

**KIGALI INDEPENDENT UNIVERSITY ULK**

**SCHOOL OF LAW  
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**LEGAL ANALYSIS ON PARADING SUSPECTS TO THE MEDIA AND ITS  
IMPLICATION TOWARD THE PRINCIPLE OF PRESUMPTION OF  
INNOCENCE UNDER RWANDAN LEGAL FRAMEWORK.**

**Dissertation submitted in partial fulfilment of the  
Academic requirements for the Award of Bachelor's Degree with Honours in Law  
(LLB).**

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**Kigali, August 2024**

## **DECLARATION**

I, **TUYISENGE Vincent**, do hereby declare that, the work presented hereinafter “**Legal analysis on parading suspects to the media and its implication toward the principle of presumption of innocence under Rwandan Legal framework**” is my original work which has not been presented in any university or other high learning institution or for any other academic purpose.

Dated, August 30<sup>th</sup>, 2024

Signature:

**TUYISENGE Vincent**

## **CERTIFICATION/APPROVAL**

This is to certify that the present dissertation entitled “**Legal analysis on parading suspects to the media and its implication toward the principle of presumption of innocence under Rwandan Legal framework**” was conducted by **TUYISENGE Vincent**, under my supervision and guidance.

Names: Lecturer **BAHATI Vedaste**

Signature:

Date: 30/08/2024

## **DEDICATION**

To Almighty God

To my parents

To my aunts and uncles

To my workmates

To all who contributed to my academic journey

## ACKNOWLEDGEMENT

I am hereby honoured and privileged to express my heartfelt appreciations to everyone who directly or indirectly contributed to the completion of this tremendous work, which reflects the true meaning of my endless efforts, commitments and hard work.

Firstly, I take this opportunity to express my gratitude to my family especially my lovely parents, aunts, uncles and my workmates for the infinite care and their constant prayers. I want them to find the expression of my reverence in those few simple lines.

Secondly, I would like to extend my sincere gratitude to Lecturer **BAHATI Vedaste**, who supervised and guided my research project from the beginning to the end for his kindness, mentorship and helpful approaches and the entire law department, especially the Head of Department Mr. **NDIYAYE UWIMANA Innocent**, all law lecturers and classmates for their encouragement, cooperation and team work spirit.

Lastly, my appreciations are largely extended to the Class Representative, **Mr. MUGISHA Jean Vianney** for the academic support and services he rendered to all students to make sure we study in a conducive and healthy environment which led to our academic success and achievement.

God Bless them all!

**TUYISENGE Vincent**

Signature:

Date: 30/08/2024

## **LIST OF ABBREVIATIONS AND ACRONYMS**

**ADGs:** Additional Director General of Police

**ART:** Article;

**CCP:** Code of criminal procedure

**CPS:** Crown Prosecution Service

**DIG:** Deputy Inspector General

**DOC:** Document;

**ECHR:** European Convention on Human Rights

**ECOWAS:** Economic Community of West African States

**ECtHR:** European Court of Human Rights

**ED:** Edition;

**EGAT:** Economic Growth, Agriculture and Trade

**ETC:** et cetera;

**EU:** European Union

**GA:** General Assembly

**HICD:** Human and Institutional Capacity Development

**HTTP:** Hyper Text Transfer Protocol;

**IACP:** International Association of Chief of Police

**Ibid:** Ibidem;

**ICCPR:** International Covenant on Civil and Political Rights

**LLB:** Legum Baccalaureus

**No:** Number;

**NPPA:** National Public Prosecution Authority

**O.G:** Official Gazette;

**Op.cit:** Opera Citato;

**P:** Page;

**Para:** Paragraph;

**RIB:** Rwanda Investigation Bureau

**SC:** Supreme Court

**SP:** Superintendent of Police

**UDHR:** Universal Declaration of Human Rights

**UK:** United Kingdom;

**ULK:** Kigali Independent University

**UN:** United Nations

**US:** United States of America;

**USA:** United States of America

**USAID:** the United States Agency for International Development

**V:** Versus;

**WWW:** World Wide Web.

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## GENERAL INTRODUCTION

Parading suspects in front of Media and to public before their trial raises serious legal concerns, especially in relation to the principle of the presumption of innocence. This practice has the potential to lead to prejudgment by the public, potentially impacting jurors and undermining the suspect's right to a fair trial. From a legal standpoint, it challenges the fundamental principle that individuals are innocent until proven guilty, as protected in various legal systems and human rights conventions. Furthermore, it may violate the suspect's right to privacy and could result in lasting damage to their reputation, regardless of the trial's outcome.

### 1. Background of the study

A suspect is person who is deemed to have committed a crime or done something wrong<sup>1</sup>. That person (suspect) must be presumed innocent before the competent court finds him/her guilty.<sup>2</sup> The prosecution's ultimate responsibility reflects a basic premise on which the criminal law is based that is the defendant is innocent until proven guilty<sup>3</sup>. The presumption of innocence is the right to guarantee the accused person his/her innocence and burdens the prosecution side to prove otherwise.

The principle plays an important role in protecting human rights in general and in promoting fair trials in particular. It gives those under investigation and criminal prosecution the benefit of suspicion and they are presumed innocent until the competent court proves the contrary<sup>4</sup>. This presumption finds expression in the principle that guilt must be proved beyond reasonable doubt.<sup>5</sup> The principle entails two aspects: firstly, it stipulates a high standard of proof and secondly, it places burden of proof in the prosecution<sup>6</sup> in line with what Justice Holroyd declared that better ten guilty men escape rather than one innocent man suffers<sup>7</sup>.

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<sup>1</sup> *The oxford English Dictionary*, 2<sup>nd</sup>ed., oxford university press, available at <https://www.oxfordlearnersdictionaries.com> , accessed on 1<sup>st</sup> February 2024

<sup>2</sup> O. Badmus Uthman, *A Breach of Constitutional Rights*, royal Nigerian Lawyers, Tafawa Balewa Square Lagos

<sup>3</sup> W. Wilson, *criminal law*, 3<sup>rd</sup>ed., Harlow, Pearson Education limited, 2008, p.10

<sup>4</sup> See X, *presumption of innocence and right to be present at trial directive* <https://www.fairtrials.org/> accessed on 1<sup>st</sup> March 2024

<sup>5</sup> Gary E. Parker, "*Beyond a Reasonable Doubt*", (2005), Thorndike press, (14<sup>th</sup> February 2007)

<sup>6</sup> A. SANDRS and R. YOUNG, *criminal justice*.3<sup>rd</sup>ed., New York, Oxford university press, 2007, p.8

<sup>7</sup> Hobson 1 Lew CC 261, available at [https://eprints.usq.edu.au/21656/1/Gray\\_UTLR\\_V31n1\\_PV.pdf](https://eprints.usq.edu.au/21656/1/Gray_UTLR_V31n1_PV.pdf), accessed on 1<sup>st</sup> March 2024

Initially, presumption was understood as the simple principle of placing the burden of proof in the criminal cases on the prosecution and prohibiting the conviction of the defendants who have not been proven guilty without reasonable suspicion. The principle extended the scope to issues like the public statement mentioned the guilt, spread information about criminal proceedings or leaked information to the media, presented suspects and defendants in court or in public<sup>8</sup>. Like many other human rights, the presumption of innocence was officially recognised after World War II. Therefore, in modern times, the presumption of innocence is part of the most international human rights instruments such as the United Nations Declaration of Human Rights<sup>9</sup>, the European convention for the protection of human rights<sup>10</sup>, as well as United Nations international covenant on civil and political rights<sup>11</sup>. In east Africa, regional and continental human rights instruments recognise the right to presumption of innocence.

The main instruments in this category are the African Charter on human and people's rights<sup>12</sup>, all these documents affirm the right to the presumption of innocence clearly. In Rwanda, the presumption of innocence is the constitutional right. Every accused person is entitled to be presumed innocent until the contrary is proved<sup>13</sup>. This broad principle includes a number of rights related to the way suspect appears in public; public statements made by public authorities prior to the outcome of the case; the use of physical restraints in court or in public for example, when arrested.

The content and tones of news reports on criminal cases<sup>14</sup>. The way suspects are presented to the public can have serious consequences for the fairness of the litigation and the integrity of the judicial system, and can damage the dignity of those who are entitled to the presumption

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<sup>8</sup> D. MARKOV & J. EDZIE, "the presumption of innocence and the media coverage of criminal cases", retrieved at <https://arisa-project.eu/> accessed on 1st March 2024

<sup>9</sup> Art.11 (1) of the universal declaration of human rights, 1948, states that there is right to be presumed innocent until proven guilty

<sup>10</sup> Art.6 (2) of the European convention on human rights (the ECHR), whereby everyone is charged with a criminal offence shall have the right to be presumed innocent until proven guilty

<sup>11</sup> Art 14 (2) of the international covenant on civil or political rights, 1966, states that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law

<sup>12</sup> Art 7 (b) of the African charter on human and people's rights, 1981 stipulates that every individual shall have right to have his case heard. This compromise the right to be presumed innocent until proven guilty before a competent court or tribunal.

<sup>13</sup> Art.29 par 1 (b) of 2003 Constitution of the Republic of Rwanda, as amended and revised to date, Official Gazette n° Special of 04/08/2023

<sup>14</sup> Fair Trials, The Importance of Appearances: How Suspects and Accused Persons Are Presented in the Courtroom, in Public and in the Media, P.7, available at [www.fairtrials.org/legal-experts-advisory-panel](http://www.fairtrials.org/legal-experts-advisory-panel) , accessed on 1 March 2024

of innocence<sup>15</sup>. In Rwanda's criminal justice system<sup>16</sup>, a person is innocent until proven guilty, and anyone accused of a crime is assumed to have done nothing wrong. More specifically, this means that the person is considered not to have participated in the act that led to the criminal charge. The presumption of innocence runs through the entire criminal process and is sufficient to acquit the accused. Unfortunately, due to negative media coverage of certain crimes, the spread of misinformation through social media, and the social stigma caused by criminal charges, even if a person is presumed innocent, the society hearing the case may not see it in that way.

Media reporting on criminal cases frequently violate the presumption of innocence, suspects are commonly presented as though they are guilty, particularly through attention-grabbing headlines<sup>17</sup>. If people see an image of someone being arrested they are likely to think the person is guilty<sup>18</sup>. In Rwanda it is common for suspects to be paraded before the media at the time of their arrest<sup>19</sup>. For instance, Spokesperson of RIB, Dr. Murangira B Thierry, has been interviewed by the new times in January 2022 and he said the reasons behind the presentation of suspects in media, where he said that, there is no law which limits RIB to present suspects in the media. Moreover, he said that they parade suspects before media in order to fulfil their duty of accountability where local people who reported the crime, they have to be aware of that the suspect has been brought to the justice.

He also announced that the main reason behind the presentation of suspects is to avoid people from saying that the person has been disappeared. Furthermore, he proceeded by saying that the presentation of suspects in media is way of educating, preventing and deterring any person

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<sup>15</sup> T. DAKOVIĆ & I. NOVOSEL, *the importance of appearances: how suspects and accused persons are presented in public and in the media*, retrieved at [https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/Media\\_report\\_SIR\\_eng.pdf](https://www.kucaljudskihprava.hr/wp-content/uploads/2019/06/Media_report_SIR_eng.pdf)

<sup>16</sup> See the constitution of republic of Rwanda Supra note 11

<sup>17</sup> Fair Trials, *The Importance of Appearances: How Suspects and Accused Persons Are Presented in the Courtroom, in Public and in the Media*, P.4, available at <http://www.fairtrials.org/legal-experts-advisory-panel> accessed on 1st March 2024

<sup>18</sup> Media reporting on *criminal cases frequently violate the presumption of innocence*, see at <http://www.fairtrials.org/>, accessed on 1<sup>st</sup> March 2024

<sup>19</sup> On 31 February 2020, RIB has paraded girls before media who were suspected to have posted pornographic videos on their social media. Ladies have posted (live streaming) pornographic video on social media due to intoxication caused by a guy who were not presented in the media, see X, RIB presented girls that have posted pornographic videos on their social media ,available at <https://www.kigalitoday.com/amakuru/amakuru-mu-rwanda/article/rib-yerekanye-abakobwa-berekanye-ubwambure-ku-mbuga-nkoranyambaga> accessed on 20<sup>th</sup> January 2024

who may engage in criminal actions<sup>20</sup>. From legal perspective I think it is not legal to parade suspects before media because at that stage, suspects are presumed innocent by the law.

## **2. Interest of the study**

In conducting this study, the researcher aims to make analysis on the act of parading suspects to the media and its implication of innocence under legal perspectives, identifying its impacts in Rwanda.

### **2.1. Personal Interest.**

This study tries to identify, and analyze the act of parading suspects to the media and its implication of innocence under legal perspectives importance as the promotion of rights and freedom of the suspect in regard to protection of his/her image in public.

### **2.2. Academic Interest.**

Academically, analysis on the act of parading suspects to the media and its implication of innocence under legal perspectives can be of interests to researchers and scholars to explore a wide range of discipline and reflect its complex intersection such as in fields of culture, law, and social dynamics

### **2.3. Scientific Interest**

The research on analysis on the act of parading suspects to the media and its implication of innocence under legal perspectives offers a rich interdisciplinary field for analyzing and understanding the complexities of respect of human rights and protection due investigation, in regard with the principle of being innocence until proven guilty.

## **3. Delimitation of the study**

The present study is delimited in space, domain and time as below mentioned.

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<sup>20</sup> See X, RIB speaks out on parading suspects, available at, <https://www.newtimes.co.rw/news/rib-speaks-out-parading-suspects>

### **3.1 Delimitation in Space**

The present research is to be conducted in Rwanda as its limit where it covers the Rwandan territory and explores the analysis on the act of parading suspects to the media and its implication on the principle of presumption of innocence under Rwandan legal framework.

### **3.2 Delimitation in Domain**

The present research is limited and falls in domain of criminal law as it focuses on the analysis of the applicability of the principle of the presumption of innocence in contrast to the practice of parading the suspect to the public through media channels.

### **3.3 Delimitation in Time**

This research is limited in time from March, 2024 when it kicked off up to August when it was completed.

## **4 Problem statement**

Under Rwandan constitution, everyone has the right to due process of law, which includes the right to be presumed innocent until proved guilty by a competent Court<sup>21</sup>. Our constitution is complemented with the provisions of African Charter on Human and Peoples' Rights that is intended to promote and protect human rights and basic freedoms in the African continent. Under the charter, the liberty and privacy of criminal suspects under the law of the land are protected beyond any arranged intent of the law enforcement agency<sup>22</sup>. In normal practice, the presumption of innocence is used as the tool of preventing state authorities or their agents from treating guiltily criminal suspects<sup>23</sup>.

Obviously, the law enforcement agencies in Rwanda which are constitutionally bound to protect citizen's lives and manage security of the country, are violating the position of constitution specifically in article 29 (1) (b). Rwandan law enforcement agencies continue to parade suspects before media<sup>24</sup>. The practice of parading suspects before media prior summon by the criminal court violates their basic right to a fair hearing and dignity. To compound the

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<sup>21</sup> See article 29 par 1, (b) *Supra* note 11

<sup>22</sup> Art.7, (A), *supra* note 10

<sup>23</sup> 1X, Suspects should not be guiltily treated, available at available at <https://books.thelawbrigade.com/explore-books/>, content/uploads/2020/06/Angelo-CLRJ.pdf, accessed on 2<sup>nd</sup> March 2024

<sup>24</sup> RIB has presented six guys in media who were suspected of having committed theft in Ruhango district, see at <https://www.rba.co.rw/>, retrieved on 1<sup>st</sup> March 2024



human rights violations, law enforcement officers interrogated the suspects at packed press conferences.

As if this were not enough, media personnel are free to interview and question suspects to confirm their participation in the criminal offenses charged against them. These suspects have been branded as criminals by their marching security personnel, even though they must know that a person is innocent before being proven guilty.<sup>25</sup> This approach of presenting suspects in media would violate their constitutional right of being presumed innocent until their guilty is established by the competent court. Presenting suspects to the media not only violating their constitutional rights to presumption of innocence, but also violated their human right to individual and family privacy and exposed them to unnecessary publicity.<sup>26</sup>

According to Rwandan law, they (suspects) are presumed innocent, and the presumption of innocence includes their privacy. Therefore, two rights are violated<sup>27</sup>: the right to innocence and the right to privacy<sup>28</sup>. This tendency portrays the suspect as guilty in the eyes of society, which is a slander on the reputation of his character. Suspects are protected by the Constitution because the law stipulates that if a persons are suspected of committing a crime, they are suspects therefore, has the rights to due process of the law.<sup>29</sup> If the media reports on the suspect by showing his face or mentioning his name in the newspaper, it is as good as convicting the suspect in the eyes of the public.

The trial hasn't even begun yet but the general public opinion has largely judged suspect as guilty. This is fundamentally wrong, because only the court can find the suspect guilty and convict the defendant. If a suspect is presumed to be innocent until proved guilty by competent court, why The Police go further to allow media men to reveal the identity and faces of the suspects? Why Cameras are turned on? Introducing suspects to the media not only violated their constitutional rights to presumption of innocence, but also violated their human rights and exposed them to unnecessary publicity. According to our law, they (suspects) are

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<sup>25</sup> Martin D. Yant, "When Innocent People Are Wrongly Convicted", <https://www.bing.com/ck/a?!&&p=415bb264edd38d37bf99282c3fa3355251f016ba8d896828> , accessed on 20 August 2024

<sup>26</sup> Cecille Suerte Felipe, "No more presentation of suspects to media", (13 June, 2018), The Philippine star

<sup>27</sup> See X, Presumption of innocence and right to be present at trial directive, available at <https://www.fairtrials.org/right-fair-trial> , accessed on 1st March 2024

<sup>28</sup> See X, everyone has the right to live without unwarranted publicity, available at <https://www.humanrightsmedia.org/privacy-rights> , accessed on 15th March 2024

<sup>29</sup> Art 29 of the Law of Constitution of the Republic of Rwanda of 2003, as amended and revised to date, Official Gazette n° Special of 04/08/2023

presumed innocent, and the presumption of innocence includes their privacy. Therefore, two rights are violated<sup>30</sup> which are the right to innocence and the right to privacy<sup>31</sup>.

It means that the material is communicated to the public at large or to greater number of people, making it certain that the facts will shortly be public knowledge. It is presumed when it is published in newspaper or broadcast over radio or television<sup>32</sup>. Therefore, as far as our law is concerned, the suspect's demonstration is unconstitutional. In fact, news can be made without showing up (media are often tempted to ignore the fundamental rights of suspects and accused persons and publish information that would affect the presumption of their innocence<sup>33</sup>. At the same time, in many countries, media laws do not address in detail the coverage of criminal cases, leaving the media to define the rules themselves through self-regulation instruments like ethics guidelines or codes of conduct. In such an environment, suspects and accused persons are exposed to an increased risk of having their presumption of innocence violated either by unlawful disclosure of information by the public authorities or by inappropriate coverage of their cases by the media.

Inappropriate disclosure of information can affect the accused person's life in many ways, like loss of job, isolation from the community and family, and damaged reputation in society, these consequences extend to a broader circle of persons, affecting not only the accused person but also their family members, children or persons with whom they are or have been otherwise connected the presumption of innocence runs through the entire criminal process and is sufficient to acquit the accused. Unfortunately, due to negative media coverage of certain crimes, the spread of misinformation through social media, and the social stigma caused by criminal charges, even if a person is presumed innocent, the society hearing the case may not see it in that way.

Media reporting on criminal cases frequently violate the presumption of innocence, suspects are commonly presented as though they are guilty, particularly through attention-grabbing headlines<sup>34</sup>. If people, see an image of someone being arrested they are likely to think the

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<sup>30</sup> <https://www.fairtrials.org/right-fair-trial> , accessed on 15<sup>th</sup> March 2024

<sup>31</sup> <https://files.eric.ed.gov/fulltext/ED025950.pdf> , accessed on 15<sup>th</sup> March 2024

<sup>32</sup> D.pember, *Mass media law*, Boston, McGraw-Hill companies,1998, p.250

<sup>33</sup> D. Markov& J. Edzie, “*the presumption of innocence and the media coverage of criminal cases*”, Retrieved at <https://arisa-project.eu/> see also at <https://csd.bg/> , accessed on 15<sup>th</sup> March 2024

<sup>34</sup> Fair Trials, *The Importance of Appearances: How Suspects and Accused Persons Are Presented in the Courtroom, in Public and in the Media*, P.4, available at <http://www.fairtrials.org/legal-experts-advisory-panel> , accessed on 15th March 2024

person is guilty<sup>35</sup>. Article 9 of law n°02/2013 of 08/02/2013 regulating media stipulates that “the freedom of opinions and information shall not jeopardize individual’s right to honour and reputation in the public eyes and to the right to inviolability of a person’s private life and family”<sup>36</sup>. Unwanted publicity and revealing identities of suspects to media is against the provision of mentioned law.

If you think about someone who might be wrongly accused, his/her image is going not only to be on Google but also anywhere for the rest of his life and he will never be able to get away from it. The internet, social networks and video sharing platforms have made it possible for information to spread extremely quickly and easily reach a huge audience. Publishing suspect’s personal identification will always be available on Google. Furthermore, we have seen many times security agencies posting images of suspects on their Facebook page and twitter account<sup>37</sup>, but from here a person can ask himself what if the suspect acquitted by the court? Sharing of the images online not only humiliates the suspects but also infringes on their rights to privacy which leads to irremediable damage to their reputation.

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<sup>35</sup> Media reporting on criminal cases frequently violate the presumption of innocence, seen at [www.fairtrials.org](http://www.fairtrials.org), accessed on 15<sup>th</sup> March 2024

<sup>36</sup> Art. 9 of law n°02/2013 of 08/02/2013 regulating media, Official Gazette n° 10 of 11 March 2014

<sup>37</sup> [https://www.academia.edu/2657233/\\_CONVICTING](https://www.academia.edu/2657233/_CONVICTING) , accessed on 1st June 2024

## **5. Research questions**

From what I have highlighted in background and significance of the study as well as problem statement of this research, with regard to the research topic, the researcher seeks to find out the answers to the following questions:

1. Does the law enforcement agencies' act of parading suspects abide with the principle of the presumption of innocence and have legal implications?
2. What are legal and institutional measures to the effective preservation of the principle of presumption of innocence with respect to the practice of parading the suspect to Media?

## **6. Research hypotheses**

1. Parading suspects to media would be contrary to the Rwandan Constitution in regards to the violation of principle of the presumption of innocence, but also to the loosing of confident to the suspect in case he/she is acquitted from the case, influences the court decision, publishing unreal publications by respectful authority and significantly impact the suspect and his/her family privacy.
2. Legal and institutional measures that would be needed for effective respect and protection of suspect's rights while informing the public of the investigation process on critical cases are enacting the law governing the parading of suspects to media, Reviewing the existing criminal procedure, raising the public awareness on the suspect's rights, continuous and extensive training of the RIB personnel and equip them with professional skills to handle suspects while in their hands.

## **7. Research objectives**

In the present part of the study, general objectives and specific ones in regard to the applicability of the principle of innocence under Rwandan Criminal Justice have been covered.

### **7.1 General objective**

This research seeks to identify key threats and possible solutions to violations of the presumption of innocence resulting from statements made by public authorities about ongoing proceedings; the content and tone of press coverage as well as parade of suspects before

media by law enforcement agencies. The principal objective of this study is to demonstrate how presentation of suspects in media has impact on public perception of guilt which is against the principle of presumption of innocence as well as due process of law. This research work aims to explore various manifestations of the presumption of innocence in the context of media reports of criminal cases.

## **7.2 Specific objectives**

This research work aims specifically to draw the attention of policy makers, criminal justice professionals and the media to the importance of protecting the rights of suspects and accused in criminal proceedings as a fundamental prerequisite for a fair trial.

## **8. Research techniques**

In the course of this study, the researcher opted for the documentary technique which has helped in collecting data through the reading of legal texts, case laws, articles and other documents in relation to the issue of analysis on the act of parading suspects to the media and its implication of innocence under legal perspectives concept.

## **9. Research methodology**

In order to identify the aforementioned issues in regard to the applicability of the principle of presumption of innocence, there was a review of legal books, journals, articles, internet sources and decided cases, legislation and other important documents elaborated by different scholars in the same scope within this field.

In addition to that, available literature in this study was subject to the analysis in the perspective of the Law No. 058/2023 of 04/12/2023 amending Law No. 027/2019 of 19/09/2019 relating to the criminal procedure, The Law No. 059/2023 of 04/12/2023 amending Law No. 68/2018 of 30/08/2018 determining offences and penalties in general, Practice directions of the President of the Supreme court No. 002/2023 of 05/09/2023 governing plea bargaining procedure, the Criminal Justice policy dated September, 2022 and the Universal declarations of Human rights adopted on 10/12/1948

## **9.1 Analytical Method**

The researcher used this method to examine and analyze all data and information retrieved from different sources such as books, legal texts and internet based associated with the topic.

## **9.2 Exegetic method**

This method helped the researcher to examine, and interpret legal texts in conformity with analysis on the act of parading suspects to the media and its implication of innocence under legal perspectives under Rwandan society.

## **10. Subdivisions of the study**

Apart from the general introduction, this research is subdivided into three chapters and closed by general conclusion and recommendations, Chapter one entitled “**Conceptual and theoretical framework**” while Chapter two discusses the “**Critical analysis on the implication of the law enforcement agencies’ act of parading suspect to Media**”; Chapter three will explored the “**Legal and institutional measures to the effective preservation of the presumption of innocence**”; and then ends with the part of general conclusion and recommendations.

## **CHAPTER I: CONCEPTUAL AND THEORITICAL FRAMEWORK**

This chapter endeavors to highlight definitions of key terms and understanding the concept of presumption of innocence. Furthermore, it dealt with the general consideration of presumption of innocence, specifically by emphasizing on scope of presumption of innocence and other pertinent rights.

### **I.1 Conceptual framework**

The practice of parading suspects to the media involves publicly displaying individuals accused of crimes before their trial. This raises significant legal and ethical concerns regarding the presumption of innocence, a fundamental principle in criminal justice. Parading suspects to the media poses significant risks to the principle of innocence until proven guilty. Legal systems must enforce stringent measures to protect suspects' rights and maintain the integrity of the judicial process, ensuring a fair balance between public interest and individual rights. It is under this section where different concepts such as Arrest, media, suspect, accused, charge, innocent, burden of proof, victim, defendant, claimant, witness, court, convicted, and many others are defined in order to gain a common understanding about the contents of this research.

#### **I.1.1 Arrest**

Arrest refers to an act of legally detaining an individual by the police and/or other law enforcement authorities based on the suspicion of involvement in a crime or having information about the crime committed, apprehending persons and placing them into police/RIB custody<sup>38</sup>. An arrest occurs when police officers take a suspect into custody. An arrest is complete as soon as the suspect is no longer free to walk away from the arresting police officer, a moment that often comes well before the suspect actually arrives at a jail<sup>39</sup>.

#### **I.1.2 Media**

Media refers to various channels of communication used to disseminate information to the public. This includes traditional forms such as newspapers, magazines, radio, and television, as well as digital platforms like websites, social media, and streaming services. Media plays a

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<sup>38</sup> Arrest West's Encyclopedia of American Law, ed 2, (2008). Retrieved March 8 2024 from <https://legal-dictionary.thefreedictionary.com/arrest>

<sup>39</sup> Paul Bergman, J.D., and Sara J. Berman, J.D., *The Criminal Law Handbook*, (2007), p.29

crucial role in shaping public opinion, providing news and entertainment, and facilitating communication within society<sup>40</sup>.

### **I.1.3 Suspect**

A suspect is an individual who is believed by law enforcement authorities to have potentially committed a crime. This person is under investigation and may face charges, but has not yet been proven guilty in a court of law.

### **I.1.4 Accused**

An accused is an individual who has been formally charged with a crime by a competent organ (prosecution) but has not yet been tried or convicted. This person is subject to legal proceedings to determine their guilt or innocence. Accused person is the generic name for the defendant in a criminal case<sup>41</sup> and this term is commonly referring to persons' subject to more advanced stages of pre-trial proceedings and/or persons committed to trial<sup>42</sup>.

### **I.1.5 Charges**

This word intends to mean, a formal accusation by the authorities that the accused has committed a specified crime<sup>43</sup>. An official notification given to an individual by the competent authority of an allegation that they are suspected or accused of having committed a crime, also referred to as an 'accusation' or allegation. In criminal case, the specific statement of what crime the party is accused (charged with) contained in the indictment or criminal complaint is referred to as charge<sup>44</sup>.

### **I.1.6 Innocence**

In legal terms, innocence refers to a situation where a person has not yet been found guilty of a crime. It implies that there is no sufficient evidence to prove the individual's involvement in the alleged offense beyond a reasonable doubt. It also denotes the state of being free from guilt, wrongdoing, or legal liability.

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<sup>40</sup> Law regulating Media in Rwanda Law 2 of 2013, art.2 (14), published in an Official Gazette n° 10 of 11 March 2013

<sup>41</sup> Accused, The People's Law Dictionary. (1981-2005). Retrieved March 8 2024 from <https://legal-dictionary.thefreedictionary.com/accused>

<sup>42</sup> Accused, The People's Law Dictionary. (1981-2005). Retrieved 20 March 2024 from <https://legal-dictionary.thefreedictionary.com/accused>

<sup>43</sup> Charge." Collins Dictionary of Law". 2006. W.J. Stewart 8 Mar. 2024, <https://legal-dictionary.thefreedictionary.com/charge>

<sup>44</sup> Charge." Collins Dictionary of Law. 2006. W.J. Stewart 8 Mar. 2024 <https://www.thefreedictionary.com/suspect>



### **I.1.7 Burden of proof**

The burden of proof is the obligation to present evidence to support one's claim or accusation in a legal proceeding. In criminal cases, this responsibility typically lies with the prosecution, who must prove the defendant's guilt "beyond a reasonable doubt." In civil cases, the burden of proof is usually on the plaintiff, who must demonstrate their case by a "preponderance of the evidence"<sup>45</sup> or, in some instances, by "clear and convincing evidence."

### **I.1.8 Victim**

Victim in a legal case is typically the individual or entity with a legal personality who has suffered harm, loss, or injury due to the actions or omissions of another party. The specific identification of a victim depends on the type of case either criminal or civil.

### **I.1.9 Defendant**

A defendant is a person or entity with a legal personality against whom a legal action is brought in a court of law. In criminal cases, the defendant is the individual accused of committing a crime. In civil cases, the defendant is the party being sued by the plaintiff. The defendant is required to respond to the charges or claims made against them.

### **I.1.10 Claimant**

Claimant is the party who initiates a legal action or lawsuit, seeking a legal remedy or judgment from the court. This individual or entity asserts a right or claim and is responsible for proving the facts and legal basis of their claim.

### **I.1.11 Witness**

an individual who provides testimony or evidence relevant to the case either criminal or civil one and his/ her statement counting essentially in proceedings, as their statements can help establish facts and provide clarity on the case. The court may ask the parties if there are any witnesses that are not accepted and confirms those who will be heard, keep them separately outside the courtroom<sup>46</sup>

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<sup>45</sup> The burden of the proof available at, <https://open.lib.umn.edu/criminallaw/chapter/2-4-the-burden-of-proof/2.4>, The Burden of Proof – Criminal Law (umn.edu), accessed on 14 March 2024

<sup>46</sup> Law No 22/2018 of 29/04/2018 *Law relating to the civil, commercial, labour and administrative procedure* as amended to date in the Official Gazette No Official Gazette n° Special of 29/04/2018 up-to-date, art. 72, (4)

### **I.1.12 Court**

Refers to a judicial institution responsible for resolving disputes, administering justice, and ensuring the rule of law.

### **I.1.13 Conviction**

This conviction occurs after the court has examined evidence, heard testimonies, and concluded that the individual committed the offense he/ she was charged with and guilty.

### **I.1.14 Deprivation of liberty**

Deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which that person is not permitted to leave at will, by order of any judicial, administrative or other public authority<sup>47</sup>. Arrest or any type of detention by the authorities, including when the police apprehend a person and question them without a judicial decision or any warrant. That person may be set free after questioning; however, deprivation of liberty applies if, for a certain period of time, they were not allowed to leave police custody. In addition to restrictions on physical freedom, liberty interests include all of the rights that are granted to the people either expressly in the Constitution, such as freedom of speech or freedom from unreasonable searches and seizures<sup>45</sup>. Liberty<sup>48</sup> also includes rights that are implied from the Constitution by the courts.

### **I.1.15 Journalist**

Journalists work in many areas of life, finding and presenting information. However, for the purposes of this research we define journalists principally as men and women who present that information as news to the audiences of newspapers, magazines, radio or television stations or the Internet means. In other words, those who practice journalism are known as journalists<sup>49</sup>.

### **I.1.16 Law enforcement organs**

Law enforcement is the activity of some members of government who act in an organized manner to enforce the law by discovering, deterring, rehabilitating, or punishing people who

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<sup>47</sup> Deprivation of Liberty Definition | Law Insider, available at <https://www.lawinsider.com/dictionary/deprivation-of-liberty>, accessed on 20 March 2024

<sup>48</sup> In *Meyer v. Nebraska* (1923), the Court stated that liberty “denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience and generally to enjoy those privileges long recognized as essential to the orderly pursuit of happiness of freemen”

<sup>49</sup> Supra note 35

violate the rules and norms governing the society<sup>50</sup>. Under Rwandan context<sup>51</sup>, the term encompasses police, Rwanda investigation bureau, courts, and corrections.

Law enforcement includes cracking down on illegal activity. Law enforcement professionals are empowered by law to apprehend suspects where there is sufficient evidence of wrongdoing. To protect human rights and guarantee that criminals are accountable for their offenses, all law-enforcing bodies must ensure that justice prevails.

### **I.1.17 Parading suspect**

Media parade is a practice of displaying or communicating to the public about an incident or its development. In the case of people arrested for certain crimes, it is a means of informing the public, usually through publishing on the internet, the identities of these suspects. The practice has become notorious in Rwanda that once security agencies arrest anyone suspected to have committed an offence, such suspects are immediately paraded before the public, in the full glare of cameras.

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<sup>50</sup> Kären M. Hess, Christine Hess Othman, *“Introduction to Law Enforcement and Criminal Justice”*, 2008, p.1.

<sup>51</sup> In Rwanda, law enforcement organs include: *“Rwanda national police, Rwanda investigation bureau, courts, Rwanda correction service as well as rehabilitation centers”*.

## I.2 THEORETICAL FRAMEWORK

In any democratic law-governed society with a developed legal system, there is a presumption of innocence, which means that every citizen is assumed to be honest, respectable and innocent until proven otherwise in the manner prescribed by law and confirmed by a court judgment. The presumption of innocence, known as a settled principle in criminal law<sup>52</sup>, was first explicitly laid down in the French Declaration of the Rights of Persons and citizens of August 26, 1791.

Article 9 of the Declaration reads that “every man is presumed innocent until he has been declared guilty, if it should be considered necessary to arrest him, any undue harshness that is not required to secure his person must be severely curbed by Law”. Nowadays, the presumption, which has a place in many international texts on Human Rights, is regarded as the cornerstone of the law of reasoning and the right to a fair trial. The presumption of innocence is crucial to ensuring a fair trial in individual cases, to protecting the integrity of the justice system, and to respecting the human dignity of people who are accused of committing crimes. It is recognized as a key element at the heart of fair trial rights protection. Under Rwandan law, every suspect has to be presumed innocent until proved guilty by a competent Court<sup>53</sup>. Everyone has the right to be presumed innocent until proven otherwise. Everyone who is accused of crime shall be considered innocent until his/her guilt is proved legally and if no court judgment has been brought into force. If there are reasonable doubts concerning the guilt of a person, then his/her conviction is not allowed. A person accused of crime is under no obligation to prove his/her innocence. When exercising the justice, illegally obtained evidence cannot be used. No one can be convicted of crime without a court judgment. In international legal acts, the presumption of innocence was expressed in the Universal Declaration of Human Rights adopted by the UN General Assembly on December 10, 1948 where everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense<sup>54</sup>.

In accordance with Paragraph 2 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; “*Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law*”. A similar provision is also

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<sup>52</sup> LYNN HUNT. “*The Declaration of the Rights of Man and of the Citizen*”, August 1789:(2015), pp.77

<sup>53</sup> Supra note 11

<sup>54</sup> Supra note 7

protected in the International Covenant on Civil and Political Rights<sup>55</sup>, adopted by the UN General Assembly on December 10, 1966 in addition, the principle of presumption of innocence is also stated in Article 66 paragraph (1) of the Rome Statute of the International Criminal Court, which load the presumption of innocence as it follows: “Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law<sup>56</sup>,”

### **I.2.1 The scope of presumption of innocence**

The UN Human Rights Committee has stated that the presumption of innocence imposes on the prosecution the burden of proving the charge and guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt. The Committee has also stated that public authorities should refrain from prejudging the outcome of a trial by making public statements affirming the guilt of the accused, and that the media should avoid news coverage undermining the presumption of innocence<sup>57</sup>. The Committee has also stated that defendants should normally not be shackled or confined in an enclosure during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals<sup>58</sup>. The presumption of innocence is guaranteed under Rwandan law, where no one shall be considered guilty until proven guilty in a court of law.” The presumption of innocence is also safeguarded by international human rights instruments as it has been mentioned previously<sup>59</sup>.

### **I.2.2 Aspects of Presumption of Innocence**

It is worth to note that, as long as presumption of innocence is concerned, we have to mention the existence of two aspects to the protection afforded by the presumption of innocence<sup>60</sup>. Aspects include; a procedural aspect relating to the conduct of the criminal trial, and a second aspect, which is non-procedural aims to ensure respect for a finding of innocence in the context of subsequent proceedings, where there is a link with criminal proceedings (like disciplinary and civil), which have ended with a result other than a conviction. These two

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<sup>55</sup> ICCPR, art.14, (2)

<sup>56</sup> Rome statute, art. 66, par 1

<sup>57</sup> General Comment No. 32 (2007) on article 14: Right to equality before courts and tribunals and to a fair trial

<sup>58</sup> *Idem*, par 2

<sup>59</sup> According to the Court’s precedent (S.M. [PA], no: 2016/6038, 20/6/2019, §37-38): Presumption of innocence is an element inherent in the right to a fair trial. Presumption of Innocence is a procedural guarantee that applies in the course of a criminal prosecution. See Zühtü. A, et al (2020), *Constitutional Justice in Asia: presumption of innocence*.p.17, Constitutional Court Publications, ISBN: 978-605-2378-42-7

<sup>60</sup> Hock Lai Ho, “*The presumption of innocence as a human right*” in Paul Roberts and Jill Hunter (eds), *Criminal Evidence and Human Rights* (Hart 2012) p.266

aspects work together to prevent people who have not been found legally guilty from being treated in the same manner as those who have been convicted.

### **I.2.3 Guarantees of presumption of Innocence.**

There are three main guarantees of the presumption of innocence: Guarantee regarding the period when the individual is under a criminal charge, guarantee regarding the period after the criminal charge has ceased to exist by a decision other than conviction judgment, and guarantee regarding the burden of proof<sup>61</sup>.

#### **I.2.3.1 Guarantee regarding the period when the individual is under a criminal charge**

Presumption of innocence prohibits any early disclosure of the individual's guilt until the criminal proceedings are concluded, in other words, until his/her guilt is proven by a court decision. The applicant's innocence should not be tarnished by the reasons specified in the decisions of the public authorities or the language used in the decisions. In other words, no inference should be made as to the fact that the applicant has committed the imputed offence and therefore is guilty. The statements in the decision, by its wording and context, should not point to the fact that the imputed offence has been committed within the context of the criminal law. There should be no consideration implying or admitting the individual's guilt. In addition, the phrase "until proven guilty by a court decision" does not mean that a decision should be given by a first instance or appeal court, but that such decision should be duly finalized. In other words, an individual is still innocent until the finalization of the first instance court's decision<sup>62</sup>.

#### **I.2.3.2 Guarantee regarding the period after the criminal charge has ceased to exist by decision other than conviction judgment.**

In cases where the criminal case is discontinued for any reason or the accused is acquitted as it has not been found established that he/ she committed the alleged offence, he/she shall still be presumed innocent. The second aspect of the presumption of innocence comes into play when a decision other than conviction judgment is rendered at the end of the criminal proceedings and requires that the innocence of the individual is not suspected in relation to the

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<sup>61</sup> SAYAPIN S., H. Ruiz Fabri, *International Procedural Law*, 2021, pp.15 (Ed.), Max Planck Encyclopedia

<sup>62</sup> Disha Agrawal, *one is innocent till he is proven guilty by the Court*, ICFAI Law School, Hyderabad, LexForti Legal News Network

criminal offence in the subsequent proceedings and that the public authorities avoid actions and practices that may create the impression before the public that the individual is guilty<sup>63</sup>.

### **I.2.3.3 Guarantee regarding the burden of proof**

Another principle inherent in the presumption of innocence is that a person shall be relieved of the burden to prove his/her innocence<sup>64</sup> with regard to the claim raised. A person who has already been presumed innocent; he/she shall not be obliged to prove his/her innocence<sup>65</sup>. However, if there are rules as well as presumptions of law or fact which shifts the burden of proof to the accused, reversal of the burden of proof does not constitute a direct violation of presumption of innocence. Nevertheless, anyone must not be automatically declared guilty on the basis of irrefutable presumptions. In other words, it must be possible for the applicant to rebut the presumption involving criminal charge against him/her during the proceedings and the trial judge must consider such alleged presumptions.

### **I.2.4 Consideration of presumption of innocence**

The right to the presumption of innocence has to be considered by the government always when it is working on legislation, a policy or a program that creates an offence that requires the accused to prove or establish the absence of an element of an offence or requires the accused to establish an exception, exemption, excuse or other defense; creates an offence that contains a presumption and puts an evidential burden on the accused to rebut the presumption, creates an offence that contains a presumption operating against an accused that cannot be displaced, creates an offence that imposes criminal liability on an officer of a corporation solely by reference to the officer's position, and requires the officer to make out a defense relates to comment by a public official or by the media on the guilt of persons who have been charged relates to the manner of presentation of accused persons in court, for instance in shackles, or provides international legal assistance or cooperation, including development of legislation or strengthening criminal justice systems<sup>66</sup>.

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<sup>63</sup> Sayapin, *supra* no 38 p.14

<sup>64</sup> Legal Information Institute, *burden of proof*, 2017, Cornell Law School

<sup>65</sup> LAW N°014/2018 OF 04/04/2018, *determining the organization, functioning and competence of the national public prosecution authority and of the military prosecution department*, art. 28. (2), Official Gazette n° Special of 30/05/2018

<sup>66</sup> *Ibidem*,65

## **I.2.5 Presumption of innocence and the related rights**

The right to be presumed innocent until proven guilty by competent court goes in hands with other fundamental human rights as it is discussed below.

### **I.2.5.1 The right to a fair trial and fair hearing**

The right to a fair and public criminal trial or a fair and public hearing in criminal proceedings is one of the guarantees in relation to legal proceedings<sup>67</sup>. Fair trial and fair hearing rights include, that all persons are equal before courts<sup>68</sup>. The right is concerned with procedural fairness, rather than with the substantive decision of the court. Court proceedings are conducted in public unless the Court determines that proceedings be held in camera in circumstances provided for by law<sup>69</sup>. The right to a public hearing incorporates the principle that justice should not only be done, but be seen to be done, by subjecting legal proceedings to public scrutiny. It is fair trial when accused have adequate time and facilities to prepare a defense, when his right of not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted (*Ne Bis in Idem*<sup>70</sup>) is respected and if he can make appeal if he/she is not satisfied with court decision. The right to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language. It is important to note that, the right to a fair trial is broader than the enumeration of the minimum guarantees to which the accused person is entitled to.

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<sup>67</sup> BROWN-BLAKE, CELIA. “*Fair Trial, Language and the Right to Interpretation*”, *International Journal on Minority and Group Rights*, vol. 13, no. 4, Brill, 2006, p. 391,

<sup>68</sup> Art. 15, *supra* note 11

<sup>69</sup> Art. 16, (1), *supra* note 11

<sup>70</sup> Van den Wyngaert, Christine, and Guy Stessens, “*The International and Comparative Law Quarterly*”, vol. 48, no. 4, Cambridge University Press, 1999, pp. 779,



### **I.2.5.2 The right to legal counsel**

Right to counsel means a defendant has a right to have the assistance of counsel and, if the defendant cannot afford a lawyer, requires that the government appoint one or pay the defendant's legal expenses<sup>71</sup>. Every person is entitled the right of having legal counsel of his/her choice<sup>72</sup>. Respect for the right to defense and to legal counsel<sup>73</sup>. Under Rwandan law, if a suspect is unable to get a legal counsel, the investigator or the prosecutor informs the President of the Bar Association for him or her to assign a legal counsel to the suspect<sup>74</sup>. The suspect who is assigned a legal counsel as provided by the law cannot refuse the counsel without substantial reasons.

### **I.2.5.3. Right to remain silent and not to incriminate oneself**

A person's right not to incriminate oneself or to remain silent and not contribute to their own incrimination is a basic requirement of due process<sup>75</sup>. This legal right is intended to protect the accused the defendant against the authorities' abusive coercion. Rwanda recognizes the right of not to be compelled to testify against himself<sup>76</sup>. The accused/defendant cannot be compelled to assist in the production of evidence and cannot be sanctioned for failing to provide certain documents or other evidence. Obligation to testify against personal will, under the constraint of a fine or any other form of coercion constitutes an interference with the negative aspect of the right to freedom of expression which must be necessary in a democratic society<sup>77</sup>.

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<sup>71</sup> law n°83/2013 of 11/09/2013 *establishing the bar association in Rwanda and determining its organization and functioning*, art.58-60, official gazette n° 44 of 04/11/2013

<sup>72</sup> BEANEY, W. M, “*The Right to Counsel*”, 49(6), pp. 80, Past, Present, and Future, Virginia Law Review.

<sup>73</sup> Legal Information Institute, “*Miranda v. Arizona*”, 384 U.S. 436 (1966), Cornell Law School

<sup>74</sup> Art.29, *supra* note 11

<sup>75</sup> J. JOHN, “*Re-Conceptualizing the Right of Silence as an Effective Fair Trial Standard.*” The International and Comparative Law Quarterly, vol. 58, no. 4, Cambridge University Press, British Institute of International and Comparative Law, 2009, pp. 835

<sup>76</sup> N°68/2018 of 30/08/2018 *Law determining offences and penalties in general*, Art. 254, Official Gazette no. Special of 27/09/2018

<sup>77</sup> KLEIN, SUSAN R. “*Miranda Deconstitutionalized*”, University of Pennsylvania Law Review, vol. 143, no. 2, The University of Pennsylvania Law Review, 1994, pp. 417

#### **I.2.5.4 The right to liberty and security of person**

The term liberty of person refers to freedom from the confinement of the person as a result of unlawful or arbitrary processes<sup>78</sup>. In this sense, the right to liberty of person poses obligations on States to protect individuals from abduction or kidnapping by third parties such as criminal groups<sup>79</sup>. Security of person, on the other hand, refers to protection from suffering bodily or mental injury by States actors regardless of whether the victim is detained or not, or by private actors<sup>80</sup>.

The right to liberty and security of person is enshrined in the Universal Declaration of Human Rights (UDHR). article 3 of the UDHR as states, “*Everyone has the right to life, liberty and security of person*” while article 9 of this UDHR adds that “*No one shall be subjected to arbitrary arrest, detention or exile, No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law*<sup>81</sup>”. However, it is known that a person's liberty and security are guaranteed by the State.

Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful<sup>82</sup>. The right to liberty coupled with the presumption of innocence is the backbone of the principle that any pre-trial detention or any other investigative measure that restricts the right to liberty must be seen as an exception rather than a rule<sup>83</sup>.

#### **I.2.5.5 The right to be tried without undue delay**

Speedy trial is one of the basic human rights as without speedy trial justice cannot be said to be done. It has been endorsed in almost all international charters and conventions. Accused person has the right of to be tried without delay<sup>84</sup>. The right to have one's trial begins and concludes without unreasonable delay because Justice delayed is justice denied. When justice is not provided to the injured party in timely manner, and is prolonged to an insufferable amount of time, it is a form of injustice to the injured party.

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<sup>78</sup> NOORANI, A. G. Liberty vs. Security, “*Economic and Political Weekly*”, 42(27/28), 2007, pp.285, The Canadian Model.

<sup>79</sup> Art. 24, (1), *supra* note 11

<sup>80</sup> Art. 24 (2), *supra* note 11

<sup>81</sup> Art. 9, ICCPR, *supra* note 9

<sup>82</sup> Art. 285, *supra* note 71

<sup>83</sup> N° 027/2019 of 19/09/2019 “*Law relating to the criminal procedure*”, art. 66, Official Gazette n° Special of 08/11/2019

<sup>84</sup> Art. 14, (3), *supra* note 9

Apart from the opportunity to get justice, it is also necessary for justice and remedy to be provided in a speedy manner. Factors that were developed in jurisprudence and doctrine to determine whether the delay was reasonable or not, are the following: the length of the trial, the complexity of the case, the tactics of the accused himself and the damage the delay has caused to the accused, if any<sup>85</sup>. The right to a speedy trial has multiple purposes designed to protect the rights of the defendant which include protecting evidence, preventing wrongful imprisonment and reducing anxiety and uncertainty.

#### **I.2.5.6 The right to be informed of the nature and cause of charges**

It is constitutional right to be informed the nature and cause of charges. In all criminal prosecutions, the accused shall enjoy the right to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense<sup>86</sup>. Everyone charged with a criminal offence has the right to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him.

#### **I.2.5.7 The right to appear before a competent Court**

If the public prosecution decides to prosecute an accused, it submits a complete case file to the competent court<sup>87</sup>. Accused has the right to appear before a court of competent jurisdiction<sup>88</sup>. It is the court which has jurisdiction over the offense being investigated. Jurisdiction and competency of courts are determined by the law<sup>89</sup>.

#### **I.2.6 Limitations of presumption of innocence**

Countries may take measures derogating from certain of their obligations<sup>90</sup>, including the right to the presumption of innocence in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed. Such measures may only be taken to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not

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<sup>85</sup> P. Ramachandra Rao v State of Karnataka on 16 April 2002 - *Criminal Appeal No. 535 of Decided On*, 16 April 2002 At, Supreme Court of India

<sup>86</sup> Art. 29, par 1, (a), *supra* note 11

<sup>87</sup> Art. 92, *Supra* Note 78

<sup>88</sup> *ibidem*, art. 98 par 1

<sup>89</sup> N°30/2018 of 02/06/2018 *Law determining the jurisdiction of courts*, title II, Official Gazette n° Special of 02/06/2018

<sup>90</sup> Art. 4, *supra* note 9

involve discrimination solely on the ground of race, color, sex, language, religion or social origin. The UN Human Rights Committee has indicated that strict limitations would apply to any derogation and specifying that they must be exceptional and temporary.

## **CHAPTER II: CRITICAL ANALYSIS ON THE IMPLICATION OF THE LAW ENFORCEMENT AGENCIES'S ACT OF PARADING SUSPECT TO MEDIA**

This chapter aims at analyzing the legal implications of the act of parading the suspect to media with respect to criminal proceedings and the rights of suspects.

Criminal investigation in Rwanda is primarily handled by the Rwanda Investigation Bureau (RIB)<sup>91</sup>, which is the main agency responsible for investigating crimes and gathering evidence to support prosecutions. The RIB was established in 2018, and entrusted with the power to investigate on serious crimes including murder, robbery, human trafficking, cybercrimes, corruption, and many more. In performing its responsibilities, RIB collects and analyzes evidences, conducts interrogations, and collaborates with other law enforcement agencies including the police, the prosecution and the Judiciary to bring the wrongdoers to book. As per the investigation process, once a crime is reported to the RIB through various channels, RIB takes charge of the investigation starting from the evidence collection by using forensic science, witness statements, and other investigative techniques to gather evidence so that when sufficient evidence is found, suspects may be arrested and detained in Police custodies while further investigations are being conducted. In regard to Legal Framework governing RIB activities, the investigation process is governed by the Rwandan Penal Code and the Code of Criminal Procedure. These laws outline the rights of suspects and the procedures for conducting investigations including the right to legal representation and protection against torture or ill-treatment during detention.

However, in regard to challenges and reform, there have been concerns about human rights abuses during investigations, including allegations of torture. The government has been urged to improve transparency and ensure that investigations are conducted in line with international human rights standards and made a significant strides in improving its criminal justice system, including the establishment of specialized units within the RIB for crimes like gender-based violence and cybercrime. In summary, Criminal investigation in Rwanda is a structured process overseen by the RIB, with a strong legal framework to guide the proceedings. The country continues to develop its investigative capacity while addressing challenges related to human rights and ensuring justice is duly served.

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<sup>91</sup> Law No. 12/2017 of 07/04/2017 establishing Rwanda Investigation Bureau and determining its missions, powers, organization and functioning.

### **II.1 Tarnishing the image of the suspect and his/her family by media exposure.**

In the context of public perception, media coverage can shape public opinion, often leading to a presumption of guilt before a fair trial and this can result in social stigma and loss of trust within the community. In the context of defamation, if the media publishes false or misleading information, it can be considered defamation. Defamation involves making false statements that harm a person's reputation, either through slander (spoken) or libel (written).

In the context of false light, even if the information is not outright false, presenting it in a misleading way can create a false impression, damaging the individual's reputation. This is known as "false light" and can be just as harmful as defamation. In the context of long-term impact, media exposure can have long-lasting effects, making it difficult for the individual to rebuild their reputation even if they are later found innocent<sup>92</sup> there may not be a public presumption of innocence, where the public may create biased opinions based on details shared by the media. This will have an effect on how a suspect or accused is treated or perceived by the public, and may create difficulties in their standard of living or reintegration, particularly if they are later found not guilty<sup>93</sup>.

### **II.2 Disclosure of information and media coverage of criminal proceedings**

The increment of media coverage and of accessibility of technologies has changed the way information is shared, creating new challenges that are not addressed by the existing instruments.

### **II.3 Undue publication of the suspect identification to public**

Once published, the news reach large audiences easily and quickly, remain accessible for a long time, and facilitate the identification of defendants<sup>94</sup>. The media has successfully made it as the fourth branch of government in many democracies around the world. Its legitimacy is guaranteed in many national constitutions consequently making it a very relevant sector of

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<sup>92</sup> G. Feltoe, "Defamation: protecting reputation or suppressing media freedom", (1<sup>st</sup> January 2016), The Zimbabwe Legal Information Institute, Journal article

<sup>93</sup> JR. F., GILLIAM, S. IYENGAR, "The Influence of Local Television News on the Viewing Public", Volume 44, pp.10, American Journal of Political Science, (2000)

<sup>94</sup> Dimitar Markov and Maria Doichinova, "Disclosure of Information and Media Coverage of Criminal Proceedings", 23 January 2021

society<sup>95</sup>. For majority of people, the media is their main source of information and once the media discloses information seem to be confidential and used by the court sometimes with lower knowledge of the journalists through giving the side of the case, the analysis of issues by the audience is largely influenced by what the media portrays as news, documentaries and other broadcast contents<sup>96</sup>. Despite the national and international efforts to safeguard the rights of suspects or accused persons, media publicity inevitably affects their lives. While human rights and other relevant laws aim to carefully balance the presumption of innocence, the right to privacy and the rights to expression and information, publicity inevitably reflects on suspects and accused people's private sphere.

#### **II.4 Media coverage as psychological harassment and extra punishment**

The media coverage of the suspect identification can be seen as naming and shaming recognised to additional punishment to offenders convicted with corruption offences. This has always been accepted as an “extra” to the punishment, nonetheless it is reported to endanger the offender. The practice is only subject to the final court judgement and not done to suspects. However, parading suspects before media during pre-trial phase of the criminal proceedings could become subject to harassment, especially if they belong to a vulnerable group. They could for example experience life changes such as losing their job, being forced to move from the place where they live, divorce, or face reintegration challenges once they have served their sentence. Hence, parading suspects to media houses is seen as psychological harassment and additional punishment to suspects while waiting for court hearings and judgement by the competent court. The absence of international instruments prescribing that media outlets observe human rights, including the presumption of innocence in publications covering pending criminal cases, has opened space for the establishment of malicious practices of journalists aiming to increase their viewer and readership.

Self-regulation is not always sufficient to provide the necessary sanctions in case of violation of ethical rules of journalism that implies guilt for a person that is not sentenced yet. Overly extensive media coverage on criminal cases is not a particularly new phenomenon, the term “trial by media” was introduced for the first time in the late 20<sup>th</sup> century to describe the process whereby the media “interfered” in the legal process by creating a widespread

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<sup>95</sup> LUBERDA, R, “*fourth branch of the government*”, Volume 22, pp.17, 2014, Notre Dame Journal of Law, Ethics & Public Policy.

<sup>96</sup> BAKHSHAY, S. AND HANEY, C, “*The media's impact on the right to a fair trial*”, Volume 24, pp.19, 2018, Psychology, Public Policy and Law

perception of guilt or innocence in relation to a defendant before the verdict. Free and independent media is essential for modern democracies, but at the same time, if improperly conducted, it may undermine the rule of law by assuming powers authorized only and solely to a court of law to issue judgements on a person's guilt of committing a crime.

Media exposes parties involved in judicial processes to unnecessary public attention and scrutiny. This is typical of high-profile criminal trials where suspects or accused persons are put under media spotlights and discussed in a manner imputing guilt. Presumption of innocence, an entitlement embedded in the right to fair trial and which has been developed into a basic legal principle in our justice system, is blatantly undermined by the media in their reportages<sup>97</sup>.

## **II.5 Influence on criminal proceedings**

The act of parading suspects before media can influence the due criminal process from the pre-trial and trial phase.

### **II.5.1 Influence on players in criminal investigations**

Criminal trials must follow established legal procedures for the purposes of affording accused persons' fair trials as well as facilitating an efficient criminal justice system. Investigators, prosecutors, defendants and defence lawyers and judges are the principal actors involved in criminal trials<sup>98</sup>. The first step in criminal proceedings is investigating a complaint and arresting suspects in connection with allegations. During arrest, suspects must be advised of their rights and legal entitlements (referred to as the Miranda Rights in some jurisdictions) and thereafter sent to the nearest RIB station for further interrogation and/or detention. RIB conducts the necessary investigations into allegations and in the process seize materials, record procedures and forwards all evidence, incriminatory or exculpatory to prosecutors.

### **II.5.2 Influence on Prosecutor independence**

The office of the prosecutor determines whether the facts and evidence gathered during investigations are enough to form a prima facie case against the suspect and if this is established, the suspect is indicted and arraigned before court. Prosecutors can equally refuse to formally charge a suspect and file criminal action to court if the facts and evidence

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<sup>97</sup> ARISA. *"The Presumption of Innocence and the Media Coverage of Criminal Cases"*, pp.9, 2021, Center for the Study of Democracy, ISBN: 978-954-477-411-0,

<sup>98</sup> *Ibidem*, p 9-10



gathered do not support any offence or prosecuting the suspect will not serve the interest of justice. However, the fact that the suspect was disclosed to public, the prosecutor can be under psychological pressure and file submit the criminal file to the court while he/she is convinced that criminal charges are not beyond reasonable doubt. During the pre-trial phase, the prosecutor has different options, conduction additional investigation, plea-bargaining, mediate the suspect with victim if deemed necessary for misdemeanour offence, impose fine without trial or filing the criminal action to court,<sup>99</sup>The suspect disclosure to public can in one way or in other restrict the prosecutor's to freely and independently to deliberate on the suitable option.

### **II.5.3 Violation of the fair trial and fair proceedings**

Media coverage of criminal proceedings, both in and outside the courtroom, is a fulfilment of the commitment to uphold the open justice principle. However, the reportage sometimes conflicts with the right accused persons have to fair trial<sup>100</sup>. Cases covered by the media do not only have the potential of prejudicing trials but also affecting the privacy and rehabilitation of accused persons. Generally, our constitution empowers media coverage of all cases in public interest. There are also specific laws and policies regulating media operations in Rwanda the increase in media coverage of criminal trials largely interrupts the unbiased administration of justice expected of authorities during trials.

Facts reported are abridged and sensationally presented to the unsuspecting public. Terminologies used in describing suspects and accused persons often smack of value judgements and inputs guilt. Subjects of such coverage are highly likely to be tried and convicted by public opinion before the trial in court actually takes off. Apart from traditional broadcasting channels, the popularity of social media platforms has also contributed to influencing the attitudes of potential judges in criminal trials. These networking channels have made information readily available than ever and just a click away.

Worst of all, platforms such as Twitter, Facebook and WhatsApp provide an interactive medium allowing users to share their opinions on issues being discussed including court

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<sup>99</sup> Art. 5 of the Law No. 058/2023 of 04/12/2023 amending law n° 027/2019 of 19/09/2019 *relating to the criminal procedure*, in the Official Gazette n° Special of 05/12/2023.

<sup>100</sup> DAVID .Holmberg, High Profile Cases: *Does Media Coverage Harm or Help Justice*, available at <https://www.huffpost.com/entry/high-profile-cases/> May 15<sup>th</sup> 2024

cases. In such light, the probability of these criminal justice actors coming into contact with undesirable information about criminal cases are higher and such exposure negatively impacts on cases in court. It is important to note that, lack of knowledge on the criminal justice system by journalists has caused principles crucial to protecting the integrity of accused persons to be undermined and sometimes brushed off in order to create sensational and newsworthy stories. These and many other misrepresentations presented by the media for public consumption reduce the chances suspects and accused persons have in standing fair trials.

## **II.6 Negative impact to the presumption of innocence to public**

The presumption of innocence is a fundamental principle in many legal systems, meaning that a person is considered innocent until proven guilty. However, there can be negative impacts on this principle, especially in the public sphere led by the media.

### **II.6.1 Invoke public perception on the suspect's guilty**

The act of parading suspect before media can trigger negative perception on the suspect's guilty before even conclusion of the investigation stage. This calls upon **media influence** which can sometimes portray individuals as guilty before a trial has concluded journalists themselves who are not well familiar with legal domain, influencing public opinion and potentially prejudicing a fair trial by the following grounds.

Secondly, it can entail a **prejudicial Reporting**. Media coverage can sometimes be biased, presenting the suspect in a negative light before the trial either intentional or unintentional of the journalists even begins.<sup>101</sup> This can create a public perception of guilt, which can influence potential jurors<sup>102</sup>. **Sensationalism**, High-profile cases often attract sensationalist reporting, which can focus on dramatic and sometimes misleading aspects of the case. Hence the act can skew public opinion and affect the impartiality of the jury. **Leakage of inadmissible evidence**, Sometimes, and the media reports on evidence that is not admissible in court<sup>103</sup>.

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<sup>101</sup> Romeo vitelli "How Trial by Media Can Undermine the Courtroom", Media spotlight, psychology today, Toronto, Canada

<sup>102</sup> Paul Mark Sandler, "Keeping Jurors Offline", National Law Journal (May 23 2011)

<sup>103</sup> Bakhshay, Shirin, Haney, Craig. "The media's impact on the right to a fair trial: A content analysis of pretrial publicity in capital cases". Psychology, Public Policy, and Law, Vol 24(3), Aug 2018

This can include prior criminal records or unverified allegations, which can prejudice the jury against the suspect. **Public Pressure**, Intense media scrutiny can create public pressure for a conviction, which can influence the behavior of judges, jurors, and even prosecutors. **Social Media**, The rapid spread of information (and misinformation) on social media can amplify these effects, making it harder to ensure a fair trial. With the rise of social media, information (and misinformation) spreads quickly. Public opinion can be swayed by incomplete or inaccurate information, leading to a trial by social media.

### **II.6.2 Influence of fair trial and due legal process**

In the context of public statements made by public officials or law enforcement, it can sometimes imply guilty and affect the public's perception and the individual's (suspect) right to a fair trial and it end up causing Bias and Stigma, in the sense that, once accused, individuals may face social stigma and bias, even if they are later found innocent. This can impact their personal and professional lives significantly in one way or another.

In the context of pre-trial detention, the practice of holding an accused individual in custody before their trial, poses significant challenges to the principle of the presumption of innocence.<sup>104</sup> This principle, a cornerstone of justice systems worldwide as written many times, asserts that an individual is considered innocent until proven guilty. However, pre-trial detention can undermine this principle and inherently contradicts the presumption of innocence. By detaining individuals before their guilt is established by the competent court, the justice system implicitly treats them as guilty.

This practice can lead to a societal perception that those detained are indeed guilty, thereby eroding the foundational belief that one is innocent until proven otherwise<sup>105</sup> in some cases, individuals are detained before their trial, which can create a perception of guilt and affect their ability to prepare an effective defense. Here are a few key points The observance of the presumption of innocence and the right to a fair trial are necessary in all criminal cases in a just society and exceedingly relevant in the context of cases that garner considerable media attention, whereby the impartiality of the judge is threatened by coverage of criminal

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<sup>105</sup> Mikaela Rabinowitz, "WHAT WILL BECOME OF THE INNOCENT?", National Institute for Criminal Justice reform, 2023

proceedings and judges may be influenced by or develop biases based on media reporting or statements alleging guilt (or innocence)<sup>106</sup>.

In particular, presumption of innocence of the defendant and reputation and privacy of trial participants including defendant are highly valued. If the media report a suspect of crime by a means of showing the face or mentioning his name on the newspaper, he argued that it is as good as convicting the suspect in the eye of the public. This is fundamentally wrong because it is only a court that can pronounce suspect guilty and convict an accused person.

## **II.7 Violation of privacy of the suspect and related persons**

The Law protects not only personal privacy but also the family privacy, family being protected as the foundation of the Rwandan community.<sup>107</sup>

### **II.7.1 Violation of suspect personal privacy**

Under article 23 of constitution of the republic of Rwandan stipulates that “Respect for privacy of a person and of family (1) the privacy of a person, his or her family, home or correspondence shall not be subjected to arbitrary interference; the person’s honour and dignity must be respected. (2) A person’s home is inviolable. It may not be searched or entered without the owner’s consent, except in circumstances and in accordance with procedures determined by the law. (3) Confidentiality of correspondence and communication shall not be breached except in circumstances and in accordance with procedures determined by the law”.

It is clear that, the scope of this article is expansive, including, inter alia, physical, psychological, and moral integrity; physical and social identity; gender identification, sexual orientation, and sexual life, name and identification linking to family; ethnic identity and race; personal image and reputation. Criminal proceedings and media coverage of criminal proceedings will have implications for and effects on the accused’s privacy and private life and some degree of invasion into the accused’s right to privacy and private life during criminal proceedings is not incompatible with article 23 nevertheless, the existence of criminal proceedings does not permit deprivation of rights stipulated out in article 23 of the

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<sup>106</sup> PATRICK.E, “*Capital Defense Journal*”, Volume 15, pp. 71-91, 2002, Ohio North University Law Review, University of Louisville School of Law Legal Studies Research Paper Series No. 2009-04, (2008), pp. 755, pp. 99.

constitution of Rwanda<sup>108</sup> up-to-date. Accordingly, when disclosing information about criminal proceedings, media men must consider the accused's right to privacy and degrees of interference because taking a photo, or visual recording or disclosing them without one's authorization amounts to violation of accused's right to privacy.

### **II.7.2 Undue publicity and presumption of guilty**

Information about the private life of a suspected or accused person can violate their right to privacy and cause disproportionate damage and harm to the accused. Moreover, this calls into question the true purpose for disclosure of such information, if not to foster publicity. Furthermore, and of great concern, is breaches of the accused person's rights to privacy, and media attention, investigation, and reporting on aspects of their private life can threaten their right to be presumed innocent, as it is noted increasing publicity of criminal proceedings has caused a deterioration of the presumption of innocence strength, leading to public attitudes that resemble more closely a presumption of guilt<sup>109</sup>.

When reporting on crime and people of whom the media links with crime or criminal activity, the presumption of innocence is sometimes violated, and it seems that the alleged offense whether there is a final judgment or not serves as the basis for suspending the right to privacy of the alleged perpetrators as well as their families<sup>110</sup>. Painting a picture of the accused through written or spoken word, as addressed previously, whether grounded in fact or concocted as fiction, are harmful to the accused in their right to reputation and can manipulate future of the accused's likelihood of being guilty or innocent. Exacerbating these problems, media coverage of criminal cases includes additional elements, notably photographs, or, in the cases of televised or online coverage, video.

These elements pose further, and in some instances, worse, dangers to both privacy rights and the presumption of innocence, acknowledging, the image is also recognized as a value adding element that strengthens the reliability of the information. With respect to privacy rights and the presumption of innocence, it is also markedly concerning when members of the media are invited by public officials to attend arrests, in private spheres, such as the home, as the home

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<sup>108</sup> *Supre note 14*

<sup>109</sup> TANOOS. A, "Shielding the Presumption of Innocence from pre-trial Media Coverage", Volume 50, (2017), pp. 997, Indiana Law Review

<sup>110</sup> KLEUT, J. and MIŠLJENović U, "Protection of Privacy and Presumption of Innocence" p.28, (2016), the Media Belgrade, Partners for Democratic Change Serbia,

can provide comfort, support, an escape, or a place to relax<sup>111</sup> where the accused may be more exposed or vulnerable, such as in a half-dressed or dishevelled state<sup>112</sup>.

### **II.7.3 Disclosure of personally identifiable information**

In addition to breaches of privacy and private life applicable in the context of defamation and the right to one's image, media coverage of the accused person's during criminal proceedings can also violate their rights to privacy and threaten the presumption of innocence by obtaining and publishing other personally identifiable information of the accused. The scope of personally identifiable information can be interpreted narrowly, comprising, for instance, first name, surname, date of birth, age, and gender, marital status or more broadly, as is often the case in media coverage, which might include information about occupation, employment status, place of work and even work history<sup>113</sup> address and area of residence; nationality, citizenship status, ethnicity, and race, sexual orientation and sexual behaviour, health conditions and health history, religion, financial history and previous history with the law or criminal justice system, such as prior criminal conduct, allegations, investigations, offences, and sentencing.

Much personally identifiable information of the accused is often disseminated by investigatory, and policing officials to the media in press releases or during press conferences, although in other instances, journalists will conduct their own searches on the accused, whether through online or public records searches, or, through other means, such as interviewing neighbours, co-workers, friends, or family of the accused. When sensitive and personal information about the accused is published, this can result in the individual being stigmatized, harassed, or threatened in their community, or, depending on the extent and side of media coverage, even national or international spheres.

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<sup>111</sup> MARKOV D. and Y. GAYTANDJIEVA, "Assessing the impact of criminal proceedings on the social situation of suspects and accused", p.57, (2019), handbook, Sofia, Center for the Study of Democracy

<sup>112</sup> BAUDRIHAYE-GÉRARD.L and A. MIK., "The presentation of suspects in criminal proceedings", pp.21, (2019), Fair Trials, London

<sup>113</sup> A. P. WINN, "Balancing Judicial Accountability and Privacy in an Age of Electronic Information", Volume 79, pp. 307, (2008), Online Court Records, Washington Law Review

## **II.7.4 Disclosure and violation of suspects' personal data**

The present part dealt with the absence of legal justification of disclosing the suspect personal data, and public references to guilty.

### **II.7.4.1 Absence of legal justification of disclosing the suspect personal data**

In Rwanda it is common for suspects to be paraded before the media at the time of their arrest. For instance, Spokesperson of RIB, Dr. MURANGIRA B Thierry, has been interviewed by the new times in January 2022 and he said the reasons behind the presentation of suspects before media where he said that “there is no law which limits RIB to present suspects in the media. Moreover, he said that they parade suspects before media in order to fulfil their duty of accountability where local people who reported the crime, they have to be aware of that the suspect has been brought to the justice”. He also announced that the main reason behind the presentation of suspects is to avoid people from saying that the person has been disappeared. He noted that the parading of suspects is part of the RIB's efforts to fulfil its responsibilities which are; preventing crimes, assisting the citizens get information regarding crimes and how they are committed as well as to make sure that there is cooperation between RIB and the citizens<sup>114</sup>. We have seen cases where presented suspects who later acquitted by competent court. For instance, on 31 may 2019 RIB has also presented to media Nsengiyumva Jean Bosco and Uwizeyimana Israel leaders of Super Marketing Global network on charges of illegal operations of currency sale or exchange and fraud.

Unfortunately, the primary court of Nyarugenge decided that, the suspects have to be released because there are no sufficient grounds to believe that suspects have committed alleged offences<sup>115</sup>. The suspects were acquitted but they still suffer irremediable damage to their reputation. As matter of fact, it is known that, no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks. With this regard it is not legal to parade suspects before media because at that stage, suspects are presumed innocent by the law. Presentation of suspects in public causes irremediable damage to the person's reputation.

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<sup>114</sup> 4 RIB speaks out on parading suspects, available at, <https://www.newtimes.co.rw/news/rib-speaks-out-parading-suspect> , accessed on March 20<sup>th</sup>, 2024

<sup>115</sup> [www.ukwezi.com](http://www.ukwezi.com) , accessed on March 20<sup>th</sup>, 2024

### **II.7.4.2 Public references to guilt**

In a society governed by the rule of law, a defendant's guilt can legitimately be established only in a trial conducted by competent court. No other state actor is allowed to refer publicly in any way to a defendant's guilt or innocence. Portray suspects as guilty in the eye of the society, thereby constituting defamation to the reputation of their characters. A suspect is protected by the constitution because the law says if a person is suspected to have committed an offence, he/she is a suspect. However, when the suspects are paraded before media, they are considered as guilty in the eyes of society, which is a slander on the reputation of his/her character.

Suspects are protected by the Constitution because the law stipulates that if a person is suspected of committing a crime, they are suspects. If the media reports on the suspect by showing his face or mentioning his name in the newspaper, it is as good as convicting the suspect in the eyes of the public. The fact that a person is depicted in public as suspect or offender may strongly injure her /his social dignity and his/her reputation<sup>116</sup> and threatens fair trial. Pre-trial publicity may have an enormous impact on a criminal defendant's right to a fair trial. The effects of this pre-trial publicity can be detrimental to more than just the reputation of the accused<sup>117</sup>. A lost or damaged reputation may have serious impact on the ability of a person to engage in society. As everyone depends upon others and their perceptions to engage in social or professional transactions. Media trial threatens often irrevocably relationships, social status, current and future employment of paraded person.

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<sup>116</sup> Robert Zinko Et Al., "*Toward A Theory of Reputation in Organizations*", Volume 26, 163–204, Research in Personnel and Human Resources Management, Copyright R2007 By Elsevier Ltd.

<sup>117</sup> EARLY and KATE "*The Impact of pre-trial Publicity on an Indigent Capital Defendant's Due Process Right to a Jury Consultant*", Vol. 16: Iss. 3, p.687, (2011), Williams University Law Review



### **II.7.4.3 Impact of media exposure on suspect' life**

The family is considered as a key influence in an individual's life, introducing relationships that teach respect, trust, support, and other core values. For the family members of the suspect or accused, a strong family structure allows positive development and the understanding of reliance on one another, as with a child depending on their parent or older sibling.

To the suspect or accused, family is an important source of motivation, trust, respect, support, and can ensure positive learning and growth. Advocates of confidentiality worry that publicity will embarrass family members and cause or exacerbate tension and resentment within the family<sup>118</sup>.

### **II.7.4.5 Impact of media exposure on children of suspect**

The predominant effect that media exposure will have on small children is on their physical and psychological well-being of having a parent or guardian who is paraded worldwide<sup>119</sup>. In most cases, parading suspects affect, in one way or another, the relationship between the suspect or accused and not only his/her children but also the relatives and friends. Even if the defendant has not been placed under serious restrictive measures that would affect his/her communication with the children, the very fact that the child knows that his/her parent is accused of committing a crime can be traumatic. In many of these cases, in addition to the child's personal perceptions, hostility in the environment in which they usually reside (school, games with neighbors' or friendly families' children) can have an additional negative effect. Children would experience shame and humiliation of as result of labelling his/her parent. Media exposure placed additional stress on the children during a difficult period<sup>120</sup>.

### **II.7.4.6 Impact of media exposure on social life**

The effect that criminal proceedings will have on the social life of the suspect or the accused depends largely on the scope and intensity of his/her social life. The immediate and most obvious effect of criminal proceedings on the social life of suspects and accused is their limited or lacking ability to continue being personally involved in social activities because the

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<sup>118</sup> W. PATRICK, "Privacy or Publicity", Vol 3, p.2, (2008), International Journal of Criminal Justice Sciences, ISSN: 0973-5089

<sup>119</sup> B. EASTERLING and E. JOHNSON, "Understanding Unique Effects of Parental Incarceration on Children, Challenges, Progress, and Recommendations", Volume 74, pp.32, (2012), Journal of Marriage and Family

<sup>120</sup> PATRICK, *supra note* 96, at, p.3

person has been affected psychologically<sup>121</sup>. For instance, societal reactions to juveniles who have been labelled may be negative and may in turn cause a person to be isolated and that in turn, could lead to even more deviant behaviours. Electronic media coverage of a juvenile court trial would permanently stigmatize the juvenile offender, hinder the development of socially acceptable behaviour. Regardless of the outcome of the case, the youth will be stigmatized as a criminal in her neighbourhood, school or community centre, and so far, less likely to turn to these support systems for guidance<sup>122</sup>.

#### **II.7.4.7 Impact of media exposure on employment of suspect**

Employment is an important direct means to an income, which serves the purpose of supporting basic needs, such as providing food, accommodation, healthcare, and sustaining a living for the individual and/or his/her family, relatives and friends. Additionally, it can be perceived as a social status in providing security and certainty, while also providing a sense of achievement and the desire to succeed and meet goals.

In addition, adverse publicity might create future disabilities for suspect by limiting employment and educational opportunities. Studies suggest that media coverage would disrupt the youngster's chance at rehabilitation, would damage the youth's self-esteem, disrupt the youth's family and affect the youth's relationship with peers, teachers, and even with the community<sup>123</sup>. The effect that criminal proceedings will or may have on the employment status of the suspect or the accused is substantial<sup>124</sup>. If the person is not employed, the proceedings can significantly limit his/her job opportunities. When applying for a job, the suspect or accused will usually be recognized because he/she known as well as he was paraded which may have a very negative effects on his/her potential for employment.

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<sup>121</sup> TANG.L, et al, "Which Criminogenic Need Changes are most Important in Promoting Desistance from Crime and Substance Use" Volume 41, pp.60, (2013), Criminal Justice and Behavior, National Library of Medicine

<sup>122</sup> PATRICK, *supra* note 96, at, p.4

<sup>123</sup> *Supra* note 102

<sup>124</sup> E. WESTROPE, "Employment Discrimination on the Basis of Criminal History", Volume 108, pp. 14, (2018), Journal of Criminal Law and Criminology

#### **II.7.4.8 Impact of media exposure on community**

Due to the influential nature of the community, criminal proceedings and media exposure also have an effect on how the community perceives an individual who is a suspect or accused. Criminal proceedings would bring to light any criminal behaviour of a suspect or accused, which could lead to judgment and discrimination from the community, thereby possibly leading to social exclusion, depression.

Media exposure may result in the suspect facing public ridicule and thereby lose standing and reputation in the community.<sup>125</sup> The effect on the community is even stronger when the person is paraded in the presence of other individuals. There are many cases where suspects or accused are arrested and paraded at their workplace or another public place in the presence of neighbours, colleagues, or other persons that know them<sup>126</sup>. The usual effect of criminal proceedings and media exposure on the relations of the suspect or accused with his/her community is a damaged reputation, loss of confidence and reduced social contacts.

These consequences, however, often affect not only the defendant but also the members of his/her family, including children, who may become targets of hostile or offensive attitudes from neighbours, colleagues or classmates. In some extreme cases, the suspect or accused and his/her family may even be forced to leave, temporarily or permanently, their place of residence to avoid disrespectful treatment from the community<sup>127</sup>.

#### **II.8 Unconstitutionality of the act of parading criminal suspects to media**

The act of parading criminal suspects before the media can be argued as unconstitutional under the Rwandan Constitution for several aspects as it violates the suspect fundamental rights.

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<sup>125</sup> Case law no 43548 of Craig Thompson v. Barnes Richard, in 1972, “*suspended for 1 year from all interscholastic activities sponsored by defendant League because of his admitted violation of the broad language of the League's alcohol rule*”, Supreme Court of Minnesota.

<sup>126</sup> K. KRAS, “*The Role of the Public in Strengthening Crime Prevention and Criminal Justice*”, Report of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, Doha, 12-19 April 2015

<sup>127</sup> J.C MANALIYO et al, “*Community Participation in Crime Prevention*”, Mediterranean Journal of Social Sciences, Vol. 4, n° 3, (2013), MCSER Publishing, Rome-Italy

### **II.8.1 Violation of the presumption of innocence right**

Presumption of Innocence, Article 29 of the Rwandan Constitution in its section one, paragraph b, guarantees the presumption of innocence until proven guilty by a competent court. Parading suspects before the media can undermine this principle by creating a public perception of guilt before a fair trial<sup>128</sup>. Right to Privacy and Dignity, Article 23 of the Rwandan Constitution protects the right to privacy and dignity. Publicly displaying suspects can violate their privacy and dignity, subjecting them to public humiliation and potential harm<sup>129</sup>.

### **II.8.2 Violation to the right to physical and mental integrity**

Right to physical and mental integrity of article 14 of the Rwandan Constitution ensures the right to physical and mental integrity. Media parades can prejudice the public and potential jurors, compromising the fairness of the trial process<sup>3</sup>. Right to Freedom from Discrimination, The right to freedom from discrimination applies more broadly than just in the context of the criminal justice system.

However, in this context, it refers to freedom from discrimination both in the criminal law and in the operation of criminal justice.<sup>130</sup> This right is provided for in the various international and regional frameworks such as Article 10 of Universal Declaration of Human Rights, Article 26 of International Covenant on Civil and Political Rights, Article 1(1) of American Convention on Human Rights, Article 3 of Arab Charter on Human Rights, Article (111) of the Universal Islamic Declaration of Human Rights.

The significance of the right to non-discrimination is also captured in the two treaties of International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of Discrimination against Women. It should be noted that in line with the United Nations Human Rights Committee, the determinant elements as to whether a distinction is discriminatory is whether it is reasonable and objective and whether its aim is to achieve a purpose that is legitimate under the covenant.<sup>131</sup>

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<sup>128</sup> *Supra* note 14

<sup>129</sup> Disclosure of Information and Media Coverage of Criminal Proceedings, <https://csd.eu/publications/publication/disclosure-of-information-and-media-coverage-of-criminal-proceedings/>

<sup>130</sup> Chapter 4: Rights of the Suspect and the Accused, <https://www.usip.org>, accessed 20 August 2024

<sup>131</sup> *Chapter 4: Rights of the Suspect and the Accused*, accessed 20 August 2024

International Human Rights Standards, Rwanda is a signatory to the African Charter on Human and Peoples' Rights, which also emphasizes the presumption of innocence and the right to a fair trial (Article 7). Violating these principles can be seen as contravening international obligations<sup>132</sup>. These arguments highlight how parading suspects before the media can conflict with constitutional protections and international human rights standards.

## **II.9 Comparative approach of different jurisdictions with regard to the Presumption of innocence vis-à-vis parading suspects and case laws**

This part highlights the right of suspect from not being paraded in some selected jurisdictions as it is against the right of being presumed innocent until proven guilty by competent court of jurisdictions. It is discussed below

### **II.9.1 Nigeria**

Parade of suspects before the media in Nigeria has always been a point of debate. Several lawyers, human right activists and civil society organizations have called for its end saying it does not protect the human rights of suspects<sup>133</sup>. The practice has become notorious in Nigeria that once security agencies arrest anyone suspected to have committed an offence, such suspects are immediately paraded before the public, in the full glare of cameras.

#### **II.9.1.1 Court opinion**

The courts have consistently cautioned the law enforcement agencies to desist from parading criminal suspects before the media because every suspect enjoys the constitutional protection of 'presumption of innocence' until proven guilty under S. 36 (5) CFRN 1999. The suspect is also entitled to dignity of his human person by virtue of Section 34 (1) (a) of the CFRN, 1999. Due to the pressure from activists and lawyers, the Lagos State House of Assembly has passed a bill to stop the media parade of suspects by the police. According to section 9 (a) of the newly passed law, the police shall refrain from parading any suspect before the media.

In *Ndukwem Chiziri Nice V. Ag, Federation & Anor.* (2007) CHR 218 AT 232, Justice Banjoko (Federal High Court, Abuja), holding that "*The act of parading him (the suspect)*

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<sup>132</sup> The Legality or Otherwise of Public Parade of Suspects by Security, <https://www.thisdaylive.com/index.php/2021/07/27/the-legality-or-otherwise-of-public-parade-of-suspects-by-security-agencies-part-1/>

<sup>133</sup> Nigeria: Lagos Assembly passes bill prohibiting police from parading suspects, available at, <https://citinewsroom.com/2021/07/nigeria-lagos-assembly-passes-bill-prohibiting-police-from-parading>, accessed on 15<sup>th</sup> June 2024

*before the press as evidenced by the Exhibits annexed to the affidavit was uncalled for and a callous disregard for his person. He was shown up to the public the next day of his arrest even without any investigation conducted in the matter. He was already prejudged by the police who are incompetent, so to have such function, it is the duty of the court to pass a verdict of guilt and this constitutes a clear breach of section 36(4) and (5) of the Constitution of the Federal Republic of Nigeria, 1999 on the doctrine of fair hearing”.*

### **II.9.1.2 Binding precedent by Federal High Court**

Another land mark case decided by the Federal High Court in Calabar in suit No. FHC/CA/CS/91/2009 between Mr. Obono and the Inspector General of Police has ordered the Nigeria Police to pay the sum of N20 million as general damages to Citizen Obono for parading him in public before the press on allegations bordering on armed robbery. Delivering judgement in suit No. FHC/CA/CS/91/2009 between Mr. Obono and the Inspector General of Police, Justice C. J.

Aneke said parading arrested suspects undergoing investigation is unconstitutional, illegal and wrongful, and contrary to the provisions of Section 34 sub-section 1 and 36 sub-section 1 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Articles 5 & 7 (1) (b) of the African Charter on Human & Peoples Right (Ratification & Enforcement) Act, 2004<sup>134</sup>.

Justice Aneke held that the parade of Mr. Obono on October 7, 2009, by the 2nd respondent (the Commissioner of Police, Lagos State), before journalists as a member of a gang of armed robbers and the subsequent publication of his photographs in a newspaper on Thursday, October 8, 2009, and the airing of the same news item on national television on the same date were illegal and unjust and damaging to the reputation and image of the applicant.<sup>135</sup>

Nigeria as the country that honors the principle of stare decisis and rule of law, it shall be wrong for the police to parade suspects before media because a suspect is a suspect until the

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<sup>134</sup> 9 See X, Is it lawful for police to parade suspects? available at, <https://www.legit.ng/1174990-fact-check-is-lawful-police-parade-suspects-reportedly-claimed-by-lagos-cp.htm> , accessed on 15<sup>th</sup> June 2024

<sup>135</sup> See X, Calabar Court Awards N20m Against Police For Parading Suspect in Public, available at, <https://crossriverwatch.com/2013/12/calabar-court-awards-n20m-against-police-for-parading-suspect-in-public> , accessed on 15<sup>th</sup> June 2024

guilt is proven in a court of competent jurisdiction as it has been decided by courts in different occasions<sup>136</sup>.

## II.9.2 India

Is common law country as it was colonized by U.K. Being common law country, it follows the precedents where the cases of same facts are decided according to the existing ruling of superior court. Precedents are binding because they have force of law (they are laws made by judges). With this regard, the Pradesh high court has made decision in case of public interest litigation lodged by human right activists asking the court that how police can parade accused or suspected people if they haven't been proved guilty by the court<sup>137</sup>. The Madhya Pradesh High Court has instructed to stop public parading of accused, suspect or arrested people.

In significant judgment, the court held that, the disclosure of personal information to media or display their photographs in newspapers and social media is violation of article 21 of Indian constitution<sup>138</sup>. Upon delivery of court decision, police headquarters has issued order instructing all the ADGs (Additional Director General of Police), DIG (Deputy Inspector General) and SP (Superintendent of Police) across the state to stop parading of people arrested or accused in any crime. The names of arrested will also be not made public. The order also stops the police from releasing the photo of suspects, accused or arrested in public<sup>139</sup>.

The court decision is binding to the individuals concerned even to state organs. The decision of high court which bans public parade of suspect has binding character to all concerned organs specifically law enforcement organs as it shall be punishable if any person suspected to have been committing crime is paraded before media. This decision has been taken as a result of wide interpretation of article 21 of Indian constitution. As far as comparative approach is concerned, the Rwandan judges should consider the practice of other jurisdictions if they receive the case requesting the prohibition of public parade of suspects because it is

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<sup>136</sup> 141 Lagos bars media parade of suspects by Police, see at, <https://nationaldailyng.com/lagos-bars-media-parade-of-suspects>, accessed on 15<sup>th</sup> June 2024

<sup>137</sup> HC bans public parading of arrested accused or suspect, see at, <https://www.freepressjournal.in/bhopal/madhya-pradesh-hc-bans-public-parading-of-arrested-accused-or-suspect>, accessed on 20<sup>th</sup> June 2024

<sup>138</sup> See X, disclosure of personal information of suspects on media, <https://bnblegal.com/news/disclosure-of-personal-information-of-suspects-to-media-displaying-photos-in-newspapers-social-media-is-violative-of-article-21-madhya-pradesh-hc>, accessed on 20<sup>th</sup> June 2024

<sup>139</sup> See X, Madhya Pradesh HC bans public parading of under trials, available at <https://www.nyoooz.com/news/bhopal/1525696/madhya-pradesh-hc-bans-public-parading-of-undertrial>, accessed on 20<sup>th</sup> June 2024

against Rwandan constitution which grants the right to be presumed innocent until proven guilty by competent court of jurisdictions.

### **II.9.3 China**

Parading suspects is a banned practice in China even if historically, used to be common during the cultural revolution, it has been banned in China since the 1980s. Since the 1980s, the Supreme People's Court of China, the Supreme People's Procuratorate and the Ministry of Public Security have jointly released numerous notices to ban parading criminals or suspects through the streets as this could cause a bad impact<sup>140</sup>. A notice issued in June 1988 stated that such measures should be rectified and related officials should be punished. State organs that engage in prohibited practice of parading suspects before media, are punishable by law. This should be applicable in Rwanda where the minister in charge of justice has to issue order prohibiting parading suspects before media as it is in China

### **II.9.4. Lithuania**

Under Lithuanian law, presumption of innocence is enshrined in Paragraph 1 of Article 31 of the Lithuanian Constitution; it states that, “*A person shall be presumed innocent until proved guilty according to the procedure established by law and declared guilty by an effective court judgment*”<sup>141</sup>. The Constitutional Court, when interpreting this constitutional provision, has held that presumption of innocence is a fundamental principle of the administration of justice in criminal proceedings and one of the most important guarantees of human rights and freedoms<sup>142</sup>.

It also held that all State institutions and officials have a general duty to refrain from referring to a person as a criminal until the person is proved guilty according to the procedure established by law and declared guilty by an effective court judgment<sup>143</sup>. The Law on the Provision of Information to the Public provides that it is prohibited to disseminate

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<sup>140</sup> See X, China bans “*shame parades of criminal suspects*”, available at <https://www.reuters.com/article/us-china-suspects-shaming->, accessed on 20 June 2024

<sup>141</sup> Lithuania, Constitution of the Republic of Lithuania, Art. 31, Par. 1 of 25 October 1992

<sup>142</sup> Lithuania, Constitutional Court (Konstitucinis Teismas), No. KT3-N2/2017, 24 February 2017; Constitutional Court (Konstitucinis Teismas), No. KT13-N5/2019, 18 April 2019.

<sup>143</sup> Lithuania, Constitutional Court (Konstitucinis Teismas), No. 8/02-16/02-25/02-9/03-10/03-11/03-36/03-37/03-06/04-09/04-20/04-26/04-30/04-31/04-32/04-34/04-41/04, 29 December 2004; Constitutional Court (Konstitucinis Teismas), No. 22/2008-31/2008-9/2010-35/2010, 7 July 2011.



information, which violates the presumption of innocence<sup>144</sup>. Concerning guidelines for media, the obligation to respect the principle of presumption of innocence is also included in the Codes of Ethics adopted by self-regulation bodies of journalists and media.

For example, it is stated in the Code of Ethics on providing information to the public of Lithuania that Journalists, producers and the communicators of public information must respect the presumption of innocence. A person may only be found guilty by a valid ruling or the judgment of a court<sup>145</sup> in article 34 of this Code it is stated that “*Publishing the personal data of a person who is suspected of a crime, which could be used to identify that person, is forbidden. If publishing the surname of a person who is suspected of a crime, or is an accused or a defendant, is in the public interest but this fact of a crime is not proven later, the journalists, producers and communicators of public information must immediately inform the society that the said person has been found to be not guilty*”.

Lithuania has sound legal system that protects suspects from not being presumed as guilty person. such provision requiring state officials to refrain from saying anything if may amount to violation of presumption of innocence is desirable under Rwandan law so that the suspect may have effective remedy in case his right (to be presumed innocent) has been violated by state official, specifically in statements or comments. It is also paramount to note that Rwandan media law doesn't have appropriate provisions like that of Lithuanian media law, the publication personal information including photographs is forbidden. Rwandan legislator should refer to Lithuanian media law in order to ensure the effective protection of suspects from not being deprived his rights to privacy.

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<sup>144</sup> Lithuania, Law on the Provision of Information to the Public (Visuomenės informavimo įstatymas), 2 July 1996 (with later amendments), No. I-1418, Art. 19(3).

<sup>145</sup> Lithuania, “*Code of Ethics in providing information to the public of Lithuania*” (Lietuvos visuomenės informavimo etikos kodeksas), 29 February 2016, Article 31.

### **II.9.5. Position of International courts vis-à-vis parading suspects before media.**

In *Dyot Bayi & 14 Others. V. Federal Republic of Nigeria* (2004-2009) CCJLER 245 at the Community Court of Justice, ECOWAS Court condemned the media trial of the Applicants when it held that: “*The Court is of the opinion that for the fact that the Defendants presented the Applicants before the press when no judge or court has found them guilty, certainly constitute violation of the principle of presumption of innocence such as provided in Article 7(b) of the African charter*”<sup>146</sup>.

The Court proceeded to award damages of US \$42,750.00 to each of the 10 Applicants and the US \$10,000.00 as costs payable by the Federal Government for the illegal actions of the naval personnel who carried out the illegal parade of the applicants<sup>147</sup>. From legal analysis, it is found that ECOWAS Court applied the African charter in awarding damages to the victims. So, the victims of this practice (parade) in Rwanda should invoke this case law to claim damages against the law enforcement organs because the law applied in this case is Rwandan law, according to article 95 of Rwandan constitution where the treaties ratified by Rwanda has force of law on Rwandan territory<sup>148</sup>. With regard to this case, it is noted that as far as African charter is concerned, presenting suspects before media is punishable.

### **II.10 Liability of media houses for violation person’s privacy and presumption of innocence**

As we discussed previously, suspects and accused persons are exposed to an increased risk of having their presumption of innocence violated either by unlawful disclosure of information by the public authorities or by inappropriate coverage of their cases by the media. If this risk materializes, the consequences for the affected person could be particularly harmful.

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<sup>146</sup> Art.7 (b) of the African Charter on Human and Peoples Rights, *supra* note 10. Stipulates that every individual shall have right to have his case heard. This comprise the right to be presumed innocent until proved guilty before a competent Court or tribunal

<sup>147</sup> See X, ECW/CCJ/JUD/01/09 *Djot Bayi & 14 Others v. Nigeria & 4 Others*, available at <https://ihlda.uwazi.io/api/files/1541497845833sayvi3cmdj.pdf> accessed on 28<sup>th</sup> June 2024

<sup>148</sup> Art 95, par 1, (c), *supra* note 11

### **II.10.1 Liability due to the unauthorized use of personal pictures**

Inappropriate disclosure of information can affect the accused person's life in many ways, which include the Loss of job, isolation from the community and family, and damaged reputation in society, are just some of the negative consequences. The negative effects of media coverage to accused person justifies the liability of media houses for publishing personal information and violation of privacy as well as the right to be presumed innocent until proven guilty by competent court.

Former defendants have the right to claim and obtain compensations when the matter is sub-judice causes irreparable damage to the accused's life and reputation, as happened in the case of Saravjeet Singh. The liability of media houses is not infringing freedom of expression, because in countries like India which provides effective remedies with regard to the protection of fundamental human rights, freedom of expression is not absolute. For instance, in *express Newspapers v. The Union of India*, the Supreme Court of India upheld that the right to freedom and expression is not an absolute right and is subject to reasonable restrictions under Article 19 (2) of the Constitution<sup>149</sup>.

A similar sentiment was resonated in the Harijai Singh Case, where the Supreme Court of India said that "unrestricted freedom would lead to chaos and disorder in the society as one's freedom must not infringe the liberty of others. Thus, the freedom of the media is also bound by certain obligations, especially when it affects the rights of others or their peaceful coexistence in society. As matter of fact, media organizations must be careful of publishing the identity of a suspect via print, online, TV or radio because if the investigation does not lead to a prosecution, the suspect may be able to sue the organization for libel.

### **II.10.2 Liability related to defamation**

Publishing the identity of a suspect even though this may be a factually correct report creates an inference that the suspect might be guilty and thus is defamatory. If this inference turns out to be unfounded, the media organization may have a hard job defending it in any subsequent libel case. In his 2012's Report on the Culture Practices and Ethics of the Press; Leveson L J stated that "save in exceptional and clearly identified circumstances (e.g., where there may be an immediate risk to the public), the names or identifying details of those who are arrested or suspected of a crime should not be released to the press nor the public because if you publish

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<sup>149</sup> Constitution of India, May 1<sup>st</sup>,2024

private or personal information about someone without their permission, you potentially expose yourself to legal liability even if your portrayal is factually accurate”.

For example, in developed legal systems person can be sued for publishing private facts about another person, even if those facts are true. There have been occasions where publishing the identification of crime suspects or unfounded allegations has led to big payouts from media organizations. For example, in *Gutsanovi v. Bulgaria*, the Court awarded to the four applicants the large sum of 40,000 EUR in moral damages. It did so, for the violation of several articles of the Convention, namely, on the right to liberty and security and on the right to be presumed innocent until proven guilty by court of competent jurisdiction. The violation of the presumption of innocence through statements made by the Minister of Interior on a nationally televised TV show<sup>150</sup>.

There is also another land mark case where the journalists were fined due to defamation. European Court of Human Rights, in the case of *Tourancheau and July vs. France*, upheld the conviction and fine of 10,000 Francs each of Patricia Tourancheau, a journalist, and Serge July, the editor of the French Newspaper *Liberation*, for publishing unpublished evidence in a criminal trial. The case concerned two juveniles who were involved in a murder case and before they were formally charged, an article featuring statements made by the juveniles during investigations was published. The journalist and editor were both charged and subsequently convicted of breaching a statute of 1881, the Law on the Freedom of the Press of July 1881, prohibiting the publication of any document related to any criminal proceedings prior to them being read in public sessions. The applicants argued in their defense that Article 38 of the law was in contravention of Article 10 of the European Convention on Human Rights. The national courts however held that the publication undermined the juveniles’ reputation and right to be presumed innocent. Moreover, in the recent case the media houses were held responsible for comments on their post.

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<sup>150</sup> *Gutsanovi V. Bulgaria* (Application No. 34529/10), European Court of Human Rights, May 15<sup>th</sup>, 2013.

In the case of Former Northern Territory detainee Dylan Voller vs The Sydney Morning Herald, The Australian and Sky News, the High Court found that, by running the Facebook pages, the media group participated in communicating any defamatory material posted by third parties and were therefore responsible for the defamatory comments<sup>151</sup>. From the cases provided in this part, it is clear that, in other jurisdictions, media houses are held responsible for publication suspect's personal data. In Rwanda media houses enjoy freedom of expression to the level of attacking personal privacy and infringes the person's right of to be presumed innocent until proven guilty because some media houses publish photos of suspects on their websites. Referring to General Comment No. 32, the United Nations Human Rights Committee also states that "media should avoid news coverage undermining the presumption of innocence".

Accordingly, the media may be held liable to compensate defendants for slander or defamation. In other jurisdictions, suspects and accused persons have adequate and effective remedies if their right not to be publicly referred to as guilty is breached.

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<sup>151</sup> Case No. S236/2020 Ruled out by Supreme Court of New South Wales,2020

## **CHAPTER THREE: LEGAL AND INSTITUTIONAL MEASURES FOR THE EFFECTIVE PRESERVATION OF THE PRESUMPTION OF INNOCENCE.**

This chapter discusses a number of measures and mechanisms for the respect and the protection of the criminal suspects' right of being presumed innocent before it is proved otherwise by the competent court. The discussion will be based on comparative perspective as regards to the presumption of innocence vis-à-vis parading suspects before media in some selected jurisdictions.

### **III.1 LEGAL MEASURES**

Legal mechanism refers to any legal instruments that establish obligations, requirements, or prohibitions according to the law of a relevant jurisdiction. These instruments can include acts, laws, regulations, and administrative or executive orders<sup>152</sup>. Essentially, legal measures are tools used by governments and legal authorities to enforce laws and ensure compliance with legal standards. In the context of parading suspects in the media, Legal measures refer to the legal frameworks and regulations that govern the public display of individuals accused of the act committed. These measures are designed to balance the public's right to information with the suspect's right to a fair trial and protection from undue prejudice.

According to the book "*Media Law and Ethics*" by Roy L. Moore and Michael D. Murray, legal measures often include restrictions on media coverage to prevent prejudicial pre-trial publicity that could influence potential jurors and compromise the fairness of trial<sup>153</sup>. Overall, in many jurisdictions, legal measures are implemented to ensure that the rights of suspects are protected during the criminal justice process.<sup>154</sup> These measures aim to maintain the integrity of the judicial process and uphold the principle of innocent until proven guilty.<sup>155</sup>

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<sup>152</sup> Legal measures meaning available on, <https://www.lawinsider.com/dictionary/legal-measures>

<sup>153</sup> Christopher Zoukis, "*Eyewitness (Mis)Identification in the Criminal Justice System: Powerful, Persuasive, and Problematic*", (2018), criminal legal news

<sup>154</sup> <https://www.amazon.com/Criminal-Procedure-Principles-Policies-Perspectives/dp/1642422363> accessed on 24 August 2024

<sup>155</sup> <https://www.sconline.com/blog/post/2020/08/20/rules-and-principles-of-identification-under-criminal-justice-system/>

### **III.1.1 Review of the criminal procedure**

The enactment of laws governing and punishing the act of parading suspects in the media is a critical aspect of ensuring justice and protecting individual rights. This practice, involves displaying suspects to the public media before they have been tried or convicted. The rationale behind enacting such laws is to balance the public's right to information with the suspect's right to a fair trial and protection from undue prejudice as well as keeping the public trust to the suspect<sup>156</sup>. This research explores the reasons for enacting such laws and the mechanisms through which they are implemented, drawing on various legal and ethical perspectives.

In this context, of one of the fundamental principles of criminal justice is the presumption of innocence until proven guilty and needs to be secured because Parading suspects in the media can undermine this principle by creating a public perception of guilt before a trial has taken place. According to “*Criminal Procedure: Principles, Policies, and Perspectives*” by Joshua Dressler and George C. Thomas III, such practices can lead to prejudicial pre-trial.<sup>157</sup> Again, right to a fair trial and privacy<sup>158</sup> of suspect are the core elements need to be protected through enacting the relevant laws because media exposure can influence public opinion and potentially prejudice a jury, making it difficult to suspect to get an impartial trial and being exposed to media of suspect violates his/her privacy if they're later found not guilty by the competent court.<sup>159</sup>

### **III.1.2 Review of the law governing Rwanda Investigation Bureau.**

There are some laws which may play in relation with this issue of parading the suspect to media before trial but are not straight hit this point nowadays, therefore, revising the laws in force to address these concerns is crucial to ensure justice and protect the rights of individuals. This part of the research, explores the reasons for revising such laws, drawing on various legal principles, human rights considerations<sup>160</sup>, and ethical perspectives. Firstly, it

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<sup>156</sup> Braunstein, S., & Cheek, W. (Eds.). (2006). Best practices in law enforcement public information. Alexandria, VA: International Association of Chiefs of Police.

<sup>157</sup> Criminal procedure: Principles, Policies and Perspectives, available on <https://www.amazon.com/Criminal-Procedure-Principles-Policies-Perspectives/dp/1642422363> accessed at 24<sup>th</sup> August 2024

<sup>158</sup> Jim Ruiz; D. F. Tread Jim Ruiz, D. F. Treadwell well, “*Perp Walk: Due Process v. Freedom of the Press*”, Vol. 21, US department of justice, Office of the justice programs

<sup>159</sup> Christopher Zoukis, “Eyewitness (Mis)Identification in the Criminal Justice System: Powerful, Persuasive, and Problematic”, (2018), criminal legal news, human rights defense center

<sup>160</sup> Laws and disorder: Assessing conflicting news coverage of police use of force”, vol. 39, (2024), journal of police and psychology

helps protect the fundamental principle that individuals are innocent until proven guilty<sup>161</sup>. When suspects are shown in the media, it can create a public perception of guilt, which can unfairly influence opinions and potentially prejudice a jury. Secondly, media exposure can make it difficult for suspects to receive a fair trial. The widespread dissemination of their images and information can taint the jury pool, making it challenging to find unbiased jurors. This compromises the integrity of the judicial process and the right to a fair trial. Thirdly, suspects have a right to privacy<sup>162</sup>. Law should be revised appropriately with the law against exposing them to the media as a key of avoiding violate this right, especially if they are later found to be innocent. The damage to their reputation can be irreversible, causing long-term harm even after they are acquitted<sup>163</sup>. Ethically, parading suspects in front of the media can be seen as a form of public shaming and character assassination. This practice is not aligned with the principles of justice and fairness, as it can lead to a trial by media where public opinion is swayed against the suspect even before the judicial process begins. Revising laws related to the media parade of suspects is crucial to uphold justice, protect individual rights, and ensure a fair trial. Addressing these concerns helps maintain the integrity of the judicial process and ensures that suspects are treated with dignity and respect and ensuring that suspects are not paraded before the media is a vital step towards a more just and equitable criminal justice system.

### **III.1.3 Compliance with international legal standards.**

Compliance with international legal standards is crucial for maintaining global order and ensuring that states adhere to agreed-upon norms and principles internationally. This compliance involves aligning domestic laws with international treaties, conventions, and customary international law. The process is multifaceted, involving legislative, judicial, and administrative measures. Among the measures to be taken by state in compliance with international legal standards they include; Legislative Measures, where Ratification Process as the formal approval of an international treaty done by a state, making it legally binding after legislative approval to ensure that the provisions of the treaty are incorporated in national

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<sup>161</sup> Fundamental Principles of law, available at <https://link.springer.com/article/10.1007/s11896-023-09640-z>, accessed on 24<sup>th</sup> August 2024

<sup>162</sup> Chiny NWORAH, “*Crime Suspects and the Legality of Media Parade*”,(2020), Members law student club, The Grundnorm

<sup>163</sup> Punishment before trial, available at <https://guardian.ng/features/crime-suspects-and-the-legality-of-media-parade/> accessed on 24<sup>th</sup> August 2024



laws and Incorporation, Once ratified, treaties must be incorporated into domestic law to be enforceable.<sup>164</sup>

### **III. 2 INSTITUTIONAL MECHANISMS**

These refer to measures such as the actions, policies, procedures, and practices taken by competent organs to deal with the matter of parading suspect to media before being convicted by the competent jurisdiction and ensure compliance with regulations, and address issues or challenges regarding the matter in question. Therefore, these measures' rationale is to guide behaviour, manage risks, and promote effective and ethical operations which intended to deliver fair justice within an institution.

#### **III.2.1 Capacity building for law enforcement organs**

The management of media interactions when parading suspects is a critical issue that requires high attention of the institutions, particularly law enforcement agencies like Rwanda National Police (RNP), Rwanda Investigation Bureau (RIB), National Public Prosecution Authority (NPPA), Rwanda Defense Forces (RDF), Local Administration and Community-Based Structures, Judicial Institutions, Rwanda Media commission (RMC) must navigate this complex terrain carefully to uphold the rights of individuals while addressing public curiosity and the media's role in democratic societies.

This study explores the essential institutional measures that should be implemented to manage the media's involvement in the parade of suspects. In Rwanda, law enforcement is primarily carried out by several key institutions as mentioned above and each with specific roles and responsibilities in maintaining public safety, enforcing laws, and upholding justice. The staffs should be equipped with the knowledge to handle suspects in the way that respect their human rights in compliance with the international standards which on the other side aims to eradicate the culture of impunity<sup>165</sup>.

Regular and continuous training activities is a fundamental component of capacity building<sup>166</sup>, playing a crucial role in enhancing the skills, knowledge, and abilities of individuals and

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<sup>164</sup> Kuzushima, S., Mori McElwain, K& Shiraito, “*Y. public preferences for international law: Respecting legal obligations or conforming to common practices*”, (2023),

<sup>165</sup> Interpol, “*capacity building and training*”, fact sheet, available at <http://www.interpol.int/>, on 24<sup>th</sup> August 2024

<sup>166</sup> Richard Beary and Chief of Police Emeritus, “*strengthening the foundation*”, IACP,

organizations which refers to the process of developing and strengthening the capabilities of individuals, institutions, and systems to effectively achieve their goals and address challenges in relation to parading the suspect to media before conviction of competent court. The HICD Handbook of Bureau for EGAT says that “*training is the performance solution that is effective in addressing performance gaps related only to skills and knowledge*”.<sup>167</sup> This section of study shows that properly designed training works, and the way training is designed, delivered, and implemented can greatly influence its effectiveness whereas well-designed training is impactful and important as continuous learning and skill development are now a way of life in modern institutions to enhance capacity building.<sup>168</sup> To remaining both competitive and productive, institutions and state must ensure that their workforce continually learns and develops. Training and development activities allow institutions to adapt, compete, excel, innovate, produce, be safe, improve service, and reach goals.<sup>169</sup>

### **III.2.2. Public awareness on the suspect’s rights.**

Staffs of the related institutions have to be legal professionals to conduct this duty of dealing with suspects until either convicted or acquitted in general<sup>170</sup>, the operators again should be well trained in various sectors such as techniques of handling suspects to avoid them escape from justice, they need to be fluent and to have facilities to understand the language that make them communicate easier with suspects and again as this study concerns, it is important for the staff to be informed about media and technology in the way of knowing what is called news, where the news come from?, how the news disclosed?, when the news be disclosed, which materials used in gathering the news and who supposed to disclose the news? In compliance of national and international laws<sup>171</sup>.

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<sup>167</sup> USAID, “*human and institutional capacity development handbook*”, (August 2011), a USAID model for sustainable performance improvement

<sup>168</sup> Eduard Eduardo Salas, Scott I. Tannenbaum, etal, “*The Science of Training and Development in Organizations: What Matters in Practice*”, vol.13, Psychological Science in the Public Interest, SAGE journals

<sup>169</sup> *idem*

<sup>170</sup> Taylor P. J., Russ-Eft D. F., Chan D. W. L. “*A meta-analytic review of behavior modeling training*”, (2005), Journal of Applied Psychology, 90, 692–709.

<sup>171</sup> Tannenbaum S. I. “*A strategic view of organizational training and learning. In Kraiger K. (Ed.), Creating, implementing, and maintaining effective training and development*”, State-of-the-art lessons for practice, (2002) (pp. 10–52). San Francisco, CA: Jossey-Bass.

### III.2.3 Equipment and their uses

Certainly, when discussing how equipment should be incorporated into institutional measures regarding media exposure of suspects before trial in this study, there are several important considerations in which the Authorities have to carry out investigation, prosecution, adjudication and enforcement of the judgements in their duty, should be enough equipped to conduct their duties to play a critical role in balancing the rights of the suspect with the media's freedom to report news. **Physical Barriers and Screens**, are among the most **tools** direct ways to manage media exposure involves the use of physical barriers such as screens or partitions. These devices are strategically placed to obscure suspects from camera view during their entry or exit from the courtroom. For example, courts might use retractable screens or permanent partitions to block the view of the accused from the media.

This practice helps prevent the dissemination of potentially prejudicial images that could influence public perception or compromise the fairness of the trial.<sup>172</sup> Camera and Audio Restrictions, Courts often impose strict regulations on the use of cameras and recording devices within the courtroom whether they have instructions saying so. Then as fixed cameras or camera angles might be managed to prevent close-up shots of defendants. For example, cameras might be positioned to avoid capturing the suspect's face or other identifying features. Additionally, courts may use audio restrictions to control what information is broadcasted.<sup>173</sup>

**Media Pool Systems equipment** is another way to control media exposure by limiting the number of media outlets allowed to cover the proceedings, thus managing the quantity and type of coverage.<sup>174</sup> Covered transport vehicles or privacy shields are equipment used to prevent media from capturing images during the transportation of suspects between courtrooms or other locations.<sup>175</sup> Covered vehicles or protective coverings around transport areas ensure that suspects are shielded from public view, maintaining their privacy and upholding the presumption of innocence.

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<sup>172</sup> U.S. Supreme Court, "*Sheppard v. Maxwell*, 384 U.S. 333" (1966), (June 6, 1966), No. 490, Freedom of Information Center, School of Journalism, University of Missouri

<sup>173</sup> U.S. Supreme Court, "*Nebraska Press Assn. v. Stuart*, 427 U.S. 539", (1976), (June 30, 1976), Judicia U.S Supreme court center

<sup>174</sup> Margaret Bull Kovera, "*The Effects of General Pretrial Publicity on Juror Decisions: An Examination of Moderators and Mediating Mechanisms*", (February 2002), Vol. 26, Law and Human rights

<sup>175</sup> Peter M Calson, "*Prison and Jail Administration*", Jones & Bartlett Publishers, (2013),

**Technological equipment**, involvement of modern courts that may also have digital technology to manage media access and control the dissemination of information can be crucial. This includes encrypted communication channels for court personnel and restrictions on live streaming of court proceedings.

### **III. 2.4 Learning best practices from other jurisdictions**

Partnership with other best relative organs and incorporating their best practices is pivotal for Rwandan law enforcers aiming to effectively manage media exposure of suspects before trial.<sup>176</sup> By studying how different countries address the balance between media freedom and the rights of the suspects, Rwanda can enhance its own strategies to safeguard the fairness of judicial proceedings and ensure respect for constitutional rights. This will led to Rwanda institutions enhancing Fairness and Integrity of judicial process, developing effective legal frameworks, leveraging technological solutions and avoiding common pitfalls.<sup>177</sup>

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<sup>176</sup> Nancy Mehrkens Steblay, Jasmina Besirevic, et al, “*The Effects of Pretrial Publicity on Juror Verdicts*”, American Psychology-Law, Society Meeting, (March 1998), Redondo Beach, California

<sup>177</sup> The Crown Prosecution Service, ” *Contempt of Court, Reporting Restrictions and Restrictions on Public Access to Hearings*”, (05 December 2023), London

## GENERAL CONCLUSION

The present research dealt with is about analysis on the act of parading suspects to the media and its implications on the presumption of innocence under Rwandan legal perspectives .The present analysis aimed to demonstrate the influence of extensive and unregulated publicity of ongoing criminal proceedings on the public views, perceptions and opinions, which takes the form of a multifaceted negative impact on the individuals that are suspects or accused, their families, and society at the local, national or international level. The principal objective of this study is to demonstrate how presentation of suspects in media have impact on public perception of guilt which is against the principle of presumption of innocence and due process of law as well.

The study analysis revealed some examples of the negative effect of unethical media exposure and inappropriate disclosure of information regarding criminal cases, but the impact and consequences could be as various as the multiple specifics of a criminal case. The main concern of this paper is mattering as asking on how the right to be presumed innocent until proven otherwise should be honored and effective based on best practice of other jurisdictions? This work starts with general introduction and also covers three chapters where the first chapter deals definition of key terms and generalities related to the presumption of innocence.

Under this chapter, it was found that, the research work aimed to draw the attention of policy makers, criminal justice professionals and the media to the importance of protecting the rights of suspects and accused in criminal proceedings as a fundamental prerequisite for a fair trial. Under chapter two, discussions are on various manifestations of the presumption of innocence in the context of media coverage of criminal cases. In this case the study has identified the key threats to the presumption of innocence resulting from statements made by public authorities about ongoing proceedings; the content and tone of press coverage as well as parading suspects before media by law enforcement agencies.

Following the analysis, it was found that in Rwanda, it is practice among law enforcement organs to parade suspects before media, which is contrary to the provision of Rwandan constitution<sup>178</sup> which provides the due process of law. It is constitutional right to be presumed innocent until proven guilty by competent court. Parading suspect before media is the same as

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<sup>178</sup> Art 29, (1), (b), *Supra* note 11

convicting suspect a crime, because in eyes of public, the person who is paraded is considered as person who has committed alleged crime. It is argued that, lack of professionalism by law enforcement organs leads to violation of most world recognized principle of rule of law. We have also seen how the media houses benefit from the practice of parading suspects before media by law enforcement organs and publish personal information of suspects. The information which is going to be available on Google forever, will affect the suspect negatively even if he /she wasn't convicted, and those effects extend to family as whole whereas the last chapter puts emphasis on mechanisms to be adopted basing on best practice of other jurisdictions.

In this chapter, the purpose is to highlight and suggesting strategies and mechanisms that have been considered in a comparative perspective as regards to the protection of suspects from not being perceived as guilty persons in eyes of the public. Series of approaches from different jurisdictions in view to court proceedings come to solutions of addressing issues related to parading suspects before media and publishing personal information of suspects by media houses were discussed. In countries like Nigeria, where there is the same provision granting the right to be presumed innocent until proved guilty by court of competent jurisdiction, it is prohibited to parade suspects before media.

## RECOMMENDATION

In light of above-mentioned findings of our research, the following notes are recommended; If Rwanda has stringent privacy laws that limit the media's ability to publish images of suspects before they are convicted,<sup>179</sup> the act of parading the suspect to media before being either convicted or acquitted would never happen and even be punishable legally. It is recommended that the state has robust privacy protections that prevent the media from publishing images or personal details of suspects with laws that protect the rights of suspects while allowing some level of media coverage. The Rwandan legal system absolutely needs to place a strong emphasis on protecting the rights of individuals, ensuring a fair trial with privacy protections that prevent the media from publishing images or personal details of suspects and obvious equitable compensation to the victim and punishment to whom who distributed such kind of information<sup>180</sup>. For instance, the minister in charge of justice, has to issue orders instructing all law enforcement organs across the country to stop parading of people arrested or accused in any crime before media. It is also recommended to enact laws regulating media operations in Rwanda including reporting and discussing ongoing trials in media spaces. The people whose right of being presumed innocent until proven guilty by a competent court is violated, are advised to initiate legal proceedings against the law enforcement organs that paraded them before media for damages of the violation of fundamental human rights as it is indicated by jurisprudence. If the act of parading a suspect to media before trial is committed, the media in which the information reached out through must be in charge of revoking their news about the case once there are distinctions between them and the reality of the suspect's case.

Moreover, other best practices to adopt with regard to the protection of suspects from not being paraded before media are those in action in Nigeria, Lithuania, India, and China where, as mentioned above in chapter II of this study, the suspects are not paraded before media and their personal details are not disseminated. In addition, disclosure of sensitive information potentially leading to strong social reactions and public humiliation should be avoided, given the possible devastating effect on the lives of suspects, accused persons and their families.

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<sup>179</sup> Beatriz Oliviera, "A Return to Public Square Trials? How Cancel Culture and Perp Walks May Undermine Trial Impartiality and Criminal Justice", (2021), the paradox of right to work law and international human rights laws, Columbia undergraduate law review

<sup>180</sup> *idem*

The recommendation calls government of Rwanda to respect the right to protection of privacy of suspects and accused persons, noting in particular the harmful effect on them caused by unnecessary disclosure of identifiable information in cases where it does not facilitate the investigation and affect the rest of suspect's family.

To address this issue, it is extremely important to introduce and monitor for the compliance to universal and mandatory rules and standards for communicating information regarding criminal proceedings. Furthermore, Rwandan society has a very limited legal education and all the problems with the presumption of innocence as well as with the legal system in general, emerge from this lack of knowledge. It is recommended to organize trainings, awareness-raising and educational activities with a focus on the issue of communicating information about criminal cases and the negative implications that might follow from it in the context of fundamental human rights to the law enforcers and local leaders.

It is recommended to provide essential materials needed for law enforcers that would help them completing their duties in compliance with the laws. Such activities would contribute to a better understanding of the problem and to pinpoint solutions through multi-stakeholder discussions between public authorities and media outlets. The aim is to establish uniform principles of conduct for journalists to deliver information to the public in a manner that does not violate the rights and interest of individuals, and society as a whole. Displaying of sensitive information potentially leading to strong social reactions and public humiliation should be avoided, given the possible devastating effect on the lives of suspects, accused persons and their families. The recommendation calls government of Rwanda to respect the right to protection of privacy of suspects and accused persons, noting in particular the harmful effect on them caused by unnecessary disclosure of identifiable information in cases where it does not facilitate the investigation and fair proceedings. To address this issue, it is extremely important to introduce and monitor for the compliance to universal and mandatory rules and standards for communicating information regarding criminal proceedings. The author concludes that it is necessary to work on raising public awareness of the unforeseeable harmful consequences for the personality of all those who are associated with a criminal event in the media and to more legally regulate the ban on violating the presumption of innocence by the media, and achieve a balance between the presumption of innocence, as a part of the corpus of the defendant's rights, and the right of the public to be informed on time of the state of crime.



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