Study Of The Legal And Institutional Frame Work In Kampala District Unpublished MA Thesis). Makerere University, Kampala.
- [31] Steiner, B. (2008). Maintaining Prison Order Understanding Causes Of Inmates Misconduct With And Across Ohio Correctional Institutions (Phd Thesis)-USA-Phd Thesis-University Of Cincinnati.
- [32] Tannenbaum, F. (1938). Crime And The Community. Ginn: Boston.
- [33] Tella, D.R. & Schargrotsky, E. (2013). Analysis Of The Recidivism Rate Of Offenders Treated With Electronic Monitoring And The Recidivism Rate Of Offenders Released From Prison In The Province Of Buenos Aires-Argentina-Journal Of Political Economy, 121, 1.
- [34] Tewkbury, R.A. (1997). Introduction To Corrections, New York: Mcgraw Hill Company
- [35] UNODC. (2012) Introductory Handbook On Prevention Of Recidivism And Social Re-Integration Of Offenders-Criminal Justice Series-United Nations-New York.
- [36] Vanderloo, M.J. & Butters, R. (2012). Treating Offenders With Mental Illness: A Review Of The Literature. The University Of Utah. Utah Criminal Justice.
- [37] Venter, J. H., Hoffman,S. & Goudine.G. (2006). Factors That Influence Adult Recidivism: An Exploratory Study In Pollsmoor Prison. South Africa Journal Of Psychology,36, 2.
- [38] Williams, K.S. (2001). Criminology. New York: Oxford University Press
- [39] Wright,V. (2010). Deterrence In Criminal Justice: Evaluating Certainty Verses Severity Of Punishment.- The Sentencing Project-Research And Advocacy For Forum, USA.

Omboto John Onyango "Linkages between Punishment and Recidivism: Analysis of Factors Influencing Re-Convictions in Kenya "IOSR Journal Of Humanities And Social Science (IOSR-JHSS). vol. 23 no. 04, 2018, pp. 21-29