

**UNIVERSITY OF NAIROBI**

**DEPARTMENT OF SOCIOLOGY AND SOCIAL WORK**

**THE CONTRIBUTIONS OF COMMUNITY SERVICE ORDERS  
PROGRAMME IN COMMUNITY DEVELOPMENT IN KITUI  
COUNTY**

**M.A PROJECT PAPER**

**BY: KAVUTAI .S.K.**

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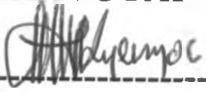
**A project paper submitted in partial fulfilment of the requirements for  
the award of Masters of Arts Degree in Sociology**

**OCTOBER, 2011**

**Declaration**

I hereby declare that this is my original work and has not been presented in any University for the award of a degree.

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## **ACRONYMS**

AG - Attorney General

AIDS – Acquired Immune Disease Syndrome

ANPPCAN - African Network for Prevention and Protection of Child Abuse and Neglect

CBOs - Community Based Organizations

CPC - Criminal Procedure Code

CSO – Community Service Orders

CS -- Community Service

EMPE - Extra Mural Penal Employment

FBOs - Faith Based Organizations

FGDs - Focused Group Discussions

HIV – Immune Infectious Virus

KNBS – Kenya National Bureau of Statistics

KNCHR – Kenya National Commission on Human Rights

LSK - Law Society of Kenya

NGOs - Non Governmental Organizations

PRI - Penal Reform International

UN - United Nations

USA – United States of America

ZNCCS - Zimbabwe National Commission on Community Service

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## **ABSTRACT**

The aim of this study was to examine the contributions of community service orders programme in community development in Kitui County. Community Service Orders programme is an order of a court which requires offenders to perform free community work which is of benefit to the community. This programme being a sentence is more reparative and restorative in nature compared to prison sentences this is what is premised in chapter one. The statement of problem for this study is that, the programme has been operational since 1998, many public projects have been implemented but there are no efforts made to recognize the programme as a major important tool for community development.

Further there is no documented information about the success of the programme nor are there studies to inform policies, planning or decision making in matters related to the programme. This study has documented the contributions of the programme in Kitui County. The study was guided by three specific objectives as, to establish the community and the offenders' perceptions towards community service Orders programme, to explore the community projects implemented under the programme and to examine the effects of the programme on community development. The theories which guide the study were the restorative and the social control theories.

The study adopted non – probability sampling techniques where by purposive and simple random methods were used. Further the collected data was analyzed using frequencies and percentages; it was there after presented in tabular form through use of tables.

Some of the major findings of the study are that, the community members and the offenders have a good understanding about the CSO programme, their attitude towards

the programme is quite positive and that were willing to embrace it even in future. All the respondents interviewed concurred that the programme contributes to community development and that it has several benefits and positive impacts to the community. The study recommends more future use of the programme and that the key implementers need to conduct wider sensitizations about the programme for it to remain relevant and effective.

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## **CHAPTER ONE**

### **1.0 INTRODUCTION**

#### **1.1 Background**

Community Service Orders programme is a programme which entails about offenders who have committed offences being arrested, charged before a court of law, tried, convicted and sentenced to perform free/ unpaid public work in public institutions for the benefit of the community. This programme represents a paradigm shift from the more traditional method of dealing with crime and the offenders towards a more restorative form of justice that takes in to account the interests of both the society and the victim. In order to understand this programme and its contributions, first it is important to understand offenders and punishment (sentences) since they are very central in its implementation.

The account of offenders' and their offending behaviour world over is as old as the history of mankind. If one was to trace the history of offenders through biblical experiences, then Adam and Eve could be viewed as first offenders along with Cain among others. However, for one to understand offenders well in the contemporary societies there is need to first study criminology and understand crime and its causation.

According to Stephen Jones, the writings about crime can be traced from the earliest times, sometimes they were in the form of novels and on other occasions they were accounts such as the consequences of deprivation in slums and the evils of drink (2009:1). The term criminology emerged towards the end of the 19<sup>th</sup> Century where by some group of theorist laid claim to systematic knowledge as to the nature of criminal behaviour, its causes and solutions.

Jones further argues that at the beginning of the 19<sup>th</sup> century, the administration of Criminal Justice in most European countries had been influenced by the views of several writers whose approach although differing in some certain aspects, came to be referred to as classism (2009:1). Baccarat is credited as the main exponent of this approach which he set out in the book, *Crime and Punishment* (1764). His works however were later taken up in England by the philosopher Jeremy Bentham. In order to understand the issues of crime and criminology clearly, these latter philosophers concerned themselves with the basic views of the organization of societies as adopted by the classists and influenced by the social contract theories of Hobbes and Rousseau who argued that, individuals agree to join together to form a society and there is consensus within the society for the private ownership of property and the protection of its members from harm. In this regard then people enter freely in to a social contract with the state to maintain this consensus, part of this contract gives the state power to punish criminals, and those who have been punished by the state are the offenders since they have gone or acted contrarily to what has been agreed upon as a consensus (2009: 2).

It is important to observe that, such punishment should not be arbitrary or excessive but be proportionate to the harm caused since individuals are rational beings who are considered to be responsible for their own actions. Reinforcing this assertion, American criminologist Volt (1958) described criminal Justice as an exact scale of punishment for equal act without reference to the nature of the individual involved and with no intention to the question of special circumstances under which the act came about. However latter criminologist among them Stephen Jones modified this approach of criminal justice to incorporate mitigating factors to causation of crime as determinants of punishments.

Punishments are the end results of those who have gone contrary to the laid down societal laws, rules, regulations or any other accepted mode of behaviour by any given society. Lumumba (2008) observes that, the earliest form of punishment was based on the need for retribution. This was the earliest approach to crime which was the main dominant and which rested on the idea that a criminal was responsible for the harm he/she has done and that it was right for him/her to be punished as a just payment.

The history of offenders and punishment accorded to them is best summed up by Glaser's six Rs analogy of Revenge, Rejection, Repression, Restraint, Rehabilitation and Reintegration (1971:55). This study particularly restricted itself to the last three elements of restraint, rehabilitation and reintegration which are the key objectives of any contemporary sentences. States need to review their sentencing policies and ensure that those which are rehabilitative and reparative in nature are embraced. Mustang observes that, to most community members, offenders were only seen as trouble makers who normally threaten the very vitally needed security (1976). This kind of thinking needs to be reversed and embrace a culture of positivism while dealing with offenders.

The punishment should have both positive results to the offender and the offended community. It is worthwhile to note that competency is having the capacity to do something well that others value, offenders like other people, need to become more competent and caring individuals who have concern for those around them despite the fact that they offended them. It is for this reason Jones observes that, opportunities need to be provided for them to positively become contributing members of the community and abandon their disruptive behaviour by fostering a sense of belonging through meaningful restorative contributions, close relationships, positive choices, and learning

transferable skills and also by mentoring others. If this is to be recognized, then the criminal justice system needs to change and adopt the positive thinking about offenders (2009:3).

Williams supporting the idea of the legal system to adopt a change attitude in the way it handles and treats offenders argues that, in the mid to late 20<sup>th</sup> Century, social science assumed an increasingly critical role in the day-to-day functioning of the legal system. He continues that, the behavioural sciences in particular were called upon to perform a variety of functions that profoundly impact legal processes and the lives of those subject to legal authority (2008:2). In fact the works of social workers, sociologist and any other social scientist comes in handy to complement the role of the criminal justice administration particularly when it comes to determining the sentencing options and the effectiveness of the rehabilitation processes. It is the role of the significant others in the criminal justice administration which makes the contributions of the offender in community development more realized. The community service orders in Kenya is one among the promising programmes which has been instrumental in changing the lives of offenders through offering transferable skills and community service.

Williams (2008:3) argues that, from the relationship between law and social science, a number of points of interplay have emerged on sites or situations within which the law and social science interact to ostensibly better serve the needs and interests of individuals, protect the community and promote the ideals of justice. Wexler observes that, social science is currently meaningful in impacting the processes of policy formulation, lawmaking and resolution of legal issues and cases (2008:2). Wexler's arguments are a clear confirmation of the true Kenya situation where currently there is interplay between

the judiciary who administers the Kenyan laws and the probation officers who are social scientists and who provide fundamental information to courts to assist them in disposal of criminal cases and also who rehabilitate the convicted and sentenced offenders serving community sentences. In recognizing the importance of the community as a key stakeholder in offender rehabilitation, United Nations Organization has urged member states to embrace community service as a best alternative to imprisonment.

It is for this reason that a former Commissioner of Prisons in Kenya, observed that, “the majority of offenders can be dealt with effectively in the community by means of non-custodial correctional programmes and that imprisonment should be used with utmost restraint and shall be used as the last resort when all other sanctions have been considered and found inappropriate” (Republic of Kenya, 2005:31)

Zedner reinforced the need for criminal justice to recognize that it is not the imprisonment of an offender which brings positive change to that offender or the community but the use of appropriate sentences such as community based sentences. In his arguments, Zedner further states, “criminal justice should be less preoccupied with censuring code-breakers and focus instead on the process of restoring individual damage and repairing ruptured social bonds. Instead of meting-out pain with the infliction of further pain, a truly reparative system would seek the holistic restoration of the community” (1994:223). It would be necessary to challenge on how the state claims to respond to crime and instead invite the involvement of the community in the process of restoration of offenders and response to crime.

## 1.2 Problem Statement

It is not disputable that offenders who are instrumental in the implementation of the CSO programme do exist within the society, but there are some perceptions and notions from some members of the community that offenders are a population within the society who add no value. The society has been living with some of its members who are social deviants since time immemorial. What the olden societies did was putting mechanisms in place through some programmes to correct and regulate any form of deviance which arose. Most of these mechanisms were more retributive and reparative in nature and this was more effective in sanctioning and correcting all kinds of deviance at the same time benefiting the community or the society.

The introduction new legal systems by the colonialists which were not in compatibility with the Africa ones diluted the African programmes which were more effective, as a result, the Africans lost their worthy and noble sentencing programmes which put the interest of the community in the fore front. This, assertion was reinforced by Odipo arguments that, with the advent of Europeans and Americans as well as their attendant attributes, the African social fabric experienced tumultuous and drastic change (1996:3). Mustang further observes that, Western culture for example introduced into Africa a foreign culture, the spread of varied and sometimes contradicting legal and religious doctrines, the rejection of customary social values and institutions in favour of European values and systems (1976:5). Unfortunately, when Kenya gained her independence from the British, she inherited the British legal systems without reverting to her old systems which were more effective.

Studies on criminology and the application of the criminal justice system have pointed out the inherited legal system particularly the sentencing programmes have not assisted much to change the offender and compensate the victim of crime. What emerges from such studies is that the offenders become more hardened when sentenced to prison while at the same time the victim of the crime (community) feel that justice has not been done since the victim has not gotten any pay back for the offence committed against him or her.

There is general concurrence from later scholars of the criminal justice system of the late 1970's, to ,1990's and of the 21<sup>st</sup> century that the system need to change and adopt a community based programme approach which has been seen to be more effective than the punitive of prisons. Even the Western Countries who created the present problem are changing and are now inclined towards community programmes as sentences which benefits the community.

The rationale of any criminal justice system is to ensure that social order and equilibrium is maintained within the society for harmonious social coexistence and stimulates viable economic development devoid of interruptions. It is for this reason that societies have put in place some systems in place to guarantee this. Although researches in the fields of Criminal Justice Administration and Criminology primarily focuses on explaining why crimes occur and the procedures of handling crime by way of punishing the criminals who are called offenders, little attention if any, has been given to the reactions of the community where the crime was committed and the victims of the crime, also of significant concern is that little attention has been given to the benefits that offenders can



bring back to the community if they were made to pay back to the community through the community service orders programme.

Therefore the concern of this study was, the CSO programme has been in existence since 1998, but has never been considered as an important programme which can contribute to community development. Also why has the work done by the community service offenders not been recognized as an aspect of community development and the offenders be classified as important resources for community development just like other community development players?

### **1.3 Research Questions**

The following were the research questions formulated to guide this study;-

1. How is Community Service orders programme perceived?
2. What kind of projects are implemented through the Community Service Orders programme and their viability?
3. What are the effects of community service orders programme in community development?

### **1.4 Study Objectives**

The broad objective of this study was to examine the contributions of community service orders programme in community development in Kitui County.

The specific objectives were;-

1. To establish the community and the offenders perceptions towards community service Orders programme.

2. To explore the community projects implemented under the CSO programme and their viability.

3. To examine the effects of the CSO programme on community development.

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

The criminal justice system in Kenya and policy makers have over a period of time concerned themselves with the punitive measures while dealing with the issues of offenders. There is no known documented information which can be used to show that offenders can be used for the good of developing their community over and above serving their sentences. Also there is no existence of any known policies that can guide how offenders through the community service orders programme should be treated as dependable resources for community development. It is also important to recognize that the community as the victim of crime committed by the offenders, has a stake in determining what should be done to the offender and therefore should be involved in the rehabilitation and reintegration of such offenders back to the same community, therefore it is something of paramount importance that the offenders be accorded an opportunity to compensate the community for crimes committed against it. Currently what is known of our criminal justice system is that it sentences offenders to serve under community service as a last choice alternative but not as a necessity informed by a given policy which compels the courts to do so. What the CSO Act say simply is, the court may use its discretion powers to sentence an offender to perform unpaid public/ community work, this kind of discretion if not guarded against through a policy frame work is subject to an abuse by the users.

Further in the academic circles, although there are studies done on criminology, criminal justice system and its applications particularly in the areas of sentencing and sentences, the academicians have not gone beyond this level to establish the outcomes of such sentences such that they can advise the policy makers and the criminal justice administrators on the best way to deal with offenders which will benefit the victim of crime, the community while at same time assisting the offender to reform and become an important law abiding citizen.

Therefore there is no existence of academic studies to confirm or disconfirm whether offenders through the community service orders programme contribute positively to community development. The existence of these identified gaps renders the justification of this study firmly unshakable and worth undertaking.

The study is of importance for the future policy makers in planning and decision making in matters related to community service orders programme and its role towards the community. Further it is anticipated that the use of community based sentences will be enhanced by our courts thus saving the government and taxpayers money which otherwise could have gone to maintain the offenders in the prison.

## **1.6 Study Scope and Limitations**

The scope of this study was to examine the Contributions of Community Service Orders programme in community development in Kitui Central District. Since offenders fall in different categories, the study was limited to the works which had been undertaken by those offenders who had been sentenced to serve community service orders sentences.

The scope of the study was particularly limited to Kitui Central Division, specifically Township, Kyangwithya East and Kyangwithya West locations.

The constraints which the researcher encountered were time limitations since the researcher is on regular employment where he was expected to also execute his normal duties and responsibilities at the place of work. Lastly mobility was also constraint since geographically the selected study site is a semi – arid region and the means of communications were a challenge, the vehicles take a long period of time to move from one point to the other.

However, in spite of these challenges and constraints, the study met the expected quality and standards of a scientific study. There were no compromises made during the course of the study.

### 1.7 Definition of Key Terms

**Community development** – for the purposes of this study, the term means the involvement of both community and the offenders through the assistance of probation officers and other stakeholders to undertake development projects which benefit them.

**Community service** – this is a service which has been rendered by an offender who has been sentenced to community service order sentence.

**Community service orders** – According to the CSO Act No 10 of 1998, these are orders made by the courts requiring offenders to perform free/ unpaid public work within the community for the benefit of the community.

**Criminal justice system** - this is the process through which an arrested person undergoes until the case is finalized, the system involves several key player such as the Judiciary, the police, probation officers, litigants prison officers and the community.

**Community service offenders** - According to the CSO Act No 10 of 1998, these are persons who have been sentenced by courts to perform the unpaid public/ community work within the community.

**Public work** – The CSO Act No 10 of 1998 defines Public work as any kind of work which has been performed or undertaken in public institutions

**Empowerment** - generally refers to all services focused on enhancing the capacity of offenders for the smooth re-entry into the society. These services range from intervention programs, accommodation, vocational and other trainings, education, and provision of tools, start-up capital and any other social life skills through counselling and community involvement.

**Rehabilitation** - refers to all actions and processes intended “to assist the correction of offenders through the adoption of productive, law-abiding lives in the community” and Provide “...opportunities to address their offending behaviour and actively encouraged to access evidence-based intervention programs such as education, vocational education and work opportunities”. Offender rehabilitation as implied in this policy involves a balance between the rights of the offender and those of the community and between the needs of the offender and the principal of justice

**Resettlement** - in the context of this policy refers to ‘A systematic and evidenced-based process of all the assistance and support offenders in custody and on release receive to prepare them for life after prison in order to ensure that the communities are better protected from harm and re-offending is significantly reduced. It encompasses the totality of work with offenders, their families and significant others in partnership with statutory agencies and voluntary agencies’. The basis of resettlement include but are not limited to;

assistance with money, the provision of suitable housing, the preservation or repair of crucial relationships, employment, education, counselling and drug & alcohol problems.

**Reintegration-** means the process of preparing both community and offender for his return as a productive and accepted citizen. It involves interventions, programs and services designed to assist offenders to live law-abiding lives in the community following their return to the community. It also encompasses a number of interventions undertaken following an arrest to divert offenders away from the criminal justice system to an alternative measure, including a restorative justice process or suitable treatment.

**Restorative Justice** - an approach to justice that focuses on the needs of victims and offenders, instead of the need to satisfy the abstract principles of law or the need of the community to exact punishment. Victims are given an active role in a dispute and offenders are encouraged to take responsibility for their actions,

**Victims of crime** - Persons who have suffered harm, including physical or mental injury or trauma or economic loss through acts or omissions that are in violation of the national criminal law

## CHAPTER TWO

### 2.0 LITERATURE REVIEW

#### 2.1 The Criminal Justice System as it Relates to Community Service Sentences

One of the major developments in criminal justice system in the 1980s was the increasing recognition of the rights and needs of the victims of crime. This was clearly signalled by the United Nations in its Declaration on the Basic Principles of Justice of Victims and abuse of Power in 1985 and in the governments Victim's Charter 1990 (Ashworth, 1995:73). The current global arguments are that justice to victims should be placed first as the goal of the criminal justice system and of sentencing. The primary aim should be to ensure that an offender compensates the victim and the wider community for the results and effects of the crime.

Only those serious crimes committed which have a long lasting effect both to the victim and to the community, then the responsible offenders should be sentenced to custodial sentence as the best reparation. Therefore all the criminal justice systems are called upon to realize the significance and the importance of community sentences and forthwith adopt them. To reinforce the case for community sentences, Zedner argues, criminal justice should be less preoccupied with censuring code- breakers and focus instead on the processes of restoring individual damage and repairing ruptured social bonds. In place of meeting pain with the infliction of further pain, a truly reparative system would seek the holistic restoration of the community. It would necessarily also challenge the claim of the state to respond to crime and would instead invite the involvement of the community in the process of restoration (1994:233). It is something worth to note that the arguments in favour of restorative theory in criminal justice system is not a rationale for it to be used as

the only sentence but rather an awakening call to the criminal justice system to respond differently and appropriately to law breakers.

There exists a gap in most of the criminal justice systems in that, a fully restorative approach to criminal justice still remains untried and the many questions it raises have no obvious answers, this explains why there are no uniformities while dealing with offenders.

In times of economic recess and economic crisis, it is difficult to maintain offenders in prisons, therefore is helpful to construct a theory which is based on offenders working for years or months to pay compensation to their victims; the theory should also require a relative degree of symbolic reparation to the community.

It is quite unfortunate to note that, most African countries instead of repealing their legal systems to respond to this latter thinking in criminal justice system, they are still relying on the inherited foreign systems which are currently counterproductive.

Kenya like most African countries invariably inherited penal systems passed to them by the colonial administration. For this reason our penal system have for a long time been a reflection of the Western system and practices e.g. retributive and punitive in practice rather than reformative, rehabilitative and reparative. As time went by there was rising need for the criminal justice system in Kenya to rationalize their forms of punishment, sentencing and treatment of offenders to be in line with the international law instruments on human rights and freedoms. These reforms require concerted efforts from all criminal justice agencies to avoid dragging and fall backs.

Following the Tokyo rules of 1990 on the standards minimum rules for non-custodial sanctions, Kenya embarked on legislative reforms to accommodate the greater



recognition of human rights in the sentencing and treatment of offenders. It is against this background that our criminal justice system adopted the current global paradigm shift towards non-custodial sentencing. Consequently the legislation of the Community Service Orders Act No 10 of 1998 provides alternatives to imprisonment and as an appropriate sentencing option. This legislation gained support from many stakeholders and currently is being emulated by most of the East African countries and Southern Sudan.

Contributing to the debate on the need for non – custodial mechanisms, a former Commissioner of Prisons in Kenya observed that, “the majority of offenders can be dealt with effectively in the community by means of non- custodial correctional programmes and that imprisonment should be used with utmost restraint and shall be used as the last resort when all other sanctions have been considered and found inappropriate” (2005:31).

## **2.2 The Evolution of Community Service Orders Programme**

From the humble beginnings of the late 1970's, the Community Service programme in most countries has expanded considerably and has become an integral part of their criminal justice system. Community Service Orders and the need for a wider range of other non- custodial options are relevant topics, particularly in Africa where most countries are faced with overcrowded prison conditions and very limited budgetary allocations. It is a fact that prisons in Africa are overcrowded, no meaningful rehabilitation can take place in such situation and is impossible to prepare a convicted person for his eventual release back into the society.

It is a generally accepted norm that there are other effective ways of dealing with offenders and that they have proved more effective than imprisonment. Only those who

are serious offenders should find themselves in prison but for non serious ones alternatives should be found. The Chief Justice of the Republic of Zimbabwe (Justice Garwe) argued," the introduction of community service orders programme represented a shift from the more traditional methods of dealing with crime and the offender and was the result of a realization that the problem of crime cannot be solved by incarceration alone" ( 2005:23)

The introduction of Community Service Orders was in keeping with international norms and trends in sentencing. Of particular significance is the United Nations Minimum Standards/Rules for Non-Custodial measures, (popularly referred to as the Tokyo Rules) and the United Nations Minimum Rules for the Administration of Juvenile Justice (popularly referred to as Beijing Rules). The focus internationally is now on non-custodial alternatives as these have been proven to be more effective in the fight against crime. Community Service is certainly one of the most popular of these alternatives and its introduction in our countries was a big step in the right direction.

Justice Garwe of Zimbabwe observed that, the current approach internationally is on repairing harm done to the victim, the community is one of the recipients of crime and therefore the offender must repair the harm in form of free community service. This aspect has largely been ignored by our criminal justice system and the victims of crime have been marginalized over the years. He continues, the focus world over is now on restorative justice and a number of countries, including our erstwhile colonial masters brought about punitive sentences have now incorporated restorative justice elements into their systems. Justice Garwe further observes that, a lot has been said about family group conferencing , which was first introduced in New Zealand and was based on Maori

customary practices. Some countries have introduced some forms of victim offender mediation (2005:23).

While acknowledging the important role played by restorative justice, the United Nations has come up with some principles on the use of restorative justice programmes in criminal matters. Community Service is one of those programmes being referred which was introduced in order to enhance restorative justice. Tak observes that, the performance of work for the general community and societal good as an alternative to taking a way person's liberty has been recognized for a long time (1968:2).

It is important to note that while community service has existed in one form or another since the Middle Ages, it is only now that most western societies have focused attention on it because of its comparative advantage in terms of benefits over the other existing sentences.

Harding argued that the modern version of community service orders does not carry with it the possibility of forced labour to the person sentenced to serve under it, but sees the offender in the eyes of the community and the benefits is taking to the community as a way of reparation (1987:66).

Harding further reinforced the arguments for modern version of community service orders when he said, "making full use of the offenders' potential and skills with visible positive results being achieved is the essence of rehabilitation (1987:67).

It is something worth to note that the international sanctions and new programs towards offenders support gained popularity and were extended to other offences other than the petty ones. By the mid 1970's, the rehabilitative potential of the service was being emphasized particularly in juvenile justice programs as argued by Schneider and Rubin

and also as a predominant rationale for community service and other reparative sanctions (Eglash., 1989:91)

### **2.3 Cases of Some Countries with Successful Community Service Orders Programme**

Several countries world over have accepted and adopted Community Service Orders as the best alternative sentences to imprisonment which is more reparative and makes a society remain socially cohesive while at the same time ensuring that the social deviants amongst them are punished.

In most of the systems world over, there are specific provisions regarding the prerequisites under which a community service order can be made and these include but not limited to, the type of offence committed the offender's consent of willingness to serve under the sentence, availability of work to be undertaken and community willingness to receive the offender.

The uniqueness of this programme is its dependence on the community to offer constructive work out lets and its capacity to produce a high turnover of offenders and hours worked. McDonald while contributing to the need of establishing community service orders programme argues that, "the unpaid work and the reparation aspects have long historical connections, it was not until 1966 when in USA; community service was first ordered as a sanction independent of custodial sanction, this was motivated by crackdowns on drunk drivers, the victims movements and the need for alternatives to jail for the new and growing categories of offenders," (1989).

The section below will highlight some selected countries which have embraced Community Service programmes within their criminal justice systems.

### 2.3.1 England

According to Ashworth (1995), Community Service orders were introduced into English Law in 1972 largely as a result of the recommendations from the Advisory Council on the penal system (1995:277). According to the English law, a CSO is an order that requires the offender to perform unpaid work in the community.

Further according to Criminal Justice Act 1991, of the English law, the main purpose of community service orders as further proclaimed by the Home Office National standards was to reintegrate the offenders in the community through:-

- a) Positive and demanding work, keeping to discipline requirements and
- b) Reparation to the community by undertaking socially useful work which if possible makes good the damage done by offender.

The English law asserts that a Community Service Order may be made by the criminal court, by an adult magistrates court or by a youth court so long as the offender is aged 16 years and above. For one to qualify for this sentence, must have committed an offence punishable with imprisonment in the case of an adult.

The total number of hours of community service to be performed must be specified in the court's orders and must be between 20 – 240 hours in total depending on the sentence. A minimum work rate of 5 hours per week should be achieved through out the order but normally no more than 21 hours should be worked in any one week.

All work ordered to be performed must be completed within the period of 12 months from the date of the order but unless revoked remains in force until the hours are completed.

According to the Criminal Justice Act, the 12 month period may be extended by the court where by an application is made for variation of such an order by either the supervising

officer or the Probation officer depending on the circumstances at the ground at that particular time.<sup>1</sup>

The law recognizes that if the offender is in employment, the community service must be arranged in such a way that the employment is not affected, for example during evenings or weekends or such other times as do not clash with the offender's working hours.

Also if the offender is unemployed, the order should not conflict with his/her entitlement to welfare benefits and should not prevent the offender from being available to seek or take up employment in case it arises.

### **2.3.2 Northern Ireland**

Pease observe that Community service orders were introduced in Northern Ireland on 1<sup>st</sup> April, 1979 as part of the treatment of Offenders. In 1982 the Probation Board for Northern Ireland was given responsibility to secure that arrangements are made for persons to perform work under the Community Service Orders (1985:1).

According to Pease, Community service orders are penal sanctions in which convicted offenders are placed in unpaid positions with non-profit (1985:3). The proponents of this school of thought typically urge the use of community service as an alternative to imprisonment.

The legislation states that a person of over 16 years of age who is convicted of an offence punishable by imprisonment, the court may make a community service order requiring him to perform unpaid work with the offender's consent of not less than 40 hours and not more than 240 hours.<sup>2</sup>

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<sup>1</sup> Criminal Justice Act, 1991, section 2 paragraph 15 of the English law

<sup>2</sup> <http://www.pbni.org.uk/site content>

The purpose of a Community Service Order is to prevent further offending by integrating the offender into the community through:-

- a) Successful completion of positive and demanding unpaid work
- b) Keeping to requirements and
- c) Reparation to the community by undertaking socially useful work.

Community Service in Northern Ireland has since its inception continued to be an important programme for the courts and provides opportunities for direct and indirect reparation for the benefit of the community.

The evidences of the success of Community Service as a programme are based on;

- a) A reconviction rate of 25% in Northern Ireland over a two year period, this has compared favourably to other sentences in Northern Ireland and Great Britain
- b) The Community Service Order is readily understood by all the relevant parties i.e. courts, offenders and the community.<sup>3</sup>

This is a clear indication that Community Service is a preferred choice sentence in Northern Ireland and has been embraced by all stakeholders; this affirms its successes there.

### **2.3.3 Malaysia**

The Malaysian Community Service Orders were introduced by the Country's Cabinet meeting which was held on December, 2007 and Chaired by the Prime Minister , through the amendment of the country's Criminal Procedure Code (CPC) whereby a new section 293(1) (e) was inserted to introduce the CSO as an alternative punishment for youthful offenders in 2007 (Republic of Malaysia, 2007:6).

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<sup>3</sup> <http://www.pbni.org.uk/site content>

Although the cabinet recommended the commencement of the programme, as a result of lack of resources, particularly in funding and manpower, the programme never took off immediately the law was enacted but it actually commenced on 1<sup>ST</sup> January, 2008. The programme gained momentum immediately after its launch and by 31<sup>st</sup> May, 2008 a total of 74 cases had served the community through the program.<sup>4</sup>

The object of Community Service orders is to provide unpaid work which is of value to the community as an alternative to custody. It is important to note that in Malaysia like the other countries implementing the programme, community service by offenders provide an important, long established, community based alternative to imprisonment.

According to the Act, Community service orders are orders of court where:

- an offender is required to perform unpaid, useful work for the benefit of the community
- the court can order between 80 - 300 hours of community service which must be carried out at such times as directed by the supervising community service officer

The Act provides that, the court orders must be completed within six months from the date of sentence and are performed in an offender's free time. Further the Act recommends that, community service placements must be undertaken between Mondays to Friday. However, for people who work or study full-time, placements are available at weekends and evenings and that community service placements will commence within one week of the order being made by the Court.

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<sup>4</sup> <http://www.malaysianbar.org.my/criminal-law/community-sevice-as-punishment-for-...pg1>



Generally the objectives, functions, operations and the scope of the Malaysian CSO is more like in the other countries discussed here, the only difference is that, the Malaysian CSO programme focuses more on youthful offenders.

#### **2.3.4 Zimbabwe**

The works and studies to alternative to custody in Zimbabwe began in 1992 but received some boost in 1994 with the financial support of the European Union and the British government through the Penal Reform International (PRI) (ZNCCS, 1997:1).

The Zimbabwe experience proved to be successful and in August 1997 for example when the scheme was officially transferred from PRI to the Zimbabwean government, more than 16,000 persons had been sentenced to community service as an alternative to custody (ZNCCS, 1997:1).

The definition of community service order according to the Zimbabwe Community Service Act is an Order of the court where by the offender is offered an opportunity of compensating society for the wrong done by him/her by performing work for the benefit of the community instead of going to prison (ZNCCS, 1997:1). Like in Kenya, Community Service in Zimbabwe is only available to certain offences which are less serious in nature and who offenders who have committed petty offences, otherwise only the more serious offenders find themselves ending up in prisons.

The courts are first given guidelines on which offences should attract community service sentences, the offenders' personal circumstances and the willingness of the offenders to serve under the community service programme.

Once the offender is placed on community service, is expected to comply with the order, in case of any failure, the court is empowered to send the offender to prison, therefore in Zimbabwe, community service is a deferred imprisonment.

Community service thus helps to ease prison congestion, lessening the government burden of expenditures on maintaining prisoners in prison, giving the comparative advantage of placing the offender in the institution where he/she will do useful work on behalf of the community where more results are obtained.

Persons sentenced to community service are sent to work in public institutions such as schools, hospitals and clinics among other public places where no one is employed to do the work, in other words they do not take other peoples jobs.

Initially the scheme had been met with skepticism but members of the public upon wider sensitization campaigns have come to appreciate the work done by the offenders for public good.

The success of the scheme was informed by;-

- a) Political willingness to have and actively support a community service scheme
- b) Involvement and cooperation of all relevant Ministries at high level, particularly the ministries concerned with Social Welfare, Local government, Home Affairs and Justice
- c) Complete autonomy of the committees free from government constraints and controls
- d) Strong control by the National committees on community service orders

(KNCHR,2005:68)

The Zimbabwe model has successfully provided a flat form on how to avoid some of the pitfalls and problems common in almost in all jurisdictions and to manage the scheme in

such a way that is both highly effective in terms of cost to government and benefit to the community.

The community service scheme has won the support of an initial hostile general public within Zimbabwe and attracted considerable interest internationally. As a result of these successes, a number of African countries in the sub-region have established their own community service schemes based on the Zimbabwe model but adapted to suit their own context.

### **2.3.5 Uganda**

The introduction of community service in Uganda dates back to November, 1996 when the first conference was held. In that conference delegates were convinced that Uganda needed a more effective and humane system of penal sanctions which would promote non- custodial measures and strengthen community involvement in criminal justice. Such a system would have the further effect of decreasing the number of prisoners to reduce overcrowding and redress the harm done to victims of crime by providing the means of rehabilitating offenders in society through useful community work

Uganda wanted to have a shift from its popular public view towards the offenders to serve imprisonment as a principle penal sanction rather than other forms of punishment that appeared to stem from the anxiety of the public that holds the view that, "no justice is done if offenders are not sufficiently secured in custody," (ZNCCS, 1997:17).

Further the rationale for enactment of community service scheme in Uganda was ignited by the fact that probation service never functioned fully and needed to be strengthened. Lack of an effective probation service had deprived the courts of information upon which they could safely rely on to pass non-custodial sentences.

Uganda therefore started its community service programme on the understanding of the following;-

- a) The programme has a potential value for the community
- b) Crime and its effects has a great financial burden to Ugandan budget
- c) The administration of criminal justice is expensive if all key stakeholders are not involved in the process
- d) Non- custodial measure including community service, cost less to implement than custodial measures
- e) In direct financial benefits may result from a reduction in the social costs of imprisonment and a reduction of crime over and above the benefit of community development and victim redress
- f) Custodial measure may have negative effects on those subjected to them, in particular those who are not likely to repeat offence, those convicted of minor crimes and those needing medical and social help.
- g) Imprisonment severs community ties and hinders reintegration into society, it reduces the offender's sense of responsibility and their ability to make own decisions (ZNCCS, 1997: 13).

As a result of these observations, any means which avoids imprisonment was adopted, these included Community Service because of its unique advantage of making it possible to exercise control over an offender's behaviour while allowing the offender to evolve under natural circumstances. Further it offers opportunities for the development of the offender's sense of responsibility, reducing the likelihood of further crime and helping offenders to become responsible citizens who benefit society.

The existence of local councils in Uganda provided an excellent basis for the introduction of community service. The establishment of community service in Uganda was also in conformity with the United Nations recommendations contained in the United Nations Rules for Non- Custodial measures (Tokyo Rules) of 1990 which calls on member states to ratify them.

### **2.3.6 Tanzania**

Like many other countries where Community Service Orders programme has been introduced and legislated through Acts of parliament, Tanzania enacted Community Service Act, in 2002 to make provisions for the introduction and regulation of community orders in certain cases and for connected and incidental matters (KNCHR, 2005:56). The Act received Presidential assent on 27<sup>th</sup> May, 2002 after which it became law.

The Act in almost all aspects is similar and identical to Act No 10 of 1998 of Kenya, for example section 3 (1) thereof which is *pari materia* with our section 3 (1) provides in pertinent terms as follows, where any person is convicted of an offence punishable by;-

- a. imprisonment for a term not exceeding three years with or without an option of a fine or
- b. imprisonment for a term exceeding three years but for which the court determines a term of imprisonment for three years or less, with or without the option of a fine , to be appropriate ,the court may subject to this Act make a CSO requiring the offender to perform community service.

The section also defines community service to comprise unpaid public work within a community for the benefit of that community for a period to be fixed by the court but

not exceeding the term of imprisonment for which the court would have sentenced the offender.

The Tanzanian CSO Act defines public work to include but not limited to;-

- a) Construction or maintenance of public roads or access roads
- b) Afforestation works
- c) Environmental conservation and enhancement works
- d) Projects for water conservation, management or distribution and supply
- e) Maintenance works in public social amenities
- f) Work of any nature of a foster home or orphanage
- g) General cleaning and related activities
- h) Rendering specialist or professional services in the community and for the benefit of the community
- i) Other manual work as may be approved from time to time.

It was however upon the court on consultation with the Community Service Officers to determine the nature of public work to be performed by the offenders. It is important to note that the Tanzanian young community service programme heavily borrowed from the Kenyan model.

#### **2.4 Community Service Orders in Kenya**

According to Lawrence Mugambi in the CSO news letter, “the precursor of the Community Service Orders (CSO) Act was a form of non-custodial work oriented sentence that was provided for in the Prisons Act Cap 90 Laws of Kenya called the Extra Mural Penal Employment (EMPE)” (2007:7)

Since the management of the EMPE was under the prisons department, it was supervised by Prison officers. It used to operate on the basis that an offender would be sentenced to work in a public institution for a period not exceeding six (6) months and a prison officer would follow him there and supervise.

Due to shortage of personnel, it was not possible for prison officers to effectively supervise these offenders, thus the benefit of their (offenders) work towards the community was not visible. An attempt was made to address this challenge where by the provincial administration through the Chiefs and their assistants came in handy to complement the shortage of supervision roles by the prison staff. This complementary role posed further challenges to the implementation of EMPE as a programme in that, the Chiefs and their Assistants instead of ensuring that offenders performed free community work for the benefit of the community, they instead took them to work on their private works in their houses which was not beneficial to the community. As a result of this abuse of the programme the community developed negative attitude towards it and started referring it as the 'the chief's sentence or the sentence of the chief'.

As time went by the problem of poor management of the programme persisted and the situation grew from bad to worse, in fact it was virtually impossible to track offenders or what kind of work they were doing due to poor record keeping among other weaknesses. Lawrence Mugambi who is the National Coordinator for Community Service Orders programme observes that, "these cracks in the implementation of the EMPE programme provided fertile ground for corruption that slowly crept in and rendered the programme unrealistic, the programme became extremely abused openly" (Republic of Kenya, 2007:7).

The same document shows that the poor management of EMPE increased the growing resentment towards it from the community who were presumably to be the beneficiaries and the courts that were sentencing the offender to serve under the programme. As a result of this, a need arose to repeal the sentence and by extension the programme, by the time the sentence was being repealed, only one thousand six hundred (1,600) offenders were serving under it.

The effects of the apathy of poor implementation of EMPE programme began to be felt as the prison population began soaring leading to unprecedented congestion, incidents of disease outbreaks and poor living conditions attracted the attention of the public, the government and human rights organizations. The international community also got concerned and began agitating for international standards on treatment of offenders to be respected and maintained. The government in attempt to respond to these challenges, began exploring ways of dealing with the problem, in this regard, a symposium was held in 1995 to discuss ways of improving EMPE and providing way forward in dealing with non serious offenders. The symposium was sponsored by the Penal Reform International (PRI) and the African Network for Prevention and Protection of Child Abuse and Neglect (ANPPCAN). In the year 1996, the Attorney General (AG) appointed a taskforce under the chairmanship of Hon Justice Emmanuel Okubasu to gather views on the way forward. The taskforce committee composed of representatives from the Judiciary, Provincial administration, Police, Law Society of Kenya (LSK), Non Governmental Organizations (NGOs), donor agencies and Ministries of Home Affairs and Public Works.

The committee collected views nationally, regionally and internationally and presented their report to the appointing authority in 1997. The report among other



recommendations, recommended the enactment of CSO Act as an alternative to EMPE. The Act was meant to introduce and regulate Community Service by offenders. In 1998, the Hon Attorney General published a Draft CSO Bill which was presented to parliament and later passed as an Act. His Excellency the President assented it on 31<sup>ST</sup> December, 1998 there by becoming a law. It was gazetted on 23<sup>RD</sup> July, 1999 thus becoming operational that date thus giving the birth of community service programme in Kenya as it is currently.

#### **2.4.1 Community Service Orders and Public Projects**

Like in other jurisdictions world over, Community Service Orders is a form of sentence where by an offender is required to perform free/unpaid public work for the benefit of the offended community. According to CSO Act No 10 of 1998 Laws of Kenya, the programme is a non-custodial sentence where by a person who has committed an offence punishable with;-

- a) Imprisonment for a term not exceeding three years with or without the option of a fine or
- b) Imprisonment for a term exceeding three years but for which the court determines a term of imprisonment for three years or less with or without the option of a fine to be appropriate is sentenced to perform a community service by the court.<sup>5</sup>

The work undertaken must be for the community and beneficial to the public, offenders are not supposed to work in private establishments as was witnessed during

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<sup>5</sup> Community Service Orders Act No 10 of 1998, section 3 (1)

the era of the EMPE. Some of the public works which the offenders are supposed to undertake include but not limited to the following;<sup>6</sup>

- a) Construction or maintenance of public roads or access roads
- b) Afforestation works
- c) Environmental conservation and enhancement works
- d) Projects for water conservation, management, distribution and supply
- e) Maintenance works in public schools, hospitals and any other public social service amenities
- f) Works of any nature in orphanage homes, or rendering professional services or specialist services in the community.

Therefore CSO is a sentence to the offender but which benefits the community, the offender and the offender's family. It promotes the involvement of the community in identifying which community work is suitable to be undertaken by the offender while also being involved in the process of rehabilitation of that offender. According to statistics received from probation department, currently the programme has about 25,000 offenders working under it annually

#### **2.4.2 Community Development**

According to Frank and Smith, community development means different things to different people in different places. To some it means empowering individuals or groups of people by providing them with skills they need to change their own communities. Others see community development as a group of practices and disciplines by activists, civic leaders, professionals and involved citizens to enhance several aspects of their communities, while other people see it as a skilled process whereby part of its approach

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<sup>6</sup>Community Service Orders Act No 10 of 1998,section 3 (2)

is the belief that communities cannot be helped unless they themselves agree to this process (1999:1).

There is a general consensus from Frank and Smith's arguments that for any community development to take place, the community must be involved in the process, this means that the community is very instrumental in spearheading community development. As for the case of this study, it was found that the community in collaboration with the probation department was involved in identifying the specific community projects which were to be implemented by the offenders.

Cary observes that community development is about active involvement of people in the issues which affect their lives. It also seeks to enable individuals and communities to grow and change according to their own needs and priorities and at their own pace. He further notes that community development must take the lead in confronting the attitudes of individuals and the practices of institutions and society which discriminates unfairly (1970:2).

What is emerging from Cary's arguments is that it is the community which bears greatest responsibility towards community development. In this regard therefore, they need to pull together for community development to succeed. It is important to note that community development should seek to develop structures which enable the active involvement of the people from the disadvantaged groups like the offenders. This argument has been reinforced by Frank's observations that, in the recent years, community development has involved local people seeking and taking advantage of opportunities or working together to solve problems (1999:4).

### **2.4.3.1 Implementation of Community Development**

The process of implementation of community development entails a process whereby community members come together to take collective action and generate solutions to common problems. It takes into account the rationale of grass root process by which communities become more responsible, organizes and plans together.

In this regard therefore according to Smith (1999:6), community development recognises that:-

- There exists connections between social, cultural, environmental and economic matters
- There is diversity of interests within the community and
- There is need of relationship to build different capacities.

Community development therefore happens when a challenge or opportunity present itself and the community responds, at this time, community members are aware of their capacity to act together to overcome the presented challenges to benefit their community. Community development may also occur when there are changes taking place. It is therefore important to recognize that offenders are important opportunities which have remained untapped for a long time and thus there is need of tapping their potentials through the CSO programme.

## **2.5 Theoretical Literature**

Kerlinger (1964:11) defines a theory as a set of interrelated constructs, definitions and prepositions that present a systematic view of phenomena by specifying relations among variables with a purpose of explaining and predicting the phenomena.

Mugenda (2003:15) explains theory as a set of concepts or constructs and the interrelations that assumed to exist among those concepts. To Mugenda, theory provides basis for establishing the hypotheses to be tested by the study.

Theories abound about the foundations and persistence of ethnic identity and explain a given phenomenon. Singleton et al (1988:136) reinforced this when argued that, all empirical studies should be grounded on a theory while Nachmias (1996:36-43) argues that, “a theory provides the basis for explaining and predicting phenomenon and to make intelligent practical decisions. Theories are abstractions, representing certain aspects of the empirical world, concerned with how and why of empirical phenomena not with what should be in this regard therefore it is quite evident that theories play significant roles in any study and it is not an understatement to state that a study without a theory is totally incomplete.

This study was guided by Restorative/ Reparative theory and the Social Control Theory.

### **2.5.1 Restorative Theory**

The proponents of this theory led by Zedner and Braithwaite argue that sentences should move away from punitive tendencies of punishment of offenders but be inclined towards restitution and reparation, aimed at restoring the harm done to the victim and to the community (1994:223).

At core of most restorative theories are the emphases on the significance of stakeholders in the offence not just the state and the offender, but also the victim and the community.

This theory recognizes the importance of the stakeholders in the process of deciding how to respond to offences while at the same time considering the restorative goals of that response. From the onset, this theory puts the interest of the victim in fore front while

determining how to respond to offenders, it is this kind of interest which placed this theory very centrally in this study thus its qualification for application.

Braithwaite, Johnstone and Zedner pointed out that there are many forms of restorative justice in different countries some have already been entrenched in their laws while others are still under experimentation, but noted that whichever the case they are anchored on the behavioural premise of rehabilitation of offenders, restoration of the victim and placing compensation and restoration ahead of mere punishment of the offender and encouraging maximum participation in the process so as to bring about social reintegration (Maguire, 2002:81).

This theory therefore is very relevant to this study since it tries to trace the context of offenders in community spectrum. It further recognizes the fact that offenders are socially constructive contrary to earlier thinking that offenders are trouble shooters within the community.

The theory further tried to highlight the need for the criminal justice to respond to crime differently and apply other sentencing options such as community service orders sentences which are beneficial to the community, in fact Zedner summed the arguments in favour of this theory when he argued that, "criminal justice should be less preoccupied with censuring code-breakers and focus instead on the processes of restoring individual damage and repairing ruptured social bonds. In place of meeting pain with the infliction of further pain, a truly reparative system would seek the holistic restoration of the community. It would necessarily also challenge the claim of the state to respond to crime and would instead invite the involvement of the community in the process of restoration" (1994:233). Zedner's arguments were the fundamental hallmarks for the justification for

the applicability of this theory to this study. This study has confirmed positively the prepositions of this theory in that the CSO programme was found to be more reparative and restores the harm caused by the offenders to the community through implementation of various projects by offenders for free that is without any payment, the effectiveness of the implementation of this programme is dependent on different stakeholders and the study has established that offenders are socially constructive human beings this is evidenced by the many development projects they have implemented.

### **2.5.2 The Social Control Theory**

The theoretical underpinning for involving the community in community corrections is premised on the fact that crime is a community problem and need to be involved in its solutions. When the offenders are either returned or allowed to remain in the community, they become both a potential asset and a potential liability to the community. Many changes are deemed to come from within the offender by providing assistance, advocacy for change and opportunity but the criminal justice system and the community are expected to facilitate those changes if they are to be meaningful.

The Social Control Theory suggests that delinquent acts result when an individual's bond to society is weak or broken (Hirschi, 1969:16). Internal restraints and external restraints determine the strength of this kind of bond. Abadinsky (1990) argues that these internal and external constraints develop as a result of families and communities setting certain standards of behaviour and rewarding conformity or punishing nonconformity. In environments which are characterized by disorganization and crime, persons may organize their behaviour around a delinquent or criminal group that rewards them with belonging and status.

This theory further suggests that, an informed and cohesive community could tip the scales so that the risks of criminal behaviour outweigh its rewards. Even in neighbourhoods characterized by disorganization, poverty and crime, the majority of citizens are law-abiding (Sampson and Groves, 1989). It is important to observe that any selected theory of crime is less of an issue than the need to recognize the important role of the community in preventing and controlling crime, it is for this reason Earls and Reiss (1994) argue that, crime is the result of complex interactions among individual characteristics, family and community influences, thus its resolution lies in interventions that consider and alter each of these pieces. Like the restorative theory, this study has also positively confirmed the application of the positions of this theory in that the study has found out that the community is actively involved in the corrections of offenders since they have understood that crime is a community problem and is the high time they be involved in its solution, through this the community ensure that offenders work in the community projects they have been assigned to work on.

### **2.5.3 Conceptual Framework**

The role of conceptual frame work is to define variables and to show how variables interrelate. Mugenda (2003:11) argues that, conceptual framework is a way of specifying precisely what we mean when we use a particular term to refer to a variable. Singleton etal (1988:72) pointed out that variables are characteristics of units that varied taking different values, categories or attributes for different observations. Variables show some degrees of relationships for example the independent variables are the presumed cause while the dependent variables are the presumed effect of the cause. It is something while to note that there is need to give working definitions of variables before using them.



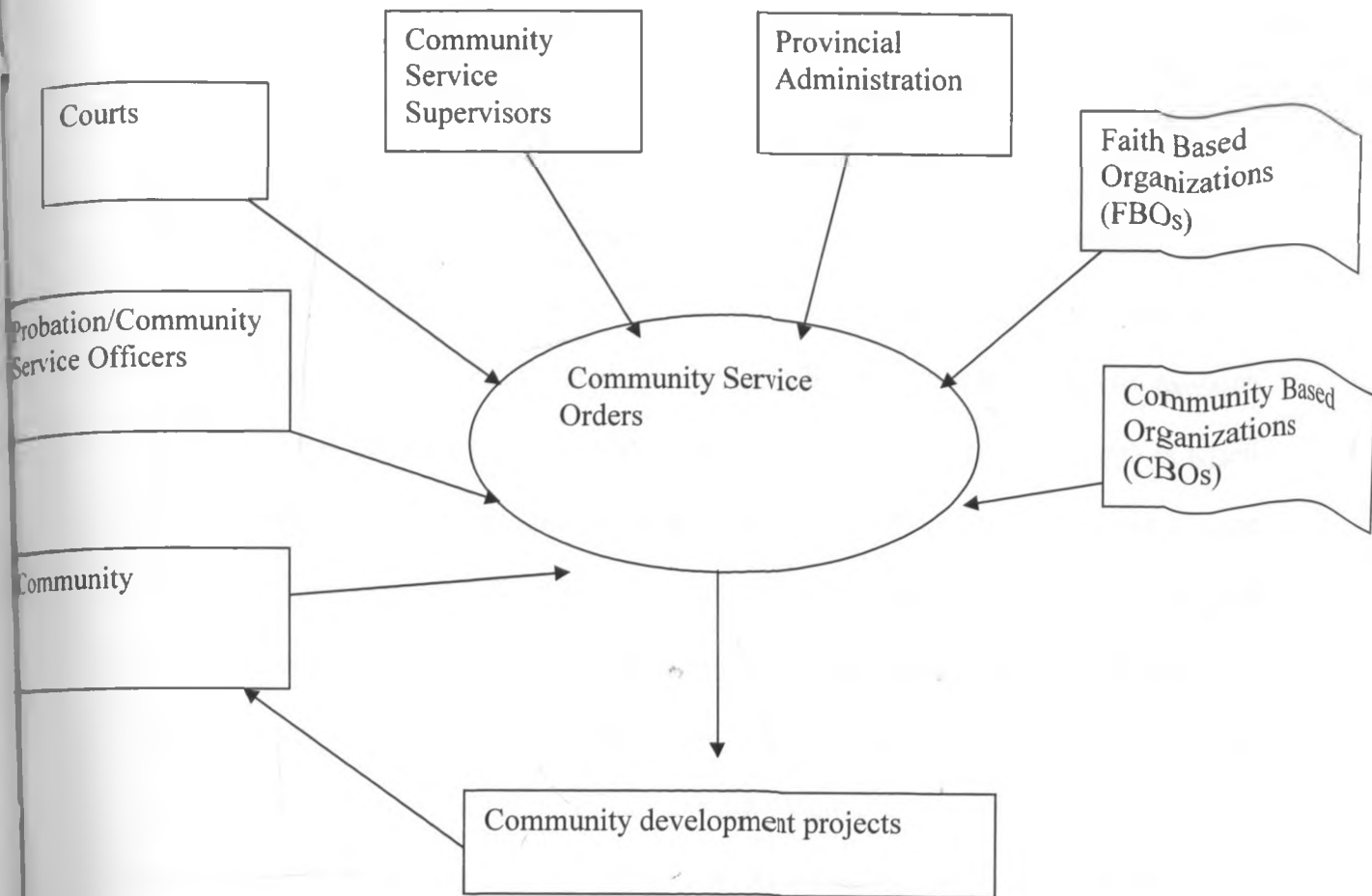
Depending on the kind of study being undertaken, researchers only include those variables which are relevant to particular study being undertaken at that particular moment, therefore variables as the name suggests, they are not static but keeps on changing or varying to suit the context of the subjects being studied.

This study was therefore guided by the confirmation- disconfirmation conceptual framework discourse. Churchill and Suprenant (1982) observed that, results in confirmation or disconfirmation of an individual's expectations are positively disconfirmed when the perceived outcome exceeds the perceived expectations, negatively disconfirmed when the perceived outcome is below the expectations and confirmed when perceived outcomes equals the expectations although this state of affairs is assumed to be in difference or neutrality.

Normally disconfirmation results from any discrepancies between what was priority expected and the actual outcomes. Richins (1983) while contributing to confirmation – disconfirmation concept argues that, the evaluation process of positive disconfirmation leads to satisfaction which in turn lead to positive responses while negative disconfirmations leads to negative responses.

This study therefore sought to confirm or disconfirm whether offenders through the CSO programme contribute positively towards community development and the community perceptions towards their contributions.

**Figure 1: Conceptual Model**



The above conceptual model shows the various players who are instrumental in the implementation of the community service orders programmes and also who facilitate the effective implementation of community development projects by offenders. The community service orders are at the centre of the implementation of community development projects. The community service officers, courts, community service supervisors, the community, provincial administration, FBOs and the CBOs are the main stakeholders who manage the offenders to ensure the programme is successful and yields positive results in terms of community development.

## **CHAPTER THREE**

### **3.0 METHODOLOGY**

#### **3.1 Introduction**

According to Mugenda, methodology refers to the procedures that are followed in conducting a study (2003:41). The techniques of obtaining data are developed and data is then collated using the selected and developed techniques. While Nachmias explains methodology as a system of explicit rules and procedures upon which research is based and against which claims for knowledge are evaluated (1996:13). It is important to note that in methodology, scientists look for new means of observation, analysis, logical inference and generalization. Since methodology of social sciences has evolved over time which has given rise to continuous interchange of ideas, information and criticism, this has made it possible to firmly establish or institutionalize commonly accepted rules and procedures and to develop corresponding methods and techniques. It is something worth to note that, this system of rules and procedures is the normative component of any scientific methodology.

This chapter therefore examined the research design which was used to undertake this study. Kerlinger defines a research design as “the plan, structure and strategy of investigation conceived so as to obtain answers to research questions and to control variance. It guides a researcher in collecting, analyzing and interpreting observed facts”(1964:275). Therefore this chapter focused on how the intended study was undertaken in a scientific manner observing all the scientific principles so as to achieve the desired results.

The method which was adopted by this study was the qualitative research method.

### **3.2 Research Design**

This study adopted the qualitative research method. According to Mugenda, (2003) qualitative research includes designs, techniques and measures that do not produce discrete numerical data. Schutt (2003:19), on the other hand, qualitative method is more exploratory and emphasis on in-depth interviews with the people who have an experience on the problem under study. This methodology captures the social reality of the researched as they experience it as opposed to some predetermined categories. Mugenda explains qualitative method as an umbrella term for various types of interpretive modes of inquiry commonly used in social sciences. These inquiry modes include ethnography, case studies, educational critiques, feminine theory, participatory research or evaluation among others (2003:198).

Research design according to Nachimias is the blue print that enables the investigator to come up with solutions to these problems and guides him or her in the various stages of the research (1996:99). The purpose of research design is therefore to describe the process involved in designing a study and to demonstrate how the specific research design that a researcher has selected to use helps to structure the collection, analysis and interpretation of data. Mugenda defines a survey as an attempt to collect data from members of a population in order to determine the current status of that population with respect to one or more variables. The survey research could be descriptive, exploratory or involving advanced statistical analysis, (2003:164).

Three qualitative research methods were adopted by this study namely;-

- a) Intensive interviewing using a well designed questionnaire with both closed and open ended questions.

b) Observation, the community work done by the community service offenders was keenly observed and the projects implemented were carefully evaluated so as to make informed conclusion and determine the impact of work.

c) Key informants interviews and discussions using unstructured interview schedule.

While conducting any research, a researcher is compounded by multiple fundamental problems which must be addressed in order to make any intended study successful. Some of the issues to be addressed include questions such as who shall be studied. What shall be observed? When will observations be made? and how will the data be collected?

The design for this study was the Survey method where by random sample of individuals were picked to respond to set questions about their backgrounds, their experiences with the subject being studied and determine their attitudes and perceptions towards CSO programme.

### **3.3 Site Selection and Description**

The site selected for this study was Kitui Central District. The district is one of those forming Kitui County. The District has two divisions, Kitui Central division with seven locations, namely Township, Kyangwithya East, Kyangwithya West, Mutune, Mulundi, Ivaini and Tungutu. Miambani division has three locations namely Kamandio, Miambaini and Kanzawu.

In the new administrative arrangements, it borders Kitui South, Kitui West, Yatta, and Mutitu Districts. According to the 2009 Kenya Population and Housing Census, the District covers an approximate area of 1,028.3 square kilometres with a total population of 175,633 persons. The population density is 171 persons per square kilometre (KNBS, 2010:19). The dominant inhabitants of the District are the Kamba speaking community.

The climate of the district can be classified as hot and dry for most of year with very little unreliable rainfall, the main economic activity is agriculture which is not for commercial use but only for food consumption which is hardly enough but has always been supplemented with food relief.

The site was selected because of the following reasons;-

- a) It is one of the districts which so far have provided an excellent case of the contributions of offenders in community development projects as already confirmed by this study.
- b) Also as established by this study, the community in this district has been actively involved in offender rehabilitation and management through community service and this has attracted great interests locally and regionally, however it was noted that this noble work to the community and the offenders contributions despite the recognition given has not been clearly documented and thus the need for its documentation.
- c) The proximity of the site to the researcher was also considered and found to be suitable, the researcher was be able to undertake the study without comprising official work and the quality of the study.

### **3.4 Target Population**

According to Borg (1983:241), “a target population refers to all members of a real or hypothetical set of people, events or objects to which the researcher wishes to generalize the results of study” (1983:241) while according to Schutt a population is an entire set of elements such as individuals, cities, states, countries, prisons or schools among others in which the researcher is interested (2003:7).

The target populations for this study were the community members, Community Service offenders and key informants who have wide knowledge on the subject under study. Further, the other elements of the study population were the community projects which had been implemented by the community service offenders they were studied in order to determine the impact of the work of the offenders.

### **3.5 Units of Analysis**

According to Schutt (2003:593), “unit of analysis refers to the level of social life on which the research questions is focused”. Mugenda defines units of analysis as those units which are initially described for the purpose of aggregating their characteristics in order to describe some larger group or abstract phenomenon. Further Mugenda summarizes the meaning of units of analysis as the individual units about which or whom descriptive or explanatory statements are to be made (2003:14).

The unit of analysis for this study was the community service orders programme.

### **3.6 Units of Observation**

Mugenda explains the units of observation as the subject, object, item or entity, from which we measure the characteristic or obtain the data required in a study (2003:15).

In other words, the units of observations are the sources of data. For this study, these were community members, community service offenders and the selected key informants.

### **3.7 Sampling**

Mugenda explains sampling as a process of selecting a number of individuals for a study in such a way that the individuals selected represent the large group from which they were selected (2003:10).

There are different sampling designs which inform any study, in this regard any researcher chooses among the various designs the one which is suitable to his or her study. This study adopted non probability sampling design; Schutt observes that, unlike probability sampling, when collecting a sample using non probability sampling techniques, elements within the population do not have a known probability of being selected into the sample (2003:105), while to Mugenda non- probability is used when a researcher is not interested in selecting a sample that is representative of the population (2003:50).

It is important to note that most studies adopt non- a probability sample because of its in-depth information and not merely making inferences or generalizations. This study used the purposive and simple random sampling methods.

The site for this study was purposively sampled also the division and three locations where the actual data was collected were also sampled purposively.

The sample size from the sampling frames of the households and the offenders was sampled using simple random method. In this regard, the samples were selected using the lottery selection procedure.

The office of District Officer Kitui Central Division was used to provide the information on the number of households per Location for the sampled locations, the three locations had sample frame of 364 households from where the household samples were drawn from.

The information about the offenders was provided by the office of the District probation officer Kitui Central. The information covered the periods between 2001 and 2010. This large period of time was considered so that the actual effects and impacts of the



programme can be explored. The sample frame for the offenders was 392 from which the samples for the offenders were sampled using the simple random method. The key informants were purposively sampled.

### **3.8 Sample Size**

According to Nachimias a sample size is a subset of sampling units from a population which does not include the entire set of sampling units which have been defined as population (1996:194).

This study never focused on all elements of the population, but some samples were randomly selected from each category of elements in the study population. For the household respondents', 91 households were randomly selected from a sample frame of 364 using the lottery technique, while for the community service offenders, 98 of them were randomly selected from a sample frame of 392 also using the lottery technique. As of the key informants 10 were picked purposively to supplement the information collected.

### **3.9 Methods and Tools of Data Collection**

The methods which were used to collect data included interviews, observation, secondary data reviewed and key informants' interview. The tools which were used to collect data included a well designed questionnaire with both closed and open ended questions and an interview guide for key informants. The designed questionnaires were administered through interviews to the selected respondents, the questionnaires were the primary instrument/tool for data collection, but, they were supplemented by use of

interview guide as additional instruments/tools of data collection which were administered to some key informants selected.

The local provincial administrators in each location selected and the village elders were used to identify the actual selected households while the probation officers in Kitui probation office were used to locate the offenders.

### **3.10 Methods of Data Analysis**

The data collected from the field was in raw form and could not make any sense nor was it meaningful. For it to be meaningful enough, it was analyzed, interpreted and presented in a more refined manner. In this regard the collected data was systematically analyzed and presented such that deductions and conclusions can be made. Since this study used qualitative method, the collected data was qualitative and was analyzed using the thematic and content analysis techniques. According to Kombo and Tromp, this method involves categorizing data into specific themes of related topics (2006:119).

The data was further analyzed using percentages and frequencies. There after the data was presented in tabular form where by tables were used to illustrate the information analyzed, this made it easy to make some references and deductions.

## CHAPTER FOUR

### 4.0 DATA PRESENTATION AND ANALYSIS

#### 4.1 Introduction

This chapter deals with data analysis, presentation and interpretation, it is recognized that the collected data from the field was in a raw form and for it to make sense; it had to be analyzed and presented in a more refined manner.

#### 4.2 Demographic Characteristics of the Respondents

##### 4.2.1 Sex

This study established that for both categories of respondents' majority of the respondents were males, 53.8% for households and 65.3% for offenders. It was also found that of the total household respondents, 46.2% were females while 34.7% of the offender respondents were females. Therefore it can be concluded that in both cases (households and offenders) there were more male respondents than females.

*Table 1: Sex*

Sex	Household		Offenders	
	Frequency	Percentage	Frequency	Percentage
Male	49	53.8	64	65.3
Female	42	46.2	34	34.7
<b>Total</b>	<b>91</b>	<b>100</b>	<b>98</b>	<b>100</b>

##### 4.2.2 Age

The study found out that majority of the respondents interviewed for both households and offenders were aged between 20 – 30 years, 38.5% for household respondents while

43.9% offenders in this age category. Out of the household respondents, 27.5% were in the age category of over 40 years while another good number of the offenders were in the age category of between 30 – 40 years (23.5%). The age category below 20 years had the least respondents for both households and offenders with 14.3% for households and 15.3% for offenders

From the table below, it can be deduced that majority of the respondents for this study were in the age category 20 years and above and thus were adults who could provide reliable information.

**Table 2: Age**

Age group in years	Household		Offenders	
	Frequency	Percentage	Frequency	Percentage
Below 20	13	14.3	15	15.3
20-30	35	38.5	43	43.9
30-40	18	19.7	23	23.5
Over 40	25	27.5	17	17.3
<b>Total</b>	<b>91</b>	<b>100</b>	<b>98</b>	<b>100</b>

#### 4.2.3 Marital Status

This study established that most of the households who were interviewed were single (38.5%) while majority of the offenders' who were interviewed were married (51%).

Out of the household respondents 36.3% were married while 23.5% of the offender respondents were single. Further 7.7% and 7.1% of the households and offenders respondents respectively were divorced while 4.4% and 12.2% of the households and

offenders respectively were separated. Of all the respondents, only 13.2% of the households were widowed.

**Table 3: Marital Status**

Marital status	Household		Offenders	
	Frequency	Percentage	Frequency	Percentage
Married	33	36.3	50	51
Single	35	38.5	23	23.5
Divorced	7	7.7	7	7.1
Separated	4	4.4	12	12.2
Widowed	12	13.2	6	6.1
<b>Total</b>	<b>91</b>	<b>100</b>	<b>98</b>	<b>100</b>

#### 4.2.4 Level of Education

Further the study found that the levels of education for majority of household members who were interviewed was Secondary level (24.2%) while that of the offenders interviewed was primary level (46.9%). As demonstrated in table 4 below, the study has also found that a good number of the household members had attained Tertiary and University levels of education (20.9%) and (18.7%) respectively. For the offenders, a quite a number had attained secondary level of education (26.5%).

Critically examining these findings, it can be observed that 63.8% of the household respondents had attained Secondary and above level of education, this means that they could understand and interpret the research questions without major problems while

35.7% of the offenders had similar qualifications, this means they could also understand and interpret the questions well.

*Table 4: Level of Education of the Respondents*

Level of education	Household		Offenders	
	Frequency	Percentage	Frequency	Percentage
University	17	18.7	4	4.1
Tertiary	19	20.9	5	5.1
Secondary	22	24.2	26	26.5
Primary	17	18.7	46	46.9
Never gone to school	16	17.6	17	17.3
<b>Total</b>	<b>91</b>	<b>100</b>	<b>98</b>	<b>100</b>

#### 4.2.5 Occupation of Respondents

The study found out that majority of the household respondents were teachers by profession (63.7%) while majority of offender respondents interviewed (53.1%) never indicated their specific occupation. As illustrated in table 5, the study also established that 22 % of the household respondents were farmers while 25.5 % of the offender respondents were on the same occupation.

Further 11% of the household respondents were on business and 18.4% of the offender respondents were also on the same occupation, consequently 3.3% of the households were civil servants while only 1% of the offender respondents were also civil servants

What can reasonably be concluded from the study is that majority of the household respondents had a good understanding of the subject being studied since they were teachers, business persons, farmers and civil servants. For the offenders, since most of

them never indicated their specific occupations, this may be taken as a reason as to why they were involved in crime.

**Table 5: Occupation of Respondents**

Occupation	Household		Offenders	
	Frequency	Percentage	Frequency	Percentage
Business Person	10	11.0	18	18.4
Farmer	20	22.0	25	25.5
Civil Servant	3	3.3	1	1.0
Teacher	58	63.7	2	2.0
Never indicated occupation	0	0	52	53.1
<b>Total</b>	<b>91</b>	<b>100</b>	<b>98</b>	<b>100</b>

### 4.3 Main Findings of the Study

This section deals with the major findings of the study. The findings presented are from the three categories of the sampled population i.e. heads of households, offenders and selected key informants. These findings are presented thematically according to the study objectives.

#### 4.3.1 Perception on CSO Programme

##### 4.3.1.1 Community Awareness of Community Service Orders Programme

Study objective one sought to explore whether the community members were aware of the CSO programme. The study found out that majority of the households respondents

interviewed confirmed that they were aware of the programme (73.9%). Also all the key informants who were interviewed confirmed that they were also aware of the programme. It can therefore be presumed that the responses given by these respondents touching on issues being studied were credible.

The study also established that 26.1 % of the respondents were not aware of the programme, this therefore means that there is need for more sensitization about the programme.

Those who had responded that they were aware of the programme were further requested to indicate what the programme entails. In their response, they said the programme entails about engaging offenders in free/un paid community work as a punitive measure or offenders doing community service work as a punishment for the offences they had committed against any person or state, also they said it entails about those who committed petty offences serving their sentences within the community in that they are given work to do without pay.

Other respondents said it entails rehabilitating offenders within the community by engaging them in performing free community services. From these sampled and summarized responses, it is clear that majority of the respondents actually had better understanding about the programme.



Table 6: *Community awareness of community service orders programme*

Awareness	Frequency	Percentage
Aware	69	73.9
Not aware	22	26.1
<b>Total</b>	<b>91</b>	<b>100</b>

#### 4.3.1.2 Key Implementers/ Stakeholders of the CSO Programme

The findings of this study are that Probation department (46.1%) and the courts (Judiciary) (41.6%) were found to be the major stakeholders of the CSO programme. The other stakeholders were members of the community (6.6%) and the offenders themselves (5.5%). This means that for the program to be effectively implemented, all the stakeholders must complement the works of each other.

Respondents were requested to give the roles played by each implementer/ stakeholder in the implementation of the programme. Majority of them gave the roles as follows;-

- a). Community Service Offenders- Serve the community by performing free/unpaid work or undertake works in various projects after being ordered to do so by the courts
- b). Community – identifies the various types of projects to be implemented by the offenders, reports to the relevant authorities those offenders who are not performing the work as expected.
- c). Courts – Give orders to the offenders to do community service or sentences offenders to perform community work.
- d). Probation department – Prepare and present reports to courts with recommendations on who is suitable to be placed on CSO, in consultation with members of the community

identifies the suitable projects to be implemented, oversees the supervision of offenders as they do works on the projects, promotes cooperation between the offenders and the community and also keep proper records of the work which has been performed by the offenders.

From these summarized roles of the various stakeholders, it is evident that majority of the respondents had good knowledge of the critical roles of the various stakeholders.

**Table 7: Key implementer/stakeholders of the CSO programme**

<b>Stakeholder</b>	<b>Frequency</b>	<b>Percent</b>
Offenders	5	5.5
Community	6	6.6
Courts	38	41.8
Probation Department	42	46.1
<b>Total</b>	<b>91</b>	<b>100</b>

#### **4.3.1.3 Community Attitude towards Community Service Orders Programme**

Overwhelming majority of the household respondents interviewed said were satisfied with the programme (83.5%), only 16.5% said they were not satisfied with it.

For those who said were satisfied, gave the following reasons in support of their responses that offenders paid back to them for the crimes they had committed against them.

Others said the programme which is in form of a sentence is not much dehumanizing as the case for prison programme, while others said the programme gives an offender an

opportunity to continue living with family members and also assists them as he/she serves under the programme.

For those who said they were not satisfied with the programme said that the programme gives offenders an opportunity to escape punishment. However it is evident from this study that the programme is favoured by the majority and it can be widely applied within the community.

**Table 8: Community Attitude towards Community Service Orders Programme**

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Satisfied with CSO programme	76	83.5
Not satisfied with CSO programme	15	16.5
<b>Total</b>	<b>91</b>	<b>100</b>

#### **4.3.1.4 Offenders' Awareness of Community Service Orders Programme**

As part of objective one, the study sought to explore whether offenders were aware of the CSO programme. The study found out that majority of the offenders interviewed was aware of the programme as shown in table 9 below. Their full awareness of the programme was attributed to the fact that they had served under the same programme. They even confirmed that they were beneficiaries of the programme. Only 3.1% indicated that they were not aware of the programme for them they said they were only serving a sentence as ordered by the court.

**Table 9: Offenders' awareness of community service orders programme**

<b>Awareness</b>	<b>Frequency</b>	<b>Percentage</b>
Aware	95	96.9
Not aware	3	3.1
<b>Total</b>	<b>98</b>	<b>100</b>

#### **4.3.1.5 Offences Which Offenders Served the CSO Programme**

This study established that majority of the offenders had committed the offence of assault with a percentage of 19.4%, others had committed the offence of possession of illegal liquor 18.3%. The study further found out that a substantial number of offenders were convicted of the offence of being drunk and disorderly 14.3% while quite a good number committed the offence of disobeying Chief's orders.

The study also established that 9.2 % of the offenders committed the offence stealing while those who had committed the offence of possession of bhang were 8.2%. Other offences committed were concealing birth 6.1%, creating disturbance 5.1%, affray 3.1%, and forgery 2% and hawking 1% among others.

From this study, it can be concluded the community service offenders had committed different kinds of offences this portends the various challenges facing the community.

**Table 10: Offences Committed By the Offenders**

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Assault Causing Actual Bodily Harm	19	19.4
Stealing	9	9.2
Creating disturbance	5	5.1
Being in possession of illegal liquor	18	18.3
Touting	3	3.1
Hawking	1	1.0
Being possession of bhang	8	8.2
Disobeying chiefs order	10	10.2
Being drunk and disorderly	14	14.3
Concealing birth	6	6.1
Forgery	2	2.0
Affray	3	3.1
<b>Total</b>	<b>98</b>	<b>100</b>

#### **4.3.1.6 Period Offenders Served Under CSO Programme**

According to the study findings, majority of the offenders who were interviewed had served their sentences for periods between 1 week to 11months (65.3%), this clearly confirms that the offences committed may not have been very serious which is also the main objective of the community service orders programme that petty offenders be allowed to serve their sentences within the community. The study has also found out that 28.5% of the offenders served their sentences for periods between 12 months to 17 months while a few of them 4.2% and 2% served for periods between 24 to 29 months and 30 to 36 months respectively.

The findings of this study have further justified one of the main objectives of the Community Service Orders programme that a petty offender who's their sentences does not exceed three years benefit from the programme.

**Table 11: Period Offenders Served Under CSO Programme**

<b>Duration of sentence</b>	<b>Frequency</b>	<b>Percentage</b>
1 week-11 Months	64	65.3
12-17 Months	28	28.5
24-29 Months	4	4.2
30-36 Months	2	2.0
<b>Total</b>	<b>98</b>	<b>100</b>

#### **4.3.1.7 Victims of the Offence**

One of the main objectives of the CSO programme is to recognize the victims of the offences and also ensure that they are involved in its implementation. The victims' forms part of the restorative goal of the programme. In this regard therefore, according to the findings of this study, majority of the victims of the offences which was the state (53.1%). The study also found out that of all the offenders interviewed, 17.3% had offended their neighbours while 11.2% had committed offences against their relatives. Table 12 shows that other victims were friends, strangers or employers respectively accounted for 2% each. Out of the total number of offender respondents interviewed, 12.2% never disclosed the victims of their offences.

**Table 12: Victims of the offence**

<b>Victim</b>	<b>Frequency</b>	<b>Percentage</b>
Relatives	11	11.3
Neighbours	17	17.4
Friends	2	2.0
Strangers	2	2.0
The state	52	53.1
employers	2	2.0
Others	12	12.2
<b>Total</b>	<b>98</b>	<b>100</b>

#### **4.3.1.8 Perception of Offenders on CSO Programme**

It was part of objective one of this study to establish the offenders' perceptions towards the CSO programme. The study established that majority of the offenders perception were generally good (55.1%). The study has also found out that 28.6% of the offenders perceived the programme very good, while 14.3 % of them perceived it as bad. Out of all offenders interviewed only 2% of them perceived the programme very badly.

What can be concluded is that most offenders can embrace the programme and implement it since they were positive about it

For those who perceived it either very good or good gave their reasons for such kind of response as, the programme accorded them an opportunity to continue living with their relatives while at the same time serving their sentences. Others said they were able to continue to take care of their children and continue with their normal life.

For those who either perceived the programme very badly or badly simply said that the programme subjected them to public ridicule because people were wondering how they can work without payment. Others said their children were being laughed at by the other children at school.

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*Table 13: Perception of offenders on CSO programme*

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Very good	28	28.6
Good	54	55.1
Bad	14	14.3
Very bad	2	2.0
<b>Total</b>	<b>98</b>	<b>100</b>

### **4.3.2 The CSO Programme and Community Development Projects**

#### **4.3.2.1 Community Service Orders Projects**

The study objective two sought to explore the community projects implemented under the CSO programme. The study found out that majority of the households respondents interviewed confirmed that they were aware of projects that had been implemented through the programme (73.9%). Also all the key informants who were interviewed confirmed that they were also aware of projects that had been implemented through the programme.

The study has also established that 26.1 % of the respondents were not aware of the projects implemented through the programme. This therefore means that there is need for more awareness creation and sensitization about the programme.

For those who indicated that they were aware of community projects implemented through the programme named some of the projects as, cleaning and maintaining of Wapendwa Children's Home, Syongila, Hekima and Syoloti primary schools, making bricks for the construction of Kisasi Assistant chief's office, repairs of Kalundu to Usiani

rural access roads, establishment and maintenance of Mutendea and Katyethoka tree nurseries, painting of Talima primary school, digging bore hole at Kitui school for mentally handicapped, digging pit latrines at Kwa Ngindu and Mosa primary schools, construction of classroom at Syomaku primary school, gardening and planting flowers at Kitui town roundabout and assisted in the tarmacking of Maseki road. Further these house respondents said the projects were implemented by use of free labour/work which was rendered by community service offenders.

The study further found that 14.3% of the respondents said that they were not aware of any specific projects which had been implemented by the offender. These kinds of projects were also named by the key informants who were interviewed who said the same projects are cases of successfully projects implemented using free labour from the community service offenders. It can therefore be concluded that the CSO programme contribute positively to community development.

*Table 14: Awareness of Community Service Projects*

Awareness	Frequency	Percentage
Aware of community projects implemented	69	73.9
Not aware of community projects implemented	22	26.1
<b>Total</b>	<b>91</b>	<b>100</b>

#### 4.3.2.2 Offenders' involvement in implementation of CSO projects

This study also aimed at establishing whether community service orders offenders who are instrumental in implementation of the CSO programme are as well involved in the implementation of the community development projects. The findings of this study are that, majority of the offenders who were interviewed felt that they were fully involved in the implementation of the community projects (88%).

Further all the key informants who were interviewed confirmed that most of the community projects named were implemented using the community service offenders. The study has also established that 12 % of the offenders interviewed said they were not aware whether they were involved. These offenders only said they were only obeying court's order while working on the projects and that they never wanted to be re-arrested for breach of a court order. It is there not an understatement to conclude that offenders are instrumental in the implementation of community development projects.

*Table 15: Offenders' and community service sentences*

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Offenders involved in implementation of community development projects	86	88
Offenders not involved in implementation of community development projects	12	12
<b>Total</b>	<b>98</b>	<b>100</b>

#### 4.3.2.3 Viability of Community service orders programme

The study intended to get the views of the community members on whether the community service orders programme should be used frequently in the future. The study established that majority of the household members interviewed favoured the programme

being used frequently (84.6%) Further the study found that 19.4% of them never favoured the programme being used in future.

For those who favoured the programme being used in future, where further requested to cite their reasons they said, the programme assists the government to cut down/ down size its annual budgetary expenditures on prisoners feeding and other maintenances. The government and the community benefits from the free work offered by the programme which they could otherwise have paid for. Offenders are carefully monitored and guided through the programme and finally that offenders are enabled to continue to live and care for their family members as they serve the sentence.

The offenders who held contrary views just said this sentence is very lenient on offenders. For them offenders should be punished serious since sentences are all about deterrence.

**Table 16: Frequent use of community service orders programme**

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Should be used frequently	77	84.6
Should not be used frequently	14	15.4
<b>Total</b>	<b>91</b>	<b>100</b>

#### **4.3.2.4 Community reaction to offenders' community development work**

The study also intended to determine whether the community appreciated the free work which had been performed by the offenders. It was established that most of the

community members appreciated the offenders' work (91.2%). Also it was found out that 8.8 % of community members never appreciated the works of the offenders.

Given the fact that majority of community members appreciated the offenders work, it makes it possible to rehabilitate the offenders within the community for already they were being appreciated. Those household members who said the community appreciated their work were further requested to show how they appreciated. In their response they observed that, some of the offenders were employed on casual basis by some of the institutions after their sentences because of the good work they had done, some community members bought the seedlings which they had planted and cared , as a way of appreciation some institutions provided some meals to the offenders as they worked while others commented that the work undertaken could have cost them some money but now was done freely and proposed that offenders be considered for this kind of sentence in future.

*Table 17: Community's reaction to offenders' community development work*

<b>Description</b>	<b>Frequency</b>	<b>Total</b>
Community appreciated	83	91.2
Community never appreciated	8	8.8
<b>Total</b>	<b>91</b>	<b>100</b>

### **4.3.3 Effects of community service orders programme**

#### **4.3.3.1 Effects of the programme on community development**

As shown in objective two, the CSO programme has many community projects which are beneficial to the community. Further it is important to note that the programme also has various net effects.

Objective three of this study therefore sought to examine the effects of the CSO programme on community development. The study established that majority of the household members interviewed were of the view that the programme has positive effects to community development (73.9%). The study also found that 26.1 % of the household members thought the programme has negative effects to community development.

For those who said the programme had positive effects were asked to show some of the effects. Among the effects they cited were, many community development projects were implemented, the offenders were given an opportunity to continue living with the families and take care of them and that the victims of the offences are paid back by the offender through the free community work.

It was also part of objective three to establish some of the long term effects of the CSO programme. From the household members interviewed, the study has established that majority of them believed that the programme has positive long term effects within the community. Further the study found out that most of the household respondents were of the view that the programme has no long term effects.

For the household members who responded that the programme has positive long term effects were requested to list some of these effects. They listed the effects as, pit latrines dug improved the hygienic standards of the institutions, the free work saved both the government and tax payers a good amount of money which they could have paid had they engaged the services of casual labourers, the planting of the flowers brought about beautification of the environments, planting of trees enhanced environmental conservation while the fencing of the school and dispensaries compounds enhanced their securities.

*Table 18: Effects of the programme on community development*

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
The programme has more positive effects	69	73.9
The programme has more negative effects	22	26.1
<b>Total</b>	<b>91</b>	<b>100</b>

#### **4.3.3.2 Beneficiaries of the offenders' community work**

It was also part of objective number three to find out who benefits from the works performed by community service offenders. The study established that majority of the offenders interviewed felt that their work benefited the community (88.8%). These findings were also collaborated from information which was gathered from the key informants who were also interviewed. Out of the total number offenders interviewed only 7.1% were of the view that their work never benefited the community.

For the offenders who said their work benefited the community were requested to show how they benefited. Most of them said they benefited from the free work which otherwise they could have paid for. They indicated that the savings made from the free work were directed to implementation of other important activities which they could not have been undertaken.

Others who benefited from the works of the offenders were the government and the institutions on which they worked.

*Table 19: Beneficiaries of the offenders' community work*

<b>Description</b>	<b>Frequency</b>	<b>Percentage</b>
Benefited the community	87	88.8
Never benefited the community	7	7.1
Others	4	4.1
<b>Total</b>	<b>98</b>	<b>100</b>



## **CHAPTER FIVE**

### **5.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS**

This chapter deals with the study summaries, conclusions and recommendations which are derived from the findings.

#### **5.1 Summary**

This section presents the summaries which have been derived from the study, it provides a brief view of what was established from the discussed findings in chapter four.

The demographic characteristics of the respondents have indicated that in both categories of respondents' i.e. the households and offenders, there were more male respondents interviewed than females, while in terms of ages of the respondents for both categories, majority of them were aged between 20 to 40 years.

As far as the marital status were concerned, it has been established that majority of the household respondents were single (not married) while majority of offender respondents were married.

Many of the household respondents had attained secondary level of education while majority of the offenders interviewed had attained primary level of education.

The occupation of most of the household respondents who were interviewed was teaching while most offenders indicated their occupation as others.

The study has established that most of the household respondents, offenders and key informants were aware of the Community Service Orders programme in Kenya.

The critical stakeholders for efficient and effective implementation of this programme were found to be the Probation officers, courts, the community and offenders themselves.

The overall objective of this study was to examine the contributions of the CSO programme in community development. This study established that all the respondents who were interviewed from whichever the category of the study population concurred that the CSO programme contributes to community development projects.

Most of the offenders who were interviewed had committed the offences of Assault Causing Actual Bodily Harm, Being drunk and disorderly, Being in possession of illegal liquor, Stealing and Being in possession of bhang.

This study further found that majority of the offenders interviewed had served sentences for periods between 1 week to 11 months with also another good number having served for periods between 12 to 17 months and that they felt the sentence assisted them. One of the specific objectives of the study was to determine the community and the offenders perceptions towards CSO programme, the study established that both the community and offenders perceptions towards the programme were very good, some even recommended that programme should be used frequently in future for community service. This was further reinforced by the key informants who were interviewed.

It was part of the study specific objectives to determine the type of projects which have been implemented by the offenders and indicate who benefits from those projects. This study has found that some of the projects to be, watering seedlings in tree nurseries, digging pit latrines in various schools and dispensaries, planting flowers and taking care of them, cleaning school and dispensary compounds, fencing of school and dispensary compounds, repairing of school desks and painting of classrooms and digging foundations for classrooms constructions among other works.

The beneficiaries of these projects were found to be the members of the community, the government and the institutions on which the offenders worked.

The impacts of the CSO programme were found to be, improved hygienic standards of institutions, financial savings for both the government and tax payers, beautification of the environments, enhanced environmental conservation and enhanced securities in schools and dispensaries.

The theories which guided this study were the Restorative theory and the Social control theory. Restorative theory advocates that restitution and restoration are the central features in restoring the harm done to victims of crime and the community, it also emphasises the need of involving stakeholders in responding to crime and punishment of offenders, the theory further argues that offenders are socially constructive.

All these positions held by this theory were confirmed to be true and applicable in this study since most of the respondents interviewed confirmed all the arguments of this theory, it can therefore be concluded that this theory was more relevant for the study.

The Social control theory underpins the need to involve the community in the treatment and management of offenders since offenders and crime are a community problem. The theory further recognizes that offenders are potential assets within the community, this theory stresses that many changes are bound to come from offenders so long as they are assisted and given an opportunity to change, the arguments of this theory were also confirmed to be true by this study, therefore it can also be logically be concluded that this theory was also most applicable for this study.

## 5.2 Conclusion

This study intended to establish the current community and offenders perceptions towards the community service orders programme, from the study, it was found out that majority of the community members and offenders have positive perceptions towards the programme. It can therefore be concluded that there is change of attitude from the community members and offenders towards the programme, this kind of perception can be used to better further its enhanced future use.

Also it was established that currently, the community reaction towards crime and punishment on those who have been sentenced to serve their sentences within the community have positively improved with only a few of them with negative feelings about offenders being sentenced to serve their sentences within the community this however calls for more sensitization by the implementers of this programme so that many people can become more aware about it.

From the statement problem and gaps identified in the literature review, it had been noted that the works of the offenders through the community service orders programme over a period of time had not been considered as noble contributions to community development but was just seen as a mere sentence, also it had been observed that there were no earlier studies done to determine whether the works of offenders constitute to community development.

This study therefore aimed at determining whether community service orders programme contribute to community development and if so in which ways, it has been confirmed from this study that majority of the respondents from various categories selected confirmed that the programme do contribute positively to community development through implementation of community based projects. It can therefore be concluded that

offenders through the CSO programme do contribute to community development and that their services need to continually be utilized to foster more socio-economic development.

It was the aim of this study to confirm whether the community was involved in the management of the community service orders programme since from the literature review it was found necessary that community be involved in matters. Also the two theories used also confirmed the significance of the involvement of the community and the other stakeholders in managing programme.

From the literature review, it was observed that there was no documented information to show whether offenders have any potential benefits to offer to the community, it therefore became the concern of this study to determine whether offenders have any potential benefits to offer to the community. From the study, it was established that through their free and unpaid work in public institutions, offenders have major potential benefits; they have been able to implement various development projects as reported in chapter four. It can therefore be concluded that unlike the earlier negative perceptions towards offenders, offenders are important sources of community development and their potential in this respect need to be highly exploited for enhanced socio-economic development.

It can also be concluded that although the good works of community service orders programme was not being recognized before, currently there is a growing recognition of the works this argument is supported by the enormous number of development projects which had been implemented through the programme and the growing demand for its services from various public institutions and community members.

When this programme was being started in the year 1998, least had the policy makers knew whether it could spur development projects to this extend, in fact to them it was a sentence to replace the unpopular EMPE sentence for the petty offenders and also to win the deteriorating confidence of the courts towards the non – custodial sentences. This study has however established that contrary to this kind of understanding and view about the programme, the programme has proved to be very instrumental in fostering community development, therefore it is not an understatement to conclude that community service orders programme in promotes community development.

It was interesting to note from the respondents who were interviewed from the various categories that majority of them knew what is community service orders programme the role it plays within the community therefore it can be concluded that this programme is well known and understood within the community, this explains why the programme has been highly embraced in the selected site.

Since the inception of this programme, there has never been any effort made to determine the relevance of the projects that are implemented under it and who benefits from the works of the offenders and the projects which they had implemented. It was the deliberate aim of this study to determine who normally benefits from the projects implemented through the programme. The study has confirmed that the beneficiaries of the implemented projects are the members of the community, the government, the various public institutions were the offenders worked and the offenders themselves, each benefits in various ways as highlighted in chapter four of this study, it can therefore be concluded that there are various beneficiaries who benefit from this programme through the implemented projects.

It was also the aim of this study to find out whether the programme should continue to be used in future, this study has ascertained that there is need of its continued usage by the courts and more offenders should be sentenced to serve under it as a result of this, more community development projects will be implemented, it is therefore something worth to conclude that the programme is steadily gaining momentum since it was started and that the many implemented projects is clear testimony of its rapid growth.

This study found out that majority of the offender respondents' were married people, it can then be concluded that while sentencing offenders to community service, the courts considers the marital status of the offenders, this kind of consideration is very important in maintaining the offender family ties with the spouse and their children which could otherwise have disintegrated if the offenders were sentenced to prison.

Further from this study, it was found out that majority of the offenders' respondents were males, what can be concluded is that more men commit crime compared to women, further also, what can be concluded is that by virtue of having more married males being considered to serve under the programme the courts considers their roles within the family that they are the bread winners and there is need of giving them an opportunity to continue supporting their families.

### **5.3 Recommendations**

Some gaps identified from the literature review included lack of earlier studies in this subject area, reluctance by the criminal justice agencies to embrace this programme and lack of clear policies to guide its effective implementation by the government. These gaps definitely require some remedial measures for the programme to remain more focused and effective in discharging community development

### **5.3.1 Community members**

It is recommended that the community be actively involved in matters related to community service orders programme and its management.

All criminal justice agencies dealing with offenders to should consistently involve the community while making some critical decisions for the offenders.

It is recommended that those few community members have some negative attitude towards the programme need to change their attitudes.

The community should initiate more community projects to ensure that at all times there is available work for the programme.

The community should cooperate effectively with the all other stakeholders involved in the implementation of the programme for the programme to remain consistently relevant.

### **5.3.2 Government**

The community Service orders secretariat should conduct more sensitizations and awareness creations to those members of the public who still are not aware of the programme.

It is recommended that the office of District probation officer Kitui Central come up with clear policy guidelines which will be used to enhance the level of its implementation in the area.

More resources need to be allocated to the programme as the current ones are extremely little to meet its operational demands.

It is also recommended that more offenders should be considered and sentenced to this programme.

Clear and comprehensive documentation about projects implemented through this programme need to be undertaken and a data bank developed.



Similar studies need to be conducted in other counties to enrich these findings.

### **5.3.3 Areas of further research**

This study focused on one aspect of the programme that of its contributions in community development, there are other important aspects of the programme therefore further studies are required in the areas of:-

It's Impact on prison decongestion.

Its contributions in cutting down/reducing government spending in prisons.

The extent of achieving its reparation and the restorative objectives.

A comprehensive evaluative study about the programme.

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## Appendix 1: Questionnaires

### THE CONTRIBUTIONS OF COMMUNITY SERVICE ORDERS PROGRAMME IN COMMUNITY DEVELOPMENT IN KITUI COUNTY

#### APPENDIX I

#### HOUSEHOLD QUESTIONNAIRE

Date of Interview -----

#### Introduction

Hello! My name is Shadrack Kyengo Kavutai a student at University of Nairobi in the Department of Sociology and Social Work. I am conducting a research on, **the contributions of Community Service Orders programme in community development in Kitui County** for the partial fulfilment of the requirements of Masters Degree in Arts (Rural Sociology and Community Development).

I kindly request you to respond to the questions below with sincerity and honesty. I do profoundly promise that your responses will be accorded the confidentiality it deserves.

#### **Section I .Social Demographic characteristics of Respondent.**

1. Sex Male  Female

2. Age category

Below 20

Between 20-30

Between 30-40

Over 40

3. Marital status.

a) Married

b) Single

c) Divorced

d) Separated

e) Widowed

4. Level of education

a) University

- b) Tertiary
- c) Secondary
- d) Primary
- e) Never gone to school

5. Occupation -----

**Section II. Awareness on Community service orders programme.**

6. a). Are you aware of a programme called Community Service Orders in Kenya?

Yes  No

b). If yes what does the programme entail? \_\_\_\_\_

7. Who are the key stakeholders in the implementation of the programme?

- a) Offenders (Community service offenders)
- b) Community
- c) Courts
- d) Probation department
- e) Others (Specify) \_\_\_\_\_

8. What is the role of each stakeholder?

- a) Offenders (Community service offenders) \_\_\_\_\_
- b) Community \_\_\_\_\_
- c) Courts \_\_\_\_\_
- d) Probation department \_\_\_\_\_
- e) Others (Specify) \_\_\_\_\_

9. a) In your opinion do youth think the programme is contributing effectively towards implementation of community based development projects?

Yes  No

b). If yes how does it contribute?

c.) If no what do you think are its challenges?

**Section III: Contributions of offenders to community development.**

10 a). Do you know people called offenders in Kenya?

Yes

No

b).If yes who are they?

11 a). Do you think offenders contribute positively towards community development?

Yes

No

b). If yes what are some of the known contributions they have made?

c). If no why do you think they don't contribute?

12 a). Are you aware of some community projects which have been implemented by the offenders? Yes

b). If yes, what type of projects and can you name some of them?

c). who benefits from these projects?

d). How do they benefit?

e). what are the impacts of the programme?

**Thank you very much**



**THE CONTRIBUTIONS OF COMMUNITY SERVICE ORDERS PROGRAMME  
IN CONTRIBUTION TO COMMUNITY DEVELOPMENT IN KITUI COUNTY**

**APPENDIX 2**

**QUESTIONNAIRE FOR COMMUNITY SERVICE OFFENDERS.**

**Date of Interview** -----

**Introduction**

My name is Shadrack Kyengo Kavutai a student at University of Nairobi in the Department of Sociology and Social Work. I am conducting a research on, **the contributions of Community Service Orders programme in community development in Kitui County** for the partial fulfilment of the requirements of Masters Degree in Arts (Rural Sociology and Community Development).

I kindly request you to respond to these research question with sincerity and honestly. I do profoundly promise that your responses will be accorded the confidentiality it deserves.

**Section I .Social Demographic characteristics of Respondent.**

1. Gender Male  female

2. Age category  
Below 20

Between 20-30

Between 30-40

Over 40

6. Marital status.

a) Married

b) Single

c) Divorced

d) Separated

e) Widowed

7. Level of education

a) University

- b) Tertiary
- c) Secondary
- d) Primary
- e) Never gone to school

8. Occupation -----

**Section II. About community service sentences.**

- 9. For what offence were you arrested for?
- 10. For how long have you been sentenced to community service orders?
- 11. Whom had you offended?
- 12 a). How were you received back by members of the community and family members?

Very well

Well

Badly

Very badly

- b). If very well or well, why?
- c). If very badly or badly, why?

13 a). Did you feel comfortable going back to the community?

Yes  No

- b). If yes, why?
- c). If no, why?

14 a). Did the sentence assist you in any way?

Yes  No

- b). If yes, how?
- c). If no, why?

15 a). Have you reconciled with the person you offended?

Yes  No

- b). If yes, how?

c). who facilitated the reconciliation?

d). If no, why?

### Section III Awareness on community development projects

16. What kind of community work did you undertake?

17. What is the impact of what you have done?

18 a). Is the work you were doing assisted the community?

Yes  No

b). If yes, whom do you think benefited?

c). How did they benefit?

19 a). Did the community appreciate the kind of work you did?

Yes  No

b). If yes, how?

c). If no, why?

20 a). Would you recommend the same sentence to other offenders?

Yes  No

b). If yes, why?

c). If no, why?

21 a). Should government embrace this programme as a best alternative sentencing option?

Yes  No

b). If yes, why?

c). If no, why?

22 a). Do you propose any other ways of sentencing offenders?

Yes  No

b). If yes, which ones?

**Thank you very much**

# THE CONTRIBUTIONS OF COMMUNITY SERVICE ORDERS PROGRAMME IN COMMUNITY DEVELOPMENT IN KITUI COUNTY

## APPENDIX 3 – KEY INFORMANTS STUDY GUIDE

### Introduction

My name is Shadrack Kyengo Kavutai a student at University of Nairobi in the Department of Sociology and Social Work. I am conducting a research on, **the contributions of Community Service Orders in community development in Kitui County** for the partial fulfilment of the requirements of Masters Degree in Arts (Rural Sociology and Community Development).

I kindly request you to respond to these research question with sincerity and honestly. I do profoundly promise that your responses will be accorded the confidentiality it deserves.

### **Section A: Social Back ground**

- 1) Name (optional)-----
- 2) Marital status-----
- 3) Gender-----
- 4) Age -----
- 5) Position within the community -----,

### **Section 2. About offenders and community development**

- 6) Are you aware of a programme called Community Service Orders in Kenya? -----  
-----
- 7) What is the perception of the community towards offenders serving under Community Service Orders programme? -----  
-----  
-----
- 8) Do you think offenders contribute positively towards community development? If yes in which ways? -----
- 9) Identify some of the community projects that have been implemented by the offenders? -----  
-----

- 10) Who benefits from the projects which have been implemented by the community service offenders? -----  
-----
- 11) How do they benefit? -----  
-----
- 12) What is your attitude towards offenders released by courts to serve their sentences under community service? -----  
-----
- 13) Would you recommend more offenders to be sentenced to community service orders programme? -----  
-----
- 14) What is the impact of the projects implemented under the Community Service Orders programme? -----  
-----

**Thank you very much**