

# **PERCEPTIONS ON CAPITAL OFFENCES & PUNISHMENT IN KENYA**

# Social-demographic Characteristics

The sample respondents for this study comprised 4703 members of the public & 256 public officials.

## 4703

MEMBERS OF THE PUBLIC

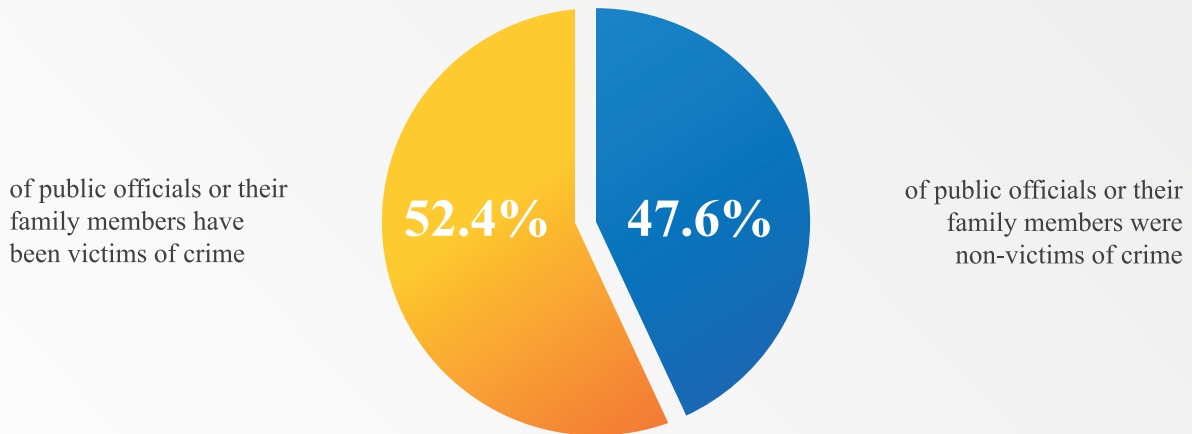


## 256

PUBLIC OFFICIALS

Demographic Characteristics		Frequency	Valid Percent
Age of Respondents in Years	18-25	874	18.6%
	26-33	1226	26.1%
	34-41	1065	22.6%
	42-49	811	17.2%
	50-57	435	9.2%
	58-65	180	3.8%
	66+	112	2.4%
Marital Status	Single	1182	25.1%
	Married	3203	68.1%
	Separated	162	3.4%
	Divorced	42	0.9%
	Widowed	114	2.4%
Level of Education	None	228	4.8%
	Pre-Primary	98	2.1%
	Primary	1020	21.7%
	Secondary 1-4	1740	37.0%
	Secondary 5-6	126	2.7%
	Middle Level College	751	16.0%
	University	714	15.2%
	Adult Literacy	14	0.3%
	Other	12	0.3%
Religion	Traditional	54	1.1%
	Christian	3930	83.6%
	Islam	697	14.8%
	Hindu	4	0.1%
	Other	18	0.4%
Nationality	Kenyan	4673	99.4%
	Non Kenyan	30	0.6%

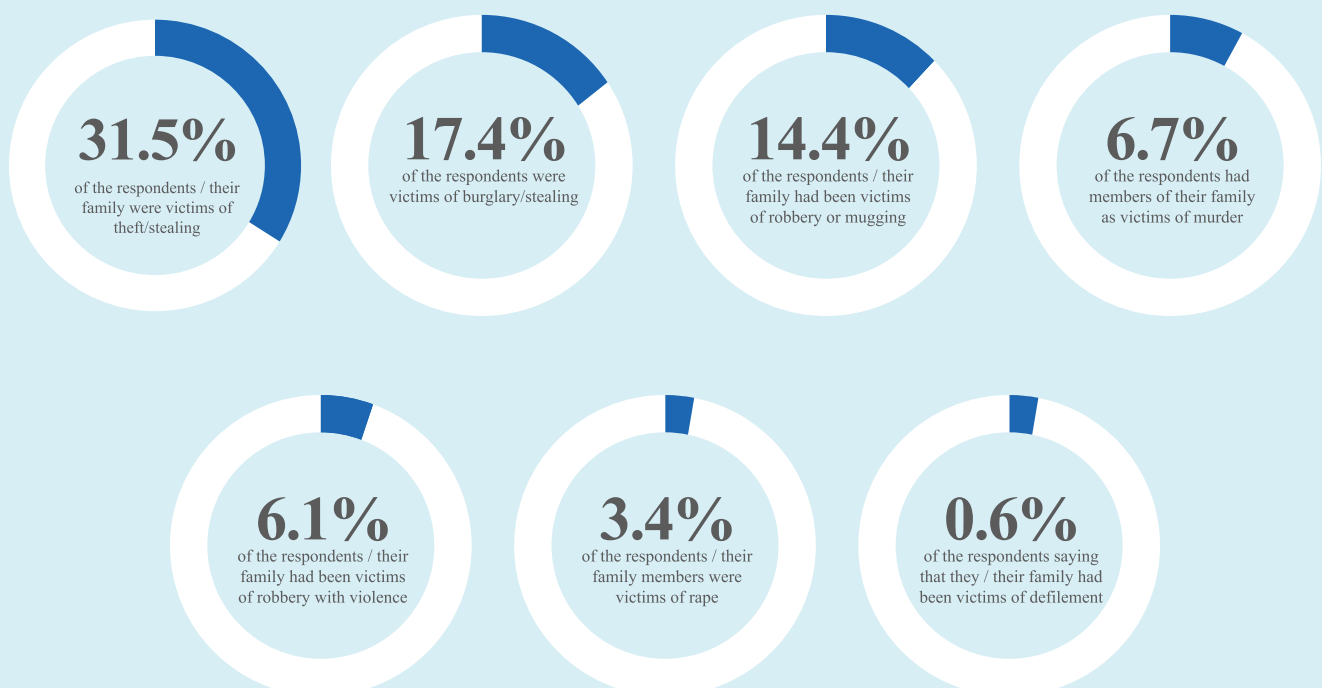
# Rates of Crime Victimization in Kenya



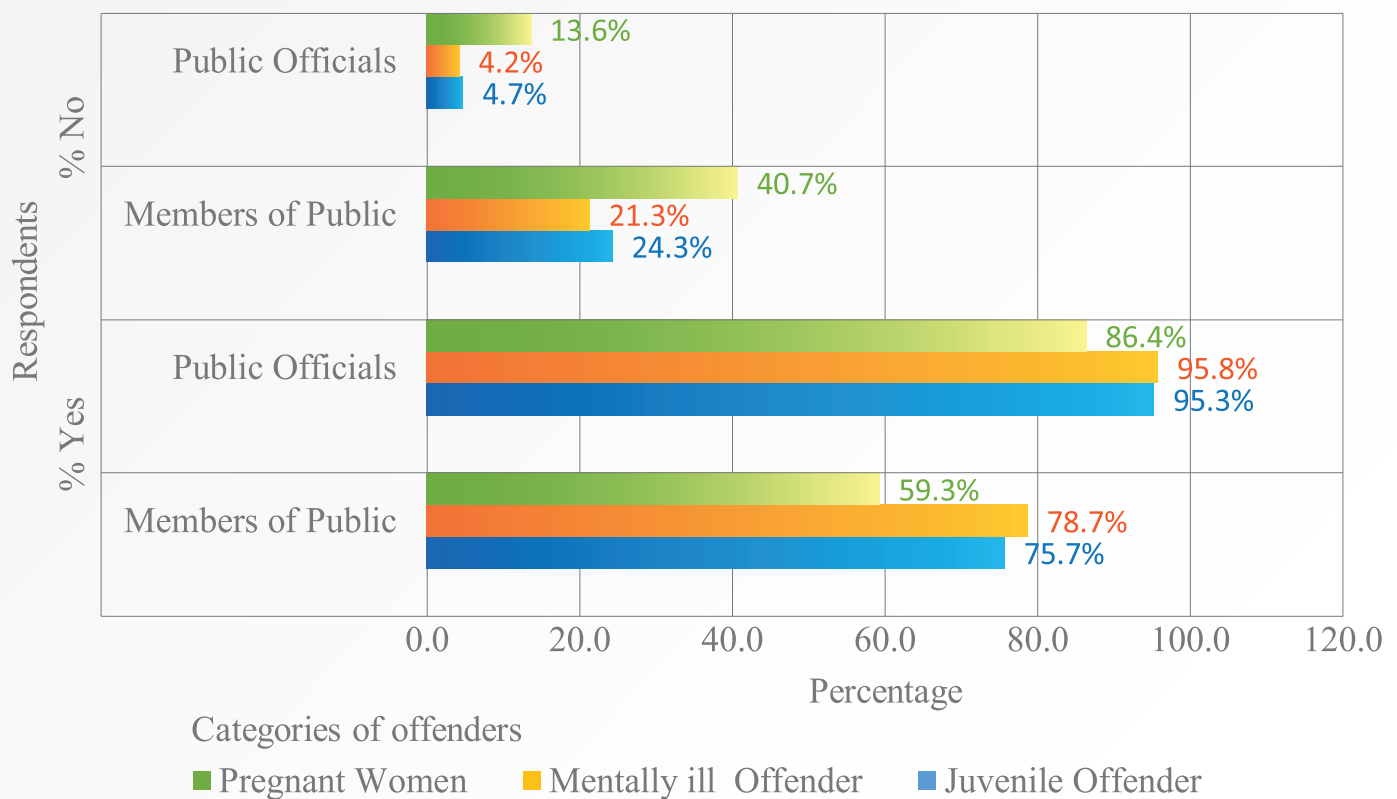
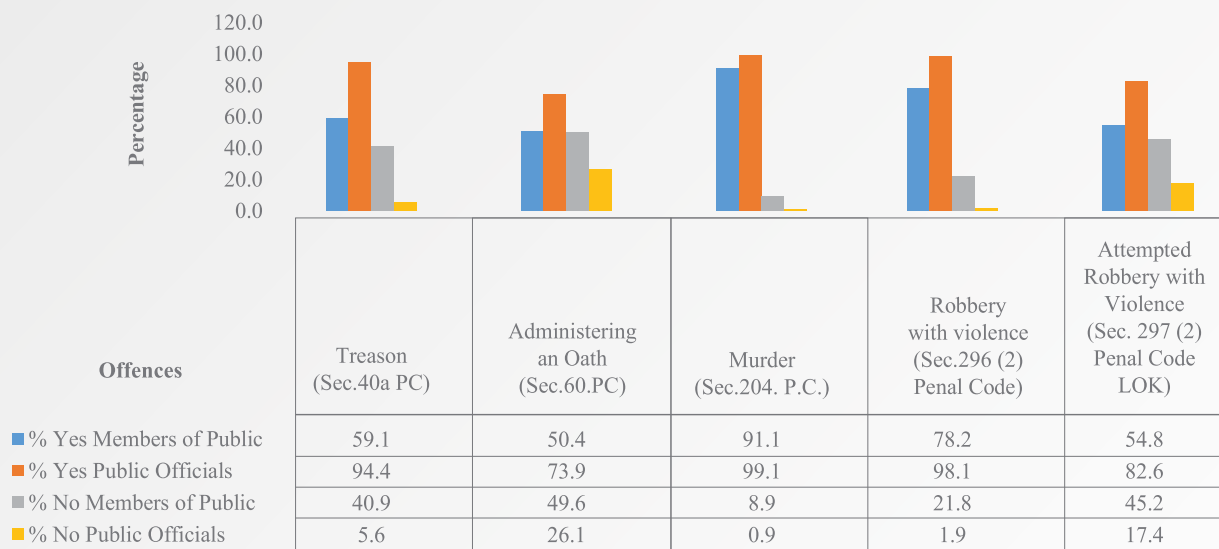
*This would mean that the social status in the society contributes to crime victimization in Kenya.*

Types of crimes experienced were; theft/stealing given that 31.5% of the respondents or their family were victims of theft/stealing, 17.4% of the respondents were victims of burglary/stealing, 14.4% of the respondents or their family had been victims of robbery or mugging, 6.7% of the respondents had members of their family as victims of murder. Also, 6.1% of the respondents or

their family had been victims of robbery with violence, 3.4% of the respondents or their family members were victims of rape with 0.6% of the respondents saying that they or their family had been victims of defilement. This could be an indication that very few cases of defilement are reported.



## Awareness Levels of Capital Offences Punishable by Death in Kenyan Law



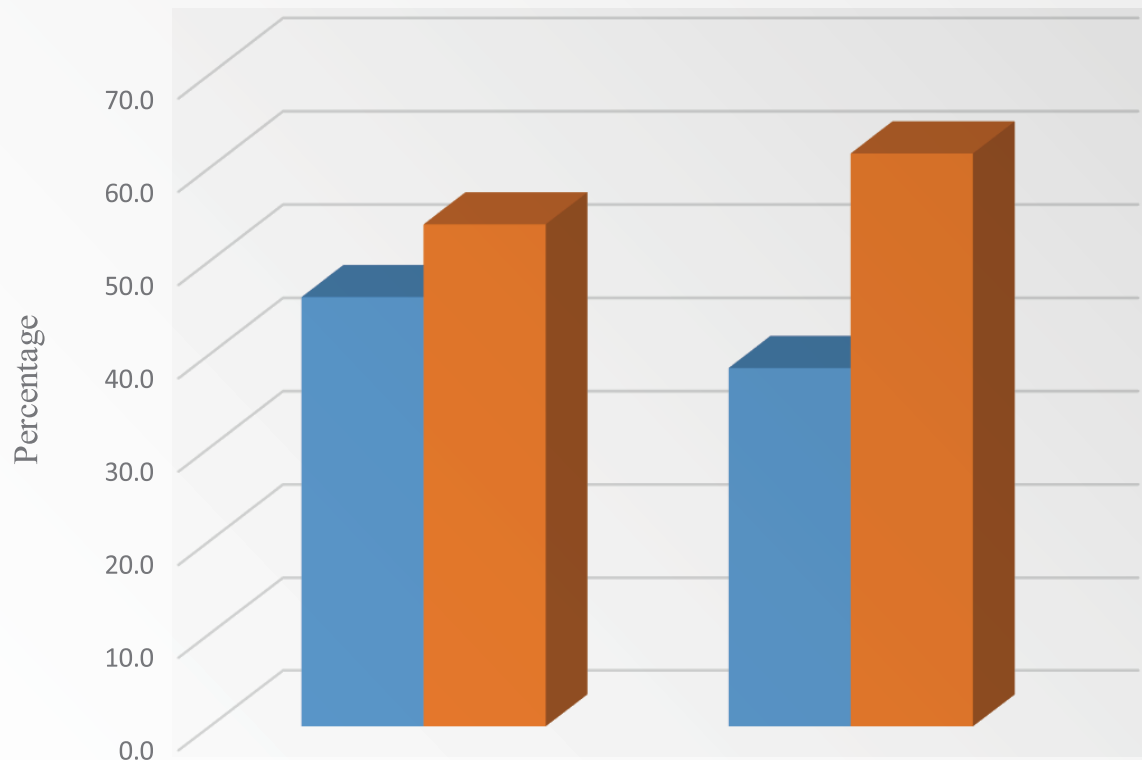
***County Analysis on Members of Public Awareness of Categories of Offenders to Whom Death Penalty Cannot be Applied***

County of Residence		Juvenile Offender		Mentally ill Offender		Pregnant Women	
		Yes	No	Yes	No	Yes	No
1	Baringo	75.5%	24.5%	80.0%	20.0%	70.0%	30.0%
2	Bomet	82.0%	18.0%	86.0%	14.0%	76.0%	24.0%
3	Bungoma	65.7%	34.3%	70.5%	29.5%	45.2%	54.8%
4	Busia	42.6%	57.4%	54.3%	45.7%	35.1%	64.9%
5	ElgeyoMarakwet	75.0%	25.0%	78.0%	22.0%	62.0%	38.0%
6	Embu	60.6%	39.4%	76.6%	23.4%	48.9%	51.1%
7	Garissa	78.3%	21.7%	77.2%	22.8%	66.3%	33.7%
8	Homabay	74.8%	25.2%	84.5%	15.5%	58.3%	41.7%
9	Isiolo	70.0%	30.0%	64.0%	36.0%	41.0%	59.0%
10	Kajiado	92.2%	7.8%	88.2%	11.8%	69.6%	30.4%
11	Kakamega	68.5%	31.5%	77.5%	22.5%	37.1%	62.9%
12	Kericho	76.2%	23.8%	84.2%	15.8%	55.4%	44.6%
13	Kiambu	81.3%	18.7%	85.7%	14.3%	47.3%	52.7%
14	Kilifi	76.5%	23.5%	71.4%	28.6%	60.5%	39.5%
15	Kirinyaga	77.8%	22.2%	79.4%	20.6%	68.7%	31.3%
16	Kisii	78.2%	21.8%	78.2%	21.8%	54.5%	45.5%
17	Kisumu	82.1%	17.9%	87.7%	12.3%	73.6%	26.4%
18	Kitui	79.4%	20.6%	79.4%	20.6%	59.8%	40.2%
19	Kwale	75.0%	25.0%	91.0%	9.0%	63.0%	37.0%
20	Laikipia	71.3%	28.7%	75.0%	25.0%	53.7%	46.3%
21	Lamu	73.6%	26.4%	73.6%	26.4%	59.1%	40.9%
22	Machakos	74.2%	25.8%	75.3%	24.7%	53.6%	46.4%
23	Makueni	76.3%	23.7%	86.6%	13.4%	56.7%	43.3%
24	Mandera	96.0%	4.0%	95.0%	5.0%	85.0%	15.0%
25	Marsabit	68.1%	31.9%	63.7%	36.3%	57.1%	42.9%
26	Meru	72.3%	27.7%	58.4%	41.6%	44.6%	55.4%
27	Migori	65.0%	35.0%	75.0%	25.0%	59.0%	41.0%
28	Mombasa	89.1%	10.9%	97.0%	3.0%	69.3%	30.7%
29	Murang'a	71.4%	28.6%	79.6%	20.4%	41.8%	58.2%
30	Nairobi	79.8%	20.2%	81.0%	19.0%	51.0%	49.0%
31	Nakuru	77.0%	23.0%	78.0%	22.0%	62.0%	38.0%
32	Nandi	85.0%	15.0%	83.0%	17.0%	66.0%	34.0%
33	Narok	90.8%	9.2%	92.9%	7.1%	69.4%	30.6%
34	Nyamira	78.2%	21.8%	82.2%	17.8%	58.4%	41.6%
35	Nyandarua	77.5%	22.5%	82.4%	17.6%	69.6%	30.4%
36	Nyeri	79.4%	20.6%	82.4%	17.6%	59.4%	40.6%
37	Samburu	71.4%	28.6%	58.2%	41.8%	53.8%	46.2%
38	Siaya	81.9%	18.1%	92.4%	7.6%	71.4%	28.6%
39	TaitaTaveta	83.2%	16.8%	93.1%	6.9%	69.3%	30.7%
40	Tana River	70.4%	29.6%	71.3%	28.7%	59.3%	40.7%
41	TharakaNithi	65.3%	34.7%	58.2%	41.8%	45.9%	54.1%
42	Trans Nzoia	69.8%	30.2%	75.9%	24.1%	56.3%	43.7%
43	Turkana	77.2%	22.8%	79.3%	20.7%	65.2%	34.8%
44	UasinGishu	89.8%	10.2%	88.8%	11.2%	72.2%	27.8%
45	Vihiga	64.2%	35.8%	76.8%	23.2%	48.4%	51.6%
46	Wajir	66.0%	34.0%	66.0%	34.0%	65.7%	34.3%
47	West Pokot	76.6%	23.4%	80.9%	19.1%	62.8%	37.2%
TOTAL		75.7%	24.3%	78.7%	21.3%	59.3%	40.7%

***Factors That Contribute to Offenders Committing Offences  
That Attract the Death Penalty***

Factors	Members of Public		Public officials	
	N	Percent of Cases	N	Percent of Cases
Drug abuse/Alcoholism	1256	27.5%	67	28.6%
Mental illness/depression	603	13.3%	35	15.0%
Poverty/High cost of living	1722	38.1%	100	42.7%
Self defense	34	0.8%	6	2.6%
Rivalry/love triangle	359	7.9%	21	9.0%
Provocation	89	2.0%	16	6.8%
Unemployment	1073	23.7%	36	15.4%
Greed/Lust	760	16.8%	53	22.6 %
Incitement/Political Influence	236	5.2%	20	8.5%
Tribalism/tribal animosity	112	2.5%	5	2.1%
Idleness/Laziness	325	7.2%	5	2.1%
Ignorance	376	8.3%	40	17.1%
Malice/Jealousy	216	4.8%	8	3.4%
Peer influence/pressure	482	10.7%	33	14.1%
Justice denied/corruption	151	3.3%	13	5.6%
Lack of moral values/lawlessness	225	5.0%	27	11.5%
Poor parenting/Upbringing	126	2.8%	16	6.8%
Bitterness/Anger	524	11.6%	26	11.1%
Religion/Cult/radicalization	195	4.3%	11	4.7%
Illiteracy	222	4.9%	16	6.8%
Hereditary factors/family criminal history	215	4.8%	11	4.7%
Lifestyle/Culture	178	3.9%	21	9.0%
Desire for Recognition, glory and fame	48	1.1%	8	3.4%
Property dispute	333	7.4%	36	15.4%
Desire for Revenge	518	11.5%	39	16.7%
Lack of law enforcement	119	2.6%	10	4.3%
To conceal information	30	0.7%	0	0
Media Influence	6	0.1%	1	0.4%
Marginalization/Unequal distribution of resources	57	1.3%	6	2.6%
Family Conflicts	124	2.7%	18	7.7%
Possession of Illegal Small Arms	13	0.3%	0	0

Figure 10: *A Comparison of Response on Whether Capital Offences Should Attract Death Sentence*



	Respondents	
	Male	Female
Retentionist % Yes	46.1	38.5
Abolitionist % No	53.9	61.5

■ Retentionist % Yes    ■ Abolitionist % No

Figure 11: *Responses by Gender on whether Capital Offences Should Attract Death Sentence*



### *Response on Death Sentence by County Analysis for Members of Public*

County of Residence	Response on Death Sentence for Capital Offences (Murder, Robbery With Violence, Attempted Robbery with Violence, Treason, Oathing, Specified Military Offences) in Kenya	
	Yes	No
Wajir	66.0%	34.0%
Migori	62.0%	38.0%
Garissa	61.3%	38.7%
Kitui	56.6%	43.4%
Nandi	55.0%	45.0%
Trans Nzoia	52.7%	47.3%
Embu	51.6%	48.4%
Kwale	51.0%	49.0%
Narok	51.0%	49.0%
Nyamira	50.5%	49.5%
Turkana	49.5%	50.5%
Bungoma	49.5%	50.5%
West Pokot	47.4%	52.6%
Lamu	46.4%	53.6%
Kericho	45.5%	54.5%
Kirinyaga	45.5%	54.5%
Makueni	45.4%	54.6%
Machakos	44.3%	55.7%
UasinGishu	43.9%	56.1%
Kakamega	43.8%	56.2%
Mombasa	43.6%	56.4%
Kisumu	43.4%	56.6%
Nyeri	43.0%	57.0%
Bomet	43.0%	57.0%
ElgeyoMarakwet	43.0%	57.0%
Vihiga	42.7%	57.3%
Siaya	41.9%	58.1%
Baringo	41.8%	58.2%
Mandera	41.0%	59.0%
Homabay	40.8%	59.2%
Kilifi	40.3%	59.7%
Busia	38.3%	61.7%
Isiolo	38.0%	62.0%
Nairobi	37.0%	63.0%
Laikipia	37.0%	63.0%
Tana River	37.0%	63.0%
Tharaka Nithi	35.7%	64.3%
Meru	35.6%	64.4%
Kajiado	33.3%	66.7%
Marsabit	33.3%	66.7%
Kiambu	33.3%	66.7%
Nyandarua	33.3%	66.7%
TaitaTaveta	32.7%	67.3%
Murang'a	31.6%	68.4%
Nakuru	31.0%	69.0%
Samburu	28.6%	71.4%
Kisii	27.7%	72.3%
<b>TOTAL</b>	<b>43.1%</b>	<b>56.9%</b>



Figure 17: *Responses by Victims Both Public Officials and Members of Public on Whether Capital Offences Should Attract Death Sentence*

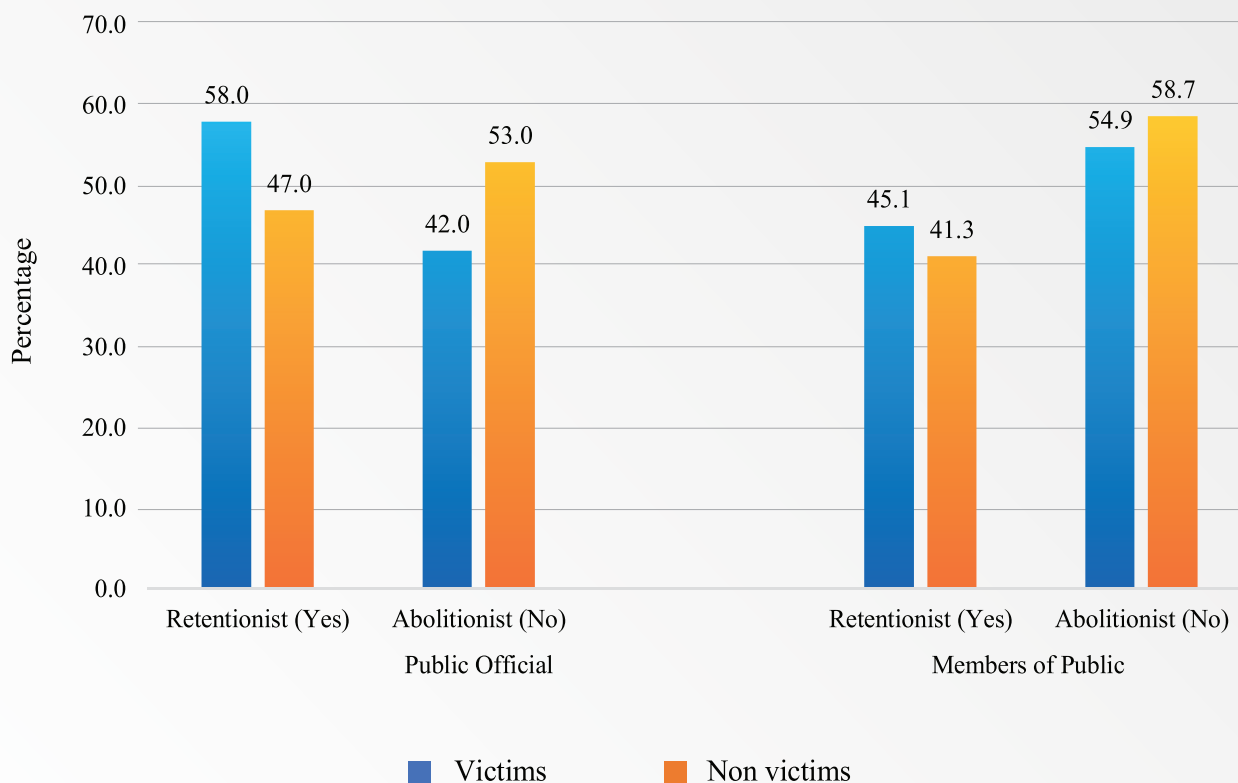
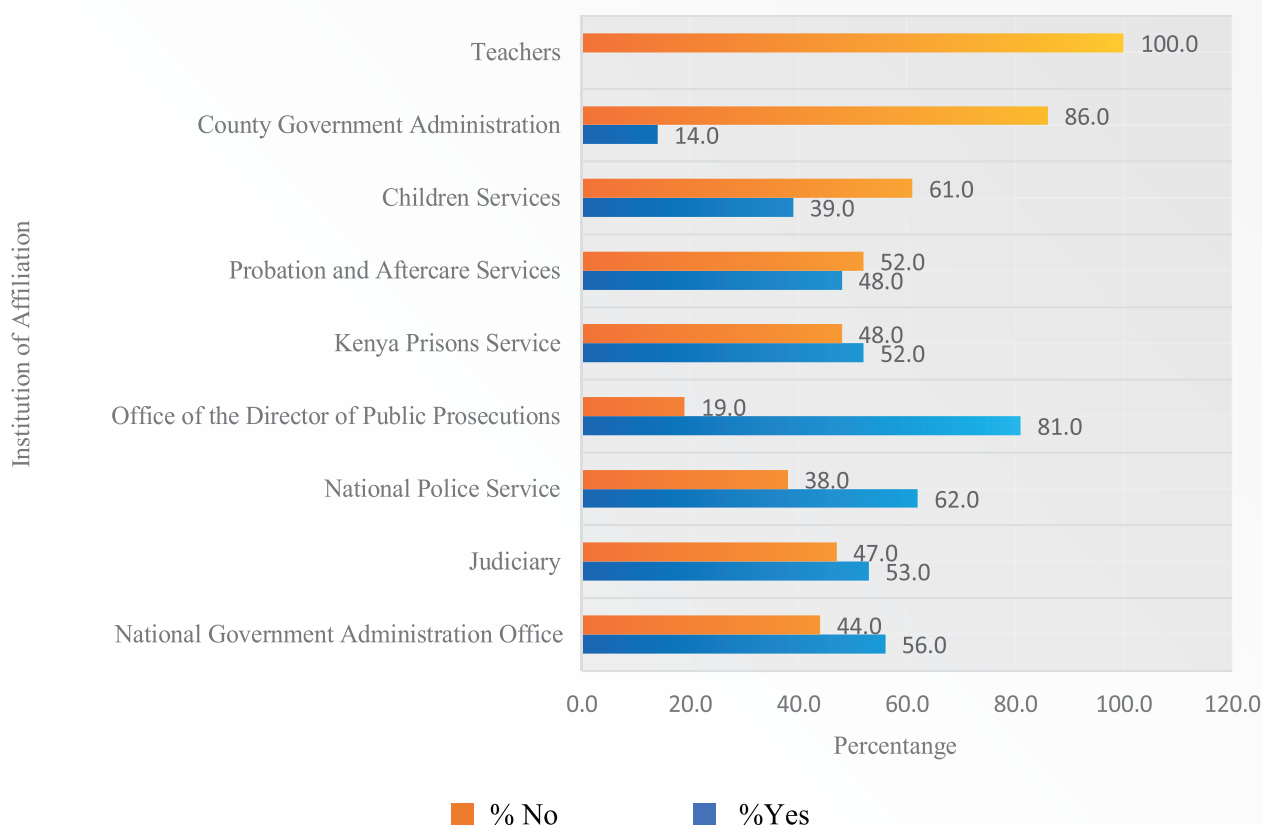


Figure 18: *Institutional Affiliation and Public Officials on Whether Capital Offences Should Attract Death Sentence*



### *Factors Contributing to Offenders Committing Capital Offences in Kenya*

Factors contributing to offenders committing capital offences were found to be: poverty and high cost of living (reported by 42.7% of public officials and 38.1% of public); drug abuse and alcoholism (reported by 28.6% of public officials and 27.5% of members of public);

#### **POVERTY AND HIGH COST OF LIVING**

**42.7%**  
*of public officials*

**38.1%**  
*of public*

#### **DRUG ABUSE AND ALCOHOLISM**

**28.6%**  
*of public officials*

**27.5%**  
*of public*

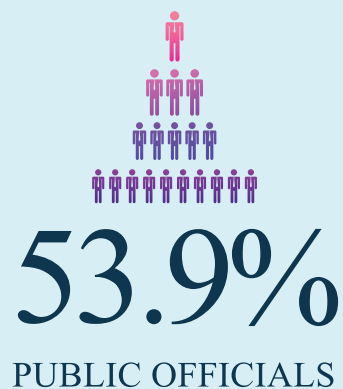
*Unemployment, greed and lust, mental illness and depression, political influence and incitement, religion, cults and radicalization, tribal animosity and tribalism were also mentioned as root causes of capital offences in Kenya.*

## Public Perception on Retention or Abolition of Capital Offences & Punishment in Kenya

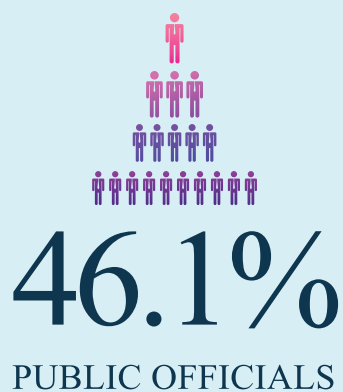
*This study sought to establish public perceptions on retention or abolition of capital offences*

The findings established that 53.9% of public officials and 43.1% of members of the public were in support of retaining the death sentence.

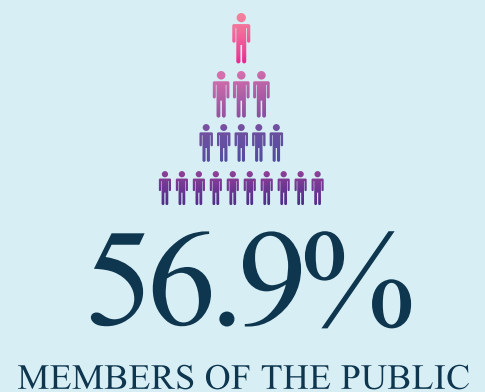
On the other hand, 56.9% of members of the public were in favour of abolishing death penalty while 46.1% of public officials favoured abolition of the death penalty.



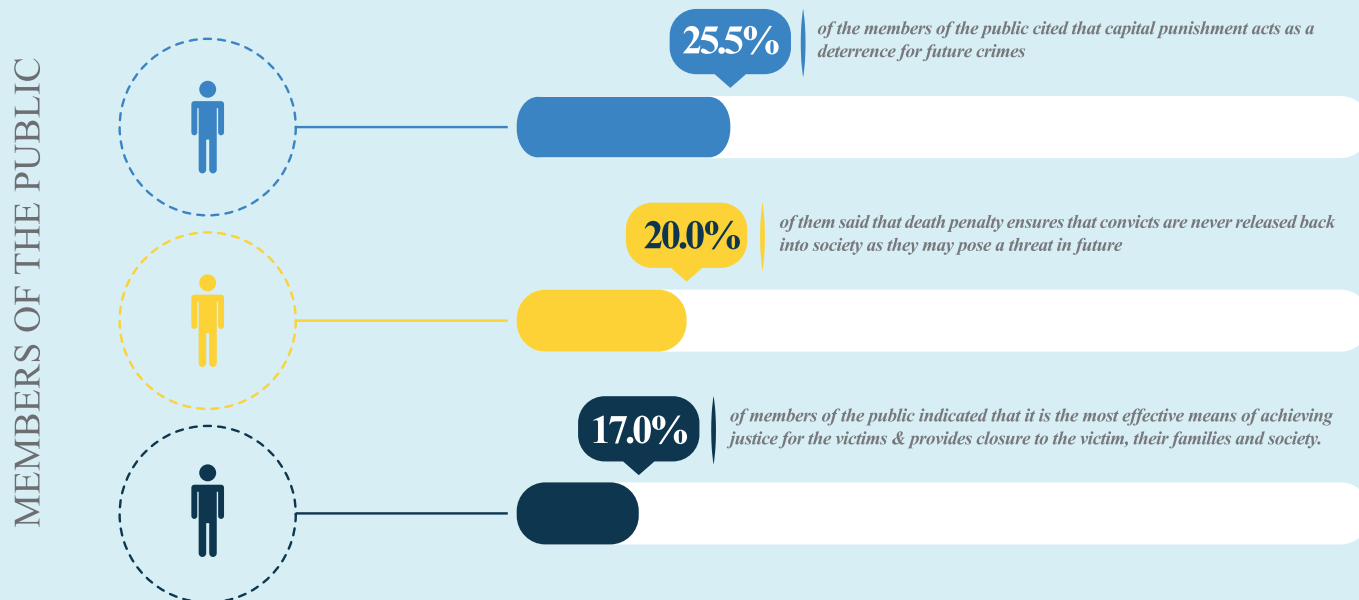
Were in  
support of  
retaining the  
death  
sentence



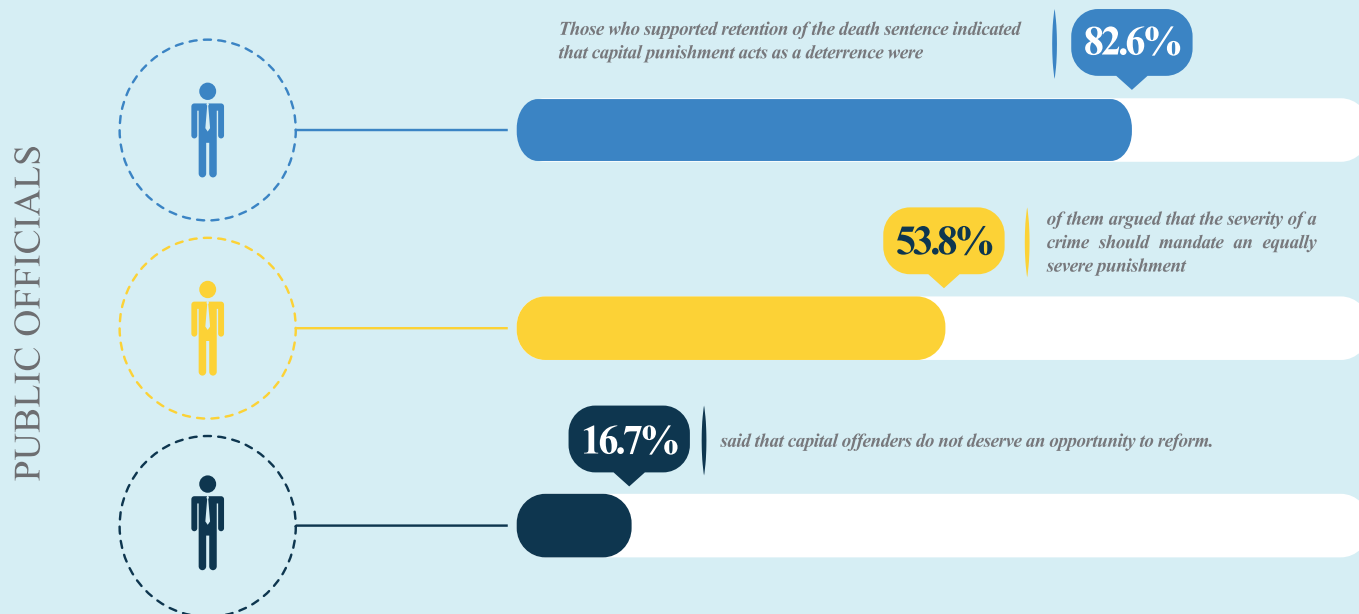
favoured  
abolition of  
the death  
penalty



On this, 25.5% of the members of the public cited that capital punishment acts as a deterrence for future crimes, 20.0% of them said that death penalty ensures that convicts are never released back into society as they may pose a threat in future, 17.0% of members of the public indicated that it is the most effective means of achieving justice for the victims and provides closure to the victim, their families and society.



Public officials 82.6% who supported retention of the death sentence indicated that capital punishment acts as a deterrence, 53.8% of them argued that the severity of a crime should mandate an equally severe punishment and 16.7% said that capital offenders do not deserve an opportunity to reform.



*Other reasons included the assertion that death penalty reduces the chances of convicts escaping from prison.*

The study also sought to know from the respondents who were in support for retention of death sentence if there are other crimes that should be punished by death.

It was found out that, 59.0% of the respondents believed that there were other offences that should be punishable by death. On the other hand, 41.0% of the respondents opposed the idea of having other offences to be included in the death penalty sentencing.

From the study findings, majority (54.6%) of the members of the public said that rape, defilement (41.0%), terrorism (8.9%) and economic crimes and corruption (8.6%) should be punishable by death.

However, 58.1% of public officials believed that defilement is the most serious offence that should be punished by death, followed by rape (31.4%) terrorism (12.8%) and economic crimes (8.1%). Other offences, mentioned minimally (3.0%) by the respondents to attract the death penalty included abortion, unnatural sex acts, drug trafficking, cattle rustling, kidnapping, incitement, possession of illegal firearms, child abuse and human trafficking.

In regard to the opinions of respondents on appropriate alternative sentences for offences currently punishable by death, 68.4% of members of the public and 70.0% of public officials were of the view that life imprisonment would be a suitable alternative.

Also, 14.0% of public officials and 9.0% of members of the public favored long term imprisonment (20-50 years) as would be appropriate. Other alternatives indicated (at very low rates) as suitable included

rehabilitation and when ready be re-integrated back to the community; short term prison sentence (10-15 years)

which includes imprisonment with hard labour that is beneficial to the state would be the best alternative sentence; corporal punishment use of traditional community based sentences and use of fines.

On the period of life imprisonment, the respondents' opinions were sought on whether life sentence should be with or without limit. From the findings of the study, 51.1% of members of the public were in favour of life imprisonment without limit while 48.1% recommended alternative duration for life sentences. On the same, 43.9% of public officials supported life sentence without limits, but 56.1% were in support of life sentence with limit.

For life sentence with limit, majority of members of public (33.2%) were in favour of recommended duration of 21-30 years, while their public official counterparts (26.5%) favoured life with option of condition of parole after 10-25 years. Also, 24.6% of members of the public and 9.7% of public officials favoured a sentence of less than 21 years.

Other recommended durations for life imprisonment were a sentence of between 31-40 years supported by 11.8% of members of the public and 9.0% of public officials; 7.2% of members of the public and 8.3% of public officials were for a sentence of 41-50 years; a sentence of 51-70 years was supported by 6.3% of members of the public and 9.0% public officials; 5.4% of members of public and 2.1% public officials indicated a sentence of 71-100 years among others.

### *Recommended Victims Support Service in Kenya*

From the findings, 41.0% of members of the public and 75.6% of public officials recommended economic empowerment such as financial compensation and employment for victims. Members of the public (17.5%) and public officials (55.6%) as well indicated need for guidance and counseling for victims.

Other views were that victims should be offered free medical attention (8.8% reported by members of the public and 18.8% reported by public officials); victims should be provided with security and witness protection (7.8% of members of the public and 21.8% of public officials); victims should be given justice and a fair hearing (8.0% of members of the public and 11.5% of public officials); provision of legal assistance (18.8% of public officials and 5.0% of members of the public); provision for free education; facilitation of reconciliation between victims, offenders and their families; relocation of offenders to reduce cases of trauma and revenge against the victim; more awareness and sensitization on the plight of victims; religious and community support for victims and establishment of rescue centres and homes for victims were more recommendations given though at lower percentage rating *as provided in Table 3.21*.



**National Crime Research Centre**

ACK Gardens Annex, Ground Floor  
1st Ngong Avenue, off Bishop Road  
P.O. Box 21180-00100 Nairobi, Kenya



**Tel: +254 (02) 2714735/ +254 722 980 102**

**Email: [director@crimeresearch.go.ke](mailto:director@crimeresearch.go.ke) | Website: [www.crimeresearch.go.ke](http://www.crimeresearch.go.ke)**