NATIONAL CRIME RESEARCH CENTRE

Fighting Crime through Research

PUBLIC PERCEPTIONS AND EXPERIENCES ON THE LOSS OF CRIMINAL CASES IN LAW COURTS BY THE GOVERNMENT OF KENYA

Isaiah Nyambariga Ndege

NATIONAL CRIME RESEARCH CENTRE

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FOREWORD

The preservation of life and property is one of the fundamental functions of the State. This mandate is performed by various institutions, including investigative, prosecutorial, adjudicatory and correctional agencies. Kenya's Criminal Justice System has undergone tremendous transformation over the years with a view of making it an efficient, effective, professional and accountable sector that Kenyans can trust in the administration of justice. This transformation agenda has further been anchored in the Constitution of Kenya, 2010. However, the Criminal Justice System statistics continue to record high loss prevalence rates of criminal cases through withdrawals, dismissals and acquittals. Fundamentally, when criminal cases are lost, the objective of the penal system in rehabilitation, retribution, deterrence and incapacitation is diminished. This also negates the general public's perception, trust and confidence in the ability of the Criminal Justice System to resolve crime and ensure public safety.

This study sought to examine public perceptions and experiences on the circumstances underpinning the loss of criminal cases in Law Courts by the Government of Kenya. The study's findings revealed that serious criminal offenses were mostly lost in Kenyan courts. These include robbery, corruption, economic crimes, murder, rape, defilement, assault and drug trafficking. Lack of synergy among criminal justice agencies, investigation gaps, delayed completion of cases, prosecution gaps, unethical conduct bordering on corruption, delays in arraigning suspects, witness absconding and delays in submission of expert evidence in courts emerged as significant contributors to the loss of criminal cases.

Indeed, the primary task of the Criminal Justice Sector is to deliver the rule of law. I also wish to reiterate and applaud the significant efforts by the Government of Kenya and other stakeholders in reforming the Criminal Justice System.

It is my sincere hope that the findings and recommendations of this study shall go a long way in assisting stakeholders in the criminal justice sector to institute cogent policy and programming interventions to address the challenges identified by this report and inspire public confidence and trust in the realm of administration of justice in Kenya.

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OPERATIONAL DEFINITION OF TERMS

Loss of criminal cases	In this study, this phrase has been used to mean those criminal cases lost by the Office Director of Public Prosecutions (ODPP) through acquittals, dismissals and withdrawals. The study sought to capture public perceptions on how various actors in the Criminal Justice Sector in Kenya contributes to the loss of criminal cases by the ODPP.
Loss Prevalence	Refers to the extent to which guilty verdicts on criminal cases are obtained in court in relation to the total number of crimes investigated/prosecuted within a period of one year.
Serious Crime	Refers to a crime punishable by imprisonment for a term of twelve months or more.
Conviction Rate	This is the ratio of the total number of guilty verdicts obtained against the total number of cases finalized in court in a financial year.
Acquittal Rate	This is the ratio of the total number of not guilty verdicts obtained against the total number of cases finalized in court in a financial year.
Withdrawal Rate	This is the ratio of the total number of cases voluntarily terminated by the prosecution against the total cases registered in court.
Dismissal Rate	This refers to the ratio of the total number of cases terminated by the magistrate or judge against the total cases registered in court.

ABBREVIATIONS AND ACCRONYMS

DCI	Directorate of Criminal Investigations
DNA	Deoxyribonucleic acid
DPP	Director of Public Prosecutions
EACC	Ethics and Anti-Corruption Commission
GST	General Systems Theory
KNCHR	Kenya National Commission on Human Rights
NCAJ	National Council on Administrative Justice
NCRC	National Crime Research Centre
NGAO	National Government Administration Office
NPS	National Police Service
ODPP	Office of the Director of Public Prosecutions
PAKA	Pending Arrest of Known Accused
PPS	Probability Proportional to Size
PUB	Pending Before Court
PUK	Pending Under Investigation
UNODC	United Nations Office of Drugs and Crime
WPA	Witness Protection Agency

EXECUTIVE SUMMARY

This study sought to address the dynamics surrounding the loss of criminal cases in Law Courts. When criminal cases are significantly lost through acquittals, dismissals and withdrawals, the goals of the penal system – rehabilitation, retribution, deterrence and incapacitation, are impaired occasioning the commission of more crimes and indeed an increase in the rate of crime. Furthermore, it fundamentally negates the general public's confidence in the ability of the Criminal Justice System to solve crime.

The survey employed a mixed method research design and was carried out in the 47 Counties in Kenya in November and December 2020. The study was anchored on the general systems theory which relates the loss of criminal cases to the maladies embedded in the various interrelated agencies/actors in the Criminal Justice Sector who have role in the case processing. The targeted sample respondents were members of public at the household level. A total of 4,832 respondents were interviewed.

Generally, the study sought to establish the dynamics surrounding the loss of criminal cases in Kenya. Specifically, the study examined the extent to which the Government losses criminal cases in law courts; and the criminal cases mostly lost by the Government in law courts. It also mapped out the factors contributing to the loss of criminal cases by the Government in law courts; the role of different parties involved in a criminal case in the loss of those cases by the Government in law courts; and the interventions for realizing improved conviction rates in Kenya.

Key Findings

i. Public perceptions and experiences on the extent to which the Government losses criminal cases in law courts

The study established that the Government is losing criminal cases to a large extent. This was affirmed by majority of respondents in both gender categories and also age categories.

ii. Public perceptions and experiences on the criminal cases mostly lost by the Government in law courts

Criminal cases involving serious crimes were identified as the ones mostly lost in Kenya. The criminal cases with the highest loss prevalence were robbery followed by corruption/economic crimes, murder, rape, defilement and assault.

iii. Public perceptions and experiences on the factors contributing to the loss of criminal cases by the Government in law courts

The study mapped out corruption as the main factor contributing to the Government's loss of criminal cases. This was followed by insufficiency of evidence and fear to testify in court/inadequate witness protection.

iv. Public perceptions and experiences on the role of different parties involved in criminal case to the loss of those cases by the Government in law courts

Most respondents said that the police contribute to the loss of criminal cases by being compromised through bribes and inadequate investigations. Being compromised through bribes also applied for the magistrates/judges who were also accused of accepting unnecessary adjournment of cases. Most respondents further noted that the prosecutors were compromised through bribes and their presentation of evidence in court was weak leading to the loss of criminal cases. For the defense advocates and witnesses, the prominent issues raised were engaging in unethical conduct bordering corruption and failure to appear in court. Being compromised through bribes and failure to provide court files when needed were flagged as critical concerns with regards to the Court Clerks while for the complainants/ victims, it was their non-appearance during case hearings and also the issue of being compromised to withdraw cases. The accused/ defendants were attributed to unethical conduct bordering corruption, contravention of bail/ bond terms and intimidation/ threatening of witnesses/ complainants. For the Government Chemist, the key issues raised were delays in the processing/ provision of DNA results/ expert evidence in courts and unethical conducts bordering corruption. The politicians were attributed to negative interference of the criminal justice processes and lack of proper legislation of the relevant statutes; and lastly local administrators were blamed for convincing the complainants to solve serious offenses out of the Criminal Justice System leading to the withdrawal of cases and engaging in unethical conduct bordering corruption.

Key Recommendations

The study makes the following key recommendations:

i. Address the gaps in the Criminal Justice System occasioning high loss prevalence of serious crimes in law courts

The findings of this study showed that majority of the serious crimes in Kenya are registering a high loss prevalence in court. The main crimes/offenses with a high loss

prevalence were robberies, rape, defilement, corruption/economic crimes, and murder. Among the key contributing factors to these losses were investigation and prosecution gaps. The prominent gaps identified were lack of joint action and/or decision making framework and inadequate operational capacity in terms of equipment, technologies and expertise/human resources by the duty bearer agencies. This calls for an appraisal of the relevant agencies to ascertain the gap-levels with a view to addressing them.

ii. All criminal justice agencies/ actors to make corruption prevention a standing agenda in their operations

This study identified corruption as the foremost factor in the Criminal Justice System contributing to the loss of criminal cases. For instance, the following agencies/actors were attributed to unethical conduct bordering corruption: Government Chemist, Magistrates/Judges, Police Officers, Court Prosecutors, Defense Advocates, Accused/ Defendant, Court Clerks, Complainants/ Victims, Witnesses, and Local Administrators. Consequently, addressing corruption in the Criminal Justice System should not be a preserve of one actor/ agency but a standing agenda by all stakeholders.

iii. Adopt a multi-agency framework in case processing throughout the Criminal Justice System

Members of the public perceived the criminal justice agencies as lacking synergy in the execution of their mandates - leading to the low conviction prevalence of criminal cases in law courts. Particularly, these featured prominently in the execution of the investigative and prosecutorial mandates. Multi-agency framework will entail co-decision making; sharing of resources – information, equipment, technologies and expertise; collaborative commissioning, delivery and integration of services, among others.

iv. Address case processing timelines in the Criminal Justice System

Case delays were profiled as some of the factors leading to loss of criminal cases in the country. When cases delay, witnesses (including victims) disappear, get compromised, disinterested or even die thereby contributing to the loss of criminal cases. Therefore, the relevant stakeholders should put in place administrative measures specifying strict case processing timelines. Moreover, cogent backlog reduction measures should be instituted.

v. Enhance witness and victim protection services

The study established fear to testify in court/ lack of witnesses as one of the leading

contributing factors to the loss of criminal cases. This fear to testify/ lack of witnesses may be a pointer to the inadequacy or diminished effectiveness of the witness/ victim protection services in the country. Therefore, this calls for the strengthening of the Witness Protection Agency and the Victim Protection Board.

vi. Government Chemist to work closely with the Directorate of Criminal Investigations' Ultra-Modern Forensic Laboratory in the processing of exhibits, DNA and other expert evidence

The Government Chemist was pin-pointed for delays in producing DNA results and other expert evidence in law courts. The agency therefore should work in collaboration with the Directorate of Criminal Investigations' Ultra-Modern Forensic Laboratory in the execution of their roles. This will enhance their capacity in the delivery of their services and indeed address the challenge of delays in producing DNA results and other expert evidence in law courts.

vii. Parliament to allocate more financial resources to the criminal justice agencies

Insufficient funding of the Criminal Justice agencies was identified by the respondents as a factor contributing to the loss of criminal cases in law courts. For instance, this leads the institutional gaps in the Criminal Justice agencies such as inadequate technology, equipment, human capital, among others, thereby resulting to loss the of some criminal cases. Thus, increased allocation of financial resources will go a long way in addressing this challenge.

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

The United Nations' Sustainable Development Goal Sixteen recognizes peace, justice and strong institutions as the mainstay of sustainable development. However, a significant number of countries across the globe – predominantly in Africa, are still grappling with the challenge of weak institutions (especially in the justice sector), insecurity and poor access to justice (Ighbor, 2020; United Nations, 2020). As Naznin and Sharmin (n.d) observe, this is manifested when a country is experiencing high crime rates but low conviction rates.

Depending on the jurisdiction, some crime categories have been documented as recording high loss prevalence. However, in many countries, serious crimes have been identified as the leading category of the offenses recording a high loss prevalence. For example, Ross (2021) notes that there is a high withdrawal rate of sexual offenses in the United Kingdom with only 1.6 percent of the rape accusations being prosecuted. Correspondingly, Lange and Versluis (2019) points out that South Africa is experiencing a rising crime rate and a high loss prevalence of criminal cases with serious offenses recording a 98 percent loss prevalence. The same trend replicates in Kenya, where majority of the cases involving serious offenses are either withdrawn, dismissed or acquitted (NCAJ, 2016).

Several factors account for the loss of criminal cases. Ross (2021) highlighted some of the contributing factors to include cultural issues in the way investigators treat the victims which at times lead to victim-disengagement; poor resourcing of the duty bearer agencies leading to difficult crimes being deprioritized or taking inordinate time to investigate; and an absence of psychological support hence deterring victims from coming forward. Similarly, Ikunda (2009) identified witness intimidation, lengthy trial processes, inefficiencies of the law enforcement agencies, corruption within the criminal justice agencies and lack of modern technology and basic equipment as the main factors leading to the loss of criminal cases in law courts.

Towards addressing the high loss prevalence of criminal cases, countries across the globe have instituted reforms aimed at mitigating the inadequacies, inefficiencies and inefficacies inherent in the duty bearer agencies. For instance, in response to the high loss prevalence of sexual offense cases, the Government of the United Kingdom rolled out a framework that holds each part of the system accountable through a Ministerial Task

Force; publication of six-monthly progress reports and score-cards for transparency and accountability; an improvement of victim support services throughout the Criminal Justice System; and a new approach to investigations specifically dedicated to sexual offenses (Ministry of Justice and Home Office, 2021). Other countries such as Kenya, South Africa and the United Kingdom have increased budgetary allocations to the criminal justice agencies as a way of enhancing their operational capacity (National Treasury & Planning, 2019; National Treasury, 2020; Ministry of Justice, 2021).

1.1.1 Global perspective

Globally, the preservation of life and property is one of the fundamental functions of the state. Over the years, the state has endeavored to perform this function through various institutions. Depending on the jurisdiction, key among them include the investigative, prosecutorial, adjudicatory and correctional agencies (UNODC, n.d). Any violation of the law is investigated by the competent agencies and if a *prima facie* case is made out, a charge sheet/bill of indictment is filed in the competent court. Prosecution is conducted by the prosecutor on behalf of the state. The court adjudicates the case on the basis of evidence adduced and either convicts or acquits the suspect. The court imposes the sentence on the accused person after it has heard him/her and the prosecutor. The correctional services attempt to rehabilitate the offender. The aforesaid procedure is followed in most jurisdictions, with occasional variations to punish the offender as per the procedure established by law.

The main objective of the criminal trial is to determine whether an accused person has violated the penal law and where found guilty, to prescribe the appropriate sanction (United Nations Asia and Far East Institute, 2019). The legal framework, the law enforcement infrastructure and the quality of the personnel operating within the legal system, amongst other factors, considerably affect the conviction rate. Nevertheless, as Ishikawa and Mandeng (n.d) opine, a high conviction rate may be indicative of methodical and painstaking investigations and effective prosecution. They further note that it is not the mandate of the prosecutor to secure conviction at any cost. However, he/she is required to be fair, impartial and must present all the facts, including facts and circumstances favorable to the offender, before the court for an appropriate decision. This is the general practice in most common-law countries.

Several factors account for the disparity in conviction rates among different countries. For instance, in Japan and China, the conviction rates are extremely high – both consistently averaging between (99.0%) and (99.9%) respectively since 2016 (Toshikuni & Keiichi, 2019; Connor, 2016). In these countries, prosecutors have the statutory discretion

not to initiate prosecution due to insufficiency of evidence. They also have the authority to conduct investigation in addition to directing, guiding and supervising investigations conducted by the police (Ishikawa & Mandeng, n.d). Resultantly, only strong cases are sent up to the courts. This is largely explained by the strict screening made by prosecutors at the pre-trial stage.

1.1.2 African perspective

Official and other statistics show that the crime rate in Africa is high. For instance, (31%) of nearly half-a-million homicides committed globally in 2012 occurred in Africa (UNODC, 2013). Similarly, crime index data by Numbeo (2020) ranks six African countries among the twenty nations with the highest crime rates in the world. These include South Africa, Namibia, Angola, Nigeria, Libya and Kenya. More worrisome is the fact that crime rates seem to be increasing in the continent rather than decreasing.

The above trend notwithstanding, offenders in Africa are much less likely to be punished for their wrongdoings than those in the rest of the world. Illustratively, the chances of a murder – a crime taken seriously everywhere in the world, resulting in a conviction are much lower in Africa than in other regions; with Africa recording the lowest conviction rates for homicide in the past decade (UNODC, 2019). This trend does not portend well for the continent as low conviction rates negates the deterrent effect of the criminal justice system; hence serial offenders may have long careers before being apprehended.

Africa's criminal justice challenges are numerous. As established by UNODC (2014), African countries have a poorly-resourced Criminal Justice Systems, and also suffers from the world's least favorable police- and judge-to-population ratios. This often results to unmanageable caseloads and reduced conviction rates. Fewer personnel imply that criminal cases are processed more slowly. This is important because the rate at which a case is processed is directly related to its prospects of success. Over time, victims lose their commitment and witnesses disappear, particularly in areas where they can be difficult to locate in the first place, as is often the case in Africa.

1.1.3 Kenyan perspective

Kenya's legal system is based on statutory law, English common law, customary law, and Islamic law (Kenya Law, n.d). Just like other common law countries, the courts adhere to the doctrine of *stare decisis* and the legal system is adversarial in its procedure (Orago, 2013). The Criminal Justice System in Kenya involves various actors with defined duties and responsibilities in managing offenders. Key among them include the police (investigation and arrest); the Office of Director of Public Prosecutions, the Judiciary (the court process/adjudication); the Probation and Aftercare Services and the Prison Services (rehabilitation, reformation and reintegration).

The police play a critical role as the point of entry - for every offender - to the Criminal Justice System. They receive and record complaints, arrest suspects/ accused persons, investigate cases and most importantly draw up the charge sheet. Nonetheless, an audit of the Criminal Justice System in Kenya by the National Council on the Administration of Justice revealed that the police face a number of challenges which adversely affect their effectiveness. They include "excessive arrests, lack of knowledge of the law, lack of prosecution skills, poor coordination and lack of supervision by the Office of the Director of Public Prosecutions (ODPP) contributing to delays in case flow management" (NCAJ, 2016, p. 74).

The Office of the Director of Public Prosecutions (ODPP) was established following the promulgation of the Constitution of Kenya 2010 with the mandate of instituting and undertaking the prosecution of criminal matters and other related incidents. Regarding their mandated, NCAJ (2016) established that guilty verdicts were less likely with cases involving serious offenses. For instance, only five (5) percent of sexual offenses resulted in a guilty verdict. Robbery with violence also showed a high withdrawal rate of 74%. Similarly, the Kenya Bureau of Statistics (2021) documents that a third of all High Court stations handling murder cases in Kenya had no convictions in 2020. The data also revealed that there has been a gradual increase in murder incidents in the country but the conviction rates for this crime category has consistently remained low as presented in Table 1.1.

Table 1.1 Registered murder cases and convictions obtained by court station for the period 2016 – 2020

High Court Station	2016		2017		2018		2019		2020	
	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Registered Murder Cases	Registered Murder Cases	Murder Conviction Obtained
Nairobi (Milimani)	184	11	67	27	66	33	85	34	82	10
Mombasa	40	1	25	21	24	8	22	8	15	0
Kisumu	30	10	32	41	22	26	43	5	30	5
Eldoret	92	13	70	10	90	10	62	25	41	6
Kitale	3	5	17	10	26	2	40	7	33	6
Kakamega	55	0	50	25	43	18	77	4	48	2
Bungoma	28	14	35	37	18	32	30	15	32	2
Meru	77	35	104	0	79	12	87	21	35	0
Machakos	23	1	32	9	35	10	39	1	39	1
Kericho	28	18	16	8	28	4	43	6	25	0
Nyeri	11	0	10	3	12	2	21	5	13	4
Kisii	34	0	27	7	32	20	44	8	34	6
Embu	21	6	20	20	24	20	19	12	25	2
Malindi	14	6	16	3	18	2	25	5	42	0
Nakuru	52	2	56	17	88	26	57	14	57	1
Busia	34	24	33	4	34	14	20	1	24	5
Garissa	20	1	15	0	12	2	10	1	8	0
Homa Bay	18	17	37	10	39	12	32	0	68	0
Murang'a	32	1	28	1	27	7	35	7	34	-
Kerugoya	19	1	10	2	10	4	9	0	30	6
Bomet	20	8	23	1	24	6	28	1	16	0
Kajiado	21	0	8	13	10	5	20	5	14	0
Kitui	15	14	18	7	23	4	21	4	12	0

High Court Station	2016		2017		2018		2019		2020	
	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Murder Conviction Obtained	Registered Murder Cases	Registered Murder Cases	Registered Murder Cases	Murder Conviction Obtained
Voi	4	1	10	3	12	2	16	1	16	1
Lodwar	21	11	14	11	16	4	5	2	14	0
Naivasha	44	8	22	2	25	1	21	4	12	0
Chuka	-	-	6	2	18	1	19	3	19	9
Garsen	-	-	3	2	20	2	8	4	11	1
Kabarnet	-	-	18	1	20	5	27	2	2	0
Kapenguria	-	-	11	0	6	14	9	5	15	3
Kiambu	-	-	37	0	45	5	54	1	47	7
Marsabit	-	-	8	3	6	4	16	5	14	1
Migori	-	-	17	15	21	8	13	1	16	0
Nanyuki	-	-	10	13	20	8	19	2	11	0
Narok	-	-	6	4	8	6	13	8	8	1
Nyamira	-	-	9	4	12	0	22	3	19	2
Siaya	-	-	33	18	28	16	29	11	19	2
Makueni	-	-	3	0	24	2	31	2	29	0
Total	**940**	**208**	**956**	**354**	**1,065**	**357**	**1,171**	**243**	**1,018**	**83**

Source: Kenya National Bureau of Statistics, 2021
(- data not available)

The notable increase of the registered murder cases for the period 2016-2020 and the persistent low conviction rates for these cases is a point of concern for the Government. Consequently, there is need for instituting remedial measures by the relevant duty bearer agencies and/or actors.

In a bid to effect efficient delivery in the administration of justice, Kenya's judiciary has made remarkable progress. This is evident on the number of initiatives launched by the judiciary such as the digitization of the court processes, recruitment and capacity building of the existing staff, implementation of performance measurement and management,

among others (The Judiciary, 2017). However, the increasing caseload has overburdened the court system and amounted to delays in criminal trial proceedings (Muthoni, 2018). For instance, in 2016/2017 financial year, the total case backlog stood at 315,378 cases (The Judiciary of Kenya, 2017). Out of these, 52,332 cases had been in the court system for over 10 years since they were filed, the same ratio as the previous year. A fifth or 66,214 cases remained unresolved for between five and ten years, a third or 113,766 suits were undetermined for two to five years and a quarter or 83,046 cases had dragged in the justice system for one to two years Research has demonstrated that the more the delay in processing a case in court, the higher the likelihood of losing the case (UNODC, 2005). Addressing the Annual Criminal Justice Conference on 13 July 2018, Lady Justice Lydia Achode – Principal Judge of the High Court of Kenya said: *"The Criminal Justice Sector is one of the core areas of focus for judicial reform. Among the objectives of criminal justice reforms is the enhancement of efficiency and effectiveness in the Criminal Justice System."* (Achode, 2018, para.7).

1.2 Problem Statement

According to the NCAJ (2016), only 9 percent of the total arrests made in Kenya are converted into guilty verdicts. The report further revealed that, among others, offenses such as theft, murder, rape, robbery with violence are not being sufficiently dealt with in the Criminal Justice System. This is as a result of the significantly low conviction rates associated with them hence exacerbating public perceptions that the Criminal Justice Sector is ineffective in mitigating crime. Illustratively, sexual offenses recorded a conviction rate of 5 percent with robbery with violence attaining a withdrawal rate of 74 percent. Moreover, the report established that the likelihood of obtaining a conviction for a suspect on bail was low. This is despite budget increases to the Governance, Justice, Law and Order Sector agencies in the recent past as documented by the National Treasury and Planning (2019).

Public commentaries and reports expressing mixed reactions on the circumstances under which criminal cases are lost in court have also emerged the immediate past. For instance, three petitions have been filed by the members of the public at the Public Service Commission seeking the removal of Director of Public Prosecutions, citing – among others, case tampering and conflict of interest in the case processing (Mwangi, 2021). Equally, the criminal justice agencies and actors have been accused of corruption leading to the loss of criminal cases (Mwithi, 2017; Kodiaga, 2021). These citizens' and

stakeholders' concerns about the circumstances occasioning the loss of criminal cases in courts have not been empirically verified.

The loss criminal of cases adversely affects the incapacitation, deterrence and rehabilitation goals of the penal system (KNHCR, 2013). For example, criminals are allowed to return to the society where they are likely to commit more crimes. Similarly, the mere knowledge by the would-be offenders that they can get away with crime gives them the impetus to engage in more crime commission (Lee, 2017). It is against this backdrop that this study sought to systematically inquire into the dynamics surrounding the loss of criminal cases in courts by the Government with a view to propose cogent corrective interventions.

1.3 Objectives of the Study

1.3.1 General objective

The general objective of this study was to map out the dynamics surrounding the loss of criminal cases in law courts by the Government of Kenya with the view of recommending remedial measures.

1.3.2 Specific objectives

The specific objectives of the study were:

1. To ascertain public perceptions and experiences on the extent the Government losses criminal cases.
2. To find out public perceptions and experiences on the criminal cases mostly lost by the Government.
3. To establish public perceptions and experiences on the factors contributing to the loss of criminal cases by the Government.
4. To map out public perceptions and experiences on the role of different parties involved in a criminal case in the loss of those cases by the Government.

1.4 Justification of the Study

This study was justified by a number of factors. Firstly, the Government has a cardinal role of ensuring the safety and security of all Kenyans and their properties as provided for under Chapter Fourteen (14) of the Constitution of Kenya, 2010. This imperative is realized through the arrest and punishment of those who engage in crime as a means of incapacitating, rehabilitating and dissuading them and/or others from engaging in similar

vices. However, when criminal cases are lost, the penal goals of rehabilitation, incapacitation and deterrence are jeopardized thereby occasioning the commission of more crimes. Consequently, this study is vital in ascertaining the nature and extent of the loss and the possible remedial measures.

Secondly, NCAJ (2016) established that indeed there is a problem in the Criminal Justice System in Kenya manifested in the significantly low conviction rates in the prosecution of cases involving some offense categories. Nonetheless, there is no national study that has since been executed to ascertain the dynamics surrounding this malady or even the possible empirically supported interventions. This study sought to fill this literature gap.

Thirdly, the United Nations Sustainable Development Goal Sixteen (16) identifies peace, justice and strong institutions as the mainstay for sustainable development. A significant loss of criminal cases by the Government points to weak criminal justice sector institutions. Additionally, it denotes a miscarriage of justice to the victims. Furthermore, it impedes the realization of peace as it encourages recidivism and crime commission. Therefore, the findings of this study will be very critical in guiding the Government of Kenya towards instituting measures geared towards the attainment of this Goal.

Lastly, Sections 5(a) and 5(e) of the National Crime Research Centre Act mandates NCRC to "carry out coordinated research into, and evaluate the impact of, programmes pursued by the agencies responsible for the administration of criminal justice" and to "carry out research into the efficacy and adequacy of criminal investigation and prosecution agencies, the penal system and treatment of criminal offenders". This evaluative research is critical in assessing the circumstances underpinning the loss of criminal cases in the law courts in Kenya by the Government for remedial policy interventions.

1.5 Assumptions of the Study

The study on the dynamics surrounding the loss of criminal cases in court is both sensitive and emotive. Based on this background, this study made the following assumptions, that:

1. The respondents of the study are aware of the circumstances underpinning the loss of criminal cases and will be free and willing to report their own experiences and perspectives without any fear or prejudice.

2. The loss of criminal cases is detrimental to Kenya's socio-economic development as it negatively impacts on the rehabilitation, incapacitation and deterrence goals of the penal system thereby encouraging the commission of more crimes.
3. There is goodwill from all the stakeholders in the Criminal Justice System in ensuring that the perpetrators of crime are held accountable for their actions.
4. All the criminal justice institutions are effective in the execution of their mandates.
5. The findings and recommendations of this study will be positively received by all the criminal justice actors.

1.6 Scope of the Study

The conceptual scope of this study was Kenya's Criminal Justice System. Specifically, the study was limited to the extent the Government losses criminal cases; the criminal cases mostly lost by the Government; factors contributing to the loss of criminal cases by the Government; and the role of different parties involved in a criminal case to the loss of those cases by the Government. The study sites included all the 47 Counties in Kenya. Data collection exercise was undertaken in November 2020 and December 2020.

1.7 Theoretical Framework

This study was hinged on the General Systems Theory (GST). GST was proposed by Ludwig von Bertalanffy in 1968. The theory attempts to explain how related components at different levels interact with one another in forming a system – including the interaction of these various units at different levels and the interrelationships among the units (Adams, Hester, Bradley, Meyers & Keating, 2014).

The concept of the "open" systems espoused by GST is of particular relevance to this study. The theory argues that open systems interacts with the environment around them allowing "inputs" and "outputs" to enter the system or some parts of it (Dubrovsky, 2004). According to the theory, in all open systems, inputs must remain approximately equal to outputs (Benard, Paoline & Pare 2005). If inputs decrease, then outputs also would decrease. Conversely, if inputs increase, then system disruption could occur in the long run by overloading the system. In particular, system overload tend to be associated with inadequate processing of the inputs which in turn increases the rate of defectiveness in the products that leave the system as outputs.

In this theorization, the criminal justice of Kenya is a system. It consists of multiple layers of encompassing sub-systems – namely, the investigative agencies/National Police Service (NPS), Office of Director of Public Prosecutions (ODPP), the Judiciary and Correctional Services, each of which can be described in terms of input, processing, and output. Each subsystem takes offenders as input, does something to them or for them or with them (processing), and sends them as output to the next subsystem unit or back to the external environment. Therefore, the quality and level of output of each sub-system considerably affects the delivery of the entire system. When processing terminates prior to completion, products tend to return to the system as defective.

Another unusual characteristic of Criminal Justice Systems, as opposed to other systems, is that each system stage has less processing capacity than the stage before it (Benard, Paoline & Pare 2005). For example, the police can make more arrests than the prosecutors can prosecute, prosecutors can bring more cases to trial than judges can hear, and judges can sentence more people to prison than the prisons can hold. The declining capacity to process cases generates backward pressure across the system to reduce the flow of cases to the next system stage. Each stage therefore is pressured to output a certain portion of its cases to the external environment (withdrawals of cases). This backward pressure supplements the fact that it is quicker and easier to decide that processing is complete than to send the case to the next stage for additional processing (for example DPP referring cases back to the investigative agencies for further investigation than prosecuting). Conversely, countervailing forward pressure arises because sending cases to the next stage of the system limits the criminal justice agent's exposure to blame for defective processing. This happens frequently in the anti-corruption crime cases where, oftentimes, there are blame games among various processing agencies.

The policy implication of this theoretical framework is that to improve conviction rates, the systemic maladies inherent in the processing of criminal cases within Kenya's Criminal Justice System ought to be mapped-out and mitigated.

CHAPTER TWO: METHODOLOGY

2.1 Introduction

This chapter presents the methodology used in the execution of this study. Particularly, it provides the research design, methods and tools of data collection and management, data analysis and ethical considerations.

2.2 Research Design

This study employed a mixed method research design which, according to Klassen, Creswell, Clark, Smith and Meissner (2012), is a procedure for collecting, analyzing and "mixing" both quantitative and qualitative approaches in a single study. This design was appropriate in ensuring data triangulation as the weaknesses and strengths of each approach were combined to provide valid data.

2.3 Target Population of the Study

The target sample respondents (hereinafter referred to as respondents) comprised of members of the public (5448) from all the 47 Counties of Kenya aged 18 and above. The target population for the key informants entailed senior Government officials from the criminal justice agencies, Ministry of Interior and Coordination of National Government, Ministry of Public Service and Gender; civil society officials, religious leaders/faith based organization leaders, lawyers and village elders/local community leaders.

2.4 Sampling of Counties and Respondents

The study was conducted in all the 47 Counties in Kenya. This gave the survey a truly national picture on the study subject and significantly mitigated on the sampling error.

Simple random sampling was used to select 50% of the sub-Counties in each County and 30% locations in the selected sub-Counties. The sampling unit for the members of the public was the household. The targeted sample size for the members of the public (n= 5405) was determined using Slovin's formula:

$n = N / (1 + Ne^2)$

Where:

n = Targeted Sample Size,

N = Total population and

e = Margin of error.

According to Hotjar (n.d), Solvin's formula is appropriate when one does not have enough information about a population's behavior (or the distribution of behavior) to otherwise know the appropriate sample size. This study sought to examine public perceptions and experiences with regards to the loss of criminal cases by the Government in Law Courts. The formula was, therefore, appropriate as the study was not able to anticipate in advance the distribution of the perceptions and experiences across the target population. Probability proportional to size (PPS) sampling was used to distribute the targeted sample across all the sampled locations (See Appendix 3).

An arbitrary three (3) key informants per County were targeted in all the forty seven (47) Counties in Kenya. The key informants were purposively selected because of their knowledge and expertise on the study subject. A total of one hundred and seven (107) key informants were interviewed translating to a response rate of 75.9%.

2.5 Selection of Sample Respondents

In this study, 4832 sample respondents were interviewed, representing 88.7% of the targeted sample population of 5,448. This was as a result of logistical challenges encountered during the actual data collection in some study Counties.

The sampling unit was the household. Each of the 4,832 households were reached to provide one adult member of public (who was either the household head, spouse or most aged offspring/child of the household) as a sample respondent. The households in the selected Locations were selected randomly.

2.6 Methods and Tools of Data Collection

2.6.1 Methods of data collection

Primary data were collected from the sample respondents and the key informants through face-to-face interviews. Correspondingly, secondary data were collected by undertaking literature review of materials such as Government publications and reports, published research reports/journals, books and other publications.

2.6.2 Tools of data collection

An interview schedule comprising of both closed and open ended questions was used to collect data from the sample respondents. Additionally, a key informant guide was used

to collect data from the key informants. Finally, computers, internet, pens and notebooks and data were used in collecting secondary data.

2.7 Data Collection and Management

The National Crime Research Centre (NCRC) worked closely with the relevant criminal justice agencies in its effort to realize the objective of the study. This included soliciting from them secondary data pertinent to this inquiry based on the objectives of the study. Also, NCRC sought for authority for the study and consent from key institutions and their staff to participate in the study. Competent research assistants were identified and trained before the actual data collection exercise. They were then allocated study sites and provided with requisite resources for the field work and data collection exercise.

2.8 Data Analysis

This study used both quantitative and qualitative data analysis methods. Quantitative data were analyzed by way of descriptive statistics using the Statistical Package for Social Scientists (SPSS) and Microsoft Excel. The analyzed data was presented using graphs, frequencies, percentages and tables.

Qualitative data were analyzed through interpretation of responses given by the key informants. All information from the analyzed data were then presented thematically in narrations as per the research objectives.

2.9 Ethical Considerations

The following ethical considerations were adhered to while conducting this study:-

i. Authority to collect data was sought from relevant institutions before the actual commencement of the exercise.

ii. Informed consent by the respondents was sought before the commencement of the interviews.

iii. Respondents were allowed not to answer questions they are uncomfortable with.

iv. The language used when conducting the interviews was respectful.

v. Confidentiality of the respondents' identity and information was safeguarded in all stages of data collection, processing and reporting.

vi. During data collection process, respect for diversity in regard to socio-cultural, economic and political views was upheld.

CHAPTER THREE: RESULTS AND DISCUSSIONS

3.1 Introduction

This chapter presents the socio-demographic characteristics of the members of the public. It then presents and discusses the study findings on the extent the Government losses criminal cases in law courts; and criminal cases mostly lost by the Government in law courts. Similarly, factors contributing to the loss of criminal cases by the Government in law courts; and the role of different parties involved in a criminal case to the loss of those cases by the Government in law courts.

3.2 Socio-Demographic Characteristics of the Sample Respondents

A total of 4842 members of the public (sample respondents) were interviewed; out of which 59.7 percent were male and 40.2 percent female.

On age, majority (59.1%) of the sample respondents were aged between 18 and 45 years. This points to a productive and reproductive segment of the population in Kenya. Furthermore, this category of the respondents are prone to having contacts with the Criminal Justice System – both as perpetrators, witnesses and victims (UNICEF, 2014).

Regarding marital status, majority (75.8%) of the sample respondents were married implying that they were family members with familial responsibilities such as providing basic needs. The family bears the effects of crime and litigation both directly and indirectly. This implies that the respondents were competent to give an opinion as to why the Government losses criminal cases in courts.

On education, a significant majority (93.6%) of the sample respondents had some form of education/literacy. Out of these, 60.9 percent had secondary level education and above. This shows that the respondents were knowledgeable enough to respond to the survey.

The main occupation of most of the respondents was business (37.5%) followed by subsistence farming (23.2%). This shows that most of the respondents were engaged in some income generating activity. Table 3.1 shows the distribution of sample respondents across the various categories of the socio-demographic variables.

Table 3.1 Socio-demographic characteristics of the sample respondents

Variable	Category	Percentage (%)
Sex	Male	59.7
	Female	40.3
	Total	**100.0**
Age	18-25	9.8
	26-33	22.3
	34-41	27.0
	42-49	18.5
	50-57	13.5
	58+	8.9
	Total	**100.0**
Marital Status	Single/Never Married	16.6
	Married	75.8
	Separated	3.0
	Divorced	0.8
	Widowed	3.8
	Total	**100.0**
Highest Level of Education Attained	None	6.4
	Primary	32.4
	Secondary	38.4
	Middle level college	16.0
	University	6.5
	Adult Literacy	0.3
	Total	**100.0**
Main Occupation	Permanent employment in public sector	3.3
	Permanent employment in private sector	7.5
	Casual/temporary employment in private sector	12.0
	Casual/temporary employment in public sector	4.5
	Business person	37.5
	Subsistence Farming	23.2
	Unemployed	11.0
	Retiree	0.7
	Student	0.2
	Housewife	0.1
	Total	**100.0**

3.3 Public Perceptions and Experiences on the Extent to which the Government Losses Criminal Cases in Law Courts

Respondents were asked to rate the extent to which criminal cases are lost in court. Majority of the respondents – both in the gender and age categories, were of the view that the Government losses criminal cases to a large extent. For instance, most males (52.8%) and females (46.6%) indicated that criminal cases are lost by the Government to a large extent. Similar perspectives were also echoed by majority of those aged 18-25 (48.8%),

26-33 (48.8%), 34-41 (52.2%), 42-49 (50.4%), 50-57 (52.5%) and 58 and above (48.1%) as summarized in Figure 1.

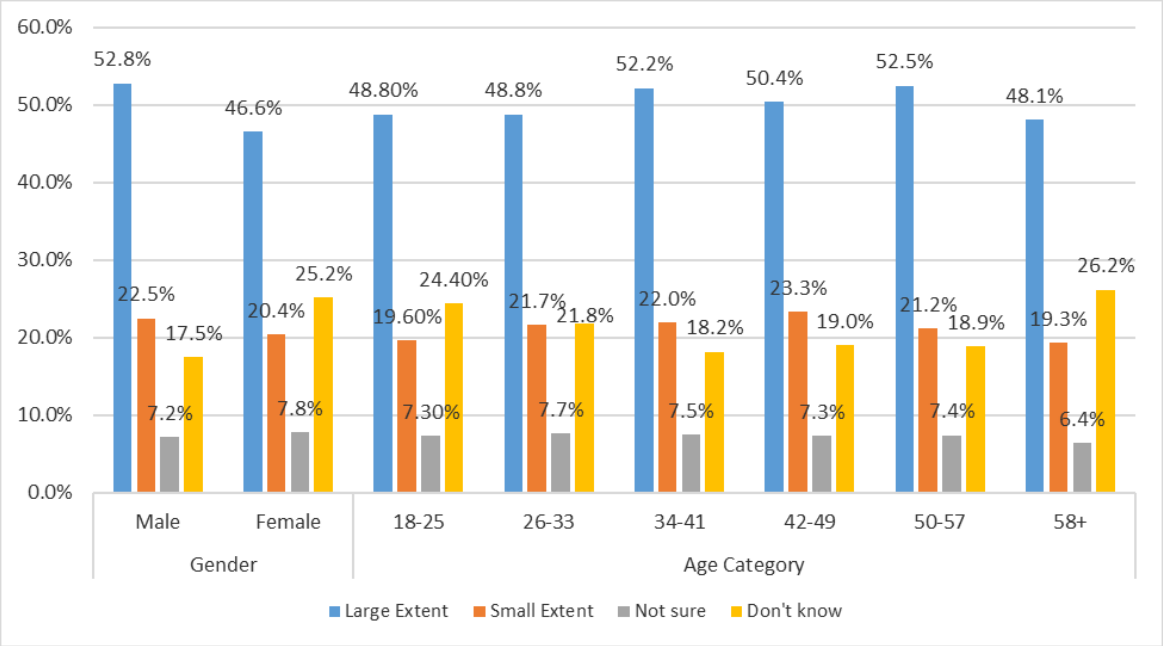

Figure 1 – Public perceptions on the extent to which the Government losses criminal cases in Kenya

The above findings were corroborated by data from the Directorate of Criminal Investigations for the period 2017 and 2019. For instance, a total of 48,825 crimes were investigated and prosecuted in 2017 with only 7,335 convictions being obtained. In 2018, a total of 49,665 crimes were investigated/prosecuted with a paltry 6,639 convictions being made. The same replicated in 2019 where a total of 66,049 crimes were investigated/prosecuted and only 5,401 convictions being obtained. This data shows that majority of the cases are either pending in court or lost. As established by UNODC (2014), an extended pendency of cases in court is also a contributor to the loss of cases. Specifically, the higher the pendency of criminal cases in court, the higher the probability of losing the cases because over time, witnesses disappear, get compromised, disinterested or even die thereby diminishing the chances of success of the cases.

3.4 Public Perceptions and Experiences on the Criminal Cases Mostly Lost by the Government in Law Courts

The respondents were also asked to indicate the criminal cases with the highest loss prevalence by the Government. The cases mentioned included robbery cases (32.9%), followed by corruption/economic crimes (31.5%), murder (29.1%), rape (18.9%),

defilement (11.7%), assaults (10.0%) and drug trafficking (5.3%) among others as captured in Figure 2.

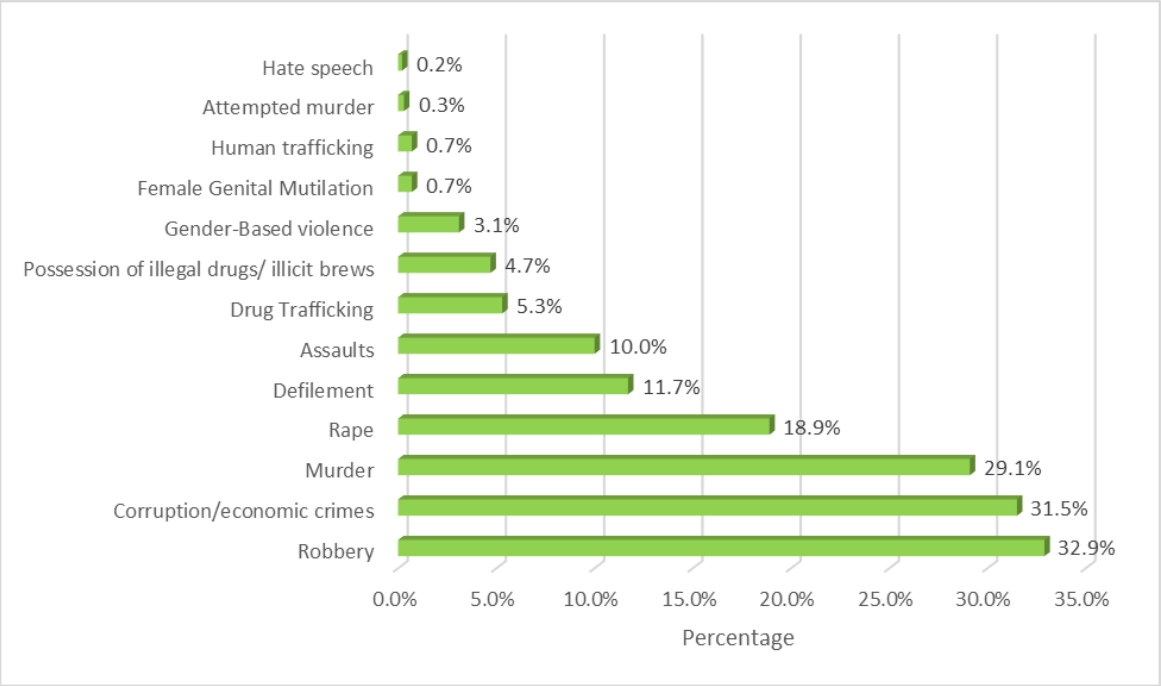

Figure 2 – Public perceptions on the criminal cases mostly lost by the Government in courts

It is evident from Figure 2 that the majority of criminal cases mostly lost by the Government are those involving more serious crimes. For instance, the fact that the public perceives robbery, murder, rape and defilement to be the most criminal cases frequently lost by the Government means that out of the total criminal cases lost, these crime categories are the majority. This should be a point of concern to the Government. This finding also concur with NCAJ (2016) that established the loss prevalence of criminal cases by the prosecution to be high for the more serious offenses as indicated in Table 3.2.

Table 3.2 Magistrates' court outcomes by offense category for the period 2013-2014

Offense category	Guilty(percent)	Acquitted(percent)	Withdrawn(percent)
Nuisance offenses	82.9	1.7	15.4
State regulation	80.8	3.6	15.6
Immigration	65.1	0.7	34.1
Drug offenses	54.9	3.2	41.9
Other felony offenses	33.8	21.8	44.5
Property offenses	31.4	17.5	51.1
White collar offenses	29.6	3.7	66.7
Serious assault	18.5	13.5	68.1
Robbery with violence	13.0	13.0	74.0
Sexual offenses	5.1	30.0	64.9
Total	**53.3**	**9.8**	**36.9**

Source – National Council on the Administration of Justice, 2016

Notably, in agreement with the findings, sexual offenses recorded a significantly low conviction rate (5.1%), followed by robbery with violence (13.1%), serious assault (18.1%) and white collar offenses (29.6%). Furthermore, Mauchuhie (2020) asserts that sexual and gender-based violence crimes are among the top cases recording low conviction rates in Kenya.

The data from the sample respondents were corroborated by key informants who when asked to highlight criminal cases mostly lost by the Government in court had this to say:

> *"Mostly robbery cases...the evidence will get lost and the complainant will be intimidated and will not appear in court, and the case will be lost" (Interview with a Faith Based Organization Official, Mombasa County).*

> *"Corruption cases - most of them never end. They are dragged in the courts for a long period and then finally thrown out." (Interview with Senior National Police Service Official, Mombasa County).*

"I have seen cases of defilement mostly lost because of lack of enough evidence; and witnesses also get compromised," (Interview with Senior National Police Service Official, Taita Taveta County).

"Murder cases are mostly lost because of lack of witnesses" (Interview with Senior National Police Service Official, Marsabit County).

Overall, the qualitative data from the key informants corroborate the quantitative data from the sample respondents which show that serious crimes have low conviction prevalence in Kenya in comparison to the less serious offenses. This can be plausibly explained by the high threshold of evidence needed to secure convictions for these category of cases.

Secondary data submitted by the Directorate of Criminal Investigations (DCI) also show all serious crime categories as having remarkably low conviction frequencies. For example, **homicide** – a category of crime rated as serious across the world, had only **68** convictions out of **1785** investigations/prosecutions conducted in 2018 and **36 convictions** out of **3566** investigations/prosecutions in 2019 respectively. Other prominent cases with low conviction frequencies include **corruption related crimes** in which **1** conviction was obtained against **75** investigations/prosecutions conducted in 2018 and **1** conviction against **73** investigations/prosecutions in 2019 respectively. Particularly, soliciting for a bribe, accepting a bribe, accepting free gifts and demanding with menace were the corruption crimes with very low conviction frequencies (see Appendix 4 and 5).

3.5 Public Perceptions and Experiences on the Factors Contributing to the Loss of Criminal Cases by the Government in Law Courts

The respondents were asked to mention the factors contributing to the loss of criminal cases by the Government in law courts. The prominent factor mentioned was corruption (cited by 7 out of 10 respondents). This was followed by fear to testify in court/lack of witness (cited by 3 out of 10 respondents); investigation gaps, prosecution gaps, external interference, delayed completion of cases (cited by 1 out of 10 respondents respectively), among others as presented in Figure 3.

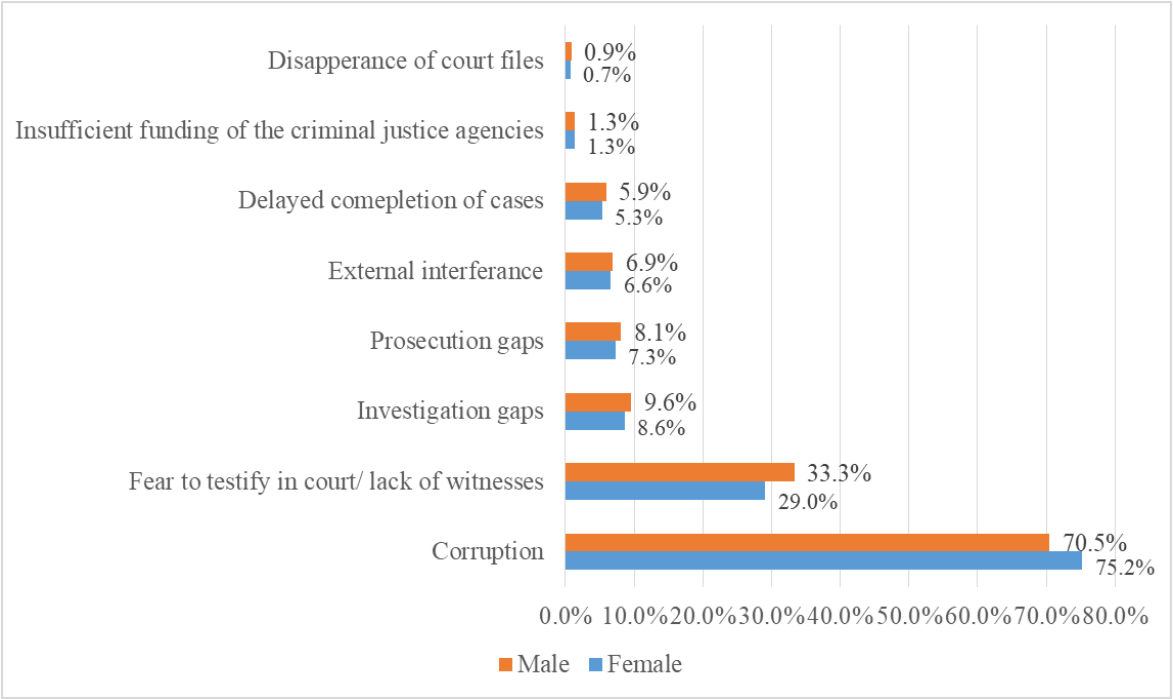

Figure 3 – Public perceptions and experiences on the factors contributing to the loss of criminal cases in Kenyan courts

The findings in Figure 3 show that there are a multiplicity of factors contributing to the loss of criminal cases by the Government in law courts. However, corruption was the most prevalent. The finding that criminal cases are lost because of corruption agrees with those of Transparency International – Kenya (2017), Ikunda (2009), and Kwach (1998) who separately established that corruption is the leading cause of the loss of criminal cases. They highlight the predominant forms of corruption in the Criminal Justice System to include bribery of witnesses and the criminal justice officers. Ikunda (2009) also found out that the inefficiency of the law enforcement agencies – for example as a result of excessive workloads, adversely impacted on the quality of investigations leading to the loss of cases.

Fear to testify in court/ lack of witnesses may be a pointer to the inadequacy or diminished effectiveness of the witness protection services in the country. Therefore, this calls for the strengthening of the Witness Protection Agency.

Investigation and prosecution gaps were equally identified as the contributing factors to the loss of criminal cases. The prominent gaps identified were the lack of joint action and/or decision making framework/multi-agency framework and inadequate operational capacity – equipment, technologies, and expertise/human resources.

The above findings were similarly echoed by majority of the key informants. When probed on the reasons accounting for the loss of criminal cases by the Government in court, most of them noted lack of water-tight evidence and corruption. For example, a key informant indicated that:

> *"The major contribution is in the part of investigations, sometimes they do not do thorough investigations" (Interview with senior National Police Service officer, Nairobi County).*

3.6 The Role of Various Actors to the Loss of Criminal Cases by the Government in Law Courts

3.6.1 Public perceptions and experiences on the contribution of various actors to the loss of criminal cases by the Government in law courts

The police were accused as the main actors contributing to the loss of criminal cases in law courts (39.7%). They were followed by the magistrates/judges (25.6%) and the prosecutors (10.0%) respectively. Other actors were the accused (6.2%), witnesses (5.9%), defense lawyers (5.1%), among others as captured in Figure 4.

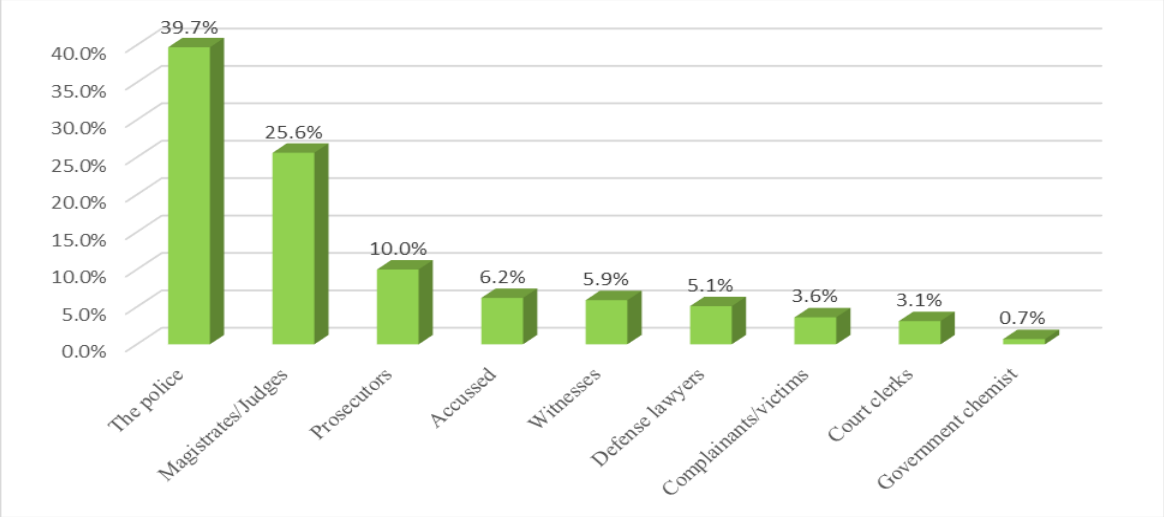

Figure 4 – Public perceptions and experiences on the direct parties contributing to the loss of criminal cases in Kenya

The police play an integral role in the processing of the suspects: they are the point of entry for offenders into the Criminal Justice System; conduct investigations; and draw the charge sheet. If any of the first three roles are not properly undertaken, then most criminal cases are bound to fail. The finding that the police are the ones mostly contributing to the Government's loss of criminal cases implies that the public's view on the performance of the police on these three areas is negative. Most respondents stated that some police

officers accept and solicit for bribes from the suspects who are in return favored in the investigation outcomes. This was supported by most of the key informants. For instance, a key informant had this to say:

> *Some police officers take bribes for a favorable investigation report. This results to the loss of cases." (Interview with a religious leader, Migori County).*

Judges and Magistrates are responsible for deciding cases by interpreting and applying the law to the facts and evidence presented. They were equally accused of corruption – specifically bribery, in the exchange for favorable decisions. Indeed, in the recent past, the mass media has highlighted various bribery allegations involving senior judges – for example, in 2016, a Supreme Court judge was suspended on the allegations of accepting a $2 million bribe (Shimanyura, 2016); and in 2021, the Judicial Service Commission was petitioned for the removal of a High Court Judge on the accusations of bribery (Wangui, 2021). Corroboratively, almost nine out of 10 Kenyans (86%) said that at least "some" judges and magistrates are involved in corruption; with more than one-third (35%) saying "most" or "all" of them are corrupt in a survey conducted by a non-partisan survey research network in 2019 (Afrobarometer, 2021).

Similarly, most members of the public identified politicians (60%) as the indirect parties contributing to the Government's loss of criminal cases in law courts as indicated in Figure 5.

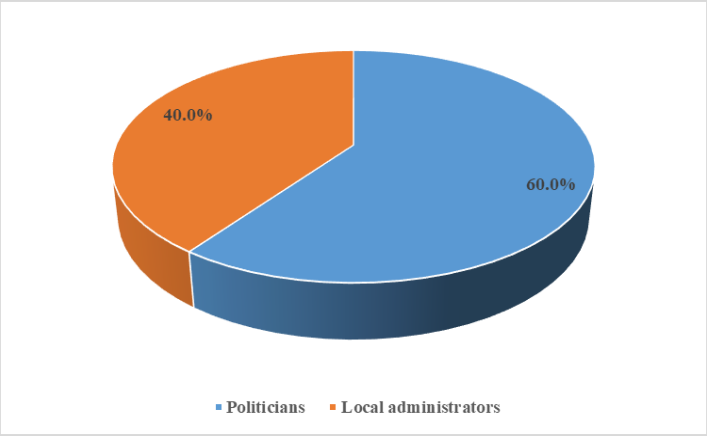

Figure 5 – Public perceptions and experiences on the indirect parties contributing to the loss of criminal cases by the Government in law courts

Politicians and local administrators are the representatives of the people and are supposed to advance public interest in the administration of justice. The fact that majority of the members of public felt that the politicians are the indirect parties contributing to the loss of criminal cases by the Government in law courts casts aspersion on their effectiveness in advancing public interest.

3.6.2 How various actors contribute to the loss of criminal cases by the Government in Law Courts

The respondents were asked to state how various actors contribute to the loss of criminal cases by the Government in law courts. For the police, soliciting of bribes/corruption was the main contributor to the loss of criminal cases (67.9%). Similarly, the same holds for the magistrates (85.9%), defense lawyers (66.7%), court clerks (66.0%), prosecution (52.8%) and the accused/defendant (44.4%). For the witnesses and victims, it was the failure to appear in court at 53.8% and 55.6% respectively. Finally, the main contributor to the loss of criminal cases in court by the Government on part of the Government Chemist was the delay of the DNA results and other expert evidence as captured in Table 3.3.

Table 3.3 Sample respondent's responses on the actors' contribution to the Government's loss of criminal cases in Law Courts

Actor/ Agency	How the actor contributes to the Government's loss of criminal cases in law court	Percentage
Government Chemist	Delay in DNA and other expert evidence in courts	88.2
	Being compromised through bribery/corruption	11.8
Magistrates/ Judges	Being compromised through bribery/soliciting of bribes	85.9
	Accepting the unnecessary adjournments of cases	14.1
The accused/ Defendant	Engaging in unethical conduct/bribery/corruption	80.5
	Contravening bail/bond terms	11.6
	Intimidation/threatening witnesses and complainants	7.9
	Failing to appear in court	0.6
Defense Advocates	Engaging in unethical conduct/bribery/corruption	66.7
	Non-appearance in court	33.3
Police Officers	Being compromised through bribery/soliciting of bribes	67.9
	Inadequate investigations	27.4
	Drafting defective charge sheet	6.8
	Inadequate protection of witnesses	0.3
Court Prosecutors	Being compromised through bribery/soliciting of bribes	52.8
	Weak presentation of evidence in court	44.7
	Unnecessary delays	3.0
Court Clerks	Compromised to hide court files	66.0
	Failure to produce court files when needed	34.0
Politicians	Negative interference of the court process	60.0
	Lack of proper legislation of the relevant statutes	40.0

Complainants/ Victims	Non-appearance during case hearing	55.6
	Compromised to withdraw the case	44.4
Local Administrators	Convince complainants to solve serious crimes out of the Criminal Justice System	55.6
	Engaging in unethical conduct/soliciting bribes/corruption	44.4
Witnesses	Non- appearance in courts	53.8
	Being compromised through bribery	46.2

From the findings in Table 3.3, it is evident that majority of the cases are lost as a result of unethical conduct bordering on corruption. Majority of the actors in the criminal cases are compromised through bribes to interfere with the cases leading to their loss.

The sample respondents' data was corroborated with that of the key informants. Majority of the key informants (n=107) identified unethical conduct/corruption among Directorate of Criminal Investigations officers, judges/magistrates (n=67), witnesses/complainants (n=63), and medical personnel (n=38); lack of cooperation between the ODPP and the DCI (n=57); external interference on the part of politicians (n=27) and non-disclosure of the perpetrators by local administrators (n=14) as the main contributors to the Government's loss of criminal cases in law courts as presented in Table 3.4.

Table 3.4 Key informants' responses on criminal agency's/ actor's contribution to the Government's loss of criminal cases in law courts

Criminal justice agency/ Actors	How the agency/actor contributes to Government's loss of criminal cases in law courts	Total tally of key informants (n=107) who mentioned it
Directorate of Criminal Investigation (DCI)	Unethical conduct among some investigation officers	91
	Conducting shoddy investigations	82
	Lack of cooperation between the DCI and the ODPP	57
	Missing evidence due to poor storage/processing or concealing of evidence by some investigator	27
	Inadequate training of investigation officers	26
	Poor framing of the charge sheet	5
Office of the Director of Public Prosecutions (ODPP)	Lack of cooperation between the ODPP and the DCI	57
	Poor prosecution/poor presentation of evidence in court/poor presentation of cases in court	55
	Unethical conduct among some court prosecutors	41
	Delay in the prosecution of cases	17
The Court/ Judges/ Magistrates	Unethical conduct among some of the judges/magistrates	68
	Delay in dispensing decisions	57
	Inadequate judges/magistrates leading to delay of cases in court	12
Witnesses/ Complainants	Complainants influenced to withdraw cases	63
	Witnesses who decide not cooperate with the criminal justice agencies	23

Criminal justice agency/ Actors	How the agency/actor contributes to Government's loss of criminal cases in law courts	Total tally of key informants (n=107) who mentioned it
Medical Personnel	Unethical conduct/soliciting of bribes for favorable medical reports	38
	Delay in the processing of medical reports to be used in court	15
Political Leaders	Political influence and interference	27
Local Administrators	Not disclosing the perpetrators of crime	14
	Sometimes demand that serious cases be handled by the community/out of court.	9

Evidently, the key informants' data in Table 3.4 resonate well with that of the sample respondents (summarizes in Table 3.3) where majority of the actors are perceived of engaging in unethical practices bordering on corruption thereby compromising the case processing hence the loss. This calls for remedial measures towards addressing the scourge of corruption in the Criminal Justice System.

3.7 Interventions for Realizing Improved Conviction Rates in Kenya

The respondents gave suggestions towards realizing improved conviction rates in Kenya. Most of them recommended adherence to professional ethics/curbing corruption by the criminal justice agents (45.0%), enforcement of the law fairly and equally to all (27.3%) and the enhancement of the investigatory and prosecutorial agencies (17.0%) as presented in Table 3.5.

Table 3.5 Respondents' suggestions towards reducing the loss prevalence of criminal cases

Intervention	Percentage
Adherence to professional ethics/curb corruption	45.0
Foster collaboration and cooperation among criminal justice agencies	31.0
Enhance proper investigations	17.0
Enhance witness protection	10.5
Timely completion of cases	6.3
Enhance the allocation of resource to the criminal justice agencies	5.1
Conduct civic education and sensitization on the roles of various actors in the Criminal Justice System	3.8
Embrace alternative dispute resolution to solve minor cases	1.6
Periodic transfer of judicial officers and other officers involved in criminal matters	1.2
Decentralize Government Chemist to all the Counties	1.0

From the above findings, it is clear that most of the respondents want corruption in the Criminal Justice System to be tackled in a bid to address the loss of criminal cases by the Government in court. This concurs with the earlier finding in this study where majority of the respondents identified corruption as the main contributor to the loss of criminal cases in court.

Some of the key informants gave the following suggestions:

> *"There should be close consultation between the ODPP and investigators" (Interview with a senior National Police Service Officer, Vihiga County).*

> *"There should be collaboration between the criminal justice agencies. Actually, they should organize and attend workshops together and highlight challenges and how they can overcome them together" (Interview with a NGAO officer, Nairobi County).*

> *"The Government should train its staff and professionalize services to reduce on loss of obvious cases" (Interview with civil society official, Vihiga County).*

CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

This study sought to find out public perceptions and experiences on: the extent to which the Government losses criminal cases in law courts; and criminal cases mostly lost by the Government in law courts. It also examined the factors contributing to the loss of criminal cases by the Government in law courts; and the contribution of various actors to the loss of criminal cases by the Government in law courts.

4.2 Summary of Major Findings

4.2.1 Public perceptions and experiences on the extent to which the Government losses criminal cases in law courts

Approximately, half of the sample respondents (52.8 percent males and 46.6 percent females) indicated that criminal cases are lost by the Government to a large extent. Similar perspectives were also echoed by majority of those aged 18-25 (48.8%), 26-33 (48.8%), 34-41 (52.2%), 42-49 (50.4%), 50-57 (52.5%) and 58 and above (48.1%).

4.2.2 Public perceptions and experiences on the criminal cases mostly lost by the Government in law courts

The study established that the criminal cases involving serious crimes are the ones mostly lost in Kenya. The criminal cases with the highest loss prevalence by the Government as per the respondents include robbery cases (32.9%), followed by corruption/economic crimes (31.5%) and murder (29.1%). Other significant criminal cases lost include rape (18.9%), defilement (11.7%) and assault (10.0%).

4.2.3 Public perceptions and experiences on the factors contributing to the loss of criminal cases by the Government in law courts

The main factor contributing to the Government's loss of criminal cases was corruption (with 70.5% males and 75.2% females). This was followed by insufficient evidence (21.6% males and 18.7% females) and fear to testify in court/inadequate witness protection (11.8% males and 10.3% females).

4.2.4 Public perceptions and experiences on the contribution of various actors to the loss of criminal cases by the Government in law courts

Most respondents said that the police contribute to the loss of criminal cases by being compromised through bribes (67.9%) and inadequate investigations (27.4%). Being compromised through bribes (85.9%) also applied for the magistrates/judges who were also accused of accepting unnecessary adjournment of cases (14.1%). Most respondents further noted that the prosecutors were compromised through bribes (52.8%) and their presentation of evidence in court was weak (44.7%) leading to the loss of criminal cases. For the defense advocates and witnesses, the prominent issues raised were engaging in unethical conduct bordering corruption (66.7%) and failure to appear in court (33.3%). Being compromised through bribes (66.0%) and failure to provide court files when needed (34.0%) were flagged as critical concerns with regards to the Court Clerks while for the complainants/ victims, it was their non-appearance (55.6%) during case hearings and also the issue of being compromised to withdraw cases (44.4%). The accused/ defendants were attributed to unethical conduct bordering corruption (60.5%), contravention of bail/ bond terms (11.6%) and intimidation/ threatening of witnesses/ complainants (7.9%). For the Government Chemist, the key issues raised were delays in the processing/ provision of DNA results/ expert evidence in courts (88.2%) and unethical conducts bordering corruption (11.8%). The politicians were attributed to negative interference of the criminal justice processes (60.0%) and lack of proper legislation of the relevant statutes (40.0%); and lastly local administrators were blamed for convincing the complainants to solve serious offenses out of the Criminal Justice System leading to the withdrawal of cases (55.6%) and engaging in unethical conduct bordering corruption (44.4%).

4.3 Conclusion

Based on the findings of this study, it can be concluded that:

1. Cases involving serious crimes are the ones mainly having low conviction rates in Kenya according to the perceptions and experiences of the members of the public in the Criminal Justice System. The commonest serious crimes frequently lost include murder, manslaughter, rape, defilement, corruption related cases and cases regarding dangerous drugs.
2. The members of the public perceive the criminal justice agencies as lacking synergy in the case-processing leading to the low conviction prevalence of criminal cases in court. The general systems theory presupposes a situation where

the criminal justice agencies work as an assembly line. This implies that all the agencies must work together as a whole so as to function appropriately and harmoniously. Therefore, this lack of cooperation significantly contributes to the loss of cases by the Government.

3. Unethical conduct bordering on corruption is inherent in Kenya's Criminal Justice System as per the public's perceptions and experiences. Despite the fact that there are ethical officials and members of the public working tirelessly to ensure that justice is dispensed, their efforts are easily diluted by many others who are prone to being compromised. This results to the low conviction prevalence of criminal cases.
4. Members of the public are of the view that majority of the cases are lost due to weak evidence adduced in court. This can plausibly be a symptom of malaise in the investigation process or the presentation of evidence in court by the prosecution.
5. There is a delay in processing of cases in the Criminal Justice System. This can be explained by varied reasons including inadequate resources, incompetence of some officers or delay tactics by some criminal justice agents in a bid to interfere with the cases, among others.

4.4 Recommendations

Arising from the findings and conclusions of this study, the following policy and areas for further study are recommended:

4.4.1 Policy recommendations

1. **Address the gaps in the Criminal Justice System occasioning high loss prevalence of serious crimes in law courts**

The findings of this study showed that majority of the serious crimes in Kenya are registering a high loss prevalence in court. The main crimes/offenses with a high loss prevalence were robberies, rape, defilement, corruption/economic crimes, and murder. Among the key contributing factors to these losses were investigation and prosecution gaps. The prominent gaps identified were lack of joint action and/or decision making framework and inadequate operational capacity in terms of equipment, technologies and expertise/human resources by the duty bearer agencies. This calls for an appraisal of the relevant agencies to ascertain the gap-levels with a view to addressing them.

2. **All criminal justice agencies/ actors to make corruption prevention a standing agenda in their operations**

This study identified corruption as the foremost factor in the Criminal Justice System contributing to the loss of criminal cases. For instance, the following agencies/actors were attributed to unethical conduct bordering corruption: Government Chemist, Magistrates/Judges, Police Officers, Court Prosecutors, Defense Advocates, Accused/ Defendant, Court Clerks, Complainants/ Victims, Witnesses, and Local Administrators. Consequently, addressing corruption in the Criminal Justice System should not be a preserve of one actor/ agency but a standing agenda by all stakeholders.

3. **Adopt a multi-agency framework in case processing throughout the Criminal Justice System**

Members of the public perceived the criminal justice agencies as lacking synergy in the execution of their mandates - leading to the low conviction prevalence of criminal cases in courts. Particularly, these featured prominently in the execution of the investigative and prosecutorial mandates. Multi-agency framework will entail co-decision making; sharing of resources – information, equipment, technologies and expertise; collaborative commissioning, delivery and integration of services, among others.

4. **Address case processing timelines in the Criminal Justice System**

Case delays were profiled as some of the factors leading to loss of criminal cases in the country. When cases delay, witnesses (including victims) disappear, get compromised, disinterested or even die thereby contributing to the loss of criminal cases. Therefore, the relevant stakeholders should put in place administrative measures specifying strict case processing timelines. Moreover, cogent backlog reduction measures should be instituted.

5. **Enhance witness and victim protection services**

The study established fear to testify in court/ lack of witnesses as one of the leading contributing factors to the loss of criminal cases. This fear to testify/ lack of witnesses may be a pointer to the inadequacy or diminished effectiveness of the witness/ victim protection services in the country. Therefore, this calls for the strengthening of the Witness Protection Agency and the Victim Protection Board.

6. **Government Chemist to work closely with the Directorate of Criminal Investigations' Ultra-Modern Forensic Laboratory in the processing of exhibits, DNA and other expert evidence**

The Government Chemist was pin-pointed for delays in producing DNA results and other expert evidence in courts. The agency therefore should work in collaboration with the Directorate of Criminal Investigations' Ultra-Modern Forensic Laboratory in the execution of their roles. This will enhance their capacity in the delivery of their services and indeed address the challenge of delays in producing DNA results and other expert evidence in law courts.

7. **Parliament to allocate more financial resources to the criminal justice agencies**

Insufficient funding of the Criminal Justice agencies was identified by the respondents as a factor contributing to the loss of criminal cases in law courts. For instance, this leads the institutional gaps in the Criminal Justice agencies such as inadequate technology, equipment, human capital, among other thereby resulting to the loss of some criminal cases. Thus, increased allocation of financial resources will go a long way in addressing this challenge.

4.4.2 Recommendation for further research

Corruption was established as the main factor contributing to the loss of criminal cases in the law courts. However, the extent and drivers of corruption in the Criminal Justice System of Kenya were not the core subject matter of this study. Consequently, these domains require a further research.

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APPENDICES

Appendix 1: Interview Schedule for Members of the Public

Name of County _____

Name of Sub- County _____

Name of Division _____

Name of Location _____

Name of Sub- Location _____

Name of Specific Area/Village_____

Date of Interview: _____

Introduction

Hello, my name is _____

The National Crime Research Centre (NCRC) is conducting a study on "Public Perceptions and Experiences on the Loss of Criminal Cases in Law Courts by the Government of Kenya". You are, therefore, requested to participate in the exercise by providing relevant information on the subject. Your participation is critical in making this study a success, and all information shared will be treated with high confidentiality.

Thank you in advance

Signature of Interviewer…….. Date……

(Yes) Respondent Agree (No) Respondent does not agree

Section A: Respondent's Background Information

1. Sex
    1. Male
    2. Female
    3. Intersex
2. Age of Respondent in years.
    1. 18-25
    2. 26-34
    4. 35-45
    5. 46-55
    6. 56-65
    7. 66+
3. Marital Status:
    1. Single/Never Married
    2. Married
    3. Separated
    4. Divorced
    5. Widowed
4. Highest Level of Education attained:
    1. None
    2. Primary
    3. Secondary
    4. Middle-level college
    5. University
    6. Adult Literacy
    7. Other (Specify)_____
5. Main Occupation
    1. Permanent employment – Private Sector
    2. Permanent employment – Public Sector
    3. Casual/temporary employment- Private Sector
    4. Casual/temporary employment- Public Sector
    5. Businessperson
    6. Subsistence farming
    7. Other (specify-e.g unemployed)_____

Section B: Specific Information on Crime Patterns and Trends

7(a) Based on your knowledge and experience, would you say that the Government has been losing criminal cases through acquittals, withdrawals and dismissals in courts? 1. Yes 2.No 3. I don't know

(b)If Yes in Question 7 (a) above, to what extent has the Government been losing criminal cases?

1. Large Extent 2. Small Extent 3. Not Sure 4. Don't Know

(c) If Yes in 7 (a) above, which criminal cases would you say the Government has mostly been losing in courts?

_____

_____

_____

_____

(d) If Yes in Question 7 (a) above, in your opinion, what contributes to the Government's loss of criminal cases in courts?

_____

_____

_____

_____

(e) If Yes in Question 7 (a) above, among all the parties involved in a criminal case, who would you say significantly contributes to the loss of the cases in court and how?

Agency/Actor	How?

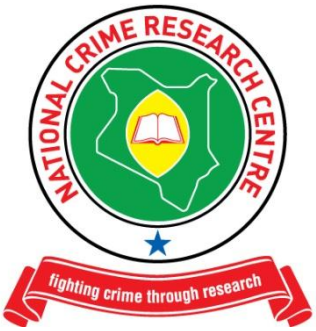
8 What are your recommendations towards realizing improved conviction rates in Kenya?_____

_____

_____

_____

Thank you for participating and stay safe.



Appendix 2 – Key Informant Guide

Name of County_____

Name of Sub-County _____

Name of Division _____

Date of Interview: _____

Introduction

Hello, my name is …… ,and I am working for the **National Crime Research Centre** (NCRC) which is a State Corporation established by the National Crime Research Centre Act (CAP, 62 L.o.K).

The Centre is conducting a survey on "Public Perceptions and Experiences on the Loss of Criminal Cases in Law Courts by the Government of Kenya". As a stakeholder in crime prevention, we would therefore request you to participate in this exercise by providing information on the subject. The information shared will be treated with a high level of confidentiality without disclosing your identity.

Thank you

1. Based on your knowledge and experience, which crimes would you say that the Government has mostly been losing and to what extent?
2. Based on your knowledge and experience, what contributes to the Government's loss of criminal cases in courts?
3. Among the parties involved in a criminal case, who would you say significantly contributes to the loss of cases in court and how?
4. What are your recommendations towards realizing improved conviction rates in Kenya?

Thank you for participating and stay safe

Appendix 3: Distribution of the Sample Respondents per County

Summary	County	Targeted Sample Size	Achieved Sample Size	Response Rate (%)
Number of Counties =47	Mombasa	160	160	100.0
N=12028743	Kwale	73	73	100.0
n=5448	Kilifi	126	124	98.4
e = 0.0136	Tana River	71	71	100.0
	Lamu	69	69	100.0
	Taita Taveta	71	71	100.0
	Garissa	62	62	100.0
	Wajir	60	58	96.7
	Mandera	60	60	100.0
	Marsabit	63	63	100.0
	Isiolo	75	41	54.7
	Meru	181	131	72.4
	Tharaka-Nithi	63	63	100.0
	Embu	77	6	7.8
	Kitui	111	84	75.7
	Machakos	169	169	100.0
	Makueni	103	96	93.2
	Nyandarua	76	64	84.2
	Nyeri	105	73	69.5
	Kirinyaga	86	74	86.0
	Murang'a	134	133	99.3
	Kiambu	326	323	99.1
	Turkana	71	71	100.0
	West Pokot	61	61	100.0
	Samburu	70	69	98.6
	Trans Nzoia	96	96	100.0
	Uasin Gishu	129	127	98.4
	Elgeyo Marakwet	60	60	100.0
	Nandi	84	83	98.8
	Baringo	60	58	96.7
	Laikipia	62	50	80.6
	Nakuru	243	230	94.7
	Narok	101	72	71.3
	Kajiado	123	120	97.6
	Kericho	87	87	100.0
	Bomet	79	62	78.5
	Kakamega	183	114	62.3
	Vihiga	81	70	86.4

Summary	County	Targeted Sample Size	Achieved Sample Size	Response Rate (%)
	Bungoma	152	136	89.5
	Busia	84	59	70.2
	Siaya	106	104	98.1
	Kisumu	124	124	100.0
	Homa Bay	110	109	99.1
	Migori	101	98	97.0
	Kisii	130	120	92.3
	Nyamira	64	60	93.8
	Nairobi	623	524	82.8
Total		**5405**	**4832**	**89.4**

Appendix 4: Investigated/Prosecuted Cases for the Year 2019*

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
Homicide	Murder	2416	380	80	4	4	4	2	5	2	**2920**
	Attempted murder	26	0	0	0	0	0	0	0	3	**29**
	Manslaughter	26	12	1	0	0	0	0	0	1	**40**
	Infanticide	15	0	1	0	0	0	0	0	0	**16**
	Procuring Abortion	29	3	15	0	0	0	0	0	0	**47**
	Concealing Birth	76	3	3	0	0	0	0	1	1	**84**
	suicide	484	146	8	0	0	0	1	0	34	**673**
	Attempted suicide	45	49	0	0	0	0	1	1	4	**100**
	Causing Death by Dangerous driving.	242	72	13	0	1	0	0	0	2	**330**
Offences Against Morality	Rape	547	27	28	5	8	3	2	11	43	**674**
	Defilement	2619	143	55	53	4	18	22	70	68	**3052**
	Incest	140	11	3	0	0	0	0	0	3	**157**
	Unnatural offence(sodomy)	47	4	5	1	1	0	0	1	5	**64**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Bestiality	10	0	0	0	0	0	0	0	0	**10**
	Indecent assault	59	2	1	0	0	0	0	0	8	**70**
	Sexual Harassment	60	1	0	2	0	1	2	2	7	**75**
	Abduction	28	0	0	0	0	0	0	0	1	**29**
	Bigamy	10	0	0	0	0	0	0	0	0	**10**
	Gang Rape	30	9	0	0	0	0	0	0	0	**39**
Other Offences Against Persons	Assault	8655	4146	177	47	534	73	94	127	1017	**14870**
	Creating disturbance	2553	89	37	55	216	31	146	130	547	**3804**
	Affray	131	3	2	1	17	0	0	2	19	**175**
	Maiming	27	5	1	0	2	2	1	0	3	**41**
	Grievous harm	858	2	19	2	85	18	1	9	68	**1062**
	Offensive conduct	9	0	0	1	0	2	0	0	2	**14**
	Intimidation	0	0	0	0	0	0	0	0	0	**0**
	Preparation to commit felony	16	6	0	0	0	0	0	0	0	**22**
Robberies	Robbery	303	95	6	1	2	1	3	7	25	**443**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Robbery with violence	1050	223	21	8	31	0	11	14	26	**1384**
	Attempted Robbery	38	26	1	0	1	0	0	0	0	**66**
	Car-jacking	1	0	0	0	0	0	0	0	0	**1**
	Robbed off Motor vehicles	2	11	0	0	0	0	0	0	7	**20**
	Cattle rustling	22	4	0	0	0	0	0	0	0	**26**
Breakings	House Breakings	1172	194	36	11	63	7	18	30	201	**1732**
	Burglary	740	142	25	3	20	37	0	21	125	**1113**
	Other Breakings	670	106	15	2	28	7	11	10	101	**950**
Stock Theft	Stock theft	838	75	19	4	43	5	2	14	80	**1080**
Stealing	Handling stolen property	324	18	3	0	7	0	0	3	49	**404**
	Stealing from persons.	465	13	6	1	28	0	3	8	42	**566**
	Stealing by Tenant/Lodgers	43	3	1	0	1	0	0	0	3	**51**
	Stealing from a building.	113	12	3	1	3	0	0	1	3	**136**
	Stealing goods on transit	1	0	0	0	0	0	0	0	0	**1**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	General Stealing.	5768	2970	93	49	412	54	55	112	703	**10216**
Theft By Servant	Stealing by Directors	25	17	0	0	0	0	0	0	0	**42**
	Stealing by agents	142	381	20	4	37	1	0	2	8	**595**
	Stealing by employee/servant.	1080	94	61	7	71	1	21	19	60	**1414**
Vehicle And Other Thefts	Stealing of M/v.	214	67	9	0	12	8	2	0	15	**327**
	Stealing from Motor Vehicles	91	28	4	0	2	0	0	1	3	**129**
	Stealing of Motor Vehicle parts	74	7	1	1	6	0	0	0	7	**96**
	Stealing of Motor Cycles.	238	96	12	1	0	1	0	0	12	**360**
	Stealing of Bicycle	2	14	8	0	0	0	0	0	0	**24**
Dangerous Drugs	Possession.	3124	52	7	6	51	13	3	157	981	**4394**
	Handling	69	2	4	0	3	0	0	3	10	**91**
	Trafficking	467	14	5	0	0	0	0	0	37	**523**
	Cultivating	39	0	0	0	0	0	0	0	15	**54**
	Usage	29	0	0	0	0	0	0	3	2	**34**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
Traffic	Taking vehicle without lawful authority.	35	1	0	0	2	0	0	0	12	**50**
	Driving under the influence of alcohol.	71	0	0	0	0	0	0	0	5	**76**
Criminal Damage	Malicious Damage	1878	107	36	4	180	8	26	63	295	**2597**
	Arson	340	73	10	1	13	0	1	4	24	**466**
	Negligent Acts	48	1	2	0	2	0	0	0	8	**61**
	Other Criminal Damages	66	1	1	0	0	0	0	0	2	**70**
Economic Crimes	Obtaining by false pretenses.	2097	139	22	18	188	6	25	37	176	**2708**
	Currency forgeries	99	8	0	0	0	0	0	0	0	**107**
	Issuing bad cheque	32	0	0	0	3	0	0	0	1	**36**
	False Accounting	41	1	0	2	2	0	2	2	8	**58**
	Conspiracy to defraud.	35	8	0	0	1	0	0	0	0	**44**
	Other frauds/ Forgery offences	231	55	3	0	5	0	1	3	7	**305**
Corruption	Soliciting for a bribe.	15	0	0	0	0	0	0	0	1	**16**
	Accepting a bribe.	8	2	0	0	0	0	0	0	0	**10**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Accepting free gifts	0	0	0	0	0	0	0	0	0	**0**
	Demanding by menace.	5	3	0	0	0	0	0	0	0	**8**
	Other corruption offences.	34	4	0	0	1	0	0	0	0	**39**
Offences Involving Police Officers	Soliciting for a bribe.	2	1	0	0	0	0	0	0	0	**3**
	Accepting a bribe.	1	0	0	0	0	0	0	0	0	**1**
	Accepting free gifts	0	2	0	0	0	0	0	0	0	**2**
	Demanding by menace.	10	0	0	0	0	0	0	0	0	**10**
	Other criminal offences.	22	4	0	0	0	0	0	0	0	**26**
Offenses Involving Tourists	Bag snatching	0	0	0	0	0	0	0		0	**0**
	Other offences against tourists	0	0	0	0	0	0	0	0	0	**0**
	Other offences involving tourists.	0	0	0	0	0	0	0	0	0	**0**
Offences against Children	Child stealing	11	0	0	0	0	0	0	0	3	**14**
	Child Trafficking	9	0	0	0	0	0	0	0	1	**10**
	Cruelty to a child	15	0	0	0	1	0	0	0	1	**17**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Other offences against children.	20	1	1	0	0	0	1	0	1	**24**
Other Penal Code Offences	Other penal code offences	3197	228	116	34	117	38	48	52	470	**4300**
	Escape from lawful custody	67	10	3	0	0	0	0	0	7	**87**
	Failing to take precautions	9	0	0	0	0	0	0	0	0	**9**
	Forcible detaining	49	1	1	0	0	0	3	0	0	**54**
	Entering into a dwelling house	13	1	0	0	2	0	1	0	2	**19**
	Giving false information	42	1	1	0	1	0	1	0	1	**47**
	Incitement to violence	26	3	0	0	0	0	0	0	0	**29**
	Possession of offensive weapons	10	0	0	0	0	0	0	0	0	**10**
	Unauthorized possession of exam	1	0	0	0	0	0	0	0	0	**1**
	Human trafficking	0	0	0	0	0	0	0	0	0	**0**
	Assaulting a police officer	0	0	0	0	0	0	0	0	0	**0**
	Threatening to kill	28	0	0	3	0	0	0	0	0	**31**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Injuring an animal	21	1	0	0	2	0	0	0	0	**24**
Wildlife Conservation	Other wildlife and management act offences	1	0	0	0	0	0	0	0	0	**1**
Total		**44891**	**10433**	**1005**	**332**	**2213**	**339**	**510**	**925**	**5401**	**66049**

*Source: Directorate of Criminal Investigations, 2020

Appendix 5: Investigated/Prosecuted Cases for the Year 2018*

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
Homicide	Murder	905	325	68	0	1	4	6	6	34	**1349**
	Attempted murder	4	0	0	0	0	0	0	1	0	**5**
	Manslaughter	41	0	0	0	0	0	0	1	3	**45**
	Infanticide	13	0	0	0	0	0	0	0	0	**13**
	Procuring Abortion	12	0	0	0	0	0	0	1	1	**14**
	Concealing Birth	44	2	0	0	0	0	1	2	3	**52**
	suicide	93	93	0	0	0	0	1	0	8	**195**
	Attempted suicide	48	5	0	0	0	0	0	1	4	**58**
	Causing Death by Dangerous driving.	206	48	2	0	0	0	0	0	23	**279**
Offences Against Morality	Rape	678	64	32	13	8	16	28	20	71	**930**
	Defilement	2290	101	63	3	5	19	26	72	169	**2748**
	Incest	124	7	1	30	0	0	0	3	10	**175**
	Unnatural offense(sodomy)	17	1	1	9	0	0	0	1	51	**80**
	Bestiality	11	0	0	0	0	0	0	0	5	**16**
	Indecent assault	21	0	0	0	0	0	0	1	3	**25**
	Sexual Harassment	37	5	0	1	0	0	4	1	16	**64**
	Abduction	10	3	0	0	1	0	1	0	4	**19**
	Gang Rape	73	0	1	0	0	0	2	3	11	**90**
Other Offences Against Persons	Assault	5303	149	113	34	717	143	112	289	528	**7245**
	Creating disturbance	4117	42	38	0	303	32	50	84	521	**5187**
	Affray	103	60	1	0	4	2	0	2	19	**137**
	Maiming	25	10	1	0	0	0	0	2	4	**33**
	Grievous harm	539	70	13	2	60	4	8	20	92	**745**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
	Intimidation	0	0	0	0	0	0	2	0	0	**2**
	Preparation to commit felony	15	0	12	0	1	1	0	2	8	**39**
Robberies	Robbery	280	132	6	0	12	9	4	9	28	**480**
	Robbery with violence	855	278	36	3	45	3	13	11	38	**1298**
	Attempted Robbery	32	34	5	0	0	0	2	3	34	**112**
	Car0jacking	5	6	0	0	0	0	0	0	0	**11**
	Robbed off Motor vehicles	2	60	0	0	0	0	0	2	0	**10**
	Cattle rustling	28	0	0	0	0	0	0	0	7	**35**
Breakings	House Breakings	1053	189	28	23	81	9	012	37	235	**1667**
	Burglary	638	172	34	3	52	7	3	12	43	**964**
	Other Breakings	602	115	20	0	48	12	20	29	241	**1087**
Stock Theft	Stock theft	715	56	16	5	34	0	3	8	75	**912**
Stealing	Handling stolen property	109	44	0	20	54	0	0	4	49	**262**
	Stealing from persons.	277	55	4	0	32	0	0	5	45	**418**
	Stealing by Tenant/Lodgers	43	21	0	0	0	02	0	0	23	**91**
	Stealing from a building.	23	15	0	0	0	20	0	0	3	**43**
	Stealing goods on transit	7	0	0	0	0	0	0	0	0	**7**
	General Stealing.	3717	282	25	4	194	17	22	130	648	**5039**
Theft By Servant	Stealing by Directors	20	38	0	0	3	0	0	0	9	**70**
	Stealing by agents	49	27	3	0	11	2	1	1	10	**104**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section: 202	204	210	215	Discharge	Convictions	
	Stealing by employee/servant.	902	133	25	0	91	12	22	66	171	**1422**
Vehicle And Other Thefts	Stealing of M/v.	194	105	4	0	7	0	4	3	34	**351**
	Stealing from Motor Vehicles	36	38	0	0	0	0	0	0	4	**78**
	Stealing of Motor Vehicle parts	30	13	0	0	0	0	0	0	7	**50**
	Stealing of Motor Cycles.	312	187	0	0	3	2	2	0	0	**506**
	Stealing of Bicycle	8	36	0	0	0	0	0	0	0	**44**
Dangerous Drugs	Possession.	2282	17	17	8	82	28	77	162	1988	**4661**
	Handling	48	0	0	0	0	0	05	0	15	**68**
	Trafficking	346	031	0	0	50	02	03	8	61	**456**
	Cultivating	27	0	0	0	0	0	0	0	15	**42**
	Usage	6	0	0	0	0	0	0	0	5	**11**
Traffic	Taking vehicle without lawful authority.	12	0	0	0	0	0	0	02	5	**19**
	Driving under the influence of alcohol.	42	0	0	0	0	0	0	32	0	**74**
Criminal Damage	Malicious Damage	1278	54	0	9	214	11	20	66	335	**1987**
	Arson	229	112	9	0	7	0	0	17	25	**399**
	Negligent Acts	40	0	4	0	7	0	0	0	9	**60**
	Other Criminal Damages	111	13	4	7	8	0	0	0	5	**148**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
Economic Crimes	Obtaining by false pretences.	1451	168	17	42	305	23	39	48	313	**2406**
	Currency forgeries	78	7	0	0	0	0	0	0	3	**88**
	Issuing bad cheque	41	0	0	0	3	0	0	0	5	**49**
	False Accounting	13	10	1	0	2	01	0	0	0	**18**
	Conspiracy to defraud.	45	37	60	0	4	20	20	6	05	**107**
	Other frauds/ Forgery offences	287	232	660	0	7	50	08	16	23	**644**
Corruption	Soliciting for a bribe.	11	0	0	0	0	0	0	0	1	**12**
	Accepting a bribe.	13	0	0	0	0	0	0	2	0	**15**
	Accepting free gifts	0	0	0	0	0	0	0	0	0	**0**
	Demanding by menace.	1	0	0	0	0	0	0	0	0	**1**
	Other corruption offences.	46	1	0	0	0	0	0	0	0	**47**
Offences Involving Police Officers	Soliciting for a bribe.	7	0	0	0	0	0	0	0	0	**7**
	Accepting a bribe.	0	0	0	0	0	0	0	0	0	**0**
	Accepting free gifts	1	0	0	0	0	0	0	0	0	**1**
	Demanding by menace.	9	0	0	0	0	0	0	0	0	**9**
	Other criminal offences.	5	0	0	0	0	0	0	0	0	**5**
Offences Involving	Bag snatching	0	0	0	0	0	0	0	0	0	**0**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section:				Discharge	Convictions	
					202	204	210	215			
Tourists	Other offenses against tourists	0	0	0	0	0	0	0	0	0	**0**
	Other offences involving tourists.	10	0	0	0	0	0	0	0	0	**10**
Offences Against Children	Child stealing	10	0	0	0	10	0	0	0	10	**12**
	Child Trafficking	6	0	0	0	0	0	0	0	0	**6**
	Cruelty to a child	14	10	0	0	0	0	0	10	4	**20**
	Other offences against children.	21	0	0	0	1	0	0	1	4	**27**
Other Penal Code Offences	Other penal code offences	2363	183	140	50	120	30	54	92	495	**3401**
	Escape from lawful custody	57	10	24	10	0	0	0	0	19	**102**
	Failing to take precautions	7	0	0	0	0	0	0	0	1	**8**
	Forcible detaining	51	1	0	0	0	0	2	3	8	**65**
	Entering into a dwelling house	20	1	0	0	01	0	0	0	20	**24**
	Giving false information	43	1	0	0	1	1	2	1	5	**54**
	Incitement to violence	15	0	0	0	0	0	0	0	10	**16**
	Possession of offensive weapons	6	0	0	0	0	0	0	0	0	**6**
	Unauthorized possession of exam	1	0	0	0	0	0	0	0	0	**1**

Offence	Category of Offence	PBC	PUI	PAKA	Finalized Cases						Total
					Under CPC Section: 202	204	210	215	Discharge	Convictions	
	Human trafficking	1	0	0	0	0	0	0	0	0	**1**
	Assaulting a police officer	3	0	0	0	0	0	0	1	0	**4**
	Threatening to kill	10	1	0	0	4	0	0	4	2	**21**
	Injuring an animal	27	0	0	0	1	0	0	0	5	**33**
Wildlife Conservation	Other wildlife and management act offences	83	0	0	0	0	6	15	6	1	**111**
Total		**33833**	**3618**	**628**	**246**	**2516**	**376**	**518**	**1291**	**6639**	**49665**

*Source: Directorate of Criminal Investigations, 2020

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