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Effects of Legislationin Investigating Economic Crimes in Kenya by the Directorate of Criminal Investigations Headquarters, Investigation Bureau

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***Abstract**: The study analyzed the effects of legislation by the directorate of criminal investigations on economic crimes in Kenya. Descriptive design was adopted and a target population of all the 296 employees working as investigators at the Directorate of Criminal Investigations Headquarters Investigations Bureau. A census was conducted with acompletion success rate of 73% (216/296) respondents where Information was collected using a semi-structured questionnaire. STATA version 15 was used to process and analyze the data. Descriptive statistics were presented in the form of frequencies, means and standard deviations. A regression model was developed to establishe the relationship between Legislation (independent variable) and Economic crimes (dependent variable). Legislation (X_1) showed a coefficent of 0.128. The regression model generated R^2 value of 0.18 implying that legislation has a 18% effect on invesstigating economic crimes. The P value was significant at 0% level (sig. $P<0.005$), confirming that the model is fit. The study variable had a positive relationship. The study recommended that awareness of the law should be prioritised and that there is need for the existing laws to be consistently implemented to reverse the gap on wealth skewedness as a result of economic crimes.*

***Key words**: Legislation, Economic Crimes, Investigation*

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I. Introduction

Sutherland (2003) first coined the concept economic crime in the year 1939 where he viewed this problem as a violation of trust involving either or both misrepresentation and duplicity. Sutherland argued that to deal with economic crimes,the use of criminal sanctions is far much better than civil remedies. Legal profession, sociologists, criminologists and public opinion specialists attacked Sutherland's views who contended that an act treated in civil court is not a crime and that criminals are those persons who are defined as such. Economic crime is universal where white collar criminals are neither so defined nor do they define themselves as criminals(Wong, 2005).

The necessity to fight against economic crimes has infiltrated the agenda of the international community(Taylor 2018). Both International and Regional organizations, non-governmental organizations,states, study groups and scholars have started to perceive globalization not only as an economic development of the developing countries, but also a danger to the economic stability due to the threat of economic crimes across national borders. The most common forms of economic crimes committed against businesses include fraud, bribery and corruption,cyber-crime,asset misappropriation, false accounting,insider trading and money laundering (Price Waterhouse Coopers 2018).

According to Bussmann (2003), at least 36% of companies globally have reported being victims of economic crime with an average loss of over two million Euros and the amount of undetected losses expected to be at least five times higher over the last five years.Apart from financial loss, companies that have to deal with economic crimes suffer from intangible damages of loss of management time,loss of trust in general by customers andinvestors, as well as damage to business relationships. Additionally, economic crimes encourages an imitation of the vice and threatens the morale of employees. In 2008, SocieteGenerale a French bank lost 4.9 billion shillings to activities carried by one of its employees who covered up the mistakes to save his job(Engdahl2009). This case is an example of the losses that companies have to bear with.

There is a tremendous increase of Economic crimes in Africa from 50% to 57% where South Africa did record the highest levels of crime reported at 69%. Kenya is second where it reported an increase from 17% to 61% followed by Zambia with 61% up from 35% in 2015 where asset misappropriation was the most commonly reported economic crime followed by cyber-crime and lastly bribery and corruption (Donati, 2016). According

Babatunde and Filani (2016), Nigeria has lost over 200 billion dollars emanating from Economic Crimes. Money laundering has reached an alarming rate where officials in both private and public are involved in the practice.

Government officials who second up as politicians are religiously involved in the process of trafficking money and use their status to escape justice. Since the first republic in Nigeria,Economic Crimes has been responsible for the instability of the successive governments. Since then,every coup has been in the name of fighting Economic Crimes. Unfortunately, they turn out to haunt the country's economy where Nigeria's external image has taken a negative direction as the country begun to feature globally on top of every corruption index (Babatunde and Filani, 2016). According to Deloitte survey, (2012) a number of East African banks loose US$48.3 daily of their customer's cash to fraudsters.

In the last few years Kenya, has also been in the limelight for the prevalence of economic crimes (United States Department of State, 2015). Kenya remains vulnerable to economic crimes due toits financial sector that supports 43 licensed commercial banks, 91 licensed Forex Bureaus and nine deposit-taking microfinance institutions with branches throughout East Africa making Kenya the financial hub for East Africa where the banking and financial sectors are growing in sophistication.

A national survey conducted by PWC (2014) found out that tendering fraud has overtaken bribery and corruption and it's becoming Kenya's fastest growing economic crime. One in every three Kenyan businesses reported procurement related fraud where 36% of company Chief Executive Officers said they had been asked to pay bribes in order to win a tenderin the last two years. PWC (2014) further asserts that asset misappropriation remains the most common economic crime in Kenya and has affected 77% of businesses.

According to the Directorate of Criminal Investigation, Investigations Bureau Annual report (2016), Financial Investigation Unit had 21 cases reported with an economic value of Kshs. 407 Million,Transnational and organized crimes unit had 32 cases reported with an economic values of Kshs. 310 Million, Insurance Fraud Investigations Unit had 148 cases reported with an economic value Kshs. 411.5 million,Banking Fraud Investigations Unit had 873 cases reported with an economic value of Kshs. 2 billionwhile Land Fraud Investigations Unit had 514 cases reported with an economic value of Kshs. 3.5 billion. This is part of the magnitude of economic loss the national is encountering country wide. Little can be said on the unnoticed or unreported economic crimes committed.

Auditor General's special reports (2017) indicates that Kshs. 24.6 billion laptops tender for standard one pupils in March 2014 was cancelled by the public procurement administrative review board after it was established the tender was not fairly awarded. In October 2015, Imperial Bank was shut down byCentral bank of Kenya after it was established that over a period of 13 years,the management of the bank used a network of 20 companies and individuals to rob the bank of Kshs. 34 billion. The National Youth Services under the devolution ministry lost Kshs. 1.9 billion taxpayers money in November 2015 while a report at the Ministry of Health revealed that Kshs. 5.2 billion was misappropriatedin October 2016. According to PWC, (2018) there is an increase in economic crimes which is at 75% in 2018 compared to 61% in 2016.

1.1 Statement of the problem

Despite efforts being made by the National Police Service (NPS) and Ethics and Anti-Corruption Commission (EACC) in the fight against economic crimes, Kenya is ranked second regionally and third internationally on countries reporting most economic crimes. There is a high rate of reporting economic crimes by the public despite legislative measures such as the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) as well as Anti-Corruption and Economic Crimes Act (ACECA) being enforced in Kenya.Kenya lost over Kshs. 6.6 billion in 2016that could be used in basic projects translating to 0.025 of the country's 2017/2018 annual budget of Kshs. 2.6 trillion. These economic crimes distorts resource allocation where a few people get rich at the expense of the majority leading to skewed distribution of income and wealth. This research, therefore, explored the effects of legislation in investigating economic crimes in Kenya.

1.2 Research Objective

To explore the effect of legislation in investigating economic crimes in Kenya.

1.3 Research Hypothesis

H_{01} Legislation has no significant effect in investigating Economic Crimes in Kenya.

II. Literature Review

Economic crime which is commonly referred to as fraud in most cases is the most expensive of all crimes and its cost is unquantifiable(Grabosky 2013). The main reason for being concerned about economic crimes is the breach of trust. Economic crimes jeopardizeseconomic development, interpersonal relationships and in some cases the stability of governance. Economic crime is a changing phenomenon, and criminals are continually adopting the changes in technology to sophisticate their operations.

Bhusal (2009) conducted a study on the legislative effects on Economic Crime and strategies used to control economic crimes in Napoli. Awareness of law, existence of law and consistency in usage of the law were the parameters used to measure the main objective. A sample of 50 respondents were drawn from different types of banks,the law enforcement agency and courts where data and information were obtained from newspapers, annual reports,electronic sources and other unpublished and published official documents. Bhusal (2009) found out that most of the respondents were not well conversant with economic crimes and that Napoli still used outdated investigating system to investigate economic crimes. No strong policies had been put in place to control economic crime where corruption flourished due to political favourism. The study dealt on the already existing issues in terms of legislation but did not look at possible non-legislative and legislative measures that can be taken to curb Economic crimes.

A case study conducted by (Coenen2007) on crime and punishment: Sentencing in financial fraud cases where the researcher looked at the relationship between legislation and financial crimes. The researcher reviewed six concluded cases in 1990’s related to financial crimes guided by the effects of legislation on the cases as the main objective. Existence of relevant laws and legislation as a deterrent factorwere the study parameters. The study found out that financial laws are not as punitive compared to other types of crime but also noted that the current financial laws are harsher compared to the laws in the 1980s and 1990s. However, Coenen (2007) pointed out the limitation by the legislation in fighting crime but failed to address how legislation can be improved to address economic crimes.

A study on the role of Economic and financial crimes Commission in curbing corruption in Nigeria was conducted by Babatunde and Filani (2016). Competency of law implementers and existence of relevant laws were used to measure the commission’s role in curbing corruption. Already existing literature was reviewed by the researcher for this research. Though the paper discusses the appreciable achievements in fighting economic and financial crimes, some factors that influenced against its success were equally identified and appraised. The researcher found out that the commissionis not well funded, it lacks the independence to perform their duties and that the laws to fight economic crimes are not effective.The researcher could not capture any new aspects that may be directly or indirectly involved in corruption since he mostly relied on already existing and researched data. The link between the dependent variable, independent variables and the parameters used in the study are illustrated in the operational framework below.

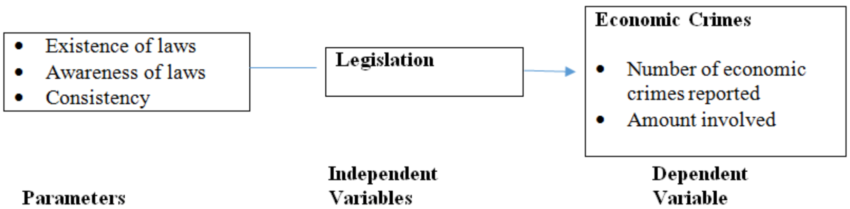

Figure 1: Operationalization of Variables

Research has considered the variable in relation to existence of laws, awareness of laws and consistency on economic crimes. Number of economic crimes reported and the amount involved.

III. Methodology

A descriptive research design was used to analyze the study data and the target population of this study was all the 296 employees stratified into departments within the directorate of criminal investigations headquarters, Investigation bureau. All the 296 employees working as investigators at the DCI Headquarters, Investigation Bureau formed the potential respondents (Census) as shown on the table below.

Table 1: Target Population

UNITS	TARGET POPULATION
Serious Crimes Investigations Unit	59
Financial Investigations Unit	68
International Crimes Investigations Unit	11
Land Fraud Investigations Unit	35
Banking Fraud Investigations Unit	51
Cyber Crimes Investigations Unit	12
Children Protection Unit	16
Insurance Fraud Investigations Unit	10
Capital Market Fraud Investigations Unit	09
Kenya Revenue Authority Investigations Unit	25

Total	**296**

A preformatted written set of questions was prepared to which respondents recorded answers within closely defined alternatives. The questionnaire enabled the respondents to provide enough and accurate information in line with the objectives of the study and the literature review. A five point Likert scale questionnaire was used where the researcher measured the level of agreement or disagreement. Reliability was sort by preparing, piloting and revising the questions. The questionnaires was administered through drop and pick method where the researcher availed himself to offer assistance to the respondents where necessary.

Descriptive statistics was used for it provides meaningful distribution of scores.Frequencies, standard deviations, mean and percentages were used while the data was presented using pie charts, tables and graphs. To test the strength and relationship between the independent and dependent variables, inferential statistics was used to analyze the data that relates to multiple regression analysis. Relationship between the measuring variables was tested using Bartlett's test of Sphericity which is significant ($P<0.0001$) thus the variables are appropriate for factor analysis to be performed. The analysis led to the development of a regression model, Pearson correlation and the corresponding coefficients for the independent variable. The regression model applied is as shown below,

$Y= \beta_0+ \beta_1 X_1+ \varepsilon$; where

Y is the dependent variable (Economic crimes)

β_0 is the constant term

β_1 is the coefficient of the independent variable X_1

X_1 is independent variable (Legislation)

ε is the error term which is normally distributed with a mean and variance of zero.

IV. Findings And Discusion

The study adopted a census approach with atarget of 296 respondents since.Two hundred and seventeen respondents filled in and returned the questionnaires making a response rate of 73%. The response rate was satisfactory to make conclusions for the study.

4.1 Demographic results

There was a higher proportion of male respondents 146 (68%) as compared to females 71 (32%) with majority of the respondents aged between 36-41 years. This indicates that both genders were involved in this study and that the respondents were well distributed in terms of age as seen in table 4.1 below.

Table 4.1 Demographic characteristics

Characteristic	**Number (N)**	**Percentage (%)**
Gender		
Male	146	68
Female	71	32
Total	**217**	**100**
Age in years		
18-23	10	4
24-29	17	8
30-35	39	18
36-41	86	40
>4	65	30
Total	**217**	**100**

Majority of the respondents were educated with 72; 33% being graduates, 71;33% diploma holders while the least 22;10% attaining certificate level. Most of the respondents were highly experienced with majority (125;58%) having over 14 years of working experience. This was an indication that the respondents were literate with vast experience and gave reliable information and as shown in table 4.2 below.

Table 4.2 Education and work experience

Variable	N	%
Highest level of education		
Certificate	22	10
Diploma	71	33
Degree	72	33
Masters	52	24
Total	**217**	**100**
Work experience in years		
<1	1	1
2-7	37	17

8-13	54	42
>14	125	58
Total	**217**	**100**

4.2 Descriptive statistics

The study rated the respondent's opinions on the effect of legislation in investigating economic crimes as shown in the table below.

Table 4.3 Legislation distribution of responses

	Strongly agree N (%)	Agree N (%)	Average N (%)	Disagree N (%)	Strongly disagree N (%)
Existing laws sufficient to address economic crimes	131 (61)	70 (32)	9 (4)	5 (2)	1 (<1)
Awareness of laws help to address economic crimes	98 (45)	97 (45)	13 (6)	7 (3)	1 (<1)
Existing laws are deterrent factor	27 (13)	121 (56)	61 (28)	5 (2)	2 (1)
Public aware of economic crimes laws	4 (2)	50 (23)	124 (57)	30 (14)	8 (4)
Consistency exists when implementing laws	2 (1)	8 (4)	136 (63)	62 (29)	8 (4)

As seen from Table 4.3, 61% (131 out of 217) and 32% (70 out of 217) of the respondents strongly agreed and agreed that the existing laws are sufficient to address economic crimes respectively. Another 4% (9 out of 217) did not know how to respond while 2% (5 out of 2017) and less than 1% (1 out of 217) disagreed and strongly disagreed on the same. In regards to awareness of law to help address economic crimes, 45% (98 out of 217) and 45% (97 out of 217) of the respondents strongly agreed and agreed respectively while only 3% (7 out of 217) and less than 1% (1 respondent) disagreed and strongly disagreed on the same. However, 3% (7 out of 217) of the respondents neither agreed nor disagreed on the same.

56% (121 out of 217) of the respondents agreed that the existing laws act as deterrent factors to the commission of economic crimes while 13% (27 out of 217) strongly agreed on the same. However, 28% (61 out of 217) of the respondents did not know how to respond where 2% (5 out of 217) and 1% (2 out of 217) disagreed and strongly disagreed respectively. In relation to the public knowledge of laws that address economic crime, 57% (124 out of 217) of the respondents was neutral while 2% (4 out of 217) and 23% (50 out of 217) of the respondents agreed and strongly agreed to the statement. 14% (30 out of 217) and 4% (8 out of 217) of the respondents disagreed and strongly disagreed respectively. 1% (2 out of 217) and 4% (8 out of 217) of the respondents strongly agreed and agreed respectively that there is consistency when implementing laws related to economic crimes. Another 29% (62 out of 217) and 4% (8 out of 217) disagreed and strongly disagreed on the same. However, 63% (136 out of 217) of the respondents either agreed or disagreed.

Majority of the respondents (over 90%) agreed that the existing laws are enough to address economic crimes with their awareness key to address economic crimes. Majority of the respondents were not aware of public awareness of economic crimes laws and consistency in their implementation.

4.3 Inferential Statistics

Hypothesis $Ho_{1:}$ The study found that legislation had a positive significant influence in investigating economic crimes in Kenya. The computed P-value for this factor was 0.001 which was less than the alpha value. As a result, it was established that legislation has a significant influence in investigating economic crimes. The predicted model relating legislation and economic crimes assumed the below equation.

$Y = \beta_0 + \beta_1 X_1 + \varepsilon$

The hypothesis was stated as follows

Ho_1 Legislation has no significant effect in investigating Economic Crimes in Kenya.

Table 4.4 Model Summary

Model	R Square	Adjusted R Square	Root MSE	Change Statistics SS	MS	F	df	Sig. F Change
1	0.1807	0.1769	.42561	8.5	8.5	47.21	214	0.0000

From the above table, R^2 was 0.18 meaning that 18 percent of the variation in Economic crimes was explained by the influence of legislation. This leaves 72 percent of the variation unexplained which is interpreted that the model provides a weak fit.

Table 4.5 Legislation factor extraction
Total Variance Explained

Component	Initial Eigenvalues			Extraction Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	2.539	50.777	50.777	2.539	50.777	50.777
2	.958	19.155	69.932			
3	.641	12.813	82.745			
4	.488	9.760	92.505			
5	.375	7.495	100.000			

Table 4.6 Coefficients of legislation regression model

Outcome	Coef.	Std. Err.	T	P>t	[95% Conf.	Interval]
Legislation	0.1251595	0.018217	6.87	**0.000**	0.0892525	0.161067

As observed from the above tables, it is evident that the model was statistically significant at =0.05 level in explaining the simple linear relationship between legislation and economic crimes. The null hypotheses was thereby rejected since there is a significant relationship between legislation and economic crimes. The study came up with important findings in relation to the influence of legislation on economic crimes in Kenya. The study found out that despite Majority of the respondents agreeing that the existing laws to curb economic crimes in Kenya are enough and awareness of existing laws may help to address existing laws, respondents reported that the laws can be a deterrent to execution of justice by the commission on economic crimes due to complexities involved when dealing with other multi-agencies and lack of independence while executing duties. The commissions are not impartial when decided economic crimes due to political interference and corruption.

In addition, the study found out that public awareness of the existing laws and channels of reporting crimes were wanting. These findings were similar to a study conducted in Napoli (Bhusal 2009) which indicated that the public was not well conversant with existing laws on economic crimes. A similar study conducted in Nigeria (Babatunde and Filani 2016) had similar results by highlighting commissions on economic and financial crimes were not well funded and lacked independence to perform their expected duties.

V. Conclusion Of The Study

The existing laws are enough to address economic crimes with their awareness key to address economic crimes. Majority of the respondents were not aware of public awareness of economic crimes laws and Inconsistencies in implementation of laws related to economic crimes is a major gap in Kenya.

VI. Recommendations Of The Study

There is need for existing laws to be consistently implemented to reverse the gap on wealth skewedness as a result of economic crimes. Awareness of laws governing economic crimes should be prioritized to help increase rates of reported economic crimes as the study showed that some economic crimes goes unreported. The DCI should also be structured in such a way that the victims of economic crimes can report crimes without victimization.

AREAS OF FURTHER RESEARCH

The field for dealing with economic crimes in Kenya involves pulling of resources from different agencies and it is wide and dynamic. It is against such a background that different areas of interests should be explored. Based on the conclusions and recommendationsof the study, it is recommended that similar research should be done at the Ethics and Anti-corruption Commission, Asset Recovery Agency and the Kenya Revenue Authority.

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