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EDITORIAL

On behalf of the scientific editorial board, I extend my deepest gratitude to the contribution made by lecturers and researchers that has made the compilation of this publication a success. The completion of this volume stemmed from their will, initiative and performance as lecturers and researchers. KIGALI INDEPENDENT UNIVERSITY ULK has always paid regards to promoting education and impacting the complete development of Rwanda through coupling teaching and research. In the same context, the 34th volume of ULK Scientific Journal is now out with four papers which tackle issues of national and regional concern. The authors of articles in this issue suggest scores of recommendations worthy of consideration to both policy makers and practitioners.

The first article by **Dr. Mbera Zénon** is entitled “Effect of Monitoring and Evaluation on Project Performance in Rwanda: A Case Study of World Vision Rwanda Project. The purpose of this study is to assess the effect of monitoring and evaluation to the project performance.

The findings of this study revealed that monitoring and evaluation has high and positive effect on the Project performance. Moreover, the same findings show that monitoring and evaluation plays a significant role with a colossal contribution towards project performance.

The paper by **MUSAFIRI Gasana** dubbed “Countering Human Trafficking in Rwanda” provides a comprehensive review of human trafficking for sexual exploitation. The researcher

identified the causes and effects of commercial, sexual exploitation of persons and made a critical analysis related to trafficking persons in Rwanda, thereafter the researcher identified current challenges in Rwanda to combat the crime. Finally, the researcher suggested measures to be taken to counter human trafficking.

Furthermore, this paper revealed in its findings that despite the significant efforts made by the government of Rwanda to counter human trafficking and other related crimes, the crime of human trafficking persists.

The second paper by **Dr. MBERA Zénon**, “Tax Revenue Strategies and Efficiency of Rwanda Revenue Authority (RRA)” proved that the performance by Rwanda Revenue Authority, during the study period, was spectacular, and this is shown by the continuous growth of tax collections, achievement of the set target, growth of tax contribution rate to nominal GDP as well as a continuous decrease of tax collection ratio throughout the period of study. This good financial performance of RRA was due to the application of various strategies such as taxpayers’ registration, tax audits and post clearance audits, tax arrears recovery or debt collection and use of EBM.

The paper by **Dr. MURANGIRA Thierry** “Symbiotic Link Between Street Children and Street Vending in the City of Kigali: An Appraisal”, revealed that street vending has occupied the streets of Kigali and has become increasingly visible and troublesome to the City of Kigali management and Law Enforcement’s efforts to maintain public order. It also has it that

street vending is characterized by lack of adequate and efficient organizational structures that can be utilized by interested stakeholders such as micro-financial institutions, the government and private sector organizations to improve their performance of trade. Besides, the researcher revealed that in the City of Kigali, street vending activities, if not regulated and controlled, can be a sponge that absorbs large numbers of disorder and anti-social behaviors which indicate higher risks or tendency of turning into crime or violence creating national security threat which has an impact on almost every aspect of the individual's wellbeing.

The article by **Dr. MASENGO Fidèle** highlights the role played by KIAC and the Rwandan Government. He also shows says that the current KIAC arbitration system reveals several strengths and opportunities for the Centre to serve as an international hub in Africa for effective commercial arbitration. However, some challenges are also observed for the institution to stand firmly in the worldwide competition. Hence, the author suggested ways through which such challenges can be surmounted.

Dr. Sekibibi Ezechiel

Vice Chancellor of ULK

**EFFECT OF MONITORING AND
EVALUATION ON PROJECT PERFORMANCE
IN RWANDA**

**CASE STUDY: WORLD VISION RWANDA
PROJECT**

BY Dr. MBERA Zenon

ABSTRACT

Rwanda, like other African countries, local government is responsible for delivering basic services (e.g. access to clean water, proper sanitation, a sustainable electricity supply, and regular waste removal). The major problem of World vision faces is the development of its projects in Rwanda and lack of effective monitoring and evaluation.

Therefore, this study aimed at assessing monitoring and evaluation on project performance. The specific objectives were to study the effect of compliance to quality standards on Project performance of world Vision in Rwanda, to analyse the effect of compliance to activity cost on Project performance of World vision in Rwanda, to study the effect of compliance to activity duration on Project performance of world Vision in Rwanda, to examine the relationship between monitoring and evaluation and the project performance in World Vision Rwanda.

To achieve the above objectives, a combination of questionnaires, interview and secondary data were used. Questionnaires were distributed to a group of 22 respondents selected from among the staffs and interview was done with the Director of Finance, Monitoring and Evaluation departments. Findings revealed that three techniques of monitoring and evaluation namely Compliance to Quality standards, Compliance to activity cost, Compliance to Activity duration were studied fully and the findings indicated that World Vision Rwanda have all the activities of improving these techniques of which help to better

the Project performance. For assessing the effect of variation in predictors, multiple regressions were conducted. Effective Monitoring and evaluation is well supported under specific activities that are tackled both tactically and strategically, hence better project performance and this was verified by Correlation. The correlation coefficient of 0.786 between monitoring and Evaluation and Project performance is high which means that Monitoring and evaluation has very high effect on the Project performance. The compliance to quality standard appears as the best predictor. Conclusion and recommendation were basing to empowerment of Monitoring and evaluation to project performance due to null hypothesis (Ho) in this study which was rejected.

1. GENERAL INTRODUCTION

1.1. Background of the Study

Countries worldwide including Rwanda have been grappling with how to ensure efficiency and effectiveness in project performance. There is evidence of a growing number of countries perusing the path of results orientation by building or strengthening their projects monitoring and evaluation systems (Mackay, 2006). While monitoring has been described as the systematic and routine collection of information from projects and programs (Scriven, 1991), evaluation is a systematic process used to determine the merit or worth of a program or strategy in a specific context (Guskey, 2000).

Mackay (2007:45) points out that Africa has a special case owing to the discrepancies of the past and extreme poverty levels. He reveals that the problem in African countries is that performance information is often of poor quality, whilst officials who are designated to collect performance information are often tired and overworked, but expected to provide information to other officials who rarely give feedback. According to Jody Kusek and Ray Rist (2004, p.227) performance measurement is defined as “system of assessing performance of (development) interventions against stated goals.”

1.2. Problem Statement

Rwanda, like other African countries, local government is responsible for delivering basic services (e.g. access to potable water, proper sanitation, a sustainable electricity supply, and regular waste removal). The fundamental cause of this challenge has been attributed among others to weak Monitoring and Evaluation systems (Hauge, 2003).

In recent years, due to inefficient monitoring and evaluation, Rwanda has suffered from an acute shortage of electricity supply and severe load shedding. Its installed generation capacity has been severely constrained by regional drought, which led to a rapid draw-down of the reservoirs. Furthermore, the poor quality of supply severely limits the competitiveness of Rwandan businesses; the sector has emerged from a period of supply shortages, helped by better-than average rainfall and additional base-load thermal generation. As Muller, and Turner,

(2007) mentioned that, project performance is complex and ambiguous concept and it changes over the project and product life cycle. Various performances can be listed for projects, these could range from cost to time and quality or many other factors (Mwala, 2012) mentioned controlling as three steps process, measuring progress, evaluating and what remains to be done and corrective actions to achieve or exceed the objectives.

Critical and analytical examination of the above reasons commonly adduced for poor project execution and management at the third level of government in Rwanda shows that they constitute only symptoms and not the problem. The problem as identified is lack of adoption of an articulate, programmed activities and focused framework for project conceptualization, planning execution, monitoring and evaluation. It is therefore, the strong belief and contention that if local and international projects had adopted the project cycle approach in their development planning and execution, most of the problems identified above would not have arisen.

To respond to this challenge, World vision has developed and implemented the Monitoring and Evaluation training of the personnel and hired the experts in Monitoring and Evaluation with the view of enhancing accountability, transparency, management decision, organizational learning (World vision report, 2015) . The research therefore intends to study if Monitoring and Evaluation has contributed to the quality of its projects.

1.3. Objectives of the Study

1.3.1. General Objective

The primary objective of this study is to assess the effect of monitoring and evaluation to the project performance.

1.3.2. Specific Objectives

This study aims to achieve the following specific objectives.

- a) To measure the effect of compliance to quality standards on Project performance of world Vision in Rwanda.
- b) To assess the effect of compliance to activity cost on Project performance of World vision in Rwanda.
- c) To determine the effect of compliance to activity duration on Project performance of world Vision in Rwanda.
- d) To examine the relationship between monitoring and evaluation and the project performance in World Vision Rwanda.

1.4. Research Questions

- a) Is there any effect of compliance to quality standards on Project cost performance of World vision in Rwanda?
- b) Is there any effect of compliance to activity cost on Project cost performance of World vision in Rwanda?
- c) Is there any effect of compliance to activity duration on Project time performance of World Vision in Rwanda?
- d) Is there any relationship between monitoring and evaluation and the project performance in World Vision Rwanda?

1.4. **Research Hypotheses**

- a) **H₀**: There is no effect of compliance to quality standards on Project performance of world Vision in Rwanda.
- b) **H₀**: There is no effect of compliance to activity cost on Project performance of World vision in Rwanda.
- c) **H₀**: There is no effect of compliance to activity duration on Project performance of world Vision in Rwanda.
- d) **H₀**: There is no relationship between monitoring and evaluation and the project performance in World Vision Rwanda.

Conceptual Framework

According to Orodho (2009) a conceptual framework describes the relationship between the research variables. Jabareen (2008) argues that a variable is a measurable characteristic that assumes different values among subjects. This study seeks to establish the assessment of monitoring and evaluation on the project performance in Rwanda. With the review of related literature, the study managed to portray the sub variables by referring to practices of monitoring and evaluation identified in (Wholey, *et al.*, 2010). Figure 1.1 outlines the schematic presentation of the variables of concern in the study and their corresponding dimensions.

Independent Variable

Project Performance

- Optimum Quality Achievement
- Optimum Budget Execution
- Optimum Time Utilisation



Dependent Variable

Monitoring and Evaluation

- Compliance to Quality Standards
- Compliance to Activity Cost
- Compliance to Activity Duration

Figure 1.1: Conceptual Framework

Source: Own design, 2018

LITERATURE REVIEW

Monitoring and Evaluation

The experience of development projects is fraught with problems; their implementation has frequently run into serious difficulties and their results are far from always having met the hopes placed in them (Magnen, 1991). Studying past experience, specialists

have become aware that the lack of reliable information on the implementation conditions and results of programs and projects is often at the heart of repeated problems and failures. Project management has the task of establishing sufficient control over a project to ensure that it stays on track to achieve its objectives. As defined by USAID (2012), monitoring is an ongoing process that indicates whether desired results are occurring or not. It aims to measure progress toward planned results, usually through preselected indicators. Monitoring reports on actual performance against what was planned by collecting, analyzing and reporting data of all projects, programs and policies to support effective management.

Project Time Management

Project time management is one of the most important aspect in the project management since it forms the bases upon which all activities in the project are scheduled. It is also the process of planning and controlling the amount of time needed to finish a specific activity in the project. That means it includes both planning and controlling component of project management (Adams, 1993). Planning components provides time estimation for both the duration of the project activities , that how long will it take in terms of clock , time to complete the task and the actual effort or labour to be required to accomplish the task . The duration is used to estimate the total time needed to complete the project (Wysocki & Robert, 2009). Managing time involves dividing it into tasks that can be accomplished in a matter of hours, days, weeks or even months. For larger projects, there are

short-term, medium term and long term goals.

Project cost Minimization

Cost minimization analysis is a method of calculating cost to project the least costly or modality. Cost minimization also reflects the cost of preparation and administering a process. This method of cost evaluation is the one used most often in evaluating the cost of specific activities. Cost minimization can only be used to compare two activities that have been shown to be equivalent in quality in quantity and quality effect. Therefore, this method is most useful for comparing cost planned and equivalents. In many cases, there is no reliable equivalence between two costs and if cost used equivalence cannot be the same cost planned, and then cost-minimization analysis is inappropriate. This is often not as simple as it may seem, as it requires sound based information on the cash flow of the two costs required for equivalent efficacy. Cost-minimization analysis is a special form of cost effectiveness analysis where the project outcomes can be considered to be equivalent between two cost of alternatives activities and therefore the interest is only on which of the two strategies has the lower cost (Andrew, 1980).

Project scheduling (Activity Network)

In their ,2006 edition ,the association for the project Management defines project schedule as the process used to determine the overall project duration and when their activities and events are planned to happen . This includes identification of activities and

their logical dependencies, and estimation of activity durations, taking into account requirements and availability of resources (APM, 2006)

Project Budget Adequacy

The project budget should provide a clear and adequate provision for monitoring and evaluation activities. Monitoring and evaluation budget can be clearly delineated within the overall project budget to give monitoring and evaluation functions due to recognition it plays in project management (UNICEF, 2003) definition of project budget is a detailed estimate of all the cost required to complete the project tasks within an organization The typical budget specifies cost for staff labour, materials, procurement, on-going operating costs and other direct costs such as travel or training. The detailed budget provides the project sponsors with the best estimates of how the much the project will cost. The detail budget helps to manage the expectations and gives the project sponsor information to develop a cost / benefits for the project. The budget is also used in the execution and control stage to help determine whether the project is still financially running (Dvir, 2005).

Project Quality Management

Project quality management is one of the most important processes in the life cycle to determine the project is on track. Test performed during the quality process must map directly to a requirement. If not, the process need to be re –examined. Quality

process includes all the activities of the performing organization that determines quality policies, objectives, and responsibilities so that the project will satisfy the needs for which it was undertaken. It implements the quality management system through the policy, procedures, and process of quality planning, Quality assurance and Quality control, with continuous process improvement activities conducted throughout, as appropriate. Quality management is often managed another manager and care has to be undertaken to make sure your project has the quality resources require for a job (Hessen, *et al*, 2011).

3. RESEARCH METHODOLOGY

3.1. The Research Design

Research design is a comprehensive plan for data collection in an empirical research project (Anolhattacharjee, 2012) the ultimate purpose is to show the process of research to get answer to the objectives (Grinnell and William, 1990). Descriptive research design is chosen because it enables the study to generalize the findings to a larger population. According to Mugenda and Mugenda (1999) the purpose of descriptive research is to determine and report the way things are and it helps in establishing the current status of the population.

3.2. Population of the Study

According to Sekaran (2005), the population is a group of individuals, object or items from which the sample was taken

for measurement or it is an entire group of persons, or elements that have at least one thing in common. The study focused on, employees of World Vision Rwanda and Monitoring and Evaluation department , in World Vision Rwanda Headquarters and the number of employees totalling to 22 employees.

3.3. Sample Size

Cramer and Howitt (2004) defined a sample as a set of entities drawn from a population with the aim of estimating characteristics of the population. Cramer and Howitt (2004) further define a sample size as the number of cases or entities in the sample studied. They suggested that the question of an appropriate sample size is a complex issue which depends on many factors. One significant factor is the study's' expectations of the trend of responses. Robert and Groves (1971) stated that in a case where a study total population is 100 or less, the study can as well go ahead to use the whole study population size as the study sample size. Therefore, this study used the total population of 22 by applying the census method.

3.4. Data Collection Techniques

In carrying out this study, primary data were collected through structured interview and self-administered questionnaire. In designing questionnaires addressed to the World Vision Rwanda staff in the specified departments, the study used Likert scale to measure the staff's appreciation level on Monitoring and evaluation and their appreciation on project performance level.

Using Likert Scale, the staff indicated whether they strongly agreed (SA), agree (A), undecided (U), disagree (D), or strongly agree (SD). The items for the said scale are gathered for related research studies (Bhuiyan and Alam, 2004); (Casadesus and Karapetrovic, 2005); (Haversjo, 2000); Psomas (2010) where all those authors used Likert Scale to measure such variables mentioned above. To complement, the information provided by employees, the interview was conducted with the Director of Finance. Secondary data which was mostly collected from the company’s different but relevant reports were used to measure the company’s project performance in terms of profitability, internal audit and final report comparing the past results and the present.

Table 3.1: Likert five point scale

Weight scale	Interpretation	Description
1	Strong agree	Agreeing without doubt
2	Agree	Agree with some doubt
3	Undecided	Don’t know
4	Disagree	Disagreeing with some doubt
5	Strongly disagree	Disagreeing without doubt

Source: Primary data, 2018

3.4.1 Primary data

The primary data is the information that the study get directly from the field through respondents as first-hand information that is collected using tools such questionnaires and interviews. In

order to collect primary data the study used questionnaires and interview sessions. Questionnaires were preferred because they provide occasion for the respondents to give in their own views according to their opinions related to questions which were in the questionnaire. The study in most cases use questionnaires because they are easy to administer and save time. Avdrey (1987)

3.4.2. Secondary data

Avdrey (1987) Secondary sources are data that already exists. The secondary data, on the other hand, are those which have already been collected by someone else and which have already been passed through the statistical process. The secondary data are mainly collected from books, journals, reports and internet information related to the research topic. Under this study the study used different kinds of available documentation related to monitoring and evaluation and project success from internet, books and articles containing relevant data which provided reliable information to conduct properly this research. The study also used the previous research, official statistics in order to get data, the Government reports were also welcome and then the web information was other source.

3.5. Validity and Reliability of the data collection Instruments

3.5.1. Validity of Instruments

Validity is the extent to which an instrument measures what it is supposed to measure and performs as it is designed to perform (Carole, *et al.*, 2008). The validity test of instruments measures

the extent to which the interpretations of the results of a test are warranted, which depends on the test's intended use. The research instrument was pre-tested on twenty one respondents selected from two departments of the World Vision Rwanda. The ten employees were not part of the sample that was used during the study. Therefore, pre-testing an instrument helps in enhancing the reliability and validity of instrument. When an instrument is reliable, it yields consistent responses.

Validity concerns the degree to which a question measures what it was intended to measure. Generally, there are three main types of validity related to the use of questionnaires: content, empirical, and concurrent validity. Validity Measures the extent to which the instrument achieves what it sets out to do (Smith, 2008). The validity of the instrument will be measured by using the content valid index that is the total number of valid items/ total number of items.

CVI

The questionnaire was valid as the calculated C.V.I is greater than 0.60. Reliability measures the degree of consistency and precision of the instrument under some circumstances. The same research respondents using the same instrument should generate the same results under identical conditions (Amin, 2009).

3.5.2. Reliability of Instruments

(Knapp, 2004) Explain reliability as the degree to which the results are repeatable and this repetition of results should be

observed in both measurement and outcomes, and in all occasions that these measurements are applied under similar conditions. Reliability concerns the consistency of a measure. That is, the tendency to obtain the same results if the measure was to be repeated by using the same subjects under the same conditions. There are two general approaches to establishing the reliability of a questionnaire. The first is to ask the question again in a different part of the questionnaire in the same or slightly altered form, but in such a way as to yield the same information. This is a consistency check, but does not take into account variations in day-to-day variations. A second and better approach, called Test-Retest, is to re-administer a questionnaire to the same group or individuals several days later and to compare the results that were obtained.

Table 3.2: Reliability Statistics

Cronbach's Alpha	N of Items
.8267	42

Source: Primary data, 2018

Reliability of data collection instrument was tested using Cronbach's Alpha coefficient and found was that the score is 0.781 which falls into acceptable range.

3.6. Data Analysis

3.6.1. Descriptive Method

Descriptive research generally precedes explanatory research. For example, over time the periodic table's description of the elements allow scientists to explain reaction and make sound prediction when elements are combined. Hence, research cannot describe what caused a situation. Thus, Descriptive research cannot be used to as the basis of a causal relationship, where one variable affects another. In other words, descriptive research can be said to have a low requirement for internal validity. The description has been used for frequencies, averages and other statistical calculations.

3.6.2. Inferential Statistics

This was employed to determine the significant relationship between monitoring and evaluation and project performance of Projects of World Vision. The significance level will help in rejecting or maintaining the hypotheses. Finally by inspecting the correlation coefficients as stated by Khamis JF: (1989), the standardized correlation coefficients will show the explanatory power of independent variables.

4. RESEARCH FINDINGS

4.1. The effect of Monitoring & Evaluation

Interpretation of the mean and the standard deviation

$1.00 \leq \mu < 1.80$: Very low mean i.e, the fact does not appear.

$1.80 \leq \mu < 2.60$: Low mean i.e, the fact appears less

$2.60 \leq \mu < 3.40$: Uncertain

$3.40 \leq \mu < 4.20$: High mean i.e, the fact appears more

$4.20 \leq \mu \leq 5.00$: Very high mean i.e, strong evidence of the existence of the fact

$\sigma \leq 0.5$: Homogeneity of responses

$\sigma > 0.5$: Heterogeneity of responses

Compliance to Quality Standards

The study wished to know how respondents are distributed by compliance to quality standard in World Vision Rwanda and the results are through the table below:

Table 4.1: Perception of Respondents on Compliance to Quality Standards

Compliance to quality standards	N	Mean	Std. Dev
Start-up evaluation	22	4.8636	.35125
Mid-term evaluation	22	4.6364	.49237
Summative evaluation	21	4.6190	.49761
Impact evaluation	22	4.5909	.59033
Internal evaluation	21	4.8095	.40237
External evaluation	22	4.7273	.55048

Organization management by providing information on how results (output, outcome, impact) are operated	22	4.5455	.50965
In World Vision Rwanda , Monitoring and Evaluation can help assess how beneficiaries use project inputs and outputs, measure their satisfaction with progress, and identify ways by which project interventions can become sustainable	22	4.7273	.45584
Formal training contributes to ensuring that goals, limitations, pre-conditions, requirements and components of Monitoring and Evaluation are understood, and allows staff to develop the necessary implementation skills.	22	4.9091	.29424
WVR uses participatory approach	22	4.4545	.67098
Monitoring and evaluation was conducted on a regular basis for maintaining quality standards for services and products delivered by the WVR	22	4.9545	.21320
Monitoring and evaluation of development interventions provides government officials, funders, and civil society with better means for learning from past experience, improving service delivery, planning and allocating resources, and demonstrating results	22	4.4545	.67098

Overall mean		4.691008	
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Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6 – 3.40 and Low 1.8 – 2.60

For this question, the study intended to assess the appreciation level of respondents on **Compliance to quality standards** in World Vision Rwanda. The table above, many items are evaluated with a strong mean. This indicates the strong evidence of the existence of facts; that is the there is a compliance to quality standards in world Vision Rwanda.

The standard deviation of less than 0.5 means homogeneity of responses while that of greater than 0.5 means heterogeneity of the responses. The study can confirm that in World Vision Rwanda compliance to quality standard is observed. With help of monitoring and evaluation terms as narrated in table above , Respondents were also probed for how often they carry out on .

Compliance to Activity Cost

In this sub-division, the study is aiming to present the discussions of respondents relating to the main results of compliance to activity cost in World Vision Rwanda as follow:

Table 4.2: Perception of respondents on compliance to Activity Cost

Compliance to activity cost	N	Mean	Std. Dev
------------------------------------	----------	-------------	-----------------

The livelihood project cost design was developed accurately and kept expenditures approved by monitoring and evaluation	22	4.8182	.39477
The livelihood project cost was implemented from the input of all stakeholders.	12	4.2500	.45227
Overall mean		4.5341	

Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6 – 3.40 and Low 1.8 – 2.60 **Source:** Primary data

In the table above, many items are evaluated with a high mean. This indicates that those facts appear less. The standard deviation of less than 0.5 means homogeneity of attribute while that of greater than 0.5 means heterogeneity of the characteristic under study. The standard deviation varies from .481 to 4.25 and this highlights the close views from the respondents on the disagreed perception. However, the overall mean is 4.53 the findings confirm items are assessed with a very high mean that is a strong evidence of the existence of the facts. In World Vision Rwanda compliance to activity cost is done. The result of frequency are the average of frequency from two questions where the second question comes with the findings indicated in the table above but details are in appendix.

As two aspects of statistical inference are estimate and hypothesis testing that why table above has produced all inference statistics required as to estimate the Compliance to activity cost and

hypothesis testing with appropriate findings in the table above. Failing to have compliance to activity cost schedule implies the project to meet its completion time according to the information from the table above the study is confident enough and can confirm compliance to activity if well considered affects the project performance.

Table 4.3: Perception of respondents on compliance to activity duration

In this sub-division, the study is aiming to present the discussions of respondents relating to the main results of Compliance to activity cost in World Vision Rwanda as follow:

Compliance to activity duration

Compliance to activity duration	N	Mean	Std. Deviation
For each project, Gantt chart is developed to visually monitor the activities and the Milestone	22	4.5455	0.59580
M & E is conducted for safeguarding project time management	22	4.7273	.45584
Overall time progress of the livelihood project was satisfactory due to monitoring warnings	22	4.6818	.56790
Overall mean			

Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6 – 3.40 and Low 1.8 – 2.60

Source: Primary data, 2018

The results in terms of mean indicate two categories. The study understood that the above have been reached following the improvement of monitoring and evaluation. The first category which includes mean of 3.8, mean of 4.0, mean of 4.24 and mean of 4.21 shows high mean and this elaborates that the fact appears more. Another category of mean ranges from 4.54, 4.72, 4.68 to 4.48; this shows very high mean which explains that there is strong evidence of overall mean of 4.65 the existence of the fact.

4.2. Project Performance

Table 4.4: Perception of respondents on optimum quality achievement

This sub section is aiming to make out the reaction of respondents on major activities of Optimum quality achievement in World Vision Rwanda are as follow:

Optimum quality achievement	N	Mean	Std. De- viation
For each project, Gantt chart is developed to visually monitor the activities and the Milestone	22	4.1818	1.09702
M&E is conducted for safeguarding project time management	20	4.9000	.30779
Overall time progress of the livelihood project was satisfactory due to monitoring warnings	21	4.7619	.43644
Overall mean			

Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6

– 3.40 and Low 1.8 – 2.60

Source: Primary data, 2018

In asking the above question, the study wanted to know how the optimum quality achievement is in a better position as a kind of having a better monitoring and Evaluation in World Vision Rwanda. Data gathered revealed that in most issues tackled, most of the respondents with the category of mean ranges from 4.18, 4.900, 4.76 World Vision Rwanda applies optimum quality achievement.

The overall mean of 4.61 shows that World Vision Rwanda has optimum quality achievement with help of Gantt chart this confirms that in; World Vision Rwanda there is high consideration of optimum quality achievement. The findings in terms of mean indicate a strong evidence of the existence of the fact. The above listed items were assessed with a very high mean that is a strong evidence of the existence of the facts. In World Vision Rwanda optimum quality achievement is reached. From the above findings, it is clear that World Vision Rwanda used to apply **Optimum quality achievement** uses to reach higher experienced working and easily to achieve its set goals and objective set by organization.

Optimum Budget Execution

This sub division is aiming to show the discussion of respondents on main measures of World Vision's budget execution toward their level as follow:

Table: 4.5: Perception of respondents on budget execution

Optimum budget execution	N	Mean	Std. De- viation
Do you stay under the budget you've allocated?	22	4.3636	.84771
When evaluating the cost of specific activities, cost minimization analysis is used.	20	4.8000	.41039
The typical budget specifies cost for staff labour, materials, procurement, on-going operating costs and other direct costs such as travel or training and budget provides the project sponsors with the best estimates of how the much the project will cost.	21	4.7619	.43644
Overall mean			

Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6 – 3.40 and Low 1.8 – 2.60

Source: Primary data, 2018

As pointed out by the respondents in the above table in relation to appreciation on the budget execution in World Vision Rwanda, the effective budget execution has helped the organization to increase its operations as well as its goals and objectives to be successful achieved, to improve its to increase its efficiency, to increase in monitoring and evaluation . The study understood that the above have been reached following the improvement of Monitoring and evaluation. Quoting both a measure of central tendency and the relevant measures dispersion for one or set of

data gives a much better picture of data than quoting one alone. This was witnessed by mean ranging from mean of 4.36, 4.800, and 4.76 respectively.

Since all the mean in the overall mean above is 4.800, it is enough to understand that there is evidence of the existence of the fact in World Vision Rwanda optimum budget execution is processed. As the quantitative output data from descriptive or summary statistical tables, the mean was used to calculate inferential statistics thus to make inferences about the population form due to the targeted population used in this study. That is there is uncertainty as to how well the population reflected because sample size was not considered according to Robert and Groves (1971) stated that in a case where a study total population is 100 or less, the study can as well go ahead to use the whole study population size as the study sample size.

Table: 4.6: Perception of respondents on optimum time utilization

In this sub-division, the study is aiming to present the discussions of respondents relating to the main results of optimum time Utilization in World Vision Rwanda as follow:

Optimum time utilization

Optimum time utilization	N	Mean	Std. Dev
Are sure the project is done on time and you can always have an estimated completion date?	22	4.5909	.73414
Managing time involves dividing it into tasks that can be accomplished in a matter of hours, days, weeks or even months.	21	4.8095	.40237
There are short-term, medium term and long term goals.	20	4.6500	.48936
The manager is able to plot in a time line the tasks that need to be completed , how long they would take to be finished , the resources that they need to be able to achieve the needed results , and the order that they need to follow	21	4.6667	.48305
For each task, the time frame is assigned and the duration helps to set deadline and there is enough resource to finish it on time.	19	4.8421	.37463
There is a project management software, which helps in adjusting your time frame	22	4.5909	.79637
Overall mean			

Legend: Very high 4.2 - 5.00, High 3.4 – 4.20, Undecided 2.6 – 3.40 and Low 1.8 – 2.60

Source: Primary data, 2018

All items are assessed with a very high mean that is a strong evidence of the existence of the facts. In World Vision Rwanda optimum time utilization is accomplished. From the above findings, respondents revealed an outstanding management of optimum time utilization. Following the question that was asked by the study in order to understand the level of optimum time utilization in World Vision Rwanda, it was revealed that majority of respondents confirmed the respectful of optimum time utilization. All variables were describing the findings results of descriptive statistics in two types' average and measures of dispersion. Quoting both measures of central tendency and the relevant of dispersion for one set data gives a much better picture of data than quoting one alone.

The above table variable were analyzed as included; having optimum level of optimum time utilization in World Vision Rwanda as evidenced by mean ranging from 4.59, 4.80, 4.65, 4.66, 4.84 to 4.45 respectively. It's clear that apart from the mean of 4.45 that indicate high mean, all other mean are at the level of very high represented by overall mean of 4.80. This level indicates that there is strong evidence of the existence of the fact. This indicates the strong evidence of the existence of facts; that is the there is an optimum time utilization in World Vision Rwanda. Therefore, the employees of World Vision Rwanda as respondents of the study have provided the testimonies by saying that the major activities are achieved in World Vision Rwanda to focus for contributing to the organizational success. Key to enhancing organizational performance is ensuring that **Optimum time utilization** support organizational efforts

focusing on productivity, service, and quality.

Correlation of variables

Table: 4. 7: Correlation between compliance to quality standards and project performance

		Compliance to quality standards	Project performance
Compliance to quality standards	Pearson Correlation	1	.785**
	Sig. (2-tailed)		.000
	N	22	22
Project performance	Pearson Correlation	.785**	1
	Sig. (2-tailed)	.000	
	N	22	22

** . Correlation is significant at the 0.01 level (2-tailed).

The correlation coefficient of 0.785 with p-value of 0.000 is high and significant. This means that compliance to quality standards and project performance are associated. The table above indicates that the p-value of 0.000 which is less than the significance level (alpha equals 0.01) means that there is a relationship between the compliance to quality standards and project performance. This association is also proved by the Pearson product-moment correlation coefficient between compliance to quality standards and project performance which is 0.785 and qualified as very high. As revealed from the correlation (presented in finding and analysis) between the variables of compliance to quality standard and project

performance, there is a positive correlation between the two, **hence the results reject the null hypothesis and accept H₁**. It is apparent from the responses made to the initial questions on the questionnaire that all the employees want to work in the World Vision Rwanda with high profile.

Table: 4. 8: Correlation between compliance to activity cost and project performance

Variables		Compliance to activity cost	Project performance
Compliance to activity cost	Pearson Correlation	1	.510*
	Sig. (2-tailed)		.015
	N	22	22
Project performance	Pearson Correlation	.510*	1
	Sig. (2-tailed)	.015	
	N	22	22

*. Correlation is significant at the 0.05 level (2-tailed).

The correlation coefficient of 0.510 with p-value of 0.015 is moderate and significant. This means that compliance to activity cost and project performances are related. The table above indicates that the p-value of 0.000 which is less than the significance level (alpha equals 0.01) means that there is a relationship between the activity cost and project performance. This association is also proved by the Pearson product-moment correlation coefficient between Monitoring and Evaluation on project performance and which is 0.510 and qualified as moderate.

This was analyzed the help of interviews as well as activity cost correlation is less high just because it sometimes change just because the World Vision Rwanda donor sometimes delays to provide the agreed support on time . As the significant level is at 0.01 (1%), the p-value of 0.000 (i.e. 0.0%) is less than 1%. This leads to confirm that there is moderate correlation among Monitoring and evaluation on project performance. As revealed from the correlation (presented in finding and analysis) between the variables of Monitoring and evaluation on project performance, there is a positive correlation between the two, hence the results of this research **reject the null hypothesis**.

Table 4.9: Correlation between compliance to activity duration and project performance

This section presents the correlation analysis between activity duration and project performance in World Vision , the research findings regarded to the relationship among those two aspects are presented in the following analysis by using the Pearson correlation presented in table below.

Variables		Compliance to activity duration	Project performance
Compliance to activity duration	Pearson Correlation	1	.807**
	Sig. (2-tailed)		.000
	N	22	22
Project performance	Pearson Correlation	.807**	1
	Sig. (2-tailed)	.000	
	N	22	22

*. Correlation is significant at the 0.01 level (2-tailed).

The correlation coefficient of 0.807 with p-value of 0.000 is high and significant. This means that compliance to activity duration and project performance is correlated.

The table above indicates that the p-value of 0.000 which is less than the significance level (alpha equals 0.01) means that there is a positive relationship of 0.8 between the compliance to activity duration and project performance. As revealed from the correlation (presented in finding and analysis) between the variables of compliance to activity duration and project performance, there is a positive correlation between the two; hence the results of this **research reject the null hypothesis**.

Table 4.10: Correlation between monitoring and evaluation and project performance

This section presents the correlation analysis between Monitoring and evaluation and project performance whereas the research findings regarded to the relationship among those two aspects are presented in the following analysis by using the Pearson correlation presented in table number below.

Variables		Monitoring and evaluation	Project performance
Monitoring and evaluation	Pearson Correlation	1	.786**
	Sig. (2-tailed)		.000
	N	22	22
Project performance	Pearson Correlation	.786**	1
	Sig. (2-tailed)	.000	
	N	22	22

** . Correlation is significant at the 0.01 level (2-tailed).

The correlation coefficient of 0.786 with p-value of 0.000 is high and significant. This means that monitoring and evaluation and project performance are related.

The findings of correlation between Monitoring and Evaluation on project performance is explained as the correlations which are under zero, it means that there is no relationship between two variables. The variation measurements are between -1 and +1. This table above shows that the correlation is positive and very strong effect, ($r = 0.786$), which is located in the range of 0.80-1.00; thus Monitoring and evaluation has very strong effect on the Project performance and therefore **the null hypothesis is rejected**. The correlation table shows that Monitoring and evaluation plays a significant role on project performance. In addition monitoring and evaluation focusing to the organizational business management issues, called process evaluation are often done during implementation or after finishing project activities. Those focusing affects of beneficiaries , called impact evaluations are often scheduled , cost and quality considered as a key to Livelihood project which cause project success by triple constraints with good stakeholders management through better communication until the end of the project objectives planned (Abdul, *et al*, 2011).

5. CONCLUSION

To examine the relationship between the monitoring and evaluation on Project performance, the variation measurements are between -1 and +1; this was to assess the Monitoring and Evaluation by using by using inferential statistics. The findings show that our correlation is positive and very strong effect, ($r = 0.786$), which is located in the range of 0.80-1.00; thus Monitoring and evaluation has high and positive effect on the Project performance. The findings show that Monitoring and evaluation plays a significant role with a colossal contribution towards project performance.

In a specific context, this research examined whether monitoring and evaluation plays a fundamental role in the project performance in World Vision Rwanda specifically to Livelihood projects. Not only it does add to the extensive literature, but also contributed in terms of evaluating attracting the donors to keep in track of supporting the beneficiaries' performance. Based on a sample of 22 employees and the Director of quality and assurance and Monitoring and evaluation of World Vision Rwanda and review of monitoring and evaluation periodic reports and other reports, all specific objectives were achieved as indicated in the previous sub- section.

The three techniques of Compliance to quality standards, Compliance to activity cost, Compliance to activity duration were studied fully and the findings indicated that World Vision Rwanda have all of and they are fully supported under their

specific activities that are tackled both tactically and strategically. High relationship between the study's variables was revealed after the regression analysis which was done out of the data collected from the respondents.

6. RECOMMENDATIONS

On the basis of the research findings, the following are suggestions which if implemented will benefit World Vision Rwanda to maintain monitoring and evaluation in track achieving the organization goals and objectives. Majority of the donors have inflexible, time consuming and laborious reporting requirements. There is need for donors to identify simpler and friendly reporting formats for the recipients of their funds without compromising essential requirements. The study result shows a critical lack of expertise in monitoring and evaluation of Projects implemented by the World Vision Rwanda.

There is need for training in this aspect of Monitoring and evaluation. Hence it is advisable if concerned parties including higher educational institutions propose and provide scholarly viable training areas that could help in filling the gap. Concerning project performance in World Vision Rwanda, the organization is recommended to put in strong efforts on combating a tendency of acquiring skills and knowledge through training and experience from the successful projects this will enhance to attract different donors that will help World Vision to remain on track of achieving the goals set by the organization. World Vision Rwanda they should adopt the use of inventory

management software to create the accurate records of inventory movements that allows managers to take a better decision. A Need strictness of the management to boost the performance and interdepartmental coordination among the inventory related departments to share the know-how.

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**COUNTERING HUMAN TRAFFICKING
IN RWANDA**

By MUSAFIRI Gasana

ABSTRACT

Human trafficking is the action or practice of illegally transporting people from one country or area to another, typically for the purposes of forced labour or commercial sexual exploitation. The researcher realized that every year thousands of people, mainly women and girls fell into the hands of traffickers, either in their own countries or abroad.

Human trafficking is a crime that takes place in all corners of the world including Rwanda. It is in this spirit that Rwanda is considered a source and transit route, for women and children subjected to trafficking in persons.

This paper provides a comprehensive review of human trafficking for sexual exploitation. The researcher identified the causes and effects of commercial, sexual exploitation of persons and made a critical analysis related to trafficking persons in Rwanda, thereafter the researcher identified current challenges in Rwanda to combat the crime. Finally, the researcher proposed measures to be taken to counter human trafficking.

The objective of this study was to identify the causes and effects of sexual exploitation and challenges that the government of Rwanda is facing in its efforts to counter trafficking of persons and to provide recommendations to strengthen the prevention and response against the crime of human trafficking.

The researcher used desk review research as well as the analytical method whereby legal texts, textbooks, electronic sources as well as the decisions issued by the Rwandan courts in relation to the subject matter.

INTRODUCTION

Human trafficking is a phenomenon in which women and children are bought and sold as goods for the purpose of forced labor or commercial exploitation. The practice of human trafficking violates the international human rights law and it is also a crime in international criminal law¹. The crime of human trafficking is also a crime under various and domestic legal regimes. Trafficking in humans affects nearly every country in the world either as a source, transit, or destination country. Rwanda is no exception.

A big number of women and girls are victims of traffickers among human beings. Women and children are being reduced to commodities, traded on international markets. They are transported and sold to be exploited both sexually and in forced labor².

This paper examines whether or not there are legal grounds under Rwandan law to counter the crime of human trafficking and proposes some measures to be undertaken for better protection of victims of human trafficking who are reduced to material subject of transaction.

1 Major General Charles E. Tucker (USAF, Retired) is the Executive Director of International Human Rights Law Institutes (HRLI) of De Paul University College of Law in Chicago, Illinois, USA JURIS 1982.

2 Ibidem

I. DEFINITION OF KEY CONCEPTS

I.1 Human trafficking

Human trafficking means the acts by which the individual becomes a commodity consisting in recruitment, transfer of a person to another country by use of deception, threat, force or coercion, position, in most cases for the purpose of harming his/her life of unlawfully exploiting by indecent assault, prostitution, unlawful practices; practices similar to slavery by torturing and subjecting to cruel treatment or domestic servitude because he/he is vulnerable due to troubles with the authorities, being a single pregnant woman, ill, disabled or due to other situation which impairs a normal person to act³.

Human trafficking also means the exploitation of people by involving them in forced begging, illegal adoption upon payment, taking indecent pictures, harmful sports, armed conflicts and living together with them as husband and wife for the purpose of torturing them and selling their body organs.

The Palermo protocol provides the first worldwide accepted definition of trafficking. It also offers guidelines formulating domestic legislation that enables states party to comply with the Protocol. Article 3 of the Palermo Protocol states:

- (a) The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

³ Article 250 of organic law instituting the penal code published in official Gazette no special of 14 June 2012

deception, of the power or of a position of vulnerability or of the giving or receiving of payments or fits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article⁴.

I.2 Sexual exploitation

It means taking the advantage of sexuality and attractiveness of a person to make a personal gain or profit. It is the abuse of a position of vulnerability, differential power, or trust for sexual purposes. The following is an example of a state law that provides a statutory framework regarding sexual exploitation:⁵

⁴ See art. 3 of the Palermo protocol (UN.DOC. A/55/383).
⁵ X, Sexual available at <http://definitions.uslegal.com/s/sexual-exploitation/> 17th March 2016

I.3 Country of origin

Country of origin means the country of birth of the victim of trafficking or the country in which the victim has the right of permanent residence in case he /she is transported to another country.

I.4 Country of destination

Country of destination means the country in which the victim of trafficking was found at the time of rescue.

I.5 Country of transit

Country of transit of the country through which the victim of trafficking was transported another country.

I.6 Cross – border crime

A cross-border crime means a crime for which one of its constituent elements is accomplished outside Rwanda's borders⁶.

II. CONSTITUTIVE ELEMENTS OF CRIME OF HUMAN TRAFFICKING

II. 1 Legal element

When an act disturbing the public order has been brought to the knowledge of the legal authorities, those authorities should fulfill the first task of verifying whether the committed act is provided for by the law.

⁶ Article 15 of al 2 of Organic Law No 01/2012 of 02/05/2012 instituting the penal code Official Gazette no special of 14.06.2012.

Under civil law system, as Rwanda is included, the crime to be punished has to be provided for by the laws. The Latin principle explains it that *nullum crimen nulla poene sine lege* meaning that there is neither crime nor punishment without the law. Nobody shall be punished for act or omissions that did not constitute an offence under national or international law at the time of commission or omission.⁷

There is the legal instrument known as Palermo protocol termed as the protocol to prevent suppress and punish trafficking in person, especially women and children, it was adopted by the United Nations General Assembly in 2000 and opened for signatures in Palermo, Italy in 2000. It entered into force on 25th December 2003.

The protocol is the only international instrument addressing human trafficking as a crime and it is under jurisdiction of the United Nations office on drugs and crime (UNODC)⁸. It has been raised by Rwanda by Presidential Decree n° 163/01 of 31 December 2002.

The protocol in its article 5 recommends the states to criminalize human trafficking in their national legislations and adopt other measures as may be necessary to establish it as a criminal by providing the punishments for conducts set forth in article 3 of the protocol.

⁷ Article 20 of the Rwandan constitution of 04 June 2003 as amended to date, see also the article 3 of the law no 01/2012 of 02/05/2012 instituting the penal code

⁸ UN.GIFT, Human trafficking questions & answers available at <http://www.unglobalcompact.org/docs/issues-doc/labour/Force-labour/human-traffickin-background-briefing-note-final-pdf>, accessed on 19th.05.2016

As far as Rwanda is concerned, the crime of human trafficking is provided by the 2012 penal code from article 250 to 261 where these provisions explain in details the crime of human trafficking and provide for the punishment basing on the way in which the crime has been committed.

II.2 Material element

For a wrongful act to constitute a crime, the action shall be having some specific acts of commission or omission by the accused so is *Actus reus*. The *actus reus* of an offence may include the conduct of the actor (or the persons), the circumstances under which the conduct takes place and the results stemming from the conduct⁹. Every offence must at least contain one objective element consisting of the conduct of the actor.

The material element (*actus reus*) for the crime of human trafficking is shown by the act and the means used by the traffickers in order to fulfill their objectives.

II.3 The act

The act is constituted by recruitment, transportation, transfer, harboring or receipt of persons. The means implies threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, giving payments or benefits to a person in control of the victim. It includes all mechanisms or techniques used by the trafficker to take away a person.

⁹ K.R. NGUUDO, The new forms of criminality and their impact on Rwanda, Butare, July 2002, p.21

II. 4. Moral element

Generally speaking, an act cannot be regarded as criminal unless accompanied by an intention to commit a prohibited act. This is known as *mens rea* meaning the guilty mind. This element (*mens rea*) refers to the intention of the offender (trafficker).

Human trafficking is a business, a business that buys; sells and uses people in order to gain great profits for the traffickers involved. Generally, the purpose of human trafficking is the exploitation which includes exploiting the prostitution of others, sexual exploitation, forced, slavery or similar practices and the removal of organs.

Under Rwandan 2012 penal code, the exploitation means any form of interests based on sex, forced labor, slavery, and other similar practices or the removal of an organ of human being¹⁰. The target of traffickers is to receive the great amount of money if they reach the place of destination by selling the victims as an object to be sold. The trafficked persons present economic or personal gains to the traffickers.

It is also considered trafficking if the victim had no real or acceptable alternative but to submit to the abuse. If the victim is a child, it is considered trafficking even if there is no threat or use of force¹¹. Finally, human trafficking is an offence constituted by three elements derived from the Palermo protocol definition:

10 Organic law instituting the Penal code, supra not, Article 250(3)

11 X.<http://www.unglobalcompact.org/docs/new-events/Bulletin/HumanTraffic-Info.pdf> accesse on 19th 05.2016

1. The activity

The recruitment, transportation, transfer, harbouring or receiving of persons, followed by;

2. The means

This refers to how the activity is performed, i.e. through threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability or giving of payments or benefits to a person in control of the victim.

3. The purpose

This refers to the various forms of exploitation the victim may face as listed in the protocol and provided in each country's legislation on anti-trafficking.

It is important to note that the Protocol only offers a description of exploitation rather than a definition which states leverage to include other forms of exploitation not mentioned in article 3 (c)¹².

12 T.M. ODERA and R.L MALINOWSKI. Guidelines for Assisting Victims of Human Trafficking in the East Africa Region, IOM, Geneva, 2011, p.9.

III. LITERATURE REVIEW

This part provides the state of trafficking in persons in the world, and identifies the causes and effects of commercial sexual exploitation as well as the relationship between human trafficking and slavery in today's modern world.

III.1 The state of trafficking in persons in the world

Trafficking of human beings for all forms of exploitation is a modern-day form of slavery and is very often a trans-national crime. It generates huge profits for perpetrators and causes severe harm to victims. It is a transnational, transfer, harboring or receipt of persons, by means of recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having the control over another person, for the purpose of exploitation.

Over the course of the last decade, the crime of human trafficking has become a truly global phenomenon. Statistically, the numbers involved with this latest version of human slavery are enormous. Consider the following three statistics:

- The US trafficking in Persons report for 2012 estimates that approximately 800,000 people are trafficked global each year.
- In 2005, UNICEF estimated that more than 1,000,000 children are trafficked annually.
- The United National Office of Drugs and Crime states that the annual criminal turnover of this crime is now the same as generated by drugs trafficking, between 7 to 10 billion US dollars.

The crime is increasingly being taken over and controlled by organized, trans-national criminal networks and the reasons for this are quite simple; human trafficking is a “high-profit-low risk” form of criminality in which the traffickers can generate vast profits from the exploitation of their victims in the current knowledge that,¹³ in many parts of the world, the chances of detection and conviction are extremely low, and that even if this occur, the current level of punishment is also generally low.

III.2 Causes underlying trafficking persons

Most prominent being trafficking for purposes of sexual exploitation with 79% of women trafficked for this purpose, while 18% of people are trafficked for purposes of forced labour. Trafficking also occurs for purpose of buying and selling human

¹³ D. HUGHES. The use of new communications and Information Technology for Sexual Exploitation of women and Children in Hastings women’s law Journal, (2002), p. 129.

body organs and the purpose of (illegal) foreign or domestic adoption.¹⁴

With its history of southward migration flows, political instability, porous borders and weak institutions and structures, East Africa is fertile ground for human trafficking. Children and women in Africa and East Africa are especially vulnerable due to economic disparities in which they have lower socio-economic status.¹⁵

Kenya, Uganda, Burundi, Tanzania and Rwanda are all countries in which human trafficking activities occur. Each of these countries is a source, transit and sometimes destination country while Uganda is a source, transit and destination country.¹⁶

Human trafficking involves the violation of the rights of trafficked persons, for example, the right to dignity, the right to integrity and security of the person, the right to health and reproductive rights, freedom from cruel, inhuman and degrading treatment, freedom from slavery, freedom of movement and sometimes the right to life. Some of the available literature addresses human trafficking as a human rights concern particularly in relation to woman; most literature however, concentrates on the rights of the victims after trafficking has occurred. Nonetheless, there is a need to address the factors that make women and children vulnerable and discuss the rights that are violated during trafficking in order for governments within the EAC region to establish meaningful preventive and protection measures as well as address human

14 US Department of State Trafficking in Persons global report (2012) 207,296,352,336 & 105

15 Ibidem.

16 Ibidem.

rights violations that occur during and after trafficking.

In Rwanda Assiimwe notes that, women and children aged between 16 and 40 years are the ones trafficked out of Rwanda. They are at most times semi-literate and poor suffering from socio-economic hardships and as they strive to get out of the poor socio-economic conditions by migrating where there are economic opportunities. They are mostly taken to Uganda and Kenya for sexual and domestic exploitation. She also states that, it is the insufficient enforcement of laws and policies, low status of women, poverty, Rwanda's political past and insufficient preventive mechanisms that are responsible for human trafficking occurrence in Rwanda¹⁷.

These causes are so many including: poverty, gender discrimination, war, organized crime, globalization, greed of income, traditions and beliefs, family dysfunction and drug trade.¹⁸

Armed conflict creates special risks of sexual violence and exploitation for women and children. Desperation may force women and children into prostitution, refugees are vulnerable to demands for sex by camp officials, border guards, police officers, and military personnel.¹⁹

17 Asiimwe, F. (Factors pre-disposing women and girls to human and girls to human trafficking in Rwanda baseline survey and needs assessment report, 2014, Pp.19-36

18 <http://host.jibc.ca/seytookit/what.htm> accessed on 05 April 2018
19 S. Hausner, The movement of women : Migration, trafficking, and prostitution in the context of Nepal's armed conflict (Kathmandu: save the Children, June 2005), p. 46. Available at <http://www.humantrafficking.org/uploads/publications/stc-2005movementofwomennepal.pdf>.

In war-torn Colombia and Sierra Leone, girls as young as 12 have been forced to sexually submit themselves to armed soldiers in order to defend their families.²⁰

In this report Bellamy declared that there are more shocking violations of children's rights than sexual abuse and exploitation.²¹ In addition to this, the Convention on the Rights of the Child (CRC) ratified by 191 nations, states that a child has the right to be free from abuse, receive education and play.

III.3 The relationship between Human Trafficking and slavery

Many authors and organizations have referred to human trafficking as slavery. For example, the United Nations Population Fund has equated trafficking to slavery²², the United States Department of State refers to trafficking as modern day slavery²³ and various authors refer to Peking as either slavery or a new slavery.²⁴

However, authors such as Hathaway while recognizing human trafficking as slavery, seek to distinguish it as a small subset of a weightier problem - the problem of slavery.

Hathaway argues that the concept of human trafficking promotes a very partial perspective of the problem of modern slavery, as

20 <http://www.unicef.org/newsline/01pr97.htm> accessed on 8 April 2018

21 Ibidem.

22 UNFP 'Trafficking in human misery' available at <http://www.unfpa.org/gender/trafficking.htm> accessed on 10 April 2018

23 US Department of State 'Trafficking in Persons Report 2012'

24 K.BALES, *Disposable People: New slavery in the global economy* (1999)

only a small percentage of modern slaves meet the definition of a trafficked person under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (Palermo Protocol).

He further argues that such a partial scope ignores the predominant manifestations of slavery for the governments of the world to avoid addressing the endemic slavery that persists everywhere.²⁵

This is usually to the detriment of people enslaved the world over but who do not fall under the definition of trafficking.

The general consensus among authors who write about human trafficking and organizations that address human trafficking is that it amounts to slavery. Although they attempt to differentiate it from the transatlantic slavery, stating that in contemporary times slavery is illegal. Furthermore, unlike the old slavery that consisted of owning a person, modern slavery (human trafficking) entails control of a person for purposes of exploiting them. While human trafficking affects, men, women and children, it has been feminized since time immemorial. As Chuang points out, international trafficking in women has been recognized since the late 19th century.

25 J. HATHAWAY 'The Human rights Quagmire of Human trafficking' (2008-2009), in Virginia Journal of International Law, p.5-6.

IV. EFFECTS OF SEXUAL EXPLOITATION

Child sexual exploitation is a subtle but destructive crime that can end up affecting every part of a victim's health, happiness and development. In particular, victims are at risk of: sexual abuse and/or violence, such as sexual assault or rape, being passed around different people for sexual acts, physical harm -either from other people or from self-harm, sexually transmitted infections, mental health problems, substance misuse and/or overdose, suicide attempts, teenage pregnancy, isolation from family and friends lack of education and/or poor grades at school.²⁶ Note that, the international labour organization (ILO) points out that about 27 million people face human trafficking of different forms. 79% of the victims of human trafficking are women and girls who are sexually abused and from Africa. Over 800,000 people, mostly women and children are trafficked across international borders annually about 55,000 people enter Europe from Africa every year.²⁷ All these victims of human trafficking are likely to be affected by the above mentioned consequences or effects.

V. SEXUAL EXPLOITATION FACTS AND CASE

Trafficking women and children for sexual exploitation is the fastest growing criminal enterprise in the world. This happens even if the international law and the laws of 134 countries criminalize sex trafficking.

²⁶ <http://www.google.com/search?sourceid=navclinet&aq=&oq=Effect+of+sexual+ex&ie=UTF-8> - Accessed on 8 April 2018

²⁷ UN.GIFT. (2008): An introduction to human trafficking, vulnerability, impact and action (USA: New York), p.71

At least 20.9 million adults and children are bought and sold worldwide into commercial sexual servitude, forced labor and bonded labor. About 2 million children are exploited every year in the global commercial sex trade. Almost 6 in 10 identified trafficking survivors were trafficked for sexual exploitation. Women and girls make up 98% of victims of trafficking for sexual exploitation²⁸ , Sexual exploitation is a human rights violation.

Since 2009, about 153 cases of human trafficking were recorded by the Rwanda National Police²⁹. About 74 cases of human trafficking were reported and recorded by the Rwanda National Police between 2015 and 2016. It should be noted that a considerable number of incidents of human trafficking in the country go unreported due to the hidden nature of the crime. This adds weight to the already existing challenges in combating human trafficking in Rwanda. According to the IOM ³⁰, combating human trafficking has remained difficult in Rwanda because of the ignorance of the victims who are willing to be trafficked even when they are not sure of the risks therein so long as they are promised jobs and education in the destination countries³¹.

28 <http://www.equalitynow.org/node/1010> accessed on 29 January, 2018
29 Rwanda National Police, The ordeal of human trafficking victim ; RNP response (2015)

30 IOM, Diverse Human Trafficking Trends in East Africa Region Highlights urgent Need for Greater Protection (2010)

31 Dr. Isaboke Peter Kennedy Nyataya, Gacinya John: Human Trafficking Incidence in Rwanda: Its Challenges, Prevention and Control, in International Journal of Research in sociology and Anthropology (IJRSA), Volume 3, Issue1, 2017, p. 3

Human trafficking is punishable by the law. A convincing example of its existence is the case N° RP 00001/2017/HC/HCCIC, of *Prosecutor v. Nyiraneza Esperance* whereby the Nyiraneza was accused of having played a role in taking Muhawenimana Florence from Rwanda to Mozambique for sexual exploitation, where she was sentenced to three years in jail and a fine of two million Rwandan francs (2,000,000Frw) as stipulated in article 251 of the Rwandan Penal code.

VI. CHALLENGES IN COUNTERING HUMAN TRAFFICKING

VI.1. Lack of effective cooperation among states to counter the crime of human trafficking

Human trafficking is a new trend of transnational organized crimes or cross-border crimes that the world is facing today and Rwanda is not left behind by this phenomenon. Human trafficking continues to pose serious threats to neighboring countries and beyond which require more cooperation among law enforcement agencies such as immigration, police and judiciary to counter human trafficking forcefully. As such more cooperation and determination to arrest, detain and prosecute the guilty perpetrators is required to fight the crime.

VI.2. Lack of deterrent punishment

Article 251 of Rwandan penal code stipulates that any person who participates in any way personally or through an intermediary,

in trafficking a person out of Rwanda to a foreign country by: 1) means of deception, use of force, threat or any other form of coercion; 2) taking advantage of his/her troubles with the authorities, conflict with the law, being an orphan, a destitute, lonely, limited knowledge, hard labor, living in a family with children, close in age, unemployment, disease, physical or mental disability, a loophole in law or any other situation likely to impair a normal person to act; shall be liable to a term of imprisonment of one(1) year to three(3) years and a fine of five hundred thousand (500,000) to two million (2,000,000) Rwandan francs. The penalties under this article shall be doubled if the victim is a child.

Considering the gravity of the crime, the punishment in the above article is too little to deter or to prevent the crime. This is in line with what Dr Isaboke Peter Kenedy Nyataya and Gacinya John pointed out while quoting Bishumba .³²

VI.3. Lack of qualified personnel to counter the crime of human trafficking

There is need for qualified personnel to handle cases related to human trafficking given its hidden nature which also constitutes a challenge. As expounded by Mutangana Jean Bosco, Rwandan Prosecutor General, there is a challenge of less experienced prosecutors in following up cases of human trafficking.

³² Bishumba N op cit cited by Dr Isaboke Nyataya Kenedy and Gacinya John: Huma Trafficking Incidence in Rwanda: Its challenges, prevention and control in ' International Journal of Research in Sociology and Anthropology '(IJRSA) Volume 3, Issue 1, 2017 p8.

“ As investigators began to get a grip of the human trafficking crime, we saw an increment because in 2012/2013, we recorded 10 files but not all of them reached a conclusion. There was a shift from 2014/2015, when we recorded 51 files and concluded 41, meaning that 10 had no evidence to support them. For 2015/2016, we recorded 32 cases and completed 31.³³

CONCLUSION

Tracing the history, human trafficking is not a new phenomenon in the society. This crime has been associated with slavery and it is known today as “modern day slavery” and constitutes a serious violation of fundamental human rights. It has been realized that Rwanda is a source and, to a lesser extent, destination country for women and children subjected to trafficking persons, specifically conditions of forced labor and commercial sexual exploitation³⁴.

This article discussed the phenomenon of human trafficking in Rwanda and demonstrated that despite the significant efforts made by the government of Rwanda to counter human trafficking and other related crimes, the findings revealed that the crime of human trafficking persists.

The researcher noted a number of challenges hindering the prevention and punishment of human trafficking in Rwanda and consequently formulated the following recommendations aimed

33 Bishumba N quoted by Dr. Isaboke Peter Kenedy Nyataya and Gacinya John cit op p.8

34 Ibidem.

at overcoming those challenges.

- a) The government of Rwanda should raise awareness on human trafficking among key stakeholders from government and civil society.
- b) The government should build the capacity of law and immigration officials to identify and respond to cases of human trafficking.
- c) The government should sensitize the Rwandan population and local leaders on the different forms of human trafficking and associated risks.
- d) The government should, through its cooperation with the outside world, do everything possible to ensure the return of trafficking victims to their countries of origin and their rehabilitation call for a range of curative measures in the destination country as well as in the country of origin.

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**TAX REVENUE STRATEGIES AND
EFFICIENCY OF RWANDA REVENUE
AUTHORITY (RRA)**

By Dr. MBERA Zenon

ABSTRACT

The Rwanda Revenue Authority plays a critical role of assessment of taxes, collection of revenue, administration and enforcement of Laws relating to revenue on behalf of the government of Rwanda. In addition, according to Law No 15/97 of 8th November, 1997, RRA is also tasked with the role of enhancing and mobilization of government revenue, providing effective administration and sustainability of revenue collection. The objective of the study was to assess the impact of tax revenue strategies on financial performance of RRA.

This study analyzed items that influence financial performance of RRA based on four namely; taxpayers' registration, tax audits and post clearance audits, tax debt collection and the use of Electronic Billing Machine in VAT collection. This study relied on secondary data that was obtained from published annual reports for six (06) financial years from 2010-2011 up to 2015-2016 based on the study's variables i.e. financial performance as affected by taxpayers registration, tax audits and post clearance audits, tax debt collection and the use of Electronic Billing Machine. The data was analyzed using descriptive statistics. Correlation analysis was used to determine the existence, if any, of the relationship between financial performance and the strategies adopted to enhance financial performance by RRA. Regression model was established to know whether the financial performance should be predicted knowing the value of predictors. In addition, regression model was used to measure the quantitative data to establish the extent to which a given

independent variable affects the dependent variable. The regression model showed that the use of EBM, tax audit and post clearance audits are good predictors of the financial performance because altogether they predict 82.1%. The remaining 17.9% is caused by other parameters beyond this research.

Regression equation showed that a unit increase in the use of EBM led to a 0.45 increase in financial performance. Taking all other independent variables constant, an increase in tax audit and post clearance audits led to 8.094, increase of financial performance of RRA. The financial performance of RRA has been spectacular as the tax revenue collection kept increasing a year on year throughout the period of study due to the implementation of various strategies aiming at enhancing tax revenues. Rwanda Revenue Authority should focus its effort on tax audits and post clearance audits given the fact that the audit contributes a lot to the increase of tax revenue collection.

In addition, more effort should be focused on the use of Electronic Billing Machines because they contribute a lot to the enhancement of tax revenues. Finally the study recommends that the tax collection costs should be continuously minimized in order to become efficient during tax collection. RRA should keep working closely with taxpayers as a part of increasing the performance and improving the level of tax compliance.

1. GENERAL INTRODUCTION

1.1. Background to the Study

In many countries today governments intervene in carrying out tax revenue strategies and fundamental functions such as allocation, stabilization, distribution and regulation especially where or when market proves failure or its results is socially unacceptable. Moreover governments particularly in developing countries, implement the tax revenue strategies in order to attain macroeconomic objectives such as economic growth and development, full employment, price stability and poverty reduction (World Bank, 2014).

Countries implement tax revenue policies (strategies) and generally use one of two systems: territorial or residential. In the territorial system, only local income from a source inside the country is taxed. In the residential system, residents of the country are taxed on their worldwide (local and foreign) income, while non residents are taxed only on their local income. In addition, a very small number of countries, notably the United States of America, also tax their non resident citizens on worldwide income (Bernasek A., 2010). By collecting and analyzing the applied tax revenue in the following ways: Increasing competitive intelligence and anticipating competitor reactions to new tax revenue; more accurately assessing company through tax revenue such as brand equity and its level among financial targets in the organization. Therefore, building of a knowledge base of current and historic data that help to drive tax revenue

application in decision making for the institutions through rapidly changing market conditions (Steven N, 2014).

1.2. Statement of the problem

Tax revenue strategies have been very essential to the formulation of government plans in Rwanda, that is to say; the levels of government expenditures and taxes are to a large size determined by the objectives and plans of the government. Tax revenue strategies implemented by RRA are focused on widening the tax base in order to increase fiscal revenues especially on registering the informal sector, simplifying procedures and providing tax incentives to encourage both foreign and domestic investment (Steven N, 2014).

Tax revenue strategies employed by RRA in order to mobilize the tax revenue have been faced by several challenges such as smuggling and tax evasion, understating sales, overstating purchases, non-issuance of VAT invoices, forging of certificates of origin and invoices for imported goods and some taxpayers fail to register file and pay on time, large informal sector, low tax paying culture among taxpayers, limited human resource base, ignorance of some taxpayers, transfer pricing schemes, limited tax base, level of understanding, complications in introduction of new system and the tax expenditure (RRA Report, 2016).

Despite the significant achievements, RRA is still looking out on how to improve the performance because many taxpayers do not meet their obligations to pay taxes to RRA. This institution

encountered some challenges such as: Sometimes facilities put in place to ensure ease of doing business are being abused; smuggling and tax evasion are being done by some members of the business community including understating sales, overstating purchases, non-issuance of invoices and forging of invoices for imported goods. Also some taxpayers do not register, file and pay on time. Additionally, some taxpayers are not complying with using Electronic Billing Machines. Furthermore, some taxpayers are not compliant in paying tax arrears. After final audit, they tend to close their businesses and relocate to unknown areas (RRA Report, 2013).

Therefore, RRA has taken the strongest policies to overcome those obstacles by improving service delivery and strengthen cooperation with regional and international bodies; RRA also strongly remained and focused on partnership with private sector in taxpayer sensitization. This study therefore, intends to assess if the tax revenue strategies designed led to financial performance of Rwanda Revenue Authority.

1.3. Research Objectives

The objectives of the study are categorized as general and specific objectives as shown below:

1.3.1. General Objective

The general objective of this study is to assess the impact of tax revenue strategies on financial performance of Rwanda Revenue Authority.

1.3.2. Specific Objectives

- a) To determine the financial performance progress of Rwanda Revenue Authority
- b) To evaluate strategies employed by Rwanda Revenue Authority in achieving tax revenue targets.
- c) To examine the relationship between tax revenue strategies and financial performance of Rwanda Revenue Authority.

1.4. Research Questions

Research questions are formulated as follow:

- a) Is the financial performance of RRA progressive?
- b) What are the strategies employed by RRA in achieving tax revenue targets?
- c) Is there any relationship between tax revenue strategies and financial performance of Rwanda Revenue Authority?

1.5. Research Hypotheses

H₀: There is no relationship between tax revenue strategies and financial performance of RRA.

H₁: There is a relationship between tax revenue strategies and financial performance of RRA.

2. LITERATURE REVIEW

2.1. Conceptual Perspective

Kombo and Tromp (2006) defines conceptual framework as a visual or written product that explains either graphically or in a narrative, the main things to be studied, the key factors, concepts or variables and the presumed relationship among them. It is therefore a model used in research to outline possible courses of action or to present a preferred approach to an idea or thought. A conceptual framework is very important in any research study being undertaken. Conceptual framework shows the relationship between the dependent variable and the independent variable, where this study consists of two variables which are tax revenue strategies as independent variable and the financial performance as dependent variable.

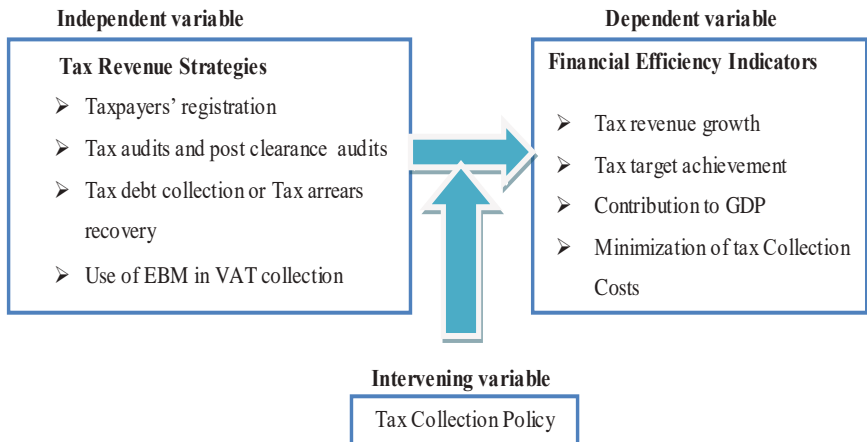


Figure 2.1: Conceptual Framework

Source: Own design, 2018

2.2. Taxpayers' Registration

Online registration by taxpayers adequately serves the needs of taxpayers thus promotes compliance, reduces the number of unintentional errors and is cost efficient. However, tax administrations should also take measures to assure the completeness of taxpayer's registration. Thereto it is necessary to establish a system whereby the tax administration is notified of all external events with tax implications: setting-up of businesses and companies, transfer of registered offices, start of gainful employment for natural persons, changes of residence, changes of activity, etc. James S, *et al.*, (2000).

2.3. Tax audits and Post Clearance Audits

According to Brown R. *et al.*, (2003), financial statements audits are conducted in many different forms of organizations today. The purpose of auditing is to discover, check, verify and control some or other aspects in an organization. It can therefore be said that one of the main characteristics of an audit is that it is diagnostic. Today's tax agencies typically lose some percentage of total revenues due to tax evasion and other types of noncompliance known as the "tax gap". The primary goal of a revenue body's compliance activity is to improve overall compliance with their tax laws, and in the process instil confidence in the community that the tax system and its administration are fair.

2.4. Relationship between Electronic Billing Machine and VAT collection

In many countries, reforming EBM processes coupled with strengthening collection processes, has improved revenue collection. Most of the evidence about the role of EBM in revenue collection comes from the water sector. Some experts argue that billing systems based on consumption are more likely to be paid by individual users. In the water sector, this could take the form of universal adoption of water metering. (Agarwal N, 2008). According to Jhingham (2004), human handling should be eliminated from all billing processes to prevent fraud and billing errors. In addition, rather than billing after service consumption/usage, it may be better to employ pre-payment. This can ensure payment for services, as well as help households monitor and plan their expenditures. The VAT is a form of indirect tax collected at various stages of production-distribution chains.

2.6. Tax Revenue Growth

Bruce, *et al.*, (2006) pointed out that generating sufficient revenue to finance government service delivery is the most important function of a tax system. The government has to provide many goods and services to its citizens such as health, education, and defence of the country, maintenance of law and order and management of the economy. The government therefore requires adequate revenue to finance the provision of these goods and services. Nightingale, K., (2002) asserted that electric supply and social infrastructure need to be financed

with taxpayer's money. Ordinarily, nobody would want to make "compulsory payment" for substandard goods or bad services.

According to Musgrave, R. (1998), Revenue performance is the tax that is collected and it shows the compliance of taxpayers. Raising local government revenue enhances local government legitimacy in its dealing with the centre; without funds from taxes, local authorities would virtually grind to a halt if central government failed to provide substitute funds. He adds that the objective of raising taxes is to raise revenues for the government so that it can undertake its various policy measures concerning the society as a whole.

With James and Nobes (2000), it is found that administrative expenditures during budgeting process caused inefficiencies in tax revenue collection. They suggest that clear monitoring procedures were required to determine and measure costs such as salaries and wages of revenue collectors, enumeration and assessment of the taxpayer, etc. They therefore established that efficiency in tax collection would be realized if these costs were checked with high level of accuracy. These would enhance smooth running of revenue collection exercise and reduction of tax evasion and avoidance.

2.7. Tax Target Achievement

According to Balls, O. (1965), subject to the direction of the government and the will of the legislature, the purpose of the tax administrator is, to devise taxes in conformity with the principles that will raise revenues sufficient to meet the needs of

government to establish the basis of assessment and a procedure for collection that are as simple, effective and economical as possible, and to develop auditing and other procedures.

Meeting the needs of the society calls for huge funds which an individual or society cannot contribute alone and one medium through which fund is derived is through taxation. Tax is a major source of government all over the world. Government use tax proceeds to render their traditional functions, such as the provision of public goods, maintenance of law and order, defence against external aggression, regulation of trade and business to ensure social and economic maintenance. (Edame E, 2008)

2.8. Contribution of tax revenues to GDP

Beardshaw, *et al.* (2001); define economic growth as an increase in the overall output of an economy over a given period of time; the overall output of an economy is also called national product. Growth of an economy in a given year is measured by the change in national output as a percentage of the national output achieved in the previous year. The term national product is used to describe the total of all the output of goods and services produced by an economy over a specific period of time and is also known as national income.

According to Mankiw (2002), The GDP of an economy is its total output; usually a total of consumption, government purchases, investment spending, and net exports, as shown: $Y=C+G+I+NX$.

Where, Y is National output/income, C is Consumption, G is Government purchases, I is investment spending, and NX is Net Exports. A change in income tax affects national income. Economic performance refers to economic growth, labour productivity and welfare of the people. The economic growth is the increase in the total output of the economy, often measured by the growth rate of GDP. Labour productivity is the output per worker. An economy is performing well when there is high economic growth, high productivity of factors of production, and improved social welfare; resources will be allocated efficiently (Dedrick, *et al.*, 2003).

2.9. The Costs of Taxation

First, taxes cost something to collect. Depending on the types of tax, the actual cost of collecting taxes in developed countries is roughly 1 percent of tax revenues. In developing countries, the costs of tax collection may be substantially higher (Mann, A. 2002). Another economic cost is the “compliance costs” that taxpayers incur in meeting their tax obligations, over and above the actual payment of tax. Tax administration and tax compliance interact in many ways.

3. RESEARCH METHODOLOGY

3.1. Research Design

There is no one definition that can best describe research design or imparts the full range of important aspects. According to Cooper V and Schindler S. (2006), the research design constitutes the way through which data are collected and analysed. This

study follows a non-experimental design with exploratory, descriptive and explanatory cross sectional methods which use quantitative approach. The study applies descriptive approach with tax revenue enhancement strategies as independent variables that influence the dependent variable (financial performance of RRA). It attempts to establish the relationship that exists between research variables and aims at identifying how one variable affects the other with intention to provide an empirical explanation to causes and effects relationship between the variables. Only quantitative methods have been applied throughout the study.

3.2. Population of the Study

Bailey N., (2012) says that “the population is universal objects over which research is to be carried out”. This study used purely secondary data; hence no target population or sample elements considered for this study.

3.3. Data Collection Techniques

Analysis of documentation is other major aspect in data collection which concerns with the written record in order to relate with the study of the topic during research in much different materials such as books, reports and thesis (memoirs) to the topic that is analyzed; (Bailey N., 2012).According to Paige W., (2009) documentation is a system which formally acknowledges the sources consulted for the research. According to Robert M., (2004) said that, one of the basic advantages of document studies is to explore the sources more fully in order to obtain additional information on an aspect of the subject.

This is the extensive study and review of published documents, reports, magazines, journals and policy reports related to the topic. This is important because it reviews the literature and tries to locate global perspectives in order to make a comparative framework for analysis and evaluation for readers; therefore, the study used this documentary technique in order to conduct and get secondary data. Secondary data was obtained from published annual reports, books and other documents related to the research topic where those research documents are available in Rwanda Revenue Authority.

3.4. Data Analysis Methods

The process of data analysis was used after data collection in order to make deep interpretation and understanding by using statistical and descriptive analysis methods.

3.4.1. Statistical Methods

The statistical methodology provides a forum for original, high-quality articles reflecting the varied facets of contemporary statistical theory as well as of significant applications. In addition to helping to stimulate research, the journal intends to bring about interactions among statisticians and scientists in other disciplines broadly interested in statistical methodology. Emphasis is on importance, interest, and originality formal novelty and correctness alone are not sufficient to warrant a publication. Statistics is a set of mathematical methods which, from the collection and analysis of real data, can develop probabilistic models allowing predictions; (Meretmuriu C., 2014).

The statistical method helped in measuring and quantifying the results of research. This method is the one which facilitated the study in quantifying and numbering the results of the research and presenting information on the graphs, charts and tables. For easy understanding of collecting data, it is important to transform raw data into tangible forms, which allow easy interpretation. Quantitative method of data analysis was therefore used for this case, where during the data analysis and interpretation, the SPSS software 23th Version program was applied.

3.4.2. Regression Model specification

This process concerned with editing, coding and tabulation. Therefore with data analysis, the hypotheses were tested; major variables of the study were analyzed and interpreted by using SPSS 23rd version, toward referring to regression analysis, with legends which provided the results among variables. The regression model was thus as follows:

$$Y = B_0 + Bx_1 + Bx_2 + Bx_3 + Bx_4 + E_t$$

Where;

Y: Dependent variable (financial performance);

B₀: Constant;

B_x: Independent variable (tax revenue strategies) characterized by 4 sub-variables such as (B_{x₁}; B_{x₂}; B_{x₃}; and B_{x₄}):

Bx₁: Taxpayers' registration;

Bx₂: Tax audits and post clearance audits;

Bx₃: Tax arrears recovery (Tax debt collection)

Bx₄: Use of EBM in VAT collection and then,

E_t = Error term in period _t.

Pearson Correlation test

The Pearson correlation coefficient is a very useful way to measure the statistical relationship that exists between independent and dependent variables.

3.5. Comparative method

Comparative method is a research methodology aspect in the social sciences that aims to make comparisons across different study variables. A major problem in comparative research is that the data sets in different variables may not use the same categories, or define categories differently; (Jochen I., 2004). Comparative method helped the study to compare data that was collected from Rwanda Revenue Authority with different period.

3.6. Validity and Reliability Tests

Validity is the extent to which a test measures what it is supposed to measure. The question of validity is raised in the context of

the three points; the form of the test, the purpose of the test and the population for whom it is intended, (Cronbach F, 2010). This study being based on secondary data, validity was not tested. However, reliability was ensured by collecting original reports from RRA and crosschecked by the research supervisor for universal data analysis approach.

4. RESEARCH FINDINGS

4.1. RRA Financial Performance Evaluation

Tax Revenue Growth and Target Achievement

Table 4.1: Tax revenue performance against targets (Amount in Frw Billions)

Period	Actual collection	Target	Variance	Achievement rate	Tax revenue growth
2009/2010	385.2	369.3	15.9	104.3%	-
2010/2011	476.9	449.1	27.8	106.2%	23.8%
2011/2012	574.5	519.7	54.8	110.5%	20.5%
2012/2013	665.8	641.2	24.6	103.8%	15.9%
2013/2014	763.4	782.4	-19.0	97.6%	14.7%
2014/2015	859.0	878.0	-19.0	97.8%	12.5%
2015/2016	986.7	949.2	37.5	103.9%	14.8%

Source: RRA annual reports, 2009/2010-2015/2016

From table 4.1 the actual tax collection for the period of study is increasing a year on year due to the implementation of various administrative measures such as taxpayers' registration,

tax arrears collection, taxpayers' financial statement audits, mobilization and sensitization of EBMs usage in order to enhance tax revenue collection and achieve the yearly set target. The annually increase in fiscal revenues registered over the period was due to positive economic performance that the country has been enjoying over the same period whereby the nominal GDP increased throughout six financial years from 3,523 billion, 4,128 billion, 4,681 billion, 5,137 billion, 5,631 billion and to 6,139 billion in 2015/2016 as stipulated in NISR report (2016). This economic performance led to good performance of profit tax and subsequently of income tax and the increase in the tax base through the increment of taxpayers.

The fiscal year 2010/2011 was marked by a tremendous growth in fiscal revenues (23.8%) due to expanded PAYE base as a result of continued investments in the economy which created additional jobs; (From July 2010 to June 2011, 1,169 new taxpayers were registered under PAYE). Also RRA performed well in recovering tax arrears amounting to 19.9 billion of which have a contribution rate in total actual collection equivalent to 4.2% as was found in RRA annual report (2010). Furthermore, over this period there was a rapid service delivery which enabled taxpayers doing their business transactions in relatively reduced time and as a result, the volume of goods imported increased.

There was an implementation of a Customs system named ASY-SCAN which involves electronic submission of necessary supporting documents like invoice, packing list and bill of lading or Airway bill, deployment of cargo mobile scanners at

Gikondo, Gatuna and Rusumo border posts in order to speed up inspection and effectiveness in screening contents of vehicles entering the country hence benefiting the private sector by accelerating business transactions and providing quality and quick services. In addition the E-tax system was introduced to enable E-filing and E-payment aimed at facilitating the process of doing business.

However, the RRA missed the target in 2 financial years; 2013/14 and 2014/15 whereby the performance rate was 97.6% and 97.8% respectively. In 2013/2014, there was a decline in imported palm oils: volume and CIF value of imported palm oils decreased by 26.6% and 32.1% respectively subsequent to Rwanda Bureau of Standards instruction dated 27th April, 2012 that prohibited the importation of palm oil.

The only palm oil allowed to be imported was to be used by manufacturing companies which had duty remission benefit. Also, there was the tax base erosion due to tax exemptions and incentives granted whereby the total revenue foregone amounted to Rwf 133.5 billion which is equivalent to 17.5% of total tax revenue as mentioned in RRA annual report of financial year 2014. The RRA underperformance in fiscal year 2014/2015 is believed to be due to its failure to execute the audit as per tax audit plan since out of the 922 planned audits, 314 (34%) were not carried out as stated by the Auditor General office in the Report of financial year 2014/2015. This audit underperformance caused the decrease of tax audit contribution rate to tax revenues from 2.6% in fiscal year 2013/2014 to 1.5% in 2014/2015. In addition, Out of 13,687 registered VAT taxpayers, 5,591

taxpayers (40.8 %) do not have EBMs. Thus, the rollout of the EBM machines was still low with RRA still facing challenges of losing tax revenue due to undeclared sales by tax payers.

4.2. Tax contribution to GDP

**Table 4.2: Tax revenue collections in percent of nominal GDP
(Value in bn Rwf)**

	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Nominal GDP	3,523	4,128	4,681	5,137	5,631	6,139
Tax revenue collection	476.9	574.5	665.8	763.4	859	986.7
Tax to GDP ratio	13.5%	13.9%	14.2%	14.9%	15.2%	16.1%

Source: NISR reports, 2010/2011-2015/2016

From the table 4.2, the nominal GDP increased from 3,523 billion in financial year 2010/2011 up to 6,139 billion in financial year 2015/2016. Also, the tax revenue collection kept increasing over the period of study from 476.9 billion in fiscal year 2010/2011 up to 986.7 billion in fiscal year 2015/2016 and subsequently a yearly continuous increase of tax contribution rate to GDP ranging between 0.3% and 0.9% which is believed to be due to the increase of taxpayers and volume of sales occasioned by the progressive country's economy performance.

4.3. The efficiency in tax collection

Table 4.3: RRA expenditures in percent of total revenue collections (Value in bn Rwf)

Period	Revenue collections			Expenditures			Cost collection ratio
	Tax revenue	Non tax revenue	Total revenue	Budget	Utilization	Performance rate	
2010/2011	476.9	14.4	491.3	16.1	14.5	90%	2.9%
2011/2012	574.5	13.6	588.1	16.103	15.130	94%	2.6%
2012/2013	665.8	11.8	677.6	16.93	15.96	94.3%	2.4%
2013/2014	763.4	10.5	773.9	17.8	16.1	90.4%	2.1%
2014/2015	859.0	13.2	872.2	18.2	16.7	91.8%	1.9%
2015/2016	986.7	14.6	1,001.3	24.97	22.9	91.7%	2.2%

Source: RRA annual reports, 2010/2011-2015/2016

From the table 4.3, the cost collection ratio has been decreasing a year per year throughout the period of study. This implies that RRA becomes more efficient in revenue collection which is attributed to the good selection of tax enhancement strategies aiming at reducing costs and increasing revenues while collecting taxes.

In addition, this is believed to be due to taxpayers' sensitization to become more compliant, improved service delivery and ICT based services such as E-filing and E-payment. Even though, RRA managed to utilize the budget at a percentage of 91.7 in financial year 2015/2016, the cost collection ratio increased over this period compared to fiscal year 2014/2015 (2.2 % Versus 1.9% respectively) due to new task assigned to RRA of collecting taxes and duties on behalf of local governments where

it recruited and deployed 200 staffs in districts for registration, collection, audit and enforcement of taxes and fees as was laid down in RRA report of 2015/2016 fiscal year.

4.4. RRA strategies for achieving tax revenue targets Taxpayers Registration

Table 4.4: Performance of new registered taxpayers (Amount in Frw billions)

Period	Tax revenues	Tax revenue growth	New registered taxpayers	Tax paid by new taxpayers	Contribution rate
2010/2011	476.9	23.8%	1,257	5	1.05%
2011/2012	574.5	20.5%	8,304	11.8	2.05%
2012/2013	665.8	15.9%	5,918	2.6	0.39%
2013/2014	763.4	14.7%	7,718	13.2	1.73%
2014/2015	859.0	12.5%	1,171	3.1	0.36%
2015/2016	986.7	14.8%	1,743	2.2	0.22%

Source: RRA annual reports, 2010/2011-2015/2016

Table 4.4 shows that the new registered taxpayers contribute somehow to tax revenue collected each year even if their contribution is small. It was observed that their contribution rate to total actual collections is not proportional to their increase. Over the period of study, a small number of recruited taxpayers' equivalent to 1,171 was observed in year 2014/2015 with their contribution to tax revenue of 0.36% and the big number of these new recruited taxpayers was in 2011/2012 with 8,304 taxpayers and 2.05% contribution rate. Furthermore, the small contribution rate which was less than 1% was provided by very different numbers of recruited taxpayers such as 5,918 taxpayers,

1,743 taxpayers and 1,171 taxpayers.

In addition, the contribution rate which was less than 2% was observed in financial years 2010/2011 and 2013/2014 with recruited taxpayers ranging in a high considerable interval like 1,257 taxpayers and 7,718 taxpayers respectively. This implies that, some of taxpayers are registered but not pay taxes because of declaration of zero tax or being engaged in fraudulent activities. Thus, the RRA issue TIN to taxpayers during the registration activity but does not update the taxpayers registry depending on the operational ones.

Debt Management

Table-4.5: Tax arrears collection (Amount in Rwf billion)

Period		2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Tax revenues		476.9	574.5	665.8	763.4	859.0	986.7
Tax arrears	< 3 months overdue	6.7	11.8	7.1	8.9	8.1	27.2
	3-6 Months overdue	4.3	4.3	6.6	5.2	13.8	9.4
	6-12 Months overdue	7.3	10.3	17	5.7	19.6	8.0
	> 12 months overdue	35	44	54.5	85.7	81.4	84.1
	Total	53.3	70.4	85.2	105.5	122.9	128.7

Tax arrears recovery	19.9	17.8	26.3	27.1	26.7	33.4
Recovering rate	37.3%	25.3%	30.9%	25.7%	21.7%	25.9%
Contribution rate to tax revenues	4.2%	3.1%	3.9%	3.5%	3.1%	3.4%

Source: RRA annual reports, 2010/2011-2015/2016

From table 4.5, the tax arrears increased from 53.3 billion in 2010/2011, to 70.4 billion in 2011/2012, to 85.2 billion in 2012/2013, to 105.5 billion in 2013/2014, 122.9 billion in 2014/2015 and up to 128.7 billion in 2015/2016. The RRA was not able to recover even a half of an overdue amount in every year as the maximum recovering rate observed in fiscal year 2010/2011 was 37.3%. This underperformance in tax arrears recovery is attributed to insufficient number of RRA staffs, taxpayers who file taxes but not pay on due time as well as taxes assessed after audit which take a long period to be paid. Even though, the tax arrears recovering rate is still low (between 21.7% to 37.3%), it is obvious that debt collection is a strategy that enhances tax revenues due to its contribution rate varying from 3.1% to 4.2 % of total tax revenues.

4.5. Tax Audit and Post Clearance Audit

Table 4.6: Contribution of tax audits and post-clearance audits to tax revenues

(Amount in Rwf Billion)

Period	Tax revenues	Tax revenue growth	Initial tax Variance			Contribution rate
			declared	Tax after audit		
2010/2011	476.9	23.8%	96.2	110.1	13.9	2.9%
2011/2012	574.5	20.5%	100.7	128.2	27.5	4.8%
2012/2013	665.8	15.9%	121.5	151.8	30.3	4.6%
2013/2014	763.4	14.7%	53.8	74	20.2	2.6%
2014/2015	859.0	12.5%	59.1	71.7	12.6	1.5%
2015/2016	986.7	14.8%	96.2	110.8	14.6	1.5%

Source: RRA annual reports, 2010/2011-2015/2016

Table 4.6 shows that every year the declared taxes increased after conducting an audit where the minimum contribution was 1.5% of fiscal years 2014/2015 and 2015/2016 and the maximum contribution equivalent to 4.8% was observed in 2011/2012. However, the variance between tax after audit and tax initially declared decreased from fiscal year 2013/2014, which is the result of taxpayers' education and sensitization on tax compliance. This implies that the more number of audits conducted at the taxpayers' businesses, the more compliance levels increase due to the fear of next tax audit that may detect or discover more unpaid taxes with penalties. This has enabled taxpayers to contribute to the government revenue with

maximum compliance to optimize its tax collection.

4.6. Use of Electronic Billing Machine in VAT collection

Table 4.7: VAT collection according to financial years and number of EBM’S users

(Amount in billion Rwf)

Fiscal year	Total tax collection	Total VAT collected	% of VAT in total tax collection	EBM Users
2010/2011	476.9	140.4	29.5%	-
2011/2012	574.5	172	29.9%	-
2012/2013	665.8	205	30.8 %	800
2013/2014	763.4	249.1	32.6%	4,821
2014/2015	859.0	286.2	33.3%	8,096
2015/2016	986.7	333.2	33.8%	11,436

Source: RRA annual reports, 2010/2011-2015-2016

Table 4.7 shows that the use of EBM contributed significantly in enhancing tax revenue collection. The EBMs were introduced in Rwandan business community in March 2013 to all VAT registered taxpayers. Since this period, the collection of total VAT increased from 205 billion in 2012/2013 up to 333.2 billion in 2015/2016 as the number of taxpayers who use EBMs increased from 800 to 11,436 in 2012/2013 and 2015/2016 respectively. Moreover, the contribution rate of VAT in total actual collection increased from the percentage which was less than 30% to the percent always greater than 30% because the tax body continued to strengthen the sensitization and use of Electronic Billing Machines among taxpayers. Under this, RRA

launched the EBM lottery scheme as an approach to encourage buyers to request for EBM receipts whenever they buy a product or service and lucky winners had won various prizes such as brand new smart phones, flat screens, motorcycles and cars. In addition, field staffs were deployed in different busy corners in Kigali City to check the issuance of EBM invoices.

4.7. Relationship between tax revenue strategies and financial performance of Rwanda Revenue Authority.

Variables Interdependence Test

In order to assess if there is a linear dependence between variables the Pearson correlation coefficient has been calculated. The results are shown in the following table 4.8

Table 4.8: Correlations

		Revenue collected	Tax payers registration	Tax audits& P/C audits	Tax debt collection	Use of EBM
Revenue collected	Pearson Correlation	1				
	Sig. (2-tailed)					
	N	6				
Taxpayers registration	Pearson Correlation	-.287	1			
	Sig. (2-tailed)	.581				
	N	6	6			
Tax audits and Post Clearance (P/C) audits	Pearson Correlation	-.372	.818*	1		
	Sig. (2-tailed)	.467	.047			
	N	6	6	6		
Tax debt collection Or tax arrears Recovery	Pearson Correlation	.911*	-.330	-.317	1	
	Sig. (2-tailed)	.012	.524	.541		
	N	6	6	6	6	
Use of EBM in VAT collection	Pearson Correlation	.961**	-.476	-.403	.863*	1
	Sig. (2-tailed)	.002	.340	.205	.027	
	N	6	6	6	6	6

***Correlation is significant at the 0.05 level**

****Correlation is significant at the 0.01 level**

Table 4.8 shows that at 0.01 levels, the correlation between revenue collected and use of EBM in VAT collection is significant. The Pearson’s correlation coefficient between them is .961, hence the existence of positive strong correlation between them. A significant strong correlation at 0.05 levels has been noticed between tax debt collection and revenue collected; its value

is .911. The existence of a strong correlation does not imply a causal link between the variables; for knowing this, later, the regression analysis was done (table 4.10).

A significant correlation at 0.05 level has been noticed between tax debt collection and use of EBM in VAT collection, both being independent variables. Given the fact that this may cause a problem in regression and one may not know which variable has effect on the dependent variable (multi collinearity effect), the student's t-distribution helped in clarifying this (table 4.10) and for this reason backward stepwise regression procedure of regression analysis were performed to assess the relative importance of predictor variables and select a smaller subset of variables that account for most of the variation in the dependent variable. This is also the case for tax audits/post clearance audits and tax payer's registration.

Regression analysis

After noticing that there are significant correlations between some independent variables and dependent variable, the regression analysis has been made in order to assess whether the independent variables may predict the dependent variable. In other words should the RRA strategies be used to predict financial performance? As explained earlier the backward stepwise regression procedure has been used.

Table-4.9: Model summary

Model Summary^d

	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.908 ^a	.825	.125	2.3581
2	.908 ^b	.825	.563	1.4279
3	.906 ^c	.821	.702	1.2573

- a. **Predictors:** (Constant), Use of EBM in VAT collection, Taxpayers registration, Tax audits and post clearance audits, Tax debt collection or Tax arrears recovery
- b. **Predictors:** (Constant), Use of EBM in VAT collection, Tax audits and post clearance audit, Tax debt collection or Tax arrears recovery
- c. **Predictors:** (Constant), Use of EBM in VAT collection, Tax audits and post clearance audit
- d. **Dependent Variable:** Revenue collected.

The table 4.9 shows an R² coefficient of .825 which means that 82.5 % of variability in the dependent variable is accounted for by all of four Independent variables together (model 1). In the model 2 the variable taxpayer’s registration has been removed since it enters into collineality with the variable tax audits and post clearance audits, yet the value of R² did not change. In the model 3 the variable tax debt collection or tax arrears recovery

has been removed since it is in collinearity with the variable Use of EBM in VAT collection. This did not alter significantly the value of R^2 and it becomes .821. This shows that the variables taxpayers registration and tax debt collection are not significant in this model when those other variables are presents and the variables tax audits and post clearance audits and use of EBM in VAT collection contribute 82.1% to the financial performance. 17.9% remaining is due to other factors. Regarding “how much each independent variable contributes to the prediction of the model” is summarized in the following table 4.10.

Table 4.10 Regression coefficients

Coefficients^a						
Model	B	Unstandardized Coefficients		Standardized Coefficients	T	Sig.
		Std. Error	Beta			
1	(Constant)	330.709	120.955		2.734	.223
	Taxpayers registration	.001	.009	.015	.092	.942
	Tax audits and post clearance audit	7.130	4.972	.286	1.434	.388
	Tax debt collection or tax arrears recovery	2.775	7.021	.083	.395	.760
	Use of EBM in VAT collection	.042	.010	1.069	4.315	.145
2	(Constant)	331.681	85.558		3.877	.061
	Tax audits and post clearance audit	7.488	2.195	.301	3.412	.076
	Tax debt collection or tax arrears recovery	2.547	4.661	.076	.546	.640
	Use of EBM in VAT collection	.042	.006	1.077	6.495	.023
3	(Constant)	370.624	41.427		8.946	.003
	Tax audits and post clearance audits	8.094	1.657	.325	4.885	.016
	Use of EBM in VAT collection	.045	.003	1.157	17.384	.000
a. Dependent Variable: Revenue Collected						

The table 4.10 shows how much every independent variable contributes to the prediction of the dependent variable. As said above the variables tax payer’s registration and tax debt collection or tax arrears recovery are not significant in this model when those other variables are presents and the system removed them. One should notice that the prob (t) for the variable tax

audits and post clearance audits is .016, which means that there is only 16 chances in 1000 that this strategy could be zero, which implies that the term of the regression equation containing this parameter cannot be eliminated without significantly affecting the accuracy of the regression. This is also the case for the variable use of EBM in VAT collection which has a prob (t) of .000, meaning that there is almost zero chance to eliminate it from the model without affecting the whole model. From the table above the regression equation may be written as follow:

$$Fp = B_0 + B (Ta) + B (Ue) + E_t$$

$$Fp = 370.624 + 8.094 (Ta) + 0.45 (Ue)$$

Where;

Fp = Financial performance

Ta = Tax audits and post clearance audits

Ue = Use of EBM in VAT collection

The above regression equation showed that a unit increase in tax audit and post clearance audits led to 8.094 increases in financial performance of RRA. Taking all other independent variables at zero, an increase in the use of EBM led to 0.45 increases in financial performance. Regarding prediction of financial performance, the variables tax audit and post clearance audits and the use of EBM my predict 82.1%. The remaining 17.9% is caused by other parameters beyond this research.

5. CONCLUSION AND RECOMMENDATIONS

This part presents a summary of the findings, conclusions and recommendations for policy implications drawn in relation to the study objectives in addition to suggestions for further study.

5.1. CONCLUSION

Rwanda Revenue Authority has a mandate of collecting revenues and to achieve this, it adopted different strategies. According to the findings of this research, the performance has been spectacular which is shown by the continuous growth of tax collections, achievement of the set target, growth of tax contribution rate to Nominal GDP as well as a continuous decrease of tax collection ratio throughout the period of study. This good financial performance of RRA was due to the application of various strategies such as taxpayers' registration, tax audits and post clearance audits, tax arrears recovery or debt collection and use of EBM.

Among those strategies that RRA undertook, the use of EBM, Tax audits and post clearance audits have a strong impact on financial performance. This is illustrated by the fact that the cited variables (use of EBM, Tax audits and post clearance audits) registered a strong positive correlation with the financial performance. The contribution of the parameter taxpayer's registration is not significant in the presence of the parameter tax

audits and post clearance audits because there is interdependence between them. This is also the case for the parameter tax debt collection or tax arrears recovery whose impact is not significant in the presence of the parameter use of EBM because they have a strong correlation between them.

Regarding the influence of tax audits and post clearance audits on financial performance of RRA, the increase in one unit of tax audits causes the financial performance to increase in 8.094 unities, whereas the increase in one unity of use of EBM causes an increase of 0.45 units in contract performance. Regarding best fit of financial performance, the variables tax audits, post clearance audits and use of EBM my predict 82.1%. The remaining 17.9% is caused by other parameters beyond this research.

5.2. Recommendations

Based upon the findings of the study, the following recommendations are made to the management of Rwanda Revenue Authority:

- Rwanda Revenue Authority should focus its effort on tax audits and post clearance audits given the fact that the audit contributes a lot to the increase of tax revenue collection.
- More effort also should be focused on the use of Electronic Billing Machines because they contribute a lot to the enhancement of tax revenues.

- Due to the big number of registered taxpayers a year on year but with small contribution to total tax collections, Rwanda Revenue Authority should keep updating the taxpayers' registry depending on operational TINs and delete the operational ones in case the taxpayer declares zero taxes in 2 consecutive financial years.
- Given that Rwanda Revenue Authority failed to recover at least a half of tax debts in a financial year over the period of study, it should put more efforts in recovering tax arrears as they decrease tax collections.
- Also RRA should keep work closely with taxpayers as a part of increasing the performance and improving the level of tax compliance.

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**SYMBIOTIC LINK BETWEEN
STREET CHILDREN AND
STREET VENDING IN
THE CITY OF KIGALI:
AN APPRAISAL**

By MURANGIRA Thierry

ABSTRACT

Street vending have occupied the streets of Kigali and have become an increasingly visible and troublesome to the City of Kigali management and Law Enforcement's efforts to maintain public order. Strategic criminal intelligence reveals that, in the City of Kigali, street vending activities can be a sponge that absorbs large numbers of disorder and anti-social behaviors which indicate higher risks or tendency of turning into crime or violence creating national security threat which has an impact on almost every aspect of the individual's wellbeing. This study sought to investigate and expose the magnitude of the problem created by street vendors and provide an insight through this research. It is also an attempt to promote evidence-based research policing and a test to the efficiency of existing strategies to regulate street vending.

Key Words: Street Vending, Street Children, Disorder, Anti-Social Behaviors

1. INTRODUCTION

The City of Kigali is a place where people feel safer, connected and able to participate in city life at any time of the day or night. The notion that any minor social disorder, if tolerated, will lead to an environment that is likely to attract crime, this influences on how the Police and other stakeholders should control the city.³⁵ Establishing public safety is fundamental obligations of the Police towards all individuals living in Rwanda. Police is under obligation to reduce crime, disorder and any other antisocial behaviors in partnership with other stakeholders.

The safety of one's person and security of one's property are widely viewed as basic human rights and are essential to the community's overall quality of life. When the community is not, and does not feel, reasonably safe, other critical local government functions such as business investment, economic development, free movement, public education, stable housing, and basic local government services become that much more difficult to provide. In short, a community's reputation for public safety heavily influences its appeal as a place to raise a family or open a business.

Various studies have shown that when urban management policies allow vendors to conduct their trade out of the streets, positive impact occurs on several aspects such as poverty, employment, entrepreneurship, social mobility, taxes, peace and

35 Bernard E. Harcourt and Jens Ludwig, Broken Windows: New Evidence from New York City and a Five-City Social Experiment, *The University of Chicago Law Review*, 2006. Available at: http://home.uchicago.edu/ludwigj/papers/Broken_windows_2006.pdf. Accessed on 30/06/2016.

order. Economic and social resources are controlled.

Grouping street vendors into cooperatives in designated specific and controlled sites to conduct their business can be positive step and can yield positive impact on disorder and economic control.³⁶

The present research provides how responses to the problems shall be draw in developing locally-tailored approaches to improving street vending situation and reducing disorder and anti-social behaviors, addressing some of the organizational and operational challenges arising out of the changing socio-economic context in which the Kigali City management service currently operates. In attempting to promote research-based strategies in policing, the author driven by spirit that professional policing promotes the rule of law, supports economic growth and improves the lives of the poor by protecting them from crime has initiated the present research to provide workable and sustainable strategies to the challenges.

This research used observation and interview techniques for the purpose of information collection.

Anti-social behavior is a broad term used to describe the day-to-day incidents of nuisance, disorder and crime that make many

36 Lennert Jon, Street Vending in Urban Malawi: Strategies and Practices of Vendors and Local Authorities, Paper presented at the RC21 International Conference on "The Ideal City: between myth and reality. Representations, policies, contradictions and challenges for tomorrow's urban life" Urbino (Italy) 27-29 August 2015. Available at: <http://www.rc21.org/en/conferences/urbino2015/> Accessed on 5/07/2016.

people's lives an unhappy from street vending, disorder and vandalism, to public drunkenness, to noisy pollution or abusive neighbors for instance. Such a wide range of behaviors means that responsibility for dealing with anti-social behavior is shared between a numbers of institutions or agencies, particularly the Police, City of Kigali Authority, Local Authority etc.

The crime prevention strategies require Law Enforcement Institutions to scrutinize the community safety and evaluate the opportunity to consider and challenge outline key findings and performance data and subsequently influence the strategic direction of travel.

This research study seeks to investigate and expose the symbiotic link between street children and street vending and show the magnitude of the problem created by street vendors and provide an insight. It provides an overview of the current situation of disorder and assess acts likely to provoke future disorders and crimes, and community safety issues affecting Kigali and suggest workable sustainable strategies.

It also intends to provide precise understanding of the degree of the current problem caused by street vending, vagabondage, prostitution and street children an evaluation of how the situation is presently changing, and predictions of how the situation will change in the future. This research suggests that adoption of responses and strategies in regard of street vending should be aligned with the problems.

2. LITERATURE REVIEW

Street vending is an urban phenomenon both in the developing and developed countries. Every day, the recurring scene of conflict between the street vendors and the city management authorities can be found in virtually every major city around the world from New York³⁷ in America to Dhaka³⁸ in Bangladesh, Johannesburg in South Africa to Harare³⁹ in Zimbabwe to Nairobi in Kenya⁴⁰ and Kigali in Rwanda. Unfortunately, the support of street vending argue that even though street vending brings nuisance to the street, provides accessible employment opportunities, and enhances goods and service provision in the city. In contrast those who oppose street vending argue that street vending is usually deemed as inefficient and counterproductive to urban economic development.

Street vendors are usually associated with criminal activities, prostitution, street children, vagabondage, traffic congestion, unhygienic and unsightly urban conditions, tax evasion, etc, therefore should not be tolerated.

37 Emily Anne Epstein, "Street Vendors to Rally at City Hall Tomorrow," February 15th, 2012, Metro New York

38 Sharit K Bhowmik, "Street Vendors in Asia: A Review" Economic and Political Weekly, May28-June, 2005

39 Stanley Kwenda, "Zimbabwe: Street Vendors' Protest Sparking a Revolution," January 19 'h, 2012, Inter Press Service News Agency.

40 Background Paper for the 2005 World Development Report on Street Vending In African Cities: A Synthesis of Empirical Findings from Kenya, Cote D'Ivoire, Ghana, Zimbabwe, Uganda and South Africa. Available at: http://siteresources.worldbank.org/INTWDRS/Resources/477365-1327693758977/BP_Streetvending_African_Cities.pdf. Accessed on 17/07/2016

Numerous policies and urban regulations are regularly devised to regulate street vendors as a way for the city governments around the world to fight an urban space war with street vendors.

Generally, the most common ways city authority regulate street vendors are: controlling the number of people (i.e., giving out licenses or permits), controlling urban public space (i.e., designating special street vending zones or locations), and building and relocating vendors to public market buildings. But, each of these typical strategies has had limited success and introduced problems. For example, in New York City⁴¹ and Boston⁴² street vendors are required to obtain a general vendor license or a food cart vendor permit, before they can offer their services in urban public places. However, the demand far exceeds the supply. In other cities, like Hong Kong or Bangkok⁴³ street vending is allowed (or quietly tolerated) in specific geographic areas in the urban environment with no or low tax and regulatory enforcement. However, store owners decry this concession as unfair competition that undercuts their prices. Or, in other circumstances, such as Singapore⁴⁴ in the 1970s or Mexico City in the 1960s, the government institutionalized street vendors by

41 New York City Government, Department of Consumer Affairs, <http://www.nyc.gov/html/dca/html/licenses/094.shtml>

42 Boston City Government, Public Works Department, <http://www.cityofboston.gov/publicworks/permits/prmvending.asp> Accessed on 12/01/2017.

43 T. G. McGee. "Hawkers in Hong Kong, : a study of planning and policy in a third world city" Center of Asian Studies, University of Hong Kong, 1974.

44 Sharit K Bhowmik, Street Vendors in Asia: A Review, Economic and Political Weekly May 28-June 4, 2005. Available at: <http://www.wiego.org/sites/default/files/publications/files/Bhowmik-Street-Vendors-Asia.pdf>. Accessed on 15/01/201.

relocating and consolidating them inside the off-street public markets. However, in many cities public markets are located in poor locations that do not support successful businesses. In general, how to spatially manage street vending is a troublesome challenge for many cities around the world.⁴⁵

The situation in Rwanda in terms of street vending is alarming. The most observable fact about Kigali City is its street vendors. Almost every street in this city has street vendors selling an array of items, clothes, ornaments, electronic items, etc. In fact the street vendors of Kigali City are known for their cheap price. The Kigali City Authorities have demarcated sites where street vendors can operate. There are not more 3 sites in the city.⁴⁶ The sites officially allotted for street vending are not sufficient for accommodating all street vendors.

Moreover, these areas do not cover all sections of the city and hence their so called customers are not catered to. This has again led to street vendors operating in unauthorized areas. This means that the majority of street vendors in the city operate in sites that are unauthorized. The City of Kigali being the capital city of Rwanda, it offers the high to street vending activities in Rwanda. Kigali city is the only cities in Rwanda where street vending is growing faster than ever and the sector is growing in unorganized manner which make the street vendors face a number of challenges. The major causes of migration from

45 Tavonga Njaya, Challenges Of Negotiating Sectoral Governance Of Street Vending Sector In Harare Metropolitan, Zimbabwe, Asian Journal of Economic Modelling, 2014, 2(2): 69-84

46 There are so far tow site known situated of Kinamba and Nyabugogo. These site are far less than what are requires

rural area to Kigali is the increase of job seekers in the rural area. Youth expect to get better life in the city. In other cities of Rwanda, the sector almost operates freely mainly because the number of street vendors is still low. Kigali therefore offers the best opportunities for youth to survive the poverty.

3. RESEARCH METHODOLOGY

Choosing an appropriate research methodology is an essential part of any research study. In order to achieve the aim and objectives of this research and answers to the research questions, this research has pursued doctrinal and non- doctrinal/empirical methods. Doctrinal method; (Secondary data) and Non-doctrinal (primary data). Secondary data: The secondary data was drawn from various sources such as: Books, Journals, and Law Commission Reports, Law magazines, Periodicals, Research papers/Articles, Internet web sites, Constitutions, International Instruments, Statutes, etc. Primary data: The primary data has been collected through, interviews and observations.

Based on the nature of the research topic which is sensitive in nature, the researcher chose to use general interview guide approach. This approach was intended to ensure that the same general areas of information are collected from each interviewee to provide more focus. It allows a degree of freedom and adaptability in getting the information from the interviewees. The main task in interviewing respondent was to understand the meaning of what the interviewees said. This interviews were particularly useful for getting the story behind a street vending

and street children's experiences. The interviewer pursue in-depth information around the research topic. Interviews were completed by the researcher based on what the respondent said.

Whilst, observation techniques were used to collect data in which researcher observe within a specific research field. It seeks to find out what is going on at the field. The value of observation technique, it allows the researcher to be able to understand better and capture the context within which people interact. It also allows to get first-hand experience with a setting. It gives the researcher to open to discovery and inductive, rather than guessing what the context is like. This technique provided chance to the researcher to learn things that street vendors and street children may be unwilling to discuss in an interview.

4. RESEARCH OBJECTIVES

The present research study sought to investigate the problems hindering the establishment of a sustainable regulatory framework of street vending in City of Kigali. The specific objectives of the study are:

- a. To identify factors promoting street vending in Kigali City.
- b. To evaluate factors hindering the establishment of sustainable regulatory framework of street vending in Kigali City.
- c. Assess whether exist strategies are well-versed to the challenges.

- a. To provide recommendations to enable planning and development of sustainable strategies to control and manage street vending in Kigali City.

The understanding, evaluation, and predictions will enable Kigali City Authority and its Partner Institutions to:

- a. Understand the magnitude of some overlooked anti-social behaviors having a negative impact on public order and increase of violence and assess the impact these will have on communities.
- b. Make well-versed decisions on partnership enforcement activities and resource requirements.
- c. Set strategic priorities for the Partnership to reduce disorder caused by street vending in the city of Kigali.
- d. Providing best practices which should be done about policing that has direct effects on public safety.
- e. Fight anti-social behavior with higher risks or tendency of turning into violence.

5. RESEARCH QUESTIONS

- a. What are factors are promoting street vending in Kigali City?
- b. What are the factors hindering the establishment of sustainable regulatory framework of street vending in Kigali City?

- c. Are existing strategies to fight street children and vending efficient?

6. DESCRIPTION OF THE MAGNITUDE OF THE PROBLEM

Notwithstanding the budget constraints there are major socio-economic and demographic change affecting contemporary patterns of crime prevention and control which demand new and faster responses.

The rapid increase in personal mobility and relocation from rural areas to Kigali City (*rural-urban migration*),⁴⁷ growing income inequality, increase of unemployment among youth, poverty, increase of street vendors (*hawkers*), creation of resistance of street vendors towards Law Enforcers, increase of prostitution, the breakup and family conflicts causing street children and anti-social behaviors, to name few, have created new threats, risks and new criminal opportunities in the City of Kigali. The major causes for rural-urban migration is the increase of job seekers in the rural and agriculture sector. Land does not expand, while population keeps on growing. Thus, over time there is insufficient agricultural land to accommodate all of the rural labor. So, more and more rural labor is crowded out of the agriculture sector. They have no place to go but to the cities, hoping to improve their lives. Cities become crowded with unrelenting traffic jams, public spaces are overtaken by unlawful tenant, disorder and crime rate

⁴⁷ Republic of Rwanda, Ministry of Infrastructure, Urbanization and Rural Settlement Sector Strategic Plan 2012/13-17/18. Available at: http://www.minecofin.gov.rw/fileadmin/templates/documents/sectorstrategic_plan/UrbanizationRural_settlement-SSP.pdf. Accessed on 18/6/2017

increases. People see the informal sector growing rapidly, street vendors encroach first the sidewalks, then the roads. On top of the growing number of vehicles, on already minimum amount of roads, this encroachment becomes unbearable. So, these create the needs among people to control this situation before it gets at higher level.

Rwanda is experiencing one of the most exciting and fastest periods of growth and socio-economic progress in its history. It was the tenth fastest growing economy in the world during the decade from 2000.⁴⁸ At the same time more than a million people have been lifted out of poverty. However much the Government of Rwanda is trying to introduce poverty reductions schemes,⁴⁹ there is section of society which has not yet benefited from such schemes. This has a negative impact in the sense that it creates other illicit activities such as street vending and begging, theft, vagabondage, prostitution, juvenile delinquency, etc. Thus, this leads to the need of conducting a research to study how this particular section of society would benefit from those governmental schemes of poverty reduction.

48 Rwanda: Poverty Reduction Strategy Paper, IMF Country Report No. 13/360, December 2013.

49 In line with Vision 2020 objective of transforming Rwanda into a middle income country by 2020, the overall objective of EDPRS 2 is Better quality of life of all Rwandans through rapid and sustainable economic growth (11.5% per annum) and accelerated poverty reduction (to below 30%). Though the average poverty level in the 3 Districts of the City of Kigali is 14.8%, efforts should not be spared to reduce this poverty level to manageable levels. Extracted from City of Kigali Development Plan (2013-2018)

7. STREET VENDING (HAWKING) AS ILLICIT BUSINESSES URBAN SPACES OF KIGALI

Street vending is the sub-sector of informal and illicit businesses that operate in urban spaces meant for other uses. The locations that street vendors took up are usually influenced by attractiveness, accessibility, number of customers (mostly pedestrians), less competition, allocation by city authority and the original site where vendor businesses started. Through informal discussion with the City of Kigali Authority ⁵⁰in regard to street vending, it was revealed that street vendors' prevalence is among the city's big challenge.

Like most other developing countries, Rwanda also faces the challenges of street families, delinquents, street vendors and other vulnerable groups like school leavers and drop outs who throng/crowd the city in search of life opportunities. There is a prevalence of many children who live on the streets, who are unaccompanied or placed in foster homes, who are compelled to work.⁵¹ While the city economy cannot provide job opportunities for all these job seekers and families, they have resulted into street vendors trying to secure a living. These street vendors are disorganized and can pose a security challenge.

To tackle this challenge, the City of Kigali has conducted a research on street vendors in all 3 districts of Kigali City

50 The discussion happen in at City of Kigali with Dr. Alphonse Nkurunziza, the City of Kigali Engineer.

51 Kigali City Development Plan (2013-2018) see also Rwanda National Employment Policy, 2007

to identify their statistics and sites where they conduct their activities.⁵² This would help to provide solution based on the context. The statistics will help to plan how street vendors can be shifted and grouped in different controlled areas. Sites have also been identified in 3 districts of Kigali City. As per the informal discussion it was informed that the remaining phase is to construct these identified sites thereafter relocate them. The author has identified following challenges to what City of Kigali is planning in regard to relocate street vendors.

Due to faster increase of mobility from rural area to the city, Kigali City Authority is in impossibility to halt that mobility and to maintain exact records of the numbers of street vendors. According to the City of Kigali Development Plan (2013-2018),⁵³ the research on street vendors has been conducted in 2013-2014. This implies that the Kigali City Authority can hardly have an adequately plan since the statistics keep increasing of the sector. There has also been minimal research in the area of street vending to see on what percentage or on what pace street vendors increase. Consequently, this present a challenge in terms of planning and implementation of its project of relocating street vendors.

Thus, neither the present research does not provide estimation of street vendors in the city of Kigali but it exposes the extent of the problem for adequate and sustainable solution. While it is still early to determine the long term effectiveness of this approach of

52 Informal discussion with the City of Kigali Authority, in June, 2016.

53 Available at: http://www.kigalicity.gov.rw/fileadmin/Template/Documents/policies/Kigali_City_Development_Plan_2013-2018_City_development_Plan_.pdf. Accessed in 26/06/2016.

grouping and space allocation, its emergence signals a positive change in the direction of the discourse regarding street vendors.

7.1. Characteristics of Street Vending

The difficulties which Rwanda faces today are of various origins historical, economic and demographic. The employment situation in Rwanda is characterized by a deteriorating labor market situation due to a number of factors. Street vending in the City of Kigali is characterized by lack of adequate and efficient organizational structures that can be utilized by interested stakeholders such as micro-financial institutions, the government and private sector organizations to improve performance. It also characterized by illicit activities, ease of entry, small scale of operation carried out in temporary structure in a variable locations without a fixed place.

They sell their products in unregulated, disorderly manner and competitive market environment without observing any fixed hours for vending. Street vending is on an illegal basis contrary to the government regulations. Unfortunately street vendors resist grouping themselves into cooperatives to use the shops for reasons that the rent is high, avoidance of paying tax and the location of the building claimed to be not accessible to customers. Instead, they prefer the open-air roadside stall lined such as *Biryogo*, quartier commercial, *Nyabugogo* car park, etc.

The research observed varied activities in employment context of street vendors that included: street vendors who sell goods on commission for formal or informal enterprises, permanent

vendors who regard vending as their primary occupation, independent and self-employed street vendors, street vendors who work as contributing family members, street vendors who work as employees of formal or informal enterprises, seasonal street vendors of specialty goods, opportunist vendors who only vend when an opportunity presents itself.

7.2. Factors Instigating Street Vending in Kigali

The driving forces behind street vending in the City of Kigali as a whole are diverse. The limited number of employment in the public sector and the existence of an undeveloped private sector in the country which is unable to create paying jobs in significant numbers have been voiced to be among main factors. This situation can also be linked to the low level of education and skills which does not allow the large part of the population to access gainful employment.

The following reasons were mentioned by some street vendors as the main driving factors behind street vending in City of Kigali: poverty, low and easy barriers to entry which makes street vending a refuge occupation, selling goods on commission for formal shopkeepers, failure to find jobs in the formal economy, quick and easy avenue to earn survival income, response to known demand from customers who prefer cheap things, easy accessibility and low initial capital requirements, no overhead costs of rentals, taxes and sometimes licensing fees, street vending does not require special skills.

7.3. Problems Associated with Street Vending

As per the findings of present research, following are problems associated with street vending as cited by City of Kigali Authority, shopkeepers, DASSO and drivers who are working in the City of Kigali: street vending obstructs the maintenance of law and order, some street vendors work in cohorts with criminals, non-compliance of rules and regulation of doing trade in the city of Kigali, overcrowding on walking pavements as vendors display their merchandise in front of licensed shops and offices, obstruction of fellow citizens doing their business, traffic congestion due to spill-over business of street vendors, illegal and hazardous products and unsafe foods are sold in the streets, car park, street vendors refuse (garbage) cause unpleasant urban view, dangerous environment caused by the absence of water and sanitation at some vending sites, (*dobandi* for instance), public utilities (water, electricity and waste disposal) are overstretched, etc.

7.4. Street Vendors as an Urban Management Challenge

Most people hold negative images of street vendors. This is true for the whole world, not confined only to the City of Kigali. Pedestrians are annoyed by their encroachment of sidewalks, criminals profit from that disorder to conduct their illegal activities. At some places such as *Nyabugogo* Car Park, quartier Commercial, *Biryogo*, to name few, it is difficult to walk straight and safely. People then will have to pass the narrow aisles between seller stalls walking sideways. When the sidewalks are

too crowded people are forced to step onto the road to walk, which is a very dangerous exercise. Drivers and other road users drive unsafely due to their road encroachment. In place like *Biryongo* it is very rare to park a car and come back after a while and find your car intact as you left it.

This research revealed that, for street vendors accessibility to customers is a key consideration and they strategically located on the streets to avoid formalization costs such as rent, taxes and licenses. Hence, the potential sites for street vending are the places with highest levels of pedestrians and vehicular congestion. This result into traffic accidents, increase levels of vehicle generated air pollution, impede the flow of Police, fire, ambulance, crowded sidewalk, and blocking the pathway. Some of store-owners or shopkeepers are also financially affected with street vendor's illegal use of the shops' front sidewalks, which the street vendor then modify to suit their own needs.

All this robs the sidewalk of its convenience and deters walking traffic into the stores, hence reducing the stores' business. Furthermore, in a minority of cases where the street vendors are selling similar goods to the shops, then the shops' business are directly threatened. They view street vendors as direct and unfair competitors since street vendors steal their customers out in front, before the customers enter the shop.

Moreover, there is another big challenge in regard of selling goods on commission for formal or informal Shopkeepers. The latter give some of the items to the street vendors to sell on commission basis. This keeps street vendors in the street since

they have an earning occupation and they are backed by business owners who defend them in various meetings between City of Kigali Authority, Districts Authorities and Shopkeepers.⁵⁴ This brings another challenges in terms of tax evasion perpetrated by Shopkeepers, who at the end of this exercise will draw one bill attributed to the all distributed goods claiming to have sold the goods in wholesale then pay less taxes while goods was sold in detail.

With so much antagonism directed to street vending, it is no doubt seen as an urban scourge or nuisance. Kigali City Authority would like to stop street vending, since they ruin city sights, create an opportunity for criminals activities, congestive, chaotic and uncontrollable.

7.5. Attitude of Street Vendors vis a vis Law Enforcers

Policing approach of law enforcement in regard of resolving street vending challenge is problematic in nature. Kigali City Authority regularly uses the District Administration Security Support Organ (DASSO), *Inkeragutabara* and Police powers to expel street vendors out of the streets of Kigali City. They mount surprise operations, catching the Street Vendors and their stuffs to be confiscated. The arrested Street Vendors were usually taken to Kigali Rehabilitation Transit Center (KRTC) and released after a quick “advice” session (encouragement for relocation or opting to other business), or held for a short period. The center receives people who undermine tranquility and public

⁵⁴ Informal discussion with District Administration Security Support Organ (DASSO) and one member of security in the City of Kigali.

safety, and those engaging in activities that could endanger the lives of others. They include prostitutes, beggars, drug users, pickpockets and street vendors. The center is only a transit route where some cases are referred to Iwawa Rehabilitation and Vocational Centre, Huye Rehabilitation Center which provide care and treatment to drug addicts others are sent back to their families and districts of origin.

Controlling behavior is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behavior. The Kigali Rehabilitation Transit Center (KRTC) management is not in a position (financially) to keep a big number of individuals. Still, many Street Vendors preferred to run away when faced with a street eviction operation. These operations of removing street vendors in the streets, are usually popular but has not yet yield remarkable impact due to poor implementation of policies and ineffective regulatory framework of street vending. The street vendors claim that vending in the street is the only choice to earn survival income.⁵⁵

When you take a promenade in the City of Kigali especially in hot spots, (quartier commercial, *Rubangura's House*, *Nyabugogo*, *Kisementi*, *Biryogo* etc..) sometimes you see DASSO, *Inkeragutabara* and Policemen evicting Street Vendors out of streets. These hot pursuits often ended up with bad air.

⁵⁵ This has been stated by one street vendor found in front of Rubangura House on 29/07/2016

The tired DASSO or *Inkeragutabara* became short-tempered, especially if the Street Vendors offered verbal and/or physical resistance to the confiscation of their properties. Sometimes violence erupted to the detriment of all parties concerned. Regular eviction operations raise antagonism among the Street Vendors. This is reasonable in light of property seizure and confiscation. Sometimes Street Vendors organized themselves to resist and fight back law enforcers refusing to leave the street which result into the violent resistance. However, the DASSO or Police would come back later with stronger force and the Street Vendors were evicted off the streets and sidewalks, for the time being. They always returned and DASSO or Police would have to mount another sweep.

It is not exaggerating to assume that this sweeping policy to deal with Street Vendors is not productive rather is seen like cat-mouse game. Thus, over time it looks as if this chasing tactics is a no win or lose-lose policy. For instance, on 7th June, 2016 when the author were conducting this research one unfortunate incidence happened in Quartier commercial wherein one of street vendors known as *Gashirabake Bosco* was knocked by a car trying to escape DASSO from being caught. Regardless of the illegal activities conducted by street vendors they will always be considered as victims and the blame will be shifted to the law enforcement agencies.

Not only street vendors suffer from this operation but the DASSO, *Inkeragutabara* and Police also are not happy with this operation of evicting the street vendors in the sense that they

are ordered to perform a task that is against human decency.⁵⁶ Street Vendors are not all criminals, only trying to survive. They know well that the some Street Vendors are simply attempting to feed their families. The accumulated effects of constant eviction operations, more so if many ended in violence, will either breed brutality among the DASSO, *Inkeragutabara* and Police or make them feel alienated or again create a bad and stronger resistance, as it is said in Kinyarwanda that (*Umugabo umwirukana kenshi ukamumara ubwoba*). This means that chasing some every day leaves him with no choice expect being resistant. This may create a bad reputation and mistrust towards law enforcement agencies.

8. HOW THE SITUATION IS PRESENTLY CHANGING AND WAYS FORWARD TOWARD REGULATION OF STREET VENDING

Although it is exceedingly difficult to produce accurate estimates of the number of street vendors in Kigali City, their number had significantly increased over the last 5 years. This however was not unique to Kigali as the number of street traders had been increasing worldwide.⁵⁷ Some of the factors behind the rise in the number of street traders included rural-urban migration of low skilled workers towards cities, redundancies caused by the worsening economic crisis and lack of employment opportunities in the formal sector.

⁵⁶ This has been stated by one Police Officer who is always tasked to perform street vending sweeping.

⁵⁷ ILO *Globalization and the Informal Economy: How Global Trade and Investment Impact on the Working Poor*, Geneva, International Labour Office, 2002

It has been observed that lack of statistics on street vendors sometimes makes it difficult to ascertain if their number is growing faster than would be accounted for naturally by urban population growth. In Kigali City, the rising numbers of street vendors raised concerns in the sense that some street vendors work in cohort with criminals, who take advantage in such disorder to conduct their criminal activities. Street vending is closely connected with the availability of urban public space, pavements, roads and car parks and many of the difficulties associated to the activity including the negative way it is perceived by the wider society are linked to the ways in which such spaces are managed by the authorities.

These changes present considerable challenges to the Police, such as: the rapid increase number of prostitutes, street children and street vending conducted on sidewalks in the city of Kigali likely to turn into criminals, confrontation and resistance of hawkers to the law enforcement agency, (for instance beating the Police and trying to snatch out his/her gun), increase of shoplifting, breaking into the houses and cars for stealing⁵⁸ increase consumption of narcotic drugs among the youth, increase of white-color crime (*Abatubuzi*), failure to respond on time and adequately to new kinds of offences and new ways of committing them, lack of effective regulatory framework of street vending, meeting increasing public expectations for security and the demand for a visible presence at a time.

58 Some have even branded themselves as Abakanguzi, (breaking into cars) Abakomanzi (distracting drivers to steal), Abanyarirenga, Abashikuzi (snatcher) Abamarine (living in Nyabugogo swam), Abakumbyi (steal anything).

8.1. Symbiotic Link between Street Children and Street Vending

The increasing number of street children population due to various factors such as family disrupt leads to an increasingly worrying street children problem development.

As per the research conducted by National Commission for Children (NCC)⁵⁹ in examining the main causes that made children to leave their families, 47.8% pointed out their parents' poverty as the main cause. Other causes that made children to leave their families included death of one of their parents (17.5%), lack of school fees and materials (14.1%), search for jobs (13.8%) juvenile delinquency (12%) and death of both parents (12%). Lack of caretaker or irresponsibility of parents was pointed out by 127 (11.8%) children while child labor and lack of time to play was pointed out by 2.3%. Other conditions that made children to go to streets included separation of their parents (8.6%), mistreatment by parents or step parents and other conditions as detailed in table 50.⁶⁰

Under the United Nations Convention on the Rights of the Child⁶¹ adopted by the United Nations

General Assembly in 1989, street children have the same rights

59 National Commission for Children (NCC), The Situation of Street Children in Rwanda:

Prevalence, Causes and Remedial Measures, March 2012. Available at: http://www.ncc.gov.rw/fileadmin/templates/document/the_situation_of_street_children_in_rwanda.pdf. Accessed on 30/07/2017,

60 Ibid, p.45

61 Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.

as any other children (right to education⁶², right to live with parents⁶³, right to protection⁶⁴, right to an adequate standard of living⁶⁵...). However, the current study showed that surveyed street children's rights are not respected in accordance with international conventions (Convention on the Rights of the Child, ILO Conventions on the elimination of child labor) and national legal instruments (Law N° 27/2001 of 28/04/2001⁶⁶ relating to rights and protection of the child against violence and Law n° 13/2009 of 27/05/2009⁶⁷ regulating labor in Rwanda) and the Rwanda Child Policy⁶⁸.

Dealing with the main causes that are pushing children to the street needs the concerted efforts of various stakeholders including the government, UN agencies, international actors, the Civil Society, Faith-Based Organization, parents and the community at large.

Street children face a situation in which their rights as child are getting reduced, whether in education, life sustainability, growth, or protection aspect. They are victims at first consideration and precarious elements of criminal activities. Street children are very vulnerable to the negative effect of environment on the street. Thus, many of them have social deviation, street children is frequently identified as a free, incompliant with rule, child committing negative activities such as stealing, quarreling,

62 Article 28 of United Nations Convention on the Rights of the Child

63 Article 9,10, 18 of United Nations Convention on the Rights of the Child

64 Article 4 United Nations Convention on the Rights of the Child

65 Article 27 United Nations Convention on the Rights of the Child

66 Official Gazette n°26 of 25/06/2012

67 O.G. n° special of 27/05/2009

68 National Integrated Child Rights Policy, 2011

drunkenness, drugs abusing, involving in free sex, etc. Coping with the street children problems is not easy but it can yield a positive impact on street vending, begging and vagabondage. So far, many attempts have been done in the City of Kigali by both governmental and non-government institutions to help the street children get out of the streets or at least relieving them from their anguish.

But all this has not yet yield a remarkable results. Consequently, when these street children are grown up they turn into street vendors to secure their survivals. This shows a connection between street children and street vending. For the street children and street vending management, protection attempt and empowerment to provide better outcome, all concerned institution are required to synergize to get the best solution for the street children and street vendors and then to formulate an appropriate and effective intervention program to coordinate the job division since there is notable connection.

The lesson learnt from this study shows that if efforts of reintegration and rehabilitation of street children are made in a conducive environment, there are good indications of producing good results. The issues of financial support, building capacities of institutions dealing with street children, mobilizing the general population on socio-economic factors that are contributing to the street children phenomenon are among the key to durable solutions.

9. CHALLENGES TOWARDS REGULATING STREET VENDING

9.1. Infrastructure and Sites of Operation

The infrastructure and sites of operation for street vendors is a major challenges. In consideration of Kigali master plan there is no place to accommodate street vendors.

Generally speaking, street vendor's legal status could act as a buffer or safeguard between their employment conditions and the range of employment risks outlined above. A vendor with a fixed structure in a designated market, for example Nyarugenge, Kimironko, may be more likely to hold a license and in turn would be less exposed to some of the risks identified. Likewise, a street vendor who works as an employee selling particular products such as clothes, newspapers or fruits may be better protected by the law and therefore less vulnerable.

This demonstrates that grouping and providing them specific sites to conduct their activities can help them to obtain their legal status. Giving legal recognition to street vendors through their cooperatives has tremendous benefits to the vendors themselves and government. For example, through Kigali Master Plan, construction of infrastructure that provides street vendors with basic facilities to conduct their business can be one of the mechanisms to control the situation. If each vendor will be allocated a space for trading can produce more security, income and income potential. However, issues of legality and formalization would revolve around following basis issues,

namely, grouping street vendors into cooperatives to retain the ability to regulate and control the operations of street vending; control urban public space through designating special street vending zones or locations, control the number of people through giving out licenses or permits, build and relocate street vendors to public market buildings and punish people who evade taxes through this unregulated street vending. This can be complimented by reconstruction of Nyabugogo Car Park for specific purpose and developing secondary cities to support City of Kigali. But why has formalization of street vending been elusive in the City of Kigali?

9.2. Policy and Regulations all Against Street Vending

The Policy and regulation in management of city are all against street vending. The status of street vending in Kigali City is defined by the laws that control and regulate their operations. It is observed that street vendors are the most restricted and least protected by law policy and regulations in the City of Kigali. Most cities have laws that restrict the ability of street vendors to engage in trade. The existing policies, laws and regulations for business licensing and ensuring law and order for self-employment are all applied to the detriment of street vendors and their interest and right to carry on trade and business. Most cities prohibit trade within the down town, an area most preferred by vendors due to the immediate availability of buyers. The laws provide powers to urban authorities to forcibly remove any nuisance, obstruction or encroachment on street or any public place.

One of the areas where street vendors can be greatly regulated is through grouping them into cooperative and licensing. It has been argued that, while it is understandable that Kigali City Authority cannot afford to let vendors occupy entire urban space, whatever measures are adopted towards vending activities, should be aimed at increasing their integration into the urban economy, and not pushing them out of the streets. Because, it cannot be possible rather can produce bad air and mistrust toward the government. Something also one should not forget that they are also another section of society who afford cheaper things.

For instance, the study conducted in Nairobi illustrates the problematic nature of policies relating to street vendors.⁶⁹ The study notes that the prevailing policies do not reflect the prevailing reality of Small and Medium Enterprises. Since the policies do not reflect a realistic situation, the urban authorities in Kenya have serious problems of enforcing the policies and regulations. The situation is complicated by the fact that most street vendors are not aware of the laws and regulations that govern their operations.

This contributes to their harassment. These regulations include: trading in specified areas, causing obstruction, illegality of vending sites not allocated by the city authorities, trading in unauthorized goods, notice being given before eviction and demolition, and requirements to return goods once the matter is settled. The policies applicable to street vending in most urban areas of Kenya owe their origin to colonial period and have

⁶⁹ Winnie V. Mitullah , A Review of Street Trade In Africa Working Draft, University of Nairobi, May, 2014.

hardly been reviewed. Most traders do not know the regulations, although officials of street vendors associations were found to be comparatively aware of the regulations. However, they observed that in many cases, the urban authorities act outside the regulations. They noted that while urban authorities require street vendors to maintain cleanliness of trading sites, they provide no services. Street vendors are not provided with services such as provision of water, storage facilities and garbage collection. They further observed that there was laxity among public health officers, and yet street vendors are able to observe the regulations.⁷⁰

This experience from other cities can be drawn as lesson to the management of Kigali City and its partners. Moreover, lack of adequate and efficient organizational structures that can be utilized by interested stakeholders such as micro-financial institutions, the government and private sector organizations to improve performance is another challenge. It can be noted that the challenge to the City of Kigali Authority is how to assist the sector and get organized in order to maximize its economic potential.

9.3. Street Vending Causing Congestion and Human Traffic

Some Street Vendors claimed that their activities do not in any way cause congestion and human traffic in any way rather it is caused by the fact that the city might be due to overcrowding of sellers, buyers and pedestrians and travelers who are going about their daily activities. However, pedestrian patronize

⁷⁰ Ibid,

their goods on pavement hence they are force to sell on these walkways thereby delaying human movement. Some admitted that sometimes they break the rules. Others noted that their items can only be well patronized if displayed on the street pavement.

10. WAYS FORWARD TOWARD REGULATION OF STREET VENDING

10.1. Set Regulatory Mechanism from Prohibition to Regulation of Street Vending Through Licensing

The policy environment for street vending is a function of both the legal context and the political environment.⁷¹ In terms of the legal context, Rwanda has constitutional provisions related to the individual rights to work and to private property and the collective rights to public space and economic association that also cover street vendors. However, aside from these constitutional provisions, Rwanda should revise its national policy to regulate street vending from prohibition to regulation. Regardless of the fact that a big number of the population derived its livelihoods from the informal sector which included street trade, the latter should be regulated since it has an importance particularly for Rwanda where the formal jobs are decreasing. In the literature countries that have national policies on street vending include, United States of America, United Kingdom and France, India, Peru, Barbados and Bahamas in Caribbean Islands, Singapore are countries in the world where street

⁷¹ Women in Informal Employment Globalization and Organizing, 2012. Some information are missing???? Likn author...

vendors are licensed. For instance, in India, a national policy on street vending was adopted in 2004⁷² reflecting a change from prohibition to regulation. In order to give legislative support to the national policy on street vending, the Federal Government of India passed the Protection of Livelihood and Regulation of Street Vending Bill⁷³ which protects street vendors from harassment and eviction. The Bill was an outcome of organized advocacy of street vendor organizations and federations across India under the National Association of Street Vendors.⁷⁴ In Dar es Salaam, Tanzania, street traders were issued licenses and allowed to operate in the early 1990s.⁷⁵

In Rwanda we should see what works best for Rwandans we do not have necessary to imitate others' practices. One thing Kigali City Authority with its Partners should learn is to refrain from excluding street vendors out of the city but it should seek how to establish regulatory mechanisms of street vending through licensing, grouping them in cooperatives, locating them in designated sites based on their areas of working. There should be an establishment of department dealing with issues of street vending.

72 Ministry of Urban Employment and Poverty Alleviation, Government of India, National Policy For Urban Street Vendors. Available at: <http://muepa.nic.in/policies/index2.htm>. Accessed on 27/06/2016.

73 The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Available at: <http://www.indiacode.nic.in/acts2014/7%20of%202014.pdf>. Accessed on 27/06/2016.

74 Ibid,

75 Michal Lyons, Alison Brown, Colman Msoka,, LEGAL EMPOWERMENT AND MULTIPLE REFORM AGENDAS: What keeps Tanzania's micro-traders illegal?. Available at: https://www.lsbu.ac.uk/__data/assets/pdf_file/0008/9557/what-keeps-tanzanias-microtraders-illegal-refugee-studies-research-working-paper.pdf. Accessed on 10/08/2017

The department should be mandated to check that there are no unlicensed hawkers and issue licenses to those wanting to hawk goods on the pavements. Like in Singapore, there should a national programme aimed at building food centers and markets to resettle licensed street food hawkers. The programme should provide basic stall facilities and services such as piped potable water, electricity and garbage collection and disposal to avoid any nuisance which may be caused by street vending activities.

10.2. Aligning Strategy to the Problem

The major challenge seemed to be is the City's master plan which is not allocating specific and controlled space to street vendors. The modern development approach is oriented towards shopping malls which are not built on the concept of a public that cannot afford to live expensive lifestyles. The Kigali city master plan should be aligned and adapted to the changing circumstances to accommodate street economic activities but at the same time retaining the ability to regulate the operations of street vending. Street Vendors are victims at first consideration and precarious elements in a carefully laid urban structural design. In order to integrate street vendors meaningfully into urban planning, it is essential to see urban spaces as multi-functional and multilayered instead of linking urban space to one function. Currently, a majority of the street vendors are free riders of urban space and public utilities (water, electricity, waste disposal and toilets).

The research reveals that lack of formal association or cooperative(s) among street vendors hinders to gain recognition by the state. According to formal discussion with various

shopkeepers in the so called Quartier Commercial, it was revealed that the policies and regulations are rigid and insensitive to their problems. It was suggested that the City policy should be adapted to the changing circumstances to accommodate street economic activities but at the same time retaining the ability to regulate the operations of street vending. As one of street vendors stated *“this regulation is required because some are in the street for vending to get survival income although it is illicit⁷⁶ because the government has done it so and others are taking advantage of disorder created by us to conduct their criminal activities.”* Street vending is very challenging to regulate due to rural-urban migration and it involves financial stability from the Government. The Kigali City Authority and its Partners need to prioritize this issue and find a quick solution before this situation gets impractical.

10.3. Street Vending Policy Place Management

There should be the policy to secure the rights to space to sell for street vendors. While the issue is closely related to their legal status, it should be approached from a city planning perspective. How spaces are defined and planned is critical for street vendors, who are seen to occupy public space, sidewalk and disturb order in public spaces. The challenge for policymakers now is to translate the newfound recognition of street vendors as an integral part of urban life into space management systems. Poverty policy is about managing the relations within poor areas and between these and the prosperous areas. Policies on poverty

⁷⁶ One respondent opined that street vending is illicit because government has done it so. If the government changes this policy and makes the street vending legal and regulate it through licensing it can be a best option.

are not contained within a particular scale, but it typically relates and contrasts the different scales. Street vending policies are not only for allotting them to sell in a small corner of the market, but about how these spaces are integrated in relation to other urban spaces, and how the space management is strategically positioned within urban development policies.

In other words, the whole framework needs to be inclusive towards the urban poor and street vendors in Kigali and city beautification campaigns should not be prioritized at their expense. In regard of accommodating street vendors in the City, the spaces should be identified as having potential to accommodate a secondary function without disrupting the primary function. There should be a developed open space as the main method for providing better facilities for street vendors. This can work better if the space management is more responsive to the vendors' situation and needs.

10.4. Promotion of Secondary Cities

Development of secondary cities is the subject of interest to halt rural-urban migration. In development of a country it is very important to promote secondary cities and market towns to meet the challenges brought by rural-urban migration. As far as street vendors are concerned, this study suggests that while developing secondary cities the approach of grouping street vendors into cooperatives in designated specific and controlled sites shall be replicated in other cities of Rwanda because it has been realized that the majority of street vendors are not originated from Kigali. From the point of view of researchers, secondary cities

have the potential to provide attractive alternative destinations for city bound-rural migrants. It will not only serve as market intermediaries, but also create employment opportunities. This would create less strain and burden on Kigali City, and help to alleviate urban poverty.

It is important to promote secondary cities in order to encourage agricultural and other rural development and slow the growth of population in City of Kigali. The concentration of population and economic activity will be spread over all these cities, which produces less strain on City of Kigali. Policies which promote secondary cities benefit the population as a whole. Although it takes a consolidation of policies to properly manage rural-urban migration, secondary cities help to give people options. These cities provide farmers with ease of access to markets and storage facilities for their goods, and increase efficiency, which leads to economic growth. The existence of these cities will provide an incentive for rural-urban migration, because persons will not have to travel as far to seek employment in the capital.

11. CONCLUSION AND RECOMMENDATIONS

11.1. Conclusion

The most basic finding from this study is that street vending have occupied the streets of Kigali and have become an increasingly visible and troublesome to the City of Kigali management and Law Enforcement's efforts to maintain public order. Street vending is characterized by lack of adequate and efficient organizational structures that can be utilized by interested

stakeholders such as micro-financial institutions, the government and private sector organizations to improve their performance of trade. The present research reveals that, in the City of Kigali, street vending activities, if not regulated and controlled can be a sponge that absorbs large numbers of disorder and anti-social behaviors which indicate higher risks or tendency of turning into crime or violence creating national security threat which has an impact on almost every aspect of the individual's wellbeing.

The rising numbers of street vendors raise concerns in the sense that some street vendors work in cohort with criminals, who take advantage in such disorder to conduct their criminal activities. There is a great risk that criminals would disguise themselves into street vendors to be able to sneak into residential areas for stealing or conduct other criminal activities. Therefore, this section of society (street vendors) should be regulated to prevent that enemies of the country to take advantage and use them in negative way.

Once regulated and controlled it can acts as a substitute of employment for those who lacked such opportunity in formal sector due to low level of education or lack of sufficient capital. The Government of Rwanda should pass law to regulate street vendors from prohibition to regulation and ensure that law is effectively enforced. With this in place street will be virtually devoid of congestion, chaos, and obscenity, human and vehicular traffic.

11.2. Recommendations

Based on the research findings following are recommendations: The City of Kigali should synergize with other partners to enforce following recommendations.

11.2.1. Short Term Recommendations

- a. In collaboration with local authorities, contributing to the public awareness on street children phenomenon.
- b. Create a street children population monitoring mechanism to monitor their movements from one area to another, from their families to street or Rehabilitation centers back to street. The same mechanism should monitor new births in the street and make proper referral systems for such babies. This can be simplified by collaborating with village authorities (Umudugudu) and the community which should be considered in finding solution to new cases of street life.
- c. Designing a training module for parents and for community mobilization on children's rights, community responsibility to child protection and family conflict resolution.
- d. Building the capacity of local authorities on fundamental rights of children and their roles in child protection and family conflict resolutions.
- e. Ensuring the enforcement of child rights, including those related to street children, as outlined in international

conventions, treaties, protocols and national legal instruments.

- f. Developing effective short, medium, and long-term policies and strategies to deal with low enrollment rate, school drop-outs of street children, and developing street children oriented literacy education curriculums.
- g. Reviewing the existing strategic plan for street children and developing an action plan aiming at addressing the plight of street children in Rwanda.
- h. More efforts and care should be put in place to mitigate the impacts of socio-economic challenges on children with a special focus on the street girl child who suffers most.
- i. The findings on drug abuse among street children are very alarming as it gives a perspective of drug abuse amongst Rwandan youth.
- j. More efforts to fight drug abuse must be put in place. Anti-narcotic police units and stakeholder should conduct investigation on sources of these drugs bearing in mind the above mentioned very high abuse of drugs amongst street children who are believed to have no means to afford these drugs.
- k. Support the promotion of child rights and family responsibility.

- l. Support capacity building of stakeholders on street children phenomenon
- m. Registration of street vendors is necessary because it helps the authorities to know the right number of street vendors on the street. This would also help the authorities to regulate the activities of street vendors and also give them license to legally operate.
- n. Provide hospitality, care, love, good living conditions, education and protection to reintegrated children.
- o. Parents and the community have the responsibilities for the wellbeing of reintegrated children and must be accountable for any children dropping out from family reintegration.
- p. Street vending should be modernized and accepted as part of the informal economy and appropriate agencies to create room for them to operate.
- q. The City of Kigali should group street vendors into cooperatives to retain the ability to regulate and control the operations of street vending. This will also stop those people who disguise themselves for criminal purpose.
- r. Alternative places must be made available to street vendors to conduct their activities at affordable price. These places include specific streets, market stalls, selling points, shop etc. Controlling urban public space through designating special street vending zones or locations and

selling point and relocating vendors to public market buildings. The street vendor shall only be set up in the location set forth in the operator's permit issued by the Kigali City Authority, and shall not impede, endanger or interfere with pedestrian or vehicular traffic.

- s. The Government of Rwanda should pass law to regulate street vendors from prohibition to regulation and ensure that law is effectively enforced. With this in place street will be virtually devoid of congestion, chaos, and obscenity, human and vehicular traffic. It is recommended that the state should consider introducing a licensing regime under which all street vending would have to obtain a license which should spell out the conditions under which they could operate.
- t. Punishment of people who take advantage of street vending to evade taxes.

11.2.2. Medium Term Recommendations

- a. Carrying out comprehensive assessment of every street child and creating a database in order to update data, monitor and evaluate extent of policy responses and design future evidence-based approaches.
- b. Conduct more researches to understand the expectations of street children which will inform the design of programmes. Children with special needs such as those living with disability should also be considered.

- c. Technical/institutional and financial support stakeholders working on rehabilitation and integration of street children.
- d. Supporting reintegration follow up activities and ensuring that street children protection is guaranteed and sustained.
- e. Strengthen the rehabilitation centers' capacities in areas of resources (financial) mobilization, infrastructures and equipment and improve the human resources qualification.
- f. Intensify regular home visits after street children reintegration and continue to work on the problems identified in collaboration with parents, families, community and local authorities.
- g. Providing education, adequate standard of living, supervision, guidance and protection to children, avoiding familial conflicts, adhere to family planning.
- h. Government and other private financial institutions should provide financial support in form of loans and grants to these street vendors to engage in other business ventures. This is because from the findings it is obvious that most street vendors wish to do other business. In the provision of financial support for street hawkers either in the form of loans and grants would go a long way not only improving the welfare of the street vendors but also keep them out

of the street. This financial assistance would help them to pursue their education, to own their shops, to learn a trade and vocation such as bakery, masonry, hairdressing, dressmaking and farming to name a few. Other positive effects of this intervention are that; Streets in Kigali would be virtually devoid of congestion, immorality, human and vehicular traffic and other social vices.

- i. Street vendors should be encouraged and assisted by non-governmental organizations, governmental organizations, and civil societies among others to be more vibrant associations that will advocate for their welfare and champion their cause.

11.2.3. Long Term Recommendations

- a. Invest more efforts on assessment of individual cases and apply proper and specific solutions to every case as an entry point for rehabilitation and reintegration process.
- b. Reintegration should be conducted continuously as it is conducted and proper measures taken.
- c. More efforts for reintegration of children living with disability should be made. Rehabilitation centers should provide at minimum packages of services for children living with disability such as special education, better accessible infrastructure.

- d. The fact that street nostalgia was one of leading cause that made children to go back to the street, there should be added emphasis on the observations made on services provided in the rehabilitation centers. The recommendation to have an individual child needs assessment done and effort to meet individual child expectations should be considered. Other factors to be considered here are abuse of drug which might be the cause of street life nostalgia if this is the case, drug rehabilitation efforts should be in place in all rehabilitation centers.
- e. Creating vocational training centers for street children and set up the norms and standards for those centers including the minimum package programs or services.
- f. Set up an effective advocacy and coordination mechanism of national and international stakeholders involved in the delivery of services for street children.
- g. Developing effective approaches or strategies for recruitment, rehabilitation and reintegrating street children in the families or in communities. As stipulated in different legal instruments (national and international) the natural environment for children to live in is within their families, enjoying sound familial relationships that provide them with love and tolerance as well as care and protection. Parents or others responsible for the child have

the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development and all reintegration efforts should consider solving socio-economic issues that make children to go to street from the grassroots.

- h. Development of secondary cities should take into consideration the inclusion of street vending. Secondary cities have the potential to provide attractive alternative destinations for city bound-rural migrants. It will not only serve as market intermediaries, but also create employment opportunities. This would create less strain and burden on Kigali City, and help to alleviate urban poverty.
- i. Government should tax the street vendors and their contribution must form part of the national income accounting. This is because street vendors forms an integral part of the informal sector and accordingly contributes to the growth of that sector in particular and the entire economy in general.
- j. In fact the authorities as a matter of agency should provide both formal and non-formal education for the street vendors. Thus, they should sponsor those street vendors who wish to continue school and train others in technical and vocational education to improve their livelihood that would guarantee a better future.

11.3. Scope for Further Research

This research study recommends the following areas of great importance that need to be researched on in relation to the street activities.

- Carrying out comprehensive assessment of every street child and creating a database in order to update data, monitor and evaluate extent of policy responses and design future evidence-based approaches.
- Conduct more researches to understand the expectations of street children which will inform the design of programmes. Children with special needs such as those living with disability should also be considered.
- Conduct research in the area of street vending to see on what percentage or pace street vendors increases
- Street Vending and its Impacts on Peace and Security.

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STRIVING FOR AN ATTRACTIVE AFRICAN HUB FOR INTERNATIONAL COMMERCIAL ARBITRATION

A case study of the Kigali International Arbitration Centre

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ABSTRACT

Arbitration is a private way of resolving disputes with binding effect that may arise from a contractual relationship or another kind of relationship. This alternative mode of dispute resolution is undoubtedly one of the oldest but still popular methods of settling dispute. When compared to litigation, the arbitration process is hailed notably for its confidentiality, flexibility and less time consuming.

Until recently, the use of arbitration in solving commercial disputes was not well known in Rwanda due to the fact that it is fairly a new concept and there was limited awareness among the general public. The legal framework governing arbitration is very new. Several legal instruments were only adopted these last years to regulate the matter. Among them are notably, Law No. 005/2008 of 14/02/2008 on Arbitration and Conciliation in Commercial Matters and Law No. 51/2010 of 10/01/2010 establishing the Kigali International Arbitration Centre and Determining its Organisation, Functioning and Competence. The main purpose of the current legal framework is to provide a speedy and effective commercial dispute mechanism to reduce the workload/backlog of the courts. Establishing an institutional arbitration administered by Kigali International Arbitration Centre, a specialist arbitral institution governed by its own rules of arbitration has tremendously contributed to the use of institutional arbitration in Rwanda. Today, 83 cases have been filed with KIAC in its first 5 years and with parties from more than eleven different countries worldwide (Rwanda, USA, Kenya, Italy, Pakistan, Senegal, South Africa, Dubai, Germany,

Uganda, India, France, China, Turkish, and Zambia). This is an unbeatable and incomparable achievement for a newly established arbitration institution.

The role played by KIAC and the Rwandan Government in the operationalization and tremendous growth is very remarkable. An analysis of current KIAC arbitration system reveals several strengths and opportunities for the Centre to serve as an international hub in Africa for effective commercial arbitration. However, some challenges are also observed for the institution to stand firmly in the worldwide competition.

This paper offers an analysis of a model of evolution of an arbitral institution in Africa based on a case study of Kigali International Arbitration Centre and the extent to which it positions itself as an African and International venue of choice for commercial arbitration. Specifically, the research paper examines the role played by the newly established institution and the Rwandan government. The author identifies opportunities, challenges and proposes the measures needed to improve the effectiveness of KIAC institutional arbitration.

The paper was prepared using desk review research. The researcher used analytical method whereby legal texts, textbooks, as well as electronic sources that are in relation to the subject matter. When analysing the data, the author used the comparative method and used the synthetic method to complement the analysed data. This paper is also based on decisions issued by courts of Rwanda from 2008 to 2016.

INTRODUCTION

Rwanda is a country that has been affected by the 1994 Genocide against Tutsis. Consequently, the society was severely and negatively affected. The justice sector was one of the most affected by the genocide. Its infrastructures were devastated and its personnel exterminated. Since 1994, the urgent duty of the post-genocide government was to rebuild the entire country and the justice system in particular. An effort to definitely address the past injustice, forging unity, reconciliation and peace among Rwandan communities was made. In this scope, several legal instruments were adopted to re-invent the institutions and uplift the level of justice standards. Criminal justice, civil justice and commercial justice were all concerned by the reforms.

As far as commercial justice is concerned, a reform aimed at improving the legal environment of business, investment and economic development was envisioned. This reform led to the creation of commercial courts. At the same time, alternative disputes resolution such as arbitration and conciliation were introduced to offer alternative solutions to business and investment disputes.

The first section presents the policy and legal framework of arbitration in Rwanda (I). It critically analyzed the critical factors that make Rwanda an arbitration friendly jurisdiction (II). I will also assess the success indicators of KIIAC as an African arbitral institution (III). The last section will discuss key suggestions for making Rwanda an attractive International venue for arbitration (IV). At the end, a summary conclusion has been presented.

I. OVERVIEW OF POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING ARBITRATION IN RWANDA

1. Meaning of arbitration under Rwandan law

Article 3 (2) of the Law n° 005/2008 of 14/02/2008 on arbitration and conciliation in commercial matters defines arbitration as ‘a procedure applied by parties to the disputes requesting an arbitrator or a jury of arbitrators to settle a legal, contractual or another related issue’.

This definition is not very clear. It does inform the reader about certain aspects of the arbitration process such as the binding effect, the procedures, etc. Butler and Finsen define arbitration as ‘a procedure whereby parties to a dispute refer that dispute to third party, known as an arbitrator, for a final decision, after the arbitrator has first impartially received and considered evidence and submissions from the parties.’⁷⁸

It is worthy to note that arbitration is a private way of resolving disputes with binding effect that may arise from a contractual relationship or another kind of relationship.⁷⁹ An arbitration proceeding is administered and managed by a knowledgeable, independent, and impartial third party and the parties to a dispute present their arguments and evidence to the arbitrator who decides the case and resolves the dispute.

⁷⁸ Butler, David and Finsen Eyvind *Arbitration in South Africa, law and practice* (1993), p. 1.

⁷⁹ About arbitration and mediation, Available at <http://www.arbitration.co.za/pages/about.aspx>.

2. Arbitration and business dispute resolution

The legal and judicial system of every country or institution plays an important role in providing the confidence to international investors. It is often said that a sound legal system is a key to the economic development and social stability of a country. Therefore, good economic growth depends on a viable legal framework. This viability requires legal systems that are consistent with economic realities and providing rules of commercial disputes.

It is in this context that arbitration, which was mainly an institution of peace, aimed at establishing the rule of law to restore harmony between people destined to live with each other has also been introduced by many countries in commercial matters as an ultimate way of settling disputes arising from international trade.

The motivations of using arbitration as one of the method of settling business and investment disputes⁸⁰ are of several kinds: the longing for justice to be administered efficiently, the parties wish to see a different law applied other than that prescribed by the State, for example a right based on the usage of trade or *lex mercatoria*.⁸¹ Parties wish that the dispute be settled, as quickly as possible to their mutual satisfaction and that it will not lead to a break down in their business relationships.

80 A Redfern and M Hunter Law and practice of International Commercial Arbitration 4ed (2004) 1 Sweet & Maxwell.

81 Y Dezalay and G Bryant Garth Dealing in virtue: international commercial arbitration and the construction of a transnational legal order (1996) 3 University of Chicago.

Furthermore, the type of disagreement that arise between the parties could involve certain technical issues which would best be dealt with in arbitration as both parties might be more willing to hire a specialist in that field. This will be the case when for example a case involves construction contract where engineers are likely to master the matter under dispute. Arbitration can also save time as the parties are free to decide when and where they can meet. Furthermore, arbitration seems to satisfy businessmen in that it meets the key requirements of commerce such as confidentiality. It is in that perspective that institutions advocating for arbitration were created⁸² such as International Chamber of Commerce (ICC),⁸³ International Centre for Settlement of Investment Disputes (ICSID)⁸⁴ and London Court of Commercial Arbitration (LCIA).⁸⁵ Two of them are most common in international commerce. The most famous and oldest is the International Council for Commercial Arbitration (ICA) and the ICSID.

3. Arbitration in Rwanda Government Justice strategy

Justice, Reconciliation, Law and Order Sector Strategy (JRLOSS 2) is one of the key component of The Government of Rwanda medium term development policy in the second Economic Development and Poverty Reduction Strategy (EDPRS 2).

82 A Redfern and M Hunter op. cit. note 1 at 48.

83 Established in Paris in 1923.

84 Established in 1966.

85 Founded in 1842.

The strategy outlines the Government’s agenda and priorities over the five-year period from July 2013 to the end June 2018.⁸⁶ The overall objective of the JRLOSS is “to strengthen the rule of law to promote accountable governance, a culture of peace and enhanced poverty reduction,”⁸⁷ through five prioritised outcomes.

Arbitration is included in the said strategy. In fact, it is part of the Outcome 4 - Enhanced rule of Law, Accountability and Competitiveness.⁸⁸ Under this component, the strategy focuses on key actions in relation to creating infrastructures, legislation and mechanisms by which competitiveness can be enhanced and access to justice promoted. In particular, the said policy-document focuses on all arbitration and ADR-related outputs and activities. Among those activities, one can mention the review of the arbitration legal framework including but not limited to the 2008 arbitration law, the development of arbitration and ADR policy and the creation of synergies between the Judiciary and the newly established Kigali International Arbitration Centre.

By enacting a modern legislation on arbitration, the government has understood that a more effective use of arbitration has a range of benefits. Arbitration can notably create a better business environment through reducing court caseload burdens, improve clearance rates, and raise efficiency of the administration of justice.

86 Justice, Reconciliation, Law and Order Sector Strategy (JRLOSS 2) 2013-2018

87 Ibid

88 Ibid

Arbitration offers to parties in disputes an increased access to justice, while providing quicker, cheaper and more tailored outcomes than is possible through the courts.

I. CRITICAL FACTORS THAT ADVOCATE FOR RWANDA AS AN ARBITRATION- SUPPORTIVE JURISDICTION

The Government of Rwanda had a vision of a world-class arbitration center. This is materialized in the arbitration supportive legal and institutional frameworks envisioned since the conception of the arbitration project.

1. Background of arbitration legislation in Rwanda

Arbitration was historically introduced in Rwanda as a chapter of the civil and commercial procedures code of 15 July 1964. This was a very summarized piece of legislation. During the law reform of 2004, the law no 18/2004 on code of procedure, commercial, social and administrative inserted an entire title of 33 articles on arbitration.⁸⁹ The content of this legislation was based on the Belgian arbitration legislation. This legislation was changed in 2008 with the adoption of the Law n° 005/2008 of 14/02/2008 on arbitration and conciliation in commercial matters. During its initiation, it was very clear that the legislator wanted to make the 2008 law as compatible as possible with the Model Law in order to reflect the best practice in arbitration

⁸⁹ Title VIII from article 365 to 398. See the Official Gazette Special bis of 30/07/2004.

and inspire trust to its users. It is obvious that the current law is based on UNCITRAL Model Law.

Through the 2008 Act, Rwanda has really revised and modernized its arbitration legislation in order to provide for the needs of the development of arbitration as an ideal system for business disputes resolution. Unlike the 2004 law⁹⁰, the current legislation favors arbitration in different ways. First for all, the law recognizes and respects the parties' choice of arbitration. Any valid arbitration clause contained in a contract will automatically turn court to lack jurisdiction. Secondly, the current legislation provides clear arbitration process. Thirdly, the law minimizes all unnecessary court intervention in the procedures except where so provided in the law itself. Finally, the said law has served as a reference for the establishment of Kigali International Arbitration Centre.

2. A path to a modern arbitration law

Before the establishment of the current legislation on arbitration, Rwanda had a very old legislation of early sixties.⁹¹ By establishing a modern legislation on arbitration and other ADRs, the Rwandan Government has played a key role in promoting arbitration. As said above, the matter is primarily governed by the Law No. 005/2008 of 14/02/2008 on Arbitration and Conciliation in Commercial Matters (Arbitration Law), and the Law establishing the Kigali International Arbitration Centre (KIAC).

⁹⁰ See the Official Gazette Special bis of 30/07/2004.

⁹¹ www.amategeko.net

Beside these two laws, other laws, with reference to arbitration, have also been put into place such as the Law No. 26/2005 of 17/12/2005 relating to Investment and Export Promotion and Facilitation (Investment Law), the Law No. 13/2009 of 27/05/2009 Regulating Labour in Rwanda⁹², the Law No. 50/2007 of 18/09/2007 determining the establishment, organization and functioning of cooperative organizations in Rwanda.⁹³

3. The establishment of Kigali International Arbitration

A. The initial project and the creation of the Centre

One of the key achievements towards a supportive policy in arbitration was the creation of Kigali International Arbitration Centre by an Act of the Parliament. The Centre was created as an initiative of the Rwanda Private Sector Federation (RPSF), supported by the Government of Rwanda as part of investment climate Reforms. This initiative emerged as a response to a need expressed by economic operators facing delays in courts. An initial study on the creation of the Centre was commissioned by the Private Sector Federation.⁹⁴ The purpose of the study was to draw a roadmap to promote the effective and efficient use of

ADR means in commercial dispute resolution to complement
92 Articles 143 to 148 which provide for referral of collective employment disputes that are not amicably solved to an arbitration committee

93 Articles 129 - 130 provides that disputes not resolved amicably through the board, are referred to arbitrators appointed by the parties. The arbitrators' decision is appealable within 15 days.

94 D. AMEYO, Study of promotion and other alternative modes of commercial conflict resolution, June 2008.

the existing civil and commercial justice reforms. One of the first conclusions of the report of the study revealed that Rwanda ‘recognizes that the existing arbitral institution⁹⁵(s) might be both inadequate and ineffective in addressing the modern concerns of commerce and investment’⁹⁶. The Study recommended a Centre established by a Law.

After the approval of the said study report, a Draft Bill on Law establishing the Center and determining its functioning was prepared and approved by the Government. The Draft Bill was passed by the Parliament and published in the Official Gazette No. 09 *bis* of 28th February 2011 under law n° 51/2010 Of 10/01/2010 establishing the Kigali International Arbitration Centre and determining its organization, functioning and competence. KIAC was established as an organ operating under the Rwanda Private Sector Federation (PSF) with the support of the Government of Rwanda.

B. A wide mission given to the Centre

During the establishment of the Centre, the Government has given KIAC a wide mission in promoting arbitration and ADR. In fact, as an ADR Centre, KIAC has been given the ordinary function of case intake and administration and process management once a case has been registered. These two activities are service-delivery oriented. KIAC performs other duties connected to its

95 An institution known as *Centre d'Arbitrage et d'Expertise du Rwanda* owned by a former lawyer existed (CAER) with a very limited functionality. It rarely attracted cases from parties due to uncertainty of its legal status (a non for profit association).

96 *Ibid.*

core functions such as Marketing and ADR promotion, training and advocacy.

Through this mission, KIAC has core functions to promote Rwanda regionally and internationally commercial arbitration. It has the vision to position itself as the regional choice for commercial dispute resolution.⁹⁷ In that perspective, KIAC's mission focuses on delivering appropriate, confidential and effective dispute resolution services in Rwanda and beyond.⁹⁸ Hence, the Centre provides facilities and needed assistance to conduct domestic and International arbitration. It also provides all necessary the logistical support to conduct arbitration and mediation.

4. Adoption of modern arbitration rules

One important feature in arbitral proceedings is the rules that will govern the whole process and as such KIAC administers cases under the KIAC arbitration Rules⁹⁹ and UNCITRAL¹⁰⁰ Arbitration Rules. Following the establishment of KIAC, other key legal instruments were produced including the Ministerial order no 16/012 of 15/05/2012 determining the Arbitration Rules of Kigali International Arbitration Centre. The Ministerial Order is a set of modern arbitration rules reflecting the international best practices in the matter (rules modeled on the UNCITRAL arbitration rules) published in the Official Gazette No.22 *bis*

⁹⁷ KIAC, Annual Report, 2013-2014.

⁹⁸ *Idem*.

⁹⁹ See www.kiac.org.rw website for both the arbitration and mediation rules

¹⁰⁰ The UNCITRAL Model Law on International Commercial Arbitration was prepared by UNCITRAL, and adopted by the United Nations Commission on International Trade Law on 21 June 1985. In 2006 the model law was amended

of 28 May 2012. These rules cover all aspects of the arbitral proceedings.

Under Article 7 of the said Rules it is stated that where the parties have agreed to submit to arbitration under the Rules, they shall be deemed to have submitted *ipso facto* to the Rules in effect on the date of commencement of the arbitration or such amended Rules as the Centre may have adopted to take effect before the commencement of the arbitration and it further goes on to state that by agreeing to arbitration under the Rules, the parties have accepted that arbitration shall be administered by the Centre.¹⁰¹ Based on this article, parties that wish to bring their matters to the Centre have an option of submitting to the said rules or nominate which other rules they would like the Centre to follow during the arbitral proceedings.

There are other features in the current legislation and KIAC rules indicating how Rwanda legislation favors arbitration. Among those aspects, one can list the freedom to be assisted by counsel chosen by parties. In fact, KIAC rules state that parties to arbitration can be represented by their lawyers in all arbitral proceedings. From this provision, foreign lawyers are not excluded.

According to the rules, parties have the ability to determine the language of the proceedings, the freedom to choose the arbitrators even out of KIAC panel. Another key aspect includes the power of the arbitral tribunal to issue interim and emergency measures. Articles 33 and 34 together with Annex 2 of the rules give details on the general procedural framework in which emergency procedures are carried out. To date, two claims

¹⁰¹ See the KIAC arbitration rules 2012

have been submitted to KIAC for appointment of emergency arbitrator.

5. Value given to arbitral award, their recognition and enforcement

Arbitral awards published in Rwanda have the same effect as any final and conclusive court judgment. As such, an arbitral award cannot be appealed to the local courts, unless if there is a significant error in the procedures, invalidity of arbitral agreement, the composition of the tribunal, inarbitrability, conflict with the public security of the Republic of Rwanda.¹⁰²

A. KIAC awards fully enforced

To date, despite few challenges introduced to courts, no single award from KIAC has been set aside by the courts. Instead, as shown by the data collected from the courts,¹⁰³ Rwandan courts have showed a strong trust to KIAC awards. This is also a result of the use of well-trained neutrals and KIAC scrutiny of awards.

B. Adhoc awards

There is an interest to know if the adhoc awards are well enforced as it is for KIAC awards. Many arbitral awards taken by adhoc arbitrations that were challenged have not been set aside. However, there are few of them that were set aside for genuine reasons based on article 47 of the 2008 arbitration act.

¹⁰² Article 47 of the 2008 Law.

¹⁰³ Our research shows that out of 5 cases challenged in the courts, none has been set aside.

It should be noted that in some cases where the competent court had set aside the award, the court of appeal sometimes reviewed and canceled the decision on setting aside the award.

C. The case of foreign awards

Rwandan courts rarely refuse to enforce adhoc arbitral awards. If it happens, it is mainly due to only reasons provided for in the law. Also, the duration of the various steps of the award enforcement is not long. It is done in a very short time for all awards meeting the legal standards.

The arbitration friendly-jurisdiction is also attested in the recognition and enforcement of foreign arbitral awards. In fact, Rwanda has ratified¹⁰⁴ the United Nations Convention on the Recognition and enforcement of foreign arbitral awards (The 1958 New York Convention). As a result, KIAC arbitration awards issued in Rwanda are enforceable in all New York Convention signatory countries in accordance with the spirit of the Convention.

Again, all awards made in any New York Convention signatory country can be enforced in Rwanda. Rwanda arbitration law has adopted the provision of the Model Law on the recognition and enforcement of foreign awards but has included a reciprocity condition (article 50 of the 2008 Law). This means that awards taken by non-signatory of the New York Convention are likely to be unenforceable in Rwanda unless if a reciprocity agreement exists.

104 On November 3rd, 2008 The UNCITRAL announced that Rwanda has become the 143rd country to accede to the New York Convention. The Convention entered into force for Rwanda on January 29, 2009.

I. KIAC'S SUCCESSFUL ACHIEVEMENTS IN ARBITRATION

1. KIAC as a growing arbitral institution

KIAC has tremendously grown as an arbitral institution. This can be attested domestically, regionally and even internationally. Domestically, KIAC is gaining genuine trust among its users. In fact, within the last four years that KIAC has been operational, it has been able to live up to its mission which is “To promote Rwanda as a venue of efficient arbitration services and a Centre of excellence for research and training of professionals in ADR”¹⁰⁵. KIAC is proving to be model institution within the East African region and Africa as a whole when considering the cases that have been filed with the institution. Within Rwanda, KIAC’s reputation grows each and every day and this is shown by NGOs, GoR, judiciary and other public institutions have expressed the trust in terms of case administration number and partnership.

Internationally, KIAC is quickly building its reputation. In fact, an international arbitration can be looked at in two ways: One is the kind of transaction; does it involve transaction that is either in a State other than the place of arbitration or that takes place in two or more States. The other method is to consider the parties; do they come from different States.¹⁰⁶

¹⁰⁵ See www.kiac.org.rw

¹⁰⁶ Eric.E.Bergsten, *The course on dispute settlement in international trade, investment and intellectual property*, The United Nation Conference on trade and development (www.unctad.org).

Most importantly, Article III of the New York Convention on the recognition and enforcement of foreign arbitral awards requires the currently 135 Contracting States to “recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon...” It is upon this foundation stone that the entire edifice of international commercial arbitration is built.¹⁰⁷ Hence, Rwanda being a signatory to the convention gives KIAC another plus in its quest to be the premier hub for international arbitration centre within the region. This can also be attested by the enforcement of awards within KIAC.¹⁰⁸

2. KIAC impressive arbitration caseload

KIAC has recorded an impressive arbitration case load in comparison with other similar Centers. A record of 83 cases with parties from USA, Rwanda, China, Kenya, Italy, Pakistan, Senegal, South Africa, Dubai, Germany, Uganda, Turkish Republic, India, China and Zambia. The amount in dispute per case varies between 15,000- 6,000,000 USD. The total amount in dispute for 83 cases exceeds now 39 million of USD.

This is a milestone since it takes between 3 and 5 years for a newly established Centre to administer the first Case.

107 *idem*

108 KIAC annual report 2014/2015(www.kiac.org.rw) Pg 9 under the heading key achievements in service delivery.

Table 1: Cases administered for since July 2012 up to now ¹⁰⁹

Cases, Awards and settlement	July 2012- June 2013	July 2013- June 2014	July 2014- July 2015	July 2015- June 2016	July 2016- to June 2017	July 2017- March 2018	Cumulative total up to March 2018
Cases Filed	5	12	11	12	26	17	83
Cases submitted under KIAC Rules	4	6	8	9	23	17	67

KIAC high arbitration rates of cases is impressive. It can be partly attributed to the cultural roots of ADR in Rwanda based on ‘Abunzi’ mediation which put emphasis on amicably settling disputes as opposed to litigation. The rapid increase in the number is also due to a very aggressive communication campaign targeting different sectors such as the financial and real estate sectors. It is also a result of a perfect collaboration with the government.

3. Capacity building in Arbitration

When KIAC was established no professional existed in Rwanda. In order to build the capacity in ADR matters, KIAC took the lead to ensure that potential professional arbitrators and mediators are sensitized, trained and enrolled to its panel. Within four years of operations, over 400 professionals have been trained and accredited by the Chartered Institute of Arbitrators-UK. KIAC’s capacity building initiative of training and certifying professionals has facilitated the creation of a pool of qualified

¹⁰⁹ Data compiled from KIAC reports available on www.kiac.org.rw

of arbitrators in the country. This makes Rwanda among the top countries in Africa with the highest number of CIArb certified arbitrators in Africa. KIAC has trained more than 15 arbitrators from the EAC region and few people from the United States, Switzerland and South Sudan.¹¹⁰

4. Pool of qualified and experienced arbitrators

KIAC has a panel of both domestic and international arbitrators who have vast knowledge, are experienced, credible and independent in a wide range of field. This is one of the important factors that an arbitration centre of an international status needs.¹¹¹ KIAC domestic panel has more than 70 arbitrators who are Associate, Members and Fellows of CIArb. They are from various professions including lawyers, engineers, certified accountants, etc.

On top of its domestic panel, KIAC has quickly attracted international arbitrators to its panel. Many of them are PhD and Masters holders who are fellows of CIArb certification or equivalent to it. This is a sign of trust and confidence for a new Center. The table and the graph below present the data of KIAC international panel of arbitrators.

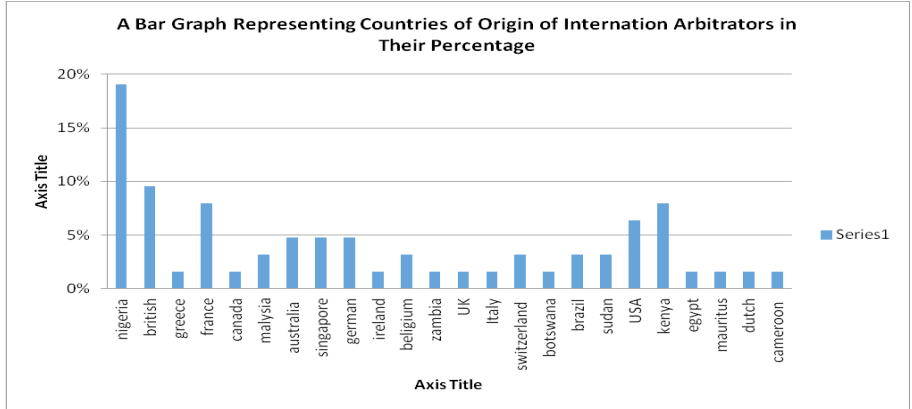
As practiced by most international arbitration centre, parties to KIAC arbitration are free to nominate their arbitrators, subject to confirmation by the Centre in accordance with its rules and when called upon to appoint an arbitrator, it does that primarily from one of its panel of arbitrators.

110 <http://www.kiac.org.rw/spip.php?article122>

111 See www.kiac.org.rw website

Academic Qualifications of Arbitrators of KIAC

Highest degree held	Number in %
1. Ph.D.	23 %
2. Master's	37 %
3. Bachelor's	40 %



I. SUGGESTIONS FOR MAKING RWANDA A MORE ATTRACTIVE VENUE FOR INTERNATIONAL ARBITRATION

1. Building on the existing country reputation as a friendly jurisdiction to arbitration

Since the enactment of the 2008 law and the establishment of KIAC, Rwanda is slowly but surely building its reputation as a country that has tremendously improved its justice commercial system. The country has also created an image of a friendly jurisdiction to arbitration.

112 Data compiled from KIAC reports available on www.kiac.org.rw

The progress of Rwanda courts in their adherence to the arbitration-friendly jurisdiction is very impressive for a country where modern arbitration legislation has been introduced very recently. The reform of Rwandan courts has improved their functioning and, as a result, developed a friendly approach to KIAC arbitration. This a result of a strong partnership between the Centre and the Judiciary. In fact, since the establishment of KIAC, various communication campaigns targeting judges and registrars were intentionally organized to raise the awareness about arbitration. Trainings were also designed for the judicial personnel. A number of judges have even completed various levels of certified arbitration programs. Basing on the trust to KIAC, courts always appoint arbitrators from KIAC panel of arbitrators for their appointment decisions.

2. Benefits associated to the signatory of the New York Convention

The recognition and enforcement of foreign arbitral awards by the judicial jurisdiction where a centre is found also plays an important role in making the centre more favorable and Rwanda being a signatory to the New York Convention means that the competent courts in Rwanda can enforce arbitral awards of other countries that also ratified the New York Convention.¹¹³ Any party wishing to enforce a foreign award may do so by way of application to the competent court under article 50 and 51 of the law on arbitration and conciliation in commercial matters.¹¹⁴

113 Article 50 law no005/2008 of 14/02/2008 Law on arbitration and conciliation in commercial matters (Rwanda)

114 *Idem.*

3. Support by the Government

A. Strong support during the Centre official launch

During the validation of the Final Report proposing the preliminary work for the establishment of the Centre (March 2011), a robust timetable for sensitizing and marketing the Centre after its establishment was also proposed. This came after the publication of the KIAC law 2010. In that document the implementation action plan was presented¹¹⁵, and the process of operationalizing KIAC was set to commence in May 2011.¹¹⁶ Due to technical and financial challenges, the launch which was proposed in May 2011 was delayed for one year. As a result, the Centre was officially launched in May 2012.

During the launching, an outstanding event was organized by the Private Sector Federation. The event was honored by the participation of very high government officials led by the Prime Minister and Members of the Business Community. The Chief Justice delegated his Deputy to attend the event as a sign of strong support to the new institution. Many recent events organized by the Center have been attended by high level Government officials including the Chief Justice, the Minister of Justice and Attorney General, etc.

¹¹⁵ Annex VI on the Report on Implementation plan.

¹¹⁶ See Annex VII of the report on the detailed implementation plan.

B. Stakeholders support during the Center's inception stage

When KIAC was conceived, an initial budget to finance its infrastructure and operations was also prepared in partnership with the Government, the Private Sector Federation. International donors were also approached to fund the Centre. It was agreed that the PSF and the donor community were to mainly fund the Centre until it becomes financially self-sustaining.

Connecting KIAC to PSF funding is understandable since KIAC was its own initiative. Since its establishment up to March 2015, KIAC received support from PSF under the Alternative Dispute Resolution Project, a three years' project supporting the operationalization of the Centre with contributions from ICF, PSF and Government of Rwanda. The support from PSF covered the staff remuneration while the Government funds were used for the acquisition of State of art modern building. ICF support was mainly channeled in the operationalization of the Centre, professional skills development and awareness campaigns.

4. An opportunity of KIAC being an independent institution

Many arbitral institutions claim to be independent referring to the legal provisions that create them. However, practitioners and researchers have several times questioned the independence that depends on the government funding and personnel.

KIAC is one of the few institutions that are really independent. Since its creation, KIAC was established as an independent institution. The institution is independent from the Government. It is also independent from the Judiciary. Parties to a dispute elect to refer the dispute directly to KIAC for resolution. This autonomous status makes KIAC a unique regional institution of its kind. Many other arbitration centers established within the region are functionally and financially dependent to their respective governments or are court-connected.

KIAC has a Governance Board comprised of seven Members with knowledge and practice in arbitration, who are nationals of different countries (Rwanda, France, Nigeria and Mauritius).

Among the 7 members, 6 are appointed by the Rwanda Private Sector Federation and 1 is appointed by the Attorney General. 3 Board Members are international while 3 are Rwandan citizen. Prior to their appointment, the Board members appointed by RPSF were recommended by arbitral institutions (Permanent Court of Arbitration, The Chartered Institute of Arbitrators on London), legal professions (Rwanda Bar Association, Allen & Overy), academic institutions. All those Board Members are individuals who have an excellent reputation both in the area of expertise and for high ethical standards.

The Secretary General is appointed by the Board. There is no possible subordination to the Government.

5. Other benefits derived from the country's reputation

An international arbitration centre located in Kigali brings with it many opportunities for Rwanda as a country and the entire region of the East Africa. Having a reputable centre within the region also gives confidence to investors how many and are mostly not very confident in the judicial systems of most African countries due to corruption and delay in handling of commercial matters. Rwanda makes an exception to that rule. In fact, for the last 5 years, Rwanda has been ranked in good positions in fighting against the corruption by transparency international¹¹⁷ and also national reports on corruption have shown that the Rwandan judicial system is an independent branch.¹¹⁸ For the last two years, Rwanda has been also ranked as the best performing country in the East and Central Africa and 3rd easiest place to do business in Africa.¹¹⁹ This can be a boost for foreign investors to set their businesses in Rwanda and also having an independent judicial system is another opportunity that may attract those foreign investors.

Other pillars that support arbitration include Government support in enhancing strategies to foster private sector growth and sustainable economic development. These efforts are gradually paying off. Rwanda has sustained an economic growth rate of over 8% in the last ten years.¹²⁰ The fact that the Rwandan

117 Report by Transparency international, Corruption Perceptions Index 2015.

118 Report by Transparency International Rwanda, professionalism of Rwandan Courts Observation report, released July 2015.

119 <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB16-Full-Report.pdf>

120 *Idem*.

Courts have shown to be independent and do not interfere with arbitration matters is another reason parties should consider in using KIAC as their arbitration institution. The government also introduced a very favorable visa policy for African citizens that includes but not limited to getting a visa on arrival.

6. The benefits of legal regime and plurality of international languages

Rwanda has a very big advantage compared to the rest of the EAC countries when it comes to legal system and language. Concerning the legal regime, Rwanda has been a civil law system country. However, due to the influence of East Africa Community, during this last decade the country has adopted a set of legislation inspired by common law legal tradition. This gives KIAC an upper hand as it has a panel of arbitrators comprised of highly accomplished and respected experts mastering both legal regimes. The fact that the centre also has a large number of qualified arbitrators who have a good understanding of different international languages including but not limited to English and French is another opportunity that the centre will easily expand its influence beyond the region and into jurisdictions that use these languages and/or legal systems.

6. Overcoming the KIAC's challenges

Every newly established institution faces different challenges and KIAC is not an exception to this, but as history has shown over and again the ones who are able to face these challenges and take a positive approach in solving them always become better.

A. Funding of the Centre

For an international arbitration centre to be seen as independent and credible it also has to be independent financially. Most international arbitration centres achieve this independence by the number of arbitration cases filled with them. Despite the current caseload of arbitration cases filed with KIAC, it is still very early for the Centre to be considered self-sustainable financially.

One of the major problems that come with lack of funding is the attracting of the best and experienced worked force. The work force in terms of number and capability is an important element in how an arbitration centre is viewed or perceived. Currently the staff in KIAC is not of a satisfactory number and this may affect its ability in its service delivery within the international community and domestically. Both government and donor's organization's support is needed to help the Centre achieve its mission.

B. Review and update of the current legislation on arbitration

As said in our previous pages, Rwanda is a UNICITRAL Model Law country. However, the drafting of the 2008 arbitration law has omitted some very important aspects of the Model Law. Hence, there is a need to improve the current legislation to make it more competitive and make the Rwanda jurisdiction a more arbitration friendly jurisdiction than it currently is. Despite this great achievement in establishing the 2008 arbitration law, it is worthy to note that the latter has some imperfections and inconsistencies to address in order to reflect current best practice. In a recent concept paper on the legal framework for Arbitration in Rwanda, KIAC identified some issues which need to be reviewed and addressed in updated arbitration and other related legislation. Those include notably the need to designate the High Court and the Commercial High Court as the competent courts to intervene in arbitral proceedings, the unclear wording about the rights of appeal against awards that should be clarified and restricted, the review and update of the law to include arbitration in civil as well as commercial matters.

The supportive role of the national courts in arbitration matters should be seen in such a way that it makes the country an arbitration friendly location.

The approach of the Rwandan judiciary to international arbitration can make or break the centre to a certain extent. If the country can have laws that allow for specialized judges who specifically deal with arbitration matters in an international level

would be a step on the right direction.

Currently in Rwanda there is no Foreign Arbitration Award Act or an International Arbitration Act which are likely to be found in jurisdictions that have fully embraced the international arbitration as a way of resolving commercial disputes.

C. Increasing the qualification and competence of KIAC neutrals

As said, KIAC has been able to recruit a very big number of its panel of domestic arbitrators. However, there is still a need to enhance their capacity and increase the competence of the neutrals listed on the said panel. In fact, one of the advantages of having qualified people with experience and from within the EAC is that it can help in reducing the expenses and cost of the arbitral process. A target aimed at raising the profile and number of current domestic arbitrators from Associate level to the next levels of membership and fellows of CIArb will reduce the capacity gap so as to build more confidence on its selection of arbitrators.

D. Training capability of the Centre

The Centre regularly organizes symposiums, workshops and training activities. The most recent was the workshop on international arbitration (investment arbitration) in partnership with Rwanda Development Board, Rwanda Bar Association and Shearman and Sterling LLP law firm from Paris, France. KIAC knows how important this type of workshop is valuable to its

staff and members of its panel but it on its own does lack the needed capability to be a training centre due to such issues as staffing and financing of such projects. One of its current project is to become a Chartered Institute of Arbitration Branch.

E. Intensive awareness and Marketing campaigns

One of the major challenges is making the Centre well known and recognized internationally. This can be achieved by first winning the confidence of the international business community and likeminded institutions. Going by the global competitiveness report Rwanda is ranked 17th when it comes to strong public and private institutions.¹²¹This is a clear sign that the institutions within Rwanda are strong and doing well and all that the KIIAC needs to do is to fight the perception and negativity that surround African institutions.

F. Strategy to attract the Adhoc arbitration cases

Arbitration can take two forms either ad hoc or institutional arbitration. This is largely decided by the parties and based on the form of advice they have received from their legal representatives. An institutional arbitration is one in which a specialized institution intervenes and takes on the role of administering the arbitration process. Each institution has its own set of rules which provide a framework for the arbitration, and its own form of administration to assist in the process.¹²²

121 World economic forum (<http://reports.weforum.org/global-competitiveness-report-2015-2016/>)

122 <http://www.out-law.com/en/topics/projects--construction/international-arbitration/institutional-vs-ad-hoc-arbitration/>

Ad hoc arbitration is one which is not administered by an institution such as the KIAC. The parties will therefore have to determine all aspects of the arbitration themselves - for example, the number of arbitrators, appointing those arbitrators, the applicable law and the procedure for conducting the arbitration. Provided the parties approach the arbitration with cooperation, ad hoc proceedings have the potential to be more flexible, faster than institutional proceedings. The absence of administrative fees alone provides an excellent incentive to use the ad hoc procedure.¹²³

One of the reason for parties opting for ad hoc arbitration is also the perception that institutional arbitration is expensive and it is a perception which KIAC needs to debunk by making known the fees and the benefits that institutional arbitration within KIAC has against the ad hoc process. It is also important to note that lawyers themselves prefer ad hoc arbitration more than institutional arbitration for selfish reasons on being the fact that they can have a high share of the fee paid by the parties. Thus, KIAC needs to adopt a strategy that helps to attract a big number of cases settled now by the ad hoc arbitrators. However, a recent study¹²⁴ by the Institute for Legal Practice and Development has showed that KIAC arbitration is far cheaper than the adhoc one.¹²⁵

123 *Idem.*

124 ILPD, Study to establish the cost of settlement and resolution of a commercial dispute, Final Report, January 2016.

125 KIAC arbitration costs less than 4 % of the value of the dispute whereby adhoc arbitrators reach up to 27%.

CONCLUSION

All things considered it is clear from the above shown findings that KIAC as an international arbitration center has played a major role in arbitration matters in Rwanda and within the region since it was established. Despite arbitration being a new concept in many if not all African countries, KIAC has achieved its mission and many of its objectives including being the choice for commercial dispute resolution, providing trainings and workshops for different judicial personnel, reducing the backlog of cases in commercial courts and the centre has been seen as the next logical step, by both the Government and private initiative, for Rwanda to continue to improve its reputation to attract business and investment.

Furthermore, arbitration has provided a significant contribution to facilitating foreign investment and trade through provision of adequate and timely solutions to disputes. On the other hand, Arbitration has proven to immensely contribute to the overall task of providing Justice to all thus reducing backlogs that have been a challenge in the service delivery of courts. This ultimately encourages investment which in the long run foster economic growth and strengthen the rule of law.

Given the various achievements of the centre (KIAC), there are also some other things that need to be adopted by the center in order to continue in providing world class arbitration services. From this one can humbly recommend the development of supplementary rules especially regarding the enforcement of foreign arbitral awards in a specific and detailed way and also

adopt a law on international arbitration act underlying those international arbitration principles. Another thing concerns the marketing strategy, here one can say that KIAC has tried all its best to brand itself within the country but the centre needs to extend its marketing strategies first within the region and then to the rest of the world. In addition to this, the centre may look forward to publishing books and articles in different legal journals. However, it is worth to mention that there are still challenges to overcome including mainly the financial sustainability.

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