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**Criminal Fraud: An investigation into the manipulation of trust and
confidence**

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by

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Introduction

Economic crime has come to be regarded as a high-reward and comparatively low-risk criminal activity. The phenomenal profits that can be generated from economic crime and the rather unlikely possibility of effective law enforcement action, renders such activity highly profitable, to those with a less than a whole-hearted commitment to the values which we normally extol in society (Rider, 1990).

Obtaining by false pretences as a type of economic crime is relatively unique in terms of its modus operandi, its perpetrators, its victims, its extent, and its impact. This fraud has consequences for the victims such as emotional and financial loss. It also affects society at large with regard to breakdown of trust in business and other forms of human relations including various costs to the law enforcement agencies involved in the investigation and prosecution of offenders. In certain countries, it is known to have stalled projects for the benefit of the populace.

In the course of business and other forms of human endeavour, different types of fraud have emerged. This thesis attempts to understand a particular type of economic crime/fraud that involves obtaining money, goods or/and services upfront, by false pretences. A relatively common pattern of this type of fraud is known as Advance Fee Fraud. Here, the fraudster convinces the victim to make financial commitments ahead of a given transaction, investment, service or business. It is not intended for the business to materialise. Thus the victim loses his or her deposit. One of the aims of this thesis is to examine why individuals part with their resources voluntarily.

The researcher's interest in this pattern of fraud emanates from several factors which include the fact that it is an area under-researched and under-emphasised by institutions and organisations including the government responsible for policy and its control. Beck and Willis (1995: 6) note that "there is an unfortunate tendency for criminology as a discipline to ignore collective criminal victimisation in favour of studying crimes against the person and his or her property. Only a modest proportion of its literature involves the study of business related and financial offences such as fraud". Generally, the focus of attention is more on the individual victim and his or her property than on the contexts of their victimisation (Beck and Willis, 1995). With regard to economic or 'white-collar' crime, it can be argued that at present, more

attention is directed at frauds that involve billions or millions of pounds either in anticipation of its occurrence or after the offence has been committed. These frauds include grand corruption, money laundering, banking and insurance, and corporate frauds to mention a few.

In this thesis, it is argued that 'smaller' frauds are equally important. The loss per victim may be small, but when taken together can be enormous. This is supported by Levi's (1999) remarks that in Britain, Fraud Squad officers are tied up in dealing with major international frauds and other 'high profile' offences. Thus, there are few resources left to deal with the frauds under £2 million which either individually or collectively may cost businesspeople, consumers, or taxpayers a great deal more, financially or emotionally. Likewise, he notes that only a tiny number of persons are prosecuted annually for tax evasion or for other corporate offences.

In addition to the government's concern for the more 'important' types of economic crime, other probable reasons for the low-keyed approach to this problem has to do with the difficulties associated with its research. The cost of criminalising fraudulent activities otherwise dealt with by Trading Standards and other regulatory bodies is also contributory. Traditional law enforcement agencies, for a variety of reasons associated with resources, perceptions, priorities and jurisdiction tend to focus on the more manifest aspects of criminal conduct (Rider, 1999b). More so, research has shown that fraud victims rarely report their ordeal officially, either because they are ashamed to show how gullible they were, or because their actions may also be viewed as fraudulent. This pattern of behaviour affects proactive prevention and policing strategies.

Further, because most scams are ongoing and the fraudster is always adopting new methods to cope with change, it would be ambitious to expect those caught to divulge all information. The major way of getting to understand frauds of this nature is from the narration of victims that are willing to do so. Very few researchers have succeeded in getting complete access to all the major "players". Worthy of mention is Levi's (1981) study of long-firm fraud - a pattern of advance fee fraud.

It is known that the consequences of fraud and its impact can be grave. Large-scale frauds disrupt the social, economic and political systems of countries associated with the activities. This is especially the case since frauds such as Advance Fee Fraud, associated with the outright abuse of trust, diminish business values and the integrity of countries and citizens in general. The National Crime Intelligence Service (NCIS) has regularly reiterated the seriousness of fraud especially advance fee fraud. In their 1997 *Annual Report*, the cost of fraud was put at about £3.5 billion a year in the UK. The fraudsters were said to concentrate on con-tricks and benefit fraud, drug trafficking - mainly cocaine, and illegal immigration.

The *NCIS Annual Report 1999/2000* listed or categorised certain criminal activities as high impact. These include benefit fraud, business fraud, drug trafficking, intellectual property fraud and revenue fraud. The Director General of NCIS noted that “the activities of organised crime threaten the economic fabric of this country”. In a recent NCIS (10/07/01) Press Release, Advance Fee Scams were described as one of the most profitable areas of organised crime. The press release notes that potential loss from all areas in the UK is estimated at £150 million per annum over the last three years. This figure is based on analysis of samples of fraudulent letters in early 2000. In total, over three years, 1,435,000 Advance Fee Fraud letters were removed. The Metropolitan and City of London areas received 5.4% of the letters (78,029 over 3 years). Based on the average loss of £31,000, the London area would stand to lose £24 million from these letters over three years. In sum, the press release also states that potential regional losses prevented by NCIS and its partners in the last three years include Scotland (£63 million), Northumbria (£6.8 million), West Midlands (£27.2 million), South Yorkshire (£15.5 million) and Greater Manchester (£1.5 million).

According to The Law Commission’s consultation paper on Fraud and Deception (1999, No.155), the Association for Payment Clearing Services revealed that in 1997 fraud involving the abuse of payments with plastic cards reached £122million in the UK. The Benefit Agency also suffered an estimated level of fraud of £1.4 billion for income support. In the spring of 1998, fraud emanating from fraudulent prescriptions was estimated to be within the range of £70 million and £100 million a year. In the insurance industry, bogus claims were costing the British motor sector £30 million a year. This consultation paper also states that estimates by the Institute of Chartered

Accountants for 1992 put losses from reported frauds at £8,5000 million, compared to £500 million or under for reported burglaries, £560 million for retail crime and £700 million for vehicle crime.

Finally, the Director of the Serious Fraud Office (SFO) (2000) stated that the Association of British Insurers put the cost of crime in the United Kingdom (UK) as a whole at £35 billion per annum of which at least a third is fraud. Other estimates range between a low of £6.7 billion and a high of £13.8 billion. These are figures that concern economic costs of fraud to the UK economy where information is available. She adds that because these compilations are prone to error, as such, they do not reflect the true picture. Other reasons for this include that they do not take into account undetected fraud; and are not representative of all geographical areas in the UK especially where figures are not available. The Director observed that fraud is commonly said to cost the UK public annually seventeen times the amount lost through burglaries. Its impact is felt directly by victims of fraud and indirectly by all citizens through the increased cost on goods and services which banks, insurance companies and other services are known to provide.

It is important to note that all these figures are not precise because it is not possible to have exact figures when analysing fraud committed, money at risk, and recoveries. From the above, we can have an idea of the extent of the problem. We can be assured that though the types of frauds are concerned are not strictly itemised because in reality they do overlap. Figures from investigated or partially investigated and prosecuted cases of obtaining money; goods; and services by false pretences are capable of giving an idea of the extent of the problem.

For instance, a pyramid or get-rich-quick scheme is said to have cost over a billion from about thousands of women who paid £3,000 each in advance for a high return on investment - the scheme has not been completely stopped. A timeshare racket is known to have swindled about £30 million from about 17,000 holidaymakers between 1990 and 1997 (the trial was said to have cost the taxpayer about £10 million) – victims deposited money for properties in holiday resorts. In another scam involving the shipment of sugar cost a bank over £1 million in 1990 - con men operating from a bogus bank in Torquay succeeded in getting about £7 million from victims. The

Belling Company' fraud, payments in advance cost the company and pensioners about £2.3 million in total, with other victims, about £12 million was lost. The two 'Ostrich Breeding Scams' uncovered recently in the UK cost victims about £23 million. The list is endless, and there are other 'smaller' frauds per victim that have not been aggregated. The impact of these frauds on the victims and society at large cannot be overemphasised.

The central theme of this thesis concerns the dynamics of the nature of trust. The abuse of trust vis-à-vis the presence/exploitation of legitimate 'risks' are important prerequisites for most scams. The resultant confidence trust creates is principally what encourages the victim to voluntarily part with cash for goods, services or any other business or personal arrangement yet to be received or physically fulfilled. In this regard, irrespective of preventive strategies and sanctions already in place, the voluntary action of the victim and the non-violent approach of the fraudster in most cases, mitigate against the zeal in which victims and regulators pursue the offenders. It is therefore important to understand the processes involved that induce people to part with their cash and assets voluntarily. In the course of this thesis, the researcher has arrived at a possible typology that explains this phenomenon (a).

Thus, the objectives of this thesis include:

- To draw more attention to criminal fraud involving the obtaining of money, goods and services by false pretences, or to the significance of 'small' frauds (per victim), and to highlight the victim's circumstances in scams and criminal justice.
- To offer plausible theoretical explanations, and to contribute to the literature and understanding of the use of advance fees, upfront payments in cash or kind in fraud internationally and locally from theoretical perspectives.
- To examine the dynamics involved in the use of trust/deceit, confidence and risks in obtaining benefits by false pretences. The processes and structures that facilitate the use of this approach are examined. This would involve an analysis of the nature, trend and pattern of frauds of this nature. Making use of examples from the UK and other countries, previous research, reports of cases, court records and

interviews to deduce traits that are peculiar to scams involving the manipulation of trust.

- Finally, to draw attention to possible policy implications with regard to preventive strategies, taking into consideration the victim, the law and the fraudster.

This thesis argues that the solutions to fraud are better examined and arrived at via the social, economic and political economy of systems concerned. The characteristics of the fraudsters especially with regard to their rationality and economic motive of their crimes makes certain criminal justice approaches ineffective. For the researcher, trust is necessary and inevitable in everyday life and in all areas of human endeavour, especially in business activities. The ‘con man’ or fraudster exploits this situation. In the course of most scams, trust/confidence is created - what encourages the victim and would-be victims to hand over valuables (cash, goods or services) voluntarily in anticipation of obligations that do not materialise. Therefore, it is important for certain structures and conditions to exist in our society that are concerned with educating members of the public, changing attitudes of would-be victims and fraudsters (if possible), increasing the risks of offending/apprehension, and the certainty of sanctions. Punitive measures should include shaming and ensuring that the fraudster is permanently deprived of the proceeds of fraud. In sum, the prevention of all types of fraud should involve the processes of minimising risk to victims and maximising the risk to offenders.

It is important to note that in the course of this research, the intended empirical data could not be accessed to the extent anticipated by the researcher (Chapter 6.2). This led to a stronger emphasis on theoretical analogies (Chapters 4 and 5) and the use of available data from the public domain, in addition to in-depth interviews (Chapters 6.2.1 and 6.3) in establishing an argument.

This thesis is divided into seven chapters. Chapter One is the introduction, and it includes the definition(s) of fraud – obtaining by false pretences. Relevant concepts of fraud and deception are also examined. Brief descriptions of certain types or forms of other frauds with some examples are also presented. The definitions of other frauds or types of deception reveal the peculiar nature and characteristics of upfront payments

and fraud as a form of economic crime. In other to throw some lights on trends, the practice of certain schemes or scams are looked at from a historical perspective.

In Chapter Two, issues discussed include the importance and extent of fraud. The UK official statistics on fraud are examined. Problems associated with crime statistics with reference to fraud especially those involving upfront payments or advance fees are highlighted. The recent *Police Fraud Survey* (Flanary, 2000) on fraud, which breaks down the offence of fraud into various types, is also examined. Other issues from the fraud survey regarding investigation, costing and prevention are enumerated in relevant areas of this thesis. Also examined in this chapter is in the impact of the offence of fraud using Nigeria as a case study. The role of particular fraudsters from Nigeria has attracted a lot of government and media attention over the years. Thus some of the consequences of this are highlighted.

Chapter Three looks at fraud and the Criminal Justice Process (CJP). Issues discussed include the investigation, prosecution, the role of the jury in fraud trials, and the sentencing of offenders. The offence of fraud is also compared with that of burglary in this regard. Burglary was selected because it is one of the most common types of property crime or theft, which is perceived as serious by the authorities and the public. Its modus operandi is different to that of fraud but the objective is the same - to obtain property from victims.

Chapters Four and Five are the theory sections of this thesis. From a broad perspective, the theories have been categorised into criminological explanations and those associated with the execution of fraud or the manipulation of trust – deceit or deception, lies, and confidence. Given that the explanation for fraud is multidimensional as with explanations for crime in general, related or closely associated theories/explanations are used for this purpose. Chapter Four is concerned with the criminological/causal explanations for fraud, while Chapter Five deals with deceit and trust. The nature of ‘risks’, its implications for deceit and trust are also analysed in Chapter Five. This is in addition to the significance and role of trust, confidence and other forms of deceit such as lies, which are explored. This would enable us understand why and how fraudsters are able to collect cash or money upfront for services and goods that the victim never receives or receives but not in the

condition or quality promised. The victim/trust/fraudster relationship is what lubricates or takes the scam to a conclusion.

Understanding criminal fraud involving the use of upfront payments in cash or kind, is the major theme of Chapter Six. Subjects examined include the methodological issues associated with research into economic crimes or fraud. Examples of some criminological research on economic crimes and fraud are also discussed. Difficulties associated with economic crime research are enumerated such as the fact that in most cases, convicted offenders may still have a stake directly or indirectly to the continued perpetration of their activities. Hence their refusal or likely refusal to assist researchers. Included in this chapter is the analysis of the methodology and data adopted in this thesis. The characteristics of victims and fraudsters are also highlighted. In the course of an analytical discussion of the research, a typology of the fraud of obtaining by false pretences has been developed from which the disposition of the victim vis-à-vis the methods used to establish trust are brought to bear. Finally, sentences given to offenders are examined comparatively with that of burglary. This section attempts to address the view that in general, fraudsters receive lighter sentences when the value and impact of their crimes are taken into consideration.

Finally, Chapter Seven is the conclusion of this thesis, where preventive strategies and their policy implications are discussed. As with other forms of crime, the complete elimination of fraud will be difficult if not impossible to achieve. Certain steps can be taken to minimise loss on the part of the victim and the state. This would allow for more resources and time to be spent on other areas of concern to the public. Following the end of this chapter is an Appendix containing the list of sample cases used including references. Some examples of Advance Fee Fraud letters attempting or used to lure 'victims' into financial commitments are also attached in the Appendix.

Chapter One

Fraud: Obtaining money, goods and services by false pretences

Fraud is a generic concept, which covers a wide range of activities, some of which may not be criminal as defined by the law. The usage of the term 'fraud' is associated with illegal actions or practices that are dishonest and deceptive. First, from a broader perspective, Emsley (1987) notes Sharpe's (1984) definition of crime, which is any activity, or action that violates the criminal law, and if detected, would lead to prosecution in a criminal court of law or an accredited law enforcement organ. Fraud definitely falls into this category. For Page (1997), a fraud is committed when a person is intentionally deceitful, by commission or omission, with a view to gain for themselves or another, in connection with: entering into a binding promise, or performing or failing to perform a binding promise. Thus, an examination of the general law on fraud or deception is important, while paying more attention to those closely associated to the offence of obtaining by false pretences.

Certain activities or behaviour regarded as fraudulent are known to differ and change over time and space or geographical areas. For Hills (1971), generally, there are two major perspectives or theories that have attempted to explain the social foundations and functions of criminal law. These are the 'value-consensus' theory and the 'interest-group' theory. In sum, the value-consensus position asserts that criminal laws reflect those societal values, which transcend the immediate, narrow interests of various individuals and groups, expressing the social consciousness of the whole society. The legal norms embodied in the criminal codes emerge through social change in response to the needs and requirements essential for the well-being of the entire society.

The exponents of the 'interest group' approach perceive the criminal law as an expression of social values that serves to meet the needs of the society considered as a whole. Emphasis is on the ability of particular groups to shape the legal system in their favour. The interest group position states that diversity in society (race, religion, class, economic and political interest groups, life styles and value orientations, etc.) has lead to the enactment of general and specific laws on certain behaviours and

activities. Thus, it is possible for strong and powerful interest groups to influence legislation and its application.

In addition to the above, the broad nature of 'fraud' makes it difficult to identify a precise definition. Thus, legal definitions of fraud tend to contain elements of flexibility with regard to activities that are classified as fraudulent. No definition can adequately comprehend fraud and the nature of fraud varies according to the context in which it is used (Leigh, 1982). Similarly, since fraud has no specific definition, the boundaries are always changing (West, 1988). This can be attributed to varying parameters of what is appropriate or inappropriate at any given time and as it concerns the particular society or country. Various actions and activities that are regarded as 'fraudulent' are identified in statutes or laws of a country.

Definitions show that fraud is a word which describes a variety of criminal activities (mainly criminal deception) whereby through lies, deceit, cheating or otherwise, false promises are made and victims suffer some form of loss (for example, loss of money). In Britain the criminal and civil laws both involve offences of fraud. Civil law relates to disputes between individuals, groups or organisations affecting only themselves, whilst criminal law is concerned with acts and omissions affecting the community at large or activities that are harmful physically or otherwise. In most fraud cases, elements of civil law exist and can be pursued, but this usually takes second place to the criminal law issues (West, 1988). Also, the prosecution of offenders against the criminal code is primarily the responsibility of the Crown Prosecution Service in collaboration with the police. In civil law action it is the responsibility of the disputing parties.

In fraud, the concept or term 'upfront' involves the collection of money, goods or the use of services in advance by the offender/fraudster, from the victim who anticipates that an agreed transaction or business will be fulfilled. The broad nature of the concept of fraud covers other benefits such as services by false pretences. For instance, in most jurisdictions, offences can be found under the umbrella of 'obtaining by false pretences'. Some jurisdictions emphasise certain aspects of particular offences or laws.

For example, in Nigeria, the relevant legislation is that of Section 4 (19) of the Nigerian penal code, hence the alias '4-1-9' associated with deceptive schemes and practices known as advance fee fraud. In an attempt to expand its reach and make it more focused, the government at the time put forward the Advance Fee Fraud and Other Related Offences Decree No. 13 (1995) 'AFFAOFRO'. In Section 1 (1) of the decree "...any person who by any false pretence and with intent to defraud obtains from any other person in Nigeria or in any other country, for himself or any other person in Nigeria or any other country, to deliver to any person any property whether or not the property is obtained or its delivery is induced through the medium of a contract induced by false pretence; is guilty of an offence" (Osimiri, 1997: 271). The decree stipulates sanctions of imprisonment of between 5-10 years or more (at the trial judge's discretion) without the option of fine.

In the United Kingdom (UK), of relevance to the statute for fraud is the Theft Act 1968 (sections 15-20) and the Theft Act 1978, which are mainly concerned with obtaining any form of material or financial advantage from a victim through deceitful conducts. This extortion could either be deliberate or due to carelessness, and may also be verbal. In the UK, a Law Commission was established for the purpose of promoting the reform of the law (The Law Commission, 1999) and this paper was part of their work on offences of dishonesty. The detailed examination of the nitty-gritty of the law on fraud and its provisions are outside the scope of this thesis. Some aspects and issues of the Law Commission consultation paper are examined in this section. The legislation on fraud and deception are highlighted hereunder.

First, the basic features of the main offences of fraud were identified as:

- Theft
- Deception offences
- Conspiracy to defraud
- Fraudulent trading and
- Cheating revenue

With regard to theft, under section 1 (1) of the Theft Act 1968 "a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of

permanently depriving the other of it". The Commission states that this definition shows that there are five ingredients of the offence of theft, namely

- (i) an appropriation,
- (ii) of property,
- (iii) belonging to another,
- (iv) which is dishonest,
- (v) with the intention of permanently depriving the other of the property appropriated.

For deceptive offences, the Theft Act creates eight offences of dishonestly getting something by deception, namely:

- (i) obtaining property (Theft Act 1968, s15);
- (ii) obtaining a money transfer (Theft Act 1968, s 15A inserted by the Theft (Amendment) Act 1996 as recommended in Law Commission Report on Money Transfers);
- (iii) obtaining a pecuniary advantage (Theft Act 1968, s 16);
- (iv) procuring the execution of a valuable security (Theft Act 1968, s 20(2);
- (v) obtaining services (Theft Act 1978, s 1);
- (vi) securing the remission of a liability (Theft Act 1978, s 2(1) (a);
- (vii) inducing a creditor to wait for or to forgo payment (Theft Act 1978, s 2(1) (b);
and
- (viii) obtaining an exemption from, or an abatement of, a liability (Theft Act 1978, s 2(1) (c).

The three elements common to all the offences above are 'deception', benefit being obtained by 'deception', and the deception being 'dishonest'. Deception is defined as "any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person" (Theft Act 1968, s 15(4)). The Law Commission notes that the courts are known to have given generous interpretation to the concept of deception by conduct.

With regard to obtaining property by deception, it was provisionally proposed that for the purpose of obtaining property by deception, it should be sufficient that the person

to whom the property belongs is deprived of it by deception, whether or not anyone else obtains it. Further, the Commission expressed its desire for the greater reliance on prosecutorial discretion. On obtaining services by deception, the Commission concludes that deception should be understood as the inducing of a state of mind by words or conduct, with or without a representation. On obtaining services without deception, it notes that with technological change and development especially as it concerns the Internet, it is now possible to fraudulently obtain services of substantial value without deceiving the human mind. Noting that such a conduct is at present criminal, the following conclusions were made: (1) That it should be criminal to obtain a service without the permission of the person providing it, albeit without the deception of a human mind. But (2) that this change should be effected by extending the offence of theft or creating a separate theft-like offence, rather than by extending the concept of deception (The Law Commission, 1999:122).

To sum up, from all the issues concerning the English law on fraud, deception and obtaining by false pretence among others, the importance of creating or having explicit statutes cannot be over-emphasised. In a good number of cases involving fraud, loopholes are exploited for the benefit of the defendant or prosecutor. Jurors or judges have to grapple with the public's interpretation of a given offence at any given time in history. The problems encountered in the prosecution of fraud cases, role of the jury and their understanding of the system (legal and criminal) are areas that are of concern to the public and criminal justice system. This is discussed later in this thesis. At any rate, in the course of the initial investigation the fraudulent motives of the offender will most likely have been established.

In conclusion, though various jurisdictions have attempted to provide laws targeted at fraudulent activities, it is not possible to itemise all possible areas or circumstances of fraud. Thus, going by the generally accepted modes of conduct as defined by the government, various professional bodies, and the public in general, the use of discretion by the police, prosecutors, judges and the jury are important determinants in the overall conduct of the criminal justice process. It is not uncommon to find conflicts in opinions among various interest groups on what is fraudulent and criminal at the same time. For instance, cases handled by Trading Standards authorities such as

the sale of sub-standard products (depending on the type) attract fines or warnings, but consumers would prefer stiffer penalties and the perpetrators branded as criminals.

1.1 The nature of obtaining by false pretences and upfront payments in cash or kind

An appropriate way of understanding the unique nature of this type of fraud is to examine the offence through the various arenas in which they occur. These areas of their occurrence are what determine the specific or overlapping definitions associated with the particular fraud or scam. This thesis reveals that fraud can be carried out in virtually all spheres of human endeavour. Not all frauds or business crimes involve the use of upfront payments or advance fees. In other words a particular scam or fraudulent activity must involve the collection of fees or deposits which could be in cash or kind for it to fit into the definition of fraud of interest to us in this thesis. Below are some examples of frauds and situations that could turn them into an ‘upfront payment’ type of scam. As indicated earlier, the essence of this is to buttress the broad nature of fraud, and show the unique characteristic(s) of fraud involving the manipulation of trust. Thus, this analogy has been categorised into two broad groups that are not necessarily mutually exclusive:

- Other frauds
- Typical scams involving upfront payments

First, most frauds involve some commercial transaction and reports show that commercial fraud is very broad. Levi (1988) noting the significance of commercial fraud observed that its victims range from the very wealthy to the very poor. Also, commercial frauds include swindles by ‘professional criminals’ against suppliers of goods on credit, banks and credit card companies, mail-order purchasers, and people willing to pay money upfront for a promised job or loan. Business people also swindle consumers and employees.

Hence, a distinction can be made between frauds against individuals and those against businesses. For instance, individual frauds include consumer frauds such as the manipulation of weights for edible items, and frauds involving investments (Levi, 1988). Investment frauds are known to come in different forms. In frauds against businesses, Levi (1981) identified three types of frauds: external frauds - those that originate from outside the business and involve primarily the abuse of credit facilities, for example long-firm fraud. Internal frauds relate to the conversion and diversion of cheques especially via mail transfers by authorised officers in a firm and various forms of fraud involving claims or expenses. Computer frauds can be said to belong to this category. Third is collusive fraud, which involves the collusion between employees or officers of an organisation and persons outside.

1.1.1 Other frauds

Liquidation frauds

Liquidation fraud occurs when companies are dissolved when in debt or in adverse business conditions. This action is fraudulent if the company's indebtedness was deliberately achieved. For example, for this type of fraud to occur, the fraudster needs to establish a legitimate company based on industry standards. The firm is then deliberately mismanaged until it is insolvent. Part of this process involves obtaining loans and credit from financial institutions. It is often difficult to ascertain whether a firm's liquidation is as a result of fraud or genuine failure as staff could collude to achieve this. In a fraudulent set-up, directors would have gradually cleared their personal obligations and probably established another company similar or different from the one undergoing liquidation (West, 1987). The modus operandi of scams involving upfront payments can be applied if the business proprietors encourage investors or, buyers and suppliers to part with deposits or payments for goods or services, which they know, will not be supplied. When enough upfront deposits are collected the fraudsters abscond. In Britain the occurrence of liquidation frauds led to The Insolvency Act of 1985 which was introduced to control the activities of fraudsters. The Act creates some liability on the part of directors and stipulates varying degrees of punishment.

Computer fraud

This involves the use of a computer and its associated facilities or programmes to commit fraud. The crimes usually referred to in this context are fraud by computer forgery, hacking, software and chips piracy, data theft or espionage, and damage to computer programs data or both, particularly by infecting them with viruses or other forms of sabotage (Mulder & Kleve, 1993). Fraudsters find this technology useful because computer discs can store detailed information of contact addresses and events. Also, damaging evidence stored in files can easily be erased or hidden. Bosworth-Davies and Saltmarsh (1995) note that employee incompetence, technical failure and other external causes rather than the activities of the computer fraudster principally cause losses from computer-related frauds. Levi (1988) notes that computer fraud is more feared by management than any other kind of fraud. For Croall (1992), management's fear of computer crime is probably based on the feelings of vulnerability. More over, the financial loss can be staggering as large sums can be moved across boundaries in seconds. Computer/printing technology has also enhanced the art of forgeries and various forms of impersonation emanating from it. Computer fraud using advance fees would involve the collection of payments upfront for computers or related equipment, which are eventually not supplied or delivered by the vendor or fraudster.

Cyberfraud

The expanded use of computing technology has developed into what is commonly referred to as Cybercrime and general Internet Crime. Various forms of fraud such as deceptive advertising, unauthorised credit card transactions, copyright violations etc occur in this environment. For Rider (2001) cyberspace is simply a concept encompassing exciting but essentially conventional mechanisms for communication, relay and retention of information. Rider also notes that Internet provides opportunities for advance fee fraudsters who can offer victims all over the world different deals. In certain scams, the fraudsters utilising traditional mail as the medium for communication obtains genuine letterheads, which could be used for 'flash' purposes. The use of the Internet (e-mails) helps to eliminate this 'burden'. Finally, the anonymity through this form of technology is important for the fraudster.

The fraudster can assume different names and identities. Unlike the telephone, voice identification or recording cannot be done.

Social security fraud

This involves the claiming of unemployment benefits by the employed (Bose & Gunn, 1989), or falsely collecting disability allowance when healthy. In one example, a woman claimed housing benefit for her council flat which she was sub-letting while living comfortably in another part of London (Johnson, 1995). In the UK the Government admitted that there are 81 million National Insurance (NI) numbers (identity required for cheat the Department of Social Security) in circulation, against a population of only 60 million. This perhaps gives a picture of the extent of the problem (*The Sunday Telegraph* 25/02/01: 5).

Credit card fraud

Credit card fraud describes a wide assortment of plastic cards (and non-plastic coupons) that are used to obtain credit, money, goods and services, either upon the direct presentation of the card or through an automated teller machine. Credit card fraud includes all fraudulent type of offences involving the use and/or theft of credit cards (Janhevich, 1998). In the *Guardian* of 23/09/00 it was reported that in the UK, figures from the Association for Payment Clearing Services (APACS) showed that credit and debit card fraud reached a total of £226 million by May in 2000. This had increased by 53% from the previous year. The major growth area was in counterfeit cards, fraud on mail order, telephone or Internet transactions where the card is not physically presented to the retailer. Another aspect of the fraud involves the counterfeit method called 'skimming' whereby genuine data from the magnetic strip on a card are copied to another card. This scam can occur where corrupt employees who have access to customer cards and information collude with organised criminals. In line with the credit system of consumption, goods and services are utilised upfront or in advance of any payment that will not be made. Because penalties for card crimes are substantially lower than for instance drug related crimes, this enhances their attractiveness to the would-be fraudster. A system already in place in The United States, Canada and France requires consumers to type in their special four-digit

personal pin numbers into keypads at the point of sale instead of or as well as signing a receipt.

Insurance fraud

Insurance fraud includes a wide range of activities such as the presentation of bogus claims, exaggeration of genuine claims, and making false statements in application forms (Janhevich, 1998). Clarke (1990) notes that insurance contracts are written on terms of 'the utmost good faith'. Both parties are expected to make known all circumstances and elements of risks involved. For Clarke, this element of good faith also gives rise to fraud. Gabor (1994) observed that some members of the public take advantage of their misfortune to defraud insurance companies. In life insurance scam cases the insured suddenly or mysteriously 'disappears', thus, allowing for the policy beneficiaries to collect the claims. In the first place, large insurance policies are acquired; the fraudster would have prepared his 'death' in advance for example leaving clothes in strategic locations. Dependent relatives are usually involved in the scam, as they have to collect the payment from the insurance company. If successful, the 'dead' person is informed and in some cases both parties 'vanish', relocate to a different country with new identities (West, 1987). Upfront deposits/scams involving insurance activities would involve the collection of payments in advance for non-existent policies by the fraudster.

Insider dealing fraud

Insider dealing frauds concerns the release and use of privileged information in the securities market to gain undue advantage over others and to enrich the perpetrator. It can also be described as involving the deliberate exploitation of information by dealing in securities, or other property, to which the information relates, having obtained that information by virtue of some privileged relationship position (Rider and Ashe, 1993). Reuvid (1995) notes that share prices have a tendency to rise on demand or public bid. An investor with the knowledge that a bid is about to be made for a particular stock or that substantial dividend will be declared will simply go on a mopping up spree. Thus huge profits are made within a short period when the shares are re-sold. According to Rider and Ashe, traditionally, insider abuse has involved

people who have some connection with the management of companies. This connection could be on personal or professional basis. They also note that one of the most difficult issues in the insider dealing law is the nature of inside information that makes it an offence. In this case the crime or fraud is against the market, and the victims are members of the public and business community that are made to compete from a disadvantaged position.

To sum up, a common pattern of fraud involves the use of false identities. Identity theft and fraud is a popular method used to obtain money goods and services by false pretences. Here, the fraudster can comfortably exploit the lack of physical contact. For instance, credit card transactions can be carried out without being physically present. Certain personal data such as Social Security number, bank and credit card details, telephone calling card number and other valuable identifying data can be used, if they fall into the hands of a 'con man' or 'confidence trickster'. Fraudsters could obtain people's personal data in public places. For example, by engaging in shoulder surfing, watching someone punch in his or her telephone calling card number or credit card number, or listen in on conversations. They could also go through garbage cans or trash bin to obtain copies of cheques, credit card or bank statements (dumpster diving). Recently, the Internet has become an appealing place for criminals to obtain identifying data, such as passwords or even banking information. This could happen when people respond to unsolicited e-mail that promises them some benefit but requests identifying data.

1.1.2 Typical scams involving upfront payments

Loan frauds

This often involve people and businesses seeking loans from banks, credit unions, and other financial institutions, but have bad credit or credit problems. They are the likely victims of this scam (advance fee loans). Legitimate credit agencies are reluctant to guarantee loans for those with bad credit histories, but illicit advance fee loan companies will either promise or strongly suggest that the loan will be provided in exchange for an up front fee. The client is told that the deposit will enable them have

an edge over other candidates. Having collected fees upfront, the fraudster eventually rejects the loan applications on frivolous grounds. In reality, there was no money to lend in the first place. Fraudsters also register their outfits in Chambers of Commerce where membership is based solely on payment of a fee. This adds some element of credibility, trust and confidence to the unsuspecting victim. Physical contact is not necessary as forms can be completed via the Internet or sent by post.

Long-firm fraud

In this scam, fraudsters engage in business transactions often with foreign partners, at first honouring their obligations (e.g. settlement of credits) and securing the trust of their partners, until they are able to obtain goods on credit. At this stage or when the maximum credit obtainable is achieved, the fraudster quickly disposes the goods locally and 'disappears' with the proceeds or 'liquidates' his business. Physical contact is avoided in view of possible prosecution/identification. Generally, the goods are ordered from distant companies to guard against unexpected visits from the suppliers. It is common practice for large businesses to engage in trade based on credit to secure sustained patronage. Unknown to the exporter this creates opportunities for long-firm fraud (West, 1987). In this fraud, capital and a legitimate company are required to make initial purchases. A physical building, working staff, furnished office, a warehouse and other necessary documentation including letterheads are also used.

Levi (1981) notes that most long-firm frauds occur in the more plain or ordinary areas such as toiletries, fancy goods, canned foodstuffs and durable consumer products. These commodities are preferred because they are easy to dispose and are not generally marked for tracing purposes. Also long-firm frauds or 'business' are carried out jointly with legitimate business activity. In this case, the scam or fraud relates to the goods that are traded or given to the fraudster upfront, in anticipation of the payment. Levi carried out one of the earliest detailed studies of long-firm fraud in which he identified three principal sub-types. These are the:

- pre-planned frauds, which involve businesses set up with the intention from the very beginning to defraud suppliers;

- intermediate frauds, which occur when people decide to turn a formerly legitimate business into one which defrauds suppliers; and
- slippery-slope frauds, which occur when businessmen continue to trade and obtain goods on credit although there is a high risk that unless their business situation improves greatly, they will be unable to pay for the goods (Levi, 1981).

Pyramid scams

In the Pyramid Scam or 'Ponzi' (named after the 'inventor' Charles Ponzi) scheme, it operates on the basis of 'robbing Peter to pay Paul' (Reuvid, 1995). Other related names or variations of this fraud are the 'get rich quick' scheme and 'chain-letters'. In this scam, the early investors are paid their promised profit from the deposits of the new investors. The duration of the deceit depends on the number of new entrants. When the operators can no longer meet their obligations or when they feel they have collected enough money they simply take to their heels.

Telemarketing Fraud

Telemarketing Fraud or the use of telephones for fraud has become notorious in recent years. Telemarketing fraud involves the professional and planned use of telephones to advertise, sell products and services and other 'business' transactions. According to the Federal Bureau of Investigation (1994), businesses have become more efficient with boundaries no longer limited. The use of telecommunication is the major medium of transaction for the credit card industry. Certain telemarketing schemes are organised to defraud consumers through misrepresentations, thereby making the victim make financial payments or commitment over the telephone (Janhevich, 1998). Victims especially the elderly are often targeted. The voice and mannerism of the caller or fraudster is capable of convincing somebody to send a cheque by post or give details of his or her credit card to the criminal. After the deposit or payment is collected, no further contact is made with the victim. This is a typical example committing fraud without face-to-face or physical contact.

Work-at-home frauds

Newspapers and magazines often carry advertisements reading: Earn hundreds of cash each week at home in your free time. The prospective investor is required to send some deposit usually to a postal box address. Sometimes the victim is never paid for work done. The most common work-at-home schemes include envelope stuffing and product assembly or craftwork. In the envelope scheme, you either receive nothing in return for your money or a notice telling you the only way to earn money at home is by placing an advert like the one you answered and defraud other people with get-rich-quick dreams. In the product assembly or craftwork scheme, the company often charges you for extra costs for supplies, and equipment. For instance after you have performed the work the company rejects them as not meeting their quality standards. In reality, no product ever meets their quality standard because they never intended to pay anyone. At this stage they would have already banked the deposit.

Investment/securities fraud

Trading in worthless securities is obviously profitable for the fraudster. Reuvid (1995) notes that this undermines the very basis of the securities market. Reuvid cites the example of the Wall Street crash in the United States in 1929. About 20 million Americans scrambled for the post-war business boom buy investing in stock. Between 1918 and 1929, \$50 billion worth of new securities were sold to the public. Half of all these were later discovered to be worthless. Today ailing firms are known submit deceptive reports to attract investors. The Internet has also created fraudulent opportunities in this area. An example is the online scam from would-be brokers selling the 'opportunity' to pre-book for Internet Company listings or sale of worthless dot.com shares. The advance fee fraud fraudster can comfortably collect payment upfront for worthless advice, and could miss-represent information to clients thereby making them pay for useless investment deals.

To sum up, all the examples above show that the fraud of obtaining by false pretences involving upfront payments or advance fees occurs in numerous arenas. It is possible for the fraudster to adopt any method of deception or scam to obtain money or service

from victims whether they are individuals or organisations. The list above is far from being exhaustive, as unexplored and existing areas are adopted/adapted and used for scams regularly. With these examples it is possible to have an idea of the dimensions of fraud and invariably the extent to which damage can be inflicted. Victims of all categories (individuals, groups, businesses etc.) are targeted in various settings using varying methods. In scams of this sort, the issue at stake for the fraudster is to provide a convincing story, scheme, project, investment etc, that is sufficient to convince the victim to pay him some money before receiving the service or product in question.

Below is a discussion of early occurrences of scams and its trend over the years.

1.2 Historical and contemporary practice of upfront payments and fraud

The practice of obtaining by false pretences is not new. As the title implies, the fraudster basically sets out to get in his possession property (cash or whatever) belonging to the victim. Services can also be acquired through deceit, thus avoiding payment for what has been utilised. A typical aim of obtaining by false pretences is via the collection of advance fees. We have already seen that this type of fraud appears in different variations and methods. The essence of this review is to buttress our understanding of the importance, nature, pattern and extent of fraud from a historical perspective using some examples.

Historically, central to successful advance fee frauds is the ‘confidence trick’ (the concept ‘confidence’ is discussed in Chapter 5.2.1) exhibited by the fraudster. This encourages the victim to trust the criminal. In the words of Schur, (1958) another term associated with confidence is ‘confidence game’ or ‘con game’ or trick. The term con trick probably originated with the situations in which a swindler would lead his victim into playing in a ‘game of chance’, having carefully eliminated the chance element (Schur, 1958). In a ‘sociological analysis of confidence swindling’, Schur observed that from a sociological view almost all fraud can be seen to involve some confidence trick: a procedure that entails the creation or portrayal through whatever means a relation of confidence, through which a swindle is carried out.

For Schur, all types of con tricks fall into a general pattern described as follows: The swindler or swindlers or 'con mob' selects a person who is thought to be a good 'sucker' or in their language a 'mark'. Rapport is established with the mark to the extent that trust is developed. The swindler discusses a dishonest scheme with the mark disclosing impressive profits to be made. The mark gives the swindler money as an investment in the scheme. The mark then vanishes. The mark does not realise on time that he is the object of the swindle rather than a partner or co-perpetrator of the scam. The con man is usually his own boss even where several swindlers 'gang-up'; and unlike the 'heavy rackets' the swindle involves little or no violence. It is important to mention that, the swindler or fraudster also sells legitimate schemes or ideas to the victim. The goal is to convince the victim to part with money, goods or services in anticipation of some reward (investment wise) or payment for services being obtained.

Tracing the history of English Criminal Law and its administration from 1750 Radzinowicz and Hood (1986) made certain observations. Between 1860 and the First World War, several new crimes were created relating to fraud, embezzlement, larceny, bribery and corruption, the use of explosives, perjury, trade unions, public order, and a wide range of other offences against what was then described as 'good morals'. In one of their observations, they note that with regard to the Victorian era, the nature and extent of crime should be assessed against the ever increasing population, high rate of urbanisation, and its antecedent social inequalities or socio-economic disparities. This is in addition to a visible class of the affluent or wealthy individuals who are seen to be 'having a better life'. Levi (1987) also notes that obtaining of goods and money by false pretences has been prohibited under Anglo-Saxon Common Law and Statute since at least the Middle Ages.

In his study of long-firm fraud, which is a pattern, or method of obtaining goods by false pretence, Levi (1981) identified early literature and occurrences of this practice. Levi was able to trace the term 'long-firm fraud' to a periodical called *The Orchestra* dated 2 January 1869. The article referred to "the doings of the 'long-firm', a body of phantom capitalists who issue large orders to supply an infinite variety of goods". Levi (1981: 12) also mentions that in *The Slang Dictionary* (1874), Hotten defines the long firm as "a gang of swindlers who obtain goods by false pretences. They generally

advertise or answer advertisements”. Levi notes that documentation shows that the term ‘long firm’ has been around since the late 1860s, and adds that at the time, it was defined as a class of individuals rather than as a class of activity. Levi states that the activity of obtaining goods by false pretence can be traced to the time of Henry VIII, during which an Act concerning this practice was passed in 1543.

Levi also identified law cases relating to obtaining by false pretences, one of which was that of *R. v. Hevey, Beatty and McCarthy* (1782), 168 ER 218. In this case the individuals set up two business houses, one of which was a counting house, like what is today known as a discount house or an early form of a bank. The second outfit, their ‘company’, printed 500 bills of exchange. Hevey offered these bills in payment for the goods he purchased, thus suggesting to sellers that they should verify the instrument with ‘their’ counting house. When the sellers or vendors took the bills for verification Beatty (one of the culprits) was seen working as a clerk in the office. Beatty confirms and assures the vendor that the transaction was okay. Eventually, before the bills of exchange matured, they would have absconded. These offenders were convicted after investigations showed that they had obtained reasonable quantities of rum, brandy, watches and other products. Levi notes that more frauds similar to this can be found in the archives.

An indication of the extent of fraud during the 19th century is captured by Levi’s (1981) study in which he cites several examples of early occurrence of long-firm fraud, their distinctive patterns, techniques and organisation from early nineteenth century to the Second World War. One of Levi’s observations is that there is no evidence that suggests that a particular organisational format exists for long-firm frauds. He notes that the statistics do not reflect an accurate picture of the situation. It is likely that many frauds involving false pretence must have gone undetected or unprosecuted. Further, the records showed that most of the cons were short-cons such as a servant collecting goods on ‘behalf’ of his master and having it pawned. Further, before 1850, out of 3,475 cases tried at the Old Bailey during 1836, only two were long firms. After 1850, prosecutions for long firm fraud became more common. For instance, Levi’s study of the transcripts of all cases tried at the Old Bailey between 1850-1872 revealed that 80 people were convicted of involvement in long firm frauds. During this period, 19 people were acquitted. Levi also notes that prosecutors with

regard to the False Pretences Act of 1757 experienced difficulties. All this goes to show that this particular type of offence or fraud is over a century old.

In America, the scam was first recorded around 1820 (Morton, 1992). In a case involving a Spanish prisoner who had \$3million in Latin America, Morton notes that six people were employed full time to write hundreds of letters of offer. Later the Spanish prisoner had become a Mexican one. By 1900, postal authorities had seized over 1,400 letters – most likely a small fraction of the total number of letters sent out. Finally, Morton states this type of scam is operating perfectly well in Britain today, albeit in a slightly different form. Today, businesses receive letters explaining how the writer has come across an unaudited amount of money in the bank or government department where he works. The addressee must send details of his bank accounts so that the money can be transferred. Morton remarks: “who dares say that history does not repeat itself” (Morton, 1992: 115).

In another example which shows certain characteristics of a typical fraudster, Vallance (1955) talks about ‘The Splendid Bankrupt’: This began in the spring of 1896 when a 37 year old man Ernest Terah Hooley arrived in London from the Midlands. It was said that Hooley had a presence and was a born showman going by his actions. According to his boastful statements, he claimed to have leased an eight-room suite in the Midland Grand Hotel at St. Pancras at £200 a week (the truth was probably £60). From this base, he launched a series of company and investment schemes that he never intended to run. Vallance notes that Hooley was a confidence trickster. His extravagance got his private accounts ‘into the red’. Lloyds bank warned him not to draw any cheques and in June 1898 he filed for bankruptcy. By this time he had promoted companies with capital totalling £18 million. His liabilities were £1,403,000 in claims. His total assets realised after meeting mortgages etc. was about £145,000. According to Vallance, the bankruptcy was also a fraudulent affair as Hooley had previously transferred ownership of his country houses (which he still lived in) to his wife. In sum, in his confession or admission after he filed his petition, he was worth the better part of £200,000 in funds ‘salted away’.

Morton (1992) describes a case from 1905, when a gentleman named Paul Webb, a shopkeeper received several letters from a ‘brother in-law’. The first letter informed

him that if he sent £59 to a Spanish priest he would receive a share of £37,000 deposited in an English bank. The letter said one Louis Ramos was supposed to be serving 16 years in the Military Fortress in Barcelona. While asking for Mr Webb's complete discretion, he went on to describe how he had fallen into this situation. He said he was the private secretary and treasurer to General Martinez Campos in the last Cuban War and, as such was able to maintain his motherless daughter. He deserted after General Weyler who decamped with £37,000 placed in an English bank replaced Campos. Unfortunately, he was recognised, arrested for desertion and jailed for 16 years. The letter stated that there was problem: his luggage which contained a secret drawer with the bank details of his account had been impounded and requires only £59 for its release. Webb went to Scotland Yard and as such narrowly avoided being another victim of a classic instance of the Spanish Prisoner Swindle which operated successfully from 1905 to 1915 in Great Britain and on the continent (Morton, 1992: 112-115).

Police files show that the trick was used in other areas in Britain and that some recipients of these letters either paid up and were ashamed to confess their greed or discarded the correspondence (Morton, 1992). Also, if an initial offer was refused, the motto of the tricksters seemed to be to try again. Morton adds that instances of this scam dates back to the Spanish Armada in 1588. At this time the money was needed as ransom for prisoners captured in the unsuccessful invasion. Other instances include; that of a Belgian, during the First World War, who in the death of his master supposedly fled to Spain with £20,000 of Bank of England notes; and in the 1930's it was Jewish prisoners in Germany who were seeking a way out.

People have always practised fraud for material gain, and early records of the Middle ages tell of coin-clippers, forgers cases of impersonation, false promises made under contract, sale of other people's land, and exploitation of charity through fraudulent begging were among tricks used (Vallance, 1955). A typical example of an advance fee fraud is highlighted by Vallance in the 19th century 'Turf fraud' (whose label in the Rogue's Gallery is 'Benson and the Scotland Yard detectives'). In this fraud, in league with a fraudulent bookmaker by name Kurr, Benson established a bogus French Weekly Journal, *Le Sport*. In its columns, reference was made to a great English racing expert - 'the bookmakers nightmare', Mr. Yonge of Shanklin, Isle of

Wight. Mr. Yonge having 'established' his reputation wrote to various wealthy French people using the addresses picked from provincial directories. Mme Goncourt received one of such letters. She was asked to place a bet with an English bookmaker. The money was to be supplied by Mr. Yonge (who could not otherwise get the true odds). Mme Goncourt would receive a 5% commission for her trouble. She fell for this attractive and seemingly risk-free offer. Mr. Yonge sent the money; the horse won; and the bookmaker (Mr. Yonge under another alias) paid promptly. To perfect this type of advance fee fraud, Mr Yonge, on behalf of Mme Goncourt supposedly used his money for the first bet, which was 'successful'. This now paved the way for Mme Goncourt to pay for more bets up-front. Mme Goncourt added money of her own to the bets she placed for Mr. Yonge in larger and larger amounts. This got up to £10,000 without any success. Eventually, Mme Goncourt's lawyer went to the police and the conspiracy was exposed.

Finally, a discussion about the history of scams will not be complete without mentioning the role of one of the 'masters', Charles Ponzi, an accomplished swindler, reputed as being the originator of the pyramid scheme and other methods of obtaining money by false pretences. Knutson, (1996) has developed a website titled - Charles K. Ponzi. According to Knutson, in the summer of 1920, Charles Ponzi and his Boston-based postal coupon enterprise was the talk of the East Coast. Before his investment scam was exposed Ponzi had collected \$9,500,000 from 10,000 investors by selling promissory notes paying '50% profit in forty-five days'. Ponzi claimed he was giving investors just a portion of the 400% profit he was earning through trade in postal reply coupons. As Ponzi paid the matured notes held by early investors, word of enormous profits spread through the community, whipping greedy and credulous investors into frenzy. Investigations later revealed that there were no coupons or profits. The truth was that earlier notes were paid at maturity from the proceeds of later ones. It was another instance of robbing 'Peter to pay Paul'. The simplicity and grand scale of his scheme linked Ponzi's name with this particular form of fraud. A swindle of this nature, once a 'bubble', is now referred to as a 'Ponzi Scheme'.

Ponzi's operation expanded dramatically. As satisfied investors spread 'the good news', people flocked to his offices. After a few months he was taking in about \$1,000,000 a week. He then expanded to several other cities. Federal, state, and

county officials, suspected Ponzi's business but could not identify concrete evidence of illegality. Apparently, all investors were fully paid promptly. Thus, without any substantial case against Ponzi, the Massachusetts District Attorney began meeting with him to discuss his postal coupon business. Using some combination of intimidation and charm. The attorney convinced Ponzi to quit accepting deposits from new investors until an auditor could verify the soundness of his operation. Despite this development, hundreds of eager investors were turned away with money in their hands. It was estimated that Ponzi had been taking in \$200,000 a day of new investments prior to the halt.

During the run on Ponzi's scheme, he had hot dogs and coffee served to the thousands crowding outside his office to get their money back. Some were so impressed with this gesture that they had a change of heart and went home. He assured nervous investors, claiming that he had \$12 million in assets, \$4 million in America, and \$8 million overseas. Speculators were known to have milled through the crowd purchasing notes from nervous investors at a premium, hoping to redeem them at the full 50% profit when they matured. It is said that Ponzi warned against such predatory practices and repeated his intentions to pay all notes in full. Knutson notes that normally in a scheme of this sort, it is the perpetrator's objective to abscond with the funds as the scheme is at its peak. Though, authorities eventually had Ponzi watched to prevent his premature exit, his failure to flee in late July remains inexplicable. After about three weeks Ponzi ended up in jail. It was said that he was able to project an appearance of respectability right up to the last few days of freedom.

To sum up, historically, fraudsters have been observed to possess certain attributes especially that of confidence. We have already seen some examples above especially that of Ponzi. Discussing the 'craft' of the long-firm fraudster, Levi (1981) emphasises that these skills entail two principal categories. First, to obtain goods on credit and second, to avoid conviction and imprisonment. The highly rated fraudster succeeds on both; the middle-range crook succeeds on the first and fails in the second. The incompetent fraudster fails on both. Further, the concept of 'competence' is put to test by skilful investigators or regulators, as well as co-operative victims. Further, fraudsters employ various strategies to avoid arrest and conviction. This can be

regarded as the ultimate test of the fraudster's skills. Ways of handling this include providing appropriate inducements to front men to deter them from squealing to the police (Levi, 1981). Another approach is to travel to a different continent or country adopting new identities if necessary.

Levi notes that favoured locations include Eire, Canada, Australia, Zimbabwe, and South Africa. Important factors that determine movement include language and extradition laws. Other reasons include police corruption. Complicated transactions could be adopted to make the proof of guilt difficult. Arson, organised robberies, and other forms of planned catastrophe are other relatively common practices. Levi mentions the technique of voluntary liquidation of the business to 'con' or deceive creditors. Since liquidation is an 'accepted' risk or outcome in normal business practice, it is hoped that this will divert attention from the real cause of it.

In conclusion, the discussion so far shows that obtaining by false pretences as a form of fraud has existed over many years. In fact, different varieties have emerged over the years depending on the modus operandi of the fraudsters which is partly dictated by the nature of events (social, economic and political) of society at a given time. The lesson from this is that fraud is an adaptive crime. The disposition of victims is pretty much the same, as fraudsters approach them from different perspectives. 'Proposals' revolve around the offer of 'too good to be true' deals. It might not be out of place to suggest that contemporary fraudsters developed and perfected some of their scams from studying similar events from the archives. Despite the dates of some of the examples highlighted the majority of the public at the time were not aware of the scams. The same situation also applies today.

The next chapter examines the extent of fraud by looking at statistical information. In addition, a case study using a selected country, Nigeria, is also included.

Chapter Two

Extent and significance of the fraud of obtaining by false pretences

Various parts of this thesis draw attention to the significance of fraud from various perspectives. First, from the victim's perspective, the fraud has no limit with numbers (as exemplified by the examples of cases in this thesis) of people that fall prey. All age groups and gender are equally involved. The data supports this. It has been shown that financial fraud is capable of inflicting severe emotional and financial ruin upon individuals within and across national boundaries at the same time. In severe cases, victims part with their life savings and their source of livelihood is lost. As a consequence, the resultant breakdown of trust and confidence in conventional business and human relations cannot be overemphasised. Institutions and businesses are equally affected. Preventive strategies and verification procedures have generally increased the cost of commercial activities. As mentioned in the discussion on trust (Chapter 5), the cost of not trusting is enormous (cost of agreements, legal fees, litigation etc.). The criminal justice system and other regulatory bodies are not left out in this array of consequences. The police in particular have to cope with the cost of local and international investigation of scams and prosecution.

Finally, among others is the impact of frauds on national development. Countries or projects that have been duped have ultimately slowed down developmental activities or have had them grounded. This situation still exists as most firms usually insist on sum mobilisation fees or advance fees in order for them to commence the execution of a contract. On the contractor's part, this is a form of guarantee or security that the whole deal will be honoured. If the contractor is dishonest or is a fraudster, the advance fee is collected and the business abandoned. Fraudulent activities are capable of affecting the image of countries and citizens from countries that have been strongly associated with the activity - the case of Nigeria is an example. The same can be said of drug-related crimes and money laundering. The resultant effect of negative publicity include reduced trust and confidence that subsequently affects developmental investments especially in developing countries that would have helped

to provide basic infrastructure.

The following sections are concerned with issues that throw more light on the significance or importance of fraud with particular attention on scams involving confidence tricks, upfront payments in cash or kind and other forms of obtaining by false pretences. The extent of fraud is examined, drawing from the umbrella of fraud in general. Other issues discussed include the problems of statistical computations using the UK as a case study. The impact fraud or scams is illustrated using a developing country that has been associated with this activity by newspaper and television reports, websites on the Internet and police reports.

2.1 The extent of fraud

The intention of this section is to highlight studies and research into crime especially those associated with fraud/obtaining by false pretences using information and data from some jurisdictions. This is an attempt to identify the differences and similarities that exist (if any) and to show that it is a global activity. It is important to reiterate that specific studies on frauds related to those of interest to this research are highlighted. In most cases studies are based on crime or fraud in general.

The world today is seen and is actually a 'global village'. In the global village, criminal organisations exploit opportunities for cross-border crime, especially those generated by continental trading or trading blocs (Edwards and Gill, 2002, forthcoming). This further compounds the statistical determination of the extent of fraud and crime. Crimes known to the police is the best available index, since it represents crimes 'reported to the police' by citizens or crimes discovered by them and noted in their records (Clinard and Abbot, 1973). The police also hold discretionary powers to arrest or dismiss suspects. A situation that could affect the number of recorded cases. Certain factors influence police decisions. Some of these include the appearance and the social status of the suspect or offender. Clinard and Abbot also note that prison statistics are totally dependent on the form of punishment decided by the court. It has also been observed that some people fail to report crimes

police inefficient. Thus, there is a need to restore police efficiency in order to increase the reportage rate. In the long run, this would make police statistics more reliable (Box, 1983), and would also give us a better idea of the extent of crimes in general and fraud in particular. Problems associated with official statistics are discussed in the next section.

According to Levi, (1987) the 20th century has witnessed increases in the number of recorded fraud and offenders. He notes that certain attributes could account for this trend. These include the fact that there have been actual increases in the amount of law breaking. Second, the growing enthusiasm of state bureaucracies to claim competency at finding 'professional solutions' to crime, and the increased willingness of victims of all social classes to use the police to deal with their conflicts have all contributed to this trend. Levi also notes that different crimes have different reporting and recording rates. The same can also be said about variations of fraud. Frauds resulting in the liquidation of a company, and anomalies by company directors usually feature prominently in official statistics. Levi notes that in assessing these computations one should be aware that varied definitions of 'economic crime' which makes the compilation of the statistics problematic. Further, the dimension of fraud is difficult to quantify especially as it affects social and economic values.

In an attempt to understand the nature and extent of crime, various studies have been carried out. Some research that shed light on problems and conditions that are capable of encouraging fraud are discussed below.

With regard to developing countries, Clinard and Abbot (1973) examined conditions prevalent in developing countries that contribute to the crime problem. First, they note that the pattern of economic growth (e.g. inadequate social and economic amenities) create opportunities for crime (e.g. property offences). Also, corruption in government and business in addition to limited resources to tackle criminological problems compounds the problem. Also, in more traditional communities, except for 'serious' offences such as homicide, criminal offences are rather settled within the community or group without the involvement of law enforcement agents. This may affect the

number of offences known or reported to the police, but at the same time help in reducing the burden for law enforcement agencies.

Examining cross-cultural comparisons of fraud, the practice of 'money doubling' - a type of confidence trick, and which in the long run could result in advance fee or upfront payment fraud, Jahoda (1957) made several observations. He notes that data on confidence tricks in a British city reveal that: the offenders were mostly professional criminals; their mean age was 46 with a range from 32 to 62; the majority of them had a variety of jobs; and most of them only had elementary schooling. With regard to the victims, Jahoda divided them into two categories: the naive and the opportunist. The naive victims consisted of mainly Irish immigrant labourers, who were thrifty (saving money to go back home), and some who carried their savings around with them. When they came across a chance of making quick money they easily fell for the confidence tricksters.

In a typical example, the confidence man pretends he has some 'inside dope' on the outcome of a horse race. Thus a significant contributory factor was the widespread practice of betting, coupled with the idea that certain people have special access to information that can eliminate risk. On the other hand, the 'opportunists' were mainly small shopkeepers, usually foreign nationals who kept large sums of money with them, and were ready to cash in on cheap goods for re-sale. In situations like this the confidence man usually sells non-existent goods to the victim.

In addition, Jahoda examined money doubling in the Gold Coast (now Ghana). The expression 'money doubling' denotes a form of confidence trick (or magical skill for the believer) in which the victim is induced to provide a sum of money for it to be increased by the doubler (Jahoda, 1957). First, Jahoda notes that socially, there was a gradual disintegration of a relatively stable traditional culture (norms, supernatural sanctions etc.). Typically, the chief and the elders occupied the prestige positions, and wealth was relatively of minor importance in determining social status. He notes that various influences altered all this. These include education, the introduction of cocoa as a cash crop, political developments, rural-urban migration, and 'urban' problems

such as prostitution and crime. As a consequence, social status increasingly became dependent upon education and wealth or income, and consumption patterns involving expensive tastes became fashionable.

Using the events of twelve cases between 1951 and the middle of 1955 in Ghana, Jahoda observed that the 'doubblers' were mainly self-employed (e.g. small traders, and lorry owners). They had elementary education or sufficient education to achieve their tricks, but not enough to secure a remunerative position. Most were young men of illiterate parentage, who have drifted into the cities. It was discovered that some of them practised 'herbalism' after dropping out of an 'ordinary' occupation. At the time, the sums involved in the doubling scams ranged from £3 to £1,200. The tricksters or money 'doubblers' to confuse their victims also used technological gadgets (such as machines, and electric toasters - for producing bank notes). This was in addition to magical means 'medicine' and incantations supposedly used. Money was demanded in exchange for the purported money making apparatus, the medicine, and blank currency paper. In some cases it was observed that fraudsters adopted the title of 'professor' to command respect, authority and confidence.

In Jahoda's conclusions and findings based on his comparative study of certain tricksters in Britain and the Gold Coast (Ghana), he states that "the outstanding fact remains that the cultural setting determines to a large extent the type of person who becomes a confidence trickster, those who are liable to become their victims and the kinds of method employed" (1957: 276). In other words the type and modus operandi of fraud used depends on several factors prevalent in the society or community in question - culture, level of education, socio-economic situation and other variables.

Other countries that have encountered advance fee scams include Canada, the United States and Russia. With regard to Canada, as far back as 1970, under the auspices of the Canadian Consumer Council, Frederick H. R. Rowell carried out a study on the deceptive and unethical selling practices in Canada. He notes that it is common knowledge that misleading advertisements is essential in most deceptive selling. A pattern of certain scams involve the 'selling' of products or services in order to obtain

upfront payment for the 'fake' transaction. The essence of Rowell's study was to examine the nature and extent of deceptive selling practices with a view to effecting appropriate legislation. The study included an examination of consumer protection authorities. Among the suggestions and recommendations put forward in Rowell's report (some of which were in legislation already and are covered by relevant statutes) include the use of the complaints box established by the department of corporate affairs from where complaints are promptly channelled to the appropriate agency. The mandatory cooling-off period is also important and consumers should be aware of it. Sufficient time should be given for this purpose.

Rowell also points out the need to rationalise the criminal prosecution of certain violations against the victim. This goes a long way in ensuring that money is refunded or the victim compensated. It was observed that criminal investigations were cumbersome, expensive, burden of proof was high and it was geared towards getting a conviction rather than returning the victim's lost possession. The victim is then forced to seek action in a civil court. The possibility of a 'class action' is also an effective deterrent as the fraudster is compelled to reimburse all other victims affected by his scam. Thus, Rowell notes that the use of criminal statutes to regulate trading offences is singularly inappropriate and consumer protection should not necessarily depend upon the guilty intentions of the seller. Further, non-governmental organisations can also be helpful especially in assisting the consumer. The role of the mass media was highlighted as drawing attention to various fraudulent schemes have put some fraudsters out of business. The threat of publicity has also forced swindlers to compensate their victims. Rowell concluded that there is a need to curtail deceptive practices at its inception rather than wait for the tedious process of legislative reform.

In Russia fraudulent activities are also widespread. According to the *Financial Times* (03/11/95), in an article by John Thornhill, Mr Victor Chernomyrdin, Russia's then prime minister, proposed that assets of fraudulent investment companies should be seized in order to compensate millions of swindled victims. He suggested the setting up of a state compensation fund with formidable powers to identify and seize assets. According to this article, the Federal Securities Commission estimates that 30 million

Russians have lost money in over 800 financial pyramid schemes over the past few years. The schemes typically collected money from shareholders by guaranteeing a constantly rising share price and big dividends. In reality, the schemes could only pay existing shareholders with the money raised from new investors. In one example, a fraudulent scheme that drew millions of investors before it collapsed had a leader described as an 'unrepentant head' Mr Sergei Mavrodi, who was subsequently elected to parliament where he was immune from prosecution. This shows how fraudsters can avoid prosecution in certain jurisdictions.

Further, it was noted that the Russian government's previous reluctance to fight fraudulent investment schemes led to some individuals launching private initiatives to recover lost funds. According to the *Financial Times*, one Mr Konstantin Borovoi, a well-known businessman and leader of a free market political grouping, launched the All-Russia Movement of Depositors to pursue fraudsters in courts. The movement is said to have about 700,000 members. The Russian government has also attempted to establish legitimate savings schemes in an attempt to encourage savings and to boost the economy.

Finally, information from the United States' Federal Bureau of Investigation (FBI) publication on the World Wide Web show how significant this fraud is and the extent of its impact (number of victims and amount involved). Under the 'Most Wanted' section, con men or fraudsters can be identified. In the US, population size, cultural diversity, intense social and economic activities are favourable conditions exploited by fraudsters and other business criminals. Examples of wanted fraudsters from the FBI publication are highlighted below.

- In one example, the fraudster was a 43-year-old licensed pilot. He designed a huge scheme involving the purchase of pay telephones. 2,200 investors across the US mainly the elderly made upfront payments for the telephones. The telephones were never delivered and the scam netted over \$43 million.
- It was reported that a husband (57-years-old) and wife (60-years-old) partnership

designed an energy-related scheme that duped people. They built a \$12 million facility, which they claimed was producing biodiesel fuel used for cooking oil. To raise capital, they sold over \$20 million worth of unregistered securities between January 1991 and July 1997. After a plea agreement, they fled when they realised they would face jail. Over 3000 victims, mainly the elderly contacted through the mailed prospectus, telephone and the Internet lost about \$20 million.

- In another fraud, the 47-year-old fraudster presented himself as a medical doctor. He was a licensed pilot and was known for his extravagant lifestyle. Between 1995-1997 he claimed to be a 'world renown' medical doctor, and operated a clinic in the Dominican Republic. He told investors in North Carolina that he had developed medicine to effectively treat cancer, AIDS, and other ailments. He said he required financial support for research. In reality, he was not a medical doctor and had no license to practice medicine. He was convicted in absentia. Victims gave him money to support his 'projects'. Over \$2 million was realised from the scam.
- A 61-year-old telemarketer is still wanted for allegedly defrauding about 210 investors out of \$4 million through the operation of a telemarketing company between July 1995 and August 1997. He offered opportunities in the area of pre-paid telephone cards. He had offices in the major cities. Victims paid for subscription and franchises that never materialised (Federal Bureau of Investigation (FBI), 2001).

To sum up, it is evident that the extent of fraud is widespread, especially those involving the manipulation of trust by the fraudster. Due to the nature of assessing the value of loss, the police or authorities rely on information from victims and data from their investigations. On the other hand, victims also weigh the benefits and costs of reporting the crime. Questions asked include - Will their money be recovered? The amount of time and resources used to pursue the matter are important considerations. Another obstacle is that the particular incident might have them ridiculed by family and friends. All the above indicate that the pattern of trust and deception in various

countries are similar. Fraud can affect thousands of victims at the same time. While the bulk of victims part with small sums of money, others incur heavy losses.

The extent of fraud can be observed from other avenues. Apart from documented occurrences of fraud and other crimes, criminal statistics have always provided useful avenues for the understanding of various forms of criminal activities. The extent of their usefulness in understanding crime and fraud in particular is the main focus of the next section.

2.2 Official crime and fraud statistics - the case of the United Kingdom

Crime statistics have played a major role in the analyses of crime over the years. The first annual publication of criminal statistics was in 1827 in France. Other European countries soon began theirs. In the UK, the first regular publication for England and Wales was in 1837. The present series of Criminal Statistics, England and Wales started in 1857 (Walsh and Poole, 1983).

The official statistics of crime are an important determinant of how policy is directed and prioritised within the criminal justice system. This is so because it is seen as the empirical evidence on a large scale that there are certain problem areas. It is important to mention that though the UK figures form the main source of the data, issues concerning the use of official statistics are applicable to other countries engaged in similar practices. In the Home Office's statistical analyses (*Criminal Statistics, England and Wales*) only a few forms of fraud are categorised (see Tables 2.1, 2.2 and 2.3). Thus, attention is placed on fraud and areas of fraud itemised that are closely associated with upfront payments for transactions, goods or services and the manipulation of trust. In the next section, relevant excerpts from the *Police Fraud Survey 2000* (Flanary, 2000) are discussed with some of the statistical representations of other types of fraud which were categorised separately.

For analytical and comparative purposes, the offence of burglary in particular and other property related offences are compared with fraud. The selection of burglary stems from its reputation as one of the most prevalent types of property crimes.

Suffice to say that compared to fraud, the financial loss of a large fraud far outweighs that of several burglaries. The modus operandi of burglars is also different. Other issues emanating from this compilation include the nature of official sanctions discussed in Chapter 3 - Fraud and the criminal justice process.

First, in the UK, according to *The Law Commission Consultation Paper on Fraud and Deception* (1999, No.155), the Association for Payment Clearing Services revealed that in 1997 fraud involving the abuse of payments with plastic cards reached £122 million. The Benefit Agency also suffered an estimated level of fraud of £1.4 billion for income support with 9.7% of claims conformed or highly suspected to be fraudulent. Further, in the spring of 1998, fraud emanating from fraudulent prescriptions was estimated to be within the range of £70 million and £100 million a year. In the insurance industry, bogus claims were costing the British motor sector £30 million a year. It was also noted that in a paper issued by the Institute of Chartered Accountants in 1992 losses from reported frauds totalled £8.5 billion, compared to £500 million or under for reported burglaries, £560 million for retail crime and £700 million for vehicle crime. In the preceding sections fraud statistics are highlighted.

The statistics discussed in this section are those of recorded crimes. The term 'recorded crime' refers to notifiable offences, which are also known as offences recorded by the police. The recording process starts when an individual, group or organisation reports an incident or crime to the police. It can also begin when the police observe or discover an offence. Statistics of notifiable offences recorded by the police relate to the offence as initially recorded. The recorded offence may be different from that which a suspect is later charged with or proceeded against (*Criminal Statistics, England and Wales 1998*).

Generally offences like burglary, robbery, deception, shop lifting, appropriation, poaching, conveyance, dishonesty, fraud, etc fall under the umbrella of theft. In sum, Theft can be defined as "the dishonest appropriation of property belonging to someone else with the intention of keeping it permanently" (see Martin, (ed.)

1994:398). 'Appropriation' is also closely associated with theft as it involves the acquisition of property even if it is not stolen, but retained by the individual (already discussed under the law on fraud). Theft involving the use of force physically on the victim may amount to burglary or robbery (see Martin, (ed.) 1994). In Britain, the relevant statute is the Theft Act of 1968.

In the Criminal Statistics of England and Wales, a list of Notifiable Offences recorded by the police form the guideline for the categorisation of the various types of offences. The courts for their proceedings and sentences use a more detailed classification. From the official list of offences fraud and forgery are categorised together. Advance fee fraud, as a separate category does not exist. A look at the classification by the courts includes one of the main methods of advance fee fraud, which is obtaining money or property by false pretence (*Criminal Statistics of England and Wales*, 1998:262).

Before we look at some tables, it is important to make additional points concerning factors that affect the reporting and recording of crime. It is not possible for crime statistics to reflect the complete picture of crime. Figures from the 2000 British Crime Survey suggest that less than half of all offences are reported to the police and less than a quarter are recorded. Reporting and recording rates vary considerably between offences (Criminal Statistics England and Wales, 1999). In a comparison of figures from the British Crime Survey (BCS) 2000 of offences committed in 1999 it was observed that:

- over three times as many domestic burglaries were recorded;
- over three times as many woundings;
- three times as many thefts from vehicles;
- nearly four times as many bicycle thefts;
- nearly six times as many offences of vandalism; and
- seven times as many robberies and thefts from the person.

The offence of 'fraud' was not itemised, but it is likely to be similar. It should be noted that victim surveys have their shortcomings. They are subject to sample error

and estimates of changes in the less common offences are imprecise. Respondent's interpretation of offences and other victimisation issues can also influence results. Others include public attitudes or disposition toward the type of offence committed, thus their willingness to report crime. Not all crimes committed are reported to the police, and not all 'crimes' or offences reported to the police are recorded as such. Police discretion in the investigation and recordings of offences are also crucial.

With regard to recorded crime, the new Home Office rules for counting and classifying crime, were implemented in April 1998. Under the new rules, the statistics wherever possible measure one crime per victim. This is broadly similar to the old rules, particularly for violent crimes, although in some property crimes, an incident comprising a series of offences against different victims (e.g. in a secure car park) is recorded as one offence. The main specific change in the rules has been in fraud, where all victims are counted under the new rules, whereas only those reporting the offence to the police were counted under the old rules. This has had a substantial effect on cheque and credit card fraud, involving multiple usage of a stolen card or cheques. A police investigation may reveal victims (i.e. the owners of goods and services defrauded) who had not reported this to the police. These appear as new offences under the new rules but not under the old rules (*Criminal Statistics of England and Wales*, 1998/1999: 232, Appendix 2, No. 6).

Further, it is important to note that there is no change in the rule that states that only the most serious offence is counted where several offences involving the same offender and victim are committed in one incident. This is known as the 'principal offence rule'. The most serious offence is determined where appropriate by maximum sentence, although the new rules state that a violent offence (i.e. violence against the person, sexual offences, robbery) should be deemed more serious than a non-violent one. If offences involving the same offender and victim are reported at different times, they should be counted separately. This is known as the 'finished incident rule', using the premise that for recording purposes an incident is regarded as finished when it comes to the notice of the police.

On fraud, burglary and other related offences, some figures from the 1988 to 1999 Criminal Statistics of England and Wales are shown below.

Table 2.1

Selected notifiable offence types (numbers) 1988-1999

Offence Type					
Year	Total violent crime	Burglary	Theft and handling stolen goods	Fraud and forgery	Total of all Offence types (3)
1988	216,214	817,792	1,931,274	133,873	3,715,767
1989	239,858	825,930	2,012,760	134,490	3,870,748
1990	249,904	1,006,813	2,374,409	147,909	4,543,611
1991	265,085	1,219,464	2,761,119	174,742	5,276,173
1992	284,199	1,355,274	2,851,683	168,600	5,591,717
1993	294,231	1,369,584	2,751,901	162,836	5,526,255
1994	310,332	1,256,682	2,564,608	145,289	5,252,980
1995	310,936	1,239,484	2,452,109	133,016	5,100,241
1996	344,766	1,164,583	2,383,946	136,225	5,036,552
1997	347,064	1,015,075	2,164,952	134,398	4,598,327
1997/8 (1)	352,873	988,432	2,144,973	136,232	4,545,337
1998/9 (2)	331,843	951,878	2,126,718	173,728	4,481,817
1998/9 (2)	605,797	953,184	2,191,439	279,503	5,109,089
1999/0(2)	703,105	906,468	2,223,620	334,773	5,301,185
(1) The number of crimes recorded in that financial year using the coverage and rules until 31 March 1998					
(2) The number of crimes recorded in that financial year using the expanded offence coverage and revised counting rules which came into effect on 1 April 1998.					
(3) The Total of all offence types includes the complete list of offence categories.					
Source: Criminal Statistics England and Wales 1998 and 1999, Table 2.21;2.22 London: Home Office					

Comments

In Table 2.1, in all categories of offences highlighted, the increasing trends are similar between 1988 and 1993, and declines can be noticed from 1994 to 2000. Later in this section it is noted that the new counting rules using the expanded offence coverage must have contributed to this. Over the years, fraud and forgery have consistently accounted for about 3-6%, burglary for about 22%, and theft and handling stolen goods for about 45-50% of total recorded crimes.

With regard to offences of fraud and forgery, crimes rose by 28% to 280,000 in 1998/9. This large rise was attributed to the change in counting rules and to improved recording of such incidents in certain police forces. With the new rules, unreported offences that have been discovered in further investigations such as the multiple usage of a stolen credit card were recorded for the first time from April 1998. Thus, total recorded fraud and forgery was raised from an estimated 174,000 that would have been recorded under the old rules to 280,000 under the new rules. This trend has also affected the clear-up rate for frauds and forgeries. Increased number of offences caused a downward pressure on cleared-up rates. The statistics reveal that only 36% of all offences were cleared up in 1998/9, compared with 48% under the old rules in 1997/8.

With regard to burglary, overall recorded burglary fell by 4% in 1998/9 to 953,000 offences. This accounted for 19% of total recorded crime in 1998/9. It is noted that the effect of the new counting system was minimal, amounting to about 1,000 offences. Out of the 953,000 burglaries, 473,000 were domestic burglaries (i.e. in the dwelling), while others accounted for 480,000. Only 19% of all recorded burglaries were cleared up in 1998/9.

Let us examine the trend of recorded fraud/forgeries in England and Wales from 1988-1998 according to the recording categories used. The degree of information on fraud is shown in the breakdown of the offence into types. Overleaf, the statistics reveal the following:

Recorded crime - offences of fraud and forgery, England and Wales								
Offence Type								
Year	Fraud by company director	False accounting	Cheque & credit card/other fraud	Bankruptcy and insolvency	Forgery (e.g. false drug prescription)	Other forgery	Vehicle/driver documentary fraud	Total fraud and forgery
1988	40	2,075	119,645	-	1,307	10,806	-	133,873
1989	25	2,106	121,756	-	1,196	9,407	-	134,490
1990	53	2,001	133,866	-	1,009	10,980	-	147,909
1991	24	1,623	159,136	-	968	12,991	-	174,742
1992	35	1,710	153,734	-	1,111	12,010	-	168,600
1993	34	1,427	147,979	-	1,037	12,359	-	162,836
1994	41	1,532	128,608	-	1,073	14,035	-	145,289
1995	29	1,295	120,669	-	844	10,149	-	133,016
1996	39	1,728	125,609	-	1,071	7,778	-	136,225
1997	15	1,820	124,389	-	941	7,233	-	134,398
1997/8(1)	15	1,711	126,790	-	799	6,917	-	136,232
1998/9(1)	39	1,203	165,221	-	838	6,427	-	173,728
1998/9(2)	159	1,304	142,311/ 122,074	23	842	6,762	6,028	279,503
1999/0(2)	165	1,103	173,857/ 145,448	82	871	6,173	7,074	334,773
(1) The number of crimes recorded in that financial year using the coverage and rules in use until 31 March 1998.								
(2) The number of crimes recorded in that financial year using the expanded offence coverage and revised counting rules which came into effect on 1 April 1998.								
Source: Criminal Statistics England and Wales 1998, 1999. Table 2.18; 2.19 London: Home Office								

Comments

Table 2.2 shows that certain types of fraud have been prevalent. Cheque and credit card fraud has been dominant since 1988. Unfortunately, the specific offence of advance fee fraud is not one of the categories. Further, between 1990-1993 there was a sharp increase in fraud and forgery. Then, between 1994-1997 a reduction occurred. 1997-1998 figures show increases. In general, recorded fraud has been on the increase, a situation further enhanced by the new counting rules of recording fraud not directly reported by all victims. The rise in or prevalence of opportunities for fraud is also a likely factor for this trend. In particular, plastic cards are frequently used in most commercial transactions in shops and on the Internet.

With regard to this thesis or research, official statistics do not provide enough information on the various types of fraud involving the manipulation of trust such as advance fee fraud. This is the result of the nature categories adopted by the Home Office. In Section 2.3 of this chapter a detailed statistical presentation on types of fraud culled from the *Police Fraud Survey* (Flanary, 2000) is discussed.

Offences Cleared-Up

The clear-up rate or detection rate is the ratio of offences cleared up in a year to offences recorded in the year. It is important to note that some offences cleared up in one year will have been recorded in the previous year. According to the Criminal Statistics report, an offence is cleared up if the person has been charged or summonsed, has been cautioned, or if the offence is admitted and could be taken into consideration by the court.

The clear-up rate varies widely according to type of offence. It is usually highest for violent crimes (two-thirds are cleared up). Further, offences with high clear-up rates are those cases that have a high likelihood of the victim being able to identify the offender. For example in most sexual offences and in cases where the knowledge of the offence directly identifies the offender (e.g. handling of stolen goods, going equipped for stealing and certain drug offences).

Generally, at present and as in previous years, the number of offences cleared up has not kept pace with the increase in recorded crime. In 1998/9, 29% of recorded crimes were cleared up. Two-thirds of violent crime were cleared up, compared with less than one fifth of burglaries and criminal damage. The table below shows the trend of clear-ups in percentages over the years.

Table 2.3
Selected recorded crimes which were cleared up by offence group

Offence Types					
Year	Total violent crime against the person, sexual and robbery	Burglary	Theft and handling of stolen goods	Fraud and forgery	Total cleared up of all offences
1988	68	29	34	71	35
1989	70	27	31	66	34
1990	69	25	30	61	32
1991	68	23	28	55	29
1992	66	20	24	53	26
1993	65	19	23	51	25
1994	66	21	24	52	26
1995	65	21	23	50	26
1996	66	21	23	49	26
1997	69	23	24	48	28
1997/8(1)	69	23	24	47	28
1998/9(2)	66	19	22	36	29
1999/0(2)	59	13	18	30	25
(1) The number of crimes recorded in that financial year using the coverage and rules until 31 march 1998.					
(2) The number of crimes recorded in that financial year using the expanded offence coverage and revised counting rules which came into effect on 1 April 1998.					
Source: Criminal Statistics England and Wales 1998, 1999 Table 2.7; 2.8 London: Home Office					

Comments

The table above shows that the clear up rate for fraud has been on the decline over the years. From its peak at 71% in 1988 the clear up rate reached an all time low in 1998. This might be attributed to the increased number of offences, its complicated nature and time allocated for investigation by the various police forces. Logically, violent

offences are given priority due to policy and public interest. Also, in most company frauds, offences are usually investigated in-house or by private firms. Fraudulent cases that involve more 'serious' offences such as homicide will definitely attract police attention. The victim's willingness to pursue fraud and forgery cases affecting them may have contributed to this trend. More so, if the victim feels the amount in question can be written off or there is little chance of recovering their loss from the fraudster, the desire to pursue the matter is diminished.

The clear-up rate for burglary has also been on the decline. It is clear that the police cannot keep up with the rate of incidents and their investigation. On the other hand burglary as an offence is becoming more sophisticated. The availability of lighter or portable goods (e.g. lap top computers, and mobile phones) with good value may have contributed to this trend.

The next section examines in more detail, statistical information on fraud - *The Police Fraud Survey* (Flanary, 2000).

2.3 The Police Fraud Survey 2000

Unlike the general official statistics on crime, a report that has attempted to show the extent and diversity of fraud in general in the UK as recorded and investigated by the police is the *Police Fraud Survey* (Flanary, 2000). Flanary notes that the Unit for the study of White Collar Crime at the Liverpool Business School, Liverpool John Moores University, originally carried out the police fraud management survey in 1998. In the 1998 survey, questionnaires were distributed to all police forces and interviews conducted with selected forces. Similarly, in the updated 2000 survey, a total of 52 questionnaires were sent out and 43 of them were returned - a response rate of 83%. The responses were divided into two classes: England, Wales and Northern Ireland and Scotland. Findings from this survey that are relevant to this thesis are discussed below.

The *Police Fraud Survey 2000* can be regarded as the most detailed statistical

information on the distribution, extent and cost of fraud across various police forces. The practices and opinions of the different police forces concerning issues such as logistics, policy, costing, intelligence, confiscation and forfeiture etc were highlighted in the report. They have been mentioned and discussed in relevant areas of this thesis. The table below is the value of current cases, and the methods used to calculate value. For confidentiality and anonymity numbers represents the various police forces. Thus, one can not associate the figures with a particular force.

Table 2.4

England, Wales and Northern Ireland - the value of current cases, and the methods used to calculate value for the year 2000

Force	No. of cases	Value of cases	Method of valuation
1	37	£34 million	'Actual loss' calculated at the completion of case. Also considered is money restrained.
2	9	Unknown	N/A
4	15	£65 million	Value of fraud committed as assessed by the loser (s)
5	17	£15 million	Actual loss
6	317	£634,134,652	Actual loss (obtained-£136,135,517; attempted - £441,385,927; recovered- £56,613,208)
9	26	£47,714,486	Both actual value if known, and amount at risk.
10	19	£6.1 million	Alleged actual loss- complainant detail.
11	12	£5 million	Actual loss as reflected by charges and estimated loss as calculated by auditors.
12	26	Unknown	Value was not measured.
13	15	£65 million	Generally actual loss. Value at risk was used for cases investigated with SFO can be value at risk.
15	24	£8 million	Actual loss.
16	25	£4.7 million	Actual loss reported at time of complaint.
17	27	£9 million	Estimated value at time of reporting.
19	48	£12,500,000	Amount known to be stolen and/or estimated value at risk at time of reporting, plus calculation of potential value after initial assessment.
20	221	£153,413,000	No calculation of value of crimes under investigation. Assets protected/ recovered/confiscated not recorded.
23	15	£4,210,000	Methods vary: In bankruptcies it tends to be total sum of insolvency (i.e. total owed to creditors). In Theft Act frauds it is the value of monies obtained. In corruption value of contract and bribes are highlighted

NB: Continued from previous page			
Force	No. of cases	Value of cases	Method of valuation
24	9	£3.52 million	Actual loss
25	10	£4 million	Actual loss
26	10	£25 million	Actual loss
27	14	£3.5 million	Actual loss
28	40	£15 million	Actual loss
30	56	£59 million	Actual loss
32	15	£3 million	In the case of fraudulent trading, it is the value of the loss to creditors. In all other cases, it is the actual loss to victim/gain to offenders.
35	25	£9 million	Loss to victim only!
36	26	£35 million	Actual loss
37	17	£85 million	Actual loss
38	201	£130 million	Assessment by investigating officer of the amount at risk
39	25	£2.2 million	Reported loss
40	185	£50 million	Actual loss
41	68	£50 million	Value not used as it gives no indication of complexity of case. Value based on reported loss.
42	56	£5 million	Value at risk
44	20	£15 m plus	Not stated
45	21	£53 million	Value at risk
47	29	£3 million	Value of loss, as calculated by evidence
49	15	Unknown	N/A
50	15	£12,500,000	Value placed by the insured party
52	10	£25m plus	Actual loss
53	5	£46.6 million	Varies: where SFO are involved, amount of loss; internal enquiries either direct amount lost or extrapolated figures provided by victim.
Source: Flanary (2000:33) <i>The Police Fraud Survey 2000</i> , Centre for Fraud Management Liverpool: Liverpool John Moores University			

With regard to the table above, Flanary (2000) notes that some of the figures could change in the course of further investigations. The table clearly indicates that the occurrence of fraud and its value is unevenly distributed. Further, one can infer that the police forces in the heavy commercial or economic centres would have more cases of fraud with great value. The table also reveals the problems associated with arriving at a particular figure for a given fraud. The police can provide to a large extent, money lost by victims as reported or claimed, and that recovered or traced to the fraudster. The actual money at risk is difficult to ascertain. The larger perspective would involve the impact of the fraud as it concerns monetary value, loss of jobs,

emotional anguish, loss of confidence in the market etc. These factors can not be easily or adequately computed - an indication of the serious nature of fraud.

Finally, from the value of fraud figures indicated above (for known cases), they all add up to £1,171,792,138 (over a billion). From this compilation, the cost of different types of fraud can not be ascertained. For instance Advance Fee Fraud estimates are not indicated separately. The occurrences of different types of fraud are highlighted in sections/tables below. Taking into consideration that most crimes are not reported, and this is even more pronounced in cases of fraud, one can infer that the value of fraud in England, Wales, and Northern Ireland can be conservatively put at about £3 billion per annum (three times the documented estimate). It is important to also note that organisations deal with most of their fraud cases internally, either by dismissing the staff involved or writing off the loss. Estimating or valuing fraud is made more difficult especially in situations where victims exaggerate losses. The next heading takes a brief look at the issue of categorisation from the police fraud survey.

2.3.1 Categorisation of fraud types - Police Fraud Survey

With regard to the types of current cases, based on the number of responses received, the police fraud survey revealed that only one force stated that it was unable to categorise its current case load, thus fraud statistics were not categorised according to type. Another force “pointed out that breaking down cases according to type is misleading as a large number of cases do not fall into one particular category and cases often contain several elements or ‘types’ either from the outset, or as the case develops” (Flanary, 2000: 40).

At this juncture it is important to note that cases from this thesis show that frauds involving upfront payments or advance fees can be carried out in virtually all arenas or spheres of life. It is likely that the categories adopted by a police force lay emphasis on activities that inform how the fraud in question is recorded such as the principal offence in a particular case, nature of victims, nature of reporting by victims and the characteristics of the fraudster. Hence, each category or type of fraud may include

several types of fraudulent offences, which has not been noted as the major offence. As with other crimes, offences deemed as the most serious are recorded as the main crime. For example, in cases involving murder and theft, the crime is likely to be recorded as a murder. In fraud cases, a given type of fraud may receive priority recording compared to others. Flanary (2000) also notes that the breakdown is flawed, as it is common for multiple offences to arise in each case.

The table below is the breakdown of fraud cases.

Table 2.5
Type of fraud cases according to number of cases 1998 and 2000 (Police Survey)

Type of Fraud	Number of Cases	
	1998	2000
Advance fee/ Investment fraud	256	155
Mortgage fraud	53	48
Public Sector fraud	97	89
Corruption	64	54
Long firm fraud	80	71
Embezzlement	65	36
Insolvency legislation offences	36	28
Company fraud/ fraudulent trading	149	94
Forgery/ counterfeiting	40	32
Deception	238	241
Computer fraud	58	52
Factoring/ leasing fraud	20	16
Procurement contracts frauds	17	15
Bank/ building society fraud	166	148
Solicitor	52	63
Doctor/ pharmacy	19	27
Source: Flanary (2000) <i>The Police Fraud Survey 2000</i> , Centre for Fraud Management Liverpool: Liverpool John Moores University		

The table above shows that deception and advance fee/ investment fraud are the most common types of cases. The police survey also reveals that advance fee/ investment fraud is the most common in terms of the number of forces investigating such cases. A break down of the types of fraud in relation to forces investigating them (Flanary,

2000: 41) shows that virtually all forces recorded one or more cases of advance fee/ investment fraud. As mentioned earlier, the tables do not indicate which forces account for various cases.

In Scotland the pattern is different. The police survey revealed that only one force did not categorise caseload type by type of offences. The Table below is the breakdown.

Table 2.6
Type of case and number of cases 1998 and 2000 – Scotland

Type of Fraud	Number of Cases	
	1998	2000
Advance fee/ Investment fraud	6	4
Mortgage fraud	3	6
Public Sector fraud	7	13
Corruption	2	3
Long firm fraud	13	12
Embezzlement	22	27
Insolvency legislation offences	3	4
Company fraud/ fraudulent trading	12	9
Forgery/ counterfeiting	10	23
Deception		25
Computer fraud	34	4
Factoring/ leasing fraud	3	1
Procurement contracts frauds		
Bank/ building society fraud	5	8
Solicitor	1	6
Doctor/ pharmacy	1	2
Source: Flanary (2000) <i>The Police Fraud Survey 2000</i> , Centre for Fraud Management Liverpool: Liverpool John Moores University		

In Scotland, embezzlement, deception and forgery/counterfeiting are the most common types of fraud. The least common are procurement contract frauds, factoring/leasing fraud and corruption. It is noted that the forces listed ‘other’ types of cases currently being investigated that were not included in the survey’s categorisation. These are bankruptcy offences (had the highest number of cases - over

20 cases) in both years, insurance fraud (one case in 1998 and two in 2000) and timeshare fraud (one in 1998 and two in 2000).

In the UK, police forces also indicated that certain types of frauds were not included in the categories contained in the survey. The table below is the list of types of fraud ‘not indicated’ in the survey but identified by some police forces.

Table 2.7
Other types of fraud

Type of Case	Number of Cases	
	1998	2000
Charity	6	1
Computer Hacking	1	2
False Accounting	7	5
Financial Investigations	-	13
Forensic Computing	-	16
Insurance fraud	20	13
Internet	1	1
Investment fraud	2	8
Money-laundering	8	10
NCIS enquiry	-	1
Nigerian fraud	-	2
Non-investment	51	77
Perjury	1	1
Proceeds of crime	147	147
Shipping	2	1
Stock-market	4	8
Theft	2	9
NB: Additional ‘other’ cases reported in 1998, which did not appear in the 2000 fraud management survey included: benefit fraud; dentist; franchise; fraudulent conversion; information brokering; land registry; local authority grants; optical; perverting the course of justice; probate; Representation of the People Act; and timeshare.		
Source: Flanary (2000) <i>The Police Fraud Survey 2000</i> , Centre for Fraud Management Liverpool: Liverpool John Moores University		

Finally, the interpretation of the results with regard to why certain forces or areas experience certain types of fraud would be interesting. This is beyond the scope of

this thesis and will probably be investigated in the future. On the other hand, the general conditions exploited by advance fee fraudsters have been addressed in the relevant areas of this research. The typology of cases is another area that needs to be looked into for a standardised or consistent recording code/categories. The police fraud survey revealed researchers and police officers have different views on how fraud are itemised or grouped. This research has attempted to categorise the fraud of obtaining money, goods and services upfront into the arenas in which they occur. The reasoning behind this is that in reality, the various types of fraud are too numerous to tabulate. The police fraud survey revealed that most police forces stated that statistics were only held centrally within HQ statistical departments, and categorisation was usually in accordance with Home Office counting rules. Some forces used their own system of categorising cases alongside this system

The next section discusses the implications of statistics - the extent to which information can be deduced from them.

2.4 Implications of fraud and crime statistics

It has been noted that in this thesis crime statistics as a measure of determining the extent and nature of crime in general and fraud in particular have limitations. At this stage it is necessary to take a general look at certain issues associated with crime and fraud statistics. With regard to fraud, Levi (1988) notes that in a good number of cases it is not always clear if a loss or attempted loss is a fraud. Some people may feel they have been defrauded, but this may turn out to be contrary to the criminal law or rather, the act is a civil deceit. Sometimes it could even be lawful. Further, because of the complicated nature of certain frauds, the police are inclined to refer some cases for further investigation and may not record them as frauds immediately. On the other, a fraud investigation may reveal a different type of fraud other than that reported and recorded. Thus Levi is of the view that unlike the categories of certain crimes, a grey area exists with regard to the criminal offence of fraud.

Certain methodological problems exist in the use of official statistics. Coleman and

Moynihan, (1996) note that problems include that of the 'dark figure' (i.e. unreported crime). They also state that the statistics cover mainly notifiable offences and very limited information is given about the nature of offences and the circumstances in which they were committed. Furthermore, little information on offender characteristics except their sex and ages groups are given. In addition, not all 'un-orthodox' agencies contribute data. For Farrington and Dowds (1985), geographical differences in the statistics may be as a result of divergent reporting and recording practices.

Bottomley and Coleman (1981) note the problem of procedure referred to as 'cuffing' (i.e. undocumented crime that could be the result of administrative and personal factors or reasons). They also mentioned that biases in law enforcement, police strategy (for example 'proactive' and 'reactive' policing) could influence or affect collated figures. With regard to the 'dark figure' this can reduce the validity of the statistics (Jupp, 1989). For Jupp, to a certain degree, this can be corrected. Whether produced by the police, victim survey, self-report study or whatever, statistics are produced by the interaction of a number of certain elements (Bottomley and Coleman, 1981). These include a concept of crime, an operational definition of the concept, discovery methods, classification rules, validity checks, counting rules, together with a further set of procedures for linking an offender with the offence. The decisions about such definitions and procedures usually differ according to the objectives of the exercise.

To sum up, crime statistics have merits and demerits. In criminology, the traditional realists say the intention of statistical data is to discover the 'real' amount of crime. The institutionalists believe the data is a social construction influenced by structures and processes. While the radical perspective show concern for the ideological implications portrayed by the data (see Coleman and Moynihan, 1996: 133). The implication of all this is that one cannot say that the statistics provide a true and 'conclusive' or 'complete' picture of the extent and nature of fraud or crime in general. Coleman and Moynihan note that statistics of this sort provide useful data for triangulation purposes. They can also inform further research and policies/planning.

Further, because of the complex nature of 'crime', and the role of several factors and variables involved in criminal activity such as fraud, it is important to develop a format for recording specific crimes in detail for analytical purposes. The statistics on fraud gives us an idea of the trend, nature and extent of the offence at the 'police level'. Thus, we have to rely on reports from other fraud investigation agencies, auditors and even non-governmental bodies to get a more realistic picture of the offence. At any rate, statistics from specialised organisations may not cover all categories of fraud, they may concentrate on the areas of interest to them. For example auditing firms and accounting or bank frauds.

In conclusion, several problems are associated with official statistics especially those concerning fraud and organised crime. It is often practically difficult to have exact figures. Edwards (2001) notes that estimates collated by different agencies are used to make the case for new law enforcement strategies and for increasing the investment in these strategies. Edwards states that questions over the veracity of the measures used have been raised by critical commentators such as Van Duyne (2000) who have challenged the tendency of authorities to 'dogmatically' multiply seizures of illicit goods by 10 per cent to estimate their 'true' volume and value. It is not unlikely that the same situation applies to cases of fraud. With regard to the more general official statistics, information it provides is limited. For instance, Beck and Willis (1995: 35) note that the "annual *Criminal Statistics* tend not to provide information about crime by location, making it difficult or impossible to work out whether an offence took place at the victim's home, place of work or in a public place". Further, an attempt to make up for this limitation through the British Crime Survey (BSC) has not solved the problem. The effort to uncover the 'real' extent of crime through the BSC or victimisation surveys as they are also called, still concentrates almost exclusively on property crime and crimes against the person in and around the respondents household (Beck and Willis, 1995).

Finally, on the value of crime or fraud reported to the police, the police can generally do little or nothing about the accuracy of the figures. In the first instance, reports from

victims could be exaggerated, and in the course of a fraud investigation, figures usually rise, as the true extent of the crime is unravelled. For instance, in the UK police fraud survey, Flanary (2000) observed that police forces used different criteria. These include actual loss as a method for calculating the value of cases, reported loss, value of money at risk, or as some forces stated, the nature and complexity of the case determined which method was used. Further, another area without general consensus is that of the costing of enquiries, which eventually adds up to the total cost of the crime at the prosecution level. Flanary's report notes that costing usually included some measurement of man-hours, at the very least, and in some cases all included amount spent on expenses, transportation, accommodation etc. Despite all these shortcomings, statistics are still a useful starting point in crime analysis and interpretation.

The impact/implications of fraud or the activities of fraudsters are examined in the next section. A developing country Nigeria is used as a case study.

2.5 The impact of fraud - the case of Nigeria

The use of Nigeria as a case study stems from several factors. Some of which include that it is a developing country, and has been associated with various scams especially those involving advance fees by the print media, the police and Intelligence especially in the UK and the United States. As a consequence, the Nigerian government and citizens have embarked on deliberate image building programmes and activities to show that this negative publicity is the result of a negligible number of people. It is not unusual for stereotypes to develop where certain citizens or countries have been associated with particular types of criminal activities. It is not possible to measure or quantify in precise terms the impact of such negative publicity. Stories of personal experiences and the attitude of the business and tourist communities are pointers to this development. On the other hand, the historical development of Nigeria, which is similar to that of other developing countries show signs or characteristics that are capable of inducing certain individuals to engage in fraud and criminal activity.

Developed countries also experience various forms of fraud including advance fee fraud perpetrated by its citizens. Though other crimes such as grand corruption and embezzlement have created the bulk of the social, political and economic problems experienced in developing countries. Advance Fee Scam is the type of fraud associated with Nigerians going by various reports.

The impact of the 'image' problem can be seen in a speech by the National President of the Nigerian-American Chamber of Commerce (1998), in which he stated that Advance Fee Fraud (alias 4-1-9) "419 has so badly dented our national image that Nigerians travelling abroad to transact business cannot but recall with palpable consternation at the cynicism and spite with which this nation and its nationals are regarded particularly in Europe and America". Further, going by the campaign of calumny, the word Nigerian is regarded as synonymous with criminality in some parts of the world.

The fact that Transparency International (TI) has placed Nigeria as one of the most corrupt countries in the world best describes the image problem in the light of their 'survey'. This is supposed to be the collective opinions of the 'business' and 'tourist' community some of whom it is argued resort to illegal activities for their business interests. TI notes that fraud is an integral part of corruption. They acknowledge that corruption can be found in virtually all countries of the world. The agency's Corruption Perceptions Index 2001 ranked 91 countries. The 2001 Corruption Perceptions Index (CPI) is said to reflect the degree to which corruption is perceived to exist among public officials and politicians (<http://www.gwdg.de/~uwww/icr.htm> - 13/07/01).

The impact of 'corruption' analysis cannot be overemphasised. The Nigerian government's Special Adviser on Drugs and Financial Crimes (1998) remarked that some countries have found some International Non-Governmental Organisations (NGOs) useful instruments of Foreign policy. While acknowledging the constructive contributions of most of these organisations, the role of the NGO Transparency International (TI) in 'blackmail' was stressed. He also noted that the officials of TI

have never visited Nigeria, thus, the “criteria adopted in their assessment are questionable, unjustified and dishonest”.

Nigeria is located in the western part of Africa, with a population of about 127 million, the 10th most populous country in the world, according to the 2001 worlds Population Data Sheet (The Guardian Online - <http://www.ngrguardiannews.com>, 13/08/01). The 1996 population was estimated to be 115 million, with a GNP per capita of US\$240. It is also one of the most ethnically diverse countries comprising of about 250 ethnic groups and over 200 languages. In general employment and unemployment figures are said to be erratic. Basic infrastructure is not adequate and where they exist are not properly maintained (The Commonwealth Yearbook, 1999). Nigeria has other natural resources, but a substantial part of its income is from oil production (The World Economic Factbook, 1998/9). Nigeria gained its independence from the Britain in October 1960 and the Federal Republic was proclaimed in 1963. The country survived a civil war between 1967 and 1970. Since independence, the country has experienced political and economic instability, with successive military dictatorships. From May 1999 to present, a democratically elected government has been governing the country.

In the course of its turbulent history, crime has been on the increase. Especially after the civil war (1967-1970), the spate of property and violent crimes increased. On the political side, corruption, mismanagement and nepotism were prevalent. These are some of the conditions that are capable of creating fraudulent activities, and advance fee fraud in particular. Certain dishonest individuals have decided to take advantage of the global business environment to carry out all sorts of fraud.

Examining the historical background of advance fee fraud in particular, the Nigerian government’s Special Adviser on Drugs and Financial Crimes (1998) notes that before the introduction of stringent economic measures such as the Structural Adjustment and Deregulatory programmes in the 1980’s, trust and confidence in business internationally and locally was common. In addition the national currency was strong and stable compared to those of other countries. Liberalisation of the

economy was a pre-condition for the successful implementation of the programmes. With privatisation and commercialisation government subsidies were withdrawn from certain essential services such as petroleum pump price and electricity. This created difficulties for citizens. Unfortunately, these changes did not result in increased productivity, and as one of the consequences, the national currency (the Naira) depreciated in value against other currencies. The economic advantage of possessing foreign currencies within the country became evident. This probably led to the exploitation of would-be foreign investors by criminals who demanded advance fees for business and other commercial arrangements.

In a study of crime from the Nigerian perspective, Marenin and Reisig (1995) assessed the validity of the General Theory of Crime proposed by Gottfredson and Hirschi (1990). They argued that cultural variability is not important in the causation of crime and that we need to look for consistent causes of crime. Further, one theory of crime can adequately explain cross-cultural differences in crime rates. These include the concepts of pain, pleasure and self-interest calculations as important considerations for the offender. Also, individuals who commit crimes including frauds are characterised by low levels of individual restraint or self-control that ought to have been implanted during childhood or during the socialisation process of the individual. In addition, low levels of self-control alone do not explain crime. Opportunity and situational conditions (e.g. vulnerability of the victim) are significant factors. Thus, developed and developing countries have similar causal explanations for fraud and crime.

For Marenin and Reisig, in Nigeria crime is committed within specific contexts. Factors that are contributory to crime include the presence of a large and growing population, a small and declining per capita income, the development of glaring differences in wealth and lifestyles, which create possibilities for large-scale corruption. Others are political instability, ethnic distrust and uncertainty among the public about the future. Little trust in government, its leadership and with much of public and private life consumed by the struggle to 'survive' further compounds the problem. Property offences constitute about one-half of all reported crimes. The

dependence on importation opens the doors for corruption and fraud: ranging from white-collar crimes carried out by Nigerians and foreigners (e.g. importation of second hand and shoddy goods). Government contracts are very lucrative and performance standards are seldom enforced. Other economic crimes include the sale of foreign currencies in the black market and smuggling in and out of the country.

With regard to the occurrence of crime and fraud in particular, the key findings from Nigerian based research are threefold (Marenin and Reisig, 1995: 508):

- Oloruntimehin (1992) explained trends in crime rates by citing the social dislocation and economic pressures brought on by political instability, uneven development, high unemployment, white-collar fraud and corruption, rapid migration to the cities with a consequent lack of amenities, and high degrees of anonymity in urban areas.
- Odekunle, (1978, 1986) noted that the causes of crimes cannot be found in peculiarities of individual character or general normlessness, and that the (corrupt) norms are quite clear and enforced in favour of those in power, and
- Adeyemi, (1990) concluded that only a systematic and integrated effort to understand, and react to all the problems mentioned above will be able to prevent crime.

It was adduced that the reasons for elite corruption and political-economic crimes in Nigeria are associated with individual traits such as greed, selfishness and lack of moral integrity. Other explanations or probable reasons given for crime in Nigeria include the attractiveness of quick financial gains. This occurs “within general conditions of poverty, uncertainty, social and political instability, a pervasive belief that everyone else is doing it; and a capitalist economic system that values individualism, competition, acquisition, and wealth” (views also noted by Abba et al., 1993; Achebe, 1983; Adamolekun, 1985; Watts, 1985) (Marenin and Reisig, 1995: 508). In addition, in the absence of support from the state, the extended family system

whereby the more successful and employed family members are culturally bound to take responsibility for the general wellbeing of their kin are also contributory.

In addition, certain problems experienced in developing countries tend to have an impact on crime control. For instance, in Nigeria police/public co-operation is poor. Public attitudes exhibited are that of distrust, misunderstanding, fear, and fear of arrest after police questioning. Police studies in Nigeria show that police officers living in barracks (an offshoot of the Colonial era) puts them in a particular class and reduces their social status. This obviously affects interaction and good relationship with the public (Clinard and Abbot, 1973).

Jones, (1993) researched into the activities of Nigerian crime networks in the United States. While noting that it is difficult to assess the quantity of crime committed by Nigerians, he states that certain patterns seem to have emerged. He mentions Senator Roth's subcommittee report, which identified elements of the 'Nigerian' crime network. The most common element is the individual who learns how to commit fraud from another Nigerian, sometimes for a fee and puts the information into practice for a living. In a Secret Service raid conducted in Atlanta, agents recovered what they named a 'Nigerian Handbook'. The document is said to be "a well-crafted instruction guide explaining how to commit various types of fraud". There was no confirmation that Nigerians prepared the document, but they suggest that it is distributed to Nigerians entering the country (Jones, 1993: 63).

The easy flow of paper or stationery, the relative ease in obtaining credit, bank loans, insurance policies etc., the laxity on the part of institutions that administer these services, in addition to their profit making interests, all contributes to and facilitates these activities (Jones, 1993). With reference to the stained business image of Nigerians, Jones observes Imasa's (1991) remark that Nigerian government should make it compulsory for her businesses to belong to a government-sanctioned organisation. For Jones, (1993) the problem of Nigerian crime networks in the United States must be addressed at its source - Nigeria (through the enactment and implementation of relevant policies).

Apart from reports about Nigeria's previous military dictatorships, in the area of crime or advance fee fraud in particular, the objectivity of media reports and other publications are questionable. For instance, on the Internet certain websites are dedicated to 'Nigerian' crime. A website, 'Nigeria - The 419 Coalition Website: We Fight the Nigerian Scam' (<http://home.rica.net/alphae/419coal/>) is devoted to this as their name implies. In this site, various pages contain advisory information on the scam. Samples of scam letters are also made available (see Appendix for some samples of these letters). In a nutshell, the coalition group claim that the Nigerian government officials are directly involved in Advance Fee Fraud Scams. The Nigerian government is also accused of doing little to address the problem, rather, they apportion blame to victims. On the other hand, Nigerian readers responding to this website blame the situation on greedy individuals who are ready to earn huge profits from illegitimate transactions.

According to this website, on May 20 1998 in Washington, D.C. - U.S. Representative Edward J. Markey (D-MA) introduced the Nigerian Advance Fee Fraud Prevention Act of 1998 (the Representative has his own website). Markey noted that according to the data provided by the U.S. Secret Service, Americans have lost over \$100 million in 1997 and 15 foreign businessmen including two U.S. citizens were murdered while in Nigeria in connection with a 4-1-9 scam. For Markey, perpetrators of these scams are rarely prosecuted or jailed by the Nigerian government, "who is also suspected in playing a role in these schemes."

Looking at the print media in the UK, certain articles have been written and responded to by Nigerians on the subject of 'Nigerian' crime. For instance, in a front-page article in the *Independent* newspaper (02/02/98) titled 'Nigerian crime poses serious threat in Britain', it was stated that:

Criminals mainly Nigerians have been discovered working inside government departments... The level of the crime is so serious that the National Crime Intelligence Service is drawing up a plan to address this problem. The cost of the fraud alone is £3.5 billion a year, says the NCIS... The fraudsters

concentrate on con-tricks and benefit fraud, drug-trafficking, mainly cocaine, and illegal immigration.

The article then cites examples of Nigerians sacked from certain offices for fraudulent activities. It also states that “an estimated 500,000 advance fee fraud or 4-1-9 letters attempting to con people by promising risk-free cash are sent by West Africans, mainly from Lagos around the world every year”. With the state of technology today, it is possible for a few individuals to generate all these letters. Unsolicited mails have always been used by con men all over the world.

Similarly, in an article in the *Times* (20/08/99) titled ‘Letters from Lagos promise false riches for the gullible’. The article states that the money from these scams is laundered through Lebanon and sent to Thailand where it is used to buy heroin for the American market. The Americans trade it for cocaine, which is then smuggled into the UK and sold to the Yardies. The Nigerian connection is said to have been unravelled in Jeffrey Robinson’s book about organised crime - *The Merger* (1999). It was also mentioned that in Hong Kong, up to 95% of all the mail from Nigeria are scams. Also, that during the 1998 Olympics in Atlanta, hotels were stripped of telephone directories, and within three months, the city was bombarded with scam letters. It was alleged that supporters of the Nigerian team filled their suitcases before heading home. Also, with more exposure of the scam, UK citizens are being recruited as fronts.

On the other hand, in the *Observer* (13/09/98) an article titled “Nigerians fight ‘crook’ image: They’re pushers, charlatans and swindlers...aren’t they?” Cal McCrystal debunked the stereotype. McCrystal noted that the image of Nigerians has never been worse. “In Britain they are regularly depicted as swindlers, drug traffickers, impostors, quacks and charlatans”. In this article, Professor Muhammed Anwar of Warwick University’s Centre for Research into Ethnic Relations is quoted to have said “the Nigerian image thing has been created mainly through the media - that people from Nigeria are always doing something wrong. This process is getting worse”.

McCrystal traces this negative stereotype to several reasons notably to a publication *Nigeria, Economy and Society* published 22 years ago in London which contained remarks such as - “in Nigeria, as elsewhere, politics is a matter of competing for the spoils of office. It is the business of politicians. Poor people see it as a matter of stealing public resources”. A Nigerian, Ayodeji is quoted as saying the crucial phrase here is ‘as elsewhere’. Further, “some people think corruption is a Nigerian national trait, but a lot of corruption you find there is also found in the United States, Britain and other countries”. According to McCrystal, nevertheless, among government agencies in London, the Nigerian profile is murky and the following points are information from some government agencies.

- An internal Customs and Excise memo stereotypes Nigerians as likely drug runners.
- The Inland Revenue has warned about Nigerian cheque forgery, saying that the very words ‘Inland Revenue’ were easily altered to appear as a Nigerian name.
- For years, Nigerians have swelled the ranks of illegal immigrants (the official census figures place 87,000 Nigerians in London, but the Nigerian High Commission believes the real figure could be 500,000).
- The Foreign Office has put Nigeria at the top of a league table of countries abusing diplomatic immunity.
- The National Criminal Intelligence Service has estimated that Nigerian fraud in this country amounts to as much as £3.5 billion a year.

For Ayodeji certain statistics on ‘Nigerian crime’ are laughable. He believes that some are the result of “ridiculous guesswork.” He notes that Nick Leeson closed down Barings with a £700 million fraud, and wonders why major financial institutions have not folded up due to Nigerian scams. Further, if the figure were true, the Serious Fraud office (SFO) will be tied up with cases involving Nigerians”. He checked with the SFO, and discovered that their “cases are almost never Nigerian” (*The Observer*, 13/09/98)

McCrystal notes that a Nigerian solicitor Tunji Fahm in an article in 1995, in the *Nigerian News* said “we are not helping ourselves by failing to acknowledge that there is a problem”. This is one of the responses to articles such as that carried in an issue of the *Journal of Nigerian Affairs* “Why are we so fraudulent?”, which suggested that Nigerians are merely taking back what was stolen by the British centuries ago. Another Nigerian Femi Osinoba, a civil servant in London recalled his observation of discriminatory treatment of Nigerians by the US police in a recent visit to the States. He also noted that good deeds in the UK by Nigerians are not given prominence in the news, and that it would be wise to form a national organisation to defend Nigerian reputation (*The Observer*, 13/09/98).

Nigeria is not the only country or community that has been labelled with a given type of criminal activity. Though exaggerations are commonplace, this is probably an outcome of the ethnic origins of the offenders. In turn, media reports are capable of creating stereotypes through emphasis on the offender’s background. For instance, in *The Independent* and *Guardian* (03/08/00), an article titled “Organised crime costs UK £50bn in a year” discussed the impact of various crime groups. This information was culled from *The Threat from Serious and Organised Crime* - a National Criminal Intelligence Service (NCIS) report. It can be observed in certain NCIS publications, some crimes are strongly associated with certain nationalities (<http://www.ncis.gov.uk/-19/10/2001>).

With regard to the *Independent’s* (03/08/00) summary of the NCIS report concerning the variety of nationalities based gangs, it was noted that the ‘British Caucasian’ criminal - white working class - make up by far the majority of organised crime groups in the UK. Colombians and West Indians were more involved in drug crimes; the Turkish and the Former Soviet Union in money laundering, prostitution, excise fraud of cigarettes and vehicle smuggling. The Albanians and Chinese are noted for smuggling involving organised immigration crime, trafficking in women prostitutes, heroin and arms trafficking. West Africans mainly engage in fraud crimes, for example benefit, mortgage, credit card fraud, and cocaine smuggling via couriers. For South Asians, wholesale drug dealing particularly heroin; cocaine and cannabis;

immigration smuggling; counterfeit clothing and credit card forgery; large-scale mortgage fraud and cloning of mobile telephones are common crimes. Finally, crimes involving the use of firearms were associated to British Caucasians and Motor Cycle Gangs (e.g. drugs, armed robbery, fraud and bootlegging, some of which involved families and associates).

The idea of labelling certain activities, as 'Nigerian crime' or crimes of other countries is an issue that needs to be examined closely. This is probably due to the tendency of looking for a scapegoat in explaining societal evils or simply associating countries with criminal activities of a few citizens. Obviously, the effects of generalisations are taken for granted. In *The Times* (10/01/97) a Detective Inspector David Crinnion of the Metropolitan Police Fraud Squad stated that in relation to non-existent money, scam letters could readily be translated as follows:

Dear Sir or Madam, I am a thief who has stolen a lot of money from the Government and would like your help to get it out of Nigeria.

In a response to the article regarding letters from Lagos in the *Times* (20/08/99), Dele Ogun a Nigerian lawyer based in London challenged the accuracy of the publication. He also notes that the article was misleading in the sense that it did not explain the origins of the scam industry. For Ogun, this practice can be traced back to the early 1980s when Nigeria was "awash with oil boom money". At this time crooked Nigerians, especially politicians colluded with fraudulent western business contractors and inflated tender prices for government contracts. It became the practice for contractors to demand for upfront fees or 'mobilisation fees' to cover initial costs of the project. Usually, the contracts were not executed and the advance fee retained or shared by the politician and his foreign partner. Ogun concludes that westerners became the victims of 'Nigerian' fraudsters when the economy collapsed.

Finally, the Nigerian government and citizens have consistently made efforts to address crime/fraud. For instance, the law referred to as the Advance Fee Fraud and Other Related Offences Decree No. 13 of 1995, which criminalised any attempt to

obtain any benefit under false pretences was created to intensify this fight. In 1998, an international seminar was organised by the Nigerian-American Chamber of Commerce in conjunction with the Nigerian Police Force on Advance Fee Fraud and other financial crimes. The Governor of the Central Bank of Nigeria (CBN) (1998) highlighted that an International Financial Transactions Surveillance Office in the Foreign Operations Department of the CBN was established in 1997 to target advance fee fraud at the global level by routinely verifying and replying to enquiries relating to scam letters, telefax, etc. The CBN also carries out extensive publicity campaigns through seminars, workshops and press statements. A Money Laundering Surveillance Unit was established in the Examination Department of the bank in 1994, which helps to implement guidelines in the Money Laundering Decree of 1995.

Further, since 1990, the CBN has placed advisory advertisements in over 80 newspapers and magazines in twelve languages in thirty-six countries. The publications usually stress that the CBN and the Nigerian government cannot and should not be held responsible for bogus and shady deals transacted with criminal intentions, and that there are no contract payments trapped in the bank's vaults. Documents presented by the fraudsters are all forgeries, bogus and fraudulent (CBN, 1999). This is all in addition to co-operative efforts with investigative, financial and regulatory establishments in various countries. Other developments include the creation of a National Drug Law Enforcement Agency (NDLEA) which was established with powers to address issues associated with drug trafficking and money laundering.

Recently, a preliminary report of advance fee fraud investigators led to the creation of a National Committee on Advance Fee Fraud (NCAFF). NCAFF is expected to formulate an effective strategy against fraudsters locally and internationally. In other words, work towards the prevention, investigation and prosecution of advance fee fraud cases. Setting up a comprehensive database for the storage and analysis of information concerning the offence(s) and offenders is also an objective. Its membership is drawn from related security (the police and security services) and associated agencies such as the justice departments, the central bank, postal services

and Internet service providers. Also, in a similar development, the Central Bank of Nigeria issued fresh directives to check the activities of fraudsters such as the 'Customer Identification Procedure' - aimed at ascertaining the status of customers (*The Guardian Online* – <http://www.ngrguardiannews.com> 05/12/01 and 20/12/01).

Some researches have addressed issues of public image and crime. Hills (1971) noted that in general, public perceptions and definitions of crime or what the crime problem is could affect the enactment and enforcement of criminal laws. He points out that the content of media reports conveying these feelings are not well researched. He notes that the media plays an important role in shaping views. Television, radio, magazines and newspapers have become major public forums for information on crime events, sanctions and policies. Thus it is common for various interest groups to manoeuvre these communication outlets to mobilise political support for their conception of the crime problem. Methods in which this can be achieved include selective coverage, emphasis, omission, and mode of presentation. It is common to find highly dramatic, publicly visible and violent crimes receiving greater media coverage. Hills notes that in the US certain studies showed that people's estimates of how much crime increase had occurred were related to the rise in newspaper coverage of crime news rather than with the actual rise in the amount of crime.

For Hills, other non-visible violent crimes such as fraud, embezzlement and other forms of white-collar crime especially by corporate offenders represent far greater economic losses but are not generally pursued with great zeal by the media. A probable explanation would link this trend to social class, celebrity status, control of the media etc.

Quinney (1974) looked at the public opinion/crime issue from an ideological perspective. He notes that in order to control crime and its perception by the public, the government applies criminal sanctions at times needed to convince the public that its own interests are being endangered. In every society, the official ideology accepted by the public stresses and rationalises the concerns and reactive policies of the ruling class in a given society. With this, the public is prevented from developing critiques

class in a given society. With this, the public is prevented from developing critiques and solutions that can threaten the existing order. Then public consciousness is avoided. Quinney states that with the appropriate public opinion, official policies can be instituted without the appearance of exploiting the public and serving the narrow interests of the ruling class. For Quinney, the media are not explicitly engaged in the transmission of an official ideology. This may not be the same for all countries. It is important for there to be an understanding between government and the media, though this does not have to be overtly expressed in addressing the crime problem. 'Inappropriate' crime stories are capable of creating 'crime panics' which will not be helpful to social and business life.

According to Edwards and Gill (2001) it is common in the literature to find that organised criminals are regarded as external threats to western economies as indicated in the National Crime Intelligence Service publications (NCIS, 1993, 1999). It is also common to find assertions made about the impact of these groups on national economies. For instance, three Chinese organisations are said to pose the most potent threat to global security (Myers, 1996). For Jamieson (1995), by the mid-1990s there could be few regions of the world untouched by Italian Mafia pressure or influence. Voronin (1996) estimates that 40-50% of the Russian economy is controlled by organised crime. Thus, the notion of security from these perspectives is defined in opposition to external, alien, actors, cultures and organisations (Edwards and Gill, 2001).

With regard to the above, Edwards and Gill (2001), Block (1991), Hobbs (1998) and Rawlinson (1998) have challenged this image and its consequent reduction of the complexity of organised crime to a crude conception of alien conspiracy. Further, "from this perspective, organised crime is understood in one sense as a response to the demand in western societies for illicit services and, in another, as an indication of the limits encountered by nation-states in exercising sovereign authority over their domestic populations. The common theme here is that the source of organised crime is endogenous" (Edwards and Gill, 2001). An example of the interdependencies between legitimate and illegitimate entrepreneurs from Edwards and Gill's paper is

that noted by Block (1991) who identified the services provided by criminal organisations to 'upperworld' businesses in dumping toxic waste. In another example observed by Ruggiero (1998:121) "money laundering can be regarded as a service provided by the financial sector to conventional organised crime".

In addition, the use of 'alien conspiracy' theories has been identified as excuses for the crime problem in general. Hobbs and Dunnighan (1999: 69) note that "the persistence of 'alien conspiracy' theories has not been limited to academic debate. Threat assessments contrived by NCIS have concentrated upon a range of exotic criminal organisations (NCIS, 1993 and 1997), and the identification of aliens as the principal organised crime threat to British society, is a device that conveniently excuses British society from taking responsibility for its own maladies... Identifying aliens as the principal organised crime threat to the state, however, constitutes rather than the mere scapegoating of minorities". They also note that central to their research findings is the new criminal market, common with its legitimate counterpart, is structured within small flexible firms that feature short-term contracts and lack of tenure - the typical nature of advance fee frauds. In most cases, crime networks are locally constituted, and it is possible to find similarities between local and international crimes in areas such as immigration, emigration, employment and work in leisure cultures.

It is important to add that Hobbs and Dunnighan rightly state that certain crime networks have some kind of international connection, and provide evidence of the impact of foreign cultures on indigenous markets, or new trading arrangements that do not ignore, but utilise national boundaries. For the criminal or fraudster, there are advantages of global activity such as avoiding prompt detection and prosecution. More so, it makes the computation of the extent of crime more difficult. At any rate, examples of known cases are indications that the economic impact is considerable in all areas with some connection to the activity.

In conclusion all the probable causes or explanations for the so-called 'Nigerian crime' can be regarded as possible criminogenic conditions which could also be

applicable to other settings. With regard to theory, it is proffered that fraudulent activity in Nigeria perpetrated by citizens and foreigners operating independently or collaborating with one another can be understood in terms certain criminological theories. These are the theories of rationality or rational choice (with a strong bias for economics/cost/benefit analysis of the offence vis-à-vis sanctions); culture (as it concerns the image of corruption in business especially in developing countries and the role of material possessions in personal status); and opportunity (as presented by the nature of trust and risks in human relations and commerce – the central elements required for this form of fraud).

However, to the extent that the majority of citizens are law abiding, the explanation for criminal activity is located within the individual and his 'rational'/economic responses to socio-economic, and probably political conditions. The prestige attached to material possessions as in all other parts of the world is also a contributory factor. More so, the fact the government has not been able to satisfy and meet the basic needs of citizens, some people resort to crime/fraud thereby tarnishing the image of responsible citizens and the country at large. Reports show that the use of upfront fees in fraud is nothing new, as they occurred before the last century (Levi, 1981; Vallance, 1955); and Morton, 1992). Dishonest individuals would always device ways of committing fraud and other crimes for their selfish interests. It is important to avoid the use of generalisations and stereotyping in examining issues.

On the other hand, it is the responsibility of a country to address its crime problems, and in the final analysis, the cause of whatever social, economic and political problems lies within the polity. For instance, since gaining independence, developing countries are in positions to take and make good judgements on behalf of its citizens. Where the contrary is the case, then the policy makers and administrators are to blame for unpatriotic decisions especially as they concern developmental projects, investments and the provision of basic needs. The implications of crimes and financial crimes in particular are grave. Apart from the reducing the level of confidence, trust and credibility internally and internationally, the continued activity could and has undermined respectability, social, political and economic development.

The next chapter is concerned with fraud and the criminal justice process. The reaction of agencies and individuals involved in the administration of criminal justice could have far reaching effects especially in the areas of deterrence, and punishments or sanctions.

Chapter Three

Fraud and the Criminal Justice Process (CJP)

The attributes of fraud, especially those relating to the definition of what can be regarded as fraudulent and its modus operandi makes the offence unique within the criminal justice process. The fact that most fraudulent practices are intertwined with legitimate activities also makes the proof of guilt cumbersome, especially with regard to some types of scams such as religious and investment schemes. The voluntary action of the victim gives the fraudster some defence. The complicated nature of certain offences is also burdensome to the police. Hence specialised agencies have been established to handle such frauds. Due to manpower and resources, it is often preferred that corporate and business establishments deal with frauds, if possible internally, thus treating them outside the ambit of the criminal justice process and system. In addition, some regulatory bodies such as the Department of Trade and Industries (DTI) are responsible for certain business offences or ‘crimes’ which they could prosecute in court or have them transferred to the police if necessary. They also have powers to impose sanctions such as fines and to recommend liquidation or closures through the courts.

In the UK the criminal justice process involves several actors and institutions. The police are expected to prevent, detect and investigate crime, while the Crown Prosecution Service (CPS) is responsible for the prosecution of cases. The role of the CPS includes reviewing the evidence to see whether a case is worth pursuing, deciding on the appropriate charge, and making decisions primarily on the basis of an ‘evidential test’ and ‘in the public interest’ (Gibson and Cavadino, 1995). Other law enforcement agencies include the Serious Fraud Office (SFO); Customs and Excise; Department of Social Security; the Health and Safety Executive; ‘Trading Standards’; and the TV Licence Records Office.

This chapter examines various areas of the criminal justice process as it concerns fraud. The criminal justice process can be divided into the investigation, prosecution and sentencing stages, unlike the criminal justice system that is more encompassing (includes courts, prisons etc.). As with all offences, especially those heard by a jury,

the role of the jury is important. Thus one of the sections in this chapter looks at issues concerning jurors in fraud cases.

3.1 Investigation

The investigation and proof of fraud has always presented difficulties for police agencies all over the world, especially in the UK and the United States (Levi, 1981). Historically, the police in Britain have made attempts to address the situation. Levi notes that though the investigation of frauds by the police has always been part of their duty, during the 1930s, Scotland Yard set up a small Share Pushing and Confidence Trickster Squad. This outfit combined with the Metropolitan Police and City of London Police Fraud Squad dealt with cases of fraud. This development improved co-ordination of efforts in the areas of prevention and investigation of company frauds. Second, it helped to create a pool of experts in the subject, in addition to sensitising the police to view fraud as a 'police problem'.

In the course of developing a fraud investigation culture, certain events such as activities of long-firm fraudsters helped in shaping the structure of police response to the expanding nature of fraud. This culminated in the formation, in 1971, of a Long-firm Fraud Squad within the Fraud Squad in London. Due to the expansion of its functions, it was then suggested that a Commercial Crime Index be compiled (Levi, 1981). Further, in March 1968, a Commercial Intelligence Bureau was set up, to collate information on all commercial frauds within the Metropolitan and City Police districts. Since fraudulent operations tend to transcend police boundaries, this index was soon extended to cover the whole country, and became a resource for police forces throughout the country. From 1965, the Commercial Crime Intelligence Officers maintained a basic card and computerised index, information on commercial enterprises convicted, suspected, or under investigation for crime and associated commercial offences; and persons concerned in the directorship, management or administration of such commercial enterprises. Information came from several sources such as trade protection agencies, underworld informants, suppliers, other police squads or divisional CID (Levi, 1981).

Other attempts have been made by governments internally and internationally to curtail the prevalence of fraud. An important organisation concerned with fraud with particular interest in international fraud is the Interpol (International Police) which was set up in 1911 (Bose and Gunn, 1989). During the First World War its activities were suspended and restarted in 1922. After the Second World War during which its activities were also suspended, it reopened in 1945. The Interpol's Headquarters is in Paris. There are 141 member countries and each country has to provide or identify their own National Central Bureau.

Bose and Gunn outlined some of the activities and functions of the Interpol. Operating from the Secretariat, these include: the provision of a radio network which allows officers investigating a case to be put into contact with any officer in another country investigating the same people, or aspect of the same crime. Thus avoiding having to go through the normal diplomatic channels. Interpol is primarily a co-ordinating operation. It does not take active part in investigations. It has a number of divisions specialised in linking up certain types of criminal investigations. Interpol keeps an index of all those whom it knows are being investigated everywhere in the world. This serves as a good data resource. Interpol also makes recommendations to the United Nations and other bodies, but does not participate in the politics of drafting the international treaties that may follow. To assist in fraud and criminal investigations, it has compiled a useful compendium: a Financial Assets Encyclopaedia, which lists all member states who have notified it of their laws and procedures for seizing criminal assets.

In the United Kingdom before 1985, the traditional method of investigating any fraud was carried out by officers of the British Police Fraud Squad or the Department of Trade and Industry (DTI) (Levi, 1985). The revenue department (or any combination of those bodies) was also involved. These organisations conducted investigations that could go on for several years. They prepared reports for (in less serious cases) their in-house lawyers or for (in major police and DTI cases) the Director of Public Prosecutions (DPP). After the investigation was concluded, an officer of the DPP would decide if there was a better than 50 percent chance of producing a conviction and, if it seemed that there was, would pass it on to outside counsel to draft charges. Levi notes that in certain cases, counsel observed that most of the police efforts have

been wasted and that the police should really have focussed on issues they did not examine properly. This would normally lead to the case being dropped or the police would be told to carry out further investigation. This might prove difficult for the police since they have no official access to bank account information prior to a suspect being charged and sometimes, such information would be needed to justify the institution of proceedings in the first place. To address these shortcomings the DPP established in 1985 the Fraud Investigation Group, which was intended to work in an interdisciplinary way to provide early consultation for the police and other agencies (Levi, 1987).

Problems associated with fraud investigation and their prosecution led to the establishment of a specialised agency - the Serious Fraud Office (SFO) established by the Criminal Justice Act 1987. Its brief is to deal with 'serious' and/or 'complex' fraud, loosely defined as frauds involving at least £1 million 'at risk' and/or of considerable public interest and/or where the details are 'complex' (Levi, 1999). Levi notes that the minimum cost fluctuates between £1 million and £5 million, but that costs of fraud often are a term of art. Following a Treasury review, which decided that it should continue to exist and expand its role, it has since increased its caseload. The Director of the SFO (2000) states that it is likely to investigate cases based on the following criteria: cases in the order of at least £1 million. Those likely to give rise to national publicity and widespread public concern; cases requiring a highly specialist knowledge of, for example, Stock Exchange practices or Regulated Markets, cases in which there is a significant international dimension (other investigative/regulatory bodies also do the same depending on the magnitude). Also, cases where legal, accountancy and investigative skills need to be brought together. Those which appear to be complex and in which the use of Section 2 powers (to obtain information under compulsion) might be appropriate are given priority.

Further, the SFO was formed as a multi-disciplinary organisation, with lawyers, accountants/financial investigators from various backgrounds, including former fraud police officers, regulators, investigators from other government departments and graduates who are trained in-house. The SFO investigates major financial fraud cases of all types, with the exception of tax fraud. The SFO receives most of its cases from the police. Regulatory authorities and other government departments such as the

Department of Trade and Industry (DTI) and the general public working with their legal advisers also refer cases. In contrast with typical police functions (of investigations) and the Crown Prosecution Service (prosecutions), the SFO investigate and prosecute its cases.

During the first few years of the SFO's existence, according to Levi no data was collected on the value of frauds it investigated, but in 1990 their aggregate value was £1.3 billion, while subsequently, it has fluctuated to a maximum of £6 billion 'at risk', not necessarily stolen. In 1996-97, the estimated value of alleged frauds in its caseload was £3 billion at the beginning and £2 billion at the end, the difference being accounted for by the completion of two cases: the Bank of Credit and Commerce International, and the Maxwell pensions fund fraud cases (Levi, 1999).

With regard to the powers of the SFO, under section 2 of the Criminal Justice Act 1987, when authorised by the Director, and without the need to go to court for a Production Order from a circuit judge, legal and accountancy staff at the SFO are given major powers. Anyone connected to a serious fraud case can be required, if the SFO wishes, to produce documents and/or to answer questions, even if the answers to the questions might incriminate them. Lying to the SFO is also a criminal offence (Levi, 1999). Levi observes that on the other hand, in most fraud investigations the police have no power to require answers to their questions, though with relative ease, prior to arrest or summons, they can obtain Production Orders from circuit judges for documents required in their investigations. The SFO's statutory powers in addition to the Police and Criminal Evidence Act (PACE) 1984 provides a separate but slower procedure with regard to breaking banking obligations of confidentiality.

The Director of the SFO (2000) notes that serious fraud has international dimensions, and most SFO cases involve professional and organised criminals. Opportunist and some dishonest businessmen, who are relatively conversant with the value of spreading their activities across a number of different countries and jurisdictions, are also involved. It was revealed that the fraudsters are aware of problems associated with cross-border investigation and their prosecution. Also, that there are still jurisdictions, even within Europe, where assistance on fraud cases are not as readily forthcoming as one would expect. Letters seeking information are said to go

unanswered. This delays the judicial process. Sometimes information is received after a trial is over. Liechtenstein was cited as an example where there are no fewer than 17 avenues of appeal which the account holder can use to delay access to his bank account or details of his secret deposits. Furthermore, she mentions that in England and Wales there is no single offence of 'fraud'. Thus prosecutors have to rely on a number of relevant statutory offences. She notes that the SFO is not allowed to associate several offences in a single charge.

The Director mentioned that the SFO has established a special unit for assisting foreign authorities. The Director noted that the only person who benefits from a lack of co-operation in mutual legal assistance is the criminal. Thus the situation should be avoided. In addition, as at September 2000, the organisation was investigating or prosecuting 85 cases, the largest number they have ever had, where the sums at risk in the frauds involved was over £2 billion. With regard to performance, the Director of the SFO mentions that in about 13 years of experience they have had conviction rates averaging over 65% during the whole period. Further, in the past two years convictions have been recorded in over 85% of cases.

The SFO introduced a unique approach to the investigation and prosecution of large frauds. Levi (1993) observed that the SFO brought financial irregularities otherwise dealt with privately or within organisations concerned and specialised regulatory bodies into the arena of criminal courts and the public in general. Though the SFO has the highest profile, it is not the only body, which deals with serious frauds. The Fraud Divisions of Headquarters Casework of the Crown Prosecution Service (CPS) and branch CPS officials in the regions handle most fraud cases. Other bodies that deal with serious frauds include the Department of Trade and Industry (DTI), the Securities and Investments Board (SIB), the Bank of England (in respect of unauthorised deposit taking), the Stock Exchange, and the Revenue Departments.

For instance, the Department of Trade and Industry (DTI) plays an important role in the control of fraud. Their powers include those relating to companies before liquidation, and those, which arise during and after liquidation. Various statutes have been enacted to take care of the different aspects of their operations and regulatory activities (Levi, 1981). Levi notes that certain constraining factors could affect the

proactive policing of firms by the Department of Trade. These include the negative trading effect and reduced confidence on the part of clients and investors if information goes out that the authorities are investigating the company. Thus, the Department of Trade needs to take into account the risk that 'labelling' may cause, which may eventually lead to the failure of the firm concerned. The other major constraint concerns that of manpower. The ever expanding or the proliferation of private enterprises generally makes detailed surveillance difficult.

Investigating fraud is not an easy task to accomplish. In order to establish that a fraud has occurred, certain conditions need to be fulfilled. "The act has to be prohibited, either by the judiciary alone (in common law) or in the case of statute law by both the established law making-bodies and the judiciary. A definition or confirmation by the victim that the incident was a 'rip-off' and was an illegal act are required, and an official report or complaint must be made to the police or the appropriate regulatory agency who will then investigate and refute or confirm the offence." Further, for someone to become a convicted fraudster, there has to be a police investigation, a decision to prosecute and a conviction (Levi, 1987: 111).

Especially in cases of fraud, it has been observed that technological changes can facilitate certain crimes. This could further complicate or make their investigation difficult. Examples include fraud involving the use of computers, international direct-dialling telephones, telexes, computer-aided despatch systems and facsimile senders, which all enable fraudsters to distance themselves geographically from their targets. The spread of offshore banking and investment schemes has been of benefit to multinational corporations and fraudsters (Levi, 1987). These facilities assist them to conceal and launder their loot. Business/economic activities have played their role in altering the pattern/method of fraud. For instance, in the mid-1980's, documentary fraud became more popular than insurance claims for 'lost' cargo and claims for 'sunk' vessels. "The reason being that due to the excess of supply and demand in the market, ships themselves became so cheap that they were worth less than their cargoes" (Levi, 1987: 3). It is important that investigating officers are aware of all these circumstances and methods of deceit.

Finally, other organisations involved in fraud control/investigations include the Commonwealth Secretariat's Commercial Crime Unit, which was established to enhance international co-operation on fraud, drugs and other economic crimes. According to Bose and Gunn, (1989) since 1986 it has made efforts to investigate organised crime such as those involving the Mafia, the Japanese Yakuza and the Chinese Triads in Taiwan. They monitor suspected fraudsters, alert potential victims, render advice and information on fraud and help run financial checks for governments among other duties. Bose and Gunn note that in 1982, which was their first full year of operation, it unmasked attempted fraud of about £11 billion. Further, the unit is also expected to train people from Commonwealth countries on techniques of combating commercial crime. In recognition of this, every year symposia on aspects of commercial crime and law enforcement are held in Cambridge in association with the university, the Centre for Commercial Law Studies of London University, Queen Mary College and the Secretariat of the International Chamber of Commerce. Law ministers, attorney generals, high-ranking policemen, bankers, accountants, trade officials etc., usually attend these conferences.

For over 20 years, the International Chamber of Commerce (ICC) based in Paris France with specialised offices in the UK, USA and Asia have been involved in the fight against various forms of fraud. The organisation has different units specialising in various crimes, all with their own Internet sub-sites. According to the Commercial Crime Services (CCS) website, they have saved companies and individual investors from losing money in potential fraud and theft through its ability to identify scams. These include bureaux within CCS (Commercial Crime Services) that deals with maritime and trading crime, product counterfeiting, financial malpractice, and all other forms of commercial crime. A special cybercrime unit tackles crimes affecting electronic commerce and keeps companies informed about changes or new dimensions in crime. It also co-operates with customs authorities under a Memorandum of Understanding with the World Customs Organisation. Services are membership based (<http://www.iccwbo.org/index.asp>).

To sum up, with regard to other approaches to fraud investigation and prevention, Nicholson (1996) is of the opinion that phone tapping and other interception techniques need to be used more widely to tackle fraud and other serious crimes.

Nicholson observes that, it is unfortunate that the bulk of evidence including that obtained from telephone tapping cannot be directly used in any prosecution. In addition, issues of jurisdiction and covert intelligence should be addressed for the increasing rate of international fraud to be reduced.

Among other suggestions, Bose and Gunn, (1989) recognise the need for private investigators to be involved in fraud investigations. According to them, they take a lot of strain off the police. This takes into consideration the fact that the police need more money and extra manpower to cope with the growing incidences of fraud. Qualified private investigators are likely to be well trained and be experienced in handling particular types or complicated frauds.

Finally, the police are the major players in the investigation of fraud as with other cases. They usually receive initial reports of illegalities that are supposedly criminal. Using their discretion, cases are dealt with or referred elsewhere. As for illegal activities or markets, Edwards and Gill (2001) note that what is likely to increase police intervention in a competitive illicit market is the use of violence. This implies that certain criteria determine the nature and extent of police involvement in fraud and other crimes. It is important for the police in particular to be well equipped to fight fraud. Appropriate legislation should also be enacted in their favour.

3.2 Prosecution

The prosecution of offenders is another problematic area within the criminal justice process. Certain characteristics are peculiar to fraud cases. Schur (1958) attributes the ineffective control and prosecution of fraud cases to certain factors such as the minimal reporting rate of offences; complicated and varied statutes; and the difficulty in the general rule of criminal law that for a false pretence or representation to be indictable, there must be an untrue statement regarding a past or present fact. Further, achieving the high levels of evidentiary requirements under specific statutes can be strenuous. Where sanctions are imposed in swindling cases, they are rarely stringent.

In the courts, during the early 1980's serious problems arose with regard to the number of lengthy trials. Levi notes that some defendants were acquitted at the

direction of judges who accepted their arguments that the conduct complained of was normal market practice and that those accused were therefore not dishonest. Some others involved in jury verdicts felt that outcomes were regarded as 'perverse' by the police and prosecutors. These were not the only difficulties encountered in the prosecuting cases (Levi, 1999). In one example, Levi mentions that in being fair to those accused, a judge ordered a retrial in a multi-defendant case that had lasted over 100 days and cost over £1 million in legal fees. This occurred after a newspaper reported that some of the accused had been convicted previously and in the retrial they were all acquitted. In another fraud trial, a retrial was ordered after 137 days when someone believed to be connected with defendants approached jurors: after this retrial the principals were convicted. For Levi, the political perception was that 'the system' was not working, that is, was not delivering convictions reliably or quickly enough.

These events led to various actions by the government. The government responded by setting up a committee under a senior judge, Lord Roskill, which focused initially on the inadequacy of trial by jury, but developed into a broad-ranging review of the investigation, prosecution and trial processes. It concluded that what was needed was a new, unified body that could investigate and prosecute 'serious or complex' fraud simultaneously. This led to the establishment of the Serious Fraud Office (SFO) headed by a Director (Levi, 1999).

In the prosecution and trial of fraud, the SFO has proven to be an important political institution. According to Levi, the SFO is the first agency in Britain to have a bureaucratic interest in prosecuting fraud. Further, its title gives a sense of power and prestige and the announcement by the Attorney General that 'the SFO is investigating company X' triggers the perception that this case is being taken seriously' (Levi, 1999). Levi notes that although many trial verdicts result from judicial and jury decisions that may be unforeseeable, and even capricious, the SFO has taken a severe media and political battering during the 1990's. He notes that labels such as 'Serious Farce Office' and 'Seriously Flawed Office' have accompanied this. For Levi, this can be traced to two reasons. First, is the fact that several high-profile prosecutions – the later Guinness trials, brokers UBS Phillips & Drew and merchant bankers County NatWest, ex-boxer George Walker, Roger Levitt, and the Maxwell brothers, did not

end in conviction. Or, in Levitt's case, an alleged £37 million fraud resulted in a derisory 240 hours' (legal maximum) community service sentence following a controversial plea bargain. Second is the fact that some of the prosecutions above were proceeded with in the first place. This offended the sentiments of some business and media people who were of the view that the criminal law had gone too far to cover what was either tolerated behaviour or behaviour that could be 'more appropriately' dealt with by regulators.

Among other criticisms of the SFO, it has been alleged by some defendants and media commentators that the SFO is too prosecutorially aggressive or, in the alternative, that the SFO is too timid in taking on those whose prosecution might embarrass the government (Levi, 1999: 151). He also notes that "corporate criminal liability is notoriously difficult to prove in England, even more so in the United States".

It is generally agreed that during the 1990s, as in all decades post-1960 and even before, that highly publicised fraud trials take too long and that their results are unfair on everyone like the defendants, jurors, judges, and when considered, victims and taxpayers (Levi, 1999). Levi notes that in Britain, unlike Canada, New Zealand, the United States and parts of Australia, the defendant cannot choose trial without jury. Also, middle-class persons in employment cannot afford to lend themselves to serve as jurors for trials that take between three and seventeen months. As a consequence, this destroys the concept of representative juries.

In accordance with the views of other researchers, Box (1983) observed that the criminal justice administration is relatively adequate in principle, but faulty in practice. The police abuse their discretionary powers, they also engage in differential deployment such as targeting known criminals. The use of plea-bargaining strategies and inconsistent judicial decisions are also prevalent. For Box, all these have negative consequences for the investigation and prosecution of fraud.

Another observation linked to the efficiency of prosecutions is the geographical dimensions of some frauds. Levi notes that 80% of cases investigated by the London police in 1991 had some cross-border aspects. Without mutual legal assistance, many investigations would fail. Further, policing powers are influenced not just by law but

by the visibility of particular police actions and the tolerance of the courts. Thus, coping with overseas jurisdictions can be problematic. This is in addition to the difficulty of informal as well as formal action, patterns of pressure, friendship, etc, which make for fewer and less powerful trade-offs and for greater uncertainty about responses in different cultures (Levi, 1999). Moreover, secrecy statutes also present legal obstacles to the conveying of information. Evidentiary rules also present major problems. For example, Levi observes that for something to be admissible in the US courts, witnesses have to be given the same rights that they would have had if the evidence had been collected in America.

Other problems associated with the Criminal Justice Process and fraud include that certain offenders managed to escape justice by weaving complicated international webs around their activities - a point also noted by the Director of the SFO. An issue which Levi (1999) observes that has not been addressed by media focus on the Serious Fraud Office is the range of frauds that are very costly but do not pose serious risks to the commercial reputation of the country or involve major public figures. He notes that in Britain, Fraud Squad officers are tied up in dealing with major international frauds and property swindles involving professional lawyers and real estate agents. There are few resources left to deal with the frauds under £2 million which either individually or collectively may cost businesspeople, consumers, or taxpayers a great deal more, financially or emotionally. Likewise, only a tiny number of persons are prosecuted annually for tax evasion or for other corporate offences. Levi (1999:158) cites the ironic examples of “the enormous cost and risks of prosecuting complex frauds – defence costs in the prosecution for misleading the market in the take-over of American Blue Arrow by the British Manpower corporation were estimated at £30 million, though the prosecution ‘only’ cost £2 million. The ‘failed’ Maxwell prosecution cost about £25 million”.

This leads us to the role of the jury in all fraud trials discussed in the next section. Jurors play a key role in the prosecution of fraudsters because the extent to which they understand cases, their general disposition and subsequent interpretation of the criminal act are important determining factors for a verdict.

Finally, the investigation and prosecution of fraud also has its limitations. Those who take commercial fraud seriously have found that its inaccessibility to normal crime intelligence networks, and the cumbersome quality of fraud investigations and trials, make it both difficult and expensive to 'bring fraudsters to justice' (Levi, 1981). Despite the growth of official interest in fraud control, its claims for increased resources have met with very limited success in societies such as Britain where the costs of dealing with crime are escalating continuously. For Levi, the perceived seriousness of any given crime determines the nature of societal reaction to it, and this in turn determines both the internal and external constraints, which influence the decision to act in a criminal manner.

3.3 The jury in fraud trials

In the UK, jurors are drawn from a broad, though not complete cross-section of the population. Everyone aged 18 to 70, who is registered as a parliamentary or local government elector is eligible for jury service, provided he has been ordinarily resident in the UK for any period of at least five years since attaining the age of 13. The residential qualification is a rough and ready way of ensuring that jurors have adequate grasp of the English language and way of life (Emmins, 1990). Certain categories of people are excluded from jury service. Some of which include officers within the judiciary and those involved in the administration of justice. Others are the clergy, the mentally ill, and those who have received a custodial sentence of five years or more.

Emmins also notes that the Lord Chancellor, through officers of the Crown Court is responsible for summoning jurors to attend for jury service in the Crown Court. The summons is always in writing and may be sent by post. If a lengthy case is anticipated, it is normal to ask jurors whether they have any objection to being involved. Jurors are entitled to payment in respect of travelling and subsistence expenses and loss of earnings, but the rates of payment may not provide full compensation for the losses incurred. There are certain penalties for non-attendance when summoned. Details of this, the restrictions and information on how to be excused are included in the initial summons. Finally, once a jury has been empanelled, the twelve men and women selected after hearing the entire case are

expected to return a verdict. The judge may discharge up to three jurors and allow the trial to continue, or in certain circumstances, may discharge the entire jury from giving a verdict - for example, due to allegations of misconduct. Thus, the judge leaves the possibility of a fresh jury being sworn in to try the accused at a later date (Emmins, 1990). It is not uncommon for villains to look for loopholes within the jury system or manipulate jurors if possible with a view to extending or collapsing trials.

The role of the jury in fraud trials has attracted some attention. With regard to problems associated with the prosecution of offenders, Levi (1987) gives a review of certain assertions made about juries involved in fraud trials. These are that they are prone to be corrupt; could be tolerant of fraud; and they may find it difficult to understand complex frauds. Further, the duration of fraud trials could be lengthy and costly. For example, according to Levi, Roskill's report showed that a sample of 10 cases lasting more than 20 days in which verdicts were reached between 1981-1984 cost £500,000 and the average fraud trial lasted 46 days (Fraud Trials committee, 1986: 174). Moreover many fraudsters have been acquitted in the past. For example, in fraud prosecutions undertaken by the Director of Public Prosecutions Office in 1983, 180 out of 637 charges (not persons) proceeded with at crown courts ended in acquittal (a rate of 28%). In 1984, the equivalent data were 61 acquittals and 159 convictions for obtaining property by deception, 26 acquittals and 71 convictions under Forgery and Counterfeiting Acts, 43 acquittals and 131 convictions for corruption, and 9 acquittals and 2 convictions for conspiracy to defraud. The overall acquittal rate was thus 30% (Levi, 1987: 204).

For Levi the non-seclusion (for example in Britain) of jurists does not make them more vulnerable to pressures. He states that rather than concentrate on the legal rules of a case they spend time on activities such as stating their views about the conduct in question. On the duration and cost, whether trials are 'too long' or 'too expensive' is a value judgement. Further, factors contributing to the acquittal of fraudsters include the Attorney General's guideline on the need to have a 50% chance of conviction before embarking on prosecution and instances of plea bargaining that result in some cases being dropped (Levi, 1987). Page (1997: 322) also notes that the fact that jurors cannot understand complex frauds may lead to acquittal decisions since they "would be

too confused to be sure of guilt beyond reasonable doubt”. Thus, proper jury selection or training as required was therefore highly recommended. .

In a recent article, the Director of the SFO reiterated her favour for non-jury trials in major fraud cases, especially in cases of very complex fraud. Noting that it is cruel to subject people to lengthy trials as they get tortured and bored. Where frauds involve well-known people or celebrities, it can be harder to obtain a conviction. The celebrity factor, as well as humour, or sympathy may sway juries. She also favours defendants being given the option of a non-jury trial, which many might go for if they have a technical defence that a jury might not understand. She would also like to see judges embrace Information Technology (IT) much more eagerly to save cost and time. She notes that under the present jury system a high-profile jury trial could still see the SFO “with ‘egg on its face’ - you can’t guarantee the result. These people (fraudsters) have often spent their lives being confidence tricksters - why shouldn’t they trick a jury” (*The Times Newspaper*, 06/03/01).

Concerns have often been expressed about the use of jury trial for complex frauds. In his study, Levi (1993) observed that jurors have been subjects of criticisms from virtually all quarters. Some jurors he interviewed complained about the slowness and apparent irrelevance of much of the evidence presented. He notes that this fault can either be attributed to the prosecution or the defence. Section 8 of the Contempt of Court Act 1981 states that it is “contempt of court to obtain, disclose, or solicit any particulars of statements made, opinions expressed, arguments advanced, or votes cast by members of a jury in the course of their deliberations in any legal proceedings”. For Levi, this stipulation creates obstacles to valid jury research in England. He also notes that the SFO supports the idea of a more systematic study.

Unsystematic interviews in non-random cases carried out by Levi suggest that jurors take their job seriously. They absorb a lot of information during a trial, which has sometimes led to a change of attitude or position (Levi, 1993). Further, some jurors especially in serious fraud cases see the event as important and a chance for them to sit in judgement over their ‘social superiors’. Jurors also resent obvious attempts by judges to ‘tell us what to do’, appreciating that it is their decision. Jurors have also observed certain situations where people with clearly relevant evidence did not give

the evidence in court. Jurors also observed the tactics of lawyers looking for legal loopholes to save their clients. These issues concern the moral aspects of the system in general (Levi, 1993).

Levi's interviews with jurors also acknowledged that 'charismatic factors' played a part in their decisions. For instance, a 'dull' counsel made them 'switch-off', and in some cases they were later impressed by an initially 'dull' counsels thoroughness and closing remarks. They believe vigorous interrogations brightened up a case. Levi notes that it is uncertain that the length of the trial makes it unintelligible as the longer the trial goes on the mores it can be properly absorbed. Jury research also suggests that jurors do search for apparent inconsistencies (Levi, 1993). Overall, Levi notes that despite all the comments above, the evidence on jury understanding of complex cases from America is not encouraging. He cites an example of a hung jury in the US based on a 10-2 vote, a situation that would result in a conviction in the UK. Similar other examples exist.

An incident that occurred in 1995 supports the views of the director of the SFO and other researchers. According to the *Times* (23/03/95), a six-month trial costing an estimated £2 million collapsed when the judge ruled that the evidence was too difficult for the jury to understand. The judge discharged the jury of seven men and five women. In this case, the defence barrister had argued that the amount of evidence had become 'oppressive and unmanageable'. The judge directed the jury to ring in not-guilty verdicts on the financier and surveyor, charged with obtaining money by deception from a building society. Other defendants were discharged of conspiracy. The article revealed that Crown Court trials cost an average of £37,500 a day.

Fraud cases are tried in court the same way as other criminal cases based on indictment. In other words, this is before a judge and jury in the Crown Court. The Director of the SFO (2000) points out that the nature of the jury has always been a source of concern. The jury is selected at random from the electoral register and there are no educational or other qualifications required of jurors in fraud trials. The procedure can be a lengthy one, with many fraud trials lasting well over three months and in some cases, up to a year. She notes that the government has taken steps to review issues concerning the criminal trial process. Other problems include instances

of witnesses called to court only to find that their evidence is not needed and cases of unnecessary delays caused by irrelevant banking or financial details other than the crux of the matter which is dishonesty.

So what are the possible alternatives? Levi (1993) discussed four likely alternatives that are reasonable. First is the trial by judge(s) alone. He notes that judges are known to sit alone in long civil trials, but in complex and long criminal trials this task will be too burdensome and stressful. Some of the advantages in single led trials include that it has a more business like approach and is heard in a more communicative atmosphere. For Levi the major disadvantage is that if the moral standards of ordinary people are the baseline, it is not possible for the judge to know what they are. The judge can also be easily accused of being biased socially and politically.

The second approach suggested is the trial by judge with assessors. For Levi, this appears to take care of accusations of bias and could inject some expertise into the judgement process. The major concern would involve how the assessors are chosen and who they are. Objections to certain or all members of the assessing team by either the prosecution or the defence would certainly create problems. Levi notes that more hands do not necessarily mean that trial times will be reduced. On the contrary, it may lead to unending technical debates etc., and arguments on which views should be eventually adopted. More so, the defendants and the general public may not be satisfied with the level of objectivity of assessors. To address this, Levi's states that two or more ordinary people drawn as jurors could substitute the assessors.

The third alternative suggested is trial by a special jury. According to Levi the problems here are similar to that of assessors and special jurors may be no more inclined than present jurors to follow the judge's legal direction. More so, allegations of bias or 'class' collaboration may be made against 'peer' judgements.

The fourth approach involves other alterations to trial by jury. Levi states that this could be a possible 'mixed' system that would have a tribunal composed of a judge, two assessors, and two lay persons. He suggests that the requirement should be that one of each of them would have to agree before someone could be convicted or perhaps the judge must also be in agreement. He notes that a major problem with

regard to financial or fraud trials concern difficulties of getting people with relevant commercial knowledge or expertise and who also live within the catchment area of the major fraud trial centres. This would not eliminate all problems associated with trials in general, but will go a long way in ensuring fair play.

A further possibility would be to give defendants the right to elect trial without a jury as practice in North America and New Zealand and some parts of Australia. This decision especially where there are multiple defendants, has to be mutually agreed by all (Levi, 1993).

Finally, from all the arguments above, it appears that jury trials are not generally favoured for fraud cases especially those that are complex. The 'bone' of contention concerns the quality of jurors. It is important that those selected are competent to understand fraud cases and pass verdicts accordingly. Going by the existing methods of selecting members of the jury who are 'ordinary citizens', a more systematic or criteria based selection process is likely to raise discontent among some members of the public. Conspiracy theories are likely to emerge for high profile cases in particular. Thus, it is the view of the writer that Levi's mixed jury system may be ideal where all interests are adequately represented, and lay jurist can interact with experts to improve their understanding of the issues at stake. Hopefully, the professional's interpretations would not and should not be biased.

3.4 Sentencing

The Old Testament concept of an eye for an eye and a tooth for a tooth no longer plays any part in our criminal law. There is, however, another aspect of retribution which is frequently overlooked: it is that society, through the courts, must show its abhorrence of particular types of crime, and the only way the courts can do this is by the sentences they pass. The courts do not have to reflect public opinion. On the other hand, courts must not disregard it. Perhaps the main duty of the court is to lead public opinion - Lord Lawton (Emmins, 1985: 262).

The sentencing of fraudsters is an area of interest to all (the government, criminal justice administrators, fraudsters, victims and members of the public). From the 'deterrence' perspective, it can be argued that the type of sanctions or sentence fraudsters receive determines how serious the offence is viewed by the system and society at large. On the other hand, in fraud cases, especially those involving deposits paid, the victims are more concerned with the recovery of their deposits, after which the offenders can be dealt with as deemed fit by the authorities. Researches in the field of organised crime, transnational economic crime and other forms of economic crime are unanimous in the view that it is important for the proceeds of crime to be taken away from the fraudster. The relevant legislation is that of the confiscation of assets, which needs to be carried out more efficiently. The international dimension of most huge frauds creates difficulties as it could involve the laws of other countries.

The concepts of sentencing and deterrence can be traced to early philosophical writings. They are associated with classical theorists such as Cesare Beccaria (1764, 1963) and Jeremy Bentham (1780, 1973) from the late 18th century. According to Beccaria and Bentham, criminals are free, rational and hedonistic, they choose among alternative courses of action according to their perceptions of the risks and gains associated with it, seeking to maximise gain (or pleasure) and minimise risk (or pain). Further, men commit crime because the pleasure anticipated from the criminal act was greater than the subsequent pain expected. Men have free will and can decide whether or not it is profitable to commit crime. With regard to fraud like in other forms of crime, from the above, the fraudster is also confronted with various alternatives including that of avoiding the act, but are compelled to go ahead because of the anticipated pleasure or gain. Thus, for Beccaria punishment should be severe to the extent that it can deter offenders. In sum, "criminal justice should be subject to strict rule of law (due process) and punishments should be known, fixed and just severe enough to deter. Discretion of judges should be minimised as far as possible in sentencing" (Coleman and Norris, 2000:19).

Young (1994) notes that for the classicist their central focus is the criminal act itself. The purpose of punishment is not to inflict unnecessary pain, hence punishment must be made proportional to the actual social harm it causes, and limited to only that required in deterring further criminal acts. Previous convictions should not be relevant

in arriving at a decision. Further, according to the principles of legal equality, a jury of one's peers should judge crimes, which should be other rational and equal individuals. Judges should be guided by a clear and systematic legal code. In addition, sentencing should be guided by certain agreed fixed tariffs, which allow for discretionary decisions based on 'mitigating circumstances' as adjudged by those concerned. In classical theory, the law should be seen and used as an instrument for control and education. In this regard unjust practices including weak detection of crime within the criminal justice process are capable of encouraging crime.

The efficacy of the deterrence theory is still a subject of debate. Most of the criticisms are concerned with anomalies within the different arms of the criminal justice system that are responsible for the apprehension, sanctioning and the correction or treatment of offenders. In other words how efficient or effective is the criminal justice system, the sanctions, and what impact do they have on the citizens are important considerations. In addition, the opposing view to the classical position emphasises the importance of social factors (which may be beyond their control) on the behaviour of individuals rather than the notion of free will (Haskell and Yablonsky, 1978). Another example of the social aspect of the argument is that of the 'pyramid of crime' (Young, 1994), where the non-random incidence of criminal irrationalities are visible. For instance, with the pyramid of crime, which is consistent with most societies, the poor form the bulk of offenders (who are at the bottom) especially in violent property crimes.

On the impact of criminal sanctions and deterrence, Hills (1971:44) highlight the following suggestions by Sykes (1967: 118) which should be present in any criminal justice system.

- First, punishment must be commensurate with the crime - otherwise it breeds a sense of martyrdom and resentment that encourages new illegal acts. More so if similar offences receive different sanctions or in cases where nothing is done. The declining use of sanctions is capable of diminishing its deterrent value.
- Second, punishment must be quick and certain, if it is to serve as a realistic potential consequence of criminal behaviour. Using the USA as an example, Sykes notes that offenders do not expect to be caught, and due to selective law enforcement and administration, punishment is seldom certain or quick. Sykes

cites the example of swift action and the severity of punishment against drink drivers in Scandinavian countries has contributed to the decline of the offence.

- Third, punishment must symbolise the ethical condemnation of legitimate society; for if this element is lacking, the police, courts, and prisons are reduced to the level of opponents instead of maintaining their position as dispensers of impartial justice. An example of negative influence can be found in bias implementation of rules or sanctions.
- Fourth, punishments imposed by the larger society must be in accord with the values of the groups with which the individual identifies himself; otherwise a conflict of allegiance is created that once again may breed resentment rather than conformity. Criminal laws that are seen to favour certain interest groups are not helpful in this regard, and
- Fifth, the psychology of the criminal act must be such that the threat of punishment has an opportunity to enter into the individual's motivational structure. It is noted that certain crimes such as crimes of passion may not benefit much from this approach.

A document to look at concerning the sentencing of fraudsters is official statistics. In the UK, the *Criminal Statistics of England and Wales* published annually includes figures on sentences from the courts. The official statistics do not state the exact sentences given to specific types of fraud. Rather it reveals the numbers/percentages of offenders that were given certain sanctions. The figures for non-custodial sentences show that the most common penalty is the fine. In fraud cases in particular, fines are commonly used as sanctions. In other words custodial sentences do not appear to be attractive. Reasons for this are not unconnected with prison congestion, the notion that community treatment offers more rehabilitative opportunities and prospects for the offender, and the perception of fraud being mostly non-violent is not as serious as other property and violent offences. Further, it has been observed that with particular reference to the UK fraudsters normally face modest prison sentences even after contested trials. In addition, open prisons and early parole are usually given to 'high profile' fraudsters (Levi, 1999).

To buttress the arguments above, below are some tables showing the types and pattern of sentences given to fraudsters and other offenders including their gender distribution.

Table 3.1

Offenders sentenced for all offences by type of sentence or order, adjusted for shortfalls in data 1994-1999 in thousands (Selected orders) (England and Wales)

Type of sentence	1994	1995	1996	1997	1998	1999
Absolute discharge	22.8	21.2	20.1	18.3	17.8	15.9
Conditional discharge	110.1	106.2	104.8	109.7	114.7	114.1
Fine	1,069.5	1,070.1	1,075.5	998.7	1,060.7	993.3
Probation order	50.9	49.4	50.9	54.1	58.2	58.4
Supervision order	9.3	10.1	10.9	11.2	12.4	12.7
Community service Order	49.7	48.3	45.9	47.1	48.6	49.6
Imprisonment:						
Fully suspended	3.2	3.2	3.4	3.5	3.4	3.2
Unsusended	52.6	60.3	64.0	71.0	76.3	79.7
Otherwise dealt with(1)	18.9	19.3	18.8	20.7	22.4	25.6
All sentence orders (including those not in table)	1,424.1	1,429.4	1,440.6	1,384.7	1,468.9	1,409.2
(1) Includes cases, where the result of the court proceedings was incorrectly recorded.						
Source: Criminal Statistics England and Wales 1999:152, Table 7A London; Home office						

Comments

From the table above, fines were used for 70% of offenders. It is noted that the gradual decline over the years in the use of the discharge and fine with a compensating increase in the use of custody continued for indictable offences in 1999 reflecting a general shift upwards in sentencing tariffs. The next table centres on the offences of fraud and forgery, violence against the person, burglary, and theft and handling stolen goods:

Percentage of males aged 21 and over sentenced for indictable offences at the Crown Court, who received various types of sentences and average sentence length by offence group and plea(1). England and Wales 1998 (percentages/months)

Table 3.2

	Total orders(2) (000s) =100%	Discharge	Fine	Community sentence (3)	Fully suspended sentence	Immediate Custody (4)	Average length of sentence (months) (5)
Violence against the person:							
Guilty plea	5.7	4	3	30	4	56	21.2
Not guilty plea	2.0	2	4	15	2	73	33.1
Burglary							
Guilty plea	4.4	1	-	18	2	79	23.3
Not guilty plea	0.5	1	1	15	1	82	32.2
Theft and hand. Stolen goods							
Guilty plea	3.9	7	4	32	3	53	12.1
Not guilty plea	0.8	7	10	26	3	54	15.8
Fraud/forgery							
Guilty plea	1.6	6	4	31	7	52	15.4
Not guilty plea	0.4	4	5	20	6	66	19.1
All indictable offences							
Guilty plea	30.1	4	4	26	3	62	23.6
Not guilty plea	7.7	2	4	14	2	75	40.4
(1) Final plea recorded on completion of trial.							
(2) Includes offenders otherwise dealt with, excludes offenders committed to the Crown Court for sentence.							
(3) Probation orders, Community service orders, combination orders and curfew orders.							
(4) Detention in a young offender institution, unsuspended imprisonment and partly suspended imprisonment, secure training and detention under the Children and Young Persons Act 1933.							
(5) Average for principal offence. Excludes life sentences.							
Source: Criminal Statistics England and Wales 1999:157, Table 7C London: Home Office							

Comments (Table 3.2)

It is noted that in recent years, the Crown Court has shown similar trends to those in magistrates' courts for indictable offences. It has shown a slow decline in the use of fines and discharges, and stability in the use of community sentences. Of males aged 21 or over who pleaded not guilty to an indictable offence but were convicted, 75% were given immediate custody compared to 62% for those pleading guilty. The average length was 40 months for a not guilty plea, compared to 24 months for a guilty plea. The report reveals that the difference in custody rates tends to be smaller for offences such as burglary and theft where a high proportion plead guilty and in offences such as rape where a non-custodial sentence is very unlikely.

The table on the next page is that of offenders sentenced by sex, type of offence and type of sentence order for selected offences.

Comments

Table 3.3 shows that male offenders dominate all areas of crime/sentences including fraud and forgery. Second, certain orders were used in greater number than others depending on the offence. In the case of fraud, fines, community service orders, unsuspended imprisonment, total immediate custody and total community sentences are the dominant sanctions. Compared to burglary, as with the general crime statistics, burglary offences outnumber fraud and forgery offences. However, in the case of burglaries from the table above, young offender institution, unsuspended imprisonment, total immediate custody, and total community service are common sanctions. This also reflects the varied offender age groups, as younger offenders are more involved in burglaries. Other offence types also show varied degrees and pattern of orders or sentences.

To sum up, at present custodial sentences are applied if necessary. This is a result of several factors including concerns about the efficacy of custodial sentences. Hence the use/growth of 'alternatives to custody'. 'Alternatives to custody' are those penalties which, following conviction and sentence, allow an offender to spend part of his or her sentence in the community and outside prison establishments (Vass, 1990: 2). For Vass, punishment in the community is seen as a means of keeping prison places available for more serious crimes and alleviating overcrowding. Also, punishment administered in the community helps in 're-integration'. In reality, for Bottomley and Pease (1986: 95-96), the word imprisonment is equivocal, and is difficult to measure both in quantity and quality. For instance, an order such as 'curfew' in the community is a different kind of imprisonment. They note that 'prison is near one end of a continuum from total restriction to total liberty'. The literature suggests that the effectiveness of community measures has not been conclusive but is promising. A discussion on this is beyond the scope of this thesis. For a more detailed discussion on this and related issues see Bottoms, Gelsthorpe, and Rex (eds.) (2001).

Finally, the only factor that should count in the determination of whether one is convicted or acquitted are the facts of the case, though the economic means of the accused plays a major role at the conviction and sentencing stages of the legal process (Gabor 1994). Poorer defendants that cannot afford bail are likely to remain in

custody until the end of the trial. It is also likely that privately retained counsels are ready to fight a case to the end with all zeal. Innocent defendants have been known to plead guilty, feeling they have little chance to win a case with the resources available to them and fearing that they will incur the full wrath of the court if they are found guilty after a full trial. For Gabor economic power therefore plays a major role in one's susceptibility to conviction, irrespective of one's guilt or innocence. Also, the sentencing stage, tends to be more favourable to those of higher social standing. Further, the fact that certain levels of discretion are used at various levels of the criminal justice process, whatever biases prevailing at the police and prosecutorial levels are bound to have profound effects on the selection of people for prison terms.

Variations can be found in sentences given to fraudsters. Levi's (1981) computation revealed that in England and Wales, during 1989, only five persons were imprisoned for more than five years for fraud, and only 59 people got more than three years. In 1995, the numbers were five and 48 respectively, despite the large number of heavy sentences for violent and drug 'trafficking' offenders. Levi's study long-firm fraudsters indicated that two principal factors explain their reluctance to plead guilty. First, their belief that they have a good fighting chance of acquittal (approximately 17% of those charged at the Old Bailey between 1948 and 1972 were acquitted), and second, their belief that in any event, they are unlikely to receive a very long sentence.

Further, degrees of sentences depend on certain factors. In Levi's (1981: Table 10.6) study "Sentencing of principals in highly organised long-firm frauds at the Central Criminal Court, London, 1962-72," the length of years given varied with the amount involved in most cases. Some of his analyses revealed that based on the total sum of money lost from the sample of cases, a mean figure of £26,601, and a median of £16,000 was observed. Taking all the sentences together, he found that the average sentence was 2.82 years. Also 50% of principals were sentenced to no more than two years. The most commonly occurring sentence was eighteen months. He notes that these figures are well below the 'tariff norm' found in Court of Appeal cases. For Levi, his data indicates that although the principals of organised conspiracies are sentenced more harshly than their co-defendants and 'non-conspirators', they are not sentenced on the basis that they are 'professional thieves'. Levi's analysis showed that the highest sentence for 9 years was for fraud of £200,000, 2.5 years for £14,000-

£85,000, 1.5 years for £2,500-£40,000, and the least, a year for £8,000-£16,000. A similar trend was observed from the examples of cases in this thesis.

With regard to the above, Levi broke down ‘the tariff’ into three major components:

- The ‘seriousness’ of the offence and the degree of responsibility/culpability of the offender;
- Mitigating factors relating to the previous record of the offender; and
- Mitigating factors of a different nature (e.g. violence, victim carelessness etc.)

In cases where offenders had fraudulent previous records, the sentence imposed seldom exceeded the working maximum of five years’ imprisonment. Thus Levi (1981) concluded that it appears that long-firm fraudsters are sentenced on the basis that they have committed ‘white-collar’ offences rather than ‘traditional theft’.

The way fraud is dealt with depends on many factors. These are:

- whether the victim considers that there is any point in reporting the offence;
- how busy the police are and whether they are willing to record it;
- whether it comes to the attention of the authorities in any other way, for example via proactive audits;
- whether the ‘offender’ is a live company that has a regulatable future;
- how morally bad the offender is perceived to be (with organised crime connections increasing substantially the seriousness score);
- and how expensive and how successful a prosecution is estimated to be (Levi, 1999).

3.5 Fraud and the Criminal Justice Process: Conclusions

At every stage of the criminal justice or law enforcement process, legal agents exercise their discretion. Apart from reported incidents of crime, police officers decide on what is ‘suspicious’ and follow it up accordingly. Judges take decisions based on their ‘judgement’ on what is appropriate. Jurors also take decisions based on the interpretation and perceptions about the case and defendants in question. The initial decisions affect or are capable of influencing the preceding ones (Hills, 1971).

Individual(s) involved and the magnitude of the fraud to a large extent influence the zeal in which the offence is investigated and prosecuted (Levi, 1981). For instance, previous criminal record of the offender could attract more media and police attention, and could also determine the possibility of an acquittal for a first offender. Second, judges appear to take the view that it is less heinous to deceive a man into parting voluntarily with his property than to take goods violently or by force. They also tend to treat those who have run their business legitimately (or apparently so) for a number of years prior to the offence for which they have been convicted more leniently than they treat other, 'pre-planned' offenders (Levi, 1981). Also, the concentration of routine police work on street crimes generally helps to shield the commercial criminal.

Certain factors could influence the type and degree of sanctions imposed. Gabor (1994: 304) lists key elements that increase the likelihood that an offender will face criminal sanctions. These elements are applicable to the conman or fraudster. Thus the more of these elements in a case, the greater the likelihood that sanctions will be imposed. These include that:

- The offender has little political influence and few economic resources.
- The offender is unattractive and defiant, and has poor interpersonal skills.
- The offender is a member of a minority group.
- The offender has a known history of criminal behaviour.
- The offender is a person rather than an organisation.
- Victims or witnesses evaluate the act as a crime.
- The crime is not easily hidden.
- The crime cannot be dealt with internally by an affected organisation.
- The offender and victim (be the victim a person or organisation) have not been acquainted or affiliated prior to the act.
- The offence is not trivial.
- There is a tangible victim.
- The victim is displaying visible suffering.
- The victim, police, prosecutor, or some other relevant party has something to gain by pursuing the case (e.g., insurance, revenge, or protection for the victim, public confidence for the police, reputation for the prosecutor).

- The victim feels no shame or need to protect the offender
- Observers and other relevant parties do not regard the behaviour as justifiable or acceptable.

It has been observed that victims also play an important part in determining the likelihood and severity of punishment for different types of white-collar crime (including fraud) offences (Coleman, 1987). For Coleman, pressure from the victims, and the general public's concern about a particular offence at that time it is uncovered could have an effect on the intensity of police investigation and judicial decisions. If crimes or frauds no matter how small were not reported, the criminals would definitely get away with it. The approach of the typical fraudster collecting small sums of money from thousands of victims is a deliberate act to avoid prosecution by aggrieved victims who are likely to forgo and forget their loss.

An aspect of sanctioning that could have an effect on deterrence and punishment as the case may be concerns the time or period of incarceration. In one of Levi's (1981) conclusions on long-firm fraudsters, he observed that with regard to the social control of long-firm fraud, the amount of time that 'professionals' spend in prison is remarkably small in relation to the amount of money they obtain from long-firm frauds. Thus, the probability of conviction and the sentences that are imposed when one is convicted may make long-firm frauds a fairly good gamble in comparison with traditional forms of property crime. Findings in this thesis support this, and show that the sentences for fraud offences involving both large and small sums of money are relatively mild (Chapter 6.5).

This argument is buttressed by Mitchell (1995) who states that criminals commit financial crime for the money and it is important that the criminal legal system deprive criminals of the fruit of their crime for punishment and deterrence. According to Mitchell, in Britain, The Proceeds of Crime Act 1995, which applies to all types of crime, will go a long way to achieving this objective. This legislation amends and strengthens the Criminal Justice Act 1988, and implies that other types of crime should be treated in the same way as drug trafficking. For instance, in the case of drug trafficking in order to calculate the 'other' trafficking, the court usually relies on assumptions. If the defendant has unexplained assets (whether existing at the time that

confiscation is considered or passing through his hands in the previous six years) the court can treat them as being derived from drug trafficking and can make a confiscation to their value (Mitchell, 1995). In sum, the new Act permits the Crown Court to make a confiscation order if the prosecution requires it. It allows the Crown Court to make assumptions on how the defendant's assets were acquired, and can introduce and enforce new investigation powers to obtain evidence. It also allows the Crown Court to force the defendant to provide information for confiscation purposes.

Finally, the need to deter and punish offenders is not in contention. Appropriate sanctions and practices within the criminal justice system determine how effective and efficient these objectives are. With regard to economic crimes such as fraud, denying the offender the benefits of fraud irrespective of whatever punishment is given is central to future offending and the public perception of such activity. It is important for policy makers to ensure that agencies involved in the investigation, prosecution and sentencing of fraudsters are given all the resources required to cope with the problem. Also, whether regulatory sanctions (or formal monitoring) really deter fraudsters depends on what 'sort of people' they are. Fraudsters tend to show some dislike for certain actions or events. For instance, Levi (1999) observed that even the most hard-nosed businessmen accused of white-collar crime dislike bad publicity, for they generally want others to think well of them. Looking at the issues morally, he reflects on whether it would be ethically right to send a few thousand shoplifters a year to jail while leaving a director who stole more than all of them put together to be disqualified?

The next chapter considers theory. Attempts will be made to explain fraud from a causal perspective and by its *modus operandi*. Thus, Chapter Four is concerned with causal criminological explanations and Chapter Five deals with the *modus operandi* or explanations related to the execution of deceit/the manipulation of trust.

Chapter Four

Criminological and causal explanations for fraud

In an attempt to offer causal explanations, certain factors should be taken into consideration. These include the nature of the offence, characteristics or attributes of the fraudster/victim and the *modus operandi*. In the case of fraud especially those involving the manipulation of trust, a universally applicable explanation will be appropriate. The same types of fraud are perpetrated in all geographical locations. Several jurisdictions could be involved in the same offence. Fraudsters are highly mobile, and generally prefer to operate from a distance – away from the would-be victims. Furthermore, fraudsters are found in all walks of life, age groups, gender, social, economic, and political affiliations/backgrounds. Hence, with regard to the fraud of obtaining money, goods or services by false pretences, any theory or explanation should take this diversity into consideration. In this chapter, macro-theoretical explanations closest and relevant to fraud are discussed.

Using criminological theories can be problematic (Young, 1994). For instance, it is common for theories of crime to adopt different explanations for different types of crime and the offender. Thus according to Young, white-collar crime is theorised differently from working-class petty property crime. More so, on a wider definitional perspective, what is considered to be crime differs between and within societies over time. In Bottoms' (2000) conclusion on theory and research in criminology he reiterates' Glaser and Strauss' (1967: 32) comment that theory "is an ever-developing entity, not...a perfect product". For Bottoms, one of the reasons for this is that there is a continuing dialectical relationship between emergent theories and changes in the social world. Since we live in a rapidly changing social world, one should expect these changes and the incorporation of new materials in the future.

Criminologists have theorised and attempted to theorise on different aspects of crime. Plausible explanations for virtually all crimes can be found in certain theories or a combination of different aspects of particular theories. Generally, criminological theories can be grouped into those that are mainly concerned with the cause of crime, the process(es) or *modus operandi* and the control or prevention, or all of the above.

Theories are important in criminological research, as they assist in directing the researcher to the relevant areas for criminological investigation into a given phenomenon. Appropriate methods of inquiry, data collection, analyses (inductive and deductive) etc, are usually informed by theory.

We need to examine theoretical perspectives in order to identify the plausible causal explanations for fraud and to examine the key *modus operandi* - the manipulation of trust by the confidence trickster. The execution of deceit and the eventual scam largely depends on the fraudster's ability to use trust and confidence, and to make the victim part with valuables voluntarily. Thus, an ideal theory of obtaining by false pretences or advance fee fraud should attempt to explain and identify the following: the causal factors - what factors or conditions contributes or creates the enabling environment for this type of fraud; the criterion or criteria (if any), used for the selection of victims (target selection); and how other variables such as business and cultural factors or diversity affect this type of fraud.

In this thesis the explanation for fraud has been categorised into the likely causal explanations and those concerned with the execution of deceit (Chapter 5). Below is a discussion on explanatory or causal theories. It is important to note that most of these the causal and preventive theories for fraud emanate from broader theoretical perspectives on crime in general and financial crimes in particular such as that of white-collar and corporate crimes.

4.1 Human nature and Rational Choice explanations

Why do people commit fraud? The answer is relatively straightforward. Most frauds especially Advance Fee Fraud being a form of financial crime, economic gain is the major aim of the fraudster. Other 'advantages' of economic prosperity such as social status and power are not unconnected with this economic factor. An appropriate explanation for this is that of the 'Culture of Competition Theory' (Coleman, 1987). According to Coleman, the idea that wealth and success are central goals of human endeavour is part of a larger complex of beliefs that may be termed the 'culture of competition'.

Coleman traces the foundations of this worldview to the 17th century and in the works of Hobbes, Locke and other social thinkers of that era who formulated what MacPherson (1962) called the 'Theory of Possessive Individualism'. Competition happens to be a builder of character, a test of personal worth, and a powerful stimulus to individual achievement that ultimately produces the maximum economic value for society as a whole. In contrast to the stigmatisation of the poor, 'winners' are admired for their ability and drive that made them successful (Coleman, 1987). Thus, people are likely to use various means including fraud to arrive at the respected financial status in their society. It has been noted that the state of 'anomie' (see Section 4.2) could lead to an individual adopting illegal strategy in the quest for success or financial success in particular.

In addition, the classical school of criminology provided certain explanations that are relevant to the understanding of fraud, though some of the theorists were more concerned with criminal law and punishment. One of the probable explanations for crime was that people were seen as self interested and rational creatures, who are able to weigh up courses of action based on their preferred choices (what is described as 'free will'). If let alone people will pursue their selfish interests, hence the need for laws in exchange for protection of life and property from the state or government as the case may be. This is what led to the social contract, a basis for social order, with sanctions for violators. Thus crime is caused by irrational decisions based on several factors (e.g. a failed or failing legal and educational system, or personal greed etc.) that eventually lead the individual to commit criminal acts (Coleman and Norris, 2000).

A relevant explanation for fraud can be found in the 'Rational Choice Theory' or perspective. From the classical perspective, Bentham believed that the motivation to commit or not to commit a crime for personal advantage could be so weighted - provided punishment was sufficiently severe and certain. Also, that 'choosing to obey the law' would come to be seen as the most rational of the available choices. Punishment - or as Bentham called it, the 'science of pain' - should be so severe that the 'benefits' of crime were far outweighed by its 'costs' (Young, 1994). Thus, in the classicist paradigm, the whole conception of the causes of crime is associated with the question of rational motivation as defined by the majority or legal authority.

Further, the rational choice perspectives are said to be cognitive in the sense that they focus upon the decisions people make in different situations of opportunity and in relation to particular types of crime (Coleman and Norris, 2000). For Coleman and Norris, these theories grew out of the concern for situational crime prevention, which attempts to reduce crime by altering aspects of the situations in which crime occurs. Thus, the theory of rational choice is based on the following assumptions: that the offender seeks to benefit from their criminal behaviour. This involves the making of decisions and choices, however rudimentary on occasions these processes might be. These processes exhibit a measure of rationality, albeit constrained by limits of time and ability and the availability of relevant information (Clarke and Cornish, 1985).

The rational choice theory is of particular significance to fraud, as fraud involves varying degrees of planning and decision making. The identification of potential targets or victims and the initiation of correspondence, establishment of 'credibility', use of all forms of confidence tricks etc., require a measure of information and planning for a fraud or advance fee fraud to be successful. In Nettler's (1982) observation, cheating is likely to occur when it is the means to a goal and when other avenues to achieving that goal are limited. Hence the need for rationality.

The rationality argument is buttressed in Levi's (1981) study of long-firm fraud. In explaining the 'causes' of long-firm fraud, unlike the unplanned frauds (by the 'slippery-slope' and 'intermediate' fraudsters), it was discovered that the criminal motivation of the 'pre-planned' long-firm businessman precede the formation of his business. In Levi's study, fraudsters did not see anything morally wrong with their actions. For them, they are no different from 'legitimate business' or successful self-made men, all of who committed crimes in the course of their careers. Having acquired enough wealth, they can afford to concentrate on legitimate business activities. The pre-planned fraudster also makes use of the denial of injury justification as noted by Sykes and Matza (1957) - for example, "the big companies can afford the loss". Levi notes that there is more to it such as the expansion of secrecy (information about business dealings - supplier and 'buyer'), supply (availability of initial capital to begin the trade).

Like with all other criminological theories, the rational choice explanation is not devoid of criticisms. Coleman and Norris (2000) highlighted some of these criticisms, which include that it is said to be limited because offenders rarely act in a rational way. They note that studies of active burglars for example, reveal that they engage in some rationalisation of decisions even though it is hurriedly done and could be rudimentary. The same could apply to other property and expressive crimes such as rape and some murders. They also note that the dominance of policy relevance and situational factors leads to a neglect of wider social, economic and political contexts, which may be crucial in understanding crime and crime rates. Closely associated to the rational choice perspective are the opportunity and economic explanations discussed later.

4.2 Anomie, Strain, and Control theories

One of the classical explanations for crime/fraud is the 'Anomie' theory. Durkheim (1897/1951), who pioneered the concept, viewed inequality as a natural and inevitable human condition that is not associated with social problems such as crime unless there is a breakdown of social norms or rules (anomie). Such a breakdown occurs in a society as result of rapid social changes accompanying the modernisation process. In addition, human beings can not be happy or exist if needs are not sufficiently met. Further, society limits the means available to the individual, and society also sets the goals appropriate to each category of people. Durkheim's theory of crime is in the context of an overall theory of modernisation (the progression of societies from the mechanical to the organic form). This explanation influenced other criminological theories such as the ecological, strain, and control theories of crime (Vold and Bernard, 1986).

Merton, (1938) proposed the first 'Strain' theory as a revision of Durkheim's theory of anomie, which to some extent ignored social factors in its explanation. The strain theory does not limit itself to mere economic crime as it can be applied to other crimes such as vandalism, truancy, drug addiction, mental illness, suicide and homicide (Young, 1994). Strain theory views crime as the result of certain socially generated pressures or forces that drive people to commit the acts, and claims that these so called strains are not evenly distributed in the society. Rather, they are prevalent amongst groups with high crime rates. For Merton, the culture of any

society stipulates certain goals that it deems 'worth striving for', as for example, in America, the prominent cultural goal is to acquire wealth. Wealth is generally equated with personal value, prestige and social status. Those without money may be degraded even if they have personal characteristics such as age and spiritual discipline that other cultures may value.

Furthermore, cultures specify the approved norms, goals and institutionalised means individuals or groups are expected to follow to achieve these ideals (e.g. hard work, honesty, education, and deferred gratification). For instance, Messner and Rosenfeld (1994) argued that institutionalised expectations have an important role to play in the concept of 'anomie'. Hence, they introduced the notion of the 'American Dream' theory. The American dream is a broad, cultural ethos that entails a commitment to the goal of material success, to be pursued by everyone. Their argument is that economics has come to dominate American culture. For example, the educational system appears to be driven by the job market (college education is for an economic purpose). Politicians get elected on the strength of the economy. At present, in our society, goals other than material success (such as parenting, teaching, and serving the community) are no longer overtly praised and acknowledged by the community (O'Connor, 2001).

Thus in a broad sense, anomie is a set of social conditions and beliefs that could facilitate the use of illegitimate means to achieve the 'desirable' societal goals. Merton identified the various individual responses to 'anomic' social structures:

- 'Conformity' - accepting the culture goals and the institutionalised means.
- 'Innovation' - accepting the culture's goals but pursuing them through unapproved means such as through crime and fraud.
- 'Ritualism' - rejecting societal goals, but retaining the allegiance to the norms (e.g. hard work and honesty).
- 'Retreatism' - rejecting both goals and means (examples of such individuals are the drug addicts and tramps), and
- 'Rebellion' - the individual or group rejects and replaces existing societal values with new ones (e.g. political revolution).

Most frauds of obtaining by false pretences in this context can be categorised under 'innovation' as a response to societal goals - for instance with regard to the importance of material possessions to the individuals social status.

In rejecting the notion of an innate human nature, strain theory moves towards a position which emphasises the social nature of a person's individuality (Young, 1994). Thus, human nature is created by the particular society within which the individual lives. In other words, the self is a product of social order. For Young, the determined 'givens', which include the individuals level in the social structure, are the framework within which rational people make choices and decisions in order to attempt to solve their 'problems' or achieve their ambition. For the maintenance of social order, people are socialised into a consensus of values, which corresponds to the needs of the social system.

Some researchers have approached the subject from different perspectives. Cloward and Ohlin's (1960) version of the Strain theory is centred on the theory of 'Differential Opportunity Systems'. This is seen as one of the intervening variables that can account for particular forms of crime and deviance. An illegitimate opportunity is more than simply the chance to get away with a criminal or deviant act - it involves learning and expressing the beliefs necessary for subcultural support. Further, when certain individuals resent the push for social mobility but are led to believe that money is the means for success, the gap they experience would be predictive of more serious criminal involvement. These beliefs constitute the main intervening variables in Cloward and Ohlin's strain theory.

The influence of 'goals' can be observed in Box's study. In his study of corporate crime, Box observed that most establishments set out certain goals for their corporate success. This goal-seeking objective makes them inherently criminogenic, for it necessarily operates in an uncertain and unpredictable environment such that its purely legitimate opportunities for goal achievements are sometimes limited and constrained (Box, 1983). Hence they may resort to fraudulent activities or look for loopholes within the legal or corporate environment to further their objectives. Furthermore, corporations could engage in advance fee fraud such as refusing to

supply goods to customers that have already paid or supplying them with defective items in an attempt to increase their revenue/sustain their organisation.

A major criticism of strain theories by Nettler (1978) states that they are difficult to verify or falsify as scientific explanations. This is so because of the difficulty in assessing levels of strain in various individuals or organisations that could prompt them to engage in crime (Vold and Bernard, 1986). For Box, (1983) anomie offers a plausible account of deviant motivation if cultural goals are 'unidimensional' (i.e. are similar in breath and depth) and if individuals pursuing these goals experience blocked opportunities. Further, research has shown that the plurality of industrialised societies (in terms of cultural goals), social class/status, opportunities etc., makes Merton's analysis limited at least as a motivational account of why lower class persons might commit crimes (Box, 1983). With regard to fraud, the fact that individuals from similar or worse social conditions as the fraudsters, exposed to the same opportunities for committing fraud, who also have similar cultural goals, do not resort to illegitimate means are pointers that further explanations are required. Some theories such as the control theory attempts to address these issues.

In addition, contrary to the notion of 'deprivation', people do not have to be absolutely deprived to suffer from feelings of frustration. They may be relatively deprived in terms of their aspirations and opportunities (Young, 1994). For Young, what remains to be explained is why the powerful who make the laws find it necessary to break them. Second, is the monolithic and unquestioned nature of values which the strain theory suggest form part of the stress problem. In other words, the capability of the individual, group and society to re-interpret goals, re-negotiate access etc, to avoid 'rebellion' is underestimated. Finally, is that which concerns the provision of opportunities. Young notes that the theory does not show how far opportunities can be provided to lessen 'strain' without having to change the system. For instance, it is known that severe economic and social limits to particular adaptations are abound, and sometimes the short term approach might be an attempt to adapt the individual to the prevailing status quo rather than making sure that there are fundamental changes.

4.3 Opportunity, crime and fraud

The role of 'opportunity' in crime and fraud is important. Hence, the 'Opportunity' theory explanation. Opportunity in this regard refers to offenders that exploit their positions in various fields of endeavour such as in the banking and financial industry, day-to-day human relations, business etc., making use of information, and the relevant infrastructure (technology etc.) to commit crimes and fraud. The theory of rational choice (i.e. offender decision making), and the learning theory as it concerns the acquisition of information and techniques to enable the offender take advantage of opportunities to successfully execute various types of fraud have been associated with the concept of opportunity. It is possible for a 'school of fraudsters' (clique of friends, not 'gangs' as exemplified in the subcultural theory of delinquents) to be established over time.

Opportunity theory can be traced to anomie theorists such as Merton, (1968) Cloward, (1959) and Cloward and Ohlin, (1960). Cloward points out that people often have very broad access to illegal means that exist in their neighbourhoods. Though the mere presence of an opportunity is not enough unless you have been introduced to the ways of taking advantage of it (this remark has some bearing on the differential association explanation or learning theories). Ohlin (1971) used the concept of opportunity to refer to socio-economic opportunities of certain social groups (Bennett and Wright, 1984). Mayhew et. al. (1976) distinguished between opportunities attached to people (age, sex, occupation etc.) and opportunities attached to crime (abundance of goods, physical security of targets, surveillance, other internal/external controls etc.).

One of the claims of the differential opportunity theory of criminality is that "the poverty of the lower class prevents them from using legitimate means, such as education to acquire valued goods, thus giving them the no alternative but to engage in illegitimate activities" (Clinard and Abbot, 1973:187). Clinard and Abbot note that whether crimes are actually committed depends on the access to the structures of illegitimate opportunity. In other words, the offender is in a position to exploit avenues or loop holes within the system, an organisation or in the course of human dealings to carry out crime. This can be as a result of the offender being a member of

the organisation, being acquainted with the victim or making use of research/information for the intended act. More so, the offender may not have acquired the training and skills to enable him compete successfully. In this regard, the logical conclusion for a solution would be to open up educational/economic opportunities to reduce crime. On the contrary, according to Clinard and Abbot studies have shown that a good number of crimes are committed by economically successful middle and upper income individuals or groups. These individuals happen to be those strategically located within the system to commit fraud. Thus, they note that the form of deviance adopted is an outcome of the illegitimate opportunity structure available within the society or community in question.

Adopting the hypothesis that criminal behaviour result from a coincidence of appropriate motivation and opportunity, Coleman, (1987) embarked on an integration of social-psychological and structural research on the causes of white-collar crime. According to Coleman, unlike crimes of passion, white-collar crimes are rational and involve calculations, with the goal of the criminal being economic gain or occupational success that should more or less lead to economic gain. Further, motivation consists of symbolic constructions and definitions favourable to certain 'deviant' activities, while opportunities are sets of social conditions embedded into the individuals behavioural possibilities. An opportunity may be perceived as attractive or unattractive depending on the individual and the prevailing situation. A potential course of action becomes an opportunity only when someone is aware of it.

Especially for white-collar crimes, the availability of opportunities determine the extent of crime irrespective of the individuals motivation (Coleman, 1987). Thus, Coleman notes Hollinger and Clarke's (1983a, 1983b) observation of factors that determine an opportunity's attractiveness, which includes the actor's perception of the level of gain or profit and the potential risks (such as detection apprehension and prosecution). Other factors include the justifications or rationalisations adduced by the offender; previous beliefs; and general cost benefit analysis (which may not be detailed) especially as they concern other known avenues or opportunities (Coleman, 1987). For Nettler (1982) an individual is more likely to steal or cheat when an available opportunity is evident and especially when the likelihood of punishment is low. Burglary is the crime most often described (implicitly or explicitly) by

opportunity theorists. This is attributed to the nature of offence - requires a target and physical activity to commit etc (Gottfredson and Hirschi, 1990). At present, fraud is also an opportunist crime, the fraudster having secured the trust and confidence of the victim.

Box's (1983) discussion of corporate crime throws some more light. He highlights Durkheim's (1951) focus on the top social stratum of society being the primary location of anomie (contrary to earlier belief that deviance was greatest amongst the working class). For Box, Durkheim observed that it was power ('Power theory') not poverty that facilitated the personal achievement of socially identified cultural ambitions. Once achieved, these targets no longer constrain individual aspirations. Rather, successful individuals experience a release from moral and social binds. In a condition of pure individuation, the successful experience the sensation that anything and everything is possible. As such, they (successful individuals) "find it easy to slip into endless string and pursuit of whatever is, at that moment, desired" (Box, 1983: 40). Those with power in the society invariably create the appropriate atmosphere or opportunities for their 'success'.

In other words, the criminal justice system, government, business etc., that are managed and controlled by the 'elite' are manipulated to protect a privileged class of people. Some of these individuals may be engaged in various forms of crime including fraud, and they readily make use of the bureaucratic structures and legal loopholes to avoid detection and prosecution. The fraudster also attempts to fit into the 'appropriate' level in a given society by all means possible.

The existence of anomic conditions in the society (in both developed and developing countries) introduces the concept of control ('Control theory') - another dominant perspective in criminological explanations for crime and deviance that can also be applied to fraud. In other words, why is it that the majority of citizens are law abiding? It has been argued that it is the result of self control created or developed and conditioned by several factors. For the social control theorists, individuals commit crimes because of the weakness of forces restraining them from engaging in the act (Reiss, 1951; Reckless, 1961; Hirschi, 1969).

Haskell and Yablonsky, (1978) Reckless (1961) offered the 'Containment' theory in an attempt to explain the influence of a variety of factors on human control. These factors include social pressures such as poor living and economic conditions minority group status, lack of opportunities, family conflicts, a prevalence of criminal or deviant subcultures, inner tensions, hostility, aggressiveness etc. These factors among others draw or pull the individual away from the accepted societal norms. Thus, a solution would involve effective family living and supportive groups.

Vold and Bernard, (1986) note the containment theory attempts a fusion of the psychological and the sociological views of criminality. In sum, control theories assume that: all individuals are subject to many temptations to engage in rewarding criminal behaviour; and human beings will seek the rewards of crime unless they are held in check, or somehow controlled (Braithwaite, 1989).

Hirschi, (1969) identified four aspects of social bonding that could control deviance or crime ('Control theory'). These are: attachments (emotional, feelings etc. towards other individuals or group); commitment (e.g. the stake in conformity such as in marriage); involvement (level of participation in societal activities such as employment or work); and belief (acceptance of laws, rules etc.) (Braithwaite, 1989). To buttress this argument, whenever the deceiver does not share social values with the victim, odds are there will not be much deception guilt. People are said to feel less guilty about lying to those they think are wrongdoers (Lewis and Saarni, 1993). In other words, shared social values such as honesty and integrity are attributes that enhance self-control against various forms of deception and fraud.

The level of strain or pressures as well as personal control experienced by an individual or organisation could lead them to commit fraud. This can be viewed from the perspectives of the victim or fraudster. Thus, for Gottfredson and Hirschi (1990), the elements of self-control were identified as follows:

- Criminal acts tend to provide immediate gratification or desires. In this regard, people with high self-control tend to defer gratification unlike those with low self-control.

- Criminal acts provide easy or simple gratification and desires. So people lacking self-control tend to lack diligence, tenacity, or persistence in a course of action.
- Criminal acts are exciting, risky, or thrilling. They involve stealth, danger, speed, agility, deception, or power. People lacking self-control therefore tend to be adventuresome, active, and physical. Those with high levels of self-control tend to be cautious, cognitive, and verbal.
- Crimes provide few or meagre long-term benefits. They are not equivalent to a job or a career. On the contrary, crimes interfere with long-term commitments to jobs, marriages, family, or friends. People with low self-control thus tend to have unstable marriages, friendships, and job profiles. They tend to be little interested in and unprepared for long-term occupational pursuits.
- Crimes are said to require little skill or planning. The cognitive requirements are minimal. Thus those with little self-control would need mainly manual skills and apprenticeship to succeed. It can be added that this same analogy does not apply to most frauds, where knowledge on the law, and extortion without violence etc are important. These require some degree of intelligence and planning.
- Crimes often result in pain or discomfort for the victim. Property is lost, bodies are injured, privacy violated, and trust is broken. People with low self-control tend to be self-centred, indifferent, or insensitive to the suffering and needs of others. They point out that it does not follow that people with low self-control are routinely unkind or antisocial. On the contrary, they may discover the immediate and easy rewards of charm and generosity.
- Recalling that crime involves the pursuit of immediate pleasure. It follows that people with low self-control will tend to gamble, do drugs and engage in intense entertainment activities or pleasurable activities that are not criminal.

We shall now look at other explanations that are intertwined with theories discussed above. The role of economics or economic determinants could affect individual/societal levels of anomie, strain and control and how they respond to these pressures. Discussed below are theories related to 'economics'.

4.4 Economics, crime and fraud

Another relevant explanation for fraud is the 'Economic' theory of crime. There are two major ways in which economic theory has been used to analyse crime and punishment. The first involves the decision to commit an offence. The second involves the design of policy towards crime - for instance types and nature of sanctions and the allocation of resources to the criminal justice system (Walsh and Poole, (ed.) (1983). Economic models of explaining crime generally portray the individual as making choices on how to act (rationality). This decision depends on the likely consequences of the act and on the alternatives or opportunities that are available. According to Walsh and Poole (ed.) (1983: 78), Becker (1968) prepared one of the first formal mathematical models of this theory. The model is expected to assist in determining the likely influence or effects on crime of factors such as poverty, unemployment etc. In Becker's model:

The individual perceives a probability of apprehension, p , if he commits an offence, the level of punishment, f , if caught, and the gains if he is not caught. He offends if the expected utility from committing the offence exceeds the utility of not offending. The expected utility is calculated by forming the weighted sum of utilities for the events that he is caught or not caught, where the weights are the probabilities of the two events. Thus for the individual, and, if aggregated across individuals, and society as a whole, the level of offending is a function of p and f .

In the real world, offenders do not necessarily engage in detailed mathematical calculations or risk assessment. Depending on the level of the individual's investment or commitment, some elements of scale of preferences, opportunity costs and other considerations, which could be unique to the person and the act or scam concerned,

are considered before a final decision is reached. For example, Levi (1981:264) concluded that:

long-firm fraudsters are not impelled into crime by personality defects or by stigmatising activities of social control agencies... even if they are not caught, persistent long-firm merchants know that they are violating the criminal law. Given the potential to commit long-firm frauds, continued involvement in them at any given time is determined by the reasoned calculation of costs and benefits, as defined subjectively by each individual in terms of the things he values or fears.

With regard to policies and sanctions, Becker's model assumes that resources to the various arms of the criminal justice system and even within departments reflect, and are attempts to minimise some 'social loss function', which is made up from the damage done by offences and the costs of apprehension and punishment. A reflection of this can be found with the creation and funding of specialised agencies aimed at tackling various types of fraud and crime.

Further, research has shown that crime or fraud could be the result of several independent or individual factors. Worthy of mention is the 'economic determinism' approach emphasised by William Bonger (1916) a Marxist, and a proponent of a theory of economic causation of crime. A common view was that poverty itself causes crime. Some of the studies attempting to test this view focus on variations in economic conditions vis-à-vis variations in crime rates.

Bonger attributed criminal acts, particularly crimes against property, directly to the poverty of the proletariat in a competitive capitalistic system. Poverty, a result of unsuccessful economic competition leads to personal disorganisation, an attribute inherent in a capitalist society. Thus the solution would be to work towards a classless society. The major criticism of this approach is that poverty alone does not cause crime and most poor people are not criminals (Vold and Bernard, 1986). More so, certain Western or 'capitalist' societies operate what can be described as the welfare system, where deliberate steps are taken to address issues such as unemployment and other basic needs of life. Thus, contemporary definitions of poverty extend beyond

economic deprivation to all unaccomplished or derived spheres of human life and endeavour.

It has been noted that poverty and inequality are different. Poverty is generally regarded as absolute deprivation, and inequality is seen as relative deprivation. Poverty is regarded as the lack of some fixed level of material goods necessary for survival and minimal well-being whilst inequality refers to a comparison between the material level of those who have the least in a society and the material level of other groups in that society (O'Connor, 2001). Poverty and inequality could be measured in different ways (e.g., unemployment, high rates of divorce, single-parent households, high population density, dilapidated housing, poor schools, residential mobility, population turnover, concentration of minorities, etc.). These factors could also be correlated with each other.

Theoretically, the relationship between inequality and crime is believed to operate through a person's individual assessment of the equity of a particular distribution of resources, which are not necessarily economic. The socio-cultural environment usually shapes their assessment. Thus, if inequity is perceived, the causal mechanism is referred to as relative deprivation, and some individuals respond by resorting to property crime to address their grievances. In certain cases people may develop deep anger which could be expressed in violent ways. Not all those who perceive inequality as unfair resort to crime. To address the situation, some people go into business activities or political action.

Of relevance here is the discussion by Hall and Scraton (1994) on 'Law, crime and class'. One of the ways in which they examined the subject was through the relation of crime to 'surplus' and 'marginal' populations. They note that the vast majority of those processed in the criminal justice system are drawn from the working class. Also studies revealing information of this sort are drawn from court convictions, which do not indicate the real class of convicts. Second, on the extent of white-collar crime, given the relatively vague nature of the definition, much of what is said to be criminal may not be regarded as 'crime'. They also note that police stereotype of the 'criminal' is that of a working class individual.

A more developed theoretical argument¹ that attempts to explain how poor social conditions may precipitate crime can be found in the theory of 'Relative Surplus Population' which was defined by Karl Marx in his *Daskapital* as 'the reserve army of labour' (Hall and Scraton, 1994). The theory states that capitalism by its nature and operations is subject to fluctuations and cannot maintain a permanent labour force in full employment. Technological innovation and other economic antecedents 'deskills' certain sections of the work force, some of whom are thrown into temporary or permanent unemployment. Marx noted that this also creates the movements of workers between trades. Also, during periods of recession, the 'surplus population' sinks into destitution, as living standards decline. Relating this to fraud and other crimes, this insecurity of employment for instance could serve as an inducement for fraud - 'saving for the rainy day' or crime by the unemployed.

The links between unemployment, destitution, and crime have provided starting point for various researches. For instance, recent studies of crime in the Third World have highlighted the way in which movements of world trade and foreign investment have tended to improve the conditions of that small sector of local labour linked to exports and metropolitan capital. At the same time, it may be responsible for 'marginalising' large sectors of the indigenous population, especially the rural and urban poor (Hall and Scraton, 1994). Further, the theory of surplus population class been used to explain crime by 'out cast' groups who are forced to survive outside regular employment in the illegal economies (petty theft, illegal dealing and hustling etc.) of the cities.

Criticisms against this position include that it does not provide sufficient explanation for crime and provides only some possible explanations or precipitating conditions of certain crimes among some sectors of the poor. Also, the theory does not distinguish between what can be called 'survival' and 'professional' crime. For instance crimes that occur outside the parameters of the marginalised such as career crimes, crimes of the powerful and work-based crimes. Thus, apart from work place fiddling which is regarded as part of the perks of the job, syndicated illegality by big business through for example tax fraud is not seen as a crime but a method of exploiting 'existing loopholes' in the law. This is informed by the need to enhance ones business

advantage (Hall and Scraton, 1994). They note that in the final analysis, a comprehensive class theory of crime appears untenable.

Finally, taking into consideration the criminological explanations offered. With regard to the offence of fraud, especially that which involves the manipulation of trust, the offender must be relatively skilful and 'smart' to take advantage or create opportunities for his/her scam. Even in situations where the individual can not cope with the stress and pressures of 'life', skills (in varying degrees) are necessary for crime and for fraud in particular. Hence, the 'Learning' explanation discussed below.

4.5 Learning theories

How do fraudsters learn their tricks? The acquisition of skills and information could be done through association and learning. This led to the 'Differential Association' or 'Learning' theories. Tarde, (1912) was among the first to state that patterns of delinquency and crime are learned in much the same manner as any other occupation (Haskell and Yablonsky, 1978). Sutherland, (1924, 1947) and later Sutherland and Cressey, (1970) developed this theory. The key positions of this theory are namely: that learning includes the techniques of committing the offence; and that motives, drives, and attitudes are rationalised mainly through definitions favourable to deviance. With regard to fraud, because of the level of information required, the individual is either creative (arriving at unique techniques through research or by chance), is taught the tricks or learns them in the course of their legitimate occupation.

As with other criminological theories, this explanation has also been accused of not taking into account significant individual differences and the dynamics of human associations with each other (Vold and Bernard, 1986). For instance, not all individuals exposed to criminal groups or networks end up committing crimes. In other words, in general, learning theories particularly differential association give an over-simplistic view of human nature and the learning process, thus making the individual a passive receptor of that process (Coleman and Norris, 2000). Coleman and Norris also note that this has led to an increasing focus upon cognitive processes

within psychology and the study of learning in an attempt to understand human behaviour.

Another explanation or theory closely associated with differential association is that of 'Subculture'. For the subcultural theory or theorists, criminality is seen as one of the products of 'membership' of groups or association with 'significant others' who engage or define deviant activities favourably. Adapting subcultural theory to the model 'criminal association', Braithwaite, (1989: 21) highlights suggestions by Sykes and Matza, (1957) on mechanisms which make drift possible. Sykes and Matza call them techniques of neutralisation such as denial of responsibility (e.g. 'I was drunk'). Denial of injury ('Victims can afford it'). Denial of victim (e.g. 'We weren't hurting anyone'). Condemnation of the condemners (e.g. 'They're crooks themselves'), and appeal to higher loyalties (e.g. 'I had to stick with my mate') - situations mentioned earlier as identified in Levi's (1981) study. Circumstances of advance fee fraud or scams in general are not far removed from the instances above.

Finally, of relevance here is Åkerström's, (1993: 2) study. She notes that the 'crooks' interviewed told her that they are champions of the ideology of individualism. Achievement of economic success is considered a sign of moral worth. As a consequence, some laws are to be violated as a matter of principle. Further, the fact that lifestyles are shared gave rise to shared vocabularies of meaning, values, norms and perspectives and thus to subcultures. For Åkerström's 'lifestyle' as a concept is useful since it allows for an understanding of how actions and norms are situationally motivated (i.e., an actor's way of life limits certain options while it allows for others).

We shall now attempt to draw conclusions from our discussion on criminological/causal explanations with regard to fraud. Below is the concluding section.

4.6 Conclusion

From our discussion, it can be deduced that certain factors or situations are important preconditions/prerequisites for fraud or advance fee fraud to occur. Individuals react differently to circumstances and opportunities conducive for fraud. Societal or cultural expectations (in varying degrees) with regard to material success are important reference points for the criminal. Those with weak social controls and bonds who at the same time may be experiencing some strains or pressures are likely to rely on illegal activities to achieve their goals. In the process their crimes are rationalised or justified. In fraud cases, the individual has to be aware of the opportunities (by chance, learning or exposure through work) and exploit it accordingly. The motivation is usually economic (the extent depends on the greed or need of the fraudster). The extent to which societal conditions or pressures affect a fraudster is difficult to measure, more so, when different individuals exhibit various levels self control. Adverse socio-economic conditions could lead to some individuals committing fraud due to greed, dissatisfaction and to enhance their social status.

With regard to the data from this research, the most plausible explanation for fraud (obtaining by false pretences) is that of rational choice, with a strong bias for economic rationality. The concept of rational choice is central as decisions are based on a variety of factors including - opportunities, risks, benefits, probability of apprehension, and sanctions if convicted. The modus operandi of most scams which is mainly concerned with the building of trust and confidence suggests that varying degrees of planning are involved, and that the fraudster is aware of the implications of his deception. On the other hand, it is very likely that the offending individual has very weak self and social control as opposed to the majority of law-abiding citizens. Certain frauds such as embezzlement are more closely related to 'control', 'strain' and opportunity explanations. In the final analysis, the validity of all the theories are limited to the extent that non-criminal or non-fraudulent behaviour exist within the same criminogenic conditions or circumstances that may be or are attributed to the crime or deviance.

With the behavioural sciences, there is no complete explanation or understanding of human action. Several factors and variables affect criminals/fraudsters and would-be

victims/victims in different ways. One or a combination of certain theories can explain each individual's fraud or fraudulent tendency. Relevant causal factors revealed from these theories revolve around the economic rationality of the fraudster. Central to all the related theories is the role of economics in terms of the cost/benefit of the criminal activity and the value derived from the act. More so, it is important for the opportunity to present itself, or it is craftily created through the process of manipulating/creating trust via lies, deceit and confidence tricks.

In explaining fraud or advance fee fraud in particular, Gabor's categorisations of factors contributing to widespread criminality are central. For Gabor (1994:248, Figure 7) two groups of factors could lead to the decision or the criminal act. The first is the degree of readiness to commit crime. Under this heading, susceptibility to crime may be shaped by:

- a) Natural criminogenic factors such as innate antisocial and aggressive tendencies (people vary here); natural pursuit of self-interest; and criminalization of inevitable human diversity and
- b) Learning of criminal behaviour which include criminogenic aspects of one's immediate milieu and surrounding culture; scandals and other events that desensitize and disinhibit behaviour; and habituation to crime.

The second aspect is that of situational/instigating factors. In this category, the following factors could facilitate criminality or crime: incentives/expected profits; low risks; provocation; anonymity of offender; stress/pressures; altered responsibility; victim depersonalisation; criminogenic social ties; and justifications.

Thus, drawing from the two groupings above, one's decision or action and the choice of crime is influenced by

- a) Personal goals and anticipated success of achieving them through crime
- b) Legitimate versus illegitimate means available to achieve goals
- c) Appraisal of situation (meaning, profit-risk ratio, suitable targets)
- d) Moral repugnance of act contemplated, and
- e) Commitment to conformity (Gabor, 1994: 248)

Finally, Wilson and Herrnstein (1985) put forward a general theory of criminal behaviour, which involves elements such as choice (rationality), conditioning (psychological, conscience etc.), impulsiveness (rewards/costs of crime not adequately appraised), and equity and equality (people differ in their assessment of what is fair, right, gains others receive in relation to their efforts etc.) (Coleman and Norris, 2000). Their theory can be summarised as follows:

The larger the ratio of the rewards (material and non-material) of non-crime to the rewards (material and non-material) of crime, the weaker the tendency to commit crimes. The bite of conscience, the approval of peers, and any sense of inequity will increase or decrease the total value of crime; the opinions of family, friends, and employers are important benefits of non-crime, as is the desire to avoid the penalties that can be imposed by the criminal justice system. The strength of any reward declines with time, but people differ in the rate at which they discount the future. The strength of any reward is also affected by the total supply of reinforcers (Wilson and Herrnstein, 1985: 61).

The remark above is a good summary of factors and conditions involved in fraud. It is also an attempt to explain the fraudsters' rationale. Important issues highlighted or that can be deduced in this statement include that of 'rewards' 'conscience' 'values' (individual and collective/societal), 'significant others' and 'sanctions'. It is important to add that certain theories have identified 'criminogenic' conditions that encourages or could cause crime/fraud, however, most individuals exposed to the same factors/conditions do not adopt fraudulent activities. This situation lays credence to the complicated task of identifying causal factors or explaining each individual's fraudulent actions.

The next chapter looks at explanations concerning the execution of deceit or advance fee fraud as the case may be. This part of the fraud is crucial because given all the plausible causal explanations, the offender must make physical moves. Hence the interplay of lies, deception, trust, confidence and risks.

Chapter Five

Deceit and Trust

In this chapter the relationship between lies, trust and confidence will be identified. First, an attempt will be made to understand human behaviour with regard to deception and lies from a philosophical perspective. Issues discussed are relevant to the extent that it explains the build up to fraud, which can be said to be one of the extremes of a lie. Having a lie or truth accepted by which ever party concerned, depends on the level of trust at the stage or stages of interaction. The interplay of all that is what generally perfects the confidence trick, which in turn enables the fraud to be successful.

Also discussed is the nature of trust and its dynamics - the main theoretical theme of this thesis. It is important to note that the sequence of discussion is not intended to prioritise any topic as this research reveals that trust is an embodiment of truth or lies, confidence and risks. These issues all fall under the umbrella of the use of deceit in a broad sense to manipulate trust - the ultimate goal of the advance fee fraud fraudster and others that depend on upfront payments. In addition, all scams involve deception in varying degrees. For a scam to be successfully executed, the victim must trust the fraudster to the extent that he or she is willing to hand over some payment or renders services voluntarily in lieu or in anticipation of a contract or obligation.

5.1 Lying

A lie is defined as “any intentionally deceptive message, which is stated. Such statements are most often made verbally or in writing” (Bok, 1978:13). This information or response may be communicated through gestures, various forms of disguise, action or inaction or even through silence. Bok notes that most of the statements are made verbally or in writing and can be conveyed via signals and other forms of communication. Further, self-deception is a usual influential factor in deceptive messages, whether or not they are lies. This can be achieved through various forms of deliberately distorting the facts. For example, the biases and

ignorance held by an individual can be manipulated in the direction of the receiver's goals.

The definition above shows that the concept of the 'lie' is closely associated with that of deception. What is regarded as deceptive can be defined in many ways - the legal interpretation has been mentioned under the law on fraud in Chapter One. Mitchell (1986) defines deception as a false communication that tends to benefit the communicator. Mitchell's definition also implies that animals and plants could lie to protect themselves and to prey on others as well as to mate. For Vrij, Mitchell's definition is controversial in the sense that it assumes that unconsciously and mistakenly misleading someone should also be classified as deception. It is commonly agreed that deception is an act of deliberately not telling the truth.

Thus, Vrij (2000: 6) defined deception as "a successful or unsuccessful deliberate attempt, without forewarning, to create in another a belief which the communicator considers to be untrue". From the above, all forms of fraud involve deceptive practices, as victims including the dishonest ones do not expect to be swindled. In the same vein, all frauds involve lies in some form. Deception is the larger category, and lying forms part of it (Bok, 1978). An interesting dimension identified by Bok is that since knowledge is known to give power, lies could alter the distribution of power as the lies add to the power of the liar, and reduce that of the deceived. The lies can create various alternatives for the liar and at the same time distort the victim's sense of judgement. This remark typifies the kind of situation created by the advance fee fraudster or a con man who has to deceive the victim to part with cash or goods.

In the course of human relations, certain types of lies or deception are tolerated. The intention and nature of a lie determines whether it is morally right or wrong, criminal or fraudulent. With regard to this thesis, lies are part of the grand plan to obtain money, goods and services by false pretences. The type of lie employed will depend on the nature and modus operandi of the scam. Researchers have investigated this phenomenon from different perspectives such as philosophy, psychology, medicine and economics. In all approaches there is a limit to what is considered harmful in any form. This limit varies according to circumstances and the issue at stake. As pointed out earlier, lies constitute the foundations of all frauds.

Bok (1978) embarked on an analogy and philosophical approach to lying in public and private life from a moral perspective (not criminal). Bok notes that Augustine identified certain types of lies, which include religious doctrine (that which is uttered in the teaching of religion); lies that profits no one and injures someone; and lies that profits one party and injures another. Others are lies told out of mere decision to lie deceive, or told out of a desire to please others, and lie that injures no one but profits someone, for instance in saving the person's life or money.

People are known to give several reasons for lying. Some claim that there was no lie or it was a joke or an exaggeration. Others disclaim responsibility based on their incompetence on the subject or other 'influential' physical or mental conditions (Bok, 1978). For instance, an example of 'noble lies' described by Bok, has serious roles in fraud especially religious scams that require followers to deposit part or all their savings. This is highlighted in the remark below:

Rulers, both temporal and spiritual, have seen their deceits in the benign light of such social purposes. They have propagated and maintained myths, played on the gullibility of the ignorant and sought stability in shared beliefs. They have seen themselves as high-minded and well-bred - whether by birth or by training - and as superior to those they deceive. Some have gone so far as to claim that those who govern have a right to lie. The powerful tell lies believing that they have greater than ordinary understanding of what is at stake; very often, they regard their dupes as having inadequate judgement, or as likely to respond in the wrong way to truthful information (Bok, 1978:167).

On truthfulness, deceit and trust, Bok notes that all our choices depend on our estimates of the situation. These estimates are in turn often reliant on information from others. In confidence tricks, the victim especially the naïve and dishonest ones rely on the information from the fraudster. Lies distort this information and therefore our situation, as it is perceived. This also affects our choices. To the extent that knowledge gives power, to that extent do lies affect the distribution of power; they add to that of the liar, and diminish that of the deceived, altering his choices at different levels. Thus, Bok notes that lies misinform so as to obscure an objective especially in a situation where the liar wants to obtain something. It can also make the objective appear unattainable or undesirable. Lies can also eliminate available

alternatives or course of action. They could also distort the real picture of risks, costs, and benefits involved.

From the perspective of the deceived, some types of deception can be coercive. If this succeeds it gives power to the liar. From the perspective of the liar or would-be liar, the ideal that one should not be deceived is shared. As a result, their choice to lie is one they would like to reserve for themselves (or selected acquaintance) while insisting that others be honest. This is what Bok describes as the 'free rider status' (1978). The liar views his victim with caution after his encounter knowing that the relationship will change if and when the deception is discovered.

Bok concludes that people have the power and choice to influence the amount of deception in their lives especially as it concerns their speech and action. Individuals differ in their ability to handle deception in themselves and in others. Further, the stress on individualism, on competition, and achieving material success in our society has generated pressures to seek short cuts such as via fraud. Thus social incentives to deceive are great compared to the controls. For Bok, governments have an important role to play by being honest and straightforward in their words and action. The professions including educational institutions are equally responsible in setting standards.

In self-deception, the person is both the liar and the dupe. The self-deceiver's goal is to protect his or her view of self at all costs. Biased reasoning is usually adopted as people often conclude with what they wanted to believe. People also tend to search for evidence that confirms their belief (Baumeister, 1993). Baumeister notes that it may be necessary to deceive oneself in order to have a realistic chance of one's endeavours. An important process relevant to this is the self-fulfilling prophecy - believing that something is true helps make it materialise. Also, self-deception is here to stay as it helps people feel good, recover from trauma, and sustain confidence for tackling difficult problems and succeeding among other activities. On the negative side, self-confidence or overconfidence could cloud one's judgement and lead people to take on projects or make commitments at which they have little chance of success. Baumeister notes that in America self-deception is big business. Advertisers encourage people to believe that purchasing various products will make them acquire attributes such as

being attractive, sexy and glamorous, reduce or gain weight and make them rich. Fraudsters have adequately hijacked the 'confidence' industry (i.e. in products, goods, services, business or investments etc.), demanding upfront payments for fake, substandard products or withholding money for requested products.

Deliberately deceiving others is an essential part of everyday social interaction (Vrij, 2000). Some examples include that of a man who says that he is pleased with his birthday presents, although in fact he does not really appreciate them or the host who receives compliments about his cooking, although the food was not really that good. He notes that research has indicated that lying is a daily life event. Further an interesting revelation is that lying is an important phenomenon in social relationships and people tend to like the company of people who lie frequently.

Vrij reveals that in general, people are good at lying, but are not very good at detecting lies. Reasons for the poor detection of lies include that they have poor knowledge about how to catch a liar. Second, the observer is usually not motivated to catch the liar. A third reason is that some people are so good at telling lies, which makes their detection more difficult. With regard to motivation to detect lies, people deliberately do not want to know the truth. It is not in their best interest (for example wanting to know how they really look, or about an affair that could eventually ruin a marriage). Further, not knowing what action to take if the truth is discovered could sustain the lack of motivation (for example parents and teenage children involved in all sorts of vice). Vrij states that in certain situations the truth is demanded such as in the purchase of a second-hand car, recruiting staff and custom declarations.

Of relevance to the understanding of the fraudster or liar is Vrij's categorisation of personality traits according to how people deal with deception. Four types are mentioned - manipulators, actors, sociable people and adaptors.

With regard to manipulators, the stereotypical view of liars is that they are selfish, crafty and manipulative. Those in this category frequently tell self-oriented lies. They tend to persist in lying when challenged to tell the truth. They do not feel uncomfortable when they lie, and do not find lying cognitively too complicated. They also view others cynically, show little concern for conventional morality, and openly

admit that they lie, cheat and manipulate others in order to get what they want (Vrij, 2000). Also, manipulators are usually schemers but are not stupid. They are selective of those they exploit to safe guard against retaliation, and avoid cheating if they are sure they will be caught. They tend to dominate in conversations and appear relaxed, talented and confident. In general, people see them as 'good' or interesting company and are preferred as partners. The swindler typically falls into this category.

As for actors, certain people are skilled in regulating their verbal and non-verbal behaviour than others. Vrij identifies four constructs of control in explaining this. These are emotional control, which refers to the ability to manage ones emotional communication and non-verbal displays. Social control, which includes role-playing, managing verbal behaviour and self-presentation skills. Acting also refers to the individual's role-playing skills while social expressivity includes skills in verbal expression, and diction. All these skills are helpful in the art of deception and lying.

Sociable people exploit social interactions that occur in everyday life. Thus for Vrij, it is possible to suggest that people who enjoy more social interactions are particularly good at lying. Extroverts and sociable people are attracted to social life, they are not shy always appear and act confident. People could also be reserved in a social context. The difference in social involvement has an impact on deception skills. Sociable people lie more often than socially withdrawn people, they feel more comfortable while lying, and persist longer when they are lying (Vrij, 2000). For Vrij sociable people are considered socially skilled though they lie often. On the other hand, socially withdrawn people are considered awkward, probably because they are honest.

Adaptors are those that assess every situation and act accordingly. They are highly motivated to make a positive impression on others. One way of making this impression is by telling lies. In general, for adaptors, in the course of their actions they appear relaxed and comfortable.

Vrij's research does not suggest that all people raise their voices or show fewer movements when lying than when they are telling the truth. It is important to note that honest people may also display similar traits. It only suggests that the majority of liars do this. For instance, the non-verbal characteristics consistent with stereotypical

beliefs (gaze aversion, smiling, shifting positions and blinking of the eyes) have shown that they are not reliable indicators of lying or deception. The police and custom officials for example have recorded some successes based on these 'traditional' beliefs. Thus Vrij concludes that it is not possible to provide an answer on how people behave when they lie. The main problem being that there is no typical non-verbal behaviour associated with deception. Behaviours differ across deceptive situations and the personality trait of the individual concerned is significant. Finally, people's ability to detect lies depends on the circumstances. In situations where the consequence of lie is minor, a physical examination of the 'offender' will reveal little or nothing.

The following constitute Vrij's characterisation of the liar and significant factors that can influence the liar and probably have an impact on the recipients and the detection of the lies. This analogy is particularly useful when confronted face-to-face with a fraudster.

- First is the familiarity with the liar - in this situation it is safe or reasonable to suggest that it should be easier to detect lies in people we know than in strangers especially if we are familiar with the truthful behaviour of the person in question. But there is no support for this assumption. It has been observed that over time, especially in intimate associations, partners develop a tendency to judge the other as truthful. According to Vrij, this is the so-called 'relational truth-bias heuristic' as described by Levine, McCornack and Park (1999). This is important to advance fee frauds and similar scams especially those perpetrated across national boundaries.
- Second is the familiarity with the topic or scam in the case of fraud. For example with regard to lie detectors, it is easier to detect lies when the investigator is familiar with the topic. It is also noted that liars are aware of this situation. The intention of the lie also determines its nature. For example, lies told to spouses are in the form of concealment in case the truth is eventually revealed. The liar can then blame his memory.

- Familiarity with the style of communication is known to facilitate detection of deceit. For example, people have a more open communication style when they are speaking to attractive people than when they are speaking to unattractive people. Findings reveal that attractive observers were better at detecting truths and lies, which were told to attractive people. A similar pattern emerges when different or similar cultures are involved. In other words, the ethnic origin of the liar is relevant. With reference to various patterns of fraud, it is not uncommon to find fraudsters targeting those from their ethnic background, especially if they are resident outside their home countries. The intention is to generally prey on the notion of ethnic or cultural solidarity for the benefit of themselves (e.g. seller - buyer or investor).
- Another factor is the liar's age. It is easier to detect lies in younger children than in older children. The same applies to the elderly. Lie detectors have more difficulty in detecting lies told by 79-year-olds than in youths. It is possible for the older liars to be conscious of cues that could get them exposed. In this thesis it is revealed that fraudsters are more often middle-aged or older men, and in some cases women. This can be attributed to the experiences of the liar over the years having come across various circumstances. In this regard, the elderly fraudster is ready to exploit the societal norm that treats the elderly with more respect and trust based on their age 'physical restrictions' and 'wisdom'. Also, this is seen as a kind gesture to their contributions (whether or not they have done so) to the community.
- Finally, the personality of the liar may affect the detection of lies. With regard to non-verbal behaviour certain individuals possess an honest demeanour, whereas others' natural behaviour leaves the impression that they are lying. According to Vrij, this has been described as 'honest demeanour bias' and 'dishonest demeanour bias'. The expressive, public self-conscious and sociable individuals tend to make credible impressions. This is not the same for the introverts and socially anxious people.

Vrij identifies three ways of detecting lies. These are by observation, analysis, and physiological responses. Observing the liars' non-verbal behaviour, such as their body

movements, whether or not they smile or show gaze aversion, the pitch of their voice, speech rate, whether or not they stutter etc, are useful guides. When telling a complicated lie, the liar tends to speak more slowly, with possible pauses in their speech. They may also stutter. Emotions may also lead to emotional facial expressions. In most cases the observer needs to be skilled to detect correctly, as individuals differ in many ways.

The second way is by analysing what is being said. This is referred to as verbal cues. Thus speech content is a significant factor. Untruthful remarks are usually negative and indirect, structured, sound implausible, and lack descriptions of personal experiences. On the other hand, for truth-tellers, especially if they are emotional, narration tends to be unstructured unlike the chronological nature of the liars' account. Liars are also known to include fewer details in their statements than one telling the truth. However, in some instances, negative emotions may result in negative statements, and being upset may result in unstructured statements by the liar.

The third way is by the examination of physiological responses. For example blood pressure, heart rate, palmar sweating, etc. Increases in these areas are associated with the fear of being caught, guilty feeling when lying and general excitement. A polygraph is able to measure these physiological changes. Limitations of this method have also been documented. Vrij notes that individual differences in physiological reactions during polygraph tests have not yet been found.

To sum up, the successful fraudster has to be a good liar. The lying skills of the fraudster are utilised if the scam involves physical contact with the victim. If other modes of communication are used such as letters, lying is still involved. As with social lies, in criminal lies, the monetary gain reinforces the offender's motive and zeal to see it through. Unfortunately, it is not always possible for the untrained eye or victim to locate certain 'everyday' gestures or cues in the context of deception in routine or business interactions. The bases of lies have been explored in this section to shed light on the rudiments of the fraudster's scam. This often depends on the type and nature of scam or fraud.

5.2 The concept of Trust

Trust is the expectation that arises within a community of regular, honest, and cooperative behaviour, based on commonly shared norms, on the part of other members of the community. Those norms can be about deep 'value' questions like the nature of God or justice, but they also encompass secular norms like professional standards and codes of behaviour. That is, we trust a doctor not to do us deliberate injury because we expect him or her to live by the Hippocratic oath and the standards of the medical profession (Fukuyama, 1995: 26).

The literature on frauds and the data in this thesis show that an important ingredient for most successful frauds is the manipulation of trust. Trust can be exploited if it exists already or can be created for the purposes of deceit. Central to the philosophical approach to the subject of trust can be found in the works of classical theorists especially the work of the 18th century writer Cesare Beccaria of the classical school of crime studies. For instance, an example is the concept of individual responsibility in English law. Some fundamental premises of the classicist school include the 'natural independence' and sovereignty of the individual. The binding together in society under the 'social contract', which yield power to the monarch or state only in return for the protection of rights, security of persons and property. There is also the need for law to prevent the pursuit of naked self-interest (Young, 1994).

The first substantive definition of 'trust' in the Oxford English Dictionary is "confidence in or reliance on some quality or attribute of a person or thing, or the truth of a statement" (Good, 1988:33). A later variant, which stresses the economic usage of the term, defines it as "confidence in the ability and intention of a buyer to pay at a future time for goods supplied without present payment". For Good, under each of these definitions, trust is generally based on an individual theory as to how another person will perform on some future occasion, as a function of that target person's current and previous claims, either explicit or implicit, as to how they will behave. These arise from an individual's co-operative behaviour, which is a major source of information in our construction of our views of other persons.

The definition adopted by many writers on the subject of trust is that trust is involved if faith (and not just hope) is placed in a person or institution where something serious is at stake (Nelken, 1994). Establishing trust with regard to a particular transaction,

scam or scheme is the fraudster's key strategy and this enables him to obtain money, goods or services from the victim. The concept of trust has been the subject of debate in philosophy, psychology, sociology, law, economics and other disciplines. In all these areas of interest, 'trust' has its definitional attributes and can be measured in terms of degree and how it is utilised for whatever purpose. This depends on many factors including the nature and circumstances of the individuals or groups concerned.

Nelken (1994) points out that an investigation into the structure of trust and distrust is appropriate for explaining fraud since the act as implied by definition, is the result of misplaced trust. In theorising about trust he notes that the purposes and functions ascribed to trust vary with the theoretical position of the writer. Thus, for example, positions could be as result of approaches that examine the matter from the point of view of the individual or group, and or the social system. Further, various disciplines tend to interpret trust in certain ways. The focus of inquiry on the issue of trust revolve around the different types of trust that exist, whether trust is a limited resource, and how trust can be increased.

Furthermore, responses to these questions depend on and lead back to wider discussions of social, economic and political structure of culture. For instance drawing from Luhmann (1979), from the point of view of the social system, trust serves like money, as a generalised means of exchange. In the analysis of trust, we need to understand the complex interrelationships between the economic and political fabric of society, and the individuals who constitute that society. Also its role in the creation of that web, taking into consideration the psychological impact on the individual (Good, 1988). For Good, in the first instance, trust at a basic level is psychologically rewarding.

Various writers have contributed to the discussion on the dynamics of trust. We shall look at those that are of interest to this thesis. For example, Cressey (1953) approached the subject from the perspective of those entrusted with responsibility, and the reasons why they 'violate' their 'privileged' positions. The resultant effect of their breach of trust could result in crime/fraud – embezzlement. Cressey carried out a social psychological study of embezzlers/embezzlement or the 'criminal violation of financial trust'. He argues that from the legal perspective, the word 'embezzlement'

refers to the behaviour of one convicted of forgery or some other offence. He notes that this is erroneous. Thus he used two definitional criteria. First, the person must have accepted a position in good faith (this agrees with all legal definitions). Second, the person must have violated that trust by committing a crime. One of Cresseys's (1953: 30) hypotheses that was not rejected after his study is that:

Trusted persons become trust violators when they conceive of themselves as having a financial problem which is non-shareable, are aware that this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their own conduct in that situation verbalizations which enable them to adjust their conceptions of themselves as trusted persons with their conceptions of themselves as users of the entrusted funds or property.

Cressey states that in all the cases of trust violation he encountered, the violator considered that a financial problem which confronted him could not be shared with other persons, even though, looking at the situation objectively, those not intimated could have aided in the solution of the problem. Further, the nature of the degree of 'shareability' differs culturally, and depends on the situation and organisation concerned. Hence, the individual may resort to embezzlement. For instance, in a situation where a confidence trickster swindles a trusted person, the victim is likely to adopt the 'non-shareability' approach (especially if money lost belongs to his organisation). This may be done to avoid shame and embarrassment (Cressey, 1953).

Furthermore, reasons or excuses given or deduced for 'non-shareability' include the legal, professional, and cultural/status implications of the violation of ones ascribed obligations- in the sense that trusted persons represent a threat to the status which holding the position of trust entails within and organisation or community. Cressey uses the term 'ascribed obligations' to refer to those obligations of a non-financial nature which are expected of persons in certain positions of financial trust. For example, most employers expect their high calibre staff to be honest, and law abiding in their official and private dealings. He notes that in certain organisations/professions, rules are stated explicitly. In addition, in most situations the non-shareability problem is related to status-gaining and status-maintaining. Problems resulting from employer-employee relations could also lead to non-shareability and embezzlement eventually. This may take the form of feeling underpaid or overworked, or being 'unfairly' treated.

Cressey concludes that it is important for the trust violator to identify and exploit opportunities that exist for fraud or embezzlement. Thus, just being in a position of trust provides opportunities for its violation. The individual's general information and technical skills are traits acquired through on-the-job training or professional education, which are subsequently utilised for embezzlement. For example accountants are trained on how to detect and prevent fraud. The accountant-trust violator is therefore in a position to embezzle if pressed with non-shareable problems.

For Cressey, preventive strategies should include the reorganisation of human values and social structures. Trusted persons could also be isolated from individuals sharing negative attributes. Our educational programmes should lay emphases on verbalisations (e.g. 'borrowing') used by trust violators, rather than the immoral nature of non-shareable problems. Also, convicted trust violators should be regarded as 'bad risk', since a non-shareable financial problem might be present from the beginning of employment, however, a conviction does not necessarily mean the individual will violate trust again.

The relevance of Cressey's 'non-shareability' argument to this thesis is that non-shareable problems are capable of luring those with weak 'controls' and with 'opportunities' for fraud to develop and execute scams. On the other hand, for the pre-planned fraudster that deliberately sets out to manipulate or violate trust, issues concerning shareable or non-shareable problems are irrelevant. It is the intention of the fraudster to seek economic gain through illegal or fraudulent activities.

In Nock's (1993) discussion on how, in an anonymous society of strangers is trust produced? (e.g. How do people transact business, extend or receive credit, select their doctors, board aeroplanes and public transport driven by total strangers confident that their safety is not in jeopardy?); and how it is possible to depend on or believe in other people when we have never met them. He notes that most people trust those who, they believe, accept and abide by the same moral rules they have accepted. Thus, people who are known to conform to those standards are held as important and are trusted.

Further, trust and the ability to take others at their word are basic ingredients in social order, and this binds people together. Therefore, the extent to which trust among people exists determines, in part, the degree of solidarity to be found in any society. In addition, trust depends on the faith we have in another person's truthfulness. It is reputation that earns trust and it is lack of reputation that produces doubt and scepticism. A common example is the willingness to trust a doctor. This has led to certain advance fee fraud fraudsters to use titles such as 'Dr' 'Professor' 'Chief' 'Engineer' 'Consultant' in some of their solicitation, verbally or in writing.

Following from the above, an important criterion in trusting has to do with what Nock refers to as one's reputation. For Nock, reputation is a basic component of the trust that lies at the heart of social order. A reputation is defined as a shared or collective perception about a person. It is the product of innumerable contacts among and between people. Through dealings with others, an image is developed of the degree to which standards that are generally accepted are adhered. Thus, when someone has no reputation, that person is a stranger.

Nock notes that strangers are not trusted as much as people whose reputations are known. Strangers are suspect and must demonstrate that they are trusted. Strangers must earn other people's trust. To do that, they must somehow earn a good reputation. A bad reputation can also be earned if one does not abide by the rules in a given community. A bad reputation is usually the product of having been shamed. Also, there are powerful incentives to avoid shame because once shamed, there are few ways to absolve the bad reputation. Thus, conformity to standards is necessary to earn a good reputation. In the case of fraud especially advance fee fraud scams in particular, the fraudster takes deliberate steps such as forging a 'trusting' relationship, creating the enabling reputation to collect money upfront from the victim.

Of relevance to the discussion on trust and fraud is the remark by Luhmann that all modern societies are similarly reliant on a system of trust. According to Nelken, Luhmann asserts - "trust remains vital in interpersonal relations, but participation in functional systems like the economy or politics is no longer a matter of personal relations. It requires confidence but not trust" (Luhmann, 1979: 102). Nelken argued that this is misleading when looking at trust in Italian public life.

Nelken (1994) examined the issue of trust with reference to trust, crime and criminal justice in Italy and the United Kingdom. His study though comparative could also have wider implications as he pointed out. For analytical purposes, he approached the different aspects of trust through questions - the decision to trust (whom can you trust?); the manner of trusting (how, when and why do you trust?); and the degree of trusting (how much can you trust?).

On the question - Whom can you trust? Nelken cites Barber's (1983) remark that in all societies certain individuals and groups are more trusted than others, for example professionals are usually trusted. For Nelken, trust may be self-reinforcing because it leads to fewer examples of misbehaviour becoming known such as when regulation has been delegated to the group concerned. Further, "the opposite is also true; the more control that is exercised over less trusted groups or individuals the more this leads to the discovery of rule breaking which confirms initial suspicion" (Nelken, 1994:232). Further, it is also possible to find out that different societies do not necessarily view the same groups of individuals with the same level of trust.

In Nelken's study, he observed that the British political and administrative system seeks to respond to its citizens on the basis of trust. This is contrary to the Italians, who respond on the basis of distrust. These dimensions in Britain and Italy and in other countries or societies can be observed in the treatment of offenders. It was also observed that offenders are not equal before the law. Nelken concludes that trust is a vital ingredient and provides the key to the relative success of criminals in their attempt to avoid sanctions. Trust is reinforced or acquired through bonds, incentives and threats. The importance of trust in crime is at play when corrupt politicians, administrators, professionals and law enforcement officials and agents collaborate. In most cases these connections could prove to be the weak link.

Nelken addressed the question - How do you trust? He notes that the distribution and maintenance of power and authority in any society has a lot to do with the way trust is gained and lost. For instance in Italy and the UK as with other countries, 'who you know' is more important than 'what you know'. In the UK, the 'old school tie' is a good example. In Italy, political, social and family groups appear to count more than

ties with institutions. In the UK, the use of power and the trading of favours tend to be hidden, indirect and camouflaged. Whereas in Italy, power is obvious and the exchange of favours and obligations in more or less formalised.

With regard to the methods of controlling, monitoring and bestowing trust, in Italy, social trust depends on face-to-face contact and other forms of direct communication such as the telephone. Letters are seen to be too formal and to some extent indicate lack of trust or scepticism, and in official business, documents that could be quite cumbersome are used. This, Nelken suggests, helps to explain why inflated receipts and false documentation are common methods of most frauds in Italy. Here, 'paper work' or documents are presented to satisfy the 'formal' control set up by the authorities. On the other hand, in the UK or the US, frauds are readily accomplished by the exploitation of the initial presumption of trust and the apparent initial lack of control in both private and public life.

On the question - How much can you trust? - the levels of trust vary, and they depend on several factors such as the cultural patterns of disposition to trust as well as "any objective differences in the extent to which some individuals and groups can be trusted" (Nelken, 1994: 236). Authors such as Douglas and Wildavsky (1982) have noted or claimed that risk is in the eye of the beholder, and that perceived levels of given threats depend on the 'cultural bias' of the group to which the observer belongs. Further, whether the level of trust in a society can be increased depends on the type of trust in question. For instance, personal trust is developed over years that may have involved the 'testing' of the trust.

On the other hand, impersonal trust depends on experiences and willingness to trust in the universalistic operations of economic, financial, political, technical and probably social institutions. Comparatively, in Italy, there is more interpersonal trust but less impersonal trust. Thus, in Italy friends are expected to do more than in Britain (Nelken, 1994). Nelken notes that it is commonly argued that the way to increase trust in modern societies is to make it more impersonal. Similarly, the development of impersonal institutions and the rule of law to a large extent enables peoples to pursue all their activities without the stress and worry of making sure alliances are stable and in line with public order. He states that one should remember that impersonal

structures of trust tend to benefit certain groups or interests than others. A fourteenth century Tuscan proverb was mentioned which states that “Trusting is good but not trusting is better”.

Another contributor to the discussion of trust is Fukuyama (1995). He examined trust from socio-economic, cultural and political perspectives. He notes that in any modern society, the economy constitutes one of the most fundamental and dynamic arenas of human sociability. Weber had remarked that the very essence of modern economic life is the rise and proliferation of rules and law. For Weber, the rise of the modern economic world was bound up with the rise of contract. Further, certain types of contract such as marriage has been in existence for thousands of years. Weber distinguishes between ‘status’ contracts (e.g. agreed relationship as in the cases of an apprentice where duties and obligations are not clearly spelt out) and ‘purposive’ contracts. Purposive contracts were entered into based on or for the sake of some economic exchange. This did not affect other forms of relationship outside the transaction in question (Fukuyama, 1995).

All forms of economic activity involve some social collaboration of human beings. People by nature are selfish and they tend to pursue their selfish interests in a rational way, but at the same time they crave being part of larger communities. People engage in employment activities and other forms of endeavour some of which are legitimate or illegitimate in order to satisfy their individual needs, in addition to reaping the benefits of being drawn out of their private lives to a broader social world. For Fukuyama, an important arena for this development is the work place. To stretch this argument further, the satisfaction human beings derive from associating with others grows out of the innate desire for recognition. According to Fukuyama every human being seeks to have his or her dignity recognised (i.e., evaluated at its proper worth) by other human being. Thus, economic activity represents a crucial part of social life and is knit together by a wide variety of norms, rules, moral obligations and other habits that together shape society.

The major theme in Fukuyama’s *Trust* is that through the examination of economic life, “the well-being of a country, as well as its ability to compete, is conditioned by a single, pervasive cultural characteristic: the level of trust inherent in the society”

(Fukuyama, 1995:7). A good example can be seen in the way financial institutions support industrial and commercial development in their countries knowing that certain risks and uncertainties are involved. More so, industrial policies are known to work better in societies with long traditions of an honest and competent civil service.

Dasgupta (1988: 49) states that “trust is central to all transactions and yet economists rarely discuss the notion”. For Dasgupta, certain issues are very important in the discussion:

- First, if there are no suitable degrees of punishment for breaking agreements or contracts, individuals are likely not to have the appropriate incentives to meet the agreed conditions. A result of this may be that people may not be willing to enter into transactions with one another. Thus what could in principle be mutually beneficial relationships will not be initiated. Generally, the penalty (loss of money, honour, etc.) for breaking verbal agreement is usually less than the penalty for breaking legal agreements as stated in contracts.
- Second, the threat of punishment for improper behaviour must be credible, else the threat can be regarded as non-existent. Thus, the enforcement agencies must be trustworthy, efficient and unbiased in their actions.
- Third, trust among persons and agencies are interconnected. This inter-connection is what makes trust such a fragile commodity. This is one of the reasons why certain professional bodies have strict codes of conduct.
- Fourth, the proper approach for trust in others is that one is aware or knows the available options and their consequences, taking into consideration the person's ability to do what is promised. A promise must be credible. This is one of the reasons why it is commonly advised to distinguish ‘trusting someone’ from ‘trusting someone blindly’.
- Fifth, before trusting anyone, it is important to examine the world or situation from his or her perspective especially as it concerns the fulfilment of his part of the agreement. Further, ones ‘trustworthiness’ depends on the individuals overall

disposition, his motivation, and the extent to which he awards importance to his own honesty. Being able to trust a person to do what he said he would, on the other hand, requires some knowledge about his disposition, but also something of the circumstances surrounding the occasion at hand. In addition, if the incentives are 'right', even a trustworthy person can be relied upon to be untrustworthy. Thus the saying that 'every man has his price'.

- Sixth, the fact that there are no obvious units in which trust can be measured, this is insignificant, because in any given context you can measure its value, and its 'worthwhileness'. In this respect, trust is not different to commodities such as knowledge or information.
- Seventh, the usage of 'trust' refers to "the sense of correct expectations about the actions of other people that have a bearing on one's own choice of action when that action must be chosen before one can monitor the actions of those others" (Dasgupta, 1988: 49).

Furthermore, the condition of ignorance or uncertainty about other people's behaviour is central to the notion of trust. It is related to the limits of our capacity to attain full knowledge of others, their motives, and their responses to internal and external conditions (Gambetta, 1988). Thus, "trust is intrinsically fragile responses to our ignorance, a way of coping with 'the limits of our foresight'" (Shklar 1984: 151). It is noted that if we were blessed with an unlimited computability to map out all possible contingencies in enforceable contracts, trust would not be a problem. Trust is also related to the fact that agents have a degree of freedom to disappoint our expectations.

Gambetta notes that for trust to be relevant there must be the possibility of exit, betrayal, and defection. Trust can be, and has been, more generally defined as a device for coping with the freedom of others. It is then implied that trusting a person means believing that when offered the chance, he or she is not likely to behave in a way that is damaging to us. Trust will typically be relevant when at least one party is free to disappoint the other, free enough to avoid a risky relationship, and constrained enough to consider that relationship an attractive option. In short, trust is implied in

most human endeavours with varying degrees and expectations. A situation the fraudster manipulates and exploits for economic gain.

Further, Fukuyama uses the concepts of 'social capital' to refer to "a capability that arises from the prevalence of trust in a society or in certain parts of it" (1995: 26). This can be found in all forms of human groups such as the family and the largest of organisations. Further, social capital differs from other forms of human capital in the senses that it is usually created and transmitted through cultural mechanisms like religion, tradition or habits over history. Fukuyama notes that economists argue that social groups are formed as a result of voluntary contracts by people, anticipating that it is in their best interest to do so. Thus, by this account, trust is not necessary for co-operation: enlightened self-interest, together with legal mechanisms like contracts, can compensate for an absence of trust and allow strangers jointly to create an organisation that will work for a common purpose. Groups can be formed at any time based on self-interest, and group formation is not culture-dependent.

It is also important to note that social capital required to create a moral community cannot be acquired as with other forms of human capital such as college education and training. The acquisition of social capital requires the absorption of the moral norms of the community or society, and in this context, the acquisition of virtues like honesty, loyalty and dependability. Here, social virtues prevail over individual virtues. The degree of social capital varies among societies.

Further, in the course of socio-economic development, a crucial forum for human relations is the 'community'. For Fukuyama the community in most cases is the cultural one, formed not on the basis of explicit rules and regulations but out of ethical habits and reciprocal moral obligations internalised by each of the community's members. These rules or habits give members of the community grounds for trusting one another. He notes that virtually successful economic societies are united by trust. For instance, historically the United States (US), as well as Japan and Germany have been high-trusting and group-oriented. In the United States the decline of sociability has subsequently led to the decline of trust. This can be noticed from the huge sums paid to its lawyers to enable citizens to sue one another. Rises in crime and litigation as a means of settling disputes are also signs of this trend.

Thus, people who do not trust each other will end up co-operating only under a system of formal rules and regulations, which have to be negotiated, agreed to, litigated, and enforced, sometimes by coercive means. This legal apparatus, serving as a substitute for trust, entails what economists call 'transaction costs'. Widespread distrust in a society, in other words, imposes a kind of tax on all forms of economic activity, a tax that high-trust societies do not have to pay (Fukuyama, 1995). Luhmann (1988) concludes that the lack of trust simply withdraws activities. It reduces the range of possibilities for rational action. It prevents, above all, capital investment under conditions of uncertainty and risk, and it may reduce public interest in innovative art, which is not yet recognised and confirmed by the establishment of experts.

In emphasising the importance of trust, it is difficult to imagine any form of economic life that does not have a minimum level of informal trust. For instance, in a society without trust, one can expect to be involved in endless 'bullet-proofing' of documents and contracts that are very long attempting to spell out all possible contingencies and obligations. The use of the legal system for virtually all resolutions is better imagined. Fukuyama (1995) highlights the remarks of the economist and Nobel laureate Kenneth Arrow:

Now trust has a very important pragmatic value, if nothing else. Trust is an important lubricant of social system. It is extremely efficient; it saves a lot of trouble to have a fair degree of reliance on other people's word. Unfortunately this is not a commodity that can be bought very easily. If you have to buy it, you already have some doubts about what you've bought. Trust and similar values is what economist would call 'externalities'. They are goods, they are commodities; they have practical economic value; they increase the efficiency of the system, enable you to produce more goods or more of whatever values you hold in high esteem. But they are not commodities for which trade on the open market is technically possible or even meaningful (Fukuyama, 1995: 151)

Rules and contracts have not eliminated the need for trust in all spheres of human endeavour. For example, professionals like doctors, lawyers, or university professors, having received the required training for accreditation and practice, are expected to use their judgement and initiative in practice. The nature of their judgement is too

complex to have all the details spelt out in black and white. Thus, Fukuyama notes that professionals are in the position to go about their business relatively unsupervised and as such, are generally more trusted than non-professionals. The concept - 'professional' is associated with integrity and good conduct. In this regard, it is possible for the professional to betray the trust placed in him or her.

An important tool for the control of trust is coercion. Coercion, or at least the threat, has always been widely practised as a means to ensure co-operation, and in its extreme form, to ensure submission and compliance. But it falls short of being an adequate alternative to trust. Also, it limits the extent to which we worry about trust, but does not increase trust (Gambetta, 1988). Further, coercion does not have to be illegitimate, and may be employed for the purpose of enforcing rights which are commonly shared. Gambetta also notes that societies, which rely heavily on the use of force, are likely to be less efficient, more costly, and more unpleasant than those where trust is maintained by other means. In the former, resources tend to be diverted away from economic undertakings and spent in coercion, surveillance, and information gathering and less attention on co-operative activities. On the other hand contracts and promises represent weaker forms of pre-commitment, which do not altogether rule out certain actions, but simply make them more costly. The role of the contract is to shift the focus of trust on to the efficacy of sanctions especially with regard to the ability of the regulator to enforce them if they are broken.

There is usually an inverse relationship between rules and trust: the more people depend on rules to regulate their interactions, the less they trust each other and vice versa (Fukuyama, 1995). Thus, just as the level of trust varies greatly among societies, it can also change over time as a result of specific events or conditions. These events could be political social or economic. For instance, people's endless accumulation of material possessions to satisfy their ever increasing wants and needs and the quest for recognition by others especially as it concerns one's worth are contributory factors to how trust is created and manipulated. When people are not recognised they become angry, and when they do not live up to the expectations of others they are ashamed. When they are evaluated appropriately they feel a sense of pride. Thus, with regard to work, the motivation in working and earning money is more closely associated with

the recognition that comes from such activity. More so where money has become a symbol not for material goods but for social status or recognition.

On how we can monitor trust, for Nock, (1993) an individual's reputation determines the degree to which he or she will be trusted and privacy has a role to play in 'judging' others. Thus he argues that historically, increasing numbers of strangers produced greater and more pervasive personal privacy. Privacy refers to relationships in which people retain possession of something that might otherwise be shared, and if shared, is shared on the initiative or with the consent of the 'possessor' (Taylor, 1985). Nock notes that in modern America, people now enjoy a higher degree of privacy than was the case before, mainly because the increasing numbers of strangers in their lives are legitimately denied access to personal affairs. He notes that changes in familial living arrangements are largely responsible for these trends. Also, technological changes have contributed to greater privacy. Modern conveniences such as the telephone, television, washer, dryer, air conditioner, and VCR make it less necessary for individuals to leave their homes to venture into public. Hence, this reduces interaction/surveillance at those levels. Thus, privacy makes it difficult for people to form reliable opinions about each other.

Further, historically the family has been the traditional source of reputation. The family is the source of a person's ascriptive status, one's initial location in society. In this regard, the most notorious criminals are usually described by the media as 'loners', unknown by neighbours and unconnected to family, and in contemporary societies, to establish and maintain reputations in the face of privacy, social mechanisms of surveillance have been elaborated and developed (Nock, 1993). Thus, the two methods used to establish or maintain reputations among strangers or in urban settings are 'credentials' and 'ordeals'.

For Nock, a 'credential' is something that gives a person access to credit or confidence. Credentials may certify many things such as competence, completion of a course of study, membership in formal or voluntary associations, or credit worthiness. Credentials announce to others that a person has established a claim to membership in a recognised group of similar individuals, and by definition, a credential certifies an individual as a recognisable type of person - one who accepts and abides by certain

principles. Seen this way, credentials are a part of an individual's public reputation. Successful performance in the economy may produce outward symbols that serve as credentials - conspicuous signs of success.

In other fields of endeavour, one's occupational status or other visible signs of achievement could establish one's reputation. Heller (1985) argued that success is increasingly the basis of reputation - perhaps the dominant basis in modern society. Lack of success, she argues, is the cause for shame. Conspicuous examples of credentials include educational and professional degrees, credit cards that permit validation of one's creditworthiness at the point of sale, and driver's licences as an indication that the holder is competent to drive. Thus, 'credential(s)' is a form of surveillance, which in turn is one of the responses to the rising numbers of strangers or heterogeneous societies.

On the other hand, an 'ordeal' is a ritual that determines whether an individual is telling the truth. It always begins with a presumption of guilt or unresolved doubt (Nock, 1985). Thus, ordeals are a form of surveillance and they establish or maintain reputations. As with credentials, the use of ordeals is a function of the extensiveness of strangers - those who lack reputations. For Nock, since privacy is a major factor in the increase in strangers, ordeals are a consequence of privacy. Usually, it is when a person's word is in doubt that ordeals are employed. Through an ordeal people are able to validate their reputation, to garner proof of the validity of their claims, or to establish their claim to innocence, membership, or competence. Common methods of ordeals include drug tests, lie-detector tests, and obligatory confessions in communes or churches. Nock notes that the main difference between ordeals of the Middle Ages and those of today is in who or what is called on to render the truthful decision. God was the source of truth for judges in medieval times whereas science or the appearance of it is now called to do the same thing.

With regard to the above, the pre-planned fraudster is capable of ensuring that he passes the ordeals in a given society. This is achieved through deliberate activities involving training, character and credit building. It has been noted that much of our lives lie beyond the legitimate scrutiny of others. Privacy grows as the number of strangers grows. People proclaim themselves trustworthy by presenting evidence that

is objectively maintained by 'third parties' (e.g. credit bureaux, educational institutions and certain arms of the state machinery) (Nock, 1993). Nock notes that the individual credentials alone are increasingly inadequate for this purpose. Virtually any type of credential is potentially subject to fraud (Taylor, 1985). Though, it is in the quest to augment the reliance on credentials that ordeals are necessary (Taylor, 1985). Hence the need to approach the offence of obtaining by false pretences via the blocking of opportunities and effective sanctions.

In conclusion, we have seen that the availability of trust in varying degrees serves as the essential tool for extortion in the final analysis. The utilisation of existing trusting relationship, the creation of trust if non-existent, enables the victim to part with property voluntarily. It was noted that any attempt to spell out all rules or create laws to virtually all forms of social and business interaction is inconceivable. Hence, the major reliance is now on the authorities to deal with people who breach rules that better still can be found under the ambits of the law. Without trust it is impossible to engage in our daily social life and the belief that is held about another person at the time of communication is a significant part of what the particular context amounts to (Good, 1988). For Good, confidence tricksters that know many superficial aspects of personal presentation can quickly lead to conclusions about the nature of another person's beliefs and sentiments. This helps them to execute fraud. Further, fraud is widespread in all the advanced economies, and is extremely costly to companies and individuals alike, but rarely does it lead to the conclusion that no one can be trusted.

The conditions of familiarity have been dramatically changed over the ages by the invention of writing, by literacy, and in particular by the printing press. Now a huge amount of knowledge can be stored with which one may be and forever remain unfamiliar, although others may know and use it. These developments have in many ways led to increased social tension. For instance a speaker can readily be challenged because the audience can access his 'secret' knowledge and may even know more (Luhmann, 1988). In addition, the large functional systems depend not only on confidence but also on trust. Lack of confidence could lead to the diffusion of sentiments, dissatisfaction, alienation and possibly anomie. This may have no immediate impact on the system. If trust is lacking, however, this changes the way

people decide' about important issues. Trust, as may be recalled, is an attitude, which allows for risk-taking decisions. The development of trust depends on local milieu and personal experience. Thus lack of confidence and the need for trust may form a vicious circle. A system-economic, legal, or political - requires trust as an input condition. Without trust it cannot stimulate supportive activities in situations of uncertainty or risk.

Given that trust is more or less inevitable in human transactions, fraudsters abuse this situation. The cost of litigation and investigation are conditions that have favoured the fraudster that specialises in obtaining relatively small sums of money from thousands of victims. It is clear from all the above that the concept or nature of trust makes the control of fraud problematic. The presence of confidence discussed in the preceding section is what signifies the existence or acceptance of trust among those involved in a given transaction.

5.2.1 Confidence tricks

The confidence trick is what practically sums up the modus operandi of virtually all frauds, especially those involving obtaining money, goods and services through the collection of upfront payments in cash or kind such as in the case of advance fee frauds. This is apart from frauds of direct-access theft such as embezzlement and other white-collar crimes. In fact, a typical scam is synonymous or can be referred to as the end product of a confidence trick. In the perfection of a confidence trick, the con man or fraudster has to exhibit his skills or follow certain 'guidelines'. In the course of this discussion the nature of the art is explored. First, the *Oxford Reference Dictionary of English* gives definitions of confidence, which is relevant to our discussion - fraud and the fraudster. For example, the dictionary defines 'confidence' as "firm trust (have confidence in his ability)", "feeling of reliance or certainty", "a sense of self reliance; boldness", "confidence man - a man who robs or swindles by means of a confidence trick". 'Confidence trick' is defined as "a swindle in which the victim is persuaded to trust the swindler in some way" or "a swindle worked by gaining a person's trust".

It is important to state that self-confidence refers to being confident in one's abilities. With regard to fraud especially where physical contact is used, having self-confidence is a desirable trait to possess. For those lacking confidence, deliberate efforts can be taken to acquire it - through learning, exposure or training. Would-be victims are likely to appraise the degree of risk positively based on the level of self-confidence exhibited by the fraudster. Also, gaining the confidence of victims is more important than the self-confidence of the fraudster. Åkerström's (1993: 4) notes that in her study of 'crooks', "the criminals impressed her with their self-confidence, resourcefulness and ability to describe their situation – often in a humorous way..."

Confidence tricks, are said to have numerous forms and are all based on the greed and gullibility of the victim, who is 'often' also out to break the law (Walsh and Poole, 1983). In practice, a confidence trick is either a promising looking gamble that the victim cannot win (e.g. the three-card trick or the three-pea trick). Or involves the criminal developing a trusting relationship - lending and borrowing money - with the victim, the trust being abruptly terminated when enough money is in the hand of the criminal. They note that it is not possible to determine actual numbers or incidents of this con mainly because victims rarely report them. With regard to the remarks above, the use of the word 'often' on the part of victims may be too assuming. This thesis reveals that majority of the cons are outright frauds. In other words, the fraudster deliberately sets out to dupe innocent citizens. In a few cases the victim could be a willing fraudulent partner who is eventually tricked.

One of the early contributors to theories of crime in general and the concept of the 'professional thief' - the trained offender (a variant of the confidence trickster) is Edwin Sutherland. For Sutherland, skilled pickpockets, confidence men, shoplifters, check writers, and certain other offenders may be regarded as professional thieves. These professions have a complex of skilled techniques, status, consensus, organisation, and segregation in the underworld. They depend primarily on their wits, 'front', and talking ability; they are differentiated from non-professional thieves, and also from professional criminals in other rackets. Also, people in legitimate occupations envy the earnings of some members of this profession (Sutherland, 1937).

For Sutherland certain reasons that make this pattern of fraud successful include the selection of criminal acts that have limited chances of conviction especially in cases where the victim is induced to be involved in the illegal act and as such will not be willing to report the scam. Second, the thieves perfect their act or technique by training and experience. This also involves methods of avoiding or dealing with prosecution. Third and last, the thief operates on the assumption that all cases against him can be settled in his favour. For instance, arrests are treated as a job hazard as with all other legitimate professions. Methods of bribery and corruption are commonly adopted (gifts, loans etc.) in addition to exploiting 'weak links' or loopholes within the criminal justice system.

It is difficult to accurately gauge the extent of criminal fraud through confidence tricks. This is so because victims of con tricks (who, themselves, sought to gain dishonestly) rarely report their losses. Many victims of related types of fraud never fully realise they are 'taken in', and where the loss is small, the victim often prefers not to bother getting involved with the police (Schur, 1958). Further, confidence swindlers are generally recognised to be the elite of the underworld, and proceeds from such fraud can be very large. As at the time of Schur's study, in the United States, confidence swindling was predominantly a male offence. This was so because the usual roles of confidant adopted by the swindler were male dominated careers such as priest, lawyer, doctor or psychoanalyst. In some instances, women act as lures or accomplices in certain con tricks. The role of women is expected to rise as time goes on.

The criminal skills of the advance fee fraud fraudster represent the epitome of the professional confidence trickster's abilities (Davies and Saltmarsh, 1995). In a common example they note that the fraudster represents himself as being able to access sources of investment funding, very often at highly attractive rates. The core of the deal involves the creation of a large quantity of official-looking documentation indicating the terms of the loan which will require administrative expenses such as the negotiation fees, the 'goodwill' factoring facility; and other meaningless, but impressive-sounding jargon which the conman can dream up. The criminal and his accomplices disappear after receiving the advance fee. Sometimes the fraudster

cunningly acquires the legitimate letterheads and documents from banks to buttress their profile.

It was noted that in the United States, victims lose hundreds of thousands of dollars to the perpetrators of confidence schemes every year. The exact number of victims and how much is lost is not known (Gasser, 1970). According to Gasser, a confidence man pointed out that there are at least two reasons for this. First, the victim may not realise that he or she has been duped and in certain circumstances, the victim's involvement may be so direct that he feels embarrassed if the deal is exposed. Gasser's findings are based on his study of swindlers involved in the confidence trick.

Gasser also notes that it is difficult to distinguish between confidence tricks and other fraudulent practices, as they appear to blend or graduate into each other. He notes that:

True confidence games always make use of the avarice and dishonesty of the victim. Their common element is showing the victim how to make money, or gain some other advantage, in a dishonest manner and then taking advantage of his dishonesty. A true confidence game leaves no innocent victim (Gasser, 1970:263).

Further, acts of swindling and forgery and the perpetration of various deceptive schemes that prey upon the victim's innocence, ignorance, or gullibility are acts that involve the manipulation of confidence. Such schemes seek to take advantage of the person's ignorance or naivete. In some cases, the practice of confidence is the manipulation of the victim through non-violent or persuasive methods into a situation of dishonesty in order to exploit the victim's level of dishonesty.

If one views the victim as an accomplice, among the tricksters it is believed that "you can't cheat an honest man" (Gasser, 1970). Thus the professional con man ensures that the victim is willing to enter into a dishonest arrangement. This affords them a degree of protection and makes the victim a partner in the proceedings. Gasser also notes the comments of a conman - "a thoroughly honest man doesn't expect to receive great profits at little cost". For Gasser in this regard, in certain frauds or swindles the victim can protest with impunity. In a true con scheme, he cannot. In the examination

of the current law on fraud in this thesis, in the United Kingdom having a fraudulent intent does not affect the “victim’s” right to compensation or redress (see Chapter 1).

Gasser also examined types of con tricks, which he refers to as ‘con games’. He came up with two categories - the short cons and the big cons. The time required for the con and the amount of money expected form the bases of the scam. Short con tricks require a short time to execute and usually are limited to the amount of money physically present with the victim. With big con tricks the fraud could take weeks, months or more to accomplish and may involve the return of the victim to his home to retrieve more cash.

On the rules of the ‘game’ or the pattern in which the scam is executed, the same approach is usually applied once. There is a need to modify or perfect each scheme to ensure that it is effective and in tune with whatever circumstances are prevalent at the time. It is also important for the con man to avoid the use of violence in carrying out the scheme, even if it means losing a ‘score’. Also, it is generally felt that violence is beneath the dignity of the professional. Gasser notes that it does occur, occasionally, but is as an exception rather than a general practice, and bodily harm may be done to the victim under certain circumstances (Gasser, 1970). This practice is not unconnected with the notion that the police are likely to investigate in detail, any form of violence against citizens or to give violent incidents priority attention. Within a con group, techniques are concealed from each other, especially from those who are not yet partners. This is to avoid unapproved competition and for security reasons (avoiding detection by police and other agencies). It is also important for con men to assist themselves if required. This could take different forms such as money for legal fees, disposal and concealment property and evidence of the scam.

Gasser’s study also revealed that con men or teams sometimes have working agreements or relationship within the police and other law enforcement agents. Arrangements could be made directly with the police, but preferably are made through a lawyer or an influential person in the community. As a rule the con man should always be prepared to know what to do if he is caught. Further, it is not uncommon to find con men that have had short spells in prison in the course of their careers. Mention is also made about the characteristics of a con man. It was observed that con

men come from all walks of life and become very active at any age. Retirement is not an issue as they could innovate or adapt to their situation at any time. It is also wise for them to first serve as an apprentice under a more experienced hand. Gasser suggests that most con men get recruited in prison, and a typical con man would prefer his children to pursue a better or legitimate lifestyle.

Finally, in Gasser's conclusion, he notes that confidence tricks have always existed as a subculture in western societies. Further, for the activities of fraudsters to be checked they must be well understood by the public and law enforcers. He suggests that legislation against the dishonest aspects of the victim's actions may help to reduce the con's activities but doubts if such legislation will be possible to effect. The clever use of the confidence trick and 'trust' can be seen in my discussion on the literature from different parts of the world and in the analysis of my data. This technique also features prominently in examples of early occurrence of advance fee fraud.

Below is a discussion on the concept of risk and how it relates to fraud. We shall see that it is the notion of risk prevalent in legitimate transactions and human endeavours in general that enables the fraudster to convince the victim that paying for something upfront is a procedure required for 'better things ahead'. More so, risk is part of the situation found in all legitimate enterprises or businesses. For instance, events in the past have shown that erstwhile legitimate and big banks have collapsed leaving responsible individual and corporate investors astonished. The stock market is another arena where legitimate activities could be unfruitful.

5.3 Risk

Closely associated with the concept of trust is risk. Risk is also a varied concept. The *Oxford English Reference Dictionary of Current English* (1996) defines risk as "a chance or possibility of danger, loss, injury, or other adverse consequences". Among other meanings of the concept or word is that of 'risk capital', which is "money put for speculative business investment". The definition and interpretation of risk depends on the context in which it is used. In most of the literature, issues concerning risk are

often those associated with the environment, technology, insurance, health, and accidents. With regard to fraud, our discussion and understanding of risk will centre upon its relevance to the dynamics of fraud, for example the notion of risk capital.

The implication of the application of risk is so grave that even in the insurance industry, in some cases, re-insurance policies are carried out. This shows the extent of uncertainty. Unfortunately, this cannot be applied to all businesses especially those of interest to the advance fee fraud fraudster - where there is really no room or allowance for insurance cover. In this thesis, our interest in the concept of risk is limited to its role with trust as it concerns the victim or individuals decision to embark on a venture or transaction in which a deposit is required upfront.

Decision-making involves the weighing of alternatives in terms of their likelihood (Kogan and Wallach, 1964). Thus, issues concerning the avoidance of risks in arriving at decisions are likely to be important ingredients in thinking processes. Also, a decision-making procedure introduces risk explicitly, in terms of the subject's assessment of probabilities of success and failure. The risk element is clearly explicit whether the decisions occur in a hypothetical success-failure context or in a situation involving direct gain-loss consequences.

According to Johnston (1997), the dominant explanations for the recent attention with issues of risk can be traced to the sociology of modernity, with the work of Giddens (1990) and Beck (1992, 1996) being notable references. Johnston notes that for Giddens, the reorganisation of risk is an important element in the dynamics of modernity (Waters, 1995). Further, with regard to risk and trust, in pre-modern times, risk was localised, and was derived from direct threats of personal violence. Trust was also localised – based on kinship, religion, culture and tradition. At the present time – period of 'high modernity', risk is global in nature, and personalised in the form of subjective concerns, interests and interpretation of personal safety (Johnston, 1997). Thus modern societies possess various structures, processes, and situations (social, economic, political, environmental etc) including crime and fraud that call for or requires the regular evaluation and control of elements of risk (e.g. victimisation).

Viscusi (1992) states that:

Risk is an inherent part of almost everyday facet of our lives. We encounter risks in our food, transportation, employment, and recreation. Usually there is some probability less than one (1) that we will incur some adverse health outcome. In the case of extremely undesirable consequences, such as severe injury or death, the odds of occurrence are usually quite slim...Nobody intentionally puts his or her life in danger unless there is a strong reason for doing so. In fact, there must be some trade-off - some offsetting advantage of the risky activity - that leads one to choose to engage in an activity despite its risks. These tradeoffs are inevitable since we cannot eliminate risk from our lives (Viscusi, 1992: 1)

The same situation applies to fraud, fraudsters and victims. For instance, people are bound to invest if they intend to reap profits in the short or long-term. This has automatically created avenues for bogus investment schemes. On the other hand fraudsters risk their reputation, freedom if convicted, for material success if their scams are successful.

The nature of risk involves the possibility of random fate, whether it is on the individual or social level. The language of risk, however, is also full of interesting paradoxes (Culpit, 1999). Other remarks by Culpit include that risk is about individual fears and social rights. Risk is something chosen and something imposed. Risk is manageable and can be insured against or, alternatively is overwhelming and uncontrollable. Risk is about ensuring survival and avoiding contamination. Risk assessment involves the protection of assets and the maximisation of profit in complex market exchanges. Risk analysis has always been part of the strategic considerations of organisations, corporations, groups and nation-states. In the course of human endeavour, it is possible to insure some business decisions or investments. Unfortunately, most of the scams carried out by the fraudster are those rarely given the necessary attention by the victim. The victim voluntarily decides to risk his or her money, property, services or even health (as in medical scams) by transacting with the fraudster, in most cases innocently.

From another perspective, Ericson and Haggerty (1997) argue that policing consists of the public police co-ordinating their activities with policing agents in all other institutions to provide a society-wide basis for risk management (governance) and security (guarantees against loss). They note that risk refers to external danger, such as natural disaster, technological catastrophe, or threatening behaviour by human beings. There are also dangerous 'manufactured risks' that result from scientific and technological intervention in the conditions and nature of social life. Pollution is an example of such a creation.

Also, the system for communicating risk - its rules, formats, and technologies - is part of the social meaning of risk. The meaning of risk varies with the communication system used by the institutions responsible for managing it, and the police are therefore in a complex, ambiguous, shifting and contradictory field of risk management in relation to other institutions. With regard to fraud, this refers to the criminal law and organisational/regulatory practices in industry such as banking, trading and manufacturing. The police are an essential component of how institutions establish trust and efficiency through their securities. In particular the police participate in inter-institutional knowledge co-ordination, risk profiling, and auditing, all to verify the integrity of securities data, products, and markets. For them, risk society is characterised by the perpetual refinement of rules governing how knowledge is communicated. In the case of fraud most cases are handled internally by organisations or regulatory bodies contacted through or by complaints.

Further, in risk society, governance is directed at the provision of security. Security is a situation in which a specific set of dangers is counteracted or minimised. The experience of security usually rests on a balance of trust and acceptable risk as indicated by Giddens (1990). Institutions that provide security offer trust and acceptable risk in the form of guarantees (commitments and warranties to take some risk out of risk), for example insurance companies. Insurance involves properties that make it one of the dominant templates of governance in risk society. These include that insurance objectifies everything as an accident, thus classifying the world into degrees of chance of harm, which are then assigned their respective costs. Insurance make untoward eventualities calculable, through the production of concrete facts and the use of actuarial techniques to make probability statements. Insurance is collective,

as the reality of the risk is distributed to all those that contribute by way of premiums. Insurance is also legal, as it makes risk subject to contract and adjudication (Ericson and Haggerty, 1997).

To sum up, it has been observed that people's increased awareness of risk has been accompanied by the emergence of specialists who are concerned with risk management and control (Johnston, 1997: 186). For example dieticians, ecologists, child minders, domestic violence units and counsellors, crime prevention consultants, and vetting agencies. Institutions try to make trust tangible, for example by offering written money-back 'guarantees', by having employees represented as respectable members of the community, and, in the case of financial institutions, even referring to themselves as 'trust' companies (Ericson and Haggerty, 1997). Fraudsters are also known to use 'trustworthy' names for their organisations. Trust is always based on a degree of faith and intangibility. Risks are also somewhat ephemeral or short-lived, always subject to political-cultural revision (Douglas, 1992). An example is in the information that buyers should be wary or cautious in their dealings. This is indicated in laws or rules related to transactions - a loophole regularly exploited by dishonest traders. Due to the burden and costs of doing so or securing against risk (insurance, consultations etc.), people are willing to risk a fraction of their possessions for what they believe and expect would be fruitful.

On the other hand, Ericson and Haggerty (1997) note that the police make it clear that security is the responsibility of all. More so, police commercial regulators are placed in a position of dependency on external institutions especially for their specialised knowledge. They respond to this by networking with representatives of external institutions. One of the key messages in the 'chat up lines' or correspondence employed by the fraudster is that the deal in question, service or product is risk free. Finally, Walsh (1978) notes that as in other aspects of social life, the criminal prefers to operate within a framework of predictability and constancy of expectations. He would rather not to think that the future puts him at a disadvantage or at risk of sanctions (formal and informal).

5.4 Conclusion

This chapter has looked at fraud from a different explanatory perspective. The previous chapter made use of criminological theories. We have seen that the concepts and interpretation of deceit, trust, confidence and risk are interrelated especially as it concerns fraud and scams. Degrees of each of them are brought to bear in the execution of deceit from the victim's and the fraudsters' position. In modern times, individual reputation continues to guide social life and commerce. Over the years, what has changed is how our reputations are established and maintained.

Modern commerce and human relations has led to greater anonymity, and the need to make commitments (emotional or financial) across geographical boundaries. This expedites transactions. Thus, those interacting depend on written and unwritten acceptable codes of conduct. The cohesive factor here is the nature and concept of trust given its multi-facet interpretation or definition. The data in this thesis suggests that the dynamics of trust have implications for crime, fraud, victims, offenders, law enforcement, criminal justice and virtually all spheres of human endeavour.

Establishing a 'reputation' is central in trust building. For Nock (1985), reputation will become more prospective. It will predict the future as well as reflect the past. Reputations will always establish that the parties to a relationship may be trusted. Further, one of the consequences of greater privacy in our dealings is the difficulty it creates for the monitoring of ones reputation. Privacy makes it difficult to know others' reputations. A heterogeneous society is also a society with vast amounts of privacy. On the other hand, surveillance is the way society manages the reputation of strangers or 'unknown individuals'. The efficacy of surveillance strategies varies depending on the society, culture and enforcers.

Trust permits people to enter into risky relationships and surveillance can be said to be a response to risks. The types of risks countered by surveillance are those inherent in relationships with strangers. Virtually any relationship may embody elements of potential harm. But relationships with strangers are the ones made easier by credentials and ordeals - a situation the fraudster exploits to his advantage. In most cases of fraud, relationships may be enhanced by the victims acceptance (trust and

confidence) of the fraudsters' credentials. In sum, trust is the core around which all communities and societies are built. Surveillance may sustain or permit it in a complex society. The costs of privacy are then seen, as the costs of trust (Nock, 1985).

In all fields of human endeavour including fraud, and in the course of everyday life, it is possible to analyse or discover the answers to certain questions raised by Dasgupta (1988) on how trust is created, how it is perpetuated, why is it not present when it should? why it is present, why it breaks down when it does, and how it can be built up again when it has broken down? To reflect on all this, Dasgupta mentions Albert Hirschman's remark that trust, like other moral resources, grows with use and decays with disuse. For Luhmann (1988) trust presupposes a situation of risk. He notes that you can avoid taking the risk, but only if you are willing to waive the associated advantages. In addition, you do not depend on trusting relations the same way you depend on confidence, but trust too can be a matter of routine and normal behaviour.

Further, trust is only required if in the given circumstance, a bad outcome would make you regret your action. In addition, familiarity, confidence and trust are different modes of asserting expectations and they use self-reference in different ways. With regard to fraud, the case of trust is very different and requires quite another type of self-reference. It depends not on inherent danger but on risk. Risks, however, emerge only as a component of decision and action. If you refrain from action you run no risk. It is a purely internal calculation of external conditions, which creates risk.

Finally, this research reveals that in understanding fraud especially deception involving upfront payments, one must also understand the role of trust, confidence and risks in the whole process. Irrespective of attributes or characteristics of the victim and fraudster, how trust is built, and why this was successfully done, imparts on the degree of loss incurred (emotional, financial, social, market reputation, criminal justice etc.). This could also direct or inform various preventive approaches some of which have been indicated in Chapter seven of this thesis.

We have reviewed the issues concerning possible reasons why individuals commit fraud/advance fee fraud, the situational conditions that encourage it, and the modus

operandi or situational circumstances that encourages victims to voluntarily hand over material possessions in advance of a transaction. The next chapter is concerned with an empirical understanding of the use of upfront payments in cash or kind in fraud. Issues discussed include the method adopted in this research, data, and an analytical examination of deceit and trust based on certain occurrences of this type of fraud.

Chapter Six

Understanding fraud and the manipulation of trust

This chapter reveals that conducting research into fraud or advance fee fraud in particular has peculiar attributes. Thus, in the course of researching into fraud, the researcher has to adopt approaches suitable to circumstances encountered. In this chapter, similar research and their limitations are discussed with a view to understanding the nature of fraud or economic crime research. This is also an attempt to justify the validity of the method employed in this thesis.

In most forms of research, the researcher begins with an issue or topic for investigation. This is usually filled with expectations and ambitions to arrive at new findings or explanations on the subject of inquiry or to validate previous research, thereby contributing to the subject. In a nut-shell, the aim of this thesis is to carry out an investigation into a particular type of financial crime which involves the payment of money, goods or services upfront for a given transaction or arrangement. The popular pattern of this fraud is also known as advanced fee fraud. In asserting the criminological nature of this topic Sutherland and Cressey (1974: 3) note that criminology can be defined as the study of the “processes of making laws, of breaking laws and of reacting towards the breaking laws”. With regard to this remark, this thesis is concerned the process or processes involved in law breaking as it concerns fraud/the manipulation of trust.

Below, examples of relevant methodological approaches are discussed from previous research. In the course of the discussion the unique nature of fraud research can be identified.

6.1 Methodological issues in the study of fraud

Specialised adult criminals, especially those involved in acquisitive crimes are difficult to access, particularly in their natural setting. For the criminals, the interest in co-operating to advance academic enterprise is minimal (Hobbs, 2000). Hobbs also notes that most criminological studies concerned with professional criminals involve or have involved interviews with incarcerated professional criminals. This is not unconnected with the difficulty in identifying active or retired professional criminals. Further, “engaging with professional criminals in their natural habitat is difficult, dangerous and often impractical for those wishing to avoid the vicious but tantalizing ambiguities of life amongst the visceral economies of committed villains” (2000: 164). He cites the example of an ethnographic study done by Ken Pryce (1979), about the West Indian culture in Bristol. Pryce was murdered when he turned his attention to organised crime.

A ‘popular’ but demanding method of criminological enquiry is the ethnographic approach. Ethnography can be defined as a form of field research that involves observing and analysing real-life situations, of studying actions and activities as they occur, and the researcher relies upon learning firsthand about people, their activities, culture or whatever is the subject of study (Burgess, Ed. 1992). It has been argued that ethnographic criminological research offers avenues for better exploration of the subject of investigation. Examples of such studies about sub-cultures include Wolf’s (1991) study of bikers in which he was completely absorbed in the group. In Alder’s (1985) study of drug dealers and smugglers, she spent about six years with the subjects. Bougois (1995) spent three years living with dealers in his study of the cultural context of the crack business. William’s (1990) study sought to understand the kids involved in drugs from their own perspectives.

The research by Hobbs (1995) *Bad Business* is to some extent associated with the crime of fraud. Based in Britain, this was an ethnographic study that used the overt participant observation technique. His subjects not only had histories of criminal activities, but were still engaged in crime during and presumably after the study. Hobbs set out to understand the personal and social arrangements of professional crime, while seeking to establish motivational factors that influence criminals and

their actions. He discovered that 'professional' criminals deliberately engage in illegal activities mainly for financial and leisure benefits. Thus, crime to these criminals is 'was way of life'.

All approaches in social or criminological research have limitations. In ethnography, participant observation cannot show how meanings, definitions, actions and interactions have been shaped by wider historical forces or circumstances (Jupp, 1989). For May, the observation of small-scale settings leaves it open to change; findings are local, specific, not generalisable beyond the sample, and lack external validity (May, 1993). Bulmer, (1982) also notes that covert participant observation is neither ethically justified, nor practically necessary, nor is it in the best interests of sociology as an academic endeavour.

Ethical concerns/issues are usually involved in most forms of research. Ethics in research also involves issues of informed consent, privacy, harm, exploitation and the consequences for future research. Hammersley and Atkinson (1995) observed that even when operating in an overt manner, ethnographers rarely tell all the people they are studying about the details of the research. For instance, in William's (1990) study for example, he states: "although the crew fully accepted me and my work, others - their customers, the hangers-on, cocaine groupies - were not necessarily informed about my role..." (William, 1990: 3).

Internal validity can be a problem with the ethnographic method. This refers to biasing and distorting effects (e.g. before and after circumstances), confidentiality, and other situational changes (Denzin, 1970). The extent of this is difficult to establish. Similarly, external validity or triangulation (multiple data validating sources and techniques) is difficult to establish when studying illicit and deviant activities. This is so because externally validating sources may be absent, therefore, the "analyst may accept the reputation of the author" (Denzin, 1970: 252). In Hobbs' study, information was checked with informants, friends, families, colleagues, local newspapers, journalists and friendly police officers. This draws attention to the concept of 'triangulation' - process of using multiple methods cumulatively for data collection and analysis to compensate for the biases of the different or other methods (Denzin, 1978). Another example of triangulation can be seen in Klockar's (1974)

Professional Fence where aspects of his validity included newspaper articles, orphanage records, probation records, miscellaneous documents, letters, photographs, bills, sales receipts, stock certificates, merchandise and money all belonging or connected to 'Vincent' (the subject).

A study closely related to advance fee fraud or the crime of obtaining by false pretences is that of Levi (1981) concerning the organisation and control of long-firm fraud which, was the first of its kind in the UK. In brief, Levi carried out a criminological study of commercial credit fraudsters and the agencies that attempt to control them. Included in his investigation were the techniques, motivations, social and criminal networks of offenders. In long-firm fraud, credit and merchandise are obtained by false pretences. Levi discovered that long-firm fraud offenders were motivated by economic factors, but some mentioned the thrill of deceiving peoples with their verbal skills and charisma. Thus, he notes that one is not certain if money is their sole motive. Levi notes that information from his research "provides a somewhat stylised picture of the world of long-firm fraud, since it excludes both first-hand 'appreciation' of those fraudsters who are 'known to the police' and also a knowledge of those 'fraudsters' not 'known to the police'" (Levi, 1981: 326). Recalling Polsky's (1971: 115-147) remark that criminologists have failed to carry out ethnographic studies of criminals in their natural habitats, Levi explains that with his limited budget and the highly expensive natural habitats of long-firm fraudsters, this approach was an unlikely development. Further, unlike 'street crime' and their associated cultures, long-firm fraudsters do not 'hang out' in a specific place.

On the value and reliability of interviewing in prison, for Levi, Polsky's (1971) comments on the suspicious nature of revelations from caught criminals raised the issue of the likelihood of sample bias in the first place. The data could also be heavily retrospective, and criminals may say what you expect to hear. Criminals may hope to use interview as a platform to help their case, and the fact that the criminal is not in his natural environment could influence behaviour and responses. In Levi's (1981: 328) response to this, he states that Polsky "underestimates the difficulties of validating one's accounts of behaviour in a natural setting and overestimates the errors entailed intrinsically by prison interviews". For Levi, a neglected aspect of the benefits of institutionalised settings such as the prison in interviews is that though the

atmosphere may generate bitterness, it could or does present the opportunity or platform for serious soul-searching and frankness which may not arise outside confinement. Hence the researcher may benefit from the criminal's 'introspective frame of mind'. Second, in certain instances critical questioning may offend the subject. Thus researchers should be aware of this as a deficiency.

On the other hand, research into the activities of criminals outside prison have yielded results. For instance, the insightful work on professional crime by Chambliss (1972) called the *Box Man*, was conducted outside the walls of a prison and was based on retrospective narration of the offender- a safe breaker. Klockar's (1975) *The Professional Fence* revealed the life and activities of the observed who was still criminally active. However, though this observation was in the criminal's natural setting, one cannot know whether others shared views about himself and his activities (Levi, 1981). Thus, Levi (1981: 328) concludes - "access is not sufficient condition for validity of observation". Some of the techniques employed by Levi in addressing possible errors include:

- assuring respondents of confidentiality,
- avoiding the use of tape recorders to encourage trust, and
- taking notes sparingly in the course of an interview. Also,
- validating information with other criminals in other prisons or location if there happens to be a link.

With regard to verbal information from criminals, Levi notes that in his study, verification of data was not one hundred percent since the original activities were done covertly.

Narration by respondents could be disadvantageous because such 'stories' usually rely on people's account of their actions as representing something beyond the interview situation (May 1993). Accounts may simply be inaccurate, and may not take into consideration other circumstances or events which surround the event(s) or the respondents actions (May, 1993). Thus, for Levi (1981: 328, 330) he does not claim to "have uncovered the totality of motives for or routes into fraud", nor has he "produced a representative study of the distribution of motives among all long-firm fraudsters".

Further, “neither of these aims is fulfillable, even in principle, for one can never know that one has a representative sample of an unknowable population”.

On the other hand, the use of secondary data in criminological research has yielded results. Secondary data is available from other sources and comes in various forms. Also, to some extent it has been produced and processed before receiving the attention of the researcher (McNeill, 1990). In this thesis, apart from interviews (primary data) with academics, fraud investigation officers in the police and other agencies, the difficulty in obtaining other raw primary data led to the use of secondary information, some of which were validated from official court records. The main data source, the police, noted that the Data Protection Act does not give room for certain degrees of disclosure.

In research, secondary analysis is simply a further analysis of information that has already been obtained. Such analysis may be related to the original purpose for which the data were collected, or may address different issues. It may also involve the integration of information from several sources or a reanalysis of the data of a single source (Stewart, 1984: 11). Thus, Stewart states that the term secondary information is “frequently used to refer to both secondary data (the raw data obtained in various studies) and secondary sources (the published summaries of these data)” (1984: 11). Secondary information consists of sources of data and other information collected by others and archived in some form. These sources include government reports, industry studies, and syndicated information services as well as the traditional books and journals found in libraries. Other sources of secondary information include experts and authorities (professionals, researchers, organisations etc.), recorded data and records (letters, accounting and personal records etc.), and from commercial information services (the media and specialised agencies). Stewart also notes that secondary information offers relatively quick and inexpensive answers to many questions and is almost always the point of departure for primary research. Documents/publications are common methods of secondary data collection.

The systematic analysis of documentary accounts starts with the assumption that the real world is being observed and reported (Hodson, 1999). For Hodson, researchers should consider the analysis of documentary accounts if their primary research goals

are the testing of particular hypotheses and theory verification and development. Further, documentary accounts provide rich descriptions of social behaviours and surrounding contexts that allow a wealth of hypotheses and theories to be tested. Thus, it has the ability to make significant contributions to theoretical development.

The growth of documentary accounts has produced rich, in-depth accounts of social life across a wide range of topics in the social sciences. Such accounts include ethnographies, newspaper accounts, police reports, judicial records, political party platforms, biographies, and historic archives of various sorts (Hodson, 1999). Further, in some forms of documentary research, after a topic is selected and a set of relevant documents identified and assembled, the researcher specifies a set of themes of interest. Where coding is adopted, the documents are read and coded according to these themes. Hodson notes that the theoretical goals of the study play a leading role in determining the criteria for selecting cases. The substantive knowledge of the researcher contributes to case selection through an awareness of categories of documents that do and do not fit the criteria for selection (Stryker, 1996). For Hodson it is not possible to state precisely, how many documents are necessary to allow for analyses of the resulting data. Thus this eventually depends on the nature of the inquiry.

An important aspect in the use of documents in research is that of their content and subsequent analysis. Content analysis is a widespread technique in the social sciences. The heart of content analysis is the coding of material from existing sources. Other areas that could provide materials for content analysis include speeches and press conferences, diaries, newspapers, television programmes or documentaries, advertisements, and song lyrics. Even fiction can be systematically analysed for content. For example, an analysis by Griswold (1992) of Nigerian popular fiction for its meanings and contexts demonstrates the range and versatility of content analysis (Hodson, 1999).

With regard to public documents, McNeill (1990) observes that in modern societies written records are kept by all kinds of agencies, and some may be available to social researchers. In order to protect the privacy of those, whose lives are recorded, the material may be kept confidential for some years, or may be available in a form where

individuals cannot be identified. Such documents include school records, parish records, social work records, health records, police records, court records, and other records kept by government agencies. He notes that other possible sources of research data are the official handbooks and prospectus of organisations. Further, the mass media could provide research materials. For example, Pearson's (1983) historical study of changing public perceptions of the threat of hooliganism and street crime is an example of the use of press reports. Computer-aided/electronic data searches can be used in the compilation of a comprehensive list of documentary accounts on a topic.

Given the nature of secondary/documented information, it is important for the researcher to take certain issues into consideration when evaluating the information. The researcher should be suspicious if answers are not available for the questions listed below. There are checks that address questions of reliability and validity. Stewart (1984: 23) identified six questions that must be answered. These are:

- What was the purpose of the study or report?
- Who collected the information?
- What information was actually collected?
- When was the information collected?
- How was the information obtained? and
- How consistent is the information with other sources?

McNeill (1990: 111) also notes that the researcher should consider certain questions, which include:

- Is the material authentic? Is it in any way a forgery?
- Is the material factually accurate? Are any errors deliberate or accidental?
- Is the material reliable? Would it have been the same if it had been collected by anyone else? What personal biases are likely to be present?
- Is it systematic, providing a complete account of what it describes? What is lacking?
- Why was it collected? Was it a matter of routine, or was there some specific, possibly propagandist purpose? and
- other questions such as 'representativeness' and its history.

There are certain limitations associated with secondary information and documentary analyses. First, data are often collected with a specific purpose in mind, this may produce deliberate or unintentional bias - a limitation also associated with primary methods (Stewart, 1984). Secondary data are, by definition, old data. The 'age' and relevance of the data depends on the nature of the researcher's inquiry. Hodson (1999) notes that the nature of the data and the available cases to be analysed can be problematic. For Levinson & Malone (1980) categorisation, coding, and quantification may result in the loss of some of the richness of the original observations or activities. Thus, the sacrifice in the depth and validity of indicators occurs as part of a trade-off to achieve increased 'generalisability' and the ability to sort between defensible and less defensible conclusions (Hudson, 1999). Also, the secondary user of documentary accounts has no control over the topics covered or omitted, and in some topics, substantial data may be omitted. Therefore, generalisations from the analysis must be made cautiously, taking into consideration that the set of cases is not generally a random sample of the population of interest. Thus, as noted by Marshallsay (1977: 261) "social scientists, no matter what their level of research, and almost no matter what field of study, cannot move far without coming into contact with official publications".

Finally, secondary information has some distinctive advantages over primary data collection. An advantage is that of reduced time and cost. Secondary sources also provide reference points for additional research by suggesting problem formulations, research hypotheses and methods. They could also be useful as a comparative tool (Stewart, 1984). Further, the central contribution of documentary analyses is that it transforms rich bodies of descriptive accounts into data sets amenable to qualitative and quantitative analysis. Through systematic analysis, researches can control the effects of confounding factors, identify mediating variables, and establish patterns of causality. Within this framework, the selective use of quoted material to illustrate concepts and relationships can reintroduce the richness of observation found in the original data (Hodson, 1999). Further, the analysis of sets of documentary accounts also encourages greater objectivity in the analysis of these accounts. The result of the analysis can provide tentative answers to certain questions or behaviours.

Thus, no approach in crime studies is devoid of criticism. All methods of research provide some useful information/data from which deductions can be made. They also have their merits and demerits. For Hobbs (2000), most crime studies whether they required analysis of documents or interviews with offenders are retrospective and are therefore to an extent removed from the environment of the offence. However, Hobbs notes that direct engagement with criminals in their natural habitat is possible but rare. With particular reference to ethnographic studies, Hobbs (2000: 173) states that “serious criminals seldom offer themselves for examination unless there is a film deal involved, and once located, it must always be remembered that, by definition, they are hardly professionally obliged to tell the truth”.

In fraud research, in situations where offenders are apprehended, if the particular scam is ongoing (as is usually the case), it is always in the best interest of the fraudster to maintain the underworld code of conduct or *esprit-de-corps* by concealing vital information. In this regard, an understanding of a particular scam emanates from reported experiences from victims and legal or journalistic investigation into the scam. More so, it is common knowledge from research that the motive for fraud is economic, first and foremost. Economic power is then used to acquire status and other possessions. From the victim’s perspective, reliving their experiences is discretionary. On the other hand, the Data Protection Act does not allow the police to release information about victims and fraudsters.

In conclusion, “there is no necessary connection between types of theory and types of method” (Jupp, 1989: 84). This is due to the complex nature of ‘crime’ in general, and the role of several factors and variables involved before, during and probably after offending. Thus, “different methods vary in their appropriateness to uncovering the aspects of crime and criminal justice which are signalled by different theoretical approaches” (Jupp, 1989: 18). With regard to this research, ‘gatekeepers’ expressed reservations about granting direct contact to the offenders and victims. Thus, restrictive interviews (as dictated by the organisations concerned) were carried out – the primary data, in addition to secondary sources (documents and reports). The method adopted was based on the theoretical objectives, and the quality and quantity of information that could be retrieved from available sources.

Below is a brief description of the processes the researcher went through and the problems encountered.

6.2 The research process and method of thesis

Several strategies were adopted taking into consideration the nature of research into fraud or economic crime. Given that obtaining money goods and services by false pretences is a global problem or issue, a comparative approach to the subject would be illuminating. Observing the differences and similarities involved in the manipulation of trust and confidence as they concern certain political and cultural settings is a way of assessing the influence of various factors on fraud. Hence, the researcher sought to investigate deceptive crimes/fraud such as advance fee fraud – that involves upfront payments for goods, services/transactions, as they occurred in the United Kingdom (UK), Nigeria and Canada. In the UK, reports on the occurrence of all types of fraud are prevalent, and being a developed country, would shed some light on contemporary fraudulent activities, especially those involving the use of technology. Canada, a North American country would also show how this practice is carried out from a relatively different socio-cultural background. On the other hand, Nigeria, a developing country that has been associated with frauds of this nature is an ideal location to understand this phenomenon from a different political, social and economic perspective.

The starting point was to identify agencies or organisations that would be useful for this research. It is known that over the years, various countries have established agencies and organisations to deal with different forms of economic or financial crime. All over the world, the police are central to criminal investigations and to a large extent can not be avoided in criminal fraud research. Thus in the countries listed for research, police forces or units were contacted. In the UK, the organisations involved include a provincial police force, with reference to a division likely to have cases involving upfront payment scams or advance fee fraud and the Serious Fraud Office (SFO) known for their high profile cases. A police force in Ontario, Canada was also short-listed – to also serve as a reference point to other agencies. In Nigeria,

the relevant departments within the police force were also earmarked for interviews and data collection.

Further, the prosecution services were also contacted. In the UK, it was the Crown Prosecution Service of one of the regions. It was intended that contacts with the police made in the UK and other countries would be used for speedy access to their prosecuting organisations or departments. Court records or reports of fraudsters were necessary to verify and authenticate information, especially with regard to sentences and the amount involved. Finally, researchers (academics) and journalists interested/involving crime/fraud research/reporting were also pencilled down for interviews, as their experiences would enrich the research data.

The review of literature and theories helped to determine questions to be used for open-ended in-depth interviews. Respondents earmarked to be interviewed include fraud investigating/regulatory officers, crown prosecutors, fraudsters and victims. The researcher's interest was on 'dead and buried' cases, i.e. cases that have been officially concluded including those that were not prosecuted. Generally, in fraud research, depending on the subject of interest, the degree of information gathered from any method is important if one is to make sense of the data. It is important for the technique used to be able to provide what can be analysed from a criminological perspective. For instance, since this is not an ethnographic research, the need to interact with offenders in particular over time was not necessary. We have also noted the difficulties involved in this approach, as frauds involving elaborate scams are usually ongoing. This is in addition to the difficulty in locating the subjects (fraudsters). Given the nature of fraud research, the methods adopted by the researcher were seen as appropriate taking into consideration the limited time frame and his budget.

Finally, informal contacts were made regarding access especially from the writer's supervisors and departmental staff. This was followed by formal requests in writing for access. With regard to Nigeria, in the course of the writer's previous employment as a banking inspector or investigator in Lagos, he had worked with some police officers/investigators who had always expressed interest in the need to curb frauds that have and continue to dent the image of the country. Thus, with the nature of the

topic and going by the publicity that advance fee fraud and other forms of obtaining by false pretences has received, full co-operation from all quarters was anticipated, some of which were promised informally. Going by the increasingly global nature of the offence, it was assumed that that the police and governments in other jurisdictions would be more than eager to support research on the subject.

At this juncture, one would like to recall the aims and objectives of this thesis already highlighted in the Introduction, before talking about the outcome of the research endeavours or fieldwork. This would enable us assess the suitability of the approaches adopted. The objectives include:

- To draw more attention to criminal fraud involving the obtaining of money, goods and services by false pretences, or to the significance of ‘small’ frauds (per victim), and to highlight the victim’s circumstances in scams and criminal justice.
- To offer plausible explanations, and to contribute to the literature and understanding of the use of advance fees, upfront payments in cash or kind in fraud internationally and locally from theoretical perspectives.
- To examine the dynamics involved in the use of trust/deceit, confidence and risks in obtaining benefits by false pretences. The processes and structures that facilitate the use of this approach are examined. This would involve an analysis of the nature, trend and pattern of frauds of this nature. Making use of examples from the UK and other countries, previous research, reports of cases, court records and interviews to deduce traits that are peculiar to scams involving the manipulation of trust.
- Finally, to draw attention to possible policy implications with regard to preventive strategies, taking into consideration the victim, the law and the fraudster.

Unfortunately, the outcomes of applications for access were not encouraging. An academic (name withheld) revealed that within the criminal justice system in particular, you rarely get an outright ‘no’ for an answer. People always show enthusiasm to assist, but what is eventually achieved with them is a different matter. Another reason for restricted interest may be related to the sponsorship. For instance, government funded research elicits a much better degree of co-operation. As a

consequence, apart from in-depth interviews that formed the major part of the primary data, the researcher had to rely on secondary sources. Data collated came from documents regarded as being in the public domain (court reports), newspaper publications, television programmes and the World Wide Web. Certain cases or reports were triangulated with court records and interviews with fraud squad officers. The need to pursue this line of enquiry stems from the fact that this research has a time frame. The time spent waiting for approvals for access to the organisations contacted did not help matters. The cost involved in travelling and maintenance without a reasonable source of income created undue hardship. Thus, a deductive analytical approach of the data accumulated (discussed later in the next section 6.2.1) had to be embarked upon.

In a nutshell, let us look at some of the problems encountered, beginning with the UK, Canada then Nigeria - the countries one had hoped to study comparatively. To a large extent, agencies in the United Kingdom proved to be much more co-operative compared with those of other countries visited. Informal contacts led to an informal meeting with a Detective Inspector (name withheld) of a Police Fraud Squad in the UK. The researcher was advised to forward a formal application for access to the Police Headquarters. The application was eventually granted - to conduct restricted interviews. The fraud officers interviewed at the police force concerned were very co-operative and helpful. In an interview with a detective it was revealed that: the current categorisation of fraud within the police organisation is limited with particular reference to statistical publications. For instance, identifying the number of advance fee frauds from figures available will have to be manually done. This would involve going through individual case files or getting hold of the officers that investigated the fraud(s) to pick them out. Second, in general the numbers of fraud cases were few and much less for those that involve advance fees. Out of about 10-50 reported cases of fraud, only about two or three might be advance fee frauds. The same situation applied to other forms of fraud involving the collection of upfront fees in cash or kind by fraudsters. One of the reasons for this is that usually, victims are reluctant to report frauds that they feel exposes their gullibility. Discussed in Chapter 2.3 is the recent *Police Fraud Survey* (Flanary, 2000) where the various forms of fraud were categorised separately from various police forces in the UK.

The researcher also contacted the Serious Fraud Office (SFO) in London who consented to the research – for restricted interviews and degree of information. The application was directed or referred to one of the case controllers (name withheld). A case controller in the SFO, a lawyer, explained that: staff including in the SFO are ever so busy and that having enough time for interviews is always difficult. Also, the questionnaire would rather not be completed and specific cases and names would not be mentioned for reasons of confidentiality. It was also advised that media coverage of SFO cases be examined, because they were usually extensive and properly summarised, unlike the lengthy court trial records that lasts for months, in addition to the cost of obtaining copies. In sum, the limited information from the SFO may not be unconnected with unfavourable media reports they have received over the years including the nature of findings by academic researchers. Attempts to talk to officers of the Crown Prosecution Service in the regional office contacted were not successful. A formal request was submitted. Though the research was accepted verbally, the researcher was never invited for a chat or interviews.

With regard to the researcher's visit to Nigeria, the researcher's requests for interviews were not formally approved within the period the researcher spent in the country. As mentioned earlier, going by the reports of fraud (advance fee fraud in particular) associated with Nigerians (see Chapter 2.5), it was hoped that this factor would encourage an early response. After months of repeated calls and reminders no response or approval was received from the police, however, the researcher managed to conduct restricted informal interviews with some fraud officers (locations and names withheld). One of the officers interviewed revealed that over 100 cases involving the collection of advance fees have been handled. In an attempt to get some related materials and publications, the Police Library and Tribunal Offices were also visited, without any positive outcome. In sum, with a non-existent research culture and readily available database on crime and fraud, one could not gather reasonable information from the country. With reference to all organisations approached, it is not unlikely that establishments and staff are apprehensive in dealing with an 'unknown' researcher or investigator.

In Toronto Canada, the introductory letter/research proposal was submitted by hand at the selected police force office. The letter included requests to conduct interviews and

examine cases involving the obtaining of money goods and services by false pretences that have been handled by the force. It was followed up closely and the researcher was informed that it had been forwarded to their fraud unit. After repeated calls, the officers responsible for the application (names withheld) both of the fraud department met with the researcher after a telephone call to the researcher's institution. After this phone call assurance was given that the requests will be looked into. The researcher never heard from them. At the time in Toronto, it was evident that the police had their fair share of criticism, a factor that might have been responsible for their attitude.

In Toronto, the researcher conducted some literature search at the Centre for Criminology Library, University of Toronto. Official statistics on crime/frauds were examined. Attempts to interact with an academic with some affiliation to the study of economic crime were also not successful. The Graduate Co-ordinator made it clear that the "centre staff cannot spend quality time discussing with students that are not from or attached to the centre" but that the student or researcher was welcome to use the library and its facilities.

To sum up, attempts to co-opt relevant agencies to the subject of investigation to the degree required was not successful. In fact, most of the officials the researcher discussed with spent more time trying to suggest other offices or people to approach rather than themselves. With post graduate research, where time is of the essence, long delays in getting approved access is problematic - approval in principle is likely not to be adhered to at the time of physical visits. On the other hand, depending on the nature of the topic, the organisation approached is in a position to determine how sensitive or risky granting you certain information would be. All these have implications especially as it concerns crime or fraud in particular. An academic interviewed revealed that in situations where access is agreed in principle, at the time of the actual research, attitudes change. With regard to crimes such as advance fee fraud, due to limited or non-existent request for access and research in the area, relevant bodies or agencies are yet to appreciate its significance or get used to such demands.

Despite all the above, the research continued, and very constructive interviews were carried out with those involved in the investigation and the prosecution of frauds. The

researcher is optimistic that the approvals granted by the police and the SFO are positive developments for an academic relationship in the future. The next section discusses the types of data gathered and used in this research.

6.2.1 Data

In light of the problems of access experienced, in this thesis, the majority of the data used are from secondary sources or documents. Thus about 90% of cases were those reported in the United Kingdom. Other cases came from the United States Asia and Africa. It should be noted that a good number of reported frauds such as those in this thesis, have international dimensions – some were perpetrated from outside the UK against UK citizens, others were carried out from the UK within the country and abroad. The essence of having a wider geographical scope is to capture all facets of upfront payments and fraud - e.g. socio-economic and cultural variables.

Generally, data can be categorised into ‘primary’ and ‘secondary’. The researcher collects primary data first hand, mainly through surveys, interviews, or participant observation. Primary data is that collected directly from source and reported or documented by the researcher. Primary or raw data could also be information or documentation in its unanalysed or unadulterated form. For instance computer databases could provide raw data, abstracts of published work and in some cases complete documents (Stewart, 1984; McNeill, 1990; Hodson, 1999). In this research, documents refer to any written materials that may be used as a source of information about human behaviour. The efficacy of this method especially as it concerns validity is discussed in Chapter 6.1.

First, taking into consideration the generic concept of fraud and the broad nature of its definition, in the search for cases, one had to be very selective in determining which cases contained relevant information that could be analysed deductively. In most frauds or scams, it is possible to identify various forms of frauds and crime in the same incident. In some fraud cases homicide, kidnapping etc may have occurred. As mentioned earlier, in the recording of crime statistics, violent offences within a given case are usually given priority and recorded as such. In the selection of cases, the

researcher looked out for the degree of information or details, especially those that involved prosecutions, where information could be verified from court records.

In total, for analytical purposes, eighty-two (82) cases were selected from different sources such as court records, newspaper reports and the Internet (see Appendix for the complete list of cases including their references or sources). As mentioned earlier most of the cases were from the UK, where they could be verified using court records and interviews. In the course of our discussions, some examples of fraud cases not in the sample are adequately referenced or cited. Reports of fraud matching the criteria - manipulation of trust, upfront payment and confidence, between 1994/1995 and 2001 were categorised accordingly. In some instances earlier years on a particular case were looked into in order to have a firm grasp of the incident. The avenues and documents accessed for data include:

- Court records from various criminal courts as indicated in the Appendix.
- The Internet, through search engines and newspaper links. The information available on various forms of crime is huge. Its usefulness depends on the objectives of the user. Information varies from statistics, government publications, articles and books. Because the occurrence of obtaining by false pretences could have occurred in any case, all the hits or stories had to be read to verify this. Below is an example showing number of ‘hits’ and search words. Information from here produced the relevant information such as names and dates required for retrieving court records, in addition to the journalistic narration of cases, and trials over the years. Examples of the search are shown below.

Newspaper	Occurrences from word search for 1999				
	Fraud	Scam	Bogus	Deception	Swindle
<i>The Guardian and Observer</i>	880	198	303	204	34
<i>Financial Times</i>	804	44	73	70	6

Newspaper/ Index	Summaries of hits with the word 'fraud'
<i>The Guardian and Observer</i>	1994-March 2000: 5872
<i>Financial Times</i>	1994-March 2000: 5763
British Newspaper Index	1995-1999: 8967

- British Newspaper Index on CD-ROM and microfilms for related articles, and the British Newspapers Library.
- The examination of daily newspapers and magazines on articles relating to fraud. The newspapers used include the *Daily Mirror*; *Daily Mail*; the *Express*; *Hull Daily Mail*; *The Times*, *Daily Telegraph*, *Guardian and Observer*; and the *Independent*, and *Financial Times* Newspapers. *The Economist*, *Time* and *Private Eye* magazines were also consulted.
- Interviews with academics, and officers of Police Fraud Squad units, the Department of Trade (DTI) and the Serious Fraud Office.
- With regard to the sample of cases, the following categorisation emerged. For analytical purposes, the various forms of obtaining by false pretence were categorised into eight (8) groups. Thus, from the 82 cases selected one could have a picture of the distribution of areas or arenas where fraudsters manipulate trust and collect money upfront from victims, and the 'modus operandi' or system of deceit. The following groups were identified (Table 6.1):
- See page 188 for the last bullet point

Table 6.1

Distribution of areas in which trust is manipulated and upfront payments in cash or kind are collected

Scams associated with:	Number of cases	% distribution from total cases
1. Investment	22	26.8
2. Medical Services/Products	4	5.0
3. Religion	3	3.6
4. Education and Training	4	5.0
5. Charity	4	5.0
6. Property	3	3.6
7. Relationships	10	12.2
8. General Services/Products	32	39.0
Total	82	100.0

This distribution is not exhaustive. However, based on the data they have been identified as popular arenas for scams. In a nutshell, a brief explanation of these identified areas are as follows (concrete examples are included in the analytical discussion of the general data in subsequent sections):

- The collection of money upfront or the manipulation of trust in investment deals are those that involve deposits for ‘profit-yielding’ ventures. In these scams, the products advertised are either non-existent, grossly overvalued, or the business is deliberately mis-managed and liquidated. The fraudsters abscond after they have accumulated substantial deposits from victims. Examples include pyramid schemes and buying of shares in prospective ventures. All categories of victims are targeted and the scams are usually pre-planned.
- Fraud of this nature associated with medical products and services include those carried out by fraudsters selling fake health products (e.g. fake potency creams and arthritis treatment gadgets). It also involves the running of bogus health

centres such as clinics. Victims are made to pay cash upfront for worthless treatment, services or products. The perpetrators also disappear with time. All categories of victims especially the elderly are targeted and those with an 'ailment' they feel is embarrassing.

- With regard to religion, converts or members of a 'church' or cult are encouraged to hand over their worldly possessions to the leader or 'management', who divert these proceeds for personal use. This is in return for salvation 'elsewhere' or in preparation for a particular event such as the end of humanity! In extreme cases, members are murdered in the form of mass suicide, however, it is important to note that in suicide cases where the leader of the congregation also takes his or her life, the element of fraud is eliminated. Victims from all walks of life including families believe that the organisation concerned is the avenue or solution to their problems.
- Fraudsters use bogus educational and training courses and certificates to collect fees upfront from victims. In most cases the courses advertised are non-existent, and if available are useless to the 'graduate', as they are not recognised by the relevant authorities and government. The unemployed and those in search of new or 'lucrative' careers are the likely victims.
- Fraudsters also exploit those willing to donate or contribute to charitable ventures. The nature of the practice is such that money, gifts etc have to be deposited first before they are forwarded or distributed to the needy. The charity fraudster simply retains the proceeds or gives out an insignificant fraction of the collection. In this fraud unless the donor takes steps to find out if contributions reach the intended sources, the victim may never realise that the con man is the intermediary or the 'needy' fellow.
- In the property business, the fraudsters collect payments in advance for a given transaction or purchase that will not materialise or was never intended to materialise in the first place. Money is also collected to secure a property or for administrative costs for non-existent properties. The same property could also be

sold to different people. In legitimate property transactions the collection of deposits upfront is a common practice.

- In relationships, the fraudster pretends to be affectionate, then collects fees in advance for imagined businesses or transactions from the lover or 'partner'. Marriage proposals could be part of the deal. Agencies involved in matchmaking also collect fees upfront for non-existent dates or dates that can be described as dishevelled when they show up. Marriages of convenience are also used as the excuse for advance fees or deposits.
- Finally, the most common arena for scams is in the supply of general services and products. Through marketing and advertising strategies, victims are convinced to pay for goods and services they are yet to receive. In most cases the fraudster vanishes or sends worthless or sub-standard products. Common avenues include sales of products through door-to-door sales men, by post and the Internet.

In this thesis, the first stage of the data analyses involved the identification of issues and pattern (s) in each fraud case or scam. Thus a data format or table was drawn up based on the questions that seek to understand fraud. Each case was broken down according to the tabulated sections. Second, summaries based on the tabulation were made for each of the eight categories. Issues concerning each occurrence of a particular fraud are broken down and tabulated accordingly. Below is the sample of the table used to analyse cases of fraud.

Table 6.2

Sample of data analysis format

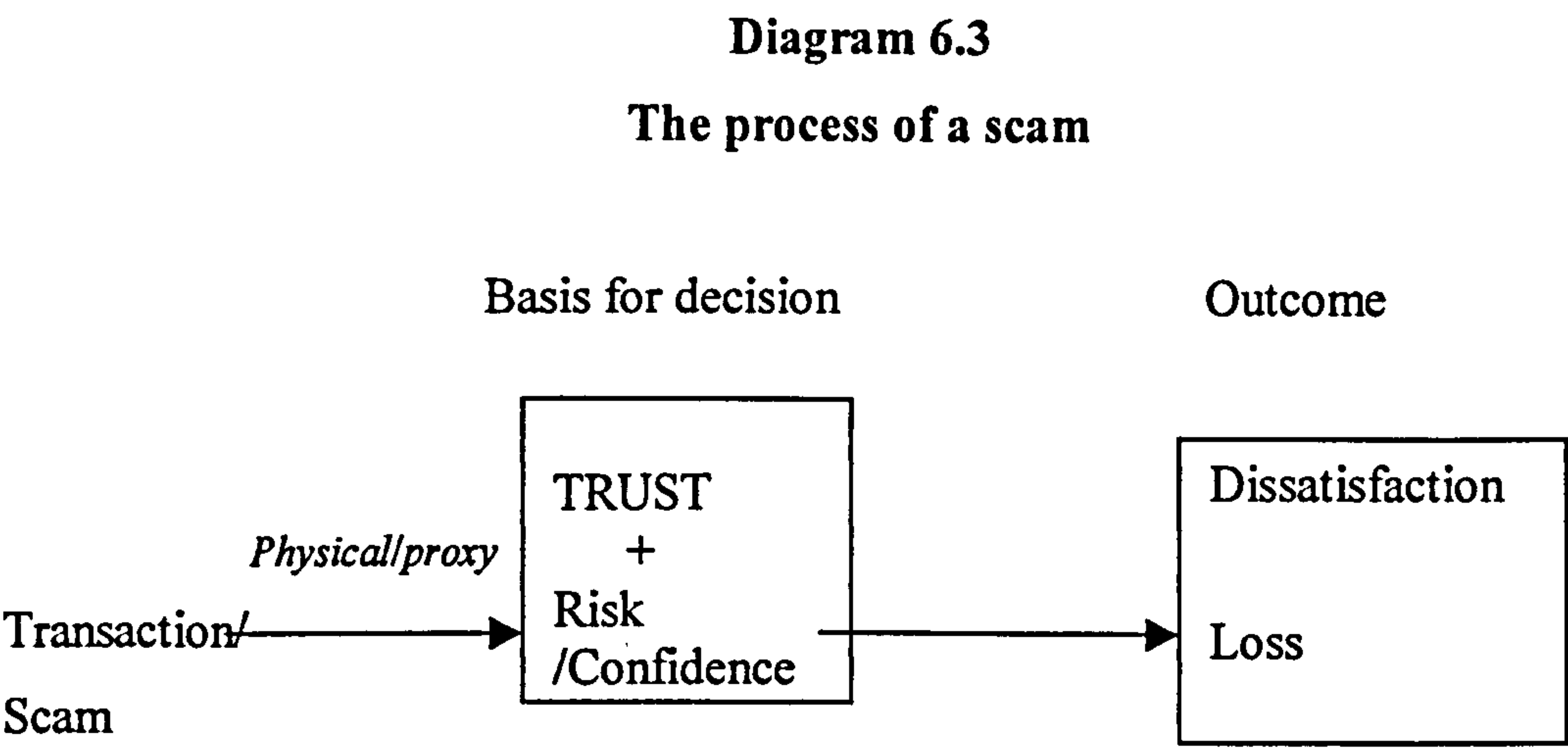
Case No.	TITLE			
Date	Amount involved	Modus operandi	Facilities used	The investigation
Location	Number of Victims	Characteristics of victims	Medium of report	Prosecution
Duration of fraud	Number of Offenders	Characteristics of offenders	Involvement in/of other Crimes	Comments

- Finally, for a deductive analysis of the dynamics of trust/fraud vis-à-vis the modus operandi of the manipulation of trust and confidence, six categories emerged. This is based on levels of disposition attributable to victims and the fraudsters approach to building trust - face-to-face contacts or through distant communication. This analogy is represented in the next section (Table 6.3).

The next section - the dynamics of fraud is based on the typology (Table 6.4).

6.3 Deceit and Trust - analytical discussion

It has been noted that the manipulation of trust is central to all scams. The goal of the fraudster is to convince the would-be victim to hand over something to him. This is better achieved if this transfer is done voluntarily to avoid intense interest from law enforcement agents, and possible harsh reprisal from the victim. Ideally when people are faced with risks in the sense of committing material possessions, or services, they need to be assured or ‘counselled’. One of the most efficient ways is by physical or face-to-face contact by the ‘seller’ of what is at stake. Businesses have long recognised this as can be seen in the level of investment in the area of more interactive marketing techniques. Thus in both the face-to-face and distant contact methods of creating trust and confidence, the victim is faced with the decision of determining the degree of financial commitment or services that could be put at risk. The victim’s decision is critically appraised depending on the skills or charisma of the seller and the evidence presented. The diagram below shows a pictorial view of this process.



In approaching this subject, the typology below (Table 6.4) attempts to summarise the trust/confidence dynamics vis-à-vis the disposition of the victim.

Table 6.4

Typology of the modus operandi of fraud involving the manipulation of trust and the victim's disposition/attributes

General disposition of the victim	Characteristics of trust		Outcome for the fraudster
	Face-to-face/ physical contact	Distant contact or by proxy	
Honest and unsuspecting	Trust developed by charismatic fraudster via avenues such as 'psychological' marketing. Victims tend to avoid too good to be true deals. Thus fraudster presents conventional deals. Religious scams and little merchandise fraud are very common. Ignorance of victim is exploited.	Selected frauds that appeal to sentiments and ignorance of the victim on what are the facts. For e.g. Charity frauds. Conventional soliciting methods are used such as fax, phone and letters.	Victims risk relatively Small sums of money comfortably. For certain scams in the medical field personal health and safety are put at risk. Relatively little sums involved per victim reduces official interest and prosecution. Turn over could be impressive.
Probably not dishonest, but naïve and adventurous	Usually requires some charisma. Emphasis is on mouth watering deals - huge profits within a short period of time. Visible illusions are used - impressive offices property etc. Investment scams are common here.	Newspaper adverts are Commonly used, and other methods of publicity. Glossy brochures & financial reports are used as in in conventional practices or situations	Victims commit reasonable sums of money or interests. Prosecution is likely to follow if discovered or exposed.
Dishonest	'Victim' who is very profit oriented will risk enormous sums to support illegitimate activity, hoping to reap abnormal profits. Contract, money wash and transfer deals are common here, and arranged visits for victim welcome.	'Highly confidential' documents are paraded via fax or electronic mail.	Returns for the fraudster are very high. Here lies the biggest catch.

Table 6.4 shows that six major categories of victim/trust dynamics can be identified. These are the:

- The honest and unsuspecting victim courted via face-to-face interaction
- The honest and unsuspecting victim approached from a distance
- The probably not dishonest but naïve victim/face-to-face contact
- The probably not dishonest but naïve victim/distance
- The dishonest victim/face-to-face contact, and
- The dishonest victim/distance

In the course of the discussion, situations or examples where any of the categories above exist are highlighted. Each type of 'relationship' occurs either through face-to-face contacts or by proxy. Thus, based on the categorisation of arenas in which fraud occurs, it is revealed that trust and the eventual collection of deposits upfront is achieved through two methods which form the basis for our discussion:

- Face-to face or physical contact, and
- from a distance or by proxy

It is not unusual to find cases where both strategies are used. On the other hand, the end result of the method adopted depends to a large extent on the general disposition of the victim or would-be victim - the honest, the naïve, and the dishonest.

6.3.1 Face-to-face or physical contact and fraud

Obtaining by false pretences and the manipulation of trust using face-to-face contacts means that the fraudster physically interacts with the victim. This contact could be immediate or deferred after advertisements or solicitations from a distance. The use of this approach is usually informed by the nature of the scam. By meeting with the victim, the fraudster is prepared to risk identification, reprisal and subsequent apprehension if exposed. The fraudster's verbal skills are utilised in addition to his or her charisma and other natural or acquired attributes.

Another dimension to the physical contact approach is the creation of the necessary structures or environment for the scam. The office, location, building furniture, and staff that attend to the would-be victims have to be such that would create trust and confidence. Thus the environment in which the upfront fee is collected is important for the scam to be successful. There are numerous examples of how face-to-face contacts are used to create trust. It is also important to note that as indicated in the typology of scams above, the disposition of the victim is what may or may not make the scam successful. In the course of our discussion, areas in which honest, naïve and dishonest victims are courted by the fraudster will be identified.

Investment scams

In a typical example of the use of face-to-face contacts, this scam affected both honest and naïve victims - the Bogus Bank in Torquay (Case No. 3). In 1993, a bogus financial establishment portrayed as a bank was set up in Torquay Devon in the UK. The operators carried out their activities from the premises of a former bank Trustee Savings Bank (TSB) (to confuse would-be victims). The bank premises located in central Torquay was bought from TSB (a legitimate bank), and renovated to taste. This property was selected for its impressive appearance (as with most successful financial institutions) and the fact that it was located at the so-called English Riviera resort with a quiet and respectable environment. The 'bank' claimed to be worth billions in assets, with a huge bank account in New York, which it could use to make loans.

Victims were mainly German nationals seeking to borrow money. They were offered loans at attractive rates, in return for an advance fee, based on a proportion of the loan offered. Once the investor has been persuaded to part with their fee, they were issued with worthless certificates by one of the syndicated companies which 'guaranteed' the right to draw the loan at an established bank. The deposits collected from victims were used to create their false images as respectable bankers. The word 'bank' was cut in stone and placed above the front door of the building (a sign of legitimacy). In the 'banks' premises, a window advertised - the Central Forex Corp. Bureau de Change, with a display board stating - Commission Free Currency Rates. The word 'free' was deliberately used to attract attention. The offices were also lavishly

furnished. The companies had and used impressive sounding titles such as Allgemeine Handels und Effectenbank AG. Colourful letterheads in addition to bogus bank certificates gave the appearance of legitimacy. The 'organisation' employed twelve female staff to complete the illusion.

All these structural arrangements were put in place because customers or would-be victims were physically entertained in the premises. Thus to get their trust, confidence and for them to risk business proposals/commitments the environment and set-up had to be ideal and in line with conventional banking businesses. To take care of regulators, apart from the word bank outside the building to avoid immediate suspicion, other plans were carried out. The business was incorporated in Delaware, USA and in the Dutch Antilles in an attempt to shake off the Bank of England's attention. The location of the business in Torquay also helped to avoid the prying eyes of city regulators and the police. The selection of their targets or victims from abroad also served this purpose, though clients were allowed to visit the premises.

With regard to victim selection, because most of the fraudsters were Germans, most victims were Germans, Austrians and German-speaking Canadians. The fraudsters chose their victims with care, choosing those who had little investing experience, were financially naïve or who faced severe cash flow problems (e.g. about-to-be bankrupts) and mainly foreign entrepreneurs. The fraudsters also used cunning and precision advertising in foreign newspapers such as the German Die Welt. Victims were told the Torquay office was the banks' European customer centre. Almost all those who lost money lived abroad. The jury was told that successful and often intelligent people were taken in by the 'elaborate appearance of substance' and allowed their judgement to be overruled by their enthusiasm. More so, people were easily fooled because the fraudsters ran a 'professional outfit'. They were eventually apprehended when police who had been monitoring them for several months swooped on them after a complaint from a woman who claimed to have handed over \$450,000 in return for a loan she never received.

Though the investigators put the total sum involved at about £7 million, which was collected between January 1993, and July 1996, it was estimated that the figure could be much higher. Hundreds of investors lost relatively large sums of money. It was

reported that the three-year investigation cost about £1.75 million and the full attention of 35 detectives

In this bogus bank's scam, the use of face-to-face or physical interaction is an attribute that contributed to the successful creation of trust. The fraudsters had an understanding of financial practices, made use of deceit, trust and confidence impressions to achieve their aims. Research has shown that certain professionals are accorded a higher level of trust in society (Bok, 1978; Nelken, 1994; Fukuyama, 1995). Accountants are generally trusted partly because of their strong association with finance and the fact that they are expected to meet accreditation requirements. It is not unusual for people to assume that most people working in the finance industry are accountants. Apart from the expected integrity of the finance practitioners, people expect banking regulators such as the Central Banks and other government agencies to prevent bogus banks from operating, at least conspicuously. In other words if they were bogus, they ought to have been closed down immediately. The fraudsters definitely took advantage of the public's perception of the financial industry in general. With their confidence role-playing and series of articulated lies, the scam went according to plan until they were discovered.

Further, normal banking practices were used. Normally, applicants in legitimate banks are expected to deposit a fraction of the value of an anticipated loan in advance. The premises of a once reputable bank were used to confuse new and old banking customers. Thus, the fraudsters operated out of the former TSB premises. This helped to develop and sustain confidence and trust of customers. The common practice in customer related sections of establishments are the use of female staff. Most of the employees were women who could probably calm down irked investors prompting them to behave courteously.

In this case, the fraudsters use of distance was mainly to avoid prosecution, a common tactic of advance fee or confidence tricksters. With clients located abroad it would have been difficult for the victims to closely monitor the operators of the 'bank' and to seek redress immediately. Initial visits or periodic visits by 'clients' were encouraged, making best use of the physical contact strategy. Some victims came personally to make deposits (and to probably size-up the 'bank'). This also prevents

harassment by victims, which could create scenes and jeopardise their business at an early stage. The victims would then have to depend on documentation and technological contacts to keep informed on the status of their applications. Even in the UK, the location of the 'business' in Torquay was a method of avoiding direct scrutiny by city regulators.

Finally, key factors that contributed to the success of the fraud include: societal trust and confidence in 'established' finance institutions, the use of appropriate aesthetics, staff and 'professionalism', location and normal financial practices (i.e. percentage deposits before a loan). Others are the marketing to foreign investors, grandiose names, and colourful letter headed documents. Their level of confidence is best explained by the overt operation/appearance of the 'bank' that must have helped to convince victims to trust the operators. The implication of this is that a general expectation exists whereby people expect 'capable guardians' in society (e.g. police and other regulators) to intervene efficiently when anomalies are noticed.

Medical services and products

Another arena for fraud that relies heavily on face-to-face contact is that of medical services and products. In most cases, the administration of medical services is usually through physical interaction. Medical products could also be marketed from a distance. Virtually all the fraudsters adopting this strategy are akin to the 'pre-planned' fraudster as described by Levi (1981). The decision to begin to defraud can arise at any stage of the business venture or medical practice or initiated from the onset. In the example of The Bogus Doctor (Case No. 24) in London, the fraudster managed to convince victims and patients to pay for his worthless services upfront - hence the notion of obtaining by false pretences. Due to the nature of diagnosis, it takes a long while to find out you have been conned. Victims would probably have to consult another doctor to confirm the true nature of their ailment.

The 'doctor' made several false claims concerning qualifications and other achievements, some of which he backed with fake documents. Some of his claims include that he was a fellow of St. Thomas', member of the Royal College of Pathologists, and that his work was so acclaimed that a department was set up for him

at the London School of Hygiene and Tropical Medicine. He claimed to have a doctorate from the Columbia Pacific University after a correspondence course, and masters and bachelor's degrees in science. All these were intended to impress and get the confidence and trust of clients. In reality, he changed failed examination papers to show he had gained good passes and faked references. His falsified A-levels got him into London University where he failed his exams and was told to leave. He then claimed that he had graduated. His 'medical expertise' consisted of a stint as a junior laboratory technician at a Hospital in London. Also, he regularly plagiarised research work for acknowledgement and certificates from universities abroad. With all these shortcomings, he knew what society expected to know and see about a medical practitioner, hence he went asserting his 'reputation'. In one of the references he supplied for himself he wrote, "Godwin is an enigma whose competence we all admire and glorify". Thus, armed with all these 'credentials', he set up a Clinical Laboratory.

Further, to gain the confidence and trust of his patients, he wore a white coat, carried a stethoscope, and surrounded himself with medical equipment. He also displayed university shields, and pictures of himself in academic robes receiving degrees. There was also an impressive array of books, supposedly written by him. For his consultations and drugs, he demanded to be paid in cash. It was revealed that many of his tests involved physical examinations over which he was charged with indecent assault. He also shared the information with partners of those he falsely told were suffering from gonorrhoea. This destroyed marriages and damaged scores of relationships. Most of his victims especially those 'alleged' to have sexually transmitted diseases never complained, perhaps because they were ashamed and would do anything for a cure.

He also acted as a 'rent a witness' for drink drive offenders. In his attempts to help drink-drive motorist evade prosecution, one of his favourite diagnoses was that the driver was "an unwilling victim of his aberrant biochemistry". He used this bogus science to fool magistrates. The 57-year-old 'doctor' was sentenced to a five-year jail term having been found guilty of a series of charges including, indecent assault, and unlawful wounding (with regard to his injections). Obtaining money by deception,

illegally supplying medical prescriptions and perverting the court of justice during two trials (when he faked illness).

Finally, this scam is an example of the exploitation of trust accorded professionals in the medical field. This trust can also be extended to the general belief that appropriate regulatory bodies monitor the activities of people in sensitive professions. Thus members of the public do not independently verify the status of medical practitioners. It is likely that the authorities also fell prey to the stereotype of not expecting a criminal to dabble into medical practice/fraud in such an overt manner. Hence, the fraudster had the opportunity of operating for years before being stopped. Any rigorous investigation at any time during his fraud would have exposed him, even if it only involved an examination of his 'certificates'. Apart from the dishonest drink drivers that wanted a way out, the victims were predominantly those from the immigrant community some honest and probably dishonest victims (those avoiding official documentation by the NHS - National Health Scheme). His age (over 50) and 'charisma' or 'doctoral' carriage would have assisted him. His insistence on payment by cash also helped him financially (e.g. evading tax) and general extortion from victims.

There are some other medical frauds that are not elaborately organised. Some have to do with fraudulent sales men or women peddling useless medical products to honest and unsuspecting people, or the naïve who expects a miracle cure. The scam involves the collection of payment in advance of delivery or payment for the ineffective product. For example, in the Arthritis Treatment Scam (Case No. 25), a woman used arthritis treatment gadgets to con victims. The 'company' advertised a massage device, the Niagra Thermo Cyclopad. Using the face-to-face method, the fraudster visited the victims to demonstrate the product. One victim who paid £350 for the device did not notice any improvement in her situation. The fraudster finally responded to calls to retrieve the equipment, and promised to sell it to someone else before handing back any refund. The fraudster never turned up again - a method applied to other victims. A court finally found her guilty of four counts of obtaining property by deception and one count of using false trade description. She was jailed for six months and ordered to pay £1,200 compensation.

Medical scams committed from a distance are discussed in the next section.

Religion and fraud

In recent years, the use of religion as the excuse to obtain money, goods and services from worshippers has been widespread. Face-to-face contact is crucial in the perpetration of religious scams. Though this type of fraud is unique in the sense that 'victims' not only hand over their possessions voluntarily, they are deeply emotionally attached to their leader. This can be regarded as one of the ultimate forms of trust and confidence between fraudster and victim. In some cases religious or cult leaders/operators have been involved in serious crimes such as homicides and suicides within their organisation. An example of how confidence and trust is created and exploited was seen in the Ho-no-Hana Fraud (Case No. 28) in Japan. A victim, an accountant in Tokyo, who narrated his experience, revealed the following.

When he went to have the soles of his feet read in a room by a group of cult officials, the purpose was to find out about his destiny. The examination took about ten minutes, but he remarked that his feet revealed 'secrets' almost immediately. According to the chief foot examiner, his stomach was 'emitting a yellow signal' - an observation which was true with him because he had been suffering from bellyache. On his left sole was a red spot, a sign according to the expert, that the 33-year-old would never enjoy happiness in marriage. Coincidentally, since he moved to Tokyo he had been searching in vain for a girlfriend.

The foot readers appeared to know many things about the victim including his failing eyesight, and about his distant relative who hanged herself, in addition to other details to his disbelief. The foot readers had a solution to his problems. A few days after being thoroughly convinced he made a post office transfer of 2.25 million yen (about £13,000) to the foot-reading organisation. The report states that in total, over 30,000 victims were duped, with similar stories of cruel exploitation and displays of astonishing gullibility. It was noted that this type of predatory cult is not new in Japan where there are about 2,000 officially registered religious groups, many of them with bizarre practices, alarming beliefs and a large following. The founder of Ho-no-Hana Hogen Fukunaga appears to be unique in many ways.

Hogen Fukunaga is described as charismatic and his cult does not show the signs of a typical oriental religion. Another religious leader Shoko Asahara, the Aum Shinri Kyo leader was tried for multiple murder. Asahara had an archetypal beard and is partially sighted. Unlike Asahara, Fukunaga is six foot three, an electrical engineer, and wears expensive suits, with his hair greased back above his eyebrows. Thus presenting an image of a modern, confident and successful Japanese businessman. This image helped him in attracting 'spiritually shipwrecked' young people. Before founding Ho-no-Hana, he founded his own electrical machinery company in the 1970s. Japanese newspapers revealed that this firm went bankrupt in 1979. Fukunaga was also expelled from a religious group after allegations of financial fraud, however, he was 'lucky' to have received a revelation that he had been chosen as the 'envoy of heaven', a successor to Jesus Christ and the Buddha. In 1980, Ho-no-Hana was established.

In Japan, the large number of religious groups are not unrelated to the country's tax laws. In principle, groups, which are registered as "religious corporations", pay no tax, a conducive situation for operators like Fukunaga. It was said that while Fukunaga's other business interests such as supermarkets and karaoke bars collapsed, he enjoyed a great deal of financial success. From his home in the expensive district of Shoto in Tokyo, he produced a series of books outlining his vision which involved a vague mixture of Christianity and Buddhism. For Fukunaga (the cult leader), "each one of us has a flow of energy which travels from the head down the spine, but in many people it has been interrupted, causing a range of troubles from bankruptcy, through broken families to cancer. The solution, he argues, is simple: people must learn how to 'take off their minds'. His literature is sprinkled with photographs of meetings, which he engineered over the years with humanitarian celebrities such as Mother Teresa, Mikhail Gorbachev and the Indian Guru Sai Baba. All these are part of the trust/confidence building strategy.

Ho-no-Hana followers targeted the elderly and the bereaved, people who had recently divorced and those with delinquent children. They lingered outside hospitals and hospices and approached patients and their relatives. The targeted people recovering from cancer treatments and who were afraid of a recurrence. Others approached

include those who have contemplated suicide, those who believe they have personality problems and others who could not get along with other people or were tired of life. In the case of the victim (the accountant) mentioned earlier, after an unsuccessful career in marketing, he used his inheritance to set up an accountancy firm. Neither business nor his personal life flourished. One day a friend gave him one of Fukunaga's books characteristically titled *How Can You Call Yourself Human If You Haven't Saved 5.5 Billion Yen?* After reading it he felt his ways of thinking have been negative all along. It turned out that this acquaintance was a member of Ho-no-Hana, the man who led him to the 'sole of the foot diagnosis' session. The accountant later realised that the personal details of his life revealed to him did not come from his feet but from conversations he had with his friend - the cult member.

For the victims, after the foot diagnosis, the remedy was usually a training course to be carried out in Fuji, where participants would learn how to 'take off their minds'. The money demanded varied to up to £18,000. Victims were frightened by the tale of tragedy (suicides, deaths, increased debt, nervous breakdown etc.) if they do not seize the opportunity of taking the course. Some were told if the money is not paid within 48 hours it would be too late, and that they should not discuss the matter with any member of their family or friends. The training exercise involved three days of yelling of slogans, without sleep or proper food. Participants were forbidden to talk to each other or make contact with the outside world. On the last day of the course, Fukunaga appeared in person to lay hands on the blindfolded subjects who at this stage are completely exhausted. The trainees are taken aside individually and offered "sacred scroll", and new and more specialised courses - for other anticipated problems, each course costing millions of yen to be paid upfront as usual.

The report revealed that more than 1,100 people are known to have sued the cult for a total of £32 million. Taking into consideration unreported cases, it was estimated that the fraud could have netted about £400 million. It was noted that proving fraud of this nature might not be easy. In a television interview the guru (Fukunaga) stressed that "although we asked them to take part in our practices, they themselves actually made the decision to do so". It was reported that one of the possible explanations for the success of this scam especially with regard to wealthy victims was the notion that they are used to spending money to solve their troubles. Thus spending it makes them feel

better. This attitude makes religious frauds of this nature successful for the operators. In the case of Fukunaga's scam, he took his time to build up his 'credibility', associating with celebrities and selecting his targets carefully. Tax laws also worked in his favour. A sociological and psychological understanding of the 'needs' of the people was also vital.

Religious fraud that attract public concern and interest are those that involve other crimes such as homicide. An example is that of the Movement for the Restoration of the Ten Commandments of God - a group in Uganda (Case 29). The main leaders Kibwetere, a failed politician and Mwerinde, an ex-prostitute persuaded followers to sell their belongings and hand over their money in return for a place in heaven when the world ended, on the eve of the millennium. They lured the gullible and inadequate into the church with promises of salvation. When the world did not end, it is thought that the followers became suspicious and demanded restitution so they allegedly committed mass murder, making it appear like mass suicide. Followers believed their leader was in direct contact with Virgin Mary. About 1,000 cult members including children were burnt in a deliberate fire. It was discovered that this was a 'pre-planned' fraud - victims were defrauded and murdered. The operators who are 'supposedly dead' are on the run. It is important to note that if the leaders were confirmed dead, then the issue of fraud will not arise, as they would have all perished voluntarily according to their belief.

To sum up, from the modus operandi of religious fraud especially in the extreme cases, one can point out certain factors that contributed to its success some of which may not be present in other cases. These include intense physical interaction between fraudsters and the subjects. Identifying an 'impending catastrophe', for instance, preaching heavily on the impending end of the world and assuring followers of their role and privileged position in the new dispensation plays or played an important role in religious scams. This is usually simultaneously timed with significant events or dates world wide such as the millennium or predicted dates or period the world is supposed to end. The leader usually a male, tends to be charismatic and exercises strict control over members. Communal living is adopted, and external association with non-members often prohibited. Members are told to avoid conventional medical treatment. This is not likely to apply to the leaders. Orthodox religious doctrines and

practices are manipulated to suit their needs. Victims are exploited physically, mentally and financially. In certain cases militant behavioural traits are cultivated to defend their beliefs. With regard to religious affiliations, legislation is avoided, as democracies believe it is the citizen's right to choose. Unfortunately it is often too late to save victims when the fraudster is exposed.

Charity Scams

The use of face-to-face contacts in frauds can be found in the area of charitable activities. Face-to-face interaction helps to get the most out of victims. The collection of donations and pretending to be involved in charitable activities are lucrative areas for the fraudster. In the most straightforward technique, the fraudster uses collection boxes in public places and then disappears with the collection. Goods or non-perishable items such as clothes are collected and diverted or sold in the open market for profit. Other methods also exist depending on the fraudster's plan. In most charity frauds, a combination of face-to-face contact and distant methods (e.g. through advertising) are often used. Below is an example of the combination of both methods. The fraudster advertises his services using mail drops. He then goes around to collect donations, at this point physical contact could be made with victims.

In the African Appeal Scam (Case No. 34), a bogus appeal for items to be despatched to the needy in certain African countries was the approach of this scam. Instead, when the donations were collected, they were sold in bundles to third-world countries and to other market stalls in the UK. The scam here is the collection of items ahead of its intended use. In the fraudster's message, he warns of the importance of time for the products to reach its destination. The flyer indicated the collection day for the listed items in addition to other information. An example of the wording of one of his advert is shown on the next page.

<p style="text-align: center;">AFRICAN APPEAL</p> <p>WE NEED YOUR HELP URGENTLY TIME IS AGAINST US! ONE BAG COULD MAKE A DIFFERENCE TO THE WOMEN AND CHILDREN OF AFRICA WHO CAN'T AFFORD TO BUY NEW CLOTHES</p> <hr/> <p>We need your unwanted Ladies, Gents, Children's Clothes, Shoes, Bed linen and Curtains etc.</p> <hr/> <p>Here's your reason to sort out those cupboards etc. Please leave your unwanted items, however small or old, and whatever the weather, outside from 9.00am Ready for our collectors on: FRIDAY In trying to keep our costs to a minimum. We politely ask if you could use any bag of your own and attach this leaflet</p> <p style="text-align: right;">MANY THANKS</p> <p>HELPLINE on 0660 272518</p>

The fraudster who is supposed to be a rag merchant also owns a clothing company. The report notes that the fraud was exposed by genuine aid agencies, one of which noticed a drop in its income. One of the genuine agencies said clothes they received that were considered to old, old-fashioned or damaged were bagged and sold for £2 a time to this particular con man, because they knew he was a rag trader. Ideally, doorstep charity collections can only be carried out if the organisation is licensed with the local council. This individual was not licensed thus making his case a police matter.

In another variation of charity fraud involving direct physical contact between fraudster and victim - the Collection Racket Scam (Case No. 35), this netted about £1 million over five years. Both culprits were arrested when two police officers spotted their collectors outside a departmental store and became suspicious. One of them ran a homeless hostel from where about ten unemployed young people were recruited to rattle tins outside supermarkets and department stores. These collectors were paid a little fraction from their average of £4,000 a week collections. They claimed that the donation would go to the Imperial Cancer Research Fund, the Motor Neurone Disease Association, the Elimination of Leukaemia Fund and other charities, but only £11,000

got to these organisations. They ran the Oakdale Charitable Trust from a rundown office. They paid £60 for a charitable trust document, which allowed them to register with certain charities for a given period. Having legitimised their charity, after the expiration of their license they continued to attract donations using the logos of the charities on their literature. In this pattern of fraud, the victims are not aware of the deceit and are in no position to ascertain the genuineness of the collectors. Charities depend on the goodwill and generosity of the public and people feel confident about the good faith and honesty of charity collectors. The ascribed trust accorded those involved in charity work was exploited by the fraudster.

Finally, charity scams easily operate under the umbrella of legitimacy. Once registered, it is impossible to actually know how much was raised from the public or donors especially if they are cash donations. Charities rely on the honesty and integrity of the collectors - situation that could easily be abused. Donors practically have no choice than to give money upfront in lieu of a good cause. Hence the fraudster is provided with the opportunity to obtain by false pretences. The disposition of the victim (honest or dishonest) is not relevant here. The philosophy behind giving or helping the needed is guided by trust, thus donors do not usually take time to probe collectors especially with regard to street collections. If there is any doubt, they simply say no. Finally, the fact that it is difficult to ascertain the extent of fraud apart from in organised charities where accounts are rendered makes prosecution, sentencing, sanctioning or compensation problematic, however, this does not stop the application of sanctions based on the concept of deception to be effected.

Property business and fraud

In property businesses, transactions usually require physical contact. This may be due to the level of financial outlay required and the need for the buyer to inspect what is being paid for. The element of advance fee fraud is still rife because the aim of the fraudster is to collect fees upfront using his charisma, documentation and the property in question. More so, it is common in conventional property transactions such as mortgages to leave a deposit pending when all matters are settled. The fraudster absconds with this initial deposit. For example, in the Land for Purchase Scam (Case No. 39), a husband and wife were the fraudsters. The report notes that they went

unnoticed by the police because their victims were often too embarrassed to admit that they have been duped. The woman claimed to be a Maori princess in New Zealand and a close relative of a British Earl. She and her partner claimed to have successful friends, moved in the best social circles - and even enjoyed tea with the Queen Mother. As proof of their wealth they boasted of their cash reserves and offered as evidence, a bogus 'Letter of Credit' for £500 million from a Russian bank. In reality, they were broke and jobless.

Almost all their victims had one thing in common - they had advertised in farming magazines. One of their victims advertised a farm they had for sale in *Farmers Weekly*. The fraudsters responded to the advert, claiming they represented a religious group who set up their members in farms all over the world. According to the victim, the fraudsters became their friends or so they thought. Since they were in no great rush to sell the farm it did not worry them that the would-be buyers were taking their time with the purchase. The fraudsters stayed with the victim and signed a contract to buy the farm. In the meantime the victims (a couple) lent them money to tidy up the documentation (a typical excuse to collect money upfront). In all they lent them £12,000, believing that they would buy the farm and pay them back. They never saw them again. The victims said the fraudsters were convincing, and even introduced the fraudsters to other friends who also fell prey to their scam.

The same fraudsters also used other strategies. One of which involved victims they met through an advert to buy a top class racing horse. The fraudsters promised to set up a business for them, spent about six months with the victims and ended up collecting thousands of pounds as 'loan' from a man and his elderly mother. Another individual who trusted the fraudsters - a London taxi driver lost £3,000 given to them to help set up an oil company. This victim remarked that the male fraudster was convincing and appeared wealthy. At last one 78-year-old retired Colonel who had an estate for sale, eventually foiled their exploits (the fraudsters wanted to buy his estate). The Colonel checked their background and found that their words did not match up to reality. The disposition of victims exploited showed that they were ignorant or naïve. They were eager to sell their properties or do business, hence were easily led.

These property scams were successful because the techniques of confidence swindling were adopted. The fraudsters while interacting with the victims presented an appearance of affluence, in addition to bogus documents used to court victims. Their main purpose was to build up enough trust with the victims in order to collect or take 'loans' from them which they had no intention of repaying. By the time they began lodging comfortably with their hosts, the collection of deposits was then a question of time.

Another example of a notorious face-to-face contact swindle via property deals is that involving time-share accommodation. In the Timeshare Scam (Case No. 40), a racket is known to have swindled holidaymakers, most of them elderly and retired couples, visiting Tenerife in the Canaries. The con was executed by a network of companies that pretended to be independent of each other, but in reality was owned by the same man. People were tricked into buying timeshare interests, believing they could be rented out every year 'at a wonderful rental'. This scam went on for years. The fraud involved about 17,000 couples who were systematically fleeced between 1990-1997. It was also estimated that more than £30 million was involved. Visiting tourists were approached by the salesmen in Tenerife, and tricked into viewing one of the resorts owned by the fraudster, and offered a deal to the timeshare apartments. They were told lies about the appreciation in value. Victims then paid a deposit usually taken from a credit card and the balance in form of a loan from a finance company. When the victims returned to their destinations or homes they discovered that the timeshares were not going to be sold at the promised prices. The major culprit of the Tenerife timeshare fraud a multimillionaire was jailed for eight years and is regarded as an organised criminal by the police.

Scams associated with relationships

Face-to-face scams are not limited to the above. Trust can be manipulated and fraud carried out both ways (face-to-face and via distance) in the arena of relationships. The face-to-face approach exposes the victim completely, and the cost often enormous. The exploitation of emotional ties is used to obtain upfront fees or money from victims. This relationship could be through marriage, promise of marriage, affairs, family ties or in the business of arranging relationships. In any of these situations, the

fraudster takes advantage of the situation he or she is in. In a typical example - the Casanova (Case No. 42), a 56-year-old man conned victims out of over £2 million. He was jailed for four and a half years for his offences. Compensation orders were issued for some victims. He admitted to 11 counts of theft and deception. When he was arrested, apart from the fact that he was engaged in bigamy, he was still married to wife number four. He was also having an affair with his secretary and was engaged to a woman deputy bank manager whom he led into a life of crime.

It was revealed that this fraudster selected his victims systematically. He operated by using detailed information from private investigators hired to probe the victims' backgrounds, before he dazzled them with proclamations of love and his considerable wealth. It was reported that he once absconded with a £250,000 jewellery collection after telling a Swiss dealer he was engaged to the Greek shipping heiress Christina Onassis. Another female victim, a divorcee, handed over her life savings to him for a deal after he told her he was a classmate of King Constantine of Greece and once served in his cabinet. He persuaded a woman bank official he seduced, to defraud Midland Bank out of £133,000. When the bank became suspicious, he took her on trips around the world in an attempt to prevent her from talking. The woman was eventually arrested and jailed for three years. He also acquired luxurious properties such as expensive cruisers and boats and exotic cars which he effectively used to obtain overdraft facilities. In one case, he succeeded in getting mortgage advance of £790,000. This is an example where the fraudster used his silver-tongue charm and spectacular lies to swindle victims. He used false identities, posing as a high-powered businessman with a seven-figure fortune. He also claimed to have been injured by an IRA bomb probably to attract some 'sympathy' and portray a figure of bravery.

In another relationship scam example - Lonely Heart Column Scam (Case No. 44), the initial contact was through correspondence. The advance fee was as a result of subsequent physical contacts. A divorced mother met a teacher, through the lonely-hearts column of a local newspaper. The teacher placed the advert in the paper. When the teacher proposed after their second meeting, the woman asked for proof that his love was true and he handed over cheques totalling £11,000 on the understanding that they would never be cashed. But the woman (the fraudster) was looking for finance rather than romance, and withdrew her 'fiancé's' life savings. Then when the teacher

sought an explanation, she pretended she had never seen him before. The teacher reported the matter to the police. The woman was later found guilty of two charges of fraud jailed for six months.

Finally, in what can be described as a perfect scam because of the criminal implications if the victims complained, the Marriages of Convenience Scam (Case No. 45), was based on face-to-face contacts. With regard to marriages, the use of distance is also known (e.g. letters, Internet etc.). Upfront payments could be involved if money is deposited and the contract unfulfilled. In this example, the victims knew the marriage or marriages were not for real, and they can be classified as dishonest. During the court trial, the judge remarked that offences of this sort strike at the whole foundation of the immigration system. Three of the men involved married a 31-year-old lap dancer within 18 months of each other. Other arranged marriages within the ring resulted in ten bogus weddings. Each 'victim' paid up to £2,500 each for the marriages of convenience. The lap dancer was involved in a total of seven marriages. Her first and only legal marriage (though money exchanged hands) was to a 31-year-old-man, who was yet to be found.

The court heard how she masterminded a bride-for-hire immigration racket so that her 'husbands' could milk the benefits system. It was estimated that the scam cost the British taxpayer as much as £200,000. Investigations revealed that wedding photographs with the 'fraudster bride' altering her appearance were taken at the different occasions or 'weddings'. These and other bogus documents were submitted to the Home Office to support applications for citizenship. It was also noted that some of the registrar's reports stated that the marriages appeared to be bogus, but the suspicions were not investigated.

Fraud involving general goods and services

With regard to general goods and services, confident fraudsters who take their time to present credible fronts sell certain products to all categories of victims. Thus they succeed in collecting advance fees for worthless products and services. Some examples include the following:

In the Manorial Titles Scam (Case No. 51), rich Americans and Arabs were swindled out of about £54,000 for titles they believed would bring them close to royalty. Two men, a travel agent, and an unemployed forged and sold more than 20 certificates of manorial titles, sealed with wax and apparently signed by Lord Denning, a former Master of the Rolls. They were ordered to serve 160 hours' community service by the Judge in a south London court. The judge defended this mild sentence saying that their guilty pleas spared witnesses from travelling across the Atlantic, and that they co-operated with the police.

To help to fool their victims, the fraudsters set up bogus companies, invented a non-existent establishment, the Institution of Heraldic Affairs and created a company of solicitors that wrote glowing references for them. They also 'formed' the Stamford Perry and Fitzgerald, a company supposedly established in 1835, dealing with overseas land registry. They promised victims that they would be given priority on Her Majesty's social list, and the right to ride in the 18th carriage at the Queen Mother's birthday celebrations. One of the victims adopted the name - Lewis of Godington. Victims were assured that they would be addressed as Lord, their wives as Lady and their children as the Right Honourable. Owners were entitled to have their own coat of arms, which could be emblazoned on all correspondence. They also claimed that the titles could be resold at a profit. The certificates issued were written by a calligrapher on special paper. Many names of titles were genuine, selected from 10,000 listed in the Domesday Book - a legitimate directory.

It was also revealed that in the course of their activities they advertised in *The Wall Street Journal*, *The Economist*, and the main English language magazine of the United Arab Emirates. They were known to fly to the States to entertain clients and lavished meals at top hotels before handing over documents. In one occasion a sword was presented to a client. Out of the more than 20 victims, the biggest loss came from a victim who paid £39,000 for three titles and a coat of arms. The use of psychology and impressions on victims can be observed here. The type of victims involved are those who adore titles. This is not unconnected with the social status accorded to those with manorial titles.

Finally, in another typical advance fee fraud scam, the Debt Collection Fee Scam (Case No. 53), the fraudster obtained £60,000 (£94,000) from two Isle of Man residents. The money was intended to cover the costs of collecting \$48 million, which the fraudster (a South African) claimed the Nigerian government owed him for armaments. He had promised his victims, a total of \$1 million as commission. But the Nigerian government owed him nothing. It was revealed that he used the money obtained from victims to live at the Holiday Inn Hotel at Gatwick Airport near London, hiring female escorts at £400 per night. In one of the fraudster's visits to the island, he presented fake documents to back his claims. He subsequently asked his victims for a further \$25,000 for the trip to Nigeria to pick up his cheque of \$48 million. It is clear in this case that the victims were either naïve or dishonest to believe that money of that magnitude has to be spent to collect a debt. The value of the commission also appears 'too good to be true'.

To conclude this section, it is not possible to exhaust all the patterns and arena in which frauds of this nature - the collection of upfront payments occurs, where the fraudster physically interacts with the victim. Certain attributes can be associated with fraud via face-to-face contacts. The fraudster is usually very confident to approach the victim, risking physical identification. This probably facilitates trust and confidence because the victim is given the impression that there is nothing to hide. Familiarity with the victim also plays an important role. For example a financial adviser in a bank in the UK was jailed for fraudulently taking £145,000 from 18 customers of the bank. Because he was not working on behalf of the bank, the bank could not grant any refund to the victims. The fraudster's or 'bank's' clients trusted him because they had earlier bought legitimate investments from him (*The Financial Times* 24/02/010).

Further, dishonest victims lost substantial sums of money compared to the naïve and innocent or honest victims. The important thing to note in our discussion is the way in which the fraudsters created trust and confidence. This is what gives the fraud involving the collection of money voluntarily from victims one of its unique attributes. Money was voluntarily paid upfront in anticipation of a deal, transaction or activity - an issue that could make prosecution complicated in certain cases. If the

victim is not particularly vigilant, observant, and well informed he or she is likely to fall prey.

Physical interaction is a bold way of building trust and confidence. At the end of the discussion on fraud from a distance, there is a tabular presentation on the key characteristics of the face-to-face and fraud by distance approaches (Table 6.6). This is an attempt to summarise our findings.

6.3.2 Manipulation of trust for fraud from a distance

Fraudsters communicate and obtain deposits from victims by false pretences from a distance or by proxy. This can be perpetrated in different arenas or areas of human endeavour. The fraudster's decision to adopt a given approach depends on the type of scam. Fraud from a distance is the most common form of advance fee fraud. Over the years, fraudsters have realised that it is possible to create confidence and trust without physical contact with the victim. Advances in communication technologies such as the telephone, fax and the Internet have helped to perfect such practices. More so the fraudster avoids the risk of physical identification. Scams can also be initiated from a distance then 'consumed' after a face-to-face encounter with the victim. In cases of this sort, the victim having been convinced of the deal decides or is invited to go and see things first hand. At this stage, the victim may be kidnapped, killed, or given the opportunity to hand over the funds voluntarily. In fact it is advance fee fraud from a distance that has popularised or exposed this pattern of fraud - obtaining money by false pretences. With this strategy it is possible to contact millions of victims at the same time over different continents. This creates problems for law enforcement and investigations especially if the victim does not report or co-operate with the authorities. To understand this practice, some examples are examined below.

Investment Scams

There are certain attributes peculiar to this mode of trust building. A good example is that of the exploitation of current or past events. The British beef scare and the

resultant alternatives supposedly found in the farming of ostrich meat created avenues for fraudsters who operated by proxy. The Ostrich Farming Corporation Scam (OFC) (Case No. 7) is one of the two examples in this thesis of fraud involving the marketing of ostrich meat to dupe investors. Ostrich farming was seen to be a trendy form of investment, partly because the meat is low in calories and cholesterol. The 'mad cow' scare also contributed to its popularity. It is noted that the ostrich meat market is not yet established. Glossy brochures billed 'the meat of the future' claimed the birds were being farmed in Belgium and that the company was represented in Malaysia, Cyprus and Bahrain. In addition to the advantages of ostrich farming, it claimed the meat was a healthy alternative to beef and schools were already experimenting on ostrich burgers. The feathers could also be sold for £400 per pound and could be used for theatrical costumes, and non-static dusters, while the hide could be used for handbags. Subscribers to the company were promised memberships to the privileged 'Ostrich Owners Club' - this was supposed to serve as a status symbol.

The Ostrich Farming Corporation (OFC) ran an extremely effective marketing campaign. They promised minimum annual returns of 51.6% for 5 years or a return of up to 2,000% in 10 years (a claim that would readily appeal to the naïve victim). Television and newspaper advertisements were so convincing that most victims did not see the need to visit the farm (avoiding additional costs). Investors were invited to buy chicks for £500 or adult birds costing up to £14,000. By the end of December 1995 the firm had raised more than £5 million and more cheques were still rolling in. The birds were kept at several locations in Belgium. Investors were told each bird would be electronically tagged or micro-chipped according to ownership, and will eventually be sold as meat. They actually sold the same bird to different people. It is estimated that about 3,000 investors were affected.

It was revealed that investors with the OFC stand to lose everything because their money was used to buy ostriches not shares. Ostriches are not considered financial products; nor are the investors entitled to payment from the Investors Compensation Scheme, should the business collapse. The protective umbrella of the city regulators does not cover investments in animals. The SFO launched an investigation and the DTI asked the High Court to have the company closed and to appoint a provisional liquidator/official receiver. This was effectively done in April 1996. Directors of OFC

were said to have siphoned off investors' money through disadvantageous contracts with suppliers and bogus companies. In Court it was heard that the five 'businessmen' netted about £22 million from investors in the scheme, and that only £25,000 was used to establish the company.

In another ostrich farm deal similar in modus operandi to that above - the Ostrich Breeding Company later called Ostrich Centre Ltd (Case No.19), a glossy brochure promised returns of up to 70% a year for 25 years. This also lured investors. They advertised in national newspapers with the slogan "Ostrich Nest Egg", and stressing the low-fat nature and other uses of ostrich meat. This was also timed at the height of the BSE scare in 1995. A couple set up and managed the business. A total of 115 people invested an aggregate sum of £875,000 before the holding company was declared insolvent in July 1996. By then, £329,000 had been siphoned to offshore accounts in Jersey and the Bahamas.

The cases above show that advertising and the mailing system can effectively be used to recruit victims. Due to distance, all the fraudsters had to do was to market their product via impressive brochures and the media. The confidence and trust generated is not unconnected with conventional business practices of attracting new shareholders to a viable business project. Unfortunately, unless the company or investors take adequate insurance measures, it is not uncommon for any business to experience unforeseen circumstances and eventually collapse. Thus, the pre-planned investment fraudster simply takes his time accumulating deposits from investors before claims of business setbacks are made public. The fraudster will always make a profit because sometimes certain compensation schemes may cover the victims.

In another pattern of a scam from a distance, in the Prize Cheque Scam (Case No. 20), two pensioners (husband and wife) in their 70s thought they were lucky when they received a prize cheque in the mail for £7,500. They took it to their bank and it was credited to their account. Later the bank informed them that the cheque was bogus and had been returned costing them £140 in bank charges. The cheque came from New York-based Justin Grant Inc, with impressive documents designed to con the pensioners into sending them £6.99 as 'processing fee'. In scams similar to this,

worthless prizes are usually sent to the 'winner' if anything is sent at all. Further, refunds never happen because the outfits hide behind PO boxes abroad. Many of the mailings are delivered in Royal Mail prepaid envelopes, which means the con men get cheap postal rates. It was revealed that research by the Royal Mail showed that one in five of Britain's 11 million pensioners admits to being conned. Data protection laws still stop them from telling who their prepaid customers are. The fraudster definitely exploits this situation.

The disposition of victims is not always clear, because, genuine draws do exist. It is the responsibility of the 'player' to verify the status of the organisers. In the example above, £6.99 was demanded upfront, the fraudsters were mischievous the second time to have sent the cheque as this made things worse for the victim. If credit card transactions were involved, the victim would have probably released some more cash before physically cashing the cheque. The aim of the fraudster in mail/prize scams has to do with little fees, large numbers of victims, less stress from victim because of value of loss and as such more profit.

Medical Scams

In medical frauds carried out from a distance, advertisement and false claims are common place. For example, the fraudster in The Potency Cream Scam (Case No.26) sold creams, which were expected to 'reawaken one's sex drive'. Many men, who sent £27 for a tub of the cream, received nothing. Experts consulted said the cream was no more than any regular body cream. The use of the post helps to provide anonymity for the customer, at the same time, the seller cannot be physically identified. Men affected would also be shy, ashamed or embarrassed to pursue the matter. A situation the fraudster is aware of. In medical scams, target selection is crucial, because the product or service in question must have a unique market to sell effectively. Thus, a particular age group is targeted. Those that cannot be accessed through the acquired mailing lists can always be reached through advertisements in newspapers and Internet. Again the money demanded is relatively small - this reduces the urge for the victim to pursue the matter.

Education and Training Scams

Fraudsters also manipulate trust, execute fraud or collect payments upfront through educational and training programmes from a distance. Today, studying by correspondence is not unusual, and fees have to be paid for such services or training. Upfront fees are required for the student to receive the required materials. The fraud here concerns the validity of the certificates earned. It is important for the victims to pay for the courses upfront so that the fraudster can vanish with the proceeds before the scheduled date of the training or without forwarding any document. At any rate, in most cases training courses do not exist in the first place. This shows how fraudsters exploit the conventional use of correspondence for studies. In rare situations, the fraudsters may risk face-to-face contact by running the unaccredited programmes. The use of education such as school fees and other activities that require some finance to acquire some training is an ongoing event. Even children or young students probably claim extra expenses for social activities from their parents or sponsors on the pretence that it is for school. This is usually not viewed as fraud or 'crime', however, the definition may change depending on the amount involved and the effect it may have on the giver or victim. Victims are mainly unemployed youths and those who want to change or get into new careers.

In a typical example of the use of distance to fleece victims, and how trust and confidence is sustained - the International School of Finance and Management Scam (Case No. 33) was supposedly based in California but in reality was the invention of people based at a Reading UK business centre. A Russian and a British couple carried out this scam. They claimed to organise courses. Reports revealed that hundreds of Russian businessmen paid, in total, about \$2.4 million (£1.5m) to enrol for the courses on western business management - only to discover that they were part of an international fraud. The Roosevelt Foundation in the US was said to be the sponsor of the 'School'. The court heard how almost 700 businesses responded to the advertisements and 1,450 people applied for the course. Envelopes containing brochures about the training programme were distributed to most professional companies in all fields indicating that the course was mainly for upper and middle management staff. The mailing centre was at Heathrow in London. 'Professors' from London School of Economics and Harvard were expected to deliver lectures.

Applicants were promised seminars in finance, management, marketing and technology, as well as flights and accommodation for two weeks. Participants were also promised fact-finding visits to American companies, the possibility of special study grants and even \$500,000 (£300,000) reward for particularly innovative companies. Victims were told a guide would meet them at the designated hotel in the United States. The fraudsters asked for payments to be sent to accounts in London and Geneva.

From the above, certain practices enabled this fraud to succeed. The fraudsters took advantage of the 'new order' in Russia where corporations are now encouraged to diversify and imbibe new methods of economic management, especially from the successful countries in the west. This idea was bound to find favour with Russian companies. The USA appeared to be the ideal spot for this purpose going by their economic successes. The name-dropping of non-existent professors and the mentioning of Ivy League institutions and the Roosevelt Foundation as sponsors helped to paint the ideal picture of the 'class' of people involved in the whole arrangement. The international dimension of the programme implied that at that stage face-to-face contacts were not necessary - the course had to be paid for first.

On the issue of trust, applicants including companies probably thought con men would not play pranks with the names of such reputable institutions. The enticing offer of a two-week 'holiday', visits and mouth watering anticipated prizes appeared to be a good deal for any enterprising organisation. Demanding for fees upfront is not unusual for this purpose, as the organisers may need funds to conclude certain arrangements and to plan ahead. On the other hand, it is not also unusual for reputable conference or seminar organisers to advise intended applicants to come to the venue armed with certified cheques for instance - this depends on the organisers. In the final analysis, the established system of conference organising and payment was exploited in addition to the enthusiasm of applicants. The use of credible names and establishments created trust and confidence and victims saw no need to verify claims before acting. The odd few that made enquiries exposed the scam. Otherwise, people would have travelled down to the States.

Varieties of fraud involving education and training cannot be exhausted. The market is always there as young people and the working population needs to improve themselves at minimal cost. Fraudsters conversant with educational and training practices exploit the situation and sometimes charge 'forgettable' fees for the scam to go on 'peacefully'. Con men present the ideal structure or operational system in the legitimate industry. Prosecution in some cases can be difficult, if training is actually given (though worthless), and the fraudster is smart not to claim official accreditation for such in writing.

Charity frauds

Charity frauds can also be operated from a distance, though face-to-face contacts are preferred as noted in the previous section. With regard to distant communication and collection of money, technological equipment is used. For example, in the Fax Charity Donor Fraud (Case No. 36), the fraudster made use of his fax machine to swindle charity organisations directly by pretending he was interested in making a donation. The fraudster faxed charities telling them he wanted to make a donation, and asked their fundraising departments to respond to him via fax with their addresses. He gives them a premium-rate fax line that takes up to £1 a minute in cost.

When confronted by investigative journalists he boasted that he had made a fortune from his activities, and felt no remorse. The fraudster collects his 'fees' in advance of the anticipated donation via his facsimile. Charities respond to his request because such gestures are not common, so they are glad to co-operate. ICSTIS (premium rate line authorities) finally fined the fraudster £1,500 and banned him from operating a premium rate line for three months. He was said to have breached four rules of the ICSTIS code of practice including obtaining revenue under false pretences and having misleading promotional material. The facsimile can also be used for other frauds not connected with charity. For example, certain con men send faxes to hotels asking for information via fax about their best room and a sample menu for special events such as Valentine's Day. They conceal the information that the reply would cost £1 a minute.

General goods and services

Fraud in the area of general products and services can also occur via the mail or from a distance. The fraudster avoids the risk of physical contact while receiving cheques for worthless items. For example, in the Good Restaurant Guide Scam (Case No. 57), worthless certificates of honour were sold to proprietors. In this scam, a con man fooled more than 10,000 restaurants across the country into parting with cash. He later left the country after the Crown Prosecution Service (CPS) decided not to press charges because he actually supplied certificates. He is thought to have netted about £500,000 from his scam. He simply wrote to the restaurants, saying they had passed a secret inspection and were entitled to a special certificate and inclusion in the forthcoming '1998 Good Restaurant Guide' - all for just £19. Owners were unctuously congratulated and the cheques flowed in. In reality, the certificates were worth no more than the paper they were printed on and the guide never existed. The fraudster was aware of the enthusiasm this would generate. Most restaurants can comfortably forgo £20. Probably this was why the verification of his or the company's status was not carried out much earlier. In this case, the fraudster collected advance fees for the worthless certificates, which he supplied to keep the scam on.

It is said that in the height of his scam he cashed up to £5,000 worth of cheques a week. When trading standard officials caught up with him, they found £80,000 uncashed cheques and another £20,000 in that day's mailbag. He used a computer, and an expensive printer (to give the certificates the appearance of authenticity and class). Investigators revealed that the fraudster had devised similar schemes in the past targeting garages, florists, takeaways and hairdressers. The decision not to prosecute by the CPS was attributed to lack of enough evidence, and that the fraudster actually sent certificates to those who sent him money, however worthless they were. This outcome was said to have infuriated police and council officials.

Fraudsters are involved in dubious services of all kinds. In an example of fraud using unsolicited services, telephone lines are the major avenues for the scam. In cases of this sort, whether the victim goes ahead with the purchase of a product or service does not matter much, because the fraudster would have already obtained benefits from the first contact with him through a premium rate line. Certain scams that involve

embarrassing activities are commonly used. For instance, via the Internet, according to the Association of Payment Clearing Services (APCS) in Europe, for Mastercard, those who run 'adult' websites execute half of all electronic fraud (*The Sunday Times* 11/02/01: 6). Their customers, the porn fans, are the least likely to complain out loud. It is generally accepted that online crime is rising with online commerce. The *Sunday Times* also revealed that statistics show that the most common form of Internet crime exploits online auctions, where goods paid for never arrive. And Internet Fraud Watch estimates that 8 out of 10 cases of all online fraud originate on auction sites. The average loss is about £300, mostly paid by money order or credit card.

In the Fax Directory Scam (Case No. 64), the fraudster set up a business called Nationwide List Brokers. He then sent faxes congratulating would-be victims on the fact that they are going to be included in a fax mail directory. The implication of this was that they should expect to be bombarded with unsolicited 'bargains', which would render their fax machine inoperative for normal business. He then suggests two ways of avoiding this impending avalanche. The victim could either send him a £3 "removal charge" by post or call his premium rate line, which cost the same amount. This amount appears little but is enormous considering the number of people contacted. The same fraudster is known to have been involved in a fake male sex drug for which he was convicted and given a 12 month suspended jail sentence. Here the fraudster was aware that serious businesses would rather spend £3 than be disrupted. The advance fee is affordable.

Similarly, in the Free Holiday Offer Scam (Case No. 74) a firm calls people saying they have won a free holiday. But for it to be claimed, the would-be victim would have to call a premium rate number. The 'winners' are not told that the cost of the call is £1 a minute and that they are likely be kept on the line for almost five minutes. When the recorded message finishes, there is a very short space to leave your name and address, meaning that you have to call again. If you succeeded in leaving your details, a 'different' firm contacts you. They congratulate you, stating that your ticket and accommodation are completely free, but you have to pay a processing fee of £39.50 per person - this is not mentioned in the original phone call (the second stage of the scam/fraud after paying for the premium rate phone line). You also learn that the holiday vouchers only applies to homeowners over 20 and under 65 years. You are

also expected to be married and living together with your partner for two years. The voucher provides hotel rooms for six, but only two free flights. Also, other flight tickets must be bought from a particular firm, which it was revealed had expensive rates. By the time the victim gets disgusted with all these requirements, money has already been lost.

To conclude this section, generally, the fraudulent provision of goods and services is the most common method of many scams. In this thesis, it accounts for 39% of the sample of cases. The upfront fees are usually collected as processing fees, application fees, partial or full deposits for the item in question. Technology such as the Internet and telephones, facsimiles, plastic cards etc has facilitated this. This approach is convenient for the fraudster because of its wide geographical coverage and the little reliance on physical contacts, confidence and trusts building. The fraudster depends on elements of probability. Most people will not respond but the few that do respond are ready to spend some money. With millions of transactions and enquiries going on daily, it is not likely that victims will be patient to go through the details of validating dealers or businesses. Not all would-be victims may have the time to buy products from the shop by themselves. They would rather risk a partial sum of money, which collectively amounts to a tidy sum for the fraudster. Doing away with premium rate lines will not only reduces revenue generated by the telecom industry, it would also increase postal pressure and would ultimately affect legitimate businesses.

Let us now look at he characteristics of victims and fraudsters in the next section.

6.4. Characteristics of victims and fraudsters

In the course of our analytical discussion, certain traits of victims have been mentioned. From the data in this thesis, a tabulation of certain characteristics can be seen below. The average sanctions given to offenders are highlighted in this table. Issues concerning the sentencing of fraudsters are discussed in the next section. The

information used are those that were specifically mentioned in the particular cases from the samples of fraud in this thesis.

Table 6.5
Gender, age and sanctions distribution in data

Offence categories	Gender	Average age	Average sanctions	Estimated amount involved
Investment (Total cases 22)	M - 18 F - 1 Couples- 1	47	Jail sentence - 56 months or 4.6 years in 14 instances Disqualification - 5-10 years, in 7 instances Fine/compensation- 3 cases Deportation- 2 instances On the run- 2 instances	£1.5 billion
Medical Services/ Products (Total cases 4)	M - 1 F - 2	50	Jail sentence - 90 months or 2.5 years Fine - 1 instance Deportation - 1 instance	£600,000
Religion (Total cases 3)	M - 4 F - 1 Couples- 1	52	Jail sentence- 3 months Litigation- 1 Others no litigation, leaders on the run	£33 million (over £400million at risk)
Education and Training (Total cases 4)	M - 3 F - 1 Couples- 1	36	Jail term - 28.5 months or 2.3 years.	£50,000
Charity (Total cases 4)	M - 4	36	Jail term 30 months or 2.5 years Fine - 1 instance	£2 million
Property (Total cases 3)	M - 7 F - 2 Couples- 1	46	Jail term 16 months or 1.3 years On the run – 1	£30 million
Relationships (Total cases 10)	M - 10 F - 6	38	Jail term - 17 months or 1.4 years Fine - 2 instances Deportation - 3 instances	£5 million
General Services/ Products (Total cases 32)	M - 31 F - 4 Couples- 1	40	Jail term - 21 months or 1.7 years Community service - 1 Fine - 9 instances Liquidation - 2 Disqualification - 2 No litigation - 9	£10 million

Comments

In general, the average age of offenders is about 43 years. As observed in other research this is within the average age of fraudsters. Male offenders are higher in number, and some fraudsters operate as couples. Given that this compilation is a very little proportion of the general picture, one can expect ideal representations of all categories using larger examples to be similar. It has been argued that sentences are generally mild for fraudsters compared to the amount of loss suffered by victims. Though the courts apply sanctions as stipulated by statutes. It is suggested that fraudsters should be given the alternative of indefinite or life imprisonment which will be revoked once victims are compensated to a satisfactory degree. This approach would definitely create a dilemma for the fraudster who has initially calculated the cost/benefit of a few years or months in confinement and coming out to enjoy and reinvest the proceeds of crime.

6.4.1 Victims

This research has shown that a victim could be an individual, group or organisation. Victims are chosen from all walks of life especially the elderly that probably have 'idle' funds and are in the need for some 'adventure'. Generally, studies on victims of fraud are few. In certain types of crime, according to Levi:

It is an analytical truth that all victims bear some responsibility for their victimisation. In the case of long-form fraud, the degree of 'victim participation' is greater and more positive than it is in most types of property crime, because the victim parts with his property voluntarily to the offender (Levi, 1981: 126).

The remark above does not imply that the victim is dishonest or is to be blamed for his victimisation.

In Canada, the National Task Force on telemarketing fraud called Project Phonebusters note that victims of fraud could be individuals, groups, corporations or all the above independently or jointly. Project Phonebusters (1997) reported that

between January and May 1997 over half (51%) of the victims of telemarketing scams that paid out money were over 60 years old and this age group represented 73% of those victimised for scams worth over \$5,000 (Janhevich, 1998).

Currently, issues concerning the victim's plight receive a lot of attention especially from the media. In Levi's (1985) study, he observed that fraud victims do not normally feature in crime victimisation surveys. Levi also notes Fattah's (1986) observation that most Victim Movements are concerned about personal victims of street and household crime and are not aware of the plight of fraud victims. The victim's perception about the degree of danger of a particular type of crime is also significant. According to Churchil, in cases of advance fee frauds, victims normally do not report the fraud to the police, rather they put aside the event as an experience. This is because the amount of money lost may be regarded as small or because they fear looking foolish for falling for the fraud. This situation is perfect for the fraudster, who is likely to repeat the scam (Churchil, 1997).

Certain observations were made in a study that examined the impact of fraud and fraud victims' perception of the various parts of the criminal justice system irrespective of previous contacts with them. In this study, Levi (1985) also looked at the media's handling of fraud cases and the nature of victim/offender interactions. Court cases were sampled to review the types of victims and offenders. Interviews and questionnaires were given to some victims. In addition, some radio and television producers were interviewed and content analysis made of their programmes. In this study, it was revealed that most victims whose cases were prosecuted in the two courts used were organisations (15% were private individuals). Large frauds typically involved more social interaction between victims and offenders and were mainly carried out by white-collar males. Family and (former) friends were the main culprits in cases of fraud on private individuals. Private victims had no insurance protection against loss. Further, 37% of all victims thought their fraud was a serious loss. Under half of all victims informed other organisations, friends, contact about the fraud, and majority of the victims felt the police responded appropriately to their complaint and received useful advice from them (Levi, 1985).

Also, with regard to sanctions, on views from the media, and public opinion about fraud, in Levi's study about half of all victims felt the sentences offenders got were lenient or very lenient. Others considered them to be adequate. Nobody felt the sentences were too severe. 40% of all victims considered that their rights had not been fully enforced, particularly in respect of compensation. Many frauds and alleged abuses of corporate or governmental power received considerable coverage by the media. The media also saw fraud as serious, but few fraudsters were seen as evil. Many victims were considered as greedy or careless - an attitude or situation that was said to have created the opportunity for the offence.

Further, individuals who are not necessarily wealthy are more likely to be the victims of mail order and investment frauds (Levi, 1988). Businesses are the prime victims of credit and computer frauds. With regard to the number of offences, the most common frauds involve the use of plastic money. This is attributable to the 'cashless' methods of economic transactions today. Going by these developments, Levi states that the financial sector (banks, building societies, and insurance companies) accounts for a substantial part of the costs of fraud recorded by Fraud Squads.

In this research, most of the victims were the elderly. Interviews with investigating officers reveal that fraudsters target them because it is assumed that they have accumulated some savings over the years. Most are also retired and would probably pick up interest in 'new commercial' activities. In addition, unless the loss is extremely large, most elderly victims would rather forget the incident because of the anticipated stress and time involved in pursuing the matter. The total number of victims from a particular scam can be quite large and peculiar attributes depend on the type of scam or product involved.

For instance, in scams involving emotional relationships, most of the victims are women who are either single or divorced and middle-aged or over. In some few cases men have also been exploited. The fraudster manipulates the vulnerability of the victim's circumstances or situation. In charity scams all categories of victims are exploited, especially those within the older age brackets who have and are willing to make donations in cash or kind. Victims of investment frauds are generally naïve, and are quick to cash in on supposedly lucrative deals.

In some cases, honest victims are exploited especially when the scam in question has been created in line with conventional practices or where the victim is familiar with the fraudster. The highest number of victims are usually associated with investment scams and frauds involving general goods and services. Unemployed people are mainly the targets of educational training scams. Those already in industry also fall prey to fake courses. In religious scams, the victims selected from all walks of life especially via the family, and are so immersed in the 'cult' that the fraudsters milks them as much as possible.

To sum up, it should be noted that victims of fraud involving the manipulation of trust come from all spheres of human endeavour, and are of different ages. With the Internet today, it is possible for children less than 10 years old to fall prey. In some cases the very educated have been conned. This is so because trust is an important ingredient in social interaction and the fraudsters exploit this fact. The victim's role in the prevention of fraud is discussed in Chapter Seven.

6.4.2 The fraudster

The usual fraudster or perpetrator of fraud within the commercial context or environment is privileged, of high status, well educated, male, and in a position of respect in society (Nightingale, 1996). For Janhevich (1998) fraud is not a homogeneous category of crime as it ranges from the simple to the complex. Exposed individuals will obviously carry out the more complicated frauds that also require reasonable investment. In other words, 'a typical offender' category will be difficult to substantiate.

In Levi's (1985) study, most of the fraudsters were blue-collar, described as typical males and unemployed at the time of the offence, and in general, was without educational qualifications and likely to be unmarried. He was also likely to be a solo offender with very modest socio-economic status, who makes use of deception to obtain cash or goods from organisations such as banks, government agencies and employers. The blue-collar offenders were not likely to use their own business or

profession as a tool of fraud. On the other hand, the white-collar male fraudster was typically older, employed at the time of the offence, educated to a reasonable standard, and married with children. The white-collar fraudster typically used his organisation as one of his tools in manipulating the fraud. Levi's research revealed that 'blue-collar frauds' were dealt with far more rapidly than other frauds especially those that involved private victims. This can be attributed to their relatively simple or less complicated nature and the ease in which victims identified them.

In the *Guardian* (08/02/99) it was reported that the typical fraudster is in middle management and works alone, according to a survey carried out by Nottingham Business School. The survey found that middle managers are the people with the most opportunities. The survey also discovered that the higher up an organisation, the more an individual could get away with it, and the less he or she is likely to come under suspicion. When the petty cash goes astray everyone is apt to blame the cleaners, not the partners. This survey did not specifically draw attention to the fraud of obtaining by false pretences or advance fee fraud.

It is now known that solicitors in particular play important roles and could be directly involved in fraud. In a typical example, according to the *Times* (12/04/01), a solicitor was fined £25,000 at a disciplinary tribunal for frightening thousands of homeowners into paying high fees by claiming that their properties were in danger of being repossessed. He demanded upfront fees of more than £250 for standard letters about ground rent arrears, even for those that owed as little as £6.50. He was brought before the disciplinary panel of the Law Society after 42 homeowners complained. It was revealed that his activities went on for about seven years.

Walters, (1995, 1999) addressed the problem/implications of advance fee fraud from the perspective of the legal profession. According to Walters, (1995) advance fee fraud is becoming increasingly sophisticated and is still claiming victims who lose large sums of money which are rarely recovered. He notes that figures from the Office for the Supervision of Solicitors (OSS) suggest that they have discovered more than 40 potential advance fee or investment type frauds in which solicitors are involved (Walters, 1999). The more problematic advance fee frauds are the 'investment' types. This may involve fraudsters offering victims the opportunity of investing in

complicated financial transactions such as ‘prime bank instruments’ or discounted stand-by letters of credit, a free or very low interest (self-liquidating) loan or the opportunity to win a lucrative contract. The fraudster requests for an advance payment as a precondition to their involvement. This fee is then stolen.

For Walters, the legal profession is affected in some of the following ways:

- In the case of ‘Nigerian’ letter type frauds, the risk is that the solicitors targeted by the fraudsters may be tempted to use the clients’ money. This can be used to make any initial payment requested by the fraudsters to cover expenses such as airline tickets and hotel accommodation, or the solicitors may give details of the clients’ bank account to the fraudsters. The intention is to steal any available money.
- Solicitors can be used as ‘custodians’. The investor is told that the ‘refundable’ fee will be held for safety, by a lawyer in ‘escrow’ (a separate account independent of the transaction in question). The Solicitor can be in England or Wales so if necessary, the investor can make claims either on the solicitor’s professional indemnity insurance, the Solicitor’s Indemnity Fund, or the Law Society’s Compensation Fund (all these may not be successful). If the solicitor is part of the scam, he or she has the opportunity to loot or divert the funds in this account.
- Solicitors help to write letters, with the aim of persuading the victim and authenticating the proposed transaction.
- Solicitors are giving undertakings to third parties in relation to the holding and release of money in the likelihood of non-compliance with the terms of the agreement.
- Solicitors may be actively looking for investors to introduce to supposed investment schemes.
- Solicitors may themselves be the fraudsters, stealing advance fees from investors. Walters cites the example of Charles Deacon (Case No. 6 in this thesis) who obtained \$19 million from investors, \$14 million of which was never recovered.

Walters concludes that the solicitors involved may be fraudsters. They may deliberately or negligently ignore the risks of the transactions and are ignorant of the risks and warnings on such practices given by the Law Society and the press at large.

They could also be exploiting the existence of the Compensation Fund and insurance cover as a means of encouraging the investors to deposit funds in escrows (independent accounts from the transaction in question). He notes that there is no excuse for the current failings of the legal profession and those of its regulators. Such malpractice or frauds damages the reputation of the legal profession and other professions associated with the transactions and the financial world in which it operates in general (Walters, 1995, 1999).

In support of the arguments above, Hoogenboom (2001) in his discussion on illegal financial services and the offshore industry notes that professional money laundering specialists sell high quality services, contacts, experience and knowledge of money movements. These services are supported by the latest electronic technology, and made available to the trafficker or criminal willing to pay their lucrative fees. Further, this practice makes enforcement more difficult, especially in cases where legitimate and illegitimate funds are deliberately combined from different sources. In the case of advance fee frauds, the criminal consultant diverts fees paid for certain services. Thus, it is possible for legitimate and illegitimate business transactions to fall prey to the crooked professional.

In an analogy of financial crimes, Hoogenboom (2001) developed the concept 'market for illegal financial services'. In this market approach towards economic crime he notes that a distinction can be made between individuals or players in the supply, demand and product lines. On the supply side, the following groups or categories are involved: lawyers, accountants and other professional financial service providers; correspondent banking; offshore banking; private banking; insurance companies; onshore banking; fiscal advisors; and stockbrokers. He notes a prominent example of fraud by mainly accounting professionals - the Bank of Credit and Commerce International (BCCI) fraud where a bank supposedly worth \$20 billion became worthless despite the involvement of auditors over the years.

On the demand side, Hoogenboom notes that a large number of parties can be identified. These include individuals and corporations who enter the market for tax evasion purposes, money laundering and paying bribes around the world if necessary; organised criminals (drugs, weapon, women etc.) for the purpose of money

laundering. For Hoogenboom, in some instances criminals exploit the statuses of these professionals to minimise suspicion. As in conventional business practice, a certain amount of credibility and ethical standards are presumed to be associated with the work of certain professions.

Of relevance to the role of certain individuals or professionals is the nature of 'contract' and its facilitators or 'custodians'. For Fukuyama (1995) rules and contracts have not eliminated the need for trust in all spheres of human endeavour. For example, professionals like doctors, lawyers, or university professors, having received the required training for accreditation and practice, are expected to use their judgement and initiative in practice. The nature of their judgement is too complex to have all the details spelt out in black and white. Thus, professionals are in the position to go about their business relatively unsupervised and as such, are generally more trusted than non-professionals. The concept of 'professional' is associated with integrity and good conduct. In this regard, it is possible for the professional to betray the trust placed in him or her. Unfortunately, all commercial activities are based on some financial risk either on the part of the seller or provider of a product or service or the consumer.

In conclusion, in this thesis, it was observed that fraudsters are found in all areas of human endeavour. Few fraudsters operate within legitimate enterprises. The fraudster either has experience from industry or has developed certain skills to fleece victims. Depending on the trust-building requirement of a scam (face-to-face, or from a distance), the physical appearance and general charisma of the fraudster is vital. On the other hand, if physical contact is not necessary, the presentation of the product via various communication mediums is important. Thus creating certain structures (e.g. offices, equipment etc.) that are all geared towards building trust and confidence. In general, most fraudsters are middle-aged males some of who have some experience in the industry associated with their scam.

The objective of the fraudster is to present the victim with information and deals that are similar to those in legitimate enterprises, but with better returns on investment. This would encourage the victim to part with cash voluntarily. Compared to the

number of victims, fraudsters usually operate in a group or in the form of a company, though there is usually one or three principal figures - the originators of the idea. Examples from this thesis show that fraudsters operate independently (the smaller the number the safer, and the more discreet the activities), but include others either as partners and staff to help handle the number or volume of victims/paper work.

6.5 Sentencing the fraudster

The sentencing of fraudsters is similar to those associated with other forms of white collar-crimes, though, courts do not deal with all cases involving scams. Regulatory bodies such as the Department of Trade and industries and the Telecom authorities use sanctions such as fines and withdrawal of licences from certain offenders as punitive measures. Depending on the scale of the offence, police interest and public concern, the scam in question might end up in a criminal court. On the other hand, nothing stops a victim of fraud from seeking redress in the court of law. In practice, the action of one victim draws attention and other victims usually decide to prosecute as a team or in a group. It has been argued that sentences for fraudsters are generally mild when the value of theft or fraud is taken into consideration, and the fact that the impact of the fraud on victims and society at large is not usually brought into focus. Below is a comparative discussion showing the degree of sentences advance fee fraud fraudsters get compared to burglars and the official tariff structure.

Of relevance to our discussion is Sprack's presentation of the maximum terms of imprisonment for some common statutory offences. First, he notes that common law offences are *prima facie* punishable with imprisonment for life. The court can use its discretionary powers in this regard. At present, there are few remaining common law offences. For those that exist, certain statutes have altered the common law position with regard to penalty. Thus, the maximum sentence for the common law offence of common assault is now 6 months and for conspiracy to defraud it is 10 years. The penalty for murder is mandatory life, and that for manslaughter is a good example of discretionary life sentence (Sprack, 1995: 262). The relevant sentences of fraud and burglary offences are as follows:

OFFENCE	PENALTY
Child destruction, abortion, rape, intercourse with a girl under 13, causing grievous bodily harm with intent, possessing a firearm with intent to endanger life or carrying one with intent to commit an indictable offence, criminal damage committed with an intent to endanger life or by use of fire, <i>aggravated burglary, robbery</i> , importing or supplying controlled drugs in Class A	Imprisonment for life
<i>Burglary of a dwelling, handling stolen goods</i> , blackmail, obtaining or, communicating etc. information useful to an enemy contrary to s. 1 of the Official Secrets Act 1911, supplying controlled drugs in Class B.	14 years
<i>Obtaining property by deception, burglary</i> (other than of a dwelling), non-aggravated criminal damage, indecent assault, and forgery and counterfeiting offences where the offender's intention in making, using etc. <i>the forgery/counterfeit was to pass it off as genuine to the prejudice of another</i> , causing death by dangerous driving.	10 years
<i>Theft</i> , perjury, bigamy, living on the earnings of prostitution, and having possession of a class a controlled drug.	7 years
<i>Going equipped for burglary, theft or cheat.</i>	3 years
Dangerous driving, <i>forgery and counterfeiting offences where there was no intention to Pass off the article concerned as genuine, making off without payment</i> , having an offensive weapon, unlawful sexual intercourse with girl aged 13, 14 or 15, and having possession of a Class C controlled drug.	2 years
Obstructing a police constable in the execution of his duty.	1 month

In this thesis, some sentences given to fraudsters including the estimated cost of their crime are highlighted below.

- A former lawyer involved in a fraud that cost £82,000 was given a two-year suspended jail sentence.

- In a bogus bank scam that cost victims over £7 million, the principal actor who was already disqualified from directorships, and other culprits were imprisoned for between 4-8 years and disqualified for between 10-15 years.
- In an upfront fee for loans scam that netted £13 million, offenders received jail terms between 7-9 years and disqualification from directorships for 7 years.
- In one of the ostrich meat investment scams that netted £22 million from 2,800 victims, the two offenders were jailed for 3.5 years each.
- In a pyramid scheme that cost hundreds of victims £1.5 million, the offender was jailed for 4.5 years.
- An accountant who made £1.4 million from a swindle was jailed for 4.5 years.
- In another ostrich meat investment scam, which cost 115 victims about £1 million, the principal actor absconded. His wife and partner were given a two-year suspended sentence and ordered to pay £1 (one pound) as compensation for her role in the fraud involving £275,000. The judge believed her husband used her and left her penniless.
- In the a time-share property scam that cost 17,000 victims about £30 million, the main fraudster who is believed to be worth well over £300 million was jailed for 8 years and ordered to pay £266,367 as costs. His partners were given between 2.5-4 years jail terms. Another partner/lover got a two-year suspended jail term and was ordered to pay costs of £50,000 because of the manipulative role of her lover. Confiscation procedures were to take effect immediately. The trials cost the taxpayer about £10 million.
- For selling bogus titles to over 20 victims valued at £80,000, two offenders got 160 hours of community work and were ordered to pay costs of £7,500, partly because of their co-operation during investigations and the trial.
- A fake informant who swindled £100,000 from victims over the years was jailed for 2 years for a £3,000 fraud for which he was charged.
- A Food Guide con man netted £500,000 from restaurants but was not prosecuted by the CPS because he actually issued certificates though they were worthless.
- A bogus sheikh who's crime in hotels cost £24,000 was jailed for nine months.
- In another case, bogus peers who cost victims £32,000 were given two-year probation due to their ages and health.
- A fake priest who cost victims £43,000 was jailed for 3 months.

- A fake medical doctor who made over £500,000 over 10 years was jailed for 5 years.
- Bogus charity box collectors made over £1 million in about 5 years. They both received three and two-year jail terms. The question of refunds was not possible because records did not exist.
- A bigamist who swindled women out of £2 million in 6 years was jailed for 4.5 years.
- In a case of false promises of marriage, the offender made over £500,000. He was ordered to refund £450,000 or face a two-year-jail term.
- A fraudster that duped his mother-in-law out of over £1 million, but accepted responsibility for only £60,000, was jailed for 5.8 years.
- In this thesis, some cases of reported scams involved fines and caution from regulatory bodies such as Trading Standards and Premium Rate Line authorities.

The highlight above is an attempt to show the degree of sentences fraudsters receive. The cases of fraud reveal that on the average, a fraudster found guilty of theft of about £500,000 will probably get a two-year jail term. Next, it is important to understand that the official tariff structure and mitigating factors form part of the reasons for the type of sentence fraudsters receive.

In sentencing, to some extent judgements take precedence from previous ones. Emmins (1985: 299) notes that “the only general guidance given by the Court of Appeal on sentencing levels for obtaining by deception etc., is that contained in *R v Bibi* [1980] 1 WLR 1193 where Lord Lane CJ said that the shorter sentences would be appropriate for the more petty frauds where small amounts of money are involved”. Further, if fraud is committed in a desperate attempt to keep an initially honest business afloat a more lenient penalty is favoured. Thus, according to Emmins in *R v Pal* (1981) 3 Cr App R (S) 343, 4 years was cut by the Court of Appeal to 2.5 years in a case where P ordered £225,000 worth of goods, sold them, used about half the money to pay off earlier creditors, and did not account for the remainder of the money. The suppliers received nothing. The appeal was allowed because P had run his business honestly for several years, and the fraud had ‘developed by robbing Peter to pay Paul, rather than by a deliberate attempt to amass money fraudulently. Emmins

states with examples where low sentences were given for cases involving deliberately planned, sophisticated and large-scale deception (Emmins, 1985: 299).

With regard to burglary, the maximum penalty contrary to “Section.9 of the Theft Act 1968 is 14 years imprisonment. In giving guidance on sentencing for burglary the Court of Appeal draws a distinction between burglaries from dwellings and burglaries from commercial premises” (Emmins, 1985: 292). Emmins also states that their Lordships consistently regard burglary from a dwelling as a serious matter which ought to result in a custodial sentence, even if the value of property stolen is small and/ or the offender is of previous good character and/or is young. He notes that reasons for this stern approach is that burglary in a house causes ‘great stress’ and ‘induces a feeling of insecurity’, so that’ when a house has been burgled it never seems the same again’.

In burglary offences because of the ‘non-complicated’ nature and value of their crimes, magistrate courts handle most cases, however, more serious cases are committed to the Crown Court. In a survey involving 3,000 magistrates’ court cases and 1,800 Crown Court cases and Justices Clerks in 12 areas, Flood-Page and Mackie (1998) examined sentencing practices. Some of their findings include the following: that the Magistrates’ Association’s guidelines give an entry point of custody for burglary of a dwelling but one of a community sentence for non-domestic burglary. Their study also revealed that burglary of a dwelling was much more likely to result in a custodial sentence. Factors mentioned in the Magistrates’ Association guidelines as indicators of a more serious offence were that the offence was:

- committed at night
- committed by a group of offenders
- executed in a professional manner
- involved ransacking or soiling the property, and
- where the occupants were deliberately frightened.

In one example from their survey (Flood-Page and Mackie, 1998), a 27-year-old offender was sentenced to 12 months imprisonment for two offences of non-domestic burglary and one assault on a police officer. One offence involved breaking into a college room and stealing a television. The other theft was at a café used by the

disabled. In another example, a 19-year-old man who stole property worth £420 from a neighbour was jailed for 4 months. He was a repeat offender. In general, Flood-Page and Mackie note that offenders in a quarter of cases involving loss or damage valued at more than £200 received a custodial sentence compared to just seven per cent of offenders where the loss was less than £200.

On the other hand, concerning the offences of fraud and deception, the survey revealed that only 9% of those convicted of fraud or deception received a custodial sentence. Non-custodial sentences include fines, probation orders, supervision orders, suspended sentences and community service orders. In one example, a 29-year-old man who defrauded the Department of Social Security of £13,000 was jailed for 4 months. In this case, the magistrate remarked that custody was inevitable because the offence was carried out over a long period. Another offender also got 4 months for stealing £5,000 from his employers. In general, all the offenders sentenced to custody were convicted of more than one offence.

With regard to the decision to imprison, a custodial sentence was more likely, if the offender was seen to pose a risk to the public, if the offence was planned or unprovoked, if serious injury was inflicted or where the victim was especially vulnerable. Second, those with previous convictions, especially for a similar offence, were more likely to get custody. Also, an offender who was subject to a court order when they committed the current offence was more likely to receive a custodial sentence (Flood-Page and Mackie, 1998).

It was also discovered that in cases involving a breach of trust, magistrates' courts were particularly likely to impose a community penalty unlike Crown Courts who preferred a prison sentence. The use of fines was on the decline in both courts, and fines were mostly used for first offenders who are in work. Compensation orders were also reduced especially for its use as a sentence in its own right. Magistrate courts also used different methods to calculate the size of a fine. While some courts felt fines should be in proportion to the offender's income, others felt that it was wrong to penalise wealthy offenders.

In Crown courts, in general, offenders who pleaded guilty had their sentences reduced. In cases of fraud and forgery, most sentences were suspended. The commonest reasons for suspense were illness or caring responsibilities. Fines were also most likely for offenders in work. The amount repayable over time is small. For instance, the maximum amount generally seen as payable by a person on income support is £5 a week. Compensation orders were few, mainly because the offender did not have enough money to pay. Women were less likely than men to receive prison sentences when other factors are taken into account.

Finally, from all the above, it is clear that the offence of fraud is not viewed as severe or 'life threatening' when compared to an offence such as burglary. Public perception is also similar to this. The official tariff also indicates that fraud and burglary fall under the same umbrella with regard to maximum sentences. As in virtually all trials, the discretion of the judge is important in sentences and the maximum punishment is always available to be used and it appears that violent offences are treated more severely. On the other hand, the degree of judicial discretion has been a subject of debate, as it is often argued that maximum discretion is likely to lead to injustice (Ashworth, 1995). Ashworth notes that it is wrong to present binding rules and absolute discretion as the alternatives, and discretion opens the way both to flexibility in response to the facts of cases and to unjustifiable differences in the personal or local approach of judges and magistrates. Generally, courts seem to treat fraud and deception as rather more serious than ordinary theft, because of the element of pre-planning in deceptive offences unlike the often spontaneous reaction to unexpected temptation exhibited by thieves (Emmins, 1985). Though actual sentences reveal a picture of milder sanctions.

Further, one can assume that the rate at which fraud in particular advance fee fraud is committed with impunity shows that offenders are not deterred. Known offenders including those banned from holding positions as directors 'openly' disregard their restrictions. This are indications that they have not been reformed either while in custody or through other alternatives to custody or sanctions. The courts, for certain categories of fraudsters also favour non-custodial sentences especially if public interest in the matter is minimal. Non-custodial sentences include: probation orders, community service orders, combination orders, curfew orders, supervision orders,

attendance centre orders, fines, binding orders, various forms of disqualification orders, forfeiture orders, deportation, and hospital orders. These orders could be applied individually or jointly depending on the nature of the offence and the court's decision.

It has been suggested that a great majority of offenders be dealt with by some means other than custody (Sprack, 1995). Reasons for this include doubts on the efficacy and relevance of custody and its costs. The researcher is of the view that fraudsters should be given 'indeterminate' imprisonment, which can be withdrawn once victims are compensated to a satisfactory degree. This approach would definitely create a dilemma for the fraudster who has initially calculated the cost/benefit of a few years or months in 'solitary' confinement and coming out to enjoy and reinvest the proceeds of crime.

6.6 Conclusion

Using the technique of deductive analysis it has been possible to arrive at various attributes or characteristics of fraudsters who manipulate trust and confidence to obtain money, goods or services in cash or kind by false pretences. It is important to reiterate that varieties of fraud are numerous and cannot readily be exhausted in a 'single survey of this kind'. With regard to the categorisation of scams adopted in this thesis, it is likely that all forms of fraud will fall under one or more of the categories identified.

The table below is an attempt to highlight the major attributes of fraud or scams using the face-to-face approach and that committed from a distance. As shown in the examples, each variety or pattern of scam also plays on the disposition of the victim, with the dishonest victim losing more from a scam.

Table 6.5

Attributes associated with the modes of trust building for fraud, and the victim's disposition

Fraud via face-to-face contacts	Fraud from a distance
Fraud carried out in all arenas	Fraud perpetrated in all arenas
Use of plausible story line, service or product. Honest/innocent victims and naïve victims targeted. Some physical contact with certain dishonest 'victims' depending on the scam.	Plausible explanation including some fiction (too good to be true). Gullibility and greed/dishonesty of victim exploited. At a later stage, physical contact could occur.
Fraudster and victim physically interact, though the actual identity of fraudster is hidden or is not ascertained.	The fraudsters identity is limited to the correspondence with the victim. Hence anonymity. In letters, prefixes such as Dr, Engr. Barrister etc. are commonly used.
All categories of victims are affected, but the elderly are preferred, and those who are thought to have savings. Deliberate target selection efforts are made.	All categories of victims that can be approached using public registers or mailing lists, and those who respond to advertisements are pursued vigorously. Mailings are often personalised.
Charismatic attributes and verbal skills of the fraudster are necessary to attract victims and elucidate trust. One-to-one relationship with victim is emphasised.	Victims are recruited through attractive correspondence such as glossy brochures, TV and newspaper advertisements. The use of catch phrases such as 'free' 'savings' and 'profit' are usually adopted.
Elaborate operational structures may be required in case of visits by victims (e.g. office building, furniture, aesthetics etc.) - and other professional impressions.	The fraudster can operate comfortably from his home. Mail box address are required to collect payments if plastic cards are not used.
The use of technology could be minimal. Distant methods could be used before physical visits or contact.	Technological gadgets (fax, Internet, telephone, photocopier, credit card system, computers etc.), and the postal system play an important role especially for multiple contacts over boundaries.
Number of victims limited to those that can be reached physically.	No limit to number of would-be victims, as long as they can be reached via post, the Internet or through advertisements.
For both methods of obtaining/eliciting trust, the goal is to collect money upfront for a product or service (this maybe provided bought substandard), hence the deception/fraud.	

Central to all types of fraud is the plot of the scam. This could be a manufactured event such as in education and training frauds or an excuse incorporated into previous

or up coming events. During the turn of the millennium, many frauds were executed using the calendar. From the 'world would end' theories as in the religious scams to service providers collecting upfront fees to cover preparations for unexpected blackouts, computer breakdowns etc. The would-be victim has to be convinced to trust the fraudster to the extent that he or she pays for a product or service upfront. In most cases to sustain the scam, some type of substandard services and products are supplied. Thus, the scam begins with an idea, the necessary structures put in place, the victims contacted and exploited, and then the fraudster vanishes or liquidates 'legitimately'.

An important aspect of fraud is its association with legitimate practices or enterprise. Certain legitimate business transactions thrive on generally accepted practices. A good example can be found in import and export trading from which certain frauds could emerge. For instance, Levi (1981: 126) notes that

long-firm frauds arise within a broader political economy in which credit plays a central role. The importance of the credit mechanism occurs at all levels, for the acceptance by the people of a national currency as a medium of exchange is a form of credit. At a more prosaic level, there is a universal demand for credit to bridge the period between the obtaining of goods and their resale to 'final consumers'. Consequently, even those who are psychologically attuned to Victorian prudence are forced to accept credit as yet another commercial 'fact of life'...The classic 'theory of the firm' states that at any given price, subject to the supply capacity of the firm, the object of the firm is to maximise sales.

In the real world, one has to introduce the concept of risk, and as a consequence, one has to place into proportion the problem of fraud (Levi, 1981). The risk of being defrauded is only one among many types of commercial risk and, compared with the risk of losing money from the supply of goods to an honest trader, it is a risk, which occurs with low frequency. It cannot be over-emphasised that credit is granted not only on the basis of a belief in the integrity of the debtor firm, but also on the basis of its predicted ability to pay for the goods supplied. Therefore, in a world characterised by economic uncertainty, caution would need to be exercised in the granting of credit even if there were no long-firm fraud. This principle also applies to investment transactions and other business activities that involve credit arrangements. Customers pursue goods and services with certain affiliations, likewise, entrepreneurs are often driven by routine and habitual preferences, prejudice and emotional attachments etc

(Bourdieu, 1990), in where they seek to invest their resources and how they conduct their business with other traders (Edwards and Gill, 2001).

One of the fundamental prerequisites of the fraudster is that first and foremost the individual must be a 'good' liar. The fraudster should also be willing to take risks (arrest, prosecution, reputation, reprisal from victim, society etc.) and be confident (charismatic or be sure and zealous). These attributes help to create the required trust for the scam, and risk taking on the part of the victims. To arrive at the required level of trust (for voluntary handing over of cash, goods or services by victim), certain conditions ought to be fulfilled. These conditions depend on several factors including the pattern of contact, face-to-face or via distance. Others include timing, type of scam or product, characteristics of victims etc.

Finally, for any fraud involving upfront payments to be successful, the victim must make the financial commitment in advance of the transaction. The honest victim would fall prey to plausible deals and would not commit a huge sum unduly without passing through well-established and known channels or seeking proper advice. The naïve victim will jump at the slightest opportunity to make abnormal profit. The fraudsters 'dream' victim is the dishonest individual who is prepared to support illegality with all available resources. In a typical example a plausible explanation is given for the transfer of some money, and just for the provision of an account for this transfer, a staggering sum as commission is offered. When the victims send the advance fees, communication is severed or continued for more extortion.

The final chapter addresses issues concerning the prevention of fraud involving the manipulation of trust and obtaining money, goods and services by false pretences.

Chapter Seven

Preventing fraud

It is not possible to have a crime free society, but certain practices can ensure that its occurrence is reduced. On the macro level, addressing social, economic and political factors positively, would subsequently eliminate or reduce criminogenic circumstances or situations. The nature of fraud is such that the word 'prevention' could be substituted for 'reduction'. Most frauds result from the deliberate abuse of trust. Therefore, it is unlikely that everybody including businesses will act honestly at all times, especially in the process of competition for resources. It is not possible to engage in social and economic transactions or activities without believing that trust exists. Where the stakes are high, the need for contracts or agreements arises, but is still no guarantee that there will be no disputes and that trust will not be breached.

The concept of risk is usually an important factor considered in preventive measures of all kinds (environmental, developmental, criminological etc). Johnston (1997: 192) notes that it is clear that police and criminal justice agencies make use of policies based on assumptions and techniques derived from risk management. He mentions Nalla and Newman's (1990) five defining principles of risk management, which are relevant for fraud prevention. These are:

- to anticipate risks by proactive means;
- to appraise the character of a given risk together with the probability of it being realised;
- to calculate the anticipated losses or pathologies arising from a given risk;
- to balance the probability of any risk occurring with the anticipated losses or pathologies arising from it;
- and to control risks through direct intervention or to displace or transfer them elsewhere

In a nutshell, "risk management is actuarial, proactive and anticipatory, its deployment requiring the collation and analysis of information about and the systematic surveillance of those at risk or likely to cause risk" (Johnston: 192).

The principles of risk management are necessary in crime preventive strategies. With regard to fraud involving the manipulation of trust, for practical reasons such as space, at best we can only touch on key areas where this fraud can be prevented or reduced. The prevention of fraud can be approached from different perspectives based on the dynamics of deceit/trust/risk/face-to-face/distance as they relate to would-be victims, victims, would-be fraudsters and offenders. Thus, this discussion is categorised into the following:

- Minimising risk to victims
 - Victim enlightenment strategies.
 - Creating impediments against crime/fraud.
- Maximising risk to fraudsters
 - Proactive ‘policing’ and investigations
 - Appropriate sanctioning of offenders

It is important to note that though these categories are discussed separately, they are complimentary in practice.

7.1 Minimising risk to victims

Addressing the victim’s conception of trust in face-to-face and contacts from a distance is necessary to reduce or eliminate victimisation. The role of would-be victims and victims are important in this regard. The victim occupies the most important position in the process of any scam. Emsley, (1987) notes a remark by Parry which states that:

Fraud is a more complicated offence than larceny, and defrauders sometimes get the better of the law. Cheating is not always a crime and successful cheating is a question of better education (Parry, 1914: 154).

This statement buttresses the importance of information for fraud. Virtually all fraud cases especially advance fee frauds involves the manipulation of trust and confidence

and taking advantage of existing infrastructure and the ignorance or naivety (in some cases) of victims. In certain situations, the victims do not have to be ignorant or greedy, they could be the victim of distrust or lack of integrity in a legitimate business transaction or arrangement.

Highlighting the role of the victim does not imply that all 'genuine' victims are responsible for their demise. This thesis revealed that victims could be categorised into the honest, the probably not dishonest but naïve, and the dishonest. Irrespective of these categories, all victims have a role to play in fraud prevention especially reporting unpublicised scams to forestall them from spreading. Co-operating with fraud investigators is also essential.

Victims should be wary of potential fraudulent proposals. For instance in a typical advance fee fraud scam, a proposal by letter or mail will stress the urgency of the matter. The confidential nature of the transaction is emphasised. Claims are made that the writer has connections in high places and relevant bureaucratic authorities associated with the deal. Offers of physical visits are encouraged to confirm arrangements if necessary. Forged official-looking documents are presented with appropriate letterheads. Blank letterheads are also requested and bank details of the victim. Certain fees are demanded which must be paid in advance if one wants to reap the attractive dividend. Victims are advised not to ever provide personal information or documents to unknown business associates. If credible checks can not be carried out on the prospective business partner (even if the deal is legitimate), the best option is to forgo the transaction. In sum, it is important for victims to amend their behaviour positively – as it concerns trust and fraud.

Certain reasons have been adduced why certain fraud victims do not pursue their cases with the relevant authorities. This includes the general notion of shame exposed by their conduct and the feeling that the criminal prosecution if eventually successful will not compensate them for their financial loss (Walsh and Schram, 1980). However, recent events especially from examples of cases in this thesis show that some victims report their plight to the media who assist them in recoveries and also help in preventing reoccurrence through publicity. On the other hand, victims also weigh the cost benefits of pursuing a fraudster. This depends on the value of what

they have lost. Legal fees, court appearances etc could also influence their decision. It is important for the police in particular to encourage victims to come forward, at least to ensure that a particular scam is made known and hopefully stopped.

Finally, in scams, the success of any scam ultimately depends on the victim's reaction. Though this is not as simple as it appears. If people ignore unsolicited correspondence, and act very carefully in all their dealings, most scams could be avoided. Hence, the fraudster will be put out of business. This approach may not have any impact for the dishonest victim that intends to profit from some illegal activity, and is eventually conned.

How can a rational decision be taken as to when trust is warranted? The cost of not trusting may be less acquisitions, no dividends for not investing in viable ventures, exorbitant legal fees, ill-feelings in human relations etc, but the cost of trusting could be grave in terms of financial loss and emotional ruin. Certain agencies or establishments can provide the necessary information and atmosphere for victims to protect themselves - for instance, it is likely that most people do not know that the list of disqualified directors is available at www.companieshouse.gov.uk. These organisations range from the media to outfits within the CJP (police, courts etc) and society at large as managed and controlled by the government. Private and non-governmental organisations can also serve as good reference points. Thus, this takes us to the other preventive approaches below.

7.1.1 Creating impediments against fraud and crime

Impediments could come in different forms. For instance, creating situational obstacles/difficulties for the criminal, which should include efforts of certain agencies and measures that are structural/ physical or attitudinal. The roles of certain agencies (e.g. the media, professional bodies and government agencies) are crucial in this approach. Some of these strategies are discussed below.

7.1.1.1 Individual and organisational status-assessment

Of relevance is Nock's (1993) argument on the need and use of 'ordeals' and 'credentials' as a means of generating trust. Nock notes that an important criterion in trusting has to do with one's reputation. He defines reputation as a shared or collective perception about a person. Conformity to standards is necessary to earn a good reputation. Though in the case of scams in particular, the fraudster takes deliberate steps such as forging a 'trusting' relationship, and creating the enabling reputation to collect upfront fees from the victim. However, as Nock argues, the increasing levels of privacy in modern societies, heterogeneous populations, technology, and change in familial living among other situations makes the monitoring/verification (referred to as surveillance) of strangers difficult. For Nock, to establish and maintain reputations in the face of privacy, social mechanisms of surveillance are elaborated and developed. In particular, various forms of credentials and status-verification procedures produce reputations that are widely accessible, impersonal, and portable from one location to another. Thus there are two methods used to establish or maintain reputations among modern strangers or in urban settings - credentials and 'ordeals' or status assessments such as credit investigations.

The point here is that credentials gives a person access to credit or confidence. For example references and credentials that certify competence include certificates showing completion of a course of study, membership in formal or voluntary associations, or credit worthiness should be made accessible for verification by members of the public that have been approached by people selling business proposals or other deals. Thus individuals soliciting for patronage should be willing to accept some degree of their privacy being eroded. On the other hand, an ordeal is a ritual that determines whether an individual is telling the truth. It always begins with a presumption of guilt or unresolved doubt (Nock, 1985: 15). Nock notes that common methods of ordeals include drug tests, lie-detector tests, and obligatory confessions in communes or churches. With regard to fraud, assessment for 'fraudsters' could entail character references and documented dossiers from verifiable sources.

On the other hand, with regard to the above, the pre-planned fraudster is capable of ensuring that he passes tests given in the community. This is achieved through deliberate activities involving training, and character and credit building. It has been noted that much of our lives lie beyond the legitimate scrutiny of others and organisations (Nock, 1985). Examples of fraud cases involving relatively small sums of money per victim show that the offenders did not encounter any reasonable degree of surveillance or assessment to ascertain their reputations.

Next, important agencies that could assist the public or victims with information about potential fraudsters, their techniques and preventive strategies are public enlightenment organisations.

7.1.1.2 The media

The media have an important role to play in the whole process of preventing fraud. First, in certain cases, it is through the services of the media that the invitation to take part in a scam is transmitted or advertised. Authorities within the mass media can make extra efforts towards the vetting of commercials that are bogus, although in advertisement pages in newspapers, the public is advised to verify claims (usually in small prints). Warning or advisory signs should be conspicuous. However, fraudsters can conceal relevant information about themselves or business while placing advertisements. While acknowledging that the print media in particular regularly publicise the activities of fraudsters and the nature of scams, there is still room for improvement. Thus, the more attention scams receive the more likely that most people will get to know about it especially in the 'too good to be true' deals.

Media coverage plays its role in different aspects concerning crime. It is important to understand how they operate especially from a social and sociological perspective. With regard to frauds, media coverage of white-collar crime is important because it can influence public perception of harmfulness and of what 'the law and order problem' consists of, with consequent effects on enforcement resources (including police powers) (Levi, 1999b). The decision-making of tribunals including jurors,

share prices of companies involved and occupational opportunities of those sanctioned can also be affected. The media could also make people or the authorities re-frame policy.

Levi notes that content analysis of media coverage of crime has shown that they tend to focus on the reporting of street crime, industrial confrontation, soccer hooliganism, and terrorism. These areas are obvious sites of ideological and political conflict. Further an examination of media coverage shows the way in which the print and electronic media, on the one hand, and 'authoritative figures' or 'primary definers' (the police, politicians, and interest groups granted credibility status by the media), on the other, interact to generate 'moral panics', or at least, promote the idea that the events have been taken seriously and that something is being done (Levi, 1999b). Thus, the media are in a position to focus 'public' attention. For example according to Levi, one could speculate that the extensive coverage of the Guinness case may have been as a result of the nature of the company (high-profile), and the fact that it was the SFO's first case.

Furthermore, it has also been observed that the plight of the losers receive little prominence compared with that of the defendants (Levi, 1999b). Where no famous names are involved as offenders or victims, and where the offence is highly technical, reports do not reach the tabloid papers at all, unless something dramatic happens. For example if there is an appeal by the Attorney General to the Court of Appeal against an allegedly over-lenient sentence. This gives it some spice. In the case of Barings Bank, the major culprit or 'rogue trader' Nick Leeson secured media interviews, and television, book and film offers became areas of interest. In some cases the criminal receives financial gratification from media establishments. Activities of close relations of the crook such as their spouse also attract media attention. For example, Levi notes that in Nick Leeson's case (Barings Bank), the *Mail* newspaper paid him £100,000 for his reflections in prison, though the payment contravened the Press Complaints Code. The newspaper defended this by saying his comments were of wider public interest and for his cancer treatment.

An example of the notion that 'crime pays' or can result in some income after conviction is that of the fraud in Barings Bank. Recently in the *Independent*

newspaper (15/03/01), an article referring to Nick Leeson notes that “he may have brought down Barings Bank and lost £850 million, but Nick Leeson’s financial advice is proving irresistible to British businesses. The man who spent four-and-half years in a Singapore jail has joined the celebrity ex-con speaking circuit in what promises to be a sell-out tour of the country”. It was noted that Leeson donates part of his earnings to charity, and a portion also goes to Barings’ liquidators. His talks are world-wide. For instance, it is reported that in Amsterdam his original fee was \$100,000 (£68,000) for a two-hour question-and-answer session with 250 stockbrokers and an appearance on a television show.

In another article in the *Times* Newspaper of 22/03/01 by Paul Lashmar, it was reported that “the attempt to turn the Krays’ story into a television rating battle has laid the BBC open to allegations of shabby journalism and a serious loss of objectivity”. For over 30 years, the Kray gang was known for their bloody crime careers in East London. The BBC is said to have paid about £280,000 to the makers of the documentary. In as much as the media do not intend to ‘corrupt’ society, they are running a business. They are inclined to publish stories that sell. At the same time the criminals are ever willing to get into a book or film deal for several reasons such as making ‘history’ and financial gratification. The usual defence is that they have paid their price to society by completing their prison term. All this leaves us with something to ponder – ‘does crime pay’?

Further, on the negative side, the media may play a significant role in fostering antisocial behaviour. The electronic media are often criticised for their glorification of violence and sexual exploitation. They may also be accused of promoting the values and lifestyles of a marginal group. Media celebrities frequently flaunt their unconventional, self-indulgent behaviour, glorify the use of illicit drugs, make light of their marital problems, and lay emphases on material possessions (Gabor, 1994). Thus, Gabor concludes that society cannot eradicate all unscrupulous and criminal behaviour, but through placing a strong emphasis on honesty and integrity at all levels - in the home, school, business, professions, and political circles - we will all be more inclined to pause when confronted with specific opportunities to exploit others.

To sum up on issues concerning the media, the above include instances where media interest has raised revenue for fraudsters one way or another. The implication of all this is that criminals can plan ahead of their apprehension. They could sell their stories for profit though certain laws guard against this. On the other hand, events have shown that the media is the primary mechanism through which awareness about crime is raised. For instance, a particular Friday column in the *Mirror* newspaper called *Sorted* is involved in investigative journalism, and reports on scams and improper business activities. In a good number of cases they have helped victims retrieve deposits, and have drawn the attention of the relevant authorities to fraudsters who have been subsequently dealt with. Other print media are engaged in this type of activity but in varying degrees. Television and Radio can be useful and need to be used more often. The concerted efforts of all will definitely keep the victim better informed on activities of fraudsters. Examples of Television programmes that are concerned with crime issues include *Inside the Criminal Mind*, *Scenes of Crime*, *Crime Watch* (Channel 5), *Crime Watch Daily* on BBC 1, and *The Art of Crime* shown on Channel 4 Television on 13/03/01.

7.1.1.3 The role of financial institutions and service providers

Another arena where fraud commonly occurs is in the area of financial services. Prevention mechanisms against guilty company directors and persons selling financial services are limited (Levi, 1999). Financial service providers have to be vetted as 'fit and proper' persons before they can be licensed to operate. Levi notes that there is no law preventing anyone setting up in business, however ill-qualified they may be by competence and/or morality, and no bar upon their trading at the risk of others, provided that customers are willing to offer people investment opportunities. In the example of the Ostrich Farming Corporation Scam (Case No. 7), the *Times* newspaper (11/05/96) noted that one of the grounds for the DTI's (Department of Trade and Industry) wish to wind up the company was that one of its directors had shown himself to be unfit in the past. He notes that if this was the case, why was the individual allowed to become a director of the OFC in the first place? Financial and business regulators ought to be more efficient in the vetting of businesses and their

proprietors. Other agencies such as charity control bodies, professional organisations etc, need to increase their efforts.

7.1.1.4 The use of situational measures

The situational measures that can be used to prevent and reduce fraud are those associated with situational measures or methods of crime prevention which have been applied with some degree of success, especially with regard to the offence of burglary and other forms of theft. Situational measures have also been used in certain types of fraud such as those involving credit cards, where anti forgery and sophisticated coding techniques have been applied. With regard to fraud involving confidence tricks, the usage is limited. This is due to the nature of the crime, as the fraudster operates within conventional social and business practices. In an attempt to understand how fraud can be prevented through situational measures, we shall take a brief look at how this concept has been applied to the offence of burglary. Burglary is one of the most common property offences in the UK and probably all over the world.

Theory

Clarke's (ed.)(1997) integrative illustration of the Opportunity Structure for Crime integrates variables of traditional criminology and situational/recent variables of the newer theories. In this approach the opportunity, rational choice, routine activity and life style theories are adopted depending on the situation or circumstance. There are three components of the criminal opportunity structure: targets; victims; and crime facilitators. The physical environment, lifestyles and routine activities of the population supply targets. The physical environment, lifestyles and routine activities are themselves determined by the broader socio-economic structure of society. Offenders and their motives are partly determined by the socio-economic structure through mechanisms such as alienation and sub-cultural influences. Thus, situational crime prevention is defined as an approach that involves the use of opportunity-reducing measures that:

- (1) are directed at highly specific forms of crime;
- (2) involve the management, design or manipulation of the immediate environment in a systematic and permanent way as possible;
- (3) makes crime more difficult and risky, or less rewarding; and
- (4) excusable as judged by a wide range of offenders (Clarke (ed.) 1997: 4).

Criticism of this theory include that it is said to run counter to decades of evidence about the important causes of crime which are seen to be rooted in psychological and social disadvantages of the offender and society in general (Newman et al. (eds.), 1997). Critics have also expressed fears of displacement due to blocked opportunities (Bottoms, 1990). Furthermore, many opportunity reducing measures which include intensified surveillance of public space and other intrusions on everyday life can threaten civil liberties and result in a 'fortress society' (Newman et al., (eds.) 1997). Other criticisms revolve around philosophical and ethical issues, which concern individual rights (e.g. on secret surveillance), victim blaming, and situational strategies benefiting mainly the affluent in society who can afford such measures (Newman et al., (eds.)(1997).

Situational measures and burglary: an example

Burglary was predominantly a night offence when 'guardianship' and 'surveillance' were minimal. For example, in the 17th century the 'puzzle lock' now called the combination lock, was one of the new inventions to forestall burglary – target hardening (Walsh, 1980). Burglars still operate during seasonal vacations in wealthy homes (i.e. taking advantage of the routine activities of victims) and if possible, they obtain information from servants to successfully carry out raids (this enhances their decision making). Walsh notes that when people began to use bank vaults, highly skilled burglary – targeting safes in houses, became uneconomic. Preventive strategies commonly adopted to combat burglary include newspaper reports and advice (a form of publicity campaign), property marking, neighbourhood watch initiatives and target hardening techniques – stronger locks etc.

Close Circuit Television (CCTV) and fraud

At present, preventive strategies tend to address the situation or circumstances that encourage or facilitate crime/fraud. A preventive gadget that could deter burglars and certain fraudsters is the Close Circuit Television (CCTV). Researchers have investigated and assessed the role and effects of this technology especially with regard to its social implications and interpretation as well as its crime prevention and reduction benefits. Though the extent of its efficacy has not been conclusive (Brown, 1995; Norris and Armstrong, 1997, 1999; Norris, Moran and Armstrong (eds.) 1998). For instance, while burglar alarms are intended to attract the attention of neighbours or security agents, cameras can aid the identification of offenders, and if monitored could prevent or forestall the crime. Studies (e.g. Bennett and Wright, 1984 and Cromwell et al. 1991) have shown that burglars are not comfortable when some surveillance may be taking place. According to Beck and Willis (1995: 159; 197)), though their study on town and shopping centres revealed that managers were of the opinion that CCTV helped to control crime and nuisance problems, they note that:

The burgeoning use of CCTV appears to be a product of its seductive appeal as a 'high-tech fix'. This is seen as an example of 'security wish fulfilment'. CCTV may work in a number of different ways: more effective deployment of security guards or police; deterring would-be offenders; identifying offenders and obtaining photographic evidence; reassuring town centre users; warning those whose behaviour is suspicious; highlighting crime problems; tracking offenders on the move; and increasing the efficiency of town centre and shopping centre management.

With particular reference to fraud, certain forms of technology can be used to deter fraudsters. Recordings from CCTV have been useful in apprehending fraudsters and conmen involved in impersonation and obtaining money from establishments, and cashing fraudulent cheques. For instance in a television documentary (Channel 4 - The Art of Crime, 13/03/01), a fake auditor using false identities, appearing well dressed and confident, convinced offices that he was the auditor from Head office. When allowed access to their safes, he made away with their cash through the back door. This confidence trickster was apprehended when a CCTV caught him in action in a Travel Agency. His photo was then publicised on the Crime Watch programme.

Thus in relation to fraud, CCTV is capable of deterring fraudsters especially in banks and shops where phoney cheques are cashed. The photo identity of the fraudster can then be retrieved. Principally, primary crime prevention intends to increase the risk of offending or increasing the likelihood of being caught. It has been noted that the relevance of Closed Circuit Television (CCTV) to crime prevention is that:

It seeks to influence the decision-making of the 'rational' offender who, on calculating the risks, will choose not to commit crime under the gaze of the cameras because there will be a possibility of being caught. It is therefore a strategy based on deterrence...(Coleman and Norris, 2000: 149).

For Coleman and Norris, there are still major questions about its effectiveness. This strategy is particularly useful in tackling fraudsters who operate using the face-to-face method and hangout in commercial areas. As noted earlier, an identified issue or situation related to the use of CCTV is that of crime displacement. With regard to fraud, using the dimensions of displacement noted by Coleman and Norris when targets are hardened, other avenues are exploited. For instance, if certain scams are given enough publicity, fraudsters are likely to look into other areas not so well known to the general public. This displacement could be geographic (geographical displacement), or victim based - target displacement (from fraud against businesses to fraud individuals, families, friends, the government etc.). In 'perpetrator displacement', friends or relatives of the apprehended fraudster may continue the scam.

Finally, though situational measures appear to be more associated with street crimes, Edwards' (2001) discussion on economic and financial crime as a problem of crime reduction identifies relevant aspects of the situational approach to economic crime. In Edwards' 'problematism', he sums up the conventional approach - that proponents of crime reduction are of the view that significant reductions in crime can be accomplished by addressing the generation and distribution of opportunities for crime. Also, this is also possible without an understanding of the motivations or 'dispositions' of offenders nor the related apparatus of detecting, prosecuting and punishing such offenders. Thus factors that enhance crime include the supply of

suitable targets (e.g. portable valuable goods), real guardianship over the targets, and opportunities produced by everyday routine activities of people. In this regard, it is possible to identify crime 'hot-spots' where most of all these conditions converge or are present.

With regard to the above, this research has identified or confirmed common 'hot spots' or arenas for fraud, namely: in investments, medical/health services and products, religion, education and training, charity, property, relationships, and general goods and services. Aspects of these activities can be targeted and in the process the bogus proprietors will be exposed. For instance, on a busy high street in most commercial areas of the city, advance fee fraudsters can be found operating. Television and newspaper advertisements carry 'too good to be true' publications daily, even though some also carry warning notices beside them. The elderly are often targeted by mail. In this regard, banks for instance can include advice notices in the bank statements of all customers warning them about potential scams in circulation. All these also fall under the umbrella of proactive policing discussed later.

From a macro level, for economic and financial crimes, opportunities for their commission are generated by the increasing supply of motivated offenders. This can be attributed to the increased freedom of movement of citizens within the European Union, the creation of the Single Market, weaker border controls, and developments in transport and communication facilities. Second, the increasing supply of suitable targets such as those associated with electronically based commerce; financial markets that are de-regulated; and the demand for entertainment and leisure which is as a consequence of disposable incomes in advanced industrialised societies. The erosion of capable guardianship in various personal and commercial activities is a contributory factor. Thus it is generally difficult to regulate communications and information technologies as criminals also adapt to changes in these fields (Edwards, 2001).

Consequently, crime reduction with regard to economic and financial offences should be geared towards the increasing the likelihood of apprehension, reduction of opportunities, targeting of repeat offenders and the creation of capable guardianship. For this to be accomplished, Edwards suggests that decisive interventions should be

aimed at manipulating the rational calculations of offenders about the perceived risks of offending - for example through the improvement of security by Internet Service Providers (ISP's), and improving auditing techniques in the financial industry as noted by Levi (2000). Increasing the perceived effort of offending can also be effected. For example enhancing securities for software technology, which disrupts the activities of hackers. Hacking techniques could also be used to infiltrate criminal operations. It is possible for the fraudster to avoid these checks as his *modus operandi* may depend on the voluntary actions of the victim.

A problem associated with all forms of situational prevention includes the social cost of the reduction measures. Young (1997) and Bottoms (1990) have both noted that the 'cure' for crime reduction may well be more painful to bear than the effect of the crimes themselves. For Edwards (2001), the notion of the social costs of crime reduction is important in the politics of advanced liberal democracies. In practice it can be argued that certain levels of certain crimes are tolerated in order to satisfy the principles of human rights, freedom of movement, communication, privacy, a democratic and open society. For Edwards, these conditions have contributed immensely to the growth of the community, although they may also contribute to criminal opportunity.

In conclusion, in fraud/situational prevention strategies, any measure that reduces the anonymity cherished by the fraudster would increase the risk of apprehension. It is not surprising that with the Internet - an 'improvement' to the orthodox postal system - the anonymity attribute is exploited. Though there could be genuine reason to conceal one's real contact address, in most cases, for a legitimate activity, this is not necessary. Advertisements and legal solicitations should be accompanied with adequate identity of the advertiser. There should be conspicuous avenues for victims to verify claims and ascertain who the proprietors are.

On the other hand, it is important to view crime as an emergent product of social, political and economic relations in specific local contexts. Thus, an understanding of crime in any given locality would involve an examination of factors such as historical developments of labour markets, public services and political cultures in specific localities which act to produce or curtail opportunities for both law-abiding and law-

breaking (Edwards, 2001). For instance, in Hobbs and Dunnighan's (1998) study, the unintended consequence of slum clearance policies in the East of London during the 1960s and 1970s was the dispersal of once cohesive communities, displacing them to the Essex and Kent hinterlands of the East End. However, Edwards notes that serious crime networks are not simply passive victims of political economic trends but possess the qualities to apprehend these trends and adapt to them. A common method is the marrying of illegitimate and legitimate business activities. Thus, from the community safety perspective, common or ideal methods of tackling crime would include an egalitarian distribution of civil citizenship (individual liberty etc.); an egalitarian distribution of political citizenship (empowerment of citizens to participate in the processes etc.); and an egalitarian distribution of social citizenship (opportunity to acquire the basic needs of life and more) (Marshall, 1963: 74).

7.2 Maximising risk to fraudsters

In the prevention of fraud, it is important for fraudsters and would-be fraudsters to know that they will be caught and sanctioned. It is hoped that this would act as a form of deterrence. In this thesis, the approach to this is twofold – through proactive 'policing', and the use of effective punitive measures. Also, though the police or Police Force is the major agents in proactive crime/fraud prevention, it is argued that other agencies (regulatory bodies, individuals, private and public institutions including the media) are and could be involved in proactive crime or fraud prevention. Thus, with regard to this thesis/fraud, in a broad sense, proactive policing refers to the activities of all those involved in fraud prevention. We shall first examine prevention and proactive activities or policing, before and finally looking at the role of the criminal justice system.

7.2.1 Proactive ‘policing’ and investigations

It appears that when losses to individual victims are light, efforts at crime prevention and policing tend to be weak, thus allowing small groups of criminals to practise crime routinely as a craft. In many cases, victims are reluctant to pursue the matter. On the other hand, depending on the scale of the fraud and loss such as those involving big banks, public interest including those of politicians or the government could be high. According to Levi (1981), where police corruption can be arranged, as most notably in the United States, business type organisation of crime becomes possible, even though the crime is visible to law-enforcement agencies. The roles of key actors are discussed below.

Law enforcement agencies

In the UK government and police crime policy are geared towards crimes that are regarded as very serious. Thus, despite the extent of fraud involving the abuse of trust, and its toll on victims, resources and research addressing it is limited. Areas of interest to the authorities include organised crime (international and local operations), and corruption in developing countries. For Hobbs and Dunnighan (1999), unlike other countries, the UK has no legislation directed specifically at ‘organised crime’, however, the government has indicated that, for the present, the law of conspiracy is adequate for dealing with organised crime in the UK (Home Affairs Committee, 1996: 39).

Law enforcement agencies have responded to the problem by moving away from traditional reactive methods of policing and adopting intelligence-driven strategies with a concomitant increase in the use of sophisticated covert techniques (involving both technical and physical surveillance), paid informers, undercover police officers and ‘sting’ operations (Dunnighan and Norris, 1996; Maguire, 1998). Accompanying this has been the growth and expansion of centralisation and internalisation of specialist units dedicated to tackling serious and organised crime. The National

Criminal Intelligence Service (NCIS) was formed in 1992 amalgamating and bringing together under one control various regional and national intelligence units. It maintains national indices of categories of criminals such as currency counterfeiters, drug traffickers, football hooligans, organised criminals, paedophiles etc. Fraud cases involving very large sums receive adequate attention from investigative authorities. For instance, the Advance Fee for Loans Scam (Case No. 6 - which affected Belling, former cooker manufacturer), and Timeshare Racket in Tenerife Scam (Case No. 40 - involving John Palmer), the authorities ensured that the case was concluded.

Police forces have also established specialist units either within, or affiliated with the fraud squad of the forces (Flanary, 2000). Flanary notes that in England, Wales and Northern Ireland, most fraud squads have specialist units. The most common units include, financial investigation (or intelligence), cheque and credit card, intelligence, computer crime, crime management, corporate fraud and public sector corruption. These specialities enhance expertise in addition to efficient investigations.

The level of commitment/policy within police forces towards fraud has not been encouraging due to certain genuine problems they have to grapple with (noted below). With regard to police policy on how and where fraud investigation and prevention featured in departmental objectives, the *Police Fraud Survey 2000* revealed that in England, only one force had fraud specifically stated as a force objective (Flanary, 2000). This indicates that fraud as an offence needs to be given more attention.

On the other hand, apart from public or government policy that informs police priorities with regard to crime prevention and investigation, the police are faced with other problems. These include shortage of manpower and resources to investigate all reported cases of fraud. Fraud squad officers note that the investigation of complex frauds in particular could take years to conclude and offenders may not be prosecuted depending on the degree of evidence required for a conviction. Rather, while they pursue selected fraud cases, some others are referred to agencies such as the Department of Trade and Industry (DTI), if it is within their scope.

Also, as dictated by public interest and pressure, policing the streets, investigating murders, and robberies are activities that tend to receive more attention. However,

they recognise that this response is not consistent, and that fraud is low on their priorities, as investigations are long and expensive. Flanary (2000) also identified secondment to other duties in various police forces. The *Police Fraud Survey 2000* revealed that in England, Wales and Northern Ireland, secondment in most forces was discretionary. General, areas of crime fraud officers are seconded to include murder investigations, computer crime, mortuary duties, internal enquiries, training, paedophile enquiries, witness protection, court duties, general duties and public order duties among others. The result of this is limited attention and time to fraud cases.

Recently, according to the BBC News (20/04/01) certain relevant issues were reflected in the Home Secretary's proposal in the current Proceeds of Crime Bill. One is to establish a Criminal Assets Recovery Agency, which will seize those finances and property owned by prosecuted individuals that are thought to be the product of criminal enterprise. The BBC News of 18/04/01 also states that the establishment of the National High-Tech Crime Unit (NHTCU) had complemented this law enforcement strategy. The NHTCU will be staffed by officers from the UK constabularies, HM Customs and Excise, and NCIS, to investigate crimes conducted through the Internet and other computer technologies, in particular the perceived growth in credit card fraud and computer viruses (Edwards, 2001).

Proactive 'policing'

Proactive policing is a strategy that has been acknowledged to be effective. Though, the extent of its use is another matter. We have noted that the limited resources, time, and policy are contributory factors to proactive policing. Certain scams that could have been avoided or noticed much earlier were successful because this approach was not rigorously pursued. For instance, a Royal Wedding led to a fraudster creating souvenir wines (replacing labels) and selling it without the consent of the initial producers or the monarch. The British beef crisis led to fraud involving the farming of ostrich meat. Investment scams (in whisky, champagne, food, big screen displays etc.) and religious scams ('world to end') were perpetrated mainly because of the millennium 'fever'. Some of these scams could have been detected much earlier.

In the *Police Fraud Survey 2000*, out of the 43 forces that responded, only 12 forces replied that their fraud squads undertook proactive and/ or intelligence-led investigations as opposed to purely reactive work. Lack of resources was mentioned as a major draw back to this strategy. Apart from 1 force that spent 60% of its time on this method, others spent between 10-20% of their time on proactive policing (Flanary, 2000). The survey notes examples of types of proactive methods. Some of these methods include:

- Co-operating with other forces and agencies
- Selective surveillance including the use of technology, observation/monitoring of target business as informed by intelligence, reports, ongoing cases etc.
- Telephones billing analysis – it is possible to understand the nature of certain types of fraudulent activity through this method. For example, the telephone line is the major weapon used by the premium-rate line fraudster, and those involved in unsolicited calls (cold calling) demanding for payments for goods or services.
- Banking/financial enquiries – bank statements and other transactions could reveal the flow of money and confirm the losses incurred by victims using this medium.
- Intelligence gathering – collating relevant information that could assist in the investigation, prosecution and the prevention of crime.
- Undercover officers – Levi (1995: 201) notes Marx's (1988: 62) observations that there are a number of types of police undercover work. They include relatively passive intelligence operations, though they may have to participate in crime to gain credibility (before or after the offence); carrying out operations such as placing advertisements attracting would-be victims, with a view to giving advice to those who respond to the 'proposals'; and facilitative operations in which the agent is either victim or co-conspirator (e.g. in money laundering investigations).

In addition to the above, there are certain advantages of proactive/undercover operations. According to Levi (1995: 207), Marx (1988) discussed how undercover work could be justified. Reasons stated include that:

- citizens, by virtue of the 'social contract' grant to government the right to use exceptional means such as coercion and deception in order to protect them and society at large;
- undercover work creates a balance in law enforcement, as some crimes are better dealt with upfront, and other crimes such as white-collar crimes and drug offences are best handled with this tactic; and
- undercover operations provide the best form of evidence, avoiding problems of mistaken identity, and confessions (coerced or not);

Levi also adds that an issue not considered in the critiques of covert or undercover operations is the saving in court time that is generated by evidence that is indisputable. For instance, he notes that in fraud cases the average cost of fraud trials at the Old Bailey was over £100,000, a large multiple of policing costs (Levi, 1987). However, the impact of covert surveillance is limited, because many frauds come to the attention of the police after substantial financial losses have been incurred. In addition, of concern are issues relating to the law of entrapment (e.g. admissibility of evidence), disclosure rules (e.g. to the defence - of information relevant to police operations), and the general high cost (material, time, and human) of covert policing or proactive policing (Levi, 1995).

The writer contends that the merits far outweighs the demerits, and emphases should always be in favour of citizens/would-be victims and victims. If all these proactive methods are routinely pursued, there is no doubt that it would go a long way in reducing the occurrence of fraud. As indicated earlier, proactive 'policing' should not be the preserve of the Police. For instance:

The U.S. Postal Inspection Service placed via alias enticing advertisements offering an easy way to earn money or to lose weight. People who responded received politely worded letters advising them that they ought to be more careful about offers that sound too good to be true, and containing stamps for the postage expended and a booklet on mail fraud schemes (Marx, 1988: 65).

In the same vein, the police or other agencies could respond to suspected advertisements or scams to verify the proposals or deals offered to people. This is

bound to present difficulties for the advance fee fraudster, and at the same time ensure that conmen are stopped on time before they do more damage.

Private investigators and agencies

The use of reputable and properly monitored private investigators would go a long way in the proactive policing of advance fee fraudsters. It is more cost effective to hire their services than to risk one's life savings on bogus deals. In fact, in 1999, the Home Secretary launched the Partners Against Crime initiative, enabling accredited private sector investigators to work alongside the police, with access to confidential information on certain defined cases. The pilot scheme was intended to free police resources (*The Financial Times* 14/05/01). Though the scheme was extended for another year, it is noted that results have not been encouraging. Difficulties include that of conceptualisation - e.g. is the private investigator's primary duty to their employer or to the police? Information and its usage to the private investigator are limited or as directed by the police - their employers find this uncomfortable.

The role of private detection agencies in the prevention of fraud was mentioned in Levi's (1981) study of long-firm fraud. Levi notes that the detection of fraud is only one of the functions of most credit inquiry agencies, and that it is a source of considerable prestige for an agency, in so far as it is able to prevent losses by its members or subscribers. The number of firms upon which recommendations of 'no credit' were issued and which were prosecuted subsequently for long-firm fraud is a good indicator of success. He noted that the Manchester Guardian Society, in particular, enjoys an enviable reputation in this field. Although frauds are normally spotted by that agency, it is more difficult to evaluate the extent to which credit was wrongly denied to firms because of their creditworthiness was misjudged (Levi 1981). The efficacy of the general use is still being monitored, though for a potential huge investor, the private investigator may save him from a lot of damage

To conclude this section, no single agency is currently capable of handling the problem alone especially cases of complex illegal financial transactions (Hobbs and Dunnighan, 1999). They note that as a consequence, in the UK, the Bank of England, the Financial Fraud Information Network, the Securities and Investment Board, the Insolvency Service and the Serious Fraud Office (SFO) participate in operational groups, such as the Joint Action Group on Organised Crime, which is chaired by the Metropolitan Police. The Department of Trade and Industry (DTI) also play an important role in carrying out investigations under the powers conferred by the Companies Act 1985.

With regard to investigations, the police play a crucial role in the whole process. As with other forms of crime they are the initial investigators. The police gather documentary evidence, interview witnesses, and generally apportion blame based on their findings. Levi's (1993) interviews with the police showed that they would prefer a situation where those responsible for the final prosecution of cases or the case in question is in a position to express views at important stages of the investigation to guard against wasteful ventures. Levi concludes that the lessons gathered from his study of lawyer involvement in criminal investigation are that assisting lawyers must be credible in terms of expertise. They must be readily available at unsociable hours. Teamwork should be given priority and there should be a willingness to break down professional and prestige barriers. There should also be someone on the team to ask difficult questions and adopt the devil's advocate role if foreseeable acquittals and unnecessary arrests are to be avoided.

Thus, it is important that right from the investigation stage appropriate professionals are involved especially lawyers to make sure the evidence is appropriately collected and presented. Also the initial-investigating officers should be adequately empowered with statutes and resources to carry out their duties efficiently. Relevant powers should include that of access to documentation, interrogation, confiscation of assets and detention before the culprit absconds. Scams can also be dealt through proactive methods rather than waiting for victims to incur heavy losses.

7.2.2 Appropriate sanctions for fraudsters

Apart from ensuring that fraudsters are adequately sanctioned at the end of a prosecution, it is important that punitive measures should also serve as a deterrent to others. The whole idea or aim of deterrence is to discourage crime and as such prevent it from occurring. Members of a community have to be aware especially through the experiences of offenders that crime does not pay. For this to be successful, certain methods of punishment or sanctioning need to be adopted and properly implemented. Various arms of the criminal justice system (e. g. the courts, prisons and the police) have developed strategies (depending on the type of offence or crime) they feel would be effective in correcting/rehabilitating the offender. From another perspective, the aims of the sanctions are to decongest the prisons, reduce cost, strengthen the role of probation, protect the public and re-socialise the offender (Junger-Tas, 1994). Some researchers have identified certain measures they regard as suitable for fraudsters in particular.

At the theoretical level, crime prevention through deterrence was based on the notion of rational choice, which has its origin in the classical theories of Cesare Beccaria and Jeremy Bentham in the late 18th century. According to classical theory, criminals are free, rational and hedonistic; they choose among alternative courses of action according to their perceptions of the risks and gains associated with it, seeking to maximise gain (or pleasure) and minimise risk (or pain). Thus, for Beccaria punishment should be severe to the extent that it can deter offenders. According to Bennett and Wright (1984), one of the three main conditions for a deterrent effect is that potential offenders should believe they personally run some risk of getting caught. Second, potential offenders should fear receiving the threatened penalty; and third, the severity of official penalties should not be 'compensated' by the perceived reward of crime. Bennett and Wright conclude that unless potential offenders know fairly accurately what they risk, it is unlikely that minor changes in sentence will influence them.

In the UK, the Criminal Justice Act (CJA) 1991 introduced a legislative framework based primarily on a 'just deserts' approach, but coupled with incapacitation for

‘dangerous, offenders. The CJA laid down basic rules for the use of custody, community sentences, fines and discharges (Flood-Page and Mackie, 1998). Here, sentences take the form of a pyramid - with custodial sentences at the top and fines and discharges at the bottom or base. The increasing occurrence of recorded cases of fraud can be said to be an indication of the ineffective sanctions or policy, in addition to other factors (social, economic, political etc.). Sanctions come in different forms and could be enforced formerly or informally. Some of these methods are discussed below.

The concept of labelling

In theory and as shown in some examples below, and in practice also, the labelling theory offers an important dimension to the treatment of offenders. Ideas from here are suitable for fraudsters. In labelling theory, understanding crime should be approached from a broader social context. Labelling occurs when an offender is branded a criminal by the state, community or group. Once given the stigmatising label, the individual may be subject to isolation, segregation, degradation, incarceration, and psychological pressure (Becker, 1963). The implication of all this is that sanctions may serve as a deterrent – if the offender thinks about societal reaction to him – a result of his criminal activity. On the other hand, as a consequence, the individual may continue to engage in criminal activity either to ‘make ends meet’ or as an acceptance of the ‘deviant label’. With regard to fraudsters, technological developments enhance their crimes, and could make them anonymous where the offences have been committed. They could also re-locate to another territory to avoid identification/attachment to their activities. The solution for this lies with various jurisdictions, concerning how offenders are shamed and prosecuted internationally. Ideally, the criminal ‘should have no place to hide’.

Braithwaite (1989) addressed labelling through the theory of ‘Reintegrative Shaming’. Though the researcher has expressed reservations on the efficacy of this approach as it concerns fraudsters – who are sometimes regarded as people who have no ‘shame’ or ‘conscience’, this strategy is relevant as it concerns the notion that reputation and

status are important to the confidence trickster/fraudsters. Let us look at the nature of Braithwaite's explanation.

For Braithwaite, cultural commitments to shaming are the key to controlling all types of crime. Criminal activity is best controlled when members of the community are actively involved through their participation in shaming offenders, and, having shamed them, take part in the process of reintegrating the offender back into the community. Thus, it is imperative that offenders are shamed or punished with dignity rather than having them stigmatised. Stigmatisation (which is disintegrative) has the tendency of creating criminal subcultures. Though the stigma is a deterrent and people prefer to avoid it, the negative consequences are unpleasant. Some of the negative consequences of stigma include rejection by members of the community and difficulty in getting legitimate employment because of the 'criminal' tag. Thus, reintegrative shaming means:

that expressions of community disapproval, which may range from mild rebuke to degradation ceremonies are followed by gestures of re-acceptance into the community of law-abiding citizens. These gestures of re-acceptance will vary from a simple smile expressing forgiveness and love to quite formal ceremonies to decertify the offender as deviant (Braithwaite, 1989: 55).

Furthermore, the theory suggests that the responsibility for dealing with certain types of criminal activity should shift from the state to the community. The government should be more concerned with monitoring the effectiveness of the community controls and intervening when the community attempts fail or may fail: for example in very serious crimes that need formal public sanctions which help to sustain or impress on the public, stipulations of the criminal law.

Braithwaite notes that the validity or efficacy of the theory of reintegrative shaming depends on the level of consensus in the society as to what actions are considered deviant or criminal. An example can be seen in Japan, a country that has recorded a reduced trend in crime rates since the Second World War. This is attributed to their cultural traditions of shaming and punishing offenders. In Japan, individual shame is often born by the collectivity of which the individual is part of (e.g. family, school, company etc.). For instance, parents are known to commit suicide when their children

are arrested for heinous crimes. In a particular case a station police chief in Tokyo resigned because a constable in his unit raped a woman.

Braithwaite's theory postulates certain conditions that make for effective shaming. These include that individuals are more susceptible to shaming when they are enmeshed in multiple relationships of interdependency. Societies shame more effectively when they are communitarian; and variables like urbanisation and residential mobility determine the level of communitarianism, while variables like age and gender predict individual interdependency. Thus, the dominant theoretical conditions to consider in this integrative model are those of labelling (stigmatisation), subcultural, control (interdependency), opportunity (subcultures) and learning theories (integration of social learning theories for e.g. differential association).

In reality, the application of Braithwaite's suggestions in multi-cultural societies would be difficult. All groups concerned will have to accept whatever disciplinary action was taken. Though there may be some consensus in certain areas, issues such as religion, human rights, race etc, are bound to create problems. All these could reduce the effectiveness of shaming. Shame, or the threat of it, is a form of social control. In small face-to-face groups, shame is a fundamentally social thing. In large societies shame is less central because people enjoy great amounts of privacy (Nock, 1993). Thus, shame "works" in face-to-face groups and it works among those who know one another.

Some examples from the US show that shaming could have the desired impact. The negative consequences of sanctions of this sort are also discussed below (human rights violations and possibility of assaults on offenders could occur). For instance, the following was revealed by the *Sunday Times* (20/04/97: 23). A judge ordered a convicted burglar to stand on a street corner for three hours every three days, carrying a sign that read: "I'm a convicted thief". In another incident the same judge ordered a woman convicted of drug-dealing to wear a sign that read: "I'm a convicted felon. I sold prescription drugs". Another person was ordered to wear a sign that read "I'm a convicted drunk driver". A judge in Ohio is said to have told a battered wife that she could spit in her husband's face. An Arkansas judge made shoplifters walk in front of the stores they stole from with signs acknowledging their thefts, and when a butcher's

shop was fined \$10,000 for selling rotting meat, it was forced to advertise stating “filthy, putrid and contaminated substances”. In Illinois, a convict was forced to erect a sign outside his home which read “Warning - a violent felon lives here. Travel at your own risk”. Other offenders have been forced to take advertisements in local newspapers admitting their crimes.

The article also notes that some victims of the shaming punishments appear to favour the indignity as fair punishment. For instance, a petty thief in Houston who for a week, paraded in front of a shop he had robbed with the sign “I stole from this store. Don’t be a thief. This could happen to you”, confessed that he was so ‘horribly embarrassed by the experience’, and has lost his temptation to shoplift. On the other hand, the article notes that such practices have been controversial especially concerning its practical effectiveness and the moral acceptability of public humiliation, and that it is a return to 17th century America. Supporters are of the view that shame creates powerful deterrent to a wide range of potentially embarrassing crimes, such as wife-beating, drink-driving and child abuse. The same would probably apply to fraud or fraudsters.

Finally, in the same article, Professor Dan Kahan of the University of Chicago Law School was quoted saying that “a public sick of rampant crime that plagues their communities wants more from criminal punishment. They want a message. They want moral condemnation of the offender”. On the other hand, human rights activists believe that shaming punishments does not serve the expected purpose, and it is more of revenge rather than justice.

To sum up on the idea of shaming, as Braithwaite indicates, an assimilation ‘ritual’ should also be involved so that the offender is ‘formally’ forgiven and given another chance. Given the ‘high’ profile of fraudsters, it is likely that after a shaming exercise they would definitely reconsider their lifestyle or face the full wrath of the law and public in future. For corporations, one of its most important assets is its reputation. Thus, very visible sanctions can serve as a powerful deterrent to corporate misconduct. Unfortunately, in most cases involving corporations, fines are the preferred method of sanction (Gabor, 1994). Gabor also notes that some corporations are willingly or even plan ahead for such ‘expenses’. Imprisonment of company

executives could be effective, since this makes them lose their standing in society and experience some discomfort in jail. The degree of effectiveness of this depends on the type of prison (e.g. if it is an open or closed prison), length of sentence, and the general moral commitment and attitude of the particular offender. Some offenders simply have no scruples. In addition, the director of the SFO has consistently stressed the need to increase the use of fines in addition to other punishments such as the confiscation of assets of fraudsters and their families. Fraud investigating officers note that sanctions for deception and other frauds are much steeper in the United States than in the UK.

Criminal Courts and sanctions

This thesis reveals that sanctions for fraudsters are generally low in the UK. For instance, Rider and Ashe's (1993) study of insider dealing showed that though the courts have spoken out against insider abuse, they have not always applied 'generally acceptable penalties'. This situation is not likely to discourage those concerned of 'chancing their hand' in the future. They note that the approach in the United States has been to make sure that at a minimum, the insider is not allowed to keep any part of his illicit profit. In most cases, to make sure that he yields up a multiple of his profit, perhaps even as much as three times.

Rider and Ashe also observe that in the UK, whilst it is difficult to be precise, it would seem that those who have been convicted have fared rather better than their US counterparts. Few have been sentenced to terms of imprisonment, and even fewer have actually gone to prison. They state that "indeed, it is the perception, and no doubt the reality, that economic crime pays as high-reward and very low risk endeavour, which has encouraged so many serious and even organised criminals into this area of activity" (Rider and Ashe, 1993: 90)

The confiscation of assets of fraudsters is an area that needs to be utilised more often. Confiscation of assets is known to be an effective punitive tool (Levi, 1987). For Levi, there are three major legal difficulties especially in international cases. These are the

absence of domestic authority to order the preservation of property pending the outcome of a foreign judicial proceeding. The absence of jurisdiction to transfer the right of ownership regarding moveable property, assets or money abroad, and the inability of the courts in different countries to enforce criminal judgements from other countries in their territories. All respondents interviewed in this research agree that fraudsters should be hit where it hurts most - in their pockets.

There is also a need for the main investigative agencies to benefit from confiscation/forfeiture. This additional revenue would assist them in acquiring more skills and resources for tackling fraud. The recent police fraud survey revealed that the application of the law in this regard has not been consistent. Some forces applied the rule more often than others did. Apart from 10 police forces that stated that they did not have the figures, others recovered amounts ranging from £5,000 to £3 million. 27 forces in the survey said they did not benefit financially from the exercise, 1 force benefited indirectly and 6 forces said they benefited. Most forces stated that confiscated funds either went to the Treasury or to pay compensation to the victim (s) (*Police Survey, 2000*).

Though they have limited deterrent effects, efficient criminal prosecution, expropriation of assets, and imprisonment are appropriate methods of dealing with fraudsters (Clarke, 1990). Victims are primarily concerned with reparation and the recovery of property. Clarke notes that insurance companies prefer to settle many frauds without recourse to law enforcement agencies. Also, public awareness on various types of fraud and deceit need to be intensified (for example, through public debates) and institutional arrangements should be established and committed to identifying misconduct.

In addition, it will be necessary to appoint compliance officers or units charged with the responsibility of fraud control. It has been observed that large disparities exist in sentences between courts. Routine statistics indicate that there is a case for an assessment of what weight should be given to factors in sentencing decisions (Flood-Page and Mackie, 1998). This would encourage consistency and will also address the questions on 'just deserts'. More so, Flood-Page and Mackie note that compensation orders were introduced in the Criminal Justice Act 1972 to provide victims with a

convenient, faster, and cheaper avenue than through civil litigation, especially in dealing with a criminal who clearly has the means to pay.

The international dimensions of fraud have led to certain actions by governments. Advance fee fraud and other forms of obtaining money goods and services by false pretences are crimes that are perpetrated across national boundaries. From a legal perspective with regard to jurisdictions, this can be problematic. Fraudsters are known to take advantage of statutes of other countries to launder the proceeds of crime and avoid prosecution. The need to create laws that address these obstacles can not be overemphasised especially with various forms of Internet or Cybercrimes being carried out globally. An important issue of concern to the fraudster is international mobility and the retention of his or her illegally acquired wealth. It is good to note that efforts are and have been made in this regard. For instance, according to Reuvid (1995) in the UK, since 1990 the major conventions that have enhanced the strength of law enforcers internationally include:

- The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceed of Crime (1990). The UK was the first to ratify the convention in September 1992. The boundaries of this convention are broad as it extends beyond economic or financial crimes. It is intended to facilitate international co-operation in all forms of criminal proceeds and transactions.
- The Community Directive on the prevention of the use of the financial system for money laundering adopted by the council of Economic and Finance Ministers in June 1991. In the UK, this was implemented in early 1994 by the introduction of the Criminal Justice Act of 1993.
- The European Convention on Extradition (1957) which was ratified in the UK in 1991. This has made extradition especially between European Economic states easier.

With regard to domestic legislation, Reuvid identified the following:

- Drug Trafficking Act 1994 (DTA) which is supposed to be a comprehensive legislation. It ensures that the convicted is deprived of the profits from the illegal

activities. The Act also made it an offence for anyone to assist a drug dealer in the course of his business or in retaining the proceeds of the crime.

- Criminal Justice Co-operation Act 1990. This also prohibits the transfer of or concealment of proceeds from drug trafficking.
- Criminal Justice Act 1988. This contains provision enabling the courts to confiscate the proceeds of indictable offences.
- Extradition Act 1989. This also provides that an offence is extraditable if it attracts a sentence on indictment of 12 months imprisonment or more in both countries.
- Criminal Justice Act 1993. This includes new offences such as the failure to report suspicions of money laundering and also makes the laundering of non-drug trafficking crimes an offence.
- Criminal Law Act 1977 and Theft Acts of 1968 and 1978. The Serious Fraud Office (SFO) was established under the first of these and is responsible for the investigation of serious and complex fraud cases usually of losses of £5 million or more. The particular legislation can be found under Section 2 of the Criminal Justice Act 1987.
- The Companies Act 1985. The Department of Trade and Industry (DTI) is responsible for its implementation. Companies in the UK are expected to maintain records and a file containing relevant information about the business and ownership at Companies House. These records are available to the public. Banks, building societies, insurance and investment businesses are subject to external regulation. Sectors not subject to an external regulator can be investigated if necessary as directed by the Secretary of State.

The development of Internet technology and the ability to operate effectively anywhere in the world has created serious problems for criminal justice especially with regard to jurisdictions and legality of certain transactions across countries with different laws (Rider, 2001). Rider asserts that rules on jurisdiction over the Internet and transactional crimes depend on the country involved. With regard to the World Wide Web, in the US, the courts apply what is referred to as a 'minimum contacts test'. In other words they have to ascertain that a substantial degree or connection

other than the mere existence of the web page is linked to the USA. Internet providers also have certain responsibilities by law. These covers customers and the type of materials made available. With regard to enforcement, the number of websites is so huge that monitoring them can be difficult. For instance, false information posted on the web in the year 2000 lured scores of investors into decisions that cost them millions of dollars. The US Securities and Exchange Commission receives about 400 e-mails a day from aggrieved investors on the web (*The Financial Times* 07/02/01: 6).

In addressing this problem, in May 2000, the FBI in conjunction with the National White-collar Crime Centre opened the Internet Fraud Complaint Centre as a means of tackling and gathering information on Internet fraud. As at 27th October the centre had taken over 18,000 complaints from 103 different countries (Rider, 2001). Further, in the UK, the Computer Misuse Act 1990 created three new offences of unauthorised access to computer material, and unauthorised access with intent to commit or facilitate commission of further offences and unauthorised modification of computer material. Section 4 stipulates its territorial scope by stating the following:

The UK court has jurisdiction over any act or proof of an act whether the alleged offender is within the UK or not, so long as there is one significant link with the domestic jurisdiction in the circumstances of the case which means the offence has been committed. That significant link is that the crime either originated in the UK or was directed at the UK. The nationality of the alleged offender is irrelevant to the issue (Rider, 2001: 343).

According to Rider (2001), the European Union has also attempted to address the problem through legislation. On 27th April 2000, the Council of Europe released a draft convention on cybercrime. This will be the first international treaty concerning computer-related crime. When completed, the text will be legally binding and aims to harmonise national legislation on the subject. The draft treaty criminalises various activities such as intrusion and interception of telecommunications, computer - aided forgery and fraud.

In addition to all the above, the Director of the SFO, (2000) has called for a general offence of fraud in the criminal law itself. This is to make it relevant to the dynamics of the commercial world. The general offence of fraud it is argued should be based on the common law offence of conspiracy to defraud. For the Director, the contrary view

that such an offence may be too wide and might penalise conduct which otherwise would not be illegal. Also, this argument omits the implications and nature of the present offences such as theft, which is defined as 'the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it'. The Director notes that at the present time, this definition is not particularly relevant to the way in which business is carried out. Under the present law, unless the offences are carried out by a number of people or through a UK-incorporated company (in which case the offences of conspiracy to defraud or fraudulent trading can be charged) it is impossible to charge a 'system' – a series of transactions over period of time, in one indictment. Specimen charges result in a limitation on the sentencing powers of the judge, who is obliged to sentence on the basis of the offences charged, and to take no account of whether they form part of a series of transactions. For the SFO, what is important is that the defendant has acted dishonestly.

Finally, areas of concern for fraud regulators and prosecutors are that of offshore banking and tax havens. Offshore and bank secrecy legislation has made fraud even more lucrative for the money laundered in particular. It has been revealed that a market has been developed for the purchasing and licensing of offshore banks. According to Reuvid (1995), these offshore banks are mere shells. They have no capital base, no staff and are under no form of regulation or control. It is clear that they are vehicles for fraud. Reuvid also notes that international banks avoid reporting huge frauds to the police for fear of creating panic among their customers. However when monumental frauds occur the police and public get to know about it (for example the BCCI-Bank of Credit and Commerce International case). With regard to capital flight and money laundering also, an effective strategy has since been identified within the underground banking industry. Reuvid cites the Hawala in India, and the Fei Ch'ien in the Chinese community as examples of virtually impenetrable schemes. It is important for policy makers in all jurisdictions to address these issues vigorously.

7.3 Conclusion

This thesis has examined fraud involving the manipulation of trust and obtaining by false pretences in cash or kind – money, goods and services such as advance fee fraud. Certain strategies or courses of action are necessary to help fight fraud. These include giving fraud priority status within Home Office and policy objective. The researcher shares the views expressed by fraud investigators interviewed and findings in the *Police Fraud Survey 2000* that having efficient rules and powers on forfeiture and confiscation for the police and prosecutors especially geared towards the redirection of confiscated money to forces would be encouraging for organisations concerned.

In addition, there is a need to also have civil forfeiture legislation. Officers also need specialised skills and training in intelligence and in contemporary crimes such as those involving the use of the Internet. The creation of a national fraud intelligence database updated regularly and linked to all forces should be pursued. Other investigative agencies such as NCIS, SFO should also be linked to the network. In other words, better use of computer technology in this regard and in other areas. The relationship with the public and business community should be intensified. Greater use of proactive and covert policing strategies, and the implementation of regional fraud squads are necessary to be abreast with the ever changing nature of fraud (Flanary, *Police Fraud Survey*, 2000).

The ultimate punitive measure is to take the reward of crime away from the fraudster. The Director of the SFO (2000) noted that the British Government's intention to relieve financial crooks of their ill-gotten gains could be seen in the establishment of a proposed National Confiscation Agency for this purpose. An example of such an establishment is the Criminal Assets Confiscation Bureau, which has been successful in Ireland. At present, the SFO makes all efforts to recover funds, which are subsequently paid to victims. The success rate in this regard is not encouraging. The Director notes that the legal process of freezing accounts and assets can be cumbersome. Fronts such as spouses are commonly used to secure assets leaving the victims high and dry. It is also possible for appropriate legislation to take human right issues into consideration.

In this thesis the researcher highlighted the significance of ‘small’ frauds to victims and even countries, and the attention given by authorities in favour of ‘large’ ‘complex’ or ‘serious’ fraud. This can be justified – logistics, caseload, ‘high profile’ nature of case and offenders etc., but with regard to numbers, more victims are neglected. For instance, investigative agencies such as the police and other specialised ones do not readily accept to pursue cases involving loss or losses less than a certain amount. Already, by definition, departments, units are established to handle ‘serious fraud’! This is usually attributed to pressure and resources. Thus victims are advised to pursue the matter privately or with the institutions concerned. The ‘seriousness of fraud or a scam’ is subjective, and depends on the impact/value of loss experienced by the victim.

In the UK, political or policy implications of strategies are better understood from the perspectives of law enforcement, crime reduction, and community safety. Each organisation has its accredited aetiology of crime, ethical standpoint on what should be done and policy recommendations. It is noted that relatively, law enforcement appears to be the priority (Edwards, 2001). As a consequence, the government addresses the problem or crime via the avenues that they can easily control and manipulate, which is law enforcement – the police, regulatory bodies and units of the criminal justice system. Though this is more of a short-term measure it also has long term implications for the victim, offender and criminal justice in general. All this is not unconnected to the general public perception on the seriousness of fraud as a criminal offence.

Researchers have suggested various strategies of dealing with or preventing fraud. These include theories of deterrence such as shaming, confiscation, imprisonment, prompt investigations and prosecutions etc. While private organisations can play important role to ease the burden on government agencies, the state still determines the seriousness in which certain offences or fraud cases are regarded. The media can influence this decision, and at the same time put pressure on the bodies responsible for certain investigations. Publicity is capable of putting fraudsters out of business and the threat of publicity is known to have led to refunds to aggrieved customers.

On the macro-economic level, there are multiplier effects of illegal economic activity concerning the creation of wealth and employment opportunities in 'licit' economies (Edwards and Gill, 1999). This condition is often ignored when computations are made about the cost or value of economic crime. Thus, for Edwards and Gill (2001) viewing crime as enterprise raises questions about the role of illicit entrepreneurs in boosting macroeconomic growth, and providing employment opportunities. This is so especially where enough legitimate opportunities do not exist and avenues for alleviating severe poverty are minimal, such as in developing countries including those in Eastern and Central Europe (Rawlinson, 2000). Therefore, the social as opposed to the narrow notion of emphasising aspects of criminal justice in the control of fraud and other economic crimes should be emphasised.

Frauds are not only common in periods of economic depression. In fact, during times of economic boom the criminals are successful in getting savings from prospective investors and spenders. Informants attributed crime to pure greed. This is contrary to certain beliefs that people who usually commit economic crimes are responding to disadvantageous and desperate needs. For instance it is not surprising to learn that most tax crimes are committed by the well to do, and shoplifting offenders for instance cut across all segments of society. Unlike the desire to meet one's basic needs, greed is by definition insatiable (Gabor, 1994).

Legitimate or illegitimate opportunities are not issues strictly examined by the greedy. This thesis has shown that the manner in which fraudsters spend their ill-gotten gains is an indication of the value attached to such activities or acquisitions - fraudsters are known to acquire expensive clothes, luxury cars and to entertain themselves at choice holiday locations and hotels. The more a culture glorifies the unfettered accumulation of wealth and consumption, the more likely it is that people will be prepared to act criminally and unscrupulously, regardless of their employment opportunities and economic situation... Wealth, after all, is a symbol of status and power" (Gabor, 1994: 255).

Finally, offenders usually assemble the necessary information and make use of professionals if necessary to cover their tracks. This makes their successful conviction difficult in some cases. The concept or notion of trust has been identified as a crucial

factor in virtually all forms of scams. Understanding how and why trust is developed in the various arenas of human endeavour identified in this thesis (e.g. business, charity, religion etc.) would enable would-be victims, investigators and law enforcement agencies to adequately address this pattern of fraud.

The victims and the police will have to be determined to bring them to book, as the typical conman collects small sums from several or hundreds of victims expecting to reduce police and public interest in the scam. However, as long as fraudsters emulate the practices and psychology of legitimate enterprises, it is unlikely that the crime will be completely eliminated. But as it involves the exploitation of trust which is necessary for the functioning of society, this pattern of fraud – obtaining by false pretences/collection of upfront fees or deposits in cash or kind, threatens to undermine human relations and business in particular. We have identified proactive policing, media coverage and warnings, leaflets of advice in bank statements, stiffer sanctions especially with regard to victim compensation among others for fraud to be drastically reduced. Proactive activities or ‘policing’ by the public, private/public institutions and law enforcement agencies are effective methods of fraud control, and should be vigorously pursued.

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UNITED EQUITY LIMITED

COMPTROLLER'S SECTION - SWEEPSTAKES AWARD ENTRY

UEQMUF053
MR M WILLIAMS
31 SALMON GROVE
HULL
NORTH HUMBERSIDE HU6 7SX

31322



Jean Wilson
Director of Award Prizes

PRIORITY

September 15, 1999

Attention M Williams:

I have been requested to contact you regarding a sum of money listed in our disbursement account as unclaimed and unpaid.

This cash deposit totals £10,000.00 and constitutes the full and final payment of a grand prize in a national open sweepstakes created by our corporate parent company.

Your Priority Number 002-216-966, contains nine digits which make you eligible to be officially awarded this cash.

Since we are most anxious to close the books on this sweepstakes we are asking you to contact us as soon as possible so that we may verify your status and speed up the conclusion of this promotion.

NOTE: Expiry date for final submission of a Priority Number in this sweepstakes still applies. Rules state if you hold but fail to submit the winning Priority Number before the published deadline, forfeiture of all funds due you is mandatory (see rules and deadline on reverse side).

WILL YOU ASSIST OUR PUBLICITY DEPARTMENT? This sweepstakes was created to promote a unique, Genuine Diamond Necklace (with 17-faceted .25 pt. genuine diamond, inlaid in gleaming bright work mounts, 14 Kt. Tiffany prong gold-plated setting, Certificate of Authenticity.) You are not required to order this jewellery nor make any other purchase. However, since this is a publicity sweepstakes we would like to be able to truly state you are an owner of our jewellery. Accordingly, we have made arrangements for you to obtain this jewellery for a service fee of £9.97. We hope you will assist us by requesting one or more for your personal use. Thank you in advance for your cooperation.

M Williams, I am pleased to be sending you this message. But I must reiterate the importance of not jeopardizing your status because of a late response. Ten thousand pounds is a significant reason to immediately mail the enclosed Declaration attesting that you have not already received a payment of £10,000.00 from these offices. If you take the relatively little amount of time to do this, I am sure I will soon be closing the books on what is a substantial amount of unpaid money.

Sincerely,

Jean Wilson

Jean Wilson
Director of Award Prize

RESPONSE FORM



DECLARATION

RESPONDEE: UEQMUF053
MR M WILLIAMS
31 SALMON GROVE
HULL
NORTH HUMBERSIDE HU6 7SX

NOTE: NO PURCHASE OR PAYMENT OF ANY KIND IS REQUIRED TO BE A PARTICIPANT IN THIS SWEEPSTAKES. HOWEVER, THIS DECLARATION (IN ITS PRESENT FORM) AND ACCOMPANYING ENVELOPE ARE TO BE USED ONLY WHEN REQUESTING JEWELLERY WHICH WE ARE HOLDING IN YOUR NAME. OTHERWISE, USE YOUR OWN ENVELOPE. FULL 30 DAY MONEY BACK GUARANTEE. SEE RULES ON REVERSE SIDE.

SWFC-LF2

UNITED EQUITY LIMITED
PO Box 189 Redhill Surrey RH1 3YW

1. I M Williams hereby acknowledge your notice of an unclaimed and unpaid sweepstakes award totalling £10,000.00. I warrant that no funds have been paid to me by United Equity Limited.
2. My assigned PRIORITY NUMBER 002-216-966 is presented on this Declaration for purposes of verification of my eligibility status for full and final payment of the above stated undisbursed award.
3. I accept your offer of a GENUINE DIAMOND NECKLACE (CERTIFICATE OF AUTHENTICITY INCLUDED) for a courtesy service fee of £9.97. I realize no purchase of any kind is required in connection with this sweepstakes or final disbursement of its unpaid prize of £10,000.00.

I am enclosing a: ☐ cheque ☐ postal order made payable to: United Equity Limited for the £9.97 fee, or charge my: ☐ VISA ☐ MasterCard
Credit Card # _____ Expiry Date _____

4. I understand that if requested, I will provide a photograph of myself for publicity purposes.

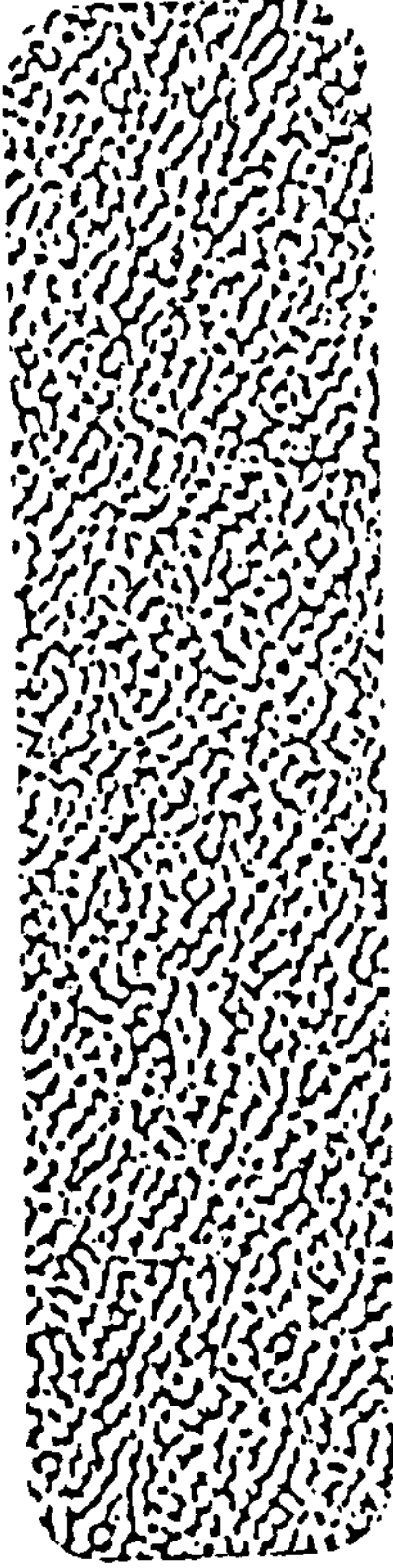
Cardholder Name: _____

Signature X _____

UNITED EQUITY LIMITED
OFFICE OF THE COMPTROLLER

EXTREMELY URGENT:
NOTICE OF NON-DISBURSED
AWARD PAYMENT

CONFIDENTIAL



SWFC-OE2

FROM _____

SWFC-RE2

PLEASE
AFFIX
PROPER
POSTAGE

UNITED EQUITY LIMITED
PO Box 189
Redhill, Surrey
RH1 3YW

CONTENTS OF EXTREME IMPORTANCE
PROCESS IMMEDIATELY

MR. ANDREW WILLIAMS
PHONE/FAX: 234 -1- 7744762
LAGOS, NIGERIA

ATTN: THE PRESIDENT/CHIEF EXECUTIVE

DEAR SIR,

REQUEST FOR URGENT BUSINESS RELATIONSHIP

NATURALLY, THIS LETTER WILL COME AS A SURPRISE SINCE WE HAVE NOT MET. PERMIT ME HOWEVER, TO INFORM YOU THAT WE ARE MEMBERS OF THE CONTRACT AWARD COMMITTEE (CAC) WITH NIGERIA NATIONAL PETROLEUM CORPORATION (NNPC). WE ARE MAKING THIS CONTACT WITH YOU BASED ON THE SATISFACTORY INFORMATION GATHERED FROM THE FOREIGN TRADE OFFICE OF THE NIGERIAN CHAMBER OF COMMERCE.

IN THE YEAR 1995 TO 1997, SO MANY CONTRACTS WERE AWARDED TO FOREIGN CONTRACTORS. MOST OF THESE CONTRACTS WERE FULLY EXECUTED AND COMMISSIONED. AS A MATTER OF FACT, ONE OF SUCH CONTRACTS WAS OVER-INVOICED TO THE TUNE OF TWENTY MILLION, EIGHT HUNDRED THOUSAND US DOLLARS (US\$20,800,000.00). IN THE BUDGET PRESENTATION ANNOUNCED BY THE FEDERAL MILITARY GOVERNMENT, AND AS PART OF EFFORTS TO WIN INTERNATIONAL SUPPORT, THE NNPC HAS BEEN DIRECTED TO PAY MOST OUTSTANDING PAYMENTS DUE TO FOREIGN CONTRACTORS. FORTUNATELY FOR US, THE OVER-INVOICED SUM OF US\$20.8M HAS BEEN LISTED AS ONE OF SUCH PAYMENTS BY THE NNPC.

HOWEVER AS CIVIL SERVANTS, WE ARE NOT PERMITTED BY LAW TO OPERATE FOREIGN ACCOUNTS. THIS IS WHY WE ARE ASKING FOR YOUR ASSISTANCE TO PROVIDE THE NECESSARY DOCUMENTS TO FACILITATE THE TRANSFER OF THIS FUND TO ANY ACCOUNT YOU WILL NOMINATED OF COURSE, YOU SHALL BE ADEQUATELY COMPENSATED: 30% SHALL BE YOURS WHILE MY COLLEAGUES AND I SHALL HAVE 65%, THE REMAINING 5% SHALL BE FOR THE REIMBURSEMENT OF ANY EXPENSES THAT WILL BE INCURRED IN THIS TRANSACTION.

TO FACILITATE THE TRANSFER, WE REQUIRE THE FOLLOWING FROM YOU BY FAX:

1. A COPY OF YOUR COMPANY'S LETTERHEAD DULY STAMPED AND SIGNED BELOW.
2. COMPLETE PARTICULARS OF THE BANK WHERE YOU WISH THAT THE FUNDS BE TRANSFERRED.

WE SHALL APPLY AND OBTAIN NECESSARY PAYMENT APPROVALS FROM THE RELEVANT AUTHORITIES INCLUDING THE FEDERAL MINISTRY OF FINANCE (FMF) WHICH SHALL ALLOCATE YOUR COMPANY FOREIGN EXCHANGE FOR THE FUNDS. WHEN THE MONEY IS TRANSFERRED TO YOUR ACCOUNT, WE SHALL THEN ASK YOU TO DISBURSE OUR SHARE OF 65% IN CASH. WE SHALL ALSO BUY INDUSTRIAL GOODS FOR RESALE IN NIGERIA IF YOU WILL BE UNABLE TO DISBURSE OUR SHARE IN CASH.

WE WAIT IN ANTICIPATION OF YOUR FULLEST CO-OPERATION. ENDEAVOUR TO REACH ME ON PHONE/ FAX: 234-1-7744762 FOR FURTHER DISCUSSIONS. THE CONFIDENCE AND TRUST REPOSED ON YOU CANNOT BE OVER EMPHASISED. THEREFORE, YOU ARE REQUIRED TO KEEP THIS DEAL TO YOURSELF AND CONFIDENTIAL.

BEST WISHES


MR. ANDREW WILLIAMS

ATTN.: President/CEO

SIR,

CONFIDENTIAL PROPOSAL FOR TRANSFER OF \$38,500,000.00 FROM FEDERAL GOVERNMENT OF NIGERIA THROUGH NNPC ACCOUNT

I presume this letter will not be of a surprise to you.

Your company was introduced to me by International Chambers of Commerce and Industries; but this business was not disclosed to Chambers of Commerce and Industries.

I am LARRY ODOGWU an employee of Federal Government of Nigeria owned Corporation, Nigeria National Petroleum Corporation (NNPC)

Few years ago, the Federal Government of Nigeria instructed the corporation (NNPC) to award contracts on behalf of Government for building of a Refinery in the Northern part of Nigeria. In respect of the above, I and three of my co-employee of Nigerian National Petroleum Corporation was appointed as the contract awarding committee of the corporation (NNPC), to deliberate on the best foreign companies to handle the building of the Refinery, after much deliberations within the members of the committee, the contracts was awarded to some foreign firms to carry out execution of the projects, but before awarding this contracts, the four members of the contracts awarding committee have secretly agreed to over-inflate the actual contract value with the tune of \$38,500,000.00 which we shall use a reliable foreign company to claim.

Now, the contract are complete and the actual contract value has been paid off to the original contractors that executed the building of the Refinery, we have decided to choose your company to act as the actual beneficiary of the over-inflated sum of \$38,500,000.00. Secondly, your company will be front to get all necessary approvals and formalities that justifies you as the actual beneficiary from the concerned Government Ministries before the fund will be transferred into your account.

1. You will retain 20% of the total sum transferred into your account for your contribution towards the business.
2. 70% will be for the four Government officials that originated the business.
3. 10% will be set aside for deduction of all the expenses which will be encountered by you and us during the cause of processing the necessary approvals from the Government Ministries for the transfer of the fund into your account.

NOTE: You should put the following into consideration in extent of your involvement in this transaction:

- A. We are going to encounter an up-front expenses for the processing of the approvals that will justify you as the Actual Beneficiary, before the fund will be transferred into your account
- B. You will be required to assist us financially in some area of the up-front expenses which will be disclosed to your request. These up-front expenses will enable us get all necessary documentation and formalities required by the Federal Government of Nigeria before claiming the fund.
- C. Immediately all the necessary documentation and approvals are forwarded from the concerned Ministries to the Government paying bank, you will be required to come forward as the Beneficiary and sign for the release of the fund before the payment will be effected into the account you will nominate. Your coming to Nigeria is optional, if you hire a Nigerian Lawyer.

If you are interested in this transaction, kindly handle this matter with **SECRECY** and ask for more details by contacting us through the above Tel/Fax number.

Best Regards


MR LARRY ODOGWU

CONFIDENTIAL

ALH. USMAN SULEIMAN
TEL: 234-1-7770636
FAX: 234-1-7770636
LAGOS - NIGERIA

ATTENTION: THE PRESIDENT, MD,

DEAR SIR,

REQUEST FOR URGENT BUSINESS RELATIONSHIP

FIRST, I MUST SOLICIT YOUR STRICTEST CONFIDENCE IN THIS TRANSACTION. THIS IS BY VIRTUE OF ITS NATURE AS BEING UTTERLY CONFIDENTIAL AND 'TOP SECRET'. YOU HAVE BEEN RECOMMENDED BY AN ASSOCIATE WHO ASSURED ME IN CONFIDENCE OF YOUR ABILITY AND RELIABILITY TO PROSECUTE A TRANSACTION OF GREAT MAGNITUDE INVOLVING A PENDING BUSINESS TRANSACTION REQUIRING MAXIMUM CONFIDENCE.

WE ARE TOP OFFICIALS OF THE FEDERAL GOVERNMENT CONTRACT REVIEW PANEL WHO ARE INTERESTED IN IMPORTATION OF GOODS INTO OUR COUNTRY WITH FUNDS WHICH ARE PRESENTLY TRAPPED IN NIGERIA. IN ORDER TO COMMENCE THIS BUSINESS WE SOLICIT YOUR ASSISTANCE TO ENABLE US TRANSFER INTO YOUR ACCOUNT THE SAID TRAPPED FUNDS.

THE SOURCE OF THIS FUND IS AS FOLLOWS: DURING THE LAST INTERIM REGIME HERE IN NIGERIA, THE GOVERNMENT OFFICIALS SET UP COMPANIES AND AWARDED THEMSELVES CONTRACTS WHICH WERE GROSSLY OVER-INVOICED IN VARIOUS MINISTRIES. THE PRESENT MILITARY GOVERNMENT SET UP A CONTRACT REVIEW PANEL AND WE HAVE IDENTIFIED A LOT OF INFLATED CONTRACT FUNDS WHICH ARE PRESENTLY FLOATING IN THE CENTRAL BANK OF NIGERIA READY FOR PAYMENT. HOWEVER, BY VIRTUE OF OUR POSITION AS CIVIL SERVANTS AND MEMBERS OF THIS PANEL, WE CANNOT ACQUIRE THIS MONEY IN OUR NAMES. I HAVE THEREFORE, BEEN DELEGATED AS A MATTER OF TRUST BY MY COLLEAGUES OF THE PANEL TO LOOK FOR AN OVERSEAS PARTNER INTO WHOSE ACCOUNT WE WOULD TRANSFER THE SUM OF US\$24,200,000.00 (TWENTY FOUR MILLION TWO HUNDRED THOUSAND U.S DOLLARS). HENCE WE ARE WRITING YOU THIS LETTER.

WE HAVE AGREED TO SHARE THE MONEY THUS:

1. 30% FOR THE ACCOUNT OWNER (YOU)
2. 70% FOR US (THE OFFICIALS)

IT IS FROM THE 60% THAT WE WISH TO COMMENCE THE IMPORTATION BUSINESS. PLEASE, NOTE THAT THIS TRANSACTION IS 100% SAFE AND WE HOPE TO COMMENCE THE TRANSFER LATEST FOURTEEN (14) BANKING DAYS FROM THE DATE OF THE RECEIPT OF THE FOLLOWING INFORMATION BY PHONE OR TELEPHONE NO: 234-1-7770636, YOUR BANKER'S NAME, COMPANY'S NAME, ADDRESS AND ACCOUNT NUMBER.

THE ABOVE INFORMATION WILL ENABLE US WRITE LETTERS OF CLAIM AND JOB DESCRIPTION RESPECTIVELY. THIS WAY WE WILL USE YOUR COMPANY'S NAME TO APPLY FOR PAYMENT AND RE-AWARD THE CONTRACT IN YOUR COMPANY'S NAME. WE ARE LOOKING FORWARD TO DOING THIS BUSINESS WITH YOU AND SOLICIT YOUR CONFIDENTIALITY IN THIS TRANSACTION. PLEASE ACKNOWLEDGE THE RECEIPT OF THIS LETTER USING THE ABOVE FAX/TELEPHONE NUMBERS. I WILL BRING YOU INTO THE COMPLETE PICTURE OF THIS PENDING PROJECT WHEN I HAVE HEARD FROM YOU.

YOURS FAITHFULLY,

Usman 18/12/97
ALH. USMAN SULEIMAN

URGENT & CONFIDENTIAL

FROM: DR. CHADO MAJI
TEL/FAX: 234-1-886980
LAGOS-NIGERIA
DATE: 21ST OCTOBER, 1997.

DEAR SIR,

AFTER CAREFUL CONSULTATIONS AND INQUIRIES, I HAVE DECIDED TO SEEK YOUR ASSISTANCE ON A HIGHLY CONFIDENTIAL FINANCIAL TRANSACTION ON BEHALF OF MY PARTNERS.

I AM THE GENERAL MANAGER, PROCUREMENT AND MANAGEMENT SERVICES (PROMAS) A SUBSIDIARY OF THE NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC).

WE HAVE A PART PAYMENT OF US\$21,500,000.00 (TWENTY ONE MILLION, FIVE HUNDRED THOUSAND U.S. DOLLARS) WITH CENTRAL BANK OF NIGERIA (CBN) AWAITING REMITTANCE INTO A FOREIGN ACCOUNT OF OUR CHOICE.

THE MONEY (US\$21,500,000.00) ORIGINATED FROM OVER-INVOICED CONTRACT AWARDED TO A FOREIGN CONTRACTOR IN OUR MINISTRY UNDER OUR SUPERVISION. THE ORIGINAL CONTRACTOR HAS GONE WITH THE ACTUAL VALUE OF THE CONTRACT SUM. THE REMAINING OVER INVOICED SUM 21,500,000.00 IS NOW MEANT FOR OUR PERSONAL USE.

THEREFORE, A TOTAL COLLABORATION WITH A FOREIGNER IS THE SUREST MEANS OF GETTING THIS FUND SUCCESSFULLY REMITTED OUTSIDE NIGERIA BECAUSE WE ARE CIVIL SERVANTS AND THE LAW DOES NOT PERMIT US TO OPERATE FOREIGN ACCOUNT. THAT IS WHY WE SINCERELY SEEK YOUR ASSISTANCE BY PROVIDING US IMMEDIATELY WITH SAFE ACCOUNT TO LODGE THIS MONEY.

WE HAVE DECIDED TO OFFER 30% OF THE TOTAL SUM TO YOU FOR PROVIDING YOUR ACCOUNT AND SAFE KEEPING OF THE FUND, 10% WILL BE USED TO BALANCE EACH OTHER ON EXPENSES MADE ON BOTH SIDES AND 60% FOR US THE ORIGINATORS. MEANWHILE, THE ENTIRE TRANSACTION IS ABSOLUTELY RISK FREE BECAUSE IT HAS BEEN CAREFULLY ARRANGED BY TOP GOVERNMENT OFFICIALS.

PLEASE TREAT THIS INFORMATION AS CONFIDENTIAL AND CONTACT ME THROUGH MY PRIVATE TEL/FAX LINE (234-1-886980) AS SOON AS YOU RECEIVE THIS LETTER FOR MORE DETAILS, AS THIS WILL ENABLE ME STOP FURTHER NEGOTIATIONS.

I AWAIT YOUR IMMEDIATE REPLY.

BEST REGARDS

Chaji 2/1/97
DR. CHADO MAJI

DR. FESTUS KENE
TEL/FAX: 234-1-2643110
LAGOS - NIGERIA.

DEAR SIR,

REQUEST FOR BUSINESS RELATIONSHIP

I GOT YOUR CONTACT THROUGH A RELIABLE SOURCE WHO IS A GOOD FRIEND OF MINE JUST ON A TRIP FROM YOUR COUNTRY, I THEN PICK A KEEN INTEREST IN YOUR ACTIVITIES AND WISH TO REQUEST FOR THIS BUSINESS RELATIONSHIP WITH YOU.

BRIEFLY, MAY I TAKE LIBERTY TO INTRODUCE MYSELF AS THE DIRECTOR OF PROJECT AND ENGINEERING OF THE NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC). I AM PRIVILEGED TO BE THE CHAIRMAN OF THE FEDERAL CONTRACT REVIEW COMMITTEE SET UP BY THE PRESENT MILITARY GOVERNMENT OF NIGERIA TO AUDIT AND REVIEW PAYMENT OF FOREIGN CONTRACTORS.

SUBSEQUENTLY, AN INTERNAL AUDIT WAS CARRIED OUT WITH THE NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC) ONLY TO DISCOVER THE SUM OF THIRTY MILLION U.S. DOLLARS (\$30M) IN THEIR ACCOUNT AS AN UNCLAIMED PAYMENT DUE TO FOREIGN CONTRACTORS, THIS INDEED REPRESENT 10% OF THE TOTAL CONTRACT VALUE DEMANDED BY THE CONTRACT AWARDING COMMITTEE OF NNPC FROM THE FOREIGN CONTRACTORS. I INFORMED THE DIRECTOR GENERAL WHOSE DUTY IS TO OVERSEE THE DAILY ACTIVITIES OF THE CORPORATION I ASKED THE DIRECTOR GENERAL OF HIS OPINION OVER THE DISCOVERED FUND HE CONFIRMED THAT AND HAVING CONSIDERED THE POLITICAL SITUATION IN OUR COUNTRY AND MY POSITION AS THE CHAIRMAN OF THE FEDERAL CONTRACT REVIEW COMMITTEE, WE ARRIVED AT THE CONCLUSION TO USE THIS OPPORTUNITY TO ENSURE OUR FUTURE BY REMITTING THE FUND TO A TRUSTED PERSON OR YOUR COMPANY'S ACCOUNT FOR OUR OWN INTEREST.

ALL WE ARE LOOKING FOR IS A TRUSTWORTHY PERSON AND HONEST PARTNER WHOM WE CAN USE HIS COMPANY OR INDIVIDUAL ACCOUNT TO GET THIS OUTSTANDING FUND REMITTED OVERSEAS ON OUR SIDE. THIS IS A LIFETIME OPPORTUNITY CONSIDERING THE ECONOMIC PROBLEM IN NIGERIA AND WE CAN NOT AFFORD TO LET IT GO. WE THEREFORE REQUEST YOU TO ACT ON OUR BEHALF TO ENSURE THE SUCCESS OF THIS TRANSACTION, HOPING YOU WILL ASSIST US.

AS A MATTER OF FACT ALL MODALITIES FOR THE SUCCESSFUL TRANSFER OF THIS MONEY HAVE BEEN WORKED OUT. THE PRESENT MILITARY GOVERNMENT HAS APPROVED THE PAYMENT OF ALL FOREIGN CONTRACTORS AND THIS (US\$30M) OUTSTANDING IS INCLUDED. SO IF THIS TRANSACTION ATTRACT YOUR INTEREST, THEN 30% OF THE TOTAL FUND WILL BE GIVEN TO YOU AS YOUR SHARE FOR USING YOUR ACCOUNT WHILE 50% GOES TO US. THE OFFICIALS AND THE REMAINING 10% HAS BEEN MAPPED OUT TO COVER ALL EXPENSES TO BE INCURRED BY BOTH PARTIES DURING THE COURSE OF THIS TRANSACTION TO BE ENCLOSED IN YOUR REPLY ARE THE FOLLOWING.

- (1.) FULL NAME AND ADDRESS OF YOUR BANK
- (2.) YOUR ACCOUNT NUMBER
- (3.) YOUR DIRECT TEL/FAX NUMBER FOR SECURITY REASONS
- (4.) BENEFICIARY'S NAME

CONTACT ME IMMEDIATELY YOU RECEIVE THIS LETTER THROUGH MY TEL/FAX NUMBER WRITTEN ABOVE SO THAT I CAN REACH YOU WITH DETAILED INFORMATION ON THE NEXT LINE OF ACTION.

WE ARE LOOKING FORWARD TO YOUR FAVOURABLE RESPONSE TILL I HEAR FROM YOU.

BEST REGARDS,

YOURS FAITHFULLY,


DR. FESTUS KENE

APPENDIX

List of sample cases and sources

Cases 1-22 are advance fee frauds related to investments. Cases 23-26 are medical frauds. Cases 27-29 are frauds related to religious practices. Cases 30-33 are frauds associated with education and training. Cases 34-37 are associated with 'charitable' activities. Cases 38-40 are related to properties. Cases 41-50 are associated with relationships. And cases 51-82 are concerned with general services and products.

1. Shipment of Sugar Scam. Leeds Crown Court Case (04/08/94). *The Financial Times* (23/04/94). Amount involved \$1.771 million (over a million pounds) from a bank.
2. The Solicitor Swindler. Southwark Crown Court (12/05/95). *The Times* (13/05/95). Amount involved £82,000 from one woman.
3. Bogus Bank in Torquay. Bristol Crown Court (09/10/98). Amount involved about £7 million from several victims. *The Financial Times* (8/9/95 and 10/10/98). *The Guardian* (6/02/98, 28/07/98, 24/4/99, and 28/07/00). *The Times* (28/07/98 and 10/10/98). *The Independent* (28/07/98).
4. Investment in High Denomination Bills. *The Independent* (26/09/95). Amount involved in millions of pounds from several investors.
5. The Moneywise Money Plan- a type of pyramid scheme. *The Financial Times* (3/10/95). Amount involved over £1.3 million from about 3,000 investors.
6. Advance Fee for Loans. Middlesex Guildhall Crown Court (25/01/96). *The Financial Times* (5/10/95, 26/01/96); *The Guardian* (26/01/96); *The Independent* (25 and 26/01/96) and *The Times* (25/01/96). Amount involved £13 million.
7. The Ostrich Farming Corporation (OFC) Scam. The Crown Court at Leicester (28/03/00, 01/11/00). *The Independent* (11/04/96, 23/06/00); *The Times* (03/04/96, 06/04/96, 13/04/96, 17/04/96, 07/05/96, 11/05/96, 19/06/96, 16/12/96, 04/01/97); *The Daily Express* (23/06/00); *The Guardian* (14/12/96, 22/03/00, 22/06/00). Amount involved was about £22 million.
8. The Rare Coins Scam. Snaresbrook Crown Court, East London. *The Times* (20/07/96). Amount involved about £700,000.
9. Play for Gold Pyramid Scheme Fraud. Northampton Crown Court (12/11/97). Kent, S. (1998) "Deception Detection" *Police Review*. Vol. 106, 06/02/98. Amount involved £1.5 million.
10. Business Opportunity/Franchise Scam. *The Mirror* (15/01/99). Amount involved £20,000.
11. The Accountant Fraudster. Winchester Crown Court (22/10/99). *The Times* (23/10/99). Amount involved £1.4 million.

12. Global trade in Phantom Cargoes. *The Observer* (31/10/99). Amount involved between £300-500 million.
13. Fake Moneymaking Scheme. *The Mirror* (10/12/99). Amount involved in thousands of pounds (about £500 per victim).
14. Invention Promotion Fraud. *The Mirror* (17/12/99). Amount involved £130,000.
15. The Ingot Scam. *The Mirror* (14/01/00). Amount involved £100,000 (about £61 per victim).
16. Peasants and the Green Back (dollar) Scam. *The Guardian* (31/01/00). Amount involved £4,100.
17. The Duped Who Duped Others. The 419 Coalition News downloaded on 19/04/00 <http://home.rica.net/alphae/419coal/news2000.htm>. Amount involved \$3.5 million.
18. The Nato Project Scam. *The Guardian* and *The Times* (30/03/00). Amount involved between £30-£50 million.
19. The Ostrich Breeding Company Scam (later named Ostrich Centre Ltd.). Swansea Crown Court (17/04/00). *The Independent* (18/04/00). *The Times* (14/03/00). *The Express* (18/04/00). *The Mirror* (18/04/00). Amount involved over £1 million.
20. Prize Cheque in the Mail Scam. *The Mirror* (16/06/00). Amount involved £7,500 (about £6.99 per victim).
21. Whisky Sale Scam. *The Times* (24/03/97). Amount involved in thousands of pounds.
22. Pub License Fraud. *The Mirror* (24/11/00). Amount involved in thousands of pounds (about £4,000 per victim).
23. Diet Recipe Scam. Liverpool Crown Court (22/12/95). *The Times* (23/12/95, 20/01/96). Amount involved in thousands of pounds.
24. The Bogus Medical Doctor. The Central Criminal Court, Old Bailey London (08/09/98). *The Independent*, *The Times* (09/09/98). Amount involved about £500,000 over ten years (between £50-8,000 per victim).
25. Arthritis Treatment Gadget Con. Kingston Crown Court in Surrey (February 1999) *The Mirror* (12/02/99, 12/03/99, 13/10/00). Amount involved in thousands (about £350 per victim).
26. Potency Cream Scam. *The Mirror* (05/05/00). Amount involved in thousands of pounds (about £27 per victim).
27. The Bogus Catholic Priest. York Crown Court (05/12/95). *The Guardian*, the *Times* (06/12/95). Amount involved £43,000.

28. The Ho-no-Hana Religious Fraud in Japan. *The Independent* (06/01/00). BBC News (25/12/00) on http://news.bbc.co.uk/hi/english/world/asia-pacific/newsid_1087000/10878.stm Telegraph.co.uk (02/12/99 on www.telegraph.co.uk. CultsOnCampus.com on <http://www.cultsoncampus.com/honsamfunkinn.html>. All downloaded on 08/10/01). Amount involved about £340 million over the years (from £500-£18,000 per victim).
29. Movement for the Restoration of the Ten Commandments of God in Uganda. Religious Tolerance.org at http://www.religioustolerance.org/dc_rest.html. Downloaded on 27/03/01. *The Independent* (20/03/00), the *Guardian* (29/03/00), the *Times* (21, 29, and 31/03/00). Loss of lives and property.
30. Ugandan School Fees Scam. *The Times* (15/03/00). Amount involved in thousands of pounds (as little as £50-200 per victim).
31. Nursing Training Scam. *The Mirror* (31/03/00). Amount involved in thousands of pounds, about £69.99 per victim).
32. Airline Personnel Training Fee Scam. Isleworth Crown Court. *The Mirror* (19/05/00). Amount involved in thousands of pounds (about £175 per victim).
33. The International School of Finance and Management Scam. Isleworth Crown Court (03/04/98). *The Times* (04/02/98, 04/04/98, 28/04/98). Amount involved £1.5 million (from about £600 per victim).
34. The African Appeal Scam. *The Mirror* (14/08/99). Amount involved in thousands of pounds over the years (used clothing etc.)
35. Collection Racket Scam. Manchester Crown Court at Minshull Street *The Times* (27/10/98), the *Guardian* (27/10/98). Amount involved £1 million over the years (from as little as penny coins).
36. Fax Charity Donor Scam. *The Mirror* (22/01/99, 09/04/99). Amount involved up to £1 million over the years (fax line charges about £8 per victim or respondent).
37. Charity Request Letters With 10pence and 2pence Coins Attached. *The Mirror* (19/11/99). Amount involved in thousands of pounds (little sums per victim).
38. Bungalow Acquisition Fraud. *The Guardian* (26/09/95, 14/12/96). Amount involved £100,000 from an individual.
39. Land for Purchase Scam. *The Mirror* (11/12/98). Amount involved over £15,000 (up to £12,000 per victim).
40. Timeshare Scam. Central Criminal Court at Old Bailey Street London (22/09/99; 23/05/01). *The Independent*, *Times*, *Guardian* (23/09/99, 24/05/01). *Daily Express* (24/05/01). *The Mirror* (30/06/00). Amount involved about £30 million (over £15,000 per victim).

41. The Fraudulent Wife. Reading Crown Court (10/11/95). *The Times* (11/11/95). Amount involved about £832,000.
42. The Casanova. Knightsbridge Crown Court in Central London (20/03/96). *The Times, Guardian* (21/03/96). Amount involved about £2 million (between £100,000-800,000 per victim).
43. The Bogus Arab Prince. Southwark Crown Court in London. *The Times* newspaper (08/07/97). Amount involved in thousands of pounds (over £15,000 per victim).
44. Lonely Heart Column Scam. Newton Abbot Magistrate Court (02/04/98). *The Times* (03/04/98). Amount involved £11,000.
45. Marriage for Convenience Scam. Harrow Crown Court in London (04/12/98). *The Express, Independent, Times* (05/11/98 and 05/12/98). Amount involved £200,000 (about £2,000 per victim).
46. Marital Commitment Scam. Nigeria-419 Coalition 1999 News (<http://home.rica.net/alphae/419coal/news1999.htm>. Downloaded on 09/06/99. Amount involved £76,500 from one victim.
47. Money for Treatment Scam. Inner London Crown Court (26/04/00). *The Express, Times, Guardian, Independent, Daily Mail* (27/04/00). Amount involved about £55,000 (£1,000-10,000 per victim).
48. False Promises of Marriage. Minshull Street Crown Court Manchester (27/08/99) *The Times, Guardian* (28/08/99). Amount involved about £500,000 (between £5,000-400,000 per victim).
49. Mother-in-law Swindle. Exeter Crown Court (18/08/99). *The Independent, Guardian* (19/08/99). Amount involved about £1.5m over five years from one victim.
50. Dating Agency Scam. *The Mirror* (17/11/00). Amount involved in thousands of pounds (between £12.50-1,000 per victim).
51. Manorial Titles Scam. Southwark Crown Court in South London (19/05/95). *The Times* (28/04/95, 01/05/95, 20/05/95). *The Guardian* (20/05/95). Amount involved about £54,000 (about £5,000 per victim).
52. The Professional Swindler. Southwark Crown Court (19/06/95). *The Times, The Guardian* (20/06/95). Amount involved £3,000 for case in question but fraudster made hundreds of thousands over the years.
53. Debt Collection Fee Scam. Isle of Man High Court (16/10/95). *The Financial Times* (17/10/95). Amount involved £60,000 two victims.
54. Bogus Illness Scam. *The Guardian* (21/10/95). Amount involved in thousands of pounds (from £100 per victim)

55. Fake Air Ambulance Service. Southwark Crown Court (08/07/96). *The Times* (09/07/96). Amount involved about £376,670 from hospitals..
56. The Military Officer Impostor. Cardiff Crown Court (08/10/96). *The Times* (09/10/96). Amount involved in thousands of pounds (up to £1,400 per victim).
57. Good Restaurant Guide Scam. *The Independent* (08/09/98). Amount involved about £500,000 over the years (from £19 per victim).
58. The Bogus Sheikh. Southwark Crown Court (09/11/98). *The Independent* (10/11/98). Amount involved up to £24,000 from various hotels.
59. The Bogus Barrister. Southwark Crown Court London (19/03/99). *The Guardian* *the Independent* (27/02/99, 20/03/99). Amount involved in thousands of pounds over the years (from £20 per victim).
60. The Must Win Competition Club Fraud. *The Mirror* (26/03/99). Amount involved in thousands of pounds (victims lost between £9.95 and £29.95 in joining fees and membership up-grades).
61. Bogus Mail Postal Contest Scam. *The Mirror* (16/04/99). Amount involved over £1 million over the years (in some cases £36.97 pr victim).
62. Advance Fee for Debt Collection. The Nigerian- 419 Coalition 1999 News on Nigerian Scam/419 Operations <http://home.rica.net/alphae/419coal/news1999.htm>. Downloaded on 26/03/99. Amount involved \$350,000 to obtain \$35 million.
63. The Bogus Peers. Truro Crown Court (20/08/99). *The Independent* (21/08/99), Amount involved over £32,000.
64. Fax Directory Scam. *The Mirror* (13/08/99). Amount involved in thousands of pounds (from as low as £3 per victim).
65. The Bogus Tour Firm. *The Times* (18/08/99). Amount involved over £1 million over the years mainly from disabled victims.
66. Employment Service Scam. *The Mirror* (01/10/99). Amount involved in thousands of pounds (from £35 per victim).
67. Web Book Order Scam. *The Times*, *Guardian* (04/11/99). Books worth about £100,000 involved (some valued at £300 each).
68. The 'Camilla' Fraudster. *The Times* (25/10/99). Amount involved over £12,000.
69. Internet Access Scam. *The Mirror* (03/12/99). Amount involved in thousands (from about £35 per victim).
70. Premium Phone Line Fraud. *The Mirror* (03/03/00). Amount involved in thousands of pounds (from £1 per minute- £6.75 per victim).

71. Service for European Business Grants. *The Mirror* (31/03/00). Amount involved up to £500,000 (from £350 per victim).
72. Travel/Resident Visa Scam. *The Mirror* (26/05/00). Amount involved £2 million. They took cash from British citizens on the false promise of getting them US visas.
73. Human Hair Scam. *The Mirror* (30/06/00). Amount involved in thousands of pounds (from about £230 per victim).
74. Free Holiday Offer Scam. *The Mirror* (21/07/00). Amount involved in thousands of pounds (from £1 a minute phone call to a processing fee of £39.50 per victim).
75. Car Sale Fraud. *The Mirror* (28/07/00). Amount involved in thousands of pounds (from £1.50 per minute phone charge to cost of vehicles).
76. Credit Service Scam. *The Mirror* (28/07/00). Amount involved in thousands of pounds.
77. Free Telephone Calls Scam. *The Mirror* (25/08/00). From £1 a minute as fee.
78. Premium Line Fraud. *The Mirror* (20/10/00). Amount involved in thousands of pounds (from about £3 per victim).
79. Book Publishing scam. *The Mirror* (12/11/99). Amount involved in thousands of pounds (from up to £2,000 per victim).
80. Offshore Car Sale Fraud. *The Mirror* (22/09/00). Amount involved over £1 million.
81. Student Accommodation Service Scam. *The Mirror* (01/12/00). Amount involved - thousands of pounds (from £200 deposit fees from students).
82. The 'Lady' Fraudster. St. Albans Crown Court (13/09/99). *The Times* (14/09/99). Amount involved in thousands of pounds.

NB: Some samples of scam letters are shown overleaf.