



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**



INFOGRAPHICS VERSION

Socio-Demographic Characteristics of the Sample Respondents



A total of 4842 members of the public (sample respondents) were interviewed;

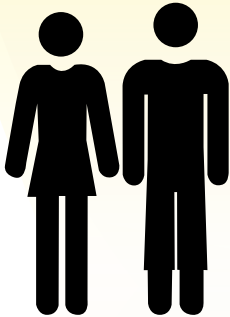
out of which →



(59.7%)
were male

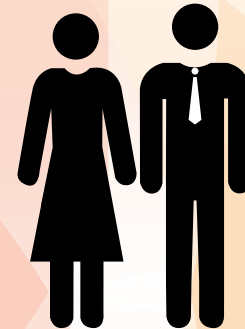


(40.2%)
were female



(59.1%)

were aged between 18 and 45 years
This points to a productive and reproductive segment of the population in Kenya



(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.



(93.6%)

had some form of education/literacy

(60.9%)

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



(37.5%)
Business



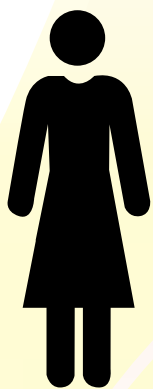
(23.2%)
Subsistence farming

This shows that most of the respondents were engaged in some income generating activity.

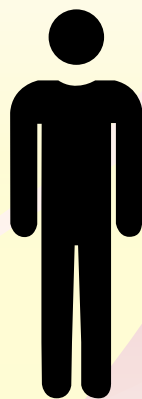
Table 3.1 shows the distribution of sample respondents across the various categories of the socio-demographic variables.

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

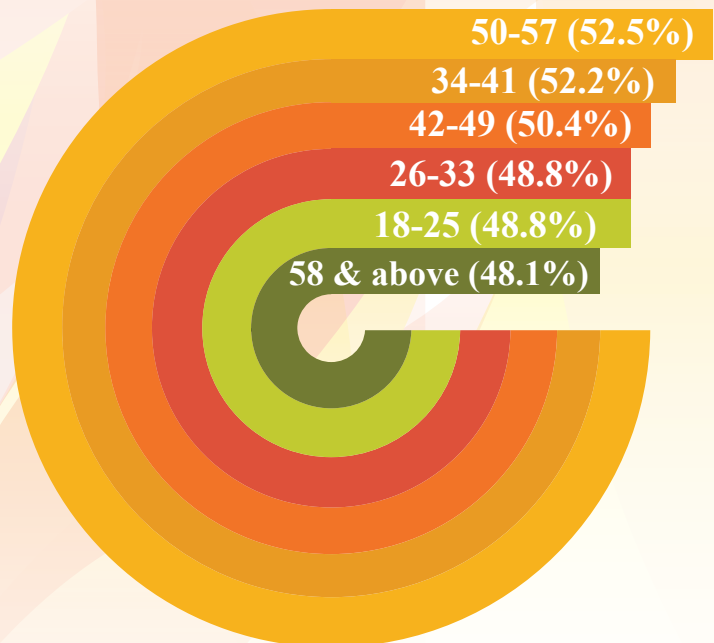
Criminal cases are lost by the Government to a large extent. Similar perspectives were also echoed by majority of those aged



(52.8%)
Males



(46.6%)
Females



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



(32.9%)

Robbery Cases



(31.5%)

Corruption/ Economic Crimes



(29.1%)

Murder



(18.9%)

rape



(10.0%)

Assaults



(5.3%)

Drug Trafficking



(11.7%)

Defilement



(5.1%)

sexual offenses
recorded a significantly
low conviction rate



(13.1%)

followed by robbery
with violence



(29.6%)

white collar offenses



(18.1%)

serious assault



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:

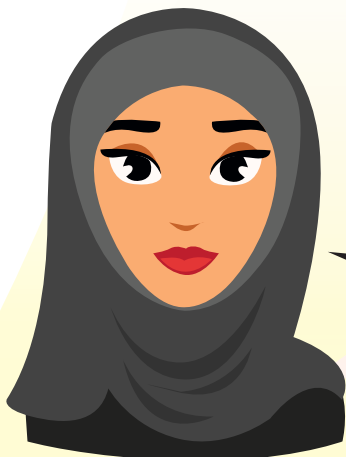


Mostly robbery cases the evidence will get lost and the complainant will be intimidated and will not appear in court, and the case will be lost.

(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).

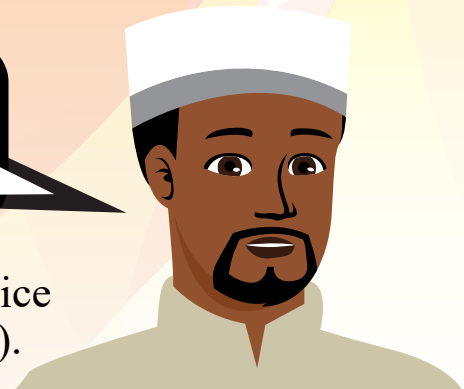


I have seen cases of defilement mostly lost because of lack of enough evidence; and witnesses also get compromised.

(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).



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.

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
(70.5%)
Males
(75.2%)
Females



Insufficient Evidence
Fear to testify in court
(21.6%)
Males
(18.7%)
Females



Witness Protection
(11.8%)
Males
(10.3%)
Females

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



(39.7%)

The police were accused as the main actors contributing Loss of Criminal cases in Law courts



(25.6%)

Magistrate / Judge



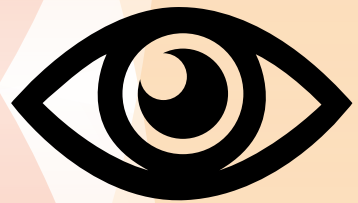
(10.0%)

Prosecutor



(6.2%)

Accused



(5.9%)

Witness



(5.1%)

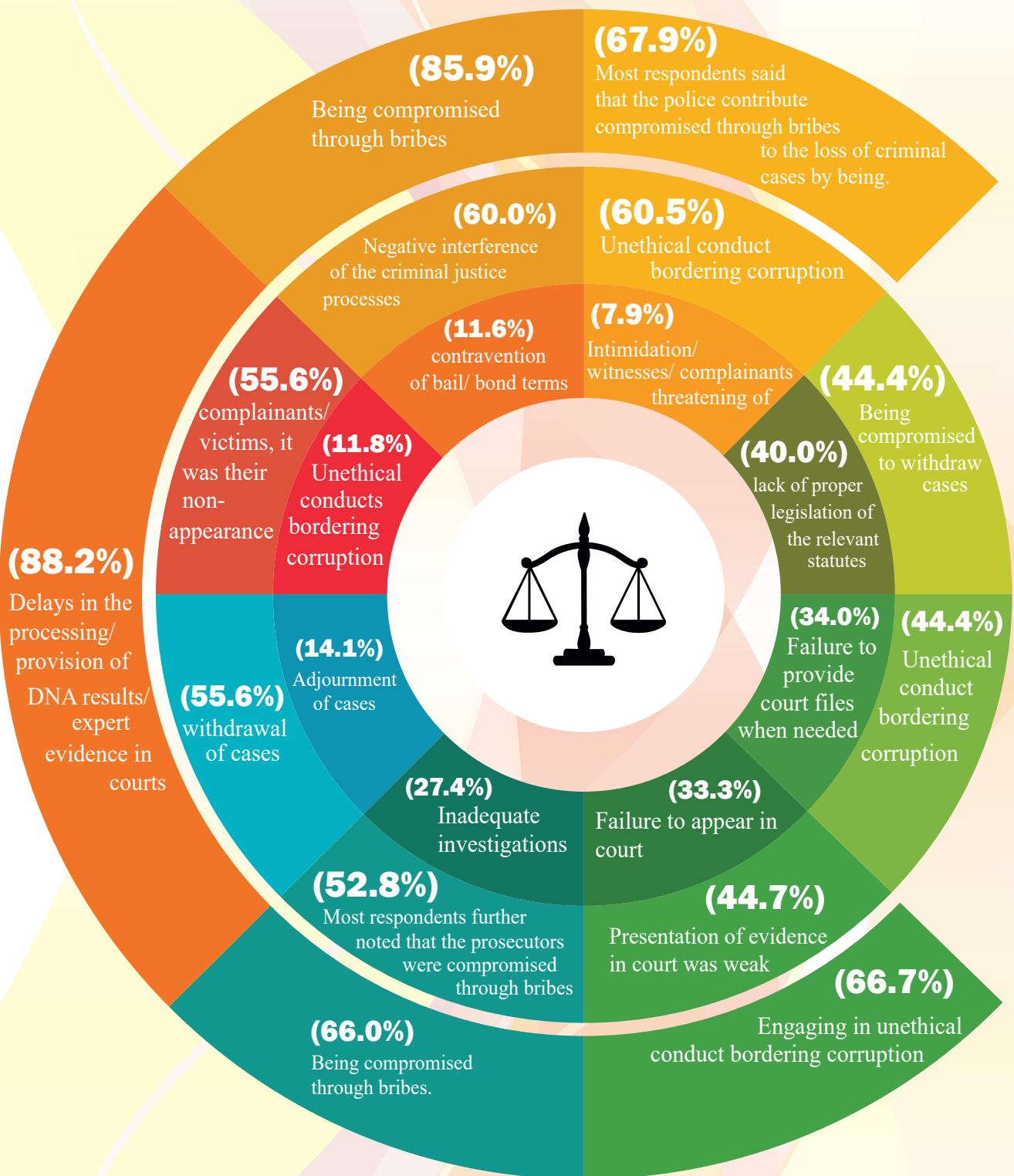
Defense Lawyer



(60%)

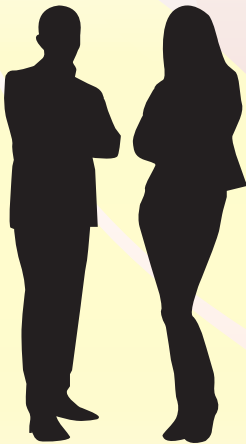
Similarly, most members of the public identified politicians as the **indirect parties** contributing to the Government's loss of criminal cases in law courts.

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



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

Interventions for Realizing Improved Conviction Rates in Kenya



(45.0%)

Most of them recommended adherence to professional ethics/curbing corruption by the criminal justice agents

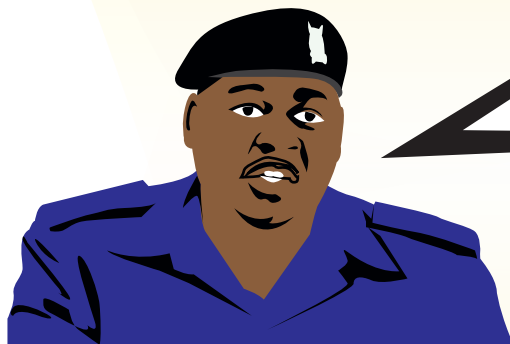
(27.3%)

Enforcement of the law fairly and equally to all

(17.0%)

The enhancement of the investigatory and prosecutorial agencies

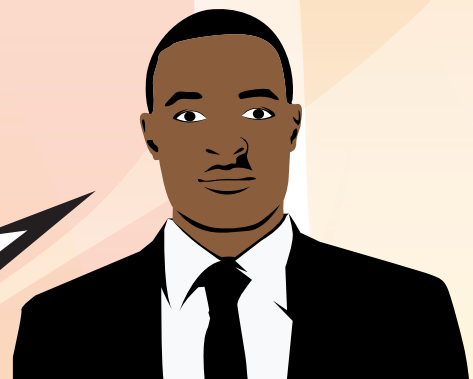
Some of the key informants gave the following suggestions:



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 work shops 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)

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.

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 high loss prevalence in court. The main crimes/offenses with 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.

RECOMMENDATIONS

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.