**DEPARTMENT OF DIPLOMACY AND INTERNATIONAL STUDIES**

**UNIVERSITY OF NAIROBI**

# THE ROLE OF INTERNATIONAL ECONOMIC CRIME ON ECONOMIC DEVELOPMENT: A CASE STUDY OF KENYA AND BOTSWANA

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**REG NUMBER: R50/39316/2021**

**RESEARCH PROJECT REPORT SUBMITTED IN PARTIAL FULFILLMENT OF THE DEGREE OF MASTER OF ARTS IN INTERNATIONAL STUDIES AT UNIVERSITY OF NAIROBI**

**OCTOBER 2021**

## DECLARATION

I declare that this master's research project is my original work and has not been presented for another academic award in any other University or Institution. Any thoughts from others or literal quotations are clearly acknowledged.

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This Research Project has been submitted for examination with my approval as University Supervisor.

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## DEDICATION

For my parents Grace and Joseck, all my siblings, my daughters Soleil-Zuri and May and for my wife Joane.

**ACKNOWLEDGEMENTS**

I thank Almighty God for providing me with good health and strength to undertake this study. I acknowledge the support of the Commandant, Lieutenant General Adan Mulata, faculty members and entire college fraternity of National Defence College – Kenya for providing a very conducive study environment. I am very grateful to the Director, Institute of Diplomacy and International Studies-IDIS Professor Ambassador Maria Nzomo together with all faculty members and staff of University of Nairobi - IDIS, for the research and coursework materials. Special thanks go to my supervisor Dr. John Lekuton for supervising this study through his consistent guidance and support. I am very grateful to the Director of Public Prosecutions (Kenya) Mr. Noordin M. Haji for granting me the opportunity, support and permission to undertake this very useful course. I wish to thank all the key informants and all respondents who filled the questionnaires to enable me collect data for this study.

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## LIST OF ABBREVIATIONS

| | |
|---|---|
| **ACCA** | Association of Certified Chartered Accountants |
| **ACECA** | Anti-Corruption and Economic Crimes Act, Kenya |
| **ACPCC** | African Convention on Preventing and Combating Corruption |
| **ADB** | Africa Development Bank |
| **AI** | Artificial Intelligence |
| **ARA** | Asset Recovery Agency – Kenya |
| **BTI** | Bertelsmann Transformation Index |
| **BURS** | Botswana Unified Revenue Service |
| **CBK** | Central Bank of Kenya |
| **CECA** | Corruption and Economic Crimes Act - Botswana |
| **DC** | Developed Countries |
| **DCEC** | The Directorate on Corruption and Economic Crime – Botswana |
| **DPP** | Director of Public Prosecutions - Kenya |
| **EAC** | East Africa Community |
| **EACC** | Ethics and Anti-Corruption Commission |
| **ECA** | Economic Commission for Africa |
| **EU** | European Union |
| **EY** | Ernst and Young |
| **FAO** | The United Nations Food and Agriculture Organization |
| **FDI** | Foreign Direct Investment |
| **FOB** | Free on Board |
| **FRC** | Financial Reporting Centre |

| | |
|---|---|
| **GECFS** | Global Economic Crime and Fraud Survey |
| **GNI** | Gross National Income |
| **GNP** | Gross National Product |
| **GOK** | Government of Kenya |
| **HIV** | Human Immunodeficiency Virus |
| **HLP** | High Level Panel on illicit financial flows from Africa |
| **ICESCR** | The International Covenant on Economic, Social and Cultural Rights (1966). |
| **IDIS** | Institute of Diplomacy and International Studies |
| **IEC** | Institute of Economic Affairs |
| **IFFs** | Illicit Financial Flows |
| **IGO** | Intergovernmental Organization |
| **IMF** | International Monetary Fund |
| **KEMSA** | Kenya Medical Supplies Agency |
| **KIPPRA** | Kenya Institute for Public Policy Research and Analysis |
| **KJ** | Kenya Judiciary |
| **KNBS** | Kenya National Bureau of Statistics |
| **KRA** | Kenya Revenue Authority |
| **LDC** | Least Developed Countries |
| **LSB** | Law Society of Botswana |
| **LSK** | Law Society of Kenya |
| **MDGs** | Millennium Development Goals |
| **MENA** | Middle East and North Africa |
| **NARC** | National Alliance Rainbow Coalition Party |

| | |
|---|---|
| **OAG** | Office of the Auditor General- Kenya |
| **OAU** | Organization of African Unity |
| **ODA** | Official Development Assistance |
| **ODPP** | Office of Director of Public Prosecutions, Kenya |
| **OECD** | Organization for Economic Co-operation and Development |
| **PWC** | Price Water House Coopers |
| **SAR** | South Africa Rand |
| **SECA** | Swedish Economic Crime Authority |
| **UDHR** | Universal Declaration of Human Rights |
| **UK** | United Kingdom |
| **UNCAC** | United Nations Convention Against Corruption |
| **UNCTAD** | United Nations Conference on Trade and Development |
| **UNDP** | United Nations Development Programme |
| **UNECA** | United Nations Economic Commission for Africa |
| **UNGA** | United Nations General Assembly |
| **UNODC** | United Nations Office on Drug and Crime |
| **USAID** | The United States Agency for International Development |
| **USD** | United States Dollar |
| **WB** | World Bank |

## ABSTRACT

Economic development is a fundamental human right both in the Charter of the United Nations and the Universal Declaration of Human Rights as well as under other international norms and conventions. Globally, the UNGA adopted "17 goals" aimed at securing a better life for all in a sustainable manner. World leaders committed to end poverty, inequality and address the problem of climate change. Under goal 16 of the SDGs the world leaders committed among other things to reduce international economic crime in all its forms and to combat organized crime. International economic crime therefore is a challenge that stands in the way of economic development. This study examined the role of international economic crime on economic development through a comparative case study analysis of Kenya and Botswana. It examined current statistical analysis of economic crime and how it affects economic development. The rational choice theory and the O-Ring theory of economic development were used to examine the efficacy and coordination of economic development strategies, actors and institutions. A case study design approach was used to collect detailed data. An intensive analysis of economic development strategies was done. In this study, both qualitative and quantitative methods were used to answer the research questions. The research findings are presented through tables, charts and diagrams at the end of each chapter. The study draws conclusions and makes recommendations to improve strategies in the fight against economic crime in order to enhance development. This study submits that responses to combat economic crime yesterday cannot be the same responses to combat economic crime today. There is therefore need for continuous scholarship in economic development and how it is affected by international economic crime.

## OPERATIONALISATION OF CONCEPTS

"International economic crime"

In this study, the phrase "international economic crime" and "economic crime" are used interchangeably. They both refer to embezzlement of public funds criminalized under the "United Nations Convention against Corruption", as well as under municipal laws. This applies to member states of the UN that have ratified such international anti-economic crime conventions. International economic crime as used in this study therefore covers different forms of criminal acts that give rise to direct loss of public funds.

## CHAPTER ONE

## INTRODUCTION AND BACKGROUND OF THE STUDY

### 1.0 Introduction

"Economic development" usually occurs when a country experiences economic growth which affects productivity and outputs.[1] Nafziger explains that these changes may include an improvement in living standards especially for the populations who cannot access basic needs such as food, shelter, health care and education. He states that "growth involves quantitative measures (GNP), whereas development involves changes in capacities" such as access to education, technological adaptability. From the above definition economic growth can be viewed as quantitative increase in volume of goods and services produced and consumed by individuals in society. Economic development on-the-other-hand encompasses both quantitative increases of goods and services and also transformation of methods as to how the goods and services are produced in the structure.[2] Fritz posits that economic development increases opportunities of economic growth because of efficiency in productivity.[3] This leads to economic growth as a result of better production methods thereby creating opportunities and wellbeing. The end result is to transform people's lives by giving them a better living standards.

When looking at how to better quality of life among people, Seers argues that economic development occurs when "poverty, inequality and unemployment are reduced".[4] From this analysis by Seers, it is clear that the prevalence of poverty, inequality and unemployment can be reduced. This can lead to sustainable economic development. But if there is worsening poverty and inequality, it does not matter if an economy has grown in terms of per capita income or economic growth, however we cannot state that there is

[1] Wayne Nafziger, "*Economic Development*." Cambridge: Cambridge University Press, 2006.
[2] Fritz, J. (2004). "Socioeconomic developmental social work." In UNESCO Encyclopedia of Life Support Systems, A project on sustainable world development. Oxford: UNESCO–EOLSS.
[3] Ibid
[4] Dudley Seers, "*The Meaning of Development*", IDS Communication 44, Brighton: (1969), IDS, Pg. 3-4.

economic development."[5] Scholars submit that there must be tangible benefits of economic growth as felt by the general population. Development indicators would entail improvement in quality of life and the ability to access education, reduction in poverty and lessening of inequality. From literature reviewed, unemployment, inequality and poverty are not unique to any one specific nation or region. These are universal problems and they require a global response. At the U.N. "Millennium Summit in September 2000," world leaders adopted the "Millennium Development Goals (MDGs)," which aimed at "reducing hunger, ensuring that all boys and girls complete primary school, promoting gender equality, and reducing by two-thirds mortality among children less than five years."[6] The MDGs aimed at establishing a "global partnership for development," "a commitment to good governance" and "reducing the debt burden of developing countries."[7] This would further help in reducing poverty in LDCs, creating employment particularly for youth and enhancing access to health care and medicines in developing countries. The MDGs sought to make available the benefits of new technologies, especially in telecommunications for developing countries. The MDGs were the economic development strategy, which ran for a fifteen-year period from 2000 up to the year 2015. The MDGs were replaced by the global sustainable development goals "SDGs". [8]

Adekoya and Razak argue that crime negatively affects economic growth and development. [9] They argue that there is need for "statistical analysis" of how crime affects economic growth. Scholarship on crime shows that economic crime, which affects development, is not unique to a single state but it is a global phenomenon. At the global level, conventions and treaties aimed at combatting economic crime have been concluded.

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[5] Supra note 4

[6] United Nations, "*Millennium Development Goals Report", 2011*, June 2011, ISBN 978-92-1-101244-6, available at: "https://www.refworld.org/docid/4e42118b2.html" [accessed 23 November 2020].

[7] Ibid

[8] UN General Assembly, "*Transforming our world: the 2030 Agenda for Sustainable Development*," "21 October 2015, A/RES/70/1, available at: "https://www.refworld.org/docid/57b6e3e44.html" [accessed 23 November 2020].

[9] Adenuga Fabian Adekoya, Nor Azam Abdul Razak, "*The Dynamic Relationship between Crime and Economic Growth in Nigeria*" International Journal of Management and Economics Volume 53, Issue 1, January–March 2017, pp. 47–64; http://www.sgh.waw.pl/ijme/ .

One such international convention is "UN Convention against Corruption (2004)".[10] Some of these measures also include formulation of laws at state level to domesticate international conventions and combat economic crime.

Developing countries like Kenya and Botswana have enacted laws, established anti-economic crime institutions and formulated policies curb economic crimes. These measures it seems have borne for Botswana which ranks favorably among the least corrupt African states according to the "transparency index".[11] Kenya is also making huge steps to combat economic crimes with the arrests of senior government officials whose economic crimes cases are now ongoing in court. Corruption and other economic crimes are still a challenge in the region. There have been allegations about public officers stealing funds meant to fight the Covid pandemic in Kenya and South Africa. However, from review of literature, a lot of progress is being made in the fight against economic crime going by the recovery of stolen assets in Kenya through efforts of the DPP, EACC and DCI. Literature reviewed herein also shows the problem of illicit financial flows in Botswana and their impact on economic development.

## 1.1 Statement of the Problem

Despite many development policies enacted globally, regionally, and in Kenya since independence, Kenya is yet to achieve high standards of living for its citizens. Many Kenyans still live in abject poverty and are not accessible to basic amenities including health care, food, housing and safe drinking water. Several senior government officials have been arrested and charged in court for embezzling funds meant for development in Kenya. This affects economic development and quality of life especially for the people. Economic crimes and economic development are not just local problems but they are also international in nature. Many factors have been cited for the perennial failure of economic policies to achieve

[10] "UN Convention Against Corruption 2004", Article 5.
[11] TI. "*Global Perceptions Index*- (2018)". Transparency International. http://www.transparency.org/cpi

development goals in Kenya. The threat of international economic crime is one of the factors, which account for lack of development. This study therefore seeks to examine the role of international economic crime on economic development and it focuses on comparative case study of Kenya and Botswana. The study will discuss the definition of economic crimes, their types and causes and why they occur despite the measures put in place. Most importantly, the study will discuss economic development from a global perspective, in Africa, then in Kenya and Botswana. It will then examine the impact economic crime has on development particularly in Kenya and Botswana and make conclusions and recommendations.

### 1.2 Research Questions

The following are the research questions for this study;

i. What are the economic development strategies in Kenya and Botswana?
ii. What are the types and trends of international economic crime in Kenya and Botswana?
iii. What is the impact of international economic crime on economic development in Kenya and Botswana?

### 1.3 Overall Objective

The main objective is to examine the role of economic crime on economic development; A case study of Kenya and Botswana.

### 1.4 Specific Objectives

i. To evaluate the economic development strategies in Kenya and in Botswana.
ii. To examine the types and trends of international economic crimes in Kenya and Botswana.
iii. To evaluate the impact of international economic crimes on economic development in Kenya and Botswana.

### 1.5 Review of Literature

#### 1.5.1 Definitions and overview of legal frameworks for economic crime management

Nakajima submits that there is "no clear agreed definition of the concept and definition of the term economic crime".[12] In Sweden SECA focuses mainly on crimes such as "accounting crime, tax crime, bankruptcy related crime, market abuse crime and crime against the EU's financial interests".[13] The police handle fraud only while economic crime is dealt with by the National Anti-Corruption Unit. This shows that economic crime investigators worldwide deal with crime differently. Tupman posits also posits that "there is no clear agreement on definitions of these concepts".[14] Tupman tries to analyses economic crime by focusing on the "types of victim" and "types of offender" in order to better describe what economic crime is. This study argues that focusing on individuals as levels of analysis does not properly assist us analyse international economic crime. The study argues that it is necessary to focus on the impacts international economic crime has on the global financial systems and development goals. The study also argues that it is necessary to analyse impacts of economic crime on development regionally and finally, its impacts on development within the state level. Definitions may differ in social sciences but generally economic crime involves embezzlement of public goods and diverting them to one's own private use. There exists a framework under the United Nations Convention against Corruption[15] under which such crimes are defined and criminalized. Member states who are signatory to the convention are supposed to execute international norms through domestic legislation. This will ensure that economic crime is properly investigated and prosecuted when member states put in place measures to implement international norms and conventions. The existence of international

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[12] Chizu Nakajima "Editorial: *Issues in Fighting Financial Crime*" IEA Economic Affairs March 2007 http://www.iea.org.uk/sites/default/files/publications/files/upldeconomicAffairs331 pdf.p

[13] Swedish Economic Crimes Authority website http://www.ekobrottsmyndigheten.se/en/ourwork/ accessed 22nd August 2020.

[14] William Tupman, *The characteristics of economic crime and criminals* , Research handbook on international financial crime

[15] UN General Assembly, "United Nations Convention Against Corruption", 31 October 2003, A/58/422, available at: https://www.refworld.org/docid/4374b9524.html [accessed 10 March 2021

treaties against corruption ratified by member states of the United Nations indicates that international economic crime is a serious global problem hence global effort to combat it.

In Kenya ACECA is the main law which defines and provides for punishment of economic crime.[16] ACECA provides for the "prevention, investigation and punishment of corruption, economic crime and related offences."[17] It defines "economic crime" as an "offence involving dishonesty under any written law which results into loss of public revenue." This legislation seeks to protect public property, services and revenue against fraudulent or otherwise unlawful acquisition. The definition is therefore broad enough to cover all forms of economic crimes within the public sector in Kenya.

The Kenyan law on corruption does not therefore take into consideration forms of economic crime that are unrelated to "public revenue" especially those occurring in the private sector. This is because funds belonging to private individuals and companies are not public revenue meant to provide public goods. Economic crimes in the private sector can be dealt with by simply lodging a complaint of "theft" and "fraud" against the suspect. They are dealt with under the normal penal laws of the land. The owners of the private property or services stolen become the complainants. When the goods and services embezzled belong to the public, this attracts the jurisdiction of the anti-corruption and economic crimes law in order to protect public goods and services. It is necessary to have special economic crime and anti-corruption laws to protect public goods and services. Under the UNCAC state parties must put in place legal and administrative measures to fight economic crime. Administrative measures including research ought therefore to be reviewed to examine the extent and role of economic crime on development.

The definition of economic crime under Kenyan ACECA law is quiet elaborate. The In addition to ACECA the Kenya Constitution also provides for national values and

[16] Government of Kenya, *Anti-Corruption And Economic Crimes*, (Nairobi; National Council for Law Reporting, Kenya Law, 2013).

[17] Ibid

principles of good governance for all public officers. The EACC was established through an Act of Parliament pursuant to the Constitution to enforce these values.[18] The EACC therefore administers the ACECA laws in Kenya to ensure that public assets are not embezzled. The UNCAC was adopted by the General Assembly of the United Nations on 31 October 2003.[19] Botswana acceded to the UNCA on 27 Jun 2011 while Kenya signed and ratified it on 9 Dec 2003 eight years earlier than Botswana. Kenya's anti-corruption legislations date back from 1956.[20] This shows a willingness by Kenya and Botswana to abide by international norms against economic crime as both have acceded to international norms and treaties.

"Kenya is a sovereign republic and a multi-party democratic State founded on the national values and principles of governance."[21] The constitution of Kenya provides for an independent Judiciary to enhance access to justice. The DPP is mandated to undertake state powers of prosecution and to direct investigations of alleged of criminal acts. Despite these sound legal instruments to deter crime, there have been several arrests involving very senior public officials on allegations of economic crime. This study argues that such senior public servants are motivated by greed and they take advantage of loopholes in the criminal justice sector to avoid detection. Criminal charges relating to economic crime have been preferred against these high ranking government officials in Kenya.[22] It is therefore necessary to periodically review level of compliance with international and municipal international crime laws to seal loopholes.

### 1.5.2 International legal framework to curb economic crime

Wabwile submits "domestic anti-corruption institutions are inadequate to contain international economic crime, confront the impunity of failing states, individual perpetrators

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[18] Government of Kenya. " *Ethics and Anti-Corruption Commission Act Number 22 of 2011*", (Nairobi, National Council for Law Reporting), 2013.

[19] Supra note 16.

[20] Government of Kenya, National Council for Law Reporting (2013). www.kenyalawreports.or.ke

[21] Government of Kenya, " *The Kenya Constitution* ", (Nairobi, National Council for Law Reporting), 2013. Article 4.

[22] The National Council for Law Reports through its website contains a section on cases registered in court. Perusal of its record shows various anti-corruption cases brought by the DPP against suspected criminals who are also very high ranking government officers.

and their associates."[23] Wabwile argues that there is inadequate monitoring and implementation despite existence of binding international treaties like the UNCA established under "UNGA Res 58/4 of 31st October 2003". [24] "UNCAC has been critiqued for lack of "effective full-time monitoring and implementation system." At the regional level, scholars argue that the ACPCC has weak implementation mechanisms.[25] Wabwile argues that international economic crimes violate economic and social rights. This study therefore agrees and submits that member states need to take cognizance of the negative impacts economic crimes have on economic development. Weak international institutions are incapable effective sanctions against state and non-state perpetrators on international economic crime.

"Safe haven states" where the stolen funds are invested and hidden are therefore responsible for the failures in governance of the global financial system. This happens when the international community looks away in silence and indifference as economic development in "failing states" is ruined. Wabwile therefore considers "economic crime" to be a global problem due to its transnational character. Wabwile emphasizes the need for cooperation in the international community as a way of curbing international economic crime. Kotele-Kale refers to this "systematic transnational corruption phenomenon" largely by the elites as 'indigenous spoliation'. [26] Kotele-Kale posits that "this is one of the causes of the destruction of the foundations of societies in developing countries". By embezzling public funds, criminals engage in a corrosive economic attack depriving the people of their economic rights.[27] The State is required to design and implement national and international policies that

[23] Nyongesa Michael Wabwile, " *Transnational Corruption, Violations of Human Rights and States' Extraterritorial Responsibility:" "A Case for International Action Strategies",* (Leiden; African Journal of Legal Studies, Brill Nijhoff 8, 2015) 87–114.

[24] UN "General Assembly", "*United Nations Convention against Corruption*," 31 October 2003, A/58/422, available at: "https://www.refworld.org/docid/4374b9524.html" [accessed 25 August 2020].

[25] "African Union", "*African Union Convention on Preventing and Combating Corruption*," 11 July 2003, available at: "https://www.refworld.org/docid/493fe36a2.html" [accessed 25 August 2020]

[26] Ndiva Kofele-Kale N. Kotele-Kale, "*International Law of Responsibility for Economic Crimes*" (Ashgate: Burlington, 2006), at 12.

[27] "Charter of the United Nations" 1945, Article 55; and "International Covenant on Economic, Social and Cultural Rights" adopted by UNGAR 2200A (XXI) of 16th December 1966, Article 11(1).

advance the enjoyment of economic and social rights for citizens.

Mandel argues that "transnational corruption is a well-organised project where criminals retain the services of qualified professionals to ensure that their dirty deeds are executed with precision".[28] Chaikin posits that "proceeds of crime from "failing states" are important to the "safe haven governments." Such proceeds of crime constitute inflows of foreign wealth in "safe haven states".[29] Proceeds of crime create profits for the "financial services industry", "new jobs" and contribute to economic growth in the "haven state".[30] This means that while "failing states" suffer economically due to illicit financial flows, the 'safe haven' states benefit from the cash flows. However, "by putting its territory and financial services industry at the disposal of transnational corruption, the safe haven state supports the violations of economic and social rights of the deprived persons in the failing state."[31] This is a breach of extraterritorial obligations to protect the economic and social rights of the victims in the "failing state" where economic crime is prevalent and affects development. The "UN Charter, ICESCR (1966)" and the "Convention on the Rights of the Child (1989)" for instance contain provisions that assign "States Parties" a measure of extraterritorial responsibility to protect and support the universal realisation of human rights to the extent that they have the capacity and competence to do so.[32] This imposes on the "safe haven state" responsibility to maintain "a social and international order" that is conducive for the realisation of "universal human rights".

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[28] Robert Mandel, *Dark Logic: Transnational Criminal Tactics and Global Security* (Stanford, CA: Stanford University Press, 2011), at p. 41

[29] David Chaikin, '*Policy and Fiscal Effects of Swiss Bank Secrecy'*, 15 Revenue Law Journal (2005) 90–111, at 92

[30] Richard Pratt, *'Economic crime: the financial system as a victim',* 12 Journal of Financial Crime (2004) 66–68, at 67.

[31] Nyongesa Michael Wabwile, *Transnational Corruption, Violations of Human Rights and States' Extraterritorial Responsibility: A Case for International Action Strategies,* (Leiden; African Journal of Legal Studies , Brill Nijhoff 8 , 2015) 87–114.

[32] UN Charter 1945, Articles 55 and 56; International Covenant on Economic, Social and Cultural Rights 1966, Article 2(1), UN Convention on the Rights of the Child 1945, Article 4

### 1.5.3 Identifying economic crime by nature of its victim

In order to understand economic crimes Croall focused on the victims. This creates a debate whether to focus on the nature of the suspect or identity of the victim. Croall distinguishes between "occupational white collar crime where the perpetrator benefits at the expense of the employer, and corporate crime where the corporation benefits but to the detriment of society and the environment".[33] Tupman posits "that perhaps a continuum could be created between legitimate and illegitimate, licit and illicit businesses".[34] Victims are therefore categorized by Tupman into "individual members of the public", "the employer", "and the state", and "the market itself". According to Croall economic crime is discernible by focusing at the type of victim involved. This study argues that for international economic crime, one should focus on the public assets stolen, be they public goods or services. This study also posits that one should also focus on the general public who suffer loss as a result of public funds being stolen.

This study further argues that international economic crime is discernible by looking at express legal provisions contained in municipal laws as well as in international conventions and customs. The study argues that it is necessary to develop deliberate legal provisions and put in place carefully planned and sound administrative measures in line with law and international norms. Some victims and public entities may fail to report economic crime when it occurs. Administrative action must include measures such as special audits and regular checks to ensure public resources are safe. Waiting for victims to complain instead of being proactive may lead to public revenue being lost and difficulty in securing evidence.

### 1.5.4 Identifying economic crime by nature of suspect

Tupman argues that "another approach to understanding economic crime is by focusing on the suspects". In the past it was thought that economic criminals are people in

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[33] Hazel Croall, *"Who is the White Collar Criminal"*, The British Journal of Criminology, Vol 29, No. 2 (Spring 1989), pp. 157-174.

[34] William Tupman, "*The characteristics of economic crime and criminals*", Research handbook on international financial crime.

"white collar jobs" and some investigators still focus on the suspect to ascertain commission of crime. However, professional criminals hire rogue accountants and lawyers to help launder proceeds of crime.[35] Economic crime should not therefore be identified only with persons of high status in society. Criminals may start with ordinary crimes then move into sophisticated economic crime making detection difficult because as the profits rise, the risk of being caught diminishes.

For that reason it becomes difficult for detectives to identify criminals who engage in economic crimes if they only focus on persons of high social status. Economic criminals can be people who started off committing petty crime before moving into economic crime involving theft of public goods and benefits meant for development. From the analysis the study submits that law enforcement and administrative measures should focus on investigation of crime where there is a complaint of alleged theft of public resources. The identity of the suspect should not be a factor to be considered in making a decision whether or not to conduct investigations. All suspects must be thoroughly investigated regardless of their social status and evidence gathered prior to investigation files being forwarded to the DPP for further review and directions. Appearances and social status can mislead and evidence alone should guide decisions to investigate and prosecute economic crimes. International economic crimes are also therefore capable of being committed by multinational corporations who evade paying taxes and big corporations through illicit financial flows. This study for instance established that a lot of international economic crimes are perpetrated through public procurement of public goods and services.

### 1.5.5 Overview of economic crime management in Botswana

Badham-Jones states that "the government of Botswana is internationally credited for availing resources in order to better equip the country against corruption challenges".[36]

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[35] William Tupman, "*The characteristics of economic crime and criminals*", Research handbook on international financial crime.

[36] Michael Badham-Jones, " *Overview Of Corruption And Anti-Corruption In Botswana*" , Transparency

Despite these deliberate measures being put in corruption still remains a challenge for Botswana as well. The challenges include lack of transparency, patronage networks, conflicts of interest and nepotism, together with concerns over judicial independence. The "Corruption and Economic Crime Act 1994" is Botswana's most recognized anti-corruption law.

Today, Botswana has a well-developed set of anti-corruption laws including the institution of the DCEC.[37] To strengthen the legal and institutional framework Botswana should enhance freedom of information and more transparency.[38] In the absence of such frameworks literature reviewed in chapter four herein shows that illicit financial flows thrive in Botswana. Contrary to popular belief of Botswana as a corrupt free state, analysis of scholarship on economic crime shows worrying trends of colossal sums of funds lost through economic crime in Botswana. These colossal sums of money leave Africa in the form of illicit financial flows in the extractive sector.

### 1.5.6 The dynamic relationship between economic crime and economic development

Adekoya and Razak examined the consequences of crime on society in Nigeria and found evidence that "crime reduces standards of living and diverts funds from developmental programs."[39] Adekoya and Razak posit that further studies are needed to test whether the relationship between crime and economic growth is "non-linear". That is to show, "whether the value of one variable is affected by the change in the other variable" as there were no major statistical analysis of how crime affects economic growth in that study. This study therefore sought to add to the body of knowledge through further research by examining the role of economic crime on economic development. The findings will add to the body of academic knowledge on the relationship between the independent variable of economic crime and economic development. Thus study established that economic crimes create social

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International, 27 November 2014 "tihelpdesk@transparency.org".

[37] KPMG, "*Botswana Economic Snapshot H2*," 2017.

[38] BTI; "*Botswana Country Report,2014*" " http://www.bti-project.de/fileadmin/Inhalte/reports/2014/pdf/BTI%202014%20Botswana.pdf".

[39] Adenuga Fabian Adekoya, Nor Azam Abdul Razak, "*The Dynamic Relationship between Crime and Economic Growth in Nigeria*," (International Journal of Management and Economics Volume 53, Issue 1, January–March 2017), pp. 47–64; "http://www.sgh.waw.pl/ijme/"

damage because they limit people's choices by affecting development. Razak et al submit that "economic crimes affect democratic institutions, undermining governance systems and posing doubts about the functioning of justice and the fairness of society."[40]

"Economic crimes undermine the resources that state national treasuries can count on to implement public policies."[41] When funds meant for development get stolen through crime "sustainable development goals" (SDGs) cannot be realized particularly SDG 16 – which seeks to "*Promote Peaceful and Inclusive Societies for Sustainable Development".*[42] "SDG target 16.4" specifically aims to combat the problem of IFFs, recover stolen assets and combat organized crime. "Target 16.3" seeks to promote rule of law and justice), "target 16.5" aims to "combat corruption and bribery", and "target 16.6" to "strengthen accountable and transparent institutions".[43] The UN has estimated a loss of US $1.26 trillion per year to developing countries due to corruption."[44] Budima posits that many economic crimes are crimes "without borders," that is to say, they are transboundary. Global solutions and international cooperation is therefore necessary to effectively combat economic crime.[45] This is because development is a human right under international law.[46] Eradication of international economic crime is therefore a target under the SDGs as well as an obligation of UN member states.

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[40] Ibid

[41] Dan Davies, "*How to get away with financial fraud*." The Guardian, 28th June. "https://www.theguardian.com/news/2018/jun/28/". Accessed 25 August 2020.

[42] "UNODC (2018)", "*SDG 16*": "*promote peaceful and inclusive societies for sustainable development*", "provide access to justice for all" and "build effective, accountable and inclusive institutions at all levels". "https://www.unodc.org/unodc/en/about-unodc/" Accessed 13 Sept 2018.

[43] "UN", Resolution adopted by the "General Assembly" on 6 July 2017, 71/313, (2017). Work of the Statistical Commission pertaining to the "2030 Agenda for Sustainable Development". A/RES/71/313.

[44] "UN "Goal 16:" "Promote just, peaceful and inclusive societies" (2018)". "https://www.un.org/sustainabledevelopment/peace-justice/" . Accessed 13 Sept 2018.

[45] Gjeneza Budima, "Can corruption and economic crime be controlled in developing economies, and if so, is the cost worth it?" ( Journal of Finance Crime, 2006) 13(4):408–419

[46] "Universal Declaration of Human Rights", 1948, Article 28.

### 1.5.7 Global and regional outlook of economic development

#### 1.5.7.1 Measurement of economic development globally

Besley and Burgess estimated that the world needs 3.9 per cent per capita income annual growth in order to half poverty by the year 2015. [47] On the other hand, Sahn and Stifel used African demographic and health surveys to examine progress in achieving MDG goals. Sahn and Stifel submitted that African states recorded increases in school enrollment rates, declines in infant and child mortality and maternal death rates, and improved living standards under the MDGs in the 1990s.[48] However, the ECA described Africa's economic situation in 1984 as the worst since the Great Depression. [49] Nafziger posits that in the late 1940s and early 1950s states were either perceived as rich or poor or separated with a wide gap of inequality.[50] Western Europe, the United States, Canada, Australia, New Zealand, and Japan were thought to be rich; while most states in Asia, Africa and Latin America were thought to be poor. This perceived boundary between rich and poor countries is disappearing especially since the first decade of the 21st century. Many states outside Western Europe today have achieved the high-and upper-middle-income status in terms of economic development. Many states are recording steady economic growth and development despite not having the highest per capita GNP. The classification of development used by the World Bank divides countries into groups on the basis of per capita GNI.[51]

In 2003, these categories were roughly low-income countries (GNI $1,000 or less), lower-middle-income countries (GNI $1,001–3,000), upper-middle-income countries (GNI $3,000–9,000), and high-income countries (GNI $9,000 or more).[52] Each year, the boundary

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[47] Timothy Besley and Robin Burgess, "*Halving Global Poverty,*" Journal of Economic Perspectives—Volume 17, Number 3—Summer 2003—Pages 3–22

[48] David E. Sahn David Stifel, "*Exploring Alternative Measures of Welfare in the Absence of Expenditure Data,*"

[49] UN General Assembly, *Economic Commission for Africa : regional programming, operations, restructuring and decentralization issues*., 20 December 1982, A/RES/37/214, available at: https://www.refworld.org/docid/3b00f0111f.html [accessed 30 August 2020]

[50] Wayne.Nafziger,.*Economic Development* : Cambridge University Press, 2006.

[51] Ibid

[52] Supra note 48.

between categories rises with inflation, but few countries shifted categories between 1974 and 2003. Indeed, most policy advice given to poor countries over the last several decades—including that by the World Bank—has emphasized the advantages of participating in the global economy. However, Nafziger posits that "global markets are far from equitable, and the rules governing their functioning have a disproportionately negative effect on developing countries". These rules are the outcome of complex negotiating processes in which developing countries have less voice. "Moreover, even if markets worked equitably, unequal endowments would limit the ability of poor countries to benefit from global opportunities."[53] This sectioned therefore presents the economic outlook generally and per capita income needed to halve the world's poverty for economic development. This study will analyse data to examine the extent to which international economic crime is responsible for stagnation in development. The section has discussed other variables such as unfair trade practices and unequal access to markets as other factors that affect economic development. By comparing Botswana and Kenya in terms of development and discussing international economic crime, this study submits that international economic crime, particularly corruption impacts economic development negatively compared to any other variable.

### 1.5.8 Development as a means to freedom and liberation

The "UN Development Program (UNDP)", defines human development as "a process of enlarging people's choices." The most critical ones are to "lead a long and healthy life, to be educated and enjoy a decent standard of living".[54] Scholarship of economic development has largely assessed the 1980s as lost decades for developing countries. UNDP however argues that disparities in human development between DCs and LDCs are much less. This means that disparities in income per capita and that human development has

[53] "World Development Report 2006", "*Equity and Development"*, World Bank and Oxford University Press; 2005.

[54] "United Nations Development Programme", "*Human Development Report 1991*," (New York; Oxford University Press 1991) Pg.10

narrowed considerably between DCs and LDCs.[55] The “U.N. Universal Declaration of Human Rights” goes beyond civil and political rights such as “fair trial”, “universal adult vote”, and “freedom from torture” to include the “rights of employment”, “minimum wages”, “collective bargaining”, “social security”, “health and medical care”, “free primary education”, and other “socio-economic rights”.[56]

“UNDP” argues “that for many in the developing world, the fulfillment of economic needs precedes concern for political liberties”. In other words most people are more concerned with their basic needs and rank these needs higher than political liberties. For these people economic rights are most important. This is understandable because economic rights concern basic human needs in keeping with the dignity and survival of human beings. Development from the perspective of international governmental organizations should be people centred. It is very important to ensure that people have access to decent standards of living. This is important because human beings need to be secured first before we can think of improving costs and mechanisms of production in the state. This study therefore submits that human beings-population, is an important element of statehood. The study argues that states must ensure the population is the subject of security against threats such as poverty, droughts, diseases such as pandemics and illiteracy. This study further submits that it shall be of no use if we secure other national interests and ignore human beings. To achieve economic development, we must focus on improving lives of people as well.

## 1.6 Justification of the Study

### 1.6.1 Academic Justification

Many theories on crime causation have been formulated to account for economic crime prevalence. There is need to collect empirical data to test these theories with regard to economic crime prevalence. These variables keep changing and are very fluid. There is need

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[55] (“U.N. Development Program 1991:16–18”).
[56] U N General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: “https://www.refworld.org/docid/3ae6b3712c.html” [accessed 30 August 2020].

for current and up to date statistical analysis of how economic crime has been affecting economic development at a given point in time. The empirical data can assist us ascertain causes and types of crime. The findings will therefore add to the body of knowledge. By employing the "rational choice theory" of crime causation the study gathered evidence to ascertain convergence with this established theory. In so doing, the study also seeks to add to the existing body of knowledge on international crime causation factors.

### 1.6.2 Policy Justification

Eradication of international economic crime is a specific, measurable, agreed upon target under the SDGs. Member states committed to SDGs so as to achieve set goals within given timelines. In order to ascertain whether we are on course in combating international economic crime, scientific research is necessary. As economic crime evolves with changing technology, so must our efforts and research continue ceaselessly in order to craft effective responses to fight it. Technological changes have made it possible for criminals to devise new ways of committing economic crimes. Thus, it is necessary for law enforcement agencies to equally devise new methods to investigate and curb economic crime. This will inform policy changes on interventions to put in place in terms of resources and personnel to fight economic crime.

## 1.7 Theoretical Framework

### 1.7.1 Rational Choice Theory

The study analyzed international economic crimes using the "rational choice theory". These theory of criminal behaviour based on rationality was first proposed by Beccaria and then Bentham. [57] The theory posits that man is motivated by profit to commit crime hence punishment is necessary to deter man from committing crime. If punishment provided for in the law is lesser than the benefit to be acquired from criminal activity the crime will be

[57] Bentham, J. (1789), '*An introduction to the principles of morals and legislation*'. In: The Utilitarians. Garden City NY, Anchor Books.

committed. This means man is more likely to commit crime if he will profit from it and if the punishment for the crime is not severe and deterrent.

Becker examined the consequences of crime on the society; He submits that "due to crime (CR) the society would bear more weights of damages (D); more cost of arrest and conviction of offenders (PR); an increase in the social cost of punishment (PA); which represent a crime tax on the society resulting in social loss of wealth (RGPC). Thus, Becker developed the following model to examine the social loss of crime within the society:" [58]

RGPCt = f DT, PRt, PAt (, CRT)

This theory focuses on the discipline of economics and its assumptions about individual decisions to commit crime. Witte and Witt posit that "Economic analysis of crime is concerned with (a) the effect of incentives on criminal behavior (b) evaluation of alternative strategies to reduce crime."[59] This economic model of crime is a standard model of decision making where individuals choose between criminal activity and legal activity on the basis of the expected utility from those acts.

The economic model sees the criminal as committing a crime if the expected gain from criminal activity exceeds the gain from legal activity, lawful work. The evidence gathered from literature review, secondary sources and empirical data indicates that international economic crime is responsible for losses of colossal amounts of money meant for development. The perpetrators are people with means who choose criminal activity as opposed to legal activity because they stand to benefit economically at public expense. The chances of being caught are also slim especially in states where legal systems are weak.

### 1.7.2 "Coordination Failure; the O-Ring Theory of Economic Development"

Balanced and unbalanced growth advocates focus on preventing or overcoming "coordination failure in economic development". Kremer proposes a production function in

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[58] Gary S. Becker, "*Crime and Punishment: An Economic Approach*," (Journal of Political Economy, University of Chicago Press, 1968), Vol. 76, pages 169-169

[59] Ann Dryden Witte and Robert Witt, *Crime Causation: Economic Theories* , Encyclopedia of Crime and Justice,2000

which "production consists of many tasks, [either simultaneous or sequential], all of which must be successfully completed for the product to have full value".[60] He starts by visualizing in this theory periods of economic crisis by plotting available economic and crime indicators."[61] Such an approach can help identify, and to some extent, quantify, crime levels. This theory emphasizes the need for coordination in order to realize economic development. It likens development to an orchestra where the music can be spoilt when one player goes into discord. Economic development and measures to eradicate challenges such as economic crime must therefore be very well coordinated. This must happen from the global level through fair trade practices and international conventions, regionally through concerted efforts, and at national level. In other words, development does not come by chance or good luck. It must come through well thought out strategies. This is the import of Kremer's "O-Ring theory". The study analyzed economic development strategies using this theory to ascertain whether the actors, processes, and strategies are all functioning in a well-coordinated manner. This theory will be used to analyse economic development in Kenya and in Botswana and the evidence gathered shows convergence with theory.

### 1.8 Research Methodology

The study used a mixed approach where both qualitative and quantitative data was collected to analyze the research questions. "A mixed methodology integrates both the qualitative and quantitative data collection on economic crimes management in Kenya and Botswana."[62] Qualitative data was useful to analyse economic development strategies globally, regionally, in Kenya and finally in Botswana.

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[60] Kremer, Michael. "The O-Ring Theory of Economic Development." 1993. QJE 108(3): 551–575.
[61] Ibid
[62] Alan Bryman , *Social Research Methods 3rd Edition*, ( Oxford: Oxford University Press, 2008) 603- 626

### 1.8.1 Research Design

"Research Design is the overall conceptualization of the study including description of all concepts, variables, relations, data and methods."[63] From this definition therefore research design involves all the processes a scientific research goes through. In designing a research regard must be had to the type of evidence needed to answer the research questions as accurately as possible. This study employed a case study design to collect detailed and intensive analysis of economic development strategies. Economic crimes from Kenya and Botswana were analyzed using both qualitative and quantitative data. The in-depth examination of economic development strategies using case study method lead to understanding of the totality of social issues surrounding economic development.. [64] Quantitative data from surveys during data collection, sampling strategies and data analysis complemented the case study method for generalizability of findings.

### 1.8.2 Sampling Design

This is the process of selecting elements of a population for inclusion in a research study. Random sampling strategies can allow for generalization with respect to independent variable of international economic crime and the dependent variable of economic development. Economic crimes are well defined at municipal and international law and this can allow for generalization. This is because international economic crime is a universal and fairly discernible concept at both international and municipal law. Development is also a global concept that follows detailed global development plans which are cascaded down to state level through international conventions and treaties. States then formulate their own development strategies in line with global sustainable development goals. States are also supposed to put in place measures to eradicate international economic crimes in line with international conventions. A study of the two concepts therefore can allow for generalization

[63] Abel Mugenda, *Social science research, theory and principles* (Nairobi: Applied Research & Training Services Arts Press-2011) Pg.66.

[64] Chakravanti Kothari R, *Research Methodology – Methods and Techniques 3rd Ed.* ( India, New Age International Publishers, 2004) pp 113 - 115

of findings. Study population is the general public and individuals working in organizations that deal with economic development and law enforcement. The desired sample population therefore will be determined using Fisher's formula for sample size determination.[65]

$$n=\frac{z^2pq}{d^2}$$

Where n=desired sample size (the target population is greater than 10,000).

z=the standard normal deviate at the confidence level of 95% is 1.96.

p=the proportion of the target population estimated to have characteristics being measured is set at 50%

q=1-p (probability of non-success)

d=level of statistical significance set at 0.05

$$n=\frac{(1.96)^2*0.5*(1-0.5)}{(0.05)^2}$$

n=384

Going by this formula the researcher sought a total of 384 respondents in Kenya and in Botswana. However, due to Covid 19 restrictions, the researcher was able to get responses from 33 respondents randomly selected from the general population. These provided information on corruption and economic crime perceptions. They also provided information on impacts of economic development strategies. The study also got information from 11 key informants who have expert knowledge in economic development and international economic crime. The key informants were selected through purposive sampling owing to their expert knowledge. As for Botswana, the researcher could not travel there owing to travel restrictions during the Covid pandemic. However, the researcher relied on qualitative and secondary data from World Bank, Africa Development Bank and Statistics issued by Botswana's Ministry of Finance. Literature was also reviewed.

[65] Fisher et al (1983) , cited in Mugenda & Mugenda, 1999:43

### 1.8.3 Data Collection

Primary data from the 22 respondents was collected from Kenya through questionnaires, from the individuals among the general public and from 11 respondent's key informants. Secondary data concerning official statistics on economic development was highly considered to minimize errors and increase reliability. The study employed both primary and secondary sources of data. Sources of primary data were derived from structured questionnaires and structured interviews. The research used a 3-5 point Likert-scales in questionnaire to test impact/non-impact for statements regarding prevalence and impacts of economic crime on economic development. A descriptive statistical approach is employed to get the mean and distributions of each development strategy as well as the prevalence of economic crimes by various sectors.

### 1.8.4 Data Analysis

Data was analyzed using multivariate analysis which is a statistical analysis that explores the relationship between three or more variables and allows researchers to build models and test theories. The multivariate analysis employed Spearman correlation analysis, the coefficient of which is designed to measure the strength and direction of the association between two variables. Statistical analysis software using the "WORDCLOUD" and "text mining" facilities were used to bring out graphically the actual challenges facing the management of economic development in Kenya. A descriptive statistical approach was employed to get the mean and distributions of each development strategy. From there t-tests are performed to examine if the mean is the same between these variables of interest using STATA statistical analysis software.

### 1.8.5 Data Presentation

The research findings are presented through charts, tables and figures to demonstrate relationships and figures emanated from quantitative data. For qualitative data a narrative description, which connects findings to theory and research questions, were employed. Care has however been employed to ensure reliability and validity.

### 1.8.6 Scope and limitation of the study

The study focused on economic development in Kenya and in Botswana and the relationship between development and international economic crime. This study covered those economic crimes including corruption defined under the UNCA as domesticated under the ACECA law of Kenya and the CECA law in Botswana. The study sought to examine all forms of economic crime including other economic crimes committed internationally but for which the suspects can be liable for prosecution in Kenya and Botswana by operation of law in the two countries. The study examined development strategies globally from the year 2000 when MDGs were formulated up to the current period within the framework of the SDGs to ascertain the relationship between development and crime. Economic development within Botswana and Kenya was examined from the time of independence and in light of global development strategies. Inadequate funding and Covid 19 travel restrictions has been a major challenge to collection of empirical data. To circumvent these challenges, the study maximized on use of technology and online development and crime statistical data from international governmental organizations and state agencies. The study also leveraged on empirical data collected from key informants who have expert knowledge on economic crime management and development.

## 1.9 Chapter Outline

The study is comprised of five chapters. Chapter one has an abstract, which briefly summarizes the content of this research study. Chapter one also discusses the background and brief introduction of the study. The section covers an introduction of the topic with a very brief discussion of the two main variables in the study. This chapter defines the variables and provides a context and background for the study. It also outlines the research design to be used, the problem statement and justification of the study. The chapter also contains the research objectives and methodology. Data collection methods together with the sampling strategies to be used are also covered in chapter one.

Chapter Two deals with the first objective of the study, which are economic development strategies in Kenya and Botswana. The second chapter outlines the literature and data available on economic development strategies within Kenya, Botswana and also internationally. At national level the study will analyze and discuss literature from bodies legally mandated to implement economic development strategies and internationally literature and official statistics from global institutions like UNDP, WB, IMF and ADB will be reviewed. The in-depth analysis of literature in this chapter will enable the researcher gather information on the economic development situation in Kenya and in Botswana. The researcher will then present research findings from empirical data gathered to test the data against the literature reviewed and the statistics on economic development. Thereafter the researcher makes conclusions.

Chapter three is a review of literature on types and trends of economic crime with a view of understanding the causes of economic criminality. This chapter seeks to analyze literature in line with the second objective of the study. There has been an increased uptake of technology, which can also be misused by criminals to perpetuate crimes hence the need to examine these trends and understand them. The review of literature in this chapter provides details on crime trends. Sources of literature in this chapter include books, journals and official statistics on crime trends internationally, regionally, Kenya and Botswana. This literature will also include data from bodies mandated to combat international economic crime such as UNODC, ODPP, DCEC and EACC. The researcher then presents research findings gathered from empirical data prior to making conclusions on types of economic crimes.

Chapter four seeks to address the third objective, which is impact of economic crimes on economic development in Kenya and Botswana. This chapter offers an overview of impacts of crime on development. The aim is to examine the role international economic crime plays on economic development. This study seeks to discuss those impacts by analyzing any available literature. This chapter will then analyze and present empirical data gathered and also secondary data from literature on the institutions and individuals required by law to combat economic crimes internationally and domestically. This will enable the study to ascertain the challenges faced. Data and literature from official sources on economic development will be reviewed to analyze impact of crime on development. The study thereafter makes conclusions.

Chapter five will discuss general conclusions and thereafter proffer recommendations. The general conclusions presented are in the light of the research objectives to ascertain whether research questions were answered. This chapter is the culmination of the study to tangible policy recommendations based on the findings discussed. The discussion indicates whether the results confirm the theories used to analyze the variables in the study on the social issue of economic development. The findings are based on both qualitative and quantitative data collected and analyzed. The conclusions are drawn from data presentations. Recommendations made are based on tangible realities gathered through scientific knowledge.

## CHAPTER TWO

## ECONOMIC DEVELOPMENT STRATEGIES IN KENYA AND IN BOTSWANA

### 2.0 Introduction

Litwiński argues that scholars have not agreed on a single definition of the term "development". [66] Bellu considers "development to mean a phenomenon indicating a process of change whereby there is transformation of a particular system to better forms according to approved criteria through a set of quantitative and qualitative changes."[67] Scholars argue that global understanding of development has changed over the years and countries now focus on a broader concept of "*sustainable development*".[68] This is a holistic concept of development that includes environmental protection as well as social prosperity for human beings. Trent and Schnurr posit that "sustainable development therefore covers social, economic and environmental aspects in a balanced manner." Development strategies therefore encompass activities focused on "poverty reduction, food security, climate change, gender equality, housing, education, employment, infrastructure, disaster risk reduction, health and emergency response, water and sanitation, safety and crime prevention, good governance, and early childhood development." "Development is a human rights issue from the perspective of the UDHR hence human rights, peace and security are also an important component of a holistic development strategy."[69]

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[66] Litwiński, M. "*The evolution of idea of socio-economic development*." Ekonomia i Prawo. 16. 449. 10.12775/EiP.2017.031. (2017).CS

[67] Bellu, L. "*Development and development paradigms*." A (reasoned) review of prevailing visions. FAO Issue Papers, Module 102, (2011).

[68] Trent, J., & Schnurr, L. "*Evolving International Organizations:*" The UN Past and Present. In "*A United Nations Renaissance*" "*What the UN is, and what it could be?*" (pp. 22-55). Opladen; Berlin; Toronto: Verlag Barbara Budrich. doi:10.2307/j.ctvdf03xp.6, (2018).

[69] Ibid

## 2.1 Evolution of development strategies

Rostow Eurocentric concept of development ignores historic evidence showing early forms of civilizations and human development in Africa. Rostow traces the concept of development to 18th century Western Europe after transition of the society to a modern one.[70] Litwiński says that society likened development during that time to a "biological process signaling maturity".[71] Momeni and Shahbazi posit that "development has been a serious concern of human societies since ages and it was initially synonymous with words such as evolution, progress, modernization and growth."[72] Momeni and Shahbazi state that the "concept of development has changed over periods of time and gained momentum after the end of WWII when the UN brought about a new dimension to this concept in international relations."[73] Research needs to fill gaps in knowledge regarding the link between "cultural evolution and technological innovations dating back to tool manufacture in early forms of human civilizations particularly in Africa."

Lummis indicates that "it was not until the second half of the 20th century that development became a subject of deliberate action."[74] Before that many scholars thought that development was rather spontaneous than a target-oriented process. Litwiński further posits "that WWII weakened European countries and changed a balance of power." Colonial empires acquired greater national autonomy and military power was replaced by economic power. "The United States was not seriously affected by WWII and the US slowly emerged as an economic power."[75] The US supported the decolonization process and came up with new governing patterns such as "liberalization, free market, democracy, international

[70]Rostow, W.W. "*How it all began. Origins of the modern economy*." London: Methuen. (1975).
[71] Supra note 53
[72] Momeni, M., and Shahbazi, A. "*Evolution of Development in the Changing Context of the United Nations",* "Evolution of Development in the …. Iranian Studies". (2019).
[73] Ibid
[74]Lummis, C., D. "*Radical democracy*." New York: Cornell University Press. doi:10.7591/9781501712999-004. (1996).
[75] Litwiński, M. "*The evolution of idea of socio-economic development*." Ekonomia i Prawo. 16. 449. 10.12775/EiP.2017.031. (2017).

cooperation, individualism."[76] This gave rise to industrial revolution as a symbol of modernization.[77] Arndt posits that "during that time development was measured by level of economic growth."

Lummis says that economic development has since grown to be associated with material growth, improvement of living standards, and in the context of the UN, humanitarian assistance.[78] Momeni and Shahbazi submit that development dominated the functioning of the UN and relations among the States during the Cold War.[79] "They consider the end of the Cold War and the emergence of globalization as turning points in giving development a multi-dimensional meaning and becoming a multitude process under the framework of "Sustainable Development" which eventually led the UN to play a proactive role unlike the past.[80] From the above discussion, the concept of development has undergone changes and it is closely linked to the evolution of man. This study aims to contribute to the body of knowledge by examining development using economic crime as an independent variable to ascertain how crime affects development.

**2.2 Global policies and development strategies**

UN Charter sets out the objectives of the UN and in article 1(3) of the UN Charter the "UN has an objective to achieve international cooperation of an economic, social, cultural or humanitarian character."[81] Under this international regime the UN and members states have a duty to promote human rights and fundamental freedoms. This is the basis for development policy from the global perspective. At international law development is people centred and is supposed to holistically address economic, social and cultural aspects of humanity.[82] The

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[76] Sachs, 2000, Pg. 7.
[77] Arndt, 1987, Pg. 9
[78] Lummis, C., D. (1996).
[79] Momeni, M., and Shahbazi, A. "*Evolution of Development in the Changing Context of the United Nations",* "Evolution of Development in the Iranian Studies". (2019).
[80] Ibid
[81] United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at: https://www.refworld.org/docid/3ae6b3930.html [accessed 3 October 2020]
[82] UN General Assembly, *Declaration on the Right to Development : resolution / adopted by the General Assembly*, 4 December 1986, A/RES/41/128, available at:

Declaration on the Right to development therefore envisaged a situation where humanity collectively shares in the fruits of development. Under this international regime, right to development is recognized as an inalienable right available to all human beings.

Momeni and Shahbazi submit that to assess development progress regard must be had not only by how much " people's economic and social standards have advanced but by whether the process of development has been one in which human freedoms in political and civil and cultural space have been protected."[83] Momeni and Shahbazi also submit that today, progress in individual countries and communities is closely compared with progress in other countries and communities and with the world as a whole. In this regard, scholars argue for the need and importance of a global policy to manage development. This policy should coordinate development for all peoples in all countries and nations of the earth. These global policies aimed at improving lives of all humanity including the poor are therefore very important as they serve as the foundational building blocks upon which nations can build. This is a very constructivist approach to development of which O-Ring theory is part. Kremer**'s** O-Ring theory argues that coordination is very key to enhance efficiency. The UN also adopted the International Covenant on Economic and Social and Cultural Rights of which Kenya deposited its instrument of ratification on 1st May 1972. [84] Kenya has since included these principles into her constitution as will be discussed later in this chapter. State Parties to the covenant undertake to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum available resources, with a view to achieving progressively the full realization of the rights recognized at international law by all appropriate means, including adoption of legislative measures.[85] At international law development is seen as a holistic process that includes political and social

https://www.refworld.org/docid/3b00f22544.html [accessed 3 October 2020]

[83] Supra note 59

[84] UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200, available at: https://www.refworld.org/docid/3b00f47924.html [accessed 3 October 2020]

[85] Article 2(1) of ICESCR

rights. Gros states that "viewing development as a right instead of a goal emphasizes the perceived centrality of development to human dignity and wellbeing".[86] The basis for peace therefore is development as has been indicated in the preamble of the Declaration on the Right to Development. This study posits that when social and economic rights are realized, the likelihood of conflicts, particularly resource based conflicts becomes rare.

At the beginning of the new millennium, world leaders gathered at the United Nations to shape a broad vision to fight poverty in its many dimensions. That vision was translated into eight Millennium Development Goals (MDGs). The goals were measurable, time bound targets which included; ending poverty and lack of food, enhancing primary education for all, gender parity through empowering women, reducing child mortality, good maternal health care, fighting scourge HIV/AIDS, other diseases like malaria and environmental conservation. This policy guided global economic development from the year 2000 to 2015.[87] The MDG 2015 report notes that "although significant achievements were made on many of the MDG targets worldwide, progress was uneven across regions and countries, leaving significant gaps. Millions of people were left behind, especially the poorest and those disadvantaged because of their sex, age, disability, ethnicity or geographic location. Targeted efforts were needed to reach the most vulnerable people." The MDGs strategies at the global level aimed to promote development. Momeni and Shahbazi submit that under MDGs development was uneven due to "a set of operational failures implicating many stakeholders, in both poor and rich countries". This includes un-kept promises of ODA by rich countries. Despite the challenges many scholars note that there has been progress in areas such as "disease, hunger and poverty reduction". MDGs have been termed by scholars as a "historic mark of global mobilization to achieve a set of social and economic priorities worldwide". The MDGs were to be achieved within a period ending in the year 2015.

[86] Gros, E., H. "*The Right of Development as a Human Right*". International Law Journal, at 189, (1981).
[87] The Millennium Development Goals Report 2015

The 2030 agenda for sustainable development was adopted by the UN following the "outcome of the United Nations summit for the adoption of the post-2015 development agenda": [88] There was a need to focus on development beyond 2015 after the MDGs period had run its course. This Agenda is therefore "a plan of action for people, planet and prosperity seeking to strengthen universal peace and freedom".[89] It is to be implemented by all countries and all stakeholders, acting in collaborative partnership. This emphasizes the need for cooperation at the global level. The 17 Sustainable Development Goals and 169 targets demonstrate the scale and ambition of this new universal Agenda. It seeks to "build on the Millennium Development Goals and complete what MDGs did not achieve. This includes to; "realize the human rights of all and to achieve gender equality and the empowerment of all women and girls". "They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental; in areas of critical importance for humanity".[90] Cook submits that the "SDG vision is comprehensive and built upon decades of trying to build a different kind of paradigm around how we approach sustainability and development issues." [91] "The concept of development has gone through a number of theoretical and practical scrutiny and tests which were also affected by the international changes and events such as the end of the Cold War and the emergence of globalization".[92] Scholars agree that though it has had many failures in the history of its existence, the UN has had many successes too as shown through the following UN entities;-

[88] UN General Assembly, *Transforming our world : the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1, available at: https://www.refworld.org/docid/57b6e3e44.html [accessed 3 October 2020].
[89] See Preamble to UN resolution adopting the SDGs.
[90] See preamble to the UN resolution adopting the SDGs.
[91] Cook, G., "*The Future of the Sustainable Development Goals*", Wilson Centre, available at: https://www.newsecuritybeat.org/2016/05/future-sustainabledevelopment-goals/ May 18, 2016
[92] Momeni, M., and Shahbazi, (2019) Pg. 186

**Table 2.1: UN entities addressing social, economic and environmental issues**

| s/no | PROGRAMME/ FUND | YEAR ESTABLISHED |
|---|---|---|
| 1 | International Telecommunications Organization (ITU) | 1865 |
| 2 | International Labour Organization (ILO) | 1919 |
| 3 | Food and Agriculture Organization (FAO) | 1945 |
| 4 | United Nations Education Scientific and Cultural Organiastion (UNESCO) | 1945 |
| 5 | United Nations Children's Fund (UNICEF) | 1946 |
| 6 | World Health Organization (WHO) | 1948 |
| 7 | World Meteorological Organization (WMO) | 1950 |
| 8 | United Nations High Commissioner for Refugees (UNHCR) | 1951 |
| 9 | United nations World Tourism Organization(UNWTO) | 1957 |
| 10 | World Food Programme (WFP) | 1963 |
| 11 | United Nations Conference on Trade and Development (UNCTAD) | 1964 |
| 12 | United Nations Development Programme (UNDP) | 1965 |
| 13 | United Nations Population Fund (UNFPA) | 1969 |
| 14 | United Nations Environment Programme (UNEP) | 1972 |
| 15 | United Nations Office for Project Services ( UNOPS) | 1973 |
| 16 | United Nations Development Fund for Women (UNIFEM ) merged into a new organization, UN Women, in 2010. | 1976 |
| 17 | International Fund for Agriculture Development (IFAD) | 1977 |
| 18 | United Nations Human Settlements Programme (UN-HABITAT) | 1978 |
| 19 | United Nations Industrial Development Organization (UNIDO) | 1985 |
| 20 | Joint United nations Programme on HIV/AIDS (UNAIDS) | 1994 |
| 21 | United Nations Office on Drugs and Crime (UNODC) | 1997 |

**Source; Research study literature review**

## 2.3 Africa development strategies

Development strategies in Africa can be traced back to the Stone Age during the evolution of man whereby hominid remains have been found in archeological sites at Olduvai Gorge and Koobi Flora. Development can then be traced back to the pre-colonial days and then during the struggle for independence where Africa came together to address political and economic challenges under the Organization of African Unity- OAU. Edo submits that "the Organization of African unity (OAU), the umbrella association of the African continent was established on 25 May, 1963 at Addis Ababa, Ethiopia". Heads of state and government of independent African states signed the charter of the OAU.[93] Edo states that the organization was an amalgamation of the three ideological blocs in Africa one led by Kwame Nkrumah of Ghana; the Monrovia group led by Nigeria's Tafawa Balewa.

The OAU charter stipulated the need for unity among members as well as co-operation in their various endeavors.[94] Edo submits that "the organization was able to forge a supranational unity that transcended any primordial considerations - ideological blocs, ethnic, religious and even colonial attachments/ cleavages". Edo states that "this bond of unity became manifest at the international diplomatic levels where Africa sent envoys to represent its general interest opposed to discordant voices at the United Nations". This, Edo argues, resulted into political liberation of African States from their colonial masters. The OAU "had organised diplomatic support and channeled financial, military and logistical aids to liberation movements causing liberation struggle to be recognised as legitimate in the U.N. Countries like Guinea Bissau, Angola and Mozambique received international support through funding by the OAU".[95] Economically the OAU made the programme of Technical Co-operation (July, 1975); the "Kinshasa Declaration" (December, 1978), which paved the way for the creation of the African Economic Group (AEG); the "Monrovia strategy for Economic Development in Africa" (July, 1979); the "Lagos Plan of Action" (April, 1980); and the creation of the "African Economic Group" in Abuja, Nigeria IN 1991.

The "African Economic Commission (AEC)" under the auspices of the OAU was able to harmonise their policies on United Nations Conference on Trade and Development-UNCTAD, which improved their terms of trade, participation in a new international monetary system as well as attraction of more multilateral aid. These were therefore strategies aimed at achieving economic development and political emancipation for the young African states.

[93] Organization of African Unity (OAU), "*Charter of the Organization of African Unity*", 25 May 1963, available at: https://www.refworld.org/docid/3ae6b36024.html [accessed 9 February 2021]

[94] Edo, V., O. and Olanrewaju, A., M. "*An Assessment of The Transformation Of The Organization Of African Unity (O.A.U) To The African Union (A.U),* 1963 - 2007." Journal of the Historical Society of Nigeria 21 (2012): 41-69. Accessed February 9, 2021. http://www.jstor.org/stable/41857189.

[95] Ibid

Akindele argues that "there was lack of civil participation in which the newly independent African states failed to consider civil participation in decision making but focused mostly on the state and its bureaucratic structures".[96] Akindele argues that this resulted in "Neo-colonialism" which the OAU failed to address. "This rendered the OAU irrelevant to address Africa's crisis due to its state centric nature and lack of civil participation".[97]

President Muammar Al Gaddafi of Libya invited African leaders to host the fourth extra-ordinary session of the 35th OAU summit of Heads of State and Government in the port city of Sirte on September 8-9, 1999. At this Summit the "*Sirte Declaration*" was adopted by the Organization of African Unity on September 9, 1999 at Sirte, Libya to create the 'African Union'. The AU aimed "to accelerate the political and socio-economic integration of the continent"; The AU also "aimed at international co-operation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights"; and to "promote sustainable development at the economic, social and cultural levels as well as the integration of African economies". In appraising performance of the AU Bamidele submits that "violent conflicts have ensued from the competition for political power in Africa as demonstrated by dramatic election-related crises in Central African Republic, Ethiopia, Kenya, Zimbabwe, and more recently Burundi". [98] [31.] At the Assembly of Heads of State and Government of the African Union at Addis Ababa, on 26th May 2013, Africa's top political leadership committed itself to long term national and continental development vision, Agenda 2063 as a unique opportunity to recreate the African narrative program of social, economic and political rejuvenation.[99] Unlike the OAU the AU under Agenda 2063 seeks "to prioritise

[96] Akindele, R., A. "*The Organisation of African Unity, 1963-1988: An Introductory Overview*," Nigeria Journal of International Affairs, Vol. 14 Noi, 1 in Edo, V., O. and Olanrewaju, A., M. "*An Assessment of The Transformation Of The Organization Of African Unity (O.A.U) To The African Union (A.U),* 1963 - 2007." Journal of the Historical Society of Nigeria 21 (2012): 41-69. Accessed February 9, 2021. http://www.jstor.org/stable/41857189.

[97] Ibid

[98] Bamidele, 'S. "*Re-Assessment of African Union Security Architecture and Emerging Security Challenges in Africa*." Journal of African Union Studies 5, no. 1 (2016): 137-65. Accessed February 9, 2021. doi:10.2307/26893859.

[99]

inclusive social and economic development, continental and regional integration, democratic governance and peace and security amongst other issues aimed at repositioning Africa to becoming a dominant player in the global arena". The OAU had focused on the need to secure political independence from colonialism for many African states.

Under Agenda 2063, the goals are; "A high standard of living, quality of life and well-being for all citizens", "well-educated citizens and skills revolution underpinned by science, technology and innovation**", "**healthy and well-nourished citizens", "transformed economies" and "democratic values, practices, universal principles of human rights, justice and the rule of law entrenched" among many other goals. These goals are linked to the global sustainable goals SDGs. The flagship projects of Agenda 2063 refers to key programmes and initiatives which have been identified as key to accelerating Africa's economic growth and development as well as promoting our common identity by celebrating our history and our vibrant culture. To achieve these goals the AU has identified ambitious and key programmes and flagship projects such as; " Integrated High Speed Train Network to connect all African capitals and commercial centres", "Formulation Of An African Commodities Strategy" aimed to "enabling African countries to add value, extract higher rents from their commodities, integrate into the Global Value chains, and promote vertical and horizontal diversification anchored in value addition and local content development"[100] Recently the African Continental Free Trade Area (AFCFTA) was established to boost intra Africa trade. The development strategy has faced challenges such as the cyclic conflicts in Africa. Currently there are intra state conflicts in Democratic Republic of Congo, Ethiopia, Somalia and Mozambique thereby posing a challenge to the strategic goal of "silencing the guns by 2020". In summary therefore, this study argues that development strategies have existed at the regional level since pre historic times. Colonisation was a big setback to development for Africa. After independence various groups within the political states in Africa failed to achieve unity thereby resulting into

[100] https://au.int/agenda2063/flagship-projects

unending and cyclic conflicts for Africa. The cyclic conflicts are a huge set-back for development in the African continent.

### 2.4 Kenya development strategies

With a GDP of US$53.4 billion and a per capita income of US$1,246 Kenya is ranked as a lower middle-income country.[101] Nonetheless, Kenya is ranked the sixth largest economy in Africa.[102] Kenyan is the dominant economy in the East African Community (EAC) and the primary source of foreign direct investment (FDI) for some of the countries of the EAC region. Kenya has the largest and most diverse economy in East Africa and is a commercial, transportation and communications hub for the.[103] Kenya is a lower middle-income country with a per capita gross national income of USD 1,460 in 2017 (World Bank, 2019). Kenya occupies an important geostrategic location and operates an international transport corridor serving five landlocked states (Ethiopia, South Sudan, Uganda, Rwanda, and Burundi).[104] Kenya is likely to join Uganda and South Sudan among the oil exporting states. Along with the rail, road and airport transit facilities Kenya also adopted a progressive constitution in 2010 which it was hoped, would improve governance structures. Unfortunately, there have been press reports indicating that the DPP has charged several public officers over economic crime related offences in court. This means that despite locational advantages and a good system of governance, economic crimes are being perpetuated by those who are supposed to administer public funds meant for development. This study discusses Kenya's economic strategies both in the past and in the present times.

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[101] Kimenyi, M., Mwega, F., and Ndung'u, N. *Kenya: "Economic Growth, Labor Market Dynamics, and Prospects for a Demographic Dividend*." In BHORAT H. & TARP F. (Eds.), "*Africa's Lions: Growth Traps and Opportunities for Six African Economies*" (Pg. 109-144). Washington, D.C.: Brookings Institution Press. (2016). Retrieved October 3, 2020, from "http://www.jstor.org/stable/10.7864/j.ctt1hfr23q.7"
[102] https://www.statista.com/statistics/1120999/gdp-of-african-countries-by-country/
[103] World Bank. (2019). Data: Kenya. Retrieved from https://data.worldbank.org/country/kenya
[104] Ibid

Development strategies in Kenya can be traced back to the pre-independence days and during Kenya's independence in the year 1963.[105] Shortly after Kenya's independence in 1963 Kenya enacted the "Sessional Paper number 10 of 1965" dubbed "African Socialism and its application on economic planning in Kenya".[106] This was a strategy to eradicate "poverty", "illiteracy" and "disease" and to spur economic development following independence. According to this sessional paper the main characteristics of "African Socialism" were; "Political democracy", "Mutual social responsibility", "Various forms of ownership", "A range of control to ensure that property is used in the mutual interests of society and its members" and "Diffusion of ownership to avoid concentration of economic power", and "Progressive taxes to ensure equitable distribution of wealth and income." This policy was premised on African traditions and values of joint ownership to property and sought to establish Kenya's independent economic development without reliance on any other "outside country or group of countries".[107] It sought to get rid of the "Marxist tendencies" that had resulted into class divisions in Europe. This policy aimed to achieve "social justice", and in the long term, "economic development." This development strategy has been widely criticized for failing to achieve its objectives. Many scholars have argued that it was neither "African" nor "socialist" and lacked effective legal and implementation policies. Since then Kenya has had several other development policies and this section will discuss the main ones.

Regionalism and integration is one of the development strategies at regional level. Tharani argues that regionalism is a major development strategy for African states which aim

[105] Macharia, J. "*Sustainable Development in Kenya*." Horizons: Journal of International Relations and Sustainable Development, (2019). (13), Pg. 172-183. doi:10.2307/48573777

[106] Government of Kenya, "Sessional Paper No. 10 of 1965 on African Socialism and its application to planning in Kenya" (Nairobi, Government Printers, 1965).

[107] Ongesa, T., Omwario, B., Sisia, A., and Gongera, E. "The effectiveness of Poverty Reduction efforts in Kenya: An evaluation of Kenyan Government's policy initiatives on poverty alleviation." "International Affairs and Global Strategy" www.iiste.org ISSN 2224-574X (Paper) ISSN 2224-8951 (Online) Vol.23, 2014

to achieve continent-wide economic, social and cultural integration by 2028. [108] One of the strategies under regionalism is through establishment of regional free trade areas, customs union, common market and ultimately monetary union. This is aimed at enhancing trade and development amongst African states and thereby spurring economic growth. The (EAC) is a regional IGO of six member states comprising Burundi, Kenya, Rwanda, Tanzania, South Sudan and Uganda.[109] The EAC is recognised by the African Union (AU), and it has a vision to create a political federation within the EAC. It is hoped that the regional organization will improve cooperation among its member states. This is one of the strategies Kenya is adopting as a member state of EAC. It is hoped that increase in inter-state trade will promote development. Tharani submits that Regional integration arrangements are intended to pave the way towards the creation of larger regional markets.[110] Larger markets in this context are expected to encourage diversification of goods and services, competition and therefore improve development. Article 101 of the Treaty establishing the EAC provides that the Partner States shall adopt policies and mechanisms to promote the efficient exploitation, development, joint research and utilisation of various energy resources available within the region. Some of the economic development projects within the EAC are; inter-state electrical grid connections; the construction of oil and gas pipelines; and supply affordable energy in line with the EAC Treaty. These are regional efforts towards "harmonisation of the energy sector." Tharani argues in favour of a regional approach to energy access. This study sampled responses from key informants to evaluate how development strategies contribute to economic development in Kenya and whether international economic crime impacts those development strategies. The study was guided by Kremer's O-Ring theory of economic

[108] Tharani, A. Harmonization in the EAC. In Ugirashebuja E., Ruhangisa J., Ottervanger T., & Cuyvers A. (Eds.), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (pp. 486-500). LEIDEN; BOSTON: Brill. (2017).Retrieved October 3, 2020, from http://www.jstor.org/stable/10.1163/j.ctt1w76vj2.34

[109] Treaty for the Establishment of the East African Community. As amended on 14th December, 2006 and 20th August, 2007; The community was established by the three partner states of Kenya, Uganda and Tanzania but membership has since been expanded to accommodate other states in accordance with this treaty and geographical proximity and inter-dependence with the Partner States;

[110] Tharani, A. (2017) Pg.487

development. Data collected established convergence with the theory that there was lack of coherence and coordination for various actors and strategies in economic development. The study sought to answer among other things; to what extent can development (or lack of it) be attributed to cooperation of all stake holders (at international, regional and state level. The main objective was to find the role of international economic crime on economic development.

Apart from regionalism as a development strategy Kenya formulated the economic recovery strategy for wealth and employment creation (ERS). This was after the victory of the NARC political party in Kenya's elections of the year 2002. Kenya's economy expanded steadily from 2.9 percent in 2003 to reach a peak of 7.1 percent in 2007 under this strategy.[111] "This was the highest in over two decades and the only episode of five- year growth acceleration in Kenya's in-dependence history." "The good economic performance was bolstered by the implementation of bold economic and structural reforms under the Economic Recovery Strategy (ERS) and a favorable external environment. The ERS was a five- year blueprint prepared to address Kenya's macroeconomic vulnerabilities and structural weaknesses."[112] This was the economic strategy put in place by the Kenya government from the year 2002 to 2007. However, the 2007 elections in Kenya were marred with violence in which about 1,300 people were killed and over 600,000 displaced. [113] This affected economic performance and the gains that had been made in the preceding five years. Since independence in 1963, Kenya has also gone through a series of trade policy episodes from "inward-orientation to more liberal outward-orientated trade regimes" in pursuit of "sustainable economic growth and development."[114] The poor developmental record of most

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[111] World Bank. *Achieving Shared Prosperity in Kenya*. (Washington, D.C.). — — —. 2014. " Kenya: A Sleeping Lion or Speedy Lioness?" Country Economic Memorandum (Washington, D.C.: World Bank). — — —. 2015. "World Development Indicators" (Washington, D.C.: World Bank). (http:// data . worldbank . org).

[112] Kimenyi et al (2016) Pg. 113

[113] Ibid.

[114] KIPPRA and ODI. *Trade Policy-Making Process in Kenya: The Institutional Arrangements and Interaction of Actors*. 2007.

developing countries, including Kenya, is thought to be linked to "defective institutional order related to lack of administrative capacity, and lack of expertise to deliver and sustain sound, credible trade policies."[115] ERS was a short term strategy hence it became necessary to formulate a long term economic development strategy. The government established the "National Economic and Social Council" charged with the responsibility of formulating a long term development strategy. The launch of the "Kenya Vision 2030" economic development plan provided a key opportunity to better address inequalities for the good development in the country.[116]

The "Kenya Vision 2030" economic blue print aims to transform Kenya into a newly industrializing middle income country providing high quality life to all its citizens by the year 2030.[117] This strategy being implemented over the period beginning from the year 2008 to 2030 in a clean and secure environment" In order to meet the SDGs for Kenyans. At the global level development has been linked to environmental sustainability to ensure development activities do not cause harm to the environment. The Vision is anchored on three key pillars: "Economic"; "Social"; and "Political Governance." The economic pillar aims to achieve an economic growth rate of 10 per cent per annum and sustaining the same till 2030 in order to generate more resources to address the SDGs. The vision has identified a number of flagship projects in every sector to be implemented over the vision period to facilitate the desired growth that can support the implementation of the SDGs on a sustainable basis. In addition the vision has flagged out projects addressing the SDGs directly in key sectors such as agriculture, education, health, water and environment. The social pillar seeks to create just, cohesive and equitable social development in a clean and secure environment. The political pillar aims to realise an issue-based, people-centred, result-

[115] Soludo C. C. & Ogbu, O. *The Politics of Trade Policy in Africa,* in Soludo, C.C., Ogbu O. and Chang Ha-Joon (Eds.), The Politics of Trade and Industrial Policy in Africa: Forced Consensus? Trenton: IDRC and Africa World Press, (2004).

[116] SID. *Kenya's Vision 2030: An Audit From An Income And Gender Inequalities Perspective,* SID. 2010.

[117] GOK. *Kenya Vision 2030, Popular Version,* KV2030 Delivery Secretariat. 2007

oriented and accountable democratic system. [118]

### 2.4.1 Climate change and key development sectors in Kenya

The country's economy is very dependent on climate sensitive sectors such as agriculture, water, energy, tourism and wildlife, and health.[119] On 12 December 2015, 196 Parties to the UN Framework Convention on Climate Change (UNFCCC) adopted the Paris Agreement (PA), a new legally-binding framework for an internationally coordinated effort to tackle climate change.[120] The PA Recognizes that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires the widest possible cooperation by all countries, and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions.[121] Kenya adopted the SDGs and also the framework for disaster risk reduction in 2015.[122] The Sendai Framework aims to achieve the substantial reduction of disaster risk and losses of lives, livelihoods and health. By so doing, it will help preserve the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries over the next 15 years. The Framework was adopted at the Third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on March 18, 2015.

The NAP 2015–2030 plan promotes development at a minimum damage to the environment through disaster management measures aimed at protecting vulnerable populations from climate shocks.[123] Climate change negatively affects sustainable development hence the need to prioritize disaster risk management. The NAP is therefore in

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[118] Ibid

[119] Murphy, D. *Alignment to Advance Climate-Resilient Development: COUNTRY CASE STUDY: Kenya*. International Institute for Sustainable Development (IISD). Doi: 10.2307/resrep21966, (2019).

[120] Charlotte, S., and Unger, V., M, and Keenlyside, P. *The Paris Agreement: A New Beginning*. Journal for European Environmental and Planning Law. 13. 3-29. 10.1163/18760104-01301002. (2016).

[121] UN General Assembly, *United Nations Framework Convention on Climate Change : resolution / adopted by the General Assembly*, 20 January 1994, A/RES/48/189, available at: https://www.refworld.org/docid/3b00f2770.html [accessed 3 October 2020

[122] UN. Sendai Framework for Disaster Risk Reduction 2015-2030

[123] Government of Kenya. *Kenya National Adaptation Plan: 2015-2030, enhanced climate resilience towards the attainment of Vision 2030 and beyond*. Ministry of Environment and Natural Resources. 2016

line with both the PA-UNFCCC and the Sendai Framework. Climate change therefore has adverse effects on the economy of any country and can threaten the attainment of economic development goals when people are displaced due to floods and famine. The signing of international conventions and developing of a NAP by Kenya is thus a strategy to mitigate the harsh impacts of climate change on the economy. Without a climate sensitive economic strategy economic development sectors such as agriculture, water, energy, tourism and wildlife, and health could be severely affected. This will in turn affect the overall GDP of a nation and decline in economic development. Murphy submits that the Third Medium Term Plan, 2018–2022 of Vision 2030 has mainstreamed and will implement the SDGs, and includes climate change and disaster risk management as thematic areas.[124]

### 2.4.2 Big Four Agenda

Macharia submits that "the Kenyan government's overriding objective is to avail to all of its citizens the opportunity to live a high quality of life within a clean and secure environment—as envisioned in the country's primary development blueprint, the Kenya Vision 2030. In pursuit of this objective, the government has placed great emphasis on achieving the Millennium Development Goals (MDGs) and made substantial progress towards the achievement of these goals." [125] This is borne out of the realisation that a clean environment facilitates sustainable development for present and future generations as well. The Big 4 Agenda prioritizes key basic needs that are food security, affordable housing, manufacturing, and affordable healthcare.[126] The big four agenda is in line with the global sustainable goals of reducing poverty and hunger. Whilst significant progress has been made towards improving the quality of life of Kenyans, there is still a long way to go for Kenya to attain its lofty development goals.[127] This study has discussed economic development in

[124] Murphy (2019) Pg. 2

[125] Macharia, J. *Sustainable Development in Kenya*. Horizons: Journal of International Relations and Sustainable Development, (13), 172-183. doi:10.2307/48573777, (2019).

[126] Macharia(2019) Pg.173

[127] Macharia(2019) Pg.182

detail as a dependent variable. The purpose was to examine whether there are other variables other than international economic crime that affect development either negatively or positively. The study therefore gathered data and evaluated how development strategies are performing in relation to cited O-Ring theory of development.

### 2.5 Botswana development strategies; "from livestock exports to mineral exports"

Botswana is a land-locked country in southern Africa that had a very small population of about 1.7 million as of the year 2006. [128] It had been a British protectorate for 80 years and achieved independence in the year 1966 some three years after Kenya had achieved independence. Botswana economic performance is very good hence the wide interest to policy- makers and development planners and also in this research study. Harvey says that Botswana's GDP grew at an average annual rate of 14.5 per cent in 2006 and was for a long time one of the fastest growing economies of the world.[129] Botswana has been likened by many scholars to the development giants of East Asia, the so called "*Asian Tigers*". Hillbom however argues that "Botswana does not fit the Asian development state model according to the developmental state theory" and terms Botswana a "*gate keeping state*".[130] Hillbom proposes that Frederick Cooper's 'gate-keeping state model' better explains the Botswana example of economic growth and social development because "Botswana lacks structural transformation unlike the East Asian development model". [131]

Hillbom uses the gate- keeping state theory to analyse what she calls the 'African state" and argues that Botswana fits this model. She argues that this theoretical approach provides possible new categories to analyse the African state transition between development stages. The developmental state theory launched in Chalmers Johnson's analysis of economic

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[128]Pillai, P. *Growth Sans Development*. Economic and Political Weekly, *41*(23), 2301-2304. http://www.jstor.org/stable/4418317, (2006).

[129] Harvey, C. 'Botswana: *Is the Economic Miracle Over?'*, Discussion Paper, Institute of Development Studies, Brighton, England, (1992):

[130] Cooper, F. *Africa Since 1940: The past and the present* (Cambridge University Press, Cambridge, 2005).

[131] Hillbom, E. *Botswana: a development-oriented gate-keeping state*. *African Affairs, 111*(442), 67-89. (2012). http://www.jstor.org/stable/41494466

development in Japan emphasizes on need for institutional change.[132] This emphasizes on good institutions and good governance as fundamental components of development. According to this theory therefore "the state has explicit and purposeful strategies for supporting entrepreneurship and market expansion in the private sector". "The main state interventions are centred on a selective industrial strategy whereby industries that are deemed essential for national growth and development are targeted with investments and supported by import substitution policies".[133] "Such a model is guided by an independent authority and not a select elite few and benefits all in the community".

Parsons et al submit that "Botswana had a limited colonial experience compared to Kenya and the Bechuanaland was considered a primarily African territory where settlement by Europeans was discouraged".[134] Hillbom posits that "during the first half- century of colonialism, "no genuine development of natural resources was undertaken, as opportunities for agricultural development were limited and there were no other apparent potential resources". The "colonial ad- ministration received incomes from hut tax, but during the first decades of the Protectorate there was no export sector to be taxed." [135] The British administered the area while offering scanty education and rudimentary support. Batswana smallholders were fundamentally subsistence farmers and their main source of cash income was remittances from migrant labourers working in South African mines.[136] Schapera submits that "in the 1930s the colonial administration identified the cattle sector as the primary comparative advantage of Bechuanaland because the Tswana lived as agro-pastoralists and, compared with the development of crop production, the national herd was of substantial value".[137] This paid off and beef became a significant part of Botswana's exports.

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[132] Chalmers, J. *MITI and the Japanese Miracle: The growth of industrial* policy , (Stanford University Press, Stanford, CA , 1925-1975).
[133] Supra note 102
[134] Neil Parsons and Michael Crowder (eds), Monarch of All I Survey: Bechuanaland Diaries 1929-37 (The Botswana Society, Gaborone, 1988
[135] Hillbom, E.(2012) Pg. 77
[136] Schapera, I. *A History of the BaKgatla-bagaKgafêla* (Phuthadikobo Museum, Mochudi, 1980).
[137] Ibid

[138] "Therefore investments during the last 80 years have largely been geared towards facilitating and encouraging exports, while the potential national market has been left to expand on its own".[139] "After independence the Botswana government vested all mineral rights under its authority and captures revenue from considerable mineral rents, primarily from diamonds".[140] Hillbom concludes that Botswana is a victim of 'elite capture' where political and economic power is vested with the elites hence it cannot be defined as a development state.[141] This theory of "gate keeping state" has not been tested using empirical evidence hence there is need for further research to test Hillbom's hypothesis. Exports and imports together with diversification of the economy could be driven by factors other than state control. The economic growth and development success in Botswana cannot therefore be solely attributed to "gate keeping" without further empirical evidence, this study argues. The development phenomenon in Botswana can be best studied through theory development by gathering further empirical data. Development success may mean absence of economic crime and good governance structures as opposed to "gate keeping" as suggested by Hillbom.

**2.5.1 Role of partnerships with multinational corporations**

Proponents of multinational activity in developing states contend that "states whose policies do not actively promote foreign direct investment are often less developed than their open-market counterparts". Opponents however jealously guard the Westphalia concept of state sovereignty and fear strong multinationals could erode independence and sovereignty of small states. Gapa says that "in contemporary Africa, military and diplomatic interventions, foreign direct investment, and external aid have all reinforced the continent's dependence on outside agents to address their current developmental problems [...] as a result, African states

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[138] Colcough and McCarthy, *The Political Economy of Botswana* ; Charles Harvey and Stephen R. Lewis, Policy Choice and Development Performance in Botswana (Macmillan in association with the OECD Development Centre, London, 1990); J. international trade policies' in Jay S. Salkin et al (eds), Aspects of the Botswana Economy (Lentswe La Lesedi, Gaborone, 1997), pp. 529-48.

[139] Hillbom, E.(2012) Pg. 79

[140] Baledzi, G. '*Development of Botswana's mineral sector*' in Salkin et al. (eds), Aspects of the Botswana Economy , pp. 401-31; J. Clark Leith, Why Botswana Prospered (McGill-Queen's University Press, Montreal and Kingston, 20

[141] Supra note 110.

suffer from a crisis of sovereignty and Botswana is no exception." [142] Gapa submits that at independence in 1966 Botswana was still dependent on the British and its economy was dwarfed by the Apartheid hegemon in South Africa. The discovery of diamonds was expected to bring economic development and partnership with the South African multinational "De Beers" has helped Botswana achieve development. However, Gapa says that "this multinational corporation has not remained apolitical in Botswana's internal affairs". "The relationship between small states and large multinational corporations can best be described as asymmetric". "The institutional development of most African countries has been shaped and influenced by skewed relationships with external actors whose established structures are fashioned to cater to the needs of the national and business interests of larger states".[143] This sounds like a very realist thought which views development in terms of state power and competition among states instead of viewing development as a global responsibility. It seems to blame the social and economic problems in Africa on external powers and multinational corporations but totally ignored the role of governance and international economic crime.

Gapa concludes that "De Beers' involvement in Botswana helped transform it over the course of five decades from a poor, arid country based on cattle ranching and agriculture to a competitive middle-income developing country with sustained rates of economic growth." [144] She however argues that the relationship between Botswana and De Beers has been asymmetrical at best and has come at a cost. Gapa alleges that the diamond company's primary goal has been "profit-maximization and interference within the economic and political spheres in Botswana". This according to Gapa, has led to "lack of political transparency" and hence in Gapa's view, De Beers is a 'shot caller', and not merely a 'strategic partner in development'. From an analysis of literature therefore, Botswana like

[142] Gapa, A. *Strategic Partner or Shot Caller? The De Beers Factor in Botswana's Development*. Journal of Global South Studies, *33*(1), 49-82. (2016). doi:10.2307/48519585
[143] Ibid
[144] Gapa, A. (2016). Pg.72

Kenya was also colonized by the British. Botswana has a smaller population unlike Kenya. Botswana is also a landlocked country and lacks the advantage of international transport corridors unlike Kenya. Literature reviewed shows at independence Botswana depended heavily on livestock exports but with the discovery of diamonds, minerals now account for most exports and Botswana's GDP.

Demographically Botswana's population is much smaller than Kenya's. Botswana is deemed to be the fastest growing development wise but lacks detailed development strategies unlike Kenya. Critiques though think that a "development strategy that relies heavily on partnering with a multinational corporation instead of diversifying the economy does not lead to development which impacts positively on all sectors of the economy and especially the poor". According to opponents of this model, such development "comes at a hidden cost, serves only the elites and threatens state autonomy and sovereignty". This chapter has discussed the economic strategies in place globally, regionally, then in Kenya and in Botswana.

**2.6 Recent development outlook globally, in Kenya and in Botswana**

According to KNBS "the global economy decelerated to 3.6 per cent in 2018 compared to a 3.8 per cent growth in 2017 while the advanced economies are estimated to have expanded by 2.4 per cent in 2018 compared to a growth of 2.5 per cent in 2017". [145] This shows that overall, the economic development decelerated over the same period in most parts of the world. Developing economies decelerated most with Sub-Saharan Africa region growing by only 0.1 per cent during the review period. The KNBS data also shows that there was a rise in inflation globally to 3.6 per cent compared to a revised rate of 3.2 per cent in 2017. KNBS attributes this inflation to robust global oil demand. At the same time, KNBS data shows stability in pricing for agricultural commodities.[146] According to the data World trade volume was at 3.9 per cent in 2018 compared to a growth of 5.2 per cent in 2017

[145] GoK. *Economic Survey 2019*. Kenya National Bureau of Statistics, 2019
[146] KNBS (2019)

evidently showing a decline. From an analysis of the Kenya Economic Survey 2019 "growth in trade was affected as a result of tensions in major economies and elevated trade policy uncertainties". However according to KNBS "volume of exports in emerging markets and developing economies grew in 2018". The KNBS statistics show an "overall fiscal deficit as a percentage to GDP but there were improved labour market conditions". This data further shows a decline in unemployment rate from 5.7 per cent in 2017 to 5.3 per cent in 2018. The declining unemployment rates could be attributable to increased volumes of trade from developing markets.

In Kenya, KNBS statistics show "GDP expansion by 6.3 per cent in 2018 compared to 4.9 per cent in 2017". KNBS says this was due to factors such as; "increased agricultural production; accelerated manufacturing activities; sustained growth in transportation and vibrant service sector activities; Sufficient rains well spread throughout the country thus increased agricultural productivity." There was a "big acceleration in the Agriculture, Forestry and Fishing sector as per KNBS economic statistics in 2019". "The manufacturing sector too expanded buoyed by increased agro-processing during the review period". Other sectors that grew notably in 2018 include "Electricity Supply, Transportation and Storage, Information and Communication Technology, Accommodation and Food Services at 10.5, 8.8, 11.4, 16.6 per cent, respectively in 2018".[147] "The growth realized was anchored on a relatively stable macroeconomic in 2018". "Inflation remained low at 4.7 per cent in 2018 compared to 8.0 per cent in 2017 majorly as a result of considerable declines in prices of food after the shortage experienced in 2017". "The current account deficit narrowed to stand at Kshs 441.8 billion in 2018 compared to Kshs 503.4 billion in 2017 mainly due to a faster growth of imports of goods and services." [148]

[147] KNBS(2019) Economic Survey
[148] Supra note 116

### 2.6.1 Botswana economic outlook

World Bank (2019) says that Botswana was one of the world's poorest countries at independence in 1966, but it rapidly became one of the world's development success stories.[149] This growth has been attributed to significant mineral (diamond) wealth, good governance, prudent economic management and a relatively small population of slightly more than two million. The World Bank states that Botswana is now an upper middle-income country with a goal of achieving a high-income status country by 2036. Growth is estimated to have slowed to 3.5% in 2019, compared to 4.5% in 2018 due to weakened global demand for diamonds alongside severe droughts affecting the region. Livestock keeping and diamond exports are important drivers of the economy in Botswana as shown in literature reviewed in this chapter. The World Bank says that limitations of Botswana's diamond-led development model have become more apparent: growth is slower, inequality remains high and job creation is limited. The restricted trading conditions due to Covid 19 might affect diamond exports. World Bank posits that Living conditions have improved for the Botswana people, and poverty has fallen significantly.[150]

## 2.7 Study Findings

Questionnaires were sent out to various institutions that covered government agencies and private enterprises in the sectors of economic crime and criminal justice sectors. Data collection was two-prong whereby one tool was designed to capture data from the general public while the second tool targeted the experts and interest groups working for institutions dealing mainly with international crimes and economic development. The respondents were interviewed in the general population to gauge their perceptions on economic crime and economic development. The researcher went out to interview various groups of people from different walks of life, falling within the age range of 20 to 60 years. The responses were

[149] World Bank economic surveys 2019 retrieved from https://www.worldbank.org/en/country/botswana/overview on 4th October 2020

[150] Ibid

analysed using both the qualitative and quantitative using WORDCLOUD Module and STATA statistical analysis software respectfully with the objective of answering the three main research questions.

### 2.7.1 Data Description

The research used a 3-5 point Likert-scales from the questionnaire to test the impact and prevalence of economic crime on economic development impact. A descriptive statistical approach was employed to get the mean and distribution of each development strategy as well as the prevalence of economic crimes by various sectors.

## 2.8 Key Identity Variables and General Information on Respondents

All questionnaires were put together and categorized as either corporate representing the experts and key informants who are knowledgeable on economic crime management and development issues. The rest were categorized as individuals from the population who have just general knowledge of the issue at hand.

### 2.8.1 Gender, age and highest education distribution

Simple random sampling (SRS) techniques used in selecting the respondents, the distribution of the sexes mirrored the national distribution:

**Table 2.2: Distribution of respondents showing gender characteristics.**

| Gender | Freq. | Percent | Cum. |
|---|---|---|---|
| Female | 18 | 54.55 | 54.55 |
| Male | 15 | 45.45 | 100.00 |
| **Total** | **33** | **100.00** | |

**Source; Research study data**

**Table 2.3: Age distribution:**

| **Age Bracket** | **Freq.** | **Percent** | **Cum.** |
|---|---|---|---|
| 20-30 | 6 | 18.18 | 18.18 |
| 30-40 | 16 | 48.48 | 66.67 |
| 40-50 | 6 | 18.18 | 84.85 |
| 50-60 | 5 | 15.15 | 100.00 |
| **Total** | **33** | **100.00** | |

**Source; Research study data**

**Table 2.4: Highest Education.**

| **Highest level of Education Level** | **Freq.** | **Percent** | **Cum.** |
|---|---|---|---|
| College – certificate | 4 | 12.12 | 12.12 |
| College – Degree | 14 | 42.42 | 54.55 |
| College Diploma | 7 | 21.21 | 75.76 |
| Post-grad. (MASTERS) | 6 | 18.18 | 93.94 |
| Post Grad. (PHD) | 1 | 3.03 | 96.97 |
| **Secondary** | **1** | **3.03** | **100.00** |
| **Total** | **33** | **100.00** | |

**Source; Research study data**

### 2.8.2 Distribution of key respondents interviewed per organizations/institutions and distinguished from respondents in the general populace

Table 2.4 was further broken down to differentiate key informants from other individuals randomly picked from the general population. 22 out of 33 respondents interviewed are individuals from the general populace. The 22 were of varying professions. The other 11 respondents are key informants who have expertise in areas international economic crime and economic development as described. The researcher attempted to decode the professions of the 22 informants interviewed from the general population so as to complete this field:

**Table 2.5: Respondents interviewed from the general populace per profession.**

| Profession/Field | Freq. | Percentage | Cum. |
|---|---|---|---|
| **Agriculturalist** | **1** | **4.55** | **4.55** |
| Business | 8 | 36.36 | 40.91 |
| Conservationist | 1 | 4.55 | 45.45 |
| ICT | 4 | 18.18 | 63.64 |
| Lecturer | 1 | 4.55 | 68.18 |
| Nurse | 2 | 9.09 | 77.27 |
| Pastor | 1 | 4.55 | 81.82 |
| Procurement | 1 | 4.55 | 86.36 |
| Teacher | 2 | 9.09 | 95.45 |
| Accountant /Counselor | 1 | 4.55 | 100.00 |
| **Total** | **22** | **100.00** | |

**Source; Research study data**

### 2.8.3 Key Informants responses on the economic development strategies in Kenya and Botswana.

The key informants were asked to give their responses to the questions on; the existing economic development strategies in Kenya and Botswana, and also on the different national development strategies pursued from the point of view of the various institutions and agencies. The pie chart below represent the responses from Key informants interviewed.

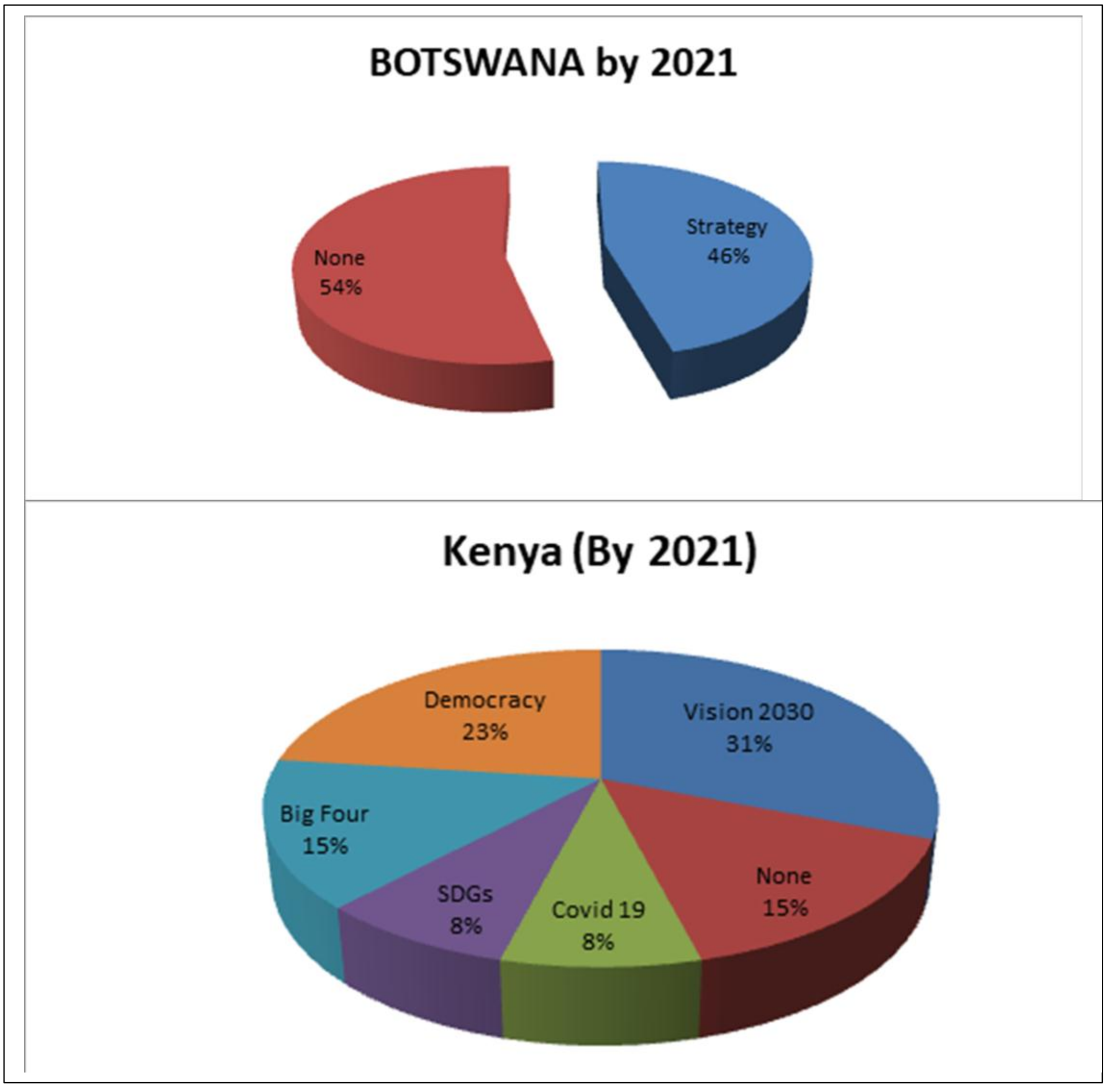


**Figure 2.1: Economic Development Strategies.**

**Source; Research study data analysis**

In the case of Kenya, 31% of key informants state that Kenya is pursing development within the Kenya Vision 2030 framework. 5 % stated that development strategies are also comprised of government mechanisms in response to Covid 19 pandemic. 15% stated that the Big 4 Agenda strategy also comprises part of the development strategies. 23% feel that democracy is being fostered in Kenya as a deliberate effort to realise economic development. 8% of the Key informants stated that "Sustainable Development Goals" (SDGs) are being implemented in Kenya. SDGs economic goals adopted by world leaders to guide economic development globally. Only 15% of the key informants interviewed stated there are no development strategies in Kenya.

Empirical evidence herein supports the evidence in the literature that there are adequate development strategies in Kenya. 85% of key informants agree there are development strategies to guide economic development in Kenya. The study therefore submits that Kenya has in place adequate economic development strategies. For the case of Botswana, data analysed shows that there are fewer development strategies (46%) than in Kenya (85 %). From the figure 2.1 above one can see the similarities and contrasts in some of the economic development strategies currently being pursued in both countries. Qualitative data on Botswana was derived from “Annual Report 2018/19” published by the Honourable Minister Kenneth O. Matambo on September 27, 2019 Ministry of Finance and Economic Development, Botswana. The study also derived qualitative data on Botswana from Africa Development Bank Report, “2018 African Economic Outlook” authored by George J. Honde. Botswana statistics show that trade, hotels, restaurants and mining contributed 19.3 per cent to the GDP in 2018.[151]

**2.8.4 The major stakeholders in economic development in Kenya**


**Figure 2.2: Major stakeholders in economic development; Kenya**

**Source; Research study data analysis**

The data for this variable was captured using open-ended questions from key informants in Kenya. It was then analysed using R’s WORDCLOUD Module and the result for the cloud

[151] Annual Report 2018/19” published by the Honourable Minister Kenneth O. Matambo on September 27, 2019 Ministry of Finance and Economic Development, Botswana.

visualization is as appears in figure 2.2 above. From this analysis the national government and county government are the biggest stakeholders in economic development for Kenya. They are closely followed by private sector investors then target community groups, donor agencies, development partners and finally, NGOs.

### 2.8.5 Challenges faced in managing economic development in Kenya:

This variable was analysed using the "WORDCLOUD" and "text mining" facilities to bring out graphically the actual challenges facing the management of economic development in Kenya. From the graph below, lack of resources and corruption make it at the top as the chief factors affecting development. Other issues also follow closely in some order of intensity based on the responses we obtained from the interviews.


**Figure 2.3: Challenges in implementing Development Strategies.**

**Source; Research study data analysis**

Other challenges which economic development strategies need to address are; lack of infrastructure, negative ethnicity, illiteracy, political constraints, inequality, lack of cooperation among stake holders , poverty , unemployment, mismanagement, inefficient planning and implementation.

### 2.8.6 Strategies suggested for better economic development

**Table 2.6: Strategies for Better Economic Development**

| Strategies | Percentage |
|---|---|
| Implement stricter laws and codes of conduct | 27.27 |
| Proper planning and supervision of projects | 9.09 |
| Access to credit facilities for SMEs | 9.09 |
| Create employment opportunities | 9.09 |
| Improve standards of living | 36.36 |
| Implement tax incentives | 9.09 |
| Eliminate wastage | 27.27 |
| End corruption | 36.36 |

**Source; Research study data analysis**

This section analyses suggested strategies for better economic development. Corruption eradication ranks top. This study interprets this to mean that corruption ranks highest along with improving standards of living in order to improve economic development. From this analysis, if corruption alone is eradicated, economic development shall improve by 36%. This underscores the need to ensure adequate budgetary allocations into institutions, plans and policies to fight corruption. From the figure above, putting an end to corruption and misuse of public resources, dealing with poverty and implementing proper justice system are some of the ways favored by majority of the people if the goal of better economic development must be achieved. Tax incentives, availing credit facilities and proper planning failed to come out as critical issues hindering development. From the analyses only about 9% of all the respondents across the board suggested tax incentives as possible solutions. The study interprets this to mean that the resources available in Kenya and Botswana are sufficient to enable the two states realize development goals if the variable of international economic crime is dealt with.

## 2.9 Impact of economic development strategies

In this section the study analyses the empirical data from respondents to examine impacts of economic development strategies. The study intended to observe the perception of a sample of people from different areas. The observation guide used was constructed such that the impacts and non-impacts were assigned numbers on a continuum following a Likert scaling procedure. The results are tabulated in figure 2.4 below;-

**2.9.1 Impact of economic development in various sectors of the economy in Kenya:**

In this section we are studying the status of the foregoing development strategies in economic development in Kenya. The study intended to observe the perception of a sample of people from different areas. The observation guide used was constructed such that the impacts and non-impacts were assigned numbers on a continuum following a Likert scaling procedure. Access to education, access to health and trade development were perceived by people to have been much more impacted than the rest of the sectors. Respondents felt development strategies had not had a big impact to reduce crime generally and to enhance rule of law. Figure 2.4 shows impacts of development strategies on sectors of the economy.

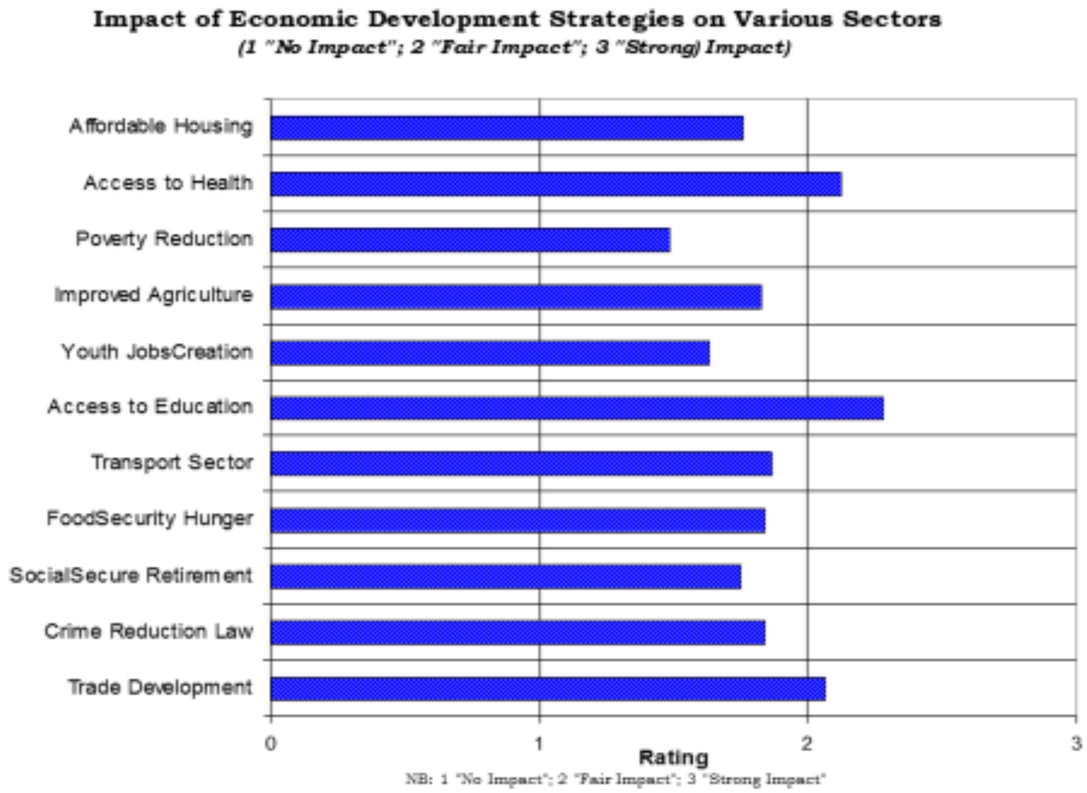


**Figure 2.4: Impacts of economic development strategies.**

**Source; Research study data**

### 2.10 Conclusion

From the literature reviewed, as well as empirical evidence, there are very good development strategies globally mainly formulated by the UN at the global level. This chapter discussed development strategies used globally, in Kenya and in Botswana. The chapter also discussed economic outlook globally and in the two countries. From empirical evidence, the impact of economic development strategies on development in Kenya generally has been fair. The desired outcome would be to have a strong impact. This has not been the case due to various challenges as discussed in section 2.8.5 above. The empirical results also show that corruption remains a big challenge and the single most critical factor negatively affecting economic development in Kenya.

Kenya and Botswana are state parties to the UN and international norms on eradication of international economic crimes such as the UNCAC. According to the Global Corruption Perception index Botswana is least corrupt than Kenya. Botswana's economy is heavily reliant on the extractive sector and is less diversified than Kenya's economy. Botswana is also a landlocked country whereas and Kenya is geo-strategically located along the Indian Ocean coast with close proximity to maritime sea routes. Kenya boasts of a bigger population too and a much diversified economy. Botswana however, has a higher per capita income than Kenya.

This study concludes that it is not enough to have all the elements necessary for economic development, unless we take advantage of these resources by having proper economic development strategies. Corruption therefore is the biggest factor that determines the level of development of a country in that the more corrupt a country is, the worse the level of economic development. The chapter literature collaborates with findings that economic crime determines the level of economic development of a country. Botswana is perceived to be least corrupt than Kenya, hence the reason why Botswana is better developed in terms of per capita GDP. This is notwithstanding the fact that Botswana's economy is heavily reliant on the extractive sector unlike Kenya whose economy is diversified and enjoys a strategic geographic location.

In conclusion, regionally, there are very good regional development strategies which have a long term blue print that are being implemented in ten year phases for example, the Africa Agenda 2063 blue print being implemented. Regional economic communities (RECs) for instance the EAC that comprises Kenya, Uganda, Tanzania, Burundi and Rwanda and South Sudan also serve as development blocks for the Africa Agenda 2063. It is clear from the study that Kenya and Botswana have had development strategies since independence and they are still implementing these development policies in place. However, international economic crime stands in the way as a big challenge to realisation of these developmental goals.

# CHAPTER THREE

## TYPES AND TRENDS OF ECONOMIC CRIMES IN KENYA AND BOTSWANA

### 3.1 Introduction

This chapter tries to answer to the second objective of the study which is "types and trends of economic crimes in Kenya and in Botswana". With respect to investigation and prosecution of international economic crimes, national courts have primacy in prosecuting suspects of economic crimes within their territories. The jurisdiction of the international criminal court- (ICC) established under the "*Rome Statute of the International Criminal Court*" is limited to crimes considered "most serious" at international law that is "crime of genocide"; "Crimes against humanity"; "War crimes"; and "The crime of aggression".[152] The Rome Statute does not consider international economic crime "serious enough" to warrant international intervention of the ICC. International economic crime is therefore not prosecuted, investigated or punished by "The Hague" based ICC. This research study however poses the questions, what happens when funds meant for development are embezzled leading to poverty "deprivation of food and medicines" and finally, extermination of a group as a direct consequence of widespread and systematic looting of public resources?

What happens when municipal courts within the state are unable to prosecute powerful, high ranking government officials in failing states? Doesn't this qualify economic crimes to be crimes against humanity for which the ICC ought to have complimentary jurisdiction at international law or should the world turn a blind eye? Such crimes have been left exclusively for municipal courts as is currently the position at international law. Calculated destruction of people attracts the jurisdiction of the ICC

[152] UN General Assembly, "*Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6," available at: "https://www.refworld.org/docid/3ae6b3a84.html." [accessed 1 November 2020

only when such destruction is a result of war and physical violence. Despite existence of international treaties and national laws, this study argues that there is need for concerted global efforts to curb economic crime.

Renzo argues that crimes targeting a group should be viewed more seriously than "individualized crimes" which should be left for municipal courts to prosecute.[153] Renzo suggests that "mass atrocities perpetrated by state officials are distinctive and serious as they include a "collective element". [154] Renzo submits that this should be considered when it comes to prosecution and punishment of crimes, which have a "collective element", targeted towards a "large group of victims". However, Renzo did not consider international economic crimes, which hamper development, resulting into rights violations, hunger, poverty and even extermination of millions of people annually. There is a gap in literature since Renzo only considered the jurisdiction of courts with respect to "crime of genocide"; "Crimes against humanity"; "War crimes"; and "The crime of aggression". This study argues that "international economic crime" results into violation of fundamental rights and freedoms and deprives human beings of choices including access to shelter, food and education. International economic crime therefore severely impacts the lives of human beings collectively with direct and catastrophic. This study therefore argues that where criminal justice systems fail to address economic crimes at municipal law, there should be clear mechanisms for prompt global intervention. Economic crimes such as corruption and money laundering are international problems due to their transnational character. For most part, international criminal law scholars have been concerned only with "war crimes," "crimes against humanity", "crime of aggression" and "genocide". Economic crime is hardly considered serious enough to

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[153]Renzo, M. "*Crimes against Humanity and the Limits of International Criminal Law*." Law and Philosophy, *31*(4), 443-476, (2012). Retrieved November 1, 2020, from "http://www.jstor.org/stable/41487020."

[154] Renzo (2002) Pg. 463.

warrant global concern.

### 3.2 Economic crimes in international perspective

Petrasheva et al submit that “concentration of factors of production in the hands of a few people leads to unemployment of the masses, which in turns leads to criminality”.[155] This is a somewhat “Marxist-Leninist” interpretation of crime causation factors. Petrasheva et al discussed economic crime from a very broad perspective to mean “all forms of crime that affect the state’s development plans resulting into social consequences which negatively violate fundamental rights of the people”. For this reason they argue “that economic crimes cannot simply be codified in a single chapter or section of the Russian Federation.” According to Petrasheva et al “for 2015 the total of the registered economic and corruption crimes is 111244 in the Russian Federation.”[156] Dolgova argues that “the solutions of criminal, legal, and criminological tasks in the economic sphere require the integrated approach uniting three aspects: legislative, departmental and scientific”.[157]

PwC states that for over twenty GECFS conducted studies on economic crimes such as “Accounting/Financial Statement Fraud” , “Anti-Competition/Antitrust Law Infringement”, “Asset Misappropriation”, “Bribery and Corruption”, “Customer Fraud”, “Cybercrime”, “Deceptive business practices”, “Human Resources Fraud”, “Insider/Unauthorized Trading”, “Intellectual Property (IP) Theft IP”, “Money Laundering and Sanctions”, “Procurement Fraud”, and “Tax Fraud”.[158] The survey was carried out in 99 territories with over “5,000 respondents half of whom reported a fraud in the last two years”. Out of these findings, “corporates experienced 6 incidents of fraud”. “62% of the respondents according to 2020 “PwC’s GECFS” are executive level

[155] Petrasheva (2017) Pg. 209.
[156] Petrasheva (2017) Pg. 211.
[157] Dolgova (1977).
[158] 2020 “PwC’s Global Economic Crime and Fraud Survey”, http://www.pwc.com/fraudsurvey

managers". The top four types of fraud were "Customer Fraud, Cybercrime, Bribery and Corruption then lastly Asset Misappropriation". Top 5 costliest frauds according to this survey are "Antitrust, insider trading, tax fraud, money laundering, and bribery and corruption". This survey was carried out globally targeting all respondents, individual and corporate, from both private and public sector.

Raggett submits that "European governments have failed to prevent corrupt actors from laundering hundreds of billions of dollars through the international financial system and their own economies."[159] According to Raggett "some countries have sold EU citizenship to people implicated in large-scale money laundering schemes, with little recourse to background checks." This demonstrates how western governments fuel international economic crimes thus contributing to the global problem. Raggett argues that "kleptocrats use their positions of power to steal funds meant for development then launder the funds in the international financial system through Europe". This brings into question the commitment by the international community to combat international economic crime and its effects particularly in the territories where the funds are stolen. This study submits that the international community needs to be proactive in establishing integrity in the international financial system in order to root out international economic crime.

### 3.2.1 Economic crime in the UK

"PwC- GECFS" survey findings for UK submit "that fraud, its risks and the opportunities to address it are evolving all the time hence strategies to combat fraud must evolve too". [160] According to PwC "fraud doesn't stand still hence the responses cannot be standardized". We need to craft appropriate responses to manage economic crime at

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[159] Raggett, C. (Rep.). "*European Council on Foreign Relations*." (2020). https://www.jstor.org/stable/resrep24719 doi: 10.2307/resrep24719

[160] "PwC's Global Economic Crime and Fraud Survey", United Kingdom , www.pwc.co.uk/fraudsurvey (2020)

the right time. According to the survey findings for the UK by PwC "the most disruptive types of frauds are Cybercrime at 28% of economic crimes, followed by Accounting Fraud at (15%) and Customer Fraud at 13%". Economic crime is also high in the UK since in the year 2020, "56% of respondents reported having experienced economic crime in the past twenty-four months". This is an increase from 50% in 2018 and also above the PwC global average of 47% in the year.[161]

These survey findings for the UK by PwC indicate that the top five types of frauds according to the UK residents are Cybercrime; Customer Fraud; Accounting Fraud; Bribery and Corruption; and finally, Human Resources Fraud.[162] Data by PwC shows that "external perpetrators outside the UK committed 57% of these frauds[163] while senior and middle level management committed most of the frauds perpetrated by internal actors within the UK".[164] Top five external perpetrators of fraud in the UK were Suppliers / Vendors Consultants / Advisors and Shared Service Providers; Hackers; Organized Crime; Customers; and finally Competitors. Despite these worrying statistics, 'only 32% of respondents in the UK have put in place bribery and corruption prevention programme'. The top means by which fraud was detected are; "Routine internal audit; suspicious activity monitoring; External Audit; Document examination; corporate security (IT and physical); and Fraud risk management". The data from the UK by PwC also involves economic crime taking place in the private sector. This study focuses on international economic crime involving public funds. This study argues that public funds are meant to provide public goods in a polity and when they are diverted through embezzlement, fundamental rights and freedoms are jeopardized.

[161] PwC, UK GECFS (2020)
[162] PwC, UK GECFS (2020) Pg.4
[163] PwC, UK GECFS (2020) Pg.5
[164] Ibid

### 3.2.2 International law and extradition for economic crimes in Australia and China

The objectives of the "*United Nations Convention Against Corruption*," are To "promote and strengthen measures to prevent and combat corruption more efficiently and effectively; (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery; (c) To promote integrity, accountability and proper management of public affairs and public property."[165] The UNCAC was formulated following the realization of the security and stability threats corruption poses to communities. Each member state is enjoined to develop and maintain effective anti-corruption strategies under this convention. Each state party is also required to enact legislation criminalizing money laundering and corruption. This convention also requires member states to cooperate in the fight against corruption including offering technical assistance. States are required to formulate domestic legislations to implement the provisions of the convention. Some powerful states like Australia are not signatory to this convention. The convention is only binding to member states who are signatory to it. The weakness of international law is that it binds only parties who are signatories to conventions and implementation is also weak. Criminals can therefore abuse these weaknesses at international law to perpetuate economic crimes. This happens when kleptocrats embezzle public funds and stash them in safe haven states that are not signatory to the convention thus making it difficult for state prosecutors and investigators to conduct cross border investigations where they lack jurisdiction.

Norton examined economic crime in the Pacific region and the mutual legal assistance framework between China and Australia in combatting economic crime. Norton posits that "economic crimes such as fraud and corruption are likely to be the Chinese

[165] UN General Assembly, "*United Nations Convention Against Corruption*," 31 October 2003, A/58/422, available at: "https://www.refworld.org/docid/4374b9524.html" [accessed 14 November 2020]

Government's primary interest driver for enforcement cooperation with Australia."[166] Norton submits that "alleged economic criminals have fled China, taking their assets with them." Economic criminals take advantage of the weak enforcement mechanisms at international law and flee to states, which have not ratified extradition or corruption treaties thus making it difficult to bring them to justice. Many powerful states like China and Australia are safe havens for suspects of economic crimes. "China's most prominent economic fugitives are corruption suspects, due to the Chinese Government's high-profile anticorruption crackdown."[167] Norton argues that "anti-corruption was declared as the most important domestic and foreign policy issue by the Chinese Communist Party leading to many criminal suspects fleeing China to other countries such as Australia".[168] Norton argues "that to repatriate these fugitives and recover the proceeds of crime, international cooperation on corruption investigations is an important foreign policy priority for China." This led to the signing of the "Mutual Legal Assistance Treaty" with Australia to assist in repatriating criminal fugitives. Norton states that "The treaty allows law enforcement agencies to obtain information and evidence needed for the investigation or prosecution of serious crimes, including terrorism, drug trafficking, fraud, money laundering and people trafficking". "It also facilitates the location, restraint, forfeiture and repatriation of the instruments and proceeds of crime." Due to international cooperation a lot of assets and proceeds of crime have been seized, confiscated and handed over to China. However, Norton posits that extradition of offenders to China from Australia and other states to China may still be problematic due to lack of extradition treaties.

According to PwC, GECFS (2020) China report, in 2020 93% of respondents said their organizations have put in place technology to combat fraud.[169] 60% of Chinese

[166] Norton, S. (2019)
[167] Ibid
[168] Norton, S. (2019)
[169] "PwC's Global Economic Crime and Fraud Survey", China report, (2020).

respondents said they experienced fraud in the last two years. Despite the fact that China has put in place a lot of measures including technology to detect and prevent economic crime, the problem is still increasing in frequency as per the PwC surveys. This, the survey argues, "may be partly due to better fraud detection". However, the fact that economic crime does not abate despite the measures put in place demonstrates the need for continued vigilance and search for better strategies. The survey covering both public and private respondents in China indicates that fraud in China is perpetrated by both internal and external actors. This again shows the global nature of economic crime. Bribery and corruption remained the top type of fraud in China. Others in the top five types of fraud in China include Customer fraud; Accounting financial statement fraud; Anti Competition law infringement fraud; and Asset Misappropriation.[170]

### 3.3 Africa regional perspective

Despite attracting FDI and ODA from around the world Africa as a region faces challenge of illicit financial flows-IFFs. High Level Panel on IFFs estimates that Africa loses up to USD 50 billion annually to illicit financial flows.[171] OECD submits that the "amount lost by Africa to illicit financial flows between the years 1970 to 2008 is equal to development assistance granted to Africa between the same periods".[172] Mogomotsi et al argue that "illicit financial flows from Africa just like anywhere else deplete resources meant for development".[173] Pring and Vrushi authored the survey findings in "Global Corruption Barometer Africa 2019" which shows that corruption hinders economic development in Africa. The report states that corruption also negatively impacts good governance and basic freedoms, such as freedom of speech or citizens' right to hold

[170] Ibid

[171] HLP, 2016, 'illicit financial flows: report of the high level panel on illicit financial flows from Africa'. Available at: https://www.uneca.org/sites/default/files/ Publication Files/iff_main_report_26feb_en.pdf cited in Mogomotsi, P., Mogomotsi, G., & Hambira, W. (2020). "Illicit Capital Flows and Money Laundering in Botswana:" "An Institutional Economic Analysis." *Africa Development / Afrique Et Développement, 45*(1), 117-132. doi:10.2307/26936566

[172] OECD, 2012, "Development Aid at a Glance – Statistics by Region," Paris: OECD

[173] Mogomotsi et al, "Illicit Capital Flows and Money Laundering in Botswana:" "An Institutional Economic Analysis." (2020). Pg.122

governments to account.[174] This report further noted that corruption is "complex and multifaceted and hence it requires fundamental and systemic changes to address the problem". The survey incorporated the views of 47,000 citizen respondents from 35 African countries. "More than 1 people in every four people said they paid a bribe to access public services such as health care and education."[175] According to this report many citizens in African countries think that their governments are not doing enough and they doubt the integrity of public officials. The survey was conducted over a two year period from 2016 to 2018. The report recommended that African states ratify and implement the "*African Union Convention on Preventing and Combating Corruption*".

The report also recognizes the role of major powerful states in combatting corruption and it recommended that "G20 and OECD member states publish names of natural owners of anonymous companies and trusts in offshore accounts". This will help reduce money laundering and recovery of stolen assets. From this survey, 47% of respondents think the police is the most corrupt public institution. "The report found that 2 in every 5 among poor people paid bribes to access public services in Africa". The report submitted that the "poor are more vulnerable to corruption". At international law, and as a matter of economic and social human rights, governments are supposed to provide affordable food and affordable shelter, progressively.

### 3.3.1 Types of economic crime in Kenya

According to the KNBS (2020) there was a general increase in all types of crimes reported to police by 5.8% from 88,268 in 2018 to 93,411 in 2019.[176] Of these crimes, economic crimes grew by 16.7% in this review period according to KNBS with the capital city Nairobi recording the highest number of crimes overall followed by Kiambu

[174] Pring, C., and Vrushi, J. "Global Corruption Barometer Africa 2019", "Citizens' views and experiences of corruption". Afrobarometer and Transparency International.

[175] Ibid

[176] KNBS, "Economic Survey (2020)".

County and Meru. “Corruption reports referred for investigation by the EACC increased by 20.2% from 2,898 in the year 2017/18 to 3,482 in the year 2018/19.” In 2018/19, 32.9% of the number of ethics and corruption reports forwarded to the Office of Director of Public Prosecution (ODPP) with recommendation to prosecute was accepted compared to 61.7% accepted in 2017/18.[177] This shows a decline in the approvals for prosecution in 2017/2018. “The value of public assets recovered by EACC in 2019 was Kshs 4.5 billion while value of loss averted was Kshs 14.5 billion.” This shows that the EACC saved the Kenya government a total of Kshs 19billion cumulatively, which could have been lost to economic crime if no action or strategies had been put in place at all. The statistics by KNBS show that economic crimes have been increasing steadily since the year 2015. This is despite the huge investment the Kenya government has made in strategies to combat economic crimes.

According to PwC “GECFS” “for the year 2020 in Kenya the top four frauds in Kenya were Bribery & Corruption; Procurement fraud; Asset misappropriation; and Customer fraud”.[178] “Out of the 5000 respondents surveyed by PwC in 2020, one hundred and two (102) were drawn from Kenya”. PwC states that “The reported incidences of Procurement fraud in Kenya are more than double the global average and Procurement fraud was also noted to be the most disruptive.” Operations staff accounted for most of the fraud at 53%. “The trends appear different for Kenya unlike in other countries where it is the senior management that committed most of the fraud”.

In Kenya the “Anti-corruption and economic crimes act number 3 of 2003” is the primary statute to manage economic crime. Under this law offences include “Secret inducements for advice”; “Deceiving through false and misleading statements”; “Conflict of interest”; “Improper benefits to trustees for appointments”; “Bid rigging” ; “unlawful

[177] Ibid
[178] 2020 “PwC Kenya , Economic Crime and Fraud Survey”

acquisition of public property and revenue" ; "Abuse of office" ; "Unlawfully dealing with suspect property" or "property acquired through corruption" ; and "Attempts, and conspiracies to commit economic crimes".[179] The constitutional and statutory provisions are an attempt by Kenya to implement international norms and conventions. There is therefore need for continuous and periodic assessment through research to examine the gaps and extent to which member states have implemented anti-corruption conventions and statutes.

### 3.3.2 Efforts to prevent international economic crime in Kenya

The "Kenya Vision 2030 Sector projects and programmes updates 2018" lists the following achievements under the "law and governance sector"; "Implementation of youth empowerment programmes aimed at discouraging youths from engaging in crime and criminal activities", "the Proceeds of Crime and Anti-Money Laundering Act was enacted in 2009" and the new "Anti-Money Laundering Board appointed in June 2011". "The Financial Reporting Centre" has developed the regulations to make the "Proceeds of Crime and Anti-Money Laundering Act fully operational". "The "Assets Recovery Agency" was operationalized to recover the proceeds of crime and money laundering and a permanent "Multi Agency Team (MAT)" established to tackle corruption". [180] Despite these efforts, there have been allegations of corruption and mega scandals linking senior public officials in Kenya to international economic crimes. State Corporation KEMSA is being investigated by a parliamentary committee over corruption allegations that led to loss of billions of Kenya shillings meant to procure essential drugs including supplies meant to combat Covid 19 pandemic.[181] Development partners have also expressed concern over the manner in which donor funds are utilized. For instance, USAID decided not to use the state corporation for distribution of the HIV drugs because it did not trust KEMSA. This study argues that

[179] GoK, "Anti-Corruption and economic crimes Act" , Part V.

[180] http://vision2030.go.ke/wp-content/uploads/2018/09/Kenya-Vision-2030-Sector-Progress-Project-Updates-June-2018.pdf FDFG

[181] https://www.kenyanews.go.ke/state-sends-kemsa-board-members-home/

eradication of corruption and other international economic crimes is a target under the SDGs. Apart from formulating policies and putting in place measures, it is necessary that these efforts actually yield tangible results and outcomes to ensure funds meant for economic development are not wasted.

Empirical data gathered by this study shows that public procurement is one of the areas where international economic crime is perpetrated by public officials in Kenya. Public procurement is regulated under article 227(1) of the "Kenya Constitution 2010" which states that "When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective". The Kenya Constitution 2010 therefore envisaged public procurement for public goods in a transparent and equitable manner. Further, the "Public Procurement and Asset Disposal Act, 2015" of Kenya gives effect to Article 227 of the Constitution. It aims "to provide procedures for efficient public procurement and for assets disposal by public entities." This is in furtherance of the constitutional provisions. The act of parliament has offences and sanctions against procurement malpractices. Under Kenyan law, a "realistic annual procurement plan must be prepared prior to commencement of each financial year as part of the annual budget preparation process". It must be approved by the Cabinet Secretary concerned or Chief Executive Officer in the case of a county government.

This study posits that there have been attempts to put in place legal, policy, institutional and regulatory frameworks in place to fight economic crime in public procurement. Under the "Public Finance Management Act, 2012" of Kenya, "accounting officers" are responsible for management of public procurement and public finances. Public procurement is a "high risk area" for corruption in the public sector.[182] According to OECD "the total volume of public procurement, which is the government activity of purchasing goods, services and works, accounted for 12% of GDP and 29% of general government

[182] OECD, 2016.

expenditure in OECD countries. According to OECD total procurement in OECD countries amounted to EUR 4.2 trillion in 2013". [183] OECD states that in public procurement "corruption risks are exacerbated by the complexity of the process, the close interaction between public officials and businesses, and the multitude of stakeholders".

To curb international economic crime in the highly vulnerable procurement of public goods sector, OECD recommends a holistic approach involving; "tailored specific standards for procurement officials to ensure integrity and that conflict of interest does not occur". "Disclosure of assets, previous employment and paid positions outside the public service may be effective at detecting potential conflict of interests and possible illicit enrichment"; transparency, through "adequate and timely information about upcoming contracts" as well as "contract notices and information about the status of ongoing procurement processes through centralised online systems"; "stakeholder participation-including public dialogue", in order to "promote government accountability and foster trust in public institutions" and finally, "access to public procurement contracts by potential companies of all sizes" are important measures. OECD further states that "companies with a proven track record of integrity breaches can be excluded from access to public procurement contracts. OECD advocates for "affirmative action to ensure equity for marginalized people including youth and people living with disabilities". Such holistic measures are necessary to curb economic crime in procurement rather than leaving all public procurement in the hands of a single "accounting officer". This study argues that Kenya must engender these principles in public procurement rather than allowing politically appointed "accounting officers" to have the sole responsibility of planning for procurement and formulating procurement committees. The parliamentary oversight and administrative supervision by the National Treasury came in too late after funds are lost. This was the case in the KEMSA scandal now being investigated by the National Assembly. The National Treasury is mandated mainly to formulate policies and

[183] OECD , 2016

does not participate in the day to day planning and procurement by public entities. The Public Procurement Regulatory Authority monitors the public procurement system and reports to the Cabinet Secretary and the county executive member for finance in each county. Criminals are not afraid of being reported since they use proceeds of crime to frustrate the wheels of justice. This study posits that crime prevention should aim at ensuring criminals do not access the opportunity to steal public goods and services.

### 3.3.3 Criminalization of economic crime and illicit financial flows in Botswana

According to Afrobarometer "Global Corruption Barometer Africa 2019", "52% of respondents in Botswana think corruption increased in the previous 12 months".[184] The report states that "7% of public service users paid a bribe in the previous 12 months and 39% of respondents think that government officials in Botswana are corrupt.[185] Mogomotsi et al posit "that despite its economic success story Botswana is also among southern African states prone to economic crime especially money laundering and illicit financial flows".[186] According to Mogomotsi et al "up to USD 1.1 billion illicit financial flows were recorded in 2004 and 2013 respectively."[187] Kar and Spanjers submit that "trade misinvoicing outflows are prevalent in Botswana, with over US$ 12.3 billion cumulatively recorded in 2003 and 2013."[188] "The study also shows that weak enforcement institutions, corruption and existence of tax havens fuel the illicit financial flows problem in Botswana".[189] Mogomotsi et al submits that "Botswana's economy is heavily dependent on minerals particularly diamonds to finance economic development". Despite this financial and economic success Botswana is regarded as a major conduit for illicit financial flows. Mogomotsi et al used a "narrative approach using literature and

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[184] Supra note 141
[185] "Global Corruption Barometer Africa" (2019) Pg.27
[186] Mogomotsi et al, "Illicit Capital Flows and Money Laundering in Botswana:" "An Institutional Economic Analysis." (2020).
[187] Ibid
[188] Kar, D., and Leblanc, B., "Illicit Financial Flows from Developing Countries: 2002–2011," (Washington DC: Global Financial Integrity, 2013). Cited in Mogomotsi et al, "Illicit Capital Flows and Money Laundering in Botswana:" "An Institutional Economic Analysis." (2020).
[189] Ibid

document analysis to provide an insight into the institutional arrangements and structures shaping the flow of financial resources in Botswana's economy".[190]

The results of the study carried out by Mogomotsi et al show that "Botswana responded late in criminalization of illicit financial activities and economic crimes". Today economic crimes such as illicit financial flows are criminalized under various legislations in Botswana including the "Corruption and Economic Crimes Act (CECA)" of Botswana.[191] This legislation also establishes the Directorate on Corruption and Economic Crimes (DCEC) "to investigate any alleged or suspected contravention of any of the provisions of the fiscal and revenue laws of the country." Mogomotsi et al submits that this legislation has a serious shortcoming in that it is silent on money laundering. Botswana acceded to the "United Nations Convention against Corruption" and it was necessary to enact a translating statute to incorporate the provisions of this international treaty.[192] Mogomotsi et al argues that CECA was enacted a decade after Botswana acceded to the "United Nations Convention against Corruption" hence delay by the legislature in Botswana to criminalize money laundering had resulted into a legislative gap thereby allowing international economic crime to thrive.

Mogomotsi et al argues in favour of legislative amendment and review of CECA to provide for offence of money laundering in order to establish the link between corruption and illicit financial flows. Lack of co-ordination between institutions charged with responsibilities to combat money laundering responsibilities has been cited as a big challenge. Mogomotsi et al concludes that in line with international obligations, state parties to international treaties need to establish strong institutions domestically for combating illicit financial flows in every jurisdiction. This will ensure an effective

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[190] Supra note 152
[191] Republic of Botswana, "Corruption and Economic Crimes Act", Government Printers, Gaborone (1994).
[192] UN General Assembly, "*United Nations Convention against Corruption*," 31 October 2003, A/58/422, available at: "https://www.refworld.org/docid/4374b9524.html" [accessed 25 August 2020].

framework of combating illegal economic activities. "Illegal economic activities are an ever-moving target, hence the need for regular legislative amendments in order for the laws to be relevant". Mogomotsi et al submit that "it is also necessary to create working interagency co-ordination and sharing of intelligence."[193] Literature reviewed shows that legislative review is necessary to combat economic crime in Botswana. Above all, it is important to ensure that international standards are maintained in line with international treaties to which Botswana is a party.

### 3.4 Types of economic crime in the digital age.

"Technological innovations propel economic growth and the current rate and impact of technological change is unprecedented".[194] ACCA and EY submit that "economic crime in the modern technological age transcends political borders". "Criminals are exploiting opportunities presented by technology and misusing this knowledge to perpetuate economic crime". There is need for professional accountants, auditors and government law enforcement agencies to continuously review strategies to combat economic crime. "The development of economic crime has progressed in parallel with business technologies. "The relationships between traders became ever more remote and reliant on intermediaries, so the scope widened for abuse of the enabling mechanisms that underpin effective trade."[195] ACCA submits that "there is therefore need to create stronger regulatory regimes to support "financial innovations." The ACCA argues that use of "AI" and "forensic data analytics" in banks and financial institutions are effective in combatting money laundering and can also be used to detect economic crime in the digital age. Artificial intelligence and digital analytical tools are therefore important innovations to investigate international economic crime committed online.

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[193] Mogomotsi et al (2020) Pg.128

[194] ACCA and EY, "Economic Crime in a digital age" http://www.accaglobal.com/

[195] Ibid

This report by ACCA noted that there is need for collaboration and information sharing amongst financial regulators in the digital age. “Interviewees noted that the expansion of cross-border crime requires a similar scale of response by regulators and law enforcement.” To curb economic crime in public procurement the report calls for adoption of “increased transparency through e-procurement.” According to Grabosky “economic crimes in the digital age include; “insurance fraud; fraud against government; fraud against employers; fraud against consumers; Telemarketing fraud; Fraud against shareholders and investors; superannuation (pension schemes) fraud; Bribery and corruption; Money laundering; telecommunications fraud ; credit card fraud ; industrial espionage ; theft of intellectual property ; forgery ; business opportunity fraud ; and electronic funds transfer fraud.”[196] Grabosky (2013) argues that “one common thread running through most if not all of the types of economic crime listed above is that they are greatly facilitated by recent developments in information technology.”[197] These economic crimes are also transnational and transcend political boundaries. It is therefore difficult to investigate, collect evidence and prosecute such cross border crimes successfully because of the challenges encountered. Sometimes investigators may need to have perpetrators extradited and proceeds of crime in foreign jurisdictions confiscated. Absence of extradition treaties and international conventions in the state where the perpetrator is hiding can pose a big challenge to investigators and prosecutors and sadly, the victims may not get justice. Grabosky further submits that “it is also costly to bring investigators and witnesses from abroad in economic crimes, which have taken international dimensions in the modern digital age”.

[196] Grabosky, P. “The prevention and control of economic crime.” In Larmour P. & Wolanin N. (Eds.), “*Corruption and Anti-Corruption,”* (pp. 146-158). ANU Press. (2013). Retrieved November 15, 2020, from “http://www.jstor.org/stable/j.ctt2tt19f.12”

[197] Ibid

The basic principles to effectively combat international economic crime according to Grabosky are; “Audit”; “Transparency (public disclosure of company and government operations)”; “procedures for independent review of administrative decisions”; and “specialized bodies for the investigation and prosecution of serious economic crime”.[198] other measures are ; “cash transactions reporting”, “a free press”, “an adequate regulatory system”, “mechanisms for building public awareness”, “freedom for individuals to form non-government organizations”, “responsible banking”, “ role of commercial third parties to complement the work of government in preventing graft”, “open political system” “international cooperation”, and “sanctioning of offenders.”[199] On sanctions Grabosky submits that “economic crimes unlike other crimes are based on ‘rational decision making’ theory”. To him, embezzlement dos not occur in a fit of rage like murder or other crimes of passion. “Economic crime follows careful planning and pre-meditation hence the need for harsher punishments to deter economic crime”.

Grabosky (2013) submits that “the police alone are unable to cope with economic crime”. On this Grabosky argues that “there can be no 'magic bullet' or panacea […] each separate type of economic crime is best addressed by a combination of countermeasures”. “Some of these will be governmental, some will lie in the hands of the prospective victim, and some will be at the disposal of third parties.” “The higher the number of measures put in place to counter economic crime therefore the more difficult it will be for economic criminals to perpetuate crime”. Relating this literature for Kenya and Botswana, it is imperative for the two states to ensure adequate measures are put in place to curb international economic crime.

[198] Grabosky (2013), Pg. 155
[199] Grabosky (2013),Pg.156-158

### 3.5 Findings

What are the types and trends of international economic crime in Kenya and Botswana? This section contains research findings on the crime prevalence, types and trends of international economic crimes using Likert scale in understanding crime prevalence in different sectors of economy in Kenya and Botswana. The second objective of this study was to examine the types and trends of international economic crime in Kenya and Botswana. From the evidence gathered sectors of the economy affected by international economic crime in Kenya are as shown in figure 3.1 below;

**Table 3.1 Sectors of the economy affected by international economic crime.**

| | | **Not Prevalent** | **Just Prevalent** | **Highly Prevalent** | **Mean** |
|---|---|---|---|---|---|
| # | Affected Sector of Economy | % | % | % | 3PT-Likert Response |
| 001 | Public Procurements | 6.90 | 20.69 | 72.41 | 2.66 |
| 002 | Public Health Services | 6.67 | 56.67 | 36.67 | 2.30 |
| 003 | CID and Police Service | 10.00 | 26.67 | 63.33 | 2.53 |
| 004 | Judiciary Court Cases | 19.35 | 38.71 | 41.94 | 2.23 |
| 005 | Land Sector and Registry | 10.34 | 27.59 | 62.07 | 2.52 |
| 006 | Revenue Collection & Taxes | 17.24 | 34.48 | 48.28 | 2.31 |
| 007 | Agriculture Sector/Subsidies | 10.00 | 50.00 | 40.00 | 2.30 |
| 008 | Education Funds FPE, etc. | 12.90 | 41.94 | 45.16 | 2.32 |
| 009 | Poverty Eradication | 16.67 | 43.33 | 40.00 | 2.23 |
| 010 | Public Infrastructure Roads | 3.13 | 31.25 | 65.63 | 2.63 |
| 011 | International Border Control | 15.38 | 46.15 | 38.46 | 2.23 |
| 012 | Ports and Harbours | 18.18 | 40.91 | 40.91 | 2.23 |
| 013 | Wildlife and Environment | 24.00 | 40.00 | 36.00 | 2.12 |
| 014 | Public Transport Sector | 9.38 | 28.13 | 62.50 | 2.53 |
| | | | | | |
| | **AVERAGE** | **13%** | **38%** | **50%** | **2.37** |

**Source; Research study data**

From table 3.1 above 50% of respondents in the research study claimed that economic crime is highly prevalent across all the sectors of the economy in Kenya. Top four sectors with the highest incidence of economic crimes were Public procurement of public goods and services in first place, followed by Public infrastructure and construction in the third place was CID and Police Service then finally the Public transport sector. Land sector and registry services also scrambled for the top tier though it emerged the fifth in top ranking. The findings in this research concur with Price Water House Coopers- PwC which also ranked public procurement as the most vulnerable area to corruption in Kenya.

**Common types of economic crime in Kenya**

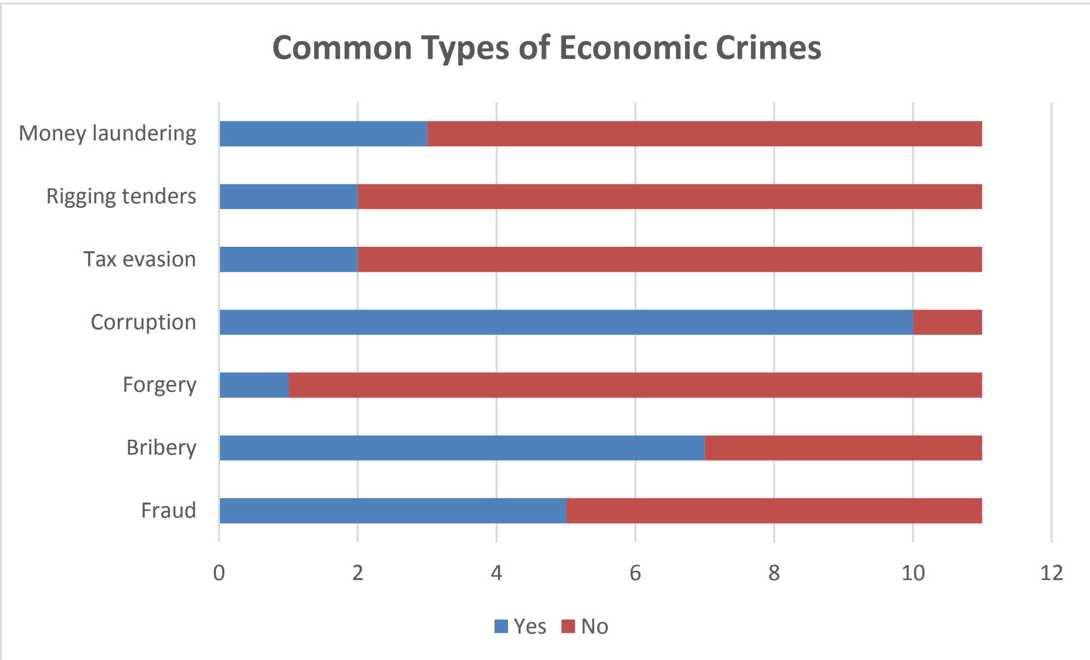


**Figure 3.1: Common types of economic crime in Kenya.**

**Source; Research study data**

According to PwC "Global Economic Crime and Fraud Survey GECFS" , for the year 2020 in Kenya ranked Bribery & Corruption; Procurement fraud; Asset misappropriation; and Customer fraud as top economic crimes. Money laundering, bid rigging, tax evasion, corruption, forgery, bribery and fraud are common types of international economic crimes currently prevalent in Kenya.

### 3.5.1 IFFs

The responses on illicit financial flows were sampled from institutions, that is, 11 (eleven) key respondents with expert knowledge on illicit financial flows hence we filter out the other 22 respondents from the general population. The key respondents are expected to have valuable knowledge and experience in combatting international economic crime.

**Table 3.2 Prevalence of illicit financial flows.**

| IFFs in Agriculture | Freq. | Percent | Cum. |
|---|---|---|---|
| No idea | 3 | 27.27 | 27.27 |
| Just low | 1 | 9.09 | 36.36 |
| Medium | 3 | 27.27 | 63.64 |
| Just High | 4 | 36.36 | 100.00 |
| **Total** | **11** | **100.00** | |

| IFFs by Public Officers through Embezzlement | Freq. | Percent | Cum. |
|---|---|---|---|
| No idea | 1 | 9.09 | 9.09 |
| Just High | 3 | 27.27 | 36.36 |
| Very High | 7 | 63.64 | 100.00 |
| **Total** | **11** | **100.00** | |

| IFFs by Money Laundering | Freq. | Percent | Cum. |
|---|---|---|---|
| No idea | 2 | 18.18 | 18.18 |
| Just High | 3 | 27.27 | 45.45 |
| Very High | 6 | 54.55 | 100.00 |
| **Total** | **11** | **100.00** | |

**Source; Research study data**

Table 3.2 shows responses concerning methods through which illicit financial flows are likely to occur. The respondents were asked to give responses on prevalence of illicit financial flows in three areas of agricultural exports, embezzlement by public officials and money laundering activities. Data analysed by this study was able to show that illicit financial flows in Kenya was mostly due to embezzlement by public officials. Illicit financial flows were also due to proceeds of crime from other predicate offences through money laundering and lastly, illicit financial flows also occurred through exports of agricultural produce. The table 3.2 summarizes the parameter measuring the prevalence of Illicit Financial Flows in Agricultural Exports/Imports according to the respondents. The variable has been setup on a 5-point Likert scale that is analysed using the 0.8 value range.

### 3.6 Whether there are mechanisms and measures put in place to counter IFFs:

The tables below analyse responses as to whether Kenya has put in place mechanisms to counter illicit financial flows. This is a distinct type of international economic crimes linked to huge losses of funds meant for economic development. The literature reviewed in the previous chapters clearly shows that IFFs account for huge losses of funds meant for development.

**Table 3.3: Whether mechanism exists to combat illicit financial flows.**

| Are there mechanisms? | Freq. | Percent | Cum. |
|---|---|---|---|
| False | 25 | 75.76 | 75.76 |
| True | 8 | 24.24 | 100.00 |
| **Total** | **33** | **100.00** | |

| Has your country measures? | Freq. | Percent | Cum. |
|---|---|---|---|
| False | 28 | 84.85 | 84.85 |
| True | 5 | 15.15 | 100.00 |
| **Total** | **33** | **100.00** | |

**Source; Research study data**

From the evidence above, 75% of respondents sampled state that there are no government mechanisms to combat illicit financial flows. This is data from key informants who are experts in areas of economic crime and economic development. The key informants' sampled were not uniform in their responses on measures put in place to combat economic crimes. This lack of consensus indicates that there is no coordination among stakeholders with respect to illicit financial flows and economic crime generally.

### 3.7 Conclusions

This section makes conclusions based on the literature, secondary data and empirical evidence discussed in this chapter. From the discussion, evidence shows that international economic crime is a global phenomenon affecting the entire globe. Billions of dollars are lost from Africa through illicit financial flows and then laundered through the international financial system particularly through European economies. OECD submits that the "amount lost by Africa to illicit financial flows between the years 1970 to 2008 is equal to development assistance granted to Africa between the same periods. This qualitative data is not different from empirical evidence herein this study. For the United Kingdom, the top four types of fraud were Customer Fraud, Cybercrime, Bribery and Corruption then lastly Asset Misappropriation. According to the survey findings for the UK by PwC the most disruptive types of frauds are Cybercrime at 28% of economic crimes, followed by Accounting Fraud at (15%) and Customer Fraud at 13%". Bribery and corruption remained the top type of fraud in China. Others in the top five types of fraud in China include Customer fraud; Accounting financial statement fraud; Anti Competition law infringement fraud; and Asset Misappropriation.

In Kenya the top four frauds were Bribery & Corruption; Procurement fraud; Asset misappropriation; and Customer fraud. Procurement fraud in Kenya is said to have doubled the global average and Procurement fraud was also noted to be the most disruptive. It is the senior management that committed most of the procurement fraud in Kenya. Top four sectors with the highest incidence of economic crimes in Kenya were Public procurement of public goods and services in first place followed by Public infrastructure and construction. In the third place was CID and Police Service then finally the notorious Public transport sector then Land sector and registry services. For Botswana data shows the rampant illicit financial flows particularly in the extractive sector. IFFs also take place in Kenya through embezzlement by public officials mostly.

# CHAPTER FOUR

# THE IMPACT OF INTERNATIONAL ECONOMIC CRIME ON ECONOMIC DEVELOPMENT IN KENYA AND BOTSWANA

## 4.1 Introduction

This chapter investigates the impact of economic crimes on economic development in Kenya and Botswana. This chapter examined the global perspectives of economic crime. Thereafter the chapter discussed economic crime and its impacts in the United Kingdom. The problem of illicit financial flows and their impact on development in developing countries will be analyzed. The chapter shall then analyze the gendered dimensions of illicit financial flows and other economic crimes. This is aimed at examining how economic crime impacts gender including children, the old and other vulnerable members of the community. The impact of economic crime on development and governance in Kenya is then investigated. The chapter analyses how economic crime affects foreign direct investment and business in Kenya. Specific types of economic crimes like illicit financial flows (IFF) will be discussed too. Literature will also be reviewed to assess the impact of IFF and economic crime generally in Botswana. The chapter shall focus on impacts of IFFs in Africa and the role anti-money laundering institutions in Botswana play in the fight against economic crime. Finally the research findings from survey carried out by this study are presented to compare with literature reviewed and thereafter, the study will make conclusions on impacts of international economic crime on economic development in Kenya and in Botswana.

### 4.1.1 Geographic distribution and global impacts of International Economic Crimes

Barney sought to examine the “spatial distribution” of corruption and states “that it has debilitating consequences on economies and societies throughout the world”.[200] According to Barney “these effects include ; “inequality”, “inefficiency in the delivery of

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[200] Barney, W. "*Global Geographies of Corruption*." GeoJournal 81, no. 5 (2016): 657-69. Accessed January 9, 2021. http://www.jstor.org/stable/44076432.

public services", "pillage of natural resources", and "widespread distrust of the state among the public". These effects affect the world "in almost all countries with varying degrees of social, political, economic, and environmental consequences".[201] Barney states that unlike topics such as "state", "governance", and "development" geographers have not devoted much interest on the geographical impacts of corruption across the planet. Treisman examined the spatial distribution of corruption and its impacts across the globe and found that corruption is inversely proportional to independent variables such as "British rule", "Protestantism", "economic development", "high levels of imports" and "democratic political systems". [202]

Jung-Yeop Woo studied the relationship between "corruption and the FDI attractiveness of host countries". Empirical results of Jung-Yeop Woo's study suggest that corruption generally causes a harmful effect on attractiveness for FDI.[203] This has huge implications for economic performance especially for countries in transition and hence at the global level, economic crime is a policy agenda for international organizations.[204] Accordingly, at the global level the World Bank is has also been calling for immediate strategies to reduce corruption. Some scholars like Huntington argue that a rigid over centralized bureaucracy actually fuels corruption because MNE are willing to pay kickbacks in return for ease of doing business.[205] Scholars argue that the effect of corruption on FDI attractiveness in developing countries is not clear. In some instances it actually fuels growth when MNEs are attracted by paying kickbacks in return to ease of doing business. At the same time, corruption can also deter FDI attractiveness for MNEs, which are not willing to

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[201] Ibid

[202]Treisman, D. "*The causes of corruption: A cross-national study*." Journal of Public Economics, 76(3), 399-457. (2000) in Barney, W. "*Global Geographies of Corruption*." GeoJournal 81, no. 5 (2016): 657-69. Accessed January 9, 2021. http://www.jstor.org/stable/44076432.

[203] Woo, Jung-Yeop. "*The Impact of Corruption on a Country's FDI Attractiveness: A Panel Data Analysis, 1984-2004*." Journal of International and Area Studies 17, no. 2 (2010): 71-91. Accessed January 10, 2021. http://www.jstor.org/stable/43107209.

[204] USAID, USAID. "*Anticorruption Strategy*". Washington, D.C.: United States Agency for International Development. 2005,

[205] Huntington, S., P. "*Political Order in Changing Societies*". New Haven: Yale Uni, 1968

pay kickbacks. The effects of corruption on FDI attractiveness can therefore only be observed through empirical analysis.[206] Glaeser and Goldin submit that developed countries like United States of America have not been immune to economic crimes such as corruption.[207] According to Glaeser and Goldin "widespread corruption was the norm in the various state legislatures within the US during the 19th century". "Municipal contracts were awarded on the basis of "favoritism" to powerful entities that could purchase votes".

Lalountas et al tested the ties between globalization and corruption. They found that "the relationship is complex and geographically variable". Using cross-section data for 127 countries, Lalountas et al found that "globalization (in the forms of FDI and import penetration) mitigated corruption in relatively developed countries but had no impact on corruption in poorer ones".[208] Lalountas et al concluded that "globalization is a powerful weapon against corruption only for middle and high income countries, while for low income countries globalization has no significant impact on corruption". "Low-income countries therefore need assistance through global efforts in order to fight and address economic development and poverty issues". According to Habermas "corruption undermines credibility of the state, erodes public confidence, undermines efficiency and effectiveness of government policies and may push the administrative system to a point of collapse".[209] However, scholars have noted "that empirical analysis of corruption is usually difficult hence its severity has not been very well measured."[210] This notwithstanding, many scholars agree that generally, corruption and economic crimes may lead to "shortages of medical and military supplies and delays in the delivery of funds, the shoddy construction of buildings

[206] Supra note 184.
[207] Glaeser, E., & Goldin, C. (Eds.). "*Corruption and reform: Lessons from America's economic history*". Chicago: (2006). University of Chicago Press.
[208] Lalountas, D., A., Manolas, G., A., and Vavouras, I., S., "*Corruption, globalization and development: How are these three phenomena related?*" Journal of Policy Modeling, Elsevier, 2011. Vol. 33(4), pages 636-648, July.
[209] Habermas, J. "*Theory and Practice*". Translated by John Viertel. Boston: Beacon Press (1973).

[210] Bardhan, P. "*Corruption and Development: A Review of Issues*." *Journal of Economic Literature* 35, no. 3 (1997): 1320-346. Accessed January 18, 2021. http://www.jstor.org/stable/2729979.

and infrastructure, erosion in efficiency of public bureaucracies, erosion in public confidence, reduces tax revenue, increases inequality, facilitates black market activities and organized crime." "It impairs the health of the global economy, the world peoples and the environment". "Typically it is the poor who bear the greatest cost".

**4.1.2 Economic Crime and its impacts in the United Kingdom**

Levi and Burrows examined the "conceptual and empirical underpinnings of data on the cost of fraud". The data studied was obtained from a study conducted for the Association of Chief Police Officers. [211] Scholars submit that it is especially difficult to measure impacts of economic crime. This is because it is difficult " to agree the terms in which 'harm' is expressed (feelings, including lost hopes, measurable financial losses, in absolute terms or as a proportion of profits, savings, etc., direct losses alone, or also response costs)". It is hard to measure frequency of offences, particularly against organizations and against transient/socially excluded persons living in hard-to-reach areas; and it is equally hard to agree the terms in which the organization of offending should be defined.[212] The study by Levi et al therefore sought to report on a study commissioned by the United Kingdom Association of Chief Police Officers' Economic Crime Portfolio to "determine as accurately as possible the nature, extent, and cost of fraud to the public and private sectors; to assess critically the availability and quality of existing evidence on fraud; and to recommend appropriate strategies to facilitate the comprehensive a consistent recording of data on fraud".[213] This is important because scientific methods and strategies for future data capture on economic crime impacts, can be developed from such studies.

Levi et al disaggregated their findings on the costs of fraud in the United Kingdom in various categories. The components of fraud costs were ; 'fraud losses incurred by victims as

[211] Levi, M, and Burrows, J. "*Measuring the Impact of Fraud in the UK: A Conceptual and Empirical Journey*." *The British Journal of Criminology* 48, no. 3 (2008): 293-318. Accessed January 18, 2021. http://www.jstor.org/stable/23639088.

[212] Ibis

[213] Levi et al (2008) Pg. 295

a direct loss from fraud'; 'costs of preventing fraud before the event'; and 'other anticipatory costs private and public sector entities incur before the occurrence of fraud'; 'Costs of responding to fraud by actors in the criminal justice sector including police, prosecutors, courts and prisons service'. In their study, Levi et al acknowledge the difficulties in quantifying true costs of fraud. Nonetheless, Substantial and varied data about many types of fraud in the United Kingdom were summarized by Levi et al. The data could be used tactically to respond to and prevent fraud. From the best evidence available, 'financial services' fraud losses were estimated at £1.005 billion in 2005, fraud losses to businesses other than financial services were estimated at £0.934 billion in 2005, while fraud losses against private individuals were estimated at £2.75 billion in 2005".[214] Tax fraud, which includes value, added tax and large income tax frauds were said to comprise the largest single categories of frauds for both the public and private sectors. National public sector fraud losses were conservatively estimated at £6.434 billion mostly in 2005.[215]

Levi et al submit that no "data exists for income tax fraud in the United Kingdom hence it is difficult to ascertain the losses to public sector due to income tax fraud". If data on income tax fraud was available, the quantified losses to the national public sector would definitely be much higher cumulatively. Levi et al made a conservative estimate of 0.04£ billion losses to public bodies at the local level on account of fraud in 2005.[216] There are big gaps in data on fraud in the United Kingdom and scholars posit that the "above figures are merely indicative as existing sources of data on fraud are neither mutually exclusive nor collectively exhaustive".[217] "Many high-value cases that appear to meet the criteria of criminal fraud are investigated by forensic accounting and law firms, and are treated as civil matters for litigation and negotiation with 'suspects' and third parties". The actual fraud losses in the United Kingdom discussed are therefore not exhaustive. Levi et al noted that "an

[214] Levi et al (2008) Pg. 309
[215] Ibid
[216] Ibid
[217] Levi et al (2008) Pg. 309

'actual' fraud comes to be counted as such only after going through a process of being 'suspected', 'investigated' and 'identified' as such, whether through accident or a more formal audit process aimed at uncovering fraud". In cost of crime studies figures spent by public bodies to prevent crime such as money laundering have not been well documented. It is therefore difficult to quantify crime prevention costs by public agencies such as the police. It is therefore important to develop methodology to disaggregate data on cost of crime in order to enable policy makers' craft proper preventive measures.

### 4.1.3 Problem of illicit financial flows and in developing countries.

Scholars argue that no single universal definition of the term "illicit financial flows" exists. Kar and Freitas have defined "Illicit financial flows as funds that are illegally earned, transferred, or utilized and cover all unrecorded private financial outflows that drive the accumulation of foreign assets by residents in contravention of applicable laws and regulatory frame works".[218] Janský submits that illicit financial flows have negative impacts especially on developing countries. The OECD has recognized illicit financial flows as a key issue in economic development.[219] Merkle and Kirya submit that "the transfer of capital internationally can be considered illicit if the transfers themselves are illegal, the funds are the results of illegal acts or the funds are used for illegal purposes".[220] Impact of rich countries' policies on the developing world is of great concern in so far as development is concerned. The CDI examines the performance of DCs in policy areas such as: aid, trade, migration, environment, security, technology and investment.[221] Janský investigated whether illicit financial flows should be included in measurement of CDI. One of the research

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[218] Kar, D., and Freitas, S. "*Illicit financial flows from developing countries*: 2001-2010. A December 2012 Report from Global Financial Integrity". Washington, DC: Global Financial Integrity. (2012). Retrieved February 24, 2013, from http://iff.gfintegrity.org/iff2012/2012report.html in Janský, Petr. "*Updating the Rich Countries' Commitment to Development Index: How They Help Poorer Ones through Curbing Illicit Financial Flows*." *Social Indicators Research* 124, no. 1 (2015): 43-65. Accessed January 18, 2021. http://www.jstor.org/stable/24721647.

[219] Janský, P. "*Updating the Rich Countries' Commitment to Development Index: How They Help Poorer Ones Through Curbing Illicit Financial Flows*." *Social Indicators Research* 124, no. 1 (2015): 43-65. Accessed January 18, 2021. http://www.jstor.org/stable/24721647.

[220] World Bank. "*Illicit Financial Flows*". World Bank Brief. (2017) in Merkle and Kirya (2019) Pg.3

[221] Janský, P.(2015) Pg. 44

questions posed by Janský's study is "what kinds of measures can rich countries take to curtail the illicit financial flows out of poor countries?", and to ensure that the global financial system "supports and does not detract from the development of the developing countries." Scholars like Kar and Janský submit that "illicit financial flows are estimated to be large in magnitude and are thought to have an overwhelmingly negative impact on poor countries".

Scholars argue that IFFs out of poor countries are significantly higher than ODA. Preventing illicit financial flows from developing countries together with confiscating assets and proceeds of crime could significantly contribute to economic development of growing countries.[222] OECD posits that ODA from rich countries to developing countries "has in general not lived up to expectations and promises". [223] Janský therefore submits that illicit financial flows to and from developed countries cannot sustain economic development in the developing countries either. "Developed countries and international organizations must formulate policies which seek to enhance trade, migration, environment, security, technology and investment in the developing countries". Developing countries with weak legal and institutional systems do not have suitable frameworks to deal with illicit financial flows by multinational companies. This means that developing countries are more vulnerable to IFFs.

"The harmful impacts of illicit financial flows include; hampering the poor countries' ability to mobilize their own private and public funds and therefore lowering the amounts of finance available for consumption and investment in poor countries; undermining their

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[222] OECD." *Measuring OECD responses to illicit financial flows*". Paris: OECD. (2013b). Retrieved February 23, 2013, from http://www.oecd.org/dac/SLM2013_issue%20paper%20illicit%20flows. Pdf in Janský, Petr. "*Updating the Rich Countries' Commitment to Development Index: How They Help Poorer Ones through Curbing Illicit Financial Flows*." *Social Indicators Research* 124, no. 1 (2015): 43-65. Accessed January 18, 2021. http://www.jstor.org/stable/24721647.

[223] OECD. "*Aid to poor countries slips further as governments tighten budgets*". Paris: OECD. (2013c). Retrieved February 23, 2013, from http://www.oecd.org/newsroom/html in Janský, Petr. "*Updating the Rich Countries' Commitment to Development Index: How They Help Poorer Ones through Curbing Illicit Financial Flows*." *Social Indicators Research* 124, no. 1 (2015): 43-65. Accessed January 18, 2021. http://www.jstor.org/stable/24721647.

institutions; distorting economic activities and facilitating crime."[224] Scholars submit that "negative impacts of illicit financial flows in developing countries are facilitated by tax havens in rich states".[225] Janský submits that "both illicit financial flows and financial secrecy do make most countries poorer, especially those that are already poor". He strongly argues that rich countries should become more responsible regarding policies of financial secrecy. Janský believes that "updating the CDI using FSI as an indicator for illicit financial flows seems a great contribution in this direction".

### 4.2 Gendered dimensions of illicit financial flows and other economic crimes

This section shall examine the gendered impacts of international economic crime as well as the effects on specific sectors such as agriculture and public procurement. The section examines how women and different age groups are affected by economic crime. Merkle and Kirya investigated the gendered dimensions of IFFs.[226] Their study was guided by three main research questions, which are "how IFFs specifically affect women; the roles women play in IFFs; and how women can help curb IFFs". OECD argues that "IFFs weaken the financial system and economic potential of countries and divert resources that are needed to finance public services such as health, education, justice and security".[227] Due to the disruptive nature of IFFs, "they undermine governance and institutions of a given state". Merkle and Kirya submit that "overall, few studies have been done to evaluate the relationship between gender and IFFs". Herkenrath posits that societal problems such as unemployment, poverty and inequality can be linked to loss of resources for development due to IFFs. This therefore is said to affect human development and the guarantee of human rights.[228] Consequently,

[224] Janský, P.(2015) Pg. 48
[225] Nyongesa, M., W. "*Transnational Corruption, Violations of Human Rights and States' Extraterritorial Responsibility: A Case for International Action Strategies*, "(Leiden; African Journal of Legal Studies, Brill Nijhoff 8, 87–114) 2015.
[226] Merkle, O., and Kirya, M. "*Report*. *Transparency International*". 2019. Accessed January 18, 2021. doi:10.2307/resrep20495.
[227] Supra note 203.
[228] Herkenrath, M. "*Illicit Financial Flows and their Developmental Impacts: An Overview*". 2014. International Development Policy | Revue Internationale de Politique de Développement, 5(5.3) in Merkle, O., and Kirya, M. "*Report*. *Transparency International*". 2019. Accessed January 18, 2021.

scholars argue that this also leads to lack of resources needed for affirmative action to redress gender inequality. This perpetuates and worsens the problem of gender inequality. "The inability of the state to provide high quality public services perpetuates and exacerbates gender inequalities."[229]

Alliance Sud et al submit that "institutions and programmes intended to promote gender equality and women's empowerment receive inadequate funding when there are limits on government budgets and are usually the first to be cut in times of economic downturn and decreasing budgets". [230] Merkle and Kirya submit that 'there is need for further research on the contribution of each gender on IFFs to ascertain the extent to which each gender contributes to the problem. Scholars argue that "little evidence exists to show women behave in less corrupt ways when they access economic and political spheres of power". This is because women have also been implicated in grand corruption cases when they access positions of power and influence. However, scholarship on economic crime indicates that women are less prone to engage in corruption. Esarey and Chirillo submit "that this is because women are more likely to be punished owing to their weaker status in society". [231] Merkle and Kirya submit that "human trafficking, which is an important source of IFFs is highly gendered where about 49% of trafficking victims are women and about 23% girls". Bak reviewed literature which focuses on the evidence linking inequality and illicit financial flows (IFFs). Bak argues that "current measures of inequality (such as the Gini coefficient) do not account for IFFs which have disproportionately detrimental impacts on those citizens already most "left-behind", given their effect in facilitating and exacerbating corruption and

doi:10.2307/resrep20495.

[229] Supra note 210

[230] Alliance Sud et al. "*Swiss Responsibility for the Extraterritorial Impacts of Tax Abuse on Women's Rights*". 2016. Submission to the Committee on the Elimination of Discrimination against Women in Merkle, O., and Kirya, M. "*Report*. *Transparency International*". 2019. Accessed January 18, 2021. doi:10.2307/resrep20495.

[231] Esarey, J., & Chirillo, G. (2013). "*Fairer Sex" or Purity Myth? Corruption, Gender, and Institutional Context*." Politics & Gender, *9*(4), 361-389. doi:10.1017/S1743923X13000378

conflict in the poorest countries." [232]

Abiodun et al examined "sharp practices involved in fertilizer distribution in the rural communities of Kwara State, Nigeria". According to this study, "Nigeria lost 776 billion Naira between 1980 and 2010 due to corruption in the agricultural sector". This occurred when politicians swindled fertilizer meant for public use. [233] Abiodun submits that only "about 11% fertilizers procured and distributed by the Federal Ministry of Agriculture and Rural Development ever got to farmers". From the study examined by Abiodun et al "the majority of the farmers interviewed were above 51 years and responsible, married men, though they had no formal education." They took farming as their primary occupation which indicates that they had more than 15years of experience". Famers in Kwara now access fertilizer through government accredited agents as opposed to open markets where hoarding and nepotism were the order of the day.

### 4.3 Impact of economic crime on development and governance in Kenya

Mwangi examined "political corruption and political party financing" in multiparty Kenya. Mwangi argues that "there is a link between major economic crime scandals such as the Goldenberg and Anglo-Leasing mega-scandals, and political campaign financing". [234] However, Mwangi's assertion are not backed up by empirical evidence and neither does he state the methodology adopted hence there is a gap in the literature to examine the nexus between corruption and its impact on political processes. That is, whether funds acquired corruptly finance political processes to undermine governance and democracy. It is difficult to get empirical evidence through a scientific study. Assumptions are made based on the fact that since it is the political elite that preside over government and administration of public

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[232] Bak, M. "*Report*." "Transparency International." 2020. Accessed January 19, 2021. doi:10.2307/resrep24900.

[233] Abiodun, A.A., Olatilewa, O.M., Adegbola, A.J., Atibioke, O.A., Ogundele, B.A., Adetayo, S.A., Ilemaiye, F.O., Oyebamiji, I.T. and Iworji, A.A. (2017), "*Corruption and agricultural development: Analysis of fertilizer distribution in rural communities of Kwara State, Nigeria*", International Journal of Development and Sustainability, Vol. 6 No. 10, pp. 1271-1281.

[234] Mwangi, O., G. "*Political Corruption, Party Financing and Democracy in Kenya*" The Journal of Modern African Studies 46, no. 2 (2008): 267-85. Accessed February 5, 2021. http://www.jstor.org/stable/30225924.

goods, they should be held responsible for loss of public resources through corruption. Mwangi's article argued that political party corruption for instance, has increased under multiparty rule in Kenya. However, Mwangi relied heavily on newsletter articles and other non-scientific articles which were not backed by evidence. There is need for scientific based studies on impacts of corruption including its effect on political and democratic processes.

Kempe analytically examined causes and consequences of corruption and says that "corruption has grown root in Kenya and become endemic".[235] Kempe argues that "public institutions are being misused by public officials and certain well-connected private individuals for personal gain". In fact, scholars argue that "public officials are not just perpetuating corruption but it has also permeated into the society, grown roots and become endemic".[236] Kempe submits that "corruption in Kenya is systemic and goes beyond individuals to the structural and institutional levels". Kempe submits "that corruption has negative impacts on governance and that by any measure; persistent corruption and bad governance go together". Kempe argues that "corruption leads to low governance scores and weak governance institutions". Further, this "translates into sluggish economic performance and lower rates of growth as economic efficiency is impaired".[237]

Scholars argue that "the poor disproportionately bear the biggest brunt on economic costs of corruption". "The poor are impacted more because they depend on the state for public goods such as health care and education". "Access to democracy is hampered due to the fact that those who are willing to pay bribes get access to public goods in a state where bribery is rampant". The poor who are unable to pay these bribes in turn cannot access public services. Scholars argue that this in turn undermine the legitimacy of government. "Theft, embezzlement, and fraud by public officials reduce the availability of funds for development-related activities". Kempe submits "that each year corruption and mismanagement of public

[235] Hope, K. "*Kenya's corruption problem: causes and consequences*". Commonwealth and Comparative Politics. (2014) 52. 10.1080/14662043.2014.955981.
[236] Mogeni, D. (2009)
[237] Hope, K (2014). Pg. 500

funds rob Kenya of Ksh 270 billion (approximately a little more than US$3 billion)". There is need for current qualitative studies from reliable government agencies and global anti-corruption partners.

### 4.4 Corruption and value system in Kenya

Moleketi posits that "whether by design or not, corruption also undermines the value system, the norms, and the very cohesion of society".[238] Mueller argues that "one of the underlying precipitating factors in Kenya's post-election violence in 2008 was the 'deliberately weak institutions, mostly overridden by a highly personalized and centralized presidency that could but did not exercise the autonomy or checks and balances normally associated with democracies'".[239] Kempe submits that consequently, "democratic values such as trust and tolerance were replaced by ethnic violence (...) that violence, in turn, destroyed families, neighbourhoods, and infrastructure, and scared away investors and tourists".[240] This led to low economic growth rate from 7.1 per cent in 2007 to 1.7 percent in 2008.[241]

### 4.5 Impact of economic crime on investment in Kenya

Shipley et al argue that "Kenya is an attractive destination for investment to international businesses in Africa but integrity risks pose a big threat to investment."[242] Scholars argue that "economic crime has an impact on the business environment and international trade".[243]Corruption has an impact on "market openness".[244] Shipley et al reviewed a sizeable body of evidence and argue corruption is bad for business. High levels of background corruption "reduce a country's institutional quality, undermine competitiveness

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[238] Moleketi, F., G. "*Towards a Common Understanding of Corruption in Africa*". International Journal of African Renaissance Studies, (2007). 2(2), 239 –249.

[239] Mueller (2008).Pg. 186

[240] Hope, K (2014). Pg. 501

[241] Republic of Kenya. "*Quarterly Economic and Budgetary Review*": Third quarter 2008/2009. Nairobi: Office of the Deputy Prime Minister and Ministry of Finance, (2009).

[242] Shipley, T and Transparency International Kenya. "*Report*". Transparency International, (2018). Accessed February 20, 2021. doi:10.2307/resrep20602.

[243] Ali, M.S.B. and Mdhillat, M. "*Does Corruption Impede International Trade? New Evidence from the EU and the MENA Countries.* " Journal of Economic Cooperation & Development. 2015, Vol. 36 Issue 4, p107-119. 15p

[244] Hakkala et al. 2008

and entrepreneurship, distorting the allocation of credit and acting as a barrier to trade".[245] An impaired regulatory system leads to rent seeking behaviour from public officials and this, scholars argue, drives away business. This makes economic crime to act as a non-tariff barrier to trade, thereby impacting foreign investment. According ADB, the largest economy in the East African region is Kenya which accounts for 19% of regional output. [246] In terms of investments, EY argues that Kenya is the second most attractive destination in Africa after Morocco.[247] Kenya got FDI amounting to US$672m as per the UNCTAD World Investment Report for the year 2017.[248] The key sectors attracting FDI were information, communications and technology (ICT) sector.[249] "Despite of these measures, as well as the overall attractiveness of the country, the level of foreign investment is relatively low in proportion to the size of the Kenyan economy."[250]

The PwC "*Global Economic Crime and Fraud Survey*" 2018 found that 34% of people sampled in Kenya had experienced procurement fraud. This according to PwC is the highest rate of fraud in East Africa.[251] This has implications for foreign companies participating in public procurement in Kenya and therefore affects the country's outlook for doing business and investment. Foreign companies have also been involved in bribery and corruption in public procurement processes in Kenya.[252] PwC's 2018 '*Global Economic Crime and Fraud Survey*' for Kenya states that "48% of respondent businesses had experienced asset misappropriation. [253]These international economic crimes can therefore hinder the FDI attractiveness in Kenya and lead to capital flight. Investors may not be willing

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[245] Ali, M.S.B. and Mdhillat, M (2015).
[246] https://statisticstimes.com/economy/african-countries-by-gdp.php
[247] Shipley, T and Transparency International Kenya (2018) Pg.7
[248] UNCTAD World Investment Report, in 2017
[249] Ibid
[250]Santander.2018.Kenya: ForeignInvestment.https://en.portal.santandertrade.com/establishoverseas/kenya/investing
[251] PwC. "*Global Economic Crime and Fraud Survey*". 2018. https://www.pwc.com/ke/en/assets/pdf/gecs2018-report.pdf
[252] Shipley, T and Transparency International Kenya (2018) Pg.9
[253] PwC. "*Global Economic Crime and Fraud Survey*". 2018. https://www.pwc.com/ke/en/assets/pdf/gecs2018-report.pdf

to risk their capital by investing in a state where fraud is rampant and bribery makes it difficult to undertake economic activities.

**4.6 Illicit financial flows in Botswana and the impact on African economic development**

Taylor submits that Botswana was ranked among the world's poorest countries prior to the discovery of diamonds and other minerals.[254] After the discovery of diamonds Botswana's economy grew remarkably to an 'upper-middle- income country.[255] This economic growth is overshadowed by money laundering and illicit financial flows in which southern African countries are highly vulnerable to.[256] Kar et al posits that Botswana has been "one of the global conduits for illicit economic activities". Dikuelo states that "up to Botswana Pulas 200 billion are estimated to have been moved illegally over 10 years up to the year 2013".[257] Kar et al submit that "the catalyst factors for illicit financial flows in Botswana include; "weak enforcement institutions, corruption and existence of tax havens".[258] To put the problem into context, "It is estimated that Africa has lost over US$ 1 trillion in illicit financial flows since just over half a century ago".[259] The OECD estimated that the loss incurred by Africa through IFFs between 1970 and 2008 is almost equal to all ODA received by the continent within the same period.[260] Salomon et al attribute the problem of illicit financial flows in Africa to "global shadow financial systems that include disguised corporations, trade mispricing, tax havens and money laundering."[261]

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[254] Taylor, I., 2006, '*The limits of the "African Miracle": academic freedom in Botswana and the deportation of Kenneth Good'*, Journal of Contemporary Africa Studies, Vol. 24, No. 1, pp. 101–22

[255] Martin, P. "*A closer look at Botswana's development: the role of institutions*", Paterson Review, 2008, Vol. 9, pp. 35–54.

[256] Mogomotsi, P., K., Mogomotsi, G., E., J., and Hambira, Wame., L. "*Illicit Capital Flows and Money Laundering in Botswana: An Institutional Economic Analysis*." Africa Development / *Afrique Et Développement* 45, no. 1 (2020): 117-32. Accessed February 20, 2021. doi:10.2307/26936566.

[257] Dikuelo, P., Botswana Illicit Financial Flows top P200bn-Report, Mmegi online, 2016. available at www.mmegi.bw/index.php?aid=59322&dir=2016/april/15.

[258] Kar and Spanjers (2017).

[259] Kar, D., and Leblanc, B., "*Illicit Financial Flows from Developing Countries*": 2002–2011, Washington DC: Global Financial Integrity. 2013,

[260] OECD, 2012, "*Development Aid at a Glance – Statistics by Region*", Paris: OECD. In Mogomotsi, P., K., Mogomotsi, G., E., J., and Hambira, Wame., L. "*Illicit Capital Flows and Money Laundering in Botswana: An Institutional Economic Analysis*." Africa Development / *Afrique Et Développement* 45, no. 1 (2020): 117-32. Accessed February 20, 2021. doi:10.2307/26936566.

[261] Salomon and Spanjers (2017

Mogomotsi et al submit that in "Africa, as in other continents, the illicit flow of financial resources contributes to the reduced levels of resources available to finance and promote African countries' development goals".[262] Scholarship on IFFs posits that Africa's extractive sector is particularly prone to IFFs.[263] Scholars attribute this to "the high degree of discretionary power and political influence inherent in countries reliant on extractive industries export earnings".[264] Mogomotsi et al analysed the role institutions play in combating illegal economic activities in Botswana. Their study also evaluated the role played by government agencies in furthering economic crime activities in Botswana. Their study used a "narrative approach using literature and document analysis". Mogomotsi et al concluded that "Botswana is one of the countries that responded late to the criminalisation of illicit financial flows and other illegal economic activities, notwithstanding its flourishing economy and growing financial industry since the 1980s". Botswana passed the "Corruption and Economic Crimes Act" (CECA) in 1994 to deal with economic crimes. Botswana thereafter acceded to the UNCAC in 2011 some ten year after passing the CECA Act.[265] Mogomotsi et al submit that there is need to amend the CECA Act to bring it in conformity with UNCAC, ratified by Botswana. This, scholars argue, will make Botswana compliant with international norms.

Lack of team work in those charged with responsibilities to combat money laundering was cited as one of the main weaknesses in managing economic crime in Botswana. Mogomotsi et al submit that "illegal economic activities are an ever-moving target; hence there is need for regular legislative amendments in order for the laws to be relevant". Scholars argue that all of government approach including co-ordination and information

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262 Mogomotsi et al (2020) Pg.124

263 UNECA, '*Impact of illicit financial flows on domestic financial mobilisation: Optimizing Africa's mineral revenues*', Draft Report, 2015, Addis Ababa: UNECA.

264 HLP, 'Illicit financial flows: report of the high level panel on illicit financial flows from Africa'. 2016, Available at: https://www.uneca.org/sites/default/files/ Publication Files/iff_main_report_26feb_en.pdf.

265 UN General Assembly, "*United Nations Convention Against Corruption*", 31 October 2003, A/58/422, available at: https://www.refworld.org/docid/4374b9524.html [accessed 21 February 2021]

sharing is key in battling crime. Their study was conducted in Botswana and largely focused on institutions in Botswana. Mogomotsi et al submit that "illicit financial flows have a negative impact on the continent's aspirations for structural transformation because they discourage value creation". This leads to economic and social problems including poor governance.[266] Reviewed literature suggests that economic crime thrives in institutions which lack capacity. Mogomotsi et al submit that "the success of combating the illegal economic activities is arguably dependent on a clearer understanding of regulatory formal financial institutions as well as the informal institutions shaping and/or promoting illicit financial flows". Gumede notes that the "study of IFFs suffers from both methodological and conceptual complexities and confusions". It has also been very difficult for scholars to undertake field work in Botswana especially hence scholars rely mostly on secondary sources of data and observations.

Gumede et al explored the socio-economic implications of IFFs for communities in the mining or former mining areas within the southern Africa countries of Botswana, Namibia, South Africa and Zimbabwe.[267] Gumede's study was conducted recently in 2019 just like Mogomotsi's study and Gumede also submits that "estimates show high levels of IFFs through trade misinvoicing for the mining sector in all the four countries". Kar and Cartwright-Smith also submit that if "funds 'lost' through IFFs were to be reinvested into the African continent, the quest and scramble for Foreign Direct Investment (FDI) on the continent would not be needed".[268] Gumede submits that "Human development remains relatively low in many African countries, including countries in the Southern Africa sub-region because monies meant for the masses are 'lost' instead of being put into socio-

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[266] Mogomotsi et al (2020) Pg.128

[267] Gumede, V, and Fadiran, D. "*Illicit Financial Flows in Southern Africa: Exploring Implications for Socio-economic Development*." Africa Development / Afrique ET Développement 44, no. 2 (2019): 27-52. Accessed February 21, 2021. Doi: 10.2307/26873428.

[268] Kar, D., and Cartwright-Smith, D. "*Illicit Financial Flows from Africa: Hidden Resource for Development*" Global Financial Integrity (GFI), https://gfintegrity.org/report/briefing-paper-illicit-flows-from-africa/ Accessed 21 February 2021. In Gumede, V, and Fadiran, D (2019).

economic development projects".[269] The Global Financial Integrity (2015) also notes that "between 2004 and 2013, a whooping sum of USD 20 billion might have been transferred out of Botswana in form of IFFs"; Namibia lost SAR17 million in 2012 which had increased to around SAR30 million in 2015; In South Africa, the Davis Tax Committee and the South African Revenue Service estimated that South Africa lost SAR25 billion between 2000 and 2014; Regarding Zimbabwe, Global Financial Integrity (2015) estimates that Zimbabwe lost about US$ 12 billion over the past three decades.[270] Gumede posits that "the mining sector constituted the main avenue for IFFs in Zimbabwe with USD 2.7 billion lost in the sector whereas in wildlife, fisheries and timber USD 15 million, USD 28 million and USD 17.5 million were lost respectively".[271] Scholars argue that IFFs phenomenon in Zimbabwe is due to politicization of the bureaucratic process and endemic corruption. [272]

Gumede et al categorize IFF into three main categories; "IFFs that emanate from corruption in the form of embezzlement; IFFs that emanate from laundering of money from different forms of illegal activities; and IFFs that emanate from tax evasion and attempts by firms to move money between borders".[273] Scholars argue that the third category accounts for most IFFs and it is the one that impacts development most. IFFs seek to avoid direct observation hence it is also difficult to estimate but scholars have developed estimation techniques to avoid errors. Gumede et al submit "that something needs to be done in the mining areas and for communities in the (former) mining areas". In addition, "although the Namibian and South African governments have some relevant capacities, both governments do not have specialised policy and institutional approaches to quantifying and properly

[269] Gumede, V. '*Poverty and Inequality in Africa: An Agenda for Post-2015 Development*', (2018). in S. Oloruntoba and V. Gumede, eds, "*State and Development in Post-Independent Africa*", Austin, TX: Pan-African University Press

[270] \').

[271] Bhebhe, N. "*Zimbabwe loses millions in illicit financial flows*", The Africa Report, 2015. Available at www.theafricareport.com/Southern-Africazimbabwe-loses-millionsin-illicit-financial-flows.html. In In Gumede, V, and Fadiran, D (2019).

[272] Ncube and OkekeUzodike (2015), In In Gumede, V, and Fadiran, D (2019).

[273] Gumede, V, and Fadiran, D (2019). Pg. 31.

assessing the extent of IFFs in the mining sector".[274] Although laws and policies exist in the southern African countries, Gumede et al posit that there is no specific attention paid to IFFs in the mining sector.

There are also challenges still, regarding the estimation of IFFs especially in the extractive sector. Gumede et al suggest that "attempts should be made to accurately quantify transportation costs, insurance freight and FOB rates for African countries to circumvent these challenges of tracking mis-invoicing and estimating IFFs". This study gathered empirical evidence on IFFs in Kenya and the findings have been presented in section 3.6 of chapter three.

### 4.7 Findings on Prevalence of economic crime and the Impact on development strategies

This section discusses analysis of data concerning impacts of economic crime on economic development. The study uses a series of scatter plots below to show association between international economic crime Prevalence variable and the impact of development strategies ranked on a Likert scale as shown on the table below;

[274] Gumede, V, and Fadiran, D (2019). Pg. 45.

**Table 4.1: Impacts of economic crime on economic development per sector in Kenya**

| | |
|---|---|
| Public Procurements | Affordable housing |
| Public Health Services | Access to health |
| CID and Police Service | Improved governance and security |
| Judiciary and Court Cases | Enhanced access to justice |
| Land Sector and Registry | Enhanced access to justice and rights to land |
| Revenue Collection and Taxes | Higher revenue for development activities |
| Agriculture Sector/Subsidies | Food security hunger reduction |
| Education Funds FPE, Etc. | Access to education and higher enrolment |
| Poverty Eradication | Better living standards |
| Public Infrastructure Roads and Public Transport Sector | Better communication |
| International Border Control Ports and Harbours | Secure borders , reduction of contraband goods , |
| Wildlife and Environment | Crime reduction and law |

**Source; Research study data**

### 4.7.1 Impact of development strategies versus prevalence of economic crime.

In this section we plot indices of crime prevalence against indices of economic development. The indices are obtained from mean and median Likert responses. To understand the effect of economic crime on economic strategies we use the mean of the ordered responses received from the interviewees. Where international economic crime is assumed to be the independent variable. According to the research model shown in the figure 4.1 below, Economic Crimes (x-axis) is the independent variable while Impact of Economic Development (y-axis) is the dependent variable. Both variables are the result of MEANS of ordered responses received from the interviewees. The result shows the more the prevalence of economic crime, the less the impact of development strategies. Apart from the Health Sector, all the other sectors showed a negative association.

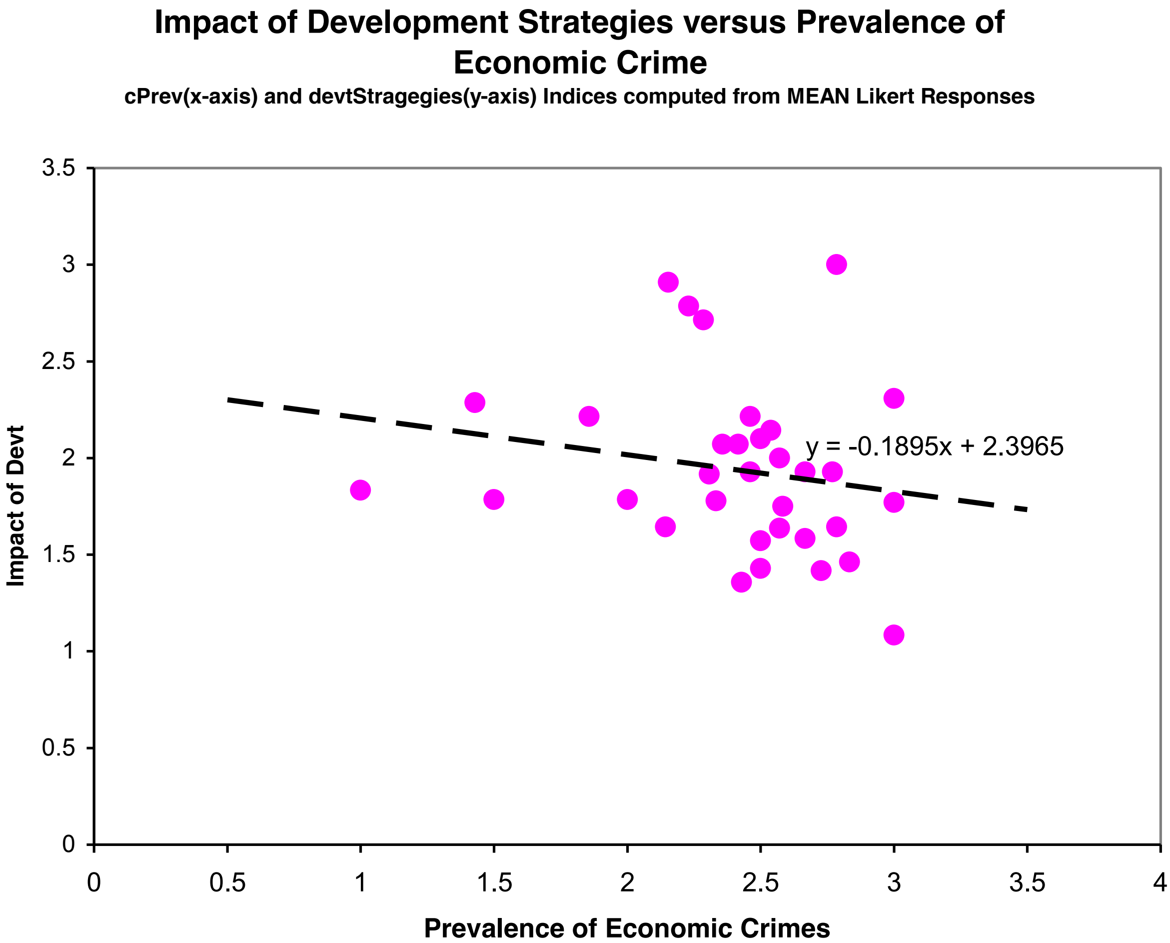


**Figure 4.1: Economic crime prevalence using MEAN of Responses**

**Source; Research study data analysis**

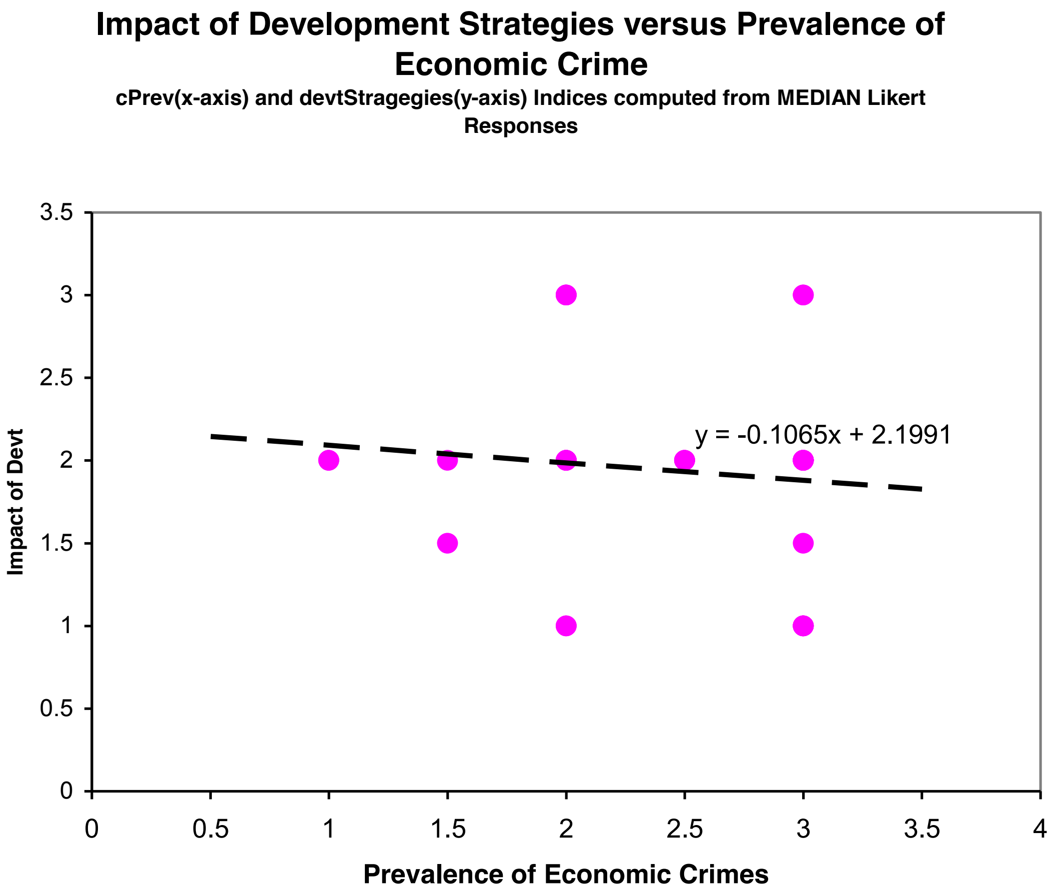


**Figure 4.2: Economic crime prevalence using MEDIAN of Responses**

## 4.8 Economic crime prevalence on specific economic sectors. Source; Research study data analysis

Next we look at impact of economic crime on different sectors of the economy. The study sought to ascertain how economic crime impacts economic development in sectors such as agriculture, jobs, health and transport. The association between variables in the specific sectors is as shown in the figures below.

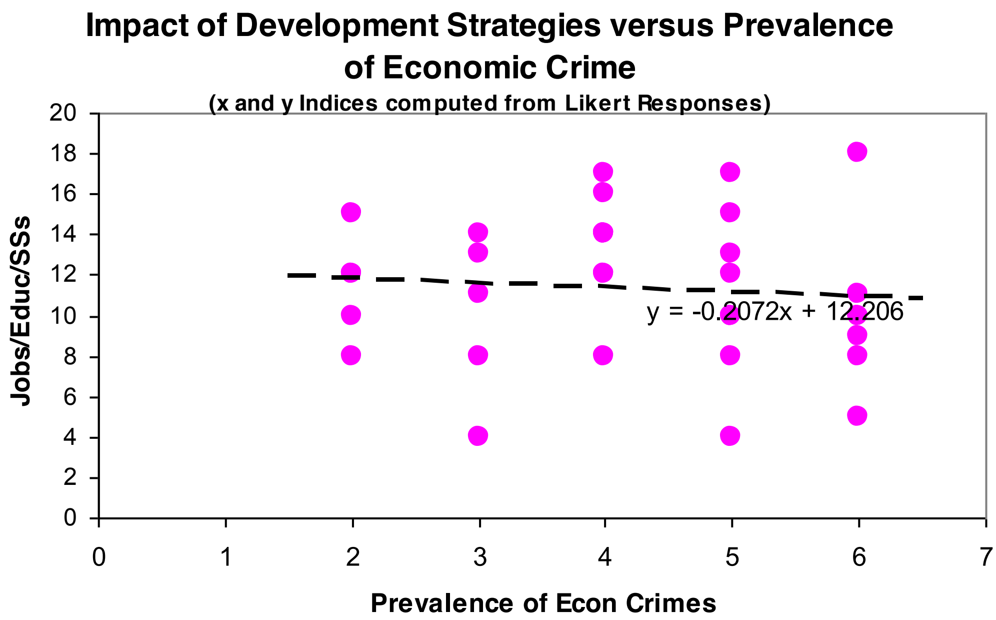


**Figure 4.3: Job sector impact of development strategies versus Prevalence of Economic crime,**

**Source; Research study data**

The negative gradient of the trendline fitted to the scatter plot above shows an inverse relationship between sectoral impact in jobs and education and the prevalence levels of economic crimes.

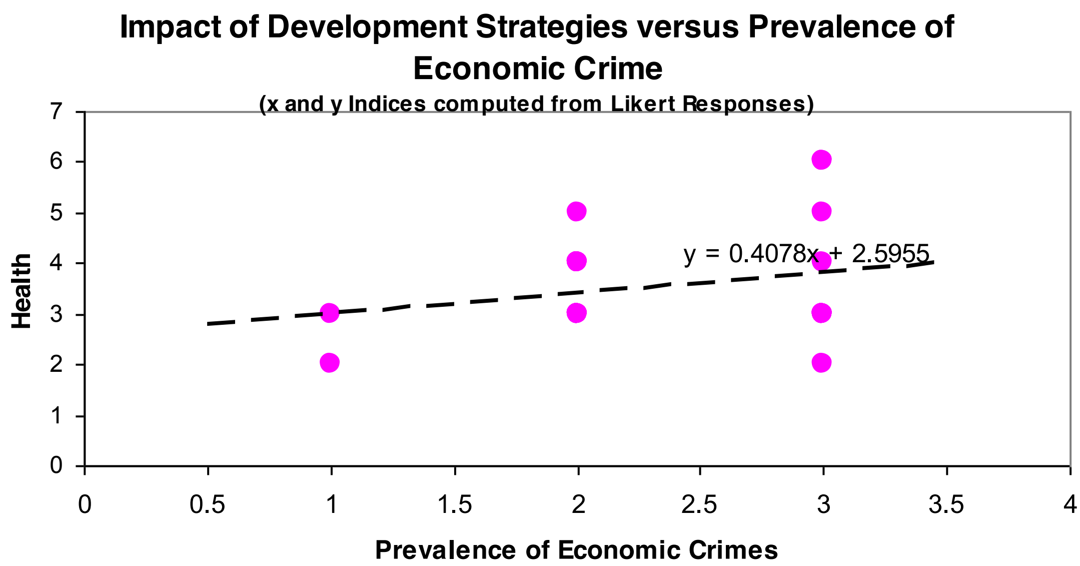


**Figure 4.4: Impact of development strategies in health versus Prevalence of Economic crime,**

**Source; Research study data analysis**

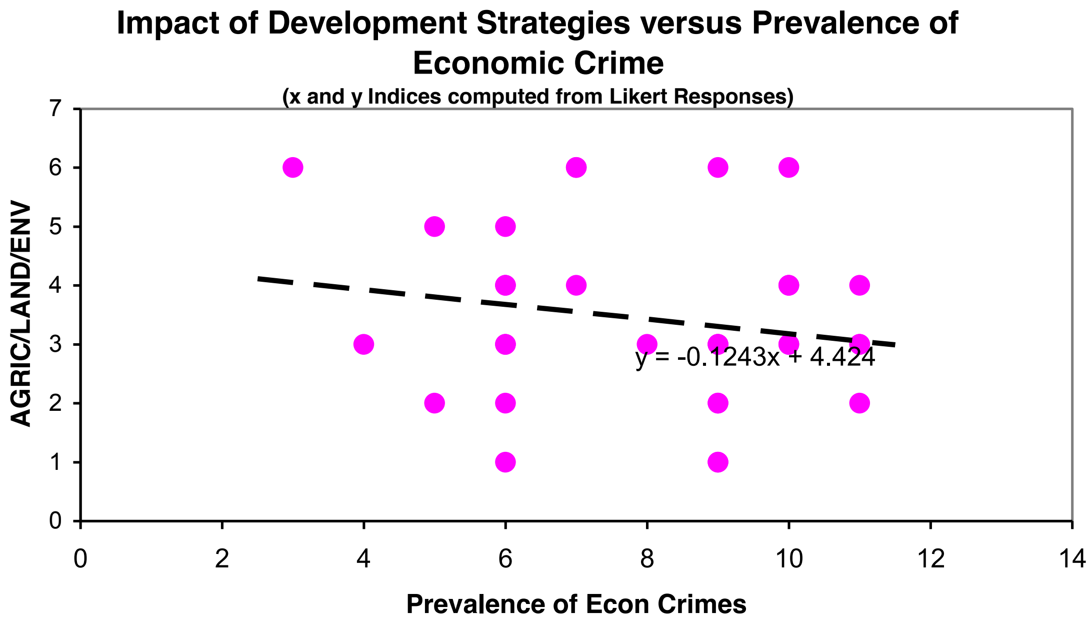


**Figure 4.5: Impact of development strategies in agriculture versus Prevalence of Economic crime**

**Source; Research study data**

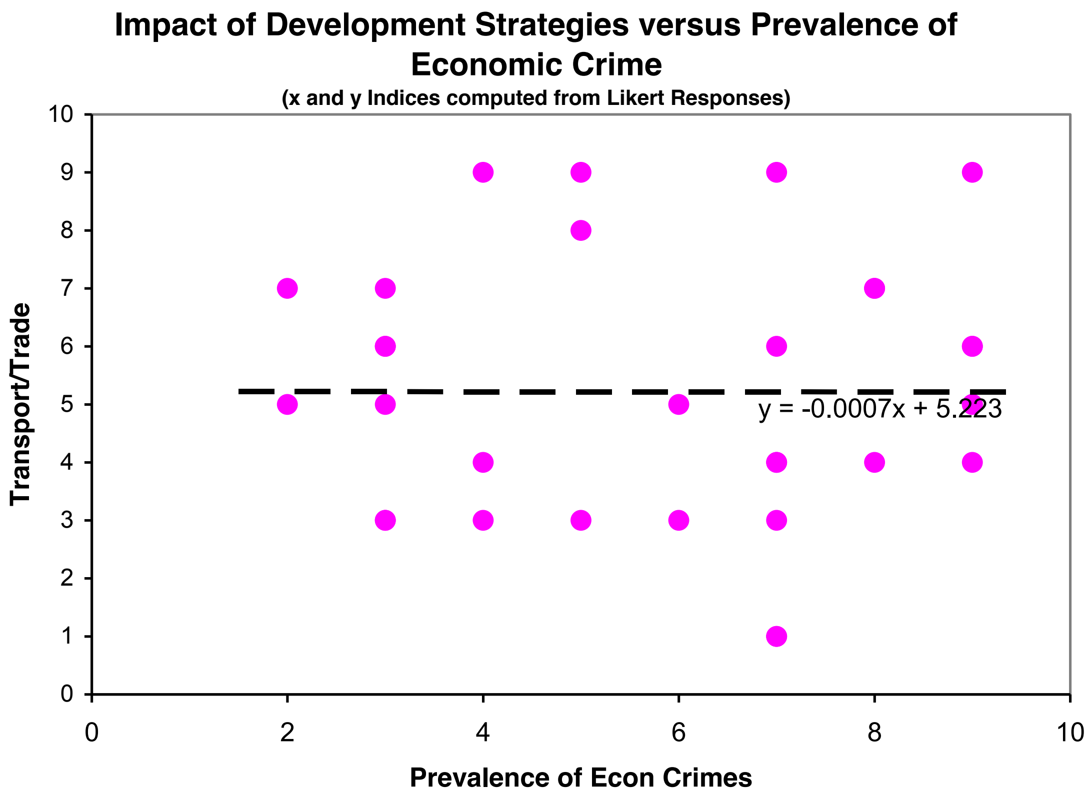


**Figure 4.6: Impact of development strategies in transport and trade versus Prevalence of Economic crime**

**Source; Research study data**

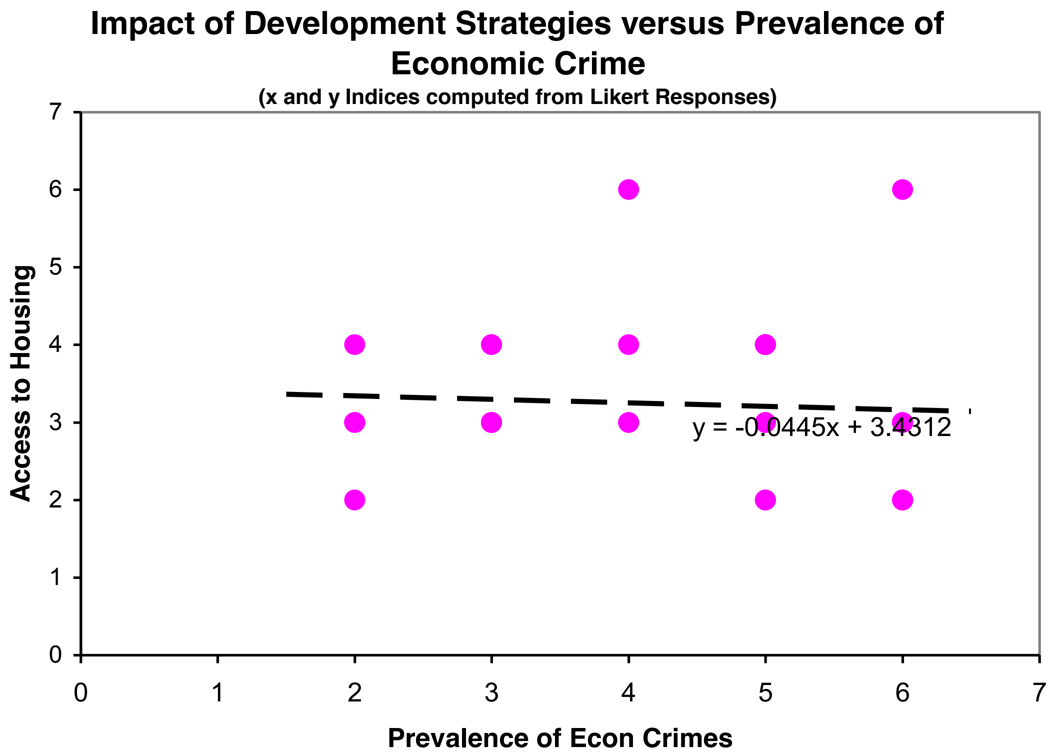


**Figure 4.7: Impact of development strategies in housing versus Prevalence of Economic crime. Source; Research study data**

**Association/Significance – Spearman rank-order coefficient below:**

Next, we did the Spearman correlation analysis, the coefficient of which is designed to measure the strength and direction of the association between two variables measured on an ordinal or ranked scale, like the prevalence and impact parameters collected in this research. This is denoted with the Greek letter rho (ρ). Like all correlation coefficients, Spearman's rho measures the strength of association between two given variables. The coefficient ρ takes on the values of −1 through +1. The Spearman's analysis is subsequently done to determine if the foregoing categorical variables are significantly related, that is Crime Prevalence (cPrev) and impact of development strategies (devtStrategies).

$H_0$: Will connote that there is no relationship between the categorical variables, cPrev (Crime Prevalence) and devtStrategies (impact of development strategies). That is to say that knowing the value of one variable does not help you predict the value of another variable.

$H_1$: On the other hand shows there is a relationship between the two categorical variables of cPrev (Crime Prevalence) and devtStrategies (impact of development strategies). That is to say that knowing the value of crime prevalence can help us predict the value of impact of development.

A positive correlation coefficient indicates a positive relationship between the two variables (as economic crime prevalence increase, sectoral impact of development strategies also increases) while a negative correlation coefficient expresses a negative relationship (as economic crime prevalence increase, sectoral impact of development strategies also decreases).

A correlation coefficient of zero would indicate that no relationship exists between the two variables. This was run on the dataset as follows:

**Table 4.2 Spearman mean crime and strategy and mean median prevalence**

| | No. of obs. | Spearman's rho | Test of Ho: prob \|t\| = |
|---|---|---|---|
| Mean crime vs. mean strategy prevalence | 33 | -03058 | 0.0835 |
| Median crime vs. median strategy | 33 | -0.1230 | 0.4953 |

**Source: Author data (2021)**

Spearman's rho (ρ) with mean is -0.3058 and rho (ρ) is -0.1230 with median. As Spearman's coefficient is negative in both instances we can conclude that high levels of economic crimes in the country accounts for lower impact of economic strategies. A Spearman's correlation was run to assess the relationship between economic crime prevalence and impact of development strategies using the sample of 33 participants. There was a fair negative correlation between economic crimes prevalence and impact of development strategies, worked out using both the mean and median of the responses. This was statistically significant, $r_s = -0.3058$, $p = .0835$ if we use generous significance level of $\alpha = 0.1$ if we use the mean. We therefore reject the null hypothesis and conclude that higher levels of economic crimes in an economy will most likely be associated with lower performances and impacts of economic development strategies.

### 4.9 Conclusions

Low-income countries need assistance through global efforts in order to fight and address poverty issues. International economic crime undermines efficiency and effectiveness of development. Empirical analysis of economic crime is usually difficult hence its severity has not been very well measured. This notwithstanding, many scholars agree that generally, economic crimes may lead to problems such as erosion in efficiency of public bureaucracies, erosion in public confidence, reduction in tax revenue and increase in inequality. "Typically it is the poor who bear the greatest cost".

IFFs out of poor countries are significantly higher than ODA inflows. This leads to distortion of economic development through weakening of the state's financial system. IFFs impact economic potential of countries and divert resources that are needed to finance public services such as health, education, justice and security. This perpetuates and worsens the problem of gender inequality. The study has demonstrated through evidence in literature that Africa gets a lot of money through ODA and the region is also endowed with huge deposits of natural resources. However, the region has not been able to harness development efforts due to the problem of international economic crime. Botswana is said to have lost Pulas 200 billion to IFFs over 10 years up to the year 2013. The Global Financial Integrity (2015) also notes that "between 2004 and 2013, a whooping sum of USD 20 billion might have been transferred out of Botswana in form of IFFs. IFFs that emanate from tax evasion accounts for most IFFs and it is the one that impacts development most. Governments do not have specialised policy and institutional approaches to quantifying and properly assessing the extent of IFFs in the mining sector.  Higher levels of economic crimes in an economy will most likely be associated with lower impacts of economic development strategies.

# CHAPTER FIVE

# RESEARCH SUMMARY, CONCLUSION AND RECOMMENDATIONS

## 5.1 Study summary and conclusion

From the discussion in this study, economic development has a wider meaning than economic growth. Economic growth involves quantitative changes which is increase of volume of goods and services produced. Economic development on the other hand is wider and entails qualitative changes that transform people's lives giving them better living standards. From the human perspective therefore, development should also focus on improving quality of life for people in a manner that enhances access to basic needs like food, shelter and education. Development is not just improvement of the structures and efficiency in productivity. Development is a human rights issue recognized in the charter of the United Nations as well as in other international norms and conventions. Despite these provisions at international law, there are people living in abject poverty and stark social inequalities. "Unequal terms of trade" also exist among different states and some states have better access to markets than others.

Globally there have been efforts to harness economic development through development plans like the MDGs which ran from the year 2000 to 2015 before being replaced by the SGDs. Regionally, Africa through the African Union has formulated the Africa Agenda 2063 plan which aims to transform Africa into an economic powerhouse. Kenya too has had economic development plans since independence. Currently Kenya is implementing the Kenya Vision 2030 long term plan in which the Big Four Agenda is anchored. One of the challenges to economic development is international economic crime. This is acknowledged in the SDGs which has a target on "eradication of international economic crime". SDGs are cognizant of the fact that economic crime seriously undermines development. For this reason, there are international conventions globally and regionally to combat international economic crime.

Kenya and Botswana have both ratified the UNCAC and enacted laws to domesticate the convention. Review of literature shows that corruption is a big challenge to economic development in Kenya where a lot of funds meant for development are lost mainly through public procurement. Botswana too loses a lot of funds through illicit financial flows. The overall objective of this study was to examine the role of economic crime on economic development; A case study of Kenya and Botswana. Specific Objectives were to; evaluate the economic development strategies in Kenya and in Botswana; to examine the types and trends of international economic crimes in Kenya and in Botswana; and finally to evaluate the impact of international economic crimes on economic development in Kenya and Botswana. By employing the "rational choice theory" of crime causation the study sought to review literature and gather evidence to ascertain convergence with this established theory. The project examined the relationship between economic development and effective co-ordination of actors at international, regional and national level. The study argues that research must continue ceaselessly in order to craft effective responses to fight it hence the justification for the study.

## 5.2 Methodology, sampling strategies and data

The study used a mixed approach where both qualitative and quantitative data was collected to analyze the research questions. This project employed a case study design to collect detailed and intensive analysis of economic development strategies. Economic crimes from Kenya were analyzed using both qualitative and quantitative data while for Botswana only qualitative data was used. The multivariate analysis employed Spearman correlation analysis was used the coefficient of which was to measure the strength and direction of the association between international economic crime and economic development. Statistical analysis was done using software such as the "WORDCLOUD" and "text mining" facilities to bring out graphically the actual challenges facing the management of economic development in Kenya. The research findings are presented through charts, tables and figures to demonstrate relationships and figures emanated from quantitative data. For qualitative data a narrative description which connects findings to theory and research questions was employed. Covid 19 regulations and movement restrictions made it difficult for the researchers to obtain more responses from the general population. The study circumvented the challenge by obtaining responses from key informants through purposive sampling. Responses were also obtained from the general population through random sampling.

### 5.3 Convergence of theory and evidence

From a theoretical perspective, the study analysed data in relation to the theoretical framework. The evidence reviewed agrees with the theory in that criminals make a choice to engage in international economic crime if the opportunities of being caught are slim. Despite the fact that there are government agencies involved in international crime prevention, data shows prevalence of international economic crime. Public procurement is one of the areas through which a lot of funds are embezzled by senior public officials who chose to commit economic crime since the opportunities of being caught are slim and benefit out of crime high. They misuse the public resources to shield themselves from being investigated. The evidence also shows that for economic development to take place, there must be coordination from the global level, to the regional level and finally to the state level. In the state, the different government agencies must embrace an all of society approach rather than working in silos. At the global level, IGOs need to assist developing states combat IFFs and other forms of international economic crime since these are global problems. There is very little coordination between government agencies involved in economic development and the fight against international economic crime.

### 5.4 Economic development strategies in Kenya and in Botswana

The study established that the impact of economic development strategies on development in Kenya generally has been fair. The desired outcome would be to have a strong impact. This has not been the case due to various challenges mainly due to economic crime. Economic crime remains a big challenge and the single most critical factor negatively affecting economic development. Kenya and Botswana are state parties to the UN and the SGDs at the global level. The two states are also parties to international treaties on eradication of international economic crimes such as the UNCAC. Regionally, there are also very good regional development strategies for example, the Africa Agenda 2063 which has a long term blue print being implemented in ten year phases. Regional economic communities (RECs) for instance the EAC that comprises Kenya, Uganda, Tanzania, Burundi and Rwanda and South Sudan also serve as development blocks for the Africa Agenda 2063. Kenya and Botswana have had development strategies since independence in early 1960s. The two countries are trying to implement the development policies in place but international economic crime stands in the way as a big challenge to realisation of developmental goals.

### 5.5 Types and trends of international economic crimes in Kenya and in Botswana

International economic crime is a global phenomenon affecting the entire globe. Billions of dollars are lost from Africa through illicit financial flows and then laundered through the international financial system particularly through European economies. For the United Kingdom, the top four types of fraud were Customer Fraud, Cybercrime, Bribery and Corruption then lastly Asset Misappropriation. Bribery and corruption remained the top type of fraud in China. Others in the top five types of fraud in China include Customer fraud; Accounting financial statement fraud; Anti Competition law infringement fraud; and Asset Misappropriation. Procurement fraud in Kenya is said to have doubled the global average and Procurement fraud was also noted to be the most disruptive. It is the senior management that committed most of the procurement fraud in Kenya. Top four sectors with the highest incidence of economic crimes in Kenya were Public procurement of public goods and services in first place followed by Public infrastructure and construction. In the third place was CID and Police Service then finally the notorious Public transport sector then Land sector and registry services. For Botswana data shows the rampant illicit financial flows particularly in the extractive sector. IFFs also take place in Kenya through embezzlement by public officials mostly.

### 5.6 Impact of international economic crimes on economic development in Kenya and in Botswana.

Low-income countries need assistance through multilateralism in order to fight and address poverty issues. Corruption makes the state lose respect internationally and undermines public confidence domestically. This undermines efficacy of government policies which could lead to breakdown of the administrative system. Empirical analysis of corruption is usually difficult hence its severity has not been very well measured. "Typically it is the poor who bear the greatest cost". IFFs out of developing countries are also higher than aid inflows. IFFs weaken the financial system and economic potential of countries and divert resources that are needed to finance public services such as health, education, justice and security. This perpetuates and worsens the problem of gender inequality. IFFs that emanate from tax evasion accounts for most IFFs and it is the one that impacts development most. Governments do not have specialised policy and institutional approaches to quantifying and properly assessing the extent of IFFs in the mining sector. Higher levels of economic crimes in an economy will most likely be associated with lower performances and impacts of economic development strategies.

### 5.7 Recommendations

This study recommends that all development efforts must be coordinated. There should be a mechanism for Kenya to ensure all stake holders in economic development come together through the all of society approach. This whole of society approach is necessary for purposes of planning how to execute global and national economic development goals. Coordination must involve the international governmental organizations including different global institutions such as UN agencies. There should be more rapport between government and United Nations development agencies resident in Kenya. There should be inclusivity, public participation and civic awareness for the masses who are meant to benefit from development strategies. Government agencies in the economic development sectors need to work together while involving the public in decision making. This coordination is therefore very important in development strategies.

Secondly, economic criminal activities keep changing hence the need for regular policy and legislative reviews in order for the laws to be relevant and in line with international conventions and best global standards. The procurement laws in Kenya for instance place heavy responsibilities for government procurement on "accounting officers". This study recommends that the law and policies on procurement be amended to remove responsibilities of public procurement from politically appointed "accounting officers" especially in public procurement that involve huge sums of money. Procurement rules need to be fortified against economic crime by making them more complex when procuring for mega public projects involving colossal amounts of public funds. The study recommends greater involvement of civil society ,general public ,faith based institutions and scholars in massive public procurement where big national projects are involved rather than leaving the politically appointed public servants to formulate tender committees. The study further recommends adoption of "increased transparency through e-procurement; tailored specific standards for procurement officials to ensure integrity; previous employment and paid positions outside the public service for all accounting and procurement officers to be made public to prevent illicit enrichment and possible conflict of interests; transparency through adequate and timely information about upcoming contracts to the public as well as contract notices and information about the status of ongoing procurement processes through centralised online systems; and finally regular stakeholder participation-including public dialogue.

Thirdly, with regard to sanctions for economic crime this study recommends as follows ; harsher punishments to deter economic crime; disclosure of assets, amendment of laws to ensure implicated and suspected public officers charged in court, or being investigated for economic crime do not access public goods until their criminal cases are concluded by the highest court. There should also be no pending criminal investigations against persons seeking key appointive or elective positions in the public service. The losses of public funds to be averted far outweighs the inconvenience of a single individual. This will ensure zero tolerance to corruption and only persons who are untainted access public office. Limitation of individual rights in the manner suggested in this paragraph is justified and in public interest given the big threat caused by economic crime.

Fourthly, the government together with all development agencies must aim to build capacity for the Financial Reporting Centre to enable it detect all suspicious transactions and coordinate all banks and institutions required to report on suspicious financial transactions. International economic crime involves loss of public funds which are laundered through the financial systems including banks, cooperative societies, capital stock markets, insurance companies and real estate. To detect these voluminous transactions there is need for a robust financial reporting centre working in a transparent and collaborative manner with civil society. There should also be enhanced capacity building for EACC, ODPP, DCI and the Asset Recovery Agency to ensure effective identification of proceeds of crime for confiscation and forfeiture to the state.

Fifthly, in relation to IFFs, the Kenyan and Botswana governments should increase diplomatic efforts through the African Union and the United Nations Security Council. This can help to enforce international compliance of UNCAC. A common regional foreign policy in international relations aimed at global financial transparency will help end illicit financial flows out of Africa. The African Union should include illicit financial flows in the regional security architecture and diplomatically seek international support and cooperation in the fight against illicit financial flows out of Africa. This study also recommends strengthening of multilateral and bilateral efforts to provide clear mechanisms for intervention where state mechanisms are inadequate to investigate perpetrators of international economic crime. Corruption and other international economic crimes should be given the same status internationally as other crimes against humanity. This is because economic crime affects human rights for humanity, collectively.

The seventh recommendation is that there should periodic currency demonetization to weed out stolen money in the financial system. This will strip stolen currency of its legal tender thus rendering it value-less. This is important because it prevents stolen cash from being laundered and placed in the state's financial system. Demonetization will also enable the people to bank old currency in the financial system thereby mobilizing savings for economic growth.

Eight, information sharing is critical in formation of strong anti-corruption networks. Criminal extradition, asset recovery, investigation, detection and prosecution of international economic crimes can only be done through mutual legal and administrative assistance. Kenya and Botswana must gear up diplomatic efforts to establish partnerships through anti-money laundering conventions and treaties. States should also sponsor conferences, colloquiums and exchanges where police chiefs, prosecutors, scholars and experts from different countries meet to exchange experiences, ideas and build rapport and global anti-corruption networks. The government should support international anti – corruption conferences, trainings and publications to build capacity and awareness.

Ninth, this study also recommends that Kenya and Botswana invest in technology in order to build capacity to detect economic crime in the digital age. International economic crime can be committed through hacking and other online frauds. Artificial intelligence and digital analytical tools are therefore important innovations to detect and investigate international economic crime committed online. Kenya and Botswana can make use of the many information technology educated professionals and come up with appropriate technology to outsmart criminals.

### 5.8 Suggestions for further research

Policy makers require more data on the actual number of economic crime cases filed and pending before the law courts in both Kenya and Botswana every year. There is also need for information as to the monetary value of the stolen assets which are the subject matter of the filed cases in court. Policy makers also need information on the time taken to conclude the cases, and the total assets recovered. Information is also needed regarding the number of complaints forwarded for investigations to the police and EACC and the investigations completed and forwarded to the Director of Public Prosecutions for review and decision to charge suspects in court. Policy makers and scholars also need information on the economic crime complaints lodged with the Ethics and Anti-Corruption Commission.

Such data can only be found in the registries of the law courts within the judiciary, the Ethics and Anti-Corruption Commission Offices and the Directorate of Criminal Investigations. This data can be useful to enable policy makers plan and know whether more human resources in terms of investigators, prosecutors and judicial officers are needed to curb economic crime. This will ensure that staffing of anti-corruption bodies is up to the optimal level and informed by research. Data can also help policy makers identify weaknesses in the fight against corruption and take measures to stop crime. There is also need for scientific research to ascertain the role of stiffer penalties in deterring international economic crime in order to effectively buttress the argument that stiffer penalties can lower economic crime prevalence. This will also help improve efficiency in crime management by the state. Finally, it is important to continuously gather data for measuring impacts of economic crime on economic development in order to ascertain severity of economic crime. The study therefore suggests that as economic crimes evolve, research and scholarship on the relationship between economic crime and development must also be continuous to enable policy makers develop relevant policies.

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# APPENDICES

## Appendix 1: Introduction Letter

Dear Respondent

I am a Masters student pursuing a Master of Arts degree in International Studies at the University of Nairobi (Institute of Diplomacy and International Studies) Kenya. I am collecting data for research thesis titled "Role of International Crime on Economic development; A case study of Kenya and Botswana". This is in partial fulfilment of an academic degree award in the said course. In this regard, I will be visiting your offices /division /constituency and home to administer questionnaires/Interviews/Conduct Focus Group Discussions (FGDs). Kindly assist by responding to the questions to enable me fulfil course requirements and complete my studies. The information gathered from the survey will be treated confidentially and used solely for the purposes stated. Thanking you in advance.

Yours faithfully,

Mark Barasa Nabuyumbu

R50/39316/2021

## Appendix 2: Questionnaires

**<u>SECTION A (Personal information)</u>**

**<u>Please tick appropriately. Kindly tick only ONCE for each question</u>**

1. **Gender**; female ....................... male........................
2. **What age bracket do you belong to**?

   20-30 ....... 30-40......... 40-50............. 50-60...................
3. **Highest Education qualification**?

   None................ Primary.......... Secondary...........Certificate.........Diploma..............

   Degree........... Masters............... PhD.............
4. **Name of Organization** .........................................................................

   **Country where organization is located** …………………

   **<u>This section is for key informants only</u>**
5. **For how long have you worked in your present organization**?

   0-10............. 11-20 ......... 21-30............. Over 30 years............
6. **Duties ; (Tick as appropriate)**

   Accountant.......Economist…Auditor…….CivicEducation……Investigator........

   Monitoring and Evaluation………Judge/magistrate…Prosecution Counsel…….

   Programme Officer…….Public Administrator……Private Attorney ….

**Other** (please mention) ………………………………………………………..

…………………………………………………**Date** ………………………..............

## SECTION B

**Role of Economic Crime on Economic Development in Kenya and In Botswana.**

**For Key Informants/experts ONLY (Crime Governance and Economic Development Sector). Please be as detailed as possible in your answers. Answer the questions which relate to the sector you specialize in ONLY.**

i. Which global development strategies are being implemented at your country?

ii. What national development strategies are being implemented in your country?

iii. Who are the major stake holders in economic development planning in your country?

iv. Is there coordination among stakeholders and all economic sectors in implementing development policies in your country? (briefly state level of coordination in policy implementation).

v. What are the challenges faced in managing economic development in your country?

vi. What are the most common types of economic crimes prevalent in your country and which economic sectors are most affected? (Kindly give any statistical data if available).

vii. What is the percentage of development funds lost through economic crime in your country every year? (Kindly give any statistical data if available).

viii. How many suspects are charged for economic crime in your country every year? (Kindly give any statistical data if available).

ix. What strategies would you suggest for better economic development in your country?

**Others**; **Please Specify**…………………………………………...

………………………………………………**Date** ……………………….............

## SECTION C

**Impact of development strategies**

Please rate the impact of Economic Development in the following areas?

| | | Strong impact | Fair impact | No Impact | I do not know |
|---|---|---|---|---|---|
| Affordable Housing | | | | | |
| Access to Health | | | | | |
| Poverty reduction | | | | | |
| Improvement of agriculture | | | | | |
| Job Creation for youth | | | | | |
| Access to education ; | Early Childhood Education | | | | |
| | Primary School Education | | | | |
| | Secondary School Education | | | | |
| | Tertiary Level Education and University Education | | | | |
| Transport | | | | | |
| Reduction of hunger and food security | | | | | |
| Social Security after retirement | | | | | |
| Crime reduction and law enforcement | | | | | |
| Trade development | | | | | |

**Others; Please Specify …………………………………………………………..**

**…………………………………………………………………………………**

**…………………………………………………………………………………..**

**Date ………………………………………..**

**SECTION D**

**Prevalence of Economic Crimes**

**Please rank the prevalence of economic crimes in the following Public Sectors using the matrix given (Rank only Once for each Crime by ticking against the scale)**

**How would you rank prevalence of economic crime in the following sectors;-**

| S/NO | SECTOR | ECONOMIC CRIMES NOT PREVALENT | ECONOMIC CRIMES PREVALENT | ECONOMIC CRIMES HIGHLY PREVALENT | I HAVE NO IDEA |
|---|---|---|---|---|---|
| 1 | Public Procurement of Public goods and services | | | | |
| 2 | Public Health Services | | | | |
| 3 | Crime investigation, police services | | | | |
| 4 | Judiciary (Court Cases) | | | | |
| 5 | Land Sector | | | | |
| 6 | Revenue Collection (Government taxes , fees ) | | | | |
| 7 | Agriculture (exploitation through selling counterfeit goods and un-customed goods-tax evasion) theft of subsidized fertilizer | | | | |
| 8 | Education (funds meant for education) | | | | |
| 9 | Poverty eradication (funds meant for elderly and vulnerable groups) | | | | |
| 10 | Public infrastructure (Construction of major public buildings, roads, stadiums, hospitals etc.) | | | | |
| 11 | International Border Control | | | | |
| 12 | Ports and Harbours | | | | |
| 13 | Environment and Wildlife | | | | |
| 14 | Public Transport Sector | | | | |

**Other Sectors where you feel economic crime is prevalent ……………………………………………………………………………… ………………………………………………… Date……………………..**

## SECTION E (Expert Interviewees)

**Prevalence of Illicit Financial Flows (IFFs)**

**Please rank the prevalence of IFFS in YOUR region using the matrix given**

**Please tick appropriately. Kindly tick only ONCE for each question**

1. **Region;** Kenya........................ Botswana.........................

2. **Rank the prevalence of illicit financial flows against the sectors shown using the scale given**

| S/NO | | Low | medium | high | Very high | No idea |
|---|---|---|---|---|---|---|
| 1 | Agricultural exports | | | | | |
| 2 | Embezzlement by Public officers | | | | | |
| 3 | Transnational crimes and money laundering | | | | | |

**Others Sectors where IFFs occur …………………………………………………………...**

**……………………………………………………………………………………………..**

**Date……………………..**

3. **Are there mechanisms and policies in place to strengthen capacities, institutions, policies and laws regarding IFFs in your country? (Please tick where appropriate)**

   **Yes …. No ….. No idea ……………………**

4. **Has your country put in place measures to estimate losses to the economy due to IFFs**

   **Yes …. No ….. No idea ……………………**