

**APPRAISAL OF SECTION 4 (b) OF THE BORSTAL INSTITUTIONS ACT IN  
JUVENILE OFFENDERS' REHABILITATION AT SHIKUSA IN KAKAMEGA  
COUNTY, KENYA.**

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**CCJ/LG/01/14**

**A Thesis Submitted to the School of Arts and Social Sciences in Partial Fulfillment of the  
Requirements for the Conferment of the Degree of Master of Arts in Criminology of  
Masinde Muliro University of Science and Technology**

**JUNE, 2022**

## DECLARATION

This thesis is my original work and has never been presented elsewhere for a degree or any other award.

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## CERTIFICATION

The undersigned certify that they have read and hereby recommend for acceptance of Masinde Muliro University of Science and Technology a thesis entitled, “Appraisal of section 4 (b) of the Borstal Institutions act in juvenile offenders’ rehabilitation at Shikusa in Kakamega County, Kenya”.

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## **DEDICATION**

This work is dedicated to my children: Brian, Clarence and Deogratius for their moral support and encouragement.

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## ABSTRACT

With modernization and industrialization, the magnitude and complexity of crimes committed by juvenile offenders has changed over time. This prompted governments and other international institutions such as the United Nations to come up with measures to address challenges of Juvenile crime. Therefore, as a response to challenges of Juvenile crime, the government established institutions to address Juvenile crime in Kenya. These institutions aim at disciplining the child, provision of spiritual nourishment, academic training and to equip the child with useful skills and knowledge upon release. Consequently, in Kenya section 4 (b) of the Borstal Act recommends trainings in education, industry and agriculture as measures for juvenile offender rehabilitation. The purpose of the study was to appraise reform trainings as stipulated in this section of the Act. The specific objectives of the study were: to establish the needs of juvenile offenders undergoing training in Shikusa Borstal Institution in Kakamega County, Kenya, to assess the learning environment settings influencing training of juvenile offenders of Shikusa Borstal in Kakamega County and to evaluate the state of training facilities at the disposal of juvenile offenders undergoing training at Shikusa Borstal in Kakamega County. This study was guided by the Social Disorganization and Conflict theories. These two theories are instrumental in recommending the prescription of establishing juvenile rehabilitation institutions and rolling out of reform trainings. The theories further recommend restorative justice other than punishment in the reformation of juvenile offenders. The study used stratified random sampling to identify a sample of 100 juvenile offenders and 18 instructors and teachers from a population of 312. Data was collected using questionnaire and interview schedule. This was a descriptive research study focusing on the opinion of respondents on performance of reform trainings. The study drew response from 99 Juvenile offenders in Shikusa Borstal and 18 teachers/instructors of the institution. Study data was analyzed and presented using descriptive statistics with the aid of the statistical package for the social sciences (SPSS) version 23 for windows. Study findings revealed that reform trainings met the needs of offenders in Shikusa Borstal Institution thereby had a positive influence on their reform. Under the first objective 76.42% of the respondents indicated that their needs were met thereby having a positive influence in character reformation. Study findings further revealed that the learning environment at Shikusa Borstal had a negative influence on juvenile offender reform. Majority of the respondents that is 76.77% expressed their displeasure with the learning environment. In the third objective, 64.75% of respondents revealed that the state of training facilities was low and therefore had a negative reflection on the reform of juvenile offenders in the institution. The study therefore recommends that juvenile offenders be involved on the onset in the selection of training before they are enrolled. The study further recommends the need to re-design learning environment settings in a manner that fosters free learning devoid of fear and intimidation. Finally, the institution should set aside a budget for the improvement of the state of training facilities and purchase of new equipment to lend more credence to overall training outcomes and rehabilitation of juvenile offenders. In the overall conclusion the study established that reform trainings as stipulated in section 4 (b) of the Borstal Institutions Act are relevant in reformation of juvenile offenders but the learning environment along with appropriate facilities jeopardized the noble objective of character reformation.

## TABLE OF CONTENTS

DECLARATION .....	ii
COPYRIGHT .....	iii
DEDICATION .....	iv
ACKNOWLEDGEMENT .....	v
ABSTRACT .....	vi
APPENDICES.....	xii
LIST OF ABBREVIATIONS AND ACRONYMS.....	xiii
KEY OPERATIONAL TERMS .....	xiv
CHAPTER ONE .....	1
INTRODUCTION.....	1
1.1 Background to the Study .....	1
1.2 Statement of the Problem.....	8
1.3 Purpose of the Study .....	10
1.3.1 Objectives of the Study .....	10
1.4 Research Questions .....	10
1.5 Justification of the Study.....	11
1.5.1 Academic justification of the Study .....	11
1.5.2 Policy Justification of the Study .....	11
1.5.3 Philosophical Justification of the Study .....	12
1.6 Scope of the Study .....	12
CHAPTER TWO .....	13
LITERATURE REVIEW.....	13
2.1 Introduction.....	13
2.2 Overview of Borstal Institutions .....	13
2.3 The Treatment Paradigm of Juveniles in Reform Institutions .....	18
2.4 Justification of Rehabilitation for Persons in Conflict with the Law .....	21
2.5 Essential Factors Necessary for Effective Rehabilitation .....	26
2.6 The Significance of Rehabilitation trainings to Persons in Conflict with the Law .....	30
2.7 The Processing of Juvenile Offender in Reform Institutions.....	33

2.8 The Potential of Rehabilitation Trainings as Correctional Measures .....	35
2.9 The Vice of Juvenile crime and Remedial Measures.....	37
2.10 Evolution of Juvenile Justice and Institutionalization of Child offenders.....	41
2.11 The State of Juvenile Rehabilitation Institutions in Kenya.....	51
2.12 The Challenges in Implementing Reformation Trainings.....	54
2.13 The Prerequisites for Effective Delivery of Reformation Trainings.....	57
2.14 The Approaches of Offender Rehabilitation Programs.....	58
2.14. 1. The Risk-Need-Responsivity Model (R.N.R).....	60
2.14.2 Good Life Model of Offender Rehabilitation (GLM).....	64
2.15 Conceptual Framework .....	66
2.16. The Theoretical Framework.....	68
2.16.1 Social Disorganization Theory.....	68
2.16.2 Social Conflict Theory .....	71
CHAPTER THREE.....	75
RESEARCH METHODOLOGY.....	75
3.1 Introduction.....	75
3.2 Research Design.....	75
3.3 Area of Study .....	76
3.4 Target Population.....	77
3.5 Sampling Size and Procedure.....	78
3.6 Methods of Data Collection .....	82
3.6.1 Primary Data .....	83
3.6.2 Secondary Data .....	83
3.6.3 Questionnaires for Juvenile offenders.....	83
3.6.4 Interview Schedule for Instructors and Teachers.....	84
3.7 Pilot Study.....	84
3.8 Validity of the Research Instruments.....	85
3.8.1 Reliability .....	85
3.9 Data Collection Procedure .....	86
3.10 Data Analysis .....	86
3.11 Assumptions of the Study .....	87
3.12 Limitations of Study.....	88



3.13 Ethical Considerations .....	88
CHAPTER FOUR .....	91
PRESENTATION, INTERPRETATION AND DISCUSSION OF FINDINGS .....	91
4.1 Introduction .....	91
4.2 Confirmation of Data Characteristics.....	91
4.3 Demographic Characteristics of Respondents .....	93
4.4 The Needs of Juvenile Offenders undergoing Reform Training.....	99
4.5 The Influence of Learning Environment Settings on Reformation of Juvenile Offenders ...	105
4.6 The State Training Facilities at the Disposal of Juvenile Offenders.....	111
CHAPTER FIVE.....	121
SUMMARY, CONCLUSIONS AND RECOMMENDATIONS OF THE FINDINGS .....	121
5.1 Introduction .....	121
5.2 Summary of Findings .....	122
5.3 The Needs of Juveniles Offenders Undergoing Reform Training .....	123
5.4 The Impact of Learning Environment Settings in Reformation of Juveniles .....	125
5.5 The State Training Facilities for Juveniles in the Borstal Institution.....	126
5.6 Conclusions .....	129
5.7 Recommendations .....	131
5.8 Suggestion for Further Research.....	133
REFERENCES.....	135
APPENDICES.....	151
Appendix 1: Study Questionnaire for Juvenile offenders .....	151
Appendix 2: Interview guide for Key Informants (for teacher and instuctors).....	154
Appendix 3: National Trade Test Certificate for Borstal Institution Inmate in Welding. ....	155
Appendix 4: National Trade Test Certificate for Borstal Institution Inmates in Carpentry and Joinery .....	156
Appendix 5: National Trade Test Certificate for Borstal Institution Inmates in Masonry .....	157
Appendix 6: Research Permit.....	158

## LIST OF TABLES

Table 3.1 Total population distribution in each course.....	80
Table 3.2 Sample per stratum.....	81
Table 3.3 Number of instructors/officers per unit.....	82
Table 4.1 Testing of Sampling adequacy and Sphericity of data.....	92
Table 4.2 Normality in study data distribution.....	93
Table 4.3 The juveniles who were previously charged in court of law.....	96
Table 4.4 The needs of juvenile offenders undergoing training.....	100
Table 4.5 Summary results on the desires of Juvenile offenders undergoing training... ..	103
Table 4.6 Descriptive analysis of learning environment .....	106
Table 4.7 State of training facilities.....	112
Table 4.8 Overall rating state of training facilities.....	115

## LIST OF FIGURES

Fig 2.1 Conceptual framework showing interaction of variables.....	67
Fig 3.1 Map of Kakamega County.....	77
Fig 4.1 Age of the respondents.....	94
Fig 4.2 Level of Education on admission of juveniles in conflict with the law.....	95
Fig 4.3 Duration juvenile stay in school.....	98

## **APPENDICES**

Appendix 1: Study Questionnaire .....	150
Appendix 2: Interview guide for Key Informants (Staff) .....	153
Appendix 3: National Trade Test Certificate for Borstal Institution Inmate in Welding. ....	154
Appendix 4: National Trade Test Certificate for Borstal Institution Inmates in Carpentry and Joinery .....	155
Appendix 5: National Trade Test Certificate for Borstal Institution Inmates in Masonry .....	156
Appendix 6: Research Permit.....	157

## **LIST OF ABBREVIATIONS AND ACRONYMS**

AI	-	Amnesty International
ANPPCAN	-	Africa Network for the Prevention and Protection Against Child Abuse
BI	-	Borstal Institution
CBT	-	Cognitive Behavior Therapy
CJS	-	Criminal Justice System
JJS	-	Juvenile Justice System
CPAI	-	Cross Program Assessment Inventory
CRC	-	Child Rights Convention
FHR	-	Final Home Report
GLM	-	Good Life Model
GOK	-	Government of Kenya
JICA	-	Japan International Cooperation Agency
L of K	-	Laws of Kenya
MOE	-	Ministry of Education
POR 1	-	Probation officers Report
PRI	-	Penal Reform International
RNR	-	Risk Need Responsivity
SSS	-	Short Sharp Sentence
SPSS	-	Statistical Package for Social Sciences
T.S.C	-	Teachers' Service Commission
UN	-	United Nation
UNEFEI	-	United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders
UNICEF	-	United Nations Children's Fund
UNODC	-	United Nations Office on Drugs and Crime

## **KEY OPERATIONAL TERMS**

**Borstal Institutions:** These are juvenile rehabilitation schools established under the Borstal Institution Act CAP 92 of the Laws of Kenya section 3. These institutions admit juvenile offenders between the age of 15 to 17 years old at the time of committal of the crime for three years on a probation officer's recommendation or authorized court officer.

**Classical School:** It is one of the schools of thought in criminology and criminal justice advanced by Cesare Lombroso and Jeremy Bentham. It also states that man is a pleasure-loving animal and tends to draw towards acts that derive pleasure and avoid those that may result in pain or unnecessary suffering. Thus, voluntarily tends to choose pleasure over pain.

**Learning environment:** This is defined as the circumstances, environment, amenities, requisite relevant and resources, infrastructure, ethics, organizational culture, and the outlook of a correctional facility. It simply tends to explain the conditions under which offenders are held in the Borstal Institutions.

**Juvenile offenders:** These are defined as offenders below the legal age of the majority according to the relevant jurisdiction who have committed acts that contravene either morality or criminal law, therefore, rendering them in conflict with the law.

**Juvenile Delinquency:** This is defined as any act committed by individuals below the recommended legal age of the majority that contravenes either criminal law or morality, rendering them subjects of inquiry in a juvenile justice system.

**Juvenile Justice System:** This is defined as a segment within the justice system designed to process and safeguard the rights of minors who are in conflict with the law in the course of being

processed through the criminal justice system. The main goal of the juvenile justice system is to commit juvenile offenders to an appropriate rehabilitation program and not to punish them.

**Positivist criminology:** Positivists view offenders as puppets or entirely passive victims of external and internal forces in the commission of a crime. In this case, offenders bear little or no responsibility for their actions. Rehabilitation of offenders has its basis on the fact that crimes are committed because of certain external factors, which draws support from Positivist criminologists.

**Parens Patriae:** This is in Latin, and it refers to the powers of the government to act on behalf of persons who are powerless in certain respect such as age and can therefore stand on their own in legal matters

**Probation:** This is a non-custodial option for rehabilitating offenders in the community setting. Most offenders committed to Borstal Institutions in Kenya are assessed by probation officers and committed by the court. In Kenya, probation service is established under Cap 64 of the Probation of Offenders Act.

**Program:** These are strategies, methods, and modes that are employed in the process of reforming offenders. These are special strategies applicable to both juvenile and adult offenders with a view of instituting positive changes.

**Recidivism:** This is the act of re-offending or committing a subsequent offense.

**Rehabilitation:** This is the process of changing attitudes, character and behavior of persons in conflict with the law to provide another opportunity for them to be resourceful both to themselves and the community through counseling, training and supervision. This is the main objective of Borstal Institutions

**Retributive Justice:** This is one of the key objectives of criminal justice that justifies the use of punishment within the criminal justice system. It states that offenders ought to be punished for committing crimes. It operates on the biblical principle of an eye for an eye. It states that offenders ought to be punished for taking undue advantage of their victim, resulting in unnecessary pain, losses, and fear.

**Treatment:** This is seen as a form of an intervention designed to alter the way the offender thinks, feels, or behaves with the overall objective of turning around the behavior of juvenile offenders.

**Training:** These are measures taken by the Borstal Institutions to impart skills and knowledge to juvenile offenders with the sole goal of changing their character to become resourceful persons in society.



## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the Study

Crime is common in society dating back to the old ages, similarly, juvenile crime is not a new phenomenon (Griffiths, 2017). Over the time, communities have experienced the negative effects and consequences of the phenomenon in such a manner that it has been assumed that crime is part of our society. As a society the main focus therefore is how best crime can be contained and reduced. Along this line, rehabilitation is therefore seen as one of the structures within which crime may be managed (Ministry of Justice, 2013).

In order to achieve effective rehabilitation among juvenile offenders' measures such as education, industrial and agricultural trainings recommended in section 4 (b) of the Borstal Act are applied by governments and non-state actors. Notably, crime is among the leading social problems in the world and offences committed by the youth have become an emerging global problem therefore the very need of getting a solution to this complex vice (Nguku *et al.*, 2017).

In an effort to curb the vice of juvenile crime governments and non-state actors have collaborated in establishing institutions to reform juvenile offenders alongside other strategies. The establishment of Borstal Institution in Kenya was a significant step taken by the government of Kenya in addressing the challenge of character reformation among juvenile offenders. Under Cap 92 of the Borstal Institutions Act section 4 (b) it is mandatory that each Borstal Institution provide inmates with education, industrial or agricultural training, (GOK, 2012). This is made possible after exhausting all legal processes resulting in committal of juvenile offender to Borstal Institution

through a court order for a period not exceeding three years on the recommendation of a probation officer or any other authorized court officer. Other than this being a character reformation measure as stated in the Borstal Institutions Act, it also a crime control and management strategy.

Measures have been put in place to control crime throughout the world with a mixed degree of success and failures (Tilley, 2014). Almost every society in the world has adopted some principles, rules or norms in form of binding legislation to focus on the special needs of juveniles who commit crimes. Over time, crime and punishment have evolved with a view of finding solutions of misconduct in society (Martínez, 2016). For example, during the early period death penalty was considered the cheapest and more permanent solution to crime based on the fact that the offender is incapacitated in the society for good with zero chances for recidivism (Derrida, 2017). This has changed over time with the application of a wide range of punishment for commission of crime in the modern world.

Historically, retribution served as the key solution to solving criminality, this was applicable in cases involving both juvenile and adult offenders. This was attributed to lack of a proper government and nonexistence of structured legal mechanisms, individuals therefore had to come up with unstructured community sanctioned ways to provide their own security. This included using revenge as the most appropriate strategy for serving justice. This perspective can be termed as one of the key characteristics depicting a dysfunctional society that thrives on violence and vengeance (Shelden & Vasiliev, 2017).

However, there were serious changes when the state took over the management and administration of the CJS. The CJS process of arrest, prosecution, trial and sentencing of criminals became a

preserve of the state, however the punitive retribution in the CJS remained constant. This preceded the emergence of classical and Neoclassical schools of criminology pioneered by Jeremy Bentham and Cesare Beccaria, who advocated for radical reforms within the justice system (Schmallegger, 2012).

In the African traditional perspective crime among juveniles was controlled by established societal norms and values (Igbinoia, 2012). Before the advent of the modern justice system brought about by the colonization of the dark continent as an aftermath of the Berlin Conference of 1884, juvenile delinquency was purely a family and societal affair. In this case, respective families shouldered the responsibility of controlling children who ran afoul of social customs (Michalopoulos & Papaioannou, 2015).

As society evolved to be more industrial and dynamic in its functions, the rate of juvenile delinquency increased thus necessitating more modern and innovative ways of combating the rise of crime (Shoemaker, 2017). The rise in juvenile offending led to an increase in delinquents sent to correctional facilities for rehabilitation and eventual re-integration back into mainstream society (Ndegwa, 2014).

The industrial revolution and the coming of colonial governments in Africa led to the formation of towns and cities, thus resulting in youngsters running to towns to look for a good life (Rodney, 2018). This turned out negatively since there was no better life in town, and most youths became delinquents (Krohn & Lane, 2015). Modernization and uncontrolled expansion of towns had a devastating effect on many youths who flocked the urban centers since there were limited job opportunities. It is generally held that to address adult crime, several interventions must be

implemented to address juvenile crime since it is a catalyst for adult crime if proper intervention measures are not put in place. Notably, there is a strong continuity in deviant behavior throughout childhood, adolescence to adulthood (Loeber & Farrington, 2012).

It is generally upheld that adult offenders at one time in their lifetime have interacted with the juvenile justice system as juvenile offenders, thus, there is a significant relationship between juvenile offending and adult offending. Ideally, intervention programs and trainings must be applied at the onset stages to ensure juvenile offenders do not evolve into chronic adult criminals. Proper rehabilitation will determine if they will evolve into responsible and adult citizens (Craig *et al.*, 2013).

Societies worldwide are in dilemma as to the best interventions that should be rolled out to deal with juvenile crime. There have been recommendations from various groups encouraging the use of force to subdue violent youth. However, proponents of the International Human Rights Law argue that this will result in massive human rights violations. They, therefore, recommended a less authoritative approach based on the fragile nature of minors and youthful offenders. This further resulted in classifying juvenile and adult offenders into low, medium, and high risk for developing appropriate reform trainings (Dowd, 2012). The introduction of reform trainings in Borstal institutions as recommended in section 4 (b) of the Borstal Institutions Act is also intended to infuse nonviolent measures in curbing the challenge of juvenile crime since the trainings are intended to equip youthful offenders with knowledge and skills useful upon release.

In the United States of America, juvenile arrests for all offenses reached their highest level in 1996 when over 8000 juveniles per 100000 aged between 10 to 17 years were arrested (Zimring, 2014).

According to Petrosiono, *et al.*, (2013), The police arrested 230,800 youth aged 12 years and younger. The United States is ranking top globally, with the highest number of its citizens serving prison sentences in the county and federal prisons. This includes both adult and juvenile offenders. The country uses a considerable section of its national budget funding penal systems (Enns, 2016).

The high number of juveniles going through the justice system world over calls for transformative methods to address the challenge of juvenile crime. Earlier, children were lumped together in groups, and whatever explained the behavior of the older criminals was equally applicable to young ones (Thompson, & Bynum 2016).

From a biblical perspective, juvenile delinquents who were beyond their parent's disciplinary ability would be availed to respective elders within their locality in the presence of the town's residents. The parents would explain their predicaments in the presence of the elders and the residents. The elders would then recommend the child to be stoned to death. This account has been narrated in Deuteronomy Chapter 21: 18- 21 (New International Version, 2011), and has been widely criticized by penal reformists based on the fact that it supports the death penalty, which is considered barbaric and a contravention of the International Human Rights Law. This perspective mirrored most of the early legal enactments as reflected in the 1646 Massachusetts Bay colony law, colonial codes of Connecticut, Rhodes Island and New Hampshire (Sellin, 2016). The application of reform trainings as recommended in section 4 (b) of the Borstal Institution act is intended to give treatment of juvenile offenders' human face.

There has been a transformation over time, and treatment of youthful offenders separately has now been adopted the world over with governments putting in place legislation and policy changes to

give reforms in juvenile justice a legal framework, thereby influencing the setting up of Borstal Institutions and other related juvenile rehabilitation institutions to address the plight of stubborn children in society. These institutions were established in Kenya under the management of Prisons Service in the department of corrections.

The management of the Borstal Institutions is responsible for ensuring that the juvenile offenders admitted to the institutions have access to their basic needs, including food, water, shelter, proper sanitary conditions, and even bedding. The management also ensures a conducive learning environment to support educational, industrial or agricultural training that embeds the juvenile rehabilitation curriculum in Kenya (Wambugu *et al.*, 2015).

The emergence of a separate justice system to take care of juvenile offenders in the US was established in early 1800. The houses of the refugees were established in Illinois with the sole aim of securing the interests of delinquents through committing them to rehabilitation programs rather than punishing them (Krohn & Lane, 2015). Children were taken to these homes for their own good and were offered discipline and regimentation as a means of treatment. On the whole, it was a way of addressing the challenges of juvenile crime and delinquency. Other measures were also introduced which aimed at separating the young from the old offenders. This change over, worked towards developing the modern juvenile rehabilitation system in the criminal justice system (Farrington, Loeber, & Howell, 2012)

Reform trainings as provided in the Borstal Institutions Act Cap 92, section 4 (b) of the laws of Kenya include putting in place measures with the ultimate result of having a convict lead a productive life in society upon release from the institution. This is what is known as treatment or

restoration of offenders (Okutoyi, 2015). Restoring or treating an offender further means instituting changes in the offender's life that reflect conduct prior to committing crime. These measures aim at bringing about order and tranquility in society.

The reform trainings as recommended in section 4 (b) of Cap 92 seek to reform the individual convict and mend the social conditions contributing to crime. In a wider perspective this is referred to as offender rehabilitation. Casey *et al.*, (2012) note that offender rehabilitation is the process of converting an offender into a more valuable member of the society through subjecting them to special conditions to enable them rationally reflect on their offending conduct. According to National Research Council (2013), the process should be rehabilitative in nature and not punitive. Further it should be educative and constructive. Therefore, it is imperative that institutional correctional system be strengthened with reform trainings that focus on improving the education, social, mental, and physical health of juvenile offenders based on their special needs.

The reformation of offenders has conflicted for a long time among professionals and politicians, resulting in two distinct groups of "nothing works" and "what works" movement (Stevens, 2012). Researchers such as Hovane *et al.*, (2014) argued that most rehabilitation trainings have little to no significant effect on recidivism. In continental Africa, the political, economic, and evolution of the CJS that plays a significant role in reforming offenders is influenced by the long history of colonial rule. This is in addition to formal and non- formal mechanisms of social regulation prior to colonialism (Stamatel & Sung, 2011).

The Kenyan legal system, which is the basis of reform training, dates back to 1897 with the coming and operationalization of the English statute of general application. The establishment of Borstal

Institutions in Kenya aimed at teaching youthful offenders to be good citizens instead of sending them to Prisons (Onderi, 2017). Sending a large number of juvenile offenders to Borstal institutions in Kenya has resulted in overcrowding in the facilities. The state of juvenile rehabilitation institutions in Kenya faces challenges following the increase in juvenile crime and over sixty percent of juvenile offenders feeling that they are not effectively rehabilitated. With this unfulfilled objective, it is, in order, to call for an audit of reform trainings being offered in juvenile rehabilitation institutions in Kenya (Onyango, 2013).

## **1.2 Statement of the Problem**

In Kenya, the CJS is mandated by law to handle juvenile crime and with the recommendation of relevant authorized officers through the courts. Juvenile offenders are committed to government rehabilitation institutions such as Borstal Institutions, which were established under section 3 sub-section (1) (a) (b) and sub-section (2) of Cap 92 of the laws of Kenya. The main aim of sending the juvenile offenders to Borstal Institutions is to expose them to various reform trainings as stipulated in section 4 (b) of the Borstal institutions Act Cap 92.

The research problem is the performance level of reform trainings in respect of the conditions under which the trainings are offered to juvenile offenders committed to Borstal Institutions for character reformation. In Cap 92 of the Borstal Institutions Act section 4 (b) laws of Kenya, offenders committed to the institution are expected to be given educational, industrial, and agricultural training as a reform measure, among other exposures.

The Borstal Institutions in Kenya are credited with success, but there are accusations of turning them into a breeding ground for hardcore juvenile and adult criminals (Onderi, 2017). As in section 4 (b) of the Borstal Institutions Act, the reform trainings are supposed to act as behavior and



character change agents. With reform and change of character being the main intended achievements in committing juvenile offenders to Borstal Institutions, it is expected that the youthful offenders will be law-abiding citizens on release after completing the period stipulated in the committal order by the court of law. The answer to this expectation resulted in a big debate that formed the core aspect of this research work.

Reforming juvenile offenders in Kenya needs significant attention given the high prevalence of juveniles who are in conflict with the law. According to a task force by the judiciary, the criminal justice system as currently managed does not facilitate offenders' proper training thus affecting skills transfer (Judiciary, 2015). In another research that was carried out, it was established that the learning environment of rehabilitation institutions in Kenya is not favorable for child reformation with fifty percent of respondents described it as bad (Okutoyi,2015).

According to (Wambungu, 2012), juvenile rehabilitation in Kenya which ultimately leads to character change is ineffective thereby resulting in recidivism. It is estimated that 34.4% of juveniles committed in public reform institutions re-offend. Research has shown that, reform trainings in penal institutions in Kenya are unaudited thereby raising questions on the value of the trainings being exposed to delinquents (Beth, 2014). With the above finding it was imperative that an appraisal of reform trainings being offered in the Borstal Institutions as recommended in section 4 (b) of the Borstal Institutions Act Cap 92 of the laws of Kenya be carried out to assess their viability in the current circumstances.

What is in doubt are the conditions under which these reform trainings are conducted in order to contribute to the overall rehabilitation of juvenile offenders. An appraisal of the condition under which the reform trainings are carried out will assist in bringing up the weakness and strengths in the delivery of the existing reform trainings and put forward authentic remedial measures.

Putting into consideration information obtained from probation officers who were the main supervisors of ex-offenders released from Borstal Institutions after serving one year in the institution, only a minimum percentage of the ex-offenders from Shikusa Borstal Institution engaged in the craft they were trained in at the institution. This puts into focus the state and viability of the reform trainings offered in Shikusa Borstal Institution. It is therefore on this basis that this study sought to appraise the conditions under which the reform trainings are delivered as set out in the Borstal Institutions Act, CAP 92 section 4 (b) of the Laws of Kenya.

### **1.3 Purpose of the Study**

The general objective of this research work was to carry out an appraisal of the conditions under which reform trainings are delivered at Shikusa Borstal Institution as stipulated in section 4 (b) Cap 92 (b) of the Borstal Institutions Act of the Laws of Kenya.

#### **1.3.1 Objectives of the Study**

- i. To establish the needs of juvenile offenders undergoing training in Shikusa Borstal Institution in Kakamega.
- ii. To assess learning environment settings influencing training of juvenile offenders of Shikusa Borstal Institution in Kakamega County.
- iii. To evaluate state of training facilities at the disposal of juvenile offenders undergoing training at Shikusa Borstal Institution in Kakamega County.

#### **1.4 Research Questions**

- i. What are the needs of Juvenile offenders undergoing training at Shikusa Borstal Institution in Kakamega County?

- ii. What learning environment settings influence training of juvenile offenders committed at Shikusa Borstal Institutions in Kakamega County.
- iii. What is the state of training facilities at the disposal of Juvenile offenders and staff at Shikusa Borstal Institution in Kakamega County?

## **1.5 Justification of the Study**

Justification of the study focuses on the benefits and values the study will bring in the academic circles, policy making spheres, the subjects of the research and society at large.

### **1.5.1 Academic justification of the Study**

The research has generated knowledge on the contribution of Borstal institutions in the reformation and character change of juvenile offenders. It has also produced knowledge on the varied conditions under which reform trainings are delivered for effective rehabilitation of juvenile offenders. Researchers should now have a better understanding of how reform trainings can impact on the rehabilitation of juvenile offenders.

### **1.5.2 Policy Justification of the Study**

The research has appraised the technical capacity of Borstal institutions in operationalization of reform trainings as recommended in section 4 (b) of the Borstal institutions Act and has given a guide on the future policy and legislation provisions. Practical results from the research will give policy holders a second view on juvenile crime and provide knowledge on how to initiate crime reduction programmes in the Country through future legislation in juvenile matters. The research has also delivered solutions to the challenge of juvenile crime, which is one of the major social problems inflicting developing countries.

### **1.5.3 Philosophical Justification of the Study**

It is believed that there is a low uptake and utilization of rehabilitation skills and knowledge by Borstal inmates. The research brought out relevant findings that will improve utilization of knowledge acquired in the institution and it will go a long way in filling the void in the existing knowledge thus opening new way of thinking in the field of juvenile offender rehabilitation. This new knowledge will help relevant stakeholders such as probation officers, police, courts, prisons and children's officers have a realistic understanding of the challenge of juvenile crime and prepare reentry programs for youths released in the community. This will ultimately lower chances of recidivism as well as provide opportunities to the youth to be self-reliant and be productively engaged.

### **1.6 Scope of the Study**

This research was an appraisal of conditions under which reform trainings were delivered to juveniles in conflict with the law in Shikusa Borstal Institution as provided in the Borstal Institutions Act Cap 92 of the Laws of Kenya and was confined to Shikusa Borstal Institution in Kakamega County. It focused on the needs of juvenile offenders undergoing industrial, educational and agricultural trainings in addition to trainings such as counseling and Faith Based exposures. The study further focused on the influence of learning environment settings under which the reform trainings were delivered to juvenile offenders in the institution. The study further examined the state of training facilities at the disposal of juvenile offenders undergoing training in the institution and was carried out in the months of November/December 2020 at Shikusa Borstal Institution, Kakamega County.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter looks at the relevant literature on the reform trainings offered in penal reform institutions and their contribution to the overall rehabilitation of juvenile offenders. The literature review also examines the contribution of available reform training in shaping future life of juvenile delinquents in Kenya and in other international jurisdictions. The other area of focus in this chapter is the examination of the state of juvenile delinquency and measures that have been put in place to address the challenge including international perspective on juvenile crime and reformation. The chapter will also examine the global history of juvenile crime and juvenile offender rehabilitation trainings in government sponsored correctional institutions and its relevance to the current crime situation.

#### **2.2 Overview of Borstal Institutions**

Borstal Institutions were first established in Britain in the towns of Bedford, Borstal and Darlmoor (Tebbutt, 2020). The institutions are named after Borstal village near Rochester in Kent, United Kingdom and the Borstal village was known in the first place as a prison for young offenders. The institutions were established under the legal frame work of crime Act of 1908 for offenders aged between sixteen and twenty years and they were to serve a three years sentence, which could be shortened by good conduct or lengthened if the condition of license were transgressed. The Prevention of crime Act of 1908 removed those aged under 14 years from prison and made it mandatory that, for a court to send a young person to prison, there must be preliminary procedures (Reidy, 2012).

Similarly, in the United Kingdom, imprisonment of children was abolished and Crime Prevention Act of 1908 came up with specific correctional establishment for the young offenders at Bedford, famously at the Borstal. Hence other subsequent similar institutions were called Borstal. The inmates were housed separately and exposed to formal education, physical exertion and work training but on the whole, under the Borstal system much attention was paid to personality of the offender (Parsloe, 2017).

In Kenya, Borstal Institutions were established during the colonial period under the Borstal Institutions Act Cap 92 of the laws of Kenya. The Institutions are established under Cap 92 of the Kenyan law section 3, and under sub sections (1) (a) and (b) in case of dissolution of the institution (GOK, 2012). In section 3 of the Borstal Institutions Act under powers to establish Borstal Institutions, the Minister under sub section 1 (a) and (b) is authorized to establish and close Borstal Institutions as he thinks fit to. Today the Borstal Institutions facilities are under the umbrella of Kenya Prisons Service, Correctional Department and in the Ministry of Interior and Coordination of National Government.

In Cap 92 of the Borstal Institutions Act, section (5) spells out necessary conditions to be put into consideration before sentencing youthful offender to a Borstal Institution (GoK, 2012). Under this section the court is required to consider the presented evidence, the nature of the offence, the juvenile's character and past offending history in determining the period and the type of training (GoK, 2012). These facts are contained in a social inquiry report compiled by a probation officer after a court order demanding the same. This therefore means that a number of professionals are involved in the assessment and subsequent committal of juvenile offenders to a Borstal institution.

These professionals also play an important role in the eventual release and supervision of the offender in the community.

Probation officers are mandated under Probation of offenders Act, Cap 64 of the laws of Kenya to gather relevant information from relatives and significant others culminating in a report presented in court known as PR 1 or probation officers report. This is the instrument under whose basis a magistrate or judge commits a juvenile offender to a Borstal Institution for three-year after confirmation of a vacancy. The Superintendent in charge of any Borstal Institution in Kenya is under strict obligation to admit a juvenile offender only when the escorting authority in this case the police produce a genuine court order and PR 1 (UNODC, 2012).

In section 4 (a) of the Borstal Act the requisites for Borstal Institution include proper sanitation, clean water supply, availability of food, clothing and comfortable bedding for the juvenile inmates and in sub section (c) the institution shall provide proper medical facilities to receive and handle ill inmates (GoK,2012). These could easily be referred to as the needs of juvenile offenders committed to Borstal Institutions across Kenya. The law therefore clearly stipulates the conditions under which juvenile offenders should be held in the Borstal Institution.

Borstal Institutions across Kenya in section 4 (b) of the Borstal Institutions Act Cap 92 are obligated to provide industrial, educational and agricultural trainings with the aim addressing factors that trigger juvenile crime. Under section 4 (b) of the Borstal Institutions Act the inmates must be subjected to the recommended reform trainings for the three years of admission. This therefore means that respective management of Borstal Institutions must put in place enabling

environment for effective dispensation of reform trainings to juvenile offenders committed in the institutions.

Borstal institutions are established purposely for re orienting and re capturing the character of young persons who stand on a moral precipice by reasons of their criminal proclivity, to make them useful again to themselves and the society at large upon their release. This is to fulfill the learning objectives of transfer of knowledge, imparting of skills and change of attitude in juvenile offenders. Borstal Institutions in Kenya are three in number and receive juvenile offenders both boys and girls of ages fifteen and seventeen years convicted by courts of law following the recommendation of probation officers and other authorized officers.

In section 18 of the Borstal Institutions Act Cap 92 of the laws of Kenya, males and females should be incarcerated separately. This explains why we have separate Borstal establishments for boys and girls in Kenya. The youthful offenders are committed for a period of three years where one year is served in the institution and the remaining two years offenders are supervised by probation officers as recommended by the Board of Visitors. The Board of visitors is established in section 20 of the Borstal Institutions Act Cap 92 of the laws of Kenya and is mandated by law to review the circumstances of the juvenile offenders on quarterly basis.

The Board of visitors is mandated by law to have four meetings annually (UNODC, 2012). Any breach of the order by an offender under supervision in the community leads to revocation of supervision license by a court of law resulting in the offender being recommitted to the Borstal Institution. Shikusa and Shimo la tewa Borstal Institutions in Kakamega and Mombasa Counties respectively admit male juvenile offenders from across the country. The third Institution is Kamae



Borstal Institution in Kiambu County which admits female youthful in conflict with the law from all over Kenya.

The primary concern of Borstal Institutions in Kenya is protection, reeducation, rehabilitation of youthful offenders and this is realized through different measures such as education, industrial and agricultural trainings as stipulate in section 4 (b) of the Borstal Institutions Act Cap 92 of the Laws of Kenya. At the end of the reform trainings juvenile offenders sit for national examinations and certificates are awarded just like in any normal school or vocational training institution to those who pass national examinations. Further, committal to Borstal Institutions serves a purpose of separating juvenile from adult offenders to avoid contamination.

It is stated by African Network for the Prevention and Protection against Child Abuse and Neglect ANPPCAN that forty percent of the total children in Kenya need care and protection and this include child offenders (Lynch, & Onyango, 2013). It is further estimated that in Kenya two hundred and fifty thousand and three hundred thousand children live on the streets (GoK,2015), and these children are potential customers of the criminal justice system. These children are also vulnerable to criminal activities due to social economic inadequacies that face their families.

In order to address the criminological needs of juvenile in conflict with the law in Borstal Institutions, emphasis is placed on regular educational, agricultural and industrial trainings with a demanding physical training. Borstal Institutions in Kenya offer technical courses such as masonry, carpentry, tailoring, metal works, electrical wiring, painting, and sign writing. In addition, the Institutions offer agricultural, formal education, counseling and religious teachings.

The establishment and implementation of various educational, industrial and agricultural reformation trainings as per the law in Borstal Institutions in Kenya is part and parcel of government public social policy of addressing the challenges of juvenile crime, social maladjustment, irresponsible parenthood and fulfillment of various child rights as contained in the United Nations Convention on the rights of the child (Njue, 2014). The reform trainings have been rolled out in Shikusa Borstal Institution as recommended in section 4 (b) of the Borstal Act but there is need to find out the conditions under which the trainings are delivered since majority of ex inmates do not utilize skills acquired in the institution.

### **2.3 The Treatment Paradigm of Juveniles in Reform Institutions**

Many theories have been fronted to give plausible explanations of criminal conduct in both juvenile and adult offenders and this has given rise to various hypotheses on what should be done to reduce crime or possible intervention measures. These intervention measures are referred to as treatment. The treatment measures may be in the form of medical, psychiatric, case work, counseling techniques, group work, development of skills and community re-integration treatment which includes measures to provide accommodation, further training and employment (Taye, 2020).

The reformation trainings adopted by Borstal Institution as recommended in section 4 (b) of Cap 92 aim at character transformation with the overall objective of molding the juvenile offender into responsible and law-abiding citizens on release. Treatment is therefore seen as a transformative undertaking with far reaching positive results in respect of the juvenile offender and the wider society.

In Western societies in the early years, the rich took to themselves the mandate to address the crime problem. Punishments of crime were harsh, and involved public humiliation, mutilation, burning and execution (Stinneford, 2016). This changed over time after it emerged that punitive measures were not productive in crime control and prevention (Chen, & Einat, 2015).

Re introduction of harsh punishment in crime management in 1980s resulted in implementation of harsh measures such as Short, Sharp, Shock (SSS) with an aim of reformation and rehabilitation of offenders. Short, Sharp, Shock sentences are quick, severe punishment which target young offenders. Under the sentence the youthful offenders are tasked with hard work, more physical education and fewer privileges. The sentences are usually short for instance in Kenya at Kamiti Youth Corrective Training Centre (K.Y.C.T.C) the maximum period of sentence is 4 Months.

In this period most governments especially in Europe reduced funding to rehabilitation and shifted funds to situational crime prevention. Situational crime prevention refers to measures put in place in an environment where crime is likely to occur. This is done to prevent commission of crime and it focuses on how crime is committed and prevented. These are interventional techniques which are instituted to reduce crime. These intervention measures are used to make it difficult for an offender to commit crime in addition to decreasing offender's motivation for committing a crime.

Notably, situational crime prevention is seen in the various ways which include, the use of alarms, CCTV cameras and use of electronic tags on offenders (Steenkamp, 2014). This was also the time when there was close scrutiny of many research work with a bias on rehabilitation and treatment of offenders and all notions of rehabilitation were looked on with skepticism and disfavor; however, in the 1990s there was a spectacular resurgence of rehabilitation ideals. Chadwick *et al.*,

(2015) conducted research which concluded that some trainings produce positive results when exposed to offenders. This research work once again rejuvenated rehabilitation as a correctional intervention measure (Jeglic & Calkins 2018). Many Kenyans have also had misgivings on the capacity of Correctional Institutions both for adult and juvenile offenders in imparting knowledge and skills that will lead to character transformation.

There has been a long-standing argument on which measures to take between punishment and rehabilitation in an effort to have positive impact on offenders. It is noted that the type of treatment accused person receives whether juvenile or adult offender, affects the individual and the society during and after arrest, adjudication and conviction.

Many experts in forensic science believe that an offender can change provided that they are accorded proper treatment in terms of legal advocacy, therapies, social services and other rehabilitative programs (Cullen, & Jonson, 2011). Since the rehabilitation trainings in Borstal institution are supposed to have a positive effect on the juvenile offenders, it is imperative that the conditions under which the trainings are delivered exhibit child friendly characteristics. The conditions must be rehabilitative in nature and not punitive. The conditions must endear the juvenile offenders to positive learning.

Treatment of offenders is an important aspect in criminology since there are four important aspects related to crime. The important aspects include addressing the needs of the victim, the offender and the public in terms of the cost incurred in running the CJS (McNeill, 2012). In criminology, reformation traditionally has been associated with ideas about nature of crime and with an approach to deal with crime which has usually been contrasted with retribution and punishment.

Treatment is therefore linked to reforms, rehabilitation and resettlement, which have a common notion of change with a view of returning offender to a position he or she formally held. Treatment can therefore be seen as any form of intervention that is aimed at changing the way of life of the offender in terms of how he thinks, feels or behaves (Friestad, 2012). This is in line with the objectives of reformation trainings being offered at Shikusa Borstal Institution as recommended in Cap 92 of the Borstal Institutions Act section 4 (b) and should therefore be seen in this context with the overall end result of turning around the behavior of juvenile offenders.

Treatment and rehabilitation of offenders can be classified into three main activities which include treatment programs which are intended to address particular aspects such as anger management, drug and substance abuse and sex offending. The second activity is addressing the social aspect of the rehabilitation which covers trainings, education and social soft skills designed to prepare offenders for life on release. They are focused in particular on trying to increase ex-inmates' chances of finding employment. It is directed at equipping ex-inmates' to reintegrated back to society, secure gainful venture and home and cope with life without committing another crime. The third activity involves special provisions and place such as special hospitals for the mentally disordered and special therapeutic wings and institutions (Fortune, Ward, & Willis, 2012). The recommended trainings in the Borstal Institutions incorporate the three stated activities.

#### **2.4 Justification of Rehabilitation for Persons in Conflict with the Law**

Over eighty percent of all adolescents have at one time in their lifetime engaged in chargeable offence (Kettrey, & Lipsey, 2018). This shows that crime is an enormous social problem with devastating effect on the whole society. Due to the prevalence of youths prone to criminality, there is a need to design approaches that seek to address juvenile crimes. According to Gunnison, &

Helfgott (2013), imprisonment plays little or no role in altering offender's personality. Notably, the offender, is known to adapt and reinvent regardless of being in prison or out on the streets. He further opines, that an offender may upgrade by learning more tricks while in custody and come out and use the methods to advance criminal activities (Bales, & Piquero, 2012). This situation is complicated when the holding institutions do not incorporate reform trainings in their transformation strategies.

Offender rehabilitation has had a complicated history due to political and social interference. As a result, there is need for the public and the political class opinions to strike a balance, on their views on retributive and rehabilitation approaches. Early research work by Cullen and Wozniak show that citizens clearly want offender punishment but they continue to hold the believe and view that offenders ought to undergo rehabilitation (Graig, Dixon & Gannon 2013).

The most traditional measure of handing down punishment by all penal institutions is imprisonment but there are other penalties used which include fines and more recently the introduction of compensation to offenders. All these penalties have an aim of correcting or changing offender's behavior and address the challenges of crime both in adult and juvenile offenders.

In high risk and recidivist, offenders' penalties deter them from committing other crimes. It is further expected that penalties such as reprimands, fines, community work, probation, prison, parole will be effective and will dissuade the individual from committing new offences (Andersen, 2015). None of the above recommended measure will ensure complete transformation of an offender and this is demonstrated by the high number or recidivist in society. The trainings

introduced in Borstal Institutions can therefore be seen as an attempt in trying to curb juvenile crime and it is in order to assess the conditions under which the reform trainings are delivered and the overall effectiveness of the same reform trainings.

On the overall, it is expected that all punishments applied to an offender would be effective and that they will discourage the individual from engaging in other criminal activities. From practical experience the stated threats of penalties tend to have very minimal impact on offender reformation and the recidivism rates for crime in general (Graig *et al.*, 2013). There are therefore other factors such as social, ineffective child rearing, school failure, unemployment, drug trafficking, low educational level, egocentrism and many more which cannot be addressed through handing down harsh imprisonment sentences to offenders. These criminogenic needs need special attention to address the challenges of recidivism.

As part of the push to reduce re offending many countries have introduced offender rehabilitation strategies by using structured intervention measures for both juvenile and adult offenders in prisons and probation service, at the same time the same strategies are used to neutralize the roots of delinquency and criminal behavior (Maguire, *et al.*, 2019). This rehabilitative strategy is linked to positivist criminology who rooted for offenders to reform with proper rehabilitative treatment (Tumbo & Birech, 2019). The introduction of agricultural, educational and industrial trainings in Borstal Institutions in Kenya is one among the many strategies that aim at reforming juvenile offenders as directed in section 4 (b) of the Borstal Institutions Act Cap 92 of the laws of Kenya.

Juvenile offender rehabilitation intends to shape and change child offenders positively from criminality to law abiding and productive adult citizens leading to a safer society. Studies have

shown that juvenile offender can be easily rehabilitated compared to adults since children are viewed and treated as in need of care when in trouble and are not considered as entirely responsible and capable of forming criminal intent (Losel, 2012). Rehabilitation has the intention of shaping and molding a child offender from criminality to become productive and law abiding as an adult citizen leading to protection of society from crime (McNeill, 2014). This is the main aspect behind establishment of Borstal Institutions in Kenya and indeed juvenile rehabilitation schools. Before a juvenile offender is sent to a Borstal Institution in Kenya, the character and previous conduct of the juvenile must be established by an authorized court officer, since the reformation will be based on the previous conduct and character.

In applying reform trainings in Borstal institution, two important goals must be achieved in offender rehabilitation and risk management. The first goal is compliance which depends on the notion that juvenile offenders who conform to supervisory and legal guidelines will be successful in desisting from persistent criminal conduct, compliance leading to a brief stabilization of behavior. The second and the most important goal is behavior change which entails a blend of motivation, self-evaluation and the development of new behavior (Stinson & Clark, 2017).

The offender's capability to change depends on other people, support systems and social factors interactively working together besides the offender. Existing conditions or rehabilitation environment may facilitate behavior change or hinder it. This therefore means that the application of rehabilitation training for delinquents does not guarantee their community reintegration. Treatment programs therefore are fundamental but not absolute part in rehabilitation of juvenile offenders. This also means that committing juvenile offenders to rehabilitation institutions such as Borstal does not automatically lead to change of character or rehabilitation neither does the



exposure of the juveniles to the training result in rehabilitation. The conditions under which the reform trainings are delivered play an important role in the general rehabilitation process.

Compliance in rehabilitation of offenders is more observable and can be easily measured but the reality is that an offender cannot attain compliance without change of behavior (Stinson & Clark, 2017). In achieving the two goals it is important that both the contribution of the Borstal Institutions and the community be taken into account.

According to Graig, (2013) in a number of situations rehabilitation training in many countries is not seen as a silver bullet of offender reformation thereby leading to attack by professionals, politicians and laypersons in equal measure. A number of these practitioners and laypersons have doubted the efficacy of the reform trainings and the circumstances under which the trainings are delivered.

In America where rehabilitation has a long history since 1870, rehabilitation trainings came under criticism when the country faced too much social turmoil which contributed to United States encouraging and promoting harsh punishment of offenders (Graig *et al.*, 2013). This state of affair is replicated in both developed and developing countries whenever there are high incidents of crime at any given time by introducing stricter and more authoritarian approaches to maintain law and order with parliament passing strict laws to curb crime. Communities have taken matters into their hands, with treatment towards offenders deteriorating and punitive attitudes reported in the recent past (Burton, *et al.*, 2020). This therefore means that the communities' attitude towards a meaningful offender reintegration program is not promising. (Kury *et al.*, 2016).

It is of great value to accredit the rehabilitation trainings to International human rights bodies. This ensures that rehabilitative trainings are in line with the basic standards of good practice and thereby resulting in wider acceptability due to the quality of the trainings. All these is done with the intention of giving a practice and explicit disclosure that rehabilitative trainings will impact recidivism positively and the stated reduction are of a level that is social and politically acceptable. With these in mind several evidence-based models of rehabilitation have been introduced to fill the existing gap and make rehabilitation the number one choice for all Penal Institutions in the world.

Advanced and professional models such as Risk Needs Responsivity, and Good life model draw their inspiration from this requirement. Good Life Model treatment approach helps clients to work towards the target of creating a gainful and productive life (Jeglic & Calkins, 2018). These models tend to introduce individual assessment of participating offenders both adult and juveniles and introduce relevant treatment model that will aid in selecting and exposing relevant treatment.

## **2.5 Essential Factors Necessary for Effective Rehabilitation**

According to Vanstone (2017), “ideas and practice related to offender reformation extends back to the eighteenth century (pg. 1). Rehabilitation of offenders in penal institutions and in the community all over the world has undergone tremendous change. Initially, rehabilitation was associated with philanthropy and religious functions but this state of affair has changed to a more focused and specialized offender management system with full-fledged specialized workers who are involved in both the supervision of offenders and research work in crime related fields (Goodman, 2012). Through legislation governments world over have recognized the pivotal role

rehabilitation plays in pacifying society, as a result structured measures have been adopted to address the challenge of juvenile crime through reform trainings in penal institutions.

It is now more crucial that rehabilitation training providers evaluate the effectiveness of their programs in decreasing prevalence of recidivism. In response to that, correctional institutions and other stakeholders are embracing quality and accreditation systems to ensure the effectiveness of their rehabilitative programs (Leone *et al.*, 2015). Under the set standards it is believed that offenders will receive treatment and that the rehabilitation trainings will cure them of their criminal behavior thus restoring them to their original state of behavior (Fondacaro *et al.*, 2014).

Standards must also apply when subjecting juvenile offenders to reformation trainings in Borstal Institutions across Kenya since the trainings aim at restoring the character of the juveniles who are in conflict with law, Borstals therefore must provide an enabling environment for positive change. The rehabilitation trainings in Borstal Institutions are therefore intended to help juvenile offenders recover from past disorganized lifestyle.

There are exogenous factors that act as a catalyst in the rehabilitation and treatment of offenders. These are commonly referred to as external readiness factors, which include the characteristics of the environment or the context in which rehabilitation is offered that impacts the ability of an individual to respond to a particular reform training or program (Pearson, 2017). Under the environmental factor, it is important that rehabilitation trainings and treatment be delivered within the agency or Institution in which offender is located. Whether reform training is offered in an Institution or a community, the setting will have implication for whether certain skills can be meaningfully taught. Location also determines the frequency and ability of family members visitations which supports the rehabilitation process (Eck, & Guerrette, 2012).

In the Borstal Institutions in Kenya parents and other relatives are encouraged to visit but given that Borstals are high security facilities prior arrangement must be made with the relevant authorities in the Institution. The offenders who are incarcerated in prison units characterized by caginess and suspicion may be less likely to come forward and take part in reform trainings and programs which they know will require self-disclosure and openness. Existing of rewards for successful completion of a rehabilitation training is also significant and, in some jurisdictions, prisoners are only eligible for parole if they can demonstrate that they have addressed the causes of their reoffending by participating in and completing a training (Bonta & Andrews, 2012). There is also need to provide adequately resource to implement rehabilitation trainings, provide trained staff and allocate training immediately offenders are sent to prison (Harding, 2014).

It is therefore important to deduce that the rehabilitation and treatment of offenders does not entirely depend on the characteristics of the individual offender but also depends on other external factors such as the environment in addition to the individual factors such as motivation to change. Treatment or restoring an offender therefore needs adequate planning, allocation of resources and adequate consideration of the context in which the training will take place (London, 2011).

Allocation of adequate resources is an important factor in rolling out rehabilitation trainings in Kenya Borstal Institutions. Budgetary allocation towards these institutions has always been contentious in each financial year with some legislators advocating for reduction in funding and in the process affecting implementation of rehabilitation trainings in Borstal Institutions and indeed penal institutions across Kenya. In general, the rehabilitation centers suffered from lack of funding making them relay on grants from Non- Government Organizations because the government has not prioritized funding of rehabilitation trainings (Kariuki, *et al.*, 2019).

Mears, Picket & Mancini (2015) argue that rehabilitative services for juvenile offenders should developing a culture that embraces education and skill-based trainings to avert recidivism. Most juvenile offenders come from poor family background with little or no opportunities to overhaul their lives and survive in the society. Additionally, skills provision and general training of offenders expected to increase employability and ways of earning an income. This has to be done in an environment that fosters holistic teaching and learning (Mohammed & Mohamed, 2015).

Rehabilitation trainings within the context of correctional facilities are designed and intended to facilitate crime reduction among offenders and bring about tranquility in the community resulting in the restoration of offenders. The need to strengthen custodial rehabilitation trainings for juvenile offenders has been of major concern among stakeholders in the CJS. This is due to the significant increase in prisoner population (Lo, 2013). Specifically, the rise in population among inmates leads to concerns regarding overcrowding in Kenya correctional facilities and its consequential negative impact on the rehabilitation of youthful offenders (Lumumba, 2016).

More recently rehabilitation trainings such as formal education, vocational training, peer counseling, psychological based initiatives and faith based spiritual secessions have been put forward as a means of reforming and restoring juvenile offenders during their incarceration (Azam, *et al.*, 2021). The introduction of reform trainings in Borstal Institutions in the long run is anticipated to result in reduced numbers of juvenile offenders being committed to Correctional Institution. Proper implementation of reform trainings as recommended in section 4 (b) of Cap 92 of the Borstal Institutions Act therefore means that cases of recidivism will be greatly reduced.

Vocational training skills provided in rehabilitation schools including Shikusa Borstal Institution include among others carpentry, sign writing, masonry, electric wiring, tailoring, tin smith, bakery and agriculture. The study appraised the conditions in which reform trainings are delivered to juvenile offenders in Shikusa Borstal Institution as recommended in the Borstal Institution Act Cap 92 of the laws of Kenya and find out their relevance to character change.

## **2.6 The Significance of Rehabilitation trainings to Persons in Conflict with the Law**

Rehabilitation process assists offender refrain from future or repeat offences (Mbatha, 2020). It can also be seen as an effort to reform and reinstate the old good self of an individual (Krohn & Lane 2015). Rehabilitation trainings within the context of correctional facilities such as Borstal Institutions are therefore designed and intended to facilitate crime reduction among offenders. The need to strengthen custodial rehabilitation for juvenile offenders has been of a major concern among stakeholders in the CJS. This is due to the significant increase in prisoner population and the effect of crime in both rural and urban communities.

More recently the prisons authorities have taken a paradigm shift in the administration of juvenile rehabilitation facilities. This has resulted in emphasis of reform trainings as opposed to confining juvenile offenders mainly as a punitive measure (Durose *et al.*, 2014). Further, reform trainings such as formal education, vocational training, peer counseling, psychological-based initiatives and faith-based spiritual sessions have typically been put forward as a means of reforming juvenile offenders during their incarceration (Southern, 2013).

From a policy perspective Kenya has put emphasis on reform training in juvenile rehabilitation institutions but the budgetary allocation seems to point to little or lack of commitment to the policy.

The non fulfilment of the financial obligation on the part of the government of Kenya puts into question the conditions under which the reform trainings are delivered across juvenile rehabilitation institutions (Kiruki, 2020).

Recidivism prevalence rate among juvenile offenders is supported by a wide range of studies (Van der Put *et al.*, 2014). In addition, Visher *et al.*, (2011)) observed that nearly a quarter of released juvenile delinquents get re-arrested within their first year of freedom. However, earlier research in the United Kingdom revealed that there was lower recidivism rate of 50% due to focus on custodial rehabilitation, compared with United States of America's 60% recidivism rate. In the case of the latter, the study showed that high recidivism rate in America was due to focus on punishment, deterrence and confining juvenile offenders away from society (Ryan, Abrams & Huang, 2014).

Most findings by research shows there is a high prevalence of recidivism among juvenile offenders, especially among male offenders (Onyango 2013). The re-offending trend not only contributes to overcrowding in juvenile prisons but also a threat to socio-economic development and stability of the society. It is therefore, important to remodel the juvenile rehabilitation learning environment in a manner that will focus on the criminogenic needs of juvenile offenders (Penal Reform International, 2012) in addition to allocating resources to the Borstal Institutions to revamp the training facilities and recruitment of appropriate staff.

Current custodial reform trainings for juvenile offenders in Kenya are more punitive than rehabilitative and this can be attributed to low financial assistance from the Central government and unstructured delivery of the reform trainings. The current rehabilitation programs have been structured to harshly punish offenders. Accordingly, these facilities need updating. If the prison

system (where Borstal Institutions lie) is being reformed to rehabilitate more inmates with less emphasis on severe punishment, then it is imperative that the current rehabilitation initiatives also need to be in line with the prison reform goals. The rehabilitative efforts are generally successful in reducing recidivism (Latessa, Johnson, & Koetzle, 2020). There is some evidence to suggest that without rehabilitation, incarceration alone may result in increased rates of re-offending among juvenile offenders (Bhuller *et al.*, 2020).

However, despite substantial increase in juvenile inmate population and crime rates in recent decades globally, the capacity of custodial rehabilitation programs has barely changed. In East Africa for example, rehabilitation trainings are burdened with overcrowding and an inability to satisfy basic human rights standards (UNODC, 2012). In addition, scholars have argued that gender responsiveness of rehabilitation trainings in relation to recidivism reduction has not been adequately examined.

The government of Kenya in its recognition of the need to reform its penal Institutions has made efforts to domesticate international minimum standards of rehabilitation in its correctional facilities (Kenya Prison Service, 2015). However, most of these minimum standards geared towards reforming juvenile offenders are yet to be met due to inadequate human and institutional rehabilitation service culture. Accordingly, the end-result has been an increase in recidivism among youthful offenders upon their release. This confirms the fact that rehabilitative trainings need to address prisoners' criminogenic needs with a view to reducing recidivism rates among inmates (UNODC, 2012). This is in addition to the institution's technical capacity to handle reform trainings. Institutional technical capacity will dictate the quality of reform trainings exposed to juvenile offenders.



Mgumiro (2015), argues in his study that rehabilitation trainings ought to be provided in a learning environment that is free from strict control, corporal punishment and intimidation. He further opines that rehabilitation trainings should be modeled in a way that it upgrades the personnel's skills set. A learning environment that exposes juvenile offenders to unnecessary suffering will be counter-productive in as far as reformation of juveniles is concerned. For Borstal Institutions to turn around the character of juvenile offenders the National government must heavily invest in the infrastructure of the concerned institutions which will considerably improve the learning environment.

Crewe, (2012) in his research postulates that rehabilitative services for juvenile offenders ought to boost their chances of acquiring education and skills that will help them avoid reoffending. He further, claims that most juvenile offenders come from poor neighborhoods and families that are disadvantaged in terms of opportunities and resources. Additionally, the skills provided should be able to accord the convicts relevant opportunities to earn an income and live an honest life. This has to be done in a learning environment that fosters holistic teaching and learning.

## **2.7 The Processing of Juvenile Offender in Reform Institutions**

All staff involved with managing juvenile offenders ought to be provided with necessary training relevant in addressing the needs of the concerned juveniles. Notably, communicating with the juveniles is an essential skill as it is critical in reaching out to them in the effort to reform them. The juveniles committed to Borstal Institutions deserve special attention since most of them come from difficult environment and home situations and before any reform training is assigned to him juvenile offender must be given an opportunity to give a full disclosure of home circumstances and his previous conduct. This is only possible if the staff handling the youth possess the skills

and knowledge to assist the juvenile offender give a full disclosure (Caldwell, 2016). This therefore means that in recruiting of staff at the Borstal Institution the authorities must consider persons who can rightly comprehend the background of the juvenile offenders.

When dealing with the children, listening, being authentic and explaining what is being said are aptitudes that are essential. Notably, communicating with children is challenging since their communication styles vary and are complicated. For instance, children prefer more nonverbal communication cues and more demonstrative than adults (Sauter, Panattoni, & Happe, 2013). Additionally, children are considered weak and powerless in the society, thus it is prudent to design ways of managing conversations with adults especially sensitive emotive topics.

Juveniles in conflict with the law are committed to Borstal Institutions after having been charged with criminal offences such as stealing, manslaughter, sexual offences and pleaded guilty or found guilty by a court of law and in most cases the complainants in the cases are close acquaintances. Given this close relationship some juvenile offenders might not be free to discuss their past because of the emotive nature of case. The staff at Borstal Institution must therefore establish a rapport with the juvenile to enable a full disclosure. This can be made possible if the staff in the Borstal Institution have special training in the art of working with young persons.

Another area of concern is the relevant knowledge, skills and experience required in designing and managing rehabilitative programs for juvenile delinquents. Notably, some personnel may lack the required competence to run programs geared at addressing the needs of youths at risk. In order to recruit competent staff therefore, every staff must demonstrate knowledge in the area of counseling, education, child development and psychology (UNODC, 2012).

## **2.8 The Potential of Rehabilitation Trainings as Correctional Measures**

Rehabilitation of offenders throughout the world is a contentious area given that many scholars do not agree on the finest way to apply in addressing the problem of crime in society. It is generally felt that offenders especially those who break the law seriously and repeatedly should be punished harshly for their wrongdoing (Craig *et al.*, 2013). Through rehabilitation trainings offender is equipped with information or skills to address behavioral problems. In this respect rehabilitation trainings are meant to assist offenders readapt to society or to be restored to the former position through training (Muyobela, & Strydom, 2017). It is further developed to reform offenders by reducing the risk factors that expose them to criminal behavior and this could be through changing risk factors that expose them to crime. It is based therefore on the hope that it can reduce reoffending.

The main objective of committing juvenile in conflict with the law to Borstal Institutions is to achieve rehabilitation since it is generally felt that circumstances at home or open environment are not conducive for reform or rehabilitation. The agricultural, industrial and educational trainings as recommended can only be administered in a restricted environment in this case a Borstal Institution or any other authorized juvenile rehabilitation facility (UNODC, 2012).

The idea of rehabilitation trainings come up as a way of addressing reforms in correctional facilities for both adult and juvenile offenders, where offenders have to leave as better persons ready to earn a living using skills and training that they underwent and to a large extent make the society safe for all. Because of the very need to achieve change in offenders, many forms of rehabilitation trainings are introduced in correctional facilities to help in addressing the individual

needs of the offender. The trainings include educational, vocational, psychological and spiritual. Rehabilitation has therefore transformed from its original roots in philanthropy to offender management system supervised by well-trained personnel (Goodman, 2012).

Rehabilitation is a fluid subject and has been subjected to a lot of research work to establish the best rehabilitation trainings resulting in invalidating what one thought was the best method applicable to offenders (Craig, Gannon, & Dixon, 2013). It further explains the mutation of the term rehabilitation and what it entails but on the whole the essence of rehabilitation is seeking to reform the affected person to a former self or favorable state.

When focusing on juvenile rehabilitation in Borstal Institutions the main focus therefore is setting in motion intervention measures to eliminate the tendency, desire or compulsion to offend through set out trainings (Mears, Pickett, & Mancini, 2015). The trainings are set out in such a way that the receiver of the treatment must believe and trust the giver, in order to achieve maximum results. Working therefore in this type of correction facility, calls for total dedication on the part of the giver of treatment training. The giver of the training must understand the family background of offenders who are committed to the institution for training (Mears *et al.*, 2015).

In sentencing offenders, the criminal justice system tends to achieve certain results. The first is focused on the crime where the general public is deterred from committing offences learning from the harsh sentences brought down on concerned offenders. The other puts into consideration factors such as amenability to treatment given the social and family history of offenders. This second focus seeks to protect both the offender and society thus emphasizing on rehabilitation which eventually assist offenders in becoming law abiding citizens on release by applying what

he or she learnt in the institution to change for the better this is often referred to as rehabilitation punishment or penal rehabilitation (Mjaland, & Lundeberg, 2014). Committing juvenile offenders to Borstal Institution is expected to achieve the purpose of protecting the juvenile offender in addition to making the juvenile offender self-reliant on release from the institution by putting to practical use the skills and knowledge acquired in the Borstal Institution (Onderi, 2017).

According to Schinkel (2013), when a conviction is passed combined with a rehabilitative component, the court is guided by consequentialist philosophy. This is a strategy with the aim of achieving a goal of crime reduction by reducing re-offending and instituting change in the offender. The passing of a sentence in Kenya judicial system with a view of rehabilitation is never stated in the final sentence by the magistrate or judge and this could be the core undoing of the CJS since this is left to the officers in the correctional institutions. Give the qualification and professional training of persons who are vested with the power of rolling out and implementing rehabilitation trainings it is a tall order to expect effective implementation of rehabilitation trainings in the Kenya penal institutions. Shikusa Borstal Institution is managed by prison officers who apart from the security training they undergo, could exhibit shortcoming in handling rehabilitation trainings from a professional perspective. This could have a devastating effect on the overall implementation of reform trainings in the Institution (Okutoyi, 2015).

## **2.9 The Vice of Juvenile crime and Remedial Measures**

Juvenile crime has a devastating effect and is a major challenge all over the world and this is because of the damage crime has on the social economic development of any society. Further, juvenile crime is a major preoccupation of both the citizens and politicians due to the cost associated with it. This preoccupation takes line of increasing sanction particularly where there is

an increase of the vice in the society (Maruna, & Immarigeon, 2013). This goes hand in hand with putting forward measures that can prevent and mitigate youth crime through rehabilitation and treatment.

The establishment of Borstal Institutions for both male and female juvenile offenders is one of the measures that the government of Kenya introduced in order to mitigate the problem of juvenile crime. The Borstal Institutions according to the law have several reform trainings which aim at addressing the criminogenic needs of youthful offenders admitted in the institution. It is expected that juvenile offenders will put to good use the knowledge and skills acquired in the institution consequently the reform trainings will be of great value to the juvenile offenders on release (Petrosino, *et al.*, 2013).

In using rehabilitation and treatment approaches to address the problem of juvenile delinquency and crime, emphasis is directed towards the society to provide adequate care and opportunities for the young person in society. Juvenile trials are not conducted to determine criminal guilt and rendering of punitive sentences but they are meant to result in crime control, crime prevention, protecting the child and addressing their welfare, reducing the vulnerabilities and retribution (Feld, 2018). It is also believed that if crime is not curbed at this youthful level there is a possibility of juvenile offenders graduating to adult criminals. In coming up with specific rehabilitation trainings, it is therefore important that the general offending past of offender is examined with the view of establishing the causes of delinquent conduct (Field, 2018).

The rehabilitation and treatment in addressing issues of juvenile delinquency and crime has been controversial for a long time. The fact that most jurisdictions across the globe introduced a separate

unit to deal with juvenile matters explains the unique nature of the juvenile offenders. This unique aspect led to introduction of the current juvenile justice system to address matters affecting juvenile offenders (Odongo, 2012)

The church pioneered the establishment of formal juvenile rehabilitation institutions. The involvement of the church in juvenile matters especially in rehabilitation trainings helped in establishing Institutions whose main concern was to assist juveniles change their wayward tendencies. Most of the pioneer Institution that took up the challenge of addressing juvenile crime were established and managed by the church and volunteer organizations (Dodson-, *et al.*, 2011).

Juvenile crime in the world has evolved over time as society transitions, it is therefore important to put in place rehabilitation trainings which recognize the fact that the world has transformed immensely. This is reflected in the establishment juvenile courts whose main objective is to treat well and protect juvenile delinquents (Geary, 2013). It is further highlighted in the introduction of reform trainings which also put into consideration emerging issues in commission of crime and treatment of offenders. The current status of juvenile crime throughout the world can be attributed to breakdown of traditional society, industrialization and urbanization, population growth and composition (Nourollah, Fatemeh, & Farhad, 2015). These societal transformations bring to fore the fact that new mechanisms must be adopted to respond to the problem of juvenile crime against the traditional methods where customary laws and parental control was applied in dealing with juvenile offenders (Fiorillo, 2013).

Juvenile crime in the world and indeed in Kenya has transitioned and the trainings recommended in section 4 (b) of Cap 92 of the Borstal Institutions Act such as agricultural, industrial and

educational are intended to have a positive effect on the lives of juvenile offenders but given the current state of affair it is paramount that new and innovate ways should be introduced to address the emerging trends in juvenile crime and reformation. We need also to interrogate conditions under which trainings are delivered to the inmates. Are the conditions good enough in guiding the trainees throughout the rehabilitation process within the institution and do the current trainings in demand given the advancement in technology.

In modern societies children and juveniles are viewed as needing care and protection and if they become delinquents, educational measures are seen to be the most appropriate if not pivotal answer to the problem they are causing or may suffer from. The logic behind this modern focus on juvenile crime and rehabilitation trainings is to transform offenders into productive citizens of the society other than punishment. It further brings about the element of societal protection with the wider aim of making society crime free (Haqanee- *et al.*, 2015).

Through rehabilitation trainings the youth are placed under trusted care and later returned to the community as productive effective and contributing citizens (Krohn & Lane, 2015). This means that society plays a substantial role in the rehabilitation of offenders since eventually they are released into the community. The overall reception of released offenders in the community determines the future of ex-offenders' society (Singh, 2016). In as much as researcher advocate for favorable learning conditions in rehabilitation institutions the same should also be demonstrated in the community where the juvenile offenders are eventually released.

The challenge of juvenile crime must be given the attention it deserves at the formative stage by addressing factors that trigger it. This is because if the problem is not adequately addressed juvenile



crime may become serious, violent and chronic adult criminals (Bartusch & Burfeind 2016). According to the studies on youths who end up engaging in violent crimes in the adolescence stage, it is believed that they portrayed the violent behavior in their childhood years. It is cited in the report that 20-40% male juveniles and 45-60% of females who are hardcore criminals started their criminal careers in their childhood years (Straus, Gelles, & Stienmetz, 2017).

The existence of juvenile rehabilitation institutions such as Borstal Institutions in Kenya is meant to address challenges of juvenile crime with a view of curbing adult crime. It is expected that the educational, industrial and agricultural trainings exposed to juvenile offenders in Borstal Institutions will have a long live time positive impact on the juvenile offenders on release from the Institution (Gok, 2011).

According to Nirella (2020), finding the real cause of juvenile crime is significant because this will give guidance on how the juvenile go through the juvenile justice system and eventually formulating rehabilitation and treatment trainings. This also helps in shaping rehabilitation trainings to address a particular need relevant to an individual youthful offender. It is therefore important that rehabilitation trainings and re-integration techniques for juvenile offenders should be based on a specific rehabilitation policy which focuses on their specific needs (Kiruki, 2020).

## **2.10 Evolution of Juvenile Justice and Institutionalization of Child offenders**

The handling of juvenile cases in the traditional set up was mainly left to parents and other opinion leaders who gave out punishment according to the values and norms of the community. These were customs of the community which every member was required to subscribe to. The customs were to hold in check the tendency of human to devour each other, and each society in the world

had laws and customs and their concomitant punishment (Hess, Orthmann, & Wright, 2012). Norms were held in high regard and also seen as an important unifying factor in society therefore any violation of socially accepted norms was normally discouraged through threats of punishment and the severity of punishment (Nagin, Solow & Lum, 2015).

The first punishment for crimes against society can be traced back in the biblical days. In the Old Testament, violation of social norms led to immediate punishment which ranged from public humiliation to death. The Bible was specific to make the penalty fit the crime and was especially intolerant of youth who were incorrigible and disobeyed their parents, Numbers 35: 16-19, Deuteronomy 18:18-21 and Leviticus 24:17-22 (New International Version, 2011). In these early times therefore, delinquents experienced the same treatment as adults, across most communities in applying sanctions against crime (Krohn & Lane, 2015).

Laws and generally legal matters have evolved overtime but the overall aspect behind law is to bring about systems that will guard against disorderliness and enhance both social and economic development especially in the area of commerce and trade (Welsh, & Farrington 2012). The emergency of juvenile justice system and other allied aspects including punishment of juveniles came about as a natural result of shifting a social consciousness about youth, children were seen as incompetent and therefore in need of care, children were further seen as dependents, lacking the mental and physical capabilities of adults and in need of guidance. Juvenile justice was also adopted by modern governments in order to bring about well structures legal system that focused on the unique nature of juvenile offenders. This resulted in a separate court system for juvenile and adult offenders (Meng, Segal & Boden, 2013).

The unique characteristics of juvenile offenders resulted in the establishment of juvenile courts to handle juvenile matters and child responsive rehabilitation and treatment trainings. This was in line with general consensus on the liability age for breaking the law as emphasized in the convention on rights of the child and other international standards such as Beijing Rules for Juvenile Justice (Winterdyk, 2015). Generally, attention to the need for special protection for children originated from the Geneva Declaration on the Rights of the Child in 1924 which was recognized in the Universal Declaration of Human Rights (Farid, 2021).

The first juvenile court was not an adult criminal court as seen today but was a social welfare agency which had coercive powers (Emerson, 2017). This came about when it was observed by many organizations including churches on the dangers most children in the CJS are exposed to when they are handled as adults in open courts. It was obvious that many juveniles due to their inferior mental development could not comprehend what was going on in court. Further, it was clear the juveniles were susceptible to contamination by adult offenders when remanded in the same environment (Wood, 2011).

Issues affecting juveniles are given prominence due to their delicate nature and vulnerable status on the other hand children and juveniles are viewed as needing care and protection (Xhafo, 2012). The training of juvenile offenders mainly focuses on the following aspects, the prevention of offending and reoffending by the juveniles, the rehabilitation and reintegration of offenders in addition to addressing the interests of victims of crime who form the community where the juveniles reside. This communitarian approaches to rehabilitation recognizes that offenders mostly belong to communities and their affiliation need to continue (Lacey, 2013).

From an international perspective, the establishment of systems and practices to deal with juvenile delinquency gained traction, as Chicago and Nordic state Norway lead the way (Meng, Segal & Bode, 2013). The first family court in Cook, Chicago was established in 1889 with the main assignment of dealing with aggressive and violent youth and children (Krohn & Lane, 2015).

In modern times, international rules or conventions have been introduced with the aim of advocating for the safety and rights of the juvenile offenders which ultimately promote the emotional, psychological and physical needs of the juvenile delinquents. The cardinal feature of justice for the young is the establishment of separate procedures and concepts designed to relate to the characteristics and situations of young people (Cicourel, 2017). According to Goel (2015), juvenile justice is based on two philosophical concepts, *parens patriae* and individualized treatment.

The doctrine of *parens patriae* allows the court to conduct the proceedings primarily to determine what should be done in the interest of the child and trials are not conducted for determination of criminal guilt and rendering punitive sentences. The second doctrine of individualized treatment views the disposition of decisions primarily for rehabilitation of a delinquent juvenile. The introduced aspects of the law addressing the plight of youthful offenders should be dictated by the child's interests (Goel, 2015).

The establishment and rolling out of reform trainings in Borstal Institutions in Kenya must meet the international set standards through the relevance of the trainings and in the overall management of the institutions. The introduction of reform trainings in Borstal Institutions is meant to fulfill the Juvenile offender's personal and social needs (UNODC, 2012).

It's a universally admitted fact that the young people represent a submissive class and comparatively helpless and that concerns about the welfare and discipline of young persons have plagued societies for centuries (Winterdyk, 2015). The emergence of many organizations handling the delicate status of juvenile offenders is as a result of the urgency to bring order in the way children's matters are processed. On the international level the most important child rights instrument is the United Nations convention on the rights of the child of 1989 signed and endorsed by all member states with the exception of United States of America and Somalia. Article 3 of the convention preserves the principle of the best interest of the child which must be paramount in any decision or action affecting the child (Winterdyke, 2015).

Under the Child Rights Convention (CRC) there are elaborate guidelines and standards on juvenile justice relevant to children in conflict with the law. According to the United Nation member states are urged to train personnel who deal with protection of children rights on how to apply these international principles on the administration of justice of juveniles who are in conflict with the law in their respective jurisdictions (Winterdyk, 2015). This therefore means that in apportioning rehabilitation trainings and treatment the best interest of the child must be put into consideration. The best interest of the child can be best isolated in this research when the needs of children in conflict with the law and the overall condition under which the reform trainings are delivered at Shikusa Borstal Institution are assessed.

There has been remarkable development in international law towards defining and protecting children rights in many spheres (Smirnykh, 2019). These jurisdictions for child rights were started in 1924 in the Geneva declaration for the rights of the child. In November 1985 the United Nation

assembly again paid attention to child rights by adopting resolution 40/33, the standard minimum rules for administration of justice. These rules require governments to deal with juveniles in a humane manner (Goldson, & Muncie, 2012).

The international rules are against corporal punishment and put emphasis on non-custodial treatment and discourage all injustices towards juvenile offenders. The 1989 Convention on rights of child (CRC) combined all the declarations which were firstly scattered in several instruments; codified them and made them binding convention for every member state (Fass, 2011). The African charter on the rights and welfare of children was adopted in 1990 and came into force in 1999 to provide detailed procedure for the treatment of a juvenile who offended penal statute.

Other international instruments that highlight aspects of juvenile offenders include the United Nations standard minimum rules of administration of juvenile justice also known as the Beijing Rules (Richards, 2011). The other one is the United Nations rules for the protection of juveniles deprived of liberty also known as the Havana Rules. The intention of these international instruments is to design and oversee the implementation of a comprehensive justice policy aimed at addressing juvenile delinquency (Ryan, Williams, & Courtney, 2013).

Given the international instruments on treatment of child offenders, member states are expected to ensure that various professionals dealings with juveniles such as the police, probation officers, prison instructors in rehabilitation schools, children officers, judges and magistrates and volunteer organizations involved in children matters uphold the dignity of the children they process under the criminal justice system and in addition guarantee fair trial. In addition, the instructors in juvenile rehabilitation schools including Borstal Institutions must have adequate training to enable

them observe the provisions of the set international guidelines. This therefore calls for training of all staff who are conferred upon the privilege of interacting with juvenile offenders in Borstal Institutions (Tumbo & Birech, 2019).

Kenya as a country has improved in formulation of legislations that guide juvenile justice through the amendment of the Children Act of 2001 and the enforcement of the 2010 constitution. In Article 2 (6) of the constitution the law allows all treaties that Kenya is a signatory to form part of its laws. Therefore, Kenya is required to protect the child by all means including through legislative measures as stipulated in the international law that Kenya is part of (Waitherero, 2015). Further, rehabilitation and treatment trainings must conform to the international guidelines (Winterdyk, 2015).

The management of various institutions such as Borstal Institutions in Kenya which handle juvenile offender rehabilitation must observe and enforce all these international laws, since they are part of Kenya laws. This should be demonstrated in the manner in which juveniles are processed and the eventual rolling out of rehabilitation trainings.

The international conventions promote a child's integration by taking into account his age and in this case refocusing the traditional objective of criminal justice of punitive and retributive to rehabilitation and restoration when handling juvenile delinquents. Furthermore, in the international law children are shielded from all forms of mistreatment and violence (Winterdyke, 2015). These are important guidelines in as far as handling juvenile offenders is concerned but the big question is what are the implementation levels across all signatories (Jica, 2013). It is therefore in order to

call for the assessment of the general management of Shikusa Borstal Institution which is mandated by law to rehabilitate juveniles in conflict with the law.

In addition to international instruments in the handling of juveniles who are in conflict with the law, non-governmental organizations such as, UNICEF, Defense of Children, and Amnesty international also handle aspects affecting juveniles in conflict with the law. These international instruments help in domesticating of various laws involving children throughout the world and more so the states that have ratified the international instruments. According to Posner (2014), provisions in the international instruments provide how the children should be handled and what they should be accorded when the governments take their rights seriously.

The introduction of Institutions to handle juvenile offenders can be traced back in Britain, London, in 1552 in Christ hospital where orphaned, destitute and delinquent children were housed. These early institutions in England did not distinguish the background or behavior of children admitted (Young, Greer, & Church, 2017). This was a time when differentiation in behavior and character was not an issue in changing the lives of youthful offenders.

Children make up a third of the world population and Africa alone accounts for the highest percentage of children in the world, however it has been established that over one million children are detained in prisons. This is an indication that besides other alternative diversion options, children in conflict with the law are still incarcerated (Mumba, 2011). African countries have a complicated history in implementation of reform trainings for youthful offenders. This is exemplified by each government putting into operation laws that addressed its unique situation.



In South Africa during the colonial period Roman Dutch and English Laws superseded African customary laws leading to punitive child justice policies. Changes were made on the laws in the post- apartheid era by introducing child justice policies with a human rights discourse and progressive notions of restorative justice. Child justice policies were characterized by the concept of restorative justice and Ubuntu (Muyobela 2016).

The emergence of Child rights movement in South Africa heralded in a new beginning in the treatment of children in conflict with the law resulting in enactment of legislations aimed at limiting pre- trial detentions of children. Historically, Children charged with criminal offences were treated in much the same way as their adult counterparts, with limited concessions being made in the course of criminal proceedings to account for the youth and immaturity (Nielson, 2017). The South Africa's current system for Child offenders was ushered in by Child Justice Act (CJA) 75 of 2008. Prior to that time there was no separate legislation though there were sections of the criminal law that provided a limited number of special procedures for accused and convicted persons below the age of 18 years (Winterdyk, 2015).

The Child Justice Act was launched in 2010 creating special mechanism, processes and procedures for children in conflict with the law in South Africa. Children matters under the Act receive special attention because of their physical psychological vulnerability and the fact that they are more open to influence and pressure from others (Badenhorst, 2011). Every child who is alleged of perpetrating a crime even those less than 10 years of age must be evaluated by a probation officer. This is to find out if the child is in need of care or whether diversion should be applied during the pre-trial course of action by the probation officer.

In the 1996 Constitution of South Africa the human rights of children are protected by the Bill of rights. The Constitution provides that children in trouble with the law must not be detained except as a measure of last resort and for the shortest appropriate period of time only. The Constitution further provides for separation of a child detainee from adult detainees (Goomany, & Dickinson, 2015)

The early juvenile Institutions exposed juvenile offenders to elementary education and some agricultural trainings to act as a divergent from criminal activities. The current rehabilitation Institutions in Kenya and world over are as a result of various findings and recommendations associated with the conditions of early juvenile Institutions (Duriez, *et al.*, 2018)

Across Africa Institutions were established to address the problem of juvenile crime during the colonial period. These Institutions have not received greater attention in terms of revamping trainings offered therein. According to Mumba (2011), lack of human resources such as staff for rehabilitating child offenders and support professionals like psychologist, counselors, trained teachers and doctors impedes effective rehabilitation of offenders.

Smith (2012) observes that due to inadequate funding to pay trained and qualified employees, some rehabilitation centers may hire unqualified staff that may not perform rehabilitation work well. According to Muyobela (2017) most governments in Africa have failed to adopt and implement policies, legislations and trainings that ensure the rehabilitation and reintegration of incarcerated child offenders into society. The establishment of Borstal Institutions and implementation of reform trainings in Kenya as recommended in the Borstal Institutions Act Cap

92 section 4 (b) of the laws of Kenya is a significant attempt to infuse international standards in matters involving juvenile offenders.

### **2.11 The State of Juvenile Rehabilitation Institutions in Kenya**

Juvenile rehabilitation institutions were established by the colonial government to accommodate youthful offenders with the aim of transforming the character of juvenile offenders through treatment in addition to eliminating the vicious cycle of recidivism. In the process they were supposed to help juveniles readapt to society or be restored to former self (Omboto, 2013). Historically, juvenile rehabilitation schools and services have oscillated between government ministers of education, Home Affairs, Gender Children and Social Development and currently under the department of Correctional Services in the Ministry of Interior and Coordination of National Government and the Ministry of Labor (Wambungu, 2014).

The functions of rehabilitation schools in Kenya include among others, provision of social training by the way of disciplining the child, provision of spiritual nourishment through religious institutions, provision of academic training, equip the child with useful skills so as to be economically reliant, assisting the children obtain admission to regular schools upon completion of rehabilitation period as well as arrangement for aftercare services (Beth, 2015). These trainings are seen as constructive approach and seeks to bring about positive change in the functioning of juvenile offenders resulting in better self- control. The Institutions are founded on the principle of rehabilitation which is prevention of reoffending through available reform trainings (UNODC, 2012).

Juvenile crime in Kenya has gone up in the recent past and currently offenders going through the juvenile justice system have increased. According to the National Policy on Orphans and Vulnerable Children, an estimated 6 million Kenyan children require special care and protection from a wide range of issues (JICA, 2013). These include children who are in conflict with the law. According to the Kenya National Bureau of Statistics in the period between 2001 and 2009 fifty-nine percent of crimes in Kenya were committed by young persons aged between 16 and 25 years. Further, fifty percent of all convicted criminals are young men between 16 to 25 years (GoK, 2016).

Rehabilitation institutions in Kenya target youths who have committed offences or are in need of care and have gone through juvenile justice system with the fundamental goal being to offer suitable institutional programs to the young persons in conflict with the law (Beth, 2015). Various studies have shown that rehabilitation trainings play a vital role in decreasing the levels of delinquency (Onyango, 2013). In this respect the ultimate goal of child justice is to ensure that children are protected by the justice system and further ensure that the norms and standards for the rights of the children brought before court of law are safeguarded (Leiber, & Peck, 2015), and conform to international standards.

In Kenya there are various government departments and non-governmental organizations that handle juvenile offenders. The Children department under Children's Act 2001 of the Laws of Kenya is mandated to safeguard the welfare of children. The department deals with children who are in conflict with the law and those who are in need of care and protection (Odongo, 2012).

Rehabilitation schools are established under the management of Children department to address the needs of children in conflict with the law while rescue centers cater for those in need of care

and protection. Further, the department manages remand homes which are care centers for children being processed by courts. The rehabilitation schools are established under section 47 of the Children's act 2001 and the Children's court under section 73 of the Children Act 2001 (Odongo, 2012).

Children department in consultation with relevant stakeholders in the Juvenile Justice system such as Judiciary, Police, Probation, Prisons, families and communities use the institutions to rehabilitate youths who are in conflict with the law. This is done in conjunction with other non-state actors such as UNICEF, Save the Children Fund, JICA and many other voluntary organizations which include faith based and other social welfare organizations. These organizations contribute material assistance and are also involved in capacity building to improve the skills and knowledge of both staff and children in conflict with the law (UNODC, 2012).

Another important entity in the rehabilitation of juvenile offenders is the Borstal Institution. A modified version of British Borstal system was introduced in Kenya with the aim of addressing the problem of juvenile crime during the colonial period. Currently there are two Borstal Institutions for boys and one for girls in Kenya and are all under the management of the Kenya Prisons Service (KPS).

Borstal Institutions offer educational, industrial and agricultural reform trainings as stipulated in Cap 92 of the Borstal Institutions Act section 4 subsection (b). To achieve holistic rehabilitation of juvenile offenders counseling services and religious instructions are incorporated in the trainings. The inmates committed to the institutions are youthful offenders aged between 15 to 17 years (GoK, 2012). An inmate is committed by court under the recommendation of a probation officer for a period of three years, but the final decision of committing a juvenile offender to a Borstal Institution is vested in the trial magistrate or judge subject to availability of a vacancy in

the Institution (GoK, 2016). This is under section 8 of the Borstal Institutions Act Cap 92 where the court is required to first establish the availability of accommodation in Borstal Institution before a juvenile is admitted in the institution (GoK, 2012).

The establishment of Borstal Institutions is in recognition of the fact that juvenile offenders represent a vulnerable group within the penal system therefore necessitating establishing training and rehabilitation to meet their needs (Okutoyi, 2015). Further, the other objective of sending youthful offenders to Borstal institutions is to avoid contamination by adult offenders and promote self-reliance, respect and obedience in order to become good citizens on release (GoK, 2012).

Juvenile offenders in Kenya are also processed by Probation and Aftercare Service. Probation and Aftercare Service is in the department of Correctional Service in the Ministry of Interior and Coordination of National Government. Probation and Aftercare Service is mandated by law to manage Probation Hostels. These institutions are established under section 5 of the Probation of Offenders Act Cap 64 of the laws of Kenya. Under section 5 (b) the law requires that a probationer should not exceed 12 months in a probation provided residence (Hostel) (GoK, 2018).

Probation Hostels are open premises serving as home away from home mandated with provision of accommodation and reformation to both juvenile and adult offenders. Currently there are six probation hostels in Kenya. Probation and Aftercare service is the only juvenile agency that is mandated to commit boys and girls to these institutions.

## **2.12 The Challenges in Implementing Reformation Trainings**

According to Mayobela (2016), in order to address challenges of crime in both juveniles and adult offenders it is imperative that the concerned Institutions and trained staff in equal measure put in place plans to address the causes of crime at individual level on admission to the institution. These

are crime prevention and treatment strategies whose overall objective is to produce law abiding citizens and on a larger scale have a crime free society. Correction through rehabilitation training throughout the world has received criticism and accolades from both professionals and non-professionals in equal measures this is because of the devastating effect adult and juvenile crime pose in society (McNeill, 2018).

The state of rehabilitation and training is demonstrated by various researchers among them Robert Martinson. Robert Martinson in 1974 carried out research on the effectiveness of the correctional interventions, the results of the research degenerated into an all onslaught on the effectiveness of existing rehabilitation trainings thus the popular phrase “nothing works” in an article by Robert Martinson titled “*The public interest*” (Weisburd, Farrington, & Gill, 2017). As a result of various research findings criminologist and other scholars in the field of rehabilitation in the 1990s shied away from the notion that pragmatic measures were effective in addressing recidivism (Weisburd, *et al.*, 2016).

The argument and counter argument on the effectiveness of rehabilitation trainings brought about a series of studies and research in this field to establish the truth. Studies were carried out in the field of correctional treatment and most prominent was research by Mackenzie and the team at the University of Maryland on behalf of Washington State Legislature where they reviewed the twelve types of programmes and their effectiveness (Hamilton *et al.*, 2015). They covered various programs including substance abuse programs, employment, faith-based programs, life skills and vocational training. The part played by all these programs in addressing the challenges of recidivism was not conclusive resulting in both negative and positive results in equal measure (Hamilton, 2015). This therefore puts into question the state and effectiveness of the reform trainings both for adult and juvenile offenders in the penal institutions.

The state and effectiveness of the trainings can be practically reflected in reduced crime but to the contrary this is not the case. As we expose the reform trainings to offenders at times the results achieved are not good enough and their effect appear to be modest and short lived. The failure of the reform trainings to achieve set objectives can most probably be attributed to the quality of trainings and the foundation of the trainings including failure to factor in current technological innovations. This is the battle ground between the proponents and opponents of rehabilitation trainings in penal institutions for both juvenile and adult offenders (Robinson & Crew, 2009)

As observed by scholars and researchers in criminology the effectiveness of a program depends on its implementation (Hamilton *et al.*, 2015). It also includes the quality of the training and persons who are tasked with the full implementation not forgetting the acceptability to the recipients (Hamilton, 2015). This coupled with environmental consideration especially for juvenile offenders could have far reaching implications in as far as rehabilitation is concerned with both positive and negative results.

A survey done by Odera (2013) on effectiveness of rehabilitation programs on juvenile delinquency in Nairobi County, recognized that there was ineffectiveness in the rehabilitation trainings ranging from relevance to implementation. The findings further established that most of the juveniles attached to these Institutions had not benefited from the rehabilitation trainings. In another study conducted by Otukho (2017) it was established that there was no defined curriculum to enable effective rehabilitation of juveniles committed to Kamiti Youth Training Centre. According a study by Savatia (2020) on effectiveness of rehabilitation programs in management of juvenile delinquency within penal Institutions in Kakamega County, it was established that juveniles are taken through the available programs just because it was a requirement by the government and this therefore explaining the high rate of recidivism.



### **2.13 The Prerequisites for Effective Delivery of Reformation Trainings**

The success in any reform training exposed to offenders in adult and juvenile penal institutions depends primarily on a number of certain perimeters. According to Otukho (2017) apart from having well designed programs with a clear curriculum, lack of specialized training and supervision of the implementers of the programs will compromise standards of delivery. In an assessment of the rehabilitation programs in North America using Cross Program Assessment Inventory (CPAI) which is designed to measure accepted principles by correctional institutions, found out that 70 percent of all programs failed (Taxman, & Caudy, 2015).

Failure in the implementation of reform trainings can therefore be attributed to hiring of staff with no relevant training more so professional training with the sole aim of filling an existing gap. According to Uche *et al*, (2015), due to inadequate funding to pay trained and qualified employees some rehabilitation centers may hire unqualified staff that may not perform rehabilitation work well. It is therefore significant to note that qualified and well-trained staff are critical in effective and efficient delivery of service in any give rehabilitation set up.

Another failure of the reform trainings can be attributed to designing trainings that do not put emphasis on the foundations of crime including poor learning environment. As observed by Lehman *et al.*, (2012), recruitment process is a challenge for most correctional institutions. Staff turnover also tends to undermine training stability and effectiveness.

On the overall to ensure quality and effectiveness of rehabilitation, offenders should be exposed to trainings that address the cause of crime or the problem the offender is facing. In developing economies like Kenya, budgetary allocations may not allow the roll out of elaborate rehabilitation trainings. This therefore means that the contribution of the government in the effectiveness of the

trainings for the rehabilitation of juvenile offenders in conflict with the law should not be taken lightly or be underestimated (Shukla, 2012).

Considering the complexity of crime, rehabilitation programs should not be viewed as quick fix but should be viewed as a long process that covers parole and post release monitoring by recognizing that offender must take control of his destiny. For reform trainings to be effective, practices which include community supervision must be blended with a lot of emphasis on level of training staff in rehabilitation institutions. According to Jeglic & Calkins (2018), “while having an effective treatment is important, the treatment is only as good as the individual delivering it” (pg. 5). In order to have effective rehabilitation programs for juvenile offenders the context under which the trainings are delivered in the Borstal Institutions must be assessed or audited since this is an important factor in determining the quality of reform trainings.

#### **2.14 The Approaches of Offender Rehabilitation Programmes**

Controversy has surrounded the application and end results of reform trainings in correctional institution throughout the world resulting in criminologists, psychologist and other social scientist developing approaches to monitor rehabilitation among offenders. These approaches are used in Borstal Institutions in classification of juvenile offenders besides defining the needs of the juvenile offenders. The classification of juvenile offenders in Borstal Institutions is a vital undertaking in the achievement of the objective of character change of the juvenile offenders using reform trainings recommended in section 4 (b) of Cap 92 of the laws of Kenya (UNODC, 2012).

The Borstal Institutions use these approaches to isolate juvenile offenders and line up reform trainings suitable for individual offender in the institution. All these approaches are applied with the aim of bringing about character change in the juvenile offender and ensure use of skills and

knowledge acquired in the institution upon release. The use of these internationally recognized approaches by Borstal Institutions is a good step in meeting international standards in reforming juveniles in conflict with the law (Winterdyke, 2015).

The rehabilitation of criminals goes back to the eighteenth century. Notably, Mair, & Burke, (2013) observed, that rehabilitation was first conceived in French law in the second half of the seventeenth century and was used to refer to the destruction or undoing of criminal conviction. On the overall, rehabilitation symbolizes a process where an individual, in this case an offender sheds the negative label and becomes a law-abiding citizen who is accepted by and enjoys the same rights as members of the community. It further means deleting a person's criminal record and, in the end, helping in reducing societal discrimination against him (Muthee, 2020).

Rehabilitation model in solving the problem of crime is closely associated with the emergence and development of positivist criminology and a view that offending is due to factors that lie outside the individual's control (Falco & Turner, 2014) and with proper care and treatment criminals can be transformed into productive law-abiding citizens (Meyer, & O'Malley, 2013). The proponents of rehabilitation see it as essential need driven response to wrong doing and means of bringing about a holistic response to crime. McLeod (2015) opined that, the rehabilitation of criminal offenders offers the criminal justice system a unique avenue of improvement and has potential of humanizing and civilizing social reaction against crime.

Rehabilitation is therefore based on the notion that an offender can receive help to avoid further re offending this is by addressing the social deprivations such as poverty that cause crime. Rehabilitation theory takes the form of behavioral modification or cognitive- behavioral treatment

especially those at risk of recidivism and is therefore fitted to explain rehabilitation of juvenile delinquents since child offenders have better prospects of rehabilitation compared to adults (Polaschek, 2011)

Rehabilitation is further justified by utilitarian arguments. Utilitarianism is a philosophy which originated from the words of Jeremy Bentham and John Stuart Mills, who opined that an action that benefits the majority is justified morally, in this case transforming offenders into law abiding members of the community serves the interest of the society as a whole (Kweingoti, 2019). Rehabilitation is therefore seen as a practice that protects the society from future crime. Although this argument appears valid it can also be argued that by locking offenders in prison the society can also be protected from criminals. But locking offenders in prison cannot be seen as a solution to crime since eventually offenders will be released. This is an expensive undertaking therefore, locking offenders indefinitely is an expensive solution to insecurity (Lynch, 2013).

In order to achieve objectives of rehabilitation of giving criminal sanctions, positive and constructive identity, several models have been put forward and these include Risk-need-Responsivity model and Good Lives Model. The two models are vital as they work for both adult offenders and juvenile offenders (Herzog-Evans, 2017). These models are relevant in the Borstal Institution since they are used in classifying offenders with a view of assigning a training or program for effective supervision. In Shikusa Borstal Institution Risk-Need- Responsivity model is widely used by instructors.

#### **2.14. 1. The Risk-Need-Responsivity Model (R.N.R)**

The Risk-Need Responsivity (R.N.R) model is beyond doubt the commonly used models in the current field of corrections (Jeglic & Calkins, 2018). In applying RNR the experts focus on

interventions that address the characteristics and behavioral habits of offenders that are directly related to their offending behavior (Jeglic & Calikins, 2018).

The Risk Needs Responsivity model of offender rehabilitation correlates well with child justice and its focal point is on the treatment of offender. It has been consistently shown in various research works conducted in child justice setting around the world that young people who come into conflict with the law have multiple problems and experience high levels of need. In order to fulfil these needs correctional institutions have been increasingly influenced by the RNR model of offender rehabilitation (Wormith & Zidenberg, 2018).

This model represents a methodology of risk and classification of offenders for treatment. The model considers three core principles of risk, need and responsivity which are designed to guide offender rehabilitation. The risk principle suggests that offenders at higher risk of reoffending will benefit most from higher levels of interventions including higher intensity of treatment unlike lower risk offenders who should receive minimal, routine or no intervention. The need principle refers to targets for change and proposes that only those factors associated with reduction in recidivism (for example criminogenic needs) should be targeted in intervention. Finally, the responsivity principle states that the intervention program should be matched to offender characteristics such as learning style, level of motivation and the individual's personal and interpersonal circumstances (Craig *et al.*, 2013).

The three principles of RNR have been popularized in three simple questions, whom to treat, what to treat and how to treat them (Jeglic *et al.*, 2018). Under the need principle the characteristics under focus must be a criminogenic for the specific offender under consideration and not simply in a generic sense (Jeglic *et al.*, 2018).

This model emerged out of Canada in 1980s during the period when rehabilitation was under heavy criticism, this were the heydays of “nothing works” pessimism around rehabilitation. The three principles of RNR were formulated by Don Andrews, James Bonta and Robert Hoge at Carleton University, Ottawa Canada. These researchers specifically tended to address characteristics and behavioral habits of offenders that were directly related to their offending behavior leading to offender classification and offender risk assessment. These principles are applicable on all intervention that strive to reduce reoffending and are used as guidelines for sentencing planning (Craig *et al.*, 2013).

In order to have a significant reduction in recidivism high risk offenders need intensive services and low risk offenders need minimal or no intervention. The institution of intensive service for low-risk offenders may be counterproductive and have negative effect (JICA, 2013). Offenders are assessed for effective treatment and the classification of high, medium and low risk offenders depends on the severity or strength of criminogenic needs. The low risk will have few, if any criminogenic needs while high risk will have a significant range of needs. The risk assessment methods are designed to help the instructor to identify the kind of help an offender needs and therefore identify an appropriate program and reform training.

The principle of need is related to risk in the sense that offenders whose needs are not met might be said to be at risk of harm. In his postulation, Maslow (Einstein, Addams, & Roosevelt, 2016) outlined a hierarchy of human needs with four levels of deficiency needs involving psychological needs, safety needs, love/belonging and status/esteem needs. He recommended that these deficiency needs must be met for healthy growth and development and human behavior is shaped in many ways by pursuit of fulfilling the needs (Noltemeyer *et al.*, 2012).

Non fulfillment of needs result in stunted lives, psychological problems and social maladjustment. In the event of non-fulfillment of these needs, individuals acquire substitute needs or proxy needs that will result in poorly integrated self, ultimately frustrating and unsatisfying relationships, self-esteem disturbances and a sense of personal helplessness (Afzal, 2017). From a juvenile rehabilitation institution perspective, instructors are in a better position to isolate the needs of each offender admitted to the institution through a special tool and a PR1 report submitted by a probation officer along with the committal warrant from court among others.

The third principle under R.N.R is responsivity that seeks to address the individual's interaction with their treatment environment. Researchers suggest that rehabilitation staff and stakeholders ought to have empathy, warmth and humor to attract appropriate desirable response from the juveniles (Bourgon, & Bonta, 2014). This principle is relevant since it advocates for matching the treatment modalities and workers with the juveniles most receptive characteristics (JICA, 2013).

The principle of responsivity is therefore about developing and implementation of correctional programs that match the learning style of the offender, their motivations, and their personal interpersonal situations. This principle applies to the existing learning environment at the juvenile rehabilitation institutions. Prevailing environmental condition can influence either positively or negatively the treatment of juvenile offenders (Jeglic & Calkins, 2018).

The RNR model is important because it does not focus on the wrong that the child offender may have committed but concentrates on empowering the child with skills and knowledge that can help

the child lead a crime free life hence overcoming recidivism. It further focuses on the strength of the child thereby boosting the once broken self-esteem of the child (Muyobela, 2016).

#### **2.14.2 Good Life Model of Offender Rehabilitation (GLM)**

In the Borstal Institutions Act, Cap 92 laws of Kenya section 5, juveniles are considered for admission to a Borstal Institution by assessing the character and previous conduct of the juvenile offender. Notably, Borstal Institutions are expected to institute trainings which focus on changing the character of juvenile offenders. The reform trainings recommended in section 4 (b) of the Borstal Institutions Act Cap 92 apart from molding the character of the juvenile offenders also impart skills and knowledge to juvenile in conflict with the law which the juveniles can use on release from the Borstal Institutions. This is referred to as promotion of specific goods to eliminate dynamic risk factors, which is achieved through effective delivery of reform trainings such as industrial, educational and agricultural trainings in the Borstal Institutions (Maruna & Ward, 2009).

Good life model (GLM) was formulated as an alternative to address aspects of offender treatment that were not dealt well by R.N.R perspective. It was designed to deal with treatment of all types of criminal behavior. This principle explains the direct linkage between risk management in rehabilitation and good promotion. Therefore, using good positive intervention on the juveniles works best in reducing reoffending (Brooks *et al.*, 2012). This is achieved through acquisition of skills via the reform trainings that the juvenile offenders are exposed to in Borstal Institutions.

This model was developed to best answer difficult questions on crime reduction and to integrate lawbreakers back into the society and in particular to fill in the gaps of risk, needs responsivity model. It attaches lots of importance on values and their relationship to correctional practice. GLM



was developed by linking advocacy of good reinforcement and risk management throughout the rehabilitative work. Out of this reasoning, it was argued that advancing specific goods or goals increases the chance of eliminating and modifying the targeted dynamic factors that assists individuals to avoid reoffending (Haqanee *et al.*, 2015).

This model is part of positive psychology movement which advocates for constructive treatment to psychological and behavioral problems. The main focus is to enhance the capacity of individuals to live meaningful, constructive and ultimately happy lives so that they can desist from further criminal action and become symptom free. Under GLM the argument is that individuals tend to turn to criminal activities when they fail to attain their goals in socially accepted means due to lack of internal and external resources (Maruna & Ward, 2009).

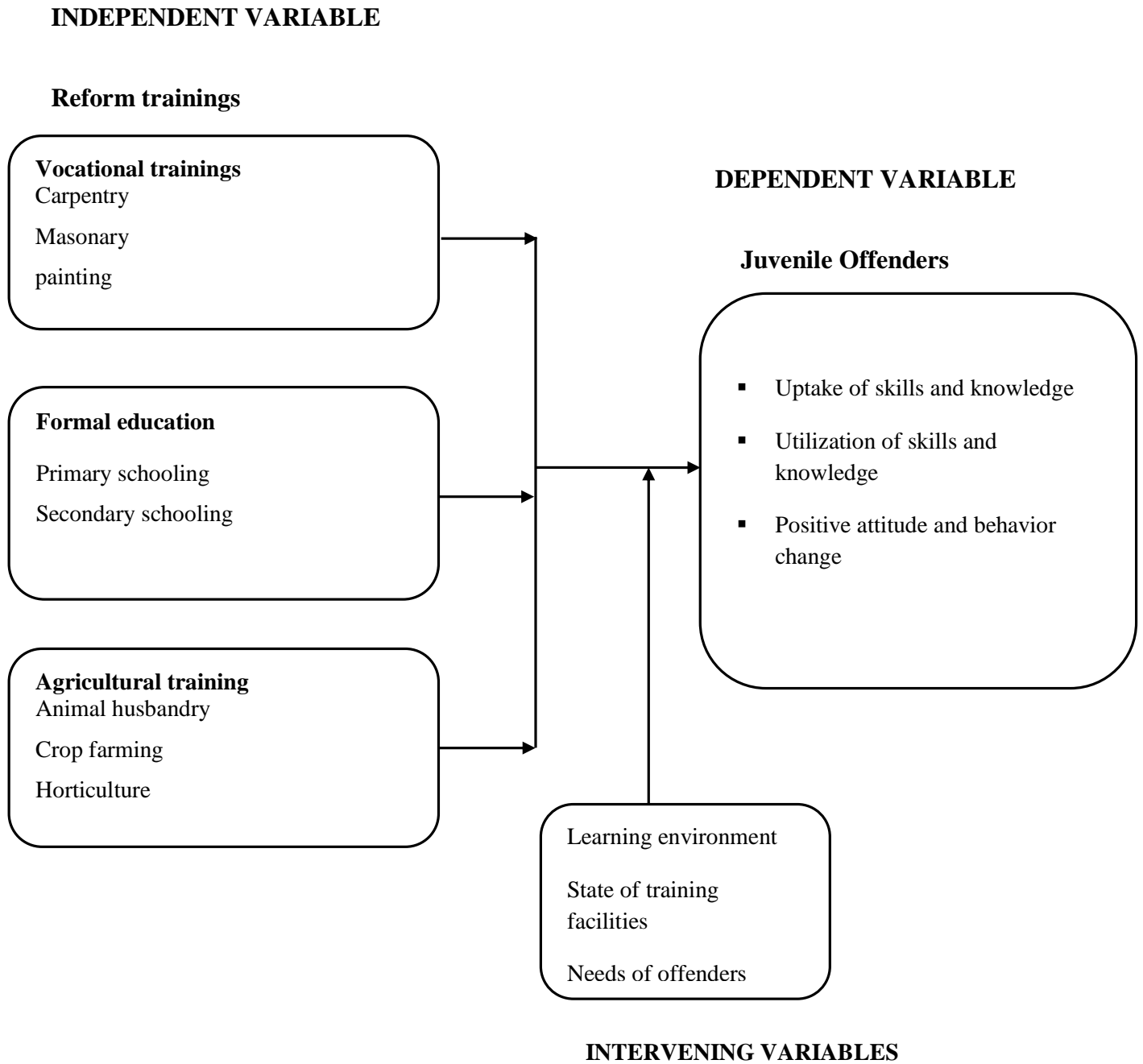
In order to prevent individuals from wrongdoing, they ought to be allowed access to opportunities and skills that will let them earn an honest income and live an honest good life. Reform trainings therefore should provide them a chance to attain their goals through socially accepted means. GLM therefore offers an intervening framework for all offenders under rehabilitation. The reform trainings as stipulated in the Borstal Institutions Act Cap 92 laws of Kenya; section 4 (b) are vivid examples of these intervention measures (Jeglic & Calkins, 2018).

The interventions that are brought about by juvenile rehabilitation institutions included rolling out treatment through various reform trainings so that offenders can earn a living in a legitimate way on release from the Borstal Institution. The model is important in this study since the underlying aspect is introduction of reform trainings that focus on the good life which every human being seeks to achieve including juvenile offenders (UNDC, 2012).

Under this model primary good is achieved through offenders acquiring capabilities or skills courtesy of the education, industrial and agricultural reform trainings being offered in the juvenile rehabilitation institution. These institutions should offer reform trainings which address the needs of juvenile offenders under their supervision. Good life is achieved through relevant reform training and is of great help in addressing the challenges of reoffending among juvenile offender admitted in juvenile rehabilitation institution (Murhula, Singh, & Nunlall, 2019).

### **2.15 Conceptual Framework**

The conceptual framework depicts the interplay that links the dependent and independent variables in the research. It further depicts the results of reform trainings in agriculture, industrial and education as administered to juvenile offenders committed to Borstal Institutions for reformation training. These trainings have the positive and negative angle depending on the delivery of the trainings. Effective delivery of reform trainings will result in positive outcomes and poor delivery of reform trainings will result in non- effective rehabilitation of offenders. Figure 2.1 below shows how independent variables influence the dependent variable. Effective delivery of reform trainings will anchor on good learning environment, status of training facilities.



**Fig 2.1 Conceptual framework model showing interaction of variables**

**Source: Researcher, 2021**

## **2.16. The Theoretical Framework**

Theories for this study explain the causes of crime, more so juvenile crime and give a prescription of rehabilitation in addressing the social problem of crime. Similarly, reform trainings recommended in section 4 (b) of the Borstal Institutions Act aim at character reformation of juvenile offenders through rehabilitation as opposed to punishment. These are reform-oriented theories that came up as a result of Positive Criminology which was first proposed by the Italians Cesare Lombroso, Eunirilo Ferri and Raffaello. They further opined that an intervention that seeks to identify the root causes of the crime and recommends a diagnosis is the most appropriate (Robinson & Crow, 2009).

Notably, in Britain, the positivist influenced immensely development of the rehabilitation reforms (Nellis, 2013) and advocated for reformation and prevention of future crime by helping offenders to reintegrate into society through education, industrial and agricultural trainings, these being the integral part of skills transfer. The research used two theories, social disorganization and conflict theories. Other than the two theories recommending a humane way of solving the social problem of crime through rehabilitation, the theories have divergent views on the causes of crime. Social disorganization theory traces the cause of crime to social and environment circumstances and the conflict theory traces crime to the style of state administration which creates unequal society.

### **2.16.1 Social Disorganization Theory**

Borstal Institutions in Kenya admit juvenile offenders following a court order for a period of three years to undertake training as part of reform measures. It is expected that after the reform trainings juvenile offenders would have received relevant skills and knowledge that will enable them take up work in the community upon release. The causes of juvenile crime are varied but social disorganization theory puts forward the aspect of socially disorganized environment as one of the

main causes of juvenile crime. The introduction of reform trainings such as agricultural, industrial and educational are meant to mitigate the hard conditions the youth have to contend with. It is expected that after the reform trainings in the Borstal Institutions juvenile offenders can utilize skills and knowledge acquired to secure meaningful employment or improve on their circumstances. This will reduce case of recidivism and prevent juvenile crime in the community (Craig *et al.*, 2013)

The theory shows a positivist perspective on the causes of crime and takes a social/ environmental explanation on the phenomenon of crime. Positivists argue that offenders are just but victims of the circumstances which are the external and internal forces. The argument of the positivists, is that the offender bears no responsibility for their crimes. Therefore, the offender should be accorded therapeutic treatment. According to positivist position delinquents cannot help themselves since they are at the mercy of external factors and internal factors that push them towards criminality (Auerbach, 2015).

The establishment of juvenile rehabilitation institutions was meant to bring about alternative ways of assisting juvenile offenders revert to their original life and to a greater extent address the challenges of juvenile crime in the society. These challenges according to positivists cannot be entirely blamed on the offender but the society which plays an active role in creating an environment that goes a long way in destabilizing the juvenile offenders. The social disorganization theory was fronted by the Chicago school of criminology in 1942, by scholars Clifford Shaw and Henry Mckay (Marsh *et al.*, 2006).

This theory links crime rate to neighborhood ecological characteristics meaning that it matters where a person resides. In this theory cities evolve their own particular types of neighborhoods,

each with its own type of social life. Some are organized neighborhood but others are more socially disorganized, and it is here that social problems, including crime are concentrated (Bellair, 2017). Social disorganization theory looks at delinquency as a product of breakdown of institution and community-based controls (Walker, & Zawisza, 2014).

The theory is further associated with rapid industrialization or urbanization and migration which lead to ineffectiveness of social controls. The aspects that are brought into focus as causes of juvenile crime include issues such as population density, poverty and education. The theory therefore explains crime as a social aspect influenced by the surrounding environment. Under this theory, criminality and criminals can be understood through establishing the link of the individual and the social structures (Weisburd *et al.*, 2014).

This theory recognizes the fact that crime can be attributed to social and environmental circumstances and the use of rehabilitation through reform trainings in juvenile rehabilitation institutions can result in a positive impact on juvenile offenders. It further recognizes progressive social welfare policies in handling both juvenile and adult offenders (Craig *et al.*, 2013).

The theory has a situational view of crime and sees crime as caused by factors that lie outside the individual. The fault thus rests not with the individual but with the fact that a person has lost life's birth lottery and has been consigned to grow up in areas marked by disorganized families, ineffective schools, physical deterioration, economic deprivation and criminal culture.

Stopping crime thus requires social welfare programs that mitigate these social disadvantages and interventions that insulate youngsters from these conditions (Craig *et al.*, 2013). Reform trainings

are therefore perceived by the community as a progressive policy and cost effective in providing a solution to crime in both juvenile and adult offenders if delivered in the right way.

In developing reform training or rehabilitation programs the history of juvenile offender should be put into focus and must form an important component in the designing and rolling out of the reform trainings since juvenile offenders cannot be entirely blamed for offences committed. The reform trainings must therefore meet the needs of the inmates who committed the delinquent acts due to social disorganization. The institutions must also offer quality trainings so that on release the inmates can find themselves in a self-sustaining situation despite the prevailing social conditions (UNODC, 2012).

It must therefore be noted that the contribution of environmental setting in the rehabilitation of juvenile offenders is paramount within the juvenile rehabilitation institution likewise the same should apply to the community environment where the offender is released on completion of the reform training (McLeod, 2011). The theory put a lot of focus on the poor neighborhood and associated crime with the unmanageable poor conditions but it did not explain the causes of juvenile crime in a well to do economic environment. Despite the argument against this theory, it is widely upheld that disengagement from societal bonds leads to crime and delinquency (Thomas, & Shihadeh, 2013).

### **2.16.2 Social Conflict Theory**

In this theory it is stated that juveniles commit crime due to circumstances beyond their control and recommends a solution to address these precarious conditions under which the juveniles live. Juveniles who are committed to Borstal Institutions are exposed to reform trainings as part of the

government policy in addressing inequalities that come about as a result of economic policies which divide the society into have and have not (Newburn, 2017).

The introduction of these reform trainings in Borstal Institutions for juveniles in conflict with the law is part of the measures that address weak status in the have not in the society. It is expected that the educational, industrial and agricultural trainings will go a long way in bringing about an equal society and reduce exploitation and to a large extent reduce crime. This theory advocates for reduction of juvenile crime through relevant reform trainings for the affected juveniles (Brown *et al.*, 2010)

Karl Marx was the main proponent of social conflict theory and argued that individuals and groups within society interact on the basis of conflict rather than consensus. This theory views offenders as victims of circumstances beyond their control and recommends intervention measures that will change offender's circumstances through rights-based systems or state obligated rehabilitation. Juvenile rehabilitation institutions and the trainings introduced are indeed examples of state initiatives put forward to address the social problem of juvenile crime (Wilson & Petersilia, 2011).

This theory states that offender is not entirely to be blamed for crime committed instead the prevailing economic conditions brought about by the dominance of property owners are the main triggers of prevailing uneven society (Wilson & Petersilia, 2011). Through reform trainings offered by the juvenile rehabilitation institutions, offenders are equipped with skills and knowledge that unlock unequal distribution of wealth and open new horizons for political and economic prosperity. Social conflict theory maintains that society is in persistent internal conflict and puts forward the role played by both social and government institutions as mechanisms for social control in addressing the social problem of delinquency (Wieviorka, 2013).



The Marxists view crime as a product of capitalism and explains the high rates of crimes in capitalistic societies compared to other systems of governance such as socialists (Weis, 2017). Social conflict theory which is also referred to as critical theory generally indicates that persons who are well placed in society set the rules and control laws and decide using the set laws and rules as who is deviant, delinquent or criminal. Additionally, the criminal justice system is seen as inherently exploitative and unfair towards criminals who originate from low class (Weis, 2017).

Under capitalist society property and wealth become increasingly concentrated in fewer hands thus polarizing society into two groups or classes where interests are fundamentally in opposition. This new system leads to denial of means of production to a section of the population resulting in emergence of a class of people who are typified by criminal conduct and vice ridden behavior (Newburn, 2017).

According to Lynch and Groves, these historically generated systems of social inequality contribute to the production of specific forms of crimes. The state institutions including the police, courts and prisons under the system operate in a way that is consistent with the interest of the endowed and against the interest of other less endowed groups particularly the working classes. In this theory elite define crimes and operate agencies of social control in their own interest, by preserving their own position in society (Body-Gendrot, 2011).

The rebellious behavior of low-class youths is defined and controlled by the State, and those youths who do not conform to dictates of the persons in authority are defined as criminals. According to social conflict theory those in administration use justice system to maintain their status while

keeping others subservient (Kappeler, & Potter, 2017). Through this control, an elitist class is created which imposes its own standards of good behavior to the entire society.

In conflict theory, juvenile crime is seen as a creation of capitalism which advocates inequality within society. This therefore points to causes of crime to social and economic deprivations such as poverty or other problems that the society has failed to address (Tolan, 2014). The solution to the problem of juvenile crime under this situation is through re-ordering society and in practical terms restorative justice is recommended to handle the social problem of juvenile crime.

Restorative justice means using humanistic, non-punitive strategies to restore social harmony. It rejects concepts such as punishment, deterrence, incarceration and embraces rehabilitation, reparation healing, restoration and reintegration which are core aspects in addressing the problem of juvenile crime (Gavrielides, 2014).

These rehabilitation measures as recommended by conflict theorist have the capacity of repairing harm caused by delinquency, juvenile crime and offer a safe landing for everyone who has suffered from the criminal activity. The reform trainings prescribed to the juvenile offenders in juvenile rehabilitation institutions are meant to address the social problem of crime which is brought about by several inadequacies in society. Through proper rehabilitation programs, reform trainings and empowerment the hopeless status of Borstal boys who are a product of unequal ordering of the society by the capitalists is addressed. The skills and knowledge acquired also assist in solving the challenge of recidivism on release of the juvenile offenders (Tolan, 2014).

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This section outlines the methodology that was used to carry out the study. The chapter addresses research design, target population, area of study, sample size and sampling procedure, research instruments, validity, instrument reliability, data analysis techniques and ethical considerations.

#### **3.2 Research Design**

Research design is a procedural plan that is adopted by the researcher to answer questions validly, objectively, accurately and economically (Kumar, 2011). It was through research design that the researcher communicated how information related to the research was collected from respondents, how the respondents were selected, how the collected information was analyzed and how the findings of the research were communicated to respective audience. The plan involved several decisions which included procedures of inquiry, specific methods of data collection, analysis and interpretation (Myers *et al*, 2013).

The research adopted descriptive research design. Descriptive design is a method of collecting information by interviewing or administering a questionnaire to a sample of individuals (Siedlecki, 2020). Descriptive research design was used to accurately and systematically describe facts on the overall appraisal of reform trainings exposed to children in conflict with the law currently admitted in juvenile rehabilitation institutions. This design was relevant since the study examined participants in an enclosed environment. The design was also appropriate since the research focused on the attitude, habit and behavior of target group. This involved gathering data to answer

questions in this research. Since the research revolved around assessing opinion descriptive research design was found to be appropriate.

Descriptive data was collected through questionnaire and interview schedule. In descriptive research variables are measured as they occur naturally and it is not feasible for the research to manipulate a particular variable (Mertler, 2018). Under this research design a cross sectional study was adopted since the population under study was contacted or examined at one point in time to obtain the required information for the study.

### **3.3 Area of Study**

The study was carried out in Shikusa Borstal Institution which is domicile in Kakamega County. Kakamega County lie about 30 Km north of the equator and has a population of about 1,867,597 as per 2019 census. It is 52 Km north of Kisumu. Shikusa is one of the three Borstal Institutions established by the Government of Kenya to address the social problem of juvenile crime for offenders between the age of fifteen and seventeen years. The institution is under the command of a superintendent of prisons, Kenya prison service in the department of corrections. The institution was preferred due to availability of juvenile offenders who provided the required samples.

Shikusa Borstal Institution admits male juvenile who have exclusively committed criminal offences and have pleaded guilty or found guilty through court trial. Juveniles in this institution undertake reform trainings in formal education, industrial and agriculture, additionally the juvenile offenders undergo counseling and religious instructions. This site was purposely selected due to high number of juveniles in conflict with the law drawn from many regions of Kenya. Currently

the population of the institution stands at 268 and has a catchment of juvenile offenders from Nyanza, Western, Rift Valley, and Nairobi regions. This is fairly a larger representation and captures slightly more than half of Kenya. Shikusa Borstal Institution is located in Shinyalu sub-county and 3 kilometers from Lubao market on Kakamega Webuye tarmac road. To access Shikusa from Kakamega town turn right at Lubao Market and use the murram road which leads to Kakamega forest and Nyayo tea zone farm (Kakamega Integrated Development Plan 2018-2022).

### Map of Kakamega County

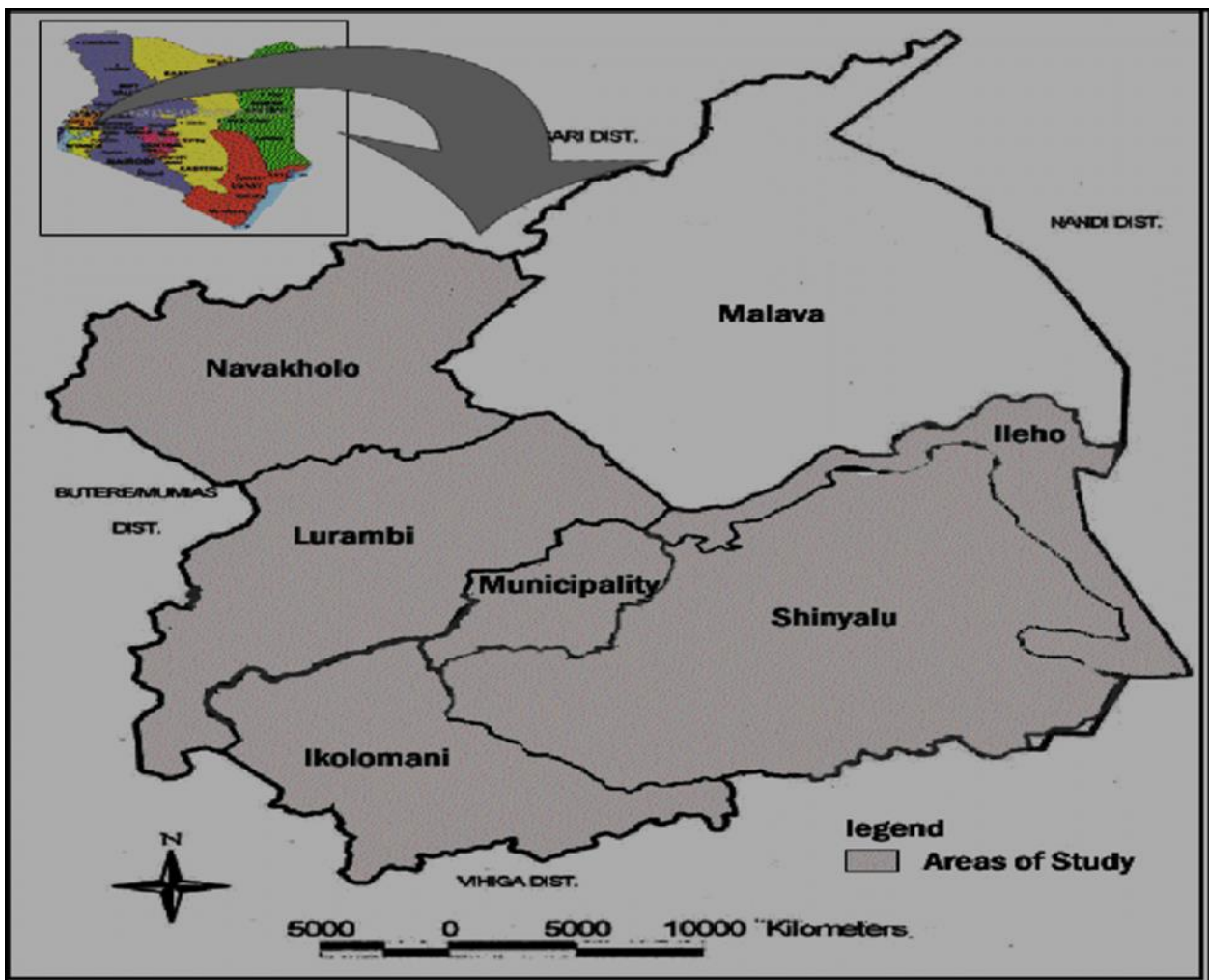


Fig 3.1 Map of Kakamega County, Kenya

Source: Google Maps (2020)

### **3.4 Target Population**

According to Pandey & Pandey (2015) the target population constitutes the aggregation of the elements from which the sample is actually selected. This therefore refers to all units the research intended to study. The study population was 312 which comprised of 268 juvenile offenders currently admitted in Shikusa Borstal Institution and 44 officers in the institution who serve as instructors and teachers who are seconded by Teacher's Service Commission. The juvenile offenders in Shikusa undertake trainings in agriculture, industry and formal education as recommended in the Borstal Institutions Act, Cap 92 of the laws of Kenya section 4 (b).

The reform trainings comprise carpentry, electrical wiring, horticulture, tinsmith, schooling, tailoring, masonry, painting, building painting and agriculture including counseling and religious exposures that are compulsory for all offenders in the institution. Juvenile offenders committed to Shikusa Borstal Institution are charged with varied criminal offences. The total population targeted in the study was therefore 312 which comprises of juvenile offenders and instructors/ teachers in the institution.

### **3.5 Sampling Size and Procedure**

This is a crucial component in methodology design. Sampling is important since it reduces costs and brings population under study to manageable levels. According to Acharya *et al.*, (2013) a sample is a subset of people who will participate in a given study. Sampling is important because in almost all cases it is not practical to study all the members of a population (Singh, & Masuku, 2014). Samples were used in research due to financial constraints and time factor; it was unfeasible to cover the entire population.

Stratified random sampling was used to identify the required sample. Shikusa Borstal Institution has a population of 268 juvenile offenders currently assigned various training. Sampling was necessary in the research since the questions were put to respondents in a language they understood and it was also the work of the researcher and research assistants to guide the respondents. Sampling was also necessary because of time factor since a lot of time was used in interpreting the questions to juvenile offenders. This state of affair called for sampling in order to get numbers that are representative and in the budget of the researcher (Kumar, 2011). Covering all the juveniles in conflict with the law in the Borstal Institution would have resulted in the researcher committing a lot of time in the institution.

Each course unit under educational, industrial and agricultural trainings in the institution has a specific number of trainees. Each reform training unit within the institution represents strata. The training units include masonry, tailoring, electric wiring, agriculture, schooling, plumbing, tinsmith, carpentry, painting and counseling. The total population currently at the institution is 268 juvenile offenders with the following breakdown as shown in table 3.1

**Table 3.1 Total population Distribution in Each Course**

<b>Course</b>	<b>No of juvenile trainees</b>	<b>TOTAL</b>
<b>Carpentry</b>	<b>31</b>	<b>31</b>
<b>Electrical wiring</b>	<b>7</b>	<b>7</b>
<b>Tin Smith</b>	<b>32</b>	<b>32</b>
<b>Formal Schooling</b>	<b>89</b>	<b>89</b>
<b>Tailoring</b>	<b>21</b>	<b>21</b>
<b>Masonry</b>	<b>27</b>	<b>27</b>
<b>Plumbing</b>	<b>18</b>	<b>18</b>
<b>Building/Painting</b>	<b>26</b>	<b>26</b>
<b>Agriculture</b>	<b>17</b>	<b>17</b>
<b>TOTAL</b>	<b>268</b>	<b>268</b>

**Source: Author (2021)**

All the inmates in the institution undergo both counseling and chaplaincy. A sample was obtained from each stratum by getting the percentage of each stratum. Descriptive study requires that at least 10-30 % of accessible population is adequate. According to Mugenda and Mugenda (2012) one may use a sample size of at least 10% but for better, more representative sample of a higher percentage is required. Each stratum was sampled as follows;

To obtain the sample size for each stratum the following was done, example for carpentry with 31 trainees

**$31/268 \times 100 = 11.5 = 12$  this was rounded up to 12 trainees in carpentry.**

The samples were obtained using proportionate stratified random sampling strategy, after determining elements in each stratum the samples were determined as shown in table 3.2



**Table 3.2 Sample per Stratum**

<b>Course</b>	<b>Sample per stratum</b>	<b>TOTAL</b>
<b>Carpentry</b>	<b>12</b>	<b>12</b>
<b>Electrical Wiring</b>	<b>3</b>	<b>3</b>
<b>Tin Smith</b>	<b>12</b>	<b>12</b>
<b>Formal Schooling</b>	<b>32</b>	<b>32</b>
<b>Tailoring</b>	<b>8</b>	<b>8</b>
<b>Masonry</b>	<b>10</b>	<b>10</b>
<b>Painting</b>	<b>10</b>	<b>10</b>
<b>Plumbing</b>	<b>7</b>	<b>7</b>
<b>Agriculture</b>	<b>6</b>	<b>6</b>
<b>TOTAL</b>	<b>100</b>	<b>100</b>

**Source: Author (2021)**

Elements in each stratum divide by total population size and the sample selected is a proportion to the size of each stratum in the population (Kumar, 2011).

The same method was applied to get samples for each stratum or area of training.

All the offenders in the institution undergo both counseling and chaplaincy instructions. This therefore means that all the 100 juveniles in the sample were considered as samples for counseling and chaplaincy.

The sample size of the study was therefore 100, which translated to about 38% of total population of offenders. There were 44 instructors and teachers service commission staff in the institution.

The study using stratified random sampling identify sample for each training category. Shikusa Borstal Institution has a total of 44 instructors with the following breakdown in table 3.3

**Table 3.3 Number of Instructors/Officers per Unit**

<b>Course</b>	<b>No of instructors</b>	<b>TOTAL</b>
<b>Tailoring</b>	<b>4</b>	<b>4</b>
<b>Carpentry</b>	<b>5</b>	<b>5</b>
<b>Masonry</b>	<b>5</b>	<b>5</b>
<b>Wiring</b>	<b>2</b>	<b>2</b>
<b>Painting</b>	<b>1</b>	<b>1</b>
<b>Plumbing</b>	<b>1</b>	<b>1</b>
<b>Agriculture</b>	<b>3</b>	<b>3</b>
<b>Formal Schooling</b>	<b>13</b>	<b>13</b>
<b>Tin Smith</b>	<b>2</b>	<b>2</b>
<b>Welfare</b>	<b>8</b>	<b>8</b>
<b>TOTAL</b>	<b>44</b>	<b>44</b>

**Source: Author (2021)**

The research obtained sample by randomly selecting 38 % of the total number of instructors/teachers which translates to 18 instructors/teachers.

### **3.6 Methods of Data Collection**

This research used primary data collected from the field and secondary data that was collected from government publication and other library articles

### **3.6.1 Primary Data**

There are several methods of collecting primary data particularly in surveys and descriptive researches. Primary data was collected using questionnaires, (Appendix 1) and interview schedule, (Appendix 2). Interview method is a two-way systematic conversation between investigator and informant, initiated for obtaining information relevant to a specific study (Paradis *et al*, 2016). This study used questionnaire where questions were presented to all respondents in the same order. Standardized interview schedule was also used.

### **3.6.2 Secondary Data**

The research utilized secondary data which entailed information in records. The secondary data was therefore obtained from journals, published books, theses, policy documents from the government, annual reports, publications from non-state actors, conference papers, websites and case studies.

### **3.6.3 Questionnaires for Juvenile offenders**

This is a research instrument with a series of questions for gathering information from respondents. The researcher used structured questionnaire which consisted of standardized questions which had specific wording and order. The questionnaire had close ended questions and were administered to the juveniles in Shikusa Borstal Institution, (Appendix 1). The questionnaire consisted of a number of questions printed in a definite order. The researcher guided the respondents in the administration of the questionnaire this was because of the level of education of the respondents.

### **3.6.4 Interview Schedule for Instructors and Teachers**

An interview involves an interviewer reading questions to respondent and recording their answers. Any person-to-person interaction, either face to face or otherwise between two or more individuals with a specific purpose in mind is called an interview (Mkandawire, 2019). In this research an interview schedule with specific questions was presented to respondents in Shikusa Borstal Institution, (Appendix 2). The questions were asked orally. There was a conversation between the respondent and the researcher. This method was used in this particular research to obtain information relevant to the study from instructors, welfare officer and teachers in Shikusa Borstal Institution. There was a conversation whose main purpose was to gather information from the respondent on the subject under study.

### **3.7 Pilot Study**

This is a small-scale study that is conducted to evaluate feasibility. Before administering questionnaire to the respondents, a pilot study was conducted at Kakamega Rehabilitation School. This was to ensure that questions operate well and research instruments as a whole operate well. Pilot study in the research was carried out to predict the appropriate sample size and to this effect a sample 50 juveniles was draw from a population of 189 juveniles. The pilot study was necessary before the actual research in order to find out any missing aspects. Using the outcome of the pilot study that was carried out in October 2020 to the juvenile offenders, the questionnaire was redesigned by incorporating questions that had been left out, deleting irrelevant ones and improving on the wording. The questionnaire was tested both for reliability using Cronbach's alpha ( $\alpha$ ) and validity (using factor analysis for construct validity) in the pilot study. The rehabilitation school has juvenile delinquents from many parts of Kenya and are assigned reform trainings similar to the ones in the Borstal Institution.

### **3.8 Validity of the Research Instruments**

Validity refers to the issue of whether an indicator or set of indicators that is devised to gauge a concept really measures that concept (Parija & Kate, 2018). The intention of validity is to ascertain if indeed the instrument used measures what it is supposed to measure (Zohrabi, 2013). A research instrument such as a questionnaire is intended to measure characteristic traits. Validity refers to the degree to which the results are truthful. Validity of the research instruments was ensured by using peer review and referring the instruments to experts in the field of criminology, statistics and data analysis. These experts examined the instruments and proposed valuable suggestions which were fused in the amendment of the instruments for the actual study. This assisted in amending unclear and obscure questions. Similarly, the expert advice assisted in selecting relevant questions and discarding nonfunctional and ineffective ones.

#### **3.8.1 Reliability**

Reliability is concerned with the question of whether the results of a study are repeatable that is whether the measure that are devised for social concepts such as poverty are consistent (Mohajan, 2017). Reliability can also be described as how far an instrument can produce the same results consistently. It is the degree to which instruments give consistent measures therefore a scale or test is reliable to the extent that repeat measurement made by it under constant conditions will give the same results (Kumar, 2011). To achieve reliability a pilot study was undertaken to pretest the research instrument. Questionnaire was administered to 50 juveniles at Kakamega rehabilitation school to find out whether questions therein are measuring what they were supposed to measure. The questionnaire was tested for reliability using Cronbach's alpha ( $\alpha$ ) attaining coefficient correlation index of 0.854 which was considered reliable for the study.

### **3.9 Data Collection Procedure**

Data collection commenced when the researcher sought permission from the National Commission for Science and Technology and Innovation. The County Director of Education in Kakamega was notified and permission was granted. The researcher visited Shikusa Borstal Institution where he was directed to the Welfare officer. After introduction and handing in his credentials the researcher was directed to the office of the Superintendent in Charge of the Institution. The researcher produced his credentials and briefed the SP in Charge about the research and with express permission an appropriate date was set for administering data collection tools. On the set date, the researcher was guided to the dining hall where the respondents had gathered. The Welfare officer introduced the researcher and his research assistants. The researcher explained the purpose of the study to the respondents and assured them of utmost confidentiality throughout the process. The questionnaires were distributed to the sampled respondents for completion. Similarly, an interview schedule was also administered to the teachers and instructors in the institution. The researcher distributed 100 questionnaires to juvenile offenders and 99 questionnaires were returned. The instructors and teachers that were engaged in the interview were 18. After the exercise researcher thanked all persons, whose contribution resulted in collecting data for the research.

### **3.10 Data Analysis**

Data analysis refers to examining what has been collected in a survey or experiment and making deductions or inferences (Heringa *et al*, 2017). Data analysis stage is fundamentally about data reduction and involves reducing the large corpus of information gathered so that it can make sense for interpretation and support decision making (Bryman, 2012). Coding of data was carried out to break down into their components parts and labeled (Bryman, 2012). Closed questions were entered into the computer directly through coding of 1-9 assigned to relevant variables. At this

point the researcher ensured that all open-ended questions were also closed and also assigned a code depending on the response available from the respondents.

The term analysis refers to the compilation of certain measures along with searching for patterns of relationships that exist among data group (Ott, & Longnecker, 2015). The objective of data analysis is to turn amorphous heap of evidence into firmer, more solid findings. Data analysis was done using Statistical Package for Social Sciences (SPSS) version 23 for windows. Data compiled in this research was therefore sorted, classified and tabulated. Quantitative data was analyzed using descriptive statistics which included frequency and percentages. The analyzed data was communicated and displayed through text, tables, graphs and statistical measures. Qualitative data was transcribed into various categories and conveyed according to emerging themes and sub themes for each of the three objectives in this study.

### **3.11 Assumptions of the Study**

The study was based on the assumption that the administration and juvenile offenders at Shikusa Borstal Institution would cooperate and willfully divulge relevant information with a high degree of honesty and that the availed experience by offenders would produce sufficient data for appraising reform trainings and suggesting improvement in juvenile offender rehabilitation in Kenya. The research was further based on the assumption that despite the Borstal Institutions being domicile in a high security area, the researcher would be allowed to interview juvenile offenders and institution administrators. Further, the researcher also freely interacted with the offenders, institution administrators and significant others relevant to the study.

### **3.12 Limitations of Study**

Given that Shikusa Borstal Institution is under Kenya Prisons Service in the State Department of Correctional Service, anticipated challenges included accessing some data. Prisons and Borstal Institutions are a high security area and it is a challenge accessing some information because of security concerns. This was overcome by engaging the Superintendent in charge by explaining the significance of the study and assuring her that the study was not meant to expose the institution negatively or any of the offenders currently admitted. Further the administrators were assured of a win- win scenario by looking at this research as a long-time partnership which would be of value to all including the juveniles and the institution at large. The administrators and staff were also assured of practical and ethical dissemination of research findings in order to assist in the transformation of the institution.

Language barrier was also a limitation given the academic levels of juvenile offenders. This necessitated translating questions into Kiswahili and assisting the respondents in the administration of the questionnaire. Further, it was feared that the youthful offenders may not disclose some information due to suspicion. This was overcome by openly guaranteeing the offenders that the information would not be used against them or any member of their family and also by not assigning name of juvenile offenders on the questionnaire.

### **3.13 Ethical Considerations**

Research ethics deal with how a researcher treats those who participate in the study and data handling mechanism during and after field work. This research work was guided by the National Commission for the Protection of Human subjects of Biomedical and Behavioral research principles (Connelly, 2014). As a researcher, in order to conduct a successful project, you need to



receive help from other people. Respondents will disclose a lot of information during research so there is need to make sure that the researcher treats both the participants and information they provide with honesty and respect and this is what is known as research ethics (Thakhathi, Shepherd & Nosizo, 2018).

The researcher in the process of collecting information did not disrupt the natural life of respondents in the institution since this would have caused unnecessary anxiety. As a way of observing ethics in this research, confidentiality and anonymity principles were observed. In observing the confidentiality principle, the juveniles in Shikusa Borstal Institution were allowed to talk freely and in confidence. Their instructors were not allowed to assist the respondents in completing the questionnaire. Through anonymization procedure the juveniles were offered protection of privacy and confidentiality.

Anonymity and confidentiality were achieved by not assigning any name or symbol on the questionnaire to identify respondents. The application of these principles enabled the researcher to collect relevant information from the juvenile in conflict with the law. The researcher gained confidence of the respondents and interacted freely with them. Further, these ethical principles and guidelines are intended to protect participants from harm or in some cases to empower them (Zydzianaite, 2018).

In carrying out research that involves children reasonable precautions should be taken to ensure that children are not adversely affected by participating in the research. This was achieved by following guidelines and ethical principles related to research involving children. Consent was obtained from the National commission for Science, National Technology and Innovation that

enabled researcher to collect appropriate information from respondents in Shikusa Borstal. The juveniles were educated on the implications of the research. The juveniles were further informed that information obtained in this research will not jeopardize their wellbeing. Details of the research which included the benefits were also vividly explained to the management and the juveniles thus eliminating the possibility of exposing them to physical, psychological or social harm. Due to the vulnerability and mental immaturity the interests and rights of the juveniles were protected from the risks associated with this research ultimately juvenile respondents were not forced to participate in the research but participated voluntarily.

In the research, participants were assured of confidentiality and this was maintained where names or symbols were not assigned to the questionnaire and interview schedule. During the interviews, the names of the participants were not recorded down. The participants were informed that they should not indicate their names or contacts anywhere in the questionnaire. This ensured that they participated in the research without fear of intimidation.

## **CHAPTER FOUR**

### **PRESENTATION, INTERPRETATION AND DISCUSSION OF FINDINGS**

#### **4.1 Introduction**

This chapter presents the findings and discussions of the study as per the objectives. It contains primary data analysis, a description of sample characteristics, presentation, interpretation and discussion of findings on appraisal of section 4 (b) of the Borstal Institutions Act, in juvenile offender rehabilitation at Shikusa in Kakamega County, Kenya. Data presentation is organized from 4.3 to 4.6. The response returns rate of the respondents, who were the juvenile offenders, was 99%. Demographic characteristics were presented before the actual study objectives in the subsequent sections.

The study targeted 118 respondents being 100 juvenile offenders who were drawn from a population of 268 juvenile offenders and 18 instructors/ teachers who were drawn from a population of 44 instructors/ teachers of Shikusa Borstal Institution. Out of a population of 312, 118 respondents were identified after sampling, comprising of 100 juvenile offenders and 18 teachers/ instructors. A total of 117 respondents` being 99 juvenile offenders and 18 instructors/ teachers participated in the study and returned data collection instruments. I (one juvenile) respondent did not return data collection instrument.

#### **4.2 Confirmation of Data Characteristics**

In order to determine if the collected data was appropriate for such an analysis, the Kayser-Meyer-Olkin (KMO) measure of sampling adequacy was applied which gave a value that provided an indication as to the sampling adequacy for the study. This study recorded a value of 0.854, which implied that the study data was significantly adequate (Table 4.1).

Bartlett’s Test of Sphericity was also conducted in order to test if there were any relationships at all in the correlation matrix or if the matrix was an identity matrix (in an identity matrix all correlation coefficients would be zero). For the data at hand, Barlett’s Test gave a highly significant result at 0.05 level of significance. In conclusion, the data was significantly adequate and appropriate for this kind of statistical analysis.

**Table 4.1: Test of Sampling adequacy and Sphericity of data**

Kaiser-Meyer-Olkin Measure of Sampling Adequacy	.854	
Bartlett's Test of Sphericity	Approx. Chi-Square	29522.533
	Df	21447
	Sig.	.000

**Source: Field Data, 2021**

Due to the nature of this study where an appraisal of section 4 (b) of the Borstal Institutions Act in juvenile offender rehabilitation at Shikusa in Kakamega County was interrogated, assumed univariate and multivariate normality were analyzed. Numerical tests were used to derive the skewness and kurtosis statistics. Numerical tests were used because they are more objective. Univariate normality was analyzed by merging responses from the study respondents and conducting the Shapiro-Wilk D statistics on the total factor scores (Refer to Table 4.2). The statistical procedure was analyzed if the distribution as a whole deviate from normal distribution.

**Table 4.2: Normality in Study data distribution**

<b>Variables</b>	<b>Shapiro-Wilk</b>		
	<b>Statistic</b>	<b>Df</b>	<b>Sig.</b>
Needs of juvenile offenders	.857	45	.001
Learning environment settings	.809	45	.001
State of training facilities	.811	45	.002

a. Test statistic is normal

b. Test statistic is uniform

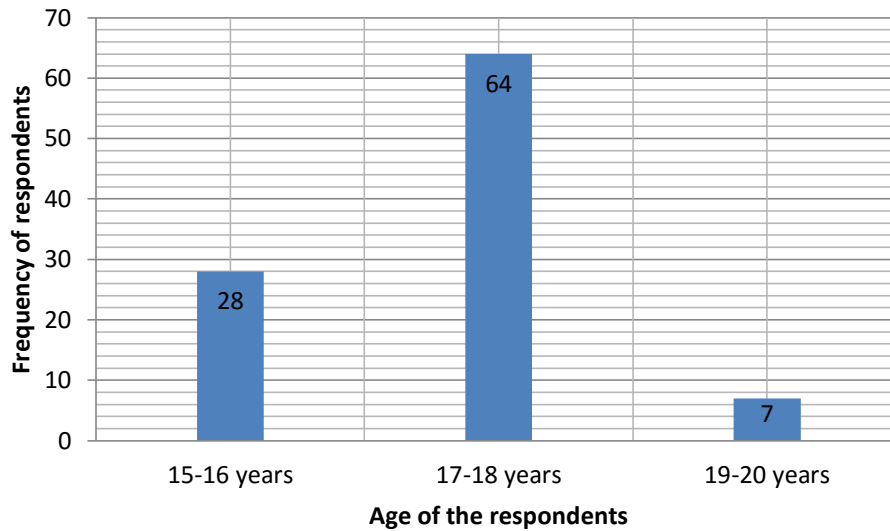
N =117 listwise

**Source: Field Data, 2021.**

The test resulted in significant results, indicating that the data was normally and uniformly distributed.

### **4.3 Demographic Characteristics of Respondents**

Demographic attributes of the respondents were sought before the actual analysis of the objectives of the study. To start with, the study categorized the age of the respondents into three categories. These were 15-16 years, 17-18 years and 19-20 years. The findings are presented as shown in Figure 4. 1.



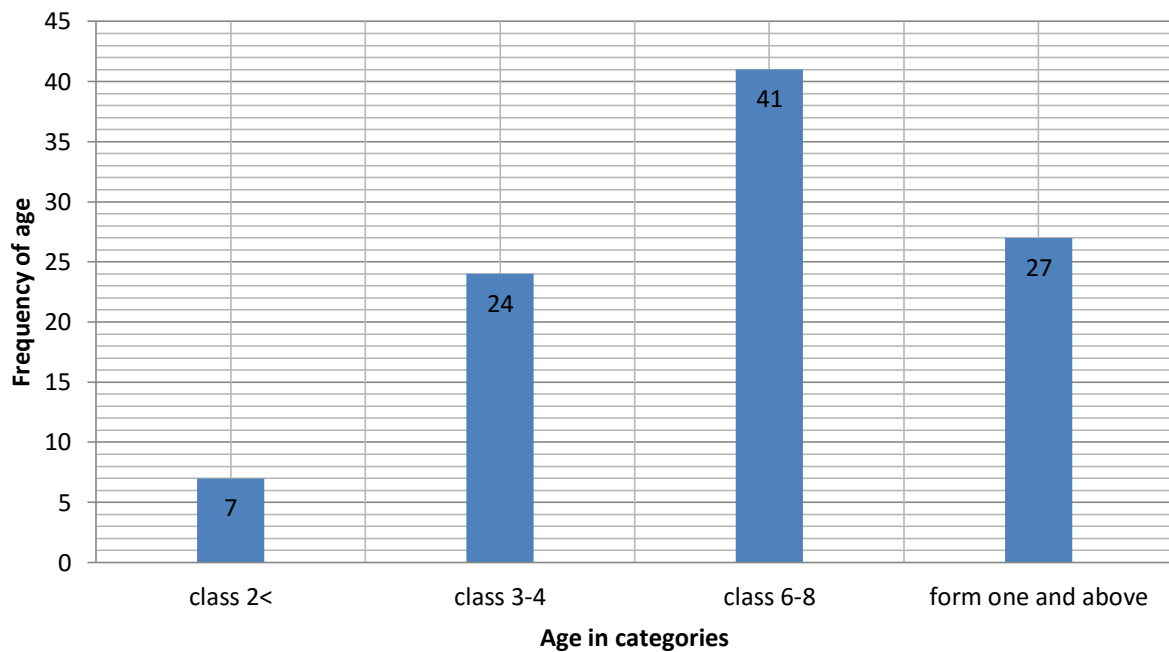
**Figure 4. 1 Age of the Respondents**

**Source: (Researcher: 2021)**

The findings imply that majority, 64 (64.65%) of the juvenile offenders in the institution were aged 17-18 years followed by 28 (28.8%), aged 15-16 years, and finally 7 (7.07%) aged 19-20 years. From these findings, it emerged that majority of the juvenile offenders in the study institution are in the category of 17-18 years. This confirmed that juveniles in conflict with the law in Shikusa Borstal Institution are of the right age as prescribed by the law since the institution admits children between the age of 15 and 17 years for a period of 3 years, the presence of offenders between the age of 15 and 21 years is therefore within the stipulated age limit. The admission is subject to confirmation of estimated age of the juvenile by a government doctor or a birth certificate through a court order. This is to ensure that the institution does not admit underage or overage juvenile offenders. It also protects juvenile offenders from bad influence of adult offenders.

Juvenile offenders are released from the institution on account of good conduct and after seating for trade test or national examinations. The juvenile offenders admitted to the institution seat for trade test examination and normal national examination in vocational training and normal school

section respectively and national certificates are awarded. Under section 22 sub sections 1, 2 and 3 of the Borstal Institutions Act CAP 92 of the Laws of Kenya the age limit of admission at the time of conviction is set at between 15 and 17 years, the board of visitors or the superintendent in charge are mandated to ensure that the law is strictly followed. The documentation section at the Borstal Institution ensures that the age limit condition is followed to the later. The law further orders that no person shall be detained in a Borstal Institution after he has attained the age of 21 years (GOK 2012). It follows therefore that Shikusa Borstal Institution strictly followed the law in admission, retention and discharge of juvenile in conflict with the law as stated in the Borstal Act.



**Figure 4. 2 Level of Education on admission of juveniles in conflict with the law**

**Source: (Researcher: 2021)**

Majority of the juvenile offenders' level of education at the time of arrest were still in primary schools. From the findings, 41 (41.41%) were in classes 6-8, 27 (27.27%) were in form one and above but the rest were in lower primary. At least 24 (24.24%) are in classes 3-4 while 7 (7.07%) are in class 2 and below. From these findings, it emerged that majority of the respondents were in

the required age category and were either in lower or upper primary. This is shown in Figure 4.2. This also indicated that Shikusa Borstal Institution admitted strictly juvenile offenders and, in the process, effectively separating juvenile and adult offenders in Kenya penal institutions.

The validity of the respondents' participation in the current study was also based on whether the children in the institution had been charged in the court of law earlier on. They were therefore asked to indicate if they had previously been charged in a court of law. The findings are presented as shown in Table 4.3

**Table 4.3 Juveniles who were previously charged in court of law**

<b>Response</b>	<b>Frequency</b>	<b>Percent</b>	<b>Cum</b>
No	28	28.28	28.28
Yes	71	71.72	100.00
Total	99	100.00	

**(Source: Author: 2021)**

The findings indicate that majority of the Children in conflict with the law in Shikusa Borstal Institution had previously been charged in a court of law. This therefore means that majority of the respondents were not first offenders, they had committed criminal offences on other occasion. Committal to the Borstal Institution was therefore meant to reform their character through the recommended reform trainings in agriculture, industry and education as recommended in section 4 (b) of the Borstal Act. This is also the reason as to why they were classified as juvenile offenders, for instance, 71 (71.72%) indicated that they had been charged therefore second offenders while only the minority, 28 (28.28%) had not been previously charged therefore first offenders.

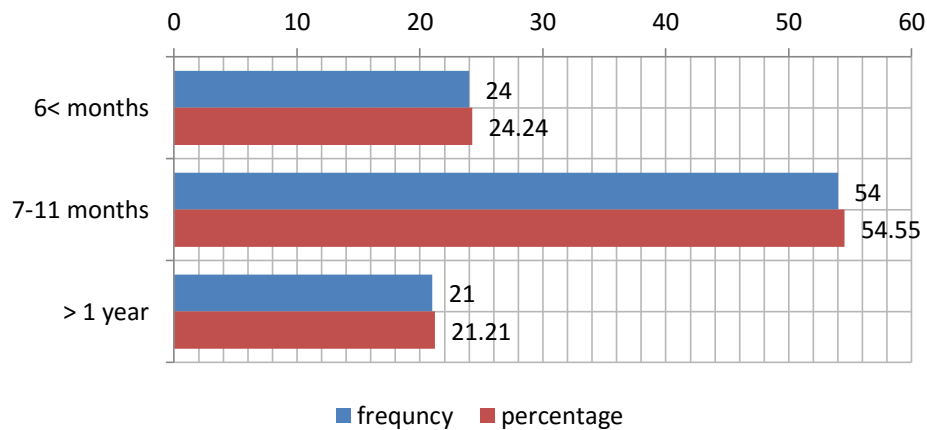
It was therefore established that majority of offenders admitted in Shikusa Borstal Institution are repeat offenders which is the likely reason why institutionalization was found appropriate by probation officers and magistrates in the prevailing circumstances. Probation officers and magistrates are the main players in the committal of juvenile offenders to Borstal Institutions.



These are juvenile offenders who could not be reformed in the community as established by an authorized court officer through a social inquiry and are considered to be beyond parental control therefore institutionalization was found appropriate. This further confirmed that Shikusa Borstal Institution admitted juveniles who had gone through juvenile justice system, charged with a criminal offence found guilty or pleaded guilty in a court of law under the penal code.

In the Borstal Institution Act, Cap 92 laws of Kenya section 5 the courts are required to put into consideration the presented evidence through a social inquiry report coupled with the past behavior of the offender in making their determination. The reformation can be achieved by exposing the juvenile offenders to industrial, educational or agricultural trainings along with counseling and religious exposures as stipulated in section 4 (b) of the Borstal Institutions Act, Cap 92 of the laws of Kenya. Borstal Institutions in Kenya therefore admit only juveniles who are in conflict with the law after a court order for purposes of reformation training for a period of three years. Borstal institutions in Kenya admit juveniles who are charged with criminal offences only. The reform trainings must be undertaken under favorable conditions to realize intended results.

Duration of the juveniles' stay in the institution at the time the research was carried out was also appraised in the study. The findings are presented as shown in Figure 4. 3 that follows



**Figure 4. 3 Duration of Juvenile’s Stay in School**

**Source: (Researcher 2021)**

From the findings, majority of the learners, 54 (54.55%) have stayed in the institution for a period of 7 to 11 months at the time of the study. The second category have stayed in the institution for a period of 6 months and less, 24 (24.24%) while the least, 21 (21.21%) have stayed in the institution for a duration of 1 year and above. This indicated that the Borstal institution does not hold on the juveniles for a long time. Legal mechanisms are put in place to disengage the juvenile offenders after a given period of time.

Committals to the Borstal Institution are reviewed on quarterly basis by a body established by law known as Board of visitors and most offenders are released after 1 year on license under the supervision of a probation officer in whose area the juvenile offender is domicile, for the remaining period and after seating for trade test examination, but offenders in the school category are kept for a longer period since they must seat for standard eight or form four examination.

The release of juvenile offender on license is subject to a Final Home Report (FHR) compiled by a probation officer and approved by Board of visitors which meets on quarterly basis to deliberate

on the welfare of juvenile offenders. The Board of visitors is established under section 20 of the Borstal Institutions Act Cap 92 of the laws of Kenya. In the appraisal it was established that juvenile offenders stay in Shikusa Borstal Institution for a stipulated period of between one year and three years. The Committee of Board of Visitors which meets on quarterly relies to a greater extent on the discipline report from the Superintendent in charge and an assessment report from the probation officer to ensure compliance with this condition.

#### **4.4 The Needs of Juvenile Offenders undergoing Reform Training**

The study sought to appraise the needs of juvenile offenders undergoing reform training. Therefore, among the factors considered under this objective were: period taken to allocate the rehabilitation training, choice of the training, the level of involvement in selecting the training, benefits, relevance, and importance. These were significant aspects in appraising the conditions under which reform trainings are offered in Shikusa Borstal Institution in rehabilitation of juvenile offenders. The findings are presented as shown in Table 4.4.

**Table 4.4 The Needs of Juvenile Offenders undergoing Training.**

Statements	Category	F	%
What is your opinion on the period taken to allocate training	Very satisfied	4	4.04
	Satisfied	67	67.68
	Somewhat satisfied	25	25.25
	Not satisfied	3	3.03
Did you personally choose the rehabilitation training	Yes	92	92.93
	No	7	7.07
How do you describe your level of involvement in selecting the rehabilitation training	Very good	3	3.03
	Good	72	72.73
	Fair	23	23.23
	Poor	1	1.01
Is the training you are undertaking of any future benefit to you.	Very good	6	6.06
	Good	63	63.64
	Fair	29	29.29
	Poor	1	1.01
How do you rate the relevance of the training you are undertaking	Highly relevant	7	7.07
	Relevant	61	61.62
	Somewhat relevant	29	29.29
	4 = Not relevant	2	2.02
In your opinion are counseling important aspects in your overall rehabilitation	Strongly agree	2	2.02
	Agree	92	92.93
	Disagree	5	5.05
	Strongly disagree		
In your opinion are religions exposures relevant	Strongly agree	10	10.10
	Agree	88	88.89
	Disagree	1	1.01
	Strongly disagree		

**Source: (Researcher: 2021)**

The findings indicate that majority of the juvenile’s opinion on the period taken to allocate the reform training was satisfying as indicated by 67 (67.68%), and supported by 25 (25.25%) of them who indicated that they were somewhat satisfied whereas 4 (4.04%) were very satisfied. This implies that there is enough time taken to allocate the reform training which satisfies the juvenile participants. The fact that only 4% were very satisfied and 25% were somewhat satisfied indicated that some intervention measures must be put in place to address the plight of dissatisfied juvenile offenders currently admitted in Shikusa Borstal Institution.

The second question was whether they personally chose the rehabilitation training. Majority of the respondents indicated personal choice as indicated by 92 (92.93%) while only 7 (7.07%) did not personally choose the training. Their level of involvement was queried as well. The respondents were asked to describe their level of involvement in selecting the reform training. From the findings, majority of the respondents indicated that their level of involvement was good, 72 (72.73%) followed by 23 (23.23%) who indicated that it was fair. Three of the respondents indicated that it was very good and only one of the respondents said that it was poor. To a greater extent the research revealed that a majority of respondents were involved in selecting reform training on admission. This contributed to a high uptake of trainings on admission by respondents.

The trainings were termed as relevant by majority of the respondents, 61 (61.62%) who were supported by 7 (7.07%) who said the reform trainings were highly relevant as well as 29 (29.9%) that indicated that the reform trainings were somewhat relevant. Some respondents indicated that the reform trainings offered at Shikusa Borstal were not relevant and went further to propose courses such computer, motor vehicle repair, repair of mobile phone as their preferred courses but were not offered in the institution. In address the relevance of the reform trainings offered by the institution under the needs of juvenile offender it is therefore important that new and marketable reform trainings be introduced in the institution.

Finally, the study sought to determine whether the counseling exposures were important aspects in their overall reformation. The findings implied that majority, 92 (92.93%) of the juvenile offenders agreed that the counseling exposures are important aspects in their overall reformation. This therefore indicates that the reception at the documentation section where the briefing on reform trainings available was done could be described as friendly since most of the respondents were in approval of the trainings assigned and found them relevant and of benefit in future. This

means that they intended to use skills and knowledge acquired to improve on their individual status.

Counseling and religious exposures received high approval by respondents and the same was confirmed by welfare officers who were interviewed. Welfare officers stated that during counseling and religious session juveniles expressed their feeling freely without any intimidation from staff. The juveniles openly stated the importance of reform trainings in the institution and expressed the kind of assistance they needed from a counselor. This kind of confidence in the counseling and religious services explains the high rating by the juveniles in the institution.

Through counseling, the respondents stated that welfare officers touched on the real aspects that prompted their arrest and hoped that their plight would be addressed through counseling and religious instructions. Counseling and religious sessions received high rating since aspects touching on their criminogenic needs were addressed. These sessions touched on the actual reasons why the juveniles' committed offences and gave practical solutions to their problem.

Counseling sessions received high approval since juvenile offenders were free to express themselves, this therefore demonstrates that a free learning atmosphere can encourage the juveniles to appreciate the efforts of instructors. Borstal Institutions and indeed other juvenile rehabilitation schools apart from disseminating the reform trainings should also appreciate the learners and adopt teaching styles that are child friendly.

The study also analyzed means and standard deviations to get more insights on the needs of juveniles in conflict with the law undergoing training at Shikusa Borstal Institution. The findings are presented as indicated in Table 4.5.

**Table 4. 5 Summary Results on the Needs of Juvenile Offenders undergoing Training**

<b>Statements</b>	<b>Mean</b>	<b>Std Dev</b>
What is your opinion on the period taken to allocate rehabilitation training	2.27	.58
How do you describe your level of involvement in selecting the rehabilitation training	2.22	.50
Is the training you are undertaking of any future benefit to you.	2.25	.57
How do you rate the relevance of the training you are undertaking	2.26	.61
In your opinion are counseling exposures important aspects in your overall rehabilitation	2.03	.26
In your opinion are religions exposures relevant in your rehabilitation	1.91	.36
	2.15	.48

**Source: (Researcher: 2021)**

The findings indicate that the overall mean on the needs of juvenile offenders undergoing reform training was 2.15, which based on the scale used had a high rating implying that their needs were met and the trainings were of a great value to them.

Each of the independent aspects of the factors was also examined. The findings revealed that the greatest need occurred on the relevance of the religious exposures which had a mean of 1.91 and standard deviation of 0.36. The second factor of highest need was the importance of the counseling exposures which garnered a mean of 2.03 with a standard deviation of 0.26. Other factors such as benefit of the trainings (M=2.25), relevance of the training (M=2.26) level of involvement (M=2.22) and period taken to allocate training (2.27) was also indicated as a need on the reformation of the juvenile in conflict with the law.

Analysis using Pearson Chi square on the association between reform trainings of juvenile offenders was also carried out. The findings in this appraisal revealed that there was a significant

association between reform trainings as indicated in section 4 (b) of the Borstal Institution Act Cap 92 of the laws of Kenya and overall reformation of juvenile offenders  $\text{Pearson } \chi^2(3) = 14.0987$   $\text{Pr} = 0.003$ . This implies that the reform trainings affect character reformation of juvenile in conflict with the law. Given the positive view of the respondents on the assessment of needs of juvenile offenders, it can be concluded that following the fulfilment of the needs of juvenile offenders, reform trainings have a positive association and therefore a positive effect on reformation of juvenile offenders admitted in Shikusa Borstal Institution.

Further analysis of the teachers and instructors was also carried out through a number of questions. From the findings, most of the staff revealed that the trainings offered by Shikusa Borstal Institution were very relevant to the juvenile offenders since most of the offenders are released after passing trade test or national examination for offender in the schooling section. However, it was not clear on whether they had benefited the learners on release. It can be safely concluded from the findings that reform trainings have had an effect on the reformation of the juvenile offenders as clearly articulated by the respondents.

Researchers in criminology indicate that juveniles committed to rehabilitation institutions such as Borstal deserve special attention given that most of them come from disadvantaged homes socially and economically. This calls for utmost care when processing the juvenile offenders for admission in the rehabilitation institution so that their needs are put into consideration. When dealing with children listening, being authentic and explaining to the juveniles the purpose of the trainings will have a reflection on the effectiveness of the trainings in the rehabilitation institution.

The management and general operation of rehabilitation institutions has transitioned over time. The members of staff in rehabilitation institutions must devise innovative way of handle juvenile offenders professionally. Under international law, certain perimeters are observed in the handling



of juveniles in conflict with the law. Kenya being a signatory of the international laws must abide by conditions set out in handling juveniles in rehabilitation institutions such as Borstal. The conditions include rolling out rehabilitation trainings in the institution and handling the juvenile offenders in a humane manner. Kenya government is struggling to meet the internationally recommended conditions due to inadequate funding and in the process failing to meet the needs of juvenile offenders in Borstal Institutions. According to Winterdyke (2015) the international law shields juvenile offenders from all forms of mistreatment and violence. This resonates well with the aim of section 4 (b) of the Borstal Act which recommends change of character of juvenile offenders through rehabilitation and not punishment

The appraisal of the reform training as recommended section 4 (b) of the Borstal Act Cap 92 indicated that the needs of juvenile offenders admitted to Shikusa Borstal Institution for reformation were met resulting in the offenders appreciating reform trainings offered. Majority of juvenile offenders embraced the reform trainings offered at Shikusa Borstal Institution.

#### **4.5 The Influence of Learning Environment Settings on Reformation of Juvenile Offenders**

The second objective of the study was to determine learning environmental settings influencing the training of juvenile offenders at Shikusa Borstal Institution. Study constructed learning environment settings in Shikusa Borstal Institution influencing training which included strict access control, armed surveillance and tight activity trainings.

**Table 4.6: Descriptive Analysis of learning Environment**

Statements	Category	F	%
1. How do you perceive the strict access control to Shikusa Borstal Institution with regard to outsiders	Very Helpful	5	5.05
	Helpful	10	10.10
	Not Helpful	71	71.71
	Not Very Helpful	13	13.13
2. What is your view on uniformed and continuous armed surveillance by officers at Shikusa Borstal Institution	Very good	21	21.21
	Good	13	13.13
	Fair	23	23.23
	Poor	42	42.42
3. What is your perception of the tight activities reform trainings at Shikusa Borstal Institution	Very satisfied	61	61.61
	Satisfied	25	25.26
	Not satisfied	12	12.13
4. On the overall how do you rate the quality of training in relation to the prevailing learning environment?	Very Highly	5	5.05
	Highly	07	07.08
	Low	10	10.10
	Very Low	76	76.77
5. Given a second chance would you choose Shikusa Borstal as a center for offender rehabilitation?	1 = Yes	39	39.39
	2 = No	60	60.60

**Source: (Author: 2019)**

The findings on the influence of learning environmental settings are shown in Table 4.6. Respondents were asked to state how they perceived strict access control at Shikusa Borstal Institution specifically with regard to outsiders being allowed free access to the institution. Study findings reveal that 71.71% of the study respondents did not find strict access control helpful to juvenile offender reformation while it was also revealed that 42.42% of the study respondents had a negative perception on uniformed and continuous armed surveillance of Shikusa Borstal Institution and that it did not augur well with juvenile offender reformation. A high majority of respondents 61.61% perceived tight reform training of activities at Shikusa Borstal Institution as very satisfactory and helpful to juvenile offender reformation. On the overall 76.77% of the study respondents found the learning environment at Shikusa Borstal Institution not conducive for juvenile offender reformation.

The prevalence of uniformed staff in the institution did not receive approval from the respondents and therefore had a negative effect on the rehabilitation of juvenile offenders. Most of the respondents 42.42% did not approve the presence of armed personnel in the institution. According to instructors in the institution the juvenile offenders have criminal record and are yearning to escape from the institution therefore the presence of armed personnel served a very important purpose.

Responses from interviews with instructors and teachers revealed that 84.2% were of the view that juvenile offenders at Shikusa Borstal Institution have a criminal record and therefore needed a controlled environment to facilitate reformation. A further 63.55% of interviewed respondents found the reformation environment conducive for juvenile offender rehabilitation.

Instructors attributed the need of controlled and strict environment to the past record of most offenders in the institution. Without applying restriction offenders can either escape or harm each other since there have been recorded incidents of attempted escape and assault cases among inmates in the institution. In connection to the strict surveillance there were reported incidents of harsh treatment of the juvenile offenders by security officers in Shikusa.

In the study, 76.77% of respondents stated that the quality of training in Shikusa Borstal Institution is very low due to the prevailing learning environment settings. The respondents who rated the prevailing learning environment setting highly are only 5.05%. This represented a high disapproval rate of the prevailing learning environment settings. It is against this background that 60.60% of the respondents would not choose Shikusa Borstal Institution as a center for juvenile offender rehabilitation given a second chance.

Study findings therefore revealed a statistically significant negative relationship between learning environment settings and juvenile offender rehabilitation at Shikusa Borstal Institution. This

implies that the general perception of the learning environment settings by respondents was that it was not conducive for dissemination of reform trainings and as a result had a negative effect on the rehabilitation of juvenile offenders. Study findings are in line with findings from previous studies on the influence of learning environment settings on juvenile offender reformation. A study by Lumumba, (2016) revealed that current custodial rehabilitation trainings for juvenile offenders in Kenya are more suited for long-term lockup rather than rehabilitation. This is fitting since the current rehabilitation trainings have been structured to harshly punish offenders. Accordingly, these facilities need updating to meet demands of offenders.

Another study by penal reform international (2012) revealed that there was a high percentage of recidivism among juvenile offenders, especially among male offenders. This reoffending could be attributed to the poor learning environment settings which hinder effective transfer of knowledge and skills to juvenile offenders at Shikusa Borstal Institution. The re-offending trend not only contributes to overcrowding in juvenile correctional facilities but also poses a great threat to socio-economic development as a result of high crime rate in society.

In view of the prevailing environment settings, there is need to redesign juvenile learning environment settings in Shikusa Borstal Institution and indeed other juvenile rehabilitation institutions in a manner that would help address the criminogenic needs of juvenile offenders and roll out individual specific reform trainings. The negative learning environment settings include harsh treatment by the instructor who also subject offenders to hard labor on the institution's farm thus negating the main objective of the institution which is to impart skills and character reform through industrial, educational and agricultural trainings.

Other studies have also made a similar observation that learning environment settings significantly influences juvenile offender reformation. Hagwana (2020), in his study of decongestion of prisons in Zambia, suggests that rehabilitation trainings need to be provided in an environment setting that is free from strict control, corporal punishment and intimidation. For this to happen, Simon argues that foremost rehabilitation trainings should be reformed to improve the skills of personnel involved in the delivery of rehabilitation services.

Tlale (2013) argues that in providing rehabilitation services for juvenile offenders, there is need to gear them towards creating a culture and system which encourage acquisition of education and livelihood skills so as to help offenders not to reoffend. According to Makhurane (2014), most juvenile offenders come from disadvantaged family backgrounds which have limited opportunities to develop the life skills needed for them to effectively function in society. Moreover, skill provisions need to provide inmates with opportunities and avenues to earn income and have a steady livelihood to keep them away from criminal relapse. This has to be done in a learning environment setting that fosters holistic teaching and learning.

In order to achieve meaningful rehabilitation of juvenile offenders' external factors act as catalysts in the rehabilitation and treatment of offenders. The environment under which the trainings are delivered play an important role. Shikusa Borstal must therefore create a conducive environment devoid of intimidation and fear. Juvenile offenders under the cloud of fear cannot be effectively be rehabilitated. As currently constituted, Borstal institutions in Kenya are operating in an environment that does not give space to juvenile offenders to exploit their potential. This discourages active participation in the reform trainings and impedes innovation.

Majority of offenders in Shikusa Borstal Institution decried the strict nature in handling children in conflict with the law which on appraisal revealed that it instilled fear in juvenile offenders in the institution resulting in attempted escapes. The learning environment settings according to the respondents do not auger well with delivery of reform trainings. In most cases respondents were unable to freely interact with the instructors and their complaints were met with corporal punishment among others.

If juvenile crime is not handled well in terms of rehabilitation there is a possibility of juvenile offenders graduating into hardcore adult criminals in future. The institutions that are mandated by law to handle juvenile crime must therefore ensure rehabilitation of juvenile offenders is conclusively carried out in a good learning environment setting for the benefit of both the juveniles and society.

The study in an interview with instructors established those juvenile offenders tried to use every available opportunity to escape from the institution because of the strict nature of the learning environment settings. Security officers were on alert around the clock to counter any cases of indiscipline and escape from the institution. This made instructors focus more on behavior change through strict discipline than actual reform training. An appraisal of the learning environment settings under which the reform trainings were carried out revealed that they were not conducive for imparting reform trainings recommended in section 4(b) of the Borstal Act Cap 92 of the laws of Kenya consequently had a negative impact in the rehabilitation of juvenile offenders. Under this objective the conditions under which the reform trainings were delivered had a negative effect on the rehabilitation of juvenile offenders in Shikusa Borstal.

#### **4.6 The State Training Facilities at the Disposal of Juvenile Offenders**

The last objective of the study was to evaluate state of training facilities at the disposal of juvenile offenders undergoing training in Shikusa Borstal Institution. Various aspects were therefore considered in order to conclude on the state of training facilities. These included the facilities in the institution, such as dormitories, books, materials, timetables, instructors, involvement in practical work among other things. These aspects mentioned were important in appraising the reform trainings at Shikusa Borstal Institution and finding out the overall performance in the delivery of reform trainings to juvenile offenders. The findings are presented as indicated in Table 4.7. Frequency counts and percentages were used in the analysis.

**Table 4.7: State of Training facilities**

Statements	Categories	Frequency	Percentage
How would you describe facilities in the institution (dormitory, class)	1 = Excellent	3	3.03
	2 = Good	53	53.54
	3 = Satisfactory	32	32.32
	4 = Poor	11	11.11
How do you rate other facilities such as books?	1 = Excellent	2	2.02
	2 = Good	8	8.08
	3 = Satisfactory	30	30.30
	4 = Poor	59	59.60
How do you rate other facilities such as training materials?	1 = Excellent	6	6.06
	2 = Good	10	10.11
	3 = Satisfactory	38	38.38
	4 = Poor	45	45.45
Do you have a time table for assigned training	1 = Yes	48	48.48
	2 = No	51	51.52
How do you rate timelines assigned to the training you are undertaking?	1 = Excellent	1	1.02
	2 = Good	36	36.73
	3 = Fair	34	34.69
	4 = Poor	27	27.55
How do you rate your instructors	1 = Excellent	2	2.02
	2 = Good	35	36.36
	3 = Fair	37	37.37
	4 = Poor	24	24.25
How do you rate the consistency of your instructor in attending assigned training	1 = Very good	3	3.03
	2 = Good	28	28.28
	3 = Fair	42	42.42
	4 = Poor	26	26.27
How do you describe your involvement in practical work?	1 = Very good	4	4.04
	2 = Good	32	32.32
	3 = Fair	24	24.25
	4 = Poor	39	39.39

**Source: (Researcher:2021)**

From the findings, it clearly emerged that the facilities (dormitories and classes) in the institution were described as good among the juvenile offenders as indicated by majority, 53 (53.54%) of them, followed by 32 (32.32%) who indicated that it was satisfactory. The respondents stated that there was no overcrowding in the dormitories and they were always kept clean by the juvenile offenders themselves. Further, bedding and mattresses were provided. The respondents also stated that there were classrooms for juveniles in both primary and secondary sections. Other facilities



such as books were however rated as poor among the respondents as revealed by majority, 59 (59.60%) of them while 30 (30.30%) of them described the facilities as satisfactory. The fact that only 2.02% and 8.08% stated that provision of books was excellent and good respectively pointed to an urgent problem that immediate fixing by the concerned persons. Books are very core to overall learning of the respondents in the institution. Lack of books is experienced in all training sections.

The findings further indicate that training materials were rated as poor by majority, 45 (45.45%) although 38 (38.38%), 10 (10.11%) and 6 (6.06%) rated the facilities as satisfactory, good and excellent respectively. Therefore, cumulatively, 54.55% of the respondents rated other facilities such as training material as at least satisfactory. This is an important component in the training of juvenile offenders with 45% of respondents returning a poor result meant that the trainees were not getting practical knowledge from their instructors. This shortage was experienced in all sectors of training in Shikusa Borstal Institution.

Timetables seemed to lack in the institution as revealed by majority, 51 (51.52%) of the respondents, even though the timeline assigned to the trainings they were undertaking was rated as good by 36 (36.73%), fair by 34 (34.69%) but very poor by 27 (27.55%). Timetables were evidently absent in industrial and agricultural sections of the trainings and none of the instructors' present could justify the absence of timetables. There were timetables in the schooling section but most of the teachers did not follow the available timetable. This situation pointed to a poor way of training juvenile offenders in Shikusa Borstal Institution. It is difficult to effectively accomplish any curriculum without active timetables and scheme of work in any learning setting.

Concerning the instructors, the findings revealed that they were rated as fair by majority of the respondents, 37 (37.37%). Even though 24 (24.25%) of the respondents rated instructors as poor,

a cumulative percentage of 75.75% of the respondents rated the instructors as at least fair or good or excellent. This rating of instructors was not good enough for a training institution and for the reform trainings to have a transformative effect on the juvenile offenders, the instructors must make a difference by attending to their work as assigned. The low rating coupled with absence of timetables pointed to low level of supervision from institution administrators.

Another question of importance to the state of training facilities was, how do you rate the consistency of your instructor in attending assigned training? Majority, 42 (42.42%) of the respondents indicated that it was fair while 28 (28.28%) and 3 (3.03%) rated it as good and very good respectively. Instructor must attend classes in order to cover the syllabus but this was not attained because of low attendance of instructors to assigned work in class inconsistencies in supervision. This was exhibited in all areas of training thereby defeating the objective of admitting the juvenile offenders for training.

Juveniles' involvement in the practical work as an assessment of state of training resources was also rated. The findings indicate that their involvement was rated as poor, as indicated by majority, 39 (39.39%) of them even though 24 (24.25%), 32 (32.32%) and 4 (4.04%) rated it as fair, good and very good respectively. Cumulatively, from a 60.61% overall, it can be deduced that juveniles' involvement in the practical work is fair. Further analysis on the means and standard deviation of the state of training resources was also carried out. Involvement in practical work must be part of training especially in industrial and agriculture trainings. The institution did not prioritize practical training and this had an effect on the overall training of juvenile offenders at Shikusa Borstal. In trainings area such as Masonry, tailoring, panting and all other industrial and agriculture trainings practical work must cover 80% of the training which was not the case in Shikusa Borstal institution. The findings are presented as shown in Table 4.8.

**Table 4.8: Overall Rating of State of Training facilities**

<b>Statements</b>	<b>Mean</b>	<b>Std</b>
How would you describe facilities in the institution (dormitory, class)	2.51	.73
How do you rate other facilities such as books	3.4	.73
How do you rate other facilities such as training materials	3.23	.86
Do you have a time table for assigned training	1.51	.50
How do you rate timelines assigned to the training you are undertaking?	2.88	.82
How do you rate your instructors	2.83	.81
How do you rate the consistency of your instructor in attending assigned training	2.91	.81
How do you describe your involvement in practical work	2.98	.94

**Source: (Researcher: 2021)**

From the findings, the overall rating of dormitory and class facilities in the institution had a mean of 2.51 and standard deviation of 0.73 which implies that the facilities are good in the school. For the books, the rating is high (Mean=3.4), implying that in the category of satisfactory, as well as that of training materials with a rating of 3.23 which was also high implying that the facilities were not good. Timelines were rated as excellent (Mean=2.88, SD= 0.82) as well as instructors (Mean=2.83). Consistency was however rated as fair (Mean=2.91) while involvement in practical work was fairly rated. It can be concluded from the findings that the state of training facilities was moderate.

Further analysis of the interview findings with the staff revealed that the reform trainings were relevant and good to the learners but there were inadequate materials to aid in their training. In some cases, some learners were not able to practice what they had learned in the institution in

practical situations. This was due to lack of adequate facilities such as lack of enough teachers, apart from a few seconded from Teachers Service Commission, most of the teachers in the school section were prison warders who were not trained teachers, there were poorly constructed classrooms, few books among other necessities. The respondents therefore confirmed that Shikusa Borstal Institution offered relevant trainings but the institution experienced challenges in the actual delivery of the reform trainings due to inadequate facilities. The respondents could not describe services offered by the institution as excellent due to inability or failure of the instructors/ teachers to honor timelines in classrooms or workshops.

From the findings offenders were provided with mattresses, blankets and beds in the dormitory and they were fairly clean, this contributed to response of slightly over fifty percent of respondents describing the state of the facilities as good. The cleanliness could be attributed to offenders themselves who ensured that the dormitories are mopped around the clock. But the institution lacked relevant reading and reference materials such as books in all the reform trainings sections.

In industrial and agricultural sections offenders did not have any reading materials apart from pamphlets and fliers which were provided by friendly non-state actors, there were no books for active class work and reference purpose. There were no exercise books and pens in this section. The trainees relied on verbal instructions from instructors. The instructors acknowledged that this was the style of training in the industrial and agricultural sections for a long time.

The instructors were not adequately trained, they stated that little efforts were being made to retrain them or attend refresher trainings and some instructors could not remember the last time they attended such trainings. Instructors' competency level was compromised due to inadequate funding and lack of refresher or in service training. In a study by Rintaugu and Muthee (2016) majority of staff members in juvenile rehabilitation centers were certificate holders while a few

were diploma and degree holders. This state of affair compromised the standard of trainings offered to the juvenile offenders at Shikusa Borstal Institution.

Instructors overseeing these trainings indicated that relevant books, training kits were not provided by the institution, parents and well-wishers were requested to purchase or donate books and other learning materials. Apart from the formal education section that has a library the other reform trainings especially vocational section completely lacked reading and reference materials.

Generally, there were inadequate training kits in all vocational training sections. Offenders interviewed in the masonry section had not used cement for training purpose and other relevant tools of trade which are primary inputs in their training, thereby compromising the standards of training in nearly all sections. The appraisal of the industrial section revealed a poorly run section which needed very close attention. The training tools in the industrial training were old and obsolete. Most of the machinery for training were manual and there was every need to upgrade them to electric driven machines.

According to respondents there were instances where trainees were exposed to certain tools for the first time when seating for national trade test examinations. This being an external examination the trainees were expected to undertake practical test without assistance from their instructors. This brought about a big challenge to trainees in the industrial section since the trainees had not adequately interacted with most materials during their training.

Instructors who were interviewed indicated that training materials such as timber, tailoring material and other relevant tools for training were supplied by prisons headquarters office in Nairobi, which posed a logistic problem. There was also inconsistency in the supply of training materials since the prison headquarters was not in the position to meet the demands in affected institutions including Shikusa Borstal Institution. An interview with instructor in charge of

tailoring brought out a similar situation where there were only three functioning old sewing machines and with inadequate training materials against 21 trainees causing inconvenience both to the instructors and the trainees. There were no prospects of repairing or purchasing sewing machines, the trainees and instructors had to contend with the existing state of facilities.

Further inquiry revealed that there were no timetables in all industrial and agricultural training sections, and they were only found in the formal education section but were not strictly observed by instructors/ teachers. This explains the sentiments of most offenders that they spent most of their time on the farm and not in class. This also pointed to the half hazard way the reform trainings were delivered to respondents undertaking both agriculture and industrial reform trainings in Shikusa Borstal Institution. Respondents further stated that instructors did not strictly attend to offenders as scheduled. The school section had gone for one year without an English and Biology teacher and in addition there was no science laboratory.

The prevailing situation in Shikusa Borstal Institution puts into question the state and quality of trainings and the implementation levels of various reform trainings the youthful offenders undertake in the institution. To ensure reform trainings are delivered to juvenile offenders in an effective manner challenges such as non-availability of teachers and timetables must be addressed. The appraisal revealed a big gap in the delivery of reform trainings to juvenile offenders admitted in Shikusa Borstal Institution as recommended in section 4 (b) of the Borstal Act Cap 92.

Most of offenders interviewed were not involved in practical work which is an important component in training especially under industrial trainings. When the same question was put to the instructors, they attributed lack of practical work to limited supply of training materials and staff shortage. Some instructors stated that majority of offenders could not perform practical work

on release from the institution because of inadequate training and limited exposure to practical work, despite passing trade test examinations.

Instructors in the institution confessed that offenders were assisted to pass trade test examinations to avoid backlash from their superiors. This therefore indicated that despite having relevant reform trainings in the institution, the state of delivery of content left a lot to be desired. The appraisal brought out low level of competence of juvenile offenders in practically applying acquired skills on release from Shikusa Borstal Institution.

Okutoyi, (2015) in her research on rehabilitation of children in conflict with the law, a case of Shikusa Borstal Institution, Kakamega, Kenya established that 63.3% of offenders in the institution were victims or witnesses of cases of torture or degrading or inhuman treatment. The respondents cited beatings, hard punishment, molestation and sexual abuse among others. Given this kind of learning environment settings coupled with low quality training, the appraisal revealed that offender character reform was not achieved as intended in the Borstal Institutions Act Cap 92 of the laws of Kenya section 4 (b).

The institution reported attempted escapes and wish by offenders to be released from the institution at the earliest opportunity citing unfriendly learning environment and poor learning facilities. Respondents stated that two of their colleagues attempted suicide when the Board of Visitors, a body that is mandated with quarterly review of cases in the institution, declined to release them on time. An appraisal of the reform training indicated that the facilities at disposal of children in conflict with the law committed in Shikusa Borstal Institution were inadequate and in short supply. The appraisal further revealed that the reform trainings although relevant in reformation of children in conflict with the law, were not well coordinated as per the findings of the study thus putting in

doubt the fulfillment of the overall objective of reformation and character change of juveniles committed to Shikusa Borstal Institution.

The training facilities at the disposal of juvenile offenders are not adequate in terms of quantity and quality. In all training sections there was an urgent need to purchase new equipment. An examination of training facilities in the industrial sector established that most of the facilities were obsolete and could only be run manually. With the current technological transformation there was urgent need to install machines that could run on electric power. The poor state of training facilities in Shikusa Borstal Institution had negative impact on the overall training of juvenile offenders in the institution.

Shikusa Borstal must invest in employing teachers and exposing them to refresher courses. Due to shortage of funds or inadequate budgetary allocation from the Central government the delivery of rehabilitation trainings has assumed a down turn trend in the institution. The government plays a significant role in improving the state of training facilities and the contribution cannot be underestimated. Juvenile crime has both economic and social implications to society it is therefore imperative that this vice receives greater attention from the government since non-government actors do not have the capacity address the underlying causes and effects crime.

It is expected that effective training of juvenile offenders will go a long way in addressing the problem of juvenile crime and by extension adult crime. The appraisal established that the state of training facilities in Shikusa were poor thus affecting delivery of reform trainings and ultimately resulting in ineffective rehabilitation of juvenile offenders.



## **CHAPTER FIVE**

### **SUMMARY, CONCLUSIONS AND RECOMMENDATIONS OF THE FINDINGS**

#### **5.1 Introduction**

This chapter presents a summary of major findings of the study, conclusions, recommendation and suggestions for future research on the appraisal of section 4 (b) of the Borstal Institutions Act in juvenile offender rehabilitation at Shikusa in Kakamega County, Kenya. The objectives of the study were to; establish the needs of juvenile offenders undergoing training in Shikusa Borstal Institution, to assess the learning environmental settings influencing training of juvenile offenders of Shikusa Borstal Institution and to evaluate state of training facilities at the disposal of juvenile offenders undergoing training at Shikusa Borstal Institution.

From the three objectives, the study aimed at appraising section 4 (b) of the Borstal Act in juvenile offender rehabilitation at Shikusa Borstal Institution. Section 4 (b) of the Borstal Act recommends committal to Borstal Institution juvenile offenders to undertake industrial, agricultural and education training with the aim of character reformation. The research appraised the conditions under which the reform trainings as recommended in section 4 (b) were delivered to juvenile offenders in Shikusa Borstal. These are juvenile offenders who are committed for institutional reformation after committing criminal offence on recommendation of Probation officers after caring out exhaustive inquiry on their past conduct.

It is therefore envisaged that the exposure of these juvenile in conflict with the law to various reform trainings in an institution will bring about explicit change in their character and behavior. It is also expected that the knowledge and skills imparted on the juvenile offender through reform

training will be put to practical use when the juvenile offender is eventually released from the institution.

## **5.2 Summary of Findings**

This study was conducted on the premise that the provisions of section 4 (b) of the Borstal Institution Act have an influence on reformation of juvenile offenders undergoing training Shikusa Borstal Institution. The study reviewed both theoretical and empirical literature on rehabilitation trainings and juvenile offender reformation.

From the review of related literature, a conceptual framework was constructed to conceptualize the relationship between the stipulated reform trainings in section 4 (b) of the Borstal Institution Act Cap 92 of the laws of Kenya and the reformation of juvenile offenders undergoing training in Borstal institution and the hypothesized relationship was tested empirically as guided by the three specific objectives of the study. Using the conceptual framework and guided by the objectives of the study, the researcher used primary tools for purposes of data collection.

Questionnaire covering each of the independent variables and the dependent variables were used in the study. The questionnaire was tested both for reliability using Cronbach's alpha ( $\alpha$ ) and validity (using factor analysis for construct validity) through a pilot study. The questionnaire was then used to collect the primary data for both the independent variables and dependent variables from study respondents who were juvenile offenders at Shikusa Borstal Institution. An interview guide was used to collect data from key respondents of the study being teachers and instructors at Shikusa Borstal Institution.

Statistical Package for Social Sciences (SPSS) version 23.0 for windows was used during data analysis. Quantitative data was analysed using descriptive and inferential statistics. Inferential statistical analysis for every variable was made. Thematic analysis was employed in the analysis of qualitative data.

### **5.3 The Needs of Juveniles Offenders Undergoing Reform Training**

The first objective of the study was to establish the needs of juvenile offenders undergoing reform training in Shikusa Borstal Institution as stipulated in section 4 (b) of the Borstal Institution Act Cap 92 of the Laws of Kenya. Both juvenile offenders and teachers were asked to share their verdict on whether the needs of juvenile offenders undergoing reform training were met. Among the questions that were asked was the period taken to allocate the reform trainings.

Most of the juvenile offenders expressed satisfaction on the period taken by the management of the institution to allocation trainings; however, they did not personally choose the training themselves despite having good level of involvement. It also emerged that the reform trainings they undertook were of future benefit as well as relevant. The counseling as well as religious training were found therefore to be very important aspects of their treatment. Through counseling and religious studies, the respondents were able to express themselves freely and the level of communication between the respondent and counselor was cordial. Further the religious teachings in the institution also addressed spiritual welfare of the respondents.

Majority of the respondents stated that the reform trainings offered in Shikusa Borstal Institution were relevant and the juvenile offenders expressed their willingness to undertake the reform training. The recommended reform trainings aim at imparting skills and knowledge and generally contribute to character change of juvenile offenders. The acknowledgement by the respondents

that the trainings were relevant meant that offenders were comfortable with the trainings and were ready to participate fully in the recommended programs. Some respondents were of the view that other trainings such as mobile phone repair, computer studies and motor vehicle repair trainings should be introduced in the institution. Respondents supported the introduction of new courses/trainings since they could easily secure employment or establish own business when released from the institution.

Using Pearson chi square tests, there was a significant association between the involvement in offensive acts, which was taken as being charged in a court of law and the importance of counseling and religious training they undertook which was termed as their treatment. Based on these findings, a conclusion is made that the needs of juvenile offenders undergoing reform trainings were significantly met and had a positive influence on juvenile offender reformation at Shikusa Borstal Institution.

The study established that the reform trainings as stipulated in section 4 (b) of the Borstal Institution Act were relevant in the character reformation of juveniles in conflict with the law admitted in Shikusa Borstal Institution. In this appraisal it can be further concluded that character reformation through the recommended trainings in agriculture, industry and education can be significantly achieved when the needs of respective juvenile offenders in the institution are met.

This objective stands out as a major guide for admission and retention of juvenile offenders in Shikusa Borstal Institution. The central theme of training juvenile offenders cannot be achieved if the needs of the juveniles are not met. This is an important element which hold together the institution whose objective is reformation of juvenile offenders through training. Giving juvenile offenders opportunity to pick reform training of their choice encouraged them to undertake the trainings offered at Shikusa.

#### **5.4 The Impact of Learning Environment Settings in Reformation of Juveniles**

The second objective of the study was to assess learning environment settings influencing training of juvenile offenders in Shikusa Borstal Institution. Various aspects of learning environment settings were therefore highlighted for rating by the juvenile offenders. These included strict access control to the institution with regard to outsiders, presence of uniformed staff and close surveillance by officers in the institution, tight activity trainings and the quality of trainings in relation to the existing environmental setting. The respondents were further asked given a second chance if they will choose Shikusa Borstal Institution as an offender training center. A majority of respondents were not comfortable with the strict rules and lack of accessibility by outsiders.

A high number was also not comfortable with the military nature of the institution with uniformed staff and high level of surveillance. To the respondents the prevailing learning environment settings were not conducive for quality reform training since most of the juvenile offenders were in constant fear of the authority. The learning environmental settings at the institution therefore scored poorly in relation to the training of juvenile offenders undergoing reformation at Shikusa Borstal Institution. The findings further revealed that the quality of the training was way below their expectations since majority were not satisfied.

Majority of juvenile offenders would not join the institution given a second chance due to poor learning environment settings and quality of trainings offered at Shikusa. Most of the respondents attributed their hate for the institution to the uncompromising nature of supervision that is exhibited by instructors. The study findings revealed a statistically significant negative relationship between learning environment settings and juvenile offender training at Shikusa Borstal Institution.

In conclusion therefore, the appraisal of the learning environment settings at Shikusa Borstal Institution indicated that it had a negative influence on juvenile offender training. The study therefore revealed that the reform trainings as recommended in section 4 (b) of the Borstal Institution Act Cap 92 were being delivered in unfriendly learning environment settings resulting in the juvenile offender having an overall negative assessment of the institution and the reform trainings being offered in Shikusa Borstal.

Apart from meeting the international standards on the treatment of juvenile offenders this objective is important since it leads to smooth dispensation of knowledge and skills to juvenile offenders. Bad environment settings can lead to attempted escapes and breeding of hardened and incorrigible juveniles in the institution. Poor learning environment settings creates a feeling of resistance and despair among juvenile offenders which negates the very purpose of establishing Borstal institutions.

### **5.5 The State Training Facilities for Juveniles in the Borstal Institution**

The final objective of the study sought to evaluate state of training facilities at the disposal of juvenile offenders undergoing reform training in Shikusa Borstal Institution. Various elements of state of training facilities were therefore considered. From the findings, it emerged that the state of training facilities was generally poor. This was evident by the rating that supported existence of poor classes in almost all training sectors. In some trainings there were no officially designated classes for the trainees. All the trainees in agriculture and industrial training sections were bundled in the same class irrespective of the year or month of admission in the institution.

The findings revealed that facilities such as books and training materials were not adequate and evidently in short supply despite the high number of offenders in the institution. The absence of

these primary components in training reflected the state of trainings in terms of quality. Supply of training materials depended on well-wishers and donations from church organizations since the national government could not adequately meet the demands of the institution. The institution also depended on supply of materials from Prisons headquarters, Nairobi, which were hard to come by. Orders for training materials and implements were made by the Superintendent in charge but the Central government failed to supply or managed to honor a fraction of the orders made and this was complicated by inadequate funding by the government directly to the institution through yearly allocation, authority to incur expenditure (A.I.E).

The study established that there were no timetables in most training sections, and the juvenile offenders were at the mercy of instructors. Lack of timetables in the institution impeded service delivery and had a negative effect on the quality of training. This was evident in the industrial and agricultural training sections resulting in poor timelines on the trainings. It was established that the industrial and agriculture training sections did not have timetables at all and the respondents were at the mercy of instructors who scheduled classes as they so wished.

The lack of timetables coupled with the absence of proper training program in most sections resulted in respondents spending most of their time on the institution farm. Other areas that indicated poor state of facilities were inadequate and inconsistency exhibited by instructors, which resulted in little involvement in the reform trainings by the instructors. Instructors attended to the trainees without any set order and there were situations where some trainees were not attended to for the whole week.

Instructors stated that the juveniles were not actively involved in practical work due to lack of training materials and it was confirmed by the juveniles undergoing training. Respondents stated

that they were exposed to certain tools for the first time when seating for trade test examination, this was amplified by respondents in the masonry section.

The number of instructors and teachers was not adequate. In the school section some subjects did not have teachers. This prompted Shikusa Borstal Institution to deploy to classes uniformed prison officers who did not have any formal training in teaching to cover up for lack of teachers. Likewise, the existing instructor lacked exposure since there were no refresher or in-service trainings and the employer had not allocated funds to retrain instructors. Respondents openly stated that they had gone for the whole year without teachers in English and Biology and there was a likelihood that the syllabus would not be covered. Further, the school section did not have a science laboratory for practical work and Shikusa Borstal Institution was compelled to seek school laboratory services from neighboring government secondary schools.

In order to realize effective rehabilitation of juvenile offenders there was need to address the challenge of staff shortage and generally the dilapidated state of training facilities in the institution. These findings affirmed that the state of training facilities was low and therefore had a negative reflection on the training of juvenile offenders in Shikusa Borstal Institution. An appraisal of the state of reform training facilities for children in conflict with the law in Shikusa Borstal Institution revealed that the available facilities were in a poor state and in need of replacement or repair in addition to upgrading to modern machine.

This being a national government institution in the Ministry of Interior and National Government, the inaction through inadequate financial allocation had contributed to current poor state of the facilities in Shikusa Borstal Institution since the purchase and improvement of facilities solely depended on National government funding. The state of existing reform trainings facilities resulted



in poor delivery of industrial, educational and agricultural instructions offered in Shikusa Borstal Institution.

This objective is also central to the study. In establishing Borstal Institutions, the main aim was to change the character of juvenile offenders through reform trainings. It is impossible to impart knowledge and skills to juvenile offenders if available conditions are not supportive of the delivery of trainings and programs. The availability training of facilities in terms of quality and quantity will result in achieving the objective of establishing the institution as stipulated in Borstal Institution Act which is character change through training. The state of training facilities in Shikusa Borstal Institution had a negative effect on the delivery of rehabilitation trainings thereby affecting the reformation of juvenile offenders.

## **5.6 Conclusions**

Studies carried out indicate that reform trainings as stipulated in section 4 (b) of the Borstal Institution Act Cap 92 of the laws of Kenya are expected to have some impact on the juvenile offenders in addressing their plight with crime both in the institution and in society upon release. It is explicitly expressed in the Borstal Institutions Act that the juvenile offenders are committed to Borstal Institutions for reformation and change of character through reform trainings.

In the current study of Shikusa Borstal Institution, the findings revealed some insights on the areas that had positive impact in the reformation of the juvenile offenders. The first specific objective of the study was establishing the needs of juvenile offenders undergoing training in Shikusa Borstal Institution. On the overall the needs of juvenile offenders in Shikusa were met and majority of the juvenile offenders stated that the educational, industrial and agricultural reform trainings that were offered in Shikusa were relevant and would help the juvenile offenders to be self-sustaining after

going through the reform trainings. It is also important to note therefore that under this first objective, it was concluded that the reform trainings met the needs of juvenile offenders and had a positive influence on their reformation.

In the second objective of assessing learning environment setting influencing training of juvenile offenders revealed various ways in which the learning environment settings impeded the training of inmates or juvenile offenders. For instance, the level of strictness applied in the institution as a disciplinary measure was counter-productive since it instilled fear and inhibited innovation among the juvenile offenders undergoing training. Further the security attire that was always worn by instructors and supervisors had a negative effect on the training of offenders committed to Shikusa Borstal Institution.

The uniformed staff reminded juvenile offenders that they were under strict surveillance and any cases of indiscipline would be firmly dealt with. It can therefore be concluded that for improvement in the intake of trainings, child friendly learning environment must be introduced despite the institution being a high security establishment. It can therefore be concluded in the appraisal of reform trainings that the existing learning environment settings were poor therefore having a negative bearing on the training of juvenile offenders at Shikusa Borstal Institution.

Finally, the study sought to evaluate the state of the training facilities at the disposal of juveniles in conflict with the law at Shikusa Borstal Institution. Availability or adequate reform training facilities ensures that training strategies put in place are carried out in a more effective and efficient way for the benefit of juvenile offenders and to a larger extension the wider society. Lack or inadequacy in training facilities in Shikusa hindered both learners and teachers to exploit their potential this resulted in failure to meet any goal that were set. From the findings, due to low rating, it was concluded that training facilities at the disposal of juveniles in conflict with the law at

Shikusa Borstal Institution were in a poor state. The facilities were inadequate, obsolete and dilapidated therefore hindering effective training of juvenile offenders. This state of affair impacted negatively on the quality of reform trainings offered in Shikusa Borstal Institution. The poor state of the training facilities in Shikusa Borstal Institution had a negative effect on the delivery of reform trainings to the detriment of juvenile offenders in the institution.

The overall objective of the study was to appraise the reform trainings at Shikusa Borstal Institution as stipulated in the section 4 (b) of the Borstal Act Cap 92 of the Laws of Kenya. This study focused on the delivery of reform trainings to juvenile offenders at Shikusa Borstal Institution. The study in conclusion revealed that the reform trainings as recommended in the Borstal Act Cap 92 section 4 (b) were relevant in imparting knowledge and skills to juvenile offenders but these trainings were delivered under difficult environment settings with poor training facilities. This state of affair had a damaging consequence on the overall rehabilitation of juvenile offenders in Shikusa Borstal Institution.

### **5.7 Recommendations**

From the study, various recommendations were drawn. In the first objective of the study, it was clear that the reform trainings offered at Shikusa Borstal Institution were likely to meet the needs of juveniles in conflict with the law. However, it emerged that in as much as the reform trainings were concluded to meet the needs of the juvenile offenders, their influence was very little. It can therefore be recommended that the juvenile offenders be involved on the onset in the selection of the trainings that they are enrolled. They should be taught the importance of undertaking these trainings before they are engaged as it emerged, some offenders were not interested in the trainings assigned and some took up reform trainings that would assure them early release from the institution.

Probation officers and magistrates who establish initial contacts with the juvenile offenders must play an important role in the selection of reform trainings. This can be included in the probation officers initial report which must be presented to the Borstal Institution on admission. Relevant stakeholders should therefore be involved in the selection of reform trainings in the rehabilitation of juveniles in conflict with the law. Under this objective it is further recommended that more innovative and modern trainings be introduced to fulfil the needs of juvenile offenders and increase chances of their employability when released from Shikusa Borstal Institution.

The second recommendation is that there is need to redesign learning environment settings at Shikusa Borstal Institution in a manner that fosters free learning devoid of fear and intimidation which is as a result of continuous presence of uniformed officers and strict military like rules and regulations. Juvenile offenders should be handled in a humane manner as recommended in the Child Rights Charter on children in conflict with the law. This can also be achieved by exposing instructors and teachers to the internationally recommended learning environment settings through various trainings which can be supported by the National government or non- government actors.

Under the third objective it is recommended that the National government under the Ministry of Interior and Coordination of National government should appropriate sufficient funds to improve the state of reform training facilities in Shikusa Borstal Institution. This will go a long way in replacing the dilapidated and obsolete equipment in the institution. The government of Kenya has put a lot of emphasis on technical training to alleviate the challenges of unemployment among the youth.

As indicated in the findings, the institution which basically admits youths lacks basic facilities to train youthful offenders. Further, offenders seem not to be interested in practicing the trade acquired in the institution due to poor quality of training which is amplified by lack of training

materials and equipment. Under this objective it is further recommended that the Shikusa Borstal Institution management should reach out to the National government in making the Institution a center of excellence. This will prompt the government through the department of vocational and technical training to allocate resources for purchase and improvement of facilities in the institution, further this gesture by the government will attract other donors both nationally and internationally.

### **5.8 Suggestion for Further Research**

The present study was an appraisal of section 4 (b) of the Borstal Act in juvenile offender rehabilitation at Shikusa in Kakamega County, Kenya. Regarding the study findings, the following suggestions are made for further research;

- i. A study may be conducted to find out the role played by reform trainings in addressing the problem of recidivism in Juvenile offenders. This will help in evaluating the various reform trainings as recommended in the Borstal Institution Act Cap 92 section 4 (b) in an effort to bring about character change in children who are in conflict with the law.
- ii. Another study may be conducted to investigate the use of alternative options in the rehabilitation of juvenile offenders other than institution-based rehabilitation option. This study will be central in addressing the challenges posed by learning environment settings in the Borstal Institutions in the rehabilitation of juvenile offenders. This will help in settling for the most practical and child friendly option in the rehabilitation of juvenile offenders. This will further look at the place or relevance of institutionalization of juveniles in conflict with the law in these modern times.
- iii. The other recommended area of study is the relationship between juvenile and adult crime. Reform trainings as outlined in section 4 (b) of the Borstal Institutions Act Cap 92 of the

laws of Kenya address the challenge of crime among juvenile offenders. What could be the relationship between adult crime and the state of rehabilitation facilities in juvenile correction institutions and the general implication to crime prevention.

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## APPENDICES

### Appendix 1: Study Questionnaire for Juvenile offenders

Question	Responses Please tick your answer in the appropriate check box	
<b>Section A – Bio-data</b>		
1. What is your age?	1 = “15-16 years”	<input type="checkbox"/>
	2 = “17-18 years”	<input type="checkbox"/>
	3 = “19-20 years”	<input type="checkbox"/>
2. What was your highest level of formal education before admission to Shikusa?	1 = “0-2 class”	<input type="checkbox"/>
	2 = “3-5 class”	<input type="checkbox"/>
	3 = “6-8 class”	<input type="checkbox"/>
	4 = “Form one and above”	<input type="checkbox"/>
3. Have you previously been charged in a court of Law?	1 = “Yes”	<input type="checkbox"/>
	0 = “No”	<input type="checkbox"/>
4. How long have you stayed in this institution?	1 = “6 months and less”	<input type="checkbox"/>
	2 = “7 months-11 months”	<input type="checkbox"/>
	3 = “1 year and above”	<input type="checkbox"/>
5. Which reform training are you undertaking in the institution		<input type="checkbox"/>
<b>Section B – Effect of rehabilitation trainings</b>		
1 What is your opinion on the period taken to allocate training	1 = “Very satisfied”	<input type="checkbox"/>
	2 = “Satisfied”	<input type="checkbox"/>
	3 = “Somewhat satisfied”	<input type="checkbox"/>
	4 = “Not satisfied”	<input type="checkbox"/>
2 Did you personally choose the reform training	1 = “Yes”	<input type="checkbox"/>
	2 = “No”	<input type="checkbox"/>
3 How do you describe your level of involvement in selecting the reform training?	1 = “Very good”	<input type="checkbox"/>
	2 = “Good”	<input type="checkbox"/>
	3 = “Fair”	<input type="checkbox"/>
	4 = “Poor”	<input type="checkbox"/>
4 Is the training you are undertaking of any future benefit to you.	1 = “Very good”	<input type="checkbox"/>
	2 = “Good”	<input type="checkbox"/>
	3 = “Fair”	<input type="checkbox"/>
	4 = “Poor”	<input type="checkbox"/>
5 How do you rate the relevance of the reform training you are undertaking	1 = “Highly relevant”	<input type="checkbox"/>
	2 = “Relevant”	<input type="checkbox"/>
	3 = “Somewhat relevant”	<input type="checkbox"/>
	4 = “Not relevant”	<input type="checkbox"/>
6 In your opinion are counseling exposures important aspects in your overall rehabilitation	1 = “Strongly agree”	<input type="checkbox"/>
	2 = “Agree”	<input type="checkbox"/>
	3 = “Disagree”	<input type="checkbox"/>

	4 = “Strongly disagree”	
7 In your opinion are religions exposures relevant to your rehabilitation	1 = “Strongly agree”	
	2 = “Agree”	
	3 = “Disagree”	
	4 = “Strongly disagree”	
<b>Question</b>	<b>Responses</b>	
	Please tick your answer in the appropriate check box	
<b>Section C – Influence of learning Environment</b>		
1.How do you perceive the strict access control to Shikusa Borstal Institution with regard to outsiders	1= “Very Helpful”	
	2 = “Helpful”	
	3 = “Not Helpful”	
	4 = “Not Very Helpful”	
2 What is your view on continuous armed surveillance by officers at Shikusa Borstal Institution	1 = “Highly relevant”	
	2 = “Relevant”	
	3 = “Somewhat relevant”	
	4 = “Not relevant”	
3.What is your perception of the tight activity trainings at Shikusa Borstal Institution	1 = “Very good”	
	2 = “Good”	
	3 = “Fair”	
	4 = “Poor”	
4. On the overall how do you rate the quality of training in relation to the prevailing rehabilitation environment?	1 = “Very Highly”	
	2 = “Highly”	
	3 = “Low”	
	4 = “Very Low”	
5. Given a second chance would you choose Shikusa Borstal as a center for offender rehabilitation?	1= Yes	
	2= No	
<b>Section D – State of training facilities</b>		
1. How would you describe facilities in the institution (dormitory, class)	1 = “Excellent”	
	2 = “Good”	
	3 = “Satisfactory”	
	4= “Poor”	
2. How do you rate other facilities such as books	1 = “Excellent”	
	2 = “Good”	
	3 = “Satisfactory”	
	4 = “Poor”	
3. How do you rate other facilities such as training materials	1 = “Excellent”	
	2 = “Good”	
	3 = “Satisfactory”	
	4 = “Poor”	
4. Do you have a time table for assigned training	1 = “Yes”	
	2 = “No”	
5. How do you rate timelines assigned to the training you are undertaking.	1 = “Excellent”	
	2 = “Good”	
	3 = “Fair”	



	4 = "Poor"	
6. How do you rate your instructors	1 = "Excellent"	
	2 = "Good"	
	3 = "Fair"	
	4 = "Poor"	
7. How do you rate the consistency of your instructor in attending assigned training	1 = "Very good"	
	2 = "Good"	
	3 = "Fair"	
	4 = "Poor"	
8. How do you describe your involvement in practical work	1 = "Very good"	
	2 = "Good"	
	3 = "Fair"	
	4 = "Poor"	

## **Appendix 2: Interview guide for Key Informants (for teacher and instructors)**

1. What is the capacity of your class?
2. What is the current number of juveniles in your class?
3. Which reform training is commonly selected by the juveniles in the institution?
4. In your opinion, are offenders interested in the reform trainings offered?
5. Are the reform trainings offered relevant to the needs of the offenders?
6. Are you a trained instructor in the reform training you are currently handling?
7. What are your qualifications as a Teacher, Welfare Officer or Vocational Training Instructor?
8. For how long have you been handling juvenile offenders?
9. Do you have professional training in handling juvenile offenders?
10. What policies do you believe are relevant in the rehabilitation of juvenile offenders?
11. Do you think the reform trainings in the institution have benefited the juveniles?
12. In your opinion, are the juvenile offenders ready to practice what they learnt in the institution?
13. What is your opinion on the reform trainings offered in terms of relevance?

Thank you for your co-operation

**Appendix 3: National Trade Test Certificate for Borstal Institution Inmate in Welding.**



**Appendix 4: National Trade Test Certificate for Borstal Institution Inmates in Carpentry and Joinery**



**Appendix 5: National Trade Test Certificate for Borstal Institution Inmates in Masonry**



## Appendix 6: Research Permit



### NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

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Ref. No. **NACOSTI/P/19/95879/29087**

Date: **3<sup>rd</sup> April 2019**

Christopher Dennis Mbetera  
Masinde Muliro University of Science and Technology  
P. O Box 190-50100  
**KAKAMEGA**

#### **RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on *“Influence of rehabilitation programmes in restoring juvenile offenders of Shikusa Borstal Institution in Kakamega County, Kenya”* I am pleased to inform you that you have been authorized to undertake research in **Kakamega County** for the period ending **1<sup>st</sup> April, 2020**.

You are advised to report to **the County Commissioner and the County Director of Education, Kakamega County** before embarking on the research project.

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

  
**BONIFACE WANYAMA**  
**FOR: DIRECTOR-GENERAL/CEO**

Copy to:

The County Commissioner  
Kakamega County.

The County Director of Education