

RWANDA NATIONAL POLICE



Criminal Investigation Department

**ANALYSIS OF CAUSES OF CRIMES, CHALLENGES AND PREVENTION
STRATEGIES IN RWANDA**

**JOINT RESEARCH DONE BY THE NATIONAL PUBLIC PROSECUTION
AUTHORITY (NPPA) AND RWANDA NATIONAL POLICE (RNP)**

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The Management of NPPA and RNP

LIST OF ACCRONYMS AND ABBREVIATIONS

AIDS:	Acquired Immune Deficiency Syndrome
CCP:	Code of Criminal Procedure
CID:	Criminal Investigation Department
CNF:	<i>Conseil National pour les Femmes</i>
CSOs:	Civil Society Organizations
DASSO:	District Administration Security Support Officer
DNA:	Deoxyribo Nucleic Acid
DRC:	Democratic Republic of Congo
FBOs:	Faith Based Organizations
FDLR:	<i>Front Democratique pour la Liberation du Rwanda.</i>
FGDs:	Focus Group Discussions
GBV :	Gender Based Violence
GMO:	Gender Monitoring Office
HIV:	Human Immunodeficiency Virus
ICT:	Information and Communication Technology
JPOs:	Judicial Police Officers
KFL:	Kigali Forensic Laboratry
KIIs:	Key Informant Interviews
MAJ:	<i>Maison d'Accès à la Justice</i>
NGOs:	Non-Governmental Organizations
NIDA:	National Identity Agency
NISS:	National Intelligence State Security
NPPA:	National Public Presecution Authority
OFJC:	Organization Functioning and Jursdiction of Courts
RCS:	Rwanda Correctional Service
RJPO:	Regional Judicial Police Officer
RNLC:	Rwanda Natural Land Center
RNP:	Rwanda National Police
RQ:	Research Question
TIG:	<i>Traveaux d'Intérêts Général</i>
UNCRC:	United Nations Convention on the Rights of the Child
WVPU:	Witnesses and Victims Protection Unit

EXECUTIVE SUMMARY

The National Public Prosecution Authority (NPPA) together with the Rwanda National Police (RNP) plays a key role in the protection of society against criminality increase and promotion of state security by ensuring accountability of offenders. These two institutions are partners in the same field of investigation and prosecution of crimes not only for accountability but also for deterrence. It was deemed appropriate and beneficial to join efforts as key actors of justice in developing crime prevention and repression strategies. However, it is impossible to develop effective prevention strategies without understanding the reasons behind the occurrence of crimes. It is in this regard that a study on prevalence of crimes in Rwanda has been carried out by NPPA and RNP to analyze the causes of specific crimes, challenges and strategies for criminality reduction.

A range of factors have been established to be causes of prevalent crimes, such as; inter-family and intra-family disputes, narcotic drugs, alcohol abuse, ignorance, poverty, desire for illicit enrichment, legal weaknesses in various legislations and cross-border factors. The causes of crimes differ in relation to their categories depending on whether they constitute crimes against persons, crimes against property or crimes against the state. Efforts to reduce such crimes and deter criminals through effective crime prevention approaches in various districts in Rwanda are not without challenges. Such as ignorance of the law, lack of sufficient knowledge and skills for criminal justice actors, financial constraints, legal and policy loopholes, insufficient identification mechanisms, and inadequate rehabilitation and reintegration mechanisms for offenders.

The research findings therefore offer an empirical assessment of the main considerations to be taken into account in setting up strategies and employing crime prevention interventions. Such Strategies and measures have the purpose of reducing the risk of crimes occurrence, and their potential harmful effects on individuals and society.

Crime prevention is applied specifically to efforts made by the government to reduce crime, enforce the law, and maintain criminal justice. This takes into consideration evident progress by the government after the 1994 genocide committed against Tutsi in terms of various legal reforms, institutional building and operational developments in combating crimes. However, according to the joint research of the NPPA and RNP, there

is still room for improvement given that addressing crime is a crucial condition for peace, security and welfare of Rwandans, with a significant regional and international dimension.

It is important to maintain the balance between an efficient fight against crimes, and individual fundamental rights, which include the right to a fair trial, access to justice, and ensuring minimum guarantees of prison conditions. Therefore, following the completion of this study, various strategies have been suggested to the Government of Rwanda and its stakeholders in terms of; creating awareness of the criminal legal provisions, establishment of training programs, legal and policy changes, linkage of individual data in a centralized system, equitable financial planning, applicability of non-custodial measures and alternatives measures to imprisonment, reinforcement of rehabilitation programs and effective reintegration of offenders, strengthening domestic and international cooperation, and finally the need to establish research based strategies in crime prevention.

The research design involved only qualitative research methodology which is deemed to be representative. The qualitative methods employed for this research consisted of collection and analysis of information from Focus Group Discussions (FGDs) and Key Informant Interviews (KII).

Focus group discussions enabled researchers to collect primary data from mixed groups of people involved in the criminal justice chain and their stakeholders, suspects under police custody and convicted persons in different prisons. Mixed groups involved an average of 15 persons in each of the 15 districts visited and the total participants were 223, and respondents under custody were in total 132 in the 15 police detention centres country wide, whereas the data collection in 10 prisons included discussions with a total of 157 convicts. All participants in focus group discussions were 512. Key informant interviews included 132 respondents. The sum of all participants in focus group discussions and key informant interviews was 644.

CHAPTER ONE: GENERAL INTRODUCTION OF THE STUDY

Chapter one provides a general introduction of the research. Against this background, the whole study is divided into four chapters. Chapter one introduces the study and focuses on the background of the study, the objectives, research questions, the significance of the study, the scope and the target audiences of the research.

1.1. INTRODUCTION

Crime is a common undesirable human experience in society and needs to be controlled.¹ Some crimes violate or threaten fundamental values or interests protected by international law while others violate national interests and concern the society as a whole.² Prevalence of crimes creates an environment of insecurity and disorder for the targeted victims and population in a given society and certain fundamental human rights are violated.³ Due to different crimes committed in various places, the lives of people have become affected, their property fallen at risk and at times certain crimes have posed a strong threat to state security.⁴

In the end, crime prevalence destroys a country's social and human capital due to the undesirable consequences that they manifest in terms of degrading the quality of life and interfering with development. This situation happens especially in places with high criminality rates without prevention strategies.⁵ This is the reason why crime prevention and punishment is one of the Government's policies in Rwanda to achieve peace and

¹ G. Raymond, *Essai de Théorie Générale de La Ruse en Criminologie*, Published by P U AIX MARSEILLE (2009), Pp. 22 *et seq.*

² R. White and F. Haines, (3rd edition), *Crime and Criminology*, Oxford University Press, (1996), Pp.4-6.

³ A. Ashworth and M. Redmayne, (3rd edition) *The criminal process*, Oxford University Press, (2005), P.55; See also P.Beirne and J. Messerschmidt (2nd edition), *Criminology*, Hartcourt Brace college publishers, (1995), Pp. 58.

⁴P.Beirne and J. Messerschmidt (2nd edition), *Criminology*, Hartcourt Brace college publishers, (1995), Pp., Pp. 104-175. For details, see N. Tilley, "Analysis For Crime Prevention", Nottingham Trent University, *Crime Prevention Studies*, volume 13, Pp.1-13, (2002), at 4.

⁵ Crime prevention is the attempt to reduce and deter crime and criminals. It is applied specifically to efforts made by governments to reduce crime, enforce the law, and maintain criminal justice.

stability of persons and the safety of their property.⁶ However, it is difficult to control or reduce crimes without knowing their causes.⁷

It is in line with this issue that the National Public Prosecution Authority (NPPA) in collaboration with the Rwanda National Police (RNP) embarked on the research journey critically analyzing the causes of some specific crimes, the challenges faced by practitioners during the investigation, prosecution and adjudication of those crimes as well as the strategies to overcome them. This research therefore specifically focuses on the frequency of various crimes in sampled districts, their causes and prevention strategies. An actual starting point for analysis of the topic based on (5) dominant crimes from the three main category of offence as per the classification of the Rwandan Penal Code⁸ following the Police report of 2014-2015 regarding the criminality rate in Rwanda which establishes crime patterns identified nationally on annual basis.

1.2. RESEARCH BACKGROUND

The Public Prosecution Authority (NPPA) and Rwanda National Police (RNP) play a key role in the protection of society against criminality increase and promotion of state security through investigation of offenders and their prosecution for accountability and deterrence. These two public institutions are thus partners in the same field of investigation and prosecution of crimes.⁹ It is appropriate and beneficial to join efforts as key actors of justice for the entire criminal justice chain in crime prevention. It is in this

⁶ The Rwanda Penal code, classifies crimes into three categories, offences against persons, offences against property, offences against the state. For details see Organic law instituting the Penal code No 01/2012/OL of 02/05/2012. There are several other laws and policies for ensuring safety and prevention of crimes against persons and their property.

⁷ N. Tilley, "Analysis for Crime Prevention", Nottingham Trent University, *Crime Prevention Studies*, volume 13, Pp.1-13, (2002), P. 9.

⁸ The Rwandan Penal Code classifies offences in three main categories: offences against persons, offences against property and offences against the State

⁹ Article 18 of Law N° 30/2013 of 24/5/2013 relating to the Code of Criminal Procedure states that criminal investigation and prosecution are carried out by judicial police officers under the control and supervision of the Prosecution Service, and Article 19 of the said code, stipulates that, the Judicial police is responsible for investigation of crimes, receiving complaints and documents relating to the offences, *gathering evidence* for the prosecution and defence and, searching for perpetrators of the crimes, their accomplices and accessories so that they can be prosecuted by the Prosecution. Additionally, Article 41 of same Code, stipulates that the power to prosecute before a court shall rest with the Public Prosecution. However, the victim of the offence may initiate a criminal action before the court as prescribed by law. If the case is introduced before the Public Prosecution, the Prosecutor shall have an obligation to inform the victim of his/her rights provided for by law.

regard that the National Public Prosecution Authority and Rwanda National Police have joined efforts to carry out a research on causes of crimes, prevention and fighting strategies. The organic law requires NPPA to conduct research on the cause and nature of criminality, in collaboration with the Police and submit the findings to the Prosecutor General.¹⁰ It is in line with this research ambit that NPPA decided to conduct a research on the cause of criminality countrywide and relevant themes like the challenges as well as preventive and reduction strategies.

It is also important to note that this research is the first of its kind to be conducted broadly assessing the cause of criminality and strategies for prevention and reduction in Rwanda after the Genocide against the Tutsi.

1.3. OBJECTIVES OF THE RESEARCH

According to the orientation of the topic, this research has the following objectives:

1. To understand why specific crimes are frequent and prevalent in the country by analyzing the causes thereof, including factors favoring crime increase.
2. To assess the legal and practical challenges related to investigation, prosecution and adjudication processes.
3. To investigate the approaches and mechanisms optimal to resolve and combat crime levels and their effectiveness. This goes along by suggesting strategies for curbing legal gaps, institutional impediments and operational constraints that need to strengthen crime prevention and fighting policies.

1.4. RESEARCH QUESTIONS

The research was motivated by 3 questions cited as follows:

1. What are the causes of different crimes in various areas in Rwanda?
2. To what extent does deterrence encounter setbacks and challenges?
3. What are the prevention strategies and mechanisms for combating the prevalence of crimes in Rwanda?

¹⁰ As determined by Organic Law N° 04/2011/OL of 03/10/2011 determining the Organization, Functioning and Competence of the National Public Prosecution Authority and the Military Prosecution Department in its Article 32 (4),

1.5. SCOPE OF THE RESEARCH

Since the establishment of the penal code in 2012 no research has been conducted on criminality in Rwanda. Thus periodically, this research covers the year 2014-2015. Geographically, it covers fifteen districts that were selected according to the crime prevalence in the year 2014-2015. Thus three districts were selected in each Province.

In domain, this study focuses on five (5) dominant crimes from each category of offence as per the classification of Rwandan Penal Code. However, for the purpose of informing the government on the status of emerging crimes, the study is extended to five (5) additional offences that are considered as emerging and need special attention from policy makers to avoid their prevalence.

1.6. SIGNIFICANCE OF THE STUDY

The study proposes general strategies and specific strategies for fighting and preventing criminality. This englobes legal and institutional solutions by suggesting laws to be amended and centres to be created, implementation strategies in terms of operational effectiveness, and sustainability of the measures and strategies to ensure durability whether in the short-term, medium term or long-term period.

The research also offers a synopsis of the main considerations to be taken into account in policy-making, and implementing crime prevention strategies and interventions. It also recognizes that there are some major geographical differences between districts in terms of causes and challenges posed by crime and victimization and the importance of adapting programmes to local district contexts. The main emphasis is on how crime prevention strategies based on strategies developed under this report can be entrenched and sustained over time. There is clear evidence that well-planned crime prevention strategies not only prevent crime and victimization, but also promote community safety and contribute to the sustainable development of countries. Effective, responsible crime prevention enhances the quality of life of all citizens. It has long-term benefits in terms of

reducing the costs associated with the formal criminal justice system, as well as other social costs that result from crime.¹¹

1.7. TARGET AUDIENCES OF THE RESEARCH

The present research was conducted for a number of audiences. The present research aims to address all different audiences such as the Government, both central and local government which have significant roles to play as policy-makers and executioners at all levels of government. The other audience includes the legislative body, Rwanda National Police, National Public Prosecution Authority, Judiciary, Advocates, academicians, researchers, and civil society organizations. Several audiences may benefit from this research but just to mention a few apparent cases of institutions with personnel having different skills and roles which are fundamental for crime prevention and crime reduction.

1.8. SCHEME OF CHAPTERS

Chapter one provides a general introduction of the research. Chapter two embarks on the research methodology. Chapter three provides an overview of the literature on criminality and prevention mechanisms. Chapter four shows the research findings and lastly chapter five contains the general conclusions and recommendations to government, policy makers, researchers, actors in the area of criminal justice and several other stakeholders who will find the findings particularly relevant in terms of ensuring effectiveness in crime prevention and investigation for purposes of maintaining security and order within the Rwandan society for persons together with their property.

¹¹ United Nations Office on Drugs and Crime ,Handbook on the Crime Prevention Guidelines; Making Them Work, , 2010

CHAPTER TWO: RESEARCH METHODOLOGY

The study has used a qualitative research approach to answer the different research questions. The research design involves only qualitative research which is deemed to be representative though the fact is that a combination of mutually reinforcing qualitative and quantitative research methods would be complementary. The choice of the methodology and its limitation nevertheless depended on budget constraints.

Nevertheless, the qualitative methods employed for this research consisted of collection and analysis of information from Focus Group Discussions (FGDs) and Key Informant Interviews (KII). The use of those different approaches have helped in addressing the research questions with appropriate methods and it has also helped in complementing findings as the analysis was based on different perspectives and sources from both FGDs and KII.

2.1. DATA SOURCES

Choosing an appropriate research methodology is an essential part of any research study. In order to achieve the aim and objectives of this research and answers to the research questions, this research used doctrinal (secondary) sources of non-empirical form and non-doctrinal (primary) sources with an empirical nature.

2.2. NON-DOCTRINAL/EMPIRICAL METHODS

The primary data have been collected through structured questions and open ended comprehensive questions, focus group discussions and interviews. Different sources from national and international instruments have been consulted to complement this research as well as relevant doctrinal research in the field. The empirical data collection for the research was limited to 15 districts within the 5 provinces of the Republic of Rwanda.

Tools that were used by researchers to collect data included questionnaire guide, for key informant interviews and focus group discussions. Questions asked for instance included the following:

Question 1: What do you understand as causes of offences against persons, property offences and offences against state?

Question 2: Identify the different root causes of the specific widespread crimes in your area?

Question 3: What are the dominant challenges faced in reducing the occurrence of these prevailing offences?

Question 4: What strategies can be adopted to prevent and combat the prevalence of crimes?

2.3. DOCTRINAL /NON-EMPIRICAL METHOD

The secondary data have been drawn from various sources such as, books of prominent scholars and experts in criminal law, journal, articles, reports, newspapers, and internet web sites. Other secondary sources like legal briefings, case laws and commentaries of prominent writers in the field of public law have also been consulted. In other words, literature review has complemented the primary findings from non-doctrinal research.

2.4. MAIN FEATURES OF THE RESEARCH APPROACH: QUALITATIVE STUDY

Since the topic of study is under researched in Rwanda, NPPA in collaboration with RNP have decided to carry out empirical research to collect primary data in order to acquire a proper understanding of the existing causes of crimes, problems encountered and what needs to be done to prevent their commission. To establish the real situation on the ground of the aforesaid topic, the questionnaire guide and interviews have dealt with different aspects of the topic such as diverse of causes of criminality, factors associated with crime, and persistent delinquency of crime following the fact that the serious consequences of crimes may be very difficult to prevent or bring to an end if the stakeholders do not succeed in understanding its causes.

2.5. SELECTION OF DATA COLLECTION TECHNIQUES

According to Marshall, qualitative research is conducted based on typically defined methods for gathering information including participating in the setting, observing directly, analyzing documents and material culture and in-depth interviewing.¹² The methods may provide either primary or secondary data. This study has been conducted using primary data collected using focuses group discussions and in-depth interviewing while analysis of secondary sources complemented the primary data.

2.5.1. Focus Group Discussions (FGDS)

In order to facilitate wide knowledge about the phenomenon being studied, focus group discussions have been used to collect data that is significant in demonstrating the causes of crime, hence helping in setting proper strategies. The collected data have also helped in crime mapping, hence helping to set prevention measures, as well as defining state priorities in combating crimes through *la politique Criminelle*¹³ (Crime prevention and reduction strategy).The Rwandan law has a gap because it only provides for prosecution policy but it is silent in regard to ‘politique criminelle’.¹⁴

The aim of the focus group discussions was to get first-hand information on causes of crimes by defining exhaustively and with certainty the factors that contribute to crime trends which yields a series of complex problems given that society itself is the crime laboratory. It is thus pertinent to know the correlation between criminal behaviour and certain factors causing them in order to establish a cause-and-effect relation and ensuring different strategies as solutions for prevention and fighting the criminal phenomenon.

¹² C. Marshall, & G.B Rossman, (4th edition), *Designing qualitative research*, Thousand Oaks, Sage (2006), P. 5 *et seq.*

¹³ *Politique Criminelle* concerns preventions strategies and measures that are deployed before the commission the criminal act, during occurrence of crime and after committing crime to avoid recidivism. For the State members of European Union, protection of the victim is the major objective of *Politique Criminelle*. For the purpose of efficiency and efficacy, *Politique Criminelle* has to be realistic to avoid setting impossible objectives. It shall always be taken into consideration that objective of *Politique Criminelle* should not be to eliminate criminality rather to render it weaker. Retrieved from *Politique Criminelle et Droit Pénal dans une Europe en transformation*. By Conseil de l'Europe. Comité des ministres.

¹⁴ In Rwanda the prosecution policy in practice deals with the investigation and prosecution of already committed crimes. But it does not deal with the prevention of criminal acts nor with prevention of recidivism, hence creating a loopwhole in prevention of crime.

The discussions in the focus groups facilitated access to voluminous information in a short period of time. The discussions were moderated by experienced researchers and going by research ethics, open ended questions like “why” which implies rational answers were used in order to allow respondents to choose the way they respond and avoid “yes” and “no” answers.¹⁵ The focus group interview technique was preferred to be used essentially because it has a low cost and provides quick results by allowing participants to express their views in a supportive environment.¹⁶ The discussions relevant to this research jointly conducted by NPPA and RNP were conducted in weekdays from Monday to Friday. Every interview session was held for not more than two hours. To obtain complementary information, during the sessions, a note taker from the team was present and audio recording to avoid losing important information.

In order to facilitate wide knowledge about the phenomenon being studied, focus group discussions have been used to collect primary data pertaining to the study. After conducting the FGDs, the researchers have then embarked on in-depth interviews with different persons projected to be knowledgeable in crime issues existing in their respective locations.

Based on the existing rules,¹⁷ Focus Group Discussions relied on relatively structured discussions and involved moderation with a composition of an average of 15 participants with knowledge and experience in crimes.

According to different authors,¹⁸ participants in the focus group discussions should be sharing a certain characteristic which is relevant to the study’s research questions.¹⁹ It is in other words, a participatory method where by participants influence each other through their contributions throughout the discussion and express their views in a supportive environment.²⁰

¹⁵ R.A Krueger, (2nd Ed) *Focus groups: The practical guide goes applied research*,(1994). P.7 *et seq.*

¹⁶ M. Miles, & M. Huberman, (2nd edition), *Qualitative data analysis: An expanded sourcebook*, (1994), P. 21-25.

¹⁷ D.L Morgan, *Focus group: the qualitative research*, Beverly Hills, Sage, (1988). P. 22 *et seq.*

¹⁸ C. Marshal, & G.B Rossman, (3rd edition). *Designing qualitative research*, (1999). P. 5 *et seq.*

¹⁹ *Ibid.*

²⁰ R. A., Krueger, (2ndedition), *Focus groups: The practical guide goes applied research* (1994), P. 32 *et seq.*

The focus group discussions composed of a maximum of 15 persons and there were 3 different groups in each District that shared certain characteristics which is relevant to the study's research questions. FGDs have been conducted in 15 districts selected according to the high crime rate in those districts. The sample process was designed to generate data that would be representative of the country as a whole. The persons who participated in the group discussions in this research were persons who are knowledgeable about the criminal behavior, causes, and mechanisms in place as key persons who encounter crimes committed, either as law enforcers, victims or as persons involved in commission of existing crimes. Group 1 of respondents involved various stakeholders, group 2 included respondents in police custody whereas group 3 constituted of convicts serving their sentence in prisons. The choice of these persons depended on the fact that they have experience in crimes and know why they have committed the crimes and therefore the information obtained helped in complementing other data collection sources.

The said categories of persons from the three different groups were chosen because they have a link with the crimes. Some are law enforcers and stakeholders in criminal justice, others are suspects of crimes while the third group was made up of convicts of various crimes. In order to facilitate wide knowledge about the phenomenon being studied, focus group discussions were thus used to collect primary data pertaining to the study. After conducting the FGDs, the researchers then embarked on in-depth interviews with different persons anticipated to be knowledgeable in crime issues existing in their respective locations.

2.5.2. Key Informant Interviews (KII)

An in-depth interview is a research tool used in qualitative research when the researcher wants detailed information about the phenomenon. This technique is recommended to be used with small number of respondents to explore their perspectives.²¹

This study gathered quality information from the selected participants using in-depth interviews taking into consideration the sensitivity of the subject matter that is being studied. This technique was preferred based on its comparative advantage as indicated

²¹Boyce, C & Neale, P., *Conducting in-depth interviews: A guide for designing in-depth interviews for evaluation input* (2006), P 22 et seq.

that it provides much more detailed information than what is available through other data collection methods.²² The main advantage of using an in-depth interview was to collect firsthand information about the underlying causes of crimes, criminal practices, and strategies towards prevention and eradication. The in-depth interviews were preferred to be used on individual interview which provided room for being more or less of a conversation with a selected participant which allowed obtaining large amounts of data that is informative in a short period. In order to allow participants to share their experiences in their own words, structured and open-ended questions have been used. Key informant interviews with stakeholders and knowledgeable persons in the field of criminal law enforcement were undertaken to supplement data from FGDs.

In this regard, key informants have been particularly interviewed. These participants included: District Judicial Police Officers (DJPO); Chief Prosecutors; National Prosecutors by Province; members of the bar association, Judges at both intermediate court and primary court level; Directors of prisons; Mayors; Representatives of civil society; and then Opinion leaders. On addition to this sample, professors of Universities were also interviewed and various leaders at National level.

The above mentioned officials have a common link since they are endowed with tasks relevant to advocacy, crime prevention and punishment, and so they have knowledge in crime tendencies and strategies.

2.6. LINKS OF THE SELECTED METHODOLOGY WITH SPECIFIC RESEARCH QUESTIONS

The following table provides an overview linking the various data collection methods to the research questions listed in the previous section.

²²*Ibid.*

Table No: 1: Methodology links to research questions

Data collection method	Research questions (RQ)
Qualitative Methods	
Focus groups with authorities involved in advocacy, enforcement and crime prevention	RQ1, RQ2, RQ3, RQ4
Focus groups with suspects under Police custody	RQ2, RQ3
Focus groups with detainees	RQ1, RQ2, RQ3, RQ4
In depth interviews with key informants (for testing and validating results from FGDs)	RQ1, RQ2, RQ3, RQ4

It is pertinent to note that, for the purpose of this study the methods employed to answer the research questions solely included Focus Group Discussions and Key Informant Interviews which are purely qualitative in nature and were complemented by doctrinal research.

2.7. ETHICAL CONSIDERATIONS

Ethical principles were taken into consideration in accordance to the provisions of ethical considerations as a set of ethical principles that were used while tackling a particular issue while conducting research.

Prospective participants were timely informed that the researchers would exercise confidentiality and that anonymity of the participants will be ensured. Considering that the topic under study was sensitive, all personal information was treated as confidential and any detailed information from the participants will be made anonymous. Before the initial conduct of the interview, it was explained to participants that the interview was only intended for study purposes and that interviews would be conducted only when the participants consent. Thus data have been collected from participants who were willing and have consented to participate in the study. It is important to note that success of the research study always depends on the participants' willingness to share their experiences. This had to be done with due obligation to respect the rights, needs, values and desires of the informants. Before participating in the study, an informed consent was sought for all

the participants to participate without duress. Participants were further informed about their right to withdraw from the study at any time they wish to or at any time they felt not comfortable to continue. Though this phenomenon was not widely experienced, there were two cases in which one participant in the FGD in Muhanga Police custody dropped the discussion because he had to go for preliminary trial on provisional detention. Another case was a woman who dropped in the discussions because she had a little baby that needed to be breast fed.²³ For purposes of their confidentiality, pseudo names of participants will be used to ensure anonymity and that the information recorded would be kept confidential.

2.8. SOURCE OF THE STUDY AND QUANTITY OF INFORMANTS

This research is mainly qualitative in nature whereby researchers conducted focus group discussions and key informant interviews. Key informant interviews and discussions were held with persons from different institutions working in both central and local government in addition to stakeholders like opinion leaders, University lecturers and civil society organisations based in various districts. Other participants and interviewees included judges, prosecutors, advocates, Judicial Police Officers and agents of Rwandan Correctional Service.

Focus group discussions enabled researchers to collect primary data from mixed groups of people involved in the criminal justice chain and their stakeholders, suspects under police custody and convicted persons in different prisons. Mixed groups involved an average of 15 persons in each of the 15 districts visited and the total participants were 223, and respondents under custody were in total 132 in the 15 police detention centres country wide, whereas the data collection in 10 prisons included discussions with a total of 157 convicts. The sum of all participants in focus group discussions is 512.

As for the key informant interviews, representatives of the institutions of the criminal justice chain were individually interviewed by researchers. Responses contain data collected from 132 individuals who are members of the criminal justice chain and these included; 14 District Judicial Police Officers, 10 Prosecutors at both Primary,

²³ Focus group discussions at Muhanga police station, Conducted on the 28 January 2016.

Intermediate and National level, 12 Judges, 10 Defence Lawyers, 18 Directors of Prisons and sociologists, 20 Opinion Leaders,²⁴ 9 Local Leaders,²⁵ 8 National Leaders,²⁶ 15 University Lecturers, and 16 members of Civil Society Organisations (CSOs).²⁷

In terms of the whole number of participants and respondents, the study involved a total of 644 interviews and discussions. These persons were selected because they are reputed to be knowledgeable with behaviour of criminals in terms of causes of offences, challenges and preventive strategies as key actors and partners in the criminal justice sector. Besides this methodology, the documentary technique was also used by reference to legislation at both national and international level, existing literature and other available studies focusing on individual prevention and general prevention of criminality.

The table below shows the statistics of respondents nationwide.

Table No: 2: National Situations of Respondents

S/N	Focused Group Discussion	Respondents and Participants
1	FGDs I	223
2	FGDs II	132
3	FGDs III	157
4	KII	132
1	Total	644

²⁴ Opinion leaders included primary and secondary school teachers, mediators, journalists, CNF representatives women council

²⁵ The constraint was that the period of research coincided with the election period for local leaders/ 26 January-7 March

²⁶ Minister of Internal security, Minister of Local government, Spokesperson of the prosecution, Commissioner General of RCS, Acting executive secretary of GMO, President of the Bar association, policy and legal coordinator of Transparency Rwanda, deputy ombudsman

²⁷ Civil society organizations, included religious leaders, pastors, priests, and Imams; Private sector federation representatives, and Bank officials

CHAPTER THREE: LITERATURE REVIEW

3.1. INTRODUCTION

The development of the research requires a good conceptual understanding of the topic under study. The literature review is primarily meant to further develop and refine the conceptual model for the research and relevant literature on criminality and prevention.

Crime has always been prevalent in the world and law enforcement is constantly faced with the on-going dilemma on what causes crime and how can crime be prevented. Currently in Rwanda, the National Public Prosecution Authority (NPPA) and the Rwanda National Police (RNP) have been faced with the challenge of finding out what the causes of crime are; what challenges the country faces in terms of the prevention strategies put in place to deter crime. This literature review thus focuses on the causes of crime, challenges and prevention as well as reduction strategies put in place to deter crime not only in Rwanda but in different parts of the world.

3.2. THE CONCEPT OF CRIME

Clarence Darrow defines a crime as an act that is forbidden by the law of the land and that is considered sufficiently serious to warrant providing penalties for its commission.²⁸ Legally, a crime or an offence is usually defined as an act or omission forbidden by the law that can be punished by imprisonment and/or fine.²⁹ Criminal law generally defines crime as an action or omission that constitutes an offence punishable by law. According to Cressey “the concept of crime must be restricted to the behavior which is defined by criminal law.”³⁰ This idea can be seen in the way certain acts may not be seen as criminal in one country and in another may constitute a crime. This can be seen by the recent example of the legalization of Marijuana in the United States; even though it may be legal to use this drug in the United States it is illegal to use in it other countries for example in Australia. Therefore, one may deduce that crime is a social construct that is produced by society in order to preserve certain norms and traditions within it.

²⁸ Clarence Darrow, *Crime: its cause and treatment*, Thomas Crowell Company Publisher, New York

²⁹ <http://www.des.ucdavis.edu/faculty/Richerson/BooksOnline/He16-95.pdf> accessed on 20th March 2016

³⁰ Cressey, D R., *Criminological Research and the Definition of Crimes*. *American Journal of Sociology*, (1951) 56(6) at 546-551.

Once a crime has been committed the law confers powers to the law enforcement to investigate, prosecute and try the offenders who committed the crime.

In Rwanda, crime is defined as “as an act prohibited or an omission which manifests itself as a breach of the public order and which the law sanctions by a punishment.”³¹ The various definitions make it clear to understand that the powers to investigate, prosecute and try crimes are conferred by the law of each country within its own jurisdiction.

In the Rwandan context, judicial authorities are competent to investigate, prosecute and try offences committed on the territory of Rwanda by either a Rwandan or a foreigner.³² They are also competent to deal with accomplices of felonies and misdemeanors committed outside Rwanda if they are both punishable by the Rwandan law and the law of the country where they were committed.³³

In practice, the prosecution of acts committed abroad causes a problem because on one hand the provision provides for the punishment of the accomplice only and leaves out the perpetrator. On the other hand, the same acts are qualified as criminal in one jurisdiction while in the other jurisdiction they are not considered as crimes.

Given that crimes are defined and punished by domestic laws. Some of these crimes are cross border or transnational and there is need cooperation between countries in dealing with them.³⁴

³¹ Article 12 of the Organic Law N° 01/2012/OL of 02/05/2012 instituting the Rwanda Penal Code, Official Gazette n° Special of 14 June 2012.

³² Article 9 of the Organic Law N° 01/2012/OL of 02/05/2012 instituting the Rwanda Penal Code, Official Gazette n° Special of 14 June 2012.

³³ Idem article 13

³⁴ In terms of Article 15 of the Rwanda Penal Code, a cross-border crime is a crime for which one of its constituent elements is accomplished outside the Rwanda’s border. Moreover, it is to be noted that some crimes, without being cross-border or international, are rather transnational. Such crimes are committed in any other country which does not border with Rwanda

3.3 CAUSES OF CRIMINALITY

The causes of crime cannot be linked to one factor, there are a range of factors that cause crime and therefore it is impossible to establish the exact cause of crime. In the case of Rwanda, for the country to successfully reduce the crime problem in the country, some of the causes of crime must be looked at in depth and understood throughout the law enforcement system.

It is difficult to control or reduce crime without knowing what causes it. Indeed, identifying the causes of crime is not easy or certain because the picture of crime changes constantly. The following discussion, portrays a brief review of the causes of crimes as identified by criminologists and different other researchers.

3.3.1. Family environment and early childhood experiences

Criminologists such as Bowlby, Spitz and Freud all suggest that family environment and early childhood experiences have a tremendous effect on how a child will develop. In his theory of maternal deprivation, Bowlby suggests that criminal behaviour is a product from emotional needs created by early experiences in infancy.³⁵ In his study of delinquency in criminals, Newburn discovered that almost two fifths of the group had experienced a significant disruption in the relationship with their primary care givers.³⁶ In line with Newburn and Bowlby, Spitz emphasised this view in his work 'The Affectionless Thief', where he claimed that without an early attachment to a primary care giver, the infants develop a super ego and are more likely to commit crime.³⁷ It is because of the lack of love and supervision the child receives that would push it towards a life of crime as they are more likely to drift towards crime offending groups.

The environment increases the risk of juvenile involvement in crime. In such a situation, the strategy to prevent delinquency especially for juvenile offender is to improve the quality of parenting.³⁸ Some criminologists group family factors in four categories³⁹:

³⁵ Bowlby J *Maternal Care and Mental Health. The master work series (1995, 2nd ed.)*. Northvale, NJ; London: Jason Aronson

³⁶ Newburn, T., *Criminology* (2013, 2nd ed), London: Routledge

³⁷ Spitz, R. "Hospitalism: An inquiry into the genesis of psychiatric conditions in early childhood". *Psychoanalytic Study of the Child* (1945) 1: 53–74.

³⁸ Don Weatherburn, What causes crime, in *Crime and Justice Bulletin, Contemporary Issues in Crime and Justice*, number 54, February 2001 , p4

- a) Parental neglect such as large family size, poor parental supervision, inadequate parent-child interaction
- b) Parental conflict and discipline
- c) Parental deviant behaviors and attitudes such as parental criminality, parental violence or tolerance to violence
- d) Family disruption such as chronic spousal conflict or marriage break up

According to other authors, children from families with many risk factors are more likely to become involved in crime than the children from families with just one or two risk factors.⁴⁰

3.3.2. Level of intelligence

In his study of the relationship between crime and intelligence, Erickson discovered that the intelligence had a positive effect on crimes committed.⁴¹ He discovered that a great proportion of the younger offenders were found in groups with the highest intelligence as compared to the older offenders who were found in groups with the lowest intelligence.⁴² It can be argued that offenders consist of people with both low and high intelligence; therefore low intelligence cannot always be said to cause crime. One can argue that committing crime comes down to the people the offender surrounds themselves with because these people either convince or force the offender to commit the crime they were found guilty of committing.

On the contrary, Blumstein, Cohen, Roth and Visher argue that offenders are nearly always found to be less intelligent on average than non-offenders.⁴³ This idea is supported by Hermistein, R.J and Murray, C who argue that a low intelligence quotient (IQ) directly increases the risk of involvement in crime because it limits a person's ability to appreciate the consequences of their actions.⁴⁴ However the view of the researchers on this factor is that this cannot always apply especially for white collar crimes which are

³⁹ Idem

⁴⁰ Stouthamer-Loeber, M and Loeber, R 'The use of prediction Data in Understanding Delinquency', *Behavioural Sciences and Law* (1988), vol.6, no 3 at 333-354

⁴¹ Erickson, M H, A Study of the Relationship between Intelligence and Crime. *Journal of Criminal Law and Criminology* (1929) 19(4) 592-624

⁴² *ibid*

⁴³ Blumstein, A, Cohen J, Roth, J.A and Visher, C.A , *Criminal careers and career criminals*' (1986) vol 1, National Academy Press, p 50

⁴⁴ Hermistein, R.J and Murray C , *The Curve Bell* , Simon and Schuster (1996), New York, p241

largely committed by knowledgeable persons and individuals with credible social status in the course of their occupation.⁴⁵

In addition to the above, lack of supervision by schools and truancy have been advanced to increase criminality. Truancy is a willful and unjustified failure to attend school.⁴⁶ Scholars like Weatherburn link truancy to delinquency and think that the lack of supervision and surveillance of school authority gives opportunity to the commission of crimes.⁴⁷

3.3.4. Influence of Delinquent Peers

It is thought that delinquents communicate deviant attitude and values, techniques and opportunities for committing and earning from the crime.⁴⁸ As a result, an ordinary person who joins such a group is likely to behave like his/her peers. This matches with the Kinyarwanda saying that '*ihene mbi ntawe uyizirikaho iye*'⁴⁹ or the English saying that 'tell me your friend I will tell your character'. All these expressions illustrate the fear of being contaminated and influenced with bad behavior of the peer group which similarly applies to criminal matters. The argument is that there is a closer link of an offender with other offenders in terms of learning or being influenced by the peer groups.

3.3.5. Poverty and Unemployment

In the second edition of his book, *Criminology*, Newburn claims that there is a relationship between poverty and crimes committed.⁵⁰ Newburn suggested that people living in extreme poverty are more likely to commit opportunistic crimes;⁵¹ for example the theft of certain essentials such as food in order to survive. One may argue that having a high number of unemployed people in an area increases the likelihood of committed crimes in that area as more people are idle and therefore are more likely to get involved in devious behavior. This goes along with the assertion that an idle mind is the workshop of the devil.⁵²

⁴⁵ Sutherland, Edwin H. *White Collar Crime (1949)*, New York: Holt, Rinehart & Winston

⁴⁶ Bryan A. Garner, *Black's Law Dictionary*, 8th Edition (2007)

⁴⁷ Don Weatherburn op cit note 8 p4

⁴⁸ *Idem*

⁴⁹ The literal translation is that, 'you cannot tie your goat on a goat of bad behavior' because it will also automatically be bad in character.

⁵⁰ Newburn, T., *Criminology*, Second edition (2013) London: Routledge

⁵¹ *ibid*

⁵² J. Spek and N. The, *An idle mind is the devil's workshop*, Universiteit Utrecht (2013) p.14 et seq.

Poverty and unemployment are thought to cause crime because they motivate people to offend as a means of overcoming their difficulties.⁵³ This however cannot be the case in all circumstances and in all offences. For instance, not all poor people are thieves and not all thieves are poor which means at times some people go into offences for unjustified enrichment. More so, apart from property offences, like theft, offences against persons like murder and rape have no direct correlation with poverty and unemployment as a cause of their commission.

3.3.6. Substance Abuse

Criminologists had found at least four factors that show that alcohol consumption is one of the causes of crimes⁵⁴:

- a) The consumption of alcohol increases the aggression.
- b) Heavy drinkers are more likely to report committing alcohol related offences than light drinkers or non-drinkers.
- c) Criminal assaults tend to concentrate around places where alcohol is consumed.
- d) Areas with high rates of alcohol consumption tend to have high rate of violence.

Indeed, not only drug consumption lead to the commission of crimes but also people who become drug dependent become addicted to expensive drugs and commit crimes to fund their addiction. Therefore, drugs ranging from narcotic drugs to alcoholic drugs like kanyanga have a closer nexus and relationship to raising the rate of criminality in a given community because they are a basis for commission of other several offences.

3.3.8. Weak Informal Social Controls

Informal control refers to the capacity of a community to police itself by reporting all criminal behavior to the Police. Criminologists argue that areas with reduced level of informal control are found to have higher rates of crimes and violence.⁵⁵ Public tolerance

⁵³ Don Weatherburn op cit note 8 p5

⁵⁴ Ibidem.

⁵⁵ Sampson, R.J, Raudenbush, SW and Earls F, ‘‘A multilevel study of collective efficacy’’ in *Science* (1997) vol.277 pp 918-924

of crime can be a cause of continued commission of such offences since there is no legal repercussion by society which could be a way of encouraging offenders than deterring them. In certain cases, the general public does not report some criminal acts simply because of tolerance. This is the case of some domestic violence acts, environmental crimes, drug-trafficking, child defilement and corruption.

The above review handles the generalized views of various scholars on what causes crimes in societies. The views however neglect the fact that there is no uniform criminality in terms of communities, which implies that the causes cannot also be similar and identical in all instances.

3.4. CRIME PREVENTION STRATEGIES

Crime prevention has become an increasingly significant part of several national strategies on public safety and security. The concept of prevention is grounded in the notion that crime and victimization are driven by many causal or underlying factors. These are the result of a wide range of factors and circumstances that influence the lives of individuals and families as they grow up, and of local environments, and the situations and opportunities that facilitate victimization and offending. Determining what factors are associated with different types of crime can lead to the development of a set of strategies and programmes to change those factors, and prevent or reduce the incidence of those crimes. These underlying or causal factors are often termed risk factors.⁵⁶ They include global changes and trends that affect the social and economic conditions of regions and countries; factors affecting individual countries and local environments and communities; those relating to the family and close relationships; and those that affect individuals.⁵⁷

3.4.1. Definition

The guidelines for crime prevention define crime prevention as strategies and measures that seek to reduce the risk of crimes occurring and their potential harmful effect on individual and society.⁵⁸ As already stated, effective crime prevention strategies can only be adopted after knowing the unique factors that cause such offences. Literature has cited various strategies that can reduce or diminish criminality and the exploration of the prevalent views is cited below;

3.4.2. Approaches of Crime Prevention

Crime prevention is the general name given to the attempts law enforcement agents make in order to reduce the number of crimes committed in a country. Crime prevention approaches are strategies set in place to tackle the causes of crime and reduce the amount of crime in an area. The strengths and weakness of particular strategies like; increased

⁵⁶ Risk factors” is a term used especially in the area of developmental prevention, to refer to characteristics affecting individuals or crime patterns.

⁵⁷ United Nations Office on Drugs and Crime, Handbook on the Crime Prevention Guidelines; Making Them Work (2010) p 12

⁵⁸ Ibid, p 10

policing, situational control and responsiblising communities and the voluntary sector will be analysed below;

3.4.2.1. Crime prevention through social development

This approach includes a range of social, educational, health, and training programs such as those that target at-risk children or families.

3.4.2.2. Community-Based Crime Prevention

It aims at increasing the sense of safety and security of residents of the community to respond to the community concerns and crime problems affecting the community members.⁵⁹ For example, in Rwanda, people living in the same village (*umudugudu*) organize themselves and keep the security in their neighborhood by preventing the crimes and reporting those which may occur.

Responsibilising communities helps the reduction of crime in two ways. Firstly, it increases the awareness of crimes committed in different communities and encourages the people in the community to fight the crime in their communities. Secondly it relieves pressure from the law enforcement as now communities are actively involved in the prevention of crime. In Rwanda, the community (*umudugudu*) is actively involved in crime prevention as they are all responsible for the security in the neighbourhood. For example the *umudugudu* tells its members to install security lights and turn them on at night in order to deter thieves from attacking people on their way home, and if a member of the community does not comply with this, they are fined. Although responsibilising the communities has its benefits the question of how far the communities can implement crime prevention measures remains. When should the community step back and let law enforcement take over certain situations and vice versa.

3.4.2.3. Policing hotspots

When crime in a particular area increases the law enforcement may increase the amount of police patrolling the area, this is known as ‘zero-tolerance’ policing.⁶⁰ For example in Kigali, more foot patrol policemen can be put in that area at random times in an attempt

⁵⁹ Ibid at p. 3

⁶⁰ Wilson, J Q; Kelling, G L , Broken Windows: The police and neighborhood safety (1982),

to deter crime in that particular area. Although this method is a short term solution to the problem in the area, it does not offer a long term solution to the problem as a large number of police officers cannot be expected to seriously and exhaustively patrol all the different areas in Rwanda.

3.4.2.4. Situational Crime Prevention

This approach aims to reduce the opportunities for people to commit crimes through environmental design and provides assistance to potential and actual victims.⁶¹ The use of night patrols and night lighting are an example of situational crime prevention approach. Garland, Wakefield and von Hirsh define Situational Crime Prevention (SCP) as “crime prevention strategies aimed at reducing the criminal opportunities which arise from the routines of everyday life”.⁶² The SCP is based on two main theories namely; the Rational Choice Theory (RCT) and the Routine Action Theory (RAT). Clarke and Cornish claim that RCT assumes that the offender is a rational being and therefore rational weighs the risks and rewards of committing a crime and chooses to commit the crime.⁶³ Cohen and Felson introduced RAT; they claim that crime is now a product of everyday life.⁶⁴ They claim that this is because of the increasing economy today, people have more luxury items and more and more people are unemployed thus tempting them to commit crimes.⁶⁵ SCP advocates for strategies such as the 'hardening' of potential targets (such as the increase of police patrols), improving surveillance of areas that might attract crime (for example using closed-circuit television surveillance commonly known as CCTV), and deflecting potential offenders from settings in which crimes might occur (e.g., by limiting access of such persons to shopping malls and other locales). Although there are some benefits to SCP, there are some weaknesses too; the basis on SCP is not completely sound, Garland explains that the assumption that the offender is a rational being is

⁶¹ *ibid*

⁶² Garland D; Sparks R, *Criminology, Social Theory and the Challenge of our Times. The British Journal of Criminology*(2000), 40 at 189-204

⁶³ Cornish, D; Clarke, R V. "Introduction" in *The Reasoning Criminal* (1986). New York: Springer-Verlag, pp 1–16

⁶⁴ Cohen L E; Felson M ,Social change and crime rate trends: a Routine Activity Approach. *American Sociological Review* (1979) 44 at 588-608

⁶⁵ *ibid*

detrimental to the to the system as there are some cases where irrational crimes are committed.⁶⁶

3.4.3. Institutional Crime Prevention

According to paragraph 7 of the United Nations Guidelines for the crime prevention preconizes states should develop crime prevention strategies and create institutional framework for their implementation.⁶⁷ In this regard, a permanent central authority in charge of the crime prevention policy is recommended. Where this authority exists it works with other public and private institutions to develop a national plan or program of crime prevention. The above mentioned authority may be located in the ministry having justice or security in its attributions. For example, in Canada, the National Crime Strategy is located in the Ministry of Security and Safety and support a range of programs at the local level through funding specific programs that focus on youth.⁶⁸

3.5.CRIME REDUCTION STRATEGIES

These are strategies that are aimed at reducing the number of offender as well as potential and actual victims of crimes. These strategies include the following⁶⁹:

1. Prevention and deterrence of crime
2. Apprehension and prosecution of offender
3. Rehabilitation of offenders

3.5.1. Prevention and Deterrence

This focuses on actions that can be taken to prevent or deter crimes from happening. Prevention programs involve the participation of the whole community. As developed in the previous section, the effectiveness of the crime prevention requires an institutional framework, a structured plan as well as the funding.

⁶⁶ Garland D; Sparks R, Criminology, Social Theory and the Challenge of our Times. *The British Journal of Criminology* (2000) 40 at 189-204

⁶⁷ Idem para 7

⁶⁸ United Nations Office on Drugs and Crime, Handbook on the Crime Prevention Guidelines; Making Them Work (2010) p 32

⁶⁹ City of Surrey Crime Reduction Strategy

3.5.2. Apprehension and Prosecution of Offenders

This consists in actions that focus on removing offenders from circumstances where they are committing crimes and directing them to rehabilitative centers where their lives are reformed.

This involves the participation of all the actors of the criminal justice chain (police, prosecution, and judiciary) and the weakness of one institution impacts on the performance of another. Therefore, each institution composing this chain should have its policy and effectively implement it.

3.5.3. Rehabilitation and Reintegration of the Offender

When the offender is convicted, the correctional service has to provide him/her with medical treatment and detoxification, educational and carrier skills as well as the leisure and social activities aimed at changing him/her into a productive member of the society. This is the spirit of the law n° 34/2010 of 12/11/2010 the establishment, functioning and organization of Rwanda Correctional Service (RCS) which provides that fundamental task of rehabilitating detainees and prisoners in order to prepare them to be good citizens and that such objectives may be achieved through education, work, cultural ways, sports and entertainment activities.⁷⁰

The approach of reintegration aims at preventing recidivism by assisting in the social integration of offenders.⁷¹ Indeed, researchers found that persons convicted of crime run risk of reoffending, given that they have an experience in breaking the laws and have links with other offenders. As a result, providing them with life and job skills may assist with their reintegration.

Although the above points, illustrate what different authors have commonly come to assert as the main causes of criminality and prevention strategies, this research finds them important but cannot solely be relied upon to be the universal approaches of crimes in all countries and in all areas. There will always be variances in several places depending on

⁷⁰ Article 58 of the law n° 34/2010 of 12/11/2010 the establishment, functioning and organization of Rwanda Correctional Service (RCS)

⁷¹ Guidelines of crime prevention 6 (b)

different factors ranging from historical contexts to social context of the given area. Besides these notable differences, all crimes cannot be mended in one categorization to be caused by fixed issues but each offence may have its particular causes and subsequent prevention measures.

In view of the aforementioned point, avoiding generalization is essential in this research and hence the particularity of this study is that it complements the existing literature by examining causes of various offences in various districts in Rwanda and suggest reduction strategies. The flow of the discussion concentrates on each sampled offence but not all crimes in general. The researchers however wish to submit that for some offences, particular causes may re-occur but at times in different contexts and in a specific manner. The call for tailor made strategies for crime prevention and reduction is thus paramount in the course of the study findings for suitability and relevance to Rwandan society.

3.6. PREVALENT CRIMES IN RWANDA

The study covers fifteen districts that were selected according to the crime prevalence in the year 2014-2015. Thus three districts with high criminality rate were selected in each Province. This study is also limited to five (5) dominant crimes from each category of offence as per the classification of Rwandan Penal Code. However, for the purpose of informing the government on the status of emerging crimes, the study is extended to five (5) additional offences that are considered as emerging and need special attention from policy makers to avoid their prevalence. Due to alternating prevalence of offences in certain districts, the total number of explored crimes under this study is 23 instead of 20.

Thus, this part discusses the main prevalent offences in the varying categories, namely; crimes against persons, crimes against property, crimes against the State and emerging crimes.

Prevalent crimes in the category of offences against persons include; acts that are physical, violent, and often have direct impact on the victim. This research has focused only on offences of, murder, rape, child defilement, spousal harassment, assault and battery, discrimination and sectarianism which alternated with the offence of genocide ideology in some districts.

Under this study, crimes against property include; theft, fraud, breach of trust, embezzlement, issuing or receiving bouncing cheques and arson. Initially, the analysis was to focus on five (5) predominant offences against property, but in some districts the offence of issuing/receiving a bouncing cheques and arson were alternating.

The offences against the state that were found to be prevalent in various district included; unlawful use of narcotic drugs, use of counterfeited document, corruption and related offences, offences against state security and illegal use of arms.

As for emerging offences, the selected crimes include; money laundering, terrorism, cyber crimes, human trafficking and environmental crimes which are actually not prevalent but need to be prevented before widely spreading because of their highly negative impact on society, and humanity.

The scope of crimes and districts that form the sample of this research based on the police report of 2014-2015 because it combines all reported crimes instead of only prosecuted crimes or convictions for offences. This responds to the issue of criminality rate which is not solely dependent on the number of prosecutions or convictions but on how many crimes have been committed, whether perpetrators are found or not, as well as whether a conviction is secured or not since all cases submitted to court do not end into a conviction but this does not derive the fact that crimes have been committed in a given area. The statistics from the police were more informative of the crime situation than the statistics of the prosecution and judiciary in terms of reflecting the criminality rate in varying districts since the later only include either criminal case files submitted by Police for prosecution or criminal cases tried by courts. Absence of prosecutions and trials does not mean crimes were not committed reason why Police reports were more reliable in showing criminality in various districts because police are endowed with preliminary investigations.

The following table focuses on the prevalent crimes according to each category of the offences and the criminality levels within different regions and districts countrywide.

Table No 3: Police Annual statistics report from July 2014 to June 2015⁷²

DISTRICTS	KIGALI			Northern Province						Western Province						Southern Province						Eastern Province						Total				
	Nyarugenge	Kicukiro	Gasho	Musanze	Gakenke	Burera	Gicumbi	Ruhondo	Karongi	Ruhango	Ruhango	Nyahuru	Nyahuru	Ngororero	Nyamashake	Rusizi	Nyamagabe	Nyaruguru	Huye	Gisagara	Nyanza	Muhanga	Ruhango	Kamonyi	Rwamagana	Nyagatare	Gasho		Kayanza	Kiruhura	Ngoma	Bugesera
CRIMES AGAINST PERSONS																																
ASSAULT	314	213	276	126	127	95	125	104	133	59	114	132	137	95	102	59	56	104	112	81	58	54	68	81	180	155	180	136	109	106	3721	
CHILD DEFILEMENT AND RAPE	120	111	204	50	53	32	61	50	32	42	66	38	42	41	59	19	14	47	38	25	43	36	38	59	98	78	72	73	65	72	1778	
MURDER AND RELATED OFFENSES	8	13	12	13	12	8	16	19	13	6	23	8	14	8	17	8	4	15	12	11	14	7	12	5	24	9	20	14	9	14	368	
HARASSMENT OF SPOUSE	29	18	42	13	17	20	23	11	8	5	4	5	9	13	5	7	2	6	2	6	7	0	2	9	18	5	22	11	2	18	339	
GENOCIDE DENIAL	3	11	14	4	5	0	10	4	8	2	6	3	7	5	16	6	3	5	9	8	9	5	8	6	8	14	8	9	6	8	210	
DISCRIMINATION	4	1	7	2	1	0	5	2	0	2	4	1	2	6	3	0	3	4	1	2	0	4	0	0	3	5	9	2	5	1	79	
ABORTION	5	8	11	0	4	1	0	3	1	0	4	7	2	5	3	6	1	0	3	0	3	2	1	2	3	1	1	1	1	0	79	
TOTALS	483	375	566	208	219	156	240	193	195	116	221	194	213	173	205	105	83	181	177	133	134	108	129	162	334	267	312	246	197	219	6544	
TOTALS Provinces	1424			1016					1317						1050									1737								
CRIMES AGAINST PROPERTY																																
THEFT (all forms)	488	476	330	122	68	46	121	95	91	56	137	69	69	78	118	74	53	148	46	47	122	45	66	120	198	98	116	113	109	95	3804	
BOUNCING CHEQUES	199	43	45	0	0	0	0	3	1	0	3	1	3	2	10	1	0	4	0	2	2	0	1	0	4	2	0	1	1	2	330	
FRAUD AND DECEIT	66	21	42	16	3	3	9	8	3	1	14	10	3	9	14	1	0	16	0	8	14	2	4	1	7	5	13	7	4	3	307	
EMBEZZLEMENT	57	17	25	6	9	3	8	10	8	3	15	7	13	3	11	4	5	5	16	3	5	3	7	2	8	6	6	9	5	9	288	
BREACH OF TRUST	80	30	25	13	5	2	2	1	7	3	9	4	6	7	11	5	4	5	0	1	5	0	5	8	10	3	10	4	6	3	274	
Arson	6	2	3	2	3	4	2	8	7	0	2	2	2	0	3	1	0	3	1	2	1	1	2	1	2	2	1	6	1	0	70	
TOTALS	896	589	470	159	88	58	142	125	117	63	180	93	96	99	167	86	62	181	63	63	149	51	85	132	229	116	146	140	126	112	5083	
TOTALS/P rovinces	1955			572					815						740									1001								
CRIMES AGAINST THE STATE																																
NARCOTIC DRUGS	280	184	218	85	34	262	343	81	40	38	144	29	30	47	85	27	22	76	40	69	74	81	61	137	411	84	167	185	196	124	3654	
CORRUPTION	58	38	55	17	5	4	15	11	8	0	28	7	10	13	16	5	4	10	5	6	11	7	9	9	7	9	9	6	2	15	399	
FORGING DOCUMENTS	108	20	52	15	7	6	4	6	18	1	11	5	7	15	12	7	4	7	2	7	5	8	5	3	20	11	8	12	7	5	398	
OFFENCES AGAINST STATE SECURITY	2	0	3	0	0	1	5	0	0	0	9	0	0	0	8	0	0	0	1	0	0	0	1	0	0	0	1	2	3	0	0	36
OFFENCES RELATED TO ARMS	4	0	3	2	1	0	0	0	1	0	2	1	1	0	3	0	1	1	2	1	0	1	0	0	0	2	2	2	1	1	1	33
TOTALS	452	242	331	119	47	273	367	98	67	39	194	42	48	75	124	39	31	94	50	83	90	97	76	149	440	107	188	207	206	145	4520	
TOTALS/P rovinces	1025			904					589						560									1442								
EMERGING CRIMES																																
CYBERCRIME	7	5	8	0	0	2	9	3	6	3	5	1	2	3	3	18	9	9	5	11	4	7	6	8	15	4	9	3	5	5	175	
ENVIRONMENT DEGRADATION	8	9	11	1	0	1	0	0	2	0	1	0	0	1	1	0	0	4	0	2	1	1	0	0	1	1	1	1	1	2	50	
HUMAN TRAFFICKING	3	2	4	0	0	2	2	0	2	0	2	0	2	0	1	0	0	0	1	0	0	0	1	2	4	1	4	1	0	1	35	
TOTALS	18	16	23	1	0	5	11	3	10	3	8	1	4	4	5	18	9	13	6	13	5	8	7	10	20	6	14	5	6	8	260	
TOTAL/Pr ovinces	57			20					35						79									69								
TOTAL COUNTRY WIDE	16407																															

⁷² These statistics are taken from Rwanda National Police report but top five offences in each category and in each district were considered by the present research

CHAPTER FOUR: RESEARCH FINDINGS

4.1. SPECIFIC RESEARCH FINDINGS

4.1.1. Introduction

This section offers an empirical overview of the main considerations to be taken into account in setting up strategies and employing crime prevention interventions. It also recognizes that there are some major differences between provinces and districts in terms of causes of prevalent offences in various districts with high crime rate according to Rwanda National Police (RNP) statistics, the challenges posed by crime and victimization and the importance of adapting interventions to local contexts. The main emphasis is on how crime prevention strategies based on the research findings developed from this research can be entrenched and sustained over time.

All districts experience violence and victimization as a result of offences but at different levels or with crime variations just like there is no region that is free from criminality. This has led to some of the following situations: districts with high proportions of offences against persons like murder, cases of voluntary battery and injuries; societies with high property offences like theft and embezzlement of property; state offences like corruption and narcotic drugs which is actually cross-cutting in almost all categories of offences; and emerging situations of families who lose a child or an adult member due to human trafficking and the current evolving cyber-crimes. As a result of all these crime effects, different members of society face victimization at a large scale and other families have members in prison, who are living in poverty and without access to support or legitimate sources of income.

Consequences can be various in terms of the public experiencing insecurity; women who are subjected to violence in their homes, or children who are at risk of defilement. Several other consequences may include income inequalities, misappropriation of public funds, insecurity, and reduction of foreign investment as well as losing credibility of the state. For offences, like genocide ideology, the target group

may find themselves living in isolated conditions and subject to ethnic harassment and victimization.

All actors in the country and partners therefore need to strive to ensure safety and security for the lives of people and to increase the wellbeing of their citizens. The research findings on crime prevention developed in this study incorporate and build on field research in many districts in responding to these diverse problems.

The field study emphasises crime prevention techniques to be adapted to local approaches in curbing crime problems and the use of an integrated crime prevention action plan that should be based on a local analysis of issues. More so, society needs to involve various actors, and consider several actions ranging from primary prevention to the prevention of recidivism. This echoes the statement that “prevention is the first imperative of criminal justice”.

4.1.2. Offences against Persons

Crimes against persons are crimes that are physical, violent, and often have direct impact on the victim. This research has focused only on murder, rape, child defilement, spousal harassment, assault and battery, discrimination and sectarianism. These crimes have been selected based on prevalence as per the Police report 2014-2015. Two major methods for collecting crime data were applied and these were mainly Focus Group Discussion (FGDs) and Key Informant Interview (KII). Below are the key causes, challenges, and strategies proposed by various respondents countrywide that participated in the group discussions and knowledgeable informants.

4.1.2.1. Assault and Battery

This crime was recently categorized among crimes with a high trend according to the Rwanda National Police statistics as from July 2014 to June 2015; 3,691 were reported countrywide. This part of the report discusses the causes and motives of this offence, the challenges faced by law enforcement agents and preventive strategies that can help to confront this crime.

A. Causes of Assault and Battery

Respondents in different discussions generally, told the research team that reasons that contribute to the escalation of this offence include; drunkenness, unemployment, mob-justice, cruelty, madness, trauma, revenge, breach of trust, use of narcotic drugs like “Muriture, Kanyanga, and cannabis (urumogi), among others. Several other respondents argued that lack of moral values, increase of poverty, decrease of resources and demographic growth, and people living in slums, increases the likelihood to conflict, thus facilitating the offence of assault and battery.

Apart from the above stressed factors, most respondents pointed out intra-family disputes being a cause of assault and battery which could also result into GBV cases. The victim group is mainly women not to exclude some men who have also been victims. Such disputes result from property based conflicts between spouses.

Other serious causes that were highlighted among family members were lack of mutual respect between the spouses due to misunderstanding of gender equality, adultery and cohabitation.

Some respondents in FGDs indicated that people from the Northern region have a culture of cohabitation and this can generate misunderstanding in the families resulting in Assault and battery. In Kigali city, inferiority complex of some men mostly when the wife is more educated, and earns more than a Husband at times yields disrespect from the wife and may end up bringing strife to the extent of battery and injury.

In Nyagatare district the geographical location and land scape has attracted the vocation of pastoralists who have a culture of carrying sticks to beat cows and regulate their movement. So once there is provocation, it is easy to beat and assault even human beings. Victim groups in this district include immigrants who are considered and believed to be thieves of the cows and property of residents because their identity is not known and proving their whereabouts is also a problem.

The material jurisdiction of ‘Abunzi’ committees have also been pointed to be a cause of this offence because theft of property that does not exceed five million Rwandan Francs is within the competence of Abunzi mediators. Some respondent asserted that in case

theft of twenty (20) cows equivalent to less than five million Rwandan Francs the case is diverted to abunzi committees, while this institution does not punish but reconcile.

Generally, in all districts, the research team noted that assault and battery is a seasonal offence because it manifests mostly during harvest or high production, reason why some informants called it a crime committed due to excessive production commonly known as 'Umurengwe,' where people have enough to consume and drink then take a long time in bars spending money and at the end start fighting. This is a point worth noting for security enforcers to deploy more efforts in harvest time and high productivity period to curb the assault and battery issues.

B. Challenges

Specific obstacles to the offence of assault and battery that were widely reported involve; provision of unclear or delayed medical reports by medical doctors, the lack of medical report due to the inability of the victim to pay the medical report and most respondents considered this as double victimization.

Apart from the challenging practice, the law offers fewer penalties for assault and battery considered as GBV case spouses than the ordinary crime of voluntary battery and causing injuries.

According to the respondents in Kicukiro District, another serious challenge is the problem of recidivism which is still rampant. The motive being that our prisons do not play their role of educating prisoners so as to transform them into non-violent persons with a tolerant behaviour in disputes, and changing them into responsible citizens that can easily be reintegrated in the society. It is needed that prisons in Rwanda re-educate persons rather than just concentrate on executing imprisonment punishments, with the aim of combating recidivism. Being aware of the causes and challenges in investigation and prosecution process, the study suggests the following preventive measures to curb the high scale of assault and battery.

C. Prevention and Reduction Strategies

According to the respondent, people should be sensitized about the law punishing the offence of assault and battery, through all means. They added that the penalty for this offence should be cumulative rather than alternative. Thus, both penalties of imprisonment and the fine should be applied. Another important strategy that was proposed is to increase punishment of narcotic drugs which is the major source of many offences, such as assault and battery.

For the issue of paying the medical expertise by the victims, NPPA or any other institution should take up the responsibility of paying medical expertise for them in order to avoid double victimisation.

4.1.2.2 Child Defilement and Rape

Despite the severe penalty provided for the offence of child defilement and rape (life imprisonment with special provisions in case of child defilement and the penalty more than five years to seven years in case of rape), statistics of RNP show that these offences keep increasing and there is need to find out what could be the causes for these offences, the challenges in its investigation and prosecution as well as the strategies for prevention.

Concerning rape, it is defined as causing another to engage in non-consensual sexual intercourse by using threat or trickery. This definition seems to be taken from the old traditional definition which referred rape as ‘the insertion of the penis of a male into the vagina of a woman’ without her consent. If one considers this definition, all other forms of sexual acts which did not involve the penetration of the vagina such as the insertion of an object into a woman’s vagina, sodomy, oral sex and so forth, would not be qualified as rape but as indecent assault.

Thus, it is incorrect to limit sexual penetration to the intrusion of a penis into a woman’s vagina since one can also sexually penetrate another person in the mouth or the anus using another part of his/her body (i.e. his/her finger) or using an object. Briefly this definition should be revised and include all acts of sexual penetration regardless of its nature. Another problem with this definition is that it presumes only women can be raped by men and yet the reverse is possible. There are few cases under national and international law where women have been convicted of rape.

A. Causes of Child defilement and Rape

During the research, several discussions and interviews identified the common causes of child defilement and rape as; sexual lust/obsession, drunkenness, abuse of narcotics drugs, influence of pornography films, peer group influence, lack of education, weak financial situation of the victim, lack of parental responsibility, ignorance of the law in relation to the age of consent; prostitution whereby among sex workers there are children by age, poor mind-set and beliefs based on witchcraft that sexually abusing a child can cure HIV.

Some psychologists of prisons mentioned that in some cases child defilement committed by young adolescents is caused by adolescent curiosity and it is inevitable following the Physiological change of the body (imihandagurikire y'umubiri w'umuntu uva mu bwana ajya mu Ubugimbi/Ubwangavu). According to proposals by psychologists, such persons should not be prosecuted and the government should look for other alternatives ways rather than prosecuting them.

The increase of child defilement cases is also attributed to sex between children who are both minors. This is the situation of a minor against another minor of the same age or whose difference in age is small but with compromise of both parties (the presumed victim and presumed perpetrator). There is discrimination in treatment between males and females where young boys are taken to rehabilitation centres and the girls are automatically considered as the victims and continue their studies. The consent is manifested in the fact that such cases are reported by parents of the girls in case they are found pregnant then young boys are prone to be found guilty of child defilement. Also adolescents of 18 years above are believed to in the years of curiosity and sexual discovery which makes them engage in sexual acts as a result of their physiological changes than any other malicious intention.

To complement this finding with the literature, many scholars raised their voices and gave arguments supporting the decriminalisation of consensual sexual intercourse between minors. Professor Alan Flisher and Anik Gevers, as experts in child and adolescent mental health, argue that sexual behaviour including kissing, petting and sexual intercourse are normal in the development stages of a child and that its criminalisation implies the behaviours are abnormal which is not scientifically true.

These experts in child and mental health argue that such sexual behaviours are normative and should not be criminalised. The criminalisation of healthy and normal development behaviours of adolescents has negative effects on the psychological development of an adolescent. It is advanced that scientifically it is known that adolescent sexual behaviour forms a normal part of their development and may include not only sexual violation but also sexual penetration. Thus, the criminalization of consensual sexual intercourse between two minors of the same age or those whose difference of age is two years contributes more to increasing adolescent vulnerability than to protecting them from harm by restricting caregiver and institutional support and guidance as well as contributing to lower levels of help seeking by adolescent.

According to Pierre De Voss the problem of teenagers' sex is a social problem, and it should be handled socially through the education of young children on the issues and consequences of having sex and enable them to make 'sensible decisions around their sexuality'. This education should begin in families, social institutions and even be incorporated into school curricula. Thus 'the criminalisation of all teenagers' sex is profoundly anti-child and does not take into account the best interests of children protected by the UNCRC.

B. Challenges

Among the challenges that law enforcement agents face in the investigation and prosecution of these offences, the problem of getting birth certificates for both the suspect and the victim was highlighted in all districts that the research team visited especially when children are not registered in the civil status register. As a result, some Executive Secretaries of Sectors produce birth certificates according to the need of the person who requests them, and write the details told by that person instead of the reality because there is no way of verifying the information. In such a situation, there is a dangerous possibility of having two contradictory birth certificates of the same individual in the same criminal case file.

The lack of transport means to permit the investigators to visit the crime scene is another challenge encountered by this institution in charge of preliminary investigation and the gatekeeper of the criminal justice chain. Despite this situation in practice, the criminal procedure provides that 'upon receiving information about the commission of an offense, a Judicial Police Officer must immediately visit the scene of the offense and note all the

relevant facts.’’ Consequently, the fact that investigators have insufficient transport means to visit the scene of crime hinders the efficiency of gathering inculpatory and exculpatory evidence.

The delay of taking the victim to the hospital for examination is another challenge which results in the vanishing of some evidence such as sperms and other scientific evidences like DNA samples collected from both the victim and the suspect in order to corroborate/link them. There even some parents who wash clothes and bath the victim before taking her to the hospital which removes some of the evidence.

Concerning the penalty of life imprisonment provided for the offence of child defilement, respondents found it challenging to punish the offender without considering the age of the victim. In any case, child defilement against a minor of 17 years does not have the same impact against the victim as the one against a minor of less than 10 years.

On this issue, some actors of justice sector in Rusizi and Karongi district suggest that child defilement should be punished in consideration of the age the victim as it was the case in the child protection law of 2001.

During the investigation process, respondents argued that some investigators do not collect testimony from children who are victims. However the criminal procedure accepts such testimonies for children and it helps to get information on how the offence was committed. In addition, for those who ask children who are victims to testify, face another challenge of lack of legal representation yet suspects who are minors are protected by law to have lawyers during any interrogation. There is need for victim centred justice to curb this issue that protects suspects who are minors but ignores victims who are minors.

The geographical position of district hospitals is another challenge as in most cases they are situated far from the residence of victims. As a result, some victims who are sent to hospital for medical test do not reach them. The absence of such an important document in a case files of rape leads to doubt yet the principle of *in dubio pro reo* asserts that in case of doubt it benefits the accused.

C. Prevention and Reduction Strategies

First of all, there is need of increasing the quality of investigation by the use of scientific evidence from both the victim and the offender in order to corroborate and link them. For example, it is difficult to convince the judge that there is rape because there were sperms found in the vagina of the victim without linking them to the suspect.

Considering that drug abuse was recorded to be one of the main causes of rape and child defilement the awareness of the offence of use of narcotic drugs was recommended by many respondents as a strategy to prevent rape and child defilement. Parental Evening Forums in villages, meetings, media, anti-GBV clubs in schools, and the role of religious leaders were some of the proposed solutions through which this mobilization should undergo. In these mobilizations, parents should be reminded to follow up and exercise due care over their children, to report crimes on time and to keep children at schools rather than employing them as house keepers. Children should also be sensitized on reproductive health.

Moreover, itinerant trials may be used to mobilize the people on the consequence of rape and child defilement. For the issue of people who fear to testify before law enforcement officers, respondents proposed the establishment of mechanism of protection of witness.

On this point, even though in NPPA there is a unit in charge of witness and victims' protection, the research team suggests the enactment of the law related to the protection of victims and witnesses. A significant achievement to be noted that nowadays there is a law protecting whistle blowers, but still victims need to be legally protected. Since the latter may be used as witnesses before judicial organs, it could be better if that law is amended to include the protection of victims and witnesses of offences.

Concerning the challenge of missing the complete identification of the offender as well as the victim, it was suggested to improve the identification system of all Rwandans and mobilize the executive secretaries of cells to give birth certificate on the basis of the official register. In the absence of the register, there is need to base on the information from village leaders which could avoid the establishment of more than one conflicting birth certificate or even consultation of the birth hospitals which always register children born from there.

The investigation and prosecution of child defilement committed by a minor against another minor of the same age also causes a problem of equality of persons before the law and respondents suggested that there should be equal application of the law either by prosecuting or exonerating both of the children caught in sexual affairs.

With regard to the determination of the sentences in case of child defilement, several respondents suggested that it not fair to apply the uniform sentence for all offenders without considering the age of the victim. This should be backed up by the legal legislation because even judges expressed the limitation of the law in providing uniform sentence without flexibility and room for discretion which would permit them to evaluate the individual circumstances of the case. The amendment of the Penal code provision punishing child defilement should depend on age of victim. If, the victim is less than 14 years, the offender should be punished severely, and if the victim is more than 14 years but less than 18 years the offender should be punished less severely. As for consensual sexual intercourse between two minors of the same age or whose difference of age is less than two years, the two children should be taken in a rehabilitation Centre, and where necessary exonerate them depending on the circumstances of committing the offence.

In sum, the challenges presented over this offence justify the reasons for its continued prevalence in addition to increased reporting. It is not necessarily true that commission of this crime has increased but what can be submitted is that people have been sensitized to report particularly child defilement leading to more reported cases. In the same vein, the definition of child defilement after the 2012 penal code augmented reporting of formerly unreported cases because of adoption of the international law definition derived from the Akayesu jurisprudence. Child defilement means ‘any sexual intercourse or any sexual act with a child regardless of the form or means used’. Traditionally, reporting only concerned sexual intercourse but currently there several reports, prosecution and successful trials of sexual acts with a child regardless of the form or means used unlike before.

4.1.2.3. Murder and Related Offences

Murder is defined by the penal code as an intentional killing of a person. Contrary to the old penal code of 1977, the penal code of 2012 does not provide for the offence of assassination. Therefore premeditation and ambush are considered as aggravated circumstances for murder.

A. Causes of Murder

As per the respondent's views, most prominent causes of the crime of murder are: excessive drunkenness, unlawful use of narcotics drugs, family conflict based on land and other assets, consequence of adultery, cohabitation, the long process of acquiring the divorce in cases of spousal homicide and genocide consequences where some people are not afraid to commit murder. Though this point did not emerge in all provinces, one key informant from the Western province mentioned that genocide consequences cannot be ignored to be among causes of assault and battery.

Some of respondents in Rusizi, Kirehe, Kayonza and Rubavu districts have pointed out witchcraft (amarozi) as one of the cause leading to private justice or revenge because laws in Rwanda land do not recognize witchcraft as an offence, and this situation leads to mob justice. It should be noted that witchcraft differs from poisoning which is an offence under the penal code. In relation to this practice of private justice, respondents from Gasabo district pointed out, revenge as one of the causes of murder. This is often provoked by the so called "Bank Lambert" where people lend money to each other with high interest than the ordinary banks and has to be paid in a short period of time with accumulating interest for any delays. In case of failure to pay back the money, it provokes commission of crimes such as murder.

As for the respondents in the district of Rubavu, among other causes of murder is the illegal possession of arms especially the for the former members of FDRL, a rebel group having its base in the Democratic Republic of Congo. This argument is supported by one of the convicted offenders who stated that:

"Jyewe ubwanjye nari ntunze imbunda nakuye mu ABACENGEZI najyaga nkoresha ngiye kwiba no kwicisha abantu". This is literally translated as follows; "Myself, I owned a gun that I obtained from ABACENGEZI, rebels of FDLR which facilitated me to steal and kill people'

Due to the geographical location of districts of Nyagatare, Gicumbi and Burera which have a common characteristic of being located at the border. These districts suffer from murder cases carried out by a group of violent persons, the so called "ABAREMBETSI" drug dealers who threaten people and informants that report the traffic of narcotic drugs.

It is worth noting that, the murder acts mainly emanate from some kind of conflict either intra family or interfamily disputes rather than indiscriminate murders. This makes it easier to employ reduction and prevention of the offence rather than when murder

increases as a result indiscriminate and unselective murder, where it becomes difficult to map possible victims and possible perpetrators.

FGD participants in Gasabo, Nyarugenge and Kiicukiro districts in Kigali city pointed to how small parcel size and rising land value contributes to increased competition for, and disputes over, land. As the land is small, some of the beneficiaries will attempt to take it as whole without sharing with others. The result is disputes. Similarly, FGD participants in Huye, Muhanga and Nyanza districts in the southern province, reported that land scarcity, poverty and competition over land create conflicts in which ‘family members kill each other’ and provided cases where family members had killed one another over land. This view was widely advanced by both FGDs and KII in Gicumbi district, Musanze and Burera districts.

B. Challenges

In regard to challenges faced by actors of justice, respondents pointed out, the following as some of the major stumbling blocks: delay to arrive at crime scene by Judicial Police Officers due to the shortage of means of transport and personnel, shortage of trained and skilled Judicial Police Officers to collect forensic samples, lack of enough crime scene material to collect scientific evidence, lack of timely reporting of incidents of offences by the community, lack of evidence in case of murder committed by witchcraft.

Other issues mentioned by respondents are, lack of awareness among population in terms of crime scene management where the local population unknowingly tempers and interferes with the crime scene or destroys evidence, delay of medical reports ascertaining death and cause of death of the victim. In this situation, another challenge manifests where the family of the victim which cannot afford the cost of medical expertise, may opt to bury the dead body and drop the case without reporting it.

C. Prevention and Reduction Strategies

Preventing murder requires addressing a series of underlying causes of murder identified in this research. The following are prevention and reduction strategies proposed by respondents.

Respondents have proposed that there should be enforcement of Parents Evening Forum (umugoroba w'ababyeyi), establishment of multi-disciplinary team to educate and inform people on causes and consequences of murder, family conflict mapping wherein local leaders should provide regular reports on family situation with likelihood of committing murder and synergy among religious and governmental institutions through various means to educate people the legal consequences among others. It was also suggested that there should be enhancement of the skills of law enforcement agents, and training local leaders in order to train people on law pertaining to murder. The population needs to be sensitized on tolerance and non-violent means of resolving disputes than the practice of violent offences such as murder.

The other suggestion provided by different participants in both FGDs and several KII, was the need to improve forensic investigation such as DNA evidence, fingerprint, ballistics, etc. The usage of DNA technology evidence is one field in which actors of justice must stay abreast of existing technology in order to perfectly assess the scientific DNA evidence presented in court. The ability to understand how forensic science and how DNA works, using knowledge of science and technology is of greater value. Therefore, actors of justice in particular should have a proper understanding of DNA evidence to be able to deal with murder and other related crimes by using scientific evidence.

Of particular concern, respondents revealed that there are wide disparities in sentences for murder charges under similar circumstances which often results in greatly varying punishments, in part because of unfettered judicial discretion, corruption, favouritism, and influence peddling but also due to lack of guidelines for prosecutors and judges in proposing penalties and taking final decision in relation to the penalty. The respondents stipulated that having sentencing guidelines would seek to ameliorate these challenges. It should be noted that this challenge is not only specific to murder but generally applies to all other offences under this study.

4.1.2.4. Harassment of Spouse

Some acts that are considered as harassment of spouse under article 240 of the Penal Code include: insult, assault and battery, refusal to assist in family responsibilities, denial of the right to property, and any other act preventing one of the spouses from living in a

peaceful life. There are different forms by which harassment of spouse is manifested including but not limited to physical abuse, sexual abuse, and psychological abuse, destruction of property, verbal abuse and isolation.

The penalty of this offence is a term of imprisonment of at least three (3) months but less than six (6) months. Assault and battery is one of the forms of harassment of spouse and that assault and battery is punishable of a term of imprisonment of six (6) months to two (2) years and a fine of one hundred thousand (100,000) to five hundred thousand Rwandan francs (500,000) or one of these penalties. According to the statistics of RNP, 339 cases were reported which shows increment in reporting.

A. Causes of Harassment of Spouse

Respondents in group discussions and key informants interviews identified the following as causes of harassment of spouse, drunkenness and abuse of narcotics drugs, misconception of Gender equality policy, cohabitation and adultery, lack of dialogue between spouses, couples not legally married, family conflict based on property distribution and management of family wealth by one of the spouses, disputes based on the matrimonial regime particularly the community regime of assets where one of the spouses did not bring anything (50 percent right to spousal property) has yielded also harassment. Even though spouses who are formally married under the community of property regime are now, by law, joint owners of household property, women are sometimes forced to accept decisions they do not agree with. When a woman refuses to endorse the sale of a land parcel by her husband, for example, she may face severe social and familial consequences, from being physically abused to emotional violence and different threats.

B. Challenges

The investigation and prosecution of the harassment of spouses is not without challenges. Respondents from FGDs and KII pointed out the following: the culture of silence and not reporting when it is the man who is victimized or when the perpetrator is the one who feeds the family,

FGD participants in different districts highlighted the fact that just because the reported cases are few does not mean that they do not exist. In most cases, a woman will not report GBV because she does not like to reveal the secrets of the household. Another participant in Rusizi district stated that, “Most of the time men fear to report spousal harassment because they think that they may face shame or simply because culturally, a man beaten or abused by a wife is no man or may be referred to be weak, bewitched and a dog (imbwa).

The other most frequent challenges cited include; lack of eye witnesses as the offence is often committed without the presence of the third party and simple sentence for battery and injuries for between spouses in relation to battery and injuries among other people.

Regarding the punishment accorded to offender, respondents across the provinces pointed out the challenge of battery and injury committed by one spouse against another. Battery and injury as one of the elements of harassment of spouse punishable with a term of imprisonment of three months to six months contravenes ordinary battery and injury in the penal code, which is punishable with a term of imprisonment of six months to two years. Therefore, even when consequences are grave, punishment will be less when committed by a spouse than when it is another person even when part of the body is gravely harmed. According to the KII of Gender Monitoring office, ‘The Law is less protective for GBV victims in cases of assault and battery’.

C. Prevention and Reduction Strategies

With regard to the strategies to deter the offence of harassment of spouse, the following strategies were proposed by respondent: reinforce Parental Evening Forum (umugoroba w’ababyeyi) and urge men to participate, sensitisation of people on gender equality policy, family conflict mapping where local leaders should give regular report on family status and possible offences, mobilize local authorities to resolve family conflict as early as possible as an alternative dispute resolution approach.

Respondents’ perspectives regarding punishment of battery and injuries differed, in every region of Rwanda. FGD in Nyagatare suggested removal of the acts from the elements of spousal harassment while FGDs in Huye district opted for increased sentence for battery and injury as spousal harassment and make it equal to the penalty of battery and assault.

Except in Kigali City, a preponderance of respondents in the provinces indicated that it is culturally accepted to beat a wife.

4.1.2.5. Genocide Ideology and related Offences

In terms of article 2 of the law no 84/2013 of 11/09/2013 on the crime of genocide ideology and other related offences defines genocide ideology as ‘ an act committed in public whether orally, written or video means or by any other means which may show that a person is characterized by ethnic, religious, nationality or racial-based with the aim to:

1° Advocate for the commission of genocide;

2° Support the genocide.

From this definition, in order for the offence to be established, there must be not only the commission of an act but also that act must be committed in public and aimed at advocating the commission of genocide or supporting the genocide. Thus, apart from proving that the actus reus has been committed in public, the prosecution must also prove the special intent (*dolus specialis*) which is the motive of the offender as provided by the law. According to the report from RNP, during the period from 2014-2015, 210 cases were registered countrywide.

A. Causes of Genocide Ideology and related Offences

Several key informants complemented FGDs across provinces, they described the rising number of genocide ideology cases in terms of a generational conflict where older people maintain traditional historical beliefs, and do not welcome reforms providing for equality of all Rwandans, while younger people are more welcoming the norm of ‘I am a Rwandan’ than ‘I am a Tutsi, or Hutu or Twa’. The old generation is resisting new reforms providing equality of all Rwandans, and the new generation is fighting for that equality. FGD participants in, Kayonza, and Kirehe sectors disagreed with the assertion that young people are more likely not to commit genocide ideology offences given that they receive destructive education from their families where some parents coach genocide ideology to their children by instilling hatred based on history (*inyigisho zo ku mashyiga*). This happens mostly in families of with relatives who have been convicted of genocide and have kept the bitterness against genocide survivors.

Several widespread ideas from various FGDs and KIIs on causes of genocide ideology and related offences included, poor mind-set, consequences of genocide, ignorance of the law on genocide ideology, wicked history of the country where by people have been characterized by ethnic divisionism for a long time.

Looking at the differences across Provinces, respondents in the Northern Province, specifically in districts where the former political leaders before the genocide against Tutsi were born, there is an increase of genocide ideology which is circulated through the influence of their relatives. The main period for manifestation of genocide ideology is during the genocide commemoration week in April to July when the whole country is mourning for Tutsis that were killed in 1994.

In Miyove prison in Gicumbi district, one participant remarked that while elements of genocide ideology are somewhat rare, they do exist, but are hidden and caused by rigidity to change, opposition to sharing resources and unwillingness to power sharing.

B. Challenges

Data on genocide ideology from various provinces apart from Nyarugenge and Gasabo districts in Kigali city reveal that challenges involve limited knowledge of enforcement agents to understand the constituent elements of these offences to properly interpret the law. Any divisionism tendencies and dangerous speech is interpreted to be genocide ideology yet hate speech is the one that should tantamount to the offence.

Likewise, during the research, respondents indicated that whenever there is a case related to genocide or ethnicity, most law enforcement investigators, prosecutors and judges tend to qualify it as genocide ideology or genocide denial. However, the law on the crime of genocide ideology and other related offences provides for other eight (8) offences related to genocide ideology as provided for in articles 4 to 11 of the genocide ideology law.

Respondents from FGDs and KII mentioned other challenges encountered by law enforcement agents, include lack of witnesses, who manipulate the truth and sometimes contradict one another. Other issues include wide use of internet use, unlimited social media and the definition of the offence is itself not clear.

According to definition of genocide ideology, the act must be committed in public. According to the law, the word 'in public' means a site in which acts are performed or words are uttered in the presence of or in a place accessible by at least more than two (2)

persons. FGD participants raised concerns about this provision, indicating that it is not clear in the following context:

What happens when a person sends a message containing genocide ideology words by mobile phone or by email or if he/she utters them to another person in the absence of a third person, can it constitute an offence when the public nature element is missing. This shows that several persons decide to commit genocide ideology in absence of the public to avoid prosecution but their message reaches the public.

Whereas the genocide Law provides statutory protection for potential victims of genocide, this still leaves uncertainties regarding the criminalisation of the offence. The study sought to explore respondents' knowledge on what causes genocide ideology, challenges and strategies but still found the law being part of the challenge. The threshold for prosecution is wide and losing cases is very likely as a result of inadequate knowledge on constituent elements of the offence by investigators, and prosecutors and insufficient evidence to prove the offence particularly, the lack of clarity on the public nature of the crime. The other challenge that was mentioned but not widely includes unharmonised legal terminology of genocide ideology with the policy and political language.

C. Prevention and Reduction Strategies

In order to deter the commission of genocide ideology and related offences, the respondents proposed the following strategies: regular mobilization of the population on mutual respect and tolerance through home grown solutions, such as Itorero and Ndi Umunyarwanda programs, sensitization of the population on the constituent elements of these offences, establishing and improving anti genocide clubs in schools and villages, as well as punishing perpetrators after conducting itinerant trials. On the issue of the word 'public' which is one of the constituent elements of this offence, it is proposed that the lacuna in the definition needs to be redefined. Thus there is a necessity of amending this provision and extend the definition of the word 'public' to the local contexts to even include electronic means (mobile phone message, e-mail).

Apart from the definition difficulties, some respondents suggested harmonisation of the legal terminology of genocide ideology with the policy and political language. An

opinion leader in Gasabo FGD, mentioned that today, Rwanda no longer has ethnic groups of Tutsi, Twa and Hutu that were reinforced during colonial period and later genocide. However, offences of genocide ideology concern ethnicities and from time to time, actors of justice will refer to the law in mentioning ethnicities for investigation, prosecution, and trial.

Local leaders, and the population need to be sensitized on the offence genocide ideology, its nature and its consequences mainly, as there is potential for the genocide ideology to generate genocide an international crime or escalate victimisation of genocide survivors. The fact that this offence was prevalent in 13 districts among 15 districts is a strong indicator that there is still a need for a public awareness program, with particular efforts directed to heightening awareness among the youth, particularly young boys and girls who have not been contaminated by the deceitful history of divisionism.

Given the serious nature of the offence, investigators, prosecutors and judges need to be trained on the constitutive elements of the offence to ensure investigations for the right cause, prosecution and securing convictions. However, awareness needs to be created to inform the public that every dangerous speech is not hate speech and does not need to be investigated but instead submitted to other alternative mechanisms like Abunzi, and Umuganda community meetings which can reprimand the persons with dangerous speech and acts while those with hate speech are to be dealt with by courts.

4.1.2.6. Discrimination

The actus reus for the offence of discrimination is constituted by the use of ‘any speech, writing, or actions based on ethnicity, region or country of origin, the colour of skin, physical features, sex, language, religion or ideas aimed at depriving a person or group of persons of their rights as provided by Rwandan law and by international conventions to which Rwanda is party’.

On the national scale, the RNP report shows that in 2014-2015; 79 cases were handled. On the district scale, the research team found that this offence was among the top five

offences in two districts (Nyarugenge and Rubavu) among fifteen districts that were visited.

A. Causes of Discrimination

Respondents from the FGDs and KII mentioned that the main cause of discrimination is the bad history linked to the consequences of genocide. The most common causes of discrimination advanced include, ethnic differences, and gender inequalities based on sex.

The government of Rwanda enacted several legal frameworks that recognize the rights of women, though there are some noticeable loopholes in practice. For example, several laws and policies provide for equal opportunities for both men and women in various sectors with intention to protect and secure women's rights. The government policy, requires at least 30 percent of females to appear in all sectors in order to englobe the gender equality. However, the law does not provide any mechanisms to prevent these practices from occurring at the community-level. In Rubavu district, one key informant working in local government said that legislation guarantees equal rights to both women and men, however, customary norms in rural areas are still biased against women, limiting their rights under domestic and international law. The problem here is not the law but the practice.

There were cases of discrimination caused by links to genocide history. Ethnic differences that have strongly characterised the colonial era still manifest even after the genocide against Tutsi. In various districts, several respondents highlighted that no discriminatory tendencies appear in form of region or country of origin, the colour of skin, physical features, language, religion but remarkable instances of discrimination in the Western Province in Rubavu district reportedly resulted from sex or gender differences whereas Kigali city in Nyarugenge district had a few cases of discrimination based on ethnicity.

B. Challenges

Respondents mentioned that the main challenge is the misunderstanding of the constituent elements of the offence by most law enforcement agents.

Some law practitioners confuse this offence with the offence of sectarianism whose actus reus consists in using ‘any speech, written statement or action that divides people, that it is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination’.

The offence of discrimination is also often confused and overlapped with genocide ideology and related offences. Yet this is not the case, discrimination based on ethnicity amounts to discrimination in the legal sense whereas genocide ideology concerns ‘acts committed in public whether orally, written or video means or by any other means which may show that a person is characterized by ethnic, religious, nationality or racial-based with the aim to:

1° Advocate for the commission of genocide;

2° Support the genocide.

The above definition of genocide ideology differs from discrimination which requires ‘any speech, writing, or actions based on ethnicity, region or country of origin, the colour of skin, physical features, sex, language, religion or ideas aimed at depriving a person or group of persons of their rights as provided by Rwandan law and by international conventions to which Rwanda is party’.

C. Prevention and Reduction Strategies

The main strategies proposed by most respondents are not so different from genocide ideology emanating from ethnic differences. In order to deter the commission of discrimination, the respondents proposed: public awareness programs to inform people about their rights under domestic law and international law, regular mobilization of the population on mutual respect and tolerance through home grown solutions, such as Itorero, Ndi Umunyarwanda, ingando and Abunzi programs, sensitization of the enforcement agents on the constituent elements of these offences.

Given the serious nature of the offence, investigators, prosecutors and judges need to be trained on the constitutive elements of the offence to ensure investigations are properly done, and fairly prosecuted to obtain increased convictions.

Instead of solely imprisoning convicts of these offences, there is need for their rehabilitation in terms of washing away the poor mind-set through different seminars and

teachings in prison and outside prison. A convict in Nyarugenge prison during the FGDs explained that ‘how can you just imprison someone for discrimination and not offer them courses to change them and reform their beliefs and perceptions.’

4.1.2.7. Abortion

The word abortion comes from the Latin *abortio*, which means to abort, miscarry, and deliver prematurely. The Latin word *abortus* means "miscarriage, premature, untimely birth." In medicine, abortion means ending a pregnancy prematurely. An abortion can happen spontaneously as a result of complications during a pregnancy, or it can be induced, the word abortion is often used to mean only induced abortions. Article 162 of the penal code punishes self-induced abortion. It provides that ‘Any person who carries out self-induced abortion shall be liable to a term of imprisonment of one (1) year to three (3) years and a fine of fifty thousand (50,000) to two hundred thousand (200,000) Rwandan francs.

A. Causes of abortion

Turning to analysis of findings, FGDS and KII from the Northern province indicated that the perpetrators and victims were obviously women and young girls. In the vast majority of abortion cases found in the Northern province, respondents provided explanation of the causes such as impregnated women and girls being abandoned by their partners, harassment by families, and unwanted pregnancy. Records from the Eastern province and Southern province indicated that adultery leads to abortion for fear of the spouses. Other causes that emerged in Kigali city involved, cases of young girls who want to continue with their studies without interference, and poverty. Social stigma is among the weighty causes of self-induced abortion due to the culture which reacts negatively against pregnancy of unmarried girls, it is considered like a taboo in Rwandan society. As it is revealed by a key informant interview in Nyanza, some girls may prefer to be HIV positive than pregnant because some of them take AIDS as an accident and they say that no one can laugh at you but pregnancy shows ignorance according to the FGDs in Rubavu prison. In Kicukiro district, prostitution is among the noticeable causes because the prostitutes do not want losing their clients as a result of pregnancy.

B. Challenges

The great majority of FGDs and key informant interviews reported challenges faced by law enforcement agents in the investigation and prosecution of these offences. Among the challenges that law enforcement agents meet in the investigation and prosecution of these offences, respondents mentioned an issue of unclear medical expertise issued by some medical doctors, concealment of evidences, lack of eye witnesses, speeding up case file due to the pressure before proper collection of evidences, inadequate means for the investigators to attend the scene of crime, corruption of medical doctors in order to attest false expertise. This was also true across provinces, though Huye, Rubavu and Rusizi districts indicated more specific causes related to geographical factors where they border other countries which facilitate perpetrators to escape accountability. Responses regarding abortion techniques and means were too sparse to analyse or draw conclusions on whether they constitute a challenge facilitating easy commission of the offence.

Another challenge noted is in the penal code on Article 165 providing for Exemption from criminal liability for abortion. The law stipulates that there is no criminal liability for a woman who commits abortion and a medical doctor who helps a woman to abort when a woman has become pregnant as a result of rape. It further provides that abortion will be permitted only if the woman who seeks abortion submits to the doctor an order issued by the competent Court recognizing one of the cases under these items, or when this is proven to the Court by a person charged of abortion.

According to the Judge within the Intermediate court of Karongi, 'The Law is not clear on how this provision can be implemented. The judge showed the controversy of the law in pausing this question: 'Does it mean that the person asking for abortion as a result of rape has to wait for a conviction of the defendant first and then apply for abortion from court later?' Given the provision of the penal code on abortion, certain provisions in the law may in practice be inapplicable, particularly the exceptional circumstances for exemption from criminal liability for abortion.

In summary, secretive behaviour by both perpetrators and potential victims of abortion was reported in some provinces of the country as a challenge during investigations and prosecutions and proposed as the key reason why the police revealed a low incidence of

abortion cases. The available statistics may not reflect the exact rate of abortion cases, an offence that is punishable under Rwandan law.

C. Prevention and Reduction Strategies

To prevent and reduce this crime of abortion, the informants suggested some strategies, such as: awareness programs to teach the negative consequence of abortion, sensitize parents not to harass their daughters once impregnated, educate youth on abstinence, and encourage faith based organisations to support the agenda of reducing and fighting abortion as a sin and an offence in the penal code but nevertheless avoid banning any pregnant girls from churches to avoid temptation of abortion.

Other strategies mentioned to reduce and prevent abortion include; the need to improve the mechanisms of fighting against prostitution, amendment of law which regulates abortion to be comprehensive in regard to exceptional circumstances of abortion, sensitize young girls on reproductive health, mapping impregnated girls for a better follow-up, increment of youth centres where youth get teachings and lessons on moral values and taboos, cancellation of medical license for the nurses or doctors who illegally help in abortion.

4.1.3. Offences against property

Crimes against property are any criminal acts that destroy another person's property, or deprive an owner of property against the owner's will. Under this study, crimes against property include; theft, fraud, breach of trust, embezzlement, issuing or receiving bouncing cheques, and arson. Initially, the scope of the study aimed at analysing five (5) offences against property, but in some districts the offence of issuing or receiving a bouncing cheques and arson were alternating in prevalence in those districts.

4.1.3.1. Theft

Theft is defined as the fraudulent withdrawal or use of something belonging to another person. The penal code provides for four types of theft: theft without violence or threat,

theft with violence or threat, armed robbery and theft committed by use of computers and other similar devices.

The offence of theft is the most prevalent among the offences against property and the statistics from the police report for the year 2014-2015 indicate 3,851 cases that were handled. These figures are high.

A. Causes of theft

More varied ideas were expressed when respondents were asked about the causes of theft in their respective districts. In the Western and Northern provinces, the respondents believe that theft is caused by, poverty, laziness and unemployment. In Kigali city, the respondents disagreed with poverty and unemployment being a cause of theft but believe that theft is caused by the development of technology, laziness, desire for unjustified enrichment and carelessness of victims over their property attracting attention from thieves. In the Southern province, the dominant opinion on cause of poverty was laziness, and idleness. This varied with the dominating views in Nyagatare and Kirehe districts which included, lack of education, poverty, poor mind-set of thieves, and laziness. A broad consensus emerged in the FGDs and KII in all provinces and Kigali city that the offence was eased by narcotic drug consumption and lack of penalties for theft without violence or threat for values not exceeding five million because it was in the competence of Abunzi committee responsible for reconciling disputing parties and not punishing.

By an overwhelming margin, in all regions of the country, respondents indicated that a thief has no right to reconciliation without punishment. FGD participants in almost all districts agreed that informally victims of theft carried out revenge or private justice which led to other offences like murder, voluntary battery and injuries against the thieves. Views from Nyagatare, Kayonza and Rubavu districts, which are characterised by pastoralism, had this common idea. For instance, a participant in the FGD in Nyagatare, wondered how a victim of theft of 20 cows can go to Abunzi for reconciliation with the offender. In Musanze, Karongi and Gicumbi districts, the shared idea was how to reconcile someone who has stolen crops from garden worth 5 million without threat or use of violence while the thief is at times insolvent and is unable to give back the stolen

property. During the drafting of this report, the law on Abunzi committee was amended and all criminal matters were removed from their competence.

B. Challenges

Participants in the FGDs and KII asserted that Prosecutors and Judicial Police Officers face challenges related to insufficient transport means for investigators allowing them to visit the crime scene. In Muhanga district, local leader in the KII interview raised the concern. However, in Kigali district, it was revealed that insufficient means may not necessarily be the reason for judicial police officers not to visit the crime scene but the unwillingness to go there because they depend on testimonies by victims, and local leader's reports. The prosecution neither carries out additional investigations despite the supervisory power endowed to it and decides to only depend on the criminal case file from the JPO.

The main challenges related to investigation and prosecution of theft offences that were reported involved identity of suspects, ignorance of the whereabouts of the thieves, income inequalities, lack of property restitution, less severe punishments and the lack of criminal record to know the recidivists for aggravated punishment. Some cases that tend to create challenging problems for investigations and judges include, lack of a centralised data base to establish identification of suspects, to track their criminal record.

C. Prevention and Reduction Strategies

Invariably, FGD respondents concluded that all cases of theft of property above 500,000 Frw should be criminalized and dealt with in ordinary courts in order to resolve the situation. In doing so, legal protection for all possible victims would be enhanced deterrence for fear of retribution. Most the respondents countrywide proposed the amendment of the organic law related to the competence of Abunzi as the main preventive measure to prevent the offence of theft. This recommendation was effected by enactment of a new law on Abunzi competence. Though this new law appears to have a regressive turn by removing all criminal cases from the jurisdiction of Abunzi. A similar opinion was pointed out in Nyarugenge district by a civil society representative that 'one

needs to appreciate the fact that Rwanda has introduced ADR in criminal matters, but the idea of putting theft worth 5 million under Abunzi competence was an exaggeration'. One KII in Karongi, suggested leaving Abunzi with minor criminal offences than even serious matters.

Apart from the above, several initiatives can be taken into account for reducing income inequality through creating employment opportunities, RSSB subsidizing the poor especially in constructing cheap accommodation for low income earners and middle income earners to reduce the cost of living could reduce the income inequalities as was pointed out by a lecturer at the University of Kabwayi in Muhanga district. There is a strong indicator that there is a need for public awareness program of free education of 9 years and 12 years' basic education to avoid redundancy and idleness. Particular efforts need to be directed to heightening awareness on evils of drugs among the youth, particularly in villages and uneducated youth.

Moreover, some other strategies were also proposed such as to educate the population especially the youth on self-reliance policy, to increase job creation opportunities, to improve night patrols, to educate people on family planning, to sensitize local leaders to know the population living in their villages and enhance restitution of stolen property instead of seeking for punishment only.

4.1.3.2 Fraud

Article 318 of the Rwandan penal code punishes obtaining the property of another person by fraud. The law stipulates that any person who, intentionally obtains a property belonging to another person fraudulently or by using false names or qualities, to give rise to hope or fear of harm and obtains a part or whole of a fortune commits a criminal offence. Thus fraud occurs when the perpetrator uses fraudulent means to convince the victim who hands his/her property to the perpetrator.

A. Causes of fraud

This section examines the causes of fraud. As per responses of respondents, it was expressed that there are various causes of fraud such as: desire of quick and illicit enrichment, lack of integrity and moral values, laziness, unemployment, poverty, lack of severe punishment, consequences of technology, and taking advantage on the ignorance of the victims.

FGD participants pointed to how ignorance is also a key factor that contributes to increased fraud, manipulated by the offenders. There are different transactions done without a written agreement or contract and later claims emerge over fraud with little evidence. This is not a legal issue because the law urges a written contract for any transaction above 50.000 Frw but in practice, it does not operate like that. Ignorance is also envisaged in the fact that perpetrators raise hopes for victims to multiply their wealth or fear of harm and ending up obtaining a part or whole of a fortune.

As the resources are limited, some of the offenders will attempt to manoeuvre ways to fraudulently take what they have not earned.” Similarly, FGD participants in Ngoma and Kayonza districts reported that uneducated youth take lead in fraudulent acts.

B. Challenges

The most common challenges that were highlighted that affect proper investigations, prosecutions and adjudication of fraud consists of; lack of evidence for fraudulent acts because of consent of the victims, exact identity of perpetrators is difficult to establish at times, skilled perpetrators who take advantage of ignorant victims, clandestine nature of the offence, fleeing of suspects to different districts or bordering countries and limited skills and capacity to investigate and prosecute these offences.

One judge in the Southern Province attributed this offence to be facing a challenge related to victims and investigators. The judge claims that victims in most cases consent to it and do not have evidence of their acts but more seriously is that fraudulent offenders are sometimes skilled and intentional of how to evade justice, by exploiting the weak points of the personnel in the criminal justice sector.

Another challenge that was pointed out by a lawyer in Gasabo district is that in practice, investigators, lawyers, prosecutors and judges confuse the offence of fraud and deceit which are actually two different offences. Indeed, contrary to fraud whose actus reus

consists in obtaining a property from the victim, deceit consists in deceiving a contracting party on the quality or the composition of the merchandise, the kind or the origin of the items or the quantity or the identity of purchases. This research however only focused on the offence of fraud as prevailing in various districts that formed the sample of this study. The widespread challenge is that investigators and prosecutors as well as judges aim at securing a conviction but no efforts are deployed to ensure restitution of property and damaged things.

C. Prevention and Reduction Strategies

Successful fraud prevention and reduction involves creating an environment which impedes fraud. Taking immediate and vigorous action if fraud is detected is not only necessary to prevent future losses but also helps deter other fraud. Similarly, prevention is always preferable to detection. Strong preventive controls should therefore be applied wherever possible. Detecting fraud is usually more difficult and less certain.

Respondents have proposed that there should be continuous communication and reinforcement of fraud prevention programs, anti-fraud training, setting up sensitization program on fraud among population, synergy between public and private sector on job creation, promoting self-reliance approach, where people are made aware of fraudulent habits.

In addition to the above mentioned measures, the respondents suggested that those who are convicted of this offence should be punished severely because unlike other offences which are sometimes committed out of ignorance, fraud is an intentional and planned offence.

There is need for sensitization of the population to report such cases because perpetrators carry out chain commission of the offence from one district to another. FGD participants in Burera and Rusizi districts explained that while few cases of fraud are reported, in reality there are many cases, but people do not want to mention them in public or to the judicial police because it will cause them shame since they at times have consented not

knowing the intended manipulations of the offender. And these offenders sometimes come from Kigali, and exploit the village people who do not know their schemes.

4.1.3.3. Breach of trust

Breach of trust is considered an offense and is defined by the Penal Code as the ‘act by any person who fraudulently obtains or squanders any property to the detriment of another person or any property entrusted to him/her meant for restitution to the owner or for intended use’. Trust is a vital concept for the proper functioning of business or relationship between the people in society. For the guarantee, the law sanctions some possible abuse in practice.

A. Causes of breach of trust

The main cause of breach of trust that were reported include; poverty, lack of integrity and lack of moral values, laziness and unemployment, observed more in the youth, as well as ignorance of the law.

There were views regarding impunity of offenders advanced in districts affected by this offence. One instance in the Eastern Province reportedly resulted in the death of the offender by the people because many cases of breach of trust fell into the Competence of Abunzi for reconciliation yet the victims have little will to reconcile with a person who for instance was entrusted property meant for restitution to the owner and then it is sold. Similarly, a Gicumbi participant in the FGDs, mentioned that, ‘how dare I give you my motorcycle to earn money and then you decide to sell it for your advantage and when I go to the Police, I am sent to Abunzi? Just like the issue of theft, the competence of Abunzi was stripped off the competence over criminal offences after the collection of data for analysis.

B. Challenges

The main challenge encountered during the investigation of this offence mentioned by respondents from all visited districts were that the law favours the perpetrator by the fact

that it provides for remedy through mediation rather than permitting the prosecution of the perpetrators especially when the subject matter of litigation does not exceed five million(5,000,000) Rwandan francs . However, this is no longer a challenge since the law on Abunzi law of 2016 detached that jurisdiction.

From the study findings, criminal justice actors are faced with the challenge of distinguishing certain offences though some caution is warranted by the law in the definition of offences. Although relatively close, the offense fraud or deceit, is often confused with theft and embezzlement. Nevertheless, these are distinct offences as provided by the penal code, for instance, the offense of breach of trust to be constituted, there must necessarily be a prior agreement between the victim and the offender. This agreement may, take the form of a contract of use or entrusting (depôt) of property or a service. The delivery of the thing must have been voluntary.

C. Prevention and Reduction Strategies

Several strategies were pointed out, such as proper controls and reports, written agreements, awareness, enforcement of investigations and prosecutions, timely reporting by victims and timely intervention by investigators in order to track perpetrators before fleeing.

As the main challenge for this offence at the time of collecting data was based on the organic law related to the competence of mediation committees (Abunzi) which gave them the competence to hear cases related to the breach of trust, respondents from all the districts that the research team visited suggested the amending of that organic law by either according mediators the power to give less severe sentences or by removing this offence from their competence. This suggestion was honoured by enacting a new law of Abunzi in 2016 which no longer gives them jurisdiction to adjudicate criminal matters. This was supported by KII responses in all provinces, particularly those in local government who were well aware of the consequences to the local population.

In addition, more efforts need to be invested in restoring and restitution of the victim's property or damaged rights than only sentencing to imprisonment and fines which do not personally yield tangible results for the victim.

4.1.3.4. Issuing or receiving a bouncing cheque

Even if the penal code provides for a severe penalty, this continues to be persistent. This is the reason why the research team investigated its causes, the challenges encountered during its investigation, prosecution and adjudication as well as the strategies to prevent and fight against it.

A. Causes of bouncing cheque

According to the respondents, the causes of issuing or receiving a bouncing cheque are; illegal trade of money (Banque Lambert), fraudulent manoeuvres, late payment of public tenders, ignorance of the law, and accumulation of debts that need settlement.

FGDs respondents in many districts reported other causes to be the rigorous process of acquiring loans from financially credited institutions like Banks. One informant in the Nyarugenge prison mentioned that ‘he is in prison because of that business of bank lambert. But what pushed him into that was the urgent need he saw people having for money, and the slow response from officially accredited banks. The great majority of FGDs reported that issuing a cheque helps to get quick and easy money without rigorous processes. This was also true across provinces, though the districts in Kigali city reported more cases of issuing a bouncing cheque as a security. Although responses regarding these cases were too scarce, the research team found unawareness of the population on the value of cheque as a medium of exchange. It was found out that cheques are undermined by the users as mere paper to be given as a guarantee yet it is an instrument of payment or a cash instrument.

One respondent in Burera district is noted to have said:

If I was given 200,000 Frw on a paper called a cheque and 50,000 Frw in cash, I would leave that paper and quickly run to get the cash in my hands. This shows ignorance of the people especially in villages on the value of cheques.

B. Challenges

The main challenge raised up by most respondents is that in most cases, victims of this offence do not report it timely. In fact, it was revealed that, behind the scenes or at the initial set up, there is an agreement between the perpetrator and the victim to pay a sum of money at a certain date and a cheque is issued as a guarantee. Once the date agreed upon is reached, the victim realizes that the perpetrator still has no funds on his/her account and it is at that moment that he/she reports the case to the police while some evidences have disappeared.

Another challenge, is that the investigations only consider issuing of bouncing cheques without investigating those who receive bouncing cheques as provided by the law. In reality, at the moment the victim received the cheque, and he or she knew, that the issuer did not have (sufficient) funds on his/her account, the so called victim is also to be considered as an accomplice or co-offender.

Looking at the differences across Provinces, respondents in the Northern Province were less aware of bouncing cheques and those in the Kigali city took it as a common practice and were more aware than the other provinces of the Southern and Eastern province. It was also noticed in visited prisons, and police detention centres in various districts that some people don't know it is even an offence.

C. Prevention and Reduction Strategies

The respondents suggested some preventive and reduction strategies to be adopted, in order to deter high rate of this offence, among which are; sensitization of the people that a cheque is not an instrument of guarantee but an instrument of payment.

Indeed it was revealed that people commit this offense by ignorance. For example, one the respondents argued that offering a cheque to someone is like recognize the debt or acknowledging an obligation to refund. This answer shows that there is need to sensitize people on the elements of this offence and urge them to be careful whenever they issue or receive cheques.

Another strategy that were proposed is to fight against the illegal trade of money known as Banque Lambert because it is the main cause of issuing and receiving bouncing cheques especially in city areas and border districts, such as Kigali city districts, Huye, Musanze, Rubavu, Nyagatare, Kayonza, and Rusizi.

Another strategy, is that the investigations should be directed to those issuing bouncing cheques as well as those who receive bouncing cheques well aware of insufficient funds

on the account of the issuing person. This strategy would ultimately eliminate illicit transactions that happen before, and later after dispute one party seeks redress at the detriment of the other party without evidence to narrate the situation.

4.1.3.5 Embezzlement

Without defining the concept of embezzlement, the penal code punishes any employee who embezzles public or private property, funds, negotiable instruments, documents, or movable property which was entrusted to him/her, by virtue of his /her office. It also punishes any employee who fraudulently destroys or embezzles negotiable instruments under his/her care or which have been communicated to him/her by virtue of his/her office. This offence is one of the predominant offences against the property and it impacts negatively on the economy of a country.

A. Causes of embezzlement

Respondents from the FGDs, and KII pointed out the following as the main causes of embezzlement; lack of integrity, desire for illicit enrichment, lack of regular audits, incompetence of some accountants and managers, greed, and desire for extravagant living.

Although, not quantified, FGD participants agreed that there was more widespread awareness embezzlement among the youth who want to grow rich very fast in comparison to their elders who have worked for many years. If a young person is for example appointed as a director general, he wants to leave a life similar to retired director general who have worked for many years of their life to earn they wealth they have and as a result, he opts to embezzle funds and property under his management. However, they also indicated that weak controls and delayed audits facilitate potential offenders to exploit the loopholes.

Participants in the Western Province also asserted that some agencies be it government and private sector endow their employees to control much resources without follow up measures and pay them little in comparison to what they are given to manage. This results into alternative malpractices of embezzling the funds. Additionally, in the Northern province, in an interview with a key informant working as a bank manager, he

informed the research that employment is based only on knowledge and not on integrity yet knowledge, experience without integrity is destructive.

For example: One bank staff is expelled for embezzling money in Bank A and the next month you find him employed in Bank C. The challenge here, is that employment records are not checked for the new employee before commencing work in order to investigate his dirty records or clean past before entrusting them with positions prone to embezzlement tendencies.

B. Challenges

The offence of embezzlement is committed by skilled and trained people who plan for it and conceal the evidence. Perpetrators also use the embezzled funds to facilitate their evasion sometimes by corrupting law enforcement agents.

Another challenge that was mentioned by respondents is the delay of audits or audits conducted in the absence of the audited persons. As a result, such audits are easily challengeable before the court while in most cases they are the only substantial evidence of the prosecution. Moreover, the lack of enough skills of law enforcement agents in terms of accounting techniques was also mentioned as challenge to able to establish investigations, and prosecutions adequately beyond reasonable doubt so that they don't lose cases in court.

A prosecutor at the intermediate court of Huye, explains as follows: 'It is not easy to prosecute embezzlement in Bank systems or embezzlement of huge amounts of government money without clear notions of auditing and accounting which for the basis of our substantial evidence.'

The findings of the study show that the great majority of prosecutors only petition for sentences of imprisonment and fines but no regard for the provision related to the recovery of the embezzled asset or assets. This loophole also appears in the judgements rendered by courts. One possible explanation links to unawareness of what the law provides on recovery of embezzled assets and under whose responsibility in addition to which procedures to be followed.

Among recurring challenges that emerged in various districts was unequal investigations of embezzled funds. The high profile offenders are not prosecuted in courts unlike other perpetrators at medium and low level who are often at the centre of investigations. The

used terms were 'big fish' versus 'small fish' investigations yet the big fish tend to embezzle large sums of money especially for the government. This issue is of considerable importance to this research because the so called fish are also skilled and always hide the evidence hence tracking sufficient evidence is so difficult for investigators. The Nyanza respondents distinguished between 'inyamanza' and 'ibishwi'. The responses indicate that Inyamanza refer to a cunning bird which hides when eating or stealing sorghum unlike igishwi which does not know how to manipulate its actions and they can be noticeable.

C. Prevention and Reduction Strategies

Respondents proposed the following strategies in order to deter the offence of embezzlement: employment of persons who have clear identification; conducting regular audits; training of law enforcement agents on audit and accountancy techniques; blacklist of persons convicted for this crime.

On the issue of lack of integrity, respondents proposed that it should be better if the recruitment of asset managers were done on the basis of their integrity and vet them before their recruitment. They also suggested the harmonisation of Banks systems to avoid that an employee embezzling or stealing in one bank and be engaged in another one. Moreover, warranties should be requested for accountants and managers so that in case of embezzlement, those warranties might be seized and confiscated for restitution purposes. Also law enforcement agents should be less tolerant during the punishment of this offence and ensure asset recovery of embezzled funds and property.

When it comes to investigations of small offenders who have embezzled less at the detriment of high profile embezzlers, all offenders should be held accountable for punishment and prevention of the general population. This finding would seem to suggest that the big fish should be followed up and small fish left out, but this is not the case. This suggestion for investigations extends across the entire range of institutions in both public and private sector, from those small fish offenders, to big fish offenders which all need to be held accountable. Impartiality and equality in handling cases is paramount compared to the cost of impunity and partiality which destroy a country's economic development as well as yield income inequalities with associated evils.

4.1.3.6 Arson

Arson is defined as the act of setting fire or causing fire to buildings, stores, ships vehicles, aircrafts, trains, forests and woodlands, crops, cut down wood or harvested crops. The penalty varies according to the circumstances of the commission of this offence. Arson is not among the prevalent offences in all districts except Nyagatare and Burera districts.

A. Causes of arson

Respondents from the two districts pointed out that this offence is caused by the ignorance of the law punishing arson. There are some differences in causes of arson across the two districts, particularly in Nyagatare district in the Eastern province where the aim is acquisition of green pasture for their cattle (gutwika bashaka ubwatsi butoshye bw'amatungo). While in the Burera district in the Northern Province, the main cause is to get woodland and charcoal for sale.

This indicates that though an offence can appear prevalent in various districts, causes will always differ or the extent of commission justifying the reason why the study had to collect data in various provinces inquiring about particular causes, challenges and strategies.

B. Challenges

Respondents mentioned that in most cases, this offence is not reported because perpetrators do not target individual forests and lands but the forests belonging to the state. Absence of direct victims apart from the state explains, why these offences are not reported for investigation. There is a manifest lack of cooperation of some local leaders at the village level who are, in most cases, corrupted and are not good custodians of public property.

A manifest challenge is ignorance of the law, where the general population are not aware of the criminal nature of the act, and do not believe that arson committed on one's own property tantamounts to an offence.

C. Prevention and Reduction Strategies

Considering that the main challenge for this offence is the lack of participation of the population and local leaders in informing law enforcement agents, respondents suggested that there is a need to create awareness for the population and in particular local leaders at the village level, on the importance of environment and urge them to give information timely to the law enforcement agents.

Increase of fines for offenders to be paid in government treasury is recommended than other sentences so as to boost the economy while compensating the state for the loss. A respondent in the Eastern province, narrated, 'the government suffers many losses and there is no way of retrieving them back but just imprisonment at the detriment of state treasury which will be emptied or used instead to feed the prisoners.'

4.1.4. Offences against state

The offences against the state that were found to be prevalent in various districts in Rwanda included; unlawful use of narcotic drugs, use of counterfeited document, corruption and related offences, offences against state security and illegal use of arms.

4.1.4.1. Narcotic drugs

In terms of article 593 of the penal code, the following six (6) acts are prohibited: growing, selling, transforming, transporting, storing and consuming narcotic drugs are prohibited, except in cases and conditions specified by law. This offence was rampant in all the visited districts that formed a sample of the research. Apart from the fact that narcotic drugs is a prohibited independent offence which is widespread in nature, the crimes like theft, murder and rape, are induced by consumption of drugs.

A. Causes of narcotic drugs

This study indicates that the environment in which drug abuse exists is dynamic and multi-faceted. According to the 2014-2015 annual Police reports, this offence was prevalent in all districts with the highest rate in crimes against the state and the participants in the group discussions and key informants identified the following reasons to be the main causes:

Most drugs registered and known in Rwanda are cannabis and illicit brew among others and they have different terminologies and jargons like muriture, kanyanga, bareteta, yewe muntu, Nyirantare, ibikwangari, umurahanyoni, umumanurajipo and so on... all of which are brewed locally and contain life threatening content.

Several reasons were advanced because some engage in offences of narcotics due to ignorance of the consequences. It has also been noted that high criminality rate in drugs is due to tax avoidance because drug sellers do not pay taxes, peer group influence, vagabondage, envy to quick and illicit enrichment since narcotic drugs generate quick and massive profit, poverty, unemployment, lack of education, irresponsibility of parents, easy access to narcotic drugs and imitating foreign culture. Drugs like Cannabis, kanyanga and Muriture are linked with dropping out of school and subsequent unemployment, social welfare dependence, and an overall feeling of inferior life satisfaction compared to non-drug using population. Offenders also commit crimes related to narcotic drugs to obtain money for drug and to support their life styles, through growing, supplying it to small scale retailers who actually benefit from tax free illicit business.

It is worth noting that the drug related crimes have continued to lead the crime list in Rwanda and their consumption has been highlighted to be a cause of other violent crimes.

B. Challenges

Among the challenges, there is ignorance of the local population on punishment, use of children in transportation of drugs, inadequate punishment, corruption among local leaders and investigators, participation of local leaders in the trade of narcotic drugs, and the fact that drugs in most cases are a cross-border crime enhances the said challenges to become a complex phenomenon in fighting the illicit business.

Comparing crime laws between and even within countries can be a difficult challenge; typically, the Rwandan law prohibits Kanyanga as a drug while neighbouring countries can reliably conduct such business, and consume the drug with no legal implications since it is not illegal. The fact that laws and practices vary between jurisdictions becomes a barrier, yet drug business is a transnational organised crime between different countries and requires combined efforts of countries for fighting and preventing the scourge. An added issue is that Kanyanga has been embedded in the culture of some Rwandans especially those at the border in the Eastern province, within the districts of Nyagatare, Kirehe, Kayonza and Gicumbi district in the Northern province.

Legally, in terms of article 593 of the penal code, six (6) acts are prohibited: growing, selling, transforming, transporting, storing and consuming narcotic drugs are prohibited, except in cases and conditions specified by law. However, it is critical to realize that only three of the above prohibited acts are punished and those are selling, transforming and consuming narcotic drugs. As a result, one can wonder why the lawmaker has prohibited the tact of growing, transforming, transporting and storing narcotic drugs but did not provide for their penalty. In such a situation, offenders are given a room to escape the application of the penalty basing on the universal principle that no one can be punished without the law.

On the contrary under article 594 of the penal code, the lawmaker had included the following acts that were not prohibited under article 593: making, importing, injecting, inhaling, anointing or making any other use of unlawful narcotic drugs or psychotropic substance.

As mentioned above, in the absence of the provision which prohibits the act contravenes principles of law *of nulla poena sine lege*. How can an act be punished without being prohibited?

One of the major challenges is concealment of information or failing to report offenders due to fear of consequences such as being killed or beaten by Abarembetsi. Local authority and citizens in general fail to report suspects involved in drugs particularly kanyanga due to fear of consequences that follow whistleblowers by a revealed group of transporters of drugs that are hired by the suppliers and business dealers. Abarembetsi group have been reported in the districts of Nyagatare, Gicumbi, and Burera. There is inadequate protection of whistle blowers and witnesses in these offences. One participant

in Gicumbi revealed that, Abarembetsi wanted to kill him and even followed up his children at school warning them for their father's act of being a whistleblower.

Law enforcement reports only reflect crimes that are reported, recorded, for small retailers and consumers of narcotic drugs but suppliers and big dealer cases are less frequently reported. For the architects and suppliers of drugs, reported incidences are generally less reliable, because they suffer from under-recording since there is little apprehension by investigators.

Another challenge relates to the unclear definition of what constitutes drugs because terminology or jargons are easily changed or reformed depending on the district. For instance, what is known as Muriture in other districts is not what Huye residents call it. Yet Muriture is punishable under the law while Nyirantare is not included under prohibited drugs. One participant in Huye focus group discussions noted the challenge as “Amategeko adasobanutse yo kubihana urugero nyirantare idahanwa (unclear laws in punishing all drugs like nyirantare which is not included on the list of punishable drugs). Ineffectiveness of linking terms (names) of narcotic drugs with terms provided by the law is therefore a challenge.

Another participant in the key informant interview in Huye is noted to have said; Ubwo se itegeko ko rihana muriture kandi ino muri Huye abatwaga bakaba batayita muriture ahubwo yitwa Nyirantare. Literally translated to mean that in Huye, the local brew is not called Muriture but the equivalent has another expression that we do not find on the list of prohibited drugs like Nyirantare. Limiting drug terminology (jargons) would impede investigations of all offenders in the various districts who always have a local jargon or brand for a particular prohibited drug. Similar criticisms were indicated in the Western Province in Rusizi district, where the focus group discussion in prison said, Muriture is called Yewe muntu in Rusizi and is not indicated in the Ministerial order enlisting prohibited drugs.

Additional challenge is that some respondents pointed out that some cases of drugs which have a cross border character are submitted to primary courts while in consideration of article 15 of the penal code and article 90 of OFCJ, they are supposed to be in the jurisdiction of the high court (HCCI). Cases in these situations that are tried by primary

courts may be annulled in the appellate court because judgments were rendered by incompetent courts based on article 190 CCP.

It is important to note that this research revealed that the offence of narcotic drugs is a cross-cutting offence which is the main cause of most offences against persons and against property such as, voluntary battery and causing injuries, murder, rape, child defilement, theft and so forth.

C. Prevention and Reduction Strategies

The prevention and reduction strategies that the respondents emphasized would curb the issue included the following: severe sentences, enforcement of anti-drug laws, eradication of cannabis cultivation, customs' inspection of business and persons entering the country, screening for drugs in prisons, and the creation of awareness in schools and the general public on its evils and criminal implications.

Some participants suggested alternative drinks that are affordable to the local population in order to fight local brews like kanyanga, and muriture. On this issue one key informant Mayor from the Southern province strongly argued that 'we do not urge the population on the consumption of narcotic drugs like kanyanga but one can wonder what the population will use as drink if their traditional drinks can no longer be produced because the cultivation of sorgum and banana is prohibited in some areas while people still have their elementary right to drink.' The state and its stakeholders should find other cheap drinks which do not impact negatively like kanyanga and nyirantare.

While statistics indicate many apprehended offenders being mere individual consumers and retailers of narcotic drugs rather than the sellers or suppliers, control of architects and suppliers would much more reduce consumption and small scale vendors. Supply reduction is an essential component of a well-balanced strategic approach to drug control. Demand reduction cannot be successful without limiting drug availability. When illegal drugs are readily available, the likelihood increases that they will be exploited and consumed.

Internationally, supply reduction includes building consensus among states; coordinated investigations, interdiction, initiating regional, bilateral, and international agreements.

Nationally, the research team also suggests review of laws to create divergent or varying punishment for offenders depending on the degree of culpability as well individual criminal responsibility influenced by how the offender's act affects the public. For instance, consumers should not be given the same penalty with suppliers because suppliers are actually the root cause of the issue at hand. Severe sentences should be given to all offenders but with aggravating circumstance of large scale suppliers and authors of drug business.

Other suggestions called on legal amendments where terminology and jargons of prohibited drugs should not be exhaustive to avoid having a lower threshold of judicial investigations on all offenders limited by particular terms or jargons.

It is not yet well established to which extent police can deter the commission of this crime, but various respondents argued that Rwanda National Police should organize night and daily preventive patrols, cordon and search, community policing, conduct investigations and apprehend all criminals in order to reduce crimes. Without a thorough analysis and approach on this issue, police will not be able to understand how to address this persistent crime. Awareness programs in communities, on radios and during special occasions like community policing and police week might change the mindset on drug abusers and the public in general to stamp-out this vice. Several campaigns need to be carried out against the vice. The role of the police in tackling drug related crimes is paramount where they must adapt their role to changing circumstances while still enforcing the law. There is thus need to adapt the training of police officers according to the criminal modus operandi.

Apart from the police, nowadays, drug abuse should become a concern that captures every stakeholder's attention from security organs, local authorities as well as the general public since the problem is affecting all age groups. This in turn affects diverse sectors such as education, health of the population, morals, economy, and of course internal security where drugs lay a foundation to other crimes such as domestic violence, theft and homicide, which are frequently reported. Given the significant increase and rise of the consumption of different drugs, all efforts need to be employed to reduce opportunities for commission of such crimes. Therefore, most participants suggested a multi-faceted approach where the Government needs to set out a multi-faceted strategy to address the drugs problem.

Lastlybut not least, Legally, article 593 of the penal code, needs an amendment. Out of the six (6) acts prohibited; only three of the above prohibited acts are punished and those are selling, transforming and consuming narcotic drugs. As a result, the lawmaker should provide sentences for the act of growing, transforming, transporting and storing narcotic drugs.

In the same vein, amendment is necessary under article 594 of the penal code, where the lawmaker punishes acts that are not prohibited under article 593; making, importing, injecting, inhaling, anointing or making any other use of unlawful narcotic drugs or psychotropic substance.

The suggested amendments of the penal code should go hand in hand with the provision on, narcotic drugs and psychotic substances which are prohibited by the UN Convention against illicit narcotic drugs and psychotropic substances for which Rwanda is a party.

Article 3 of this convention urges state parties to criminalize the following acts:

- i. The production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance
- ii. The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs
- iii. The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in i) above;
- iv. The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
- v. The organization, management or financing of any of the offences enumerated in i., ii., iii. or iv above

4.1.4.2. Corruption

In terms of article 633 of the penal code, corruption consists in committing one of the following acts:

- a) Abuse of position, power or honour one enjoys with a state organ, in a public or private institution which is used contrary to the law
- b) Giving to one, giving to others or requiring an illegal benefit or a service contrary to the law.
- c) Accumulation of property without legal justification
- d) Using a person with a position, power or honour mentioned in order to benefit from an illegal advantage or a service contrary to the law
- e) Giving or agreeing to give a gift in cash or any other illegal benefit, for the provision of a service or act in unlawful way or to reward the provider of the service or act rendered, either by the recipient or an intermediary
- f) Requiring, receiving or accepting to receive a gift in cash or any other illegal benefit for the provision of a service in an unlawful way or to be rewarded once the service is provided or the act is done either by the recipient or an intermediary.

This definition seems too broad as it mixes corruption and offences related to it. The research team is of the view that only the acts defined in e) and f) correspond to corruption while the rest are offences related to it.

Under Rwandan law, corruption may be active or passive. Active corruption consists in offering or paying bribe while passive corruption consists in receiving bribes. Comparatively, statistics from the police report show that in 2013-2014, 141 cases of corruption were reported countrywide, while in 2014-2015, 399 cases were reported thus showing considerable increase.

A. Causes of corruption

According to the views of many respondents, although most people give corruption in order to receive an illegal benefit especially in case of active corruption, bad service delivery is another reason that pushes the client to give corruption in order to receive the service that they were entitled to. In case of passive corruption, the corrupted agent aims at accumulating wealth illegally.

Moreover, some respondents mentioned that some people give corruption in order to seek protection for offences committed, such as embezzlement. Some respondents informed the research team that young people under 40 are prone to be corrupted in order to live a life beyond their capacity in search for luxurious living.

This research revealed that corruption has different connotations and names according to the context in which it is practiced. For example, in ‘Gira inka munyarwanda’ program, some local leaders demand beneficiaries what is known as ‘ikiziriko’, in public tenders they ask for ‘icya cumi,’ in courts they give what is called ‘imyanzuro.’ In other districts or milieu, corruption is called ‘umutobe, fanta, me to you etc. The different names are actually a cause of corruption because they disguise the real offence in terms of another terminology socially and culturally acceptable.

Data from KIIs reveals that common cases of corruption are due to the above identified causes related to poor service delivery but poverty, unemployment, desire for winning tenders, obtainance of illegal service, and desire for unjustified enrichment.

Participants in the Kirehe FGD indicated that some causes of corruption include shortage of basic necessities and low salaries. A judge from the primary court in Kirehe district added, “The remaining problem is that people want to live a life beyond their earnings, and in the end end up in corruption. FGD participants in Kicukiro, Nyarugenge, and karongi districts disagreed with the assertion that corruption is caused by low salaries. They raised the issue that if one looks at the people accused of corruption, they do not necessarily represent the low income earners. Participants in the Northern Province in Musanze, Burera and Gicumbi districts also asserted that ruswa to mean corruption is just the mindset of those who actively commit and those who passively engage in it. According to the President of the Intermediate Court in Gicumbi, ‘sensitization and change of mindset is indispensable.’ Some people believe that in order to get a service, they need to give a cost even when they are entitled to it, while others cannot provide any service on time without a gift or a cost in exchange.

B. Challenges

The main challenge for the investigation and prosecution of corruption is that it is committed with high clandestineness between parties and it is difficult to get evidence. Most of respondents revealed that some people engaged in corruption do it with top secrecy to evade justice and no one can imagine or detect that they are involved. They mentioned that; some corrupted people are like ‘inyamanza’ or wag tail as they are involved in this practice in concealment and cannot be easily identified.

Indeed, in the Rwandan tradition inyamanza seeks sorghum when it is put on the mat or ground in order to dry it. Although it is never seen when eating the sorghum, there is a saying that when people asked that bird if it really eats sorghum it replied: ‘I eat it but the bad thing is to be seen’ in Kinyarwanda ‘*inyamanza barayibajije bati ese nyamanza urya amamera? Irasubiza iti ndayarya ariko akambonwa ni ko kabi*’.

Other respondents pointed out that some law enforcement agents are also involved in corruption and that is why only cases involving small amount of corruption are reported in comparison to large amounts of corruption. Such corrupt people have a large network of informers who work as intermediaries between them and their clients. Unlike the connotation that ‘inyamanza’ are not easily prosecuted but instead ‘ibishwi’, the study finds that it has some reality but not as a purpose or policy of law enforcement agents but the level of skill that high profile perpetrators invest in corruption making it less likely to get incriminating evidence unlike low profile offenders who are grabbed or detected easily.

It was also revealed that some people without bad faith fear to report corruption thinking that it can impact on them and be prosecuted. On this issue, the problem consists in ignorance of the law that protects whistle blowers who give information when such information is made in good faith.

C. Prevention and Reduction Strategies

According to the views of many respondents, public tenders are among prone areas of corruption. Therefore, using electronic payment was proposed as a mode of reducing

cases of corruption in this area. Good service delivery and customer care was also proposed as a way of deterring this crime. Moreover, itinerancy trials should be organized and persons that are convicted should be punished and not permitted to be recruited as employees.

Though widely disputed, some FGD participants also mentioned that corruption among some law enforcement agents especially police officers is due to poor salary and its increase might reduce corruption in this area of activity. KII interviews in almost all districts disagreed that low salaries make them particularly vulnerable or prone to corruption but agreed that it is always good to pay salaries covering the minimum requirements in accordance to the standard of living.

People should also be sensitized on the consequences of corruption and urged to give timely information by use of free hotlines for this purpose. Moreover, law enforcement agents should also be urged to avoid any tolerance in the punishment of this offence. For example, some respondents wondered why a person convicted for corruption can be granted suspended penalties.

Skilled investigations to track high profile offenders is a recommendable strategy to establish equality in justice and to deter and reduce corruption related offences. Similar efforts should be invested in reinforcement of the investigative power of the Ombudsman office. Other offices that need to strengthen their contribution in prevention of corruption include Transparency Rwanda through the continuous research that is carried out which creates awareness and prevention strategies.

4.1.4.3. Forgery or alteration of documents (use of counterfeited document)

The actus reus for this offence is provided for under article 609 of the penal code which prohibits the forging or altering of documents by forging a signature or a fingerprint, falsifying documents or signatures or impersonation, forging agreements, its provisions, obligations or discharged obligations. This offense is among the top fives in almost all districts of the country but at different rates.

A. Causes of forgery

Among the causes of forging and alteration of documents, the respondents have mentioned the following; desire by the offenders to acquire a right or service which they do not deserve, fraudulent intent, illicit enrichment, corruption and ignorance. In addition to this, some respondents revealed that some persons commit this offence in order to commit or to cover up the commission of others offences such as embezzlement or breach of trust.

B. Challenges

Participants in FGDs and KIIs mentioned the following challenges encountered during the investigation and prosecution of the offence of forging or alteration of documents; lack of testimony when the disputed document dates many years ago where witnesses have died. Another identified challenge is; intentional use of photocopy and refusal to submit the original document for verification purposes in KFL which cannot ascertain the veracity of a document based on a photocopied document. On the issue of detecting whether a document is forged or not, an added challenge is that there is only one forensic laboratory which is centralized in Kigali. As a result, this makes it inadequately accessible for law enforcement agents within the provinces to consult this laboratory.

Among the high rates of forged documents, are driving licences. For cases of forgery of driving licences, it was revealed that some police officers participate in the distribution of fake driving licences.

Falsified documents were also reported to be done by local leaders either out of ignorance, and recklessness while others do it out of corruption and related offences. On this issue, a participant added that some local leaders at the sector level and cell level contribute to the increase of falsified documents when they issue documents representing false information. Such documents include; marriage certificates, birth certificates, and other documents issued at the sector level without referring to any legally accepted document such as a register or a judgment that replaces the birth certificate. Such a situation brings doubt in court where adversary parties have conflicting official documents and in many instances could bring convictions based on false information or

acquittal of actually perpetrators. A case in point concerns the offence of child defilement.

C. Prevention and reduction Strategies

In order to prevent and reduce the commission of the offence of forging and alteration of documents, respondents proposed the following strategies: decentralisation of KFL, sensitization of the people to report the offence timely, establishment a mechanism to detect fake driving licences, un complicated process of acquisition of original driving licences, reinforcement of the use of scientific evidences, deep investigation to know the source of forged document which are supposed to be issued by public institutions.

On all the above mentioned strategies, respondents mentioned that the application of severe punishment against the convicted persons might deter them as well as any other person who might commit such an offence. Ignorance of the population, on the offence of forgery can be reduced and curbed by creating awareness that forgery is a criminal offence not a tort.

Local leaders need special training and cautioning for facilitating false documents submitted in court and informing them on the impact it has on the quality of justice rendered depending on whom it is issued whether a defendant or a victim.

4.1.4.4. Offences against state security

Offences against state security are one of the five listed categories of offences against the state within the penal code. Other offences against state are: offences against the government, offences against the public credibility, offences against the public security and press offences.

With regard to offences against state security, the penal code distinguishes the following categories:

- Offences against external security
- Offences against internal security

- Offences against foreign Heads of States, other foreign senior officers or representatives of diplomatic and consular corps and international organisations in Rwanda
- Offences committed aboard aircraft or at the airport without terrorism intent
- Terrorism

According to the reporting format of RNP, all the above mentioned categories of offences against the state security are reported together in the category offences against the state. This does not however facilitate an interested analyst of this report who may wish to know the prevalence of each single offence against state security such as treason, espionage, terrorism. On this issue the research team suggests, RNP to modify the report format and include each single offence against the state security rather than grouping them so that they facilitate the analysis of this report and know the prevalence rate of each offence.

Below are the views of the respondents from focus group discussions and key informant interviews on the causes of these offences, the challenges encountered during their investigation and prosecution as well as the strategies to prevent and reduce them.

A. Causes of offences against state security

The research team discussed with the respondents from around the country and collected different answers. According to respondents, the causes are rigidity to accept new political changes, envy for power and political interest, discontentment of present Government, illegitimate acquisition of asylum in other countries, lack of patriotism, consequences of genocide, and sabotage from those who are opposed to the government.

In districts bordering the DRC, especially Rusizi and Rubavu, some respondents indicated that, the fact that their Districts share the border with DRC which harbours rebels from FDLR who are opposed to the existing government, is one of the causes of offences against state security. For example, a case of attack by FDRL was reported in Bugeshi Sector, in Rubavu district at the time this research was being conducted.

In the same period of research, an unknown stranger was caught in Nyanza district, hiding in a swamp armed with a gun to disrupt security and his origin was connected to Burundi. This illustrates that districts in Rwanda bordering countries suffering from insecurity are prone to have incidents against state security.

B. Challenges

Investigation and prosecution of the crimes against the state security is not an easy task. During this process, FGD participants raised concerns about security threats, indicating that it is difficult to have desired success. According to the contacted respondents, identity of perpetrators is sometimes difficult to obtain and some local leaders collaborate with perpetrators in view of endangering the state security.

FGD participants in almost all districts and informants in the security sector and local government indicated that offences against the state security are clandestinely planned and committed with uppermost secrecy which makes it difficult to get evidence. This is facilitated by the fact that most of perpetrators operate from outside the country through a network which is not easy to trace or even if traced, cannot be easily apprehended for trial and accountability. According to the Minister of local government, offenses against security cannot be successful without external support given the organised nature of security enforcement agents in Rwanda. This view was reiterated by the former Minister of Internal Security in a key informant interview.

C. Prevention and reduction Strategies

The crimes against the state security can be prevented while going through these strategies. According to the contacted respondents, educating people through civic education, to have a patriotic spirit through ‘itorero ry’igihugu’ ingando and other civic education programmes is essential. FGD participants in Gasabo and Nyarugenge districts in Kigali city disagreed with the aforementioned assertion to be a sole remedy or strategy but proposed other measures, like reinforcing serious border controls, itinerant trials for suspects and the application of severe penalties for convicts can better prevent such kind of offences.

Some respondents from Eastern Province, in Nyagatare District, added that Rwandans in general and local leaders in particular should be sensitized to timely report any suspicious movements, starting from the village to the higher local administration entity and the reinforcement of night patrols, which are of the paramount importance for prevention endeavours. The DASSO official in Huye FGD mentioned slogans used in their district that have facilitated enforcement of security, *menya nkumenye ubure nkubazwe*.⁷³

4.1.4.5. Offences related to arms

In terms of article 270 of the penal code, the term arm means guns and their ammunitions, grenades and any other explosives used as arms. In the Rwandan context, the RNP report reveals that 33 cases were handled in 2014-2015.

In the line with the statistics of such cases, the research team collected and analysed the views of respondents on the causes of the offences related to arms, the challenges met by law enforcement agents during their investigation and prosecution as well the proposed strategies to prevent and reduce those offences.

A. Causes

The causes of offences related to illegal arms possession, that were reported noticeably included; intension to use arms for commission of other offences such as theft and offences against state security, consequence of Genocide against the Tutsi that happened in Rwanda and the insecurity in the northern province which followed it whereby many people owned arms and did not hand them to competent authorities after genocide. A convict in Rubavu prison, identified the latter idea as the main cause and he kept himself a gun as a university student but would use it to steal in the night. Additionally, he identified an important element where Guns are cheaper to obtain from DRC due to prolonged conflict and armed forces in Congo.

⁷³ Literally translated as ‘Know me, as I know you and in case you get lost, I am to be held accountable’

B. Challenges

In this research the respondents from FGDs and key informant's interviews mentioned some challenges that law enforcement agents meet in the investigation and prosecution of these offences. Among the revealed challenges, are identification of illegal holders of arms, and non reporting culture by citizens and family members. Indeed, they mentioned that it is very hard to know who has an arm unless, it is used or put to use whether in public or in hiding. Another issue is the fear of some witnesses who hesitate to provide information due to the fear of being maltreated by defaulters and their family members.

C. Prevention and reduction strategies

In order to discourage the crime of illegal use of arms, respondents proposed some prevention and reduction strategies such as, sensitizing people to submit illegal arms, proliferation of random search and cordon operations to acquire illegal arms especially in the border districts of Rubavu, Rusizi, and Huye because it can be a channel of importing arms. Timely reporting by local leaders of any information related to this particular crime is pertinent, sensitization of the population on early reporting of suspects, sensitization of people particularly the former soldiers and deserters to bring back arms, cooperation of the police and local leaders in exchanging viable information and suspicions of arms.

4.1.5. Emerging crimes

Rwanda National Police and National Public Prosecution recognize that money laundering, terrorism, cybercrime, human trafficking and environmental crimes as emerging crimes or the newest form of crime in Rwanda. The speed of technological advancement, and increasing globalization, have created opportunities for criminal activities, often with a low risk of investigation and using new forms of anonymity. Preventing and combating new and emerging crimes is a challenging task. The idea behind this assertion, is not to get rid of technology which has actually been a contributory factor in crime prevention but the argument is to enforce the use technology in the reduction and prevention of crimes since crime is continually evolving and adapting to new forms.

Forms of criminal activity that are organised in nature and emerging in Rwanda, include; money laundering, terrorism, cybercrimes, human trafficking and environmental crimes. These crimes may not necessarily affect all countries at the same rate or with equal severity. What they have in common, however, is that by the time they are recognized as a transnational threat, they may already be too extensive to deal with efficiently.

During the research, there was a general lack of awareness by most respondents especially in the provinces who could not provide enough and convincing information on what constitutes the causes, challenges, and strategies for prevention of cyber offences.

4.1.5.1. Environmental crimes

In terms of article 53 of the constitution, everyone has the duty to protect, safeguard and promote the environment. The penal code defines the term environment as ‘a diversity of things made up of natural and artificial environment made by human beings. It includes chemical substances, biodiversity as well as socio-economic activities, cultural, aesthetic, and scientific factors likely to have direct or indirect, immediate or long term effects on the development of an area, biodiversity and on human activity.’ It follows from this definition that the degradation of the environment by human facts is seen as a serious attack on the integrity of all or part of geological environments, soil or air, and constitutes therefore an offense under criminal law. In this regard, the Rwandan penal code provides several environmental crimes in articles 415-437.

A. Causes of environmental crimes

Among the causes of crimes detrimental to the environment identified by respondents in FGD and the people interviewed included the following; need for survival such as search of meat for hunters or those who cut and sell trees of *Osiris lanceolate* (kabaruka/umushikiri), illegal exploitation of mining, search for greener and fresh pasture (uruhira) for cattle keepers.

Other respondents invoked ignorance of the consequences of the degradation of the environment, the increase of the population provoking decrease of firewood and lack of alternative energy for substituting firewood, non-expropriation of people who live in high risk zone (amanegeka) and whose activities degrade the environment, complicated process of getting mining or forest harvest permits and authorisation. Corruption related tendencies cannot be ruled out as a cause of environmental offences by several institutions and stakeholders in charge of preserving the environment.

In Nyarugenge and Gasabo districts within Kigali city, the participants invoked the absence of waste treatment policy, and inadequate assessment of environmental impact can be a factor facilitating the offence.

B. Challenges

The main challenge mentioned by many respondents is that the fact that environmental crimes do not have a direct victim, people including local leaders do not report them. Other challenges include; the lack of knowledge and transport means for law enforcement agents in charge of investigating and prosecuting these offences, corruption among local authorities and less severe penalties.

It was reported that some environmental offences concern ignorance of the population on the use of the environment, impact of destroying it and who is the victim. This is because most environmental offences are committed mainly in rural districts where there are parks and reserved forests and mines.

Additional challenges related to these offences are linked to their causes, such as increased competition for land, poverty, and scarcity of resources among others that were discussed in the aforementioned section.

C. Prevention and reduction strategies

In terms of prevention and reduction strategies, respondents proposed the following strategies: mobilisation of the people on the importance of environment and the consequence of its degradation and timely reporting of these offences, fighting against all

activities which contribute to the degradation of the environment, finding out alternative energy which replaces firewood like electrical power, gas and other means, sensitise the citizens to raise in the cowshed, punish offenders, establishing and reinforcing environmental clubs in school and the training of law enforcement agents.

There is also a call to restructure the provisions of the penal code related to environmental crimes. In this regard the Rwandan penal code provides several environmental crimes in articles 415-437. However, the study submits that the following offences are not included among environmental crimes while they should be under the category of environmental offences according to their nature:

- Polluting inland waters (article 388)
- Abusive use of water (article 396)
- Arson of forests, woodlands, crops, cut down wood or harvested crops (article 400)
- Degradation or damaging of trees, crops and agricultural tools (article 413)
- Offences relating to mining and quarry exploitation (article 438-445)

4.1.5.2. Cyber crimes

The misuse of information technology for the criminal activities is increasing day by day. Cyber offences are offences that are committed against individuals or groups of individuals with a criminal motive to intentionally harm the reputation of the victim or cause physical or mental harm to the victim directly or indirectly, using modern telecommunications network such as internet, computer and mobile phones.

Rwanda as a technologically emerging country makes vast advances in the use of ICT, where cyber-crimes continue to occur regularly and consequences are being manifested among different public and private institutions as well as individuals' businesses.

As per Rwanda National Police report, cyber-crime rates in Rwanda are not as alarming as they are in the rest of the world due to the normal internet penetration but it is imperative that the fight against cyber-crimes starts to be enhanced because of its impacts which are very detrimental to society, individuals and their property. Generally, cyber

crimes can vary in nature depending on whether they are linked to offences against persons, property and state offences.

A. Causes of cyber crimes

Factors advanced within the FGDS and KII in the development of cyber crimes consist of; globalization, poverty, conflict and weak rule of law to high value markets, and the rapid appearance of new forms of modern technology and global connectivity. Today, local problems can easily become global. The free movement of people, goods and finance around the world has progressed faster than the abilities of States to keep track and regulate such movements. Criminals have also exploited fragmented regulatory regimes and the use of internet.

As already cited above, a broad consensus emerged in the FGDs that cyber-criminals benefit from technological evolution: An opinion leader in Nyarugenge district confessed that Rwanda as an emerging country engenders increase of crime based on technology. This increase of technology such as user-friendly computers, mobile phone (mobile money, Tigo cash, and Airtel money) has enabled more and more people to use them and, more importantly, rely on them as part of their regular way of life and facilitate in making transactions. As businesses, government agencies, and individuals continue to depend on such technology more and more, so do the criminals, provoking the commission of cyber-crimes.

Added to this is the motive of offenders to illicitly acquire wealth which was pointed out by different respondents. Foreexample in Musanze district, a university lecturer noted that cyber crimes are caused by the desire of offenders to make quick money. Criminals, tamper with data on the net or systems especially, e-commerce, e-banking data information with the sole aim of committing fraud and deceitful money acquisition. There are different ways of using the internet to do different types of criminal activities usually found in social media, banks, and transfer of money using electronic gadgets.

Apart from reasons behind the offender's engagement in commission of cyber offences, ignorance and financial weakness of the victims is a factor supporting cyber crimes. Respondents in Nyarugenge Police custody pointed out that those perpetrators take

advantage of the financial weakness and ignorance of the victims. Usually these crimes are committed in forms like sending of fraudulent and bogus financial proposals from cyber criminals to internet users unaware of the fraudulent schemes.

One of respondent from district of Nyarugenge who was a victim of cybercrime explained how she has been coned through his own phone due to her ignorance of technology. She explains as follows:

There are phone techniques used to steal. For instance, ‘once a con guy called me informing me that I won a lottery in Tigo Cash and directed me to perform some transaction through my phone to be able to get the money I won. And in the reverse the dictated steps helped him withdraw money on my account.’ Emerging technology brings emerging cyber crimes taking different forms. In the same vein, a respondent from Gasabo Prison located at Kimironko indicated that; cyber criminals are not only smart people who have the skill to manipulate and alter technology to fit their desires; they are also smart enough to understand the human element and manipulate human nature to fit their wishes.

B. Challenges

The evolution of technology has not come without drawbacks. Though it makes the life so speedy and fast and helps in crime prevention approaches but it has negative impacts over advancing crime techniques and evasion from accountability by offenders on one hand. On the other hand, this study reveals that, there is lack of awareness of cyber-crimes and its various forms among Rwandan population. This lack of awareness could be attributed to the fact that cyber-crimes are of recent origin and are eased by technological development. The findings also show inadequate trained and skilled investigating personnel as a stumbling block in terms of investigation and prosecution of cyber-crimes.

Among the outstanding challenges identified by respondents and participants, particularly in Kigali city, Huye districts and Musanze, the most prominent are as follows: absence of geographical limitations, and boundaries. Cyber-crimes can be committed in Rwandan jurisdiction without the criminal being physically present. A participant in IPRC Kicukiro noted that; ‘even when investigators manage to locate the criminals, taking them into custody may not be possible due to lack of jurisdiction over them.’ Cybercrime

prosecution is one of the major constraints faced in prevention as asserted by a Judicial Police officer in Musanze.

There are also difficulties in tracking down the criminal living outside Rwanda and more so the evidence. Collection of data outside the territory of Rwanda also paralyses this system of crime investigation. Other factors increasing cyber-crime is the lack of evidence to incriminate the offender by law. Using digital evidence makes cybercrime more difficult to investigate and prosecute in comparison to ordinary crimes. This type of information is delicate and can be easily lost or changed. Apart from practical challenges, they are also legal challenges mentioned below that could help in evasion of justice and accountability of offenders.

In the view of the Rwandan lawmaker, cyber crimes are identified as theft by use of computers or other similar devices. However, the research team notes that all crimes committed through or by use computer or other similar devices are not necessary theft. For instance, modifying or erasing electronic data of another person, introducing a virus in someone's computer as provided for under article 308 of Penal Code is not a form of theft.

Additionally, there are other crimes which have not been provided in Penal Code and which are committed through computers or similar devices, such as sending fraudulent e-mail, cyber bullying, e-terrorism, abuse and defamation through social media, cyber persecution, theft of wireless services, spamming, hacking etc. On this issue the research team is of the view of that there is need for enacting a specific law on cybercrimes.

C. Prevention and Reduction Strategies

Raising awareness among potential victims is a vital part of preventing these emerging crimes. Equally important is the need to address the vulnerabilities of people at risk of becoming involved in new forms of crime. For instance, prevention initiatives should reach out to youth to deter them from becoming involved in cyber, with the support of Police, local government officials, civil society organisations, including religious leaders, alongside efforts to develop sustainable alternative incomes. Inversely, the training and

and equipping skills for investigating personnel in terms of investigation and prosecution of cyber-crimes is essential. Indeed, there is need to teach and train all stakeholders on cyber crimes, new forms and advancements in order to supersede the knowledge and skills of offenders themselves.

The legal system is evolving and new procedures being adopted to deal with the special challenges presented by the nature of digital evidence. Computer forensics has come a long way, and there are tools available to JPOs that allow them to examine digital evidence without tampering with it. There should be trained forensics examiners for preservation of data for presentation in court and even recover deleted data.

There should be regional and multilateral cooperation to adopt consistent laws, and establishing inter-jurisdictional task forces to deal with cybercrime that cross states and national boundaries. Cybercrime is a transnational crime, and solving the issue of cyber jurisdiction requires international cooperation where states collaborate in harmonizing substantive laws and fostering cooperation between law enforcement agencies worldwide. However, one participant at the University in Kigali, posed the following question:

‘What happens when a lengthy, highly technical investigation shows that the cybercriminals are located in a foreign country? The only way to bring them to court is to cooperate with foreign law enforcement authorities. But what if these foreign law enforcement authorities do not want to collaborate, or do not have the technical capabilities to assist the investigators?’ As far as cybercrimes are concerned, the research finds that appropriate approaches will have to take into account cooperation and mutual legal assistance because of the crossborder nature and transnational way of manipulating systems to commit offences.

Finally, there is a need of enactment of specific law on cyber crimes to widen the scope of offences committed electronically or cybercrimes to include crimes that have been made possible by computers, such as network intrusions and the dissemination of computer viruses, as well as computer-based variations of existing crimes, such as identity theft, stalking, bullying and terrorism and so forth.

4.1.5.3 Human trafficking

In terms of article 250 (1) of the penal code, human trafficking is defined as ‘the acts by which the individual becomes a commodity consisting in recruitment, transfer of a person to another part of the country or to another country by use deception, threat, force or coercion, position of authority over the person, in most cases for the purpose of harming his/her life or unlawfully exploiting by indecent assault, prostitution, unlawful practices similar to slavery by torturing and subjecting to cruel treatment or domestic servitude because he/she is vulnerable due to troubles with the authorities, being a single pregnant woman, ill, disabled or due other situation which impairs a normal person to act’.

Statistics from the RNP show that in 2013-2014, 11 cases of human trafficking were reported countrywide, while in 2014-2015, 35 cases were reported. Obviously this offence keeps increasing while it has an impact on the life of human beings.

A. Causes of human trafficking

The findings demonstrate that human trafficking can result from the need for unjustified enrichment. Apart from the need for illicit enrichment for the human trafficker, several respondents in KII and FGDs pointed out that the root causes of human trafficking are related to the economic or social factors but all of them are linked to poverty and unemployment which causes victims to lose hope and believe that the only solution is relocating in search of studies, jobs and better standard of living.

Some respondents in FGDs in Burera district mentioned a new form of human trafficking which consists in taking girls who have been impregnated to Uganda for marriage with old men in exchange of cows which are given to the traffickers. They have also mentioned that some boys are sold in Uganda as cow-boys or shepherds but are not paid because they have been sold.

Other grounds facilitating human trafficking that were mentioned by respondents is the lack of awareness of the offence and ignorance of the victims of human trafficking. The lured group includes the youth who are impressed by deceitful promises of human traffickers or recruiters who take advantage of their vulnerability to promise victims a better life. The offenders take advantage of the financial situation of the victims.

Some respondents from FGDs in Nyarugenge district as well as one lecturer of veterinary sciences at the University in Nyagatare district pointed out that human trafficking results from the consequences of emerging diseases where by people from foreign countries need specific human organs for transplantation and buy them from human traffickers.

Another identified weakness that is likely to favour human trafficking was mentioned by the spokesperson of the National Public Prosecution Authority. He indicated that less severe penalties against human traffickers is a likely cause of few cases of the offence of human trafficking that have been reported. Other participants in Kayonza FGD contested the statistics from the Police do not reflect the reality since few individuals report human trafficking cases. According to the study, whether, numbers of victims is less or high, the serious nature of the offence deserves undivided attention because of the consequences it has on the life of human beings and society. In an interview with the Minister of Local government, he was quoted saying that ‘No single Rwandan deserves to be sold. Human beings are not synonymous to commodities but deserve respect and dignity. Violators of this dignity deserve stringent punishment.’

B. Challenges

Among the challenges, some respondents mentioned that it is difficult to investigate the offence of human trafficking because the victim cooperates with the offender and do not report the offence timely. Thus it hard to differentiate those who are going to be trafficked and those who travel in other dealings like legal business. This issue is related to ignorance of the victims and deceit made by offenders.

Secretive behavior by both perpetrators and victims of human trafficking was reported in all provinces of the country and proposed as the key reason why the results of the reported cases revealed a low incidence of human trafficking cases.

Another challenge to this offence focuses on the transnational and cross-border character of human trafficking. The fact that it has cross-border character makes the investigation and prosecution difficult because of the differences in laws and policies. This offence is

also committed by people with special skills and in an organized manner. Some respondents from Muhanga police custody argued that in some cases human traffickers are not tracked because of corruption.

Concerning the punishment of human trafficking most of the respondents argued that this offence is less punished compared to the consequence that human trafficking has on the victims including incidences of death of the victims. For example, the penalty of one year to three years provided under article 251 and 253 of the penal code or the penalty of six months to one year provided for under article 255 is minor according to the gravity of the offence. In general, the most severe penalty provided for the offence of human trafficking is fifteen years and most respondents proposed the penalty of life imprisonment against human traffickers.

Another issue identified by investigators and prosecutors as well as judges in several FGDs and KIIs is that certain unlawful conduct closely related to human trafficking is not criminalized such as human smuggling. Some cases that tend to create challenging problems for proof of human trafficking in terms of acts, means and purpose would not be left unpunished if human smuggling was also an offence. This is in view of the fact the human trafficking has to be proved by three elements together, mainly, act of human trafficking, means of human trafficking and purpose of human trafficking. Evidence of one element alone is not sufficient to determine the commission of the offence.

In this latter example, human trafficking cases are often not proven beyond reasonable doubt following the requirement to prove the constitutive elements of the act, the means and the purpose of the crime. With this narrow threshold, prosecutors fail to prove human trafficking beyond reasonable doubt, while the elements of human smuggling can be easily proven following the best practice of other countries where human smuggling is a punishable offence. By contrast, human smuggling is not an offence in Rwanda and when prosecution fails to prove acts, means and purpose, at the same time, the suspect is then acquitted instead of being held for other offences like human smuggling.

As a result, several accused persons escape accountability for human trafficking and smuggling even when elements of smuggling are available. Since Rwanda has ratified the

convention against organized crimes, it should also ratify the protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against transnational organized crimes. By doing so, it should also criminalize this offence in addition to the criminalization of human trafficking.

C. Prevention and Reduction Strategies

Considering that the main challenge in the investigation and prosecution of this offence is the lack of information due to the cooperation between the victims and the traffickers, many respondents suggested that the main strategy should be the sensitization of the people to be alerted and know all the manoeuvres used by the traffickers and the consequences of human trafficking. In this regard, parents should be careful and follow up the movement of their children who need go to foreign countries and give advice thereof. Thus the dialogue between children and their parents should be improved in terms of knowing their whereabouts. This would turn the issue mentioned in Kirehe district by a local leader that: When a goat is lost, every one in the neighbourhood will be informed and asked, but when a child is lost no one bothers to report and inform neighbours.

Moreover, anti-human trafficking clubs in schools may also play a good role of mobilizing students to avoid being victims of those who deceive them by untruthful promises that they will get scholarships and jobs in foreign countries. Another strategy that was proposed is the improvement of border control systems especially for young people to verify if their travel purpose is not related to human trafficking.

On the issue of less severe penalties, some respondents suggested to amend the law and apply severe penalties against human trafficking. This was justified by the fact that human trafficking impacts negatively on the victim sometimes yielding to his or her death through removal of important body organs for sale and other barbaric acts, means and purposes of human trafficking.

While the law provides for both in country human trafficking and trafficking to other countries, participants in FGDs and KII mentioned that human trafficking is most often a

cross-border crime, and proposed regional and international cooperation as another key channel of prevention and fighting against this crime. Some respondents in Nyanza district argued that the fight against human trafficking cannot be effective if all the institutions in the country and concerned countries do not cooperate in terms of information sharing because of the sovereignty concept that cannot be violated by another country for instance investigating matters on a territory that it does not have jurisdiction.

Legally, though human trafficking is an offence in Rwanda, the law falls short of proportionate sentences. Some acts are also not criminalized, such as transportation, harbouring and receipt of persons as well as human smuggling. There is necessity for enactment of new legislation, amendment of existing provisions and modification of inconsistencies in various laws. Therefore, Rwanda should ratify the protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against transnational organized crimes. By doing so, it should also criminalize this offence in addition to the criminalization of human trafficking.

Another suggested strategy is to reduce poverty levels, creating job opportunities, instilling skills of job creation than job seekers and other income generating activities. Several government projects can also be instrumental in poverty reduction, such as Gira inka Munyarwanda, Ubudehe support services, and insurance schemes. One of the factors that raises the cost of living for the population is increased competition for land and expensive housing in Rwanda. On this issue, RSSB which has a housing scheme can facilitate affordable housing to beneficiaries which would raise the standard of living. A respondent in Kabwayi, Muhanga district revealed that RSSB in Rwanda seems to be focused on income accumulation rather than income redistribution. The social security department can help in reducing income inequalities in various ways and subsidies to the vulnerable. Poverty reduction is important because, some participants in various districts indicated that victims of human trafficking are seduced by promises of better and free housing in other countries, better jobs and education and direct support services. Poverty reduction is not only applicable to reduction of human trafficking but also to so many other offences as suggested by several convicts in the visited prisons and detainees in police custody.

4.1.5.4 Money Laundering

Article 652 of the penal code, provides for the offences of money laundering. The following acts are constitutive elements of the offence.

1° the conversion, transfer or handling of property whose perpetrator knows that they derive from a misdemeanor or a felony, or from an act of participation in such offences, for the purpose of concealing or disguising the illegal origin of the property or of assisting any person involved in the commission of such an offence to escape justice

2° the concealment, disguise of the true nature, origin, location, disposition, donation, the owner of the property or the person having rights on it, knowing that such a property is derived from a misdemeanor or a felony or from an act of participation in such offences;

3° acquisition, possession or use of property, knowing, at the time of reception, that such a property is derived from a misdemeanor or a felony or from an act of participation in such offences;

4° Participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counseling the commission of any of the acts mentioned in this Article.

This definition appears to be the same as the definition of money laundering in the Palermo convention against transnational organized crimes to which Rwanda is a party. However, paragraph 2 of article 652 of the penal code misses the concealment or disguise of 'movement'. IMF country report no 15/221, recommended the amendment of the provision of article 652 of the penal code to include this missing provision.

It is important to note that the police report as well as the prosecution did not report incidences of money laundering in 2014-2015 and even the previous year of 2013-2014.

A. Causes of money laundering

In most districts that the research team visited, respondents did not have knowledge and information regarding this offence. However, some respondents in Kigali city managed to point out that it is caused by the need for accumulation of wealth through commission of crimes, intention to enforce unlawful activities, concealing the source of unjustified

wealth. An example was provided by one staff of the civil society organisation in Nyarugenge that money laundering cases in Rwanda involve perpetrators of human trafficking, narcotic drugs sellers and corrupt persons, who earn wealth from those offences but disguise the source through establishing businesses like petrol stations, shops, super markets to disguise that that is the source of income while the fact is that their source of income is derived from sale of human beings, or participation in terrorist acts among others.

Other identified causes of money laundering include; the desire to disguise wealth acquired as a result of a misdemeanor or a felony. In the same manner, perpetrators wish to conceal or disguise the illegal origin of the property or from an act of participation in such offences to escape accountability.

B. Challenges

FGD participants agreed that there was no widespread awareness of the offence of money laundering among the population and even law enforcement agents. However, they also indicated that perpetrators are much more informed about the offence and do it clandestinely to conceal the illicit origin of the money or wealth obtained from commission of felonies and misdemeanours. According to the respondents in Gasabo and Kicukiro districts, they mentioned that the main issue is the lack of knowledge of some law enforcement agents who cannot investigate and prosecute offences for which they do not have the knowledge.

One judge in Gasabo Intermediate court revealed that investigators and prosecutors tend to focus only on predicate offences leaving aside money laundering as if the conviction of money laundering necessitates the conviction of a predicate offence. On this point, IMF has also recommended Rwandan law enforcement practitioners, that securing a conviction for the offence of money laundering does not necessarily require conviction of a predicate offence.

Another challenge that was identified by a key informant in Transparency Rwanda is that, it is difficult to investigate the offence of money laundering committed by private people and all agents whose wealth is not investigated and declared within the office of the Ombudsman. An official from the Ombudsman office also expressed the same challenge of investigating unjustified accumulation of wealth through money laundering without evidence of the trend of wealth.

In summary, ignorance of the offence by both victims and investigative organs was reported in several districts and proposed as the key reason why the results of the police report as well as the prosecution reports revealed no incidence of money laundering cases in 2014-2015 and even the previous year of 2014-2015.

C. Prevention and Reduction Strategies

Concerning the issue of lack of knowledge of some law enforcement agents on the offence of money laundering, respondents suggested the establishment of specialized units in charge of investigation, or prosecution of specific crimes. Continuous training of judicial police officers, prosecutors and judges to enhance their skills on such crimes of money laundering is necessary. Apart from asset declaration made by leaders only, it was also suggested that declaration of owned property should be extended to the private sector and other categories of citizens in order to monitor the property trend and simplify the investigation of the source of wealth of people in case of suspicious transactions of illicit acquisition and accumulation of wealth disguised under money laundering activities.

While investigating predicate offences of money laundering, investigators are urged to investigate further money laundering activities. In addition, even in the absence of a predicate offence, investigators should explore and probe more for money laundering transactions taking place for independent prosecution of the offence. In other words, it is not required to first establish a conviction for a misdemeanor or a felony to claim a conviction for money laundering.

4.1.5.5 Terrorism

Terrorism consists in the unlawful use or threat of violence especially against the state or the public as a politically motivated means of attack or coercion. The EAC region is a target of Al shabab, especially some members Uganda, Kenya and Burundi which have military peace keepers in Somalia. In Uganda for instance, during the World cup of 2010, Al shabab conducted a terrorist act, which killed many people and injured others. Nowadays, terrorism has become a problem of the whole world. No country can say that it is not concerned. This demands an international partnership, which must be accorded stronger attention than ever before.

In Rwanda, terrorism cases are not alarming. However, although terrorism acts are not reported by Police, some few cases have been observed and convictions secured in courts. Therefore, though terrorism acts are not widespread and serious in nature within the country, in relation to the other neighbouring countries mentioned above, Rwanda must always be vigilant because the country is not an island. The research team decided to investigate the likely causes, the challenges and the preventive strategies to fight terrorism in Rwanda and across borders since the offence is not a sole problem of one country but of all countries to set up strong strategies for eradication. Terrorism as an offence on Rwandan territory was not reported and this was supported by the Police report. However, recruitment of Rwandan young adults to join terrorist movements was widely reported by KII. Moreso terrorists could use the Rwandan territory to cause threats and target other countries rather than Rwanda, reason as to why its prevention is very important. Instead of waiting for an uncontrollable situation, it is recommendable to prevent what is almost inexistent.

Some preventive strategies have already been established such as establishing terrorism as an offence under the penal code defined as follows;

According to the article 497 of Rwandan Penal code, Terrorism means:

1° to commit or threaten to commit acts aimed at leading State organs to change their functioning by taking hostages of one or more persons, killing, injuring or threatening the population by use of any means that may kill or injure a person;

2° to commit or threaten to commit an act mentioned under item 1° of this Paragraph on political, religious or any ideological grounds.

A. Causes of terrorism

Participants in the various FGD s and KII indicated controversial ideas on terrorism acts in Rwanda, where some agreed that there are a few incidences and others did not believe there are incidences of terrorism in Rwanda. Since the mandate of the research team was not establishing existence of terrorism or not but prevention of the offence, focus was put on knowing any possible causes. The views of those who believe in attempts of terrorism indicate that terrorism is caused by economic constraints, unemployment, sabotage of the current government, peer groups influence among youth, ideology of those who are against the current government like FDLR, personal motives, and desire of acquisition of power or overthrowing the current regime. Religious beliefs were also highlighted by several key informants. For instance, a judge from the intermediate court in Karongi District added, ‘The remaining problem is that of beliefs related to religion in Rwanda where they are Rwandans recruited in terrorist groups not operating in Rwanda.’ In Kigali City, respondents from Gasabo District said that terrorism is caused by extremists in religious beliefs for instance, as it is the case in foreign countries for JIHAD, AL QAEDA, AL-SHABAB, BOKO HARAM

Other reasons mentioned included, poverty, careless parents over children, inter-state conflicts, and wars. These causes were contested by participants in Kigali city as a cause of terrorism in Rwanda because Rwanda is not experiencing any terrorism connected to these factors though participants agreed that these factors are causes of terrorist acts experienced in other countries. More varied ideas were expressed when respondents were asked of the likely causes of terrorism or terrorism acts in Rwanda where majority of respondents believed that there are no terrorism cases in Rwanda but a few incidences of illegal use of arms and ammunitions but which does not reach the gravity of terrorism.

B. Challenges

The main challenges that were mentioned by most respondents countrywide is the fact that this crime is committed by skilled people in high secrecy and it is difficult to acquire evidence. This is magnified by the lack of skills to investigate and prosecute effectively this crime of terrorism. The findings also show inadequate trained and skilled investigating personnel as a stumbling block in terms of investigation and prosecution of terrorism acts.

Another challenge, is that terrorism acts are funded and supported by terrorist organisations and movements and the offence takes a transnational organised character. The offenders are not specifically affiliated or located in one country and the chain of command may be very difficult to establish. There are evident difficulties in tracking down the criminals living out side Rwanda and more so the lack of evidence to incriminate the offender by law. Collection of data outside the territory of Rwanda also paralyses this system of crime investigation.

Among the prominent challenges identified by respondents and participants, particularly in Kigali city, the most prominent are as follows: absence of geographical limitations, lack of awareness among the youth who fall under victims recruited to join terrorist acts. This can be attributed to the fact that terrorism seems to be of recent origin and is enhanced by technological development.

C. Prevention and reduction strategies

Respondents' perspectives regarding strategies for prevention of terrorism include the following; keen surveillance of susceptible religious teaching, strict security controls in public places and offices, timely reporting, special training of JPOs and prosecutors on terrorism, job creation among the youth, severe punishment for those who are convicted, sensitization of people on patriotism through civic education and establishment of witness protection mechanism as the short-term preventive strategies. Poverty reduction policies must be taken into consideration as long-term preventive strategies of terrorism especially among the youth.

Several other respondents informed the study, that participation of different religions and Faith Based Organisations (FBOs) like World vision, World relief, Catholic Relief Services and many others in fighting against terrorism should not be put aside among preventive strategies. The different religions and FBOs are well positioned to convince their followers to change their mindset and only do what is human. The campaign done by those religions and FBOs are very important because most of time, people earnestly obey and put into practice what is taught by their religious leaders.

Additionally, sensitization of the population for awareness and whistle blowing on terrorist acts or suspicious movements. It means that people should be sensitized on secretly reporting any suspicion on terrorist activity. This was suggested by some respondents in FGDs from the Western province. The same respondents continued saying that the Government should increase the vigilance on registration of simcards to avoid manipulation.

There is need for the government to establish domestic and international cooperation in matters of preventing and fighting against terrorism. It is thus hereby recommended that the criminal justice sector needs to institute cooperation with other stakeholders at international level because terrorism is not only a domestic issue but a regional and international scourge. Different institutions can work together in a joint effort when it comes to sensitizing the public on acts and elements of terrorism.

4.2. GENERAL RESEARCH FINDINGS

It is impossible to develop effective prevention strategies without understanding the reasons behind the commission of crime and involvement in criminal activity. It is in this regard that this research aims at analysing causes of some selected crimes. It also assesses the legal and practical challenges related to investigation, prosecution and adjudication processes. This goes along by suggesting strategies for curbing legal gaps, institutional impediments and operational constraints that need to strengthen crime prevention and fighting policies.

These research findings offer an empirical overview of the main considerations to be taken into account in setting up strategies and employing crime prevention interventions. It also recognizes that there are some major differences between provinces and districts in terms of causes of crime in various districts and the challenges faced by law enforcement agents during the investigation, the prosecution or the adjudication of those offences.

Indeed, all districts experience violence and victimization as a result of offences but at different levels or with crime variations. Thus there is no region that is free from criminality. This has led to some of the following situations: districts with high proportions of offences against persons like murder, cases of voluntary battery and injuries; societies with high property offences like theft and embezzlement of property; crime against the State like corruption and narcotic drugs which is actually cross-cutting in almost all categories of offences; and emerging crimes like human trafficking and cyber-crimes.

The research findings on crime prevention developed in this study incorporate and build on the field research carried out various in districts in response to these diverse problems. The field study emphasizes crime prevention strategies to be adapted to local approaches in curbing crime problems and the use of an integrated crime prevention action plan that should be based on a local analysis of issues.

Moreover, society needs to involve various actors, and consider several actions ranging from primary prevention to the prevention of recidivism.

The following part indicates a summary of key findings from the FGDs and KIIs in relation to major causes of specific crimes, the challenges encountered by law enforcement agents and strategies to deter those crimes.

4.2.1. Causes of crimes

This part discusses the main causes of prevalent offences in the varying categories, namely; crimes against persons, crimes against property, crimes against the State and emerging crimes.

4.2.1.1. Causes of crimes against persons

Crimes against persons are offences which usually involve bodily harm, threat of bodily harm or other actions committed against the will of an individual by direct physical harm or force being applied to another person.⁷⁴ Crimes against persons that form part of this study include; murder, rape, child defilement, spousal harassment, assault and battery, discrimination and sectarianism as well as genocide ideology. Below are the summarized key causes:

a. Narcotic drugs and alcohol abuse

The main cause of the crimes against persons in Rwanda is the use of narcotic drugs and alcohol. Most drugs registered and known in Rwanda are cannabis and illicit brew among others and they have different terminologies and jargons depending on the region such as *muriture*, *kanyanga*, and, *Nyirantare*, all of which are brewed locally and contain life threatening content.

It is important to note that this research revealed that the offence of illegal use and consumption of narcotic drugs is a cross-cutting offence which is the main cause of most offences against persons. Crimes like child defilement, voluntary battery and injuries and rape, are induced by consumption of drugs. Similarly, in USA, resesarch conducted by the Department of Justice Office in 1991 and 1997 revealed that drug users are likely to commit violence related crimes such as sexual assault, battery, and homicides.⁷⁵

b. Inter-family and intra-family disputes

Conflicts between families and disputes within a family have been highlighted as another major cause of offences against persons. These conflicts are normally issues related to land, adultery and cohabitation and parental irresponsibility towards children.

This research reveals that most GBV cases result from intra-family disputes leading to commission of offences such as spousal homicide, spousal harassment, battery and injuries and so forth.

⁷⁴ Law enforcement Academy, Criminal law: crimes against persons, Sante Fe, New Mexico, P. 3.

⁷⁵ U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics available online at <http://www.bjs.gov/content/pub/pdf/DRRC.PDF> visited on the 1st September 2016. See also <https://www.ncjrs.gov/ondcppubs/publications/pdf/ncj181056.pdf> visited on 1st September, 2016 and <https://www.ncjrs.gov/ondcppubs/publications/pdf/ncj181056.pdf> visited on 1st September, 2016.

Parental irresponsibility as cause of crimes has been identified by other researchers who argue that children who grow up in homes characterized by lack of warmth and support, whose parents lack behaviour management skills, and whose lives are characterized by conflicts and maltreatment will more likely be delinquent, whereas a supportive family can protect children even in a very hostile and damaging external environment.⁷⁶

c. Ignorance

It was found out that the population was not aware of the laws even though ignorance of law is no excuse under general principles of Law. For instance, voluntary battery and injuries as an offence faces the constraint of culture whereby beating a presumed wrongdoer is normal, and this often occurs in families, and disputants. More so, there is ignorance of the youth regarding the offence of child defilement. In regard to the offence of child defilement committed by minors, the respondents revealed that adolescent curiosity is the main cause. This category of offenders satisfies their sexual curiosity without the knowledge of the legal implications.

The main group of perpetrators who commit various offences committed against persons are the illiterate and less educated who are majorly unaware of laws and end up being held accountable under the principle that ignorance of law is no excuse.

This finding is supported by Hermistein, and Murray who argue that a low intelligence directly increases the risk of involvement in crime because it limits a person's ability to appreciate the consequences of their actions.⁷⁷ Likewise, Blumstein, Cohen, Roth and Visher argue that offenders are nearly always found to be less intelligent on average than non-offenders.⁷⁸

d. The consequences of the genocide

During the research, it was noted that genocide ideology and related offences as well as the offence of discrimination and sectarianism were predominant in certain districts. The

⁷⁶ Smith, C.A & Stern, Delinquency and anti social behaviour: A review of family process and intervention research, *Social Service Review*, 71, 382-420

⁷⁷ Hermistein, R.J and Murray C, *The Curve Bell*, Simon and Schuster (1996) New York, p241

⁷⁸ Blumstein, A, Cohen J, Roth, J.A and Visher, C.A, *Criminal careers and career criminals* (1986), vol 1, National Academy Press, p 50

consequences of the genocide committed against Tutsi were revealed to be the main cause of such crimes committed against persons, particularly genocide ideology and related offences.

This offence of genocide ideology is not easily prosecuted because of ambiguity in definition hence a challenge to prevent its commission. The scope and ambit are imprecise and may affect increased manifestation of the prohibited conduct amounting to genocide ideology.

As for the offence of discrimination and sectarianism, the findings indicate that though the offence has several elements constituting it, the discrimination that occurs is mostly connected to ethnicities than other kinds of discrimination hence reflecting genocide consequences as a cause of this offence.

4.2.1.2. Crimes against property

Crimes against property are any criminal acts that destroy another person's property, or deprive an owner of property against the owner's will. Under this study, crimes against property include; theft, fraud, breach of trust, embezzlement, issuing or receiving bouncing cheques, and arson.

From the research findings three main causes of these crimes were found; poverty, less severe penalties and lack of regular audits.

a. Poverty

Poverty was suggested during the study as one of the causes of property offences. Among the causes of poverty itself, unemployment was highly regarded which causes idleness to engage in malpractices including crimes such as theft, fraud and breach of trust. Idleness due to unemployment and poverty also contributes to drug consumption as a result of peer pressure. This drug consumption leads to the commission of property centred crimes.

Poverty as a cause of particular crimes is a common issue for many African countries. For example in Kenya, accord Jared A. Ngutu, in his research on the influence of poverty on crime among Abanyole of Emuhaya District, argues that poverty has a great influence

on crime due to unemployment, illiteracy, level of education, lack of property and daily basic needs to stop hunger and starvation.⁷⁹

Although, there is no evidence of hunger and starvation in Rwanda, this research has revealed that poverty and unemployment leads to the commission of crimes especially those related to the property.

b. Lack of severe penalties

The loopholes of some provisions within the penal code that provide for less severe penalties or do not permit the application of penalties at all were pointed out as one of the causes of offences against property. For instance, there are loopholes in providing light or less severe penalties for the offence of theft and fraud.

Most respondents in this research asserted that less severe penalties do not create individual and general deterrence among the population as one of the principle objectives of sentencing and this can be seen in the high recidivism rates of previous convicts. Other studies have also highlighted, that severe punishment can be used as a deterrent factor of future wrong-doing, so the lack of severe penalties can favor recidivism.⁸⁰

However this view of putting offenders in prison for many years in order for incapacitation and deterrence purposes is not supported by some other researchers who argue that when the prison sentences are short, offenders are likely to maintain ties with their families, employers, and their community, and it contributes to the promotion of successful re-entry into society once he/she finishes the penalty while prisoners who serve longer sentences are more likely to become institutionalized, loose pro-social contacts in the community, and become removed from legitimate opportunities, all of which promote recidivism.⁸¹

⁷⁹ Jared Aineah Ngutu, The Influence of Poverty on Crime among the Abanyole of Emuhaya District, Western Kenya in *Journal Of Humanities And Social Science (IOSR-JHSS)* Volume 19, Issue 4, Ver. VII (Apr. 2014), PP 108-142 e-ISSN: 2279-0837, p-ISSN: 2279-0845 available online at www.iosrjournals.org

⁸⁰ For more details see, <http://www.garlikov.com/Punishment.html> visited on 2nd September 2016

⁸¹ Patrick Langan and David Levin, “*Recidivism of Prisoners Released in 1994*,” (2002) U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics

This may be the attitude of some offenders who once they finish their penalty and come back to the community begin to commit more serious crimes including blood offences through their saying that ‘they know where their bed is situated in the prison.’

However, supporters of short term sentences do not propose to apply them to all offences but to less serious offences in addition to the effective application and execution of the penalty of fines. This view is shared as well with the researchers of this study on criminality in Rwanda.

During the research, it was found out that theft and breach of trust that were in the competence of Abunzi, an alternative dispute resolution mechanism that aims at reconciling parties rather than punishing offenders, was a factor that had escalated the offence. Theft of property not more than 5 million was under the Abunzi which was actually exaggerated competence, since Abunzi do not give punishment but ensure reconciliation. So many criminals had taken advantage of the Abunzi law. Nonetheless in the process of the report writing, the Abunzi law was amended to remove all criminal offences in the competence of Abunzi to ordinary courts. The critical opinion of the researchers on this amendment is that it was actually necessary but it was overly done to remove all criminal offences in the competence of Abunzi. This is a regressive turn than the initial applaudable step that had been taken of introducing ADR in criminal matters because it had helped in reducing backlogs in courts and maintaining relationships between disputing parties. A limited scope of competence in criminal matters would have been a better approach, particularly by leaving minor offences to Abunzi to avoid backlogs in classical justice.

c. Lack of regular audits

The lack of regular audits in public and private financial institutions was viewed to be a strong cause of embezzlement which is prevalent in various districts. Inadequate audits create loopholes for potential offenders who take advantage of the weak checks and controls of either public or government funds under their management. This finding is complemented by literature. According to Muhammad Akram Khan, regular audits are helpful in fighting embezzlement, corruption and related crimes.⁸²

⁸² Muhammad Akram Khan, Role of audit in fighting corruption, available at <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN025122.pdf> visited on 2nd September 2016

4.2.1.3. Crimes against the state

These are crimes committed or directed against State and affect the public interest.⁸³ The offences that formed the subject of this study under this category include; unlawful use of narcotic drugs, use of counterfeited document, corruption and related offences, offense against state security and illegal possession of arms. The following was viewed as the major causes of these crimes;

For unlawful use of narcotic drugs which was at a high rate, reasons for their prevalence comprised of poverty, idleness and peer groups influence. For corruption related offences, the major causes that emerged included poor service delivery, underpayment and the desire for illicit enrichment. In regard to the offence of forgery, ignorance, concealment of truth and accumulation of wealth by illegal means were the outstanding causes identified. Particular causes for crimes against the state security and illegal possession of arms included geographical location of districts where these crimes largely manifest at the borders with countries facing insecurity. Similarly, the geographical location of some districts not only facilitates the smuggling of illegal arms but also illegal entry of narcotic drugs into the country from neighbouring countries.

4.2.1.4. Emerging crimes

Over the years, there have been developments in the technological sector and environmental sector and these advancements have led to the emergence of new crimes in Rwanda. Examples of these emerging crimes include; human trafficking, cybercrimes, environmental crimes, terrorism and money laundering. The major causes of these crimes which are not so far prevalent but impact highly the lives of people and security of the country can be summarised as follows:

a. Technological advancement

⁸³ Head M *Crimes against the State: From Treason to Terrorism* (2011) University of British Columbia, Ashgate Publishing Company, 310 pp

It was the finding of this study, that emerging crimes are favoured and boosted by the expansive technological development in areas of everyday life. The fact that there are no limits when it comes to this development gives offenders' leeway as they can commit multitudes of crime with support of technology, for instance by use computers and internet. Terrorism acts can also be committed without necessarily being on the scene of crime or target area. Human traffickers also work in a chain and use different means of communication to execute their plans through facilitation of emerging and advancing technology.

According to other studies, while technology has already brought many beneficial changes, it can be argued that it also has a dark side, particularly, that of cyber crimes. This type of 'cyber warfare' exploits vulnerabilities across networks.⁸⁴

b. Ignorance

There is widespread ignorance on emerging crimes in regard to their existence and impact of these crimes. The ignorance of the population in Rwanda when it comes to these emerging areas of criminality facilitates a safe environment for their commission. Actually, offences such as cyber crimes and human trafficking involve victims consent and active participation. Ignorance has been identified to facilitate terrorist movements who recruit members on account of job provision where they take advantage of their unemployment and poverty status. As for environmental offences, they were found to be committed because of different reasons including unawareness of the issue as an offence but also ignorance of the population on negative consequences of destruction of the environment.

The ignorance of victims about emerging crimes, is one of the main reason of its increment not only in Rwanda but worldwide. A good example is Nigeria where today, numerous internet assisted crimes are committed daily in various forms such as identity theft, desktop counterfeiting, cyber harassment, fraudulent electronic mails, Automated Teller Machine spoofing, pornography, piracy, and hacking. Usually these crimes are committed in forms like sending of fraudulent and false financial proposals from cyber

⁸⁴ xlcatlin.com/~media/fff/pdfs/cyberliability_xl.pdf visited on 2nd September 2016

criminals to innocent internet users who fall under the category of ignorant people in regard to cyber crimes.⁸⁵

c. Illicit enrichment

Illicit enrichment stood out as one of the key causes of emerging crimes consisting in the desire by offenders for unjustified self enrichment. These offences appear to generate huge amounts or lumpsum benefits through dishonest and illegal sources. Money laundering is a good example of such offences, where offenders acquire wealth through dirty means and later try to launder the sources. Moreover, human trafficking offenders often sell human beings so that they get huge amounts of money whereas environmental crimes like cutting trees for timber and charcoal is motivated by the earnings from selling the products. Terrorism acts can be committed out of desire for money but not necessarily the cause since other motives like disrupting the country's security can supersede the financial aspect.

d. Crossborder factors

Most of the selected emerging offences can be committed in Rwanda while some of its constituent elements are accomplished outside Rwanda's border. The undefined nature of boundaries in committing these offences is really a stimulation for potential offenders simplified by means of how they can be carried out without having to reach the field of crime execution. Such offenders may not have criminal records in their country to avoid being black listed or being held criminally accountable but may commit such crimes in other countries like Rwanda. Besides the cross-border character, some of these crimes, are transnational in nature and can be committed in any other country which does not border with Rwanda.

4.2.2. General challenges and strategies

⁸⁵ Folashade B. Okeshola and Abimbola K. Adeta The Nature, Causes and Consequences of Cyber Crime in Tertiary Institutions in Zaria-Kaduna State, Nigeria in *American International Journal of Contemporary Research* (2013) Vol. 3 No. 9 available at http://www.aijcrnet.com/journals/Vol_3_No_9_September_2013/12.pdf visited on 2nd September 2016

From the research findings, several challenges were noted to be an impediment in preventing and fighting these crimes right from the pretrial phase, trial phase and post-trial phase. The key challenges that were highlighted are mainly issues related to investigation, prosecution and adjudication; issues related to rehabilitation and reintegration of offenders as well as issues related to inadequate applicability of non-custodial measures and alternatives to imprisonment. For each challenge a strategy has been proposed to deal with the manifested issues.

a. Investigation, prosecution and adjudication

Several challenges were realized to be faced by actors in the criminal justice sector during investigation, prosecution and adjudication of crimes and thus generally affecting the investigation and prosecution of the crimes.

❖ Lack of sufficient knowledge and skills

In this research, respondents from different districts revealed that not only the issue of lack of skills concerns investigators but also the other members of the criminal justice chain (prosecutors and judges).

Inadequate knowledge by the members of the criminal justice chain has been identified in the sectors concerning emerging crimes, embezzlement and genocide ideology. The issues of controversy are constituent elements of these offences and investigation techniques. The investigators and prosecutors at times have limited knowledge and skills on such offences which affect the quality of investigations to secure a conviction. Additionally, judges have not received enough training on emerging crimes, particularly on the constituent elements which in turn affects the conviction rate of perpetrators. Therefore, if investigators, prosecutors and judges are not well aware of the constituent elements of a given offence, it impacts the decision to be taken and how it is taken.

In support of the above research finding, the United Nations Office on drugs and crimes recommend the UN State members to have skilled investigators for successful investigations. This office argues that investigators must be trained in terms of investigation techniques of specified crimes. Trainings have to be supplemented with training manual for future reference. They also must be conducted on regular basis since the law keeps changing and criminals find new methods of committing crimes (i.e use of internet in committing different types of crimes).⁸⁶

A strategy to be adopted is that different members within the stakeholder institutions can be trained jointly on challenges facing investigations, prosecutions and adjudication processes. Joint training of judicial police, defense lawyers, prosecutors and judges, as well as members of the correctional service is paramount.⁸⁷

❖ Evidence issues

The study revealed that there are some cases where preliminary investigations are poorly conducted and worsened by lack of additional investigations by prosecutors in such situations. It was further found that even when investigations are complete, the issue comes up of linking the evidence with the suspect to establish a legal nexus of individual criminal responsibility. A strategy to curb the challenge consists in improving the quality of investigations and the prosecution needs to exercise supervisory powers during the process of investigations and where necessary conduct supplementary investigations to enrich the evidence and case file from the judicial police.

In the trial phase, the evidence presented by the defense and prosecution is in most cases referred to as hearsay evidence because witnesses are rarely called to give oral testimony that is included in the written submissions. This contravenes article 62 of the evidence law which provides that testimonial evidence is what is made in court regarding what a

⁸⁶ United Nations Office on Drugs and Crime, Policing Crime investigation, page 8 available at https://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/3_Crime_Investigation.pdf accessed on 1st September 2016

⁸⁷National Crime Prevention Council, Training and Events (2016) available online at: <http://www.ncpc.org/training> accessed on 1st September 2016

witness saw or heard.⁸⁸ In practice prosecutors and judges are contented to refer to the statements of witnesses from the police or prosecution without bringing them in the court for examination in chief and cross-examination despite the fact that the law provides for that right to parties.

This contravenes the principle of fair trial with regard to the right to cross-examination as provided for under the ICCPR⁸⁹ which provides that ‘in the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees including the right to ‘examine or have examined the witnesses against him and obtain the attendance and the examination of witnesses on his behalf under the same conditions as witnesses against him.’⁹⁰

However, there are various interpretations of provisions on testimony within the evidence law, the criminal procedure and transfer law where some provisions permit witnesses to testify in court and the other provisions allow multiple ways of evidence in court including testimonial evidence thus application of testimonial evidence is not similarly interpreted in practice.⁹¹

In matters of evidence, another issue is that the local leaders at times provide official documents which do not reflect the reality or truth. For instance, birth certificates that are filled depending on the wish of the person requesting it who can either be the victim or suspect. It is necessary to inform local leaders about their role in fighting criminality rate in their respective districts and their importance in contributing to fair justice through issuing factual legal documents.

It was also evidenced that there is a general delay in expert reports thereby affecting the proceedings. Such reports include medical reports, audit reports and other expert reports linked to the criminal case proceeding.

⁸⁸ See Article 62, 66, and 119 of the law n° 15/2004 of 12/06/2004 relating to evidence and its production and article 153 of the Code of Criminal Procedure

⁸⁹ ICCPR –article 14 (3) (e)

⁹⁰International Covenant on Civil and Political Right available at <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

⁹¹ Consider interpretation of article 66 and 119 evidence law and article 153 CCP.

❖ **Inadequate protection of whistleblowers and witnesses**

The manifested challenge faced in the pretrial, trial and post trial phase is inadequate protection of witnesses. Though Rwanda has enacted legislation on protection of whistleblowers, the implementation of this law is problematic. In regard to protection of witnesses, there is a gap in the law, where there is no law on protection of victims and witnesses. In linking whistle blowing concept to witness concept, an issue rises in terms of the fact that the present whistle blower, is the future witness.

Therefore, having a law protecting a given individual, as a whistleblower but not as a potential witness is itself problematic and could affect the investigation process. Views were widely advanced on fear of witnesses to report crimes because they are afraid of revenge, a case in point is the Abarembetsi in the Northern Province who kill or intimidate whoever reports them to local leaders and security organs.

On this point, even though NPPA has a unit in charge of witness and victims' protection, the study suggests the need for enactment of the law related to the protection of victims and witnesses. Although they are institutionally protected, victims and witnesses still need to be legally protected hence there is an urgent need to enact legislation concerning protection of witnesses and victims of offences.

The issue of framework of witness protection is also commended by the United Nations Office on Drugs and crime which recommends that witnesses who participate in the protection programme do so to testify free of intimidation in court of law.⁹² According to these guidelines, each law on witness protection should specify at minimum the following:⁹³

- a) Protection measures that may be adopted
- b) Conditions for their application and criteria for admissibility of witnesses
- c) Procedure to be followed
- d) Authority responsible for the programme's implementation

⁹²United Nations Office on Drugs, Good practices of witness protection in criminal proceedings involving organized crimes available online at <https://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf> accessed on 20th August 2016

⁹³ Idem page 44

- e) Reason for the programme's termination
- f) Rights and obligations of parties
- e) Confidentiality of the programme's operation

❖ **Financial constraints**

Financial constraints were highlighted by respondents as a major barrier in proper investigations and prosecutions which in turn affects the adjudication process in terms of the result of the process or the time it takes to process a case. Such constraints include, inadequate transport facilities by investigators to attend the crime scene and collect physical and circumstantial evidence, payment of medical reports is difficult for victims, and transport fees to reach hospitals for medical expertise is also an issue which affects reporting of such offences like rape, and voluntary assault and batteries. In short, there are budget issues in the investigation department, where its agents do not have sufficient transport to visit the crime scene and on the other hand, victims of certain offences that require expert reports fail to easily reach hospitals far away in search for medical reports.

It is therefore vital to address financial constraints by ensuring equitable financial planning in all departments involved in criminal investigations. It should be noted that post crime measures are more expensive than pre-crime prevention strategies

❖ **Legal and policy loopholes**

In the study, various legal issues emerged as a challenge to the criminal justice chain in delivering justice. Legally, some laws are unclear, others silent on sentencing certain illegal or prohibited acts while others are non-existent though essential. A case in point is the unclear definition of the law on genocide ideology, especially the public nature of the offence, absence of penalties for certain prohibited acts in narcotic drugs, and the fact that certain unlawful conduct is not criminalized such as human smuggling. In this latter example, human trafficking cases are often not proven beyond reasonable doubt following the requirement to prove the constitutive elements of the act, the means and the purpose of the crime. With this narrow threshold, prosecutors fail to prove human trafficking beyond reasonable doubt, while the elements of human smuggling can be easily proven following the best practice of other countries where smuggling is a punishable offence unlike in Rwanda.

As a result, several accused persons escape accountability for human trafficking and smuggling even when elements of smuggling are available. Since Rwanda has ratified the convention against organized crimes,⁹⁴ it should also ratify the protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against transnational organized crimes. By doing so, it should also criminalize this offence in addition to the criminalization of human trafficking. Generally, there is necessity for enactment of new legislation, amendment of existing laws and modification of inconsistencies in various laws stipulated above.

Apart from the above issues regarding legal instruments, there are also challenges related to policy. On a policy level, inconsistencies on sentences rendered by courts are a big issue since courts have no harmonized criteria of rendering punishment to convicts. This is manifested in variances in jurisprudence that is rendered by courts in related cases or similar circumstances. Lack of sentencing guidelines affects the sentencing practices.

Another hindrance is lack of a prosecution policy and crime prevention strategy. In the criminal justice sector, emphasis is on investigation, prosecution but not on prevention strategies. This trend may not necessarily reduce crime but perhaps increase detainees in prisons because every crime committed has been well investigated, prosecuted and fairly tried. Through the prosecution strategy, convictions are secured and punishment of offenders which is actually a good strategy on ensuring justice for victims and society. However, the prosecution strategy alone does not necessarily yield deterrence because retribution as a purpose of sentencing needs to be combined with other purposes of sentencing, such as prevention whether individual or general in nature for dissuasion.

At a policy level, it is submitted that there is need for sentencing policy or guidelines, investigation and prosecution policy in addition to the crime prevention and reduction strategy (*politique criminelle*).

❖ **Lack of sufficient identification mechanisms**

⁹⁴ See the Presidential Order n° 158/01 of 31/12/2002

There is no comprehensive data base or linkage in terms of recognizing data of suspects and victims which is necessary in all phases of criminal proceedings starting from the investigative phase to sentencing. Consequently, the common practice applied to know the defendant or victim is dependant on the verbal responses provided by the concerned party. This archaic way of acquiring verbal information from suspects, and victims in terms of identification should be eradicated because of the risk it may have on manipulating justice. It was also found that tracking recidivism cases is limited because no shared data records that are accessible to investigators and prosecutors who may end up charging recidivists as first offenders thereby not reflecting full criminal accountability. As of to date, there are no systems set in place to monitor and identify recidivism of offenders.

The main problem is not absence of such information but the issue is sharing the available information among stakeholders through a centralized database. For instance, available data bases that need to be centralized include, the NPPA criminal record index, NIDA data base, RRA data base, RNRA information and immigration and emigration data base. This is important because, once a suspect appears, then the official in charge, will know the full names, age, criminal past, property he owns, land he or she possess, and then immigration can benefit from tracking fleeing suspects. A centralized data base linking personal and individual data accessible to relevant institutions should be the focus in establishing identity and complete accountability of offenders. More so, the citizens should be aware that their information can be accessed by local government authorities when they commit a crime.⁹⁵

b. Lack of rehabilitation and reintegration programs for offenders

Generally, the primary goals of sentencing are punishment, deterrence, incapacitation, and rehabilitation. In order to impose a proportionate sentence, the court takes into consideration the general purposes of sentencing mentioned. However, in the case of Rwanda correctional services, which executes prison sentence, it was submitted that the prisons execute imprisonment sentence through incapacitation but there are no properly established tools on ensuring rehabilitation of offenders and their reintergration into

⁹⁵ Criminal Justice Municipal.,The effect of CCTV on public safety: Research roundup, 2014, [Online] Available at: <http://journalistsresource.org/studies/government/criminal-justice/surveillance-cameras-and-crime> [Accessed 01 September 2016].

society after serving their sentence. This challenge explains the rationale behind tracked recidivism cases.⁹⁶

It was further noted that convicts in prisons are detained without classification or categorization in terms of their offences and they have limited programs which cater for each category of offenders but instead general programs are offered like unity and reconciliation courses which may not necessarily be the need of every convict or detainees of various crimes. Education in prisons is very essential for rehabilitation and reformation in order to facilitate reintegration into society. Technical and vocational training is also a challenge in prison nevertheless necessary, since after completion of their sentence, convicts can be productive to the society and their families through the learned skills. The reintegration programs can also be complemented and reinforced by civil society organisations for convicts who have completed their sentence.

The issue of the reintegration and rehabilitation of offenders affects the deterrence from engaging in crimes for these offenders. More serious crimes are committed by persons out of prison given the mixture of offenders in prison, i.e. people that were convicted of theft or murder and those that committed genocide ideology are put in the same prison or same wings within the prison and no adequate methods have been set in place to help rehabilitate and reintegrate such offenders into society.

Comparatively, in Singapore, they have what is called 'habilitation framework' aimed at improving prisoners' offending behaviours, attitudes and skills. Through this framework, the rehabilitation begins from the offender's first entrance in prison and continues even after their release. This underlines the importance of after care programmes and services for the ex-offenders.

In Singapore, rehabilitation programmes are divided in three phases:

In care phase includes programmes carried out by counselors and psychologists who target the prisoner's criminogenic needs like pro-social thinking, anger and emotion management, substance abuse treatment; education and fight against illiteracy;

⁹⁶Stanley Tang, *Effective rehabilitation and reintegration of offenders*, http://www.unafei.or.jp/english/pdf/RS_No82/No82_07VE_Tang.pdf accessed on 2nd September 2016

employment and vocational training; family focused programmes like visits; and religious programmes.

Hall way phase including home detention, half house schemes for those who have no homes where to return and work release which permit prisoners to work outside prison facilities.

After care programmes are those that care for the ex offender after release. They include the support in the integration of the community like employment, and financial issues among others.

Managing the numbers of prisoners according to capacity is one strategy that would facilitate rehabilitation programs and courses rendered by Rwanda correctional services in order to prepare the reintegration of offenders in the community after serving their sentence. Shea argues that rehabilitation programs have the ability to work as long as more attention is made to the offender and this may reduce the recidivism rate.⁹⁷

c. Ineffective application of non-custodial measures and alternatives to imprisonment

A challenge exists in regard to the huge number of persons who are sent to prison either as suspects or convicts, without considering the capacity of prison facilities in terms of space, food, and medication. This is not a legal issue but a practical challenge because the legislator in the Rwandan penal code has provided alternatives to imprisonment but which are not applied by members of the judicial sector. In any setting or public establishment that harbours human beings for a given period, capacity is important to be a determinant factor for admission or accommodation of individuals. Such entities, include, hospitals, schools, settlements etc. Likewise, this phenomenon of capacity should not be excluded from the criminal justice sector when making decisions and judgements which deals with human beings as suspects and convicts who are kept in detention centers or prisons as a closed establishment.

⁹⁷Shea, W., *Successful Rehabilitation of Today's Criminal* (2008) available on at: <http://www.freedommag.org/english/vol29i1/page30.htm> accessed 01 September 2016

The practice shows that the actual capacity of prisons is not a consideration by any of the members of the criminal justice chain yet it should be a determinant factor. There is no established system of communication among the various stakeholders to know available space or capacity to receive prison inmates. In cases where offenders are many compared to the capacity, there is need for applicability of the legally provided alternatives to imprisonment within the penal code, such as fine without trial, release on bail, provisional release, suspended penalty, community service and release on parole among others.

Actually, in many countries the use of imprisonment as a form of punishment is relatively recent. It may be alien to local cultural traditions that for millennia have relied on alternative ways of dealing with crime for the case of Africa in general and Rwanda in particular. Apart from infringing the presumption of innocence especially in case of pre trial detention, it is argued that custodial measures are also cost effective and contribute to minimizing the challenge of prison overcrowding.⁹⁸Applicability of non-custodial measures and alternatives to imprisonment are hereby proposed as a strategy to overcome the challenge of overcrowding in prisons.

In a nutshell, the key causes, challenges and strategies that were highlighted above are mainly issues emanating from the field research conducted in various districts of Rwanda with high criminality rate and concisely complemented by available literature for contrast an assessment.

⁹⁸United Nations Office on Drugs, Handbook of basic principles and promising practices on Alternatives to Imprisonment available online at https://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf page 3-4 accessed on 3rd September 2016

CHAPTER V: GENERAL CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

NPPA and RNP conducted this research with the intent to describe patterns of crimes in terms of prevalence in 15 districts of Rwanda, specifically in Kigali city (Gasabo, Kicukiro Nyarugenge), Southern province (Huye, Muhanga and Nyanza districts), Eastern province (Nyagatare, Kayonza and Kirehe districts), Northern Province, (Musanze, Gicumbi and Burera districts) and the western province (Rubavu, Rusizi and karongi districts). Thus the aim and specific objectives of this study was to show the underlying causes of crimes; challenges in investigation, prosecution and adjudication, specific strategies and came up with general recommendations.

The key discussion themes are underpinned by the findings of the research in the identified districts and the analysis, which showed that the various provinces are colored by different crimes with varying causes ranging from disputes between and among families, identity-based conflicts, poverty, ignorance, geographical location of districts, to unemployment and drug abuse. A common thread throughout the analysis is that the nexus between crime prevention and security and by extension, peace cannot be ignored.

Hence the recommendations have been matched with possible key actors that can integrate all matters in synergy for crime prevention.

Efforts to reduce such crimes and deter criminals through effective crime prevention approaches in various districts in Rwanda are not without challenges. Such challenges include, ignorance of the law, inadequate investigation techniques and skills for criminal justice actors, financial constraints, insufficient identification mechanisms, inadequate rehabilitation and reintegration programs, legal and policy loopholes, are some of the predominant challenges.

In addressing the challenges, an effective judicial system is necessary, complemented by an operative and effective police, prosecution, bar association, and prisons upholding principles of fair trial and rule of law under international law and domestic law. Other stakeholders like civil society organisations, universities, local government, and parliament have a crucial role to play in terms of raising public awareness of laws, legislation, financial support, training support, and reinforcement of reintegration programs, research, and cooperation among others. In so doing, it is important to maintain the balance between an efficient fight against crimes, and individual fundamental rights, which include the right to a reasonable trial, access to justice, and ensuring minimum guarantees of prison conditions.

To conclude, the study identified general causes and challenges of crimes as well as specific causes and impediments to particular crimes. Importantly, the study also issued a number of recommendations that will be helpful in the implementation process. A multifaceted approach is recommended in fighting crime since prevention is a combined responsibility of different criminal justice actors together with their partners hence advancing the need to tailor different approaches to local contexts. Nevertheless, crime prevention is applied specifically to efforts made primarily by the government to reduce crime, enforce the law, and maintain criminal justice.

5.2. Recommendations

After analyzing the research findings, different recommendations have been suggested to address the major issues affecting crime prevention and reduction in Rwanda. The suggested recommendations can be implemented by different institutions in a joint effort to fight criminality. The main stakeholder institutions to implement these recommendations include; the Ministry of Justice, Ministry of internal security, Ministry of local government, Judiciary, NPPA, RNP, RCS, RLRC, Rwanda bar association, Civil Society organisations, and Universities. Since fighting crimes is a collective responsibility, various stakeholders need to work in a synergy to yield prevention.

a. Improving public awareness

There is need to improve public awareness on crimes. The issue of ignorance of the population on existing crimes needs to be curbed by informing local leaders and residents about the criminality rate in their respective districts and prevention strategies. This requires combined efforts of different institutions in sensitization of people on offences through different ways, judicial and non judicial means. Judicial means would include itinerant trials which can be conducted for specific categories of offences such as, murder, narcotic drugs, rape, child defilement, human trafficking, and offences against the state security in order to ensure general deterrence of the population. Non judicial means would involve dissemination of criminal laws through possible channels of communication such as, media, meetings, churches, and seminars, distributing brochures on prevalent crimes, anti-crime clubs in schools and villages, as well as locally tailored solutions, like, Itorero, and ingando.

Linked to creating awareness on ordinary crimes and other emerging crime activities includes, promoting locally-generated solutions such as umugoroba w'ababyeyi (parental evening forums) and umuganda. Apart from the main criminal justice stakeholders, it is important to note that non-Governmental Organizations and Faith-Based Organizations were found to be instrumental in helping create sensitization to citizens in order to foster a non-violent culture of conflict resolution in families and communities.

b. Establish training programs

There is need to enhance professional and technical training at both institutional and individual level. At the institutional level, different members within the stakeholder institutions can be trained jointly on challenges facing investigations, prosecutions and adjudication processes. Joint training of judicial police, defense lawyers, prosecutors and judges, as well as members of the correctional service is paramount.

At the individual level, members of each institution should be accorded short-term and long-term trainings related to their tasks. Continuous training programs in specialized units are necessary for improvement of knowledge and skills of individual members in various units of different institutions. This suggestion goes along with the need for specialized units to enhance quality and effectiveness of rendering significant criminal justice.

Specific areas of training would involve, investigation techniques, crime scene management for circumstantial and forensic evidence, constituent elements of specific crimes such as: genocide ideology, terrorism, human trafficking, environmental crimes, cybercrimes, money laundering and embezzlement.

c. Law reforms and policy changes

The parliament in collaboration with the Law Reform Commission (LRC) should speed up the process of legislative drafting and changes. This proposal involves enactment of new legislation, amendment of existing laws and modification of inconsistencies in various laws. There is need to enact legislation concerning protection of witnesses and victims of offences, as well as Mutual Legal Assistance act (MLA). Laws that would need to be modified or amended include, evidence law, the penal code, and Abunzi law.

Evidence law should be amended to include, scientific evidence such as the use of DNA, foot print, finger print and harmonisation of evidence law with the code of criminal procedure in terms of admissibility of oral testimony in court.

In regard to the former law governing Abunzi,⁹⁹ the initial recommendation of amendment was to focus on the scope of jurisdiction concerning the offence of theft and breach of trust but this has been addressed in the recent publication.¹⁰⁰ However the fact that the amendment has removed all penal cases in the Abunzi competence is also a backward-looking move in terms of promoting alternative dispute resolution in criminal matters especially in minor cases where reconciliation of parties would be enough without congesting cases in courts. Courts need to be vested only with serious criminal cases that cannot easily be settled by Abunzi because they lack legal education and in-depth legal training.

Various provisions in the penal code that would need to be amended have been discussed in the chapter on specific research findings, *inter alia*, increasing penalties for narcotic drugs, and human trafficking. Some definitions should be re-defined such as the offence of rape, terrorism and money laundering which need to comply with international conventions ratified by Rwanda. Modifying the definition on genocide ideology is necessary, particularly the public nature requirement in the elements of the offence. Apart from amendments, certain acts need to be criminalised such as human smuggling which is related to human trafficking.

At a policy level, it is submitted that there is need for sentencing policy or guidelines, investigation and prosecution policy in addition to the crime prevention and reduction strategy (*politique criminelle*). In the same vein, prevention is better than cure and prevention in the pre-crime stage is cheaper than prevention in the post-crime phase.

d. Linkage of individual data in a centralized system

There is need for setting up mechanisms to effectively identify suspects and victims of crimes and track recidivism cases. This can be made possible by connecting and linking database of justice sector establishments with other key stakeholder institutions such as NIDA, NISS, RRA, RNLC and NPPA criminal record index data base. Connecting the exact suspect to the crime committed is indispensable in criminal justice, reason why identification of suspects and victims in criminal case files is essential. It is actually

⁹⁹ Previous Abunzi law

¹⁰⁰ Abunzi Law 2016

suggested that every criminal case file in the hands of a prosecutor should contain a criminal record of each suspect just like the practice in the service sector where a criminal record must be included in each employees' file.

To effectively ensure identification of suspects, sharing individual information among stakeholders through a centralized database would serve the purpose.¹⁰¹ This is essential, for revealing details of a suspect, in terms of names, age, criminal past or record, movable and immovable property he owns, and the immigration and emigration system can as well identify and track fleeing suspects.

Additionally, establishing a criminal record index through establishment of DNA Databank would help in identifying individuals either as suspects or victims e.g DNA data bank would suffice to locate the victim and suspect in the case of murder, where a victim and suspect cannot be easily identified.

e. Research based strategies

Generally, there is need for establishment of a National Criminal Research Center under the Ministry of Justice to provide scientific-based studies to support national strategies, laws, policies, and operations on crime prevention and reduction strategies. Specifically, each institution within the criminal justice sector should have an effective research unit and publish their works atleast once a year. This would require enhancement of research capacity in each institution and networking among the partner institutions.

Research based strategies include legislation based on conducting scientific studies on optimal ways of reducing criminality in a given district and country as a whole. Before enacting laws, there is need to conduct research among stakeholders and the intended audience to avoid creating laws that do not serve the purpose of their enactment. Crime prevention requires tailoring to local needs and conditions.

It is thus recommended that the research based strategies be extended to other institutions due to the tangible contribution it would make in crime analysis and prevention.

¹⁰¹ ILPD, Study on the End to End Process Mapping of the Criminal Justice System in Rwanda, May 2013, P. 20 *et seq.*

f. Equitable financial planning

The National Police in partnership with the Ministry of Internal Security (MININTER) and Ministry of Justice (MINIJUSTE) are called upon to address financial constraints by ensuring equitable financial planning in all departments within the police since inadequate finances is a major barrier to conducting proper investigations which in turn affects the prosecution and adjudication process in terms of the result of the process or the time it takes to process a case.

The budget allocated to the judicial police officers should be increased in terms of material and transport means which would facilitate them to visit the crime scene among others and collect physical and circumstantial evidence to supplement testimonial evidence to be used in court. This is necessary because the JPO being gatekeepers of the criminal justice chain represent a substantial contribution to the quality of justice in the whole chain. This view is also shared with the study conducted by ILPD on end to end criminal process.¹⁰² When investigations are poorly conducted by the JPO, the prosecution can do additional investigations, but given the treatment time of the dossier, some evidence may have disappeared and in the end it affects the trial phase when the matter is before the judge. It is therefore vital to address financial limits affecting proper investigations.

g. Applicability of non-custodial measures and alternatives to imprisonment

The stakeholders in the criminal justice sector are recommended to apply non-custodial measures and alternatives to imprisonment to overcome the challenge of overcrowding in prisons to ensure effective rehabilitation and reintegration. Managing the numbers of inmates in prison would be easier in terms of rehabilitation programs and courses for Rwanda correctional services in order to prepare the reintegration of offenders in the community after serving their sentence.

¹⁰² ILPD, *Study on the End to End Process Mapping of the Criminal Justice System in Rwanda*, May 2013, P. 19 *et seq.*(unpublished).

Execution of non-custodial measures and alternatives to imprisonment are hereby proposed as a strong strategy to overcome the challenge of overcrowding in prisons. Non-custodial measures such as fine without trial, release on bail, and provisional release during the pre-trial phase need to be applied in considerable numbers given the principle of presumption of innocence. Concerning for alternatives to imprisonment in the trial and post-trial phase, fines, and community service as well as release on parole need to be effective in practice than only in paper of law. In addition, during the post-trial phase, other legal considerations would include applicability of presidential pardon, and amnesty. Thus a multifaceted approach of several measures of regulated imprisonment in accordance with capacity of prisons can be employed.

For beneficiaries of alternatives to imprisonment, they would be subjected to other stakeholders of RCS like civil society organisations to ensure effective re-intergration into society and relieve financial constraints on prison authorities.

h. National, Regional and International cooperation

There is need for the government through the Ministry of justice (MINIJUST) to establish domestic and international cooperation in criminal matters. It is thus hereby recommended that the criminal justice sector needs to institute cooperation with other stakeholders at national, regional and international level.

❖ Domestic cooperation

At domestic level, there is need for cooperation with various institutions, like civil society organisations, universities, professional associations and government agencies at both central and local level.

❖ Criminal justice sector and local government

Local leaders can be instrumental in having records of their citizens, in terms of identity, age, background and general conduct which should be taken into account in investigations, prosecutions, trial and at the sentencing stage in terms of mitigating and aggravating circumstances for those found guilty. However, in issuing any documents

related to the suspect or victim, values of transparency, integrity and impartiality need to characterize such local leaders to avoid giving false information to investigators which could in turn impact negatively the quality of justice. Local leaders are also urged to immediately report to the police dangerous acts that could amount to offences, or even committed offences for early intervention of qualified investigators.

The cooperation of local leaders with the judiciary is important, since the judiciary renders judgements but the local leaders are endowed with capacity and quality to execute judgements as non-professional court bailiffs. In criminal matters, the penalty of fine is supposed to be executed by non-professional court bailiffs which could advance economical development of the district concerned.

❖ **Cooperation among members of the criminal justice chain**

The judiciary, prosecution, judicial police and RCS are key stakeholders in the criminal justice sector. There is need for close collaboration in all criminal matters which does not necessarily mean losing the independence of various institutions. Close cooperation is much needed in the area of executing sentences. There is a manifest lack of cooperation or difficulty in enforcing decisions and judgements rendered by the courts, specifically in the case of imprisonment sentence conferred on a convict not under pre-trial detention in order for sustainable individual crime prevention and general prevention.

The call here is for the prosecution and police to employ more efforts in ensuring that sentenced persons are arrested and taken to prison. It would be of no use to have statistics of convicted persons with sentences while in practice few sentences have been executed. This goes with the adage that *'justice must not only be done, but seen to be done.'*

The court, should also take possible measures to inform the convicted person in absentia about the judgement in order to exercise their rights of appeal or opposition which at times affects successful execution of sentencing judgements. This is very important since right to be informed of the charges they are being held on is of the fundamental human right.¹⁰³

¹⁰³ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 8 (2) (b)

Cooperation is also needed between the judiciary and RCS. In case of detained suspects, the court needs to inform decisions rendered to the prison authorities to avoid illegal detentions for released detainees. This information equally applies to judgements rendered to detainees on acquittals or convictions to avoid illegalities.

Cooperation between the prosecuting organs and the police is important as it ensures efficient work between the two departments when it comes to prevention crime.¹⁰⁴ Lawyers and police officers have different vantage points and thus different perspectives on crime; differences between police and prosecution policies and priorities can make coordination difficult.¹⁰⁵

❖ **Cooperation of the criminal justice sector with stakeholders**

There is need to develop partnerships with academic institutions, professional associations like RBA, civil society organisations and others that can help identify and develop responses to crime trends to ensure prevention and reintegration of offenders into society.

Education and awareness on criminality can be promoted by academic institutions through trainings and research. Civil society organisations like churches, are very influential in creating awareness of crimes, their evils and prevention strategies. NGOs, can complement RCS in rehabilitation and reintegration programs offered to offenders through support in terms of finances and raising awareness on crimes to avoid recidivism.

Defense lawyers play a supplementary role which is very indispensable in terms ensuring the fair trial rights of suspects. Their role is important right from the pre-trial, trial and post trial phase. They also help in advancing the interests of victims of crimes.

¹⁰⁴ Sherman, L. W. et al., *Preventing Crime: What Works, What doesn't What's Promising* (1998) National Institution of Justice: Research in Brief, July, p. 19

¹⁰⁵ Buchanan, J., "Police-Prosecutor Teams: Innovations in Several Jurisdictions" *National Institute of Justice: Research in Action* (1989) p. 6.

Cooperation of the judiciary with lawyers is thus necessary in terms of factual finding in a given criminal case file.

1° **Regional cooperation and international cooperation**

Cooperation between countries in terms of crime prevention mechanisms especially for cross border crimes such as human trafficking, drugs trafficking and harmonization of laws is pertinent to crime prevention. Regional cooperation is relevant to cross-border crimes while international cooperation caters more for transnational organised crimes like terrorism. Establishing mutual legal assistance in terms of rogatory commissions and extraditions is necessary

Investigations for cross-border crimes and transnational organised crimes can be much successful with cooperation of various countries. Apart from transnational organised crimes and crossborder crimes, which require collecting evidence in more than one country, securing offenders of ordinary crimes to face justice may also require collaborative efforts of several countries as a result of offenders fleeing justice from the country of commission.

There is need to enact legislation concerning protection of witnesses and victims of offences, as well as Mutual Legal Assistance act (MLA). Mutual Legal Assistance Treaties (MLATs) are agreements between governments that facilitate the exchange of information relevant to an investigation happening in at least one of those countries.¹⁰⁶

In the same vein, a good connection with Interpol will help prevent cross-national and cross-international crimes.¹⁰⁷

i. Disseminate research findings

After validation of this study, there is therefore a need to disseminate the findings of this research to the respective districts. Many participants in the focus group discussions and key informant interviews suggested that the results of this study should be communicated to the districts in the various provinces and various stakeholders in crime prevention

¹⁰⁶MUTUAL LEGAL ASSISTANCE TREATIES. [Online] Available at: <https://mlat.info/> [Accessed 01 September 2016].

¹⁰⁷INTERPOL, 2010. *Cooperation agreements available* online at: <http://www.interpol.int/About-INTERPOL/Legal-materials/Cooperation-agreements> accessed 01 September 2016.

initiatives. In the same perspective, participants expressed the need to disseminate the information to them about strategies and recommendations of dealing with crimes through the media, like radio programs and newspapers as well as online media.

From the above research findings, several causes of crimes were identified, challenges facing the criminal justice actors and strategies for prevention of the criminality rate have been proposed to overcome the impediment in averting and fighting these crimes right from the pretrial phase, trial phase and post-trial phase.

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ANNEXES

Annex 1: Visited districts and dates, group visited (FGD GROUPS E.G PRISON KII)

Annex 2: Llist of participants in FGDs and KII and titles

Annex 3: List of offences

Annex 4: Llist of prevalent crimes in each district or examined offences per district and statistics as per police report

