CRITICAL ANALYSIS OF IMPLEMENTATION OF THE JUSTICE LAW AND ORDER SECTOR POLICY OPTIONS ON ACCESS TO CRIMINAL JUSTICE FOR THE VULNERABLE IN UGANDA

BY

ONESMUS BITALIWO

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DECLARATION

I, **ONESMUS BITALIWO,** hereby declare to the best of my knowledge and understanding that this study is my original work and that it has never been submitted to any University, College or Institution of higher learning for any award, and that any sources of information are duly acknowledged.

Signed…… Date: …….

ONESMUS BITALIWO

APPROVAL

This is to certify that this dissertation has been submitted for examination with our approval as supervisors.

Signed Date 07.03.2020

Prof. PAUL JACKSON
University of Birmingham

Signed…… Date 07.03.2020

Dr. STELLA KYOHAIRWE
Uganda Management Institute

DEDICATION

This book is dedicated to the vulnerable who are in this case the prisoners. I have worked with you and felt the pain you go through in accessing justice and I hope that this piece of work will be picked up by implementers to change the status quo.

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TABLE OF CONTENTS

DECLARATION ii
APPROVAL iii
DEDICATION iv
ACKNOWLEDGEMENT v
TABLE OF CONTENTS vii
LIST OF FIGURES xi
LIST OF TABLES xi
LIST OF ABBREVIATIONS AND ACRONYMS xii
ABSTRACT xiv

CHAPTER ONE **1**
INTRODUCTION AND BACKGROUND 1
1.0 Introduction 1
1.1 Background to the Study 2
1.1.1 Historical background 2
1.1.1.1 History of criminal justice in Uganda 5
1.1.2 Theoretical background 10
1.1.3 Conceptual background 11
1.1.4 Contextual background 16
1.2 Statement of the Problem 21
1.3 General objective 22
1.3.1 Specific objectives 22
1.4 Research Questions 22
1.5 Analytical Framework 23
1.6 Scope of the Study 24
1.7 Justification of the Study 25
1.8 Significance of the Study 26
1.9 Limitations and Delimitations of the Study 26
1.10 Chapter Summary 27

CHAPTER TWO **28**
LITERATURE REVIEW 28
2.0 Introduction 28
2.1 Theoretical Review 28
2.1.1 Standards and objectives 30
2.1.2 Resources 30
2.1.3 Inter-organisational communication and enforcement activities 31

2.1.4 Economic, social and political conditions affecting the policy 32
2.1.5 Characteristics of the implementing agencies and disposition of implementers 33
2.2 Actual Literature Review 34
2.2.1 Overview of Uganda and its criminal justice system 34
2.2.2 Access to criminal justice 38
2.2.3 Institutional enforcement mechanisms for human rights in criminal justice 43
2.2.4 Rule of law and access to criminal justice 48
2.3 Conclusion 50

CHAPTER THREE **52**
METHODOLOGY 52
3.0 Introduction 52
3.1 The Philosophical Foundation of the Study 52
3.2 Research Design 54
3.3 Area of Study 54
3.4 Study Population 55
3.5 Sample Size 56
3.6 Sampling Techniques 58
3.7 Data Collection Methods and Instruments 59
3.7.1 In-depth key informant interviews (KIIs) 59
3.7.2 Focus group discussions (FGDs) 60
3.7.3 Document review 60
3.8 Data Quality Control 61
3.8.1 Dependability 61
3.8.2 Conformability 61
3.8.3 Reflexivity 62
3.9 Data Analysis Techniques and Interpretation 63
3.10 Dissemination Plan 63
3.11 Ethical Considerations 63
3.12 Chapter Summary 65

CHAPTER FOUR **66**
POLICY OPTIONS ON ACCESS TO CRIMINAL JUSTICE AND HOW
THEY FACILITATE THE VULNERABLE IN THE CRIMINAL JUSTICE PROCESS 66
4.0 Introduction 66
4.1 Completion of Registered Cases 66
4.1.1 Completion of registered cases from the rights perspective 67
4.1.2 Disposition or attitude of the implementers 69
4.1.3 Discretionary powers of judicial officers 70

4.1.4 Independence of prosecution from judiciary 71
4.1.5 First come, first served principle and systemic corruption 73
4.1.6 Unfairness in the judicial processes 75
4.2 Sector-wide delivery structure 76
4.2.1 Operating in silos 77
4.2.2 Leadership 79
4.2.3 The legal aid mechanism as a strategy for increasing access to criminal justice 81
4.3 Case Backlog Reduction 83
4.3.1 Plea bargaining 83
4.3.2 Detention prior to criminal investigations 85
4.3.3 Transaction lead times 87
4.4 Complaints Management 90
4.5 Completeness of the Justice, Law and Order Sector Chain of Services 92
4.6 Chapter Summary 93

CHAPTER FIVE **96**
INSTITUTIONAL ENFORCEMENT MECHANISMS IN THE REALISATION OF HUMAN RIGHTS 96
5.0 Introduction 96
5.1 Observance of Human Rights in the Criminal Justice Process 96
5.1.1 Human rights awareness practices in the criminal justice institutions 97
5.1.2 Constraints on building staff capacity human rights-based approach 100
5.1.3 Practices for upholding human rights 102
5.1.4 The inspection function across the sector 106
5.2 Chapter Summary 109

CHAPTER SIX **111**
APPLICATION OF POLICY OPTIONS OF THE RULE OF LAW IN THE CRIMINAL JUSTICE PROCESS 111
6.0 Introduction 111
6.1 Certainty of the Law and Procedures 112
6.2 Enforcement of Laws 115
6.2.1 Partnerships with civil society in the enforcement of laws 119
6.3 Harmonisation of Administrative Service Delivery Standards 122
6.4 The Independence of Justice, Law and Order Sector Institutions 124
6.5 Chapter Summary 126

CHAPTER SEVEN **129**
SYNTHESIS OF STUDY FINDINGS 129

7.0 Introduction 129
7.1 Policy Options on Access to Criminal Justice for the Vulnerable 129
7.2 Institutional Enforcement Mechanisms in the Realisation of Human Rights 133
7.3 Application of Policy Options of the Rule of Law in the Criminal Justice Process 134
7.4 Analytical Foundation for Appraisal of Policy Frameworks on Access to Criminal Justice in the Justice, Law and Order Sector 134
7.5 Contribution to New Knowledge 135
7.5.1 Proposed JLOS Ennead model for policy implementation 142
7.6 Conclusions 143
7.6.1 Policy options on access to justice by the vulnerable in the criminal justice process 144
7.6.2 Institutional enforcement mechanisms in the realisation of human rights 145
7.6.3 Policy options and the rule of law as applied in the criminal justice process 146
7.7 Policy Implications of the Study and Areas for Future Research 147
7.7.1 Implications for policy reform 147
7.7.2 Implications for further studies on policy framework for access to criminal justice 149
7.8 Limitations of the Study 150

REFERENCES 151
APPENDICES 166
APPENDIX I: INTERVIEW SCHEDULE FOR JLOS STAFF (POLICE, PRISONS, DPP AND JUDICIAL OFFICERS) 166
APPENDIX II: INTERVIEW SCHEDULE FOR JLOS CRIMINAL WORKING GROUP. 171
APPENDIX III: FOCUS GROUP DISCUSSION QUESTIONNAIRE FOR PRISONERS ACCESS TO CRIMINAL JUSTICE IN CRIMINAL LITIGATION 172
APPENDIX IV: UMI RESEARCH LETTER 175
APPENDIX V: INFORMED CONSENT FORM FOR MAGISTRATES 176
APPENDIX VI: INFORMED CONSENT FORM FOR POLICE OFFICERS 180
APPENDIX VII: INFORMED CONSENT FORM FOR PRISON OFFICERS 184
APPENDIX VIII: INFORMED CONSENT FORM FOR PRISONERS 188
APPENDIX IX: INFORMED CONSENT FORM FOR STATE ATTORNEYS 192
APPENDIX X: MAKERERE UNIVERSITY LETTER 196
APPENDIX XI: UGANDA NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY LETTER 198
APPENDIX XII: INFORMED CONSENT FORM FOR JLOS TECHNICAL ADVISORS 200
APPENDIX XIII: WORK PLAN 204
APPENDIX XIV: LIST OF RESPONDENTS 205

LIST OF FIGURES

Figure 1: Analytical Framework 23
Figure 2: Coordination and Sectoral Collaborations in Justice, Law and Order Sector 77
Figure 3: Ennead Model for Policy Implementation 144

LIST OF TABLES

Table 1: Categories of Key Informants 58
Table 2: Focus Group Discussion Sample Framework 58

LIST OF ABBREVIATIONS AND ACRONYMS

CADER	Centre for Arbitration and Dispute Resolution
DANIDA	Danish International Development Agency
DCIC	Directorate of Citizenship and Immigration Control
DFID	Department for International Development
DPP	Directorate of Public Prosecutions
DPs	Donor Partners
EU	European Union
FGD	Focus Group Discussion
GDP	Gross Domestic Product
GoU	Government of Uganda
JGLOS	Justice, Governance, Law and Order Sector
JSC	Judicial Service Commission
LASPNET	Legal Aid Service Providers' Network
LDC	Law Development Centre
MIA	Ministry of Internal Affairs
MoFPED	Ministry of Finance, Planning and Economic Development
MoGLSD	Ministry of Gender, Labour and Social Development
MOJCA	Ministry of Justice and Constitutional Affairs
MoLG	Ministry of Local Government
MoPS	Ministry of Public Service
MTEF	Medium-Term Economic Framework
NEPAD	New Economic Partnership for African Development
NGO	Non-Governmental Organisation
NIRA	National Identification Registration Authority
NPA	National Development Plan
NRM	National Resistance Movement
OHCHR	Office of the High Commissioner for Human Rights
PEAP	Poverty Eradication Action Plan
SIP	Sector Investment Plan
SLT	Structure Laying Technique
SWAP	Sector Wide Approach
TAT	Tax Appeals Tribunal
UBOS	Uganda Bureau of Statistics

UHRC	Uganda Human Rights Commission
ULRC	Uganda Law Reform Commission
ULS	Uganda Law Society
UN	United Nations
UN Women	United Nations Women
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UPF	Uganda Police Force
UPS	Uganda Prisons Service
URSB	Uganda Registration Services Bureau
USAID	The United States Agency for International Development

ABSTRACT

The study set out to assess the implementation of the Justice, Law and Order Sector Policy framework and the extent to which the Justice, Law and Order Sector policy options enhanced access to criminal justice for the vulnerable in Uganda. The objectives were to critically analyse the policy options on access to criminal justice, to examine the extent to which institutional enforcement mechanisms facilitated and/or hindered the realisation of human rights, and to examine the policy options on the rule of law and how they were applied in the criminal justice process. The study covered the Kampala Metropolitan area and the south-western part of Uganda, particularly Bushenyi and Mbarara districts. Guided by the Meter and Horn policy implementation model, the study employed qualitative methods which rhymed with the ontological aspects of the study, with a philosophical underpinning of social constructivism. The study population included selected officials from Justice, Law and Order Sector partners, including the Police, Judiciary, Director of Public Prosecutions and the Prisons Service, in addition to inmates. The thesis noted that judicial discretion has not been clearly defined in the laws, that there was a challenge of effective communication in human rights awareness creation and that capacity-building lacked a knowledge-sharing practice which best fits one context. The study presented the gap between policy and practice in the application of the rule of law in the administration of criminal justice in Uganda. It demonstrated that the extant policy and legislation fall short of the constitutional standards and are, therefore, not well suited to deliver criminal justice for the vulnerable. The findings of this study provide that the policy options and strategies fall short of addressing the levels of vulnerability and this makes it difficult for the poor to access services. In this thesis, the researcher presents the Ennead model of policy implementation, which is based on the constructs of the Meter and Horn policy implementation model, to address the systemic challenges faced in the implementation of the Justice, Law and Order Sector framework in the criminal justice process for the vulnerable.

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.0 Introduction

Access to criminal justice has demonstrably become one of the seriously embattled and questioned issues in public administration (Letich, 2013). There is growing theoretical discourse over its significance, its objectives as well as its achievements. Lately, the focus has been on measuring the impact and effectiveness of various interventions meant to improve an individuals' ability to access criminal justice. With growing trends towards experimental studies in policy, there are renewed attempts within the access to criminal justice scope to develop a more convincing and compelling practice by which the different initiatives can be evaluated (ibid).

During the pre-colonial era, the criminal justice system was constituted by unwritten norms, values and beliefs referred to as customary law, which was underpinned by morality. Its administration varied according to the sociocultural, political and judicial organisational set-up. This ranged from the highly centralized kingdoms like Buganda, Bunyoro, Toro and Busoga, among others, to segmentary societies like the Basamia, lteso and Banyole (Namakula, 2015).

When Uganda was declared a British Protectorate on 18 June 1894, the advent of colonialism transformed the criminal justice system under Orders in Council, which legislation was under the jurisdiction of the British Crown. Under this system, Orders in Council authorized the establishment of local jurisdiction where considerable powers, which ranged from executive to judicial and administrative functions, were vested in its representative. In the same vein, a consular court guided by English law was established to administer criminal justice (Namakula, ibid).

In the immediate post-independence era after 9 October 1962, the Independence Act and the Constitution of Uganda 1962 came into force. Detailed legal provisions which guaranteed the observance and safeguard of individual freedoms and fundamental rights and standards for criminal law, criminal procedure and punishment were established.

The Judiciary operated as a separate entity even during the early years of the National Resistance Movement era (K2 consult, 2002). The systemic and comprehensive reform of 1999 resulted in the development of a Medium-Term Strategic Investment Plan (SIP) which was aligned with the Poverty Eradication Action Plan (World Bank report, 2009). Operationalisation of the Strategic Investment Plan demanded the emergence or inorganic configuration of the Justice Law and Order Sector (JLOS). The sector had structures constituted by the different institutions (elaborated in the next section) where the operations of the criminal justice system manifest. This study sought to assess the policy implementation gaps with respect to human rights practice, the rule of law and the policy options in relation to access to criminal justice by the vulnerable. It should be noted that the effectiveness of the criminal justice process in addressing access to criminal justice by the vulnerable can best be assessed within the wider JLOS reforms on which this study was premised.

This study is located within the public policy realm under the Justice, law and order sector. The study is organised in seven chapters. Chapter One has the introduction, background, study objectives and research questions, significance and justification as well as the scope of the study. Chapter Two details the gaps identified through a literature review and was the basis for the study. The third chapter provides insights into the research methodology. Chapters Four, Five and Six discuss the study findings. The last chapter provides a synthesis of the findings, the policy implications, and the contribution of the study to scientific knowledge, the conclusion and the recommendations.

1.1 Background to the Study

1.1.1 Historical background

In the 16th century, Roman law was largely practiced in Europe and is still widely applies across most countries and, to some extent, providing a foundation for criminal justice in many jurisdictions across the European continent (Nwankwo, 2010). The English legal system, which evolved along its peculiar path in analogous with what was going on in continental Europe, dominated common law.

Over time, new reforms to punishment, offender and victim rights and in police started taking place, culminating in the contemporary criminal justice system. The changing political ideals, economic conditions and customs were a reflection of these developments

(Jeffery, 1990). From prehistoric times through the medieval ages, punishments came in the form of exile or wergild which was a kind of payment to the aggrieved party. This was mainly linked to offences like robbery, murder or manslaughter. Failure to pay for the crime meant being subjected to harsh terms like mutilation, branding, and being burying alive as well as corporal punishment, among others. Even when prisons existed, they were not widely used until the 19th century. These forms of punishment started receiving contestation, especially under pressure from the Quakers. By the turn of the 17th century, correctional reform was initiated in the United States, with prisons substituting physical reprimand and other inhuman types of penalties. This approach resulted into significant decline in Pennsylvania's infraction rate (Nwankwo, 2010).

The criminal justice system growth and development pathway was context specific. In the United States for example, the 1967 President's Commission, released a landmark report named *The Challenge of Crime in a Free Society*, and this was the basis upon which the criminal justice policy administration of justice and law enforcement was premised. The report floated over two hundred propositions as integral to a versatile strategy to the prevention and combating of crime. A number of these strategies were adopted under the Omnibus Crime Control and Safe Streets Act of 1968. The commission fronted a multifaceted 'systems' strategy to criminal justice, with enhanced and synchronization management of law enforcement agencies as well as courts and correctional institutions. The President's Commission conceptualized the criminal justice system as one of the strategies for citizens to enforce the principles or standards of behavior essential to protection of individuals and the society at large (Nwankwo, 2010).

The United Kingdom criminal justice system was purposefully designed to minimize felonies by presenting criminals to the judicial system, and to create societal faith in the system and construe it as fair and able to deliver justice to the conformable citizens. The criminal justice system in Canada was designed harmonize the goals of crime prevention, control and justice with a focus on individual rights protection, fairness and equity. In Sweden, the criminal justice system had crime reduction and increasing the security of the citizens as its goal.

Much of contemporary sub-Saharan Africa has criminal justice systems that resonate with those of their former colonial master. Indeed, the most of the state institutions in these countries trace their foundation to those of their colonial rulers and as such manifest

even in the current world order. Colonial masters obligated these institutions in their areas of jurisdiction for the primary purpose of serving their interest in a bid to entrench their control within large populations but with relatively fewer administrators. In the British-administered sub-Saharan Africa, the criminal justice systems were preoccupies primarily with law and order maintenance; prison terms were underpinned by the principles of revenge and general crime prevention. There was a marked disinclination towards integrating existing customary approaches of compensation and repayment (Coldman, 2000).

Consequently, the punitive measures used by Britain were henceforth imposed on her African colonies, and the extent of local customary criminal justice was formally subdued. Along this emerged the dichotomy between civil and criminal justice systems and law. The introduction of these two facets of law tended to conflict with the locally established legal principles as manifested in the different sub-Saharan Africa societies. Whereas the British criminal justice system had been build around the individual behaviours and as such sought to control how one behaved when segregated from their communities. The African customary laws comprised all different rules of individual conduct and these created harmony among individuals and society at large. The system sustained societal equilibrium necessary for its sustenance as a total whole. The laws of African societies were based on individualistic presumptions whereas those of the Europeans were underpinned by the concept of the collective (Dreiberg, 1934). Consequently, rather than the law operating positively through putting across guidelines on what is permissible or not, it was perceived with negativity where issuance of instructions on how not to act was the norm rather than the exception. Likewise, the countries in sub-Saharan African that were under the French rule introduced laws that individualized the understanding of the law. The disparity between French and British legal systems of criminal justice was entrenched in their procedural processes. While the British system presented as adversarial and rather confrontational with advocates for Crown and defense presenting their cases to the judge and jury or judicial officers, the French system was more analytical or at most, inquisitorial. In this case, the judges took on the role of evidence gathering and interrogating witnesses in a bid to establish the truth (Joireman, 2001).

Upon getting independence, most African countries did not pay attention to reforming the inherited legal systems but rather did more of further entrenching them within their

institutions. They for example they replaced the dual court systems with the seemingly advanced codified system which either outlawed customary courts or incorporated them into the bottom stair of the judicial hierarchy. In some sub-Saharan African countries, criminal justice systems noticeably preserved conformity with not only the basic tenets of British law, but also its understanding and interpretation (Read, 1963). As one of the British colonies, Uganda inevitably did not change much in terms of form and content of its criminal justice system, even with that transition.

1.1.1.1 History of criminal justice in Uganda

Pre-colonial criminal justice

Uganda is constituted by many cultures and tribes with differing degrees of political and judicial organisation, ranging from centralized kingdoms to segmentary societies like Buganda, Ankole, Bunyoro and Busoga, among others. As an illustration, this study draws upon the history of criminal justice in the Buganda Kingdom, given the colonial institutions and foundation upon which the system thrived.

Traditional justice in Buganda was characterized norms and customs as well as native regulations determined by the society's forefathers with a view to ensuring societal law and order. The norms, customs and regulations were known to society and everyone cautiously followed them. These were in respect to the gods and any violation would amount to a crime against the gods, the traditional leader and the community at large. In order to repair the damage, the heads of the household, leaders of different clans and elders ensured that any violation of the norms received due sanctions. These punishments were the basis for restitution, appeasement and rehabilitation of the offender and in general, the community. *Embuga* was the nomenclature for the Buganda customary judicial system responsible for ensuring societal law and order and it operated at two different levels (Lamony, 2007).

Within the first level, the *Embuga* had its jurisdiction at the family presided over by the household head to manage conflicts or disputes. The husband was traditionally the head of *Embuga* in Buganda. b) At the village level, chief presided over any disputes. However, at the village sub-level, the *Mutuba* which was part of the lineage structures provided jurisprudence (Lamony, ibid).

In the second level, the structures provided an appellate mechanism for dissatisfied

individuals. The structure heads were appointees of the *Kabaka* and as such, were akin to his servants. These structures included the *Muluka* headed by a *Muluka* chief, and the *Mutongole* headed by a *Mutongole* chief. The *Muluka* can be equated to a parish in the Uganda's local government structures. The next level was the *Gombolola* which can be equivalent to a sub-county and was headed by a *Gombolola* or sub-county chief. Above this level was the *Saza* akin to a county and presided over by the *Saza* chief. The next level was the *Katikkiro* of Buganda equivalent to the Prime Minister in Uganda. Even to date, he is the next to the *Kabaka* in the authority hierarchy hest appellate structure and his decisions were final. He presented jointly as the court of appeal and the Supreme Court (Lamony, ibid).

The *Embuga's* jurisdiction was limited to cases such as murder, violations of taboos, rape, incest, witchcraft and suicide, among others. These attracted punishments such as caning, doing community work, expulsion from the village, and in cases of murder, the affected family would in compensation be awarded a boy or girl of choice as a slave or wife respectively from the offending family. This was in addition to cleansing rituals carried out on the killer. In some instances, the killer would be executed as a form of revenge or sometimes expelled from the community. As discussed above, the traditional justice system focused more on the interests of the aggrieved and ensured that they were dully compensated while the offender was rehabilitated or punished (Lamony, ibid).

Colonial era

On assumption of control of Uganda by the British, they first took on the traditional judicial system which primarily used the local customary law. They took recognized the jurisprudence of 'native courts' for the local communities especially for offences that were not capital in nature (Hone, 1939). Gradually, the imposed the British jurisprudence and even attempted to codify the existing tribal courts by recognizing the powers of local leaders within their jurisdictions. In the more developed kingdoms of Buganda, Ankole, Bunyoro and Toro which had more organized judicial systems, the hierarchical structure of authority was acknowledged. This included the appellate arrangements from the lower courts to ultimate authority under the kingship. The serious cases, appeals were made to the colonial high courts where death sentences were passed with no reference made to the British commissioner. In the non-treaty areas, the colonial courts supervised the native courts and the extent of independence possessed by each court

largely relied on the perceptions of the colonial master about the level of development of the judicial systems at the time. Where maximum punishments had to be mated, appeals were accepted by the colonial masters as a way of acknowledging the works of the lower indigenous courts.

Available literature shows that several elders and chiefs exercised their authority with support from the colonial masters and thus managed courts of various grades on their behalf (Morris, 1967). In practice, these were village courts manned by clan or elders which settled most of the cases presented to them with rare appeals along the hierarchy. The acknowledgment of indigenous courts was founded on the notion that the powers inherent within the traditional leaders could be harnessed by the colonial master to weaken the kingdom structure through a slow but protracted manner. In areas where these structures were absent, the colonial master did not make any efforts to establish them but rather put them under direct colonial administration. It should be noted that the jurisdiction of the indigenous courts only extended to their ethnic groups and as such, the law was more tribal than cosmopolitan. In essence, it did not take into account the multi-ethnicity of the traditional African set ups thus forcing minority ethnic groups to get subdued by the practices and culture of the dominant ones who exercised and enjoyed legislative, judicial, executive as well as administrative powers (Mamdani, 2001).

Right from inception of the colonization process, the architectures endeavored to operate a dual system which comprised of the indigenous and regular courts to run a more sanitized but colonially tailored customary law and British law. The judicial system was therefore restrictive in terms of its ability to expand due to the dual system. As alluded to earlier, the judicial system lacked uniformity because it was specific for a given territory. This kind of practice was short of the basic ingredients of an effective judicial system at that time thus creating access and funding constraints that would in turn demand redress. This, in essence resulted into a form of judicial system that was not familiar to the local populace thus making the access to justice quite challenging for the local people (Jjuuko, 2004).

Post-independence (1962-1986)

The immediate post independence period witnessed increasing control of the justice institutions by government, which gradually assumed most of the financing responsibilities for the sector as well as the deciding on the policy priorities. Despite the

efforts made to expand the justice sector, to a great extent, government preserved the colonial judicial strategies with respect to the dual justice system (Simon, 2010). The resultant system comprised of the High Court, which attended to capital offences that were punishable by life imprisonment or death. The subordinate courts tried cases of crimes that were punishable by shorter imprisonment terms or those that required fines or corporal punishment like whipping. The magistrates' court decisions were appealable to the High Court and all courts had the dispensation of making 'competent verdicts', in which case a person accused of one criminal offence could as well be convicted of a minor and related offence (Adonyo, 2010). The Director of Public Prosecutions, who was a presidential appointee, was responsible for prosecuting criminal cases. The Director of Public Prosecutions initiated and carried out criminal proceedings over and above courts-martial under the Attorney General's direction. The Director of Public Prosecutions had the mandate to appoint a public prosecutor for a given case. In some instances, a police officer acted as the prosecutor while the Director of Public Prosecutions reviewed and made comments on the trial processes (Adonyo, ibid).

The legal system discussed above literarily broke down during Amin's rule in the 1970 partly because he undermined the judicial system especially in situations where it attempted to go up against his wishes. For example, around March 1971 when Amin authorized the security forces to carry out acts of 'search and arrest', they took advantage of this decree to subdue political opponents. The courts were further hindered from making verdicts against the security agents via a second decree which granted immunity from prosecution to government officials. Amin therefore gave rise to a reign of terror on the very civilian population he was supposed to protect which lasted for about eight years. The act of absolving soldiers and police of any legal accountability gave rise to a reign of terror characterized by many extrajudicial killings.

National Resistance Movement era (1986 – to date)

This regime was characterized by a revolutionary leadership where a new constitution was introduced. Although it was widely celebrated about its initial dramatic effects on access to justice, it has hitherto has failed to sustain the drive in the long term. The 1995 Constitution redirected its emphasis on access to justice and observance of human rights for all persons as central to the governance system and observance of constitutionalism (World Bank report, 2009). By 2000, there was increased enrolment

within the criminal justice sector. The Police Force had 15,041 personnel against the established 25,160, the Director of Public Prosecutions had a total of 30 state attorneys, 73 state prosecutors, 19 state prosecutors on clerkship, and the Judiciary had 19 High Court judges, 19 chief magistrates, 24 grade one magistrates, 58 grade two magistrates, while the Prisons Service had 2,397 personnel against an approved establishment of 8,090 staff (K2 Consult, 2002), Much as this enrolment was undertaken, there were also unforeseen consequences in the form of unmanageably large area coverage by these personnel, resulting in congestion in prisons, case backlog and inadequate infrastructure in an attempt to meet the demand side (K2 consult, 2002).

The impact of the new constitution not only pressurized the criminal justice system which had hitherto received limited attention over a long time, but pressure was extended to other sectors. Challenges came up from the inability of the designed or existing sector plans to address the major policy strategies and translated them into practical goals at the implementation level (World Bank, 2004). While the Ugandan context ought to have anticipated and prepared for these new developments more elaborately in view of the subsequent consequences, the facts was that the funding gaps constrained implementation of the new initiatives. This resulted into an even greater demand and overreliance on donor funding to actualize the sector policy imperatives.

Following these events, in November 1999, a team of high-level decision and policy makers in the judiciary and other law institutions met and discussed an elaborate and comprehensive policy reform agenda for the sector. It is during this meeting (‘Mamba Point Meeting’) where a decision was made to adopt the sector-wide approach as a strategy for instituting reforms in the justice sector. To this end, a Medium-Term Strategic Investment Plan aligned to the Poverty Eradication Action Plan was developed thus giving birth to JLOS (World Bank report, 2009). Development of JLOS aimed at formulating a long-term justice sector development strategy and establish a set of defines policy priorities that would be used to guide any donor support while facilitating a systematic approach to sector investments (Policy and Investment Framework, 1999). The NRM era thus gave birth to an invigorated JLOS to spearhead observance of constitutionalism in the country, a strategy that was characterized by a wider expansion of the sector, with the development partners playing a critical part in supporting the policy direction (JLOS, 2014).

1.1.2 Theoretical background

Scholars advise that theory is important in research for providing a plan and fundamental postulations; and it is a way of ascertaining, generating, reinforcing and modifying a theory (Amin, 2005; Kawulich, 2009). Theories describe and explain social phenomena, recapitulate and systematize facts in a particular discipline and are exposed to testing, readjustment or revision. In policy implementation, there has been lack of grand theory to provide a comprehensive analysis of the processes and outcomes of public policies (Goggin et al. 1990; Khan, 2016). However, over time, different theoretical streams have been developed, including the bottom-up or top-down policy operationalization theory (Stewart et al. 2008). As an essential stage of policy progression, implementation is critical for policy success. Public officials play a crucial role and have expensive views of the long-term effects of the policy.

In this study, the top-down and bottom-up policy implementation theory was used to analyze the policy options on access to criminal justice for the vulnerable under JLOS (Stewart et al. 2008). Furthermore, the study analyzed how Justice, Law and Order Sector officials, including bureaucrats, viewed criminal justice policy interventions and the challenges thereof. The researcher thus presents that access to criminal justice exhibits the top-down and bottom-up theoretical stream paradox (Stewart et al. 2008). In particular, government propounds the notion that policy implementation should take the top-down approach while local authorities where policy action takes place, on the other hand, stand for the bottom-up strategy.

In this study, the researcher adopted the bottom-up and top-down theories within the Meter and Horn (1975) policy implementation model as the basis for analysing access to criminal justice in Uganda. The model postulates that in order for a policy to succeed, there are key elements that should be incorporated. These include resources for policy implementation, the standards and objectives, inter-organisational communication as well as the enforcement mechanisms, socioeconomic and political conditions that affect the policy, characteristics of the implementing agencies and the disposition of implementers. In this study, the JLOS policy framework was considered as the option. The notion of the policy framework presupposes that JLOS institutions agreed to establish a particular sectoral structure complete with its policy, legal and organisational frameworks to which they submit and owe obedience by virtue of its legitimacy (Edroma, 2005).

1.1.3 Conceptual background

This section explores the meaning and essence of key concepts as generally understood in the context of this study. It explains the coverage and meaning of the policy, concepts of justice, criminal justice and access to justice. All the reviewed literature tended to characterize policies in a related way, although some critics have tended to adopt descriptive stance due divergent conceptualization of the differences between theory and the actual practice. The principles of the JLOS policy framework includes the following: 1) fostering the culture of integrating human rights across the sector institutions; 2) promotion of the rule of law; 3) ensuring access to justice for the entire population irrespective of their differences but with more focus on the vulnerable individuals (a category of the population whose ability to access to justice is constrained by poverty, resources and knowledge, age, gender related barriers and powerlessness. Many of these include the minority groups, refugees, the internally displaced persons, suspects and prisoners, children, people living with HIV and those with disabilities); 4) reviewing the related legislation that were discriminatory; 5) facilitating reduction in crime incidence especially serious crime; 6) supporting the concept of crime prevention and enforcement; 7) facilitating community voices; and 8) active community participation across the JLOS institutions while strengthening the different structures related to commercial justice, especially at community level (SIP1, 2001).

It may be argued, therefore, that the realization of access to criminal justice as a result of the JLOS policy framework depends upon the maintenance of the above variables (Meter & Horn, 1975). This study argues that equitable access to criminal justice and effective remedies in a democratic state facilitates the enjoyment by everyone of their entitlements and the advantages of social life and is, therefore, a requisite component of those basic standards and values on which social order and good governance are founded. However, the reasons for access to criminal justice from the theoretical perspective above may not be translated into institutional approaches in some peculiar contexts, such as differing mandates of the criminal justice agencies. Contexts, as such, require pragmatic innovation and contextual harmonization of the theory to address the forms, processes and proportions of Justice, Law and Order Sector policies.

Policy definitions

Policy can be defined as the formulation of prescriptions, norms and rules aimed at governing the government decisions and actions (Richard & Baldwin, 1976). Brooks (1989), on the other hand, defines policy as a wider construction of thoughts and principles within which institutions make decisions and actions, or otherwise. These are tracked by governments in a bid to address a public challenge or problem. Policy can be an expression of commitment by government to a course of action which has been agreed upon by stakeholders with the power to execute it (Dodd & Michelle, 2000). Furthermore, in addition to providing broad guidance on an institution's current and anticipated decisions identified in view of given problem identified from a set of alternatives, it is the set of concrete decisions that are designed to actualize selected course of actions that matters most. It is also a reflection of the projected programmatic consideration of the desired objectives or goal and the strategies for achieving them especially when the government decides so (Daneke & Steiss, 1978; Dye, 1972).

Consequently, the researcher constructs that policy as the wider statements of intent that are followed to address an identified problem. In the case of criminal justice, it is the statement of intents followed by the JLOS institutions to address the challenges inherent in access to criminal justice. The translation of prescriptions, norms and rules into actions that address the intended beneficiary needs and the processes adopted provide an operational definition of policy implementation. The institutions that constituted the criminal justice sector had to develop plans and implement the strategies of JLOS depending on the context and content of the sector policy.

The concept of justice

According to Schmidtz (2006), what is due to people is a question of justice. However, that depends on how the question is contextually raised (Schmidtz, 2006). The principles of desert, reciprocity, equality or need are answered depending on the context by the formal question of what people are due. Schmidtz further argues that the notion of justice is exhibited by a degree of integration and unity as a result of a constellation of elements. Nonetheless, the neighbourhood's integrity rather than that of a building is akin to the limitation of the integrity of justice (Laibuta, 2012). Schmidtz' neighbourhood of justice enjoys the support of other theorists who view justice in the broad sense of a continuum of principles. As rightly observed by Ngondi (2006), the notion of justice should be

viewed as a continuum of principles and values rather than an end in itself. This study shares Ngondi's perception of justice as engendered and compounded in a range of widely acknowledged principles, verifiable values and factual situations, a few of which may be briefly outlined as (a) the endowment and recognition of an individual's rights at law, and the determination of a proper balance between competing claims; (b) the right to seek protection and vindication of those rights by full and equal access to law; (c) the equal protection of rights for all by law without discrimination; (d) the right to corrective and restorative redress for violation of one's rights and guaranteed security of effective remedies; (e) the full and equal access to all judicial services in a bid to protect those rights, and the respectful, fair, impartial and expeditious disposal of claims by national tribunals; and (f) the right to equal and humane treatment of all individuals in the enforcement of law (Ngondi, 2006). To address Ngondi's concerns, the JLOS policy framework under its human rights and accountability objective deals with the above concerns, with the outcome indicator being reduced incidence of human rights abuse/ violations (Sserumaga, 2003).

Criminal justice

For this study, the term criminal justice refers to the disposal of criminal cases in both fairness of process and outcomes, and this denotes addressing justiciable issues with effective remedies (Mason et al., 2006). The consideration of justiciable issues is based on those problems within the civil and/or criminal framework for which there is a potential remedy legally and is only attainable in a criminal justice system where the parties have equal access to the system. However, the effectiveness and efficiency of the legal process in pursuit of remedies may be hindered and affected by many factors. Mason et al. (2006) identify these factors as ignorance of the law or unknown justifiable problems; low awareness of the source and available advice; inadequate assistance to justifiable problems or incompetent legal representation; the sought nature of legal rights and remedies; the institutional and legal framework of the judicial mechanisms; the judge's attitudes and staff of court; and the party's skills, resources, expertise and incentives (Mason et al., 2006). The JLOS framework offers a window to address the above challenges through providing resources, working closely with the demand and supply points and also developing standard operating procedures within which JLOS staff function.

The structure of the criminal justice system is of particular interest to this study because it operationalizes the JLOS policy framework and, if implemented well, there is a big likelihood that access to criminal justice will be efficient and effective. It must be acknowledged that barriers to justice are not restricted only to the judicial system but are part of a larger problem disadvantaged by economics (Laibuta, 2012). Likewise, the mere provision by national tribunals of judicial services in the quest for access to criminal justice should not be treated as an end in itself.

Vulnerable

For purposes of this study, JLOS considers the vulnerable as a category of the population whose ability to access to justice is constrained by poverty, resources and knowledge, age, gender related barriers and powerlessness. These include the minority populations, internally displaced persons, refugees and migrants; prisoners and suspects, children, people living with HIV and disabled persons (JLOS SIP III, 2012). The study restricted itself to only suspects and prisoners.

Access to justice

From the legal perspective, justice is a derivative of the law itself and is considered as one of its attributes (WALSA, 2000). It refers to a set of standards of rights put in place of defined through procedural and substantive law and enforceable by defined institutions responsible for justice delivery in a given state which has the cardinal responsibility for observance and protection of those rights. The legal justice is expected to mirror the local aspirations and social ideals of the society if it is to gain due legitimacy and enforceability. Practically, the two categories of justice are supposed to mutually reinforce one another where the law enhances the protection and promotion societal rights and as such, social justice from which the former derives its legitimacy. This provides the basis upon which other components and forms of justice, including security and safety, political and economic justice are premised.

In this study, the notion of accessing justice was mainly concerned with undue delay, expense or technicalities of law enforcement agencies in the realization of one's full rights and entitlement as far as protection and equal access is concerned. These are all concerns of the policy framework and are duly provided for. Presupposed are legal aid schemes aimed at guaranteeing access for the poor amid questions about actors. The costs involved and situations that warrant adoption of legal aid services, the ease

with which entry into the criminal justice system is enhanced and the existing judicial institutions with sufficient mechanisms of routine dispute resolution mechanisms; pre-trial procedures that have less resource demands and process of arbitration in civil claims; reasonable legal fees in the settlement of criminal cases; the equitability and efficiency principle; a legal environment and cultural environment that are conducive to the speedy processing of legal decisions and claims and judicious enforcement (Ngondi, 2006).

These basic elements of fair trial are prescribed in the 1995 Uganda Constitution under Article 28 (which guarantees a fair hearing by providing for the securing of the protection of the law more substantively in criminal trials) and in the Covenant which internationally recognizes civil and political rights. This extends the principle of fair trial to civil/criminal proceedings by demanding equal treatment of all persons in the determination of their rights and obligations before courts or tribunals. One of the basic components of access to criminal justice is a fair trial, which is guaranteed in the Ugandan Constitution under Article 28(1), which provides that during determination of the civil rights and obligations or any related criminal charge, an individual shall be facilitated to have an autonomous and independent court recognized by law for a speedy and fair public hearing. The term fair trial in the context of this study denotes expedition, proportionality and fairness of process, among other conceptual imperatives advanced in this study. This study appraised the effectiveness to discharge this obligation based on the JLOS policy framework in Uganda.

Policy implementation

The ultimate goal of the policy and legislation in JLOS is to facilitate access to criminal justice. Specifically, policy implementation requires clear-cut guidelines, especially in the procedures one goes through to access criminal justice (Bakker et al., 2012). These guidelines ought to be clarified in any policy as well as legal and regulatory frameworks, and should be accessible to the public domain. However, this is usually not realised owing to certain challenges in policy implementation, such as the disposition of implementers to make the frameworks available to the public, resource limitations, and illiteracy among communities, as alluded to earlier (Halonen et al., 2014). These factors ultimately impact on policy implementation outcomes which will subsequently be discussed in the chapters on the findings of this report.

1.1.4 Contextual background

Public policy implementation has globally been faced with challenges. It has been argued that the successful translation of any public policy goal and objectives into action is largely influenced by the contexts in which they were formulated and subsequently operationalised (Khan, 2016). Even in situations where the policy is clearly articulated, the human element in providing proper direction or guidelines on the implementation process remains very critical (Anderson, 2010). Regrettably, there is common agreement amongst scholars that the 'policy implementation' domain continues to suffer from practical, legitimate and generally acknowledged midrange or grand theories. Consequently, contextualizing policy operationalization or implementation will depend on the political, socioeconomic, institutional and individual implementer's attitudes which determine how well or otherwise a policy is implemented (Meter & Horn, 1975). Furthermore, the implementation process changes considerably with time, from one country to another, and also depends on how it interfaces with other related policies (Stewart et al. 2008).

In Uganda, the policy practice or implementation has not been spared the global challenges highlighted above. The implementation of the JLOS policy frameworks with respect to access to criminal justice has thus been impacted upon by the human element or attitudes, and the political, socioeconomic and institutional factors. For purposes of this research, policy implementation in the JLOS was analyzed on the basis of how the desired outcomes were manifesting in access to criminal justice. The top-down and bottom-up policy implementation theoretical streams were elaborated within the Meter and Horn (1975) framework in order to explain the constructs under study. The model and theories were further applied in the analysis within the overall JLOS institutional and organisational frameworks underpinned by the desire to discharge Uganda's responsibility to protect, respect and fulfill the generally established human rights principles.

Dating back to the late 1980s and the beginning of 1990s, donors were already investing in institutions that were carrying out law enforcement or administration of justice. This support was extended to specific and individual institutions amidst limited coordination among them. This approach resulted into minimal impact amidst heavy investments. For example, the criminal justice subsector had insufficient police and prison facilities

including poor investigative and prosecution tools and methods. Police investigations were constrained and in most cases incomplete, court imposed sentences were perceived as very lenient and the processes were characterize by instances of corruption (Stewart et al. 2008).

In situations where justice appear not to be dispensed rationally, there was a tendency for the public to adopt mob justice. Additionally, the ineffective prosecution processes resulted into few guilty pleas by offenders since they had high chances of acquittal. A combination of this with the unduly prolonged court delays, a significantly high case backlog and a weak bail system laid grounds for a large number of prisoners on remand mainly comprised of those locked up in Ugandan prisons (Edroma, 2005).

The institutional limitations were aggravated by the lack of clarity in the policy frameworks, insufficiency in funding streams from government and inadequate infrastructural investments coupled with lack of accountability on human rights violations. The high levels of corruption and insufficient information and communication further compounded the challenges of effective service delivery. For example, the whole continuum of management of suspects from the time of arrest through to the time of discharge or the operational legal systems for enforcing contracts and enabling debt collection was inconsistent with the desired policy and legal practices.

There were practical challenges on the 'demand side' of the judicial system which directly impacted on the end-users agencies. The state of affairs remained like so partly due to a weak 'demand side', more so to the poor and vulnerable who were generally unable to demand for change. Ignorance and illiteracy about the provisions of their rights, together with the complex technical procedures, obstacles based on cultural and gender issues, high levels of corruption and poverty made criminal defense and civil litigation inaccessible. This tended to undermine public confidence in the legal system thus contributing to a negative cycle. In these situations, there was limited access to justice especially for the vulnerable where the rich had to procure justice at a high cost (Edroma, 2005; Allen, 2004).

A sector-wide approach (JLOS) was introduced to mitigate the above challenges so that Ugandans experienced a safe and just society and eventually improved the security and safety of the person and property, human rights observance and quick access to justice

for purposes of enhancing economic growth, employment and development. Among the major outcomes of the reforms in criminal justice is improving accountability, coordination and monitoring within the sector through operationalization of guidelines, performance standards, and codes of conduct as well as human rights protection especially for the vulnerable groups. This is in addition to rationalization and ensuring rational legal representation.

A number of stakeholders continued to direct their efforts towards exploring the potential of the JLOS to effectively address criminal justice needs as one of the strategies to overcoming the inherent challenges. The optimism for the Uganda's JLOS was expressed by Richard Nduhura, Ambassador and permanent representative of Uganda to the United Nations during a a high-level discourse regarding integrating criminal justice and crime prevention into the post-2015 development agenda, as revealed in the following quotation:

> Through a collectivization of its institutional mandates, Justice, Law and Order Sector assumes and seeks to discharge the country's obligation to respect, protect and fulfill universally accepted human rights standards, promote rule of law, ensure access to justice for all and involve the community in the administration of justice among others. The strategic investment plan (SIP 111) is cognizant of the recommendations of the universal periodic review of country human rights performance under the international human rights commitment. Some of these include the New Economic Partnership for African Development (NEPAD), the African Charter of Human and Peoples Rights, the African Charter of the Welfare of the African Child, the African Protocol on Advancement of the Rights of Women, the Juba Peace Agreement and more specifically the recommendations of the African Peer Review Mechanism Report. (UN, 2015)

The Ministry of Justice and Constitutional Affairs conceptualized the JLOS as the source of solutions identified challenges occasioned by the conventional project approach. These issues include, among others: a concessionalized and all inclusive impact on the sector; the emergence of verticalized and parallel support and management systems; and the unduly skewed overall national resource appropriation. The Ministry of Justice and Constitutional Affairs also acknowledged that benefits accruing from the Justice, Law and Order Sector include aligning the macro-level policies and plans to the sector specific strategies, and the strategic synchronization of main programs with the financing arrangements and procedures outlined the Medium-Term Economic Framework.

Despite the internal policy reform processes that were aligned to the demands of the changing international development assistance dynamics and the major policy reforms in the JLOS which had resulted into 50 per cent public confidence in 2017 (JLOS, 2018), Hiil (2016) notes that almost 90 per cent of Ugandan people experience one or more serious justice need(s) that are severe and difficult to resolve. Most people experience more than one problem, with 23 per cent even encountering three or more problems. Thus, the Ugandan criminal justice system continues to experience numerous challenges, especially at the operational level with respect to access to equitable, quality and efficiency services (Hiil, 2016). Indeed, the JLOS sector has hitherto not fully overcome the effects of the major policy reform under the Sector wide approach. A specific problem confronting the criminal justice system at the moment is congestion in prisons and case backlog in the entire criminal justice system. Prison congestion, at 293 per cent, and the remand population, at 55.4 per cent, have been identified as the greatest hindrance to correctional development (UPS SIP IV, 2017).This study, therefore, was aimed at assessing the implementation of the Justice, Law and Order Sector policy framework and the extent to which the policy options enhanced access to criminal justice for the vulnerable in Uganda.

The JLOS is constituted by eighteen institutions charged with the mandate to administer justice, law and order maintenance as well as promoting human rights observance. The state and non state actors with complimentary roles in planning, budgeting, program implementation, monitoring and evaluation all constitute the sector-wide approach. The state institutions charged with administration of justice, law and order maintenance and promoting human rights observance include the Ministry of Justice and Constitutional Affairs; the Judiciary; the Ministry of Internal Affairs; the Directorate of Citizenship and Immigration Control; the Directorate of Public Prosecutions; the Uganda Police Force; the Uganda Prisons Service; the Judicial Service Commission; the Law Development Centre; the Ministry of Gender, Labour and Social Development – Gender, Justice for Children, Labour and Probation Functions; the Ministry of Local Government – Local Council Courts; the Tax Appeals Tribunal; the Uganda Human Rights Commission; the Uganda Law Reform Commission; Uganda Law Society; the Centre for Arbitration and Dispute Resolution; the Uganda Registration Services Bureau; and the National Identification Registration Authority. Among the non state actors are the donors, civil society organisations (CSOs), the media, academia and private sector groups whose roles

are to complement government efforts in the delivery of services as well as advocacy for observance and adherence to the tenets of human rights.

These institutions operate within a structure constituted by the Leadership Committee headed by the Honorable Chief Justice; a Steering Committee made up high level officers from each JLOS institution, the Ministry of Finance, Planning and Economic Development; the Technical Committee which was visualized to be responsible for operationalization of the Justice, Law and Order Sector policies and programs including the sector working groups and or committees.

The four-tier management structure defines the JLOS policy implementation structures at the macro level. Criminal justice is provided mainly by public institutions, which include the Directorate of Public Prosecutions, Uganda Prisons Service, the Uganda Police and the Judiciary (JLOS SIP III, 2012). Contact with suspects within the criminal justice system begins with the police, which is charged with preventing crime and facilitating the prosecution of suspects in court (Osinowo, 2005). Prisons authorities are responsible for the imprisonment of offenders and this is aimed at providing safe, secure and humane custody of offenders while rehabilitating them to stop them from carrying out future acts of criminality against persons, property and the state.

Further, access to justice issues in the JLOS structure have attracted almost only skewed analyses. The strategic intents of JLOS are complex in nature because they involve a shift to sector-wide interests from institutional interests, thus necessitating a corollary shift in resource allocation and decision-making. This, therefore, requires institutional priorities to conform to the JLOS policy framework in a participatory process through institutional planning contributions to define sectoral priorities (Edroma, 2005). However, the parallel policy shifts by some institutions within the criminal justice system have also polarized efforts of achieving a unified model for access to criminal justice in Uganda. The non-unified aspects heavily affect the content, form and success of access to criminal justice to be administered, especially from a JLOS consumer viewpoint that has attracted limited research. It is within these structural and institutional set-ups that this research was contextualized.

1.2 Statement of the Problem

Despite internal sector-wide approach policy reforms aimed at responding to the demands of dynamic trends in the international development assistance, access to criminal justice has remained a serious challenge under JLOS, especially for the vulnerable. Hiil (2016) notes that almost 90 per cent of Ugandan people experience one or more serious justice need(s) that are severe and difficult to resolve. Most people experience more than one problem, with 23 per cent even encountering three or more problems. Thus, the Ugandan criminal justice system continues to experience policy implementation constraints, especially at the operational level with respect to access, equity, quality and efficiency of service delivery (Hiil, 2016). Consequently, overcrowding in Uganda prisons and case backlog affecting the criminal justice system have reached unprecedented levels. Prison congestion and the remand population stands at 293 per cent and 55.4 per cent respectively (UPS SIP IV, 2017). These two measures of effectiveness in the performance of the Justice, Law and Order Sector have been identified as the greatest hindrance to correctional development especially for the vulnerable (UPS SIP IV, 2017). The circumstances fuelling these constraints have hitherto not been analyzed from the time when the sector-wide approach was introduced to address case backlog (Hiil, 2016). Furthermore, since the sector-wide approach came into being, the institutional mechanisms for its enforcement in a bid to facilitate increased access by the vulnerable to criminal justice has hitherto not been critically analyzed (Hiil, 2016).

It has been argued that a robust institutional coordination mechanism plays a critical role in the enforcement of policy implementation (Khan, 2016). However, the extent to which JLOS sector-wide coordination mechanisms has been streamlined to facilitate the implementation of policy options in access to criminal justice by the vulnerable has to date not been documented. The Uganda Constitution (1995), under Article 50(4), provides for human rights enforcement and observance through access to justice, thus reflecting the need for strengthening the relevant institutions involved in policy implementation. Effective implementation of policy options in access to criminal justice by the vulnerable as a reflection of the rule of law.

It was further noted that studies conducted under the JLOS did not focus on the policy options under the sector-wide approach implementation strategy in addressing institutional and operational challenges on access to criminal justice by the vulnerable

(IBA, 2007; Jjuuko, 2004; Moreto et al. 2014). Even then, these studies did not apply the theoretical sandwich of top-down and bottom-up and the Meter and Horn (1975) model in anlysing policy implementation. This conglomarate of theoretical streams provides a vital foundation in analysing the macro- and micro-level complexities (Khan, 2016) in criminal justice policy implementation under the JLOS structures. This study, therefore, analyzed implementation of the JLOS policy framework and the extent to which the policy options facilitated access to criminal justice for the vulnerable in Uganda.

1.3 General objective

The general objective of the study was to critically analyze the implementation of the Justice Law and Order Sector policy options on access to criminal justice for the vulnerable in Uganda.

1.3.1 Specific objectives

1. To critically analyze the policy options on access to criminal justice for the vulnerable in Uganda.
2. To analyze the institutional enforcement mechanisms in the realization of human rights as per the Justice, Law and Order Sector policy options.
3. To examine the policy options on the rule of law and how they are applied in the criminal justice process.

1.4 Research Questions

1. How do the policy options facilitate the vulnerable in gaining access to the criminal justice process in Uganda?
2. How do the institutional enforcement mechanisms facilitate and/or hinder the realisation of human rights as per the Justice, Law and Order Sector policy options?
3. How are the provisions of the rule of law applied within the criminal justice process?

1.5 Analytical Framework

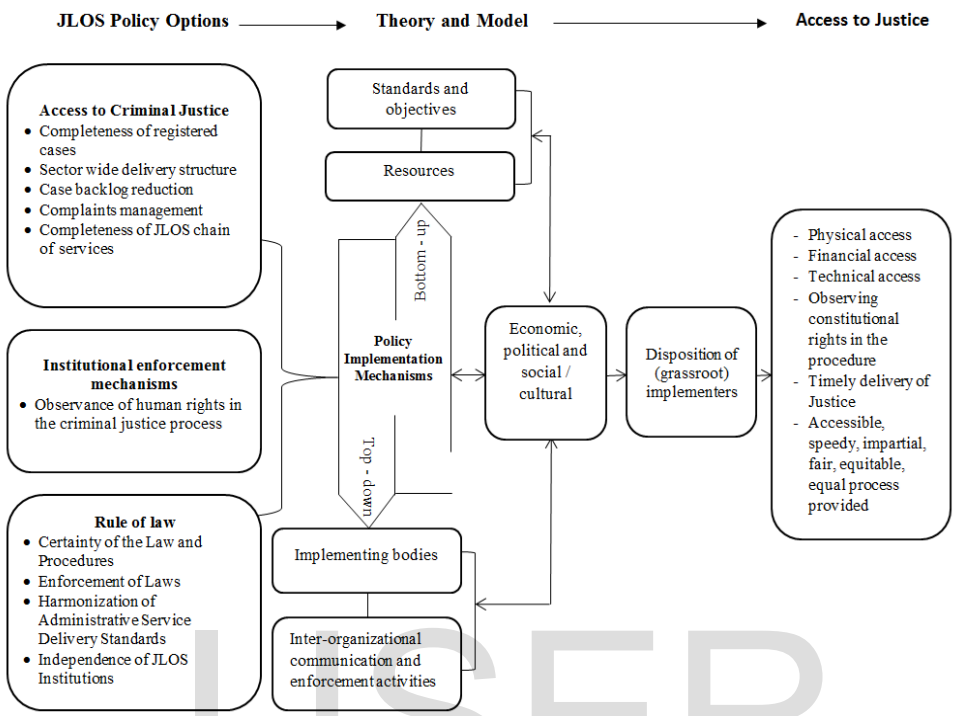

Figure 1: Analytical Framework

Source: Developed from the JLOS Policy Framework

The analytical framework indicates that the study was an analysis of the policy options on access to criminal justice for the vulnerable. Access to criminal justice included an assessment of the mechanisms put in place to facilitate physical access as well as addressing the financial implications to the vulnerable for utilizing criminal justice services. This further entails the nature of technical issues in the form of judicial processes for access to criminal justice. The study further analyzed the mechanisms employed to ensure the observance of constitutional rights in the criminal justice procedures; the timely delivery of justice; and how accessible it was, including the speed at which it was delivered, taking into consideration the aspects of impartiality, fairness, equity and equality in the processes.

The JLOS policy options for improving access to criminal justice included analysis of institutional enforcement mechanisms put in place and applied to observe human rights in the criminal justice process, with particular emphasis on human rights awareness, staff

capacity in human rights and the inspection function. This was important since the law exists mainly to safeguard the fundamental human rights through enhanced access to justice. Hence there was an appraisal of the treatment of inmates and the extent of decent arrest of criminal suspects. Further analysis focused on the rule of law by analysing the certainty of the law and procedures, enforcement of laws and harmonization of administrative service delivery standards as well as the provisions of the rule of and independence of the JLOS institutions. Furthermore, the rule of law involved the assessment of fairness in the execution of justice in JLOS. This also involved an appraisal of the abidance to the constitution, which is the main JLOS guiding document.

In addition, access to criminal justice was underpinned by the extent to which the criminal justice system addressed completion of registered cases, and how the sector-wide delivery structure facilitated or hindered the criminal justice processes with respect to case backlog reduction, complaints management and completeness of JLOS chain of services. These constructs were analyzed using the top-down and bottom-up theory through the lenses of the Meter and Horn (1975) framework that includes resources, objectives and standards, characteristics of implementing bodies, inter-organisational communication, enforcement mechanisms, socioeconomic, political dynamics together with the disposition of implementers and, together, all the constructs informed the analytical framework for the study.

1.6 Scope of the Study

Uganda has a human population of 39.04 and ethnic groups with 42 multi-ethnic languages (UBOS report, 2019). In order to have a fair national representation of the research subjects, the researcher purposefully selected two national statistical regions of south-western Uganda and Kampala metropolitan area. The researcher's choice of the Kampala metropolis was based on the conviction that it is a centre of industrial, administrative and economic activities in Uganda and, thus, this attracts criminality. For instance, the Kampala metropolitan area registered 31,824 cases in 2017 alone (Uganda Police Crime Report, 2017). In addition, Kampala is the nerve centre of Uganda and the seat of government administrative headquarters, and thus attracts all classes of people in the country.

In south-western Uganda, Bushenyi, Rubirizi, Kisoro and Rukungiri districts attract all categories of society given the high tourism, economic and business activities, in

addition to producing heads of the criminal justice institutions such as the Chief Justice, the Inspector General of Police and the Commissioner General of Prisons, officers who are pivotal to the JLOS policy direction and implementation of access to justice initiatives within the criminal justice institutions. The study also focused on the period 2012 – 2017, and this was sufficient time to assess the impact of the Justice, Law and Order Sector; after all, substantive innovations run for an average 2 to 4 years to be fully implemented (Fixsen et al. 2005; Metz & Barclay, 2012).

1.7 Justification of the Study

The involvement of JLOS institutions in the sector-wide approach has been an issue of interest in the justice reform agenda. This study interested itself in this ideological debate and in the advancement of the sector-wide approach because the willingness of the government institutions to cooperate in a quadruped arrangement within the criminal justice system was hinged on the success of any sector-wide approach initiative.

In addition, this study appraised the JLOS policy framework for access to justice in Uganda. This was catalyzed by contextual variances in literature on issues surrounding access to justice experiences. Yet the literature also highlights problems associated with inconsistencies in the norms and beliefs of various institutions and mandates in the justice sector. With findings such as these, it was prudent to focus on the evaluation of such institutional mechanisms in the justice sector.

Furthermore, during the research period, there were institutional schemes for enhancing access to justice in Uganda. What was witnessed in those schemes was institutional self-centredness and occasional interactions on a wide range of matters. A number of frequent and parallel reforms in the area of access to justice consisting of interventions were neither based on existing knowledge of the programs nor on existing knowledge of how such programmes would impact on other institutions in the justice cycle. Therefore, this research became necessary and was undoubtedly, one of the many research studies in this field in the Ugandan justice sector. It was expected that the research findings would be of significance to improvement of existing and future programs and projects in justice sector reform.

1.8 Significance of the Study

The study is intended to contribute to conceptualization of access to criminal justice in Uganda and the gaps therein in policy implementation. It will elevate the contextual understanding of the JLOS policy options and be instrumental in improving and enhancing policy objectives and strategies in the criminal justice sub-sector. Such insight would be instrumental in criminal justice reform and in a comparative analysis with other jurisdictions. Despite the numerous empirical works focusing on access to justice, they were context-specific and thus could universally answer the access to justice question; therefore, the subject remains a seriously embattled and questioned issue in public administration, especially in the conceptual discourse about its objectives, meaning and level of success (Letich, 2013).

The study is of theoretical importance in as far as the Van Meter and Van Horn model creates and sustains policy implementation. Moreover, it showcases how the model weights in on the bureaucratic procedures and maneuvers in as for as policy implementation is concerned. Most significantly, this brings to the fore how leadership impacts the other variables of policy implementation. By using evidence from the study, this piece of work differs significantly from other researches about the Ugandan criminal justice that consider leadership as any other variable but not as one that acts as a thread that holds other variables together. This study is more inclined and endeavours to tease out leadership and, as such, it contributes new understanding to policy implementation processes, especially in developing countries. Finally, this research will have significant utility in facilitating the understanding of why policy reforms that target collective values and norms succeed or fail (Aycan, 2005).

1.9 Limitations and Delimitations of the Study

The study specifically confined itself to accessing the JLOS policy framework through interviewing the actors and consumers of criminal justice services. Nevertheless, there was a possibility that the funds available to engage field assistants in the two regions to collect data in a short time might be limited. Also, actors' interactions and their influence at various levels were diverse, thus limiting how the researcher could present such facts. Accessibility to the required key respondents active in running of the JLOS policy processes was another limitation.

The scope was limited to only two regions in Uganda. It was also limited to respondents from Uganda only. It could thus not reflect what others are facing in other countries with regard to access to criminal justice. Nevertheless, although the results could not be internationally contextualized, the findings are generalized to the Ugandan context and, thus, represent the actual JLOS process ith respect to criminal justice. The same can be considered to profit other sectors in Uganda in addition to understanding and widening the concept sector-wide approaches in the other sectors and beyond.

1.10 Chapter Summary

The first chapter of this thesis was introductory in scope and content. In the introduction and background, this report presented the historical, theoretical, conceptual and contextual backgrounds and foundations to the study. It further presented the problem statement on the basis of which the study objectives as well as research questions were formulated. The chapter concluded by presenting the scope, justification and significance of the study.

The next chapter, on literature review, is underpinned by the study objectives, namely: analysis of the policy options on access to criminal justice and how they facilitate the vulnerable in the criminal justice process in Uganda; the institutional enforcement mechanisms in the actualization of human rights as per the JLOS policy options; and the policy options on the rule of law and how they are applied in the criminal justice process.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter presents a literature review underpinned by the research objectives and attendant dimensions. The three research objectives focus on analysing the policy options on access to criminal justice and how they facilitate the vulnerable in the criminal justice process in Uganda. The other objective set out to analyze the institutional enforcement mechanisms in the realization of human rights as per the JLOS policy options. The last objective examined the policy options on the rule of law and how they are applied in the criminal justice process. These objectives were reviewed based on the Meter and Horn (1975) model of public policy implementation and underpinned by the top-down and bottom-up policy implementation theory (Stewart et al. 2008). The researcher now delves into a review of scholarly literature structured along the three research objectives.

2.1 Theoretical Review

This study was guided by the model of implementation as developed by Meter and Horn in 1975 (Meter & Horn, 1975) within which the Stewart et al. (2008) top-down and bottom-up policy implementation theory was embedded. Accordingly, the model looks at the policy implementation framework for the adequacy of policy options and actions. These include: a) standards and objectives; b) resources made available by the policy; c) inter-organisational communication and enforcement activities; d) socioeconomic and political conditions that impact on the policy; and e) the characteristics of implementers.

In relation to this study, the model was preferred for its clear implementation options in any programme process and how they relate to the JLOS policy implementation process. The model options guide the study in assessing the implementation of the JLOS policy options in accessing criminal justice in Uganda. This study adopted the second-generation theories of policy implementation generally categorized as bottom-up and top-down (Stewart et al. 2008). The rationale was premised on the notion that there is currently no single overarching theory of policy implementation (Khan, 2016) and adopting the two would provide for a more robust framework for analysing policy execution processes.

Scholars have variously stated that the implementation of public policies takes the top-down form, given the fact that development priorities and resources requirements are provided by the central government (Pulzl & Treib, 2007; Mazmanian & Sabatier, 1989). This contradicts the current drive towards decentralised governance as espoused by the Uganda Constitution (1995) where district local governments (DLGs) are mandated to define their development agenda (Manyak & Katono, 2010). The decentralization model tends to depict the bottom-up approach, given the powers divested to DLGs (Government of Uganda, 1997). With respect to the JLOS policy implementation process, a combination of these two approaches to policy implementation has routinely been applied. This was the basis of the adoption of the bottom-up and top-down policy implementation theories in this study (Stewart et al. 2008).

The top-down approach under JLOS depicts policy implementation modalities which break the policy components into smaller components, which fall under the respective mandates of the sector actors. Conversely, the bottom-up approach commences with basic policy modules which build up on one another right from the different implementing agencies and, ultimately, aggregate gradually along the higher echelons of the administrative hierarchy (Walker & Rhys, 2013). It posits that policy implementation can be best analyzed commencing at the lowest levels of the implementation structures and progressing upwards to establish the points where implementation is constrained or more facilitated (Bachrach & Baratz, quoted in Raadschelders, 2003). The bottom-up proponents argue that operational-level policy implementers define the actual policy practice. These implementers were referred to as 'street-level bureaucrats', as they are the transactional or front-line public officials responsible for the implementation of government policies (Lipsky, 1980). The researcher thus argues that adopting the bottom-up and top-down theoretical constructs and applying them within the dimensions of the Meter and Horn (1975) policy implementation model will provide a robust framework for analysis in this study. This is further based on the notion that both the bottom-up and top-down approaches have been faulted for their partial descriptive capacities regarding the policy implementation dynamics based on their particular analytical frameworks (Stewart et al. 2008).

The Meter and Horn model embedded within the Stewart et al. (2008) bottom-up and top-down policy implementation theory will be applied. Hereunder, the researcher presents a

literature review of the six variables under the Meter and Horn (1975) model in order to shape the linkage between policy and performance.

2.1.1 Standards and objectives

In order for a given public policy to take effect, it is critical that its objectives and standards are quite clear. Policy and decision makers are required to clearly elaborate the overall goal and purpose of the policy decisions and strategies which should be communicated to all stakeholders taking part in operationalizing it. Karyeija (2010), however, notes that in Uganda, it is not the written policy rules and regulations that matters but rather the actual policy practice. Even when the policy objectives, standards and rules are clear, the implementers can still go around them as a means of realizing their personal goals. Consequently, the unwritten or informal rules and standards adopted within the given operational sociocultural, cultural and economic environment tend to override the established formal organisational rules (Karyeija, 2010). Schick (1988) also argued that in most developing countries, the informal systems do exist alongside the formal ones and in some instances, when the former overshadow the latter, then the clarity of objectives, standards and formal rules tend to be ignored. The researcher notes that informality is a construct of culture since it tends to define the social roles and relationships which manifest as attitudes or disposition of the policy implementers. While these cultural practices may be construed as acting out of the established procedures, they more often times mitigate the effects of red tape characteristic of government unresponsive bureaucracies. These bureaucracies have the disadvantage of increasing the costs of operations, time and resource loss (Schick, 1988).

In Uganda, JLOS is a consortium of 18 institutions with differing mandates. That means they have different standards and objectives well stipulated in their organisations which must relate with the overall policy of the sector (JLOS SIPIII, 2012). How these standards and objectives are collectively implemented in a bid to ensuring access to criminal justice for the vulnerable in Uganda is the concern of this study. Looking at the model of policy implementation, the researcher embraces the notion that standards and objectives are very critical for the successful implementation of policy.

2.1.2 Resources

It has been argued that resources are critical for successfully implementing new policies and reforms (Meter & Horn, 1975). They are defined to include money and other

relevant incentives which are planned from implementing a given policy as a means for enhancing implementation effectiveness. Klitgaard (1997) argues that Africans do not have sufficient competencies to effectively implementing policies and programs due to the limitations in human capital thus contributing to policy implementation failure. However, Karyeija (2010) counter argues that it is not necessarily true that the lack of sufficient competencies significantly contribute to policy implantation failures. Rather, the hierarchical arrangements within a bureaucracy and the organizational culture underpin the way decisions a made and communicated. Bureaucrats in the higher hierarchy who are responsible for the strategic policy direction have the mandate to make decisions and policy priorities. This is irrespective of the level of competencies of the implementers who are located at the lower and receiving end of the hierarchy. Furthermore, resource allocation is a function of the higher level decision makers. The quality and quantity of resources will definitely define how the frontline staff will implement a given policy. In the context of this study, resources will constitute the funds allocated to JLOS activities relating to access to criminal justice for the vulnerable.

The Justice Law and Order Sector receives funding from donors and acts as a basket fund for all the 18 partner institutions and then allocates according to mandate and planned activities (JLOS SIPIII, 2012). The Budget Committee forwards requests of planned activities to the Technical Committee for approval by the Steering Committee. Whether these resources are sufficient or are equitably distributed to the various institutions in accordance with the model stipulations is a point of inquiry for this study.

2.1.3 Inter-organisational communication and enforcement activities

Effective policy implementation demands for an efficient and coordinated structural and procedural mechanism within a given institution in addition to an effective communication network. This ensures that those in the higher level hierarchy with decision making mandate effectively communicate to the lower level structures on the policy goals, objectives and strategies in order to facilitate conformity with set rules and standards (Meter & Horn, 1975). As such, a coordinated and well designed communication mechanism is critical in effective policy implementation although this may not necessarily be immune to multiple organizational or external cultural influences. In this respect, the need to identify risks and effectively plan mitigation measures cannot be overstated.

Based on the understanding that JLOS is premised on partnership with the 18 institutions, it is paramount that communication and the enforcement of activities is well coordinated if the Justice, Law and Order Sector mandate is to be realized and, specifically, for the implementation of policy action to have access to criminal justice for the vulnerable in Uganda. In essence, it would be desirable that government sectors prioritize leadership, policy ownership, building capacity of policy implementers, harmonization and alignment with existing government procedures and systems, strengthen coordination, and accountability as strong ingredients in any policy implementation process. Furthermore, the need for transparency and proper communication channels of communication to facilitate the foretasted constructs is paramount if JLOS is to achieve success in its goals in implementation of its programs.

2.1.4 Economic, social and political conditions affecting the policy

In the Meter and Horn (1975) policy implementation model, it is elaborated that a number of factors come into play within the policy environment and these have significant influence on the processes if not sufficiently managed. Some of these factors include the prevailing political and socioeconomic economic conditions during the time of policy implementation as well as the nature of societal perceptions about the policy. For example, the donor influence can have dire consequences of a given policy if their interests are jeopardized and this can contribute to policy implementation failure. If we examine the role of the World Bank in policy implementation, it has immense influence on fiscal policies of a country given its clout in providing budget support. It can thus impose its policy reform preferences even when the country may not be totally comfortable in buying in into their ideas (Harrison, 2001; Polidano, 2001). It therefore a paradox of adopting donor priorities at the expense of national development imperatives that partly explains the predicaments faced by many developing countries including Uganda.

Often times, the political support and will expressed by those in positions of authority are paramount in successful policy reforms. In Uganda for example, the success of any policy reform and administrative innovation must as of necessity be endorsed by the presidency. The good will of the president and other political leaders has continued to shape the Uganda's policy reforms even where they hurt the feelings of the population (Karyeija, 2010). The researcher notes that as part of the politics-administrative nexus in developing countries, the absence or weaknesses in the functionality of government

institutions have given rise to autocratic regimes which in some cases drive anti people policy agenda. Consequently, the success of any policy reforms is majorly underpinned by the preferences of those in power and not necessarily the technocrats with their empirical policy evidence (Karyeija, ibid). In line with this discourse, the creation of JLOS and current management, especially at the leadership level, has continued to benefit from the top political leadership which has seen the sector receive significant resourcing. This good relationship between politicians and bureaucrats has been one of the facilitating social conditions for the sector growth and policy implementation.

2.1.5 Characteristics of the implementing agencies and disposition of implementers

As argued by Meter & Horn, (1975), the personalities or characteristics of individuals or implementing institutions and the exercise of their authority are the other defining factors that facilitate or hinder effective policy implementation within the JLOS sector wide framework. In so far as these scholars posit, the insufficient institutional capacities and the low motivation among implementers can as well result into policy implementation failures. This is premised on the thinking that the institutional characteristics inherent within the implementing agencies influence the behaviours of the staff in as far as they perceive and take action on the instructions of their superiors.

The individual disposition of implementers is further closely connected with the characteristics and organizational culture of agencies within which they operate. However, implementing policy reforms can also be affected by other features including political affiliations, ethnicity of the implementers as well as patrimonialism. As such, the personalities or characteristics of policy implementing agencies define the key components of interactions and administrative cohesion in the criminal justice system.

The researcher presents that the Meter and Hon model presents an acceptable framework that is neutral and provides focus on variables under study. Beyond this, the argument by Klitgaard (1997) that *cultural variances* such as power relations and power distance, political inclinations and hierarchical arrangements and networks influence the variables under study cannot be under estimated and will be considered in this study (Klitgaard, ibid.). In the context of criminal justice in Uganda, the consortium institutions have different mandate variances, including historical background, operational practices and

hierarchy. Some of these militate against strongly hierarchical bureaucracies to which some of the JLOS institutions subscribe.

The model, therefore, brings an understanding of what is possible for a JLOS policy framework to be successful. It was important that it is applied in this study to enhance our understanding of the attributes of the relationship under investigation.

2.2 Actual Literature Review

Following the presentation about the Meter and Horn (1975) policy analysis variables, the researcher now provides a literature review based on the study objectives. The review is structured along three research objectives with the attendant dimensions and indicators. Under the first objective, the focus was on analysing the policy options on access to criminal justice and how they facilitate the vulnerable in the criminal justice process in Uganda. The second objective analyzed the institutional enforcement mechanisms in the realization of human rights as per the JLOS policy options. The last objective focused on the policy options on the rule of law and how they are applied in the criminal justice process. However, as a preamble, the researcher first provides an overview of Uganda's criminal justice system on which this study is premised.

2.2.1 Overview of Uganda and its criminal justice system

Uganda as a republic is a former British colony and achieved the status of republic on 9 October 1962 when it gained independence from the colonialist. From 1894 to 1962, the country was a protectorate of the United Kingdom (Mahoro, 2006). The period between 1966 to 1986 was characterized by civil, political and economic regression due to the near collapse of the state functions including observance of law and order. Absence of a robust civil authority created functionality gaps in the justice system where different institutions had inadequate financial and human resources. Even where the human resource was available, they were demoralized due to poor pay and this significantly contributed to high levels of corruption and the consequent loss of public confidence in the judicial system, manifested by high instances of mob justice (Edroma, 2005).

Uganda being one of the developing countries on the world, it heavily depends on donor funding run its programs. The poverty levels are rather high and are estimated at 27 per cent of the total population; it has a Gross Domestic Product (GDP) per capita of about U$701; with about 10 million of the population living below the poverty benchmark

of US$1.90 (purchasing power parity [PPP]) per day; and the size of the labour force between the ages of 14-64 in 2016/17 was estimated to be about 15.1 million, from 8.8 million in 2012/13 (UBOS, 2017). Furthermore, this form of impoverishment is characterized by unacceptable social conditions including unemployment, ill health, low literacy levels and criminality (UPF Crime Report, 2010).

Therefore, the JLOS policy is essential to bridge the gap that may result as a dysfunction of many other sectors for increased economic productivity, better health conditions, and improved socioeconomic well-being. Uganda Vision 2040 acknowledges the role of JLOS in facilitating access to judicial services by the vulnerable and the population as a whole and is a key planning document:

> The rule of law and the supremacy of the Constitution will be upheld to ensure that all individuals are subject to and treated equally according to the law, and that no one is exposed to arbitrary treatment. This means that all citizens and authorities, including armed forces and security forces, obey the law and have equal access to justice. (Ministry of Finance Planning and Economic Development, 2010)

The centrality of the role of JLOS is underscored in the above statement, hence the need to assess the implementation of JLOS policy options in aiding accessibility of the vulnerable to the criminal justice process.

The main development partners who support JLOS include Austria, Denmark, The Netherlands, the European Union, the United Kingdom Fund for International Development (DFID), Norway, Sweden, the United Nations Development Programme (UNDP), the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNCF), United Nations Women, and the United States Agency for International Development (USAID) (JLOS, 2018). These donor resources are coordinated under the Ministry of Finance as reflected in the Paris Declaration framework as well as the Accra Agenda for Action (Ng'ambi, 2010).

The donor support received by JLOS comes through direct sector budget support, in some cases through project support and also partly through the Sector-Wide Approach (JLOS, 2018). A study by The Hague Institute for the Innovation of Law (2016) in Uganda established that there was a strong desire for Ugandans to access different forms of judicial services. However, it was further established that the societal judicial needs were rarely met for reasons including limited knowledge about the law and rights, the

lack of money to afford the costs involved in accessing justice or a combination of these factors (Hague Institute of Innovation, 2016). Many people are suffering owing to the breakdown in the justice system where the opulent and the deprived equally struggle get these judicial services. The poor do not have enough access to the services while the wealthy are forced to procure these services albeit expensively (Danida, 2005). The perceptions of service quality tend to consistently point to a wide spread violation of the rule of law and human rights which vive is abetted by the public complacency due to the pad experiences they have encountered when they interfaced with the JLOS. This implies that the need for donor support to the sector remain very high especially in addressing the challenges faced by the systems which are majorly occasioned by insufficient funding. For instance, the JLOS budget was reduced by 30 per cent from UGX 1,028.96 billion for Financial Year 2016/2017 to UGX 990.159 billion for Financial Year 2017/2018, which could negatively affect the implementation of sector programmes (Civil Society Budget Advocacy Group [CSBAG], 2017).

Uganda underwent a major constitutional change in 1995, which witnessed an improvement in the governance system, improved recognition of the human rights principles and specifically the promotion of the women's rights to participation in governance and other areas of national development. During the period 2000–2006, Uganda underwent a transitional phase that involved two issues: whether to uphold the movement system of governance or make amendments in the constitution to facilitate introduction of for a multi-party political dispensation. This was followed by the die towards more constitutional amendments aimed at removing the presidential term limits. The first constitutional review took place in 2005 through a national referendum where the option of returning to a multiparty democracy took the day. The term limits drive was successfully decided upon in 2005 through Parliamentary vote (World Bank report, 2009). These factors had immense and immediate impact on the institutions which make up the justice sector with the arrest and prosecution of Colonel (Retired) Dr Kiiza Besigye who was the main opposition candidate during the 'transition phase'. Judges worked in circumstances where court proceedings were conducted with armed security operatives surrounding the court to arrest suspects. Under these circumstances, the judicial independence and the rule of law were subjected to the test. Consequently, the Judiciary mobilized its members for a one-week sit-down strike. This was a reflection of societal shared aims with the Judiciary, the Uganda Law Society also called a three-day

strike (World Bank report, 2009). This was a case involving a highly placed political figure in the country. Access to justice for the populace and those that may not be captured by the media might be different.

The JLOS criminal justice consortium institutions are mandated to aid access to criminal justice at different levels. The four institutions (the Police Force, the Prisons Service, the Director of Public Prosecutions and the Judiciary) are meant to provide law and order in society as interrelated parts of the whole system, starting with the police as the contact for a suspect within the criminal justice system. The police is charged with preventing crime, a task that comes with arrests, investigations and facilitation of the prosecution of suspects in court, maintaining peace, upholding the rule of law and order, security and safety of life and property as well as promoting non-criminal behaviour regulations (Osinowo, 2005).

The Directorate of Public Prosecutions is mandated under the constitution to (1) direct the police investigations of a criminal nature (2); prefer charges against any authority or person; and (3) discontinue cases before court at any stage before judgement is delivered in any criminal matter (Uganda Constitution, 1995). Before any person is formally charged, the Director of Public Prosecutions has to sanction the case for prosecution. On the adjudication part, the administration of justice is a function of court in addition to the settlement of disputes, fair trial of the accuse, rights protection for persons accused of any criminal case, disposition of convicted persons in a proper manner, and preventing and repressing criminal behaviour (Osinowo, 2005). The courts ensure that justice is timely delivered without delay or the denial of justice by taking on the role of a neutral party in a dispute.

Prisons authorities are mandated to take care of offenders found guilty and sentenced to imprisonment by courts. Imprisonment is aimed at providing safe, secure and humane custody of offenders while rehabilitating them to prevent them from carrying out future acts of criminality against persons, property and the state (Uganda Prisons Act, 2006).

The above criminal justice policy is given a platform by the Justice, Law and Order Sector to take up a coordinated approach to crime prevention and criminal justice. Through a collectivization of institutional mandates, JLOS seeks to discharge the country's obligation to respect, protect and fulfill universally accepted human rights standards

(Nduhura, 2015). The above review shows the criminal justice system in Uganda and the process of accessing justice and how it is interlinked with the JLOS policy framework. Whereas these institutional mechanisms were intended to facilitate the implementation of the policy options on access to criminal justice for the vulnerable, there has hitherto not been a focused study to analyze their effectiveness in Uganda's JLOS. The inquiry into how the JLOS policy framework aids these partner institutions in the execution of their mandates with respect to access to criminal justice for the vulnerable in Uganda will, thus, contribute towards filling this knowledge gap.

It is within this institutional arrangement that the Meter and Horn (1975) policy implementation model underpinned by the Stewart et al. (2008) top-down and bottom-up policy implementation theory that this research was premised. The researcher now turns his attention to the concept of access to criminal justice from physical, financial and technical access while observing constitutional rights in the procedures for the timely delivery of justice in an equitable, speedy, impartial and fair manner.

2.2.2 Access to criminal justice

Access to criminal justice was reviewed on the basis of physical, financial and technical access and the attendant processes thereof. He researcher further analyzed how constitutional rights are observed in practice with respect to the timely delivery of criminal justice in an equitable, speedy, impartial and fair manner while observing equality.

Kariuki (2014) notes that justice can be viewed from different perspectives, among them being the promotion of fairness in sharing (distributive justice), and one that details the fairness principles in the sense of fair play (corrective justice or retributive justice), which is procedural justice. Further, justice entailed having equal opportunities for all people to access services regardless of ethnicity, race, disability or gender. This realization would require an effective legal, institutional and policy framework not only universally acceptable but also locally, thus guaranteeing equality before the law. Most often, in criminal victimization, both parties to the conflict (victim and offender) want to access justice. This study does not consider those aspects but rather is interested in how the vulnerable are processed in the criminal justice system. It was, thus, critical to assess the JLOS policy frameworks and how they aid in the process of criminal justice access.

Some authors have contended that access to justice in Uganda has been evolving. It has matched the development of events right from the colonial period to the independence and post-independence periods, with varying opportunities for access to justice. For example, Simon (2010) observes that the immediate post independence era saw a high level of control of most justice institutions by the government. In this situation, the government increasingly took on the funding responsibility for the sector which also included setting the policy direction. Although there were efforts to expand the justice sector, the government principally upheld the colonial strategy of a dual justice system. The above view was further supported by Adonyo (2010), who stated that the ensuing legal system comprised of the High Court, which attended to rape, treason, murder and other criminal cases bearing death sentences or life imprisonment. The subordinate or lower magistrate courts handled criminal cases punishable with shorter terms of imprisonment, corporal punishments of fines. The researcher thus argues that decisions by magistrates' courts could be appealed to the High Court but took long to be addressed, thus delaying access to justice. In effect, such delays in access to criminal justice that were occasioned by technicalities reflect policy implementation gaps resulting from the discretion of implementing agencies as reflected by Meter and Horn (1975). It is thus imperative to analyze how the existing policy options have hitherto impacted on the appeal processes as part of the strategy to address access to criminal justice, an aspect that this study set out to address.

Adonyo (2010) further explains that all courts had the dispensation of prescribing 'competent verdicts', in which case a person charged with one count could also be condemned for a related minor offence. The Director of Public Prosecutions initiated and conducted criminal proceedings other than courts-martial. The Director of Public Prosecutions is also responsible for appointing public prosecutors to handle specific criminal case. However, in some situations, a police officer can take on the responsibility of the prosecutor, and the Director of Public Prosecutions reviews and comments on the trial proceedings. The researcher notes that the effectiveness of this strategy largely depends on the discretion of the implementing officers. In situations where there is limited supervision of such officers, it is possible that the legal system can get clogged, as was witnessed during the 1970s, partly due to the leadership style of the then President Idi Amin which undermined the judicial system (Adonyo, 2010). This means that during such a period, access to justice is usually limited on account of bureaucratic or technical

processes. The courts were blocked from making judgements against security operatives through a second decree which granted immunity to prosecution to such government officials. For example, by shielding soldiers and the police from legal accountability, Amin was able to unleash a reign of fear on the civilian population which ran for his eight years of rule (Adonyo, 2010). The above view is supplemented by Mumbe (2018), when she argued that the end of Amin's rule came with no significant positive changes in the criminal justice system. She noted that in a bid to reinstate the rule of law around June 1984, the government banned the army from arresting civilians who were suspected of being opposed to the government. Government further allowed prisoners to appeal for their release from prison. However, the military ignored the 1984 law, and continued to commit crimes against civilians thus denying them equal access to justice. The researcher, therefore, argues that the prevailing socioeconomic and political conditions, coupled with the characteristics of implementing agencies or individuals have a bearing on operationalization of policies meant to facilitate access to criminal justice. It is, however, the ways in which such occurrences have affected access to criminal justice in Uganda since the sector-wide approach was initiated has not been documented (Udell, 2018). This study intended to bridge this knowledge gap.

The World Bank (2009) reiterated that with respect to the state of access to justice in Uganda, observance and upholding law and order were some of the most affected state duties during the times of political upheavals especially between 1972 and 1986. This lead to a loss of public confidence in the justice system and was evidenced by the increase in acts of mob justice which involved public lynching of suspected criminals. The justice institutions experienced limited funding with minimal incentives for citizens to take on careers in the justice sector. Due to poor supervision, employees within the justice system developed a bad culture of openly accepting bribes while providing poor services which were acceptable to the population for lack of viable alternatives. Under such circumstances, the lack of access to justice was felt by all where the rich and the poor were evenly affected regardless of the former's ability and willingness to procure the highly expensive services.

In the light of the foregoing, the study sought to answer questions on how the policy framework synchronized and maximized the synergies buried in these diverse government institutions with such a historical background. Sukhraj (2010) focuses on

procedural justice with particular reference to the object, scope and functionality of procedural justice with regard to its implementation and impact on just outcomes in the South African context. While her analysis stimulates debate and dialogue in the widely written-about area of procedural justice, her focus narrows on to the role and current state of procedural justice in South Africa. Viewing the ambit of justice as extending from substantive justice to questions of distributive, restorative and retributive justice, Sukhraj (2010) recognises procedural justice as the thread that holds the various aspects of justice together. Although this study shared Sukhraj's (2010) general conception of justice as fairness, it goes beyond theory and deals with the specific issues and experiences that characterise the system of criminal justice in Uganda. The study inquired into the bottom-up and top-down theoretical foundations, the status of the JLOS policy frameworks for the procedural aspects that informed the degree of access to criminal justice, which was shaped by an entirely different set of factors that influenced the extant policy frameworks (Stewart et al., 2008; Mazmanian & Sabatier, 1989).

Wanjala (2004), in a collection of essays, addresses the wide subject of law and access to justice and the manner in which justice is dispensed in East Africa. In his paper on the Tanzanian experience, Shivji (2004) uses real-situation examples to demonstrate how poor people struggle for justice, which remains elusive to them. According to Entreves (2005), the road to justice for the poor is riddled with systemic biases and non-systemic constraints. Ngondi (2006) revisits the debate regarding what constitutes the best approach to teaching the law so as to facilitate equal access of the impoverished people to more justice. Jjuuko (2004), on the other hand, discusses issues of justice as they relate to Uganda, addressing conceptual and functional perspectives of justice. He observes that although a lot has been done to make justice accessible to the poor, the justice system is still inadequately capable to delivery justice (Jjuuko, 2004; UNDP, 2008). It was further underscored that the necessity for more institutional and normative reforms in very general terms was very necessary to facilitate physical and technical access to criminal justice in a bid to observe constitutional rights in a timely, speedy, impartial, fair and equitable manner (Meter & Horn, 1975). It is, however, not clear as to how such reforms have addressed access to criminal justice among the vulnerable in Uganda.

This study extended beyond the confines of laws, institutions, and judicial processes to the official scope and addressed JLOS reforms. These include strategies, among others, such community policing, whose goal is to create and maintain a peaceful environment within which communities can coexist; educate and provide vocational training to inmates for purposes of their rehabilitation; and the introduction of plea bargaining in the Judiciary for the enhancement of speedy justice for the average Ugandan (JLOS, 2015). In comparison, Ngondi (2006), in a study carried out on Kenya's Justice Governance Law and Order Sector, found that the entire system had been focused towards enhancing equality in access to justice by all the regions in Kenya. He explained that the Kenyan judicial system had been penetrated by culture and politics to the extent that discrimination in the courts, police and other justice agencies had become the order of the day in the different regions of the country. This led to the institution of a series of reforms and saw to it that there was uniform application of the law in all parts of the country (Ngondi, 2006). As explained by Hiils (2016), however, the challenges were so great that some people still find it hard to have justice delivered for them because of corruption and political interference. As such, the extent to which the instituted policy options have contributed towards access to criminal justice by the vulnerable has remained undocumented (Ngondi, 2006). The gap this study sought to fill was in relation to the policy framework and how it is uniformly applied across the different criminal justice jurisdictions or contexts across the country and how they address issues to do with corruption and political interference.

Laibuta (2012) also highlights access to criminal justice from the viewpoint of the vulnerable. She pointed out different factors that hindered access to justice, the impact of these factors and measures to address those challenges (Laibuta, 2012). This same view is shared by Kiriuki (2014), who asserts that in Kenya, the poor still faced impediments as far as justice was concerned and this was majorly due to being in an economically weak position, high legal costs, the poor infrastructure of the state's legal systems, language barrier, and minority groups being marginalized, for instance on the basis of gender (Kiriuki, 2014). People's realization of access to justice in society is impeded by these. Laibuta's paper, though, suggests that the establishment of courts specifically for small claims and petty sessions in Kenya would simultaneously address both civil and criminal obstacles and promote access to justice in the formal system (Laibuta, 2012). The researcher however, argues that the mere introduction of additional institutions does

not necessarily result into access to criminal justice. Rather, the institutional culture reflected in the disposition of the implementing agencies and individuals as well as the nature of institutional leadership play a critical role. The author does not demonstrate how the inadequacies of the extant policy provisions can be addressed even when the suggested additional courts may arguably be an integral part of the viable solution. The above views on access to justice generally indicate that the state of access to justice has had lapses. Even despite improved access because of the current JLOS framework, there are still challenges resulting from poor policy and political dominance of the judicial system. These knowledge gaps suggested the need to enquire as to whether the existing institutions were being strengthened by the policy options on access to justice in Uganda, specifically for the vulnerable.

2.2.3 Institutional enforcement mechanisms for human rights in criminal justice

The study analyzed the institutional enforcement mechanisms for human rights observance and upholding as per JLOS policy options, with a particular emphasis on human rights practices in Uganda. Specific emphasis was placed on the observance of human rights, staff capacity in terms of knowledge and skills for observance of human rights, and the inspection function as well as community awareness about human rights.

As earlier stated, human rights are inherent attributes in all human beings. The fact that these rights are supposed to be enjoyed irrespective of, among others, the right to liberty and freedom from slavery and torment, directly relate to equitable access to criminal justice by the vulnerable (UN, 2015). Since JLOS is part of the state institutions, it is responsible for actualizing these basic principles of human rights observance through its policy implementation framework, which is felt at population level (Cingranelli & Mikhail, 2018; Cumaraswamy & Nowak, 2009). The criminal justice system is one of the JLOS functions through which human rights are realized or abused. The extent to which the JLOS policy options facilitate or hinder access to criminal justice by the vulnerable in the criminal justice process has hitherto not been explored in the light of the sector policy implementation framework since the introduction of the sector-wide approach in 1999. This study seeks to bridge the knowledge gap about the challenges inherent within the implementation of the JLOS framework, with a specific focus on access to criminal justice for the vulnerable in Uganda.

The JLOS partners in the criminal justice system have different mandates with respect to human rights are concerned. The following is a scholarly review of the mandates of each organ. Magdalena (2009) declares that human rights are crucial for access to justice. She observes that under the human rights framework, states are mandated to facilitate access to justice in an equitable manner without discrimination. This is by strengthening of the judicial system through constructing non-discriminatory legal and institutional frameworks against individuals or groups that facilitate access to fair, speedy and independent means for all, ensure a fair judicial results for those seeking redress, and further ensure efficient enforcement and conformity with judicial ruling or adjudicatory outcomes. She further notes that this can be done by supporting capacity building interventions aimed at empowering the judicial officers and communities in addition to addressing the primary structural and social hurdles like as stigma, inability to access legal education as well as social exclusion. The researcher acknowledges the need to look beyond these instruments and access to justice to create two important perspectives namely procedural access which entails a fair hearing before a competent and impartial tribunal; and substantive access which involves a fair and just redress for violations of one's rights (Kiriuki et al. 2014). While these are important tenets for human rights access to criminal justice, the JLOS policy framework does not highlight anything to do with procedural or substantive access. However, partner institutions like the police force, prisons and the Director of Public Prosecutions have the mandate to follow through this process and grant the vulnerable human rights as they access criminal justice. The study looks into the practices of the partner institutions in implementing these human rights tenets for purposes of recommending policy strategies for the Justice, Law and Order Sector.

Singh (2014) intensively looks at the challenges that face access to justice for the underprivileged in India upon recognizing it as a fundamental human right that the state must guarantee to all. In particular, he looks at the non-provision of legal aid and proposes that the judiciary has more roles to play in promoting access to justice upon the enactment of the Legal Service Authority Act. Singh (2014), however, fails to recognize that the state, in ensuring enforceability of the Act, has a bigger role to play and that the issue of enforceability cannot fully be left to the judiciary. While discussing access to justice in Kenya, Kalosa (2015) noted that access to justice is a right and not a favour from a state. However, where there are loopholes, legal aid service providers support

people to comprehend and access the laws in an effort enable them have recourse to lawful means of settling their conflicts and disputes without resorting to taking the law into their own hands (Mian & Mamunur, 2014). It addresses the power balance or what is commonly referred to as equality of arms where the state masters its expert human resources to prosecute an individual by providing the person with a lawyer who can evaluate the evidence presented against the accused. It offers the first line of protection to those found in conflict with the law right from the police stations in order to provide for the observance of constitutional guarantees. The study assessed the institutional operational mechanisms for human rights and access to criminal justice with a focus on the provisions of the JLOS policy framework and the extent to which the policy highlights these human rights.

Kuria (2014) also advocates the right to legal aid in Kenya. He analyzes the pertinent constitutional provisions regarding legal aid issues and demonstrates the difficulty in securing legal aid services especially in a country where such services are neither constitutionally and legally guaranteed nor well structured or institutionalised. He calls for a national legal aid scheme to be establishment. However, the kinds of rights, their enforcers and consumer attitudes towards such rights are in a seemingly conflicting situation and there is, thus, a need to harmonise these by giving them enough attention. There is a challenge in the practice of different forms of rights (referred to here as 'selective rights'). Notably, though, the writer does not specifically address the policy frameworks for access to criminal justice in Kenya or present a persuasive case for specific reforms, a gap which this study fills. This study set out to empirically establish the paradox regarding whether the vulnerable are comfortable with rights that are selective, the co-existence of constitutional rights (formal) and demand-driven (informal) rights parallel to each other and how they underscore the attainment of access to justice in the criminal justice sector of Uganda.

Much as there was increased staff enrolment within the criminal justice sector by the year 2000 (K2 consults, 2002), human rights became a concern for the Justice, Law and Order Sector; there were also unforeseen consequences in the form of unmanageably large area coverage by these personnel, resulting in congestion in prisons, case backlog and inadequate infrastructure in an attempt to meet the demand side (ibid). The study interrogated the extent to which the JLOS policy framework has mitigated these challenges.

In order to promote human rights protection, equality, fairness and access to justice, a number of studies were commissioned to guide in establishing the way forward with regard to provision of support to the justice institutions. These included the *Commission of Inquiry (Judicial Reform) of 1995* and the *Crown Agents Study of the Criminal Justice System*. The findings facilitated an analysis of the situation and provided recommendations for the required reforms. These studies were followed by the *Review of Uganda's Criminal Justice System* in 1999. All of these reports revealed serious flaws and practices of human rights violation in the justice system occasioned by systematic institutional constraints (World Bank report, 2009).

It has been acknowledged by scholars such as such as Hassan (2014) that the interventions yielded results as far as defending human rights was concerned. He notes that solutions were designed within the justice institutions to enhance efficiency and efficacy as well as equality within the system. This view corroborates that of the World Bank report (2009) that one such breakthrough was the Chain Linked Initiative which was initiated in September 1999 among the criminal justice institutions in Masaka magisterial area. This was aimed at enhancing law observance and ensuring the implementation of human rights codes through collaboration among human rights protection institutions. The initiative's immediate purpose was to strengthen cooperation, coordination and communication among the different institutions in the criminal justice system. Operationalization was the mandate of the police force, the prisons services and the courts in collaboration with prosecutors and advocates. The coordination function was the responsibility of the Case Management Committee with support from the secretariat, and an oversight role by a Technical Committee and an Advisory Board. The overall goal was to strengthen the standard of criminal justice through reduction in instances of mob justice, increasing public confidence in the criminal justice system and ensuring upholding the constitutional requirements and protection of the fundamental human rights as enshrined in the constitution. This study appraised the human rights approach from an interlinked institutional point of view to assess how the JLOS criminal justice institutions may enhance law observance and human rights. What do they prioritize most and what is the linkage? All the questions are aimed at addressing the extent to which the JLOS policy framework facilitates and/or hinders the realization of human rights.

The improvements in the JLOS performance as a result of several interventions culminated in the need to streamline funding to ensure that personnel are increased so that people can find it easy to report and access justice. This further resulted in the development of the Strategic Investment Plan in a bid to design long-term development imperatives for the justice sector. This would subsequently establish distinct policy priorities to guide strategic donor interventions as well as facilitating systematic approach to sector investments (Policy and Investment Framework, 1999). The need to preserve human rights, therefore, produced the dominance of the influence of the sector-wide approach in the provision of justice in Uganda, a strategy that was characterized by strategic expansion of the justice sector where donors played a critical part in facilitating policy implementation. At some point, however, the Royal Netherlands Government suspended aid to JLOS following the passing of the Anti-Homosexuality Act, which was nullified later by the Constitutional Court. This grossly affected the already planned sector priority areas, hence affecting some of the JLOS deliverables to the people (JLOS Annual Report, 2014).

Sustainability of this strategic plan for the enhancement of human rights amidst funding challenges might impact on the operations of the partner institutions. The question is: How sustainable are the criminal justice practices among the JLOS partner institutions for the achievement of the strategic plan? This study further interrogates the aspect of suitability for the attainment of the set priority programmes in the strategic plan.

In view of the above review, therefore, it can be concluded that the JLOS policy framework suffer from gaps specifically in the partner institutions' human rights practices mechanisms related to the tenets of fair hearing and fair and just remedy for the violation of one's rights, although the extent is not measured in any of the available studies. The challenges of meeting set priority targets for the strategic plans might as well be hindered by the inadequate resources in terms of funding and staff enrolment. Therefore, an interrogation of the planned sustainability is very critical for this study as well as the strategies in place for addressing the tenets of fair hearing as well as just and fair remedies in cases of human rights violation.

2.2.4 Rule of law and access to criminal justice

Scholars have made attempts to examine the rule of law in the criminal justice system across different environments. Most of them have, however, found that there are constitutional guidelines that should be followed as well as other law applications that are well documented and official. Access to criminal justice is essentially relied upon the rule of law in the sense that the actions and inactions of people, institutions and all players are subjected to the law.

A study by Dicey (1885), as cited by Gramatikov and Robert (2011), emphasizes the cardinal tenets of the rule of law and giving law the highest priority in society. They argue that the 'law rules overall and no person is above the law', thus it is key to people's enjoyment of rights and freedoms. This view is supplemented by Rukwaro (1994) when he stresses that law is the main guide to the society's well-being and development and applies at all levels of society. He further asserts that this state of affairs creates a conducive environment for people to enjoy their rights, hence the correlation between the rule of law and access to justice. This study, therefore, sought to understand the policy options on the rule of law, how they are applied in the criminal justice system and whether there is a linkage with the normative understanding of the rule of law based on what the vulnerable perceive.

While discussing the applications of the rule of law in society, Whitford (1994) notes that access to justice is important for judging the existence of the rule of law. He explained further that victims, the state, accused persons and the dispute resolution institutions must conform to the law in the assessment of their actions. The rule of law is related to curtailing dictators in societies, because the law guides all behaviours, including of those in charge or in power. In the event of a dispute, it will be settled in accordance with the provisions of the law in place (Hachez & Wouters, 2014). With respect to judicial protection standards, there are two major concepts related to equitable access to the judicial services as well as the construct of equality before the law measured against international standards (Kiruiki et al. 2014). Furthermore, there are publicly known and fair legal institutions which are all encompassed in the rule of law to protect fundamental rights in addition to the security of persons and property (ibid.). According to Kiruiki, it can be observed that if there is failure in the promotion of the above elements by the rule of law, then access to justice becomes a receding mirage and is, thus, defeated in the long

run. The subject of interrogation for this study is whether the JLOS policy framework as applied by the partners addresses the tenets of equity and equality of rule and procedures in the criminal justice process.

In their findings in a study about rule of law violations by states, Rukwaro (1994), supplemented by Allen (2014), explains that in spite of the aspirations inherent in the rule of law, it is threatened by a number of factors, such as corruption, social and cultural problems, complex court procedures, technicalities etc. Rukwaro (ibid) explains that such factors threaten the rule of law and, in turn, impede access to justice. The stifling of development by flaws in the rule of law can as well result into a breakdown in property and economic relations as a result of conflicts and deaths (Rukwaro, 1994). In this thesis, the author argues that in order to reinforce and strengthen the rule of law and, consequently, spur development, it is imperative that JLOS policy frameworks enhance access to justice to all by settling all types of disputes through adherence to policies in an expeditious, efficient and cost-effective manner in order to save people's time and resources. Through the use of clear and well-thought-out policies, people would use the time and resources saved to carry out other development activities. The above factors that threaten the aspirations intrinsic to the rule of law were found to be critical for this study, given the demanding aspirations in the rule of law in some parts of the country. The study thus sought to understand how the policy options have addressed the above factors that are alleged to threaten the rule of law, such as stated above.

The above views relate well with those of Ngondi (2006), who teased out a number of obstacles and other related factors that hindered access to justice by the vulnerable and poor in Kenya. Ngondi illustrates that reforms to empower the poor should be hinged on the enhancement of their access to law and justice. This view was also advanced by the Legal Aid Service Providers' Network (LASPNET) (2015) while stressing the need to urge law agencies to protect the vulnerable groups in accessing the law. He explained that many victims of domestic violence, religion and other human factors had not been helped to access justice. This hence indicates that Ngondi (2006) was right in his stand that the main obstacles to access to criminal justice services were premised in the economic constraints faced by the poor. He further proposed that these constraints could be addressed through deliberately designed projects that which address the needs and interests of the poor and vulnerable in order to suit the goals of the state interventions.

She observes that the interests of the various vulnerable groups are not catered for in the legal system. She further identifies gaps in constitutional provisions. According to her, it is difficult for those rights to be vindicated when they are not provided for in the legal and policy frameworks. In relation to this study where the JLOS policy framework provides for the rule of law as part of its objectives, the study set out to seek answers on approaches to the rule of law and how it manifests itself in the different institutions that are supposed to promote it.

In view of the above reviews on the rule of law and access to criminal justice, it can be concluded that the appliance of the rule of law in the criminal justice system and the linkage with the normative conceptualization of rule of law need to be deeply evaluated. This should further be related to what the vulnerable perceive as the rule of law. The issues of equity and equality as addressed by partner institutions in the criminal justice process are also underscored in this study to elucidate a clear understanding of the contribution of the Justice, Law and Order Sector. Furthermore, the factors that hinder the rule of law such as corruption, social and cultural problems and complex court procedures are important tenets that this study seeks to understand in connection with how the policy options and the partner institutions have addressed them.

2.3 Conclusion

This chapter reviewed scholarly literature on access to criminal justice with reference to the JLOS policy framework. The Meter and Horn (1975) model of implementation was reviewed, discussed and assessed for relevance to this study. The model, within which the bottom-up and top-down hybrid theory of policy implementation was used, provided the framework for the study. The literature review has justified the knowledge gaps which will be filled by generating answers to the three research questions. These are related to how the policy options facilitate the vulnerable in gaining access to the criminal justice process in Uganda; how the institutional enforcement mechanisms facilitate and/or hinder the realization of human rights as per the JLOS policy options; and how the provisions of the rule of law are applied within the criminal justice process. The relevance of the variables in the study was that it would guide the assessment process in understanding how the JLOS policy options have been implemented by the partner institutions in the quest for criminal justice for the vulnerable.

Scholarly literature on access to criminal justice was reviewed and inadequacies in the extant policy frameworks were noted. The existing institutions responsible for criminal justice require assessment with regard to whether they are being strengthened by the policy options on access to justice to Uganda specifically for the vulnerable or whether the framework has gaps in its implementation and/or design. The study findings address these questions.

Regarding the institutional enforcement of human rights in connection with access to criminal justice by the poor and vulnerable, the review indicated a lapse in JLOS partner institutions connected to human rights practices mechanisms for tenets of fair hearing and just remedy for the violation of one's rights. Issues of resources to meet set priority targets are discussed as challenges under this section. The study interrogated the planned sustainability as well as the strategies to address fair hearing for the violation of rights and the contribution of the strategies in place to addressing these mismatches.

The rule of law and access to justice were deeply evaluated, and their linkage with the normative conceptualization of the rule of law as well. Issues of equity and equality as addressed by partner institutions in the criminal justice process are addressed in this study to elucidate a clear understanding of the contribution of JLOS. The study sought to understand how partner institutions have used the policy options to address the challenges to the rule of law, such as such as corruption, social and cultural problems, and complex court procedures, in order to draw a linkage of fit within the process of criminal justice. A review of all the issues in the literature section point to the fact that the gap which will be addressed by this study. The challenge lies in the practice and not in policy. The implementation of criminal justice policies and practices seems not to speak to each among the partner institutions.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter provides the philosophical underpinning of the study as well as the methodology used in investigating the research questions. Furthermore, the chapter elaborates ethical issues under which the research was carried out and the study limitations thereof.

3.1 The Philosophical Foundation of the Study

Every paradigm is premised on a number of assumptions underpinned by its ontological and epistemological basis. The philosophical understanding of every paradigm can never be experimentally demonstrated or disproven. Divergent paradigms are inherently constituted differing ontological and epistemological perspectives; as such, they have contradictory assumptions about reality and sources of knowledge which underlies their specific research approach.

If ontology is a form of study which focuses on the concept of being (Crotty, 1998), the the underlying assumptions are concerned with what represents reality, in other words what is. Any researchers must take a certain position with respect to his or her perceptions of how things really are and how things really work. Going a step further, epistemology is field of philosophy that is concerned with the nature and forms or even source of knowledge. In other words what it means to know. The ontological perspective of positivism is one that deals with realism. In other words, realism is the world view that things have a way of existence which is independent of the knower (Cohen et al. 2007). Thus, a reality which is discoverable can exist independent of the researcher (Pring, 2000a). Most positivists therefore assume that the nature of reality is not mediated by our senses. Language fulfils a representational role as it is connected to the world by some designative function. Consequently, words owe their meaning to the objects which they name or designate (Frowe, 2001). Additionally, the positivist epistemology is one of objectivism. Positivists go forth into the world with an independent or impartial mind to discover absolute knowledge about an objective reality. The researcher and

the researched are independent entities. Crotty (1998) elaborates that there is a hidden meaning which exclusively dwells within objects and is not in any way in the conscience of the researcher. The aim of the researcher is to obtain this meaning.

The ontological position of interpretivism is relativism which is premised on the notion that reality is subjective and takes on different forms depending on one's perspective about the nature of reality (Lincoln & Guba, 1994). It is obvious that our perception of realty is a function of our senses. Therefore, without consciousness, the implication is that the world is meaningless. The researcher derives reality from engaging our consciousness with objects which are already filled with meaning (Crotty, 1998). As such, reality is individually constructed meaning that there as many realities as there are individuals seeking to define it. For that matter, the researcher constructs that language not only passively brand objects but it dynamically profiles and moulds reality (Frowe, 2001). Thus, reality is constructed through the interaction between language and aspects of an independent world. The interpretive epistemology is one of subjectivism which is based on real-world phenomena. The world does not exist independently of our knowledge of it (Grix, 2004).

Therefore, based on the above, the research paradigm was grounded in an interpretivistic philosophy orientation. According to Denzin and Lincoln (2005), the qualitative method as a means of inquiry is underpinned by the philosophy of how we come to know about a phenomenon of interest (epistemology) and how the results of the study should be interpreted. It was further grounded in the need to generate information to fill the gap between what the researcher knew about access to criminal justice by the vulnerable population in Uganda and what was actually known and counted as knowledge (Krauss, 2005; Kivunja & Kuyini, 2017; Lincoln & Guba, 1994; Denzin & Lincoln, 2000). Creswell (1994) posits that when researching into a new area with limited research evidence and an inductive research approach facilitates the generation of data, analysis of such data helps to covert theoretical themes into new knowledge. Consequently, adopting this research paradigm was important in allowing for naturalness and interaction between the researcher and the participants in order to generate in-depth knowledge and gain an understanding of the variables of interest in their natural setting. Kuhn (2000) emphasises that the changes in the scientific worldview on sources of knowledge create new schools of thought in scientific discoveries. He further asserts that the notion of scientific truth,

which is the basis for quantitative research, cannot be exclusively established through objectivity but, rather, can be informed by qualitative research. The researcher, therefore, posits that using an interpretivistic paradigm for this research was critical in defining the epistemological basis of the study. This provided for a deeper comprehension of the phenomena under inquiry.

3.2 Research Design

A cross-sectional study design using the qualitative research method was used. It was cross-sectional because data collection was carried out at a given point in time as defined in the study scope (Kesmodel, 2018). The choice of this method was guided by the research problem and the thinking that qualitative methods can be used to generate answers to questions related to experience, meaning and perception from the respondents' perspective. It further allows for flexibility to follow unexpected themes as they emerge during the research process and is sensitive to contextual factors (Hammarberg, Kirkman & de Lacey, 2016). From Shank's (2002) perspective, qualitative research is a form of logical pragmatic inquiry into a phenomenon. In other words, it is a planned and orderly inquest into a phenomenon grounded in the world of experience. It involves an interpretive as well as naturalistic approach where objects or phenomenon are studied in their natural settings. The researcher attempts to discern meaning or interpret the phenomena depending on the meanings society makes out of them (Denzin & Lincoln, 2000; Ospina & Wagner, 2004). Analysing access to criminal justice in Uganda as a phenomenon can best be understood through an interpretivistic approach in order to get in-depth knowledge and understanding of the different aspects that underpin the implementation of the JLOS framework.

3.3 Area of Study

Criminal justice institutions are found countrywide in Uganda. However, the study was restricted to specific regions for representation. Specifically, the study covered the Kampala Extra region and the south-western part of Uganda, particularly Bushenyi and Mbarara districts. The regions specified were the most highly populated (UPS SIP1V, 2017). The choice of the Kampala Extra region was based on the fact that JLOS administrative structures are based here, and the region has a big population of the vulnerable in terms of criminal justice and a number of partner organisations in the criminal justice system. Luzira Prison was chosen because it is a national maximum-

security prison while Bushenyi Prison, on the other hand, houses inmates from the five districts of Bushenyi, Sheema, Mitooma, Buhweju and Rubirizi and, in terms of categorization, it is a low-security prison. Mbarara Prison is a regional referral prison and is categorized as a high-security prison as well. As highlighted in Chapter One under the geographical scope of the study, the regions present a combined and fair representative national sample of the subjects under study. Since the study targeted vulnerable persons and, in this case, prisoners as categorized by the JLOS policy framework (JLOS SIPIII, 2012), their perceptions of whether there is access to justice or not constituted some of the findings for the study.

3.4 Study Population

A study population refers to the total number of elements that are of interest in a particular investigation (Creswell, 2003). Analysis of the policy options on access to criminal justice for the vulnerable under JLOS in Uganda focused on the individuals from the selected stations of JLOS i.e. the Police, the Judiciary, Director of Public Prosecutions and the Prisons Service. Specifically, the respondents were sampled from the JLOS criminal justice working group, especially from the quadruped institutions that make up the criminal justice cycle: judicial officers (prosecutors, magistrates and judges); police officers, especially district criminal investigation officers; prison officers who are heads of the selected institutions, particularly Kigo Prison, Kampala Remand Prison, Kampala Women's Prison, Kakiika Prison (Mbarara) and Bushenyi Prison; and the vulnerable (in this case prisoners) who included women from Kampala Women's Prison, refugees from Kakiika Prison, young offenders from Bushenyi Prison, capital offenders from Kigo Prison, remands from Kampala Remand Prison, and convicts and committals found in the two regions at the time of the study. These categories were chosen because each experienced access to criminal justice differently and, thus, such experience was critical for this study. Those judicial stations and population groups constituted units of observation as well as units of interest which had the characteristics required to meet the objectives of this study. These were critically chosen and considered because they provided appropriate forms and insights into the meaning of the JLOS policy frameworks.

The prisoners were chosen because the researcher believed that they had a story to tell about their experience with the services of JLOS. In addition, this avoided the pitfall of

simply asking people involved in one part of the justice system about what they thought of themselves. Overall, the above population categories constituted 5,464 respondents, from among whom a sample size of 106 was drawn.

The rationale for selecting inmates only and not other people, such as the acquitted who had passed through the justice system, was the ease of access to the population (Asiamah, Mensah & Oteng-Abayie, 2017). It was not possible to identify such individuals within the general population since they spread out after acquittal. Our choice of inmates as the accessible population was premised on the need to obtain information from the most appropriate sample of the target population in order to maximise the credibility of the study results (Asiamah, Mensah & Oteng-Abayie, 2017). The most appropriate sample in this research represented those respondents with the capacity and prospect to provide the most accurate information or data. This represents the most appropriate and convenient sample of participants. In this research, our thesis is that the hierarchical specification of the general population (all stakeholders that relate to JLOS), target (actors within the criminal justice system) and accessible populations (individuals knowledgeable about the study phenomenon) is a valuable way of ensuring a relatively large study population that is handy for the qualitative sampling necessary for this research (Allwood, 2012; Banerjee & Chaudhury, 2010). This provided for specifying the three types of population not for purposes of stratifying the sampling approach with a view to generalizing the study results but rather for screening large populations in order to retain the best and most convenient group of respondents.

The researcher acknowledges that the focus on inmates could have limited the study insofar as their responses could have been construed as seeking sympathy, thus limiting the objectivity of the study. However, the use of the most appropriate sample in this research addressed this limitation (Allwood, 2012; Banerjee & Chaudhury, 2010).

3.5 Sample Size

A sample is part of the study population which is accessible and has been systematically selected out of a larger population (Verschuren, 2003; Yin, 2002; Asiimwe, 2005). The sample was arrived at purposively by identifying individuals who were deemed to be knowledgeable about the study subject instead of their representativeness (Oso & Onen, 2009; Rule & Vaughn, 2011; Flick, 2002). This helped to capture the main themes and trends by selecting the study units of the sample on account of a set of distinct

attributes that the investigator deemed necessary to answer the research questions. The choice of the sampling method was also informed by the need to analyse data as it was generated through an inductive approach (Glaser & Strauss, 1967; Patton, 1990) in order to determine what to collect next. In this study, the sample size for the study was 106 participants drawn from among the staff of JLOS criminal justice working group and the quadruped institutions of the criminal justice. They included four members of the criminal working group at JLOS secretariat, representing the four criminal justice institutions. These were members of the Police Force, the Judiciary, the Prisons Service and the Director of Public Prosecutions. They were purposively selected and a semi-structured questionnaire administered to them.

Six respondents were drawn from the Director of Public Prosecutions' office, and these comprised three resident state attorneys at Bushenyi, Mbarara and Buganda Road (Kampala) and three heads of departments at the Directorate of Public Prosecutions in Kampala. These were also purposively selected and a semi-structured questionnaire administered to them.

Four judicial officers (chief magistrates) from Buganda Road, Mbarara and Bushenyi and one resident judge from Mbarara constituted the sample for the Judiciary. They were also purposively selected and a semi-structured questionnaire administered to them. Five Criminal Investigation Department (CID) officers from the five regions of Kampala that make up the Kampala Metropolitan area were interviewed together with two CID officers from Bushenyi and Mbarara to make a sample size of seven respondents from the police. These were also purposively selected and a semi-structured questionnaire administered to them.

Five prison officers were purposively selected from the five prisons of Bushenyi, Mbarara, Kigo, Kampala Remand and Kampala Women. These were also subjected to a semi-structured questionnaire. Eighty inmates that formed 10 focus discussion groups of eight members each, in the various prisons, were targeted; these included committals, convicts, remands, women condemned, women committals, women convicts, women remands, young offenders and refugees. The choice of these categories was based on the vulnerability context. The JLOS considers the vulnerable to include persons whose access services is limited by gender issues, age differentials, economic status, level of knowledge about their rights, physical impairment, powerlessness and these may extend

to minority groups, refugees, internally displaced persons, people living with HIV, children, suspects and prisoners among others (JLOS SIP III, 2012). This categorization informed the sample size. These were clustered within the vulnerability contexts and purposively sampled (Table 1).

Table 1: Categories of key informants

Sampling Strategy	Research Instrument	Category of Respondents	Sample Size
Purposive sampling	Semi-structured interviews	Criminal justice working group (JLOS secretariat)	4
Purposive sampling	Semi-structured interviews	Director of Public Prosecutions	6
Purposive sampling	Semi-structured interviews	Judiciary	4
Purposive sampling	Semi-structured interviews	Police	7
Purposive sampling	Semi-structured interviews	Prisons	5
Purposive sampling	Focus Group Discussions	The vulnerable	10 FGDs

Table 2: Focus group discussion sample framework

Categories	Kampala	Bushenyi	Mbarara	Kiggo	Luzira woman	Sub total
Men committals	-	-	1	1	-	2
Men convicts	-	-	-	1	-	1
Men remands	1	-	-	-	-	1
Women condemned	-	-	-	-	1	1
Women committals	-	-	-	-	1	1
Women convicts	-	-	-	-	1	1
Women remands	-	-	-	-	1	1
Young offenders (18-20 years)	-	1	-	-	-	1
Refugees	-	-	1	-	-	1
Totals	1	1	2	2	4	10

3.6 Sampling Techniques

The research adopted theoretical sampling methods where the key informants were identified purposively based on the vulnerability context and their expert knowledge about JLOS, especially the criminal justice system (Glaser & Strauss, 1967). Purposive sampling emphasizes the identification and selection of the cases based on their relevance rather than their representativeness (Flick, 2002). As an attribute of qualitative studies,

the focus of this study was to interview respondents with the ability to elaborate their experiences regarding the research questions or phenomena under study (Baškarada, 2014; Creswell, 2003). The researcher systematically reflected on how the sample population was to be established even when it did not provide for statistical representation of the target population. However, the findings of the research are qualitatively generalizable (Oso & Onen, 2009; Rule & Vaughn, 2011).

Focus group discussion (FGD) respondents were also purposively selected, with their selection being guided by the register of inmates in each prison included in the study. Specifically, a stratified (male and female) purposive sampling approach for FGD participants was used. Each group was homogeneous in order to facilitate comparisons and ease of interaction, and limited to a maximum of 12 participants (Ritchie & Lewis 2003). Focus group discussions for males and females were conducted in each prison, giving a total of 80 participants. The gender exclusiveness of each focus group was intended to facilitate free discussions given the male dominance, which in some situations prohibit women to openly contribute during discussions (Punch, 2005).

3.7 Data Collection Methods and Instruments

Simultaneous mixed method data collection strategies were used to validate the different data sources so as to address the research questions (Creswell &Plano 2007; Amin, 2005). Amin (2005) further advises that data collection procedures should include the development of valid and reliable instruments. In this respect, primary data was obtained through in-depth key informant interviews and focus group interviews. Review of archival records, publications and reports was used to generate secondary data.

3.7.1 In-depth key informant interviews (KIIs)

In-depth KIIs were conducted for respondents at national and district levels to obtain in-depth understanding of the research objectives. Yin (2009) argues that this approach enables the interviewer to follow a line of inquiry as reflected in the research questions as well as present questions in an unbiased manner. It further allows the interviewer to seek clarity on issues that are not clear and also the observance of the interviewee's facial expressions. In their line of reasoning, Ghauri and Gronhaug (2002) state that in-depth interviews are critical in enabling the interviewer examine non-verbal or body language such as the attitudes and behaviours of the interviewee, which provide context to the

responses. In order to generate the required information, in-depth KII guides were used.

3.7.2 Focus group discussions (FGDs)

Focus group discussions are an invaluable method for exploring a subject about which little is known, or one with a paucity of published research information (Krueger & Casey, 2000). They further posit that FGDs generate a lot of information much faster and at minimal cost than individual interviews. Focus group discussions have the advantages of not discriminating against people who may not be able to read or write, and encourages participation by reluctant respondents and those who feel they have nothing to say (ibid). More importantly, they are more appropriate for analysing how knowledge and ideas develop within a certain sociocultural setting. Furthermore, FGDs are useful in obtaining information on how communities hold certain perceptions and how these are socially constructed (Driscoll et al. 2007). However, there are inherent disadvantages of FGDs, for instance the upholding of group norms may silence dissenting individual voices. This is in addition to the possibility of other research participants present compromising the confidentiality of the research session (Dawson, 1993; Kitzinger, 1995; Krueger & Casey, 2000). The disadvantage was taken care of by the moderator encouraging all discussants to make contributions, to talk to each other rather than addressing themselves to the moderator, and by setting group norms at the start of the discussion. During moderation the researcher encouraged both positive and negative comments from the respondents and being non-judgmental. The moderator asked questions and listened while keeping the conversation on track and ensuring that everyone contributed (Krueger & Casey, ibid). Furthermore, participants were identified and selected on the basis of their being on committal, convicts, on remand, condemned, young offenders (18-20 years) or refugees (Bailey, 1994). The number of people included in each focus group was intentionally limited to a maximum of eight in order to facilitate meaningful discussion (Babbie, 2004). In this respect, FGD guides were used.

3.7.3 Document review

The review was critical in analysing private and public recorded information which was related to the subject under study. It was necessary in that the process enabled the researcher to access data at opportune times, obtaining data that was meaningful, and saving the time and costs that would be involved in transcribing (Wangusa, 2007). Documents related to policy and legislation, research reports, gray literature, published

articles and books were systematically reviewed, and this was guided by the objectives and research questions. Document review was continuous throughout the study. A document review guide was used.

3.8 Data Quality Control

Data quality control was realized through ensuring satisfactory levels of dependability, conformability and reflexivity (Amin, 2005). It is the effort that researchers invests in a bid to ensure that the quality and correctness of data being generated using the relevant tools for a particular study (Lavrakas, 2008). These perceptions are underpinned by the positivist paradigm but have been recast for use in the interpretivistic research approach upon which this research was based (Golafshani, 2003).

3.8.1 Dependability

Dependability (which is comparable to reliability) in research is deals with the extent to which the research method can be repeated in another study and generate similar results (Lewis & Richie, 2004; Robson, 1999). In this study, the researcher took the following steps to establish dependability:

- Triangulated information generated from multiple sources (interviews, FGDs and document review) in order to gain in-depth understanding of the study phenomena;
- Adopted an iterative data collection process using inductive approach. This is where data collected from a given set of respondents informed the next category of people to be interviewed. In situations where a new issues of interest emerged, it was followed up in the subsequent interviews (Kuper et al. 2008)
- Participant confirmation of discussed issues following the FGD was done to clarify proper representation of their views and ideas.

3.8.2 Conformability

In research, conformability is a reflection f the extent to which the researcher expresses his or her impartiality of the research explanation through a conformability audit. This entails putting in place an audit track comprising of 1) unprocessed data; 2) data analysis remarks; 3) restoration and synthesis data; 4) having research process notes; 5) keeping personal notes or log book; and 6) preliminary analysis information (Lincoln & Guba,

1985). In this study, the focus was not very much on the level of neutrality or objectivity but rather as a qualitative research, the researcher relied on interpretations. It is further acknowledged that the researcher's positionality could not be entirely detached from the research process given the qualitative nature of the study. The study perspective of the observer was limited and determined by what was seen and, therefore, there was commitment to reflexivity.

3.8.3 Reflexivity

The researcher constructs reflexivity in research as the level of influence the researcher introduces in the study process and being able to acknowledge how this impacts on the research itself (Kuper et al. 2008). This is specifically critical in qualitative research since the researcher's influence such as, his or her motivations and the inherent preconceptions by the researcher which define the entire process of qualitative research (Cohen & Crabtree, 2008). Reflexivity tends to dare the researchers to make known the means by which their ontological as well as the epistemological suppositions influence the decision-making processes and the rationale for the choices they make throughout the entire research process (Keso et al. 2009). Along this understanding, definitely the researcher's perceptions had some effect on this study. As a worker in the Uganda Prisons, which is a partner institution in the criminal justice system, this experience influenced the research process from design level to actual implementation, data analysis and interpretation as well as report writing.

The researcher also adopted the 'Structure Laying Technique' to analyze content as identified by Flick (1998). The researcher conducted a pilot interview in which the responses were transcribed and a rough analysis made. In a period less than one week after the piloting process using the Structure Laying Technique, another meeting was arranged. In this meeting, an assessment of contents from the interviewees was done. This involved presenting to them essential statements as themes or sub themes on manila cards for content analysis and subsequent validation from the pilot interview. The interviewees would be asked to remember the contents of the pilot interview and cross check whether the content was accurately represented on the cards. In instances where there were differences, they participants would be free to recast, discard or even replace some of the statements with more appropriate content. Generally, conformability,

transferability, trustworthiness, dependability, credibility and systematic review were core at this stage.

3.9 Data Analysis Techniques and Interpretation

Data analysis for any scientific study involves appropriately converting large volumes of data into compressed forms that can facilitate quick synthesis and interpretation. The audio recorded data from primary data sources was written down into texts, edited before it was analyzed. A data analysis report was first generated under the different dimensions and indicators derived from the conceptual framework using the NVivo qualitative data analysis software. The body languages of the respondents expressed during the face to face interviews were noted and this provided the context of the recorded responses. Textual data generated from literature review, KIIs and FGDs was coded and thematically analyzed in line with the dimensions and indicators under study. During data analysis, a thematic and content approach was adopted and these provided the building blocks upon which the discussions were premised. Coding was aimed at reducing the volume of raw data to a level that was of relevance to the research questions and the development of themes (Mojtaba, Jacqueline, Hannele & Sherrill, 2016). Relevant quotes were identified and selected for inclusion in the analysis report in order to give emphasis to the responses without losing the original context and meaning (Pope & Ziebland, 2000; Becker & Geer, 1982). The research results and discussions were presented in form of description text underpinned by coherent interpretations when generating the study report.

3.10 Dissemination Plan

The findings of this research will be presented to JLOS through feedback meetings. Articles will be developed for publication in peer reviewed journals as well as conference papers. Policy briefs will be developed and presented to JLOS and development partners for policy action. Finally, this thesis will be bound in the form of books for dissemination in the Uganda Management Institute library.

3.11 Ethical Considerations

Robert and Brewer (2003) contend that the researcher has an ethical responsibility to his or her wider community (Robert & Brewer, 2003). In light of the ethical guidelines for the academic research, the study objectives were communicated to the respondents, they were informed about the voluntary nature of participation, confidentiality and

anonymity were observed throughout the research process and the potential uses of findings was explained prior to the interviews. The researcher considered some ethical issues like any form of psychological stress which may arise from some questions. Efforts were made to minimize eliciting of fear by assuring the respondents, especially prisoners, about confidentiality of information provided and that it would only be used for purposes of this research. Since the study was cross-sectional and revolved around the opinions of the consumers of criminal justice and the institutional players, there was a possibility of the post-research relationship between the respondents and the researcher (researcher-respondents interference) extending beyond the research confines as a result of the research interface.

In view of these possibilities, prisoners' participation in the study was purely voluntary (no compulsion). In the same vein, personal information, such as name and contact details, and questions that might elicit direct responses were omitted in the interview sessions. The researcher made provisions for the respondents should they feel psychologically threatened in responding to any question in the study at any point, and advised that they would be free to redirect the question(s) and/or stop participating in the study entirely.

In addition to the socio-psychological support measures put in place, the researcher endeavored to ensure that face-to-face interviews take place in a safe, secure and socially conducive environment, such as the respondent's office, amongst others, for the JLOS staff and other officers. The prisoners, on the other hand, would be concentrated in a safe and secure place within the prison facility that was conducive to free participation. So, ethical concerns were carefully and successfully controlled in this study.

Ethical approval for this research was obtained from the Makerere School of Social Sciences Research Ethics Committee with a letter of authorisation. The researcher then used the letter to introduce himself to the Uganda National Council of Science and Technology, a national research regulatory authority, the President's Office and the target organisations, where he sought permission to conduct the study. Authority was given by all these bodies and the researcher thus set out for the field. Before administering the data collection instruments, the researcher informed the respondents about the research objectives and the likely benefits, and how the research findings would be disseminated so that they could make informed decisions on whether to participate or not.

The researcher's positionality (as a worker of the Uganda Prisons Service, which is a partner institution in the criminal justice system) placed the researcher within one of the institutions of the Justice, Law and Order Sector. As an inside researcher, many aspects that an outsider might have needed to take into account during data collection were not applicable to the researcher, since the insider researcher shares the social world of the research participants (Gallais, 2003). Therefore, precautionary measures had to be taken. The choice of appropriate participants in this study was accomplished based on the researcher's knowledge of all those involved in the JLOS process. Gallais (ibid.) points out the danger that the insider researcher will approach situations with assumptions and preconceptions applicable to the home group. Therefore, the researcher took steps to ensure that he did not make any premature judgements about participants' responses even when he had prior knowledge of a particular issue. He relied on the information provided, but requested further details and clarification on certain areas based on his knowledge and experience. This was done in an effort to avoid any bias on the part of either the participants or him arising from over-familiarity and taken-for-granted assumptions.

3.12 Chapter Summary

The research was grounded in the interpretivistic philosophy paradigm with a cross-sectional design using the qualitative research method. It was restricted to the Kampala Extra region and the south-western part of Uganda, particularly Bushenyi and Mbarara districts. The chapter presented the study population as drawn from the Justice Law and Order Sector in Uganda using theoretical sampling methods. The data collection was through KIIs, FGDs and documents review. A further presentation on data quality control was given which involved establishing acceptable levels of dependability, conformability and reflexivity. The chapter presented data analysis which was done using thematic and content approaches and how the research findings will be presented to the Justice, Law and Order Sector through feedback meetings, journal publications, conference papers and policy briefs. The chapter concluded by presenting the ethical issues which were followed during the research. The next chapter on the analysis of data and a discussion of findings is structured along the research objectives and the dimensions thereof.

CHAPTER FOUR

POLICY OPTIONS ON ACCESS TO CRIMINAL JUSTICE AND HOW THEY FACILITATE THE VULNERABLE IN THE CRIMINAL JUSTICE PROCESS

4.0 Introduction

The chapter provides insight into the first study objective, which was to critically analyse the policy options on access to criminal justice and how they facilitate the vulnerable in the criminal justice process in Uganda. The analysis and discussion are guided by the following dimensions: completion of registered cases; transactional lead times; complaints management; and completeness of the JLOS chain of services. The analysis and discussions are based on the access to justice claims underpinned in the JLOS framework, the Meter and Horn (1975) model and the top-down and bottom-up theory of public policy implementation. The chapter concludes by giving a brief synthesis of the pros and cons of the JLOS policy framework and how they can be improved to address access to criminal justice.

The findings and the discussions that follow are structured as follows: For each dimension under the respective research objectives, an introduction is provided first. This is followed by the presentation and interpretation of the findings as well as discussions through drawing on the gaps and converging positions of scholars as identified in the literature review. Each discussion of the dimension ends with a narrative which, in a way, summarises the findings. This approach also applies to the emerging themes generated using the thematic analysis technique. The researcher now provides the detailed analyses and discussions of each of the dimensions mentioned above.

4.1 Completion of Registered Cases

Simply put, completion of registered cases in Uganda's criminal justice system involves registration at the police, processing through prosecution and eventual disposal by the courts of judicature. Whereas this process might appear straightforward, in a practical sense, it is far from being realised/achieved under the current operational modalities in Uganda's judicial system. In our perspective, the haphazard nature of and unfairness in

the judicial processes can be construed as a limitation to the effective application of the law. The first come, first served principle which would otherwise ensure that cases are presented in the High Court session in the order of registration is not followed owing to systemic corruption. The choice of cases to be heard is left to the discretion of the officers responsible and is also influenced by political and economic gain decisions, as the researcher shall further elucidate later in the chapter. In our opinion, this may amount to occasional breakdown in the completion of registered cases from the human rights perspective, as shall be discussed later in this chapter. The existing legislation does not explicitly clarify the rights perspective on the duration any criminal case should last from registration to disposal (Criminal Procedure Act, Penal Code, Magistrates Act etc.). For example, the case disposal rates in Uganda take an average of two years for petty cases and about six years for capital offences (JLOS report, 2014a). This practice resonates with Metter and Horn's (1975) perspectives related to the disposition or attitude of the implementers involved in addressing criminal cases. Alongside these dimensions, the researcher further posits that the discretionary powers (Lipsky, 1980) vested in the judicial officers also tend to impact their attitudes in influencing the progression of criminal cases. Given that the magistrates and judges represent government in the delivery of services, their actions or omissions thereof reflect the citizens' interface with policy implementation within the justice and order sector. The researcher shall thus analyse the attitudes or disposition of judicial officers within the street-level bureaucracy perspective. The researcher turns his attention to an analysis of the dimensions mentioned above in as far as they impact on completion of registered cases.

4.1.1 Completion of registered cases from the rights perspective

Completion of registered cases breaks down at a point where expeditious trial is not attempted while the affected parties are languishing in jail. The researcher further posits that the delay in the criminal justice process is in utter disregard of the fact that a citizen has been deprived of his freedom on the ground that he/she is accused of an offence. Some interventions to tackle this problem were put in place by the Judiciary. They include popularising the use of prosecution-led investigations and guidelines/rules on adjournments on the part of the Judiciary (JLOS, 2017). These interventions put more pressure on the already fatigued system. One officer and other respondents expressed dissatisfaction with procedures thus:

> …the procedure of the 48-hour rule may not apply given the nature of the offence, some serious cases like murder, defilement, rape tend to bend a bit the 48-hour rule because of the nature of the offence. (POL1,KLA)

Another respondent stated:

> Procedural issues that are capital in nature have to be referred to the high court by a magistrate … this leads to delay because justice delayed is justice denied. Such cases should go to high court directly…. (POL2, KLA)

A suspect upon arrest must be produced in court after 48 hours in any criminal case. However, investigations into some cases, such as murder, defilement and rape, tend to delay because of the procedures involved in processing such matters to court. These cases involve doctors and other experts who, in most cases, may not be in the localities where they are expected to be or may not be easily accessible. The process of getting them is not only costly but may create a window for corruption to thrive since people will work towards meeting the target rather than completing all the nitty-gritty processes required. In addition, the lower courts do not have a mandate over capital offences, although such cases start there; the bureaucracy in the courts of law tends to frustrate the speed and rate at which such cases are completed.

From these views, the researcher notes three concerns.

First, it seems that although procedural justice was expected to be the thread that holds the various aspects of justice together, the context within which these procedures apply does not favour effective access to criminal justice. This view is shared by Sukhraj-Ely (2010) and Masson and Rouas (2017) in connection with effective access to justice. In their thesis on access to justice, they argue that one of the most important conditions for the establishment of the rule of law is the ability of ordinary citizens, including the vulnerable individuals, to avail themselves of the instruments of the law. Having access to criminal justice is a connecting fabric between citizens and the justice system, which is further mirrored in the doctrine of respect for the rule of law and confidence in the justice system (Greenleaf & Peruginelli, 2012). More importantly, the researcher notes that access to justice concerns all aspects of criminal, civil and administrative law, and is essential for individuals seeking to benefit from other routine and substantive rights.

Second, it is clearly observable that it curtails the speed of events of one's case from one institution to another. This is a result of the interconnectedness of interactions with the different institutions where bottlenecks in one of them directly affect the other.

Third, on several occasions procedures are violated in the criminal justice process in the quest to have the processes hurriedly done, missing out the details as prescribed by the law, thus raising points of contention in law during trial, which curtails the completion of cases on time. This situation raises questions about the legitimacy of the procedures involved in gaining access to the criminal justice process, including questions about whose agenda and priorities they serve. In seeking answers to these questions, the researcher first analyses the disposition of the judicial officers involved in the process of completion of registered criminal cases.

4.1.2 Disposition or attitude of the implementers

Progression of many of the registered criminal cases in Uganda largely depends on the decisions made by the judicial officers on one respect or another. The way criminal court sessions are scheduled, what cases to include in the sessions, the speedy trials of individual cases, among others, all depend on the attitudes of the judicial officers. The fact that the Judiciary acts as an independent arm of government based on the constitutional provisions gives it decision-making discretion. In Metter and Horn's (1975) perspective, the individual or collective positive or negative attitudes tend to define the progression or completion of registered cases. There are no documented standards and guidelines for timelines within which registered criminal cases should be disposed of. This situation sharply contrasts with good practices registered in other countries where timeliness of case disposal rather than the concept of reasonable time has been adopted as a good practice (CEPEJ, 2006).

Whereas these good practices which provide timelines for case disposal facilitate access to criminal justice from the rights-based perspective, on their own, they may not be applicable in the Ugandan situation. This is founded on the practical reality of the in-built bureaucracy and the limited will by the judicial officials to expedite the criminal justice process. This assertion is supported by one of the key informants quoted hereunder.

> There is no goodwill for the judicial officers to expedite the criminal justice. The judges have frustrated our work…they handle work in sessions and anything outside

> the scheduled session cannot be handled and yet some of these matters have overstayed in the system. (DPP1, MBRA)

Goodwill entails someone going the extra mile, thinking outside the box or investing more time and effort in addressing relatively simple issues in expediting the criminal justice system. This is an attitudinal issue as espoused by Metter and Horn (1975), where the decision to invest more efforts in addressing issues in one's jurisdiction is a matter of an individual's attitude and perception. It was further noted that the judges wielded a lot of discretionary powers to determine the rate at which the criminal justice process flows. Whereas the legislation provides for the independence of judges and magistrates, there seem to be undue misuse of their discretionary powers in this regard. The fact that they cannot handle cases outside the stipulated sessions lends rigidity to the criminal justice processes. For example, the judges choose when to start the session or when to end it, thus frustrating other institutions whose actions depend on the judges' action/ inaction. As a result, a number of criminal cases have not been attended to in time, thus contributing to delayed access to criminal justice.

4.1.3 Discretionary powers of judicial officers

Discretion can be defined as the power or right to make official decisions using reason and judgement to choose from among acceptable alternatives but with reference to the rules of reason and justice and not according to personal whims (Awal & Mollah, 2006). The diverse decisions made by magistrates and judges on a routine basis depend on the prevailing circumstances. These powers are usually exercised when power is bestowed upon a judge under a statute that requires him or her to choose from different options but valid courses of action. It is, therefore, our thesis that these discretionary powers expose the flaws in their application given that different decisions can be made by different judges on a particular matter but under diverse circumstances. The researcher further argues that the term judicial discretion has not been clearly defined in the laws of Uganda but is applied regularly by the judiciary.

While discretionary powers are desired in the criminal justice system, the researcher argues that these should be regulated in a manner that expedites the criminal justice process for the vulnerable. Based on the Metter and Horn (1975) framework, the social environment, economic and political environs also tend to play a role in the progression of criminal cases in Uganda. Cases that are of a high political profile tend to attract closer

attention and the rate of their progression is equally higher. This selective application of the criminal justice process breeds practices which tend to favour individuals that are highly placed in the social, political and economic hierarchy to the disadvantage of the less privileged. The researcher thus contends, and on the basis of good practices in other countries' criminal justice systems (CEPEJ, 2006), that the duration for handling criminal cases be capped at two years. In order to mitigate these influences and the discretionary powers of the judicial officers, the setting of timeframes will provide for conditions sine qua non for setting up standards and ensuring compliance guidelines for expediting the criminal justice process. From the perspective of policy formulation and the managerial dimension, this will be a prerequisite for evaluating performance and the contribution of each player to improving the length of judicial proceedings.

4.1.4 Independence of prosecution from judiciary

The independence of the prosecution from the judiciary is essential to the functioning of the criminal justice system. This stems from the need for impartial adjudication of criminal cases without due influence by either party (Dijk, Tulder & Lugten, 2016). The independence of prosecution from the Judiciary, as espoused by the Constitution of the Republic of Uganda (1995) and further elaborated by (Magistrates Act, criminal procedure Act) intends to minimise biases in addressing criminal justice. The researcher, however, notes that it has been identified as a major constraint with respect to the completion of registered cases in Uganda. One of the key factors inherent in the relational asymmetry between prosecution and the Judiciary is underpinned by financial management. The finances to facilitate High Court sessions are controlled by the Judiciary and, in some cases, not provided in a timely manner to avail prosecution witnesses, thus contributing to delays in the completion of registered cases (JLOS report, 2014). A prosecutor in one of the districts described how the level of autonomy weighed on their ability to expedite some of the criminal justice processes as follows:

> We have problems, especially when it comes to High Court sessions; we have to summon witnesses and it's the responsibility of court to pay for their transport allowances. However, the court takes long to release the funds even when we submit our request early enough. This leads to witnesses not being available during court sessions and this frustrates our efforts… We end up not prosecuting such cases. (DPP2, BUS)

It should be noted that witnesses are key to any criminal case because they give accounts about the occurrence of a particular defence and it is on this account that court takes decisions on any matter, among other things. However, it is the court's responsibility to fund or remit their transport; therefore, it is their responsibility to budget for and release funds regularly upon request to enable witnesses to attend court sessions. Therefore, funds are important in propelling the criminal justice process, and the lack of funds frustrates the efforts of those enforcing the criminal justice process. The compromise is for the complainants, who are now represented by the state, to dig into their pockets and facilitate the process. Where someone is unable to afford the cost, the case usually delays in the system for an unnecessarily long period, as explained infra:

> If a poor woman has a case, that is if she is the complainant, and you ask her to facilitate the witnesses …. it is obvious that she will definitely not afford the costs yet the rich person would easily facilitate the witnesses. (POL1, BUS)

The inability to afford costs of facilitating witnesses to appear in court is a matter of the violation of the right to the due process of the law. The poor, whom the law is supposed to protect, end up in some instances disadvantaged by the same legislation. In some cases, the complainants lose out on criminal cases simply because the government fails to fulfil its obligation with respect to facilitating witnesses to appear in court.

The fact that independence of prosecution from the Judiciary contributes to delays in the release of funds is a conjuncture of attitudes and the application of discretionary powers of the individuals operating in the two institutions. From one perspective, the urgency of the financial requirements as perceived by prosecution is not mirrored by the Judiciary. Meter and Horn (1975) contend that in the absence of financial resources, it is very difficult to effectively implement policy provisions, the capacity of human resources notwithstanding. The researcher argues that even where you have qualified staff running the systems, the discretionary powers, as defined by the disposition or attitude of the implementers, combine to influence the completion of registered cases. The researcher now turns attention to how discretionary powers and the disposition of the implementers interplay in the first come, first served principle in the judicial processes.

4.1.5 First come, first served principle and systemic corruption

The first come, first served principle is widely used in business. It is where goods that are first in the stores are the first ones to be taken out for consumption. This principle was borrowed in the criminal justice system to ensure that the prisoners that get into prison first, are the ones that are served first (JLOS report, 2013). As much as the principle was adopted in the Uganda judicial system, most inmates find it unfair and segregative in nature. Furthermore, the judicial officers' political inclinations and people's discernments of such tend to undermine the role of the Judiciary as guardians of citizens' rights against the state machinery in its various manifestations. The practice tends to influence the hierarchical arrangement of cases in favour of those who are politically connected to the judicial officers. This leaves ordinary citizens bare and exposed without effective recourse to justice, especially where the state is the offending party, and with scant protection when the state presses charges. Individuals who share a political orientation with some of the judicial officers get favoured and have their cases expedited. This assertion is shared by one of the inmates who experienced unfair delays:

> There was no justice because those who came after us and are politically connected to judicial officers were given committal papers and have finally left us here yet we were among those who came in (prison) earlier. We have been here since 2012 but nothing has been done. We have been on remand since then, we are requesting that they call us so that we can defend ourselves or be convicted of our crimes than keeping us here when we don't know even our fate. There is segregations in the way refugees are handled …. and those who can afford some money to bribe court officials. There is no justice because summons to court are delayed and during this time we suffer without trial. (FGD1, MBRA)

For any inmate to be charged in the High Court, they must possess a committal paper or summary. This is a statement of charge highlighting the type of offence and the summary of facts upon which the prosecution will base its arguments. Because of the session system in the criminal justice process, inmates are clustered in sessions basing on who was committed first and it is upon that system that proceedings commence. However, it seems that inmates who have money and the 'right' political affiliation get their way by being served first regardless of when they came in, and this largely affects those inmates like refugees who have no relatives outside the system to pursue such dirty deals. Such cases will never be completed on time as and when they should be because the system deals with those who can 'oil' it (IBA, 2007; Gloppen et al., 2004; Gloppen, 2008).

From the systemic corruption perspective, the completion of registered cases is influenced and incentivised by the associated political and economic dimensions. Individuals who are politically connected or those with financial influence tend to drive the agenda of the judicial processes. Systemic corruption in the judicial system is a widespread practice in Uganda (TI, 2007). Bribes by judicial service users can be in the form of illegal fees levied by court staff as facilitation for doing their work, which they are supposed to do anyway. This bribe can be used to unduly delay court processes or otherwise. Corruption is not a problem only in the formal judicial system but also transcends the alternative administrative and judicial institutions which most people turn to for lack of access to or trust in the formal justice system (Golub, 2007; Nyamu-Musembi, 2007; Eurobarometer, 2012). It is the researcher's thesis that this form of corruption which involves financial exchanges tend to favour the rich, thus disadvantaging the poor. In such a situation, the judicial process can be used to keep some individuals longer in court even when their cases were registered first, thus undermining the first come, first served principle.

The multiplicity of institutions involved in the execution of the criminal justice system further expands the corruption points which the Judiciary clients have to facilitate. This is explained by the nature of institutions and the networks therein in the process of accessing criminal justice. As posited by Meter and Horn (1975), the characteristics of the policy implementing agencies have a toll on the inherent processes for the effective realisation of the policy objectives. The fragmented nature of the different agencies with minimal practical coordination mechanisms and individual bureaucracy characteristics tends to spread the responsibility for an area of policy among them. As such, clients of the judicial system are equally inconvenienced by the multiplicity of the agencies through which they have to bribe their way out. The researcher thus contends that the dispersion of responsibility for a policy area progressively intertwines the decision-making processes, thus creating delays in the completion of registered criminal cases. This reflects the adverse impact of all forms of corruption and perceptions of such, whether overt in the form of bribery or covert as in the form of bias, are greatly damaging to the criminal justice system. In conclusion, the dilemmas arise in the work against criminal justice systemic corruption since efforts to impose accountability may undermine the independence of the judiciary. This notwithstanding, setting regulations where the duration from registration of any criminal case to its conclusion would minimise the systemic delays as a measure to see justice being done from a practical perspective.

4.1.6 Unfairness in the judicial processes

The in-built procedures of the criminal justice systems have been counterproductive to the completion of registered criminal cases. For example, inmates who have been incarcerated and have no access to legal services get disadvantaged in connection with timely access to justice. The criminal laws disadvantage the remanded individuals since they cannot access witnesses and lawyers in time and the judicial system does not seem to be sensitive to this limitation. This procedural practice in relation to consumers' access to criminal justice generates bitter experiences, as espoused by one of the respondents who, in some instances, viewed the entire system as unfair to inmates:

> When you are a suspect, the judges will put you into prison custody. On the day when hearing of your case is due, they will tell you to get witnesses. But truly I have been in prison and have not communicated to anyone; how do they expect me to get witnesses to testify? Yet when you are put here, everything is taken from you. So, with such there has been no fair justice in my case and I don't think there will be any, with this kind of system still in place. (FGD1, BUS)

Another respondent had this to say:

> When you are arrested on a capital offence, you are not allowed to defend yourself. It's the state lawyers who do it on our behalf, who sometimes are bribed by complainants or do not know how to counter-argue facts. This leaves you helpless and at the mercy of the judge. (FGD1, KLA)

One is called for hearing if one's case is on the cause list and expected to give their account of the case which requires hearing of witnesses. In most cases, those in prison find it hard to communicate to the witnesses in their case. Even then, they are assigned state lawyers and are not allowed to defend themselves. Because of their incarceration, this creates an opportunity for the complainants to meet the assigned lawyers and compromise them. This leads to distorted representation and a semblance of conflict of interest where some facts and counter-arguments are ignored, thus rendering the inmate helpless and, in most cases, leaving them to the mercy of the trial judge. In the event that a trial judge rules in favour of the state, this will lead to dissatisfaction and eventual appeals, which will keep the case in the system, thus leading to incompletion for a long time (Joy, 2016). The above arguments also point to the conclusion that much as policy options can work and address the failures of completion of registered cases, it falls short in addressing the discretionary powers of judges, judicial independence, distorted representation of the

vulnerable and the dirty deals within the criminal justice process. This, therefore, guides the study to the next section, where the interlinkages within the criminal justice system and how they are affected by the above factors are questioned.

4.2 Sector-wide delivery structure

The sector-wide approach can be described as a strategy that brings together different stakeholders within a given sector. This is for purposes of working together on agreed upon priorities with a particular focus on planning, enforcing partnership, harmonisation, coordination and alignment with set procedures and systems (World Bank, 2005). From another perspective, Courtney (2007) defines the sector-wide approach as a process in which funding for the sector, whether internal or from donors, supports a single policy and expenditure programme. This is usually under government leadership, and involves adopting common approaches across the sector. Similarly, King (1992) describes the sector-wide approach in terms of its principles, highlighting the incorporation of sound policies, ownership and sustainability. Rather than being a definite parcel of policies or activities, it is characterised by a set of operating principles that help in driving a common agenda (Forss, Birungi & Saasa, 2019). The sector-wide approach has become known as an organisational framework used in response to importunate challenges facing multiple agencies. For instance, lack of effective planning and coordination of interventions can be counterproductive to ownership and sustainability.

In the light of the above, in terms of achieving completion of registered cases, the Justice, Law and Order Sector acknowledged the importance of addressing sector priorities, coherence and coordination from the sector-wide perspective. As illustrated in Figure 2, mechanisms were put in place to address the institutional functional structures and systems guided by the individual institutional policy and legal frameworks. Mechanisms were also put in place to facilitate capacity-building for the duty bearers to deliver justice and the rights holders to know their rights in order to access justice. These cross-institutional operational mechanisms were supposed to manifest as the sector-wide approach to enhancing completion of registered criminal cases. This was intended to address the concerns identified in the need for coordination in the sector, given that criminal justice transcends individual institutions. While the researcher concurs with the fact that a multiplicity of players have a role to play in the delivery of criminal justice, their interaction is the very essence of delayed justice. This is underpinned by

the extent of systemic institutional bureaucracy which, albeit its being necessary from the implementer's perspective, infringes on the right to quick access to justice from the vulnerable person's perspective.

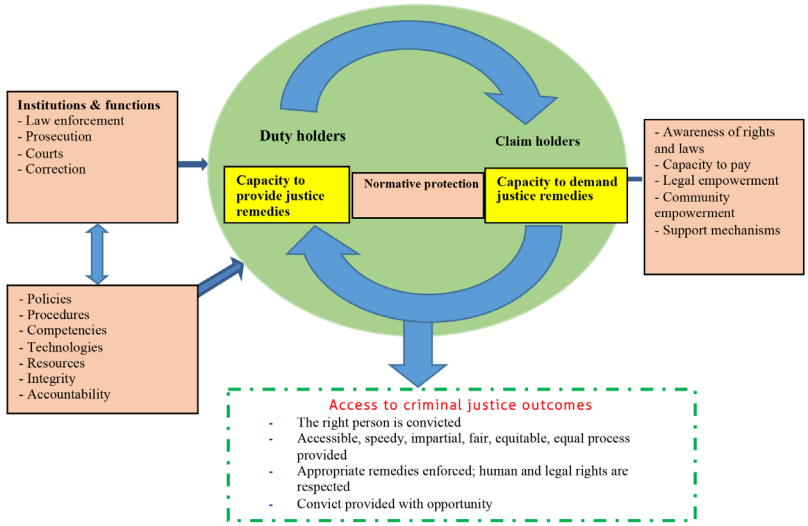

Figure 2: Coordination and sectoral collaborations in the Justice, Law and Order Sector

(Adopted and modified from UNDP, 2005)

Whereas the sector-wide approach is expected to resolve these issues, the nature of its design and implementation modalities tends to define its success or failure. As such, an in-depth analysis of the current vertical approach practically adopted by the sector cannot be eluded, hence our focus on the silo operation modus and weak leadership, as discussed in the next section.

4.2.1 Operating in silos

Uganda's Justice, Law and Order Sector adopted a sector-wide approach to enhance efficiency in the planning and implementation of programmes. Structures were put in place to ensure operationalisation of this approach, including multisectoral committees to provide leadership as well as technical committees to handle specific areas of focus (JLOS SIPIII, 2012). However, despite these efforts, operationalisation of the sector-wide approach within the Justice, Law and Order Sector has largely remained in the programme documents, policies and guidelines with minimal efforts to translate these principles. The ultimate outcomes manifest variously and there is the persistent operation of the different agencies in silo mode despite the ultimate goal of making judicial

services accessible to all in an equitable manner. This is where individual Ministries, Departments and Agencies (MDAs) continue to implement their mandates with minimal regard for the need to interrelate with others in order to leverage resources and contribute to expedited completion of registered cases. Cilliers and Greyvenstein (2012) state that beyond the conscious structures; organisational silos also pertain to the unconscious state of mind and mentality that takes on a life of its own. They contribute to splitting of the organisational artefacts and relationships, and impact negatively on relationship forming between individuals and within teams. In this respect, one of the JLOS officers expressed views on relations around the different areas of focus that guided their support and contributions:

> …it's not easy to work together…each institution has its own priorities….a simple example while one sector might be interested that the suspect be produced in court in a certain period…another wants to do thorough investigations…but are all guided by their institutional laws…..this lack of coordination has further complicated rapid disposal of criminal cases. (PRS1, KLA)

The challenges in coordinating the different institutions are based on the different mandates they hold and priorities they have. All of these are dependent on the outcomes each institution is expected to report to the Office of the Prime Minister, ultimately. As pointed out above, there is a possibility that operations are run according to areas of comparative advantage, given that there are multiple mandates. The staff of some institutions will feel comfortable to work with some other institutional staff, and will thus have less interaction with others, which greatly affect JLOS output. Even when an institution wishes to hasten the process for the completion of cases, this cannot be possible, given that the norms of the partner institutions have to be followed without compromising the core mandate and the terms of operation of that institution. In the end, the will to complete cases does not come to fruition in a single institution if there are roadblocks from the other institutions. These realities are injurious to sectoral – coordination according to Edroma (2005), who emphasises that the JLOS approach requires that institutional priorities or plans should not form the basis for defining areas for support and priorities under the Justice, Law and Order Sector. Instead, what is needed is a participatory process to define sectoral priorities, followed by planning of institutional contributions to realise those priorities.

It should be further noted that each institution is guided by different legal frameworks. As such, any attempts to address the silo operation mode require revisiting the legal frameworks. The researcher thus argues that the mindsets of the different actors are a function of institutional culture and the long historical perspectives of how things are done. Our thesis is grounded in Giacoman and Ribeiro's (2016) peception that businesses adapt their processes, systems and operating models in order to retain the strategic capabilities that are necessary to have the right to win. If the researcher mirrors this notion with the JLOS modes of operation, the lack of business mindsets and approaches in managing the sector is characteristic of most bureaucracies in Uganda. They tend to be overshadowed by their historical bonds on how things are done in the public sector irrespective of whether they no longer reflect the needs of the clients they serve. The researcher contends that conventional astuteness holds that silos are a defective business construct. It is a legacy of command and control bureaucratic leadership (Lipsky, 1980) which, in our opinion, symbolises unfashionable and unproductive management strategies. This view is further propagated by Giacoman and Ribeiro (2016), who contend that if an institution is to remain competitive, a proactive or reactive strategy for disruption of the deeply entrenched silos cannot be overemphasised. The researcher, however, further reiterates and concludes that for this to happen, it requires that effective legal frameworks be put in place. In effect, their implementation should be a function of individual institutional performance measurement and resource allocation.

4.2.2 Leadership

Interventions to address coordination can be analysed at macro, meso and micro levels. A review of JLOS literature highlighted that the sector is implemented and coordinated through its secretariat technical support and coordination. The high-level committee is the Justice, Law and Order Sector Leadership Committee, which comprises all heads of institutions and is responsible for political leadership. The Steering Committee is responsible for policy formulation, coordination, fundraising, external accountability and quality assurance. The Sector Technical Committee comprises heads of departments, often at director's level all the way down to the District Coordination Committees, which constitute the street-level bureaucrats of the different institutions. Whereas this structure seems vital in facilitating leadership of the sector-wide approach to the completion of registered criminal cases, its functionality has fallen prey to the usual government bureaucratic constraints, as stated by one officer:

> These committees meet occasionally to discuss reports and action points as provided by Justice, Law and Order Sector institutional representatives. This is a one or two days meeting to address the strategic issues of Justice, Law and Order Sector policy; they hardly discuss implementation challenges, specifically access to justice for the vulnerable. They look at issues at the macro level and this does not solve the access to justice for the vulnerable because such issues never get to the top leadership's table. (PRS1, BUS)

It is at this point that the macro political and policy environment is parallel with the micro political environment. So, the efforts of the leadership to take the JLOS agenda might not necessarily translate into implementable deliverables. What they conceptualise as issues may not necessarily represent issues at the transactional level, thus crippling the very essence of coordination efforts under the sector-wide approach.

If the researcher construes leadership as a process by which a person directs the organisation in a way that makes it more cohesive and coherent and influences others to accomplish an objective (Fairholm, 2015), then the way the Justice, Law and Order Sector is coordinated falls short of this concept. The bureaucratic characteristic of the leadership in the sector, as is common in the public sector organisations, underpins the inefficiencies in addressing the completion of registered criminal cases at operational level. Drawing on Lipsky's (1980) assertion on street-level bureucrats, the judicial officers at the transactional level define how policies are operationalised. Any leadership within a bureucracy which does not interface with the transactional process players makes decisions in vain. This is grounded in the notion that while policies made at the meso level can only be operationalised at the micro level, their level of success depends on the extent to which these two levels directly interface with each other. The researcher thus argues that is it not the abstract policy documents and written organisational structures of the bureaucracy that matter but, rather, the way the leadership at the macro level interfaces with policy implementation realities at the transactional from a feedback mechanism perspective.

4.2.3 The legal aid mechanism as a strategy for increasing access to criminal justice

For victims and witnesses, the term legal aid is where those in conflict with the law are supported with lawyers to argue out their cases. This is supposed to be the responsibility of government. It is defined in the United Nations Principles and Guidelines to include legal advice, assistance and representation for persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and the criminal justice process. It is provided at no cost for those without sufficient means or when the interests of justice so require. It is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes (UNDP, 2014). In this respect, the Justice, Law and Order Sector is in the process of developing a policy on legal aid which is before Cabinet. In the meantime, legal aid services are being supported through partnerships with some non-state actors that engage in the dispensation of justice. The provision of high-quality legal and advisory support continued to be flawed by the varied understanding of what is constituted by these very services. The knowledge gaps in accessing legal aid services and the unclear mechanisms through which they are provided was expressed by some of the expected beneficiaries of these services, as stated infra:

> …I am only aware of lawyers that we pay for….other than that I am not aware of anything else. (FGD2, KLA)

Another inmate chipped in by acknowledging the scheme but casting doubt on the process:

> I am aware the state can provide you with lawyers….but it's the same state prosecuting you…how can they at the same time defend you…so I don't believe in that whole system. (FGD3, KLA)

The prison officer, on the other hand, admitted that inasmuch as the state provides legal aid, the desirable option was for private contracting:

> Of course, we have multiple platforms through which inmates can access representation by a lawyer…but the private one is the most popular. (PRS1, MBRA)

The limited knowledge about legal aid services among those it is supposed to benefit is an indictment of the Justice, Law and Order Sector, given its responsibility for creating awareness of rights and laws as well as legal empowerment in communities. The fact is

that some officers in the Justice, Law and Order Sector acknowledge that the preference for private lawyers in litigation further recriminates the sector performance. This is further exacerbated by the fact that the exact extent of unmet legal need in Uganda is unknown, but estimates suggest that the numbers involved are staggering (JLOS report, 2014). This kind of arrangement occasions trust issues, especially where the state that is prosecuting is also paying for lawyers to defend the inmates. This casts doubt on JLOS-provided services, meaning that those who can afford will opt for the private legal services and those who cannot, will have no option but to depend entirely on government services even when there are trust issues. This resonates well with Singh (2014), who intensively looks at the challenges that face access to justice for the underprivileged in India. The author posits that legal aid as a strategy to increase access to justice must empower people by letting them become aware of their rights and powers and the way to secure those rights. He further stresses that the vulnerable should be assisted and facilitated to assert those rights and that adequate arrangements are made so that these rights are rightfully given to those who assert them. The researcher thus concludes that access to justice through legal aid should not be an aspect of mere legal frameworks but a reflection of the judicial system's commitment to practice. Furthermore, legal aid services should be seen as one of the tenets of legal professional ethics and civic responsibility by the Justice, Law and Order Sector and not constricted to a mere rule book (Singh, 2014).

The researcher can further argue that the Justice, Law and Order Sector has hitherto not prioritised the legal aid strategy in facilitating the completion of registered criminal cases. The fact that the Draft Policy has taken this long to be put in place demonstrates the lack of prioritisation. The efforts put in place by private players in driving the legal aid agenda further illustrates the laxity by the sector to institutionalise the strategy. As specified by the United Nations Development Programme (2014), state-funded legal aid means state funding of legal advice, assistance and/or representation, which is provided at no cost to the recipient, or state subsidy of the cost to the recipient (that is, the recipient pays a contribution, with the remainder of the cost paid for by the state). Deborah, Kevin and Anna (2018) agree that legal aid can often be a cost-effective means by which to secure legal services for vulnerable individuals, especially if some forms of deliberate assistance is provided. However, this would require restructuring legal

assistance initiatives through personalised assistance which should not necessarily come from lawyers.

4.3 Case Backlog Reduction

Case backlog, according to the Uganda Judiciary definition, refers to court cases not resolved within two years (Judiciary Census, 2015). The JLOS case backlog reduction strategies, among others, include plea bargaining, review of case transaction time, session systems, the introduction of court recording and transcription equipment, and the development of automated case management systems. According to the report, there are over 114,809 cases that have not been disposed of, with one in every four cases pending for more than a decade. For a long time, case backlog has stood out as the elephant in the room for the Judiciary. It was against this background that the Justice, Law and Order Sector came up with the case backlog reduction strategy to increase accessibility to criminal justice. In this study, the thrust will be directed towards plea bargaining and review of case transaction time, given their strategic importance in addressing case backlog.

4.3.1 Plea bargaining

A plea bargain is an agreement between a defendant and a prosecutor, in which the defendant agrees to plead guilty or 'no contest' (*nolo contendere*). This is in exchange for an agreement by the prosecutor to drop one or more charges, reduce a charge to a less serious offence, or recommend to the judge a specific sentence acceptable to the defence (Berman, 2019). Plea bargain is a new reform in Uganda's criminal justice system. This was piloted in 2014 in seven out of the 13 High Court circuits and focused on committals. It was anticipated that their lordships at High Court level would then be able to take the lead in rolling out the programme to the lower bench at their stations. The pilot enabled the sector to customise the guidelines to Uganda's practical challenges in the adjudication of criminal matters under a plea bargain programme. For instance, all parties were engaged in the negotiations and accused persons opted in and out of the plea bargain discussions, and generally the stakeholders appreciated the practical challenges of the programme. Although there are no strategies for its implementation within the JLOS policy framework, Jjuuko (2004) notes that there is need for a continuous struggle for justice. Interaction with respondents revealed mixed reactions to plea bargaining as a reform, with some respondents expressing optimism and other groups of respondents

expressing disappointment. The respondents who highlighted plea bargaining as a good venture that helped to decongest the system had this to say:

> It is a very good venture which involves the accused person, the state to agree on the kind of sentence to be served, it has helped to decongest prisons, it is not time consuming, it is not expensive on the part of the state. (JUD1, MBRA)

There was a similar perception from another member of the judicial staff:

> It's good to clear the system but the prisoners take it up because of being desperate yet it is intended for those who are guilty. The sentences look attractive…. (JUD1, BUS)

Some other perceptions on this issue were as follows:

> It should be introduced in the magistrate courts to help dispose of cases… This is the best initiative but there is a gap on the side of the complainants who also need to be part of the processes so that all parties are satisfied with the outcome. (JUD1, KLA)

From the responses above, the initiative was designed to address the institutional challenges of backlog and congestion with minimal cost and time-saving at the expense of the desperate and vulnerability of inmates. Statistically, the reform has helped in reducing the numbers from 4,336 inmates registered for plea bargaining to 562 of those who declined the bargain given in the 2013-2014 financial year (JLOS report, 2014). However, the challenge in its implementation has caused a lot of outcry from the inmates. The reform has been given priority by the criminal justice institutions rather than the mainstream traditional justice process. In the end, those interested in the traditional path find it difficult to have their cases disposed of since priority is given to plea bargaining because of the gain institutions derive from it (reducing congestion and backlog). Such innovations, if not carefully implemented, can lead to parallel implementation, which may result in a dysfunction of the legitimate procedure in the criminal justice process (Nanima, 2017). While this reform has been welcomed by a number of implementers, some are opposed to the aspects of its process. A case in point is the assertion of the respondents below:

> Some of the judges here don't embrace it. Recently we had some matter on plea bargain and the judge was giving me reasons that how can someone who has murdered go for 12 years but I tried to explain that it depends on how the murder occurred. (DPP2, MBRA)

> We have a few instances where judges have refused to accept. If only we have those innocent ones and we try those ones but those who are guilty can plea and get a good sentence. (DPP2, BUS)

From the assertions above, it can be construed that the reforms look to be flawed, especially during negotiations because there are no guidelines on how the parties involved can come to an agreement. It should be noted that the process of negotiation and agreement is not undertaken in the presence of the judges. This undermines the credibility of plea bargaining and is thus seen as a decongesting/case backlog initiative rather than a reform aimed at ensuring justice for the vulnerable. This raises suspicion and, in most cases, such a system, unless it has guidelines, can be abused. It is possible that the reform is unpopular among judges and they, therefore, find it hard to be party to or to award the negotiated penalty. This contradicts the orthodox principle by which a judge is supposed to award a penalty and could be a point of contention with regard to their powers being reduced to stamp officers.

The researcher notes that plea bargaining under Uganda's criminal justice system is not provided for in any statutes yet, if managed well, it can help in addressing case backlog. As such, the inherent inadequacies in addressing case backlog are underpinned by the application of other initiatives, including the 'Quick Wins' and the 'Community Service Project'. These initiatives are reflective of the degree of inefficiency in the existing plea-bargaining strategy and the lack of sufficient interface with the accused during the process. In conclusion, it is our contention that the absence of enabling legislation to operationalise plea bargaining is not a mere act of omission but rather represents the lack of systemic prioritisation in addressing case backlog within the judicial system.

4.3.2 Detention prior to criminal investigations

The findings also indicate that case backlog is equally a huge problem to the police and is attributed to the perennial underfunding of the Criminal Intelligence and Investigations Department (CIID), which delays investigations. For example, the CIID is allocated approximately USh. 5 billion every financial year from the Mid-Term Expenditure Framework and USh. 2 billion from the sector for operations and investigations, yet the average cost of investigating a case is USh. 2.1 million. This means the CIID can investigate only 2,952 cases (3 per cent) of the 100,000 criminal cases registered

annually. This explains the increasing level of case backlog which, in turn, hampers the expeditious trial and delivery of justice (JLOS, 2014).

The scope of Uganda's criminal procedure spans over a wide border from prevention and investigation of crime to prosecution and punishment of the offenders (Odoki, 1990). This process is guided by the Criminal Procedure Code Act which was enacted in January 1950. This Act has to date not been reviewed or amended despite the outcry about injustices it occasions during the criminal trial process. The limited knowledge about the criminal trial process by the general public and part of the law enforcement sector has combined to exacerbate the problem. Consequently, the existing detention and investigation processes are a subject of abuse by unscrupulous law enforcement officers. This occurs in situations where arrests are made first and investigations initiated later while the victims are kept for unspecified periods of time in prisons. As such, the case backlog and delayed clearance of such registered criminal cases are a function of the inefficiencies in the provisions of the law which are ultra vires to the rights of the victims. This contention was evidenced by a statement by one inmate, who pointed to unnecessary delays in the system:

> A person is arrested and detained while investigations will take more than six years with no police bond or bail given. After all this time in the end they will tell you there was no sufficient evidence to pin you, yet you have served a sentence indirectly. (FGD2, MBRA)

This open system of arrests and detention with subsequent investigations is like giving judicial officers a blank cheque to act within the law for their selfish and/or unprofessional goals. This renders the law frail in protecting the vulnerable since it allows arresting people on suspicion who are later discharged for lack of evidence, yet they will have served unnecessary sentences for some time. Such practices ultimately contribute to the clogging of the criminal justice system. It should be noted that one of the principal objects of criminal law is to shield the public from crime by punishing the offenders. However, fairness in the judicial processes call for fair play underpinned by the need for a fair trial. As such, investigations constitute the first step of this process on the basis of which charges are preferred against the accused by the prosecution in the court which tries the accused for the alleged offence. It includes all proceedings under the Criminal Procedure Code Act (1950) for the collection of evidence conducted

by a police officer or by any person (other than a magistrate) who is authorised by a magistrate in this behalf. Any delays in the investigation process, whether by omission or commission, can only work to undermine the right to expedited access to justice. In their argument, Tanya, Rajiv and Pramod (2015) note that the concept of justice applies to either side. On the one hand, the accused who is found guilty of an offence should not escape punishment and, on the other, it is very necessary that the accused persons are not harassed and detained indefinitely. In agreement with these scholars, the researcher contends that unreasonable delays in investigations are contrary to the dictum 'Justice delayed is justice denied', thus underpinning an unconscionable denial of justice. The right to speedy trial must be seen to encompass all stages, right from investigation through enquiry, trial, appeal revision and retrial. The current legislation on which these processes are premised causes serious flaws in the realisation of the rights of the accused to a speedy trial, thus contributing to case backlog. In conclusion, the delayed disposal of criminal cases on account of prolonged investigation processes is one of the most serious problems of criminal justice administration in Uganda and deserves urgent legislative reviews to address case backlog. A mechanism that caps the investigation period can be instrumental in curtailing the unlimited powers of the investigating officers in an effort to expedite the criminal trial process.

4.3.3 Transaction lead times

Transaction lead time is the time it takes for one to receive a service from the system and it is a basis to measure the efficiency and effectiveness of the institutions (JLOS, 2014). To improve the quality of services, the sector prioritised the review and automation of business processes, the provision of tools, infrastructure and capacities to integrate the rights-based approach and results-oriented management across the institutions. Taking advantage of technology and strengthening data capture for decision-making are some of the measures employed by the sector to enhance efficiency; this is in addition to establishing functional monitoring and evaluation (M&E) systems (JLOS, 2017).

A review of documents indicated that there were time frames through which institutions operate. For instance, the police is required to produce a suspect in court within 24 hours. Similarly, an inmate is not supposed to exceed two months for petty offences and six months for capital cases without trial. However, these provisions are violated and the JLOS policy framework seems to work on secondary systems where it has no control to

demand efficiency. This kind of functioning cannot guarantee access to criminal justice for the vulnerable, specifically the prisoners. This poses a question as to what is the minimum capacity required for institutional officials to engage in a meaningful JLOS process. In generating answers to this question, it is imperative to incorporate strategies into the policy framework that revolve around how the JLOS partner institutions manage time leads. It further requires clear guidelines on how long inmates take to go through the processes.

In consonance with the efficiency perspective, the majority of views articulated by inmates revealed an area of concern about the experiences regarding the time it takes for one to receive a service from the system. The inmates were, therefore, inclined to express the desire that the government assume the role of setting sector priorities, and that all actors achieve a common goal, harmonisation and effective utilisation of resources, and that they benefit from synergies. Driven by a desire to see positive change emerge from the JLOS framework, one inmate stated:

> It took three years from the time I was apprehended until I was convicted: in police custody, I spent there three weeks, in lower courts it took six months for them to give me the document referring me to the High Court for my case hearing. My calling took two and a half to get to the final verdict in High Court. The issue was that they were still doing investigations but could not listen to the concerns I was raising…. (FGD2, KLA)

A viewpoint similar to that of the above inmate also emphasises procedural aspects that affect time and which are at times manipulated:

> For the capital offenders, people were waiting 6-7 years after committal for the first appearance in High Court but this is pick up. (FGD2, MBRA)

Arguing that the time factor is never an issue for consideration in connection with the poor in the criminal justice process amounts to a gross violation. This shows that the criminal justice system has no mechanism in place to track processes. If processes are not followed in a timely manner, there is a risk that the stakeholders involved might lose interest and those involved in implementation might lose track, thus failing to meet targets and the expectations of the public. This ultimately results in funding processes which do not solve the problem (Niels, van den Braak, Choenni & Leertouwer, 2014). The researcher argues that process times should be given serious consideration, for

instance by setting a time limit beyond which a case should either be disposed of or person granted temporary release until the court is ready to proceed. Similarly, under such an arrangement, the vulnerable will probably not benefit to the same extent the rich will. In connection with this, an inmate pointed out:

> The poor prisoners do not have access to justice because they cannot afford lawyers. For example, a committal without a lawyer may take between three and five years before they ever appear in court and cannot get bail, since he needs to be represented. (FGD4, KLA)

Legal systems are so complex that at times they complicate various processes; for instance, to get bail, one has to be represented, and that means one has to depend on someone's commitment, time and availability to process one's bail. In addition, the legal costs are not defined, and this creates avenues for exorbitant rates which do not match people's incomes and this scares off clients (Cohen, 2000). The researcher contends that rates for representation should be scrapped or regulated to give an opportunity to the vulnerable to access services. Legal fees should have a basis on which they are levied that is clearly known. The law does not take into consideration the levels of vulnerability and this puts the poor in a situation where it is difficult to access services.

Nevertheless, the current practices in the Justice, Law and Order Sector with respect to the observance of lead times which reflect policy practices do not reflect the institutional desire to see justice being done. If the researcher goes by Weber's (1976) perception about bureaucracy where individuals are hired in the Justice, Law and Order Sector on the basis of their qualifications, then the current delays in lead time can be analysed basing on the individual staff perceptions regarding the dispensation of justice. This can be further agued from the street-level bureaucracy perspective (Lipsky, 1980), where the individuals at the transactional process level use their discretionary powers to define the lead time. As argued before, while the independence of the JLOS institutions is intended to minimise undue influence in the dispensation of justice, the lack of sufficient policy and legal frameworks to tie up some loose ends in the regulations seems to be counterproductive. As such, the long lead time observed in the current judicial processes with respect to criminal justice undermines the very essence of what they were intended to address. The ultimate victims are the vulnerable users of the criminal justice system whom the system is supposed to protect while those who perpetrate the vice are actually protected by the same legislative provisions.

4.4 Complaints Management

Complaints management is the process of dissemination of information aimed at identifying and correcting various causes of customer dissatisfaction (Fornell & Westbrook, 1984). It defines the strategies used by companies to solve and learn from the previous mistakes in order to restore customer confidence in organisational reliability (Hart et al., 1990). Therefore, the information gathered through customer complaints is of great significance for the quality management process, as it can be used to correct and learn about weaknesses in product quality and delivery systems. In tandem with the time leads and the resulting complaints raised, access to criminal justice operates within a defined framework. Contrary to that, there is an expectation of complaints and feedback on how people access justice. It is important, therefore, to understand the processes in place in order to locate complaints management within the sector institutions. The Office of the Director of Public Prosecutions, on its part, has mechanisms of handling public feedback about its services, including public complaints/information desks, suggestion or complaints boxes, toll-free communication, information boards and an open-door policy. These have helped in improving services and the dispensation of justice. Targets are set for managing feedback and in the reporting period, 94 per cent of public complaints against criminal justice processes were attended to, as well as 89 per cent of complaints against staff. This performance is against the target of 95 per cent for both public complaints against criminal justice processes and the staff (JLOS, 2014).

Despite the existence of structured public complaint management processes among partner institutions, including feedback mechanisms, the public was not aware. Even for those who attempted inadvertently to use the public complaints management processes the experience thereof was quite discouraging, thus resulting in loss of confidence in the system. The internal relationships amongst staff in criminal justice institutions seem more inclined towards countering the very essence of the purpose the systems were put in place for. The informal structures that have been built alongside the established system tend to be more vibrant, with result that it undermines the public complaints management system. This has contributed to the high level of mistrust by the public, despite the existence of its well-established internal mechanisms, as explained infra:

> …I have no idea where I can report, for example, if I feel uncomfortable with how I am being treated. (FGD5, KLA)

With others showing disappointment in the system, one can imagine how many cases go unreported to various authorities. As one inmate stated:

> …I don't even think that registering complaints is necessary… it's just one rotten system… what would you expect? The whole system has failed, you complain about an officer, before you know it, he has gotten to know and he/she uses that to further deny you justice… There is no supervisor, you cannot report to police about an issue of Judiciary or Director of Public Prosecutions. They will tell you, we have no mandate. (FGD6, KLA)

A judicial officer stated:

> The public is ignorant on some of the procedures in criminal justice. At times I receive complaints but on investigation you find it's an issue of procedure. Even when you guide them, they still don't feel contented with the explanation. When he/she meets a superior, he/she will still present the same problem and this time accuse you that you didn't help even when they complained to you. (JUD2, KLA)

From an elitist perspective, the Justice, Law and Order Sector takes it for granted that the public is aware of the processes and procedures to be followed since the relevant laws are available to the public. It is common knowledge that despite the existence of the legislation in the public domain, the content itself is not public from the legalistic language perspective. There is low propensity by the public to consume legal information. Moreover, the information consumed by the public is usually tailored to the needs at hand, and is adequate to deal with the problem at hand (Maurits, 2011). On the other hand, the researcher further notes that the Justice, Law and Order Sector is too under-resourced to localise this information. While on the surface this might appear justifiable, one cannot rule out the possibility that this is a deliberate internal mechanism to keep the criminal justice process information away from the public since the outcomes benefit the judicial officers through the extortion of money from the ignorant citizenry. The researcher earlier argued that there is limited will by the Justice, Law and Order Sector to deliberately put in place mechanisms that promote complaints management and the process to the extent that it clearly meets the public needs. If the researcher borrows from the medical field, individuals and populations with lower literacy levels are less likely to be responsive to the conventional approach to legal education, less likely to use legal services, and less likely to be successful in pursuit of their criminal cases (Rowland & Nutbeam, 2018).

It is the researcher's thesis that without deliberate efforts to localise and popularise the complaints management process, it is unlikely that the public will proactively access and use the process as one of the mechanisms for expediting the completion of registered criminal cases. The fact that some individuals in the system benefit from the flawed process makes it a challenge to internally streamline it. A timed stepwise approach to the complaints management process which is integrated within the legislation and mandatorily made public can have mileage in expediting the completion of registered criminal cases. Furthermore, technology such as the use of codes for anonymity and the assignment of encrypted numbers to cases so that officers are followed up without knowing the identities of complainants will help in improving transparency in the system.

4.5 Completeness of the Justice, Law and Order Sector Chain of Services

Completeness of chain of services means having all components of the criminal justice in place at any one moment when one is seeking services. Under this component, priority is accorded to geographical areas where institutional gaps in physical presence exist to ensure the presence of the right concentration of JLOS services at all points of service delivery. The focus is on rolling out the justice centres model to ensure completeness of the chain of justice all the way down to the county level. The sector identified four front-line institutions, which include the Judiciary, the Uganda Police Force, the Uganda Prisons Service and the Office of the Director Public Prosecutions to be present in all districts by 2021 (JLOS, 2017). In a bid to enhance access to justice, the sector continues to improve its infrastructure through the construction of offices and accommodation, and through ensuring proper sanitation and hygiene at all service points. The Justice, Law and Order Sector has categorised and classified its infrastructure into national, regional, district and county levels (JLOS report, 2017). The report, however, notes that the urban bias still remains since most of the new centres continue to be set up at district headquarters and/or upcoming town councils.

The sector approach to completeness of the JLOS chain of services has tended to focus on issues of physical presence, oblivious of the fact that access to criminal justice can best be assured through having the three variables, i.e. physical, technical and financial, in equilibrium (Laibuta, 2012):

> Some necessary infrastructure is not available…for instance… some prison facilities are not in places near the court… even where they exist, the High Court sits in sessions and is only available in times when the Judiciary decides so….the limited number of judges and financial resources to run more sessions also tend to limit hearing of criminal cases. (DPP2, BUS)

On the technical aspects, inmates reported that the magistrates and prosecutors were irregular and courts sat occasionally

> … 'our court sits on Thursdays, the magistrate is never around' (FGD1, BUS).

When a response was sought from the magistrate, the response turned out to relate to issues of personal accommodation and social amenities:

> There is no decent accommodation in some rural magistrates' courts; we stay with our families, so we are forced to rent in areas with good schools for our children. (DPP1, BUS)

Another respondent stated:

> I work two days in a week, one day for criminal and another for civil. The rest of the days I'm at the district court. This is due to the fact that the district has more cases. (JUD1, BUS)

While the researcher acknowledges that it is necessary to have the three physical, technical and financial functions in equilibrium, the soft issue that relates to the perceived institutional culture tends to be ignored. These three functions are necessary but on their own not sufficient to functionalise the JLOS chain of services. The goodwill of the individual actors operating within an established institutional culture is a matter of individual and collective choice to ensure that the due processes of the criminal justice system are made to function in tandem with the needs of the vulnerable individuals. In fact, Uganda as a country has been applauded for having policies and legislation in place but the fact that the issue of the institutional cultures has not been addressed has tended to negate the good intentions of the institutional mechanisms.

4.6 Chapter Summary

This chapter sought to provide answers to the research question on how policy options on access to justice facilitate or hinder access to criminal justice by the vulnerable in the criminal justice process. In this respect, the discussion focused on analysis of the

mechanisms adopted in dealing with the completion of registered cases; the sector-wide service delivery structure; the management of case backlog and complaints management; and the completeness of the JLOS chain of services. The study established that judicial discretion was clearly defined in the laws and in some instances misused, thereby contributing to the high levels of bureaucracy, which delayed access to criminal justice. It further established that the disposition or attitude of some judicial officers (Meter & Horn, 1975) was related to the misuse of their discretionary powers under the provisions of the law. For example, the independence of prosecution from the Judiciary (Lipsky, 1980), where the Directorates of Public Prosecution wielded more discretionary powers than other sector actors and, as such, created undue power imbalances on the decision-making processes along the criminal justice services chain. The first come, first served principle was influenced by the systemic corruption in the judicial processes, thus creating unfairness in gaining access to criminal justice by the vulnerable. The concept of judicial discretion has hitherto adversely impacted on the ability of the sector to foster teamwork among the diverse actors to facilitate the sharing and rational management of criminal cases by taking advantage of the relative capabilities of the sector actors. This situation affected the morale of operational-level policy implementers yet their performance requires a positive state of mind derived from inspired leadership reflected through a shared sense of purpose and values, well-being, perceptions of worth and group cohesion (Toseland, Lani & Gellis, 2004).

In essence, the weaknesses in the sector strategic leadership and the underlying gaps in inter-sectoral communication and operating in silos additionally affected the enforcement implementation of policy options. These manifested themselves through the limited concentration of the thrust to sustain policy action at the implementation levels in terms of low completion of registered cases from the rights perspective, high levels of case backlog, poor complaints management and unenhanced access to criminal justice by the vulnerable. Against this background, the top-down and bottom-up policy implementation processes which would otherwise be facilitated by a strong strategic leadership in turn accounted for the observed lapses in the implementation of the sector policy options for access to criminal justice by the vulnerable (Stewart et al., 2008).

The researcher thus contends that the policy options on access to criminal justice in the criminal justice process presented with an ambiguous aim. This aim would have

been central to the sector-wide approach in facilitating the criminal justice system and as a keystone of successful policy implementation. It can be concluded that the current form of the sector-wide approach with its inherent policy option for improved access to criminal justice by the vulnerable lack an appropriate operating environment that provides for the necessary freedom of action, when and where required, to achieve the policy objectives.

CHAPTER FIVE

INSTITUTIONAL ENFORCEMENT MECHANISMS IN THE REALISATION OF HUMAN RIGHTS

5.0 Introduction

Human rights have always been an international issue even in development practice. As noted in Chapter One, they are universally enshrined within national constitutions and protocols; though there are theoretical and practical misalignments in understanding the human rights phenomenon. The process of access to justice has been explained in detail in Chapter One, comprising variable mechanisms and institutions in which the human rights component plays a pivot role. Further still, the JLOS policy objectives clearly front the human rights issues as measurements for which impact should be measured. In the Meter and Horn (1975) implementation model, human rights issues can be advanced by characteristics of the implementing agencies and the disposition of implementers. This study examines the effect of each of these on access to criminal justice. It, among other issues, aims at examining the human rights practice across the criminal justice institutions. This chapter unravels speculations of rights abuses in the criminal justice system by presenting consumer statements. The chapter presents an analytical view of the human rights process for access to criminal justice in Uganda under the JLOS watch. It reveals the nature of rights abuses in each criminal justice institution, and highlights individual perceptions of how criminal justice is accessed in the entire system. The chapter, therefore, addresses the second research question that seeks to examine the extent to which institutional enforcement mechanisms facilitate and/or hinder the realisation of human rights as per the JLOS policy options.

5.1 Observance of Human Rights in the Criminal Justice Process

The Government of Uganda's long-term objective is to observe and respect human rights. It is the responsibility of Justice, Law and Order Sector through legislation, management, dissemination of knowledge, information and other means to counteract the abuses of human rights. This is associated with an obligation to, among other things, respect and support the protection of international human rights (JLOS, 2015). This section examines the human rights awareness issues, staff capacity in the human rights-based approach,

practices for upholding human rights, the inspection function across the sector, and financial allocations for human rights by the sector. It further analyses the human rights practices and financial allocations for human rights by the Justice, Law and Order Sector with respect to the observance of human rights in the criminal justice process. These variables have shaped the enforcement mechanisms in the realisation of human rights in the country and across the sector in the implementation of access to criminal justice. These sub-sections give a treatise of the state of affairs and its environment.

5.1.1 Human rights awareness practices in the criminal justice institutions

The increased recognition that many countries share primary legal principles and expectations underpin the international drive for the protection of human rights. One fundamental commonality is the understanding that individuals must be shielded from certain depredations against their person, and that international laws are a necessity to safeguard citizens from legislation which eventually affects the international community. Against this background, it is pertinent to get a common understanding of what human rights constitute. The United Nations (2016) visualises human rights as rights that every human being has by virtue of his or her human dignity. They are inherent to all individuals and define relationships between people and the state, which constitutes the power structures. Human rights demarcate state power besides requiring the states to take enabling steps towards ensuring that all people enjoy their human rights as stated in the respective state constitutions and international laws. The Uganda Constitution (GoU, 1995) under Chapter Four provides for the protection and promotion of fundamental and other human rights and freedoms. It elaborates (under Part V) the fundamental and other human rights and freedoms where the state shall guarantee and respect institutions which are charged by the state with the responsibility to protect and promote human rights by providing them with adequate resources to function effectively. Against this background, the researcher now focuses attention on the current practice by the Justice, Law and Order Sector in Uganda.

The human rights awareness practice at institutional and sectoral levels is necessary to reduce the incidence of human rights violations. The sector, working in partnership with both the CSOs and the private sector, have implemented simultaneous and multipronged approaches to raise awareness and civic consciousness about human rights principles/

standards, procedures for claiming protection and citizens' responsibilities. Awareness campaigns, community *barazas*[1], kraal outreach, print and electronic media reach-out, and theme training for targeted audiences have been implemented. The purpose was to enhance civic awareness and thereby empower people to demand justice, accountability and effective remedies at all levels and to enable duty bearers to observe the rule of law (JLOS report, 2014).

It was, however, noted that most of the awareness creation targeted the general public with minimal focus on the incarcerated. Additionally, there was little or no trace of the existence of inter- and intra-institutional mechanisms for awareness creation among staff, thus creating gaps in the efforts of institutions to harmoniously integrate human rights issues into their operations. Some institutions viewed human rights as an auxiliary mandate rather than being core to their functions. This kind of thinking led to skewed participation in human rights-related issues and, ultimately, impacting on the vulnerable individuals. As one officer noted:

> Rarely do we talk about human rights to our officers. Even me the little knowledge I have is from the workshops I attend but not all of us attend….the police and prisons are busy places, you cannot find all officers at once for training… the bosses who attend do not cascade the knowledge to their subordinates. (POL1, MBRA)

Another officer stated:

> I am not sure of all the legal and policy provisions for human rights in Uganda… but I think the fact that human rights are provided for in Constitution, the mother law…all the other Justice, Law and Order Sector institutions have to observe and protect human rights. (POL2, MBRA)

Another officer interjected thus:

> When the human rights officers come, they are aimed at finding faults, not at any time have they come to teach us about the rights of suspects….We wonder why they don't run courses tailored for different institutions. (POL3, MBRA)

It is, therefore, not surprising that these views also seem to have underscored the element of the high expectations that consumers of criminal justice have, especially the inmates held with respect to human rights awareness. The inmates expressed ignorance of

1 *Baraza* is a Swahili word that means 'a public meeting which is used as a platform for creating awareness, responding to issues affecting a given community, sharing vital information, and providing citizens with the opportunity to identify and propose solutions on their concerns' (Kyoheirwe, 2014).

provisions that addressed their rights.

> Most of the human rights laws are not clear to the public; every day laws are passed and never communicated to those who are stakeholders. This has made many of us fall victims of circumstances; this is because you do something today when it's accepted, tomorrow it's a crime. (FGD6, KLA)

It was clear from the various perceptions of the JLOS officials that there was limited knowledge about human rights, especially at the operational level. This practice raises concerns about the institutional will to advance the basic concepts of human rights in as far as they relate to inmates and the general public. Drawing on Meter and Horn's (1995) perceptions, the researcher argues that the attitudes of the implementers can be shaped by the level of knowledge they have about a particular policy. In addition, the fact that inter-agency communication was hampered by verticalisation of policy implementation despite the sector-wide approach which was largely on paper, human rights observance was compromised. This was evidenced by the inadvertent disrespect for the rights of inmates to the extent they were incarcerated for periods exceeding the constitutional provisions without any remorse. In conclusion, effective communication stood out as a crucial issue in human rights awareness creation.

As earlier highlighted, it is the researcher's thesis that the current traditional channels used by the sector to raise community human rights awareness as well among the JLOS staff are no longer effective, given the advances in information and communication technology (ICT). This communication approach does not work well in facilitating the realisation of human rights as per the JLOS policy options. The challenge is further exacerbated by the lack of a clear communication strategy in the sector which would have clarified the nature of messages, channels of delivery, the target audiences as well as inter-agency coordination. The attitudes of policy implementing officers who, in effect, interact with the public and thus reflect the policy in action, define the public perception about the image of the Justice, Law and Order Sector. Without deliberate efforts to address the communication gaps in general and human rights issues in particular, the negative perception about the sector as an entity that is insensitive towards the needs of the public will continue to hold. In fact, the sector will be viewed from a mechanical perspective as merely doing business as usual without the human element being involved in its operations. While it will continue to execute its mandate as a government entity,

the vestige of trust that the public still has in the sector may wither away, thus making the sector susceptible to the perception that it is a perpetrator of human rights violation. As a matter of emphasis, the deliberate creation of public awareness about the Uganda's criminal justice system from a human rights perspective can only work to reflect the country's drive towards a democratic society and adhering to the rule of law. It clarifies the legitimate concerns of the state regarding adherence to its laws while fighting crime and upholding internal security. In agreement with Cumaraswamy and Nowak (2009), effective communication on human rights in relation to the accused or the convicted and sentenced offender creates a balance between state power and individual liberty in the criminal justice process.

5.1.2 Constraints on building staff capacity human rights-based approach

It is highly relevant to look at a sustainable human rights culture and practice through human rights knowledge capacity-building. Continuous training in the human rights-based approach ensures that officers are regularly informed of the current trends and practices related to human rights. The Justice, Law and Order Sector has continuously undertaken these trainings under the Uganda Human Rights Commission's human rights promotion programmes. For instance, the Diploma in Human Rights scholarships at the Law Development Centre targets institutional officers. It is a tailored training programme designed and delivered to enlighten the participants on the various components of human rights studies. The focus of most of the JLOS trainings is on understanding the substantive human rights, procedures for enforcement and opportunities to claim and demand protection.

A critical look at the areas of focus in the trainings and the resultant outcomes reflected at the policy transactional level casts serious doubt on their effectiveness in creating the desired institutional human rights culture and practice. The outcomes of any training programme are usually a product of its very design, the attitudes of the trainees and the circumstances under which it is delivered. First, the researcher noted that the courses run by the Law Development Centre are largely rational in nature and not specifically designed to address the realities on the ground. This argument is based on the observed institutional mandate diversities within the Justice, Law and Order Sector earlier discussed. In their responses, the police officers castigated the knowledge imparted as

expressed infra:

> Its general human rights awareness, in many of these trainings we attend, there are no practical solutions to the problems at hand that we face in the execution of our duties. (POL3, KLA)

Furthernore, the selection criteria for those to attend the trainings seemed to be biased, as one officer lamented:

> There are some officers who will attend every course that shows up. People lobby because they want every opportunity for themselves and attribute training to academic qualifications and yet some of us in operations are left out, yet the information would have benefited us most. (POL2, MBRA)

The above narrative points to the notion that staff capacity-building faced significant internal and external challenges which impacted on the overall human rights training outcomes. In fact, the trainings were conducted simply because they had been budgeted for and the resources had to be seen to be depleted by the end of the financial year. Under such circumstances, the objectives of the trainings were inadvertently more inclined towards resources utilisation than effectively changing the mindsets of the trainees. In addition, there were no mechanisms for knowledge-to-skills transformation after the training as a strategy for addressing operating-level institutional challenges, which defines the ultimate effectiveness of training outcomes. Danaher et al. (2014) note that knowledge exhibits variations in its tacit and explicit knowledge-sharing practices as well as the environment in which it is operationalised. Their analysis demonstrates that each group's selection of knowledge-sharing practices is based on the concept of 'fitness of purpose' as well as the situation where it will be practised. In agreement with their thesis, the researcher contends that any knowledge-sharing practice that best fits one context might not fit another. As such, the best choice of knowledge-sharing practice depends on the particular context. Furthermore, as posited by Igbinovia and Ikenwe (2018), and in consonance with this philosophy, knowledge that is passed on to another entity without follow-up to enhance competencies is knowledge delivered in vain. Finally, the need for the Justice, Law and Order Sector to reinvent its staff capacity-building programme in line with the current and dynamic human rights demands within the population cannot be overemphasised. This will require the redesign of capacity-building with a focus on mentorship programmes for effective knowledge and skills

transfer within the institution-specific operating context. The ultimate goal of the capacity-building interventions should be to build competence rather than to acquire knowledge for its own sake.

5.1.3 Practices for upholding human rights

The United Nations (2016) states that human rights comprise a set of rights and duties necessary for the fortification of human decorum, and are intrinsic to all individuals, irrespective of nationality, place of abode, sex, national or ethnic origin, colour, religion, language, or any other status. It indicates that everyone is equally entitled to human rights without discrimination. In effect, human rights are universal, interconnected, mutually dependent and indissoluble and represent the basis of the notion of peace, security and development. A key element of 'mainstreaming' the promotion of human rights is the adoption of a human rights-based approach to development cooperation and technical assistance programming. Guidance on applying a human rights-based approach is found in the *United Nations Agencies Statement of Common Understanding on the Human Rights Based Approach to Development Cooperation*. Most UN agencies have a clear policy on human rights mainstreaming based on the *Common Understanding Statement* (United Nations, 2011). The Uganda Constitution (GoU, 1995) provides for upholding and protecting the human rights of its citizens and the Uganda Human Rights Commission was put in place to foster that. The Justice, Law and Order Sector has the mandate to operationalise the constitutional provisions for upholding the human rights of Ugandans. In effect, it is the sector through whose practices the Government's commitments and actions in human rights observance and protection are reflected. A review of the Justice, Law and Order Sector Strategic Investment Plan III (2012) highlights the national strategies for promoting human rights at institutional level, as illustrated in the box below.

Strategies

Human rights awareness creation at institutional and sectoral levels.

Instilling measures to reduce human rights violations by state and non-state agencies and individuals by developing the national capacities of state and non-state actors in applying the rights-based approach to service programming and delivery.

Strengthening the inspection function.

Establishing a sector Human Rights Coordination Office in the Ministry of Justice and Constitutional Affairs.

Strengthening the human rights desks in all JLOS institutions.

Developing, adopting and implementing the National Human Rights Action Plan.

Source: Justice, Law and Order Sector SIP 111, (2012)

In expressing their views on the upholding of human rights, the respondents, especially duty holders, illustrated that there were many mechanisms in place, especially at institutional level, to ensure respect for human rights:

> …the Uganda Human Rights Commission together with the United Nations monitors human rights violence, reports about them and ensures that the different cases are resolved is that a best practice. (POL4, KLA)

Another area highlighted was the human rights desk in each of the institutions, as explained infra:

> All Justice, Law and Order Sector institutions do have human rights desks to monitor the local context of human rights issues emerging at operation level….this in addition to The Justice, Law and Order Sector Strategic Investment Plan which is anchored on a human rights approach….resources are availed to implement these provisions …. (POL5, KLA)

The Justice, Law and Order Sector Report (2018) highlights some of the field practices in the operationalisation of the human rights policy provisions, including a desk in each of the institutions which is charged with the handling of complaints. Furthermore, the report highlights another practice of visiting justices as part of improving oversight and institutional accountability for human rights. These are deployed in all prison regions and serve as independent inspectors on the welfare and management of prison services, and provide an external voice for human rights concerns. However, varying accounts bear out the public perceptions and those of the inmates about the functionality of these strategies:

> I was promised by the human rights desk officer to help me recover all my lost property that was taken by police, and would help me open a file against the officers and the accusers for evidence falsification when I'm released. However, this hasn't come to pass until when I'm set free. (FDG1, BUS)

This statement indicates that much as interventions were in place to address these violations, one major challenge to such expectations was how responsible officers enforce the rules as per the mandate in a collaborative environment that is seen to be scoring into the same goal. In fact, cases of human rights violation continue to surface amidst these efforts, as explained by a number of respondents infra:

> I was arrested without a warrant…they just grabbed me, put me in their tinted car and drove off…I didn't know where I was for some days. (FGD6, KLA)

A police officer defended the use of force as follows:

> It's acceptable to use reasonable force during arrests….that's provided for within the law and might not necessarily be looked at as human right violations. (POL3, MBRA)

Another officer shared a similar view and commented thus:

> Sometimes the nature of the case might be sensitive that you need to keep it off the public eye… you have orders from above, therefore you must be seen to deliver… that's what the people misinterpret as human rights violation. (POL2, BUS)

One inmate stated:

> The worst place is police. Here you receive every kind of abuse be it necessary or not. You are beaten and money also taken from you to show you that indeed you have no rights there… At the police, capital offenders are tortured physically and emotionally, food was limited and we used to have one meal a day. (FGD7, KLA)

Another chipped in:

> When I was arrested by the police, they recorded a statement and forced me to sign against it without reading through. When I objected to sign on this statement, I was tortured and threatened by the officer. (FGD5, KLA)

A viewpoint similar to that of the above inmate also emphasised forgery of records by those concerned to implicate people:

> I did not make a statement; I refused. However, in court a statement was produced against me, so where did it come from? The content was different from what I know.

> These kinds of practices abused my rights to fair judgement and all my other rights at large. (FGD1, MBRA)

This was in addition to delays and inefficiencies in proceedings and in delivering justice:

> There are cases where the police and DPP fail to bring the witnesses and one is dropped off the High Court session list because of inefficiencies of an institution. (FGD2, KLA)

This statement was corroborated by one inmate who castigated the police, the Director of Public Prosecutions and the Judiciary for the mess prevalent in the administration of justice:

> ….we have faced delays in case handling which has resulted from money and interest by individuals in some cases; abuse of our rights among others. And despite all these challenges and our efforts, nothing much has been done but only in prison where we have been given some freedom and liberty by our new officer in charge. (FGD5, KLA)

As noted from the responses above, the issue of human rights violations was shared amongst all inmates irrespective of sex and offence. Although the answers varied, the common argument was that officers in the various institutions were responsible for the violations. Some respondents also held a conviction that individual officers were misusing institutional structures for personal and selfish gain. This can be attributable to the fact that human rights lack deliverables from individual officers of the various institutions. Human rights are a broad policy objective of the Justice, Law and Order Sector, with some institutions simply taking a small bite of the human rights cake, and this leaves room for practitioners to manipulate the system in their own interest since there will be avenues to avoid condemnation. However, Kamau (2014) notes that the kinds of rights, their enforcers and consumer attitudes towards such rights are in a seemingly conflicting situation and thus there is a need to harmonise the situation by giving them enough attention. There is a paradox and challenge to the practice of different forms of rights (referred to here as selective rights).

The police and prisons have severally hogged the headlines as violators of people's rights as compared to other JLOS institutions. This kind of representation can be linked to the coercive element embedded in these institions in addition to the historical connection with violence that they were notorious for during the colonial and immediate post-colonial era (Young, 2004). Therefore, the civil-military relations between the actors within the criminal justice institutions clearly indicated an orientation towards the human

rights approach, with the civil institutions, such as the Director of Public Prosecutions and the Judiciary, registering fewer or no human rights violations.

Drawing on Meter and Horn (1975), the disposition or attitude of the policy implementers reflects the policy practices at the transactional level. In fact, the effectiveness of the complaints desks in connection with addressing the human rights issues raised by inmates or the public depends on the decisions made by what Lipsky (1980) terms as the street-level bureaucracts. The conduct of these officials is further underpinned by the fact that the very citizens they are meant to benefit are equally unaware of their rights to these services. In fact, the public views accessing these services as a favour from the government and not necessarily a right.

In agreement with Meter and Horn (1975), the vice is very likely to occur because the policies implemented are not formulated by the local people who very well know the problems and issues that they face. The practice is that public policies adopt a top-down approach, hence the actual decision-makers may not appreciate the spirit in which they were formulated. It is, therefore, our thesis that beyond Meter and Horn's (1975) prescriptions, the need for a substantial review of *modus operandi* and discipline on the part of the JLOS institutions focusing on institutional culture cannot be overemphasised. It has been argued that even with clear institutional structures, policies and technical staff, the software that drives effective performance hinges on the institutional cultures (Teybeh, Mohammad & Mehdi, 2015). This is also the approach advocated by Kiruiki et al. (2014), who vouch for the need to look beyond these instruments and access to justice to create two important dimensions: procedural access (fair hearing) and substantive access (fair and just remedy for a violation of one's rights) as a basic right. The researcher further contends that the JLOS institutions integrate organisational culture-strengthening interventions beyond their routine practices in upholding the human rights of Ugandans.

5.1.4 The inspection function across the sector

One of the key features of the sector's human rights protection is inspection of detention centres for purposes of establishing the inmates' living conditions and compliance with human rights provisions. In addition, impromptu monitoring and inspections by both internal and sector-wide mechanisms have countered gross unethical conduct and incidents of irresponsible execution of mandates (JLOS report, 2015). At the institutional level, mechanisms such as Inspectorate Units ensured that the supervision of upcountry

stations was increased, targeted results were realised and the working environment was improved. Inspections were routinely conducted by the JLOS MDAs such as the Judicial Service Commission, the Judiciary, and the Prisons Services, the Uganda Police Force and the Director of Public Prosecutions, among others. In addition, the National Community Service Programme conducted monitoring and evaluation visits to all districts covering all community service placement areas. The institutional inspection reports and issues recorded were addressed administratively and also discussed collectively at the Justice, Law and Order Sector Inspectors' Forum that was chaired by the Judiciary.

Areas of primary interest were places of detention facilities in the police and prisons to establish conformity with human rights standards. These inspections showed the achievement of some positive strides. For instance, the findings of inspections published in the Justice, Law and Order Sector report 2017/2018 highlighted the existence and functioning of Human Rights Committees in the prisons. These committees were consistently developing a culture of human rights promotion and accountability within the prisons and it is foreseeable that acts of human rights violation may be eliminated in the near future, especially if the inspection function was further strengthened.

The findings in the report also revealed varying and often inadequate knowledge levels about human rights among the persons detained. There were limited human rights resource materials in the detention places inspected and this vacuum exacerbates the human rights knowledge gap. The persons detained had difficulty distinguishing between personal obligations and responsibilities as opposed to human rights violations, especially with regard to farm labour. In recognition of this challenge, the Uganda Human Rights Commission regularly conducted sensitisation in prisons, and disseminated human rights information, education and communication (IEC) materials to prisons, police stations and Resident District Commissioners (RDCs), among others (JLOS, 2018).

Despite the inspectorate measures put in place by the sector, the realisation of human rights as per the JLOS policy options remained a challenge. Though the purpose of the inspection was well thought-out, the attitudes of the officers undermined its implementation and the outcomes thereof. As a respondent from one of the prisons visited alluded, the inspection function was bent more towards blame allocation than support supervision with the purpose of skills transfer, as stated infra:

> Our inspection department is there for fault findings. They come to the station and only look out for the negative with the intention of you bribing them and when you fail, they write a bad report about your station. (PRS1, BUS)

Another prison officer confirmed the above assertion:

> Our colleagues are severally reprimanded and, in most cases, transferred because of the inspection reports … but how will one correct the mistakes? …. it means that even those they replace will be sent on forced leave if the same mistake is identified with them. (PRS2, KLA)

The above statement underscores the good intentions of inspection but the practicality of it is influenced by the attitudes of the implementers, as posited by Meter and Horn (2006). In essence, the inspections are used as an opportunity to extort money from officers found at fault rather than supporting them to correct the mistakes. It was quite intriguing that the implementing officers seemed to have highly elastic powers and authority that was not duly regulated by their superiors. From a bureaucratic perspective (Lipsky, 1980), the researcher posits that it was vivid that the composite task of administration and coordination of public service institutions and the human resource therein was a recipe for making the inspectorate function susceptible to corruption, inadequacies and rigidity.

The concept of institutional culture which defines the practices of individuals usually ramifies across the different structures and is a reflection of the strategic leadership as such. In fact, the main challenge lies in linking leadership culture to the institutional strategy, especially with regard to the transactional staff who, in essence, reflect policy actions (Leena & Binita, 2015). The researcher thus argues that the policy practice, in as far as it is related to the implementation of institutional enforcement mechanisms, represents the failures in the strategic leadership of the sector. The researcher further argues that the acts of the inspectors largely serve to mirror the systemic lack of a progressive institutional culture and goodwill in promoting the realisation of human rights across the sector actors. The strategic leadership failure to exert itself is actually a matter of conjuncture, given the presence of independent actors within the sector. In conclusion, the researcher posits that the lack of legislation to harmonise the functionality of the sector coordination mechanisms represents the very essence of its failure to facilitate the realisation of human rights as per the JLOS policy options. It will thus require the

goodwill of those in strategic leadership to boldly confront the institutional lapses related to the legitimate power that lies within their mandates and adopt an appropriate institutional culture in order to streamline the JLOS performance.

5.2 Chapter Summary

This chapter set out to answer the research question with respect to how the institutional enforcement mechanisms facilitate and/or hinder the realisation of human rights as per the JLOS policy options. The discourse was guided by the Meter and Horn (1975) constructs of policy implementation alongside the Stewart et al. (2008) top-down, bottom-up theory. The Meter and Horn (1975) constructs included the standards and objectives, resources made available by the policy, inter-organisational communication and enforcement activities, and economic, social and political conditions affecting the policy. The study established that there were institutional challenges in human rights awareness practices, especially for the operational-level policy implementation staff in the Justice, Law and Order Sector. Most of the awareness creation targeted the general public with minimal focus on the incarcerated. As such, the thrust of the policy options to enable the vulnerable to access criminal justice was undermined. In fact, effective communication on human rights in relation to the accused or the convicted and sentenced offender is supposed to create a balance between state power and individual liberty in the criminal justice process. If not fostered, the public can wrongly view the state as an oppressor with regard to the realisation of their human rights yet the lack of sufficient knowledge by the frontline policy implementers is the actual challenge (Cumaraswamy & Nowak, 2009). Additionally, there was little or no trace of inter- and intra-institutional mechanisms for awareness creation among staff, which created gaps in institutions' attempts to harmoniously integrate human rights issues into their operations. The Stewart et al. (2008) top-down, bottom-up approach to policy implementation was not uniformly conceptualised by officials at the different levels of the sector and, as such, some institutions viewed human rights as an auxiliary mandate rather than being core to their functions. The ultimate effects were the lack of clear awareness standards and objectives, which impacted on strategic resource allocation for implementing the policy options on access to criminal justice by the vulnerable. Borrowing from the warfare principles, any successful military operations demand that the executors of strategies at the front line must have a common understanding of the ultimate goal of the manoeuvres.

Any disconnect in information between the commanders and the executors of the war can have dire consequences for the entire strategy (Mallick, 2009). As such, inadequacies in human rights awareness practices among the policy implementers took a toll on the overall institutional enforcement mechanisms to facilitate the realisation of human rights as per the JLOS policy options. Furthermore, the researcher argues that the attitudes of the implementers are usually shaped by the level of knowledge they have about a particular policy. This affects their decision-making process, especially with respect to resource allocation (Meter & Horn, 1995). The study established that staff capacity-building initiatives were inclined towards resources utilisation rather than effectively changing the mindsets or attitudes of the trainees as espoused by Meter and Horn (1995).

The inspectoral function by the top leadership of the sector, as reflected in the top-down policy implementation process, was equally weak (Stewart et al., 2008). Rather than use this function for improving the capacities of policy implementers at the operational level, the implementers instead used it to extort money from officers found at fault. As such, the desire to focus the implementers' attitudes towards the policy thrust in terms of resource allocation and the policy purpose was undermined. In conclusion, the composite task of administration and coordination of public service institutions as a pivot point of institutional enforcement mechanism for policy implementation was lacking (Meter & Horn, 1995). This created a recipe for the inspectorate function to be vulnerable to corruption, inadequacies and rigidity. The ultimate effects were a high case backlog, low rates of completion of registered cases and a weak complaints management process.

The study established lapses in the institutional culture which, in essence, defined the practices or attitudes of the policy implementing officials in the sector. The poor attitudes of some officials within the sector were reflective of the nature of the overall leadership. There were no clear mechanisms for linking the leadership culture to the institutional strategy, especially with regard to the transactional staff who, in essence, reflected policy actions (Leena & Binita, 2015). The study concluded that the policy practice in as far as it related to the implementation of institutional enforcement mechanisms represented the failures in the strategic leadership of the sector. In addition, inter-agency communication was hampered by verticalisation of policy implementation because the sector-wide approach was largely on paper and not actualised in practice.

CHAPTER SIX

APPLICATION OF POLICY OPTIONS OF THE RULE OF LAW IN THE CRIMINAL JUSTICE PROCESS

6.0 Introduction

The rule of law is a keystone of democracy and good governance and calls for the respect of laws and defined processes. In some instances, the rule of law is synonymous with keeping law and order. While this might appear as a characteristic of some conceptions of the rule of law, at the core, it really is not. The rule of law is treasured based on the notion that there is need to curtail the power of government, protect the rights and freedom of citizens and promote personal sovereignty, whereby individuals can envisage the circumstances in which government will interfere with their lives (Bottomley & Parker, 1997; Spears, 2008). In the Ugandan perspective, the rule of law has experienced external interference in the judicial process, corruption, a slow legislative process, coupled with lack of access to published laws and the absence of case precedents (Uganda Law Society, 2018).

The Government of Uganda Constitution (1995) under Part XXIX specifies the duties of a citizen to include the promotion of democracy and the rule of law. The same constitution provides for the Inspectorate of Government to promote and foster strict adherence to the rule of law and the principles of natural justice in administration. These provisions are operationalised by the different laws and policies superintended by the Justice, Law and Order Sector. In the Sector Strategic Investment Plan III (2012), several processes to amend key laws were proposed. The sector will develop and implement a strategy to publish and disseminate unified law reports, including the electronic publication of legal materials in a phased approach. This will build on the Commercial Court initiative of publishing case laws under the Uganda Commercial Law reports (1997-2001). Whereas having these instruments is necessary in the administration of justice and the rule of law, a question can be posed as to how the policy options of the rule of law have been practically applied within the criminal justice process. In seeking answers to this question, the researcher shall examine the certainty of the law and procedures, the enforcement of laws and the harmonisation of administrative service delivery standards in as far as they operate within the doctrine of independence of the sector institutions.

6.1 Certainty of the Law and Procedures

The principle of certainty of the law and procedures is a fundamental requirement for ease of use or accessibility and expectedness of the law. This, in effect, means that the people affected by the law can rationally predict the consequences of their actions (Popelier, 2008). If everyone must obey the law and adapt their behaviour to certain requirements, the first condition of orderly social life is the certainty of these requirements (Pokrovskij, 1998). Legal certainty in the theoretical aspect is a set of requirements for the organisation and functioning of the legal system in order to ensure a stable personal legal status by improving the process of law-making and enforcement (Kozjubra, 2007). The presence of a formal (legal) certainty is a multiple meaningful value. The law establishes certain formal requirements for legislative and enforcement activity that is governed by special rules. It regulates not only state activities, but also the form of enforcement acts, term actions, rights and obligations etc. Ignorance of this legal principle could lead to tyranny and injustice of the state (Bronislav, 2013).

In view of this, the promulgation of the 1995 Constitution of Uganda was a historical milestone, which ushered in far-reaching legal and organisational reforms designed to ensure (among other things) good governance and the effective administration of justice. The new constitutional order is founded on democratic values and fundamental human rights, including the right of access to justice, which is promoted and protected in Chapter Four of the same constitution. The constitution further prescribes the Bill of Rights as an integral part of Uganda's democratic state. The Bill of Rights is also the framework for social, economic and cultural policies. The overriding objective and purpose of recognising and protecting human rights and fundamental freedoms (including the right of effective and equal access to criminal justice) is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings. Accordingly, the effective promotion and protection of the fundamental rights and freedoms recognised in the Bill of Rights depend on the existence of apposite policy, legal and organisational frameworks. These are designed to close the portentous gap between the mere declaration of intentions characteristic of broad policy statements and the reality on the ground. It is, however, noted that the absence of a definitive policy on access to criminal justice in Uganda sets legislative and organisational reform initiatives on what may be viewed as a course without direction.

The imperative nature of policy and legislation in the human rights agenda is recognised in Article 20 of the Uganda Constitution (1995). Article 20(2) imposes a fundamental duty on the state and every state organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. This is by taking appropriate legislative, policy and other measures, including the enactment and implementation of legislation to discharge its international obligations in respect of human rights and fundamental freedoms. As regards the rule of law, Article 21 (1) states that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law (Constitution of Uganda, 1995). What this means is that, there is no situation that should inhibit the realisation of equality of opportunity to access judicial services and effective remedies.

Consistent with the desire to ensure certainty of the law and procedure and in the pursuit by the Justice, Law and Order Sector of this cause, there have been continuous efforts to identify laws and lobby Cabinet and Parliament for the enactment of key laws that seek to enhance access to justice through a multipronged strategy. This encompasses the JLOS leadership, private sector and civil society (JLOS SIP III, 2012). This has been through a number of approaches which, among others, include enhancing access to updated laws and case precedents, fostering partnerships with the private sector and strengthening the supervision of existing publishers by fortifying judicial editorial boards, and the publication of law reports. In addition, efforts were made to pilot the compilation and publication of electronic law reports, continuous law revision and the simplification of laws, and strengthening the capacity of law drafting institutions (JLOS SIP III, 2012).

It was, however, noted that the rules and laws are selectively applied and thus people are not treated with equality and fairness, which negates the principle of certainty as seen above and the equality prescribed in Article 21(1) of the constitution. Interaction with one of the inmates revealed this:

> The laws in Uganda are tailored always to help a few. Where it is to help the marginalised, it is bent by those who are in positions of power and make it favour them. In Uganda there is no rule of law but rule by law. So, with such instances where laws are abused by those who holds authority then you don't talk about access to justice but rather injustice. (FGD3, KLA)

Another inmate had this to say:

> This kind of unfair treatment and injustice is being influenced by power and authority vested in the hands of the few. Also, the other thing is the different high-ranking position some people have. With this they have influence in the whole system, making it one of the most unfair and complicated systems of the criminal justice process in government. (FGD4, KLA)

Article 28(1) safeguards the right to a fair hearing and the right to legal representation. However, in the context of criminal justice, the findings in this chapter suggest differential treatment of litigants on the basis of economic, social and political status, as attested by these inmates:

> Foreigners/refugees like the South Sudanese are favoured. They are handled well in courts and prison. They sleep like they are in their homes, and even the way they are treated is different from how a local is treated. (FGD2, MBRA)

Another respondent interjected thus:

> It depends on the situation in which you are arrested, your financial status among other things like family and political party affiliation …. People from reputable families are handled just like those with money; for them the rules and laws bend towards their side, which is totally the opposite with those from poor and less known families. (FGD2, MBRA)

The above statements point to the fact that despite the strenuous effort to reform the rule of law process in the administration of criminal justice in Uganda, the extant strategies in place are outstripped by the magnitude of the inequalities in law as regards access to (criminal) justice. The rules and laws might have been appropriately designed to guarantee quality of procedures in the context of equality of opportunity, expedition, party control and simplified procedures. This is in addition to proportionality and fairness of process, which are together advanced in the literature as decisive factors for the realisation of procedural justice in the pursuit of effective remedies. Selective application of the law in Uganda debunks the very essence of the principles that underpin certainty of the law and procedures. Kiruiki et al. (2014) note that there are publicly known and fair legal institutions which are all encompassed in the rule of law to protect fundamental rights in addition to the security of persons and property. In our thesis, and in pursuance of Meter and Horn's (1975) perception, the researcher argues that the extent

to which these principles are applied is a derivative of human character, attitudes and the environment in which they operate. This ultimately defines the characteristics and culture or internal morality of the Justice, Law and Order Sector in the eyes of the public. In this study, the researcher argues that equality of opportunity, simplicity and fairness of process, expedition and impartiality (which are yet to be realised in the administration of criminal justice in Uganda) are indispensable constituents of procedural justice to which all democratic states aspire. The right to simple and prompt recourse in pursuance of effective remedies is also critical to the pursuit of effective remedies. In conclusion, the researcher acknowledges that certainty of the law and procedures seem to be elusive, given the fact that uncertainty is an inherent part of the legal order. The institutional leadership can advance the principles of certainty of the legal processes only to the extent that they are willing to do so as underpinned by the institutional culture and attitudes of the human resource therein. It is, therefore, an imperative that reviews of the processes of implementation of the law inherently define measures to address the institutional culture and mechanisms for shaping the attitudes of the implementers as a way of reducing the significance of the principle of legal and procedural uncertainty.

6.2 Enforcement of Laws

Enforcement of the law can be construed as any system by which some community members organise themselves and take the kind of action aimed at enforcing the law. This is usually through ascertaining, preventing, reprimanding and rehabilitating individuals who conflict with the rules and norms that regulate a particular society (Kären & Orthmann, 2008; Moreto et al., 2014). Whereas the term may apply to institutions like the police, courts and prisons, it also extends to those institutions that provide auxiliary services to include other law enforcement agencies, whether formal or informal.

Just as there are laws, regulations and guidelines, their enforcement is critical for the function of a good criminal justice system and access to justice. A closer look at the JLOS approach to legal enforcement points to a number of issues. These include simplifying and making available updated laws, policies and standards to internal and external users; deepening partnerships to the understanding of the informal justice system through research, gender and diversity analysis; formulating comprehensive strategies to promote public participation and user access to laws; the involvement of CSOs, consumer groups and different categories of the private sector; the involvement of intended beneficiaries

and affected communities, including the women, children and other vulnerable groups (JLOS, 2012).

Actors' views on the concept of enforcement was broadly positive and the majority of them highlighted the areas of fairness, equality, equity and rights. However, quite a number of their opinions revealed discontent in the way enforcement was practised, particularly in accessing criminal justice in Uganda. Contrary to the principles of enforcement, the actors highlighted issues around micro versus macro policy implementation and micro versus macro politics that seemed to have an adverse effect on access to criminal justice. Politicians and some powerful institutional officers were regarded as persistently attempting to influence the enforcement process in line with their selfish and institutional ideologies, policies and interests. This was in contradiction of the JLOS policy framework. As such, those on whom the law was enforced were prevented from enjoying the rights enshrined in the rules and procedures of enforcement. The following comments made by one institutional official stand as evidence to this effect:

> Politicians and powerful bureaucrats in government will find their way to intimidate officers, especially when the law catches up with them or are interested in a certain matter… Some even reach a point of using the media and reporting us to the Police Standards Unit … So, we are sometimes pushed to the wall; the human rights is complaining, you also fear Police Standards Unit may come in, so we end up giving in to the demands of the politicians and other influential members of society. (POL1, KLA)

Some practices of law enforcement procedures hampered timely access to justice, as stated infra:

> We, for example, have situations where suspects confess to their crimes before the police… why wouldn't such people have accelerated committal and charged…. than taking them through the would-be unnecessary processes of remand, committal etc. (DPP1, MBRA)

The inmates, on the other hand, highlight the selective application of law enforcement and charge that the authorities are responsible for the mess in the criminal justice system. The following comments made by inmates stand as evidence to this effect:

> No, because for example when you are being tried on the same crime with a foreigner, he or she will get convicted with different years. For example, a national is given 30

> years and a foreigner 10 years because of favouritism and corruption. And sometimes the judges want to paint a good picture of the jury system of Uganda to foreign nations. (FGD2, MBRA)

Another inmate stated as follows:

> Foreigners are favoured but nationals are not favoured at all. During a drug case at Entebbe Airport, foreigners and locals were arrested. Three foreigners were given 10 years in the ruling while the Ugandans was given 35 years to serve in prison. This really shows it all to me Ugandans are of low value to these authorities and they see them as animals. (FGD2, MBRA)

Other inmates attributed the differential law enforcement to the financial status one enjoys in the criminal justice process, as highlighted below:

> No, it depends on the suspect's financial status and social life. If you have money the procedure will be swift but if you don't have money that is when you start having scenarios of staying in police custody for four months while they tell you investigations are still on and spend four years of court hearings before conviction. (FGD2, KLA)

> What is happening is that whoever is financially stable is always outstanding and will suppress and influence the case at all levels, be it at police, DPP, court and even sometimes in prison, so there is unfairness in treatment basing on financial stand between the rich and the poor. (FGD6, KLA)

From the above statements, it was clear that some practices of procedure have great influence on enforcement. Politicians and powerful officers in government exert undue influence on the law enforcement processes in order to advance their interests. In a country where patronage based on politics and economic influence define the law enforcement processes, the concept of rule of law as applied to the criminal justice process remains in the balance. The invasion of the High Court by the Government of Uganda armed forces to prevent the enforcement of a court ruling against it provides a vivid example of political influence on the due process of the law (Qgalo, 2009). In fact, enforcement of the law has been reduced to a level where it serves some few people who are politically connected and financially sound. Many actors in the criminal justice system have varied interests and this has led to the denial of legal representation whenever required. In addition, the denial of a speedy trial, a lengthy pre-trial detention in the face or presumption of innocence and claims of corruption in the criminal justice system are contrary to the rule of law principles of equality, equity, fairness and a rights-

based criminal justice system. This is contrary to law enforcement being associated with curtailing dictators in societies, because the law guides all behaviours, including of those in charge of power. In the event of disputes, they will be settled in accordance with the provisions of the law in place (Hachez & Wouters, 2014). These concerns prompt us to ask ourselves whether Uganda's law enforcement systems can actually be reformed by the mere enactment of laws and guidelines. In an effort to generate answers to this question, the researcher leans on the three elements of Meter and Horn (1975) in policy implementation. These include the standards and targets of policies/measures and policy objectives; the disposition or attitude of the implementers; and the characteristics of the implementing organisations.

Basing on the standards and targets of policies/measures and policy objectives perspective, the researcher construes this as the written legal frameworks within which enforcement officers implement their mandates. The researcher further presents that these written frameworks can largely be categorised as the dependent variables in the law enforcement equation since they may not be altered from time to time. With respect to the disposition or attitude of the implementers and the characteristics of the implementing organisations, the researcher analyses these two elements as the dependent variables whose state and operations at any given time will define the outcomes of the law enforcement mechanisms. The leadership of the Justice Law and Order Sector has the discretion to vary the institutional arrangements to ensure that the law enforcement mechanism is streamlined within the premises of the rule of law under the criminal justice system. Equally, the law enforcement agencies have the discretionary powers to discern right from wrong at their points of operations in line with rights-based approach principles (Lipsky, 1980). Since these two components have some leeway in deciding on their courses of action, our point of contention borders on the individual goodwill as well as the institutional culture to apply the basic tenets reflective of a just criminal justice system. In conclusion, the researcher argues that any reforms of the law enforcement system cannot consist merely in their presentation in the books of law but rather in the attitudes of the enforcement agents and the institutional culture that impacts on the criminal justice system. Our thesis is in consonance with Ridley (1997), who argues that human minds are built by selfishness, but have the capacity to be social, trustworthy and co-operative, as this may benefit the individual. To this end, the JLOS institutions can be redesigned to draw out these instincts in order to encourage social transformation

that will reflect the kind of performance that society expects of them. The researcher further argues that adopting strategies that legalise partnerships with civil society in law enforcement can help in bridging the gap between the law enforcers and society. The researcher now turns attention to this.

6.2.1 Partnerships with civil society in the enforcement of laws

Simply put, civil society comprises individuals and organisations who are independent of the government and manifest the interests and will of citizens in a given society (Desse, 2012; UN, 2014). Going by this definition, the high point is the role civil society plays in advancing the cause of citizens, which the researcher can borrow in analysing partnerships as a means of addressing the inequalities in law enforcement within the precincts of examining the policy options of the rule of law and how they are applied in the criminal justice process. As pointed out by various authors, CSOs constitute the fourth type of regulation agent which can check government excesses (Petit, 2012), and this can also be applied in the law enforcement system. The emergence of CSOs was largely underpinned by the failures of governments and by political and administrative constraints. States are usually unable to cover the full range of societal needs resulting from the understanding that its demands are heterogeneous yet states are known to be relatively efficient in providing homogeneous goods and services (Erica, 2007).

Partnerships are arrangements where parties, also referred to as partners, agree to work together towards a common goal. These may be individuals, groups of individuals or institutions whose joint actions amplify their reach (McQuaid, 2000). Going by this understanding of partnerships, the researcher now relates it to the policy options of the rule of law and how they are applied in the criminal justice process.

There exist partnerships between the Justice, Law and Order Sector and some CSOs that major in legal issues. These partnerships are largely loose and dependent on the goodwill of the JLOS actors. They are defined by memoranda of understanding (MOUs) which represent a weak relationship where the weight and structure of the civil society sector cannot directly come to bear on the actions of the sector. As such, the power and structure of CSOs cannot penetrate the insulated and encapsulated JLOS institutions under the cover of the independence of the Judiciary. Drawing on the perceptions of respondents related to the JLOS partnerships with civil society, there were mixed reactions as presented infra:

> There is lack of seriousness on the part of civil society although they would do better…. they are oftentimes noise makers…but yes, they play some role, especially facilitating and training paralegals. (POL2, KLA)

Another respondent recognised their contribution thus:

> …I think these are very much involved, especially when it comes to monitoring and reporting human rights violations. (PRS1, BUS)

On the part of inmates, these were agents of hope with negligible deliverables on the ground. One inmate attested thus:

> In prison, those institutions and individuals do come but later we see no results and we have lost hope in them as they have not caused any change on the situation. Apart from building false hopes which do not come true, nothing much visible has been done to restore the lost hopes of convicted prisoners. (FGD1, BUS)

Another inmate intimated thus:

> Organisations and individuals sometimes do come and ask us like you are doing, other times one by one but there has not been any change. We have been waiting to see new changes but now we are even losing the little hope we had in them. The justice system is just changing negatively as they continue coming in to pretend to help. (FGD1, MBRA)

Some inmates, however, expressed satisfaction with some organisations, especially the paralegals who had tried to make a contribution towards access to criminal justice in Uganda:

> Paralegals also sometimes come to our rescue and have helped to connect many of us with lawyers, courts and the community so as to get fair justice. They normally provide us with phones to communicate with those who can support us and also they have advised us on a number of vital matters like how we can get fair justice. We have the welfare section these also help us mainly with communicating with our people back home and also legal services, especially when applying for bail. (FGD1, MBRA)

The inmates also expressed views that reflected agreement with JLOS institutional staff on enhanced opportunity to work with partners. One inmate alluded to the need for friends of court who will help people access criminal justice:

> We need friends of court or organisations and individuals. This will assist in people getting justice to help stop issues of corruption and convictions without evidence like

> me by judges. Those with personal interest will be suppressed over majority interest and according to the law as well as observing human rights. These friends of court will help in speeding up justice process and this will reduce the delays that have been on the rise. Most of us have lost the trust in police and its credibility is questionable. (FGD7, KLA)

While acknowledging a positive achievement, another inmate also concluded with a precautionary sentiment:

> We need to streamline the justice system and have its works checked (create checks and balances) and made open. This streamline should see it communicated to all hence creating awareness and reduce the ignorance among the people about the Justice, Law and Order Sector and also help us understand everything we need. And also streamlined in NGO works to instill hope among the people. (FGD4, KLA)

One inmate alluded to the lack of trust that institutions had in the civil society that was seen to be attacking the existence of the different institutional mandates:

> We have been distanced from the human rights because there is growing fear that we might tell the experience in prison. However, the new OC prison has done much to fight for our rights. We applaud and commend him for his great works. He has emphasised that whoever came here in 2015-2017 has to go face the justice than being in here for no reason. On every session at least we have seen a change in the criminal justice process. (FGD1, BUS)

From the submissions, it was evident that CSOs had a role to play in bringing the JLOS criminal justice system closer to society. The hopelessness expressed by some respondents was understandable given that CSOs were loosely attached to the JLOS institutions. As such, their level of influence on the operations of these institutions was only to the extent the leaderships allowed. In effect, the sector largely remains insulated from civil society organisation actions since the relationship is not regulated by law. Indeed, the position of civil society seems fragile in the sense that it is dependent on institutional mercy for accessibility purposes. This definitely weakens their ability to articulate issues arising from the activities of institutions that partially enable their very existence. Another constraint might originate from the fact that the institutions have the political power to regulate the activities of CSOs since they report and subscribe to the sector for their continued existence under the Non-Governmental Organisations Act (2016). The worst-case scenario would be one in which, relegated to a position where

all they can do is compete for international capture, the government/institutions and civil society engage in a hunt for each other's malpractices with a view to reporting them to the donors. The question to ask here is: Whose interest does civil society aim to protect? Is it that of the government to serve their selfish survival interests; the donors for sustained funding; or the community which they are assumed to represent? All these questions arise from the fact that the partnership between CSOs and the Justice Law and Order Sector or its institutions lack a clear framework.

Given the rapid growth of the civil society sector in the last two decades, and in countries where they have been allowed to freely operate, the promotion of democratic governance has thrived (Salamon, 2010). It is the researcher's thesis that in the Ugandan criminal justice situation, the power asymmetry occasioned by lack of binding legislation between the Justice, Law and Order Sector and CSOs has only worked to undermine the rule of law and how laws are applied in the criminal justice process. This is especially with regard to ensuring transparency in the actions of law enforcers to the extent that they infringe on human rights and public confidence in the criminal justice process. Yet it is common knowledge that through partnerships the total output in terms of performance is greater than that of the individual efforts. A regulated partnership can also facilitate greater legitimacy for the criminal justice process as it may involve participants from the local community directly rather than through the representative democracy of central and local governments (Syrett, 1997).

6.3 Harmonisation of Administrative Service Delivery Standards

Administrative service delivery can be described as the management of the distribution of the basic resources that citizens depend on. It is a component of public administration that defines the interaction between service providers and citizens where the provider offers a service, whether they be in the form of information or a task, and the client finds value as a result. Effective administrative service delivery provides citizens with an increase in value (Le Chen et al. 2014). These authors further state that service delivery standards are put in place to guide the designs, implementation and delivery of services with a view to ensuring a consistent service experience. Under the Justice, Law and Order Sector, harmonisation of administrative service delivery standards is one of the sector initiatives to support the outcome of strengthening legal and policy frameworks. To contribute towards this outcome, there are strategies such as a holistic justice system

transformation policy for access to justice with particular emphasis on access to justice for poor and vulnerable groups. Setting standards and developing oversight mechanisms for informal justice and local council courts by all institutions is a mandate of the Justice, Law and Order Sector. Indeed, compliance with these strategies has seen the establishment of the Inspection and Quality Assurance programmes for performance targets, and public complaints against staff performance and conduct in all institutions. In addition, the sector, through the Uganda Police Force, has drafted simplified Standard Operating Procedures to guide District Police Commanders and officers in charge of units in operations and management as well as reviewing institutional standing orders to match the present times, among other things (JLOS, 2015).

Harmonisation of administrative service delivery standards in a multisectoral institution like the Justice, Law and Order Sector has met with several challenges that range from lack of harmonisation of administrative service delivery standards, policy divergences, to uncoordinated planning, inadequate capacity and limited resources (JLOS report, 2015). In addition, the prospects are further complicated by the independence of each institution from the other, given their different mandates. Interface with the JLOS staff revealed the need for a review of laws that govern the criminal justice process in order to expedite the criminal justice process, as stated infra:

> All Justice, Law and Order Sector institutions should be under one Ministry to be able to streamline efforts and finances. From the strategic point, this consortium should be under one management so that money that spreads around can be streamlined. (JLOS STA1, KLA)

From the above perspectives, it is evident that harmonisation is constrained by many factors ranging from policy, planning, harmonisation, alignment to capacity, funding, the sector plan and implementation. The strategies in place are designed for intra-institutional harmonisation and not inter-institutional harmonization, thus failing to deliver on the promises of access to criminal justice concerns. The effects of lack of harmonisation in the sector are felt even by the inmates. Such a situation could possibly also explain the underlying complexities of access to criminal justice operations in Uganda. It is the researcher's thesis that achieving high levels of harmonisation in the Justice, Law and Order Sector will continue to present a major constraint to the criminal justice process. The sector has over 17 institutions with varying mandates and this was

the basis for adopting the sector-wide approach. The sector structures are characteristic of the formal, tall and hierarchical government bureaucracy through which policies and laws are designed and implemented. The characteristics of the sector institutions are definitely related to its performance in the administration of criminal justice. The extent of the harmonisation of these institutions, with their divergent mandates under the sector-wide strategy, has hitherto proved to be a failed effort. If harmonisation with a view to improving technical efficiency is one of the goals of the sector-wide approach as posited by Hutton (2019), then the end result should be reflected at the end-user level. In this case, these are the vulnerable citizens who interface with the criminal justice system. Nevertheless, the current practice indicates a sector whose harmonisation efforts are largely in vain, given the poor operating efficiency underpinned by lack of tailored legislation to support these strategies.

6.4 The Independence of Justice, Law and Order Sector Institutions

In relation to the above section, the concept of sector-wide approach in the Justice, Law and Order Sector is far from being achieved and practised in its form and content. The main principles of the sector-wide approach are partnership, government leadership, ownership by government, sector policies and strategies, capacity-building, harmonisation, alignment with government procedures and systems, coordination, and accountability (Paris Declaration on Aid Effectiveness, 2005; Buchert, 1998). Therefore, the action that produces results takes place in other organisations with the help of many other inputs than those provided by that organisation. It is equally important to account for the linkages between organisations, the construction of shared meanings and objectives, co-ordination and the continuous negotiation of conflict that occur as the development results are being produced (Kim et al., 2000).

Therefore, the independence of institutions as seen through the lenses of the JLOS policy seems not to be speaking to the above theoretical aspects. The sector has hitherto vigorously pursued the protection of the independence of its institutions through addressing the root causes of institutional vulnerability, facilitating the budgetary process and assisting with securing of adequate financial resources for institutional operations and growth, in addition to promoting proposals from institutions (JLOS, 2012). Independence of JLOS institutions is critical to the sector's efforts to reduce dependency and to ensure that institutions are sufficiently empowered to execute their mandates. In this regard,

additional facilitation is provided to institutions in the budgetary process to enable them to secure adequate financial resources for institutional operations and monitoring of activities (JLOS report, 2015). In this respect, the respondents who interface with the JLOS institutions elicited mixed reactions to the concept of the independence of the sector institutions as reflected infra;

> This is an avenue for eating money. If we are all in one family, why then do you give some institutions money under project support? We all have issues but we prioritise because the resource envelope is small. (JLOS TA1, KLA)

Another one echoed:

> We should be talking of Justice, Law and Order Sector independence and not institutional independence. Even our operations are sometimes limited by this kind of mentality of institutional independence. (JLOS TA2, KLA)

Another stated:

> Justice, Law and Order Sector is busy pushing for the Judiciary Bill, where they will have autonomy to decide on their salaries. For us nothing was done when we went on strike and wanted a pay rise, yet Judiciary and other institutions like police and prisons are not taxed. Instead of pushing for a common interest, they are taking sides. (DPP1, MBRA)

The above sentiments infer that much as the policy had good intentions, the strategies were unpopular and counterproductive to the intentions of a sector-wider approach. In addition, many respondents seemed to suggest that the interventions should have targeted those outside the operations of the Justice, Law and Order Sector. One respondent expressed frustration at the undue influence politicians had on the overall process in the Justice, Law and Order Sector. This raises the question of who has the autonomy to determine the priority areas that are addressed in the JLOS policy document:

> Politicians will find their way to intimidate officers, especially when the law catches up with them or are interested in a certain matter; this greatly interferes in our work. (POL2, MBRA)

Although this officer shares some common value that should have guided the policy strategies, the coordination at the design stage seemed to have experienced challenges due to other factors emanating from within the JLOS family. These were closely linked to the funds, a situation that further undermined the role of leadership and common ownership

of the expectations of the Justice, Law and Order Sector. Finances seem to have exerted a greater influence on the manner in which the strategies functioned, with each institution only too ready to advance its own and institutional priorities, given the independence they enjoyed. This tended to negatively affect coordination within the JLOS community. A question can be posed as to whether the independence of the individual institutions in sum amounts to the independence of the entire sector. As one of the respondents stated, the focus should be more on the independence of the sector than on the individual institutions. The former can create a communally enjoyed independence and mitigate the egoistic stance of some of the sector institutions which, in their opinion, tend to view themselves as more important than the other. This would minimise power differentials while at the same time optimising operating efficiency in the administration of criminal justice (Gilchrist, 2006).

6.5 Chapter Summary

In this chapter, the focus was on examining the policy options on the rule of law and how they are applied in the criminal justice process in Uganda. In analysing this objective, the study examined the certainty of the law and procedures, the enforcement of laws and the harmonisation of administrative service delivery standards and the doctrine of the independence of the sector institutions. On certainty of the law and procedures, the study established that the rules and laws are selectively applied, thus undermining the very essence of equality and fairness and negating the principle of certainty as prescribed in Article 21(1) of the constitution. Furthermore, it debunks the very essence of the principles that underpin certainty of the law and procedures. Pursuant to Meter and Horn's (1975) perception, the extent to which the principles of certainty are applied is a derivative of the human character, attitudes and the environment in which they operate. Ultimately, these define the characteristics and culture or internal morality of the Justice, Law and Order Sector in the eyes of the public.

With respect to the enforcement of laws, the processes were not immune to the influence of politicians and some powerful institutional officers. Political patronages tended to influence and define the law enforcement processes. Referring to Meter and Horn's (1975) standards and targets of policies/measures and policy objectives, which include the disposition or attitude of the implementers and the characteristics of the implementing organisations, the study established that the law enforcement agencies exhibited the

following attributes. The fact that the course of action by some officials in the criminal justice process depended on their goodwill under the discretionary doctrine showed that the actual practices were not guided by the institutional culture. As such, any reforms in the law enforcement systems must as of necessity address the institutional culture in order to help shape the attitudes of the officers. This notion is premised on Ridley's (1997) point of view that human minds are built by selfishness but can be social, trustworthy and co-operatively reconstructed. This requires a redesign of the JLOS institutions and draw out these instincts in order to encourage social transformation that will reflect their performance as expected by society. Furthermore, the need for partnerships with civil society that major in legal issues cannot be overemphasised. The study established that the partnership arrangements were largely loose and depended on the goodwill of the JLOS actors. This undermined the power relations between the entities, given the power asymmetry occasioned by lack of binding legislation between the Justice, Law and Order Sector and CSOs.

On harmonisation of administrative service delivery standards, it was established that its foundation was to provide effective services to citizens through an increase in value (Le Chen et al., 2014). In the Justice, Law and Order Sector, the study established that this met with several challenges that included lack of harmonisation of administrative service delivery standards; policy divergences; uncoordinated planning; inadequate capacity; and limited resources. It further reflected a weak coordination mechanism and inability to identify and uphold a policy purpose, which was characteristic of failed mechanisms for the establishment and maintenance of staff morale. In fact, the overall situation was characterised by poor strategic synchronisation and deployment of conceptual and physical efforts of staff to areas that require critical attention in order to realise the intended policy effects (Mallick, 2009). Basing on the Meter and Horn's (1975) perspective, the concepts of standards and objectives were not harmonised from a sector-wide perspective but rather from that of an individual institutional dimension, thus promoting verticalisation.

It was established that the independence of JLOS institutions under the sector-wide arrangements existed more on paper than in practice. The drive to maximise financial allocations to a particular institution seemed to exert greater influence on the manner in which the strategies functioned, with each institution only too ready to advance its own

and institutional priorities given the independence they enjoyed. Consequently, there was limited impetus to foster the independence of the entire sector so as to create a communally enjoyed independence and mitigate power differentials while at the same time optimising operating efficiency in the administration of criminal justice (Gilchrist, 2006).

In essence, it was established that the application of the provisions of the rule of law within the criminal justice process fell short of a common purpose which is core to the realisation of the right to access criminal justice by the vulnerable. There was a weak drive towards the observance of the human rights-based approach within the different levels of the justice, law and order sector characterised by limited inspiration by the leadership to enhance access to criminal justice by the vulnerable. As such, the frontline policy implementers lacked the requisite operating policy environment that provides for the necessary impetus to sustain the provisions of the rule of law as applied within the criminal justice process as and when required in order to achieve the policy objectives.

CHAPTER SEVEN

SYNTHESIS OF STUDY FINDINGS

7.0 Introduction

This study was conducted with the overall objective of analysing the policy options on access to criminal justice for the vulnerable in Uganda. Specifically, it sought to analyse the human rights enforcement practice across the criminal justice institutions; and to examine the policy options on the rule of law in the criminal justice process. The research questions the study set out to answer were three-pronged: 1) How does the policy option on access to justice facilitate the vulnerable in the criminal justice process? 2) To what extent does the institutional enforcement mechanism facilitate and/or hinder the realisation of human rights as per the Justice, Law and Order Sector policy options? 3) How are the provisions of the rule of law applied within the criminal justice process?

In this chapter, a synthesis of research findings from the three chapters based on the study objectives is provided and this was the basis for making recommendations.

7.1 Policy Options on Access to Criminal Justice for the Vulnerable

The findings in Chapter Four provided answers to the research question which sought to establish how the vulnerable persons (suspects/inmates) access justice across the criminal justice institutions. The study findings indicated that the existing legislation does not explicitly, from the rights perspective, clarify the duration of any criminal case from registration to disposal. The discretionary powers vested in the judicial officers tended to affect their attitudes in influencing the progression of criminal cases (Lipsky, 1980). Given that the magistrates and judges represent government in the delivery of services, their actions or omissions thereof reflected the citizens' interface with policy implementation within the justice and order sector. With respect to the completion of registered cases from the rights perspective, the study established that the delay in the criminal justice process is in utter disregard of the fact that a citizen has been deprived of his freedom on the ground that he/she is accused of an offence. Procedural justice was expected to be the thread that holds the various aspects of justice together, yet the context within which these procedures apply does not favour effective access to criminal

justice. The researcher noted that having access to criminal justice is a connecting fabric between citizens and the justice system, which is further mirrored in the doctrine of respect for the rule of law and confidence in the justice system (Greenleaf & Peruginelli, 2012). It was also observed that access to criminal justice was hindered by the slow pace at which the case files moved from one independent institution to another. Owing to the independence of each institution and the interconnected nature of their operations, the bottlenecks in one of them directly affect those in the others, thus delaying access to criminal justice.

The disposition or attitude of the implementers played a pivotal role in the progression of registered criminal cases in Uganda. This largely depended on the decisions made by the judicial officers, given their discretionary powers. In addition, the way criminal court sessions were scheduled, selection of the cases to include in the sessions, the speedy trials of individual cases, among others, all depended on the attitudes of the judicial officers. The fact that the Judiciary acts as an independent arm of government based on the constitutional provisions gives it decision-making discretion. As such, the attitudes of judicial officers define the progression of registered cases, especially in the absence of documented standards for timelines within which cases should be disposed of. The researcher thus argues that the discretionary powers of judicial officers expose the flaws in their application, given that different decisions can be made by different judges on a particular matter but under diverse circumstances. In fact, the term judicial discretion has not been clearly defined in the laws of Uganda but is applied regularly by the Judiciary.

The independence of prosecution from the Judiciary was also cause for concern. While this is essential in the impartial adjudication of criminal cases, it has been identified as a major constraint with respect to the completion of registered cases in Uganda. One of the key factors inherent in the relational asymmetry between prosecution and the Judiciary is underpinned by financial management, where the latter controls resources and, in some cases, timely presentation of prosecution witnesses is hindered, thus contributing to delays in the completion of registered cases. As such, the cost is sometimes borne by the client which, in essence, is a matter of violation of the right to due process of the law, especially for the poor.

The management of registered criminal cases is handled on a first come, first served

principle. Much as the principle was adopted in the Ugandan judicial system, most inmates find it unfair and segregative in nature. The practice tends to influence the hierarchical arrangement of cases in favour of those who are politically connected to the judicial officers. The in-built procedures of the criminal justice systems have been counterproductive to the completion of registered criminal cases. This has contributed to the systemic corruption where the completion of registered cases is influenced and incentivised by the associated political and economic dimensions. Individuals who are politically connected or those with financial influence tend to drive the agenda of the judicial processes. The multiplicity of institutions involved in the operation of the criminal justice system further expand the corruption points, which the Judiciary clients have to facilitate. The fragmented nature of the different agencies with minimal practical coordination mechanisms and individual bureaucracy characteristics tend to spread the responsibility for an area of policy among them. As such, clients of the judicial system are equally inconvenienced by the multiplicity of the agencies through which they have to bribe their way out; and this reflects the unfairness of the judicial processes.

The study also analysed the extent to which the sector-wide approach was used to expedite access to criminal justice in Uganda. Whereas this strategy was intended to streamline the operations of the different actors in the Justice, Law and Order Sector, the nature of its design and its implementation modalities reflected a silo *modus operandi* occasioned by the weak leadership. The functionality of the structure has fallen prey to the usual government bureaucratic constraints. This has contributed to the splitting of the organisational artifacts and relationships, and has impacted negatively on relationship-forming between individuals and within teams. The bureaucratic characteristic of the leadership in the sector, as is commonly encountered in the public sector organisations, underpins the inefficiencies in addressing the completion of registered criminal cases at the operational level. It was also noted that each of the institutions is guided by different legal frameworks. As such, any attempts to address the silo operation mode require revisiting the legal frameworks.

Analysis of the legal aid mechanism as a strategy for increasing access to criminal justice revealed that there was limited knowledge about these services among those it was supposed to benefit. This was an indictment of the Justice, Law and Order Sector, given its responsibility for creating awareness of rights and laws as well as legal empowerment

in communities. The Justice, Law and Order Sector has hitherto not prioritised the legal aid strategy in facilitating the completion of registered criminal cases. The efforts undertaken by private players in driving the legal aid agenda further illustrates the laxity by the sector to institutionalise the strategy yet this can often be a cost-effective means by which to secure legal services for vulnerable individuals.

The strategies adopted by the Justice, Law and Order Sector for case backlog reduction, among others, include plea bargaining, a review of case transaction time, session systems, the introduction of court recording and transcription equipment, and the development of automated case management systems. It was noted that whereas plea bargain as an initiative designed to address the institutional challenges of backlog and congestion with minimal cost and time-saving, it was actually implemented at the expense of the desperate and vulnerable inmates. Furthermore, there are no statutory provisions or guidelines on how the parties involved can come to an agreement during negotiations, thus exposing the process to undue manipulation. The absence of enabling legislation to operationalise plea bargaining is not a mere act of omission but rather embodies the lack of systemic prioritisation in addressing case backlog within the judicial system.

With respect to detention prior to criminal investigations, this open system gives judicial officers a blank cheque to act within the law for selfish and/or unprofessional gain, thus inflicting frailty on the law in protecting the vulnerable. One of the principal objectives of criminal law is to shield the public from crime by punishing the offenders. As such, fairness in the judicial processes calls for a fair trial where investigations constitute the first step of this process. It has been noted that there were unnecessary delays in the investigation process, which undermined the right to expedited access to justice and contributed to case backlog and long transaction lead times.

On complaints management, there was an elitist perspective in the Justice, Law and Order Sector that the public was aware of the processes and procedures to be followed since the relevant laws are available to the public. Minimal efforts have been undertaken by the sector to localise the relevant laws for public consumption. This has created a wide gap between the sector and the public, which has been exploited by some judicial officers to fuel corruption.

Analysis of the sector approach to the completeness of the Justice, Law and Order

Sector chain of services has tended to focus on issues of physical presence, ignoring the fact that criminal justice can best be accessed when the three variables, i.e. physical, technical and financial, are in equilibrium. While the researcher acknowledges that it is necessary to have these functions in equilibrium, the soft issue that relates to the perceived institutional culture tends to be ignored. These three functions are necessary but on their own are not sufficient to functionalise the JLOS chain of services. The goodwill of the individual actors operating within an established institutional culture is a matter of individual and collective choice.

7.2 Institutional Enforcement Mechanisms in the Realisation of Human Rights

Chapter Five analysed the current status of human rights of suspects/inmates across the criminal justice institutions. It was observed that the human rights awareness practice at institutional and sectoral levels was necessary to reduce the incidence of human rights violations. The sector, working in partnership with both the CSOs and the private sector, implemented simultaneous and multipronged approaches to raise awareness and civic consciousness about human rights principles/standards, procedures for claiming protection, and citizens' responsibilities. It was, however, noted that most of the awareness targeted the general public, with minimal focus on the incarcerated.

Additionally, there was little or no trace of inter- and intra-institutional mechanisms for awareness creation among staff, thus creating gaps in the efforts of institutions to harmoniously integrate human rights issues into their operations. As earlier highlighted, it is the researcher's thesis that the current traditional channels used by the sector to raise community human rights awareness as well among the JLOS staff are no longer effective, given the advances in ICT. This communication approach does not work well in facilitating the realisation of human rights as per the JLOS policy options. The need for the Justice, Law and Order Sector to reinvent its staff capacity-building programme in line with the current and dynamic human rights demands within the population cannot be overemphasised. This will require a capacity-building redesign with a focus on mentorship programmes for effective knowledge and skills transfer within the institution-specific operating context. The ultimate goal of capacity-building interventions should be to build competence rather than to acquire knowledge for its own sake.

7.3 Application of Policy Options of the Rule of Law in the Criminal Justice Process

The study established that the rule of law is a keystone of democracy and good governance and calls for the respect of laws and defined processes. The principle of certainty of the law and procedures is a fundamental requirement for ease of use or accessibility and expectedness of the law. It was, however, noted that the rules and laws are selectively applied and, thus, people are not treated with equality and fairness, which negates the principle of certainty and equality prescribed in Article 21(1) of the constitution. It was acknowledged that certainty of the law and procedures seemed to be elusive, given the fact that uncertainty was an inherent part of the legal order. The institutional leadership can only advance the principles of certainty of the legal processes to the extent that they are willing to do so as underpinned by the institutional culture and attitudes of the human resource therein. The study established that enforcement of the law can be construed as any system by which some community members organize themselves and take the kind of action aimed at enforcing the law. As such, the need for partnerships with civil society beyond the current established institutions will enable bridging the gap between the sector and the public. The current partnerships between the Justice, Law and Order Sector and some CSOs are largely loose and dependent on the goodwill of the JLOS actors.

With respect to the harmonisation of administrative service delivery standards, the divergent mandates under the sector-wide strategy have hitherto proved to be unsuccessful owing to lack of legislation tailored to support these strategies. The independence of the JLOS institutions tended to negatively affect coordination within the JLOS community. As such, there have been limited efforts to focus more on the independence of the sector rather than the individual institutions, thus fuelling uncoordinated interventions and affecting access to criminal justice.

7.4 Analytical Foundation for Appraisal of Policy Frameworks on Access to Criminal Justice in the Justice, Law and Order Sector

The Meter and Horn (1975) model which was used in this study has its own limitations in providing the basis for analysing public policy implementation. However, scholars have variously argued that even with the best written policy in place, its successful implementation demands clear guidance and direction on how to operationalise it (Hill &

Hupe, 2014; Goggin, Bowman, Lester, & O'Toole, 1990; Stewart et al., 2008). Obviously, such guidance is hypothetical and underpinned by theories which it is expected to follow. Nevertheless, Khan (2016) notes that there is agreement amongst the scholars that policy implementation as a discipline has hitherto experienced a paucity of viable and generally accepted grand theories. There is, therefore, no grand theory in the discipline policy implementation as compared to, for example, the Eisenhardt (1989) principle agency theory which explains stakeholder relationships in an investment portfolio (Hill & Hupe, 2014). Goggin et al. (1990) explain that one of the reasons for the lack of a grand theory in policy implementation was that as a discipline it was still in its formative years. Furthermore, over the years, policy implementation had hitherto been overlooked in the wider public administration domain which constrained the theoretical advancement of this discipline (Khan, 2016). Furthermore, policy implementation tends to be context-specific depending on the socioeconomic and political as well as organisational factors which play pivotal roles in how a policy is implemented (Meter & Horn, 1975; Stewart et al., 2008). In addition, policy implementation varies significantly over time and across institutions, as underpinned by the divergent organisational cultures (Goggin et al., 1990). It is against this background that the researcher proposes a JLOS-specific policy implementation model as a contribution to new knowledge. The model can be adopted to address the current constraints on the realisation of the objectives of the policy options for access to criminal justice in Uganda.

The model is unique because JLOS operations have never been anchored in any theoretical foundation or modelling. Secondly, the model tries to bridge the gap between inter-agency coordination and communication by providing for a hard principle (leadership). This, therefore, means that even in the current formation, the public can largerly see an equilibrium between the demand for and supply of JLOS services. This, however, does not discount the use of the model for policy implementation in other domains through with modifications toilored to suit a particular context. Hereunder the researcher presents the model narative and framework as underpinned by the set of principles and guidelines.

7.5 Contribution to New Knowledge

This study contributes to the extension of knowledge in understanding policy implementation with respect to criminal justice. The findings add value to the existing theories, models and frameworks of policy implementation as espoused variously

by scholars (Meter & Horn, 1975; Stewart et al., 2008; Khan, 2016; Lipsky, 1980; Mazmanian & Sabatier, 1989). The study builds in the six constructs of Meter and Horn's (1975) model which focus on the standards and targets of policies/measures and policy objectives and resources; the characteristics of the implementing organisations; the attitude of the implementers; communication between relevant organisations and implementation activities; and the social economic and political environment. The study provides a deeper analysis of the Ennead principles built around the Meter and Horn (1975) model as the basis for institutional reforms aimed at fostering the policy implementation processes. The researcher now presents the detailed analysis of the proposed modifications to the Meter and Horn (1975) model as part of the study's contribution to new knowledge. The specific focus is the application of the proposed model to the JLOS policy implementation with respect to the criminal justice system.

In its current form, the operations of the Justice Law and Order Sector cannot realise the policy options for access to criminal justice by the vulnerable. The need to adopt a more robust approach cannot be overemphasised. The researcher thus constructs and proposes the Ennead interelated principles for public policy implementation. These focus on the policy implementation gaps identified by this study and aim at stregthning the institutional, structural and operational dynamics for improved sector performance. The proposed model for policy implementation is underpinned by the notion that a set of principles should be in place and operationalised in order to overcome institutional and operational constraints on realising the policy objectives as elaborated infra. In this model, strategic leadership is considered as the locus and, as such, the hard principle of policy implementation.

Strategic leadership: This entails the potential of managers to elaborate the strategic intent for the organisation in a bid to motivate and influence its human resource towards buying into that vision (Beatty & Quinn, 2010). Different types of leadership approaches have varying effects on the realisation of an organisational vision, the thrust of its development initiative as well as the potential for success. The study noted that the leadership of the Justice, Law and Order Sector was fragmented along the various institutions that constituted it without strong central units of command (Hope, 2008). While this may be the norm in bureaucratic institutions like the Justice, Law and Order Sector, especially with regard to incident management, it is counterproductive for

a sector whose performance heavily relies on the outputs of sister agencies. For example, the magistrates and judges use the Director of Public Prosecutions outputs as their inputs in order to perform. Any constraints on the Director of Public Prosecutions' performance seriously impacts on the entire judicial system in addressing access to criminal justice. The researcher further posits that the leadership style shapes the organisational culture as one of the drivers of effective policy implementation. Our argument is premised on the notion that whereas the seven principles are crucial in the analytical model, on their own they are not sufficient to explain the software that binds them together (Leena & Binita, 2015). These principles are largely influenced by the institutional culture. It is the researcher's contention that the mindsets of the different actors are a function of institutional culture and the long historical perspectives on how things are done. Where the institutional culture is shaped by the requisite legislation, the attitude of the implementers and characteristics of the implementing organisations can be automatically realigned as such (Leena & Binita, ibid.). The Meter and Horn (1975) framework does not clearly specify the role of organisational culture in shaping policy implementation yet this is a form of software whose absence impacts on organisational cohesion (Beatty & Quinn, 2010). It is the researcher's thesis that strategic leadership is the point of convergence where all the other elements required for policy implementation converge to create a launch pad for offensive action.

Offensive action: Borrowed from the military warfare principles, an offensive action in policy implementation connotes the practice adopted by the leadership to gain situational advantage of the dynamic policy operating context in order to uphold the thrust and desire to realise set objectives (Mallick, 2009). Offensive action relates to the social, political and environmental contradictions inherent within policy implementation processes as posited by Meter and Horn (1975). It defines the culture of policy implementation over time as the policy implementation process advances and takes root, which usually takes 2-4 years (Metz & Barclay, 2012). It is hoped that with offensive sustainability in that period, even external policy implementation contradictions will have less impact. With respect to the Justice, Law and Order Sector, the adoption of policy options for increased access to criminal justice by the vulnerable was a step in the right direction. However, this was done without a clear understanding of the conceptual alignment with other principles which interlace to impact on the realisation of the intended intervention logic (Monier, 2011). For example, the Justice, Law and Order Sector had 18 different

but related institutions with competing interests but without a clear common purpose. Furthermore, the various institutions had divergent objectives which, in fact, changed from time to time and, even then, these changes in focus were not informed by periodical performance evaluations to know what worked and what did not work. The ultimate effects were the lack or ineffective ability of the sector to concentrate its thrust towards strategic areas that would address the performance constraints. An effective offensive action would entail a leadership that creates and sustains staff morale in a bid to focus on the policy purpose and outcomes. This would constitute part of the institutional enforcement mechanisms to facilitate the realisation of human rights as per the Justice, Law and Order Sector policy options.

Identifying and upholding a policy purpose: The study highlighted the parallel implementation programmes which were not sufficiently coordinated, thus creating contradictions in the Justice, Law and Order Sector implementation processes. In addition, there was a multiplicity of policy options, with some being implemented outside the sector yet their success relied on other options under the Justice, Law and Order Sector. The multiplicity of actors created coordination challenges; and since inception of the Justice, Law and Order Sector, many changes/strategies have taken place within the policy objectives without ample time for them to take root. A single and clear purpose is the foundation for effective policy implementation. A purpose defines the policy intervention logic (Monier, 2011; Meter & Horn, 1975) and if well-articulated, it can be regarded as the overarching principle for successful policy implementation. It is the rationale that informs the selection of the strategies used to realise policy outcomes and the targets thereof. It, however, takes strategic leadership to guide in identifying and upholding the policy purpose. In fact, the research findings indicated the paucity of knowledge about the sector policy objectives by operational-level staff. This further compounded the verticalisation of policy implementation. As posited by Meter and Horn (1975), the fragmentation and dispersion of responsibility to implementing units was a recipe for policy implementation failure. It is further argued that the bigger the number of actors and agencies taking part in a particular policy implementation process, the higher the levels of intertwining in decision-making and the less likely the success of policy implementation. In essence, the more the need for coordination required to implement a policy, the higher the chances for policy failure (Meter & Horn (1975). The researcher thus concurs with Meter and Horn's (1975) conceptualisation of standards and targets

of policies and policy objectives as contributors to successful policy implementation. Furthermore, the concept of leadership being a personal characteristic (Michelle, 2017) and its role in articulating the strategic focus of policy implementation has a strong bearing on the ability of the Justice, Law and Order Sector to effectively provide overall guidance on defining the policy intervention logic.

The researcher further argues that in upholding the policy purpose, the demand for strengthening cooperation among the policy implementation actors who are not core to the Justice, Law and Order Sector cannot be underestimated. In this respect, the role of civil society in supporting sector performance has increasingly become noticeable, hence the need to integrate it under the Meter and Horn (1975) construct of implementing bodies. It is the researcher's observation that the Meter and Horn (1975) framework mainly considers state actors in policy implementation processes yet civil society has increasingly become prominent as a JLOS actor whose actions have tended to impact on the sector's accountability to the public. The researcher thus proposes the integration of civil society as a vital component into policy implementing bodies with whose cooperation the checks and balances of the JLOS performance would be improved.

Establishment and maintenance of morale: Morale among policy implementing staff implies a positive mental or emotional state. It determines the attitudes of individuals within organisations and can be largely influenced by the culture of a particular establishment. In essence, it is derived from inspirational leadership which flows right from the strategic apex via the tactical level to the transactional level of an organisational structure (Bawa & Bawa, 2017). It further provides for a shared sense of intents and ideals, teamwork, sensitivity to worth, group cohesion, and sharing of risks and opportunities in every aspect of policy implementation. The researcher argues that in an institution where morale is high, employees confront their tasks with vigour, interest and enthusiasm. This is contrary to the concept of motivation as advanced by Meter and Horn (1975), where employees are driven by the need to get the tasks done rather than morale (Aibievi, 2014). The study indicated that staffs do not work efficiently in rural areas owing to lack of incentives like the provision of social amenities. It is the researcher's contention that the desire to work even in difficult situations to achieve a purpose can be sustained if it is grounded in a strong ideology to boost staff morale rather than motivational factors. Simply put, ideology reflects a set of ideas that typify

a particular organisational culture. Where the ideology is clear, the morale to perform goes beyond the attributes of motivation; it is a reflection of believing in something even when the conditions are hard (Steger & James, 2013; Honderich, 1995). The current Justice, Law and Order Sector *modus operandi* is inclined to neither of these concepts, thus affecting policy implementation. The researcher further contends that adopting the principle of establishing and maintaining morale among officials in the Justice, Law and Order Sector as a function of leadership and management would address the current poor attitudes. It would further create a sense of ownership and drive towards effective policy implementation.

Autonomy of action: This principle can be used to define the institutional mechanisms that provide for and maintain a policy implementation environment that affords the requisite freedom of action by the implementers, when and where required, in realising the intervention logic. It mirrors the extent of institutional flexibility, which is the ability of the policy implementing staff to readily adapt to changes in the operating context. It further provides for the suppleness, sensitivity, pliability, insight and malleability of the institution in addressing the dynamic policy implementation environment (Khan, 2016). In adopting the principle, it is imperative that clear parameters are put in place to define what constitutes autonomy of action in a bid to prevent its misuse (Massay, 2001). This principle is founded on the study finding that the current discretionary powers exercised by the Director of Public Prosecutions and the police have not been adequately streamlined to facilitate policy implementation.

The researcher further argues that autonomy of action can provide for checks and balances in the power relations among the Justice, Law and Order Sector actors. For example, civil society can act as independent actors in checking on the excesses of the sector players so as to mitigate issues of corruption and undue bureaucratic practices which result in delayed delivery of criminal justice to the vulnerable. Furthermore, civil society can also provide support to the processes of protection and facilitation of witnesses in conjunction with the judicial system. This is especially important in situations where witnesses have failed to show up for fear of reprisals occasioned by insufficient state protection or lack of resources to facilitate their appearance for court sessions, thereby contributing to delayed delivery of criminal justice. Civil society would also participate in protecting the vulnerable from the excesses of lawyers whose autonomy in the criminal justice

system under the auspices of the Uganda Law Society has partly contributed to delays in the delivery of justice. However, the integration of civil society into the criminal justice delivery system would require attendant legislation to formalise the process.

Concentration of thrust: As a principle of policy implementation, it entails the strategic synchronisation and deployment of conceptual and physical efforts of staff to areas that require critical attention in order to realise the intended policy effects (Mallick, 2009). It promotes coordination and economy of effort through the judicious exploitation of strategic manpower, material and time as critical resources in relation to the realisation of the policy intervention logic (Monier, 2011). Whereas the Justice, Law and Order Sector attempted to adopt this principle through deploying High Court judges to different regions of the country (physical efforts), this was not accompanied with the requisite establishment and maintenance of morale when and where required. The current policy options and implementation arrangements are intertwined, yet if, for example, the thrust was directed towards only access to criminal justice, the issues of human rights and rule of law would be impliedly dealt with. This has contributed to the current state of resource allocations which are scattered along the policy options in the various sector actors. Meter and Horn (1975) argue that the concentration of resources in areas that optimise policy outcomes is the cornerstone of successful policy implementation. Highly dispersed policy objectives result in serious implementation coordination demands and this has been observed to contribute towards failed public policies (Hudson, Hunter & Peckham, 2019). The lack of concentration of a policy thrust in the Justice, Law and Order Sector has continued to materialise as persistent case backlog amidst the demand for increased budget allocations to the sector. More money to the sector can only serve to create disincentives among some sections of the staff not directly linked to criminal case management, as such undermining their morale.

The social, economic and political environment: The Meter and Horn (1975) framework presents these constructs as part of the external environment and as influencing the success of the implementation of any public policy. The researcher concurs with this position but argues that these dimensions influence the other variables since their actualisation relies on a facilitating socioeconomic and political environment. It is the researcher's thesis that, like organisational culture, the socioeconomic and political environment constitutes part of the soft elements required to effectively implement public policies (Morcos, 2018).

Sustainability of policy action: To sustain policy action implies generating the means by which the institutional leadership harnesses all the above principles to remain focused on the policy intervention logic throughout the policy implementation period (Khan, 2016). A leadership that is continuously conscious of its policy purpose and the need to establish and maintain its teams' morale for offensive action and concentration of thrust while excising autonomy of action is likely to sustain any policy action. The current leadership practices in the Justice, Law and Order Sector do not auger well for sustained policy action, given the verticalisation and weak coordination in its sector agencies. The Meter and Horn (1975) framework for policy implementation does not give prominence to the sustainability of policy action yet this has been cited as a critical component of successful policy implementation. However, Hudson, Hunter and Peckham (2019) argue that, rationally, the reasons why public policies fail should provide the basis for the identification of possible solutions. In line with this argument, the researcher posits that the multiplicity of policy options under the Justice, Law and Order Sector could be the very reason for the observed implementation failures. These multiple policy options reflect unsustainable over-optimism, which entails the complexities of implementation challenges characterised by an insufficient policy objective focus; scattered resources allocations; uncoordinated actions by stakeholders; the advancement of selfish interests by different parties; and, ultimately, poor accountability mechanisms for policy implementation (Hudson, Hunter & Peckham, 2019).

7.5.1 Proposed JLOS Ennead model for policy implementation

The researcher proposes a diagrammatic presentation of the Ennead model for policy implementation whose central locus is underpinned by strategic leadership. Strategic leadership takes a central role in the model around which all other components coalesce to impact on policy implementation. Identification and upholding a policy purpose fall within the Meter and Horn (1975) **standards and targets of policies/measures and policy objectives** while concentration of thrust is under the **resources** component. **Characteristics of the implementing organisations** integrate autonomy of action; while **attitude of the implementers** considers the establishment and maintenance of morale while communication between relevant organisations and implementation activities is a function of strategic leadership. The social, economic and political environment is considered as a facilitating factor for all the other components to work. The Ennead

Model below depicts the interconnections among the nine constructs necessary to guide effective policy implementation.

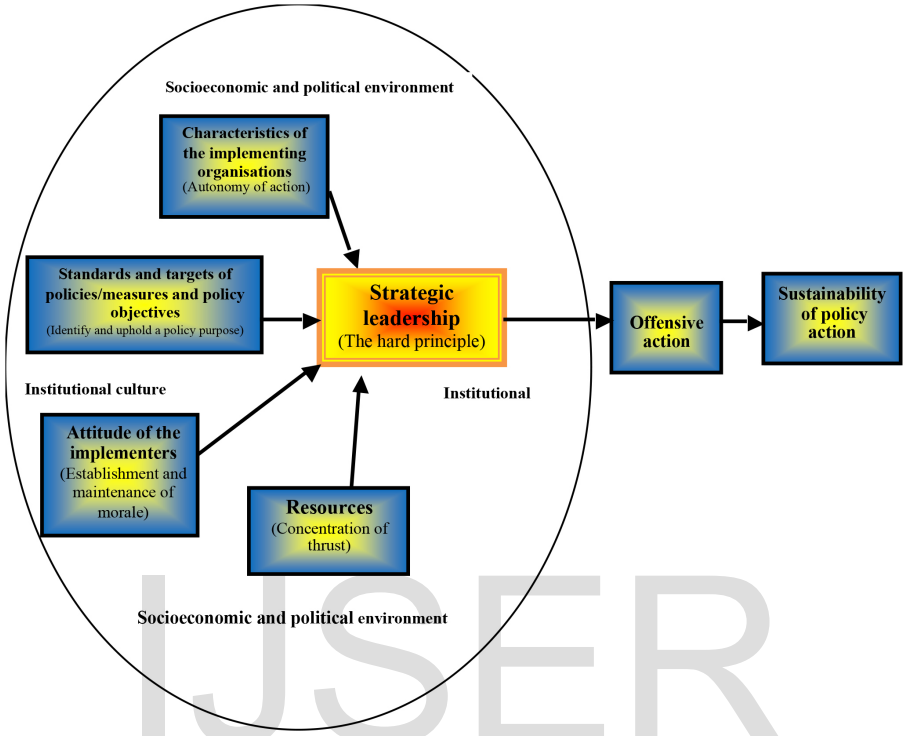

Figure 3: Ennead Model for Policy Implementation

(Source: Modification of the Meter and Horn (1975) policy implementation model)

7.6 Conclusions

This study set out to seek answers to three research questions which the researcher restates as follows: *How do the policy options facilitate the vulnerable in gaining access to the criminal justice process in Uganda? How do the institutional enforcement mechanisms facilitate and/or hinder the realisation of human rights as per the Justice, Law and Order Sector policy options? How are the provisions of the rule of law applied within the criminal justice process?* These questions were set with a view to analysing the implementation of the Justice, Law and Order Sector policy options on access to criminal justice for the vulnerable in Uganda. A qualitative research approach was adopted to answer the research questions. The data generated was used to critically analyse the policy options as far as they facilitated the vulnerable in access to criminal justice; how the institutional enforcement mechanisms were applied in the realisation

of human rights; and how the provisions of the rule of law applied within the criminal justice process.

7.6.1 Policy options on access to justice by the vulnerable in the criminal justice process

It was established that the concept of judicial discretion as defined by the laws of the country was abused by some judicial officers to the extent that it contributed to the high levels of bureaucracy and delays in gaining access to criminal justice processes. As posited by Meter and Horn (1975), the attitudes of some judicial officers play a significant role in policy implementation. These were inherent in the way the judicial discretionary powers were applied in the criminal justice system. Indeed, these discretionary powers were seen to manifest themselves variously through the different levels of the JLOS hierarchy to ultimately impact on how criminal justice was dispensed. The independence of prosecution from the Judiciary was seen more as a tool to exert supremacy rather than as facilitating access to criminal justice. There was no observable teamwork among the sister institutions in the sector and low morale among judicial officers, especially at the operational level, and lack of clear leadership from the strategic apex of the Judiciary in terms of clarity or unity of focus, organisational culture, resources focus and thrust of action (Toseland, Lani & Gellis, 2004).

The fact that the Justice, Law and Order Sector did not have a well-structured leadership at the helm owing to the absence of facilitating policies and legislation was a recipe for verticalisation of actions and weaknesses in the enforcement of policy options implementation. The overall implications were limited concentration of the thrust to sustain policy action at the implementation level, which manifested itself in terms of low completion of registered cases, high levels of case backlog, and poor complaints management for enhancing access to criminal justice by the vulnerable. In fact, the top-down and bottom-up policy implementation approaches were negatively impacted upon by the weak leadership of the sector. The Steering Committee, which is the overall JLOS leadership, is loosely regulated by policy and legislation and, as such, is not authoritative enough to bear on the member institutions whose operations were largely verticalised. It can be concluded that the current verticalised and unregulated sector-wide approach cannot sustain effective policy actions for improved access to criminal justice by the vulnerable. The lack of a facilitating institutional culture and an appropriate regulatory

operating environment undermines efficient resource deployment and the concentration of thrust in policy implementation.

7.6.2 Institutional enforcement mechanisms in the realisation of human rights

In providing answers to how the institutional enforcement mechanisms facilitate and/ or hinder the realisation of human rights as per the Justice, Law and Order Sector policy options, the study was guided by the Meter and Horn (1975) constructs of policy implementation alongside the Stewart et al. (2008) top-down, bottom-up theory. The study established that for enforcement mechanisms to take root in the realisation of human rights, it was imperative that the policy implementers be grounded in the concepts of human rights in as far as it impacts on access to criminal justice. It was, however, established that human rights awareness practices, especially for the incarcerated and the operational-level policy implementation staff in the Justice, Law and Order Sector, was minimal. Efforts towards human rights awareness creation were directed to the public, majorly by CSOs. This created an imbalance between state power and individual liberty, which greatly affected the criminal justice process, with the ultimate effect being felt by the vulnerable. Other rights awareness campaigns were implemented vertically by the different sector institutions, thus creating weaknesses in policy thrust and focus as well as effective resources deployment. This further pointed to the lack of conceptualisation of the top-down, bottom-up approach to policy implementation as espoused by Stewart et al. (2008), given the lapses in the sector leadership right from the top. Whereas the lack of clarity about the basic principles of human rights in the criminal justice system was not only reflective of the lapses in the sector leadership, it also impacted on the overall institutional enforcement mechanisms to facilitate the realisation of human rights as per the sector policy options. It is notable that the attitudes of the implementers sometimes are a consequence of their level of knowledge, which ultimately affects their decision-making process (Meter & Horn, 1975).

There were lapses in the institutional culture yet this was essential in defining the practices and morale of policy implementers. The sector strategic policy focus was hazy, especially among the frontline staff, yet these reflected the policy practices (Leena & Binita, 2015). The institutional enforcement mechanisms, therefore, represented the failures in the strategic leadership of the sector, which had an equally uncoordinated inspectoral

function that was, in effect, supposed to enforce the top-down policy implementation process (Stewart et al., 2008). Finally, the lack of an effective administrative and coordinated institutional enforcement mechanism for policy implementation amounted to a recipe for corrupt practices and the general picture of a judicial sector which was not reflective of the societal criminal justice needs.

7.6.3 Policy options and the rule of law as applied in the criminal justice process

The policy options and the rule of law were constructed around certainty of the law and procedures, the enforcement of laws and the harmonisation of administrative service delivery standards and the doctrine of independence of the sector institutions. It was realised that the rules and laws were applied selectively by some judicial staff, given the autonomous and verticalised nature of the sector institutions. This undermined the concepts of equality and fairness under the principle of certainty and further discredited the core principles of certainty of the law and procedures. Meter and Horn (1975) argue that the attitudes of policy implementers and the operating environment reflect the institutional cultures and also defined how patronage by influential individuals found its way into the sector to influence the law enforcement processes. Furthermore, the policy practices at the operational level in the criminal justice process relied on the goodwill of some judicial officers, with the policies sometimes being premised on the discretionary doctrine. The weak leadership and lack of a coherent institutional culture within the sector-wide perspective created disjointed efforts in the operationalisation of the rule of law. Furthermore, the lack of harmonisation of administrative service delivery standards, policy divergences, uncoordinated planning, inadequate capacity and limited resources severally undermined the actualisation of the rule of law within the sector, yet this is the foundation for effective service delivery to citizens (Le Chen et al., 2014). Consequently, any attempts at policy and law reforms must as of necessity deal with the institutional culture as one of the avenues for addressing the attitudes of the officers (Ridley, 1997).

The need to formally integrate civil society into the Justice, Law and Order Sector as one of the institutions is no longer debatable, given the critical role civil society plays in checking the excesses of the sector as well as linking it with the public. The current partnerships were largely dependent on the discretion of the sector institutions and could not be enforced by law.

7.7 Policy Implications of the Study and Areas for Future Research

7.7.1 Implications for policy reform

The implications of this research for policy are construed as recommendations occasioned by the findings of the study. The recommendations are important for policy reform, policy practices and, finally, for academic purposes as far as subsequent research studies are concerned. The implications for policy reforms are provided in three thematic areas, namely: policy and legislation as the overarching theme; leadership; and operational-level concerns.

First, the study established that the sector-wide approach was managed and implemented in a manner that reflected verticalisation of the sector institutions in terms of resource allocation, leadership and activity implementation. For the sector-wide approach to realise its goal, its institutionalisation requires a policy and legal framework to provide for a clear and succinct leadership structure, roles and responsibilities. Leadership is critical in establishing and sustaining the institutional culture which, in turn, defines staff attitudes, motivation and morale which, ultimately, lead to effective policy implementation. The current sector leadership is not institutionalised by legislation and, as such, it promotes institutional verticalisation. As such, the concept of concentration of thrust in strategic areas that optimally address the rule of law has been compromised. The practice amounts to implementing interventions merely based on existing objectives and does not concentrate them in areas which matter most. Furthermore, autonomy of action as seen through the discretionary powers of different sector institutions is equally not checked by policy or legislation to minimise its misuse. Put together, these factors contribute to lapses in realising the very purpose for which the policy options on access to criminal justice were instituted. As such, the sector policy reforms need to take into account the fact that, in the eyes of the public, the current leadership and administrative culture reflects a sector whose image has been tainted by corrupt tendencies and limited societal focus. It will, therefore, be necessary to thoroughly analyse the deeply embedded and undesired institutional culture and the weaknesses in the management of the sector structures in the process of instituting policy reforms. In effect, the JLOS management policy should specify the sector institutional relationships as well as modalities for resource allocation as a strategy for optimising its effects in the criminal justice process. Policy reforms are also required to streamline the partnerships between the Justice, Law

and Order Sector and some CSOs. Formalising these relationships will be critical in strengthening transparency within the sector while strengthening the legitimacy of civil society to interface with the sector.

Second, instituting and sustaining a policy thrust requires an overarching sector policy with which all institutions are aligned. Currently, such a policy is lacking and this partly explains the verticalisation of sector institution interventions, which adversely affects the provision of criminal justice. Furthermore, the current strategy for sustaining policy action is largely through periodical five-yearly sector investment plans. Considering the scope of the work done by the Justice, Law and Order Sector, mere reliance on the sector strategy without an overarching policy framework partly contributed to the current lapses in the sector leadership and management.

Third, for any offensive action to be taken on a given policy, it is imperative that the implementing staff not only have the requisite motivation but also that focus is put on their morale by embedding patriotism in capacity-building interventions. It has been established that even when staff are motivated, the absence of a programme for facilitating judicial staff to undergo structured cultural adjustment capacity-building interventions tend to take a toll on the institutional culture. Judicial staff need to benefit from a periodical 'de-learning' programme to enable them to adjust to the contextual changes in practices and norms in a bid to enhance their morale and encourage them to adopt a patriotic culture that can improve service delivery. This de-learning programme should be mandatory for all judicial staff and structured along the leadership and administrative hierarchy. In this respect, institutionalising legislation that defines the sector culture has the in-built incentives to shape the behaviours of policy implementers. This is premised on the understanding that repeated sanctions and rewards can shape the behaviour of an individual over time. The key values that should be promoted should include professionalism, patriotism, transparency and accountability.

Finally, the study established that the concept of judicial discretion was not clearly defined in the laws of Uganda. Subsequently, this has on some occasions been misused, thus contributing to the constraints occasioned by the already high levels of bureaucracy and delaying access to criminal justice. It is the researcher's contention that for purposes of expediting access to criminal justice, there is a need to revisit the relevant laws and policies in order to clearly define the discretionary powers of judicial

officers. The researcher further proposes policy reviews to address the need for a timed stepwise approach to the complaints management process. This should be integrated within the requisite legislation and mandatorily made public in order to facilitate the expedited completion of registered criminal cases. Additionally, there is need to adopt technologically enabled codes for anonymous and encrypted numbers assigned to cases in order to covertly follow up judicial officers without exposing the identities of complainants as one of the measures for improving transparency in the criminal justice system.

7.7.2 Implications for further studies on policy framework for access to criminal justice

The study suggests possible implications for future research that might be needed in order to appreciate how the JLOS policy framework facilitates access to criminal justice for the vulnerable. There is need to study a bridging culture for the different organisations involved in the implementation of the JLOS framework regardless of their differing mandates in order to inform a policy review on how best to harmonise and harness the implementation process.

Another area of study would be to look into CSOs that are expected to constitute a vital member of the JLOS process, and are viewed as one of the main actors in a relationship that was otherwise seemingly confined to the JLOS institutions. An adequate mechanism with which civil society could implement meaningful monitoring and supervision did not, therefore, exist. Given that ensuring the existence of checks and balances in the JLOS process is a critical role, this becomes an area of concern. This finding serves to indicate that this area requires further investigation and theorisation if the position of civil society is to be strengthened in the JLOS process. It would be appropriate to undertake a study that investigates in detail the role and performance of civil society in the JLOS process in order to determine how broadly they are affected and to identify the key factors involved with a view to suggesting alternative solutions. Such a study could also serve to critically analyse civil society priorities in this aspect of the JLOS agenda; whether they represent the interests of the government or those of the vulnerable they are supposed to serve. Such a study would require multiple methods of data collection over a lengthy period of time in order to lead to a better understanding of the factors and dynamics behind the current situation that hinders civil society participation in the

Justice, Law and Order Sector.

7.8 Limitations of the Study

The study specifically confined itself to assessing the implementation of the JLOS policy framework for access to criminal justice for the vulnerable. The major limitation was funding to engage field assistants in the two regions to collect data in a short time. Actors' interactions and their influence at various levels were diverse, thus limiting how the researcher could present such facts.

Another limitation was inaccessibility to the required sample of key stakeholders actively involved in the JLOS process who were out of station or on leave and it was difficult to obtain relevant information from those who were relatively newly employed or only partially involved. The scope was limited to only two regions in Uganda and this was limited to respondents from Uganda only. The study could, thus, not reflect what others are facing in other countries with regard to access to criminal justice.

Nevertheless, although the results would not be internationally contextualised, the findings are generalised in the Ugandan context and, thus, represent the actual JLOS process as far as criminal justice is concerned. The same can be considered to profit other sectors in Uganda in addition to leading to a better understanding and widening of the concept of sector-wide approach in the justice sector and beyond.

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APPENDICES

APPENDIX I: INTERVIEW SCHEDULE FOR JLOS STAFF (POLICE, PRISONS, DPP AND JUDICIAL OFFICERS)

Research Topic: "Critical Analysis for the Implementation of the JLOS Policy Options on Access to Criminal Justice in Uganda.

SECTION A: INTRODUCTION

I, ONESMUS BITALIWO, am a Doctor of Philosophy (PhD) candidate in Management at Uganda Management Institute where I am undertaking research on the "Accessibility of Criminal Justice, focusing on the policy frameworks of the Justice Law and Order Sector in Uganda". The information gathered in this research is for academic advancement to inform reforms in policy. The information given in this questionnaire will be treated with utmost confidentiality. Kindly answer the questions below as accurately as you can. Your positive response will be highly appreciated. **Note**: In this interview schedule, the term access to criminal justice refers to fairness of process in the adjudication of criminal claims, fairness of outcomes and effectiveness of remedies, taking account of expedition, cost-effectiveness and satisfaction levels. Access to criminal justice refers to ease of entry into the criminal justice system, and the ability to actively participate in the enforcement of one's rights and claims without undue delay, expense or technicality of procedure.

SECTION B: GENERAL INFORMATION Tick where appropriate in the space provided

1. Name (optional).....

2. Gender: Male [ ] Female [ ]

3. Occupation: Advocate of the High Court of Uganda in active practice; [ ] Judicial officer (judge or magistrate) [ ] Police Office [ ] other (explain) …… [ ]

4. Years of experience

0-5 years [ ] 6-10 years [ ] above 10 years [ ]

5. Area of specialization (Advocates only) criminal litigation only [ ] Alternative dispute resolution (ADR)

[ ] Criminal litigation and ADR [ ] none of the above [ ]

6. Where are you stationed? ……

7. Do you conduct work anywhere else in the country? Where exactly?

SECTION C: BROAD ASPECTS OF ACCESS TO CRIMINAL JUSTICE

a) Describe your understanding of access to Justice and why it is important to Criminal Justice?

b) How would you describe your current thinking about access to Criminal Justice and how has your thinking changed over time?

c) What does it mean to have a commitment to access to justice? How have you demonstrated that commitment and how would you see yourself demonstrating it here?

d) What are some concerns you have about working with diverse Populations or different Justice Institutions? Do Institutions adequately Monitor Progress of cases to take remedial measures? If not, Why?

e) What do you consider as the main factors that impede full and equal access to Criminal Justice? How are there barriers overcome, or how could they be overcome? Which groups are mostly affected and which groups have a vested interest in maintaining the barriers?

f) What is the impact of JLOS Policy interventions? Do they affect people's attitude towards authorities, their participation in Public affairs, and their perception of influence? Do they trigger Change in what People demand and obtain in relation to Criminal Justice? Do they result in more just outcomes? Are their effects sustainable beyond the end of the Policy intervention?

g) In your view, what is the pace of Criminal litigation in the whole criminal Justice System and Why?

SECTION D: RIGHTS ENJOYED WITHIN AN ACCESS TO JUSTICE CONTEXT

a) In your experience, are all parties to criminal matters treated with equality

and fairness? If not, what do you consider to be the main reasons for unequal treatment? And why?

b) Why do you think it is important to address the issue of human rights and equity issues and the Criminal Justice Process and what are some ways you might do that?

c) What Challenges do you think you will face in promoting these rights?

d) How would you ensure rights for the underserved populations in the Criminal Justice Process?

e) How would you advocate for human rights initiatives with individuals who do see its value?

f) How has your experience prepared you in promoting human Rights?

g) What is your past experience or training with Human Rights in the Criminal Justice System?

h) What is the most challenging situation dealing with rights that you have faced and how did you handle it?

i) Please tell us about an instance you have demonstrated leadership or commitment to equity and equality in your work.

j) What role has diversity played in your approach to Human Rights in your work Place?

k) In your experience, what challenges have you faced in promoting rights in a work place? What strategies have you used to address the challenges and how successful were those strategies?

SECTION E: RULE OF LAW AND ACCESS TO JUSTICE: THE DUAL MANDATE

a) What is your understanding of rule of law in as far as your experience within the criminal justice system is concerned?

b) In the course of your work, have you ignored rules, regulations and Procedures in as far as Criminal justices is concerned, How did you do it and Why ? not, why?

c) Sometimes there is a belief that Commitment to rule of Law conflicts with a Commitment to excellence. How would you describe the relationship between rule of law and excellence? What kind of leadership efforts would you undertake

to encourage a commitment to excellence through rule of law?

d) What reforms in law and Procedure would you recommend to guarantee equal access to Criminal justice?

e) Explain what you believe to be an effective strategy for enhancement of rule of Law?

f) Given an Opportunity to work in an environment that values rule of law, how has your background and experiences prepared you to be effective in such an environment?

g) What specific experiences have you had against you or some of your colleagues at your current or previous institution in addressing rule of law? What role have taken in addressing those concerns?

h) CSOs, Donors and Public are highly concerned with issues of rule of law. How has your past work demonstrated an active commitment to rule of law?

i) Many People have advanced that the rule of law is selective. How and why do you think this is so depending on your experience?

j) In your experience, what rule of law violations have been exhibited to the under Presented groups in successfully completing criminal cases?

k) Describe your experience with strategic direction related to rule of law .Does the institution protect you when you violate some rules in the course of your work? How and Why?

l) How can **JLOS** promote rule of law with its Criminal Justice Agencies and why do you think there is need for this intervention?

m) What are the challenges faced by members of the Public in as far rule of law is concerned? What Strategies have you used to address these challenges and how successful were those Strategies?

n) What kind of experiences have you had with **JLOS** in relating with the rule of law? How has that experience shaped your appreciation of rule of law?

o) What kind of Systems/Mechanism are utilised to resolve and manage grievances and to lodge claims against state or non-state Authorities and Why? Have those mechanisms worked to address rule of law? Are certain groups skeptical to pursue Justice? If so, Why?

p) What impact does lack of rule of law have in as far as access to Justice? Does it affect People's attitudes towards Authorities? Do they trigger change in what

People demand and Obtain in relation to Justices and governance? Do they result in more unjust outcomes? Are their effects Sustainable beyond the end of the intervention?

APPENDIX II: INTERVIEW SCHEDULE FOR JLOS CRIMINAL WORKING GROUP.

1) **JLOS** lists several Policy Objectives for the Administration of Justice in Uganda. What is your understanding of access to justice in relation to the JLOS Policy Objectives?
2) How do you describe the Current thinking about access to Justice across the Criminal Justice Institutions?
3) To what extent do you think there are significant difference in how access to Criminal Justice is practised among different criminal Justice institutions and why?
4) In what ways can you imagine promoting a **Uniform** JLOS Policy across all criminal justice institutions in as far as access to Justice is concerned?
5) Several reports have faulted some JLOS institutions on adherence to rule of law in the criminal Justice Process. What in your view is rule of law and why do you think, institutions are failing on this policy Objective? What remedies can be put in place to address this?
6) Some People have argued that Human Rights are an issue in attaining equality and fairness in the Criminal Justice Process. How do you rate the Human Rights approach in the Criminal Justice Process? Why are **JLOS** institutions scoring below average on this policy objective?
7) How do you Consider Community participation to be of relevance among the policy Objectives. Why is it an issue to even think about? And how has it Promoted access to Justice?
8) In your view, does the current Policy Objectives Guarantee access to criminal Justice, how and why are People still unable to attain full and equal access to criminal Justice. What strategies do you suggest to mitigate this problem?
9) What do you consider as the main factors that impede full and equally access to Criminal Justice?
10) Can JLOS fix these factors if not why? And what recommendations do you give to address access to criminal Justice especially in multi-institutional setup in which Criminal Justice thrives.

APPENDIX III: FOCUS GROUP DISCUSSION QUESTIONNAIRE FOR PRISONERS ACCESS TO CRIMINAL JUSTICE IN CRIMINAL LITIGATION

(To be answered by inmates/ suspects)

Ground rules are as follows;

Before we start, I would like to remind you that there are no right or wrong answers in this discussion. We are interested in knowing what each of you think, so please feel free to be frank and to share your point of view, regardless of whether you agree or disagree with what you hear. It is very important that we hear all your opinions.

You probably prefer that your comments not be repeated to people outside of this group. Please treat others in the group as you want to be treated by not telling anyone about what you hear in this discussion today.

Let's start by going around the circle and having each person introduce herself. (Members of the research team should also introduce themselves and describe each of their roles.)

1) ACCESS TO JUSTICE

a) What do you think about the subject that has brought us here today (Access to justice)?

b) In this community, How long does it take to determine a dispute and why?

c) According to you, do you think there is equity and equality in how cases are handled, if not why?

d) According to you, which Institutions in the Criminal Justice System delay the process of handling cases?

e) Do you present your cases of delay to the relevant Authorities and how are your complaint handled?

f) How have the external institutions outside the criminal justice institutions come to your rescue in ensuring that you access justice?

g) Is there access to justice in the first place, how does it manifest and why does it manifest that way in your opinion?

h) What suggestions can you give depending on your experience to improve the situation for others?

2) HUMAN RIGHTS

a) What Challenges do you face in as far as Human Rights are concerned?

b) How are you helped with those challenges?

c) What suggestions can you give in the improvement of rights across the Criminal Justice System?

- Police

- DPP

- Judiciary

- Prisons

d) Comparatively within the criminal justice system, which institutions are the violators of your rights? How and why in your opinion do you think they acted or act outrageous?

3) RULE OF LAW

a) What do you understand by rule of law?

b) Do you consider rules / laws and procedures apply the same for those who go through the Criminal Justice process and why?

c) Can you explain scenarios where rules have been violated or applied selectively to you and others?

d) How do rate the cost of Legal representation? Do you think there needs to be legal representation and why?

e) What Suggestions do you give for the Improvement of rule of law / Access to Justice?

APPENDIX IV: UMI RESEARCH LETTER

UMI
UGANDA MANAGEMENT INSTITUTE

Telephones: 256-41-4259722 /4223748 /4346620
256-31-2265138 /39 /40
256-75-2259722
Telefax: 256-41-4259581 /314
E-mail: admin@umi.ac.ug

Plot 44-52, Jinja Road
P.O. Box 20131
Kampala, Uganda
Website: http://www.umi.ac.ug

24 October 2017

Your Ref:

Our Ref: G/35

TO WHOM IT MAY CONCERN

PhD RESEARCH

Mr. Onesmus Bitaliwo - (13/PhD/WKD/2/007) is a student at Uganda Management Institute pursuing a PhD.

In partial fulfillment for this award, he is conducting a research study title ***"Access to Criminal Justice in Uganda: An Appraisal of the Justice Law and Order Sector Policy Framework."***

This communication therefore serves to formally request you to allow him access any information in your custody/organization, which is relevant to his research.

Thank you for your cooperation in this matter

Yours Sincerely,

Rose Namara (PhD)
CHIEF – INSTITUTE RESEARCH CENTRE

APPENDIX V: INFORMED CONSENT FORM FOR MAGISTRATES

INFORMED CONSENT FORM FOR MAGISTRATES
Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

Dear All,

Good morning/ Good afternoon

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a Magistrate in the courts of law of Uganda and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

Your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in your organization. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost.

Voluntariness

In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time.

Accreditation

This study has been approved by the Research Ethics Committee of College of Humanities and social sciences of Makerere University and Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted.

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name	**Bitaliwo Onesmus**
Other details	**PhD Student**
Telephone numbers	**0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least ..... years of age.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Signature or thumbprint/mark of witness: ..... Date: .....

Statement of consent to participate (in case of additional interviews)

I have read or have had the information read to me about additional interview. I have received answers to the questions I have asked. I am at least ..... years of age.

☐ Yes, I agree to participate in additional interview about ..... at each follow up if selected as eligible. I understand that I can change my mind and refuse the additional interview

☐ I do not agree to participate in an additional interview about ..... at each follow up visit if selected as eligible.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

APPENDIX VI: INFORMED CONSENT FORM FOR POLICE OFFICERS

INFORMED CONSENT FORM FOR POLICE OFFICERS

Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

Dear All,

Good morning/ Good afternoon

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a Police Officer in Uganda Police Force and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

Your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in your organization. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost.

Voluntariness

In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time.

Accreditation

This study has been approved by the Research Ethics Committee of College of Humanities and social sciences of Makerere University and Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted.

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name	**Bitaliwo Onesmus**
Other details	**PhD Student**
Telephone numbers	**0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least ..... years of age.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Signature or thumbprint/mark of witness: ..... Date: .....

Statement of consent to participate (in case of additional interviews)

I have read or have had the information read to me about additional interview. I have received answers to the questions I have asked. I am at least ..... years of age.

☐ Yes, I agree to participate in additional interview about ..... at each follow up if selected as eligible. I understand that I can change my mind and refuse the additional interview

☐ I do not agree to participate in an additional interview about ..... at each follow up visit if selected as eligible.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

APPENDIX VII: INFORMED CONSENT FORM FOR PRISON OFFICERS

INFORMED CONSENT FORM FOR PRISON OFFICERS
Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

Dear All,

Good morning/ Good afternoon

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a Prison Officer in Uganda Prisons Service and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

Your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in your organization. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost.

Voluntariness

In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time.

Accreditation

This study has been approved by the Research Ethics Committee of College of Humanities and social sciences of Makerere University and Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted.

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name	**Bitaliwo Onesmus**
Other details	**PhD Student**
Telephone numbers	**0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least ..... years of age.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Signature or thumbprint/mark of witness: ..... Date: .....

Statement of consent to participate (in case of additional interviews)

I have read or have had the information read to me about additional interview. I have received answers to the questions I have asked. I am at least ..... years of age.

☐ Yes, I agree to participate in additional interview about ..... at each follow up if selected as eligible. I understand that I can change my mind and refuse the additional interview

☐ I do not agree to participate in an additional interview about ..... at each follow up visit if selected as eligible.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

APPENDIX VIII: INFORMED CONSENT FORM FOR PRISONERS

INFORMED CONSENT FORM FOR PRISONERS

Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

Good morning/ Good afternoon

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a product of the judicial system in Uganda and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

There are no risks envisioned in this study and your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however, your ideas will influence policy direction, should the findings and recommendations of the study be taken on by the relevant authorities concerned, in addition, soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in prison or even after release. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at

any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost. For purposes of prisoners, the researcher will go back to the various prisons and share feedback with those that got involved in the study and the materials will be simple and the researcher will take time to explain to the prisoners, in the best language possible the outcomes of the study.

Voluntariness

Participation in this study is voluntary. In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time. I will not terminate anyone from the study unless the participant decides otherwise.

Accreditation

This study has been approved by Makerere University School of Social Sciences Research Ethics Committee.(MAKSS REC) Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name **Bitaliwo Onesmus**
Other details **PhD Student**

VERSION 3 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Telephone numbers **0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

VERSION 3 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least 18+years of age.

Name of Participant: .....

Signature or thumbprint/mark of participant: ..... Date: .....

Name of person obtaining Consent : .....

Signature of person obtaining consent: ..... Date: .....

Name of witness: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

VERSION 3 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

APPENDIX IX: INFORMED CONSENT FORM FOR STATE ATTORNEYS

INFORMED CONSENT FORM FOR STATE ATTORNEYS
Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

Dear All,

Good morning/ Good afternoon

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a State Attorney in the courts of law of Uganda and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

Your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in your organization. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost.

Voluntariness

In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time.

Accreditation

This study has been approved by the Research Ethics Committee of College of Humanities and social sciences of Makerere University and Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted.

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name	**Bitaliwo Onesmus**
Other details	**PhD Student**
Telephone numbers	**0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least ..... years of age.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Signature or thumbprint/mark of witness: ..... Date: .....

Statement of consent to participate (in case of additional interviews)

I have read or have had the information read to me about additional interview. I have received answers to the questions I have asked. I am at least ..... years of age.

☐ Yes, I agree to participate in additional interview about ..... at each follow up if selected as eligible. I understand that I can change my mind and refuse the additional interview

☐ I do not agree to participate in an additional interview about ..... at each follow up visit if selected as eligible.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

APPENDIX X: MAKERERE UNIVERSITY LETTER

MAKERERE UNIVERSITY

P .O. Box 7062,
Kampala, Uganda
Cables: MAKUNIKA

Tel: 256-41-545040/0712 207926
Fax: 256-41-530185
E-mail: makssrec@gmail.com

COLLEGE OF HUMANITIES AND SOCIAL SCIENCES
SCHOOL OF SOCIAL SCIENCES
RESEARCH ETHICS COMMITTEE

Your Ref:
Our Ref: MAKSS REC 01.18.116

5th March 2018

Onesmus Bataliwo
PhD Student
Principal Investigator (MAKSS REC 01.18.116)
Uganda Management Institute (UMI)
Tel: +256 772 637964
Email: bitsonesmus@gmail.com

Initial _Full Board
Re: Approval of Protocol titled: "Access to criminal justice in Uganda: An appraisal of the Justice Law and Order Sector Policy Framework"

This is to inform you that, the Makerere University School of Social Sciences Research Ethics Committee (MAKSS REC) granted approval to the above referenced study. The MAKSS REC reviewed the proposal using the full board review on **25th January 2018**. This has been done in line with the investigator's subsequent letter addressing comments and suggestions.

Your study protocol number with MAKSS REC is **MAKSS REC 01.18.115.** Please be sure to reference this number in any correspondence with MAKSS REC. Note that, the initial approval date for your proposal by **MAKSS REC was 25th January 2018.** This is an annual approval and therefore; approval expires on **24th January 2019. You should use stamped consent forms and study tools/instruments while executing your field activities at all times.** However, continued approval is conditional upon your compliance with the following requirements.

Continued Review
In order to continue on this study (including data analysis) beyond the expiration date, Makerere University School of Social Sciences (MAKSS REC) must re-approve the protocol after conducting a substantive meaningful, continuing review. This means that you must submit a continuing report
Form as a request for continuing review. To avoid a lapse, you should submit the request six (6) to eight (8) weeks before the lapse date. Please use the forms supplied by our office.

Makerere University School of Social Sciences ★ Research Ethics Committee ★
Valid Thru:
24 JAN 2019

1

Please also note the following:

- No other consent form(s), questionnaires and or advertisement documents should be used. The Consent form(s) must be signed by each subject prior to initiation of my protocol procedures. In addition, each research participant should be given a copy of the signed consent form.

Amendments

During the approval period, if you propose any changes to the protocol such as its funding source, recruiting materials or consent documents, you must seek Makerere University School of Social Sciences Research and Ethics Committee (MAKSS REC) for approval before implementing it.

Please summarise the proposed change and the rationale for it in a letter to the Makerere University School of Social Sciences Research and Ethics Committee. In addition, submit three (3) copies of an updated version of your original protocol application- one showing all proposed changes in bold or "track changes" and the other without bold or track changes.

Reporting

Among other events which must be reported in writing to the Makerere University School of Social Sciences Research and Ethics Committee include:

i. Suspension or termination of the protocol by you or the grantor.
ii. Unexpected problems involving risk to participants or others.
iii. Adverse events, including unanticipated or anticipated but severe physical harm to participants.

Do not hesitate to contact us if you have any questions. Thank you for your cooperation and commitment to the protection of human subjects in research.

The legal requirement in Uganda is that, all research activities must be registered with the National Council for Science and Technology. The forms for this registration can be obtained from their website www.unsct.go.ug

Please contact the Administrator of Makerere University School of Social Sciences Research and Ethics Committee at makssrec@gmail.com OR bijulied@yahoo.co.uk or telephone number +256 712 207926 if you counter any problem.

Makerere University School of Social Sciences ★ Research Ethics Committee ★ Valid Thru: 24 JAN 2019

Yours sincerely,

Dr. Stella Neema
Chairperson
Makerere University School of Social Sciences Research and Ethics Committee

c.c.: The Executive Secretary, Uganda National Council for Science and Technology

2

APPENDIX XI: UGANDA NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY LETTER

Uganda National Council for Science and Technology

(Established by Act of Parliament of the Republic of Uganda)

UNCST

Our Ref: SS 4551 **17th April 2018**

Mr. Onesmus Bitaliwo
Principal Investigator
Uganda Management Institute
Kampala

Re: Research Approval: Access to Criminal Justice in Uganda: An Appraisal of the Justice Law and Order Sector Policy Frame Work

I am pleased to inform you that on **27/03/2018**, the Uganda National Council for Science and Technology (UNCST) approved the above referenced research project. The Approval of the research project is for the period of **27/03/2018** to **27/03/2019**.

Your research registration number with the UNCST is **SS 4551**. Please, cite this number in all your future correspondences with UNCST in respect of the above research project.

As Principal Investigator of the research project, you are responsible for fulfilling the following requirements of approval:

1. All co-investigators must be kept informed of the status of the research.
2. Changes, amendments, and addenda to the research protocol or the consent form (where applicable) must be submitted to the designated Research Ethics Committee (REC) or Lead Agency for re-review and approval **prior** to the activation of the changes. UNCST must be notified of the approved changes within five working days.
3. For clinical trials, all serious adverse events must be reported promptly to the designated local IRC for review with copies to the National Drug Authority.
4. Unanticipated problems involving risks to research subjects/participants or other must be reported promptly to the UNCST. New information that becomes available which could change the risk/benefit ratio must be submitted promptly for UNCST review.
5. Only approved study procedures are to be implemented. The UNCST may conduct impromptu audits of all study records.
6. An annual progress report and approval letter of continuation from the REC must be submitted electronically to UNCST. Failure to do so may result in termination of the research project.

LOCATION/CORRESPONDENCE
Plot 6 Kimera Road, Ntinda
P. O. Box 6884

COMMUNICATION
TEL: (256) 414 705500
FAX: (256) 414-234579

Below is a list of documents approved with this application:

	Document Title	Language	Version	Version Date
1.	Research proposal	English	2.0	February 2018
2.	Informed consent form for prisoners	English	3.0	February 2018
3.	Interview schedule for JLOS staff (police, judicial officers, lawyers, paralegals and human rights officers)	English	2.0	February 2018
4.	Focus group discussion questionnaire for prisoners	English	2.0	February 2018
5.	Informed consent form for JLOS staff (judges, magistrates, state attorneys, police officers, prisons officers, lawyers, paralegals and human rights officers)	English	2.0	February 2018

Yours sincerely,

UNCST
UGANDA NATIONAL COUNCIL FOR SCIENCE & TECHNOLOGY
P. O. BOX 6884
KAMPALA - UGANDA

Beth Mutumba
For: Executive Secretary
UGANDA NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Copied to: Chair, Makerere University School of Social Sciences, Research Ethics Committee

APPENDIX XII: INFORMED CONSENT FORM FOR JLOS TECHNICAL ADVISORS

INFORMED CONSENT FORM FOR JLOS TECHINICAL ADVISORS

Bitaliwo Onesmus
Uganda Management Institute
P.O BOX 20131,
KAMPALA, UGANDA
Tel. 0772637964
Email. bitsonesmus@gmail.com

Dear All,

Good morning/ Good afternoon

STUDY TITLE "ACCESS TO CRIMINAL JUSTICE IN UGANDA: AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK"

Introduction

This study involves conducting a study to understand "Access to criminal justice in Uganda: an appraisal of the justice law and order sector policy framework" It has been commissioned by Uganda Management Institute as part of the PhD study program and will target 135 participants. The information you will provide shall help to understand the gaps in Justice Law and Order Sector policy framework and in turn recommendations will be made to address those gaps. This is a self-sponsored project and thus the project costs are entirely a responsibility of the researcher.

Back ground information

There is growing debate over access to justice globally and nationally. Of recent, the focus is on measuring the impact and efficacy of various interventions aimed at the improvement of an individuals' access to justice. This study extends to the above cause by intending to appraise the JLOS Policy framework on access to criminal justice in Uganda, particularly South Western Uganda (Mbarara and Bushenyi) and Kampala Metropolis in terms of the extent to which it has or has not influenced institutional effectiveness and efficiency on access to criminal justice during the period 2010-2015.

What the participant would be asked to do

You have been selected because you are a technical advisor in the Justice Law and Order sector in Uganda and the questions asked will be entirely restricted to own outlook of the justice sector particularly in areas of Human Rights, Access to justice in general, Rule of Law and community participation. The interview session will take about one hour

Risks and benefits of being in the study

Your participation is voluntary and will incur you no cost nor nonparticipation will incur any penalty, however soft drinks will be provided in the course of the interview. Your participation will also not affect your stay in your organization. The researcher will also make provision for the respondents should they feel psychologically threatened in responding to any question in the study at any point, they will be free to redirect the question(s) and/or stop participating in the study entirely. In the course of the interview, should there be any threat to life, the researcher will contact the nearest medical center and also get in touch with authorities concerned to save life.

Confidentiality

The answers you give us will only be known to us and will be kept confidential. For all study participants, names shall not be taken; instead, anonymous identifiers will be used, and referred to during the discussions, so that no names shall be tagged to particular responses. All answers provided shall only be known to the research team and will be kept confidential.

Dissemination

Feedback will be given to the participants on findings about the study in terms of reports, conference presentation of findings and policy briefs to all concerned participants. Materials tailored to different categories of participants will be distributed and a copy given to individual respondents in this study in a timely manner at a free cost.

Voluntariness

In case you are not interested in the study, you do not have to participate and no benefits will be lost. One of your rights to participate in this study is that you can withdraw from this study at any time.

Accreditation

This study has been approved by the Research Ethics Committee of College of Humanities and social sciences of Makerere University and Uganda National Council of Science and Technology and should there be any query or information required, the above should be contacted.

Compensation /Reimbursement

There is no compensation or reimbursement for your participation in this interview. This is because the study is for academic consumption and no funds are provided for that component but should there be need for some unbudgeted costs such as transport, refreshments etc. The researcher will foot the bills although the study is envisioned to be conducted at the respondent's convenience.

Contacts and Questions

The researcher(s) conducting this study are mentioned below. You may ask any questions you have now. If you have any questions later, you may contact them at:

1). Your name	**Bitaliwo Onesmus**
Other details	**PhD Student**
Telephone numbers	**0772637964**

If you would like to talk to someone other than the researcher(s) about; (1) concerns regarding this study, (2) research participant rights, (3) research-related injuries, or (4) other human subjects' issues, please contact:

Dr. Stella Neema

The Chair

Makerere School of Social Sciences

Research Ethics Committee

Telephone: +256- 772 457576

E-mail: sheisim@yahoo.com

Or

The Executive Secretary

The Uganda National Council of Science and Technology,

Kimera Road. Ntinda P. O. Box 6884 Kampala, Uganda

Telephone: (256) 414 705500

Fax: +256-414-234579

Email: info@uncst.go.ug

Or

Dr. Rose Namara

Head of Research

Uganda Management Institute

Telephone: +256-701-529692

Statement of consent

I have read the above information or had the above information read to me. I have received answers to the questions I have asked. I consent to participate in this research. I am at least ..... years of age.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

3 | Page VERSION 2 20022018 ACCESS TO CRIMINAL JUSTICE IN UGANDA. AN APPRAISAL OF THE JUSTICE LAW AND ORDER SECTOR POLICY FRAMEWORK

Signature or thumbprint/mark of witness: ..... Date: .....

Statement of consent to participate (in case of additional interviews)

I have read or have had the information read to me about additional interview. I have received answers to the questions I have asked. I am at least ..... years of age.

☐ Yes, I agree to participate in additional interview about ..... at each follow up if selected as eligible. I understand that I can change my mind and refuse the additional interview

☐ I do not agree to participate in an additional interview about ..... at each follow up visit if selected as eligible.

Signature or thumbprint/mark of participant: ..... Date: .....

Signature of person obtaining consent: ..... Date: .....

Witness of person in case person is Illiterate:

Signature or thumbprint/mark of witness: ..... Date: .....

APPENDIX XIII: WORK PLAN

Activities	PERIOD (MONTHS)															
	2018									2019						
	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Corrections to the Proposal																
Proposal submission to UNCST.																
Research instrument testing																
Data collection period																
Editing and analysing of Data																
Thesis writing																
Thesis correction of comments																
Thesis submission																
Viva																

APPENDIX XIV: LIST OF RESPONDENTS

JLOS SECRETARIAT OFFICERS (3)			
Respondent Code	**Respondent Position**		**District**
JLOS-STA1	Senior Technical Advisor		Kampala
JLOS-TA1	Technical Advisor		Kampala
JLOS-TA2	Technical Advisor		Kampala
Criminal Justice Officers and Managers (23)			
POL1, KLA (1-6)	CID Officers		Kampala
POL1, BUS (2)	CID Officers		Bushenyi
DPP1, MBRA (3)	RSA/ State Attorneys		Mbarara
DPP1, BUS (1)	Resident State Attorney		Bushenyi
PRS1, KLA (2)	Officers in Charge		Kampala
PRS1, BUS (1)	Officer in charge		Bushenyi
PRS1, MBRA (1)	Officer in charge		Mbarara
JUD1, MBRA (1)	Magistrate		Mbarara
JUD1, KLA (1)	Magistrate		Kampala
JUD1, BUS (1)	Chief Magistrate		Bushenyi
POL1, MBRA (4)	CID Officers		Mbarara
Focus Group Interviews (10)			
Category of FGD	Focus Group Code	# of participants	District
Men committals(Kla)	FGD1, KLA	08	Kampala
Men committals(Mbra)	FGD1, MBRA	08	Mbarara
Men convicts	FGD2, KLA	08	Kampala
Men Remands	FGD3, KLA	08	Kampala
Women condemned	FGD4, KLA	08	Kampala
Women committals	FGD5, KLA	08	Kampala
Women convicts	FGD6, KLA	08	Kampala
Women Remands	FGD7, KLA	08	Kampala
Young Offenders	FGD1, BUS	08	Bushenyi
Refugees	FGD2, MBRA	08	Mbarara