

**CHALLENGES FACING VICTIMS OF CRIME DURING THE TRIAL  
PROCESS IN NAKURU COURT OF LAW, NAKURU TOWN, KENYA**

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**A thesis submitted to the Graduate school in partial fulfillment of the requirements of  
Master of Arts Degree in Criminology and Criminal Justice of Egerton University**

**EGERTON UNIVERSITY**

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## DECLARATION AND RECOMMENDATION

### Declaration

This thesis is my original work and to the best of my knowledge has not been presented for examination of any degree in any institution or university.

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### Recommendations

This thesis has been submitted for examination with our recommendations as university supervisors.

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## **DEDICATION**

This work is dedicated to my mum, my family and friends for believing in me. I also dedicate this work to all the victims of crime in Nakuru Law courts as well as other law courts in Kenya for their pursuit of justice, resilience and hope - this is the least I could do. Keep the hope alive.

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## **ABSTRACT**

The impact of crime on the people affected by it can be profound. Victims may suffer from physical, mental or psychological, emotional and financial harm, from which some may never recover. Injuries may be threatened or inflicted upon victims, witnesses or their families, and threats may even be made against lives. Victims of crime ought to enjoy rights and privileges envisaged by The Constitution, 2010 and other written statutes. The broad objective of the study is to investigate the challenges facing crime victims on litigation in Nakuru Law Courts. Specifically the study sought to; establish the socio-economic characteristics victims of crime victims in Nakuru law courts, to examine the perception of crime victims towards the criminal justice system, to assess the level of understanding of the criminal justice process by crime victims in Nakuru law courts. The study was guided by lifestyle theory and deviant place theory. The study employed descriptive survey research design. The study population was the victims of crime whose cases have been in court for the last five years that is 301. From the total study population, a sample of 103 was obtained through multi stage sampling. Purposive sampling was used to select one prosecutor in each of the 12 magistrate courts for interview. Quantitative data obtained was analyzed using percentages, frequencies, means, charts and graphs using SPSS while qualitative data collected through interviews was analyzed thematically. The results of the study shows that the females were more susceptible to crimes than males and that the majority who were most affected were between ages 41-50 years. Those who would not wish to go back to the court were much higher compared to those respondents who would wish to go back to the court should they be victims again. The study also revealed that the majority of the public lack proper understanding of the criminal justice system. Those who never understood the process of filing a case was greater compared to those who had knowledge of the process. The findings of the study informs both the National and County government on the need to periodically hold awareness campaigns with a bid to sensitizing the public on how to follow the due process of the law commencing from filing a case until the trial period is over and the importance of judiciary holding open days to allow the members of public to understand their operations. It also informs the government on the need to effect proper reforms in the judiciary as many of the crime victims had no faith in them since many rated the performance of magistrates as poor. By extension, it also informs the government on the need to facilitate police reforms so as to help concretize public confidence towards the police which is currently missing.

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## **LIST OF ABBREVIATIONS**

<b>CJS</b>	Criminal Justice System
<b>GOK</b>	Government of Kenya
<b>LOK</b>	Laws of Kenya
<b>OCC</b>	Organized Crimes Convention
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>NPS</b>	National Police Service
<b>USA</b>	United States of America

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Background to the Study**

A century ago it would have been difficult to have found any criminological agency (official, professional, voluntary or other) or research group working in the field of victims of crime, or which considered crime victims as having any central relevance to the subject apart from being a sad product of the activity under study criminality (Shoham, 2013). To officers in the Criminal Justice System (CJS) the victims were merely witnesses in the court case and to scholars the victims were totally sidelined or used as a source of information about criminality. Until very recently there was lack of knowledge about crime victims, and even now the information is sketchy, limited to certain crimes and often to certain types of victim (Shoham, 2013). This ignorance was astonishing when one considers that the CJS would fail to function if the victims refuse to cooperate (Williams, 2008).

The plight of victims was recognized by the earliest legal system that is; The Code of Hammurabi in the eighteenth century BC that had provision for the victims of highway robbers to be compensated for their losses out of governor's treasury (Ozek & Ozek, 2007). Until the middle ages many acts that are crimes today were considered to be torts that is, civil wrong which entitled the victim to compensation from the wrong doer (Hershovitz, 2017). Later on, powerful monarchs claimed compensation for themselves for the harm done to the victim (Smith, 2006). Fines to the government replaced compensation to actual victims, who were forced to seek compensation in civil court proceedings (Foqué, 2008). Not until after World War II was concern for the victim revitalized. Mendelson (1947) coined the term victimology as the scientific study of the victim which at least led to the issues of crime victims being studied independently from criminality.

Victims lost control over the process of determining the fate of the offenders who harmed them. Instead, the local governmental structure dominated judicial proceedings and extracted fines from convicts, physically punished them, or even executed them (Carss-Frisk, 2000). The seriousness of the wounds and losses inflicted upon victims were of importance only for determining the charges and penalties upon conviction (Picinali, 2017). Restoring victims to the condition they were before the crimes occurred was never the main concern. In fact, the recovery of damages became a separate matter that was handled in another arena (civil court)

according to a different set of rules (tort law) after criminal proceedings were concluded (Schafer, 1968).

Globally in 1970s there emerged a number of groups in the US concerned with: restitution compensation and restorative justice for victims of crime, the welfare of victims, groups of victims of particular crimes such as survivors of concentration camps, prisoners of war (especially Vietnam), the relatives of the victims of drunk drivers, the often hidden victimization of women and children and the victimization of mental health experts (Drakulich, 2015). These groups were drawn from different works of life and different interests but they generally agreed on two issues that punishment should be harsher and that criminals should be made to pay (Cassell, 2017). In 1985 the United Nations took up the issue of victims by coming up with the charter for victims right entitled; *Declaration the basic principles of justice for victims of crime and abuse of power* and the council of Europe similarly addressed the problems of victims rights and produced the; *European convention on the compensation of victims of violent crime* (Williams, 2008).

Victims and witnesses may be hesitant to give information and evidence because of perceived physical or verbal intimidation and threats against their lives or that of the members of their family (Bhuckory, 2013). This concern may be exacerbated where people who come into contact with the CJS are particularly vulnerable. For instance, by virtue of their age and developing levels of maturity, children require that special measures be taken to ensure that they are appropriately assisted and protected by criminal justice processes. Victims who receive appropriate and adequate care and support are more likely to cooperate with the CJS in bringing perpetrators of crime to justice. However, inadequacies of CJSs may mean that victims are not able to access the services they need and may even be re-victimized by the CJS itself (Kant, 2009).

Under most of the legal systems of world, a victim is simply a complainant who sought the services of the CJS by reporting and giving information about crimes to the attention of the authorities (Blackstock, 2016). If the police solved the case and made an arrest, the victim then played an additional role as a witness for the prosecution and helping the government to secure a conviction. Since crime is conceptualized as an event that threatened and offended the entire community, and was prosecuted by the state on behalf of the People, the actual victim was treated like just another piece of evidence, a mere exhibit with no use and to be discarded after the trial (Jerin *et al*, 1995).

The role of crime victims was only confined to report the incidents, cooperate fully with the investigation including giving their statements and finally give evidence as part of the prosecution's case in court (Manikis, 2012). But the rights that the injured parties deserved within the criminal justice process, as it handled and resolved their cases, were not given much consideration at all (Mohamad, 2002). To address these injustices and imbalances, crime victims began to join together to form consciousness-raising groups, self-help support groups, and organizations to engage in public education, outreach, research and lobbying. Despite their differing priorities, victim activists came together under the common agenda victims' rights.

The CJS players are seen to be overlooking or neglecting the genuine concerns of crime victims by unfairly blaming victims for facilitating or even provoking crimes on themselves. There is need to have explicit standards of fair treatment that is required to protect the interests of complainants and prosecution witnesses, as well as injured parties whose cases are still in court. People who suffered injuries and losses inflicted by criminals ought to be compensated and the best way to make sure that victim could pursue their personal goals and protect their own best interests is by granting them formal rights within the CJS (Nash, 2006).

Locally here in Kenya the human rights activists and other legal professionals also see the need of enacting laws to protect the fundamental rights of victims but that has not been the case leaving the victims of a crime with a lot of challenges in their quest for justice in most cases they are viewed as mere witnesses by the legal actors and with the adversarial system especially in Kenya adopted from the common law of England our colonial masters emphasis is laid on the accused person who is at the centre stage of criminal proceedings. In fact, according to Article 50 of the Constitution, 2010, justice delayed is justice denied (GoK, 2010). The constitution of Kenya 2010 in article 50 (9) states that parliament shall enact legislation providing for the protection, rights and welfare of victims of offences it has done so but that legislation has not been fully implemented because there is lack of will by the state and political leadership (GoK, 2010).

### **1.2 Statement of the Problem**

Victims of crime suffer innumerable consequences in the hands of criminals. These include; injuries, death, loss of property among others. The Government of Kenya has put in place measures to ensure restitution and compensations for victims of crime. These measures include among others enacted the Constitution of Kenya, 2010 that provides for expeditious

trial, Judicial reforms that seeks to promote justice for all irrespective of the status of the court users and Victim Protection Act no 17 of 2014 that caters for welfare of victims of crime and witness protection. Despite the existence of these policy and legal frameworks, the victims of crime continue to suffer myriad of challenges. The study sought to examine these challenges with a view to informing a review and/or development of a new policy framework that would address these challenges.

### **1.3 Objectives of the Study**

#### **1.3.1 Broad Objective**

To investigate challenges facing victims of crime on during the trial process in Nakuru law courts, Nakuru Town, Kenya.

#### **1.3.2 Specific Objectives**

- i. To establish the socio-economic characteristics of victims of crime in Nakuru law courts.
- ii. To examine the perception of the victims of crime towards the Criminal Justice System in Nakuru law courts.
- iii. To assess the level of understanding of the criminal justice process by victims of crime in Nakuru law courts.

### **1.4 Research Questions**

- i. What are the socio-economic characteristics of victims of crime in Nakuru law courts?
- ii. How are the perceptions of victims of crime towards the Criminal Justice System in Nakuru law courts?
- iii. What is the level of understanding of the Criminal Justice System by victims of crime in Nakuru law courts?

### **1.5 Justification of the Study**

The study intended to inform policy makers in the CJS on the need to come up with policies to ensure justice is done effectively and efficiently and in a timely manner and also alleviate the challenges facing crime victims. The study was essential in that its findings informed both the National and County government on the need to periodically hold awareness campaigns with a bid to sensitizing the public on how to follow the due process of the law commencing



from filing a case until the trial period is over and the importance of judiciary holding open days to allow the members of public to understand their operations. It might also inform the government on the need to effect proper reforms in the judiciary as many of the crime victims had no faith in them since many rated the performance of magistrates as poor. It is a useful source of information to the government in that it educates on the need to facilitate police reforms so as to help concretize public confidence towards the police which is currently missing. The findings is also a useful source of information for researchers and development practitioners who need to conduct further research on the same topic in other courts.

### **1.6 Scope and Limitations of the Study**

The study was carried out in Nakuru Town, Kenya. The field of study was been chosen because the crime statistics from the police have shown that Nakuru County has many reported cases. According to the Kenya police service annual crime report 2014, Nakuru County is the second highest in terms of crimes recorded with 4525 recorded cases after Nairobi which has 6732 recorded cases. The study was carried out on victims of felonious crimes whose cases have been in Nakuru law court for the last five years because it was assumed such victims have suffered the most. This study was limited to law courts in Nakuru Town (magistrate courts) which had a larger population within Nakuru County and the court being the main it was best suited for the study because it had a larger number of crime victims in the county compared to other sub counties in Nakuru.

## **1.7 Definition of Terms**

**Court of law:** The study adopted Hornby et al 2005 definition of court of law to mean; a duly instituted organ of the government that administers justice, whether on the basis of legislation, previous court decisions, or other authoritative.

**CJS:** Megret (2015) defines of CJS as a set of agencies and processes established by governments to control crime and impose penalties on those who violate laws. The study will adopt the same definition of CJS.

**Litigation:** Webb (2005) defines litigation as a process of making or defending a claim in court. In the study, litigation has been used to mean the process of resolving disputes by filing or answering a complaint through the public court system.

**Prosecution:** Refers to the institution that conducts legal proceedings against someone in respect of a criminal charge on behalf of the state (Evans, 2013). In the study, the same meaning applies.

**Perception:** The study adopted Kardas (2013) definition of perception to mean; the way you think about or understand someone or something or the ability to understand or notice something easily.

**Socio-economic characteristics:** According to Gezons (2012), socio-economic characteristics refer to indicators like education, age, employment, income, religion and housing. The study applies the same definition.

**Victim:** The study adopted Dignan's 2005 definition of victim to mean; a person harmed, injured, or killed as a result of a crime, accident, or other event or action.

**Crime victim:** Refers to a person harmed or injured or losses property as a result of a crime is also any person or a category of individuals when hit by crime most readily are given the complete and legitimate status of being a victim (Fattah, 1986). The study will adopt the same definition of crime victim.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter reviews literature relating to social economic characteristics of crime victims, level of crime victim understanding of the CJS Process and crime victim's perception towards the CJS. It also discusses theoretical and conceptual framework that will be used to guide this study.

#### **2.2 Social - economic characteristics of crime victims**

Economic loss, physical injury and psychological reactions may involve negative social characteristics for the victim. Some individuals find that the crime completely alters their lives. They may be forced to completely change their situation, such as changing occupations because of a fear of working at night or changing residences due to a feeling of insecurity. The latter example is especially relevant for the thousands of women and children who live with the threat of violence every day. In these cases it is almost always the battered woman who has to move to escape the violent man, a move that involves large social, practical and economic problems (Blomberg, 2000).

Another social characteristic, which may arise as a result of crime, is that the victim often pulls away from contact with other individuals more especially rape or sexual offences related victims. This could be because the victim does not wish to discuss the event because of feelings of shame or painful memories or because the victim no longer trusts others. In some situations the case is reverse other people feel such a strong uneasiness that they withdraw when the victim desires to discuss the feelings and emotions associated with the crime, because the thought reminds them of their own vulnerability. Rather than discuss their grief and pain, victims may then internalize their problems (Lindgren & Lagerback, 2006). Persons in the victim's immediate surroundings may also have difficulty understanding how to react to the victim. This, added to the other pressures, may reinforce the victim's feeling that no one understands his/her situation, which may in turn lead to social isolation. Exposure to crime can damage an individual's fundamental sense of security (Lindgren & Lagerback, 2006). Studies of crime victims' thoughts and feelings about the future have found that many have serious worries about becoming victims again. This can be explained through decreased faith in the outside world as a result of the crime. This feeling of insecurity does not affect only those who were personally victims (Dahlback, 2008). The current study goes further to

show that crime victims in Nakuru apart from having that fear of being victimized again victims of crime also do not wish to go back court again when they become victims of crime because of their negative experiences with the system which has a lot of delays they would prefer to settle their disputes out of court.

Local studies of security and victim surveys show that many people worry about being victimized by crime, and feel unsafe strolling about their own neighborhoods after dark. Even though the number of people worried about crime far exceeds the number actually victimized, this worry can often have a larger impact on a person's life than the actual crime. Information regarding the actual extent of crime in combination with relevant crime prevention information is something that can reduce a victim's anxiety and fear of being victimized yet again. Another social characteristic of crime is the stigmatization, which may accompany the event. Leymann (2001), states that the victim's social fate is almost predetermined from the instant the crime occurs. Of primary importance is peace and quiet to recuperate, with a patient person to listen and take care of the practical measures necessary while the victim rides out the storm. Instead, attention is focused on the victim, his/her rights may be violated, and he/she may be looked down upon or overprotected.

The focus on the victim tends to take attention away from another large group that is affected by crime, friends and relatives of the victim. Becoming a crime victim places the individual at the epicenter of an earthquake. Just as with earthquakes, crime sends shockwaves out from the centre as well. These shockwaves, or effects of the crime, are more powerful for those individuals who are emotionally and physically closer to the victim (Lindgren & Lagerback, 2006). This area is not well researched, but results from existing studies indicate that the families of crime victims often exhibit psychological symptoms similar to those of the victim, they report feelings of worry and anxiety, feel depressed and have reduced self-confidence (Amick *et al*, 2007). Providing these individuals with information concerning the "normal" recovery process and an understanding of what is going on within the victim could both aid them through reducing their own anxiety and also help the victim through their increased insight into his/her situation.

Reports in the USA suggest that black and minority ethnic groups are more likely to be victims of crime, but this is because, on average, they are more likely to be younger (Dixon *et al*, 2006). Once age is accounted for, risk and rates of vulnerability are minimal (Salisbury &

Upton, 2004). There are also interesting points to be noted in relation to age and gender. Young people are often the most likely to be criminally victimized, and risk of victimization declines with age. But gender also affects the risk and vulnerability of younger and older people. Dixon *et al* (2006), point out that while women are less likely to be victims until they reach the age of 65, they are more likely to be victims of domestic violence at any age. Studies have shown that when males have fear of crime they engage in defensive behaviors such as weapon carrying while females are more likely to engage in avoidance behaviors especially avoiding places at night, which may restrict women's mobility (Humensky, 2010). The current study shows that criminals target females more than males because they felt could easily subdue female victims more than male who they perceived as more physically strong and it could require more force or even more than one offender to carry out the crime on them.

Studies in Latin America show that property crime affects mostly rich and middle class households living in larger cities moreover households living in cities with rapid population growth are more likely to be victimized than households living in cities with stable population growth (Hartt & Hackworth, 2018). The current study shows income had a bearing in influencing the rates victimization in Nakuru town in that majority of the victims earned between 10,001-20,000. This was followed closely by those who earned above 40,000. It can be argued that in Nakuru Town criminals target people who have money as compared those who earn nothing or less. Which shows criminals still target the middle and upper class even with the difference in geographic and social settings.

### **2.3 Crime victim's Perception towards CJS**

The contact between the CJS and the victim can also affect the crime victim's perception towards the CJS the crime victim can have a positive impression of the CJS, and places a great amount of faith in their work if they are treated well but this impression is largely based upon individual experience and the mass media's portrayal of CJS work (Wu, 2012). Another influence on this perception is discussion with others the CJS is one of the most discussed government agency more especially by those with negative personal experiences and they are the most heard than those who speak positively about the Criminal Justice System (Koudijs, 2012). Crime victims constitute a large share of all individuals who come in contact with the CJS. This implies that the victims play a large role in influencing crime victim's opinion regarding the CJS. Victims with negative experiences relay these experiences to others, who

in turn spread the stories to a wider audience. If the general crime victim's feels that the CJS disregard certain crimes or find them trivial then there is a serious risk that faith in the justice system declines or even disappears. This situation makes it more difficult for the CJS to solve even relatively "simple" cases (Lindgren & Lager back, 2006). The current study argues that majority of the victims of felonious crime that is 83% of the respondents have a negative perception against the CJS because the system is marred with corruption, delay of cases that hearing and determination of cases even take 20 years for some cases.

The victim's encounter with the CJS is important from a judicial aspect as well that is without information from the victim and witnesses, many crimes would never come to the attention of the CJS, and without their assistance in the investigation the perpetrators would often walk free. Shapland (2005), feel that the CJS fail to see the victim as a vital part in the CJS, despite the obvious dependence upon victim testimony. The central problem is the perception of the CJS when meeting victims; they are seen as peripheral to the justice process, and thus lack status in the eyes of the officers. In Nakuru town the victims of felonious crime have formed a negative perception because of the contact with the CJS officials namely the police, magistrates and court clerks they feel that these officials treat them harshly and arrogantly leading to a majority of them developing apathy to the process and they a times fail to cooperate.

The German criminologist Hans Joachim Schneider sees the role of the victim as analogous to that of gatekeeper of the justice system, with the duty to report crime to the CJS and appear as a witness in any resulting trial (Skogan, 2001). According to Smith (2003), the victim is often ignored after the necessary information has been obtained or if the victim is deemed a "bad" witness. While the victim is often deemed "peripheral" by the CJS, the victim can have high expectations of the CJS. For obvious reasons, the CJS cannot always live up to these expectations, and the resulting discrepancies can affect the victim's faith in the CJS and propensity to report future crimes. Flashbacks, recurring thoughts, anxiety and insecurity are common reactions (Radovanovic, 2009).

Repeated exposure to extreme emotional stress can leave individuals feeling burnt out. This fact can lead to CJS avoiding emotional involvement with a victim's situation in an attempt at self-preservation. Difficult situations such as this require that management at all levels establish policies, which ensure that their colleagues have access to guidance and support. One aspect of this support could be the routine collection of suggestions and positive

reactions from crime victims concerning the investigation process (Resick, 2004).The situation with the current study do not allow for social support processes and victims of crimes in Nakuru do not benefit from any follow up programs to allow for normal functioning in society like they did before the crime such programs would have included counseling that would have enabled them to overcome stress, distress, trauma and depression resulting from the events of the crime the end of the case marks the end of contact with the victim by the CJS officials.

#### **2.4 Level of crime victim's understanding of CJS**

Victims want their personal interests recognized by the judicial system. They are surprised to learn how little their opinions matter and how rarely their interests are considered. They soon find that, as Gilbert Geis observed: "Their role is like an expectant father in the delivery room necessary for things to have gotten underway in the past but at the moment rather superfluous and mildly bothersome." Victims' comments clearly indicate that they deeply resent being excluded from deliberations. To illustrate, when 100 rape victims were asked how they would improve police and court procedures, most wanted increased participation and status in the judicial system. Though victims are legally irrelevant to the state, their proposals reflect that the case is extremely relevant to them. Victims' evaluations of the police were strongly related to how much information police provided on the case, how frequently victims were contacted, and how considerate police were of their feelings. In all cases the rule was, the more involved victims perceived themselves to be, the more satisfied they were with police services (Anttila, 2004).

Victims want the police to provide information on the status of their assailant. They want to be called when the defendant is arrested and told whether he is in jail, released on bail, or roaming the neighborhood. Victims want this information-regardless of their utility to the case. Additionally, they want police officers to support, not second-guess, their behavior. Victims objected when, for example, police commented, "That's what you get for living in the city" or "You should have known better than to go out alone." Victims urged police to focus on the offender's behavior, not the victim's; to investigate the crime, not the victim's judgment in dating the offender, leaving a window open, or jogging at night. Victims also want more recognition from the legal system. Specifically, they want to be informed of deliberations, included in case developments, and offered an opportunity to participate in determining what happens to their assailant (Aromaa, 2001).

Victims also want better legal representation of their interests. Statistical analysis revealed that victims judged prosecutors in part as a client views private counsel-the better the perceived representation, the more favorable the evaluation. This evaluation was not primarily based on the disposition of the case. Rather, the more frequently victims heard from the prosecutor and were consulted about the case, the more satisfied they were with prosecutors' services. However, many felt that they were excluded, their case was not well prepared, and no continuity in personnel was provided which required them to repeat their story to a series of new prosecutors. Postponements were particularly difficult to tolerate. Studies show that witnesses' opinions of the court deteriorate as the number of postponements increases. 10 Sixty percent of the victims interviewed had their court date postponed at least once. Delay in court hinders the victim's recovery. Victims believed continuances were granted with little consideration for their feelings. Additionally, decisions on case dispositions and sentencing were usually made regardless of victims' interests. It is these imbalances that victims seek to correct (Amick, 2007). Lack of information about how to file case is underscored in the current study in that 94% of the victims of crime were not able to fully demonstrate how a case is supposed to be filed. The current study is different from the other studies because it looks specifically on the understanding of the CJS process while the other studies looked at the lack of information on the proceedings of the case by victims of crime.

Victims of crime are largely unaware of what takes place in the criminal justice system such ignorance curtails their right to a fair trial because defense lawyers take advantage of their vulnerability to weaken their cases especially during cross examinations (Thommen and Samadi, 2016). The current study goes on to show that the ignorance of the CJS includes the ignorance of the evidence required leading to victims of crime in Nakuru unknowingly destroying evidence because they do not know of what value it is to their case or how to preserve it.

## **2.5 Theoretical Framework**

### **2.5.1 The Lifestyle Theory**

The theory purports that individuals are targeted based on their lifestyle choices, and that these lifestyle choices expose them to criminal offenders and situations in which crimes may be committed. Examples of some lifestyle choices indicated by the theory include going out at night alone, living in "bad" parts of town, associating with known felons, being



promiscuous, excessive alcohol use, and doing drugs. Lifestyle theory or Lifestyle-exposure theory is a theory of victimization that acknowledges that not everyone has the same lifestyle and that some lifestyles expose people to more risks. Hindelang and associates have developed a lifestyle theory or lifestyle-exposure theory to explain the correlates of crime against persons, and Cohen and Felson have extended the theory to property crimes.

In addition to theorizing that victimization is not random, but rather a part of the lifestyle the victims pursues, the lifestyle theory cites research that victims share personality traits also commonly found in law violators, namely impulsivity and low self-control (Siegel, 2006). There is a correlation between victims and the perpetrators of crimes, both exhibiting impulsive and antisocial-like behaviors (Dempsey *et al*, 2006). These behaviors may contribute to their victimization since they cause the individual to put themselves at higher risk for victimization than their more conservative lifestyle counterparts. The theory posits that crime victims often become victims because of their own choices as to where to live, how to socialize and other lifestyle related variables that is why lifestyle theory is categorized under rational choice theory.

Lifestyle theory posits that people become victims of crime because they do not exercise intelligent or rational choice when putting themselves in social situations. In general, such social situations refer to the peer group, friends, social world and environment. It holds that such factors as like all-male peer group, urban environments, weapons-carrying and excessive partying are all tightly correlated with becoming victims of crime (Siegel, 2006). This partly explains the socio-economic characteristics that crime victims have resulting to them being victimized. Lifestyle theory holds that if a person changes his life choices, he will become less likely to be victimized. For example, a person can change friends, move to a rural area and stop going to bars. This, according to this approach, will lessen the chances of the person's becoming a victim. Lifestyle changes, in short, can reduce crime risk. While stressing choice the theory also stresses social life. Social life is itself a set of choices. Crime is then based on victims who deliberately put themselves in harm's way by identifying with those people or situations prone to crime. If one for example decides to go to bars regularly which means that the home is often empty and the car in places where intoxicated people gather he is likely to be a crime victim.

Lifestyle theory explains that victims make choices that predispose them to be victimized but sometimes that is not the case for other cases, victims of crimes are victimized merely

because they live in insecure neighborhoods and not because of their choices and personal characteristics.

### **2.5.2 Deviant Place Theory**

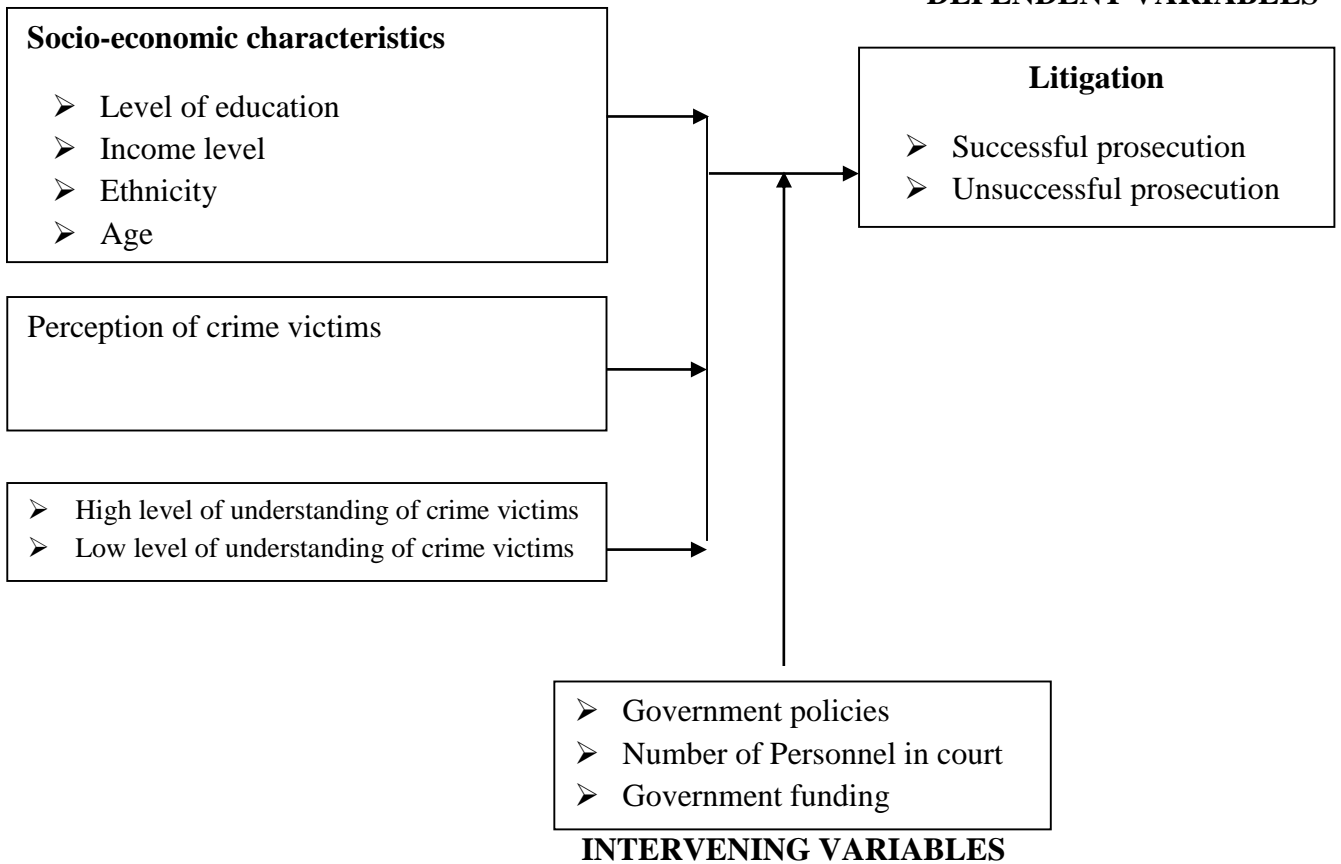
The deviant place theory states that greater exposure to dangerous places makes an individual more likely to become the victim of a crime (Siegel, 2006). The theory argues that the victims do not influence the crime by actively or passively encouraging it, but rather are victimized as a result of being in "bad" areas. In order to lower the chance that one will become the victim of a crime, the individual should avoid the "bad" areas of town where crime rates are high. Sociologist Wilson (1990) discusses the social and economic inequality that finds more minorities in the victim seat, since minorities are more commonly from low income households that are unable to move away from crime-ridden areas than their Caucasian peers are. Moreover, the deviant place theory suggests that taking safety precautions in these areas may be of little use since it is the neighborhood, and not the lifestyle choices, that affect victimization (Siegel, 2006). In a nutshell, if a neighborhood is "deviant," the only way to lower your risk of victimization is to leave the neighborhood for a less deviant, low crime rate area.

This theory holds that victims do not motivate crime but rather are prone to becoming victims simply because they live in social areas that are disorganized and contain high-crime rates and therefore have the highest risk of coming into contact with criminals regardless of their lifestyle or behavior.

Locally the theory is applicable to our society in that in Nakuru town as an example slum areas like kaptembwo, Ronda and ponda mali are seen to be deviant places and have high rates of victimization compared to estates like milimani and kiamunyi .

## 2.6 Conceptual Framework

### INDEPENDENT VARIABLES



**Figure 2.1:** Conceptual Framework

This section presents the conceptual framework that shows relationship between independent variable (Socio-economic characteristics, perception of the crime victims and the level of understanding of the criminal justice process by crime victims), the dependent variable (litigation) and intervening variables. The relationship is as shown in Figure 2.1.

## **CHAPTER THREE**

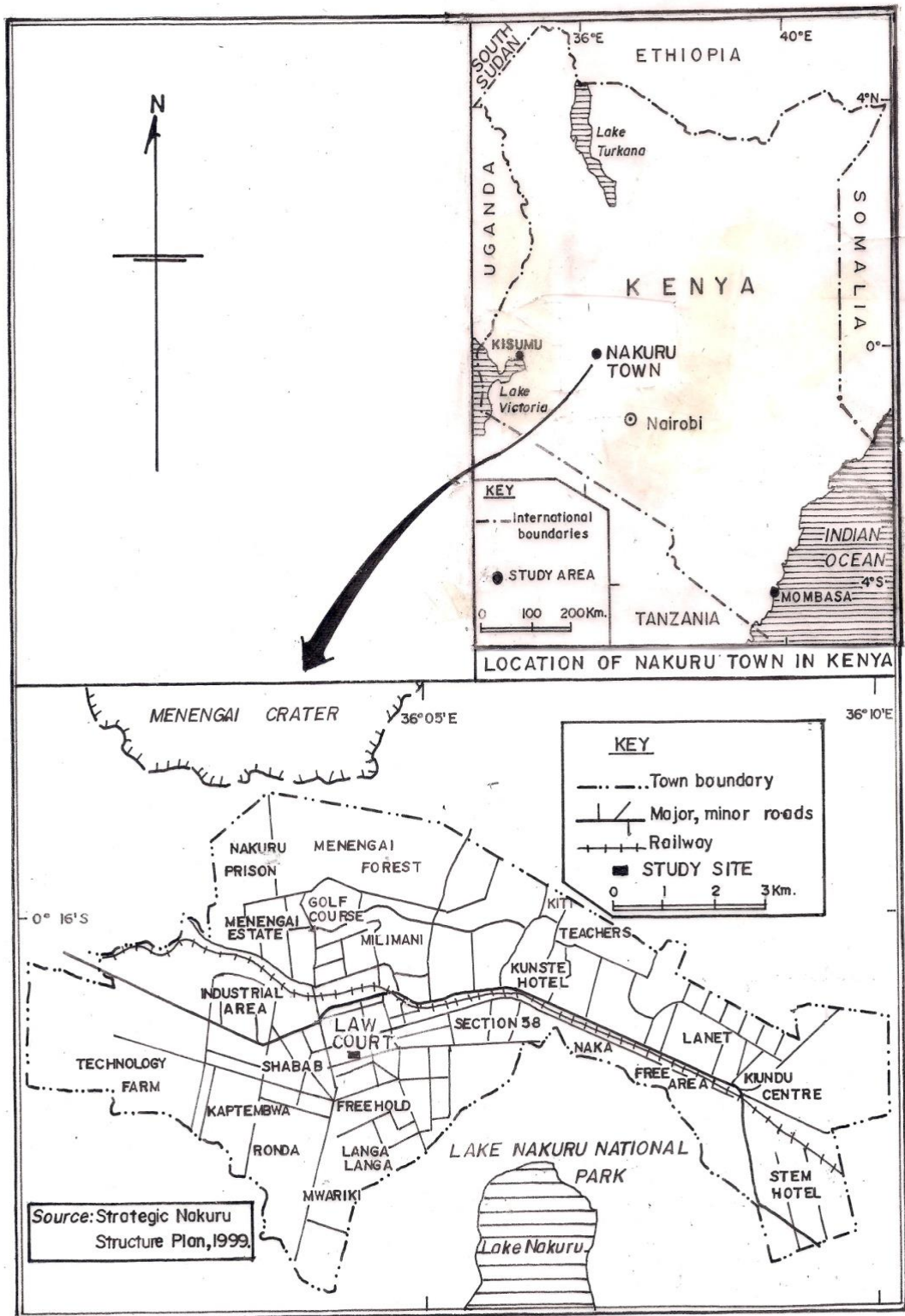
### **METHODOLOGY**

#### **3.1 Introduction**

This chapter outlines the research design, population and sampling procedure, methods of data collection, data collection procedure, data analysis, data analysis matrix table, ethical considerations.

#### **3.2 Study Area**

The study was conducted in Nakuru law courts which host the high court and court of appeal respectively and also 12 magistrates' courts. The law court was chosen because it serves a relatively large region of the former Rift Valley Province and has a large number of cases. With the large population within Nakuru County and the court being the main it was best suited for the study because it has a larger number of crime victims in the county. Again, Nakuru was best suited because the crime statistics from the police have shown that Nakuru County has a higher number of reported cases. Nakuru law courts being in a cosmopolitan town with a population of great cultural diversity crimes recorded are likely to be higher. The Kenya police service (NPS) annual crime report 2014 places Nakuru County as the second highest in terms of crimes recorded. Nairobi is the highest with 6732 and Nakuru with 4525, Kiambu 4449 cases, Mombasa 2946 cases, and Murang'a 2501 cases.



**Figure 3.1: A map of Nakuru Town**

Source: (IEBC, 2012)

### 3.3 Research Design

The study adopted a descriptive survey research design which refers to a brief interview or discussion with an individual about a specific topic, it may involve interviewing people face to face or handing out questionnaires to fill out (Cresswell, 2007). This design was suited for the study because the researcher had a one-time interaction with the population under study and collect information from a cross section of respondents selected in the study area. The design offers a researcher the advantage of focusing on specific description or characteristics. It is suitable where attitudes and opinions of respondents towards a given phenomenon are sought (Cresswell, 2007).

### 3.4 Population and Sampling Procedure

#### 3.4.1 Sampling Frame

The sample frame of the study was 301 crime victims whose cases had been in courts for more than 5 years and whose cases are felonious based on official court records.

#### 3.4.2 Sample size

The study used purposive sampling where those victims of felonious crimes whose cases have been in court for more than five years were the respondents. The total number of these crime victims was 301. A sample size was drawn using Nassiuma's formulae (Nassiuma, 2000).

$$n = \frac{NC^2}{C^2 + (N - 1)e^2}$$

$$n = \frac{301 \times 0.25^2}{0.25^2 + (301 - 1)0.02^2}$$

$$n = \frac{18.8125}{0.1825}$$

$$n = 103.0822$$

$$n = 103 \text{ respondents}$$

Where n = sample size

N = Population

C = Coefficient of variation

e = Standard error

C = 25% is acceptable according to Nassiuma (2000), e = 0.02 and N = 301

### **3.4.3 Sampling Procedure**

Multistage sampling was used for the study. Purposive sampling was used to choose the study site which is Nakuru law courts because of its high number of cases and victims of crime. Cluster sampling was then used to categorize crimes into felonies and misdemeanors where the study was interested in felonious crimes only because victims of felonious crimes had suffered more. Systematic random sampling was used to get the sample from the list of crime victims from the official court records.

Purposive sampling was used to select one prosecutor in each of the 12 law courts in Nakuru Town because of their knowledge and information in issues to do with victims of crime they are the ones who prosecute cases on behalf of the victims of crime.

### **3.4.4 Unit of Analysis**

The unit of analysis in this study was victims of felonious crimes that are being adjudicated in Nakuru law courts and have taken five years and prosecutors in the 12 magistrate courts. This was because they are the ones prosecuting cases on behalf of the victims in courts of law.

## **3.5 Methods of Data Collection**

Interview schedule was used to collect data from victims of crime and prosecutors. The method was useful in obtaining detailed information about personal feelings, perceptions and opinions. The method allowed more detailed questions to be asked and it achieved a high response rate.

### **3.5.1 Interview Schedule**

Interview schedule was used in this study to collect information. Specifically, interview schedule was used to collect qualitative data from all the respondents as well as one prosecutor in each of the 12 law courts in Nakuru Town. The method was preferred because it elicits more in-depth information. The interview schedule sample is as attached as Appendix A.

### **3.6 Reliability & Validity**

Reliability of the interview schedule was tested by pilot testing and an internal consistency gauged. To test internal consistency of the items listed in the interview schedule, the study used a Cronbach's Alpha Coefficient. Cronbach's Alpha is a statistic coefficient (a value between 0 and 1) that is used to rate the reliability of an instrument. The interview schedule was pilot tested at Nakuru Municipal Court. A correlation coefficient of 0.82 was obtained hence considered acceptable. Reliability denotes the degree to which findings can be reproduced by another researcher (Kothari, 2008).

To ensure internal, construct and content validity of the research instruments, the research instruments was given to the experts in the Department of Peace Security and Social Studies for expert judgments and the researcher made corrections on them as was directed.

### **3.7 Methods of Data Analysis**

The researcher used SPSS to analyze quantitative data and thematic content analysis to analyze qualitative data from interviews. The data was presented using percentages, frequencies, means, pie charts and graphs. Table 3.1 presents a summary of the data analysis techniques on the next Page



**Table 3.1: Data Analysis Matrix**

<b>Research objectives</b>	<b>Independent Variables</b>	<b>Dependent variables</b>	<b>Statistical Procedures</b>
To establish the socio economic characteristics of victims of crime in Nakuru Law Courts	Education Religion Income	Successful prosecution  Unsuccessful prosecution	Percentages, frequencies, means and thematic content analysis
To examine the perception of the victims of crime towards the CJS in Nakuru law courts, Nakuru town	Perceptions of victims of crime	Successful prosecution  Unsuccessful prosecution	Percentages, frequencies, means and thematic content analysis
To assess the level of understanding of the criminal justice process by victims of crime in Nakuru law courts, Nakuru town.	Level of understanding of the CJS by victims	Successful prosecution  Unsuccessful prosecution	Percentages, frequencies, means and thematic content analysis

### **3.8 Ethical Considerations**

The participants were fully informed about the research procedure and gave their consent to participate in the research before data collection took place. The participant's opinions were respected and treated with utmost confidentiality during the entire research process. The respondents were assured that the information collected would be used for academic purposes only. The participants were assured that they could feel free to withdraw from participation in the study without fear of being penalized. In general, a high degree of openness regarding the purpose and the nature of the research was adhered to (Mugenda & Mugenda, 2003).

## CHAPTER FOUR

### RESULTS AND DISCUSSIONS

#### 4.1 Introduction

This chapter presents the results of the data collected through the administered interviews and further discusses the findings. The researcher conducted both quantitative and qualitative analysis. The challenges facing victims of crime during the trial process was analyzed using descriptive statistics of frequencies, percentages, and constant comparison analysis. The data collected were presented in various themes drawn from the objectives namely the socio-economic characteristics of victims of crime in Nakuru law courts (gender, age, marital status, educational background, religion, work, and level of income), level of understanding of the CJS by victims of crime and perceptions of the victims of crime about the CJS. Data collected from the interviews of the 12 prosecutors was also analyzed and discussed in this section to corroborate the results.

#### 4.2 Results

##### 4.2.1 Respondents Response Rate

The sample size of for the study was 103 victims of felonious crime and prosecutors. Using the interview method, the study reached 103 respondents as shown in Table 4.1.

**Table 4.1: Respondents Response Rate**

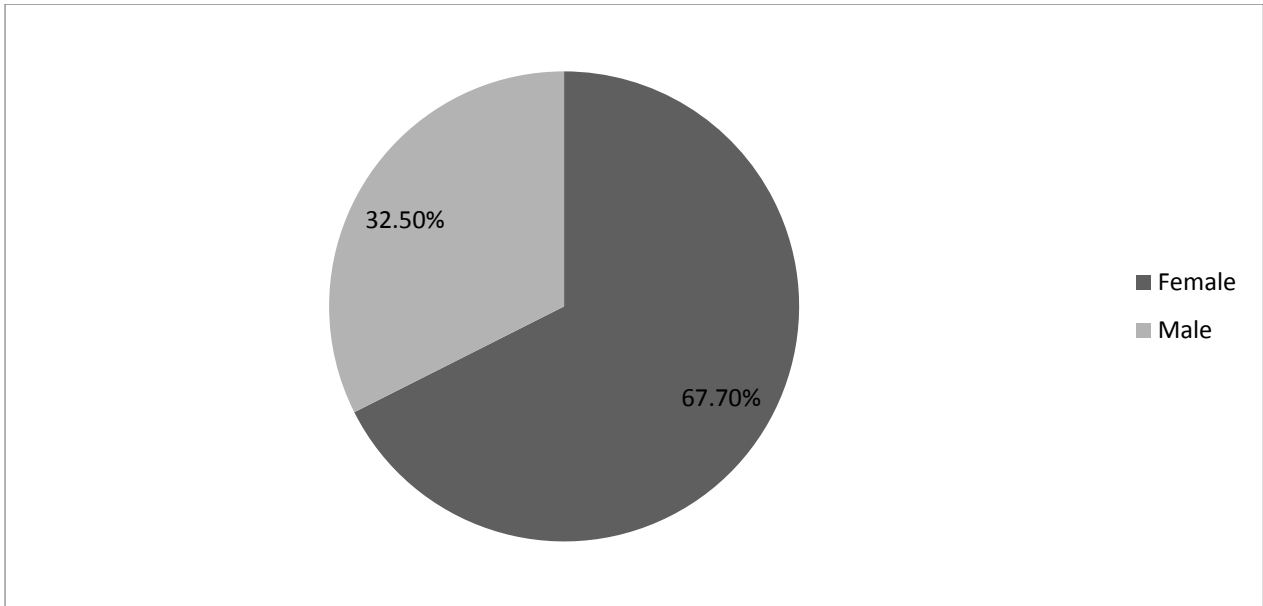
<b>Response Rate</b>	<b>Frequency</b>	<b>Percentage</b>
Response	103	100
Non – response	0	0
<b>Total</b>	<b>103</b>	<b>100</b>

#### **4.2.2 Socio-economic characteristics of victims of crime**

The study sought to examine the socio-economic characteristics of victims. The characteristics were examined in terms of gender, age, marital status, educational background, religion, work, and level of income, crime for which they were a victim, when the case was reported, why the case took so long and any problem that the case had caused them among others. The results are as presented in the subsequent sections.

#### **4.2.3 Distribution of the Respondents by Gender**

The analysis of gender distribution of the respondents shows that the number of female respondents was 70 which form 67.7 % whilst that of male respondents was 33 which form 32.5% of the total number of respondents. From the study female respondents were more than male. This therefore means that the females were more susceptible to crimes than males. According to the prosecutors from the 12 magistrates courts they stated that majority of the victims are young girls and women these can be seen from their statements below: *From what we have realized, most victims have been women. This may be because they are perceived to be weak to defend themselves. The culprits normally target the weak and the most vulnerable in the society who are the women and children hence the reason as to why the majority of the victims are women and also a good number of these felonious cases were sexual offences. The number of women victims or complainants is higher compared to that of men in most felonious cases that I handle this is so because some of these cases are sexual offences whose main targets are women* A larger number of prosecutors agree that women are the majority in terms of the cases they handle because they are more vulnerable to criminality .These distributions are as shown in the Figure 4.1.



**Figure 4.1: Distribution of the Respondents by Gender**

#### 4.4.2 Distribution of the Respondents by Age

According to Table 4.2, 37.5% of the respondents were between 41-50 years, 20.8% were above 50 years, 25% were between 31-40 years and 16.7% were between 18-30 years. From the study it was noted that majority of the respondents were between 41-50 years followed by above 50 years. This means that the majority who were most affected were between ages 41-50 years criminals are seen to target that age bracket because they are assumed to have more money.

**Table 4.2: Distribution of the Respondents by Age**

	Frequency	Percent
18-30	17	16.7
31-40	26	25.0
41-50	39	37.5
50 and above	21	20.8
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### 4.4.3 Distribution of Respondents by Marital Status

From Table 4.3, 12.5% (13 respondents) were single, 51% (53 respondents) were married, 12.5% (13 respondents) were separated, and 6.3% (6 respondents) were divorced while 17.7% (18 respondents) were widowed. More than half of the victims of crime were married.

That is closely followed by the widowed. The results shows us that the more one is married the higher the chance of being a victim of a felonious crime. More than half of the victims of crime were married. That is closely followed by the widowed.

**Table 4.3: Distribution of the Respondents by Marital Status**

	<b>Frequency</b>	<b>Percent</b>
Single	13	12.5
Married	53	51.0
Separated	13	12.5
Divorced	6	6.3
Widowed	18	17.7
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### **4.4.4 Distribution of Respondents by Level of Education**

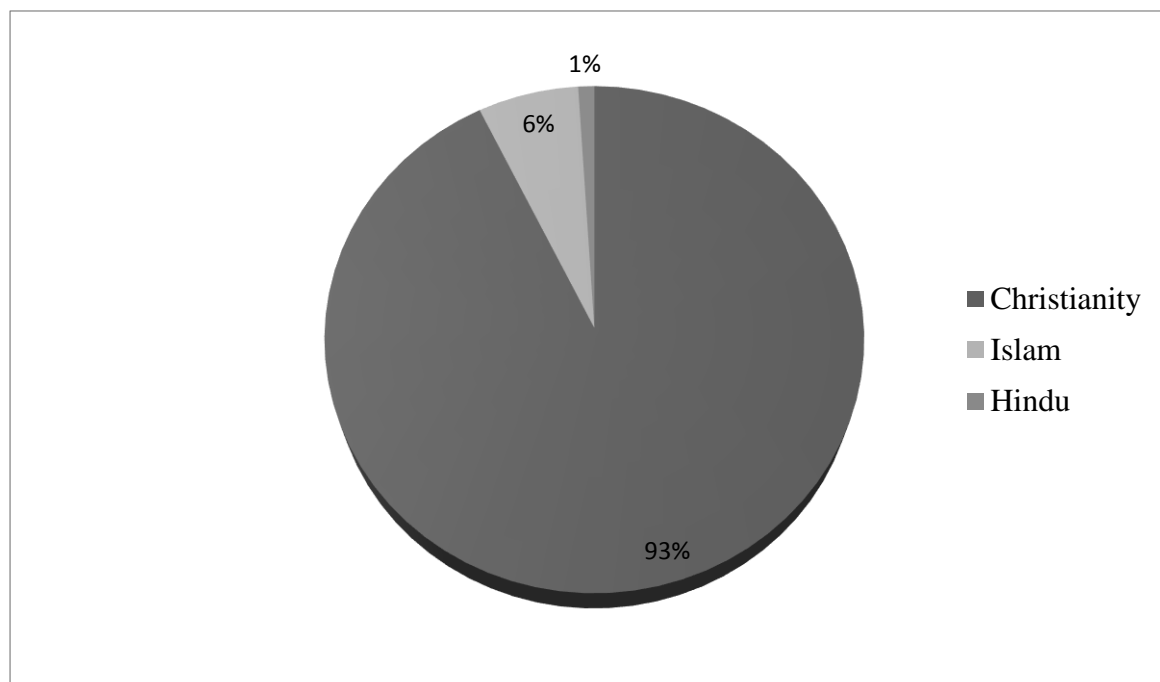
The respondents who had no formal schooling were 22% (23 respondents), those who reached primary school levels were 13.4% (14 respondents), those who had secondary level were 31.4% (32 respondents), those who had post-secondary levels were 17.7% (18 respondents) while those who attained university level were 15.5% (16 respondents). It can be inferred that the majority of the respondents had attained secondary level of education. That was followed closely by those who had no formal schooling and post-secondary levels respectively. When the percentages of those with formal education were summed up they form the majority this shows there is a nexus between education and victimization. Prosecutors also argued that most of the victims at least acquired formal education ranging from primary level up to the university. *These people have acquired formal education and most of them are working casually while others are formally employed that is doing white collar jobs e.g. Lecturers and teachers among others. Majority of our complainants have a basic education level. Most of our victims have an education of secondary level and above.* The prosecutors ascertained the fact that majority of their clients had at least a basic education while a small number according to them did not have a formal education. The information is as shown in Table 4.4.

**Table 4.4: Distribution of the Respondents by Level of Education**

	Frequency	Percent
No formal schooling	23	22.0
Primary school	14	13.4
Secondary	32	31.4
Post-secondary	18	17.7
University	16	15.5
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### 4.4.5 Distribution of Respondents by Religion

The respondents who professed Christianity were 93% (96 respondents), those who professed Islam were 6 % (6 respondents) while those who professed Hindu were 1% (1 respondent). It can therefore be inferred that the majority of the respondents were Christians. This shows that there is a link between Christianity and being a victim of crime in Nakuru. That was followed by those who professed Islam and then Hindu respectively. The information is as shown in Figure 4.2.

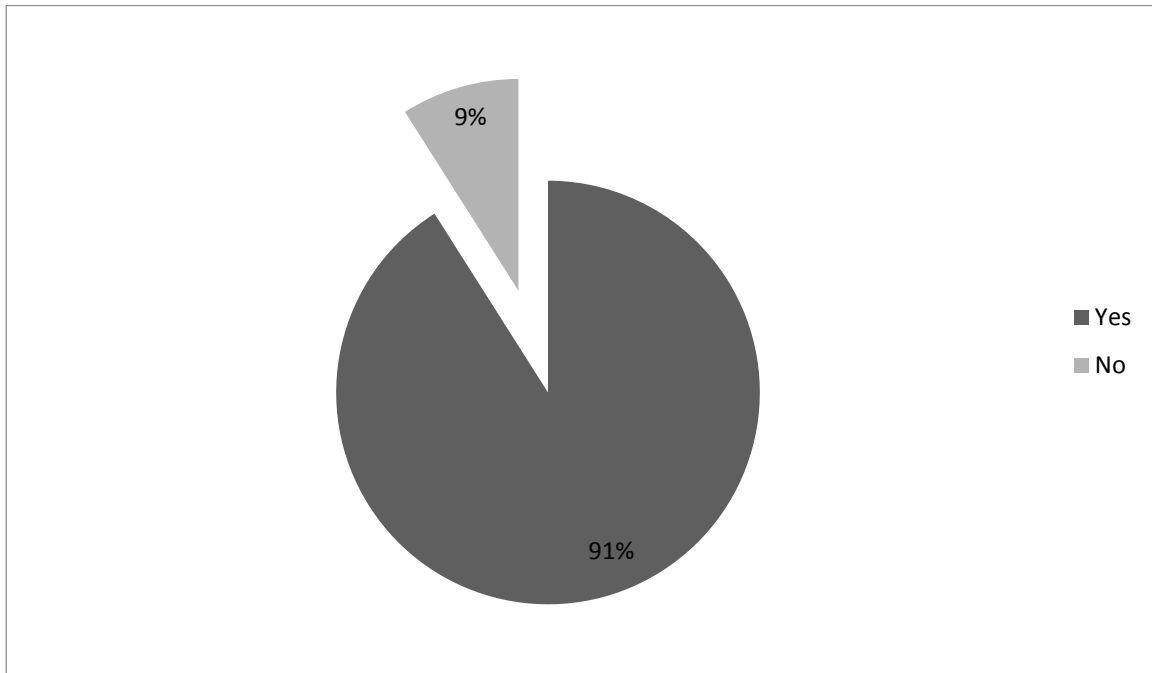


**Figure4.2: Distribution of the Respondents by Religion**

#### 4.4.6 Distribution of Respondents by Employment

The analysis of work distribution of the respondents shows that the number of respondents that were working was 93 which form 91 % whilst that of the respondents who were not working was 10 which form 9% of the total number of respondents. It can therefore be poised

that those respondents who were working were the majority compared to those who had no work. This distribution is as shown in the Figure 4.3.



**Figure 4.3: Distribution of the Respondents by Employment**

#### **4.4.7 Distribution of Respondents by Source of Income**

The respondents who got income from business were 11.4% (12 respondents), those who got income from hawking were 6.2% (7 respondents), those who got income from community health work were 2.2% (2 respondent), those who got income from farming were 17.5% (18 respondents), those who got income from rentals were 3.1% (3 respondents), those who got income from lecturing were 15.5% (16 respondents), those who got income from masonry were 7.3% (7 respondents), those who were drivers were 13.4% (14 respondents), those who got income from plumbing were 5.2% (5 respondents) while those who got income from teaching were 8.3% (9 respondents). Those who had no source of income were 9.4% (10 respondents). It can therefore be argued that the majority of the respondents were farmers. This was followed by those who got their source of income from lecturing and then from driving. The information is as shown in Table 4.5.

**Table 4.5: Distribution of Respondents by Source of Income**

	Frequency	Percent
Business	12	11.4
Hawkers	7	6.2
Community health Worker	2	2.2
Farming	18	17.5
Lecturing	16	15.5
Masonry	7	7.3
None	10	9.4
Drivers	14	13.4
Plumbing	5	5.2
Rentals	3	3.1
Teaching	9	8.3
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### 4.4.8 Distribution of Respondents by Average Earning per Month

From Table 4.6, 9.4% (10 respondents) of the respondents had no income, 13.5% (14 respondents) earned between 1- 5000/=, 11.5% (12 respondents) earned between 5,001-10,000/=, 31.9% (33 respondents) earned between 10,001-20,000/=, 2.1% (2 respondents) earned between 20,001-30,000/=, 3.1% (3 respondents) earned between 31,001- 40,000/= while 28.5% (29 respondents) earned above 40,000/=. It can be argued that majority of the victims earned between 10,001-20,000. This was followed closely by those who earned above 40,000. It can be argued that in Nakuru Town criminals target people who have money as compared those who earn nothing or less. The prosecutors interviewed also supported the idea that most crime victims are those who earn averagely drawn from these explanations *Those I have represented in court earn above 10, 000/= . Most of my clients are farmers. Others earn above 30,000/= a month. These people are the ones the culprits perceive as being able that is they are financially gifted due to their stature in the society.* Thus, they are susceptible to being victims of crime. Most of the victims were seen to have work hence they are prone to being victims. *I have realized that the most type of crimes being committed are the crimes against property such as theft, break-ins as well as robbery among others.* Most of the Prosecutors agree that most of their crime victims have an income that predisposes them to victimization though they did not have specific data on the earnings of their clients.



**Table 4.6: Distribution of Respondents by Average Earning**

	<b>Frequency</b>	<b>Percent</b>
No income	10	9.4
1- 5,000	14	13.5
5,001 – 10,000	12	11.5
10,001 – 20,000	33	31.9
20,001 – 30,000	2	2.1
30,001 – 40,000	3	3.1
Above 40,000	29	28.5
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### **4.4.9 Distribution of Respondents by Period the Case has been in Court**

According to Table 4.7, 47.9% of the respondents had cases that had been in court for a period between 5-10 years, 38.5% had cases in court for a period of between 11-15 years while 13.5% of the respondents had cases that had been in court for a period between 16-20 years. This means that the majority of the respondents had cases that had been in court for a period between 5-10 years followed by those with cases that had lasted between 11-15 years and 16-20 years respectively. Having a case in court for a longer period means justice delayed which amounts to justice denied this shows that most victims have suffered as a result of the delay. The prosecutors verified the argument evident from the information they gave by stating that most cases have been in court for more than five years. This may be clearly interpreted to be justice denied. Most of these people's cases have been in court for more than 5 years which should not be the case. Some of these cases have delayed because of too many cases being handled. *Many cases I handled have been in courts even more astonishing for a period more than 20 years!* The cases are delayed in court for a very long time. *Even though the files to such cases remain open, you even tend to forget that they exist.* Under the same issue prosecutors were asked to give reasons why the cases delay in court and most of them gave the reason explained subsequently. Corruption was stated as the main reason why cases took long to be completed in court that is some of officers of the court are bribed by suspects. *There is also a huge backlog of cases that needs the attention of the magistrates. The numbers of magistrates are too few compared to an overwhelming cases being filed each and every day in courts. There is interference of the witnesses by the suspects after they have been left at large on bail and some suspects even threaten the*

*complainants after being release on bail.* The other reason largely agreed by the prosecutors was that investigating officers do shoddy investigations that cannot stand trials in court leading to suspects being exonerated. *Moreover plaintiffs/complainants tend to prefer settling the cases at home which than leave the cases opened because there is already an ongoing criminal case of the state vs the suspect. Some of the complainants also fail deliberately to cooperate and coordinate with the relevant officers of the court. They don't appear in courts whenever they are required to thus leading to postponement of the cases over and over again.* The prosecutors largely agreed that the delay in cases is caused by corruption, lack of cooperation by victims of crime, shoddy investigations by investigating officers leading to failure by such cases after wasting courts time, huge backlog of cases and few magistrates and interference of witnesses by accused persons who are out on bond or bail.

**Table 4.7: Distribution of Respondents by Period the Case has been in Court**

	<b>Frequency</b>	<b>Percent</b>
5-10 years	49	47.9
11-15 years	40	38.5
16-20 years	14	13.5
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### **4.4.10 Distribution of Victims of Crime by Type of Crime**

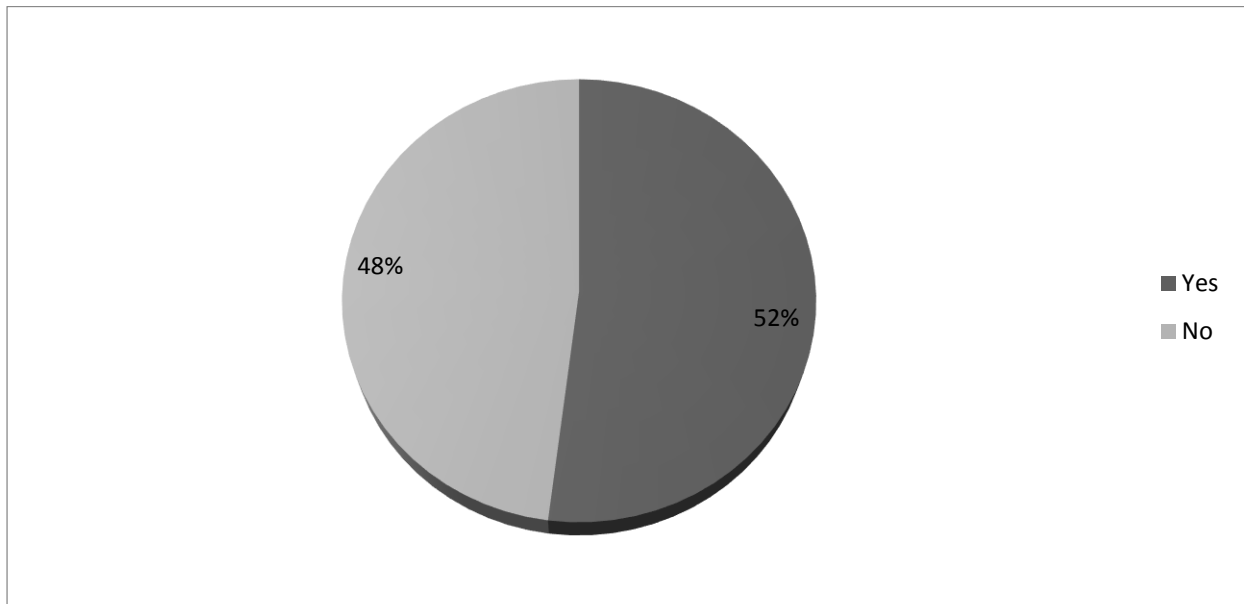
The respondents who were victims of crimes of chastity were 12.5% (13 respondents), those who were victims of crimes of decency and morality were 16.7% (17 respondents), those were victims of crimes against individuals were 18.7% (19 respondent) while those who were victims of crimes against private property were 52.1% (54 respondents). This shows that the majority of the respondents were victims of crimes against private property as shown in Table 4.8. The prosecutors interviewed also gave almost a similar account in terms of the types of crimes committed against the victims of crime majority of them stated that crimes against private property were very many followed by crimes against individuals such as rape, assault, murder, defilement among others. Others stated crimes against individuals and private property were the most being reported. Most crime victims had suffered crimes against private property such as house breaking as well as burglary.

**Table 4.8: Distribution of Victims of Crime by Type**

Type of crime	Frequency	Percent
Crime of Chastity	13	12.5
Crime of decency and morality	17	16.7
Crimes against individual	19	18.7
Crimes against private property	54	52.1
<b>Total</b>	<b>103</b>	<b>100.0</b>

**4.4.11 Distribution of Respondents by Loss Incurred**

The number of respondents who had incurred loss (s) was 54 which is 52% of the respondents whilst that of the respondents who had not incurred loss (s) was 49 which is 48 % of the total number of respondents. The results showed that the number of the victims who had incurred loss (s) in the study was slightly higher compared to those who had not incurred any loss but was determined to push through with the cases. Most victims reported having lost money, mobile phones, laptops, cars, bags, motorbikes among other items .The distribution is as shown in the Figure 4.4.

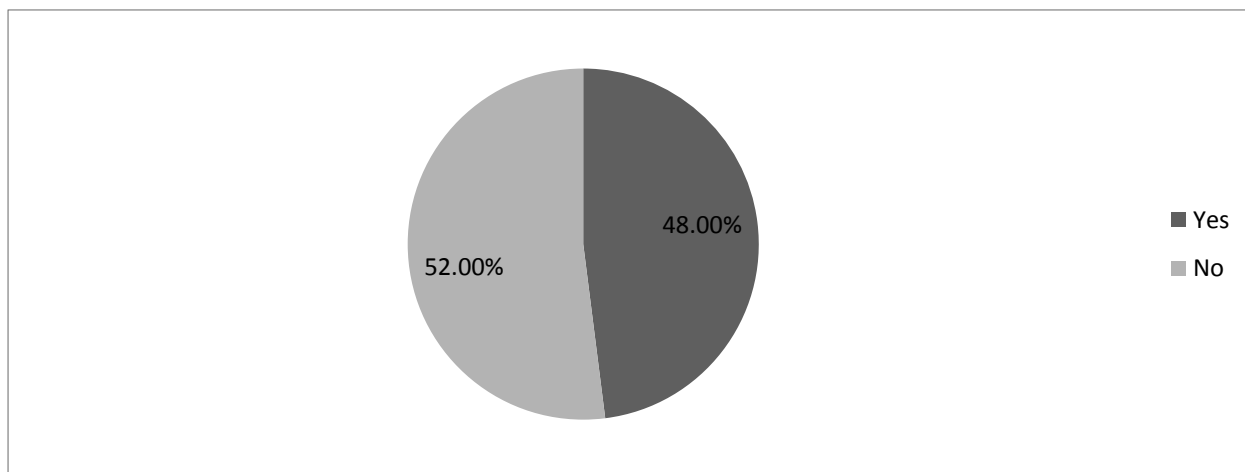


**Figure 4.4: Distribution of Respondents by Loss Incurred**

**4.4.12 Distribution of Respondents by Injury they suffered**

The analysis of distribution of the respondents by whether they had suffered any injury brought about by the crime shows that the number of respondents that had suffered an injury

was 49 whilst that of the respondents who had not suffered any injury was 54. It can therefore be observed that the number of the victims who had suffered injuries in the study was slightly lower compared to those who had not suffered any injury. These distributions are as shown in the Figure 4.5.



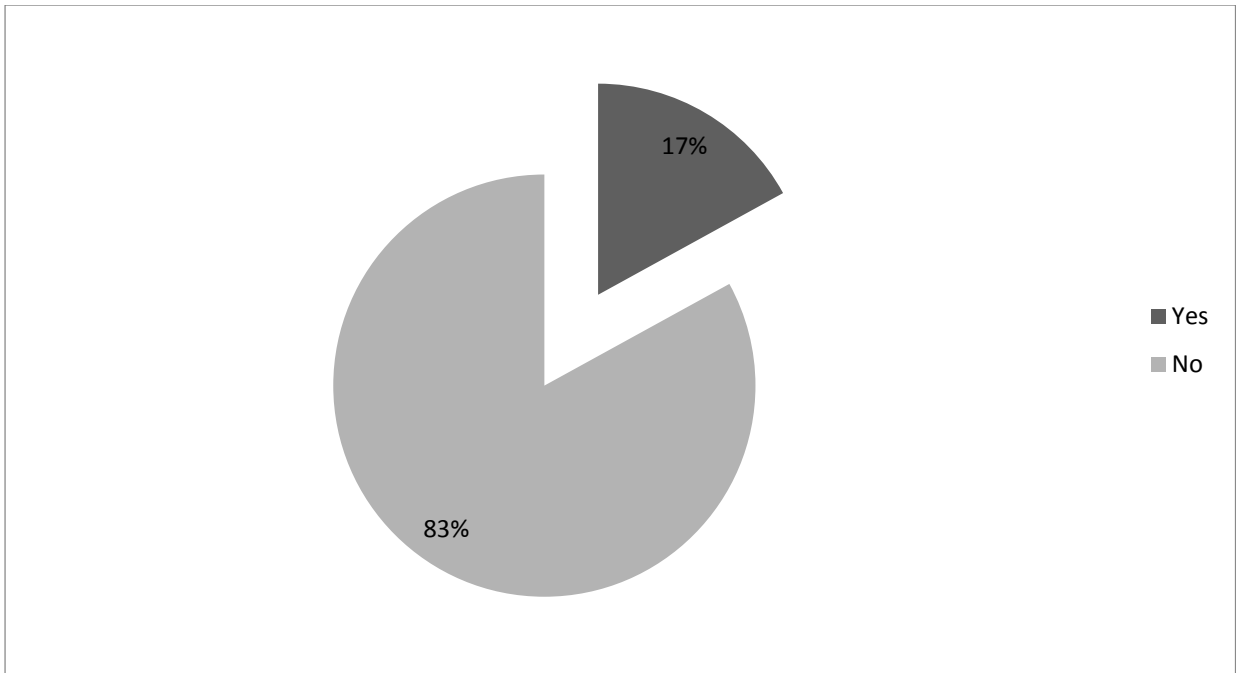
**Figure 4.5: Distribution of Respondents by Injury they suffered**

#### **4.2.3 Perceptions of the victims of crime towards CJS in Nakuru law courts**

In this section, the study sought to examine the perceptions of crime victims towards CJS. Specifically, the study sought to know whether the victims would go back to court again, what the respondents liked about the CJS and what the respondents hated about the CJS. The results are as presented in the subsequent sections.

##### **4.2.3.1 Whether the victims could go back to court again**

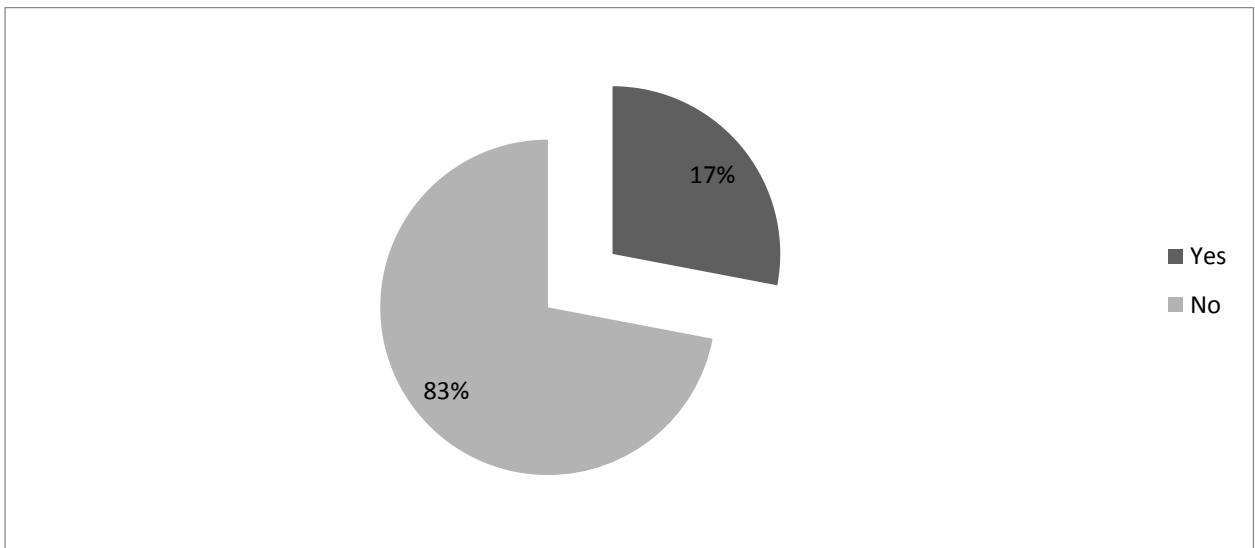
The number of respondents who would go back was 17 which form 17% while that of the respondents that would not wish to go back to the courts should they become victims again were 86 which form 83% of the total number of respondents. It can therefore be argued that those who would not wish to go back to the court were much higher compared to those respondents who would wish to go back to the court should they be victims again. These distributions are as shown in the Figure 4.6.



**Figure 4.6: Whether the victims could go back to court again**

#### **4.5.2 Whether respondents liked the CJS**

When the respondents were asked as to whether they liked the CJS, 17% of the respondents acknowledged that they liked the CJS while the majority forming up to almost three quarters of the total respondents i.e. 83% said they never liked the CJS. The information is as shown in Figure 4.7.



**Figure 4.7: Whether respondents liked the CJS**

#### **4.5.2.1 What the respondents liked about the CJS**

This section describes what some respondents liked about the CJS. The explanations were meant to support the statistical findings in figure 4.7. This was illustrated by the following statements:

*“Hata kama tunawakashifu maafisa wetu, kwangu wanafanya kazi ya maana. Isingekuwa hao saa hizi Kenya kungekuwa na mambo mengi ya ukosefu wa usalama. Kesi yangu imesha kaa kwa muda kortini but najua nitapata tu haki.”*

This is translated as “Even though we condemn our officers of the CJS, for me, they really do a good job. Were it not for them, Kenya by now would be experiencing too much insecurity cases. My case has been in court for a relatively longer period but I know I will at long last get justice.”

*“I like the fact that the CJS and specifically the correctional services has reengineered the punishment for the incarcerated from the previous retribution to a rehabilitation center where those criminals are enhanced spiritually, they are taught some courses fully sponsored by the government such as carpentry, masonry, tailoring, and plumbing among the others. This inculcated a culture of nation building and preparing these people to become good citizens and who can therefore fend for themselves. That in itself has made me like the CJS.”*

Those who liked the CJS were a small percentage of 17% and most of them argued from the above statements they felt there are improvements in the CJS post 2010 Constitution of Kenya they felt the reforms recommended by the same Constitution are bringing parity within the system but it should be noted this a small number of respondents only 17.

#### **4.5.2.2 What the respondents did not like about the CJS**

This section describes what some respondents did not like about the CJS. This can be illustrated by the following statements:

*“Mimi sipendi hawa watu. Wamechelewesha kesi yangu hata karibu nawachana nayo. jaji naye anakaa kupewa pesa acheleweshe hii kesi. Nimechoka na hii kesi.”*

The English translation is; “I don’t like these people. They have intentionally delayed my case and in fact almost giving up. The judge on the other hand seems to have been given money to delay this case. I am tired of this case.”

*“Mr. Kurgat, what is there for you to like in the entire CJS? Check the police for example, these people for example, they are very corrupt. The magistrates on the other hand tend to postpone cases all the time. The court clerks are very rude as well. I just hate the entire CJS.”*

*“If there will not be any reforms in the entire CJS, it will always remain to be hated and despised by most citizens. An overall vetting should be carried out to ensure that only those people who are qualified and have integrity are allowed to serve in such positions. As of now, I hate to say the image of the CJS is marred completely.”*

*“I simply don’t like anything in our CJS.”*

*“The Kenyan CJS is just rotten to the core. There is nothing good to like. It is just full of corruption; decisions made are influenced by tribalism, nepotism and favoritism among others.”*

*Mimi sipendi hawa maafisa wetu manake wanachukuwa mlungula. Kesi zetu zinakaa kortini kwa muda mrefu hadi karibu unasahau. Kwangu mimi sipendi hiyo kwao.*

This is translated as; “I don’t like our officers because of bribery. Our cases are staying in the courts of law for a long time such that you even tend to forget they even existed. Personally, I don’t like that about them.”

*“Just by a mere mention of the name police for example gives you an impression of corruption. These officers are prone to bribery and corruption. Number one mandate of the police is to protect people and property. If you happen to make a distress call so that you can be assisted by these men and women in uniform, they cannot go without asking for ‘something small’ as they often call it for either fuel or any other thing. Now that is purely disturbing hence the thing that I don’t like about them.”*

*“I hate the fact that some magistrates and some court clerks are very rude at times. I hate that fact about the judiciary in particular. The police too are very rude and must be corrupted for you to be effectively and efficiently assisted.”*

*What I hate about the CJS is the fact that many cases are delayed. One reason may be due to the few number of judges and magistrates in the country. The government should attempt to employ more members of the bench as the already employed ones are being overwhelmed with the everyday cases that require settlements. I just hate the fact that most cases just like mine are delayed and you know that justice delayed is justice denied.”*

Prosecutors interviewed corroborated the argument by citing corruption as very rampant and also arrogance they stated that most crime victims perceive the CJS as being heavily corrupt: *Some of the crime victims have actually witnessed some judicial officers being bribed by suspects hence has lacked trust in the entire CJS. Corruption is a factor that is a challenge to efficient administration of justice. It is a factor that is normally started from the police being bribed by the suspects to be let free or to enable them does a shoddy investigation. It is a serious menace in the police service. Others stated: some crime victims view some*

*magistrates, court clerks and the police as being arrogant to them. They then generalize that the entire system is full of arrogant officers hence no need to proceed with the case or go back to the courts again should they fall victims of crimes a second time.* The prosecutors account was similar to that of the victims of crime they cited corruption, arrogance among court officials like clerks and magistrates, shoddy investigations and inefficiencies by the system what was also evident was blames and counter blames within the system for example the prosecutors blame the police and magistrates for corruption while the same is true for the police and magistrates they blame the prosecutors.

#### **4.6 Level of understanding of CJS by victims of crime**

The study sought to assess the respondent's level of understanding of the CJS. This was assessed through asking the respondents the three main questions which include asking the respondents of what one is supposed to do if they become victims of crime, how to file a case, the evidence that is required as well as to rate the performance of the various CJS. The results are as presented in the subsequent sections.

##### **4.6.1 Actions to be taken by victims of crime**

The majority of the respondents could not really explain what one would do if he or she become a victim. Most of the respondents just outlined that the victims should just go and report to the police who will in turn press charge the suspects and the case goes to court and that's it. Only a few of the respondents were able to demonstrate fully what one would do in case one becomes a victim. The following were the steps given by respondents as the process of filing a case

##### **Entry into the System**

**Report:** A crime victim reports to the police and booked in the Occurrence Book. The police officers then receive the crime report from the victim, witnesses, or other parties.

**Investigation:** The police will then investigate the crime by trying to identify the perpetrator<sup>5</sup> and collect evidence to prosecute the perpetrator.

**Arrest or Citation:** If they find a suspect and enough evidence, officers may arrest the suspect or issue a citation for the suspect to appear in court at a specific time. This decision depends on the nature of the crime and other factors. If officers do not find a suspect and



enough evidence, the case remains open. If a suspect is found, the case then goes for prosecution in a court of law where there are charges read to the suspect first court appearance, bail or bond, preliminary hearing, arraignment, plea agreements, trials and finally sentencing.

The process above could only be explained by a few respondents while a greater majority could not fully explain the process this will be supported by the numbers in table 4.9.

#### 4.6.2 Process of filing a case in court

When asked as to whether the respondents understood the process of filling a case, 94% were not aware of the process. On the other hand, 6% had full understanding of the process. The information is as shown in Table 4.9.

**Table 4.9: Understanding of the process of filing a case**

	Frequency	Percent
Yes	9	6
No	91	94
<b>Total</b>	<b>103</b>	<b>100.0</b>

With regards to how filling a case takes place, 94% of the respondents were able to point out that the filling of a case was done to them by the state prosecutors or lawyers while only 6% were able to file a case on their own. This means that the majority of the respondents lacked proper understanding on how to file a case as a victim as they only depended on their private advocates as well as the state prosecutors. Similarly, the majority of the respondents were not able to actually explain what one would do in case they become victims of crime. These clearly show how the majority of the society lacks proper knowledge of the entire CJSs, their various functions and how they should relate to the victims. The victims do not know how to file a case. The prosecutors gave almost the same account about knowledge on how to file a case evident from their explanations which were: *The victims tend to rely on their lawyers as well as the prosecutors to help them in filling a case. There are however a few of them that understand the whole CJS processes. Majority of these victims are assisted by us to file their cases because they do not have a proper understanding of our processes here in court. Because of the legal jargon our clients the victims of crime find our system confusing, intimidating and difficult to understand. Only a small number of the victims of crime in our courts understand the criminal procedure.* The arguments of the prosecutors clearly shows

that a large number of the victims of crime do not understand the CJS process and it supports the statistical findings of table 4.9.

#### 4.6.3 Evidence that victims had knowledge about

This section discusses the type of evidence that the respondents were familiar with or had knowledge about. The respondents who knew testimonial evidence were 39.6% (41 respondents), those who knew hearsay evidence were 3.1% (3 respondents), those who knew corroborative evidence were 4.2% (4 respondent), those who knew opinion evidence were 7.3% (8 respondents), those who knew circumstantial evidence were 6.3% (6 respondents), those who knew documentary evidence were 9.4% (10 respondents), those who knew electronic evidence were 2.1% (2 respondents) while those who never knew any evidence was 28.1 (29 respondents). It can therefore be inferred that the majority of the respondents knew testimonial evidence. Similarly, more than a quarter of the respondents said that they never knew any type of evidence. The information is as shown in Table 4.10.

**Table 4.10: Evidence known by the respondents**

<b>Evidence</b>	<b>Frequency</b>	<b>Percent</b>
Testimonial Evidence	41	39.6
Hearsay Evidence	3	3.1
Corroborative Evidence	4	4.2
Opinion Evidence	8	7.3
Circumstantial Evidence	6	6.3
Documentary Evidence	10	9.4
Electronic Evidence	2	2.1
Don't Know	29	28.1
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### 4.6.4 The performance of the various CJS Personnel

The study examined the performance of various CJS officers including: the police, the prosecutors, the court clerks, the magistrates, the court registrars, and the prison warders.

##### 4.6.4.1 Performance of the Police

From Table 4.11 and Figure 4.5, 27.1% were of the view that the performance of the police was very poor. 41.7% felt that their performance was poor. 6.3% were not sure, 15.6% were

for good while 9.4% were for very good. It can therefore be observed that those respondents who felt that the performance of the police were either poor or very poor formed the majority of the total respondents with their combined percentage coming to about 68.9.

**Table 4.11: Performance of the Police**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	28	27.1
Poor	43	41.7
Not Sure	6	6.3
Good	16	15.6
Very Good	10	9.4
<b>Total</b>	<b>103</b>	<b>100.0</b>

#### **4.6.4.2 Performance of the Prosecutors**

Table 4.12 shows the rate of performance of prosecutors, 11.5% (12 respondents) were of the view that of the prosecutors was very poor. 12.5% (13 respondents) felt that their performance was poor. 11% (12 respondents) were not sure, 42.7 % ( 43 respondents) were for good while 21.9% (23 respondents) were for very good. It can therefore be deducted that those respondents who felt that the performance of the prosecutors were either good or very good formed the majority of the total respondents with their combined percentage coming to about 64.6

**Table 4.12: Performance of the Prosecutors**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	12	11.5
Poor	13	12.5
Not Sure	12	11.5
Good	43	42.7
Very Good	23	21.9
<b>Total</b>	<b>103</b>	<b>100.0</b>

**4.6.4.3 Performance of the Court Clerks**

According to Table 4.13, 25% (26 respondents) were of the view that of the court clerks was very poor. 30.2% (31 respondents) felt that their performance was poor. 6.3% (6 respondents) were not sure, 25 % ( 26 respondents) were for good while 13.5% (14 respondents) were for very good. It can therefore be poised that those respondents who felt that the performance of the court clerks was either poor or very poor formed the majority of the total respondents with their combined percentage coming to about 55.2.

**Table 4.13: Performance of the Court Clerks**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	26	25.0
Poor	31	30.2
Not Sure	6	6.3
Good	26	25.0
Very Good	14	13.5
<b>Total</b>	<b>103</b>	<b>100.0</b>

**4.6.4.4 Performance of the Magistrates**

From Table 4.14, 28.1% were of the view that the performance of the magistrates was very poor. 37.5% felt that their performance was poor. 13.5% were not sure, 11.5% were for good while 9.4% were for very good. It can therefore be argued that those respondents who felt that the performance of the magistrates were either poor or very poor formed the majority of the total respondents with their combined percentage coming to about 65.6.

**Table 4.14: Performance of the Magistrates**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	29	28.1
Poor	38	37.5
Not Sure	14	13.5
Good	12	11.5
Very Good	10	9.4
<b>Total</b>	<b>103</b>	<b>100.0</b>

**4.6.4.5 Performance of the Court Registrars**

When asked to rate the performance of the court registrars, 10.4% (11 respondents) were of the view that of the court registrars was very poor. 12.5% (13 respondents) felt that their performance was poor. 2.1% (2 respondents) were not sure, 40.6 % ( 43 respondents) were for good while 34.4% (35 respondents) were for very good. It can therefore be poised that those respondents who felt that the performance of the court registrars were either good or very good formed the majority of the total respondents with their combined percentage coming to about 75. This is three quarters of all the respondents. The information is as shown in Table 4.15.

**Table 4.15: Performance of the Court Registrars**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	11	10.4
Poor	13	12.5
Not Sure	2	2.1
Good	43	40.6
Very Good	35	34.4
<b>Total</b>	<b>103</b>	<b>100.0</b>

**4.6.4.6 Performance of the Prison Warders**

When asked to rate the performance of the prison warders, 22.9% (24 respondents) of the respondents were of the view that the performance of the prison warders was very poor. 45.8% (46 respondents) felt that their performance was poor. 11.5% (12 respondents) were not sure, 12.5% (13 respondents) were for good while 7.3% (8 respondents) were for very good. It can therefore be deducted that those respondents who felt that the performance of the

prison warders were either poor or very poor formed the majority of the total respondents with their combined percentage coming to about 68.7. The information is as shown in Table 4.16.

**Table 4.16: Performance of the Prison Warders**

<b>Performance Rating</b>	<b>Frequency</b>	<b>Percent</b>
Very Poor	24	22.9
Poor	46	45.8
Not Sure	12	11.5
Good	13	12.5
Very Good	8	7.3
<b>Total</b>	<b>96</b>	<b>100.0</b>

Prosecutors interviewed commented about the performance of their fellow court officers or players Majority of them were not specific but stated generally every officer of the court is doing their jobs right except a few of the individuals that are rotten to the core thus tainting the entire image of the CJS.

#### **4.7 Challenges facing Prosecutors**

Prosecutors were also probed further to explain the challenges they face in dispensing their duties that causes the delay in the hearing and determination of cases hence causing the negative perception by the victims of felonious crime about the CJS and they listed issues ranging from corruption, inadequate funding by government, cooperation, few magistrates, shoddy investigations, Remunerations, witness interference and arrogant court officers.

##### **(A)Corruption**

Corruption was raised as one of the major challenges they faced in discharging their duties effectively hence resulting to delay of cases and eventual collapse of the cases causing an injustice to the complainants. Their explanations were as follows: *some CJS officers are corrupt they take bribes at the expense of administering justice to the aggrieved. Corruption is not uncommon in the country. The culture of corruption has been inculcated in people such that everybody is used to taking bribes. Sadly even the magistrates who decide cases have fallen prey to corruption. Unless corruption is done away with, justice will continue to be denied to the aggrieved. It is the most primary factor hindering effective administration of justice in the courts of law and above all corruption is the main challenge hindering the*

*effective progress of the cases.* Their explanations showed that corruption is common in the CJS and there seemed to be accusations and counter accusations across the CJS prosecutors seem to blame the police, magistrates and other court officials. They largely agreed that it is true that within the CJS system there are corrupt officers and it's not only the police but also magistrates, prosecutors among other court officials.

### **(B) Inadequate funding by government**

Inadequate funding by government was also an issue raised they stated that the government should allocate more funds to help facilitate public oriented programmes such as awareness. *Currently, the resources being allocated to various criminal justice departments are inadequate. There are inadequate funds to properly manage CJS, affairs. Manpower as well as the resources are limited hence the many delays of cases in court. CJS budgets is too small hence should be increased. The budget allocated us is insufficient at times we even lack money for stationeries. The state of our work stations are deplorable because government allocate us little money.* The prosecutors generally stipulated that the government allocates inadequate funds to their department hence causing inefficiencies in service delivery and in the long term leading to delays in hearing and determination of cases.

### **(C) Lack of Cooperation**

Cooperation is key to the success of the of every case especially among victims of crime without their cooperation cases fail the prosecutors also raised that as an impediment to the delivery of service this is evident from their statements below: *Some of the victims refuse to completely cooperate with the court's officials after losing trust with the system. There are those victims who prefer to go and settle the dispute with the suspects out of court hence may prefer not to cooperate with the CJS officers in order to ensure the cases are terminated. Some crime victims are not attending the court sessions as required making their cases to be postponed all the time. Some victims also fails to cooperate if they fear that the accused are people who might Harm their lives outside the court thus they let the case go un terminated when they have the perception that they lives are in danger or due to fear of the suspects. Attending cases is sometimes very expensive to some victims thus they prefer not to have their case handled by the court due to expenditure and they continue with their normal lives. Criminal cases in Kenya do not have the option of compensation or damages so our clients do not see the purpose of pursuing the entire process of a court case yet they will not be compensated.* Cooperation was shown to affect the smooth running of the prosecutors job in that without the cooperation most cases are terminated.it was shown from the statements of

the prosecutors that victims of felonious crime fail to cooperate because: they have a negative perception about the courts so they prefer to settle cases out of court, they fear threats from accused persons who are of a high standing in society, cost of attending court is expensive and the end process of a criminal case doesn't yield any compensation to the victims .

#### **(D) Few Magistrates**

The ratio of magistrates to the cases is too small causing a huge backlog of cases which amounts to delay of cases and justice delayed the prosecutors stated the following: *There are too many cases being filled each and every day hence backlog of many cases. The number of cases being filed daily overwhelms the number of magistrates deciding those cases hence the delays being experienced all the time.*

*In fact, the magistrates are outweighed by the number of cases. The number of magistrates in Nakuru law courts is too small compared to the number of cases here. The numbers are so astonishing. Most of the magistrates are forced to work overtime, even on weekends just to finish some of these cases. The cases are just too many thus the magistrates are strained and that's why some even decide cases wrongly. The pleas taken are mostly petty crimes their number is huge hence clogging the system with cases. The courtrooms in Kenya are few in the same way the judiciary is allocated inadequate funds so they employ few magistrates. It is evident that prosecutors agree that there is a small number of magistrates compared to the large number of cases which they struggle to handle and it leads to delays in the cases and it amounts to justice denied.*

#### **(E) Shoddy investigations**

The other reason cited by the prosecutors was shoddy investigations by the police their statements were as follows: *The kind of evidence being brought before the courts by the police officers is just weak to be able to stand trials. Some of the cases become dismissed just even at the preliminary hearing to avoid wastage of the court's time. Some of the police officers do poor investigations that lack evidence to be able to stand trials in the courts of law. Most claim that they do not have proper state of the art equipment to conduct thorough investigations to be able to prosecute suspects to the last stage. The investigating officers do shoddy investigations. Sometimes the information or evidence given by the police to us is incomplete impairing our ability build a good case. The information given to us by the police sometimes contradicts each other one version by the investigator that contradicts the witness*



*statements.* The prosecutors largely agreed on the fact that the quality of investigations by the police are in most cases below the required standards hence leading to the many acquittals and causing an injustice to the victims of crime. They also stated the lack of proper equipment to aid investigations negatively impacting the quality of the process.

#### **(F)Witness interference**

Interference of prosecution witnesses was largely agreed as one of the challenges that prosecutors faced in building airtight cases against the accused persons they said it was common in cases where the accused were high profile in society or in crimes attributed to gangs and robberies. Their statements below show that: *Every suspect has a right to be released on bail except when the court finds reasonable reason not to. When these suspects are left at large pending trials, some of them interfere with the witnesses. Some suspects at large threaten the victims who in turn are persuaded to drop the cases or face the consequences. There is a lot of interference of witnessed by the suspects family members and friends among others. When the accused persons are people of a high standing in the society or people who wield political power and influence witness interference is common. In violent crimes like robberies the accused persons tend to have a network of criminals that can be used intimidate, maim or even kill the witness so as to weaken our case against them.* Their statements clearly show that witness interference is a challenge to prosecutors in building a good case to get justice for the complainant or victim of crime. It shows that when witnesses are intimidated or threatened they fear to testify against the accused.

#### **(G)Arrogant court officers**

Prosecutors cited arrogance as one of the reasons why victims of crime perceived them negatively and it resulted from the interactions they have this is shown by their statements below: *Most crime victims tend to think that some magistrates, the police as well as some of the court clerks are actually very arrogant. It is understandable when magistrates become arrogant since they are really over stretched and overstrained. Most of our officers because of being overwhelmed by the large number of cases sometimes are arrogant to our clients. The tone used by our magistrates in sometimes perceived as arrogance by the victims of crime in our court.* It can argued that arrogance contributes to the negative image that is attached to the CJS system by the victims of crime.it impacts on cooperation by victims of crime hence leading to the failure of most of the cases.

## **Possible solutions of mitigating the challenges for effective prosecution of cases in courts**

Majority of the prosecutors were in agreement with following reasons as possible solutions to the challenges facing them and also those facing other CJS officials in a court set up:

### **1. Remuneration**

Better pay for the officials within the CJS was most notable as one of the solution the prosecutors felt it could somehow the menace of corruption they were asking for intervention of the Salaries and Remuneration Commission so that their salaries are relooked the police were seen by them as the most dissatisfied their arguments were as follows: *The government should be able to allocate more funds for the CJS in order to enhance their salaries such that anybody still found to be engaging in illegal activities such as corruption should be dismissed and above all the police should be adequately remunerated since they receive very little salaries that are not even commensurate to the services they offer hence their susceptibility to corruption. The police should be paid better to make them at par with the rest of the civil servants they are poorly paid. The SRC should look at our salaries to ensure it's in tandem with the current inflation rates that will reduce the appetite for bribes by my fellow CJS officials.* Their arguments generally portray a scenario of dissatisfaction with the pay they receive they felt that their colleagues in private practice earn better and also they argued that their fellow CJS officials namely the police, court clerks and court registrars were poorly paid and better pay would improve their efficiency.

### **2. Cooperation**

Cooperation is key to the success of any CJS system in the world the prosecutors raised the same as one of the solution to the challenges they face in prosecuting cases. This is shown by their arguments below: *Encouragement of cooperation between the crime victims and the CJS officials is so that we are able to have cases to be concluded faster .Cooperation is also key to a timely completion of a case especially if parties give proper attention to these cases we can reduce the backlog we have. If there is no cooperation between pro-stakeholder of a case then sharing of vital information that may have aided the case is not done. Cooperation between the various departments here in court will ensure we have a seamless system that operates well.* The arguments from the prosecutors emphasise the importance of cooperation in the success of the CJS. Cooperation begins from the victims of crime if they cooperate and

give information to the investigators without withholding some they increase their chances of getting justice similarly the agencies within the CJS should encourage cooperation the various players namely the magistrates, prosecutors, investigators and other court officials should cooperate and constantly consult to allow for the smooth running and reduction of the backlog.

### **3. Punishment**

Corruption can be reduced by ensuring consistent and prompt punishment that is proportionate to the offence that will act as deterrence to the would be corrupt officials in the CJS and those who have already committed corruption the arguments of the prosecutors were as follows: *Those who are found engaging in corruption should be severely punished even if it means being discharged or being relieved from duty. More stringent policies should be made to deal with corrupt individuals who have made the public to lose trust and confidence in the CJS. Those officers who are deliberately taking part in delaying the cases should be removed from the service as well as from the CJS. The laws that punish corruption should be applied effectively to ensure the perpetrators are brought to book regardless of their social status in society including those who are corrupt in the legal system*

### **4. Vetting of officers**

Vetting is key in placing the right staff for positions in the CJS more especially staff integrity should be selected in a rigorous process that looks at the background of the recruits or those seeking the positions in the CJS. Those who have engaged in past corrupt dealings should not be selected this was a position taken by the prosecutors this were their explanations: *All the CJS personnel should be vetted so as to ensure that those who are ethical and have integrity are left to work in the CJS. The government should speedily conduct reforms in the criminal justice departments known to be unethical and lacks integrity such as the police and the judiciary. All officers working in the CJS should be vetted and sifted such that those who are corrupt free are actually left to serve. Vetting should be made mandatory for public officials including those working for the CJS to ensure our system attracts the best and those who are corrupt free.*

### **5. Awareness Campaigns**

To remedy the issue of negative perception about the CJS and low level of understanding of the CJS process the prosecutors underscored the importance of awareness campaigns on the operations of the court this was shown by the following explanations: *There is need for*

*public awareness of what CJS entails, what their rights entails and all these could only be possible through awareness campaigns and civil education. We realized that most crime victims do not know what CJS entails, the roles they play and the nexus between them. The government should set aside funds for awareness creation of what CJS process and operations entails. Awareness campaigns will be good in removing the element of ignorance of the CJS process and matter of evidence which is impacting our cases negatively. Awareness campaigns creates an environment that the crime victims can interact freely with the court officials including the magistrates hence removing fear of the process and allowing the members of the public to engage the system from a point of knowledge which encourages cooperation.*

## **6. Training**

The prosecutors also cited training as very necessary in dealing with the challenges they face in their duties. More prominently they felt the police required more training on investigations especially new trends that include use of forensics and also on matters technology to curb cybercrimes their sentiments were as follows: *More training should be conducted to the police and especially the police since it is them that handle cases that they investigate and write reports that are brought before the courts as evidence. They should be taken for training as well as retraining to ensure that they become very effective investigators. The government should again train and/or retrain all CJS officials. Case is determined by the quality of evidence so it important for our police to be up to date when it comes to the evidence they collect even in emerging crimes like cybercrimes they should be retrained on the same. Training is important across our CJS system so as to improve competency and efficiency among our staff and also reduce delays in the hearing and determination of cases.*

## **4.8 Discussion**

### **4.8.1 Socio-economic characteristics of respondents**

#### **Age of the victims**

Age group of the people in the society is one of the major factors that encourage crime and victimization. Older people are normally found at risk of being victimized. Most of these vulnerable groups are targets because the suspects assume they have money. The findings of Lochner are in agreement with the findings of the current study which established that the majority of the respondents who fell victims of crime were between 41-50 years with percentages of 37.5% followed by 31-40 years with a percentage of 25 respectively as shown in Table 4.2. This means that the majority who were the middle age were the most affected.

The current study shows that in Nakuru between ages 41-50 is when victims of crime have a stable income which predisposes them to victimization because criminals saw them as targets. Victims of crime at the age bracket of 41-50 are assumed to have money because most of them were seen to be working or had businesses and also own assets. At age 31-40 years most of these victims also are beginning their professional careers in formal or informal and from the eyes of the criminals they assumed they had money than the rest of the age brackets who were seen by criminals as not having money or with little income. The younger victims who between ages 18-30 were few because criminals assume these bracket are not financially stable and most of them are students and do not mostly engage in income generating activities hence the difficulty to find them with money. The 50 and above group is also small because the demographics in Kenya shows that the population is largely youthful so the probability of this group falling victims is minimal because of their small number and the same is true for the population of Nakuru.

### **Gender of the victims**

Gender is also one of the determinants that facilitate crime and victimization in the society. Rate of victimization is often and normally seen as being high among female in the society. Women are not considered as strong as men in the family owing to various factors that are biological in nature. The value of family towards females is not as significant as towards their male counterparts (Sookram, 2008). Just as individual behavior is influenced by gender, groups may operate differently on the basis of their sex composition. They are given less chances to involve in the activities outside the household one which keeps them from knowing about the crime and criminal activities, as a result they become very easy targets for the criminals. As we know that our society is composed of patriarchal systems male are rarely victimized. The findings of Sookram is in agreement with the current study in that it was found that the majority of the crime victim were female victims that formed up to 67.7% of the total respondents against 32.3% of their male counterparts as shown in Figure 4.1. This means that the females were more susceptible to being victims of crimes compared to males. A good number of the felonious crimes that the victims suffered are sexual offences which majority of the victims are female and similarly criminals target them because physically they can easily be subdued by male criminals who can snatch from them handbags, mobile phones and other valuables as compared to males who may prove difficult to subdue unless with the use of weapons or by more than one criminal.

### **Income of the victims**

According to Shah L.B & Subedee N.C (2016), Socio-economic status of the people in the society is normally very much essential and plays a part in crime and criminal activities

process. They allude that most victimization processes as well as the criminal events are normally congruent with the socio-economic characteristics of the people that the society with sound socio-economic status has been facing very few crime numbers and victimization cases compared to the societies with unsound socio-economic status. Most of the traditional culture and beliefs in the family, gender discrimination, large family size, traditional system of agriculture, lack of education and awareness, as well as unemployment and low income generation have established an environment where criminal activities thrive thereby increasing the victimization in the society. Sophisticated, expensive and lengthy court procedure as well as lack of security of the victims and their dependents prevents citizens from providing vital information about crimes which hinders the justice process. The findings of the study contends with the findings of Shah and Subedee in that in the study, the majority of the victims were working i.e. they hailed from a society of sound socio-economic characteristic but were still victims as shown in Table 4.5. Some were lecturers as well as teachers. The current study shows that majority of the victims earned between 10,001-20,000, followed closely by those who earned above 40,000. From the findings criminals in Nakuru town seem to target people who have money as compared those who earn nothing or less. Income has an influence on victimization because when you earn better you become a likely target of victimization because criminals target you for money, laptops, mobile phones, cars, motorbikes and other valuable items that they can sell for money.

#### **Religion of the victims**

From the study findings religion has influence on victimization because it shows that Christians are the most victimized followed by Muslims then Hindus respectively .Their percentages were Christianity 93%,Islam 6 % and Hindu 1%.it should be noted however that Kenya is predominantly Christian with over 80% professing to Christianity in the population .Nakuru town similarly has a population that has majority as Christians and the probability of a Christian being a victim of crime is 93% which explains the high number of victims of crimes who are Christians but globally religion has been used as a factor or reason to inflict harm or animosity especially when it comes to cases of terrorism whose objective at times is to pursue religious agenda in the pretext of the holy war or (jihad).victims of a specific religion have become targets of terrorist attacks because of their religious affiliation Christians have suffered the heaviest brunt especially from Muslim extremist groups like the alshabaab, al-Qaida and ISIL(Beller and Kroger, 2018).

#### **4.8.2 Perceptions of victims of crime towards CJS**

In Nepal for example, the number of the cases that have been waiting to be decided in the court make people to usually wait very long to get justice (Pant *et al*, 2013). The findings

according to Pant *et al* reveals that 36.36 percentage victims have been waiting to get the justice since two years though the natures of the cases are to be decided in very short time. The victims who are waiting two years and more have 18.18%. This means that more than half of the respondents had been waiting for 2 years and above. The data clearly explicit that court of Nepal is not free from criticism as Pant *et al.* has reported that late decisions, problem in decisions' implementation as well as expensive legal procedure to justice for the poor, child, old and women always plays role to delay the court decision which means as same as to have no justice. The findings of Pant *et al* is in agreement with the findings of the current study in that the same situation is found in the country Kenya as most of the victims had had their cases being in court for a period of 5-10 years, 11 -15 years and 16-20 years at 47.9%, 38.5% and 13.5% respectively according to Table 4.7. From the findings it shows that victims of felonious crimes in Nakuru suffer due to delays in hearing and determination of their cases. A case in court for more than five causes psychological suffering to the victims because of the wait for justice and the tedious process of having to be in and out of court for all that time and also having to meet the accused in court keeps reminding the victims of the traumatic happenings of the crime. it is even more worst when the time extends to 20 years. The Constitution of Kenya 2010 in Article 50(e) states: to have trial begin and conclude without unreasonable delay. From that provision of the constitution it clearly shows when justice is delayed because of technicalities like a small number of magistrates to handle cases hence causing a backlog and other factors like corruption that cause delays then amounts to justice denied. Majority of the respondents from the study had negative perception about the CJS in fact only 17% of the respondents acknowledged that they liked the CJS while the majority forming up to almost three quarters of the total respondents i.e. 83% said they never liked the CJS this can attributed to reasons raised by the respondents and also the prosecutors which were: arrogance among the courts officials and also the police apart from corruption was also stated as a reason in that corrupt court officials would be bribed to influence the outcome of the trials causing the victims to lose trust with system. Similarly they argued that the police were bribed to influence the direction the investigations will take. With negative image of the CJS 83% of the victims interviewed preferred not to ever record their cases with the police if they ever became victims again they felt that the system is full delays, corruption, arrogant officers and it would not give them justice or a fair hearing.

#### **4.8.3 Level of understanding of the criminal justice process**

According to Pant D.P *et al*, It is not easy to get justice in Nepal because of the very long legal procedure as well as political influence/pressure that cannot let judiciary enjoy its operations as an independent institution. They posit that with regards to the contribution of the judiciary, it is usually a subjective and irrational evaluation. The nature of judicial process

has been definite, but its working and the necessary environment for its smooth functioning have been interfered with by the political elites and by extension, this influence being more prevalent during the constitutional change. People are unaware about these events, registration of the case and the procedure of the court. The findings of the current study is in agreement with the findings of Pant *et al* in that it was found that the majority of the citizens too in Kenya do not understand what CJS entails. The majority also do not know how to register/file as they entirely depend on their lawyers or prosecutors for such not knowing that those people may mislead them at times. The study argues that majority of the respondents have some knowledge only on testimonial evidence that is 39.6% and which is a basic level type of evidence yet for criminal cases to build a good a case the evidence required should be more than testimonial. To build a good case you require evidence that is airtight and whose integrity has not been tampered with so with little knowledge on evidence the victims at times end up tampering with evidence and compromising the chances of a successful prosecution of their cases in court. Courts make decisions or judgments on the basis of evidence presented before court and The Evidence Act in Kenya dictates that the standard of proof in criminal cases should be beyond reasonable doubt which is a high standard that requires evidence without gaps, flaws and that do not raise doubts. With little or no knowledge on issues of evidence it compounds the challenges facing victims of crime because they may unknowingly tamper with evidence or withhold information that was needed to build a good case.



## CHAPTER FIVE

### SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter presents a summary of the findings and the conclusions arising from this study. In addition, the recommendations and suggestions for further research are given.

#### 5.2 Summary of the Findings

The following is a summary of findings of the study that sought to investigate challenges facing victims of crime during the trial process in Nakuru law courts, Nakuru Town, Kenya.

It was found that there was high female response rate in the study compared to their male counterparts. This therefore means that the females were more susceptible to crimes than males. The majority who were most affected were between ages 41-50 years. Criminals are seen to target that age bracket because they are assumed to have more money. More than half of the victims of crime were married. The majority of the respondents had attained secondary level of education. The majority of the respondents were Christians. It can therefore be posited that those respondents who were working were the majority compared to those who had no work. The majority of the respondents were farmers. This was followed by those who got their source of income from lecturing and then from parents. The majority of the victims earned between 10,001-20,000. This was followed closely by those who earned above 40,000. It could therefore be argued that in Nakuru Town criminals target people who have money as compared to those who earn nothing or less.

It was found that those who would not wish to go back to the court were much higher compared to those respondents who would wish to go back to the court should they be victims again. It was also found that the number of respondents who never liked the CJS were very high in contrast to those who liked the CJS that is 83% against 17%.

The majority of the respondents could not really explain what one would do if he or she became a victim. Most of the respondents just outlined that the victims should just go and report to the police who will in turn press charge the suspects and the case goes to court and that's it. Only a few of the respondents were able to demonstrate fully what one would do in case one becomes a victim. Those who never understood the process of filing a case were very many compared to those who had knowledge of the process.

### **5.3 Conclusions of the Study**

The age, gender, work as well as the levels of income are some of the important socio-economic characteristics that determines whether a person engages in crime or becomes a victim to a crime or crimes.

What the majority of the victims of crime hate about the CJS supersedes what they like about the same CJS.

The majority of the citizens do not know what the entire CJS encompasses, what their mandates are and how they should relate with one another. Most of the citizens are also not aware of how to file a case in court. That means that they lack proper understanding of the entire CJS is all about.

### **5.4 Recommendations of the Study**

This section presents the study recommendations to the national government, county government, police and the bench and also to the members of the public in general. These recommendations include:

The government should effect proper reforms in the judiciary as many of the crime victims had no faith in them i.e. they rated the performance of magistrates as poor. Magistrates should be vetted afresh and those found culpable for corruption weeded out. Funding to the judiciary should be increased to allow for building of more courtrooms and recruiting of more magistrates to reduce the backlog.

The government should initiate police reforms so as to help concretize public confidence towards the police which is currently missing by improving the training to ensure the police officers are equipped more on public relations and human rights to improve their handling of the members of public in humane ways. Corrupt officers should be weeded out by a vetting process to ensure the service is able to reduce the corruption levels. The National Government should increase budgets to the police service through parliament to ensure they are better equipped with forensic labs and other modern investigation equipments. The officers should also be equipped with knowledge in forensic science to reduce shoddy investigations.

The Judiciary should periodically hold awareness campaigns with a bid to sensitizing the public on how to follow the due process of the law commencing from filing a case until the

trial period is over and the judiciary should hold open days to allow the members of public to understand their operations.

### **5.5 Suggestion for Further Research**

Based on the findings of this study, the researcher recommends that research studies be done on the following area to further understand challenges facing the victims of crime during the trial process.

There is need for research on effectiveness of alternative dispute resolution mechanism on addressing the challenges facing victims of crimes.

There is also need for further research on the factors affecting the efficiency of the magistrates in discharging their duties.

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## APPENDICES

### APPENDIX A: INTERVIEW SCHEDULE FOR VICTIMS OF CRIME

Dear respondent,

My name is David Kurgat, a student at Egerton University pursuing a Master of Arts Degree in Criminology and Criminal Justice. I am undertaking a research on “Challenges facing victims of crime during the trial process in Nakuru law courts, Nakuru Town, Kenya.” I would kindly request that answer the questions I will be asking you to the best of your knowledge. The information you provide will be treated with utmost confidentiality and will be used purely for academic purposes only. Thank you.

#### Section A: Socio-Economic Characteristics of Victims of Crime (Objective One)

1. What is your gender?

Male [ ]                      Female [ ]

2. What is your age in years?

18 - 30 [ ]                      31- 40 [ ]                      41-50 [ ]                      Above 50 [ ]

3. Indicate Marital status

Single [ ]      Married [ ]      Separated [ ]      Divorced [ ]      Widowed [ ]

4. Indicate Educational Background

- i. No formal schooling [ ]
- ii. Primary School [ ]
- iii. Secondary [ ]
- iv. Post-Secondary [ ]
- v. University [ ]

5. What religion do you profess?

Christianity [ ]

Islam [ ]

Hinduism [ ]

Buddhism [ ]

Others [ ]

6. Do you work?



Yes

No

7. What is the source of your income?.....  
.....  
.....

8. On average how do you earn in a month?

Less than Kshs. 5,000

5,001 – 10,000 [ ]

10,001 – 20,000 [ ]

20,001 – 30,000 [ ]

30,001 – 40,000 [ ]

Above 40,000 [ ]

9. How long has your case been in court?

5-10 years [ ]

11-15 years [ ]

16-20 years [ ]

21 -25 years [ ]

26-30 years [ ]

Above 30 years [ ]

10. What crime were you a victim of?

Crime of Chastity [ ]

Crime of decency and morality [ ]

Crimes against individual [ ]

Crimes against private property [ ]

11. Why has this case taken this long?

.....  
.....  
.....

12. Did you incur any losses brought about by crime?

Yes

No

13. Did you suffer any physical injury?

Yes

No

**Section B: Perception of Crime Victims towards CJS (Objective Two)**

14. If you were to be a victim again would go to court?

Yes

No

Explain

.....  
.....  
.....

15. Do you feel the prosecutors represent you well in the court?

Yes

No

16. What do you like about the CJS?

.....  
.....  
.....

17. What do you hate about the CJS?

.....  
.....  
.....

**Section C: Level of Understanding of CJS (Objective Three)**

18. If one becomes a victim of crime what are they supposed to do?

.....  
.....  
.....

19. How do you file a case?

.....  
.....  
.....

20. What evidence is required?

- Testimonial Evidence [ ]
- Hearsay Evidence [ ]
- Corroborative Evidence [ ]
- Opinion Evidence [ ]

- Circumstantial Evidence [ ]
- Documentary Evidence [ ]
- Electronic Evidence [ ]
- Don't Know [ ]

21. How do you rate the performance of the following CJS Personnel?

#	Statements	Very Poor	Poor	No Sure	Good	Very Good
1	The performance of the police					
2	The performance of the prosecutors					
3	The performance of the magistrates					
4	The performance of the court clerks					
5	The performance of the court registrars					
6	The performance of the prison wardens					

## **APPENDIX B: INTERVIEW GUIDE FOR PROSECUTORS**

### **Section A: Preliminary section**

#### **1. Appreciation and Introduction:**

I want to first and foremost thank you for agreeing to participate in my study. I know that your time is very valuable and so I wouldn't want to take much of it. Before beginning the interview, I want to tell you more about the purpose of my study and let you know what kind of questions I'll be asking you, and address issues of confidentiality.

#### **2. Overview of Purpose and goals:**

My hope for this research is to get to set to investigate challenges facing victims of crime on litigation in Nakuru law courts, Nakuru Town, Kenya. In the course of our conversation, I will ask you questions about your professional and personal background to help me better understand who you are. There are no rights or wrong responses. Instead, I am interested in learning about your own unique opinion and viewpoint.

#### **3. Confidentiality:**

As a researcher, I will write about what you tell me. When I write about your experience, I will use a pseudonym for you. I may quote things that you say in my thesis, but I will never use your name. You do not need to answer every question. You can decide to skip a question, ask me to clarify a question, or help me develop a better question. I will also like to assure you that your responses will be purely used for academic purposes and under utmost confidentiality such that no one will be able to know that you participated in this research.

#### **4. Recording:**

In order to be able to make sure that I can give you my complete attention during the interview, I will only make occasional notes. With your permission, I will digitally record our conversation so that I can have the interview transcribed. If you want to see any part of the transcript, I can provide you with a copy.

## **SECTION 2: Interview Schedule Questions for Prosecutors only**

1. What are the socio-economic characteristics of the crime victims in this court?
2. How do the crime victims perceive the CJS?
3. Do crime victims understand the criminal justice process?
4. What other challenges do you face when dealing with victims of crime in this court of law?
5. Do you feel the victims of crime are satisfied with your services as prosecutors?
6. What is the level of cooperation by crime victims?
7. What causes the delays in the hearing and determination of criminal cases in your court?
8. Is the funding from government adequate in dealing with matters related to victims of crime?
9. What should be done to mitigate the challenges so as to ensure that justice is delivered and in a timely fashion?

APPENDIX C: RESEARCH AUTHORIZATION DOCUMENTS



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TECHNOLOGY AND INNOVATION

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9<sup>th</sup> Floor, Utalii House  
Uhuru Highway  
P.O. Box 30623-00100  
NAIROBI-KENYA

Ref: No NACOSTI/P/17/14090/20189

Date: 22<sup>nd</sup> November, 2017

David Kipruto Kurgat  
Egerton University  
P.O. Box 536-20115  
EGERTON.

**RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on “*Challenges facing victims of crime during the trial process in Nakuru Courts of Law-Nakuru Town Kenya*,” I am pleased to inform you that you have been authorized to undertake research in Nakuru County for the period ending 20<sup>th</sup> November, 2018.

You are advised to report to the Court Registrar, Nakuru Courts, the County Commissioner and the County Director of Education, Nakuru County before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit a copy of the final research report to the Commission within one year of completion. The soft copy of the same should be submitted through the Online Research Information System.

*GP Kalerwa*

GODFREY P. KALERWA MSc., MBA, MKIM  
FOR: DIRECTOR-GENERAL/CEO

Copy to:

The Court Registrar  
Nakuru Courts.

The County Commissioner  
Nakuru County.

*DR. Above named person is allowed to conduct his research for a duration of 3 months for any assistance to him. Should be accorded*



**CONDITIONS**

1. The License is valid for the proposed research, research site specified period.
2. Both the Licence and any rights thereunder are non-transferable.
3. Upon request of the Commission, the Licensee shall submit a progress report.
4. The Licensee shall report to the County Director of Education and County Governor in the area of research before commencement of the research.
5. Excavation, filming and collection of specimens are subject to further permissions from relevant Government agencies.
6. This Licence does not give authority to transfer research materials.
7. The Licensee shall submit two (2) hard copies and upload a soft copy of their final report.
8. The Commission reserves the right to modify the conditions of this Licence including its cancellation without prior notice.



REPUBLIC OF KENYA



National Commission for Science,  
Technology and Innovation

RESEARCH CLEARANCE  
PERMIT

Serial No.A 16616

CONDITIONS: see back page



THIS IS TO CERTIFY THAT:  
**MR. DAVID KIPRUTO KURGAT**  
**OF EGERTON UNIVERSITY, 0-30300**  
**KAPSABET, has been permitted to**  
**conduct research in Nakuru County**  
**on the topic: CHALLENGES FACING**  
**VICTIMS OF CRIME DURING THE TRIAL**  
**PROCESS IN NAKURU COUNTY COURTS**  
**LAW-NAKURU TOWN KENYA.**  
**for the period ending:**  
**20th November, 2018**

**Permit No : NACOSTI/P/17/14090/20189**  
**Date Of Issue : 22nd November, 2017**  
**Fee Received :Ksh 1000**



*[Handwritten Signature]*  
**Applicant's**  
**Signature**

*[Handwritten Signature]*  
**Director General**  
**National Commission for Science,**  
**Technology & Innovation**



**THE PRESIDENCY  
MINISTRY OF INTERIOR AND  
CO-ORDINATION OF NATIONAL GOVERNMENT**

Telegram: "DISTRICTER" Nakuru  
Telephone: Nakuru 051-2212515  
When replying please quote

DEPUTY COUNTY COMMISSIONER  
NAKURU EAST SUB COUNTY  
P.O. BOX 81  
NAKURU.

Ref No. EDU.12/10 VOL.V/200

15<sup>th</sup> January 2018

TO WHOM IT MAY CONCERN

**RE:- RESEARCH AUTHORIZATION  
DAVID KIPRUTO KURGAT**

---

The above named has been authorized to carry out research on "**Challenges facing victims of crime during the trial process in Nakuru Courts of Law** – Nakuru Town for a period ending 20<sup>th</sup> November, 2018

Please accord him all the necessary support to facilitate the success of his research

**EDITH KOECH  
FOR DEPUTY COUNTY COMMISSIONER  
NAKURU EAST SUB COUNTY**

**MINISTRY OF EDUCATION**  
**State Department of Basic Education**

Telegrams: "EDUCATION",  
Telephone: 051-2216917  
Fax: 051-2217308  
Email: cdenakurucounty@yahoo.com  
When replying please quote  
Ref. NO. CDE/NKU/GEN/4/1/21/VOL.V/62



COUNTY DIRECTOR OF EDUCATION  
NAKURU COUNTY  
P. O. BOX 259,  
NAKURU.

15<sup>th</sup> January, 2018

TO WHOM IT MAY CONCERN

**RE: RESEARCH AUTHORIZATION – DAVID KIPRUTO KURGAT**  
**PERMIT NO. NACOSTI/P/17/14090/20189**

Reference is made to letter NACOSTI/P/17/14090/20189  
dated 22<sup>nd</sup> November, 2017.

Authority is hereby granted to the above named to carry out  
research on "***Challenges facing victims of crime during the trial  
process in Nakuru Law Courts in Nakuru Town-Kenya,***" for a period  
ending **20<sup>th</sup> November, 2018.**

Kindly accord him the necessary assistance.

A handwritten signature in black ink, appearing to read 'G.N. Ontiri', written over a horizontal line.

**G.N. ONTIRI**  
**FOR: COUNTY DIRECTOR OF EDUCATION**  
**NAKURU COUNTY**

**Copy to:**

- Egerton University  
P.O Box 536-20115  
**EGERTON**