



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA
STRENGTHENING RWANDAN
ADMINISTRATIVE JUSTICE (SRAJ)
PROJECT – *Twimakaze Ubutabera mu Miyoborere*

FINAL REPORT (FEB. 2017-NOV. 2020)

USAID/RWANDA

STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT

FINAL REPORT

Task Order No. AID-696-A-17-00008

IMPLEMENTING PARTNER: UNIVERSITY OF MASSACHUSETTS BOSTON

FEB. 28, 2021

This publication was produced for review by the United States Agency for International Development. It was prepared by the Center for Peace, Democracy, and Development at the University of Massachusetts Boston.

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Table of Contents

- I. Executive Summary.....5
- II. Overview of the Project.....11
 - A. Project Purpose, Organization, and Approach.....12
 - B. Political Economy Context and Theory of Change15
- III. Project Results Framework, Activities, and Accomplishments.....17
 - A. Start-Up, Results Framework, MEL Plan, and Implementation.....17
 - B. Cross-Cutting Objective: Legal Framework Analysis.....28
 - C. Cross-Cutting Objective: District Field Research and Findings.....33
 - D. Objective I: Evidence-Based Capacity-Building Activities.....39
 - E. Objective II: Evidence-Based Public Outreach Activities.....43
 - F. Objective III: Evidence-Based Policy and Legal/Regulatory Reforms.....55
 - G. Summary of Accomplishments; Actual vs. Target Indicators.....58
- IV. Project Adaptation and Learning.....60
- V. Final Thoughts and Recommendations for Future Work.....63

Annexes (Separate Annex Volumes I-IV containing project reports and other materials)

Abbreviations

ADR	Alternative dispute resolution
APS	Annual Program Statement
CDCS	Country Development Cooperation Strategy
CESTRAR	Confederation of trade unions
COVID-19	Coronavirus Disease of 2019
CSO	Civil society organization
DRG	Democracy, Rights, and Governance
EAC	East African Community
EDPRS II	Second Economic Development and Poverty Reduction Strategy
GoR	Government of Rwanda
HEC	Higher Education Council
Highlands	Highlands Centre of Leadership for Development
HR	Human resources
HRF	Human Rights First
ILPD	Institute for Legal Practice and Development
ILO	International Labor Organization
IPAR	Institute of Policy Analysis and Research-Rwanda
IR	Intermediate Result
IRB	Institutional review board
LAF	Legal Aid Forum
LGI	Local Government Institute
MEL	Monitoring, Evaluation, and Learning
MIFOTRA	Ministry of Public Service and Labor
MINALOC	Ministry of Local Government
MINIJUST	Ministry of Justice
NGO	Non-governmental organization
NISR	National Institute of Statistics – Rwanda
NST	National Strategy for Transformation
PS	Permanent Secretary
PSC	Public Service Commission
PSF	Private Sector Federation
RALGA	Rwanda Association of Local Government Authorities
RGB	Rwanda Governance Board
RMI	Rwanda Management Institute
RPPA	Rwanda Public Procurement Authority
RwF	Rwandan Franc
SRAJ	Strengthening Rwandan Administrative Justice
TIR	Transparency International-Rwanda
TVI	TVI Studios
US	United States
USAID	U.S. Agency for International Development
VP	Value Production LLC

I. Executive Summary

Administrative justice embraces the notion that public bodies and those who exercise public functions should make legally supportable, reasoned, and procedurally fair decisions in individual cases or disputes involving citizens or businesses. It also concerns how clearly such decisions are communicated to the public and how equitably citizens are treated in the administrative process. Unlike civil or criminal matters in the courts, which affect a relatively small fraction of a country's population, administrative decisions by public bodies impact the livelihoods and well-being of a vastly larger proportion of citizens and businesses—in areas ranging from public benefit determinations to business licensing to labor regulation—whether or not such cases are appealed to the judiciary. In this sense, administrative justice renders a country's fidelity to the rule of law tangible to ordinary citizens in their everyday interactions with the bureaucracy. Put another way, administrative justice helps 'operationalize' a variety of critical civil rights.

The subject of administrative justice, as a holistic undertaking focused on the fairness of all aspects of the administrative process, has only been a field of serious scholarly and practical inquiry for the past few decades. From the vantage point of development programming, administrative justice work with a regulatory focus has generally been neglected in favor of rule of law initiatives targeting judiciaries (despite the latter's lesser power and influence in most developing countries). This often stems from a developed country perspective on the prominence of courts as accountability institutions (and the associated societal elevation of lawyers), as well as a more generalized reluctance to work on matters of public management (often tied to perceived problems with bureaucratic discipline and corruption in many countries). At USAID, the topic of administrative justice has attracted only intermittent attention since publication of an Administrative Law Handbook in 2008.¹

The Strengthening Rwandan Administrative Justice (SRAJ) Project (in Kinyarwanda: *Twimakaze Ubutabera mu Miyoborere*), was a \$1.129m technical assistance and learning initiative managed by the University of Massachusetts Boston that ran slightly over 3 ½ years (2017-2020). It was designed to explore the feasibility of executing an administrative justice program in a developing country possessing relatively strong bureaucratic effectiveness and lower levels of corruption—but weak civil society. In response to an Annual Program Statement (APS) soliciting proposals involving rule of law and public participation enhancement, the project was intended to assess—and improve, based on existing evidence—the state of administrative justice in four areas of government regulation: land expropriation, labor regulation, public procurement, and public employment; each of these exhibited high case volumes and/or had high public visibility. The focus was on local government decision-making (in both urban and rural districts), as that is where the vast majority of such cases arise in Rwanda's formally decentralized administration. The Project was well accepted by government authorities, given a dual focus on technocratic matters of government efficiency (improving front-line administrative decision-making so as to curb appeals and other complaints, thereby enhancing regulatory predictability and reducing cost) and improving public trust in local authorities (seen by the government as potentially strengthening regime legitimacy). While local consultants carried out some tasks, much of the

¹ Russell-Einhorn, M. and Howard Fenton, 2008. *Using Administrative Law Tools and Concepts to Strengthen USAID Programming: A Handbook for Democracy and Governance Officers* (Washington: USAID).

work was implemented by several Rwandan sub-grantees: The Legal Aid Forum (LAF), the Institute of Policy Analysis and Research (IPAR), Human Rights First (HRF), and Highlands Centre of Leadership for Development (Highlands).

The program was designed in three phases. In *Phase I*, the Project examined the legal framework governing administrative procedure and effective due process—particularly with respect to gaps, ambiguities, and contradictions that could interfere with citizens’ ability to be notified of their rights, present evidence on their behalf, and appeal an adverse decisions. In *Phase II*, the Project conducted field research with citizens and public officials in up to six districts to assess the law in practice—including whether citizens received information on how the process operated, were given a chance to present evidence, were treated with courtesy, and received a written decision with an explanation of reasons.

Armed with such policy-relevant data, the Project in *Phase III* embarked on a three-pronged effort to (a) raise public awareness about administrative justice in Rwanda through radio and TV programming as well as video dramatizations; (b) develop training curricula that would improve instruction of public officials on administrative justice subjects; and (c) explore possibilities for legal and procedural reforms that would enhance citizens’ rights in the administrative process. While it was understood that the relatively abbreviated duration of Phase III would not permit significant impact to be registered by the end of the Project, it was anticipated that preliminary results (i.e., a partial proof of concept of key components) would be encouraging and potentially permit follow-on work to generate such impact. To increase Project focus (particularly given work slowdowns caused by the COVID-19 crisis), a greater emphasis in the last year was placed on activities in the labor regulation sphere, particularly given receptivity by the Ministry of Public Service and Labor (MIFOTRA) and the extent to which issues of employment rights resonated with the Rwandan public at large.

Major Project Accomplishments

Legal Framework Report. A comprehensive Legal Framework Report on the four administrative subject areas was written by Project experts and validated by nearly three dozen Rwandan stakeholder representatives, two dozen of them from various government agencies. The report findings and discussion at the validation workshop reportedly added impetus for the inclusion in the 2018 Labor Law of a key provision authorizing labor inspectors to directly issue penalties for labor violations and noncompliance with inspector orders.

Workshop on Media-CSO Collaboration in Coverage of Labor and Land Expropriation Cases. The Project organized an innovative workshop with a dozen CSOs and half a dozen journalists to acquaint both groups with administrative justice in relation to labor regulation and land expropriation; and to encourage better media coverage of these topics by journalists. Indirectly, the workshop appears to have later encouraged the publication of several articles on administrative justice topics by the leading Rwandan government newspaper, *New Times*.

District-based Field Research Reports on Administrative Justice in Practice. With the help of IPAR, the Project undertook extensive surveys of some 631 citizens about their experiences in pursuing administrative complaints (and in some cases, judicial appeals) involving labor,

procurement, public employment, or land expropriation cases at the district level. The Project also conducted several dozen in-depth citizen interviews. Complementing this, over 70 interviews were conducted with public officials about their challenges in handling administrative cases (several group discussions were also held with similarly situated officials, e.g., labor inspectors from different districts). The resulting information, captured in individual subject matter reports that were shared with government authorities, revealed tangible problems with administrative case handling (e.g., failures to admit evidence from citizens, inform them about rights of appeal, and/or provide written decisions), as well as the training of public officials.

Development of New Training Curricula for Public Officials. Utilizing Rwandan as well as foreign legal experts (from South Africa and Uganda), SRAJ developed new curricula for the training of public officials in labor regulation and public procurement, respectively, at the Institute for Legal Development and Practice (ILPD), the professional legal training academy. Graduate level curricula were developed for diploma courses in the two subjects, while executive short courses were also developed on several subjects pertaining to labor regulation, including labor mediation, social dialogue, occupational safety, inspections, and international labor standards. Although piloting of these courses was envisioned for the Project's final year, the COVID-19 crisis prevented this from occurring (although plans for enrolling labor inspectors in the courses were initiated between ILPD and MIFOTRA).

TV and Radio Programs. Based on findings from both the legal framework analysis and district field research, the Project worked with TV and community radio stations to air two waves of programming on administrative justice challenges in Rwanda, focusing on labor regulation, land expropriation, public procurement, and child labor protection (the last topic was at the request of MIFOTRA). The shows – 11 separate TV broadcasts, each simultaneously aired on 10 community radio stations – reached a large nationwide audience and featured panel discussions with experts (usually representatives from government, the CSO community, and academia), a citizen call-in segment, and contemporaneous social media commentary by audience members.

Video Dramas on Good Practices in Administrative Justice; Compliance Forums. The Project scripted and produced several video dramas (each about 15 minutes long) illustrating good practices in administrative justice in the areas of labor mediation, social dialogue, land expropriation, and child labor protection. These videos (with the exception of the one on social dialogue) were aired on TV (in advance of the above programs) and were made available to public agencies for use in internal training and education activities. In the case of the labor mediation video, it was shown at a regional MIFOTRA private sector compliance forum attended by 500 employers, and won high praise from attendees and the MIFOTRA Minister.

Development and Distribution of Brochures on Citizen Labor Rights. With the help of HRF, the Project designed and distributed to CSOs, legal aid groups, and central and local government authorities both physical and electronic brochures on citizen labor rights, explaining in simple terms key rights of workers and the employer obligations under the law.

Development and Distribution of a Handbook on Labor Mediation. Based on the lack of any existing Rwandan manual on the specific matter of labor mediation, and given the increased importance assigned to this subject (and more broadly, to alternative dispute resolution) by the

Rwandan Government, the Project worked with MIFOTRA, key stakeholders, and local labor and mediation experts to craft a labor mediation handbook to be used by labor inspectors, workers' representatives, and HR professionals. More and better executed labor mediation will likely result in fewer labor disputes being brought to the courts or the Ombudsman.

Collaboration on a Strategic Forward Assistance Plan for MIFOTRA. Toward the end of SRAJ, the Project collaborated with MIFOTRA on development of a 2-3 year plan to strengthen the capacity of: (a) labor inspectors to carry out enforcement work, (b) the Private Sector Federation to help private businesses comply with labor laws, and (c) district-level child labor steering committees to better monitor and enforce compliance with child labor protection requirements. The plan was endorsed in writing by the MIFOTRA Minister and shared with USAID/Rwanda, the US Embassy, and the US Department of Labor as a basis for future donor-supported work in the field of labor regulation.

Broader Project Learning and Impact

As an exploratory project, SRAJ had several objectives: (1) to raise public awareness about the conceptual and practical significance of administrative justice across diverse sectoral areas of bureaucratic decision-making; (2) to develop a meaningful evidence base regarding the state of administrative justice in Rwanda—one that could inform relevant policy, management, and/or legal reforms; and (3) to test elite government support for such reforms in a regime with an ostensibly strong commitment to legal norms and a relatively high degree of bureaucratic discipline, albeit one without strong civil society pressures to help drive and sustain government responsiveness. Significant progress was made on all of these objectives, yet the modest funding and duration of the project, together with the intrusion of the COVID-19 pandemic, prevented certain uptake and piloting of capacity-building activities from occurring. Nevertheless, key learning, adaptation, and impact were registered as noted below.

Significant government cooperation. SRAJ had strong government cooperation throughout the project (which was no small feat in Rwanda), based on (1) the leadership and diplomacy demonstrated by the local Project Manager, who engaged in significant ongoing consultation with key government stakeholders on relevant challenges they were facing; (2) the emphasis on evidence-informed reform work (a well-known preference of Rwandan authorities); and (3) the holding of validation workshops to share project findings and reports (while also stimulating discussion and ownership). This buy-in was exemplified by strong letters of support received from ILPD and MIFOTRA toward the end of the project, and by the ultimate participation in SRAJ activities of representatives from 71 different government bodies by Project end.

A project identity and scope that went with the grain. The posture of the program was aided by its professed aims--wedding technocratic concerns about bureaucratic efficiency with an emphasis on individual citizen rights in the administrative process that could enhance perceptions of increased government responsiveness. At the same time, the project gained traction due to its alignment with existing government/ministry objectives and its university-led identity, not to mention reliance on Rwandan partners to carry out most of the work.

Project adaptation was ongoing, and included a shift to increased work on labor rights.

Given the Project's exploratory nature and relatively small budget, it was compelled to adapt as learning increased and assumptions changed. First, given sub-grantees' competing time pressures, work timelines needed to be lengthened considerably, reducing what was achievable in Phase III (in many cases, individual local consultants proved more flexible and reliable). Second, similar government time pressures and lower-than-expected local capacity reduced the scope for legal reform work; as a result, more time was devoted to public outreach activities. Finally, although SRAJ obtained reasonable cooperation in all four subject areas, more focused work on labor rights would resonate most strongly with the public as well as generate the greatest impact and evidence.

Government capacity and statistical information more modest than expected. Over time, assumptions about the capacity of government bodies (esp. district governments but sometimes also central ministries) needed to change to ensure more measured implementation approaches. This was particularly clear with regard to data quality and availability, but also the skill levels of many officials, which required changes to training curricula. Some of this could also be linked to government performance demands, which, while stressing results and speed, cause less attention to be paid to management basics, including consolidation of new knowledge and routines, data usage, clear staff communications, and intra-governmental coordination.

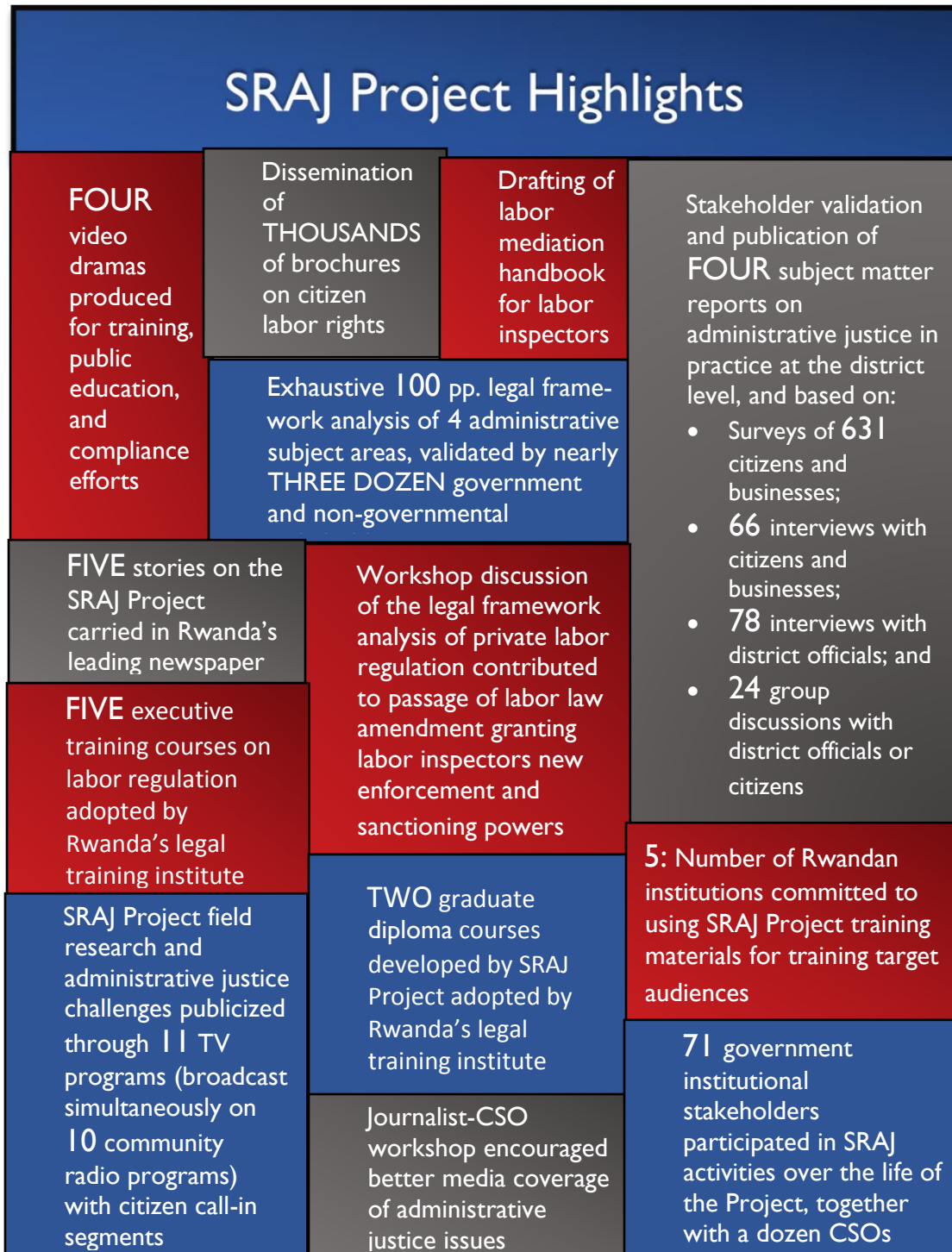
Under-elaborated regulatory and operational frameworks subvert administrative justice.

A critical substantive finding was that the administrative legal framework was often under-elaborated—either through formal regulations or operational guidance. Indeed, manuals of administrative procedure, though mandated by the state, were absent or outdated in most ministries and local governments. Without such procedural clarity, inconsistency or error in application of the law could be considerable, as evidenced by the field research data collected from citizens and public officials. This suggests that any legal 'implementation gaps' are not only a matter of basic political will or enforcement capacity (both of which are reasonably strong in Rwanda), but also inadequate regulatory explication (often due to the rush of fast-moving reform efforts). Thus, even where bureaucratic corruption is relatively low, unconstrained or misinformed decision-making can adversely affect citizen and business confidence.

Radio and TV work was a cost-effective tool to influence elite opinion and open up public discussion space. The mass media work, which was inexpensive to implement, appeared to attract significant elite and general public interest. This was a noteworthy achievement insofar as the programs showcased ongoing challenges in administrative justice and featured citizen call-in segments in a country in which many forms of open debate are substantially constrained. While rigorous evaluation of TV and community radio listenership was not feasible, anecdotal evidence suggested potentially wide public interest in the programs.

Video dramatizations were a useful educational tool. In a country where even well-educated citizens more easily and quickly absorb information visually, it was extremely effective to model good practices in administrative justice through drama videos that depicted common scenarios in Rwandan public administration—especially from the vantage point of ordinary citizens—as well as aspirational behaviors on the part of government officials (e.g., good listening and communications skills, empathy, familiarity with applicable law and procedure).

Significance of the project as a whole. The project demonstrated both the promise and limitations of pursuing administrative justice work in authoritarian environments, where even developmental regimes committed to advancing more predictable, rule-based decision-making may fall short of fulfilling those ambitions in the absence of vigorous civil society pressure and truly free media. This learning points the way to the need for follow-on work (especially in the labor arena) that could pioneer genuine experiential training of public officials, expand media activities to amplify public dialogue and transparency on administrative justice, and spur further regulatory elaboration to address gaps harming citizens' due process rights.



II. Overview of the Project

The Strengthening Rwandan Administrative Justice (SRAJ) Project (in Kinyarwanda: *Twimakaze Ubutabera mu Miyobere*), was a technical assistance and learning program, implemented for the Democracy, Rights, and Governance Office of USAID/Rwanda, that ran for slightly over 3 ½ years with cumulative funding of \$1.129m (the original award was for \$943,326). Managed by the University of Massachusetts Boston, the project was designed to explore the feasibility and effectiveness of administrative justice work in a Sub-Saharan country with significant bureaucratic discipline, relatively low levels of administrative corruption, and a demonstrated commitment to rule-based governance. While such a program might ordinarily face significant obstacles in other developing countries with less bureaucratic capacity, it was a potentially good fit for Rwanda, which has gained a reputation—albeit one that is sometimes questioned from certain vantage points—as a bureaucratically effective state.² The project proposal was submitted in response to a USAID Annual Program Statement (APS) solicitation issued in September 2015 seeking innovative interventions involving the rule of law and/or public participation-related work.

Administrative justice embraces the notion that public bodies and those who exercise public functions are obliged to render legally supportable, reasoned, timely, procedurally fair, and intelligible decisions in individual cases involving citizens and businesses in disputes or other regulatory interactions with the government. It also concerns how such decisions are communicated to citizens and how the latter are treated in the administrative process: notions of procedural justice suggest that when citizens are treated fairly and with respect, they are more willing to express satisfaction with the justice system and accept decisions even when they are adverse to their interests.³ Unlike civil and criminal justice rendered in the courts, which affects a relatively small fraction of a country's population, administrative justice – focused primarily on the handling of regulatory actions and disputes involving citizens and the government – impacts the livelihoods and well-being of many orders of magnitude more citizens and businesses in areas as diverse as public benefits determinations, business licensing, and protection of labor rights—whether or not such cases are appealed to judicial authorities. In this sense, administrative justice renders abstract notions of the rule of law tangible to ordinary people in their everyday interactions with public agencies.

Administrative law issues are frequently overlooked, yet they often underpin many of the most important conceptual and functional dimensions of constitutional rights and governance, including legal mechanisms that seek to promote participation, inclusion, transparency, and accountability. Indeed, administrative law provides rules that give citizens,

² See Booth, D., Golooba-Mutebi, F., 2012. "Developmental Patrimonialism? The Case of Rwanda," *African Affairs*, 111: 379-403. For somewhat more critical viewpoints, particularly as regards anti-corruption efforts and the progress of decentralization and local government capacity-building, see, e.g., Gaynor, N., 2014. "A Nation in a Hurry: The Costs of Local Governance Reforms in Rwanda," *Review of African Political Economy*, 41(1): 49-63; Baez-Camargo, C., Gatwa, T., 2018. *Informal Governance and Corruption: Transcending the Principal Agent and Collective Action Paradigms, Rwanda Country Report*. (Basel Institute on Governance); Hasselkog, M, Schierenbeck, I., 2015. "National Policy in Local Practice: The Case of Rwanda," *Third World Quarterly*, 36(950-966); Bozzini, A., 2013. "Successes and Limitation of a Top-Down Approach to Governance: The Case of Anti-Corruption in Rwanda," *ISPI Analysis*, No. 164.

³ See Tyler, T., 1988. "What is Procedural Justice? Criteria Used by Citizens to Assess the Fairness of Legal Procedures," *Law and Society Review*, 22: 103-135.

businesses, and NGOs information and structured opportunities to obtain information, to make their views and evidence known in administrative and regulatory settings, and to seek administrative and/or court redress where warranted. Insofar as all citizens come into contact with the administrative state in various sectoral contexts, administrative justice has the ability to “help democracy deliver” in a range of service delivery contexts.

Given its pervasive influence, a focus on administrative justice can help address a wide range of practical governance problems at the sectoral and local levels—exploiting multiple entry points for citizen agency and galvanizing key constituencies to exert increased bottom-up pressure on government authorities. While administrative justice strengthening efforts are often best undertaken in a discrete sector (for example, addressing procedures and standards to improve administrative decision-making on matters of pension benefit determinations or labor code violations), they can also be conducted on a cross-sectoral basis for particular purposes, e.g., to raise public awareness of common citizen administrative due process rights/principles or to tackle general administrative procedure reform (including judicial handling of administrative cases). It was with this cross-cutting, awareness-raising purpose in mind that the SRAJ Project was proposed.

A. Purpose, Organization, and Approach of the Project

Begun in April 2017 as a 3-year project with a budget of \$943,326, the project was awarded a 7-month, \$186,000 cost-extension in January 2020 and concluded in November 2020 (following a 3-month no-cost extension) with cumulative budget of \$1.29m.⁴

Nature and Purpose of the Project. Administrative justice, as a holistic undertaking focused on the fairness of all aspects of the administrative process, has only been a field of serious scholarly and practical inquiry for the past few decades. From the vantage point of development programming, administrative justice work has generally been neglected in favor of rule of law initiatives focused on the judiciary rather than administrative agencies (despite the former’s lesser power and influence in most developing countries), except perhaps in the case of certain sectoral interventions associated with economic development and regulatory reform. This often stems from a developed country perspective on the role of courts (and the associated societal elevation of lawyers), as well as a generalized reluctance to work on matters of public management (often tied to perceived problems with bureaucratic discipline and corruption in many countries as well as inefficiencies surrounding the public service). At USAID, the topic has attracted only intermittent attention since publication of an Administrative Law Handbook in 2008.⁵

In proposing this technical assistance and learning project, UMass sought to advance the idea of an exploratory DRG program focused on administrative justice in a relatively conducive public administration environment, using an extensive data collection process to describe the present state of administrative justice in the country and call public attention to cross-cutting issues of citizen rights in the administrative process. That evidence base, in turn, was utilized to help empirically anchor various assistance interventions.

⁴ Although the Project was formally awarded on February 1, 2017, the project launched in April 2017 with the arrival of local Resident Project Manager, Seth Karamage. The duration of the project was thus 44 months.

⁵ Russell-Einhorn, M. and Howard Fenton, 2008. *Using Administrative Law Tools and Concepts to Strengthen USAID Programming: A Handbook for Democracy and Governance Officers* (Washington: USAID).

In adaptive fashion, these discrete evidence-based interventions were intended to be carried out in several specific administrative/sectoral subject areas depending on the nature of the evidence, available resources, and local political support therefor. Regardless of the subject areas or sectors that might ultimately be involved, it was determined at the proposal stage that any such interventions would be directed to improve generally the legality, transparency, and consistency of administrative decision-making in regulatory matters or disputes handled by front-line officials in urban and rural districts—where the bulk of such cases are dealt with in Rwanda’s decentralized administrative system. Such improvements could, it was hypothesized, help raise the quality and overall consistency of administrative decision-making at this critical level of governance—potentially resulting in greater trust and satisfaction in the administrative process among citizens and the generation of fewer overall complaints and appeals arising from such decisions.

Organization. Four sectoral areas of decision-making/regulation were ultimately selected for information-gathering and analysis, as well as subsequent technical assistance efforts. These areas were labor regulation, public procurement, land expropriation, and public employment. They were selected with input from local partners based on the volume of administrative cases involved and/or the public visibility of such cases: labor and procurement cases represented a large proportion of the administrative cases handled at the local level, while expropriation and public employment cases were fewer in volume, but garnered disproportionate attention from citizens and the media. Indeed, expropriation cases were highly visible in local communities, while public employment cases were less visible, but were well known based on stories circulating in the public administration or in the press (which featured several high profile stories of civil servants who were wrongfully terminated and who were ultimately awarded large financial settlements by the courts).

As an exploratory program, the project’s work was organized into three phases: *A first phase*, which would describe the operable legal and policy frameworks for the four decision-making areas and identify gaps, ambiguities, and contradictions in law and procedure that presented opportunities for reform; *a second phase*, which would seek to assess, via surveys and interviews, law and policy as they were actually applied in practice, at the district level (highlighting public information, training and other capacity-building needs that might need to be addressed); and *a third phase* involving targeted reform efforts (including training, information-sharing/public education, and law reform activities grounded in the evidence-based findings from the districts). Having this strong evidence base was also in line with the preferences of Rwandan central authorities, for whom such a practice – along with the issuance of multi-year strategies – was a technocratic preoccupation.

It was understood that the third phase, compressed within the final year of the project’s 3-year timespan, would not necessarily be able to demonstrate significant impact in all three sub-activity streams. Rather, it was anticipated that enough progress would be registered to confirm proof of concept, and that additional results could be pursued through a project extension (if that were feasible) or project funding from another source. At the same time, although certain results would be obtainable by the project’s end date via its Monitoring, Evaluation, and Learning (MEL) Plan, no endline survey would be possible due to the

shortness of time and modest size of the budget relative to implementation activities.⁶

Approach. As will be discussed at greater length below, the Project was well accepted by Rwandan government authorities from the start, given its dual focus on technocratic matters of government efficiency (improving administrative decision-making in the first instance so as to reduce appeals and other complaints, thereby also enhancing predictability and reducing cost) and improving public trust in local authorities (which was seen as helping enhance overall government responsiveness). Indeed, during the concept stage, UMass was able to secure a meeting with the Minister of Justice, Johnston Busingye at which he stated his general support for the aims of the project, insofar as it might prevent cases that could otherwise be resolved at the administrative level from being appealed to the courts. He was particularly invested in the matter, given the extent to which state attorneys at the Ministry of Justice were having to defend in court poorly decided public employment cases from local governments—cases that were not only consuming the resources of his ministry, but resulting in judgments against the local governments that were costing the Rwandan authorities millions of Rwandan Francs.

To stretch the modest budget of the program as far as possible, and to ensure maximum buy-in from government authorities predisposed to have a Rwandan face on the Project, UMass relied on local sub-grantees to carry out the bulk of the activities, which were otherwise principally designed by UMass Project Director Malcolm Russell-Einhorn and UMass Resident Program Manager, Seth Karamage. Four sub-grantees were ultimately utilized: The Legal Aid Forum (LAF), which carried out the Phase I Legal Framework and Contextual Policy Analysis; the Institute of Policy Analysis and Research (IPAR), which carried out the Phase II district field research; Human Rights First (HRF), which was tasked with helping to share information on administrative justice with other legal aid groups and civil society organizations; and Highlands Centre of Leadership for Development (Highlands), which led much of the initial mass media work. Although its university identity was a huge asset in terms of projecting an interest in, and commitment to, project learning, UMass also made sure to stand very much in the background during project implementation, ensuring that Mr. Karamage was seen as the day-to-day coordinator of the Project.

Given the nature of the regime and a recent history of larger USAID-funded governance projects being heavily scrutinized and monitored by Rwandan authorities (particular those having to work with central government bodies), it was understood that the project would work transparently and engage in frequent communications with government partners. This included significant government participation in the project launch as well as validation activities where project findings and draft reports were shared with ministry or agency representatives. In fact, such validation sessions proved to be an important opportunity to verify certain factual information, test government reaction to certain topics or issues, and most important, stimulate discussion and buy-in among participants.

⁶ Definitive measurement of changes in citizen satisfaction with the administrative process was in any event inherently problematic, given that there would be very different cohorts of citizens – with different demographics and different perceptions – involved in a baseline survey and a later endline survey (unless they have had multiple administrative disputes that would permit direct comparisons of perceptions over time). At best, only certain indirect comparisons can be made through periodic surveys asking identical questions of such cohorts. Another indirect measure of administrative justice considered by the project involved statistics on court reversal of administrative decisions based on legal or procedural errors; however, it is hard to distinguish such cases from reversals simply on the merits without an in-depth study of actual case files and/or interviews with judges and government officials—not something that was politically feasible on this project.

B. Political Economy Context and Theory of Change

As already discussed, the Project was understood as offering the opportunity to build an evidence base for government-supported initiatives aimed at improving the quality of administrative justice in Rwanda. Such support was generally foreseeable given the nature of the subject matter and the focus on individual rights in the administrative process (rather than collective rights and advocacy associated with rulemaking, which might impinge more directly on government policymaking discretion). It also mattered that the Minister of Justice was favorably disposed to the general thrust of the project at the pre-proposal stage. From one vantage point, such work carried certain technocratic characteristics (emphasizing matters of efficiency/cost savings in decision-making and dispute resolution, which were of particular interest to Rwandan government authorities and businesses), while from another, such work could also enhance citizen trust (by emphasizing procedural fairness in an authoritarian environment where top-down decision-making is the rule and civil servants may struggle to be responsive to citizen voice). Improvements in administrative case handling could identify bureaucratic shortcomings and spur improvements in front-line administrative performance without calling into question the basic structure of the regime and its leadership. At the same time, even if they otherwise lacked significant agency, citizens could register complaints on their own behalf—and in so doing, collectively function as decentralized monitors calling attention to problematic conduct by bureaucratic agents.

More broadly, such improvements may also have appealed to a government like Rwanda's by acting as a more formal kind of safety valve for citizen frustration with bureaucracy. In Rwanda—a regime very much preoccupied with maintaining internal stability and burnishing its international reputation—administrative justice, as a concept and project focus, may be seen to have dovetailed with the government's overall ambitions to improve administrative accountability and service delivery in accordance with the then-existing Second Economic Development and Poverty Reduction Strategy (EDPRS II). It also conformed to the longstanding goal of improving local government service quality – although not necessarily direct responsiveness to local community needs or collective initiative⁷ – pursuant to the country's decentralization strategy. Finally, the project's goal of helping improve training of government officials aligned well with the GoR's desire to improve overall bureaucratic competence—a focus that intensified with the subsequent shift to the country's seven-year National Strategy for Transformation (NST). Against a backdrop of strong commitment to rule-based governance and hierarchical bureaucratic discipline, there was reason to believe that an administrative justice project of this kind would not only receive at least passive support from key institutions, but active backing from key central authorities.

The project's theory of change took account of these political economy conditions in embracing a three-phase, empirically grounded approach that could boost local partners' institutional stature (esp. local governments' progress toward meeting their *imihigo* (government performance contract) commitments). It also recognized the potential influence of certain senior bureaucrats in building overall support for reform action through their engagement in the development of video dramas and their appearance on the project's TV and radio broadcasts—a modest widening of Rwandan civic space. A graphic theory of change, embodying a reform trajectory beyond merely that of the project timeline, is below.

⁷ See Gaynor, N., 2014. "A Nation in a Hurry": The Costs of Local Governance Reforms in Rwanda," *Review of African Political Economy*, 41(1) 49-63.

SRAJ Project Theory of Change



Key Assumptions: While a detailed and comprehensive analysis is necessary to gain credibility, moving stakeholders to action depends on strong interpersonal relationship-building, a Rwandan identity for the program, and buy-in through validation activities.

Key Assumptions: While detailed and comprehensive data and analyses are necessary for credibility, moving stakeholders to action depends on strong interpersonal relationship-building, a Rwandan identity for the program, and buy-in through validation activities as well as significant publicity.

Key Assumptions: Government leaders must be persuaded that reform uptake aligns with existing strategic plans/needs at the national and sectoral/ministerial level, including formal plans, *imihigo* objectives, and/or immediate practical or political contingencies

Overarching Assumptions:

- Implementation will be relatively timely by Rwandan subs, consultants, and government official partners/beneficiaries
- Cost overruns/unexpected expenditures will be limited, so as to stretch limited project resources over the life of the project
- Public awareness activities will create modest additional implementation pressure on officials
- No major government political developments or crises will interfere with USAID assistance to Rwanda generally or the project's activities in particular
- Government attention will not be unduly dissipated by other internal/external time demands

III. Project Results Framework, Activities, and Accomplishments

The following sections of the report address the start-up of the Project, the Results Framework and MEL Plan established during the launch period, and the various Phases of the Project with their respective activities and accomplishments.

A. Start-Up, Results Framework, MEL Plan, and Implementation

Start-up and Project Launch. Project start-up began in April, 2017 as Messrs. Russell-Einhorn and Karamage – the only core staff for the Project over its lifetime – met with USAID/Rwanda, and engaged in preliminary workplan discussions with the original sub-grantees, LAF and IPAR. A Consultative Stakeholder Launch Meeting took place at the Kigali Marriott Hotel on May 25 after considerable planning. It was facilitated by LAF Executive Director Andrews Kananga, featured a project overview presentation by Mr. Russell-Einhorn, and was followed by an active discussion by some 20 Government of Rwanda representatives and several CSO partner and media participants.

The meeting produced two main results: it provided an important degree of transparency about the project for GoR representatives and it signaled a strong willingness to engage and consult with those representatives during the life of the project (a point strongly made by both Mr. Russell-Einhorn and U.S. Ambassador Erica Barks-Ruggles, who spoke briefly at the event and drew important media coverage). It also surfaced a number of key insights, including the fact that there was strong support for the project (it was deemed timely and important relative to district government development and building public trust); and also support for more districts to be included in the project’s data collection phase (to create a stronger evidence base for policy reforms). There was also some desire expressed for social protection case decisions to be included in the project in place of land expropriation,



LAF Director Andrews Kananga and Project Director Malcolm Russell-Einhorn facilitate the Consultative Stakeholder Launch meeting with Government of Rwanda representatives

but that suggestion was later dropped after further consultation with key stakeholders. Angelina Muganza, the Executive Secretary of the Public Service Commission, noted at the conclusion of the workshop that the project’s prospective findings are “very crucial for us because it [the SRA] project] focuses on assessing how citizens are provided what they deserve from the administration...We are concerned because we have to make sure that institutions respect the laws concerning their duties and the decisions they make” (a report on the launch is contained in the Project Annexes).



Ambassador Erica Barks-Ruggles with Public Service Commission Executive Secretary Angelina Muganza at the Consultative Stakeholder Launch meeting

In June and July, the Project entered into formal subgrant relationships with partners LAF and IPAR, and also located suitable office space for the project in the Kimihurura neighborhood. Also during this time period, the Project’s MEL Plan was approved. The Plan included the Project’s results framework, as well as indicators that the Project would endeavor to track and analyze. Although the Plan was later revised (certain indicators were dropped) in light of the unavailability of certain data (e.g., certain judicial statistics bearing on appeals of administrative decisions), the Plan’s main features were preserved and a limited number of quantitative project indicators were later approved for official tracking purposes.

Results Framework and MEL Plan. On the following pages are set forth both the final Results Framework and indicators, and the Mission-approved (more limited) MEL Plan indicators. The Results Framework was tied to CDCS IR 2.1, which while primarily focused on collective consultative processes with citizens on matters of policy, was also able to embrace expanded citizen voice in individual case matters, such as administrative decision-making. Meanwhile, the indicators chart shows target numbers and the actual figures registered at the end of the Project, along with a narrative explanation of the deviation from the target. Although this project was very much exploratory and qualitative in its orientation, a discussion of actual vs. target indicator figures appears below in Section III.E.

STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT: RESULTS FRAMEWORK

USAID/RWANDA CDCS IR 2.1: Increased civic participation and consultation in decision-making at all levels

SRAJ Project Goal: Improved Systems of Administrative Justice in Rwanda

Objective 1: Training of public officials, gov't legal officers, and other legal professionals on administrative justice issues improved.

Objective 2: Citizen information on administrative processes enhanced through media outreach, video dramas, and gov't compliance education efforts.

Objective 3: Legal and policy reforms to strengthen the quality, legality, and effectiveness of administrative justice in Rwanda supported.

Key output & outcome indicators:

1. New graduate & executive courses at ILPD developed by domestic & int'l specialists
2. # of training courses developed for instruction of public officials and other professionals on administrative law-related subjects.
3. # of participants enrolled in diploma and executive training courses developed by SRAJ
4. # of Rwandan institutions using SRAJ-developed materials for training their target audiences.

Key output & outcome indicators:

1. #of TV/radio programs aired on administrative justice-related topics
2. # of citizens calling into TV/radio programs aired on administrative justice-related topic
3. # of videos produced on administrative justice-related topics
4. # of leaflets on citizen rights in the administrative process distributed to Provincial and district organizations
5. # of social media posts generated by citizens or organizations in response to broadcasting of TV & radio shows on administrative justice topics

Key output & outcome indicators:

1. Dissemination of the Legal and Policy Framework Report on the state of administrative justice in four subject areas
2. # of reforms or innovations (legal, regulatory, or managerial) that Rwandan agencies or other bodies have adopted with some form of SRAJ Project support or due to SRAJ Project influence
3. #'s of gov't institutional stakeholders that have engaged in some way in SRAJ Project activities

Crosscutting foundational information and analyses re: administrative decision-making at the district level (four focal subject areas)

1. Legal/regulatory/administrative framework analysis of administrative decision-making conducted (incl. diverse complaints-handling methods used by district officials)
2. Citizen and business perception/satisfaction surveys conducted regarding discrete perceptions of treatment in, and clarity of the administrative process (specific to each of the 4 subject areas)
3. Interviews and group discussions with government officials conducted on common obstacles to/constraints on quality administrative decision making
4. Limited statistical data on complaints handling by districts obtained from central authorities

**SRAJ PROJECT MISSION-APPROVED
MEL PLAN INDICATORS**

No.	Indicator	Target	Actuals	Deviation	Deviation Narrative
1.	Number of government institutional stakeholders that have engaged in some way in SRAJ activities (this includes both central and district government units).	68	71	+3	While most of our government interlocutors were identifiable by the time the final SRAJ workplan was in place, there were a few that were unanticipated, with which we engaged in the final year. These included the Eastern Province Governor's Office, the National Children's Commission (in connection with our child labor protection work), and the Joint Action Development Forum
2.	Number of training courses developed for instruction of public officials and other professionals on administrative law-related subjects.	5	7	+2	While 3 labor short courses and 2 diploma courses were originally envisioned, it became clear that MIFOTRA needed additional individual short courses for occupational safety and health and social dialogue, respectively
3.	Number of Rwandan institutions using SRAJ project-developed training materials for training their target audiences	4	5	+1	MIFOTRA, RPPA, PSF, and MINALOC committed to send staff to ILPD for such training, and ILPD as the training institution has committed to offer these courses and train their staff and dedicated consultants to deliver such training using SRAJ-developed curricula
4.	Number of participants enrolled in formal diploma and executive courses developed by SRAJ activity	30	0	-30	Due to COVID-19 and prohibitions on holding classes, anticipated diploma and short courses (a minimum of two were forecast for MIFOTRA personnel) were unable to be held in fall 2020, depriving at least 30 staff of these training opportunities.

General Implementation Trajectory. Following start-up, implementation began in late July 2017 with planning for the first phase, which consisted of the collection and analysis of information regarding the operative legal frameworks for the Project’s four focal areas of administrative decision-making. Subsequently, another cross-cutting activity (Phase II) began in April 2018 with the development of methodologies and instruments for collecting and analyzing data about administrative decision-making in practice at the district level (for this work, HRF was added as a sub-grantee along with existing sub-grantee IPAR). Concurrent with the conclusion of the field work in winter 2018-2019, Phase III began with the Objective I work on the development of improved training curricula for public officials on the subjects of labor regulation and public procurement. Later in 2019, additional Phase III work commenced on Objective II activities relating to public outreach; for this purpose, UMass added Highlands as a sub-grantee. And finally, limited legal and regulatory reform discussions (Objective III) began in late 2019, principally in the labor and procurement areas.

In light of the tightly constrained original budget of \$943,326 and the slower-than-expected data analysis work by IPAR (the organization lost a very large proportion of its leading researchers in the months preceding the Phase II work and encountered severe organizational problems during the field work itself), the Project realized in spring 2019 that Phase III work would be exceedingly short; essentially, the Project’s intention to demonstrate adequate proof of concept (in particular the development and piloting of training curricula and public education efforts) might not bear fruit. Based on this concern, the Project held discussions with USAID/Rwanda in the summer of 2019 regarding a cost extension. In November 2019, the Mission invited UMass to submit a cost extension proposal, which was eventually submitted in December 2019. In late January 2020—just weeks away from the original project termination date—the Mission awarded a **7-month cost extension** in the amount of \$186,634. This modestly resulted in a cumulative funding total of \$1,129,960. While these funds and the remaining time for implementation were still very limited, funds were stretched to complete at least the training curriculum development and the broadcasting of several TV and community radio programs as well as production and airing of three video dramas (on land expropriation, labor mediation, and child labor prevention; a fourth video, on social dialogue, was produced but not shown).

Such work was undertaken against the backdrop of **COVID-19**, which negatively impacted several planned activities under the training objective. Indeed, it was originally envisioned that this work would extend past mere curriculum development and encompass (1) pilot training of public officials in executive training courses at ILPD on labor regulation; (2) pilot training of legal professionals in the labor regulation diploma course at ILPD; and (3) training of selected district officials from all 30 districts (approximately 5-6 officials each) in administrative justice fundamentals via five provincial-level workshops. Although it appeared that these activities might still be possible to implement before the end of the Project, the pandemic proved far more problematic as time went on, as the GoR imposed restrictions on travel between Kigali and rural districts and between the rural districts themselves. Eventually, these activities had to be eliminated, which prevented evaluation of the pilot efforts. Still, USAID/Rwanda granted SRAJ a **3-month no-cost extension**, which at least enabled the Project to extend the time for airing the TV and radio programs. As a reference, the following Gantt chart provides a roadmap of implementation on the Project.

SRAJ PROJECT Objectives and Activities	SRAJ PROJECT: ACTIVITIES TIMELINE																																	
	2017						2018						2019						2020															
	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov		
Start-Up and Strategic Planning																																		
Office set-up, issuance of subgrants; MEL Plan and initial workplan submissions	█	█	█																															
Stakeholder launch meeting	█																																	
Phase I Legal/Policy Framework Report (Cross-Cutting Objective)																																		
Interviews with key informants and stakeholder workshops				█	█	█	█	█	█	█	█																							
Legal Framework Report validation workshop											█																							
CSO/media forum on challenges in labor regulation and land expropriation cases																																		

Activities	2017				2018				2019				2020							
	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov
Phase III: Improving Training on Administrative Justice (Objective 1)																				
Development of diploma courses on public procurement & labor law																				
Validation workshop for the above diploma courses																				
Higher Education Council (HEC) approval of labor law diploma course																				
HEC approval of procurement course																				
Consultations re: integration of diploma courses into ILPD curriculum																				
Development of labor law short courses for inspectors, other HR professionals																				
Consultations with ILPD, MIFOTRA and other agencies re: enrollment of inspectors in training																				
Development of labor mediation handbook																				

Activities	2017												2018												2019												2020											
	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov				
Phase III: Improving Public Education on Administrative Justice (Objective 2)																																																
Development of 1 st round TV and radio programs on administrative justice																																																
Production of video drama on good practices in labor mediation																																																
Airing of 2 TV/radio programs on labor law																																																
Airing of 2 TV/radio shows on procurement																																																
Airing of TV show on land expropriation																																																
Participation in/showing of labor video @MIFOTRA Eastern Province private sector compliance forum																																																
Development of 2 nd round TV & radio programs																																																
Production of video on good practices in land expropriation																																																
Participation in/showing of labor mediation video at MIFOTRA Kigali private sector compliance forum																																																

B. Cross-Cutting Objective: Legal Framework Analysis

Work on the Phase I Legal and Policy Framework/Contextual Analysis Report began in August 2017 with discussions about scope and methodology with LAF staff and consultant Alphonse Muleefu, a professor on the University of Rwanda Law faculty. The approach was agreed to in early October after some delays by LAF and work continued through the early part of 2018, despite earlier target dates having been established. Most of the work consisted of a close textual analysis of existing legislation and regulations governing the four focal subject areas of administrative decision-making selected by UMass and LAF during the proposal phase. However, key informant interviews were also conducted by LAF with a number of experts from the Rwandan legal community.

Roundtable on identification of key legal issues. Following the bulk of the textual research and analysis, a roundtable was held on November 9, 2017, with the hope that the stakeholders, drawn mostly from the ranks of veteran public officials in central government ministries and agencies, would comment in more practical fashion about the legal frameworks and their interpretation. Plenary sessions were held to discuss broader issues of administrative justice, while breakout sessions on the four focal areas delved into more specific issues. A number of key issues were highlighted, chief among them the lack of enforcement and sanctioning powers of labor inspectors in the labor regulation sphere, and the failure of the government to issue a Ministerial Order on District Land Expropriation Committees, in whose absence a wide variety of critical, legally declared procedural steps for citizen consultation and notification are almost wholly unelaborated in practical terms. An agenda, attendance list, key discussion questions, some pictures, and a short summary of the proceedings of the Roundtable are included as Annex I to this report.

Collection of relevant statistical information. In the course of creating a first draft of the Legal and Policy Framework/Contextual Analysis Report, LAF also collected certain basic statistical information on complaints and appeals directed to administrative authorities. This information was focused primarily on the volume of complaints and appeals generated over the past four years, but also included some information about substantive case disposition. While the Project ultimately obtained reasonable statistical information on administrative complaint volumes in the procurement, labor, and public employment arenas, case disposition information was only obtained in matters of procurement and public employment, and then only with regard to the administrative level; judicial statistics were obtained only as to the specific issue of case volumes in labor cases appealed to the Intermediate Courts (the first instance of judicial appeals from district governments). Later in the project, additional efforts to obtain judicial statistics were attempted, but without success (case disposition data on labor cases was cursory, and arranged only as to whether the plaintiff won or lost the case, without incorporating cases where matters were remanded to the districts for further hearing; at the same time, statistics did not distinguish between legal error or other bases for overturning a district decision). It was unclear if the unavailability of this information was attributable to poor data quality or simply resistance to disclosure and/or to organizing/collating it. Given the lack of access to raw data from the courts that would potentially contain this additional detail, the available judicial statistics would not and could not in and of themselves shed much light on the *quality* of district decision-making (as opposed simply to the outcomes of the cases appealed).

Draft Legal Framework Report and Executive Summary; Stakeholder Consultative Workshop. The Legal Framework Report, finished by LAF in early February 2018, presented an exhaustive analysis of the legal and regulatory context for administrative decision-making in the four focal subject areas of the Project. At just over 100 pages, the full document was shared with a targeted group of stakeholders as a noteworthy legal reference document. Major assistance on the editing of the Report was provided by Prof. Jean Paul Mazimpaka, a member of the law faculty at the University of Rwanda and someone with expertise on administrative law generally and procurement law in particular.

To make the key findings and recommendations more accessible, an extended executive summary of nine pages was shared with a larger group of stakeholders for purposes of conducting a consultative workshop to validate and debate the major findings and conclusions from the Phase I Report. The workshop, held on March 2, 2018, attracted some three dozen GoR, CSO, and other attendees. It was conducted principally in Kinyarwanda to facilitate candid discussion. With one or two minor exceptions, all of the findings and recommendations were validated by the assembled stakeholders (the exceptions were adjusted based on issues of framing or interpretation) and there was substantial enthusiasm at the event for translating these into concrete legal and policy reform actions as well as strengthened capacity-building and public education efforts.



The Executive Director of LAF, Mr. Andrews Kananga, delivering introductory remarks at the Legal Framework Report validation workshop

There was particular interest expressed in having legal reforms drawn up to address deficiencies in the public employment and private labor regulation areas. Specifically, interest was expressed to harmonize the responsibilities of the Public Service Commission (PSC) and the Ministry of Public Service and Labor (MIFOTRA) in providing guidance and oversight on public employment disciplinary cases, and also to harmonize various out-of-court settlement options and the procedures for resolving such cases. In the private labor regulation arena, much attention was focused on ways to improve the powers and responsibilities of labor inspectors for compliance oversight and informal settlement of disputes. The most significant influence of the Report was its contribution to a key amendment of the 2018 Labor Law granting new sanctioning and enforcement powers to labor inspectors (see section III.F below).

On land expropriation, there was also agreement that steps needed to be taken to operationalize citizen notification of the state's intention to expropriate property, and to adopt and implement a Prime Minister's Order establishing district-level supervisory committees to oversee and resolve disputes over expropriation. A summary of the workshop proceedings, the Summary of Findings and Conclusions presented at the workshop, and a list of attendees are included as Annex 2 to this Report. The Report itself is included as Annex 3.

Media-CSO Workshop to Improve General News Coverage of Administrative Justice. HRF, which joined the SRAJ Project in the summer of 2018 to assist with legal analysis, field research, and public outreach, organized a one-day CSO-Media Workshop on October 5, 2018 that brought together social justice and media organization representatives to discuss mutually beneficial ways to share good practices and other developments in the field of administrative justice – while beginning to raise the overall profile of the topic with the general public. The event featured approximately 25 attendees (drawn from the ranks of journalists and legal aid organizations and other CSOs) and was designed help participants brainstorm ways of sharing information and creating stronger relationships between the two communities.



SRAJ Project Resident Country Manager Seth Karamage facilitating a plenary session at the CSO-Media Workshop

The assembled participants spent much of the day in small groups, discussing ways in which better information-gathering and information-sharing among legal aid practitioners and the general public could assist citizens in advancing their interests in the administrative process, while also holding relevant government officials to account. According to HRF workshop organizer Brenda Kayitesi, she was interested not only in encouraging CSO representatives and journalists to discuss the importance of evidence-based advocacy work in this area, but also in brainstorming about how such work could be made more visible and accessible to the public (a report on the workshop is included as Annex 4 to this Final Report).



Participants discuss ways in which CSOs concerned with legal rights work can better share information with journalists

The event proved successful in a number of ways. First and foremost, it generated significant networking and sharing of contacts among the participants, as well as several interesting media story ideas. One story directly arose from the event, and was featured in *The East African*. Another story, about labor law challenges, written by the same reporter, was indirectly inspired by the event (these two news stories are collected in Annex 5 to this Report). A corollary benefit, however, was the raising of participants' consciousness about the many different topics falling under the heading of 'administrative justice,' and how both groups of individuals could routinely stay in touch to promote better public information about these issues.

Subsequent influence via government newspaper coverage. Later on in the Project, press coverage expanded, including publication of a number of stories on the Project's Phase II and Phase III work that were featured in the country's leading government newspaper, *New Times*. This included a series of articles on challenges in labor regulation, land expropriation, and

procurement case handling, pointing out significant deficiencies that the Government needed to address. In the aftermath, several key government officials sought more information from the SRAJ Project.

The article on land expropriation (<https://www.newtimes.co.rw/news/report-sheds-light-property-expropriation-issues>) gave extensive attention to the 2019 SRAJ Report on the subject. The article noted that the SRAJ report findings were based on detailed survey data collected from citizens who had been subject to an expropriation as well as on interview information gathered from district officials. It is noteworthy that a few days after the story was published, the Permanent Secretary of the Ministry of Local Government (MINALOC) requested a copy of the SRAJ Report on land expropriation and shortly thereafter, called upon all central government expropriating bodies (ministries, agencies, and authorities) to present all pending expropriation issues to that office.

Meanwhile, the procurement article (<https://www.newtimes.co.rw/news/report-sheds-light-property-expropriation-issues>) pointed out that both bidders and district officials could use more training to reduce the numbers of procurement-related complaints, and that the SRAJ Project's research showed that bidders were appreciative when district officials explained clearly how the bidding and complaints process worked. Coincidentally or not, it is worth noting that there had earlier been a lot of criticism from businesses about fairness issues in public procurement, and the head of the Rwanda Public Procurement Authority (RPPA) ended up being replaced four days after publication of the *New Times* piece.

Finally, a third article was published on the Project's findings on labor regulation in practice at the district level: <https://allafrica.com/stories/202003160105.html>. While not as hard hitting as the other two, this article also deepened the discussion of labor disputes crowding the courts, as well as the Government's interest in promoting swifter and more cost-effective dispute resolution.

These stories were in turn, inspired indirectly by a series of articles that circulated in February 2020 in *New Times*. Those articles highlighted the Government's determination to reduce financial losses in the public sector stemming from poor handling of complaints, unjust termination of civil servants' employment, and failure to pay due compensation on time to officials and contractors https://allafrica.com/stories/202002040164.html?aa_source=nwsltr-rwanda-en; https://allafrica.com/stories/202002050047.html?aa_source=nwsltr-rwanda-en. These stories echoed not only points that had been addressed by the specific SRAJ Project report on public employment and administrative justice—and discussed extensively in the validation workshop held earlier last year with representatives from government and civil society – but also ongoing Government frustration that had been the original impetus for the Project as described in the Concept Note submitted to USAID/Rwanda back in 2015.⁸

⁸ In one of the *New Times* stories (on Feb. 4, 2020), Minister of Justice Busingye was noted as saying in Parliament that in 2017 and 2018 alone, the Government lost RwF 224 million through lawsuits filed against its institutions by civil servants whose administrative disputes were improperly handled and documented. At the heart of these

Still later on in 2020, *New Times* covered the SRAJ Project TV/radio show on public procurement, <https://www.newtimes.co.rw/news/internal-public-tender-committees-faulted-unofficial-blacklists> and a later program on child labor protection, https://allafrica.com/stories/202010150945.html?aa_source=nwsltr-rwanda-en. These stories amplified the influence of the TV/radio programs in elite government circles, where such shows were already being talked about by many government officials based on anecdotal information from government and other sources relayed to the Project over a period of many months.

C. Cross-Cutting Objective: District Field Research and Findings

As part of the intentional design of the Project, UMass sought to use the legal and policy information gathered in Phase I to help frame many of the parameters of the data collection efforts in Phase II—an intensive examination of how law and policy are applied *in practice* by district officials handling cases and issuing decisions in the four subject areas. This inquiry was to consist of citizen surveys, in-depth follow-up interviews with a number of citizens (to clarify matters raised in the surveys), and interviews and group discussions with public officials. Discussions about methodology with IPAR staff began immediately following the Legal Framework Report workshop in April 2018, and preliminary drafting of the survey instruments began in May. However, these efforts to shape the contours of the district field research were aided considerably by pilot interviews held in March 2018 with district officials in two districts.

Interviews with District Officials in Two Districts Regarding Data Management.

Prior to undertaking the design of the Phase II field research, the SRAJ Team needed to have a better sense of the data management and analysis capabilities of district governments. Given the importance of data collection by district authorities—both for record-keeping and learning purposes—it was felt that information on this subject was necessary in order to know how best to pursue relevant data in Phase II and how the Phase II interviews with public officials could be most effectively conducted. At the same time, along the same lines, it seemed useful and timely to gain some additional contextual information about decision-making and information flows at the local level in a few of the four subject areas in order to better inform the drafting of the Phase II data collection instruments. As a result, UMass consultant and local government data expert Kristina Johnson (affiliated with the Collins Center for Public Management at the University) was engaged to conduct pilot interviews with district officials in two districts—Gasabo (an urban district) and Ruhango (a rural district)—to illuminate these various subjects.

various reported problems was a fundamental rationale for the SRAJ Project itself; namely, when administrative disputes are not treated professionally and fairly at the source (i.e., within the public administration), citizens become upset and are likely to complain to politicians or seek redress from the Ombudsman or the courts—consuming unnecessary time and money on all fronts. Insofar as the Project had a strong evidence-based orientation—something respected by Rwandan authorities—its messaging generally resonated with senior officials.

From March 19-22, Ms. Johnson and Mr. Karamage met with a variety of local government officials in Gasabo and Ruhango, respectively, including Mayors, Executive Secretaries, District Legal Advisors, Labor Inspectors, and HR Directors. Certain IT personnel were also interviewed. Over 26 hours of interviews were conducted and much was learned about decision-making and case handling in the areas of private labor regulation and public employment, as well as more general information about data management. The information was highly revealing and candidly shared, which was no doubt aided by both prior consultation with MINALOC and by the careful explanation of the team of its intended purpose (it was also helpful that the team was accompanied by a trusted staff person from the then-existing Local Government Institute (LGI), a training and research arm of the Rwanda Association of Local Government Authorities (RALGA)).

Many important cross-cutting findings emerged concerning high personnel turnover in district governments, difficulties experienced by such personnel in following central government legal guidance and policy commands, challenges faced by district legal advisers being overruled or ignored by senior district government officials, the relatively powerlessness of labor inspectors, and uncoordinated handling (and resolution) of various kinds of citizen complaints. However, systems for recordkeeping in the public employment and private labor regulation arenas were sound, such that the biggest challenge had to do with analyzing, sharing, and learning from such data (incl. with other interested parties within and outside of district government).

Phase II District Selection and Data Collection Instrument Preparation.

Significant Phase II preparatory work occurred from April through September 2018, focused principally on iterative drafting of both the data collection instruments (citizen surveys and various district official interview and group discussion questions) and accompanying protocols and methodological guidance. The Project obtained help with the survey instruments and interview questionnaires from Prof. Jean Paul Mazimpaka, who provided legal textual advice and also translated the instruments into Kinyarwanda.

Due to staffing issues at IPAR and its preoccupation with carrying out the annual *imihigo* evaluation for the GoR, most preparatory work had been expected to wind up by July but instead extended into the fall. Nevertheless, extensive work also took place on the survey design (incl. sampling approach) and selection of districts for the data collection effort. These, in turn, helped secure political buy-in from key stakeholders (for appropriate district access and cooperation, as well as official approval from the National Institute of Statistics-Rwanda (NISR)). Typically, NISR approval is required for either representative samples or large sample sizes.

The most important development in this regard was the decision, taken in May 2018, not to undertake large sample citizen surveys as to all four focal subjects of the Project, but rather to limit them to the labor regulation topic, where a representative sample proved feasible. In the other cases, purposive sampling would be undertaken in various districts. In consultation with the Center for Survey Research at UMass, the Project was able to develop a robust district selection methodology for the labor survey—one that would allow researchers to reach over 370 citizens in six districts who had previously been involved in a labor complaint or appeal.

This represented 93% of all known labor complaints filed with district governments over the three year period of 2014-2017. At the same time, it was determined in late June to utilize a straight random selection methodology to locate citizens *within* each of the selected districts.

As for the other three subject matter surveys, largely for budgetary reasons, the Project ended up selecting four or five districts, as the case may be, to survey citizens (these districts still overlapped with the six selected for the labor survey). For the land expropriation survey, four districts were selected—those that had a significant number of expropriation complaints lodged by citizens over the previous four years). In the case of public employment and procurement decision-making, five districts were purposively selected, and based on the availability of prior complaints filed, citizens would be selected based on complaints going back four years in the case of procurement decisions and three years in the case of public employment decisions. A target of approximately 12-15 officials per district was set for interviews across the four subject areas (in some cases, district leadership would be interviewed about issues involving all four subject areas, e.g., mayors, executive secretaries, data managers, legal advisers, and Good Governance Unit directors, while in other cases, specialized personnel would be interviewed, ranging from vice-mayors to front-line decision-makers such as HR officers, procurement officers, labor inspectors, land officers, etc.).

Eventually, in August 2018 the NISR research visa was obtained to carry out the survey of citizens involved in labor cases, and in September, Institutional Review Board approval of the field research was obtained from the UMass IRB. Further delays occurred thereafter, however, as IPAR struggled initially to secure facilitation of district cooperation in the pending field research from MINALOC, as well as redacted lists of citizens involved in complaints/appeals over the past 3 or 4 years from the various cognizant ministries/agencies. Training of survey enumerators and interviewers finally took place at IPAR in late October 2018, with substantial assistance in orientation to the subject matter from UMass Project Manager Seth Karamage.

District field data collection. Pilot testing of the instruments occurred in early November in the districts of Kicukiro and Kamonyi, both close to the center of Kigali and IPAR's offices. Based on the experience with both the instruments and the scripts utilized to contact citizens, both documents were modified. Following such modifications, actual field work began in mid-November. Based on a cursory logistical analysis, IPAR teams consisting of a team leader and up to 4 or 5 enumerators went from one district to another, in the following order over a five-week period: Rubavu, Bugesera, Gicumbi, Ruhango, Nyarugenge and Gasabo (insofar as Nyarugenge was visited solely for the purpose of conducting the labor survey, it was scheduled during the same week as Ruhango). Survey data was captured in real time electronically via tablets, with which IPAR staff had extensive prior experience.

In general, although there were significant logistical challenges with secure interview venues early on in Rubavu and Bugesera, and although the lists of labor complainants furnished by the government were in some cases incomplete (resulting in fewer respondents than planned), for the most part the numbers of respondents either met expectations or were surpassed through supplemental efforts undertaken in late January 2019 (additional contact information was obtained in late 2018 that was sufficient to permit cost-effective telephone interviews with another 80 or so labor complainants, and this approach was both pilot tested and deemed

acceptable by both IPAR and UMass—insofar as the additional individuals to be surveyed were all part of the original sampling method across the six districts). Moreover, although not all mayors and vice-mayors from the subject districts were able to be interviewed during the original field work period, several of those interviews were rescheduled for early February 2019. Finally, several cross-district group discussions were held in early February with various categories of similarly situated public officials, including procurement officers, land officers, HR directors, labor inspectors, and legal advisers. These discussions yielded interesting information about legal, procedural, and administrative/management challenges as well as training needs.

The data generated by the field work were robust, and were summarized and published in a draft Summary of Findings toward the end of March 2019 that was distributed to all key project stakeholders, including some three dozen Rwandan government agencies. The findings revealed certain positive information about the work of procurement authorities at the district level, as well as the helpfulness and courtesy of labor inspectors. However, there were many cases where district officials across the four substantive subject areas uniformly failed to act transparently with citizens (esp. in the public employment and land expropriation areas) and failed to provide citizens with key information about both the administrative process and the outcomes of their cases (including failure to provide a written decision document explaining the basis for the decision or furnishing citizens an opportunity to present evidence on their behalf).⁹ These seemingly modest procedural steps carry great weight, because citizens who are confused, frustrated, or both may bring their complaints to many other venues—for example, district Mayors, the Ombudsman’s Office, or the courts—even when their cases might have been resolved better in the first place by the administrative decision-makers in their district.

Stakeholder Consultative Workshop. All of this policy-relevant information was shared with key government and civil society stakeholders at an April 4, 2019 validation workshop, where stakeholders offered their opinions and insights and also generated key reform recommendations in small group breakout sessions. In attendance at the workshop were representatives from some 30 governmental and non-governmental institutions, including high-level officials from the Ministry of Justice (MINIJUST), the Rwanda Governance Board (RGB), the Ministry of Public Service and Labor (MIFOTRA), the High Court, and the Office of the Auditor General. Also present were several citizens from districts where the research was carried out, who were able to provide first-hand testimony as to the challenges they faced in obtaining information about administrative processes and vindicating their rights.

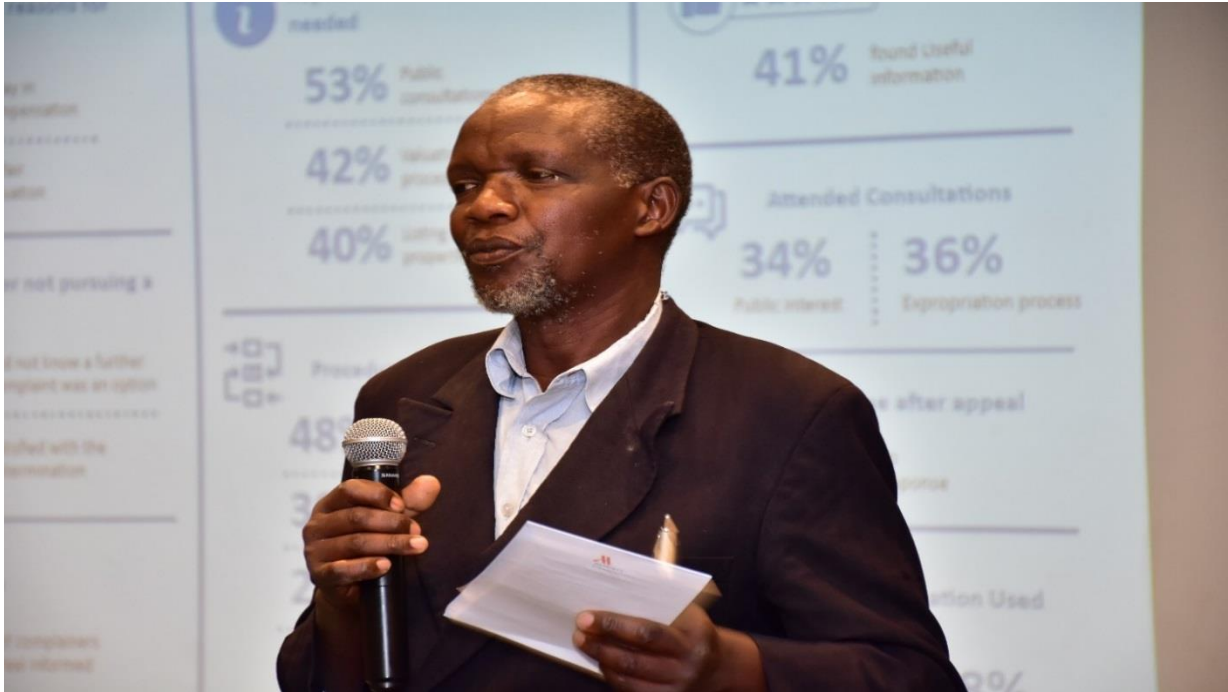
Significant discussion and debate occurred around the issues of citizen ignorance of their rights or an understanding of administrative processes (incl. appeal rights); inadequately supported administrative decisions; the lack of opportunities for mediation in the administrative process; the lack of written documentation of settlements of disputes handled by administrative

⁹ For example, in the case of land expropriation, 52% of all survey respondents indicated that they did not receive any information from public officials about how the process was supposed to work, and 62% of respondents stated that they were not afforded an opportunity to present evidence on their own behalf regarding their property’s inclusion in the expropriation activity or the valuation of their property. Perhaps most disturbingly, 87% of citizens said they did not receive any explanation with reasons for the administrative decision in question (most dealt with valuation of property) and 90% did not even receive information about how and where to appeal that decision.



Workshop participants Anastase Nabahire, Coordinator of the Justice, Reconciliation, Law and Order Secretariat at the Ministry of Justice, Vice President of the High Court Bernadette Kanzayire, and IPAR Executive Director Eugenia Kayitesi

personnel or district political figures (compromising citizens' ability to document the details of a settlement/resolution subsequently); and poor central authority coordination with districts



A citizen from Gasabo District describing his difficulties in receiving just compensation for expropriation of his land after a 17-year struggle with the public administration.

on budgetary and policy matters affecting administrative decision-making and payment of compensation (e.g., for expropriated land). A major overarching theme was the lack of preparedness and training on the part of most district officials, rendering them unable to handle the large number of service delivery and decision-making functions delegated to districts under the country's decentralization policy. Ultimately, the findings from the field research, together with the workshop inputs, were incorporated into a final Summary of Findings document (the workshop agenda, attendance list, and Summary of Findings are included as Annex 6 to this Report).



Participants in the Phase II validation workshop held at the Kigali Marriott Hotel on April 4, 2019

Final Published Field Research Reports. After extensive and protracted editing by UMass, the individual subject matter reports drafted by IPAR (ultimately collected into a final consolidated report) were delivered to government representatives in August 2019. Accompanying the reports were statistical analyses for each of the four subject matter areas of the field research. The reports were widely shared with personnel at USAID/Rwanda, in the Rwandan government, and within selected donor institutions. The distribution to GoR representatives included copies sent to a range of senior stakeholder officials in ministries and agencies as relevant, including all participants in the validation workshop held on April 4. All such stakeholders, regardless of subject matter, received the Summary of Findings and Conclusions, which succinctly captured essential data and recommendations relating to all four subject areas. In turn such reports were distributed to those who were invited to participate in the media outreach programs aired on TV and radio (see below).

Initial reaction to the data from several quarters was uniformly positive. There was particular interest in the information from representatives of the major stakeholders, including MIFOTRA,

MINALOC, and the Rwanda Public Procurement Authority (RPPA). Several interlocutors indicated that the information would support evidence-based policy reform efforts and changes in certain practices, which was the original intent of the project. Indeed, the findings became the basis for much of the Phase III work that would be undertaken with regard to executive training courses in the labor arena (for labor inspectors and other legal professionals) as well as various public outreach efforts consisting of TV and radio programming and educational video dramas (the final consolidated report on district field research findings is included as Annex 7 to this Report, while the statistical annexes for each of the subject matter reports are included respectively as Annexes 8, 9, 10, and 11, respectively).

D. Objective I: Evidence-Based Capacity Building Activities

Although the training needs of public officials in various of the four subject areas were best understood and appreciated following the district field research undertaken in Phase II of the Project—once the interviews and group discussions had been conducted by early 2019—there was a separate imperative to improve specialized graduate level courses for legal personnel and civil servants that preceded such information-gathering. In March 2017, in connection with the country’s annual government retreat, President Kagame spoke of the need for specialized legal training to accompany the country’s aspirations to improve the business enabling environment and governance capacity. This goal appeared to dovetail with the Project’s preliminary outreach to the Institute for Legal Practice and Development (ILPD) in early 2018 to discuss possible collaboration on the development of courses related to administrative justice improvement, particularly in the areas of labor and procurement law. These discussions accelerated throughout the spring and summer, and a decision was reached at the end of the summer to collaborate with ILPD on the development of the two diploma courses. As that work took shape during fall 2018, it then also became clear that ILPD could also suitably host derivative executive training courses for public officials in those two subjects—training that would address the capacity gaps that were in the process of being identified through the Phase II district field research.¹⁰

Development of Graduate Diploma Courses in Labor and Procurement Law.

Once it was determined that the responsibility for the graduate diploma courses could and should be housed at ILPD, work on those courses began promptly in October 2018. Two pairs of experts – consisting of one Rwandan and one international expert – met with ILPD and key Rwandan institutional stakeholders to gain information about course needs and audiences and utilize those inputs to create the requisite course syllabus and core materials. The procurement team consisted of Prof. Jean Paul Mazimpaka of the University of Rwanda and Prof. Moses Muhwezi of Makerere University and the labor law team was staffed by Godfrey Kamukunde, a Rwandan lawyer, and Prof. Evance Kalula of the University of Cape Town.

¹⁰ In 2018, the SRAJ Project also held discussions with RALGA and the Rwanda Management Institute (RMI) about different possible modalities for the training of district officials, but it became clear through the discussions with ILPD about the graduate diploma courses that ILPD offered the most sustainable and flexible partnership not only for the graduate diploma courses in law, but for executive training courses in administrative law-related topics for public officials, even if such personnel did not have formal training in law.

The procurement course that was eventually completed for review by stakeholders was a one-year diploma course offering advanced training in the subject, and serving the needs of busy professionals (the class was designed to meet for one week at a time over the course of a year, utilizing the participants' own work experiences as the basis for practical assignments and discussion topics throughout the year. The labor course, meanwhile, would similarly serve a practicing professional audience, but instead extend over a six-month period, resulting in a specialized certificate that would boost the credentials of those receiving it in the evolving, more specialized legal market of Rwanda (as the economy advances and diversifies).

The course curricula and core materials were submitted to representatives from key stakeholders at an event held on January 10, 2019. The workshop was praised for its practical value and consultative orientation by attendees, including ILPD Rector Didas Kayihura, who commended the SRAJ Project for harnessing the expertise of the two external consultants, both of whom had extensive Rwanda experience and who counted several protégées among the Rwandan government legal officers in attendance.

In the end, over 40 stakeholder representatives attended the event at the Marriott Hotel, and several speakers attested not only to the significant achievement of having the new courses developed (and the impact this would have on legal specialization), but the palpable interest in the courses that had already been expressed by legal professionals in their agencies. Comments from the attendees were later incorporated into the draft materials and documentation forwarded to the Higher Education Council (HEC) for its final approval (an agenda, attendance list, and ILPD minutes from the workshop are included as Annex 12).



ILPD Rector Didas Kayihura welcomes attendees to the validation workshop for the diploma courses on labor and procurement law

Approval of the labor course was forthcoming in late 2019, while HEC approval of the procurement course was delayed until October 2020 for reasons ranging from ILPD documentation issues to HEC delays due to the pandemic. In both cases, lockdowns from the COVID-19 crisis regrettably prevented either course from being piloted in the spring or fall of 2020 as was originally envisioned, depriving the project of evaluative pedagogical information on the effectiveness of the training. It was hoped that a follow-up project might be able to roll out such training subsequently (key curriculum documentation on the labor diploma course is in Annex 13, while similar documentation for the procurement diploma course is in Annex 14).



Government officials from RPPA and MIFTORA, as well as other stakeholders at the validation workshop for the diploma courses in labor and procurement law

Development of executive training courses on various labor regulation subjects. As work on the diploma courses proceeded through the fall of 2018, the SRAJ Project Team sought to ensure that these curricula could be adapted for use as 3-5 day short courses so as to fit the needs of busy legal and other professionals—particularly public officials lacking specialized legal training. While both Messrs. Kamukunde and Mazimpaka sketched out possibilities for short courses in the two subjects, they were not able to spend sufficient time on the matter to bring such work to fruition at the time. Moreover, delays with HEC approval of the procurement diploma course further stalled momentum on the development of a shorter version of that curriculum or consultations with key stakeholders such as the RPPA.

Instead, with HEC approval of the labor diploma course as of March 2019, the SRAJ Team entered into more intensive discussions in the late spring with MIFOTRA and MINALOC staff about the development of short courses that would benefit labor inspectors and district officials (and possibly also HR professionals, worker’s representatives and trade union representatives) in gaining better knowledge of labor legislation and regulations. These

discussions accelerated in August, as the SRAJ Team met with the Director of Labor Administration for MIFOTRA, Patrick Kananga, the Permanent Secretary of MINALOC, Ms. Assumpta Ingabire, and a MINIJUST official responsible for public awareness activities in the justice sector, Regine Mutimukeye. All three stakeholders expressed substantial support for training activities of this kind in the labor regulation arena. Mr. Kananga also recommended pairing a short course with a labor dramatization video that SRAJ had produced with his support (see below) to help educate employers as potential changemakers.

Following up with Mr. Kananga, in the fall of 2019, the SRAJ Team had several additional conversations about the development of other short courses for inspectors, including ones on mediation (with a mediation handbook to accompany it). Finally, by the spring of 2020, the SRAJ Team had engaged the services of a former MIFOTRA Director and ILO Rwanda country official, Alex Twahirwa, to help design the curriculum for one or more such labor short courses. It was further agreed that Mr. Twahirwa should collaborate again with Prof. Kalula from South Africa on the design of such courses. By early late spring, the collaboration was underway and after consultations with MIFOTRA, a suite of five modular short courses was created, consisting of the following: (1) labor mediation; (2) occupational safety and health; (3) labor inspections; (4) international labor standards; and (5) social dialogue. The short courses were submitted to ILPD for approval at the end of the summer.

These courses were not only important to the SRAJ Project directly—as a tangible and immediate outgrowth of the evidence base created by the project and a means of piloting practical instruction for a sizable cohort of labor inspectors and other officials—but also to the ILPD as a training institution; the courses would help burnish its reputation as a center of meaningful instruction for those aspiring to improve their legal knowledge and/or (in the case of active lawyers) their legal practice credentials. In this respect, the courses could become a mainstay of introductory and continuing education for labor inspectors, other MIFOTRA personnel, state attorneys, district legal advisors, other MIFOTRA personnel, and various kinds of HR professionals responsible for specialized decision-making in the private labor relations field. At the same time, these courses could become a very important source of revenue for the ILPD in its quest for increased financial independence (curricula for the various labor short courses, as well as a letter from ILPD Director Didas Kayihura to the Project extending thanks for creation of the courses, are included as Annex 14A to this Report).

Regrettably, as noted earlier, due to the coronavirus pandemic, plans for piloting the short courses in the fall of 2020 did not come to fruition. At the same time, there were also delays in reaching agreement on enrollment and tuition as between MIFOTRA and ILPD; only in the summer of 2020 did those conversations begin in earnest. Piloting of the courses can now occur when in-class teaching becomes feasible again, which should be possible in fall 2021.

Labor Mediation Handbook Development. Insofar as the labor mediation process is the main vehicle for resolution of individual labor disputes and the mediation process was revealed through the Phase II research to be severely flawed and under-structured—many labor inspectors were revealed to be poorly trained and to have failed to provide most citizens with

an ‘even playing field’ and genuine opportunity to be heard—it became clear that labor inspectors sorely needed better training in mediation skills. This became clearer when the existing training materials for inspectors showed little appreciation for practical skills development rather than simply focusing on memorization of the (minimal) legal requirements for conducting a mediation. Based on this need, as well as SRAJ Project participation in discussions chaired by MINIJUST on labor mediation as part of a new national Alternative Dispute Resolution (ADR) Policy for Rwanda (discussed in section III.F. below), the SRAJ Project sought to assist MIFOTRA in developing a step-by-step **mediation handbook** for inspectors, other MIFOTRA personnel, and private and public HR professionals. Such a handbook would help promote meaningful, client-centered mediation dialogues. This was an especially vital need given the tendency of many labor inspectors to see themselves more as arbitrators than as dialogue facilitators.

Alex Twarhirwa was also engaged to help move the process forward, along with Resident Project Manager Seth Karamage and an experienced local mediation specialist, Bernadette Uwicyeza (someone who had been at the center of work on the national ADR Policy). Based on three-way discussions among these individuals, it was determined that Prof. Eben Weitzman, a member of the UMass faculty with significant practical experience with mediation, should draft the labor mediation handbook based on good international practices, inputs from the group, and various kinds of data collection from key stakeholders. Although Prof. Weitzman was scheduled to travel to Rwanda in March 2020 to conduct such data collection, the COVID-19 crisis prevented such in-country work and he instead chose to gather information remotely through various e-surveys sent to labor inspectors, private sector employers, and labor union representatives. Such information, gathered in summer 2020, informed the writing of the handbook during the fall. Eventually, a draft was prepared and reviewed for potential piloting toward the end of the Project, where it could also be used in connection with the labor mediation short course to be offered at ILPD (again, due to COVID, piloting of this course had to be postponed for some kind of follow-on project). While the handbook did not include specific training materials, which would be expected to be developed on a tailored basis by various users of the guide, it did incorporate guidance on the types of materials that would prove useful for instructional purposes (the labor mediation handbook and background survey information are included as Annex 15 to this Report).

E. Objective II: Evidence-Based Public Outreach Activities

Not only did the Phase II findings help inform priorities for capacity-building; they also helped shape the Project’s approach to public education activities—seeking to pair general thematic work on administrative justice concepts in the Rwandan context with specific facts from survey data demonstrating the need for certain reforms. At the same time, the field research findings inspired the creation of video dramas that could accompany and/or complement TV and radio programs that were long envisioned as the anchor of such outreach efforts.

Media outreach strategy generally. Local partners HRF and Highlands laid the groundwork for the Phase III outreach work during the summer of 2019. This entailed (1)

creating a strategy for the drama videos (already seen as an important feature of the work) and the format and objectives that would drive the planned radio and TV talk show programming; (2) overseeing production of the first of two video dramatizations of key administrative justice issues – those involving citizen-public official interactions in the labor and land expropriation contexts, respectively; (3) developing a set of prices for all of the video work; and (4) seeking to conclude negotiations with various media outlets regarding their interest in airing the shows in the fall (this entailed an analysis of matters involving format, coordination with other TV and/or radio stations, and social media promotion/tracking).

To develop the proper criteria to help inform conceptualization and negotiation of the approach, UMass Boston formed a media team composed of representatives from UMass, Highlands, and HRF who met roughly biweekly throughout the summer to refine the proposed format for the shows (pending input from selected media houses), develop a timetable for the airing of the shows, and set parameters for negotiations over the contract. Ultimately, after a competitive process, it was determined to select TVI and Radio Ishingiro as the most qualified TV and radio partners for the work, respectively (based on value for money). Both outlets were given an opportunity to propose a conceptual approach and overall fixed price for the work. Ishingiro had been suggested by USAID/Rwanda based on their responsiveness on previous work that the station had done in connection with another USAID project. Another key selling point was Ishingiro's declared ability to coordinate a network of 10 community radio stations that could simultaneously air radio programs that were carried on TV (so as to generate the largest feasible aggregate audiences for the broadcasts). The TVI show selected to host the programs was *Rirarashe* ("Sunrise"), which had broad national reach and was popular with both the general public and government elite.

Video dramatizations of good practices in administrative justice in several sectoral contexts. Even as the media outreach strategy and subsequent production work took shape, the SRAJ Team had received a go-ahead from MIFOTRA to begin work in late spring 2019 on a **video dramatization of good practices in labor mediation.** This entailed hiring a video production team and actors to dramatize a scenario in which poor official behaviors were depicted, but which behaviors subsequently gave rise to improved practices through the intervention of an experienced and well-trained labor inspector. Ultimately, a scenario was chosen that featured an employer engaging in an unjust termination, giving rise to a mediation before a labor inspector who demonstrated not only good knowledge of the law—gently dressing down the employer for being uncooperative and ignorant of his employee's rights under the law—but also encouraging the parties to come to terms through a facilitated dialogue (in which the employer acknowledges fault and pays all outstanding wages owed to the employer). The video was shown in advance of the first and second TV/radio programs on administrative justice (aired in August and September 2019) and subsequently **shown in February 2020 at the insistence of the MIFOTRA Minister at a provincial Employer's Compliance Forum.** Over 500 participants viewed the video and one employer remarked to the audience that the video was "the most educational resource we have seen today; it speaks to our daily practices in managing our staff." The labor video can be accessed online at: <https://www.youtube.com/watch?v=bQK2tDiXzHU&feature=youtu.be>

Later on, video dramas were similarly created with local actors on **good administrative justice practices in land expropriation management (fall 2019), child labor prevention (spring 2020), and social dialogue (fall 2020)**. In the case of the first two, the videos were aired on TV in advance of TV shows on the subject (see below) and were to be utilized for internal training and compliance purposes by officials from MINALOC and MIFOTRA, respectively; in the case of social dialogue, the video was created at the end of the SRAJ Project and was to be utilized principally by MIFOTRA for use in collective labor dispute resolution. Links to the child labor prevention video: <https://www.youtube.com/watch?v=Q5slydg8XuQ&feature=youtu.be>, and on expropriation: <https://www.youtube.com/watch?v=R0rAdyZkZA4&feature=youtu.be>.

First wave of TV/radio programs on administrative justice topics. Based on completion of the labor mediation video dramatization by early August 2019, it was decided to commence the broadcasting effort with TV/radio programming on labor regulation. Two programs were shown in late August and late September, respectively, featuring expert panel discussions of key challenges in administrative justice in the labor field, video interviews of a number of citizens asking their opinion on certain labor issues (“Vox Pops”), a citizen call-in segment, and **airing of the labor mediation video drama**. To build interest in these and other programs, the video and separate TV and radio spots (‘jingles’) were aired in advance.

The entire SRAJ Team had discrete responsibilities in the development and airing of the shows. HRF was responsible for contracting with Radio Ishingiro to facilitate the latter’s practical organization of the shows and monitoring compliance with deliverables. Sub-grantee Highlands took the lead in developing the themes for the programs, as well as the composition and recruitment of the participants for the panel discussions. UMass provided overall guidance for the work and supplied useful background information on administrative justice and field data for preparation of the panel discussions. Meanwhile, direct implementation of the programs was under the direction of Radio Ishingiro, which had responsibility to interact directly with TVI and the five (initially) community radio stations that aired the shows and to deliver key information on the results, including delivery of DVDs and CDs on the programs, the You Tube videos of the dramatizations, and various social media documentation following the shows.

The first labor program aired on August 30, 2019. The topics was “The Promise and Reality of Workers’ Delegates and Labor Unions in Clarifying and Potentially Resolving Disputes that Arise in Private Sector Employment: What can be Done to Improve Things?” Invited participants for the panel discussion included Patrick Kananga, Director of Labor Administration at MIFOTRA (who had supervisory responsibilities for labor inspectors throughout Rwanda); Professor Alfred Bizoza, Managing Director of Highlands and a noted commentator on matters of public policy; Robinson Mugisha from the Private Sector Federation (PSF); and Valery Gakunzi, a specialist in labor law and member of the Rwanda Bar Association.

The discussion was lively and wide-ranging, addressing problems with the efficacy of workers’ delegates in private employment settings and the challenges of ensuring better labor law self-enforcement by private employers: at the time, many employers did not take their responsibilities seriously and often seek to elevate delegates who are timid and/or fail to take their employee representation role seriously. There were also problems, according to several

panelists, with delegates' ability to mediate, which often results in cases being brought immediately to labor inspectors rather than being solved more effectively.

A **second labor program** was aired on September 12, 2019. The theme for this program was "The Functioning, Effectiveness, and Procedural Attentiveness of Labor Inspectors in Resolving Disputes in Private Sector Employment: What is the Current State of Affairs and how can MIFOTRA and District Officials Better Support the Work of Inspectors?" Panelists for this discussion included Innocent Ndahiro, Governance and Decentralization Policy Specialist at MINALOC; Patrick Kananga, Director of Labor Administration at MIFOTRA; and Professor Alfred Bizoza from Highlands. The discussion was wide-ranging and identified these key challenges: (i) employees having insufficient knowledge of how their salaries are calculated and what the contents are of their salary package; (ii) employers' not respecting proper dismissal and contract termination procedures with employees; and (iii) the failure to employers to properly pay benefits and other incentives. At the same time, it was pointed out that in some cases, employees feel intimidated by employers and are hesitant to pursue complaints with inspectors (or beyond, to the courts, where financial means are necessary). There was general agreement that employers sometimes do not show up for mediation sessions and often refuse to sign the minutes of the mediation sessions.

Against this backdrop, the panelists discussed the coordination challenge of having complaints referred to inspectors at the district level, even though inspectors report to MIFOTRA, not the district, and many citizens mistakenly think that district officials are legally empowered to address and mediate labor disputes. Still, inspectors do send their reports to the districts as a matter of transparency and monitoring. And districts (through MINALOC) can seek training to help build inspector capacity. This suggested the need for greater clarity about coordination of roles and responsibilities. There was also broad agreement on the need for significantly better education of both employees and employers. MIFOTRA indicated it was committed to improve the training of inspectors and to share with them findings from the Project's field research. At the same time, inspectors were seen to need much better instruction in mediation skills, so as to avoid frustrating the parties and sending too many cases to court.

There were several callers in the citizen call-in segment who sought guidance on how best to proceed to resolve labor complaints that they had, or how to interpret certain kinds of informal labor agreements. Following the show, to engage the audience and motivate its listenership, Radio Ishingiro used its social media platforms, including Twitter, Facebook and YouTube, to send related messages and invitations to follow the talk show. It created a total of eight posts on Facebook, containing key messages on the main themes. These messages reached 4,359 listeners and at least 177 of them expressed a commitment to listen to the show (70 also clicked the 'like' icon and 23 commented on the posts). Ishingiro also managed to post 23 tweets with key messages regarding private labor regulation. While the tweets did not earn much reaction, it was understood that they in fact increased the number of followers of the shows, ensuring that influential Twitter users were tagged (including the accounts of concerned institutions such as MINALOC, Transparency International Rwanda, and MIFOTRA).

Programs on procurement and administrative justice. Two subsequent programs on procurement were aired on October 3 and October 10, respectively. These programs focused

principally on problems with contract management and late payment of contractors, as well as overarching problems with bidders being inadequately informed about procurement procedures and with the use of the e-government portal. There was much discussion about bidders being under-informed about bidding procedures, and also some frank talk about corruption in procurement (chiefly how terms of reference were written by public officials in such a way as to favor a particular bidder). This issue was pressed by the representative from Transparency



Participants in the first procurement panel discussion session at TV1 Studios on October 3, 2019

International-Rwanda, who recommended both better training for bidders (and greater transparency about the bidding process) and better oversight of bidding documents by outside officials/monitors. Another topic in contract management was ensuring that winning contractors paid their workers on time and otherwise abided by prevailing labor laws. This later became a significant issue in discussions with MIFOTRA, where it was suggested that communication between MIFOTRA and RPPA needed to be improved to ensure that RPPA had timely information about bidders' labor law compliance—as a matter of required qualifications—at both the proposal stage and after award (i.e., during implementation).

Change in Program Format. Based on problems encountered with the organization and management of the shows by Radio Ishingiro (particularly insufficient time allowance and logistical arrangements for citizen call-in segments and social media participation), it was determined that Highlands would oversee further broadcasts, which would then be done in an expanded 90-minute format that would permit more citizen participation.

The **second labor program was rebroadcast** on February 14, 2020 in the new 90-minute format to provide expanded time and opportunities for citizen call-in questions and comments. In the end, eleven citizens called in and offered extended remarks. There were also several

social media comments registered. The **second procurement show was rebroadcast** in an expanded 90-minute format on February 7, 2020, also in order to allow for greater citizen participation. In these instances, different techniques were adopted to attract public attention to the shows, including advertisement of the shows (4 prior advertisements) and creation of pre-established platforms for social media and SMS during the rebroadcast. Ultimately, the second procurement show recorded 22 social media views on the TV1 website, with 6 likes, 3 comments on Facebook and 210 views. There were also 12 likes and 2 retweets on Twitter.

An expanded 90-minute **program on land expropriation** was similarly aired on March 13, 2020, and was preceded by airing of the **new video drama on good practices in land expropriation**. Participants included Yves Bernard Ningabire, the MINALOC Director General for Local Government Planning, Monitoring and Evaluation, Marie Immaculée Ingabire the Chairperson of Transparency International-Rwanda, Mr. Munyabugingo Bonaventure a member of the Board of the Independent Real Property Valuers Association of Rwanda, and the Highlands Director, Dr. Alfred Bizoza. The group discussed a wide range of problems affecting the fairness and effectiveness of the land expropriation process, most notably those relating to the poor state of public education on the subject, particularly in rural areas, lack of citizen consultation on expropriation decisions/methods, lack of a robust planning process to ensure budgetary means for expropriations and timely compensation payments, inconsistencies and corruption involved in the valuing of properties, insufficient time for citizens to obtain an independent valuation of their property, and lack of choice afforded citizens in obtaining cash compensation versus replacement property in return for the expropriation of land (reports on the 1st wave of TV/radio programs are included as Annex 16 to this Report).



Panelists from the first program on land expropriation and administrative justice

Second wave of TV and community radio programs. A second wave of TV and community radio programs was developed in the late spring of 2020 in order to expand on the positive feedback received from public officials and citizens on the first wave programs. Given the problems encountered with Radio Ishingiro, a new TV station and contractor were tasked with organization of the shows: Isango Star TV and Value Production (VP, a media production company). VP was responsible for overseeing production of two other videos in the labor arena (on good practices in child labor prevention and on social dialogue, both promoted by MIFTORA based on its performance objectives and desire to improve its international standing vis-à-vis the ILO and the US Government (in the latter case re: the US Labor Department’s reports on child labor & forced labor). VP would also oversee logistics with the production of the programs, to be aired on the Isango Star TV Program *Urubuga Rwitangazamarkuru* (“Journalism Forum”), one of the most watched TV shows in Rwanda. Four shows were planned—on labor regulation, public procurement, land expropriation, and child labor prevention. As with the first wave, these shows featured an expert panel discussion, a citizen call-in segment, and publicity via social media and TV advertisements. Also as before, the SRAJ Team was responsible for monitoring each of the programs and documenting not only the discussion content but the citizen call-in remarks and questions, as well as the ensuing panelist discussion and the social media comments circulated around it.



Screenshot of advance TV advertisement for the TV/radio program on labor regulation.

In a country with significant constraints on open debate, such shows offered a real opportunity to acquaint the public with a major subject area in which administrative justice issues figure prominently, and to exert indirect pressure on the government for meaningful reform. This is especially important for promoting evidence-base policy change among the government elite who may be receptive to such messaging in Rwanda’s developmental regime environment and further raising awareness among average citizens (since the panel discussions were underpinned by the evidence gathered through the Phase I and II research). At the same time, since the shows offered an opportunity for citizens to call into the shows with questions and/or

comments, they provided a forum in which citizens and panelists could model more open speech and questioning of authority, to the extent feasible in modern Rwanda. The shows' overarching aim was to ensure that all partners, especially policymakers, are informed of, and contribute to, solutions that advance administrative justice.

The Project's experience was that the discussions often prompted panelists to carry on further conversations after the program, particularly if two government officials were on the show from different institutions and needed to better coordinate on identified policy reform priorities. There were also situations where unprepared government officials were put 'in the hot seat' and subjected to the kind of public accountability and/or embarrassment often missing from the standard hierarchical accountability that is wielded – sometimes erratically – by GoR ministers or the President. The programs also appear to have prompted senior officials to task lower-level officials with looking into certain issues in more depth as a means of better understanding the dimensions of a particular problem. While these are modest achievements in a free speech-constrained society, they are nevertheless noteworthy.

The show on **Labor Regulation and Administrative Justice** aired on August 9, 2020. The show featured a representative from the confederation of trade unions (CESTRAR), Mr. Michel



Screenshots of the three labor regulation show panelists (l.) and moderators (r.)

Musoni Jordi; the legal coordinator for Transparency International-Rwanda, Ms. Colette Ndabarushimana; and an independent legal expert and former advisor to the International Labor Organization, Mr. Alexandre Twahirwa (Mr. Twahirwa also served as a consultant to the SRAJ Project). The panel discussed a wide range of problems affecting sound labor law enforcement, many of them having to do with the lack of capacity of labor inspectors, who are undertrained, overworked, and fail to carry out a sufficient number and depth of field inspections to be able to know if violations are being committed. They end up being reactive (and underskilled) mediators instead of proactive and skilled problem-solvers and enforcers of the law (many inspectors also fail to utilize new sanctioning powers given to them under the 2018 Labor Law).

The panelists also discussed how employers often act with impunity given the lack of robust enforcement of the law and their own ignorance of the law (since there has been so little publicity given to the legal requirements by either the government or the Private Sector Federation). This impunity had increased with the Covid-19 crisis; there were large numbers of reports (corroborated by the many phone calls and text messages sent to the program) of employers dismissing employees and/or withholding pay without any due process being given as required by the labor law. Still further violations were traced to many employers' failing to pay either back wages or social security benefit contributions. Finally, there was a discussion about the lack of capacity of worker's representatives, who were not even elected in many workplaces as further required by law (thereby revealing a surprising lack of labor law enforcement and an apparent willingness of the government to give many employers free rein as a means of supporting economic growth). Finally, there were a series of very strong reform recommendations made by the participants, many of them having to do with training and awareness-raising, but also setting up hotlines for citizens to call about violations of the law; getting inspectors to use their sanctioning power; and reducing the time spent on individual mediations to help target inspections at larger employers with known problems—so as to preventatively reduce the numbers of potential disputes arising in the first place. All in all, there was strong audience participation via texts and phone calls, which is a notable phenomenon in Rwanda. A video of this show can be found here: <https://www.youtube.com/watch?v=PI4BfeNKIPs&feature=youtu.be>

The show on **Public Procurement and Administrative Justice** aired on August 30, 2020 and featured as panelists the Director of Monitoring and Audit for the Rwandan Public



Screenshot of panelists (l.) and moderators (r.) on the public procurement show

Procurement Authority (RPPA), Goreth Buhiga; the Chairperson of Transparency International-Rwanda, Marie Imaculee Ingabire; and legal expert Alexandre Twahirwa.

The panel discussion focused on corruption in the tendering process, problems with the use of the current e-procurement system, the long-standing problem of poor budgeting and contract management by government entities (resulting in contractors not being paid properly), and

standard bidding documents not being used or followed consistently. A probing discussion also took place concerning the failure of government entities to enforce provisions in procurement law that bidders properly comply with labor law requirements in order to win and maintain public contracts. This has been a major problem but has grown worse in light of the pandemic; labor laws have been violated as a matter of expedience and there is little attempt to enforce the law or provide some kind of provisional guidance in the current situation. The most egregious example is where contractor staff were not being paid even though the procurement documents require that to happen. Still, it was conceded that this is hard to enforce if the government is not paying its bills on time.

Problems concerning corruption dominated the discussion and many of the messages received from the listening/viewing audience. There were many comments about side payments being made to (and often demanded by) public officials to seek advantage in procurements, as well as a ‘negative solidarity’ of silence among public officials about such corruption that can readily thwart many enforcement and monitoring activities by the RPPA and/or audit bodies. There was clear distrust of the RPPA as a body that could be counted on to ensure proper transparency of procurement processes and pursue violators. Whether these views are well-founded or not requires more investigation. Regardless, these are major problems that the government must address. The fact that this discussion was out in the open was a strong positive feature of this show. A video of the program can be found here: <https://www.youtube.com/watch?v=hJHCy2kkpuc&feature=youtu.be>

The show on ***Child Labor Protection and Administrative Justice*** aired on October 4, 2020. The panelists for the show were Mr. Lambert Hategekimana, the National Coordinator for Child Rights Protection and Promotion Officer at the National Children’s Commission; Mr. Patrick Kananga, the Director of Labor Administration at the Ministry of Public Service and Labor (MIFOTRA); and Mr. Alexandre Twahirwa, the independent legal expert and analyst.

The panelists highlighted many of the key challenges facing effective child labor prevention policies in Rwanda—from lack of capacity of the child labor protection steering committees in local governments, to inadequate inspections activity and sanctions by labor inspectors, to poor public information efforts explaining what is and is not permissible child labor and where helpful anti-poverty and school programs can be found to keep school age children out of illegal employment. In many ways, the lack of adequate public information and sensitization programs were seen as the lowest hanging fruit, since participants acknowledged the existence of significant misinformation about what is and is not illegal child labor (this lack of understanding exists even among many private employers and government officials who should be informed). A revealing concession was that multiple policy implementation tasks placed extreme burdens on local committees, which were also tasked with issues like community policing and other monitoring duties. In sum, monitoring and reporting are seen as inadequate. Participants agreed that instead, these need to form regular, systematic practices, rather than simply serve as part of an annual campaign. It was suggested that one thing that might raise the profile of child labor prevention would be having district metrics associated with the issue be part of district and sub-district *imihigo* performance targets.

Perhaps the other key recommendation that came up several times in the show was the need for better coordination among government institutions in combating illegal child labor. MINALOC has a large role to play in this regard, but the governance linkages extend to poverty reduction programs, school monitoring, psychosocial services (the link between child labor and family dysfunction/conflict were highlighted), and employment geared to lawful child labor in handicrafts and other goods. Meanwhile, several citizen callers pointed out that punishments for negligent parents and employers were often minimal, and inadequate to send a clear message about the illegality of child labor practices. A video of the program can be found here: <https://m.youtube.com/watch?feature=youtu.be&v=4geDq9N-pyo>

The show on **land expropriation and administrative justice** was aired on October 25, 2020 and featured the following panelists: Samuel Dusengiyumva, the Permanent Secretary of MINALOC, Seth Karamage, the Resident Project Manager for the SRAJ Project, and Odette Mukarukundo, Regional Coordinator for the Northern and Western Provinces for Transparency International-Rwanda. The panelists engaged in a lively discussion of the state



Panelists on the program on land expropriation and administrative justice: Mr. Samuel Dusengiyumva from MINALOC, Mr. Seth Karamage from the SRAJ Project, and Ms. Odette Mukarukundo from Transparency International-Rwanda.

of land expropriation in Rwanda, which despite significant legislative changes adopted in 2015 still suffers from inadequate procedural clarity – largely due to substantial delays in the issuance of implementing regulations on the district committees charged with land expropriation management. This massive regulatory gaps results in many aspects of land expropriation being handled on a largely ad hoc basis by senior district officials. At the same time, there exist big problems with planning and coordination between central and district officials, which leads to inadequate public consultation, inadequate appropriation of funds for payment of compensation, and the inability of citizens to deliberate and have input into both the decision to expropriate and preparations for counter-valuation of their property.

There was general agreement that officials and citizens alike are lacking in adequate knowledge and awareness of the applicable procedures—at least as articulated in the Expropriation Law, as opposed to the missing regulations—and with this ignorance comes significant confusion, creating unnecessary distrust. This can create enormous inefficiency as well, as citizens end up going back and forth with district officials seeking more information and special treatment that could be avoided with clear procedures on counter-valuation and payment of compensation. Critically, everyone agreed that current legislation provides insufficient time for citizens to obtain a counter-valuation, particularly since many have insufficient resources to mobilize quickly for such recourse. Meanwhile, the TIR panelist noted that road construction has often left people in highly unstable property ownership situations, insofar as many homeowners have property taken away from them alongside roads (for road widening or construction) and are then not only unable to obtain many kinds of construction permits but are also unable to utilize the houses as collateral. The video of the land expropriation program can be found online at: <https://m.youtube.com/watch?v=oulU-IOTTT0&feature=youtu.be>, where it has been viewed over 200 times (Documentation on all four of the 2nd wave TV and radio programs, including screenshots of advertisements and the audio ‘jingles’ can be found in Annex 17 to this report).

Administrative justice brochure on citizen labor rights for legal aid groups, CSOs, and public officials). Another important part of the project outreach efforts involved the production of a brochure on citizen labor rights. The need for such a brochure—produced both in hard copy and digital formats—became clear when the labor topic overshadowed all of the others in terms of its relevance to nearly all adult Rwandans. That relevance only grew with the onset of the COVID-19 pandemic in spring 2020.

SRAJ sub-awardee Human Rights First was accordingly commissioned in late 2019 to develop a practical trifold brochure that would contain vital information for citizens about their rights in the administrative process in the labor regulation area. Basic design of the brochure occurred in early 2020 and after several drafts being exchanged, a strong final draft was submitted in spring 2020. It remained for the SRAJ Team to work with HRF on a visually appealing design for the brochure, with attractive colors and illustrations. While the primary direct audience for the brochure were legal aid groups and practicing lawyers who could utilize them as needed and distribute them to existing or potential clients, it was also understood that the publication would also be disseminated to a range of CSOs and government offices (particularly district governments) to improve general public understanding of citizen labor rights.

In July 2020 final English and Kinyarwanda versions of the document and the distribution list, as well as the numbers of copies to be distributed, were confirmed. Ultimately, over 300 English print copies and over 700 Kinyarwanda print versions were distributed to key groups in all 30 districts of the country, including district governments, trade unions, and selected legal aid groups. Digital copies were meanwhile distributed to all such organizations, as well as a wider range of CSOs, government officers, and employers. The brochure was seen as a key piece of the Project’s public outreach efforts, complementing the public awareness work being carried out through the TV and radio shows, not to mention the press releases that were often picked up by major media outlets like *New Times* (the trifold brochure in English is included in Annex 18 to this Report).

F. Objective III: Evidence-Based Policy and Legal/Regulatory Reform Activities

A third objective of the Project was to see if the evidence base and publicity surrounding the Project might spur policy and legal reforms. Originally, it was thought that the Project might be able to facilitate, through the good offices of one of the sub-grantees (such as IPAR or Highlands) one or more workshops to further advance certain higher priority reforms (through deliberation and refinement of proposals addressing relatively complicated issues). That did not come to pass, although the original Phase I and Phase II validation workshops did add momentum to certain discrete reform agenda items. For the most part, the Government as such kept its reform agenda close to the vest, and may have been reluctant to have an outside entity privy to the kinds of discussions that might be associated with cabinet or law Reform Commission meetings, or other inter-agency forums. Nevertheless, at the sectoral level—particularly in the labor regulation area—the Project significantly influenced government understanding of key legal problems and heled shape a broader labor law reform agenda (pertaining to law, policy, and capacity-building) for the future.

Impact on the 2018 Labor Law amendments. As already noted in noted in Section III.B above, the Project early on had a tangible impact on legal and regulatory reform by contributing evidence and momentum to the 2018 Labor Law amendments that, among other things, provided labor inspectors with independent sanctioning powers (up to a certain monetary threshold, whereupon specific concurrence of senior MIFOTRA leadership was necessary). Several government and non-governmental participants in the April 2018 validation workshop for the Phase I Legal Framework and Contextual Analysis Report indicated that the Executive Summary and discussions at the event influenced policymakers in having the sanctioning powers added to the amendments passed in August 2018.

Analysis of the Ministerial Order on Inspections. Although adoption of a Ministerial Order on Inspections effecting practical implementation of the new sanctioning powers for labor inspectors did not occur until March, 2020, MIFOTRA officials responsible for the management and training of inspectors personnel were keenly interested in the analysis of that order that the SRAJ Project shared with them in May of that year. The analysis pointed out a number of question marks regarding the interpretation of various provisions – particularly as to the sanctioning powers of inspectors and the procedures to be utilized therewith. It also raised questions about the obligation of inspectors to enforce summonses to employers that might not be complied with and the hazards of easily allowing parties to a labor mediation to avoid good faith efforts at dialogue and dispute resolution (i.e., to exhaust their administrative remedy before going to court). Both of these matters would have a critical bearing on both the training provided to inspectors as well as written guidance that could inform their work. These issues were discussed with MIFOTRA personnel over the summer in connection with the consulting work being done for the SRAJ Project by labor law expert Alexander Twahirwa, a former ILO official and former Director at MIFOTRA in charge of the Inspectorate.

Discussions with MINALOC officials on certain reform topics. On several occasions, in the wake of the Project's Phase II field research findings, Resident Project Manager Seth Karamage met with senior MINALOC officials to discuss possibilities for reform and training activities relating to changes in local government data collection and analysis (relating in particular to *imihigo* performance plan metrics), improved training of district officials in the handling of procurements, better coordination of labor dispute case handling at the district level (having district authorities more intentionally and systematically defer to labor inspectors in the handling of such disputes), and addressing overall capacity-building needs of district officials. Many such meetings headed in a positive direction but ultimately lost some momentum due to competing government priorities and then the COVID-19 pandemic. Instead, most legal reform energies were channeled into dialogue with MIFOTRA on labor law issues.

Participation in Elaboration of the National ADR Policy. Seth Karamage, whose background is in conflict resolution, was invited to participate in the task force meetings associated with elaboration of the country's National Alternative Dispute Resolution (ADR) Policy. Mr. Karamage attended meetings at which his recommendations (on behalf of the SRAJ Project) related to ADR in the labor sphere were ultimately incorporated into the draft policy proffered to the government in June 2020. Among the recommendations were those advocating the use of other trained personnel to assist labor inspectors in conducting mediation (e.g., employer and worker representatives as well as trade union representatives).

Collaboration with MIFOTRA leadership on elaboration of a 2-3 year inspectorate capacity-building strategy. As the Project pivoted to greater engagement with MIFOTRA in Phase III due to the Ministry's receptivity and the overall impact that labor ministry capacity-building could have on large swaths of the population, the Project opened up discussions with senior personnel about a longer-term strategy. Much of this activity centered around expanded training assistance (building on plans to pilot the various labor short courses developed under Project auspices) and expanded public outreach and compliance work.

In March, 2020, the Project had several meetings with the Director General for Administration, in which he spelled out the major objectives for a training video on child labor protection (he later provided specific script and thematic suggestions); discussed general parameters for the labor mediation handbook to be produced during in the second half of the year (which could be utilized by labor inspectors, but also, potentially other professionals such as HR managers); provided further input on the suite of labor regulation short courses developed by SRAJ consultants; supplied specific revisions to improve the effectiveness of the existing labor regulation video shown to inspectors and private employers; and suggested ways to improve the collection and analysis of data relating to labor inspections. Preliminary communications were also initiated about Ministry needs during the COVID-19 pandemic and the recovery to follow. This strategic collaboration had the blessing of both the MIFOTRA Permanent Secretary and the Director General for Labor Research and Employment Promotion, both of whom expressed deep appreciation to the SRAJ project for its assistance and for its long-term orientation around good inspector management practices and capacity-building.

Based on the strong working relationships with senior officials at the Ministry of Public Service and Labor (MIFOTRA), the Project collaborated with MIFOTRA on development of a 2-3 year

initiative (designed to follow on the heels of the SRAJ Project) that would greatly strengthen (a) the capacity of labor inspectors to carry out labor enforcement work, (b) the capacity of the Private Sector Federation to help private businesses comply with labor laws and inspections, and (c) the capacity of child labor steering committees to better monitor and enforce compliance with child labor protection requirements. This plan was based on both the challenges to better enforcement identified through the Project's Phase II field research and discussions with senior MIFOTRA personnel during the spring and summer of 2020 (as the Covid-19 crisis uncovered even greater labor law enforcement problems).

Ultimately, the capacity-building concept was reduced to a 2 ½ page document that was shared with the MIFOTRA Minister and Permanent Secretary. This document was also shared with USAID/Rwanda and with the US Embassy and the US Department of Labor. Based on its final review of the document, the Labor Minister acknowledged the contributions of the SRAJ Project thus far to MIFOTRA and endorsed the follow-on programming concept in a letter to the Project's Resident Project Manager, Mr. Seth Karamage (the document, and the resulting letter of support are included as Annex 19 to this Report). The concept provides a clear consensual roadmap of the key areas in which any donor-funded project could and should be grounded as a matter of continuity and priorities relative to the SRAJ Project.

Research on Manuals of Administrative Procedures. In September 2020, the Project learned that in addition to existing regulations and instructions, every ministry and public authority was required by a 2015 Prime Minister's Order to have a Manual on Administrative Procedures. MIFOTRA was given the authority to oversee and validate such manuals. The manuals not only are supposed to house all relevant administrative procedures, but to be accompanied by Citizens' Charters that provide a public summary of how certain administrative functions and services are supposed to operate. In fact, fact, most ministries—including MIFOTRA—were without finalized manuals or updated Charters. This can severely and adversely affect the fulfillment of administrative justice. It is not an exaggeration to say that administrative justice, which depends crucially on the existence of transparent, practice procedural rules to guide decision-making and dispute resolution, is severely undermined in the absence of these detailed administrative procedures, most of which constitute official normative acts.¹¹ Had the Project been made aware of such manuals in at the Phase I stage, it is conceivable that much of the Project's Phase III work relating to legal and policy reform would have been devoted to such manual development/updating efforts.

In the fall of 2020, the Project sought to obtain a snapshot of ministry and agency compliance with the requirement of administrative manuals. As it turned out, most manuals remain works in progress. One major problem may be the fact that the manuals are sometimes combined with manuals pertaining to financial and HR management, as well as procurement procedures; the bundling of all such manuals together as part of a comprehensive administrative procedures volume may in some cases have unnecessarily slowed the their updating and completion.

¹¹ Although sector by sector, some procedural regulations already exist (most in the form of Prime Ministerial or Ministerial Orders), in many cases even these procedures need further practical elaboration of the kind that these manuals provide. So too these Manuals (which are supposed to be publicly available) provide a roadmap for citizens and public officials alike to navigate key service delivery functions in a transparent and pragmatic way.

G. Summary of Accomplishments; Actual vs. Target Indicators

Broad accomplishments. In reviewing the project accomplishments, it goes without saying that the goal of exploring the feasibility of a broad awareness-raising administrative justice program in Rwanda was achieved; the project got significant traction from GoR representatives in the training and public information realms, and had there been more time and funding (and no pandemic), it would likely have been possible to discern, and measure with more rigor, the tangible progress along the three major dimensions of capacity-building, public awareness, and law reform. Doubtless the progress would also have been more robust in a society freer and more responsive to public opinion, but even in the constrained and paternalistic Rwandan context with a weakened civil society, it's quite possible that over time, government-encouraged training and public education efforts would have resulted in improvements in case handling and dispute resolution, potentially also resulting in greater citizen satisfaction.

At the same time, this project demonstrated that multi-sectoral and multi-ministry initiatives of this kind – as opposed to a national, purely legislative reform-driven project—can prove difficult in terms of diffusion of effort and resources on a project of only three or four year's duration. This is perhaps the main reason the Project pivoted to a greater focus on labor issues in the final year, in closer collaboration with MIFOTRA. Indeed, with more time, it might have been possible to demonstrate more progress even in the labor area through a more sustained effort to (a) improve labor inspections and dispute resolution, (b) ensure better coordination on labor program implementation as between district authorities and MIFOTRA, and (c) amplify public education activities regarding citizen labor rights and employer labor obligations (the latter could be implemented with additional involvement by trade unions and legal aid groups, as well as the Private Sector Federation). Even then, a lot would depend on the competence, focus, and hierarchical discipline of MIFOTRA personnel (most notably the labor inspectors) as well as the degree of oversight wielded not only by senior MIFOTRA personnel but other actors, including senior GoR and Presidential office personnel, the Ombudsman's Office, key government media organs, and various international actors, including the ILO and the US Department of Labor. That responsiveness by MIFOTRA is by no means assured given its wide-ranging responsibilities (this will remain a challenge insofar as MIFOTRA resources remain imbalanced as between those allocated to the public service dimension of the ministry's work vs. those devoted to the regulation and oversight of private sector employers and employees).

Actual vs. target indicators. The Project started with as many as eight target indicators, several of them premised on judicial and other statistics that proved to be unavailable or incomplete. It is possible that some of these statistics might become available in the near future, in which case, more robust measures of progress on administrative justice may be feasible—including better statistics on labor inspections and mediations. In any event, by the halfway mark of the Project, four key target indicators were selected for tracking under a revised MEL Plan. These quantitative indicators provided a complementary perspective – alongside the other quantitative and qualitative information summarized in this Report—from which to view the progress made under the Project. As can be seen from the chart below, in the case of 3 of the 4 indicators, final actual figures exceeded target figures, while in one

SRAJ PROJECT MEL PLAN PROJECT INDICATORS

No.	Indicator	Target	Actuals	Deviation	Deviation Narrative
1.	Number of government institutional stakeholders that have engaged in some way in SRAJ activities (this includes both central and district government units).	68	71	+3	While most of our government interlocutors were identifiable by the time the final SRAJ workplan was in place, there were a few that were unanticipated, with which we engaged in the final year. These included the Eastern Province Governor's Office, the National Children's Commission (in connection with our child labor protection work), and the Joint Action Development Forum
2.	Number of training courses developed for instruction of public officials and other professionals on administrative law-related subjects.	5	7	+2	While 3 labor short courses and 2 diploma courses were originally envisioned, it became clear that MIFOTRA needed additional individual short courses for occupational safety and health and social dialogue, respectively
3.	Number of Rwandan institutions using SRAJ project-developed training materials for training their target audiences	4	5	+1	MIFOTRA, RPPA, PSF, and MINALOC committed to send staff to ILPD for such training, and ILPD as the training institution has committed to offer these courses and train their staff and dedicated consultants to deliver such training using SRAJ-developed curricula
4.	Number of participants enrolled in formal diploma and executive courses developed by SRAJ activity	30	0	-30	Due to COVID-19 and prohibitions on holding classes, anticipated diploma and short courses (a minimum of two were forecast for MIFOTRA personnel) were unable to be held in fall 2020, depriving at least 30 staff of these training opportunities.

case—involving the number of participants expected to be enrolled in diploma and short courses developed by the Project—the figure fell completely short due to the intervening COVID-19 pandemic and resulting inability of the ILPD to offer these new courses in person (or even remotely, in these particular circumstances).

IV. Project Adaptation and Learning

As an exploratory project, SRAJ had several objectives: (1) to raise public awareness about the conceptual and practical significance of administrative justice across diverse sectoral areas of bureaucratic decision-making; (2) to develop a meaningful evidence base regarding the state of administrative justice in Rwanda that could inform policy, management, and/or legal reforms; and (3) to test elite government support for such reforms in one or more such sectoral areas in a regime with an ostensibly strong commitment to legal norms and a relatively high degree of bureaucratic discipline – albeit without strong civil society pressures to compel more government responsiveness. Significant progress was made on all of these objectives, yet the modest funding of the project, as well as the unavailability of key statistics, necessitated follow-on funding to permit more implementation and more rigorous evaluation of these propositions. Still, key learning, adaptation, and impact were registered, as the following topics below suggest (several of these pertain specifically to lessons learned with regard to the Project’s theory of change).

Significant government cooperation. SRAJ developed and maintained strong government cooperation throughout the project, based on (1) the leadership and diplomacy demonstrated by Resident Project Manager Seth Karamage, who engaged in significant ongoing consultation with all key government stakeholders on relevant challenges they were facing; (2) the emphasis on evidence-informed reform work (a stated priority of Rwandan authorities); and (3) regular holding of validation workshops to share project findings and draft reports, while stimulating discussion and ownership. This buy-in was exemplified by strong letters of support for the work of the SRAJ Project received from ILPD and MIFOTRA toward the end of the project, as well as the participation in SRAJ activities of no fewer than 71 separate government institutions (central and district authorities) by project end.

A project identity and scope that went with the grain. The posture of the program was also aided by both its professed aims (again, wedding technocratic concerns of the GoR about bureaucratic efficiency to a subordinate, but still intertwined emphasis on citizen rights in the administrative process) and alignment with existing government and/or ministry strategies/objectives—not to mention more immediate congruence with certain performance management (*imihigo*) targets. At the same time, having a university as the named implementer made the project more congenial to the authorities and CSOs alike, as did the significant research focus as a component of the work. Finally, the Project strongly relied on local sub-grantees and consultants to carry out the work—giving the initiative a Rwandan face and fulfilling a cost-effective strategy that allowed the project to stretch \$1.129 m over 3 ½ years. Finally, USAID branding and marking was often waived on project publications and banners/signage as a concession to local pride and the sensitivity of some topics addressing governance deficiencies.

Project adaptation based on changes in assumptions. Given the Project’s exploratory nature and relatively small budget, it was compelled to adapt as learning increased and assumptions changed—including key assumptions included in the Project’s theory of change. For example, given sub-grantees’ competing time pressures, work timelines needed to be lengthened considerably for Phase I and Phase II work, reducing what was achievable in Phase III. In many cases, individual consultants proved more flexible and reliable. Moreover, similar government time pressures and lower-than-expected capacity reduced the scope for legal reform work; as a result, more time was devoted to public outreach activities, which delivered significant value for money. On the other hand, government cooperation was stronger than expected, which balanced out some of the slower pace on activities due to demands faced by front-line officials.

Further project adaptation based on a need for greater subject area focus. Although SRAJ obtained ample ministerial cooperation in all four subject areas, as a matter of both political support and data availability, not to mention Project focus and use of resources, it became clear that a shift toward labor rights work at the beginning of Year 3 would deliver the biggest potential impact dividends. This shift had the benefit not only of resonating with a large segment of the population (esp. with regard to the public education objectives), but also of helping build an even stronger relationship with MIFOTRA officials. This greater focus additionally helped create a stronger evidence base of pilot activities and products for demonstration effects that could later be extended to other sectors or other ministries/agencies (e.g., with regard to training materials, video dramas, legal analyses, etc.).

Government capacity and statistical information more modest than expected. As the Project progressed and more was learned from both field research and personal interactions with GoR officials, project assumptions about the capacity of government bodies (esp. district governments but sometimes also central ministries) needed to change. This was particularly clear with regard to data collection and analysis, but also the skill levels of many officials. In both cases, expectations needed to be shifted downward to some extent, particularly with regard to training materials and approaches, which needed to be simplified and targeted more at fundamental topics. Some of the weaker capacity may possibly be linked to the (sometimes) unrealistic pace at which the GoR advances reforms, straining the ability of ordinary officials to absorb the flood of information coming at them.¹² Some of it may also be perversely linked to ambitious *imihigo* demands, which, while emphasizing top-down results, can occasionally cause officials to pay less attention to management fundamentals, including issues of intra-governmental coordination, standard operating procedures, and adherence to clear communications protocols. In the end, officials were often unprepared to move forward expeditiously on certain implementation activities (although Covid-19 lockdowns exacerbated the situation), while lack of available (esp. disaggregated) administrative case data/analysis, both

¹² There are also, it must be acknowledged, many unrealistic time demands put on front line officials and mid-level supervisors by GoR senior officials (most from central ministries) and by international donors and implementers. These demands range from information requests and guidance, to attendance at trainings, to ad hoc meetings. All of this takes its toll on the average civil servant and can have a damaging impact on morale as deadlines and deliverables are missed and criticism (express or implied) mounts from multiple quarters.

at the ministry/district and court levels) meant that some hoped-for baseline and endline evaluation activities were not possible.

Under-elaborated regulatory and operational frameworks subvert administrative justice. Perhaps the most important project discovery was the extent to which critical legislation affecting administrative justice had not been adequately elaborated through regulations—and in turn, *the extent to which regulations had not been interpreted and reduced to practical operational reality (e.g., instructions, procedural guidance) by government agencies for the benefit internally of public officials, and externally, of citizens.* Although there is no overarching code of administrative procedure for Rwanda, there are hundreds of laws and regulations promulgated by public bodies that prescribe procedures and standards to be followed on regulatory matters and the resolution of disputes. To consolidate key procedural aspects of these legal frameworks, manuals of administrative procedure are to be adopted by all ministries and independent agencies/authorities. In fact, such manuals were absent or outdated in most ministries and local governments and the updating/completion process was significantly delayed (seemingly due to ministries being overwhelmed by other urgent priorities). Without the procedural clarity contained in such manuals, confusion and inconsistency in the application of legal norms proliferates. This was evident from the field research findings collected from citizens and public officials alike, where respondents were confused about basic rights and/or obligations. *This suggests that the so-called legal ‘implementation gap’ is not only a matter of political will or enforcement (both of which are reasonably strong in Rwanda), but rather inadequate regulatory elaboration and provision of operational guidance (e.g. through internal reference documents and training materials).* In other words, even in an environment with relatively low levels of bureaucratic corruption, arbitrary, unconstrained, or misinformed decision-making can take its toll on citizen and business confidence. This is a matter worthy of urgent, more systematic follow-on research and additional evidence-based technical assistance.

Video dramatizations were a useful educational tool for government and public audiences. In a country where even well-educated citizens more easily and quickly absorb information visually, it was extremely helpful and effective to model good practices in administrative justice through drama videos that depicted common scenarios in Rwandan public administration—especially from the vantage point of ordinary citizens (apprehension, confusion, lack of legal knowledge, frustration), and aspirational behaviors on the part of government officials (good listening, empathy, and communications skills, familiarity with applicable law and procedure, a commitment to hearing the citizen’s recitation of relevant facts and evidence, etc.). The videos attracted substantial praise from public officials, legal and government experts, and journalists, and were especially commended by the Minister of Public Service and Labor and attendees at the Employers’ Compliance Forum in Eastern Province where the labor mediation video was shown in February 2020. In the future, a more rigorous evaluation of audience satisfaction with this video and others should be undertaken, so as to shed more light on ways in which it and other such video dramatizations could be improved in the future.

Radio and TV work was a cost-effective tool to potentially influence elite opinion and open up public discussion space. The mass media work, which was inexpensive to implement, appeared to attract substantial elite and general public interest. This was a significant achievement insofar as the programs showcased ongoing problems with

administrative justice and featured citizen call-in segments in a country in which free speech is severely constrained. Anecdotal evidence pointed to government officials discussing each of the TV/radio programs with each other after the programs and following up with requests for additional assistance and cooperation (even if in many instances such momentum did not carry over to actual policy changes). While more rigorous evaluation of government listenership is necessary to gauge the true effectiveness of such messaging—something that the SRAJ project and other projects have wrestled with¹³—there is little doubt as to the visceral impact of public debate on the air, as well as the instructional value of the video dramas for legal literacy. On the other hand, perennial weaknesses with civil society in Rwanda (including a discernible reluctance of citizens to engage in policy discussion on social media) suggest that there are limits to public or government initiative and pressure being brought to bear, however indirectly, on government officials.¹⁴ And without such civic society demands (and without genuine electoral competition), there are limits to governmental accountability, no matter how strong hierarchical bureaucratic discipline may be in parts of the regime.

Effect of the pandemic on the Project was significant, but not wholly disruptive.

While the onset of the COVID-19 pandemic threw the Project into temporary disarray, in the end it proved somewhat less disruptive than originally imagined. Two originally envisioned activities were either scrapped or delayed—provincial face-to-face training forums for selected district officials on administrative justice topics and the piloting of the labor diploma and short courses, respectively—but these developments allowed for more time and resources to be devoted to the media education efforts, which could be carried out in a socially distanced manner. In particular, funds saved from these two activities were largely reallocated to an additional TV show on child labor protection, and to a final video drama on social dialogue. At the same time, saved funds also allowed the Project to wrap up its work with an additional month of wrap-up work which allowed for a smoother close-out of activities.

V. Final Thoughts and Recommendations for Future Work

The SRAJ Project substantially fulfilled its learning aims, pointing the way to potential follow-on work (esp. in the labor arena) that could extend and evaluate the pilot training and public outreach begun on the SRAJ project, assist with regulatory and procedural elaboration to address operational gaps that harm citizens' due process rights, improve government data collection and analysis efforts, and more rigorously evaluate the impact of such work. While it was reasonably clear from its inception that the project could only demonstrate the general

¹³ While some TV and radio stations, with the help of researchers, have been able to come up with average or maximum estimates of viewership/listenership for their audiences, it is presently not feasible to determine viewership/listenership for particular programs or time slots during the day/week.

¹⁴ Such pressures do exist even in a relatively authoritarian environment like Rwanda; taken together, various complaints and appeals mechanisms, the Office of the Ombudsman, *imihigo* performance plan results, and administrative litigation offer opportunities for citizen dissatisfaction to be registered with state institutions in ways that can induce senior government officials to exert greater hierarchical discipline on errant front-line bureaucrats. However, without a better case study-informed understanding of which government advocacy and monitoring channels result in discernible management and policy change, such suppositions remain somewhat conjectural.

feasibility of the work and begin to show certain results within the very limited time and budget available, it is certainly also true that at project end, there was significant potential to demonstrate further reform uptake, particularly if efforts were focused on the labor regulation arena, as was done in the final year of the initiative.

To that end, not only did the SRAJ Team develop a 2-3 year plan for capacity-building assistance to MIFOTRA aimed at improving labor inspectors' skills and performance in both regular labor law enforcement and child labor prevention enforcement, but discussions were launched following the end of the Project with a US Department of Labor-funded regional (East Africa) program¹⁵ to explore possibilities for supporting a limited number of follow-on activities in Rwanda that would not only build on the work already accomplished, but also help advance further piloting of activities and research to be shared across the member countries of the East African Community (EAC). Regardless of how those discussions fare, not to mention discussions with other potential donors, the SRAJ Project has generated significant learning and work products that others may use for administrative justice-related work of this kind.

Reflecting on that learning, several recommendations for extension and improvement of the SRAJ work call attention to themselves, and are discussed briefly below. It is the hope of the SRAJ Team that these recommendations can prove useful to similar future efforts in Rwanda, with knowledge in hindsight gained from this project.

Deepen sectoral engagement as a matter of buy-in, regulatory elaboration, and push for results. Even if the Project had not pivoted in the direction of more intensive engagement with MIFOTRA in the labor regulation arena, it would have been necessary—as a matter of trust, buy-in, piloting of activities and push for reform uptake and results—for such a Project to focus on a particular sectoral, bureaucratic, or functional context, e.g., procurement reform or labor law enforcement. This is obvious as a matter of time and resources, but at a more granular level, it is vital for addressing specific legal and managerial issues with care and precision, building credibility, and creating potential demonstration effects that can percolate over time across other parts of the government. If this kind of project had more time available, it could have not only continued on the labor regulation-focused work, but deepened some of its broader efforts on the development of model training and evaluation/tracking materials for public officials being introduced to new skills and concepts; new video dramatizations for educational purposes (for both officials and citizens); engagement in focused regulatory reform efforts to address more numerous procedural shortcomings in administrative decision-making and interactions with the public; and the drafting of better operational instructions and guidance for public officials to carry out their work in a more consistent and predictable manner (this of course would be complemented by more transparent information provided to the public).

Cultivate additional allies in reform, particularly from the legal community.

Although the SRAJ Project formed strong relationships with many key governmental and non-governmental partners, it might have made even more headway on reforms had it cultivated

¹⁵ The project is denominated CAPSA-- Capacity Strengthening of Governments to Address Child Labor and/or Forced Labor, and Violations of Acceptable Conditions of Work in Sub-Saharan Africa.

key additional allies, particularly in the legal community. In particular, it might have spent more time building relationships with additional influential stakeholders in the Ministry of Justice, the Law Reform Commission, the Rwanda Bar Association, and among relevant state attorneys. These stakeholders might have better advocated for the cross-cutting legal and procedural thematic underpinnings of the Project (concrete procedural building blocks ensuring due process in administrative proceedings), even as other stakeholders appreciated the non-legal aspects of what administrative justice entails (e.g., inculcating better listening and communications skills in first-instance decision-makers, promoting more transparency in the administrative process for citizens, encouraging better data collection and analysis for bureaucratic planning and efficiency). While privileging legal and regulatory reforms supportive of administrative justice over other reform priorities can be challenging (particularly in a country as protective of its inner workings as Rwanda), future projects of this kind should be more intentional in seeking not only potential individual reform champions (including Ministry Permanent Secretaries, as the SRAJ Project ultimately did in the case of MIFOTRA), but nurturing effective coalitions for change that included other key political and legal figures. In the case of the SRAJ Project, it's possible that such a strategy might have resulted in the drafting of additional regulatory reform proposals or, on a broader scale, discussion of some kind of administrative procedure code with minimum standards for sound bureaucratic decision-making.

Invest more time with ministry legal advisers and communications offices on creation of procedure manuals, citizen charters, and other transparency tools. In pivoting to more intensive ministry- and sector-focused work, a future project of this kind might focus more intentionally (and quickly) on the mapping and development of updated administrative procedure manuals that accurately and clearly describe decision-making procedures for front-line public officials. This would have immediate, tangible impact on administrative justice, and would lay the groundwork for corresponding development or updating of citizen charters or similar simplified and publicly available guidance on the administrative process in the most common regulatory contexts. Finally, this work could be accompanied by guidance for public officials on communications practices for use with the public—ranging from the answering of frequently asked questions to the affirmative provision of transparent information on citizen rights (including rights of appeal).

Double down on media work—and emphasize listening to the public. The video dramas and TV programs broadcast by the SRAJ Project and simultaneously transmitted via community radio to ten regions of the country proved very popular anecdotally, based on comments from individual citizens, panelists, moderators, and various governmental and non-governmental listeners. As noted above, more rigorous assessment of listener opinions on the shows would have been helpful, even if challenging to execute. But general impressions from the shows indicated that they were extremely effective at communicating important legal and social information in easy-to-understand terms, which could further amplify the thematic significance of administrative justice for Rwanda's future development and improved state-citizen relations. Future programming could and should include increased integration of TV/radio panel discussions with interspersed use of shorter video segments to anchor not only

dialogues about good practices in administrative justice but concrete policy and managerial solutions to recurrent problems. Additionally, such discussion could encompass discussion of specific positive and negative behaviors by government officials that impact administrative justice, including the need to listen more closely to the needs and requests of citizens. If this focus were expanded to include similar segments on soliciting citizen opinions on improvements in the administrative process more generally (i.e., promoting genuine consultative deliberation and two-way communication rather than one-way ‘sensitization’ efforts by the government), such programming could potentially have a major impact on the top-down decision-making culture that the country so vitally needs to modify.

Incorporate more soft skills instruction into new training modules. Given the importance of having front-line public officials and other government and legal professionals exhibit better communications and problem-solving skills, it behooves training providers to incorporate increased soft skills instruction into new training modules. This is not something that was explicitly done with the labor short courses developed for use at ILPD, but it should be done as soon as possible in the future; as already mentioned, a cultural shift in public management is needed whereby citizens are not only seen as valued beneficiaries of public services but as potential collaborators in service delivery improvement—helping officials better perform their jobs and define more meaningful *imihigo* performance targets. Explicitly integrating listening, facilitation, and social dialogue skills into the curriculum could help nurture a new generation of leaders with the tools necessary to move society forward in a more creative and consultative fashion.

Nurture among public officials a greater appreciation for simple data collection and analysis as a learning tool. During the project, it was evident that despite the government’s fondness for empirical evidence to support policymaking, there was a surprising lack of attention to data collection and analysis in many ministries and local governments. Doubtless some of this has to do with understandable concerns about time and resources, and perhaps the perceived skill levels (and available time) of most public officials. But the fact is that data collection and analysis can be done at the most basic level, on circumscribed issues, with whatever funds and time are available; the key is to inculcate a culture of inquiry and learning because in most cases, even the simplest kinds of data can yield important perspectives on things like staffing, resource allocation, and overall priorities in a given administrative unit. In the case of administrative justice and MIFOTRA, for example, very basic data are collected by inspectors on complaints and violations, yet this information is seldom mined for insights into the highest value targets for labor enforcement actions and inspectors’ management of their time. Any future project of this kind should make sectoral data collection and analysis, no matter how modest, central to its workplan.

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT – *Twimakaze Ubutabera mu Miyoborere*

FINAL REPORT ANNEXES –VOL. I

SRAJ PROJECT ANNEXES, VOLUME I

TABLE OF CONTENTS

- Annex 1:** Documentation from the November 2017 stakeholder roundtable on legal framework issues in labor law, procurement law, land expropriation law, and public employment law (agenda, attendance list, discussion questions, pictures, and a summary report)
- Annex 2:** Documentation on the validation workshop for the Phase I Legal and Policy Framework/Contextual Analysis Report, February 2018 (agenda, attendance list, summary of findings, and summary report)
- Annex 3:** Phase I Legal and Policy Framework/Contextual Analysis Report
- Annex 4:** Documentation from the October 2018 CSO-Media Workshop (agenda, pictures, and summary report)
- Annex 5:** News stories related to administrative justice in the direct aftermath of the October 2018 CSO-Media Workshop (two stories from *Rwanda Today*)

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX I (VOLUME I)

ANNEX 1: Roundtable on Identification of Key Legal and Policy Framework Issues

Materials below include the agenda, attendance list, and questions guiding the Roundtable held on November 9, 2017 at the Umubano Hotel in Kacyiru Sector, Kigali, as well as a preliminary summary report on the event and some photographs.

Agenda

AGENDA OF THE ROUND TABLE DISCUSSIONS
UMUBANO HOTEL KACYIRU
9/11/2017

TIME	ITEM	RESPONSIBLE
8:30-9:00am	Arrival and registration	LAF
9:00-9:10	Introductory remarks	LAF
9:10-10:00	Presentation of the preliminary findings from the analysis (Expropriation, Labor and Procurement)	LAF
10:00-10:10	Quick Q&A session	LAF
10:10-10:30	COFFEE BREAK	
10:30am- 12:30pm	Group works	Participants
12:30-1:15	Brief feedback from the groups	Participants & LAF
1:15pm	CLOSURE & LUNCH	

Attendance List

**ROUND TABLE DISCUSSION ON LABOR, PROCUREMENT AND EXPROPRIATION
UMUBANO HOTEL NOVEMBER 9, 2017
LIST OF PARTICIPANTS**

NO	NAMES	INSTITUTION/ADDRESS	FUNCTION/TITLE	PHONE	EMAIL
1.	Nzabonimpa Fidele	MIFOTRA	Labor Inspector	0788603851	nzabofi@yahoo.fr
2.	Mpumuro Prudence	MIFOTRA	Labor Inspector	0788666958	Mpumurif12@gmail.com
3.	Amos Kiiza	MINFRA	Legal Adviser	0788522790	Amos.kiiza@minfra.rw
4.	Bucyana Guillaume	USAID	Goodgovernance	0788306432	gbucyana@usaid.gov
5.	Seth Karamage	UMass Boston	Program Manager-SRAJ	0788309914	Seth.karamage@umb.edu
6.	Sebaziga Sophanie	LAF	Avocat	0788585364	maseruka2003@yahoo.fr
7.	Dr. Rene Munyamahoro	LAF	BOD-Chairperson	0788672404	munyarene2@yahoo.fr
8.	Uwacu Ines	TI Rwanda	Adviser of ED	0788678665	Ines.uwacu@gmail.com
9.	Nizeyimana B. Ildephonse	Kicukiro District	Labor Inspector	0788683733	nizild@yahoo.fr
10.	Nyirahakizimana Evelyne	Nyarugenge district	Labor Inspector	0788493808	Vevesauve14@gmail.com
11.	Gasasira Nasson	Bugesera District	Procurement	0788346883	Gasasira4@yahoo.fr
12.	Uwicyeza Esther	RHA	Admin Assistant	0786838383	Esther.uwicyeza@rha.gov.rw
13.	Sengiyumva Fred	Nyarugenge District	Procurement Officer	0788234341	Fred.sengiyumva@yahoo.com
14.	F. Bugingo	IRDPA	MGT	0788585346	bugingo@irdp.rw
15.	Fred Nkundabanzi	RTDA	Legal	0788648532	nkundafred@gmail.com
16.	Munyanzeza Thaddee	RTDA	R&S	0788356699	thaddeemunyanzeza@rtda.gov.rw
17.	Umwali M. Claire	MINJUST	SSA	0788414005	Umwali24@yahoo.fr
18.	Gashayija Aloys	Public Service Commission	Litigation Lawyer	0788513360	Gashayija33360@gmail.com
19.	Clarisse Munezero	LAF	PART	0788429846	clarise@legalaforum.org
20.	Hobess Nkundimana	CESTRAR	COORDINAT	0788595549	
21.	Patrick Munana	RALGA	RALGA Organs	0788387868	Munanapat77@gmail.com
22.	Jean P. Habimana	Ombudsman	Investigator	0788443746	habibupierre@gmail.com

23.	Gatera Isingizwe Tricia	RCSP	Project Coordinator	0788932030	gateratricia@yahoo.com
24.	Roger Mugisha	IPAR	Researcher	0788534826	r.mugisha@ipar.rwanda.org
25.	Aime Tsinda	IPAR	Director of Research	0788305960	Aimetsinda@gmail.com
26.	K. Paul	IPAR	Researcher	0788307580	
27.	Umuhoza Adelte Christian	Bugesera district	Director of OSC	0788742260	adelte@yahoo.fr
28.	Byamurongo Kutesereza	Gasabo District	Labor Inspector	0788771922	byamurongo@yahoo.com
29.	Rusezerangabo Danie	Gasabo District	Labor Inspector	078853618	rusezerangabo@yahoo.fr
30.	Nyirabihogo Jean "Arc	Gasabo District	Director OSC	0788844364	ibihogo@yahoo.fr
31.	Olive Ingabire	Gasabo	Procurement officer	0788482031	oliveingabire@yahoo.fr
32.	Bicamumpaka Dominique	COTRAF	Conseiller	0788635536	dominiquebic@yahoo.fr
33.	J. Baptiste Mukarage	RLMUA	Director of Land Administration	0788498927	jeanbatsitemukarage@gmail.com
34.	Celestine Sibomana	RPPA	Director Capacity mgt	0788618823	csibomana@rppa.gov.rw
35.	Murekeyisoni Prisca	Bugesera district	Labor Inspector	0788434330	Mureprisca2008@yahoo.fr
36.	Nshimiyimana Chris	IRPV	Executive Secretary	0788501515	lrpv.rw@gmail.com
37.	Kanyangira Ignace	MINALOC	Sectorial Decentralization Specialist	0788872616	Ignace.kanyangira@minaloc.gov.rw
38.	Ndayambaje Gilbert	LAF Advocate	Advocate	0788592562	
39.	Rwabigwi Augustin	BAR	Avocat	0788505577	ruhunga@yahoo.fr
40.	Niyondora Nsenguyumva	LAF	Lawyer	0788439459	niyondora@yahoo.com

GUIDING QUESTIONS FOR THE ROUND TABLE DISCUSSIONS

I. QUESTIONS RELATED TO LAND EXPROPRIATION

No	Question	Justification of the question based on the current findings
1	How does the competent authority communicate the project of expropriation to the people concerned? Is this communication effective? What documentation is legally required? What additional documentation is necessary for citizens to be able practically to advocate for their interests in a procedurally fair way?	Most of the time the expropriated persons find a challenge of not having any written document(s) relating to the expropriation project affecting their rights, and this can be an obstacle to the effectiveness of administrative justice.
2	How are citizen consultations on expropriation projects done currently?! How, if at all, are these consultations conducted in deviation from current legal requirements? What essential provisions need to be included in the Ministerial Order is put into effect, including key procedural provisions? What challenges do you see in implementation thereof? Regardless of the specific features, where should the focus be in implementation in terms of training, public education, resource appropriation, etc.?	The current legal framework governing expropriation in Rwanda lacks an important implementing tool which is the Prime Minister's Order determining the organization, functioning, responsibilities and composition of the Committees in charge of Supervision of projects of expropriation in the public interest. It is these committees that are supposed to conduct consultations with citizens on the relevancy of the project to inform any further decision. The expropriation law (2015) requires their establishment, but the Order establishing them is yet to be created. The Instructions in this regard actually requires that any implementing legal instrument must be established within 2 months since the related law enters into force.
3	What is the role of the province in the process of expropriation conducted by the District?	The province has the power to approve all District decisions including the one of expropriation, when actually according to the law it is district administrative council that has the power to approve expropriation projects. In other words the role of the provincial authorities is not mentioned anywhere in the expropriation law when actually it seems to be in a way crucial.
4	How effective is the appeal to the province, as the higher authority, when actually the province participated in the approval of the decision to expropriate (through approving the district advisory council decisions)? What is the relevance and essence of the appeal in this context? Are there principles or standards that should govern such an appeal, which could actually be considered a 'reconsideration'? Would it be based on changed circumstances? New or additional evidence? Evidence of procedural unfairness?	Practically speaking it is very rare for an authority to change (at the appeal) the decision they participated in at the beginning.

	Should appeal to another body therefore be contemplated to effect a more meaningful appeals process?	
5	Who is the competent authority concerning the appeal on the decision of expropriation conducted by the City of Kigali? Is it the council of the city of Kigali? Is it the Ministry of Local Government? Does the ambiguity on the issue of the higher competent authority potentially require some legal change?	The law provides that anyone who is not satisfied with the decision of expropriation shall appeal to the competent authority at the Higher level. In this case the city of Kigali has autonomy administratively and financially. It is a decentralized entity with legal personality and the law is not clear on the matter
6	Why should the expropriated person who is unhappy with the value given to his/her property be the one pay the cost of the counter-valuation? Is it fair? What if he/she is not able? Should a provision for financial assistance be provided based on some objective standard, e.g., based on <i>Ubudehe</i> status or some other classification?	Research has showed that more than 90% of the people dissatisfied with the value given to their properties are unable to pay for a counter-valuation, a pre-requisite for any value increment negotiations. This affects fair justice for the affected population, in terms of compensation or price for their properties.
7	What is the role of the District in expropriation project(s) initiated by private companies?	Normally, for the expropriation projects initiated by public institutions other than the District, it is always the District authorities (together with the Sector and Cell authorities) that convene the necessary meetings about the project. There is no usually no contact between the expropriating entity and the people to be expropriated. The role and limits of the district authorities when it is a private company is not very clear.
10	Why in practice is the 120 days not respected in terms of paying the compensation?	The law requires that before initiating the expropriation activities the concerned institution must have secured the required budget. Further, the law provides that if the compensation is not paid within 120 days, the project is supposed to be considered as having not happened, and only when there is another agreement between the expropriator and those to be expropriated the process can be re-done (including property valuation). But in practice this is not done.
11	What would be the guarantees of making the process of expropriation more transparent?	Though the current law requires that before any expropriation can be approved there must have been done a study indicating consequences on living conditions of persons to be expropriated as well as on the environment. However, there is no requirement to make these assessments public (for public scrutiny and transparency purposes).

II. QUESTIONS RELATED TO LABOUR LAW (Private and Public)

III. No	Question	Justification of the question based on the current findings
1	How can the role of the labour inspector be more active in terms of advising the employer and employee than being only a sort of prerequisite procedure before someone goes to court? How can the law be more contributive to this?	In practice it seems the role of the labour Inspector is a pure formality and definitely the matter is to be referred to court.
2	What is the role of workers' delegates in resolving the labor dispute? Is it compulsory to refer the conflict to them before taking the case to court or other authorities?	Article 140 of the labour code seems to be ambiguous on this matter.
3	Are the workers delegates sufficiently protected in their role of mediating between the employer and employee(s)? How can we legally strengthen their role and contribution in preventing, mitigating and/or resolving potential or actual disputes between the employer and the employees?	The current role of workers' delegate(s) is mediation but practically this seems to be impossible considering that they usually intervene when the employer has already taken a decision. The desire/need to also protect their own relationship with the employer is an issue.
4	What are the sanctions for the company/organization that doesn't have the workers' delegate(s)?	It's mandatory according to the law for any company/organization that has at least 10 employees to have a workers' delegate, but in practice very few institutions respect this and there are neither enforcing mechanisms nor sanctions for the institution that don't comply.
5	How can the decisions of the Public Service commission become more binding to the institutions concerned, than being subject of discretionary power of the institution concerned?	Most of the time the Public Service commission takes decisions, especially in case of illegal dismissal but the institutions concerned refuses to comply.
6	Are the institutions to which the employees have to appeal clear enough when it is necessary to challenge the acts of public administration?	Sometimes, the public institutions at the highest level to which we have to appeal are not clearly defined.
7	Are the fundamental rights of the employees well guaranteed, especially the right to defense and to challenge in court the administrative acts, like the case of Judges and other personnel of the Judiciary?	The management of the Judges is conducted by the High Council of the Judiciary but its decisions are not subject to appeal (including in courts), and there is no appeal even within the High Council itself.
8	Is the process of collective dispute(s) settlement effective and functioning? If not, why not? What other mechanisms could be helpful and considered?	The collective conflicts are settled in two ways: Either by the Minister of labor and in case of failure by the National labour council.

III. QUESTIONS RELATED TO THE RESEARCH ON THE ADMINISTRATIVE JUSTICE IN RELATION TO PUBLIC PROCUREMENT LAW

No	Question	Justification of the question based on the current findings
-----------	-----------------	--

1	How can we ensure the equality of access to dispute resolution mechanisms when addressing conflicts in relation to the public procurement?	The law provides for an Independent Review Panel at the District level and the one at the National level. Participants to tenders at district level they have access to two levels of mechanisms whereas those participating in national tenders only have one level.
2	Considering the sensitivity of this area, is the term of 4 years for members of Independent Review Panel appropriate? Isn't it too long?	Independent Review Panels are composed of seven (7) members appointed for a one period of four (4) years.
3	What do you say about the fees required before any claim can be received and examined by the Independent Review Panel given that during the bidding process bidders are also required to pay a non-refundable amount to submit their bid? Is this second payment fair and can't it be a hindrance to accessing justice for some?	In accordance with article 52(1) of Ministerial Order n° 001/14/10/tc of 19/02/2014, any bidder wishing to lodge a complaint to the Independent Review Panel is required to pay a non-refundable fee equivalent to fifty thousand Rwandan francs (50,000Frw) for tenders whose amount does not exceed twenty million Rwandan francs (20,000, 000Frw), and one hundred thousand Rwandan francs (100,000Frw) for tenders whose value is over this amount.
4	Why can't the bidders be allowed to present oral defense and if possible to be assisted by the lawyer(s)? The lack of oral presentations can't have consequences on access to (administrative) justice?	The ministerial order does not grant the right to bidders to appear before the review panel to present an oral defense (only written submissions are allowed).
5	What are the legal implications of the absence of the time limit for the Independent Review Panels to decide upon the appeal made by any bidder?	The ministerial order provides that the independent review panel will take a decision on an application for review within "the time provided for by the law on public procurement". Currently there is no legal provision that provides the time limit within which the independent review panel has to decide.
6	Are the criminal sanctions effective in public procurement matter or economic sanctions should be the most preferred?	According to the current law even criminal sanctions can be provided for violating procurement laws and regulations.

[Preliminary Summary Report](#)

**PRELIMINARY REPORT ON THE ROUNDTABLE DISCUSSION ORGANIZED BY
LEGAL AID FORUM FOR GATHERING INFORMATION DURING LEGAL AND
POLICY FRAMEWORK ANALYSIS RESEARCH
UMUBANO HOTEL KACYIRU
NOVEMBER 9, 2017**

Introduction

This roundtable discussion was designed to explore and confirm certain legal and policy framework analysis findings that the Legal Aid Forum identified through desk research over the past several weeks. Invitees included a number of legal and policy specialists from GoR ministries and agencies with responsibilities in the four subject areas of the SRAJ Project (public procurement, land expropriation, public employment, and private labor regulation).

Planning

LAF drafted a list of the organizations and institutions, both private and governmental, from which individuals were to be invited for the discussions. These organizations were shared with IPAR and UMass for their inputs. LAF also drafted an agenda of the program and a series of guiding questions that were designed to be asked of the invitees by LAF facilitators during the group discussions that were set aside for experts in each of the four subject areas. IPAR also delegated at least one staff person to be in each of the groups, so that the two organizations could compare notes on what was said by the participants.

Program

The program commenced smoothly although there was some delay at the outset due to late arrival of some of the participants. The event was preceded by a welcoming remark of the chairman of the Board of Directors of LAF, Dr Rene Munyamahoro a lecturer at the Law Faculty of the National University of Rwanda. Dr Munyamahoro was representing the Executive Director of LAF, who was out of country at the time the program was taking place. MR Munyamahoro started his remarks by welcoming and thanking participants for honoring LAF's invitation. He also briefed the audience about the origins of LAF as a consortium of different legal aid providers and about its present work. Mr Munyamahoro then highlighted the four research areas the project is focusing on and greatly thanked USAID/Rwanda for its support in funding the project. More than 30 participants were present and among them were carefully selected labor inspectors, officials from MINFRA, MIFOTRA, PSC, MINALOC, MINJUST, RPPA, RLMUA, district officials, and representatives from several CSOs (see the attendance list above). In ending his remarks, Rene, invited Frank Mugisha, LAF's program manager, to present the desk review findings in the four research areas.

Frank first described the Rwandan laws and policies, as well as international legal instruments, which were reviewed during the research. In his presentation, he then highlighted both the strengths and potential gaps, contradictions, and ambiguities in the operative legal and policy frameworks in the four subject areas.

Based on this plenary session, the invitees then broke into separate discussion groups for a more detailed discussion of the main challenges facing Rwandan administrative justice in the four areas. Based on both the plenary presentation and the four breakout session discussions, the following key comments were compiled and recorded for 3 of the 4 areas (in the fourth area, public employment, the volume of comments was very high and LAF was unable to synthesize the comments for this preliminary report, taking the time instead to analyze them directly for the Legal and Policy Framework/Contextual Analysis Report due to be submitted in the next Quarter of the Project):

I. Land expropriation

a. Strengths of the existing legal framework

- i. Participation of citizens (Art. 11 of the Expropriation Law);
- ii. Clear procedure through an expropriation project must go through;
- iii. Clear timelines
- iv. Provides for the institutional framework with regard to expropriation
- v. Specifies the rights and obligations of both the expropriated people and expropriating entities
- vi. Not discriminative in its provisions of any bias;
- vii. Provides complaints and redress mechanisms;
- viii. Provides damage (Disturbance –Art. 28 of the expropriation law; Retraction of the project—Art. 37 of the expropriation law)

b. Potential Issues (incl. gaps and ambiguities)

- i. Prime Minister's order establishing committees supervising expropriation projects is lacking (Art. 8 of the expropriation law)
- ii. Bureaucracy in the redress process (several actors)
- iii. Limited knowledge and information on laws (rights and procedures) both for affected individuals and authorities
- iv. Financial capabilities of the affected /household (Counter-valuation –Art. 33 para. 2);
- v. Enforcement of decisions and recommendations e.g from the Ombudsman;
- vi. Limited transparency (e.g publication of legally required assessment);
- vii. Lack of clear coordinating structure;
- viii. Establishment of an annual land values and prices for property incorporated on land (Art. 22);
- ix. The execution of expropriation projects initiated by private companies (Investors)

c. Recommendations

- i. The following were proposed for capacity building/training:
 - Land lawyers of Once Stop Centers at districts level,
 - Land valuers,
 - District mayors,
 - Land managers at sectors level,
 - Executive Secretaries of sectors,
 - Professional property valuers and directors of district One Stop Centers should be trained on expropriation law for them to guide and advise other organs/officials

2. Private Labor Regulation

a. Strengths of the existing legal framework

- i. Current labor laws provide for the rights of workers even those working from informal sector (Social Security, Trade unions and health and safety);
- ii. Regulations of different areas of labor/work and also the way seeking redress where necessary;
- iii. Provisions of out of court and within court disputes handling mechanisms
- iv. Regulating the public service by taking into consideration the specifications of each category of public service (enactment of special status for public servants;
- v. Provision of 2 levels of appeal in case of dispute resolution

b. Potential issues (including gaps and ambiguities)

- i. Absence of clear procedures and time limit for settlements of disputes by workers' delegates;
- ii. Limited protection of workers' delegates;
- iii. The lack of clear timeline for settlement of individual disputes by labor inspectors
- iv. The law is not clear with regard to the admissibility of a case which does not pass through the steps provided by the law (from workers' delegates)
- v. Lack of ineffectiveness of the enforcement of workers' delegates in institutions
- vi. The minimum wage is not clear to both workers and employers
- vii. The implementation of the recommendations given by PSC is still an issue
- viii. The confusing roles of MIFOTRA (discipline) and PSC (appraisal) in case of dismissal of public servants;

- ix. Reintegration of public servants after winning a case in courts of law;
- x. Blacklisting of public servants vs the court decision on the case;
- xi. The issue of competent/higher authority

c. Recommendations

- i. The following are suggested Target groups for the trainings
 - At Ministerial level:
 - the permanent secretary
 - the director of human resources unit/department
 - the in charge of human resources
 - legal advisors/officers of the Ministry
 - For the Public agencies
 - The head of institutions
 - Board members
 - the director of human resources unit/department
 - the in charge of human resources
 - the legal adviser/legal officer
 - At district level
 - the executive committee members
 - the council members
 - the director of human resources unit/department
 - the in charge of human resources
 - the legal advisor/legal officer

3. Public Procurement

a. Strengths of the existing legal framework

- i. Existing procuring institutions
- ii. Independent review panel at district level;
- iii. Independent review panel at national level
- iv. The courts

b. Potential issues (incl. gaps and ambiguities)

- i. Absence of “right” to present oral defense (explicitly prohibited?)
- ii. Requirement to pay non-refundable fee equivalent to 50,000frw (art. 52(1) of ministerial order establishing the procurement regulations and standard bidding documents;
- iii. Lack of explicit timeframe which the independent review panel must take (Art. 53 (3) of Ministerial order establishing procurement regulations and standard bidding documents;
- iv. Inequality of redress levels—there appears to be no appeal mechanism against the decision taken at the first instance at the national independent review panel (Art. 52 (3) of Ministerial order establishing procurement regulations and standard bidding documents)

c. Recommendations

- i. Public servants need to be more trained in contract drafting (more expertise in this regard is need). This was reiterated by the President of the Nyarugenge Commercial Court whereby he said that most of the cases they receive actually emanate from poor preparation of contract(s). Knowledge and skills related to contract drafting and

supervision/monitoring need to be strengthened among the public servants.

- ii. As stressed by the President, another issue is related to the respect of the procedure in case of termination of the contract and here is where a lot of cases go to court. “Someone might have poorly or ineffectively executed the tender, but the procedure of handling that situation (addressing that issue) is the one that matters most; it should be based on the law”.
- iii. Contract negotiation also goes hand in hand with drafting and it’s another areas in which more knowledge and skills are needed, especially for bid tenders (sometimes including foreign and/or multinational companies).

All of the above issues sparked highly interactive discussions among participants and facilitators, whether in the breakout sessions or in some cases, in the plenary sessions. Immediately after the presentation of the LAF desk review findings, the participants were given a chance to react on the presentation and ask a few questions before they were dispersed to their respective group discussions. The participants agreed with almost all the issues and gaps that were identified by the researchers. Although most of the issues identified above were from the preliminary findings, participants confirmed their validity and were responsible for contributing most of the above recommendations. However, it is worth noting that this is just a snapshot of the entire discussion of this round table. A more detailed and prioritized discussion of these findings and recommendations will appear in the upcoming legal and policy framework analysis report.

Closure of the event

Mr. Munyamahoro thanked participants for their contributions and appealed for their continuous collaboration in promoting accountability based on the rule of law and transparency.

Photos



Participants attentively listening to the presentation on preliminary findings on Legal and policy framework analysis on the four SRAJ focal areas



Participants discussing on procurement issues during group discussions



Participants discussing and taking notes on labor matters during group discussions

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX II (VOLUME I)

ANNEX 2: Consultative Stakeholder Workshop on the Phase I Legal and Policy Framework/Contextual Analysis Report



USAID
FROM THE AMERICAN PEOPLE



**Strengthening Rwandan Administrative Justice (SRAJ)
Project**

**Legal and Policy Framework/Contextual Analysis Report
Validation Workshop – March 2, 2018**



Activity Report
March 26, 2018

Table of Contents

1. Introduction; Project Background and Workshop Overview.....	Error! Bookmark not defined.
2. Discussion of Report Findings and Recommendations	7
2.a. Land Expropriation.....	10
2.b. Public Employment.....	27
2.c. Private Labor Regulation.....	29
2.d. Public Procurement.....	Error! Bookmark not defined.
2.e. Cross-cutting Institutions.....	32
3. Conclusion	33

1. Introduction

This Report summarizes the main highlights from the Workshop held on March 2, 2018 to obtain key stakeholder input on the Strengthening Rwandan Administrative Justice (SRAJ) Project's Legal and Policy Framework/Contextual Analysis Report. The Report is the culmination of Phase I of the Project, which is designed to provide a detailed assessment of the formal architecture for administrative justice in Rwanda. The Phase I findings and conclusions, as discussed by the workshop participants, will help inform the intensive information-gathering about the executive of administrative justice in practice that represents Phase II of the Project.

Project background

The Strengthening Rwandan Administrative Justice (SRAJ) Project is supported by the United States Agency for International Development (USAID) and implemented by the University of Massachusetts, Boston (UMass Boston), the Legal Aid Forum (LAF), and the Institute for Policy Analysis and Research-Rwanda (IPAR). The three-year project began in 2017 and will conclude in 2020. The project is intended to help assess the general state of administrative justice in Rwanda and identify possible ways to strengthen the system through targeted legal reforms, training and capacity-building, and public education. It does so by principally focusing on the quality and consistency of administrative decision-making at the district level in four important areas – labor regulation, public procurement, land expropriation, and public employment. The district level is the focus, because that is where the vast majority of cases are decided and where a relatively small number of officials in a single institution (district government) have common decision-making responsibilities for diverse areas of administration and regulation. Since a study of all related areas of decision-making was not feasible, the four particular subject areas were selected, insofar as they implicate a significant volume of administrative decisions and/or appeals,¹ and involve important issues about which the public has a relatively high degree of awareness.

¹ While the precise number of district-level administrative decisions involving the four regulatory areas cannot be ascertained with certainty at this time based on the unavailability thus far of relevant statistics, it is worth noting that the volume of court appeals and Ombudsman complaints is significant. In the last three years (July 2014 – June 2017), Rwandan courts received 3,258 cases in administrative, labor and procurement matters (*see* annual activity reports of the Judiciary, accessed at http://judiciary.gov.rw/media_house/reports/judicial_reports.html). *Meanwhile*, the Public Service Commission (PSC) received 1,368 complaints or appeals in the public employment area (both cases related to recruitment and placement of staff and to management of staff) in the past three fiscal years (July 2014 to June 2017) (*see* annual activity reports of the Public Service Commission, accessed at <http://psc.gov.rw/index.php?id=175>). The National Independent Review Panel (NIRP) also received 161

Several cross-cutting legal framework issues affecting the general system of administrative justice in Rwanda are also within the scope of the Project, including the role of the courts, Ombudsman's Office, and district access to justice offices².

The Legal and Policy Framework and Contextual Analysis Report, which was undertaken by LAF with significant help from UMass Boston, represents the first phase of the Project—an effort to describe the current legal, policy, and institutional foundation for administrative justice in the country, while also drawing attention to possible gaps, ambiguities, and contradictions in the normative framework that could warrant targeted reform initiatives over time. The Report is also designed to highlight challenges with policy matters, and with implementation of existing laws and policies. Finally, the Report is designed to provide context for the work of the second phase of the Project—an in-depth gathering of information about administrative decision-making in practice at the District level in the four focus areas. That information, in turn, will provide an empirical foundation for the third phase of the Project, which will be devoted to relevant capacity-building and public information dissemination efforts, as well as support for discrete legal reforms via workshops and discussion forums. The Report also incorporates a number of findings and recommendations derived from interviews and roundtable discussions with various stakeholders that can inform the views of policymakers going forward.

The research methodology adopted for the Report combined a literature review and in-depth legal analysis with workshop discussions with representatives of stakeholder institutions (including those from government, civil society organizations, legal practice, and academia), targeted key informant interviews with representatives of relevant ministries and independent agencies, illustrative case scenarios drawn from actual administrative decisions on appeal, and certain quantitative data obtained from the Courts, the Ministry of Public Service and Labor, Public Service Commission, District offices, and the Office of the Ombudsman. While the research revealed some noteworthy gaps in the legal

complaints or appeals in the public employment area in the last three fiscal years (July 2014 – June 2017) (*see* Annual activity reports of the NIRP accessed at <http://www.rppa.gov.rw/index.php?id=561>). The Office of the Ombudsman received, in the last three fiscal years (July 2014 – June 2017) 369 cases of expropriation involving 8,408 individuals/households (*see* Report from the Office of the Ombudsman obtained by the Legal Aid Forum, Nov. 20, 2017).

² Although the these offices (*Maisons d'Access a la Justice*) are not, strictly speaking, allowed to represent citizens in actual formal administrative case proceedings, they may provide advisory assistance relating to administrative disputes.

framework in each of the four substantive areas, which will be described below, it also revealed significant practical implementation barriers to achieving justice, including certain institutional/managerial deficiencies, and lack of legal awareness of rights and responsibilities by citizens and officials, respectively.

The Workshop: Overview

As part of its commitment to the SRAJ Project, LAF organized a stakeholder workshop on March 2, 2018 at the Umubano Marassa Hotel in Kigali, which was designed to present the main findings and conclusions of the Legal and Policy Framework/Contextual Analysis Report and elicit comments, questions, and suggestions from the attendees. To anchor the discussion, attendees were provided a nine-page Summary of Findings and Conclusions from the Report beforehand.³ This Summary contains specific findings and conclusions from each of the four subject areas of the Project, along with several legal and policy recommendations (see Annex A). A PowerPoint presentation was also made by LAF. Invitations were sent to forty-four (44) institutions operating in the project's four areas of inquiry. A total of thirty-six (36) participants attended, including six (6) women and thirty (30) men. Also in attendance were UMass Boston Project Manager Seth Karamage, USAID Agreement Officer Representative (AOR) for SRAJ, Mr. Robert Gerstein, and USAID Legal Officer, Mr. Richard Burns (see Annex B).

³ The report, an exhaustive examination of the legal and policy framework in the four subject areas, is some 90 pages in length



The Executive Director of LAF, Mr. Andrews Kananga, delivering introductory remarks





Participants in the workshop



Mr. Seth Karamage, SRAJ Project Manager (center), together with Mr. Robert Gerstein, the SRAJ Project Officer from USAID/Rwanda (left) and Mr. Richard Burns, USAID/Rwanda Legal Adviser (right).

2. Discussion of Report Recommendations

Mr. Frank Mugisha, LAF Program Manager, and Ms. Clarisse Munezero, LAF Program Assistant in charge of Research and Training, presented the research findings in each of the four areas of focus. A final presentation focused on certain issues and institutions affecting the quality of administrative justice in Rwanda that cut across all issue areas.

Participants were invited provide comments after each of the presentations in sequence, while issues were still fresh in mind. To permit maximum ease and candor in discussion, comments could be made in either Kinyarwanda or English. General comments regarding the project included the following:

- The project should engage with the country’s law-making institutions to ensure that reforms recommended by the research can be implemented.
 - In response, the Executive Director of LAF discussed prior experience with advocating for legal reforms and noted established relationships with the Rwanda Law Reform Commission (RLRC), Parliament, and the Ministry of Justice (MINIJUST). The representative from RLRC confirmed RLRC’s openness to recommendations for legal reform.
- The project should be explicit about the concrete steps it will take to change attitudes and behaviours on the ground.
 - In response, Seth Karamage, the UMass Program Manager, described the future phases of the project, which include intensive study of issues of policy implementation and the execution of administrative justice at the district level, and capacity-building training and for those with specific district responsibilities for administrative decision-making and the handling of administrative appeals. The final phase of the project will also include public awareness/education activities based on what is learned through the interviews with public officials and citizens.
- The project should consider best practices in other countries when formulating recommendations in the various subject areas.
- The project should consider the challenges surrounding implementation to ensure that recommendations are actionable. An effort should be made to conduct follow-up with implementing institutions.
- A focus of the project should be on supporting district legal advisors through performance assessment and training.



Frank Mugisha, LAF Program Manager, presenting findings and conclusions on land expropriation and public procurement.



Clarisse Munezero, LAF Program Assistant for Research and Training, presenting the findings on administrative justice as it relates to labor regulation and public employment.



Participants engaged in interactive discussion of the research findings

In addition to more general comments, comments were solicited on the presentations in each of the four focus areas—land expropriation, public employment, private labour regulation, and public procurement—as well as the final presentation looking at institutions and procedures that affect all four areas.

2a. Land Expropriation

Comments were received from a variety of participants, including individuals from the Rwanda transport Development Authority (RTDA), Rwanda Housing Authority (RHA), the Ministry of Land and Forestry (MINILAF), the Ministry of Infrastructure (MININFRA), the Rwanda Law Reform Commission (RLRC), the Ministry of Local Government (MINALOC), and the Rwanda Association of Local Government Authorities (RALGA).

- **Expropriation Supervisory Committees:** District Expropriation Supervisory Committees, entities designed to manage most aspects of expropriation in the public interest, have not yet been established, resulting in many deficiencies in the procedure by which expropriation are carried out. Participants questioned why the establishment of the Committees had been delayed. The draft Order defining the organizational structure, functions, responsibilities, and composition of these Committees is expected from the Ministry of Land and Forestry (MINALAF) for approval and signature by the Prime Minister’s Office. Participants urged that this Order be enacted as soon as possible.

- **The “public interest”:** While there was agreement that the term “public interest” is not as clearly defined as it could be, and that there is insufficient guidance provided to permit citizens to challenge expropriation decisions, some commented that there is also insufficient public awareness of the basic meaning and purpose of the various types of “public interests” that can justify expropriation decisions. Accordingly, more sensitization and education are necessary.
- **Citizen participation in compensation negotiations:** Citizens should be educated about their rights in the case of expropriation, including the right under the law to negotiate with an investor in cases where the master plan is being implemented. In fact, most citizens are unaware of this right and unprepared to engage in negotiations. At the same time, citizens sometimes make unreasonable or unlawful demands of investors due to their ignorance; this often leads district and central government authorities to intervene, often to the disadvantage of the citizens (who often receive less than what they would have received from the investor). It was suggested that more research be conducted in Phase II of the project to better determine the extent of citizen participation in this process and the outcomes to which this has led.
- **Expropriation management and coordination:** MINALOC informally conducts supervision activities to resolve expropriation issues affecting citizens; it also collects data on pending citizen complaints and attempts to contact relevant institutions seeking or involved in expropriations about reported problems. This kind of mechanism should, however, be codified in law to ensure a coordinated expropriation management effort that promotes accountability, transparency, and public information.
- **Compensation payments for expropriation:** Some participants recommended more flexibility in the methods by which compensation payments could be made to those affected by expropriation, including offering the option to be paid by check. Other participants, however, suggested that the receipt of expropriation compensation could constitute an important occasion for a citizen to open a bank account, which is more secure, and could serve other purposes, including the government’s goal of increasing financial inclusion. Concerns were also expressed about challenges in using checks with married couples (in whose name is the check written? Might this create conflicts later on?), which perhaps also militated in favor of opening joint bank accounts.
- **Delayed compensation:** Too often, compensation payments are delayed, which is one of the most severe problems facing expropriations at present. There are many reasons for this (poor planning, poor understanding or neglect of obligations, problems with national release of funds), but payment schedules should be enforced, so that relevant legal requirements are followed.

2b. Public Employment

The discussion on administrative justice as it relates to public employment decisions included comments from a number of participants, including representatives from the Ministry of Labor (MIFOTRA), Public Service Commission (PSC), Congrès du Travail et de la Fraternité des

Travailleurs (COTRAF), MINIJUST, RALGA, district authorities, the Institute for Legal Practice and Development (ILPD), and certain CSOs.

- **Sanctions for failure to follow directives:** Some participants indicated that the law should provide for sanctions against individuals and heads of institutions who fail to implement Public Service Commission (PSC) directives and interpretations of the law in particular cases. The PSC should have direct enforcement powers over sanctions.
- **Disciplinary committees:** Several participants took issue with the draft Report's recommendation that decisions of disciplinary committee members should not be protected; instead committee members should be held accountable for decisions they make. Clear guidelines should be adopted to define how the committee should execute its work (including appropriate parameters for legal liability), and attention should be paid to strengthening the capacity of members to engage in sound decision-making.
- **Employment support centers and the e-recruitment system:** The report's recommendation that the number of employment/career support centers located around the country be increased (only two exist presently) to facilitate access to and use of the electronic recruitment (E-recruitment) system was seen as a positive one. Because applicants for public jobs must apply through this system, the lack of centers puts applicants in rural districts, where computers are less available, at a disadvantage. At the same time, it was advised that the project team should be nuanced with this recommendation; even though the issue of internet accessibility is an important consideration, the number of job applicants has nevertheless increased ten-fold since the introduction of the E-recruitment system. Still, the e-recruitment system features should be improved as well; for example, the number of days between publication of employment notices and application deadlines should be increased, along with the capacity for uploading documents and the system's speed. The public should also be better educated about the system.
- **Need for another appeal level within the High Council of the Judiciary:** the legal analysis found that judges and judicial personnel have only one formal level of appeal with which to have public employment disputes heard; those decisions are not appealable. Participants explained that investigations with regard to accusations against judges and judicial personnel start at the level of their respective courts, then are reviewed by the inspectors of courts and finally, if appealed, by the Commission within the High Council of the Judiciary. To some participants this recourse seemed sufficient, but for others endorsed the Report's recommendation that there be another level of appeal because even though the different distinct steps exist, the early steps only involve investigations and not the taking of a formal decision. As such, judges and judicial personnel should be given another chance of appealing the (actual) decision taken against them.
- **Legal advisors:** Legal advisors complain that they are often left out of public employment decision-making processes and that their advice is not heeded. Public managers, on the other hand, complain that the advice they receive from legal advisors is sometimes incorrect and results in poor outcomes when such decisions are appealed (as they usually are) to the courts. Participants agreed that more education, sensitization, and mentoring should occur for district heads to ensure that legal advisors

are consulted and that their advice is heeded. Legal advisors should, however, also receive proper continuing education given that they are expected to give advice on all aspects of public law and that their advice should be truly reliable. Phase II of the Project should include more research into this issue.

- **The “blacklist” for public employment:** Immediately upon being dismissed from their positions, public servants are placed on a “blacklist” preventing them from seeking other public employment. Though there is a procedure, whereby a public servant who wins appeal may request to be removed from the blacklist by submitting a copy of an eventual court decision in their favor to MIFOTRA (and the MIFOTRA representative indicated that this can take place very quickly). However, it was conceded that some people may not know about this procedure, and that the procedure is not in fact formalized in any law or decree. There was significant agreement that this procedure should be formalized (included in the relevant law or Presidential/Ministerial Order) and publicized. As a result, there was some support for removing the SRAJ Report’s recommendation that individuals should only be placed on this list after they have exhausted all remedies available to them.
- **The role of MIFOTRA and the PSC relative to dismissal of employees:** It was acknowledged that presently, a public institution is required to seek an opinion from MIFOTRA each time it seeks to dismiss an employee for disciplinary reasons, while an opinion from the PSC is required for any dismissal of an employee resulting from poor performance. Instead of continuing this dual procedure, the PSC should assume responsibility for all types of advice relating to the day-to-day management and recruitment of public employees, and MIFOTRA should focus its attention on matters of policy and the setting of standards and regulations.
- **Management of contractual staff in public service:** The SRAJ Report suggests that use of a standard contract would help to reduce inconsistencies, failures, and confusion surrounding the use of public contract employees. Participants did not reject this suggestion, but emphasized that the problem is not principally about the lack of a standard contract, since there are a number of other instruments (e.g. Ministerial Orders) regulating and providing guidance on the management of such staff. Rather, the main issue is the limited capacities of officials in charge of managing such staff, as this leads to poor management practices and disregard of the rules relevant to contractual staff. Participants recommended focusing more attention on building the capacity of the individuals responsible for managing such contracts, which would reduce the incidence of the aforementioned problems.
- **Compensation for contract employees:** It was noted that a non-permanent public employees can work under renewable short-term contracts (even one year in length) for upwards of five or ten years without being afforded separation pay when the contract ends; it was agreed that employees who have worked for a certain number of years under such circumstances should be granted some form of compensation for this service.

2c. Private labour regulation

Participants, including representatives from the Ministry of Labor (MIFOTRA), Congrès du Travail et de la Fraternité des Travailleurs (COTRAF), District authorities, ILPD, and CSOs contributed to this section of the workshop by providing a number of comments on the Report.

- **Workers’ delegates:** The Report pointed out that workers’ delegates need more protection than they have today. The only remedy afforded to them in the case of illegal dismissal is a maximum of nine (9) months’ compensation, compared with other workers, who can receive up to six (6) months.⁴ In response, MIFOTRA representatives indicated that they are working to ensure that the aspirations and guidelines of ILO convention 135 are fully incorporated into revisions to the Labor Law.
- **Labor complaints in the courts:** Several commentators stated that the recommendation in the Report – that the law should take a clear stand on whether or not claims can be received in court without passing through the workers’ delegates and labor inspectors – should be modified. It was noted that in practice, judges have tended to interpret this procedure as mandatory, but the phrasing of the law actually suggests that judges may, in fact, hear complaints that have not completed this process,⁵ and that such flexibility is important to take into account various unique circumstances, including instances where exhaustion would be futile or unduly prolonged. It was remarked that any future training for judges should strongly emphasize this flexibility in the law.
- **Mandatory timeframes to address complaints:** The recommendation in the Report establishing a mandatory timeframe within which a complaint received by a labor inspector must be resolved should instead establish a time constraint within which a labor inspector must *start* work on complaint, particularly given the complex nature of some investigations; the idea is to discourage delay on the part of the inspector while nevertheless encouraging meaningful conciliation. This suggestion also has a parallel with the previous one; if an investigation is taking an unreasonable amount of time to complete, an employee should be able to swear out a complaint in court about the factual situation without a completed report from an inspector, *and* courts should be flexible and open to considering the specific factual circumstances that would warrant going to court without exhaustion of administrative remedies.
- **Sanctioning power of labor inspectors:** Participants agreed that labor inspectors have limited powers and no sanctioning/enforcement power. There was agreement that the law should be amended to change this situation. The representative from MIFOTRA informed the audience that increased powers for inspectors is included in the draft labor law pending submission to Parliament.⁶ However, despite these current limitations, it was pointed out that in fiscal year 2016-17, approximately 85% of all cases received by labor inspectors were fully resolved and closed amicably (through conciliation) without

⁴ Stated in Article 33 of the Labour Law.

⁵ The law is phrased, “When all the steps referred to above have not been gone through, the court *may* declare the claim inadmissible...” (emphasis added).

⁶ Based on information provided by MIFOTRA, in the year 2016-2017, around 85 percent of the cases received by labor inspectors were fully resolved and closed without the need for court action. These statistics should be verified in Phase II of the project.

court involvement. This is important from the standpoint of court usage and expenditures, although delays, as pointed out above, may be a countervailing consideration. This issue has implications for Phase II of the Project; there is a real need to identify costs and benefits from conciliation and whether justice is or is not generally served by discouraging easy recourse to the courts.

- **More and specialized labor inspectors:** With only one labor inspector for most districts,⁷ inspectors have overwhelming workloads and cannot be specialized and exercise proper expertise. It was acknowledged that more inspectors are likely needed in some districts, which could allow for greater specialization. The number of inspectors should be determined by workload.
- **Dismissal compensation:** Participants agreed that dismissal compensation (separation pay) provided by under current labor laws should be increased in recognition of the work done by employees for their organizations, especially longer-serving employees.
- **Compensating contract employees:** Rather than take on full-time employees, employers often keep employees on short-term (often one year or less) renewable contracts over sometimes lengthy periods (multiple years) to avoid paying certain types of compensation. This practice violates workers' rights. Employees who have worked for an employer on a contract basis for a specified number of years should be granted some form of compensation when the contract ends.

2d. Procurement

Participants, including representatives from the Rwanda Public Procurement Authority (RPPA), district governments, and CSOs, provided several significant comments:

- **Eliminating district IRPs:** Presently, it is required that a bidder wishing to appeal the outcome of a procurement process submit a complaint to the district Independent Review Panel (IRP) before proceeding to the national-level IRP. Public trust in these district panels is low, however, and, according to RPPA, they are slated to be abolished in the new procurement law currently pending promulgation. The second phase of the SRAJ Project's research might consider whether and how moving this process entirely to the national level could nevertheless affect the public's access to justice (notwithstanding that e-procurement can mitigate the difficulties that would otherwise attend a complainant having to appear in proceedings in Kigali).
- **Eliminating fees to lodge procurement complaints:** Under the current system, any bidder wishing to appeal the outcome of a procurement process to a district IRP is required to pay a non-refundable fee of up to 100,000 RWF (50,000 Rwf for tenders below 20,000,000 Rwf, and 100,000 Rwf fee for tenders above this amount). Several participants defended this practice, arguing that it serves to deter specious complaints; it was also pointed out that an appeal to the procuring institution itself (effectively a kind of reconsideration) is free of charge. Partially acknowledging the deterrent purpose, many participants still agreed with the Report's recommendation that this fee should be refunded in cases where an appeal is successful (though some participants

⁷ Districts within Kigali may have two or three inspectors.

questioned charging such a fee in the first place, pointing out that participation in many other types of administrative appeals does not entail the charging of a filing fee, and that a non-refundable fee is already required as a condition to even participate in most tenders).

- **Penalties for failing to meet contract deadlines:** A fine equivalent to five percent of the value of contracted work is imposed on a contractor who fails to meet an execution deadline under a procurement contract. No similar penalty is imposed on a public institution that fails to remit a payment on time, however. As a matter of equity, participants agreed with the Report's recommendation that either this fine on contractors should be removed (or somehow amended), or fines for late payments on public entities should be allowed to be imposed.
- **Procurement officer liability:** The Report stated that it was potentially unfair to hold procurement officers liable for mistakes in the management/implementation of a government contract in cases where the tender was actually prepared by a separate government department and perhaps involved subject matter in which the procurement officer had little to no expertise or knowledge. Participants in the workshop indicated that this finding might not be well-informed and possibly stemmed from procurement officers who expressed these views during the earlier roundtable (or key informant interviews). In fact, there are MINIJUST instructions that provide guidelines on how tender contracts should be prepared and managed, and these guidelines indicate that implementation of the resulting contract is not the sole responsibility of the procurement officer but rather implicates the involvement of others with relevant responsibilities and expertise. In this regard, participants suggested that the finding and associated recommendation in the Report reference the guidelines and focus on appropriate capacity building to institutional staff about each and everyone's responsibilities in contract management and tender implementation based on the details of the particular tender and the initiating government department/unit.

2e. Cross-cutting institutions

The Committee in charge of out-of-court settlement: A very large number of participants were surprised to learn of the existence of this Committee through the Report, including many who should be aware of it and make use of it, as well as inform members of the public and contractors about its potential utility. Accordingly, the Coordinator of the Justice Sector Secretariat, Anastase Nabahire, described the Committee's purpose and operations to the attendees, noting that it was chaired by the Permanent Secretary of the Ministry of Justice). Participants supported the Report's recommendation to raise public awareness about the Committee (especially among members of the business community). Mr. Nabahire further noted the many advantages of out-of-court settlement, which is being strongly encouraged by the Rwandan Government. He further said that GoR intends to increase the capacity of government officials to resolve issues with citizens through dialogue mechanisms.

- **The Maisons d'Access à la Justice (MAJ):** MAJ function as district legal aid bureaus. Although they cannot assume citizen representation in administrative cases due to concerns about real or apparent conflicts of interest, MAJ personnel can provide certain kinds of general advice to citizens relating to such cases. These bureaus should be strengthened through staffing based on 1) the volume of cases/disputes in a given district; 2) the population of the district; and 3) the availability of other legal aid providers in the district.
- **Office of the Ombudsman:** There was general agreement that the Office of the Ombudsman requires more human and technical capacity to handle the very large volume of complaints that come to its attention regarding administrative justice issues. Presently, the Office is using contracted staff to assist with a large backlog of cases.

3. Conclusion

Participants formally and informally commented that the workshop was a good opportunity to discuss very significant legal and policy issues in current Rwandan society and that the Report and workshop should generate useful input to help to guide the direction of the project as it enters its intensive district-level information-gathering second phase.

ANNEX



USAID
FROM THE AMERICAN PEOPLE



Strengthening Rwandan Administrative Justice (SRAJ) Project Legal and Policy Framework/Contextual Analysis Report

SUMMARY OF MAIN FINDINGS AND CONCLUSIONS

Administrative justice involves the control of discretionary powers of executive officials in making administrative decisions that affect the rights of citizens. It also concerns the processes by which citizens may seek review of those decisions if they believe the latter have been incorrectly or improperly rendered. Administrative justice is accordingly deeply concerned with matters of procedure—not only the transparency, accountability and fairness that attend the rendering of decisions by government officials, but review mechanisms – both internal to the bureaucracy and external, by way of the courts or the Ombudsman’s Office – by which such decisions can be appealed. While this procedural focus of administrative justice is manifested through discrete sectoral laws and rules, it has common features and can be viewed as a comprehensive system at multiple levels of decision making. Nevertheless, administrative justice is principally concerned with improving the quality of front-line administrative decision-making, so that decisions are rendered correctly the first time, thereby reducing the need for citizens to pursue appeals. This builds trust and saves time and money for citizens and the government alike.

The Strengthening Rwandan Administrative Justice (SRAJ) Project, supported by the U.S. Agency for International Development (USAID) and implemented by the Legal Aid Forum, the Institute for Policy Analysis and Research-Rwanda, and the University of Massachusetts Boston, is intended to help assess the general state of administrative justice in Rwanda. It does so principally by focusing on the quality and consistency of administrative decision-making at the district level in four areas – land expropriation, labor regulation, public procurement, and public employment. The district level is the focus because that is where the vast majority of cases are decided and where a relatively small number of officials in a single institution have common decision making responsibilities for diverse areas of administration and regulation. Since a study of all related areas was not feasible, the four particular subject areas were selected insofar as they implicate a significant volume of administrative decisions and/or appeals⁸, and

⁸ While the precise number of district-level administrative decisions involving the four regulatory areas cannot be ascertained at this time based on the unavailability of relevant statistics, it is worth noting that the volume of court appeals and Ombudsman complaints is significant. In the last three years (July 2014 – June 2017), Rwandan courts received 3,258 cases in administrative, labor and procurement matters (*see* annual activity reports of the Judiciary, accessed at http://judiciary.gov.rw/media_house/reports/judicial_reports.html). Meanwhile, the Public Service Commission (PSC) received 1,368 complaints or appeals in the public employment area (both cases related to recruitment and placement of staff and to management of staff) in the past three fiscal years (July 2014 to June 2017) (*see* annual activity reports of the Public Service Commission, accessed at <http://psc.gov.rw/index.php?id=175>). The National Independent Review Panel (NIRP) also received 161

involve significant issues about which the public has a high degree of awareness. Several cross-cutting legal framework issues affecting the general system of administrative justice in Rwanda are also within the scope of the Project, including the role of the courts, Ombudsman’s Office, and district access to justice offices.

The Legal and Policy Framework and Contextual Analysis Report represents the first phase of the Project—an effort to describe the current legal, policy, and institutional foundation for administrative justice in the country, while also drawing attention to possible gaps, ambiguities, and contradictions in the normative framework that could warrant targeted reform initiatives over time. The Report is also designed to highlight challenges with policy matters, and with implementation of existing laws and policies. Finally, the Report is designed to provide context for the work of the second phase of the Project—an in-depth gathering of information about administrative decision-making in practice at the District level in the four focus areas. That information, in turn, will provide an empirical foundation for the third phase of the Project, which will be devoted to relevant capacity-building and public information dissemination efforts, as well as support for discrete legal reforms via workshops and discussion forums. The Report also incorporates a number of findings and recommendations derived from interviews and roundtable discussions with various stakeholders that can inform the views of policymakers going forward.

The research methodology adopted for the Report combined a literature review and in-depth legal analysis with workshop discussions with representatives of stakeholder institutions (including those from government, civil society organizations, legal practice, and academia), targeted key informant interviews with representatives of relevant ministries and independent agencies, illustrative case scenarios drawn from actual administrative decisions on appeal, and certain quantitative data obtained from the Courts, Ministry of Public Service and Labor, Public Service Commission, District offices, and the Office of the Ombudsman. While the research revealed some noteworthy gaps in the legal framework in each of the four substantive areas, which will be described below, it also revealed significant practical implementation barriers to achieving justice, including certain institutional or managerial deficiencies, lack of legal awareness of rights and responsibilities on the part of citizens and officials, respectively, and the disrespect of the law by some officials.

This Summary of Findings and Conclusions from the Report highlights the most important insights derived from the Phase I analytical effort, including the most pertinent information from the research and views exchanged at roundtable with key stakeholders held in November 2017. It is hoped that these insights will not only inform the discussion and validation exercise to be held on March 2, 2018, but contribute to ongoing policy discussions on possible modification and/or implementation of relevant laws and regulations, as well as a more targeted information-gathering effort in Phase II of the Project—in which district decision-making *in practice* will be the focus.

(a) Land Expropriation

complaints or appeals in the public employment area in the last three fiscal years (July 2014 – June 2017) (*see* Annual activity reports of the NIRP accessed at <http://www.rppa.gov.rw/index.php?id=561>). The Office of the Ombudsman received, in the last three fiscal years (July 2014 – June 2017) 369 cases of expropriation involving 8,408 individuals/households (*see* Report from the Office of the Ombudsman obtained by the Legal Aid Forum, Nov. 20, 2017).

In the domain of expropriation the following key findings and conclusions emerged:

- The failure of the government to establish District Committees in Charge of Supervision of the Process of Expropriation via a Prime Minister's Order, nearly two years after their creation was envisioned, has created a critical institutional gap. District Executive Committees, with a clear conflict of interest, have had to fill this gap and hence control the expropriation processes without any checks and balances. The Supervisory Committees were supposed to act as the main interface between the population being expropriated and the expropriating entity, handling issues of notification, consultation, and ultimate approval or disapproval of the decision to initiate an expropriation. Combined with an unrealistically short 30-day period in which the District must act on an application to expropriate property, the absence of the Supervising Committees effectively negates the rights of citizens to be clearly informed of, and consulted about, an expropriation decision, and to challenge the decision or associated compensation in the first instance. As the line institution responsible for the implementation of the expropriation law, the Ministry of Land and Forestry (MINILAF) should work together with the Office of the Prime Minister to draft, promulgate and publish this Order.
- Even once the Supervising Committees are established, a clear national policy coordination mechanism should be put in place by the government to ensure that the expropriation law is properly implemented, particularly as to matters of communication with landowners and the general public, publication of technical reports required by law (but frequently not made available to the public), timely payment of fair compensation to affected individuals, and speedy and effective handling of people's complaints related to the project (obviating the need for complex and costly appeals). MINILAF could take the lead on this by establishing a department in charge of expropriation which would oversee and coordinate expropriation projects accordingly.
- Legal reform is necessary to restrict the current non-exhaustive definition of the "public interest" rationale for expropriation. If some kind of "catch all" category is deemed necessary for exceptional circumstances, the law must be amended to provide specific guidance regarding grounds upon which a decision to expropriate for other than clearly specified reasons can be initiated, while also providing clear and accessible means of challenging such a decision.
- Citizens are not provided with individual notice of expropriation and compensation determinations, and the legal requirement of general notice by radio and newspaper is often not complied with, limiting citizens' ability to protect their rights. Enforcement of the existing requirement should be strengthened and a legal amendment requiring good faith efforts to provide individual notice should be seriously considered.
- Contrary to the law, updated land values are not published annually by the Institute of Real Property Valuers (IRPV), resulting in inaccurate (and frequently under-valued) land valuations being used by the government as a basis for awarding compensation. The government, through MINILAF, should work with the IRPV on resource and capacity needs to ensure this list is indeed updated and published annually.

- The process of challenging valuations is onerous, multi-staged, and costly, and individuals are required to fund their own counter-valuations and lodge challenges to official valuations in a matter of a few days. Faced with this financial burden and unable to comply with short timelines they may not even be aware of, most citizens have little practicable way to challenge valuations that frequently favor the expropriating institutions (which are also major clients of the independent valuers). The government should reexamine both the complexity and the short timelines of the counter-valuation process and consider ways to at least partially subsidize the cost of counter-valuations for poor citizens based on their income.
- In some cases, the compensation process has proven difficult to implement in practice. While the law requires compensation to be paid within 120 days of the expropriation, individuals reported long delays in receiving compensation, difficulty receiving compensation for partial expropriations, and also the near impossibility of determining which institution to follow up with about delayed payment (since many different institutions are involved in transferring the payment of compensation to the expropriated individual). Appropriate legal/ regulatory reforms as well as proper planning and coordination are necessary to address the procedural and bureaucratic issues that cause long delays in the payment of compensation.
- It was also found out that as a general matter, most citizens are not aware of their rights, including the right to direct negotiation in cases where the project emanates from an investor (which is the case in many expropriation projects related to implementation of the master plan). In this regard, it is important that government authorities (especially at the district level), relevant CSOs, and the media expand efforts to educate citizens about their right to engage in such direct negotiations.

(b) Private Labour Regulation

In the domain of private labor regulation, a number of key findings and conclusions arose from the research:

- The Ministerial Order on workers' delegates does not provide adequate protections for workers' delegates from reprisals by management or other employees; this negatively affects their ability to serve their fellow workers and decide on disputes brought to their attention. Meanwhile, time limits for rendering decisions by such delegates – and guidelines to inform such work—are not as yet provided in the Order or other normative acts. Given that workers' delegates serve as the first recourse for employees in most kinds of employment disputes, these legal omissions should be remedied. As a foundation, the aspirations and guidelines of ILO Convention 135 on the protection of workers' delegates should fully be incorporated into Rwandan labor laws and regulations.

Article 140 of the Labour Law is potentially confusing in that it does not absolutely require exhaustion of administrative remedies in individual labor disputes before an aggrieved employee files a court challenge - despite the fact that exhaustion is unanimously favored by labour policy experts and is usually adhered to by most courts in practice. This lack of clarity

in the law should be possibly be remedied by an appropriate amendment and any permissible waiver of the exhaustion requirement more explicitly and narrowly articulated.

- The Labour Law should also be amended to clearly specify the procedure and time line within which individual labour disputes have to be settled by workers' delegates and labour inspectors, save in complex or extraordinary cases in which time limits might be extended with clear written reasons provided to the parties. At present, there are no effective time limits, leading to delay and disillusionment among employees.
- Despite the important role they play in protecting the rights of workers, and the legal responsibilities accorded to them, Labour Inspectors lack adequate enforcement powers. The Labour Law and the Ministerial Order on Labour Inspectors should be amended to empower Labour Inspectors to impose sanctions on employers who fail to comply with their decisions.
- Labour Inspectors are under-resourced and lack adequate capacity and specialization, thereby limiting their effectiveness as enforcers of the law. The ILO Convention 81 (providing for different types of labour inspectors) is not fully implemented, as there is only one labor inspector per district (although urban districts now have two), which understandably affects their performance and the quality of their work. Considering the understandable challenge of limited resources, an option of increasing the number of labor inspectors on a progressive or rolling basis, in proportion to the workload and needs per district, should be considered. Improved compensation and training for Labour Inspectors also needs to be considered to address well-known capacity issues.
- The Labour Law should be amended to provide protections for trade union representatives within a company. The absence of these protections deters workers from becoming members of trade unions, despite the constitutional and legal right of workers to be in trade unions.
- The damages provided for workers in cases of wrongful dismissal are typically very low, which fails to serve as a deterrent in future cases where proper termination procedures are not followed. The labor law should be amended in this regard to increase the amount of damages allowed and hence help in deterring such abuses. Another problem concerns employers abusing fixed term contracts by giving staff a one year contract (or even less) that can be renewed up to five or more years in order to avoid paying any compensation to the employee in cases where he or she is no longer needed or otherwise dismissed. The law should be amended to provide for some compensation for such employees on renewable contracts who have worked for a certain number of years in a company and then are suddenly let go.
- The Ministerial Order on the Minimum Guaranteed Wage should be adopted as soon as possible, because its absence causes difficulties in calculating wages and benefits due workers in a wide variety of contexts. Full implementation of the Ministerial Order on the Election of Workers' Delegates is overdue, because at present, many employers fail to hold and/or facilitate the carrying out such elections. The Workers' Delegates is supposed to be the first organ to handle labor disputes in an institution. The government

should support expanded legal information outreach to workers to inform them of their rights and available dispute resolution mechanisms, which could lead to reduced workplace conflicts and less recourse to the courts, saving both workers and employers time and expense.

(c) Public Employment

In the domain of public employment, the SRAJ Project research yielded information about a number of important challenges and suggested several key recommendations:

- The signing and evaluation of performance contracts through the Integrated Payroll and Personnel Information System (IPPS) are not done in compliance with the Prime Minister's Order Regulating Performance Appraisals of Public Servants. While the IPPS only requires one level of review for employee performance, it must be updated to meet the legally required two levels of review, which aims to ensure transparency and accuracy in the review process.
- At the District level and below, there is sometimes confusion in the management of contract staff, public servants (those governed by the general statute of public servants), and the political staff, whereby some in one category are mistakenly treated as if they were in another category. This may deprive certain staff of rights and benefits owed to them by law. Improving awareness of the differences between contract staff, public servants, and political leaders at the lower administrative levels will ensure proper protection of applicable rights and observance of required procedures. Capacities of human resource managers and officers in matters of staff management and understanding of relevant laws and regulations should also be strengthened.
- The Ministry of Public Service (MIFOTRA) is consulted in cases regarding disciplinary warnings or employment sanctions, such as suspension from duties, delay in promotion, or dismissal. The Presidential order on modalities of imposing disciplinary sanctions should be revised so that this consultation/advisory function is completely transferred to the PSC as the institution with the appropriate expertise in such matters. At the same time, MIFOTRA representatives and other experts believe its role should be limited to formulating policies and promulgating legal standards and monitoring their overall implementation, rather than being consulted in the aforementioned day-to-day management decisions involving individual employees.
- Under the Presidential Order governing the application of sanctions to public employees, a public servant dismissed from the public service is to be registered on a MIFOTRA blacklist and prohibited from recruitment into another position in the public service. In practice, the blacklist is applied immediately upon dismissal. The Order, however, does not clearly provide the procedure for a public employee who is able to later secure removal of his or her name from the blacklist via appeal to a higher level of the administration or the court. The Presidential Order should accordingly be amended to specify clearly how this procedure should work and perhaps how the individual's status should appear in public records pending final resolution of any

appeal (so as not to result in any premature or otherwise unjustified denial of the individual's right to access public employment).

- The law does not provide sufficient protection to members of disciplinary committees of institutions against reprisals from their employers, including liability for potential financial losses stemming from court judgments assessing damages for wrongful dismissal of an employee. MIFOTRA and the PSC need to develop clearer guidance than currently exists under the applicable Presidential Order and strengthen the capacities of members of disciplinary committees so that they can conduct proper investigations, document their findings and base their decisions on existing laws and regulations. In particular, the controversial issue of imposing liability on one or more members of disciplinary committees for financial losses stemming from wrongful dismissal determinations should be addressed, so that such committees are not discouraged from handling their duties. This could include limiting such sanctions to instances of gross negligence or malicious intent. .
- No official legal provision or guidance exists concerning the calculation of damages for wrongful termination of a public employee, leaving the matter entirely to judicial discretion. MIFOTRA should adopt guidance or instructions on this issue as a matter of considered fiscal and jurisprudential judgment.
- The role and resource base of the PSC must be strengthened, given its extensive consultative and review mandate in public employment matters. At the same time, its recommendations and determinations are often ignored by relevant public institutions. Either additional compliance support should be obtained from the Prime Minister's Office, or amendments to the law should be considered to provide the Commission with (expanded) enforcement powers.

The general statutes governing the public service are as yet not properly aligned with the exigencies of the new e-recruitment system. In accessing public service postings, the process of e-recruitment has brought about significant innovation. However, the time periods for job postings to remain open, for shortlisting of candidates to occur, and for individuals to apply for positions are too short and are likely to prejudice applicants who do not have consistent access to a computer or the Internet. Under these circumstances, the law should be amended to provide more realistic timelines, and the e-recruitment system should be upgraded and brought into compliance with these legal changes.

(d) Public Procurement

In the domain of public procurement, some challenges in the tendering process and review procedures may prejudice the rights of bidders. The following are some of the major findings and recommendations stemming from the Project research:

- Some common fraudulent practices in procurement, such as bid rigging, bid suppression, bid rotation, cover bidding, and market allocation, are not clearly defined in the procurement law. This can have a negative impact on the effective application of

the law, as there is no consistent and clear guidance as to what constitutes improper collusion.

- The Independent Review Panels, which are the key mechanisms for administrative review in public procurement, typically have just one staff person, and at the District level, these individuals have other additional duties as well. Given strict appeals and review deadlines, and the power that staff members have to deny a review request on their own as a form of pre-screening, this lack of staffing capacity is a significant challenge to the effective functioning of these review panels.
- At the District level, the staff receiving appeals from bidders and making the initial check of an application (to ensure that all requirements are fulfilled) are regular District employees. This has reportedly deterred some bidders from protesting in order to preserve their relationship with District officials. Further, concerns were raised on the overall performance and independence of the District IRP from the district authorities. The government should consider ways to strengthen and render the District review panels more independent as a matter of recruitment/qualifications, management, organization, and training. To facilitate these changes, some resource expansion may obviously be required.
- Where bidders do obtain review of their claims before an IRP, it is within the discretion of the IRP whether to grant an in-person hearing or accept arguments in writing only. This undermines the transparency of the IRP process, and denies the bidder the right to provide explanations or respond to claims or issues raised during the proceedings. In order to guarantee full and fair access to the rights enshrined in the procurement law and an in-person hearing should be provided as a matter of right, not left to discretion of the Review Panel.
- In addition to the non-refundable fees paid by prospective bidders to participate in a tender, the existing requirement to pay fees in order to appeal a procurement decision is unique among administrative complaints processes in Rwanda and can deter the filing of otherwise meritorious claims, which appear to be numerous – statistics reveal that approximately half of all appeals at the national IRP are found to be meritorious. The law should be amended so that at the very least, a bidder successful on appeal—or even having his claim accepted at the pre-screening stage—should have his fee refunded.
- While the law creates an obligation for entities to submit an annual procurement plan, it does not create any sanction for those that fail to do so. This lack of sanctions harms the authority of the RPPA and the reputation of district and other government bodies, and risks undermining fundamental principles of fairness, transparency, and accountability in the procurement process.
- In order to balance the rights of bidders with the rights of public entities, terms should be added to the standard procurement contract that provide penalties for procurement entities that violate the rights of winning bidders in the carrying out of procurement contracts, particularly the delay of payments. Since procurement contracts are normally prepared by the procurement entity, such bodies might not voluntarily add these kinds

of penalty provisions against themselves; accordingly these terms must be required as standard provisions.

- Legislation and regulations need to be harmonized with the newer e-procurement practices to ensure procurement entities know what their legal obligations are; currently, many earlier requirements have been rendered obsolete by e-procurement.

(e) Cross-cutting Issues

Rwanda has several cross-cutting institutions that are designed to provide accountability in the functioning of the administrative system as a whole. Each has issues that present challenges to effective institutional operation and that could merit possible reform initiatives.

- The *Rwandan Judiciary* is competent to handle appeals from administrative decisions through the country's system of Intermediate Courts and the High Court. Appeals are possible through the judicial system up to the Supreme Court. The Courts are guided in their appeals work in administrative cases not only by the operative legal standards existing in the relevant administrative institutions and sectoral regulatory frameworks, but by the Civil, Commercial, Labour and Administrative Procedure Code (hereinafter referred to as "the Code"), which provides the procedures, timelines and requirements for filing and responding to claims. The Code also requires the exhaustion of administrative remedies before a court appeal can be lodged. A few challenges involving the Code have emerged in recent years. One issue relates to standing: while the Code holds that associations, organizations and institutions without legal status can be sued, it does not provide them with standing to sue others, including the government in administrative cases. Another issue is the fact that the standing rules under the Code are unclear on the concept of public interest litigation and hence provide an impediment with regard to the filing of such cases,⁹ many of which stem from administrative decisions. Specialization among judges and advocates is still also a challenge. Though it is said that administrative cases are heard by "Administrative Chambers" of the Intermediate Courts (where the biggest volume of administrative cases begin from), in reality there are no specialized judges to handle just administrative matters/cases. These same judges hear other matters as well. Greater specialization among judges in administrative law matters needs to be encouraged, as the Institute of Legal Practice and Development (ILPD) is currently seeking to do. The standing rules under the Code should be amended to allow the concept of public interest litigation under the Rwandan judicial system. Meanwhile, the Code provides for arbitration and conciliation, but only for commercial cases. This provision should be expanded to include administrative cases, in line with the increasing utilization of alternative dispute resolution in the legal system as a whole. Perhaps most importantly, the Code does not place burdens of proof and persuasion on the government in administrative cases, despite the superior advantages of the state relative to the citizen. The Code should be amended to place

⁹ Public interest litigation refers to legal cases which raise issues of general public importance such that the public interest requires them to be resolved. Public interest litigation enables individuals, communities and organizations to challenge government decisions, policies, their lack of regulation or positive activity to ensure the fulfillment of their peoples' rights and where necessary to hold the authorities to account.

such burdens on the government, as this principle of effective equality of arms is fundamental to most systems of administrative justice around the world.¹⁰

- The *Office of the Ombudsman* seeks to address and resolve complaints about bureaucratic decision-making, lack of responsiveness and courtesy to the public, and systemic malfeasance, including issues of corruption. A major challenge facing the Ombudsman concerns limited staffing capacity compared to the number of complaints received from citizens; this often results in significant delays in responding to people's complaints. Moreover, investigators and prosecutors working for the Ombudsman reportedly still have limited technical capacity given the complexity and sensitivity of their work, which includes investigations of both corruption and injustice.
- *Access to Justice Bureaus* (Maisons d'Access à la Justice, or MAJ) are offices at the District level under the supervision of the Ministry of Justice (MINIJUST) that provide free legal support to all members of the population to ensure they have full access to their rights. This includes the provision of legal advice and legal representation in courts and coordination of the execution of court judgments for poor and vulnerable people, the handling of gender-based violence cases and issues, and assistance in mediation efforts. In principle, the MAJ do not handle administrative cases in order to avoid conflicts of interest as they themselves are public servants (although this impediment could be readily addressed through specialized recruitment and management), but they can provide general advice and help steer individuals in need to the right decision making or appeals mechanisms in administrative cases. The biggest challenge facing the MAJ is inadequate resources for staff and logistics (e.g., transportation and outreach budgets and materials). Given the limited resources and the fact that the workload and needs are not the same in all districts, expansion of the MAJ services in districts could be done on a rolling basis, considering for example the volume of cases/disputes in a given district, the population of the district, the availability or not of other legal aid providers in the district, etc.
- The *Committee in Charge of Out-of-Court Settlements* can amicably settle disputes involving public entities, both those that have already reached the courts and those that may be the subject of future litigation. A case may be submitted to the Committee by the authorities, by the advocate of the concerned public entity, or by the person who has a dispute with the public entity. The Committee's biggest challenge appears to be a general lack of awareness of its existence, which suggests the need for the government to better publicize the function of the Committee and its track record (including settlement statistics). Meanwhile, capacities of government officials in negotiation, mediation and conciliation need to be strengthened to resolve issues through dialogue mechanisms.
- *Legal advisors in public institutions*: Despite the vital role that they are supposed to play in the public administration, advice provided by legal advisors (especially at the district level) or state attorneys (in other bodies) is frequently ignored or not sought by

¹⁰ To be sure, some sectoral laws and regulations may place such burdens on the State in the administrative process or in certain court appeals, but having a fundamental standard for all judicial appeals of administrative cases would make this principle universally applicable.

executive authorities in the course of rendering administrative decisions. This often results in public bodies failing to follow the law and becoming the subject of legal disputes. Heads of institutions and department chiefs need to better engage with, and base their decisions on legal guidance provided by, such legal advisors. At the same time, the capacities of legal advisors need to regularly be strengthened, given the range of issues on which they may opine.

Rwanda can increase its commitment to administrative justice and access to justice by ensuring that the foregoing institutions are fully staffed and resourced, and supported by procedures that provide ample protections and recourse for individual citizens – who by definition have fewer resources and information than the government – to challenge adverse decisions or poor administrative practice in different forums, according to their needs, their means, and their relative tolerance for adversarial processes.

ANNEX B: LIST OF ATTENDEES

No	Names	Institution	Position	Telephone	Email
1	R. Burns	USAID	Legal officer	788304781	rburns@usaid.gov.rw
2	Munezero Raissa J.	Ombudsman's Office	Investigator	788619750	neraisjo@gmail.com
3	Robert Gerstein	USAID	DG	788304281	rgerstein@usaid.gov
4	Muvandimwe D	David Media	Tow Kigali	789266111	muvada@gmail.com
5	Karin Mushinzimana	Rwanda law Reform Commission (RLRC)	DM/Law Reform & Research	788501003	karyn.mushinzimana@rlrc.gov.rw
6	Sano Mugenzi Alain	Transparency International-Rwanda (TI-RW)	M&E Officer	788760561	asanomugenzi@tirwanda.org
7	Africa Frederic	National Public Prosecution Authority (NPPA)	Inspector	738350133	africafrederic@yahoo.fr
8	Mpumuro Frederic	Ministry of Public Service and labor (MIFOTRA)	Labour inspector	788666958	mpumurof12@gmail.com
9	M. Bihogo J.d'Arc	Gasabo District	Director of One Stop Center (OSC)	788844364	ibihogo@yahoo.fr
10	Kanobayire Chantal	Rwanda Management Institute (RMI)	Legal officer	788478447	chantal-kanobayire@rmi.rw
11	Dr Eric Ndushabandi	Institute of Research for Peace and Dialogue (IRDP)	Director	788414281	ndushabandi@irdp.rw
12	Nsengiyumva Ernest	Nyarugenge District	Legal Advisor	788657962	ernestkzozo@gmail.com
13	Ingrid G. Uwimana	Rwanda Housing Authority (RHA)	Legal affairs	788540634	uwingrid@gmail.com
14	Dr Didas M.Kayihura	Institute of Legal Practice and Development (ILPD)	Rector	788495778	didas.kayihura@ilpd.ac.rw
15	Nsengiyumva Edison	Rwanda Public Procurement Authority (RPPA)	CBCMO	788621428	ednsenga11193@yahoo.fr
16	Nzabonimpa Fidele	Ministry of Public Service and labor (MIFOTRA)	Labour inspector	788603851	nzobopic@yahoo.fr

17	Anatole Nsabimana	Ministry of Land and Forestry (MINALAF)	Legal Advisor	788626163	nsabimanaanatole@gmail.com
18	Rusezerangabo J.Marie	Ministry of Public Service and labor (MIFOTRA)	Labour inspector	788453618	rusezerangabojm@yahoo.fr
19	Rugeri Nkusi Christian	Ministry of Finance and Economic Planning (MINECOFIN)	Treasury counsel	788303104	christian.rugeri@minecofin.gov.rw
20	Ingabire Nadia	Rwanda Land Management and Use Authority (RLMUA)	Legal Advisor	788305715	nadia.ingabire@rlma.rw
21	Gashayija Aloys	Public Service Commission (PSC)	Litigation and legal officer	788513360	alloys.gashayija@psc.gov.rw
22	Kanyangira Ignace	Ministry of Local Government (MINALOC)	Sectoral Specialist	788872616	ignace.kanyangira@minaloc.gov.rw
23	Rwisumbura Martin	Bugesera District	Legal Advisor	788754452	martinrwisumbura@yahoo.com
24	Gatete Rene	Collectif des Ligues pour La Defense Des Droits De L'homme au Rwanda (CLADHO)	Agent formation	788697354	rgatete@yahoo.fr
25	Chris Nshimiyimana	Institute of Real Property Valuers (IRPV)	Executive Secretary	788501515	irpv.rw@gmail.com
26	Dominique Bicamumpaka	Congrès du Travail et de la Fraternité (COTRAF)	Advisor	788635536	dominiquebic@yahoo.fr
27	Kiiza Amas	Ministry of Infrastructure (MININFRA)	Legal Advisor	788522790	kirza.amosi@gmail.com
28	Norbert Nyuzahayo	UMUSEKE	Reporter	788676532	norberton12@gmail.com
29	Seth Karamage	UMass	PM	788309914	Skaramage@gmail.com
30	Nkundabakura K.Java	Ministry of Public Service and labor (MIFOTRA)	Chief labour inspector	788454256	nkundajavanal@yahoo.fr
31	Habanabashaka Theogene	Ministry of Public Service and labor (MIFOTRA)	Public service inspection & Advisory service	785657924	ahabana20@gmail.com

32	Fred Nkundabatware	Rwanda Transport and Development Authority (RTDA)	Legal Advisor	788648530	fred.nkundabatware@rtda.rw
33	Aime Tsinda	Institute of Policy Analysis and Research (IPAR)	SRF	788305960	a.tsinda@ipar.gov.rw
34	Rugamba Egide	Rwanda Association of Local Government Authorities (RALGA)	Secretary General	788306757	erugamba@rarga.rw
35	Nabahire A.	Ministry of Justice (MINIJUST)	Coordinator of the Justice Sector Secretariat	788355556	anastase.nabahire@minijust.gov.rw
36	Murasi Innocente	Local Governance Institute (LGI)	Director	788309488	imurasi@lgi.rw

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX III (VOLUME I)



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT

LEGAL AND POLICY FRAMEWORK/CONTEXTUAL
ANALYSIS REPORT
APRIL 2018

USAID/RWANDA

STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT

LEGAL AND POLICY
FRAMEWORK/ CONTEXTUAL
ANALYSIS REPORT

Task Order No. AID-696-A-17-00008

IMPLEMENTING PARTNERS: UNIVERSITY OF MASSACHUSETTS BOSTON
LEGAL AID FORUM, INSTITUTE FOR POLICY ANALYSIS AND RESEARCH-
RWANDA

APRIL 2018

This publication was produced for review by the United States Agency for International Development. It was prepared by the Center for Peace, Democracy, and Development at the University of Massachusetts Boston and the Legal Aid Forum.

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

TABLE OF CONTENTS

<u>I. EXECUTIVE SUMMARY</u>	6
<u>II. GENERAL INTRODUCTION</u>	13
<u>III. METHODOLOGY</u>	15
<u>III.1. Qualitative data collection</u>	15
<u>III.1.1. Literature review</u>	15
<u>III.1.2. Round-Table Discussions</u>	15
<u>III.1.3. Key Informant Interviews (KIIs)</u>	16
<u>III.1.4. Case studies</u>	16
<u>III.2. Quantitative Data Collection</u>	16
<u>IV. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK GOVERNING LAND EXPROPRIATION</u>	17
<u>IV.1. Introduction</u>	17
<u>IV.2. Legal, Procedural, and Institutional Framework Governing Administrative Decision-making</u>	18
<u>IV.2.1. Submission, review and approval of the application for expropriation</u>	20
<u>IV.2.2. Land and Property Valuation</u>	21
<u>IV.2.3. Compensation</u>	22
<u>IV.3. Legal, Procedural, and Institutional Framework Governing Appeals and Complaints Mechanisms</u>	23
<u>IV.3.1. Opportunities for Review/Remediation by Administrative Mechanisms or Administrative Appeals</u>	23
<u>IV.3.2. Court Appeals Involving Expropriation Cases</u>	25
<u>IV.4. Strengths of and Challenges to Implementation of the Expropriation Law</u>	27
<u>IV.4.1. Strengths of the Current Legal Framework for Land Expropriation</u>	27
<u>IV.4.2. Challenges to Administrative Justice in the Legal and Policy Framework Governing Expropriation</u>	30
<u>IV.5. Recommendations</u>	39
<u>V. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK GOVERNING PRIVATE LABOUR REGULATION</u>	42
<u>V.1. Introduction</u>	42
<u>V.2. Regulation of Private Labour</u>	40
<u>V.2.1. Terms of an employment contract</u>	40

<u>V.2.2. Absence of a Uniform Minimum Guaranteed Wage in Rwanda</u>	44
<u>V.2.3. Termination terms</u>	44
<u>V.3. Challenges in implementation of rights in the private labour sphere</u>	48
<u>V.3.1. Formation of unions</u>	48
<u>V.3.2. Workers’ rights within the informal sector</u>	48
<u>V.4. Legal, Procedural, and Institutional Framework Governing Appeals and Remedial Channels in the Private Labour Sphere</u>	49
<u>V.4.1. Remedial mechanisms/channels</u>	49
<u>V.4.1.1. Appeals and remedial channels for individual labour disputes</u>	49
<u>V.4.1.2. Appeals and remedial channels for collective labour disputes</u>	51
<u>V.4.3. Judicial recourse in labour matters</u>	52
<u>V.5. Challenges to dispute resolution in private labour matters</u>	53
<u>V.6. Recommendations</u>	57
<u>VI. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK GOVERNING PUBLIC EMPLOYMENT</u>	60
<u>VI.1. Introduction</u>	60
<u>VI.2. Legal, Procedural, and Institutional Framework Governing Administrative Decision-making</u>	61
<u>VI.2.1. Recruitment of public servants</u>	61
<u>VI.2.1.1. Procedures for public servants governed by the general statute</u>	61
<u>VI.2.1.2. Public servant governed by special statutes</u>	62
<u>VI.2.2. Management and appraisal of public servants</u>	62
<u>VI.2.3. Discipline of public servants</u>	63
<u>VI.2.3.1. Public servants governed by the general statute</u>	60
<u>VI.2.3.2. Public servant governed by special statutes</u>	60
<u>VI.3. Challenges in implementation of administrative decision making in Public Labour</u>	61
<u>VI.4. Legal, Procedural, and Institutional Framework Governing Appeals and Complaints Mechanisms</u>	71
<u>VI.4.1. Administrative appeals and remedial channels</u>	71
<u>VI.4.2. Judicial recourse</u>	73
<u>VI.5. Challenges in implementation of appeal mechanisms</u>	74
<u>VI.6. Recommendations</u>	77

<u>VII. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK GOVERNING PUBLIC PROCUREMENT.....</u>	80
<u>VII.1. INTRODUCTION.....</u>	80
<u>VII.2. LEGAL, PROCEDURAL, AND INSTITUTIONAL FRAMEWORK FOR ADMINISTRATIVE DECISION-MAKING IN PUBLIC PROCUREMENT.....</u>	81
<u>VII.2.1. Relevant legal provisions in public procurement.....</u>	81
<u>VII.2.2. Institutional framework for public procurement.....</u>	82
<u>VII.2.2. Fundamental principles and processes guiding administrative decision-making in procurement.....</u>	81
<u>VII.2.3. LEGAL, PROCEDURAL, AND INSTITUTIONAL FRAMEWORK IN APPEALS AND COMPLAINTS MECHANISMS.....</u>	89
<u>VII.2.3.3. Other statutory review mechanisms.....</u>	91
<u>VII.2.3.3. Court appeals.....</u>	93
<u>VII.3. CHALLENGES IN PUBLIC PROCUREMENT PROCESS IN RWANDA.....</u>	94
<u>VII.3.1.2. Unfairness in access to review mechanism.....</u>	91
<u>VII.3.2.3. Deficiencies in contract management skills.....</u>	92
<u>VII.4. RECOMMENDATIONS.....</u>	93
<u>VIII. CROSS-CUTTING INSTITUTIONS THAT SUPPORT ADMINISTRATIVE JUSTICE IN RWANDA AS A WHOLE.....</u>	99
<u>VIII.1. Office of the Ombudsman.....</u>	99
<u>VIII.2. Committee in charge of out of court settlement.....</u>	102
<u>VIII.3. Maison d’Accès à la Justice.....</u>	103
<u>VIII.4. Courts.....</u>	105
<u>VIII.5. Recommendations.....</u>	100
ANNEXES.....	101

I. EXECUTIVE SUMMARY

BACKGROUND

Administrative justice involves the control of discretionary powers of executive officials in taking administrative decisions that affect the rights of citizens. It also allows individuals who believe they have been adversely affected by those decisions to seek effective forms of review. Administrative justice is accordingly deeply concerned with matters of procedure—not only the transparency, accountability and fairness that should attend the rendering of decisions by government officials, but also the complaint mechanisms – both internal to the bureaucracy and external (by way of the courts or Ombudsman’s Office) – by which those decisions can be reviewed. While this procedural focus of administrative justice is manifested through discrete sectoral laws and rules, it has common, cross-cutting features and can be viewed as a comprehensive system at multiple levels of bureaucratic and judicial decision making. Nevertheless, administrative justice is principally concerned with improving the quality of front-line (first instance) administrative decision-making, so that decisions are rendered correctly the first time, thereby reducing the need for citizens to pursue appeals. This saves time and money for citizens and the government alike.

The Strengthening Rwandan Administrative Justice (SRAJ) Project, supported by the U.S. Agency for International Development (USAID) and implemented by the University of Massachusetts Boston (UMass), Human Rights First Rwanda Association (HRFRA), and the Institute for Policy Analysis and Research-Rwanda, (IPAR), is intended to help assess and strengthen the general state of administrative justice in Rwanda. It seeks to do so principally by examining the quality of administrative decision-making at the district level in four areas – land expropriation, labor regulation, public procurement, and public employment—and then using that evidence to inform improved capacity-building, public outreach, and legal reform. The district level is the focus because that is where the vast majority of cases are decided and where a relatively small number of officials in a single institution (each district government) have key decision making responsibilities for diverse areas of administration and regulation. Since an in-depth study of all administrative subject areas was not feasible, the four particular subject areas were selected to provide significant insight into administrative justice in Rwanda; these areas implicate a relatively large volume of administrative decisions and/or appeals, and involve significant policy issues about which the public has a generally high degree of awareness.

The Legal and Policy Framework and Contextual Analysis Report, from which these findings and recommendations are drawn, represents the first phase of the Project—an effort to describe the current legal, policy, and institutional foundation for administrative justice in the country, while also drawing attention to possible gaps, ambiguities, and contradictions in the normative framework that could warrant targeted reform initiatives over time. The Report was developed by UMass and The Legal Aid Forum over the course of six months, and was later updated based

on new legislation and supplemental interviews carried out shortly after the draft report validation exercise. The report seeks to provide context for the work Phase II—which entails in-depth gathering of information about administrative decision-making *in practice* at the district level in the four focus areas. That, in turn, will provide evidence for targeted improvements in Phase III: the aforementioned capacity-building and public education efforts, as well as discussion of possible legal reforms.

The research methodology adopted for the Report combined a literature review and in-depth legal analysis with (a) round-table discussions with representatives of stakeholder institutions (including those from government, civil society organizations, legal practice, and academia), (b) targeted key informant interviews with representatives of relevant ministries and independent agencies, (c) illustrative case scenarios drawn from actual administrative decisions on appeal, and (d) certain quantitative data obtained from the courts, the Ministry of Public Service and Labor, the Public Service Commission, district offices, and the Office of the Ombudsman. While the research revealed some noteworthy gaps in the legal framework in each of the four substantive areas, which will be described below, it also revealed certain practical implementation barriers to achieving justice, including institutional or managerial deficiencies and a lack of legal awareness of rights and responsibilities on the part of both citizens and government officials.

KEY FINDINGS AND RECOMMENDATIONS

(a) Land Expropriation

Establishment of Committees in Charge of Supervision of Expropriation. The failure of the government to establish Committees in Charge of Supervision of the Process of Expropriation via a Prime Minister’s Order has created a critical institutional gap. The Committees were supposed to act as the main interface between the population being expropriated and the expropriating entity, handling issues of notification, consultation, and and decisions on the relevance of the project for expropriation in the public interest before its approval by a competent body These committees would ensure accountability of the Executive Committee. Without the establishment of the Supervising Committees, Executive Committees will continue to both initiate the expropriation projects and review their relevance and legality, which can create significant conflicts of interest. Moreover, given the short deadlines governing many aspects of the current expropriation process, the absence of the Supervising Committees effectively negates the rights of citizens to be clearly informed and consulted about an expropriation decision (including whether it is indeed in the public interest), and to challenge that decision or associated compensation in the first instance. As the responsible line institution, the Ministry of Environment should work together with the Office of the Prime Minister to draft, promulgate and publish this Order.

Overall Policy Coordination. Apart from establishment of the Supervising Committees, a clear national policy coordination mechanism should be put in place to ensure the law is properly implemented, particularly as to communication with landowners and the general public, publication of technical reports required by law, timely payment of fair compensation to affected individuals, and speedy handling of complaints (obviating the need for complex and costly appeals). The Ministry of Environment could take the lead on this by establishing a

department or a secretariat in charge of expropriation, which would coordinate all ministries and agencies involved in a specific expropriation project.

Sharper Definition of the ‘Public Interest’ Definition. Legal reform is necessary to restrict the current non-exhaustive definition of the “public interest” rationale for expropriation. If a “catch all” category is retained for unusual circumstances, the law must be amended to provide specific guidance regarding both the grounds upon which expropriation for otherwise non-specified reasons can be initiated, and how such action can be challenged.

Better notification. Citizens are not provided with individual notice of expropriation and compensation determinations, and the legal requirement of general notice by radio and newspaper is often not complied with, limiting citizens’ ability to protect their rights.

Keeping on updating of Land Values and property incorporated thereon. Contrary to legal requirements, updated land values were not published annually by the Institute of Real Property Valuers (IRPV), and this led to inaccurate (and frequently under-valued) land valuations being used by the government as a basis for awarding compensation. The publication of the prices in 2018 is a good step, but the government, through the Ministry in charge of land, should keep on working with the IRPV on resource and capacity needs to keep on updating and publishing such information every year.

Citizen Hardships in Challenging Valuations. The process of challenging valuations is onerous and costly, with citizens having to fund their own counter-valuations and lodge challenges to official valuations in a matter of a few days. Faced with this financial and time burden, most citizens are severely disadvantaged in challenging valuations that frequently favor the expropriating institutions (which are often major clients of the independent valuers). The government should reexamine the counter-valuation process and consider ways to at least partially subsidize the cost of counter-valuations for poor citizens based on their income. The government should also increase the period for counter-valuation; 10 days is too short for the average citizen to obtain a counter-valuation.

Compensation Impediments. In some cases, the compensation process has proven difficult to implement in practice. While the law requires compensation to be paid within 120 days of the expropriation, individuals reported long delays in receiving compensation, difficulty receiving compensation for partial expropriations, and also the near impossibility of determining which institution to follow up with about delayed payment (since many different institutions are involved in the compensation process). Appropriate legal/regulatory reforms as well as proper coordination is necessary to address the procedural and bureaucratic issues that cause long delays in the payment of compensation.

Public Awareness Strengthening. It was also noted that most citizens are not aware of their rights, including the right to engage in direct negotiation with a developer in the case of projects related to implementation of the master plan (developers often seek to initiate an expropriation without negotiating in good faith with affected land owners). State authorities, as well as CSOs and the media, should greatly expand public education efforts.

Private Labour Regulation

Protection of Workers' Delegates. Workers' delegates are a vital part of the labour law compliance framework, yet the 2018 Labour law and Ministerial Order on workers' delegates do not provide adequate protections to workers' delegates from reprisals by management or other employees. At a minimum, the aspirations and guidelines of the ILO Convention 135 and recommendation 143 on the protection of workers' delegates should be fully incorporated into Rwandan labor laws and regulations. Meanwhile, full implementation of the Ministerial Order on the Election of Workers' Delegates is overdue, because at present, many employers fail to hold such elections.

Reducing Delays in Dispute Handling. Delays are endemic in labour dispute resolution by workers' delegates and labour inspectors. Unfortunately, the law does not provide for time limits and guidance for dispute settlement by such delegates. Given that these delegates serve as the first recourse for employees in most kinds of employment disputes, these legal omissions should be remedied. The Labour Law should therefore be amended to clearly specify the procedure and general timeline within which individual labour disputes should be settled by workers' delegates and labour inspectors, save in cases where delays may be extended by written justification based on particular circumstances (e.g., complexity of a case, large volume of cases in a district, etc.).

Strengthening Labour Inspectors' Enforcement Powers. Despite the role they play in protecting the rights of workers, and the legal responsibilities accorded to them, labour inspectors lack adequate enforcement powers. The Ministry of Public Service and Labour (MIFOTRA) should adopt the ministerial order determining the sanctions in case of non-compliance of labor inspectors' decisions, as provided by the 2018 Labour Law. This order should also extend the power of the labor inspector to impose sanctions in cases the employers delay or otherwise fail to comply with a labour settlement agreement.

Strengthening Labour Inspectors' Capacity. Labour inspectors are also under-staffed and under-resourced and lack adequate capacity and specialization, thereby limiting their effectiveness as enforcers of the law. ILO Convention 81 (providing for different types of labour inspectors) is not fully implemented, as there is only one labor inspector in most districts, which affects the quality and detail of their work. The option of increasing the number of labour inspectors on a phased basis in proportion to their workload merits serious attention. Improved compensation and training for Labour inspectors is also needed to address capacity issues.

Strengthening Trade Union Representatives. The Labour law should be amended to provide adequate protections for trade union representatives within a company. The absence of these protections deters workers from becoming members of trade unions, despite their legal right to so choose.

Damages in Labour Cases Often Too Low. Damages available to workers in cases of wrongful dismissals are very low, which fails to act as a deterrent to employers in future cases. The labor law should be amended to increase damages where relevant. At the same time, many employers abuse fixed term contracts, often giving contract staff one-year (or shorter) renewable contracts so as to avoid separation pay when such staff are no longer needed. The law should be amended to provide a reasonable level of compensation for such employees. At the same time, fixed term contracts (including renewable ones) should be limited to two or

three years maximum to prevent abuse, after which such contracts should be deemed to be for an indefinite period.

Minimum Wage. The Ministerial Order on the Minimum Guaranteed Wage should be adopted as soon as possible, because its absence causes difficulties in calculating wages and benefits due workers in a wide variety of contexts.

Strengthening Legal Rights Awareness. The government should support expanded legal information outreach to workers to inform them of their rights and available dispute resolution mechanisms. This could result in fewer workplace conflicts and less recourse to the courts, saving time and money.

Public Employment

Performance Contract Irregularities. The signing and evaluation of performance contracts through the Integrated Payroll and Personnel Information System (IPPIIS) are not done in compliance with the Prime Minister's Order Regulating Performance Appraisals of Public Servants. While the IPPS only requires one level of review for employee performance, it should be amended to meet the required two levels of review, ensuring better transparency and accuracy in the review process.

Contract Classification Confusion. At the district level and below, there is sometimes confusion in the management of contract staff, public servants, and political staff. This confusion can deprive some staff of rights and benefits to which they are entitled. Improving awareness of differences in classifications at the lower administrative levels is necessary to ensure fidelity to the law.

Clarification of MIFOTRA and PSC Roles. MIFOTRA is currently consulted in disciplinary cases involving misconducts of the second category, while the Public Service Commission (PSC) is consulted in cases where dismissal is anticipated. The Presidential order on modalities of imposing disciplinary sanctions should be revised and responsibility for consultations on serious disciplinary action should be lodged solely with the PSC. MIFOTRA representatives believe that the ministry's role should be limited to formulating policies, promulgating legal standards, and monitoring legal implementation.

'Blacklist' Procedure. Under the Presidential Order governing application of sanctions to public employees, a dismissed public servant is to be registered on a MIFOTRA blacklist and prohibited from recruitment into another public position. In practice, the blacklist is applied immediately upon dismissal. The Order, however, does not clearly provide the procedure for an employee whose dismissal is later overturned to be removed from the blacklist. The Presidential Order should be amended to clarify such procedure.

Strengthening the capacity and protection of Disciplinary Committee members. The law does not provide sufficient protection to members of disciplinary committees of institutions from employer reprisals. MIFOTRA and the PSC need to develop clearer guidance under the applicable Presidential Order on this subject, while also strengthening the capacities of members so that they can better conduct proper investigations, document findings, and ground their recommendations in applicable law.

Wrongful Dismissal Damages. No official legal provision or guidance exists concerning the calculation of damages for wrongful dismissal of a public employee, leaving the matter entirely to judicial discretion. MIFOTRA should adopt guidance/instructions on this issue.

Strengthening PSC Capacity. The role of the PSC must be strengthened, given its substantial consultative/review mandate in public employment matters—and the extent to which its recommendations are often ignored by public institutions. Either additional compliance support should be obtained from the Prime Minister’s Office, or amendments to the law should be considered to provide the PSC with expanded enforcement powers.

E-Recruitment System Improvement. The general statutes governing public service are as yet not properly aligned with the realities of the new e-recruitment system. While e-recruitment has resulted in increased accessibility and efficiency, time periods are too short for job postings to remain open, for shortlisting of candidates to occur, and for individuals to apply for positions. Applicants who do not have consistent access to a computer or the Internet may be prejudiced. Accordingly, the law should be amended to provide more realistic timelines, and the e-recruitment system updated to mesh with such legal changes.

Public Procurement

Clearer Legal Definitions Needed. Some common fraudulent practices in procurement, such as bid rigging, bid suppression, bid rotation, cover bidding, and market allocation, are not clearly defined in procurement law. This can have a negative impact on the effective application of the law, as there is insufficient guidance as to what constitutes improper collusion.

Strengthening Independent Review Panel Staffing. This panel, which is the key mechanism for administrative review in procurement, typically have just one permanent staff person. Given strict appeals and review deadlines, and the staff role in the pre-screening of complaints, this lack of staffing capacity is a significant challenge to the effective functioning of this review panel.

Right to an Oral Hearing. Where bidders do obtain review of their claims before an IRP, it is within the discretion of the IRP whether to grant an in-person hearing or accept arguments in writing only. To guarantee full and fair access to the rights enshrined in the procurement law, an in-person hearing should be provided as a matter of right, not left to discretion of the Review Panel.

Treatment of Filing Fees. In addition to the non-refundable fees paid by prospective bidders to participate in a tender, the existing requirement to pay fees in order to appeal a procurement decision can deter the filing of otherwise meritorious claims, which appear to be numerous (statistics reveal that approximately half of all appeals at the national IRP are found to be meritorious). The law should be amended so that at the very least, a bidder successful on appeal—or perhaps even having his claim accepted at the pre-screening stage—should have his fee refunded.

Penalties for Contract Management Violations. In order to balance the rights of bidders with the rights of public entities, terms should be added to the standard procurement contract so as to provide penalties against procurement entities that violate the rights of winning bidders in the carrying out of procurement contracts or in the delay of payment.

Issues Relating to Cross-Cutting Institutions

Procedural Code Reform. The *Rwandan Courts* are competent to handle appeals from administrative decisions through the country's system of Intermediate Courts. Certain features of the Civil, Commercial, Labour and Administrative Procedure Code should be amended to allow the concept of public interest litigation on behalf of multiple claimants, and burdens of proof and persuasion should be shifted to the state where the latter has superior advantages in resources and information.

Strengthening Ombudsman Capacity. The *Office of the Ombudsman* seeks to address and resolve complaints about bureaucratic decision-making, lack of responsiveness and courtesy to the public, and systemic malfeasance, including issues of corruption. However, the Ombudsman has limited staffing compared to the number of complaints from citizens. Moreover, investigators and prosecutors working for the Ombudsman reportedly still have limited technical capacity given the complexity and sensitivity of their work.

Expansion of MAJ Services. *Access to Justice Bureaus (Maisons d'Access à la Justice, or MAJ)* are offices at the District level under the supervision of the Ministry of Justice, and provide free legal support to indigent citizens. In principle, the MAJ do not formally handle administrative cases (in order to avoid potential conflicts of interest as public servants), but they can in fact provide general advice and help steer individuals in need to the right institutional units or appeals mechanisms in administrative cases. Given limited resources and the fact that workloads and needs vary greatly by district, expansion of the MAJ services in districts could be done on a phased basis, taking into account the district population, and availability (or not) of other district-based legal aid providers.

Strengthening the Role of Legal Advisors. Legal advisors are often not properly consulted in administrative decision-making in public institutions, particularly at the district level. This can have negative legal and monetary repercussions. Heads of institutions need to be properly educated about the role and importance of legal advisors in all institutional decision-making processes. At the same time, the capacities of legal advisors need to be strengthened, given the wide range of issues on which they have to opine.

Mediation. Mediation should be mainstreamed in the courts and public administration to better and more efficiently resolve a larger proportion of administrative disputes. Significant resources should be devoted to increasing the capacity of judges and government officials, respectively, to mediate disputes effectively.

II. GENERAL INTRODUCTION

Administrative justice seeks to protect citizens from arbitrary government decision making affecting the rights of individuals, businesses, and non-profit organizations. Wherever government officials are involved in making decisions—which generally involve the exercise of some degree of bureaucratic discretion—an effective system of administrative justice should provide sufficient procedural transparency, opportunity to present evidence, and remedies for the affected individuals to challenge government action. Remedial safeguards should permit citizens to resolve administrative disputes first within the institution that made the decision or an administrative review mechanism—as a matter of efficiency and expertise—and then within the judicial system should such efforts prove ineffective. The focus of administrative justice is principally on improving the quality of front-line administrative decision-making, so that decisions are rendered correctly the first time, thereby reducing the need for citizens to pursue appeals to the courts (if they are even able or willing to do so) or to lodge complaints with executive authorities or an ombudsman. This saves time and money for citizens and the government alike.

Given the influence of administrative decisions on the lives of ordinary people and businesses, improving the quality of administrative justice can have a profound impact on the perception and reality of citizens' experience of the legal system. That, in turn, can significantly influence the government's commitment to the rule of law and effective public administration. For a country like Rwanda that aspires to improve state capacity and create a more predictable regulatory environment, consistent with Vision 2020 and EDPRS II, administrative justice can help ensure that officials who exercise public functions render decisions that are legally supportable, reasoned and based on facts, and intelligible to the public. This, in turn, can enhance public trust and investor confidence.

The Strengthening Rwandan Administrative Justice (SRAJ) Project is intended to help assess the general state of administrative justice in Rwanda, principally by focusing on the quality and consistency of administrative decision-making at the district level¹¹ in four areas – land expropriation, labor regulation, public procurement, and public employment. These areas were selected insofar as they implicate a significant volume of administrative decisions and/or appeals¹², and involve issues about which the public has a high degree of interest. This Legal

¹¹ The focus is on district-level decision-making, as this is where the vast majority of administrative decisions are rendered under Rwanda's decentralized governance system.

¹² While the precise number of administrative decisions involving the four regulatory areas cannot be ascertained at this time based on the unavailability of relevant statistics, it is worth noting that the volume of court appeals and Ombudsman complaints is significant. In the last three years (July 2014 – June 2017), Rwandan courts received 3,258 cases in administrative, labor and procurement matters (See annual activity reports of the Judiciary, accessed at http://judiciary.gov.rw/media_house/reports/judicial_reports.html). Meanwhile, the Public Service Commission (PSC) received 1,368 complaints or appeals in the public employment area (both cases related to recruitment and placement of staff and to management of staff) in the past three fiscal years (July 2014 to June 2017) (see annual activity reports of the Public Service Commission, accessed at <http://psc.gov.rw/index.php?id=175>). The National Independent Review Panel (NIRP) also received 161 complaints or appeals in the public employment area in the last three fiscal years (July 2014 – June 2017) (see Annual activity reports of the NIRP accessed at <http://www.rppa.gov.rw/index.php?id=561>). The Office of the Ombudsman received, in the last three fiscal years (July 2014 – June 2017) 369 cases of expropriation involving

and Policy Framework and Contextual Analysis Report represents the first phase of the Project—an effort to describe the current legal and policy foundation for administrative justice in the country while also drawing attention to possible gaps, ambiguities, and contradictions in the normative framework that could warrant targeted reform initiatives over time. The Report is also designed to highlight problems with policy, and with implementation of existing legal and policy commands. Finally, the Report is designed to provide context for the work of the second phase of the Project—an in-depth gathering of information about administrative decision-making in practice at the District level in the four focus areas. By empirically identifying where and how the relevant legal and regulatory provisions are shaping decision-making outcomes in practice—or in some cases are not being understood or complied with—such data can help inform possible future organizational, training, and public education efforts.

As will be discussed below, administrative justice in Rwanda primarily rests on procedural and substantive standards established by sectoral laws, decrees, and regulations in each relevant administrative decision-making arena. . There may also be informal sectoral and District-level complaints mechanisms that offer alternatives to, or possible redress from, administrative decisions. At the same time, there are also cross-cutting laws, decrees, and other formal norms that bear on administrative justice, including the Law on Civil, Commercial, Labor, and Administrative Procedure (governing the handling of appeals from administrative decisions by the courts), and the Law on the Ombudsman and associated regulations. This Report is designed to analyze this legal framework in depth, seeking to explain the most common types of administrative decisions rendered in Rwanda in the four subject areas as well as the procedures used to render them, and identify any significant gaps, contradictions, and ambiguities that prevent these procedures from operating as effectively as intended. The Report also touches on a number of other challenges in implementation that interfere with proper implementation of the law, such as issues of institutional capacity, resources, coordination, and transparency, as well as public education and awareness. While this Report will provide tailored recommendations for possible legal and policy initiatives for each of the four areas, its most important contribution may be raising public and expert consciousness about the importance of certain *common* issues affecting administrative justice, particularly the opportunity of citizens to obtain adequate information about their rights in the administrative process, to provide evidence on their own behalf, to obtain a legally supportable decision, and to pursue one or more effective avenues of appeal.

This Report will be organized as follows. First, the methodology to gather and analyze relevant information is briefly described. Second, the Report addresses the legal and procedural framework governing each of the four focus areas of administrative decision-making, including the relevant institutional arrangements within the government that handle first-instance decisions, administrative appeals (reconsideration and hierarchical appeal), judicial review, and informal complaints. The strengths and weaknesses of the current framework in each area follow, along with recommendations for possible improvements. Finally, the Report briefly covers the key cross-cutting institutions that play critical roles in helping support administrative justice in Rwanda as a whole.

8,408 individuals/households (see Report from the Office of the Ombudsman obtained by the Legal Aid Forum, Nov. 20, 2017).

III. METHODOLOGY

Both qualitative and quantitative methods were used to collect data for this report. The research methodology combined a literature review and in-depth legal analysis, round-table discussions, targeted key informant interviews, illustrative case scenarios drawn from actual administrative decisions on appeal, and certain quantitative data collection from the courts, District offices, and the Office of the Ombudsman.

III.1. Qualitative data collection

The report relied on qualitative methods in two ways. First, the researchers conducted an intensive literature review that included both legal texts and illustrative case law, as well as relevant secondary sources (articles and commentaries). Round-table discussions and key informant interviews on the research topics were also conducted.

III.1.1. Literature review

A literature review was conducted to establish the contours of existing laws, regulations, instructions, and policies that constitute the legal framework for the four areas of study: land expropriation, public procurement, labor regulation, and public employment. Secondary sources consulted included different study reports, journal articles dissertations, and news articles. This review also provided insights into topics of discussion for round-table discussions and key informant interviews.

III.1.2. Round-Table Discussions

Two round-table discussions with representatives from key stakeholder institutions were held to further explore various dimensions and implications of the data collected during the literature review. Institutions invited to round-table discussions were identified based on their area of work and expertise in relation to the research areas. The experts were convened in small groups according to their respective areas of specialization, and the data collected during these meetings was used to enrich the literature review, guide quantitative data collection, and revise recommendations. The first round-table discussion gathered legal experts working in the fields of public service regulation, labour law, procurement law and land issues who were put into specific groups per research area in order to discuss the findings identified in the literature review and develop recommendations. Participants included legal experts working in government, civil society organizations, legal practice, and academia, each of whom provided educated perspectives on the current state of administrative justice in Rwanda and how best to maximize the impact of the analysis.

The second round-table discussion, which was designed as a workshop and forum in which to present the Project's preliminary findings and conclusions, gathered mostly administrative officials but also several independent experts to review draft findings and recommendations of the completed Legal and Policy Framework Analysis. Participants included representatives from government and non-governmental institutions who were convened to discuss the key findings and overall conclusions reached in the report. Key discussion points were shared with participants before the meeting. The round-table discussions served the dual function of

allowing participants to provide insights into the practical implementation of administrative decision-making at the institutional level, as well as validating the most important findings of the Legal and Framework Analysis Report.

III.1.3. Key Informant Interviews (KIIs)

In order to gain a deeper and practical understanding of the issues identified during the desk review and round-table discussions, the research team also conducted key informant interviews with officials from relevant institutions concerned with the research areas. In total, the research team conducted interviews with representatives of 14 institutions: the Ministry of Public Service and Labor (MIFOTRA), the Public Service Commission (PSC), the Rwanda Public Procurement Authority (RPPA), the Office of the Ombudsman, the Commercial Court, the Intermediate Court of Nyarugenge, the Rwanda Land Management and Use Authority (RLMUA), the Institute of Real Property Valuers of Rwanda (IRPV), the Rwanda Transport Development Authority (RTDA), the Rwanda Housing Authority (RHA), the Water and Sanitation Authority (WASAC), Bugesera District, and the Rwanda Workers' Trade Union Confederation (CESTRAR).

III.1.4. Case studies

Qualitative data collection also included analysis of several illustrative cases from each of the four areas of study. This examination of relevant case law helped to describe common scenarios on how the law is shaped by the existing legal and regulatory framework and how such law is interpreted by relevant government agencies and the courts.

III.2. Quantitative Data Collection

To measure the volume and the nature of existing cases related to administrative justice in Rwanda, data was collected on court cases in the research areas. While case analysis on the number of administrative decisions overturned or upheld was not readily kept or made available by the courts, further research could be done to confirm these statistics. Data also collected from the office of the Chief Inspector of the Ministry of Public Service and Labor on the volume of cases received by Labor Inspectors in the 30 Districts of the country with regard to private labor employment issues. The Office of the Ombudsman also shared data on the complaints received, mainly on expropriation. The research team also received data from some expropriating institutions on the complaints related to their expropriation projects and data on the number of individuals still waiting for compensation in the implemented expropriation projects. This statistical information helped in the analysis and in indicating the volume of existing cases in the four areas of the research.

IV. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK GOVERNING LAND EXPROPRIATION

IV.1. Introduction

One of the areas in which administrative justice is highly relevant is land expropriation, in which the government seizes property for use in the public interest and is required to pay some form of compensation. In the past ten years, Rwanda has distinguished itself as one of the fastest growing economies on the African continent and globally.¹³ Land has been and continues to be one of the most needed resources to attract, facilitate, and enable economic growth, particularly in the context of urbanization and infrastructure development. However, given the size of the country¹⁴, the population size¹⁵, and the fact that the majority of Rwandans base their living on land as the fundamental resource,¹⁶ it is difficult to find unoccupied land in the country. In this regard, expropriations have become an important prerequisite for developing infrastructure and state-driven industry in Rwanda.

Article 34 of the Rwandan Constitution¹⁷ guarantees the right to private property, whether individually or collectively owned. However, Paragraph 3 of the same article states that “the right to property shall not be encroached upon except in the public interest and in accordance with the provisions of the law.” As an implementing instrument of the Constitutional provisions, Law N°32/2015 of 11/06/2015 relating to Expropriation in the Public Interest (hereinafter referred to as “Law on Expropriation”) provides for the institutional and legal framework for the implementation of expropriation in Rwanda. It also provides for the rights of people subject to expropriation. It puts in place the institutional mechanisms for the approval, implementation, and supervision of expropriation projects, as well as the redress mechanisms for those whose rights might be violated in the process. Several other laws and legal instruments bear indirectly on the legality and

Article 34 of the Constitution of Rwanda states that:
Everyone has the right to private property, whether individually or collectively owned.

Private property, whether owned individually or collectively, is inviolable.

The right to property shall not be encroached upon except in public interest and in accordance with the provisions of the law.

¹³ The World Bank, “Rwanda Economic Update: Sustaining Growth by Building on Emerging Export Opportunities”, (10 Ed., August 2017) p.2, last accessible on February 27, 2018 at <http://documents.worldbank.org/curated/en/573241503374274792/pdf/119036-WP-PUBLIC-21-8-2017-16-10-48-RwandaEconomicUpdate.pdf>

¹⁴ The total surface area of Rwanda is 26,338 km².

¹⁵ According to NISR projections for 2017, the size of the resident population in Rwanda is 11,809,295.

¹⁶ Almost 80% of Rwandans are dependent on agriculture for their livelihoods (RDB).

¹⁷ Constitution of the Republic of Rwanda, 2003, as amended in 2015.

implementation of land expropriation in Rwanda. These include statutes on land,¹⁸ local governance,¹⁹ and roads,²⁰ as well as a number of international instruments.²¹ Moreover, there are also key national policies that address expropriation.²² The Law on Expropriation and related instruments will be discussed in detail below.

IV.2. Legal, Procedural, and Institutional Framework Governing Administrative Decision-making

IV.2.1. Submission, review and approval of the application for expropriation

The expropriation law allows public institutions and private investors²³ to apply for or initiate an expropriation project. However, Article 3 states that “only the Government shall order expropriation in the public interest”.²⁴ According to the provisions of Article 7 of the expropriation law, the application for expropriation is submitted to:

- The Executive Committee at the District level, when development and expropriation activities or projects concern one District;
- The Executive Committee at the level of the City of Kigali, when development and expropriation activities concern more than one District within the boundaries of the City of Kigali;
- The relevant Ministry in cases where development and expropriation activities concern more than one District, or are at the national level.

The relevant committee determines the legality, necessity and appropriateness of the proposal for expropriation, and has the legal authority to make decisions about expropriation according to the law, and to address any disputes that may arise in the process of initiating and defining

¹⁸ Article 34 of law n° 43/2013 of 16/06/2013 governing land in Rwanda states that “[t]he State recognizes the right to freely own land and shall protect the land owner from being dispossessed of the land whether totally or partially, except in case of expropriation due to public interest.”

¹⁹ Article 109 of law n°87/2013 of 11/09/2013 determining the organization and functioning of decentralized administrative entities states that “[t]he decentralized administrative entity with legal personality may carry out expropriation for public interest. In this case, the entity shall use its funds to pay compensation before expropriation in accordance with Law.”

²⁰ Article 33 of law n°55/2011 of 14/12/2011 governing roads in Rwanda provides that “[i]f the construction, modification, or widening of a national, District or City of Kigali road and that of other urban areas, require the expropriation of a built-up or bare land, it shall be carried out in accordance with the Law relating to the expropriation in the public interest.”

²¹ Article 17 of the Universal Declaration of Human Rights provides generally that “*everyone has the right to own property alone as well as in association with others*” and that “*no one shall be arbitrarily deprived of his property*”. See also article 14 of the African Charter of Human and Peoples’ Rights.

²² For example, the National Human Settlement Policy states that “[e]viction and expropriation operations should be in line with the fundamental rights of tenants, especially the right to a rehousing of almost similar conditions with the previous dwelling in terms of size and to financial conditions compatible with revenues of the households concerned (Updated Version of the National Human Settlement Policy in Rwanda, 2009, p.15).” See also the National Land Policy, 2004, p.41 and National Urban Housing Policy for Rwanda, 2008, p.12.”).

²³ Though for private investors the law is not very explicit, the provisions of article 6 of the expropriation law allows for an expropriation aimed at the implementation of land use and development master plans which mainly relates to projects of private investors.

²⁴ See also Land Law, Article 3 (“...the State is the sole authority to accord rights of occupation and use of land. It also has the right to order expropriation in the public interest.”).

the project of expropriation in the public interest. These committees are also allowed to initiate expropriations, most commonly on behalf of the relevant District.

Article 5 of the law on expropriation also created similar committees in charge of supervision of projects of expropriation at the various levels.²⁵ However, since August 2015, an Order of the Prime Minister, which is supposed to determine the organization, functioning, responsibilities and composition of these committees at different levels²⁶ is yet to be published.²⁷ Generally, the responsibility of these committees is to review and to assess the relevance of the applications or proposals for expropriation proposed by the competent authorities, including determining whether the project is in the public interest.²⁸ It is important to note that the law does not give an exhaustive list of activities of public interest. It is thus within the power of this committee to determine the public interest nature of the proposed activity. In reaching its decision, the committee is required to conduct a consultative meeting with the population living where the land is located to discuss the relevance of the expropriation project.²⁹ This procedural requirement sets forth a participatory approach for expropriation in the public interest, and creates an administrative mechanism through which individual citizens may provide feedback about a specific expropriation project, to ensure the project is truly in the public interest in accordance with the requirements of the law.

Article 11 of the expropriation law requires that this committee make its decision on the application for expropriation within 30 days of receiving it and after holding consultations with the concerned population on the relevancy of the project.³⁰ Where the committee finds that the project is worthy of preliminary approval, it submits its decision in writing to the District Council or Kigali City Council or the Ministry in charge of land within 15 days after the consultative meeting with the concerned population; if it determines not to approve the application, it must notify the applicant and the persons that had to be expropriated.³¹

The executive committee of the District considers the relevance of the project within a period not exceeding thirty (30) days after receiving the request for expropriation and is required to conduct a consultative meeting with the population living where the land is located concerning the relevance of the project of expropriation in the public interest (Art. 11 expropriation law)

The District Council approves expropriation in the public interest within fifteen (15) days of receiving the decision of the relevant Committee (art. 14 of expropriation law).

In addition to validating the merit and legality of the project, the law also creates another administrative step to approve the expropriation of

²⁵ Article 11 of the expropriation law. In some articles of the law they are called Committee in charge of *Monitoring* projects for expropriation.

²⁶ Article 8 of the expropriation law.

²⁷ The expropriation law which requires the adoption of this Prime Minister's Order has been in place since 31st August 2015.

²⁸ Article 10 of the expropriation law.

²⁹ Article 11 of the expropriation law.

³⁰ Article 11 of the expropriation law. Public participation is not only important in expropriation projects, but a key driver and ingredient of good governance in general as also elaborated in Rwanda's Vision 2020.

³¹ Article 14 of the expropriation law.

persons in regards to compensation and other relocation or dispossession issues that may arise. This approval is done by the following organs³²

- The District Council, which acts on District-level projects;
 - The Kigali City Council, which acts on projects affecting more than one District within the boundaries of the City of Kigali;
 - Upon an order of the Minister in charge of land whenever more than one District is involved;
 - Upon an order of the Prime Minister for projects at the national level and in case the project relates to security and national sovereignty.³³
 - The decision of the approving authority must be made within 15 days of receiving the decision of the relevant Committee in charge of supervision of projects of expropriation, and must be announced on at least one of the radio stations with a wide audience in Rwanda and in at least one of Rwanda-based newspapers with a wide readership in order for the relevant parties to be informed thereof. If necessary, any other means of communication can as well be used. Further, the list of holders of rights registered on land titles and property incorporated on land shall be posted in a publicly accessible place at the office of the City of Kigali, the District, the Sector and the Cell of the place in which the land is located within 15 days of the approval of the expropriation.³⁴
 - Within 15 days from the publication of the initial list of persons to be expropriated, any person affected by expropriation has the right to apply to the organ that made the list for review of the properties included. The organ having made the list must decide on the application for review within 7 working days of receiving the application. Within an additional 7 working days of the decision on any application for review of the list, the District or City of Kigali Mayor or the relevant Minister shall then approve the final list of the persons to be expropriated.³⁵ It is this list that then serves as a basis for drawing up an inventory of the property to be expropriated.
 - After the publication of the decision on expropriation in the public interest and the list of holders of rights registered on land titles and property incorporated on land, the land owner shall not develop any other long-term activities on the land. Otherwise, such activities shall not be compensable during expropriation.³⁶
-
- **IV.2.2. Land and Property Valuation**

³² Article 9 of the law on expropriation.

³³ Article 15 of the expropriation law.

³⁴ Articles 15 and 16 of the expropriation law.

³⁵ Articles 20 and 21 of the expropriation law.

³⁶ Article 17 of the expropriation law. According to the provisions article 2 of the same law, a long term activity is defined as “any activity performed on land and likely to remain there for more than one hundred and twenty (120) days”.

As stipulated by Article 23 of the expropriation law, the valuation of land, property incorporated thereon, and activities carried out on the land shall be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda.³⁷ Compensation for disruption caused by expropriation may also be made available to expropriated persons.³⁸ According to the provisions of Article 22 of the expropriation law, a list of land values and prices for property incorporated on land should be issued annually by the Institute of Real Property Valuers (IRPV) and published in the official gazette to form the basis of valuations. The market prices for land are determined by making an average of comparable, recent sales in the area³⁹. Before the land is valued on this basis, the law requires the District, City of Kigali, or relevant Ministry to inform the persons to be expropriated of the expected start date of measurement of land and inventory of property incorporated thereon. Such communication shall be made through an announcement posted on the office of the Cell where the project is to be implemented. The communication shall also be made through a radio station and newspaper with a wide audience, or other means of communication if necessary.⁴⁰ The valuation of land and property incorporated thereon must be conducted in the presence of the land owner and the owner of property incorporated on the land, or their lawful representatives, as well as in the presence of representatives of local administrative entities.⁴¹

The valuation activity must be completed within a period of 30 days. Where necessary, the period for valuation can only be extended to a maximum of 15 additional days, upon request by the applicant for the expropriation, after approval by the designated organ.⁴² When the land owner or the owner of property incorporated on land is satisfied with the valuation, he or she shall sign or fingerprint the approved fair compensation reports within a period of 7 to 21 days from the publication of valuation report.⁴³

The valuation of land and property incorporated thereon shall be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda. (Article 23, para. 3 of Expropriation law)

Any person contesting the assessed value shall, at his/her own expense, engage the services of a valuer or a valuation firm recognized by the Institute of Real Property Valuers in Rwanda to carry out a counter-assessment of the value. The counter-assessment report must be available within ten (10) days from the application for counter valuation by the person to be expropriated.

³⁷ Article 23 of the expropriation law. The Institute of Real Property Valuers (IRPV) is a professional body established by the Law N°17/2010 of 12/05/2010 establishing and organising the Real Property Valuation Profession in Rwanda.

³⁸ Article 27 of the expropriation law.

³⁹ Interview with Mr Chris Nshimiyimana, the Executive Secretary of the Institute of Real Property Valuers (IRPV) and FGD with One-Stop Center heads at Districts, held on 9th November 2017 in Kigali. With regards to market rate see also, article 28 of the expropriation law.

⁴⁰ Article 24 of the expropriation law.

⁴¹ Article 25 of the expropriation law.

⁴² Article 29 of the expropriation law. The law does not mention when these 30 days start to be counted. It could be from the date of the publication of the (final) list of holders of rights registered on land titles and property incorporated on land or just from the date the exercise of valuation starts.

⁴³ Article 32 of the expropriation law.

The law also requires that the valuation report⁴⁴ be published in writing and a copy be posted at the office of the Cell where the land is located, and the notice that the report is available should also be made through radio and newspaper channels.⁴⁵

IV.2.3. Compensation

Fair compensation is a fundamental pre-condition of expropriation, and must be equivalent to the value of land and the activities performed thereon, calculated at market prices⁴⁶. Previously, some institutions carried out expropriations without proper budgetary planning, resulting in long delays in compensation, so the current law obliges relevant institutions to budget for the project—allocating funds for the valuation of assets of the persons to be expropriated, as well as for the compensation of the individual’s losses of land and/or property before actually carrying out the expropriation.⁴⁷ Fair compensation under the Rwandan law also includes compensation for disturbances due to expropriation fixed at a rate of 5% of the total compensation to be paid to the expropriated person.⁴⁸ Fair compensation can be paid in monetary form, or in any other form mutually agreed upon by the expropriator and the person to be expropriated.⁴⁹

⁴⁴ By law, the valuation report should include the list of persons to be expropriated, the size of land and the value of property incorporated thereon belonging to each person to be expropriated, and the fair compensation to be paid to any person whose property is expropriated in the public interest (article 30 of the expropriation law).

⁴⁵ Article 31 of the expropriation law.

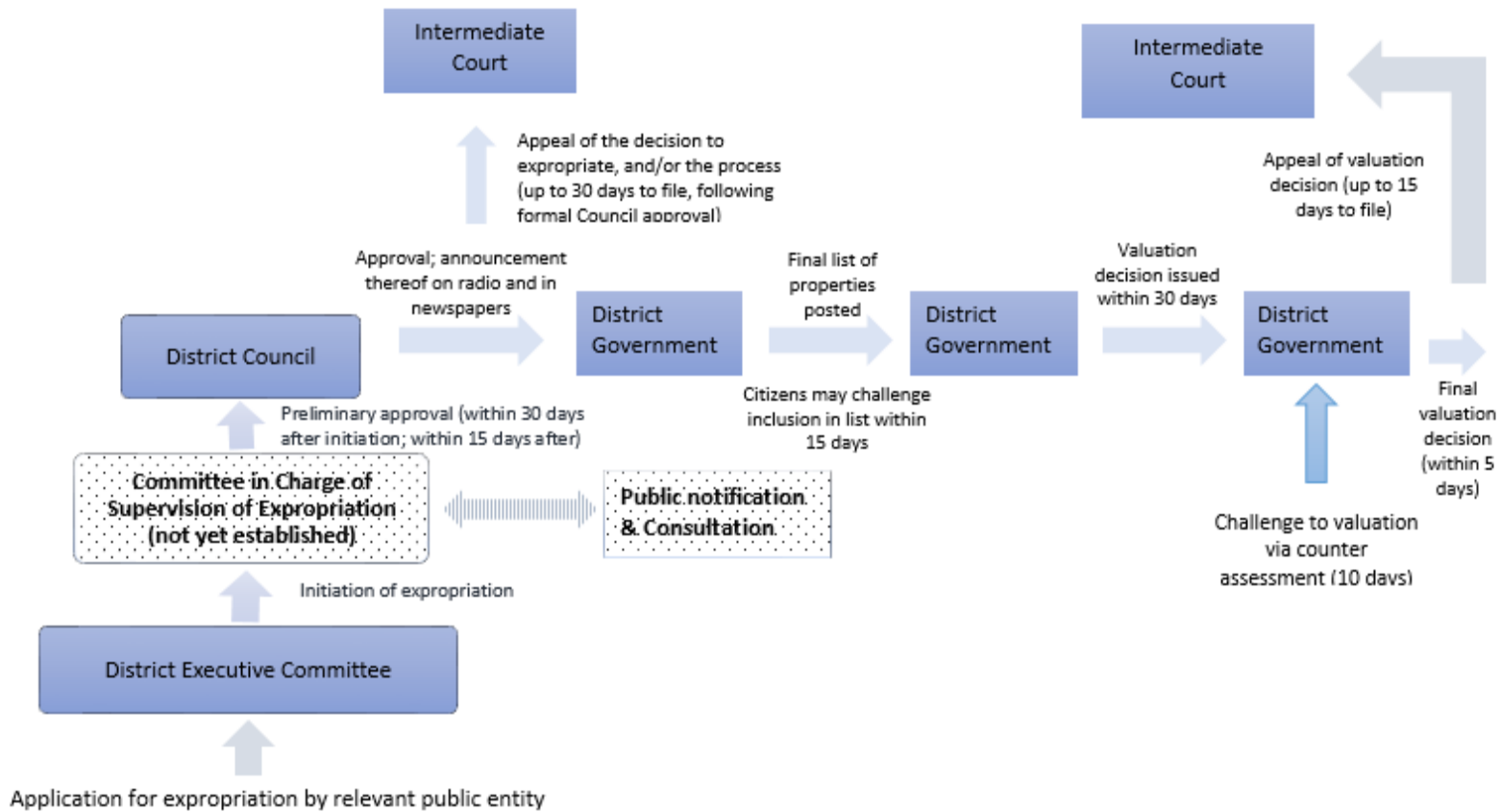
⁴⁶ Article 27 of the expropriation law.

⁴⁷ Article 4 of the expropriation law.

⁴⁸ Articles 27 and 28 of the expropriation law.

⁴⁹ Article 35 of the expropriation law. For example there have been cases where expropriated persons have been compensated with houses, in consideration of the value of their expropriated properties. Case of people expropriated from “lower” Kiyovu to Batsinda; see Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.79. Kigali, Rwanda: USAID | LAND Project.

ADMINISTRATIVE DECISION PATHWAYS: LAND EXPROPRIATION PROCESS



IV.3. Legal, Procedural, and Institutional Framework Governing Appeals and Complaints Mechanisms

IV.3.1. Opportunities for review/remediation by administrative mechanisms or administrative appeals

The Law on Expropriation, as well as other laws, defines a number of specific intervention points where individuals can request review of administrative decisions in expropriation through administrative mechanisms. Some of the appeals have to be made or submitted to the organ that made the decision, while others must go to a higher authority. The requirement of exhaustion of administrative remedies is enshrined in Article 178 of the law **no 22/2018 of 29/04/2018** relating to the civil, commercial, labour and administrative procedure, which states that “before filing a claim, the aggrieved party who is against the administrative decision shall be required to first lodge an informal appeal with the immediate superior authority to the one who took the concerned decision”. If the relevant higher administrative authority does not respond within the required timeline⁵⁰, the request is considered rejected, which then gives the right to the affected person to lodge a complaint to the competent court.⁵¹

i *Request for review of the decision on the application for expropriation*

Article 18 of the law on expropriation provides that “any person affected by the decision on expropriation in the public interest shall have the right to request review of the decision before the organ directly higher than the one having taken the decision. The appeal shall be made within thirty (30) days from the day of the publication of the decision of the relevant competent organ approving the expropriation. The article also requires the decision on appeal to be made in 30 days. . The law also provides an appeal mechanism for the institution applying for the expropriation, but providing the

Before filing an action, the aggrieved party who is against the administrative decision is required to first lodge an informal appeal with the immediate superior authority to the one who took the challenged decision. The authority is required to respond in a period of one (1) month which runs from the date he/she received the informal appeal. If he/she does not respond, the request is considered as founded. Art. 178 CCLAP

⁵⁰ Some laws provide specific timelines within which the response from the relevant authority must be provided on a certain request. For example the expropriation law provides timelines within which a response must be provided under different processes. However, in case the concerned law does not provide a specific timeline within which a response must be provided, then the (general) timeline of *one month* provided under article 178 of Law No 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure (hereinafter CCLAP) applies. As indicated above, article 178 requires any one aggrieved by the administrative action/decision to first lodge an informal appeal with the immediate superior authority but also goes ahead in paragraph three to state that “The authority shall be required to respond in a period of one (1) month which runs from the date he / she received the informal appeal. If he / she does not respond, the request is considered as founded.” The civil procedure code also specifies that a claim requesting for the annulment of an administrative decision must be accompanied by a copy of the decision being challenged if it is written and a document justifying recourse to the immediate superior administrative authority (Article 335 of the civil procedure code).

⁵¹ Article 178 of the CCLAP procedure.

expropriating entity only 15 days to appeal an adverse decision on the application.⁵² However, in some circumstances, no appellate level for the decision made on the application for expropriation exists, so some appeals may have to go directly to court.⁵³

ii Request for review of the list of rights holders

After the decision approving the application for expropriation is published,⁵⁴ a list of the individuals whose properties are or will be affected by the expropriation is also published. In this regard, the expropriation law also provides that “within fifteen (15) days from the publication of the initial list of persons to be expropriated, any person affected by expropriation in the public interest shall have the right to apply to the organ having made the list for its review and indicate the grounds for his/her application,” and gives the institution in charge of the list only 7 working days to decide on the application for review.⁵⁵ While the specific standards of review are not indicated in the law, presumably, a person could at this stage indicate that he or she has been improperly placed on the list due to a mistake about the location or ownership of his or her property, or a similar issue.

iii Challenging the valuation process or the value given to one’s property

In addition to the right to appeal the decision to expropriate one’s property, the law on expropriation also provides that a person who is not satisfied of the assessed value can challenge the valuation of one’s property before the expropriating entity through the engagement of an independent valuation firm or expert within 7 days after the approval of the valuation report.⁵⁶ The law indicates that the expenses of obtaining such a counter-assessment report which must be submitted within 10 days of the filing of a challenge, are bore by the citizen,⁵⁷ In turn, the expropriating entity must render a decision on the counter-assessment within 5 days of receipt, and if the citizen remains dissatisfied with the final valuation decision, he or she may appeal to the courts within 15 days.⁵⁸ As discussed below, these short time frames and onerous expenses on the individuals being expropriated raise important questions of the fairness and practicality of the process.

IV.3.2. Court Appeals Involving Expropriation Cases

Individuals affected by expropriation can take action to court for annulment of the actual decision approving the expropriation, revision of the valuation process, or any other action or decision related to different stages in the expropriation process. However, like any other administrative matter, administrative remedies must be exhausted before filing a claim in court.

⁵² According to the law the appeal is done in writing (art. 19 of the expropriation law). The law is not explicit on whether the applicant would be allowed or invited to physically attend such an appeal hearing.

⁵³ Decisions of the Administrative Council (Njyanama) of the District and/or City of Kigali are directly challenged in court (there is no higher authority to appeal to). It is the district council that approves expropriation applications for projects within the district. The administrative council of the City of Kigali approves applications for projects affecting more than one District within the boundaries of the City of Kigali.

⁵⁴ Article 16, expropriation law.

⁵⁵ Article 20, expropriation law.

⁵⁶ Article 33 of the expropriation law.

⁵⁷ Article 33, expropriation law.

⁵⁸ Article 34 of the expropriation law..

Articles 178- 179 of the CCLAP stipulate the procedure and requirements to file an action to annul an administrative decision in court. However, Article 180, para 3 of the CCLAP also gives the individual affected by the administrative decision the right to file a separate claim for damages before an administrative court without requesting for the annulment of the illegal administrative decision by only proving the illegality of such a decision. The individual's request for compensation is not contingent upon requesting annulment of the administrative action, so this could provide support for an expropriated person to seek damages incurred through the expropriation process or to seek damages for compensation that is too low even where the individual does not seek to block the entire process of expropriation. The affected person can also file a case contesting the valuation process of his or her property as well as any other matter in the expropriation process. In an interview, the judges at the Nyarugenge Intermediate Court reported that majority of the expropriation cases relate to valuation.⁵⁹

An applicant who is not satisfied with the administrative decision has a period of six (6) months to file a claim before the specialised chambers of Intermediate Courts for labour and administrative cases. This period runs from the date when the applicant received the response. Art. 178 CCLAP.

Article 36(9°) of the law n°30/2018 of 02/06/2018 determining the jurisdiction of courts provides that the specialised chambers of Intermediate Courts for labour and administrative cases, have jurisdiction to try at first instance all claims arising from expropriation in the public interest. Article 49 of the same law further states that the decisions of intermediate courts in administrative matters can be appealed to the High Court. It is important to note that the new law merged the former administrative and labor chambers.

The right to seek a court action starts to run from the day a person receives a response on his or her appeal to the competent administrative authority, or at the lapse of the required timeline within which the response should have been provided. Some laws, including the expropriation law, specify timelines within which a response must be provided, and in many cases the timeline is not more than 30 days for expropriation-related decisions. If timeline is not specifically provided by the relevant law, then the provisions of Article 178 of CCLAP apply. Paragraph four of this article provides that if the applicant is not satisfied with the decision, he or she has 6 months to file a claim, which runs from the date when he or she received the response, and if there is no response, such a period shall start to run 1 month after the submission of the appeal to the relevant administrative authority.

IV.4. Strengths and Challenges Regarding Implementation of the Expropriation Law

IV.4.1. Strengths of the Current Legal Framework for Land Expropriation

Administrative justice, at its core, is a set of procedural rights to ensure that discretionary decisions made by government officials are fair and accountable. The existing legal framework for expropriation has a number of strengths to be highlighted insofar as administrative justice is concerned.

⁵⁹ Interview with Judges at Nyarugenge Intermediate Court on 23rd November 2017.

(a) Reasonably well defined legal framework. The legal framework creates a reasonably well defined procedure that an expropriation project must follow, including defined legal rights and responsibilities for both expropriated persons and expropriating entities. This allows for some degree of accountability at each stage of the process, where individuals can ensure their rights are being respected, and can complain to the appropriate body if they are not. Separate levels of government have discrete responsibilities and there is some degree of oversight of the process by elected political authorities (the major gap, of course, is the continued absence of the Committees in Charge of Supervision of Expropriation). The law on expropriation also clearly stipulates the timelines within which each activity must be done in the overall process of expropriation. These timelines provide deadlines for the citizen and government alike, even though, as noted, many are too short to encourage meaningful action and deliberation.

(b) Non-discrimination. The law is non-discriminatory in its provisions, as required by Rwandan law and international standards. While some concerns have been raised as to the accessibility of certain procedural rights where affected individuals are indigent, the provisions of the law generally treat all landowners the same in their rights to complain, to seek compensation, and to challenge government action, which is a bedrock of good administrative procedure.

(c) Availability of redress mechanisms. The legal framework provides for basic remedies and redress mechanisms where an individual is not satisfied with the decision to expropriate, with the grounds for expropriation, and/or the valuation of the property. Providing for multiple opportunities to challenge various decisions made at different junctures in the expropriation process ensures an important degree of transparency and integrity in the expropriation process.

IV.4.2. Challenges to the Administrative Justice in the Legal and Policy Framework governing expropriation

While the expropriation law has several strengths and creates a number of administrative mechanisms to protect individuals being expropriated, there are several obstacles to meaningful administrative justice in the present legal and policy framework. Some of these are inherent in applicable normative provisions, and others stem from associated policy and implementation challenges. In several instances, these obstacles derive from the inherent power imbalance between the government and individual citizens, whereby the latter do not typically have the time, resources or knowledge of their rights to challenge government action under the current framework. For example, individuals are required to use personal funds to counter-value their lands, and to meet short timelines in finalizing counter-valuations.⁶⁰ Without some further assistance based in the law to make it practically easier to mount a meaningful challenge, many individuals will not be able to access appeal options under the law.⁶¹

(a) Absence of Committees in Charge of Supervising Projects of Expropriation. Article 8 of the expropriation law establishes the committees in charge of supervising projects of

⁶⁰ See article 33 of the expropriation law.

⁶¹ According to the survey conducted by the Legal Aid Forum, "The Implementation of Rwanda's Expropriation Law and Outcomes on the Population" (Final Report, p.60), out of the 1,381 surveyed households, 80% reported not being satisfied with the valuation given to their land, however, only 6% appealed or requested a counter-valuation.

expropriation (“supervising committees”) at different levels, but delegates to a yet to be enacted Prime Minister’s Order to determine their organization, composition, functioning and responsibilities. The supervising committees are mandated with “conducting the consultative meeting with the population living where the land is located concerning the relevance of the project of expropriation in the public interest.”⁶² Because the supervising committees are not yet formed, the District Executive Committees take on the task of citizen consultations.⁶³ However, the expropriation law had separated the roles of the District Executive Committee as the organ determining the expropriation project from those of the supervising committees as monitoring and assessing organs, including *through* consulting the concerned population, and from the District Council as an approving organ.⁶⁴ Without the supervising committee, citizens’ first line of administrative review and assistance in the expropriation process is missing.

(b) *Insufficient specification of activities qualifying as in the public interest.* Even though the expropriation law contains a list of activities of public interest, the list is not exhaustive, and gives power to the Minister in charge of lands to determine any other activity of public interest.⁶⁵ Since there are no general standards to help determine additional public interest activities, the Minister could make arbitrary decisions or use unchecked discretion to determine an activity or project as of public interest. Where no clear standards are present in the law, individuals may also have insufficient grounds to challenge an activity determined as public interest. A judge of the High Court has also noted this concern regarding the unclear definition of ‘public interest.’⁶⁶

(c) *Lack of personalized communication/notice to expropriated individuals.* In the current expropriation law, expropriated individuals are not provided with any written notification, although such documentation could be necessary in seeking review of various stages of the expropriation process with the competent authorities. In addition to a public posting of lists of households to be expropriated, which is supposed to be done once the households to be expropriated are determined, formal and individual notice is also necessary to enable affected people to assert their rights and feel satisfied with the process.⁶⁷ Although round-table participants noted the practical difficulty of personalized notice, alternatives provided by the law – including radio and newspaper announcements – do not appear to be honored either.⁶⁸ Lack of personalized communication to concerned individuals affects the respect of the strict deadlines. For instance, the 120 days within which compensation must be paid is counted starting from the day of the approval of fair compensation by the District or City of Kigali Council.⁶⁹ When it is unclear at what time the valuation is approved, individuals have no way of knowing when the timeline for their compensation begins and ends, and they cannot properly protect their rights to timely compensation and/or timely exercise of rights of appeal.⁷⁰

⁶² Article 11, expropriation law.

⁶³ Information from the round table held on 9th November 2017 at MARASA/UMUBANO hotel.

⁶⁴ Articles 7 ,8 and 9 of the expropriation law.

⁶⁵ Article 5, expropriation law.

⁶⁶ Interview with judge of the High Court held on 15 February 2019.

⁶⁷ Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.50. Kigali, Rwanda: USAID | LAND Project

⁶⁸ Round table held on 9th November 2017 at MARASA/UMUBANO hotel.

⁶⁹ Article 36 of the expropriation law.

⁷⁰ The non-publication of the “decision approving expropriation” as well as the “the list of persons to be expropriated” could have adverse effects on the right of citizens to appeal, as the time for appeal starts to run

(d) Practical availability and effect of counter-valuations are limited. In cases where the affected individual is not satisfied with the value given to his or her property, the law provides an avenue for the affected person to hire a private valuer to carry out a counter-valuation of the property.⁷¹ Whereas it is a measure to limit baseless claims, the fact that the full cost of this activity must be borne by the affected individual deters a majority of those who are not satisfied with the valuation from getting the counter-valuation.⁷² This situation often results in the aggrieved landowner accepting the low compensation determined by the expropriating entity without any practical recourse.⁷³ Further, round-table participants affirmed that many people are financially unable to hire the services of independent valuers to carry out counter-valuations. Key informants echoed these concerns, noting that only the “well-off people” can undertake counter-valuations, or bring a case to court if they are not satisfied with the valuation decision.⁷⁴ Given that court decisions have resulted in up to double the initial valuation given to expropriated lands, the inability to contest the valuation due to the expropriated individual’s financial status is a major impediment to fair and just compensation and disproportionately impacts the poor.⁷⁵ This weakness in the law could be addressed by having some financial assistance for those who are indigent according to an objective standard, or having the cost of the counter-valuation reimbursed by the expropriating entity upon a determination that either such counter-valuation is likely to prevail or resulted in a major increase in the initial value of the property in question.

The cost of counter assessment is bore by the affected person. Round-table participants affirmed that many people are financially unable to hire the services of independent valuers to carry out counter-valuations. Key informants echoed these concerns, noting that only the “well-off people” can undertake counter-valuations, or bring a case to court if they are not satisfied with the valuation decision.

Furthermore, the root causes of the problem of low valuations could also be addressed by the effective valuation based on the law, ethics and professionalism, especially since only a small percentage of individuals are able to comply with the requirements of formally contesting the valuation.⁷⁶ Inconsistency in land valuation has led to concerns over the professionalism of

from the day of the publication of the decision to expropriate and the list of people to be expropriated. (Articles 18 and 21 of the Law on Expropriation).

⁷¹ See article 33 of the expropriation law.

⁷² More than 80% of expropriated households reported not to have been satisfied with the valuation of their property, but only 6% among the dissatisfied households actually appealed or requested for counter-valuation of their properties. One of the reasons mentioned for not carrying out the counter-valuation was the cost. See Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, pp.60-63. Kigali, Rwanda: USAID | LAND Project.

⁷³ Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.60. Kigali, Rwanda: USAID | LAND Project.

⁷⁴ Interview with the Mr. Emmanuel NSANZUMUHIRE, the Mayor of Bugesera district.

⁷⁵ Case of Ms. Henriette Umulisa vs RSSB.

⁷⁶ Interview with Judges at Nyarugenge Intermediate Court on 23rd November 2017; interview with the Bugesera and Kicukiro districts officials on 22nd and 24th November 2017 respectively; interview with WASAC officials on 22nd November 2017. The other major categories of complaints relate to delays in the payment of compensation, or even the non-payment of compensation for land taken for projects like the construction of District roads, installation of electric poles, or installation of water pipelines. These reports corroborate other research done

valuers, reflected in inexplicable differences between their valuation reports in which counter-valuations appear.⁷⁷ Several key informants noted that while the availability of a regularly updated list of land values and prices for property incorporated on land⁷⁸ is a crucial starting point and is required by law, valuation methods and best practices could also be studied closely and publicized to ensure that fair valuations of property are harmonized and made more consistent by property valuers⁷⁹

(e) Short time limits for appeals. The expropriation law in most instances provides specific time limits for decision-making. However, the shortness of some of these time limits could significantly hinder individuals in accessing justice. For example, the law requires a person being expropriated to give notice to the expropriating entity of the intent to challenge a valuation within 7 days of the valuation. It also requires the aggrieved individual to fund the counter-valuation of their lands, to be completed within 10 days of the notice of counter-valuation.⁸⁰

The expropriating entity has only 5 working days to decide on the counter-valuation and ultimately, if the individual does not agree with the decision of the expropriating entity on the valuation issue, he or she has only 15 days to file a claim in court.⁸¹ While these short time periods might be intended to protect individuals affected by expropriation, they are unrealistic—both from the perspective of the individual who must seek legal advice⁸² and gather financial resources to complete a counter-valuation of the land (as well as likely have to appeal to the same institution that provided the valuation), and from the perspective of the expropriating entity, which has only a few days to decide on this important issue, and may be balancing several similar claims in larger projects. A key informant from the Office of the

on expropriation, which noted that over 80% of households were unsatisfied with the valuation given to their lands (see, e.g., Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.60. Kigali, Rwanda: USAID | LAND Project), and that many households experienced extreme delays in their receipt of compensation (see *id*, p. 67).

⁷⁷ For example, in one expropriation project in Kagarama Sector (Kicukiro District), the first valuer providing the valuation to the expropriating entity valued one square metre of land at 12,000frw. The landowner was unhappy with the price given to his land, and hired another independent valuer to do a counter-valuation. The second valuer set the land value at 80,000frw per square metre. Due to the failure of the parties to agree between the two valuations, the expropriating entity together with the landowner sought the assistance of the Council of the Institute of Real Property Valuers (IRPV), who appointed a third, neutral valuer to carry out another valuation. The third valuer put the price at 8,000frw per square meter (Interview with Ms. INGABIRE Emelyne, Land Management Team Leader in Kicukiro district, on 24th November 2017).

⁷⁸ Article 22 of the expropriation law requires that this list be updated every year.

⁷⁹ For example, participants in the round table discussions and interviews noted that valuations are aided where property is photographed. However, it was also mentioned that many valuers fail to do this, which is a real problem where landowners make improvements after the valuation and then claim that the valuation was incorrect.

⁸⁰ Article 33, expropriation law.

⁸¹ Article 34, expropriation law.

⁸² Given the biggest majority of the expropriation projects take place in rural areas (87.8%, see LAF report on expropriation 2015), where majority of the poor and uneducated live in Rwanda (NISR, The Fourth Integrated Household Living Conditions Survey, 2014), you really understand how this is a challenge to these people; finding the money, knowing where to find an independent valuer, contract him/her and then carry out the counter-assessment and submit the report - all of these only in 10 days.

Ombudsman also echoed this concern. Though unfair valuation⁸³ is among the most common and recurrent complaints, this official noted that, due to the lack of citizen awareness of the right to counter valuation, coupled with the exceedingly short time period for obtaining a counter-valuation, citizens are often unable to meet this regulatory standard.⁸⁴

(f) Reporting requirements are not robust. There are some key transparency issues that affect the soundness of the expropriation process. Among the requirements that must accompany the application for expropriation are a “document indicating that the project has no detrimental effect on the environment” as well as a “study indicating consequences on living conditions of persons to be expropriated.”⁸⁵ However, the law does not require these studies to be published for public scrutiny (addressing potential mistakes or misinformation), nor does it clarify how these studies are verified and validated.⁸⁶ International best practice supports robust transparency and accountability in the expropriation process, which is furthered through public participation and open public debates.⁸⁷ With regard to the “plan or maps indicating the demarcations of the land where activities shall be carried out,”⁸⁸ officials at Rwanda Land Management and Use Authority (RLMUA) further suggested that these plans and maps be shared with their office before the expropriation is carried out, in order for them to advise and indicate where potential problems could arise.

IV.4.2. Problems with Implementation of the Law

(a) Delays and Bureaucracy in the payment of compensation. The expropriation law requires that compensation be paid within 120 days of the approval of the valuation report.⁸⁹ However, delays in the required payment of compensation have always been a problem in expropriation.⁹⁰ This delay has serious effects on the concerned persons both economically and

⁸³ Property valuation was mentioned as a recurrent complaint in interviews with key informants from the Office of the Ombudsman, High Court, and Ministry of Justice.

⁸⁴ Interview with the Director of the MINIJUST Preventing and Fighting Injustice Unit, on 19th February 2019.

⁸⁵ Article 10 of the expropriation law.

⁸⁶ During the round-table discussions, some participants also raised the issue of capacities at the District level to review and verify these reports, which is where the reports are to be submitted. Where District authorities do not have the resources or capacity to actually validate the reports, then producing them becomes just a formality, and no actual, independent assessment of the contents will occur. The City of Kigali does have “socio-economical analysts” who look into these reports, but these staff are not available at the District levels, where most of the expropriation projects take place. Information from the round table discussions held on 9th November 2017 at MARASA hotel.

⁸⁷ Ward Anseeuw, Liz Alden Wily, Lorenzo Cotula, and Michael Taylor (2012), *Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project*, INTERNATIONAL LAND COALITION, 65.

⁸⁸ One of the requirements in the application for expropriation is “the master plan of land where the project will be carried out” which includes the plan or maps indicating the demarcations of the land where activities shall be carried out, among others (see article 10 of the expropriation law).

⁸⁹ Article 36 of the expropriation law.

⁹⁰ See Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.67-73. Kigali, Rwanda: USAID | LAND Project). According to a 2017 survey conducted by Rwanda Civil Society Platform “The Analysis of Land Expropriation and Transfer Process in Rwanda”, 31% of the expropriated people did not receive their compensation within the required legal timeline. The Government of Rwanda has also acknowledged this issue with delays. While appearing before the Parliamentary Standing Committee on National Budget and Patrimony on 2nd February 2018, the Minister of Local Government indicated that slightly more than 4 billion Rwandan francs is needed to pay arrears of compensations to more than 16,000 people/households expropriated by different projects implemented by the Water and Sanitation

socially, as well as harming their trust in government authorities.⁹¹ These delays are caused by the bureaucratic nature of the payment process, and in some instances, the compensation process has to go through more than three institutions, which can also confuse affected individuals regarding where to follow up about their payments⁹² and which institution may be accountable for harm caused by delays.⁹³ To remedy this problem, the government should consider adopting a policy or amendment of the Law on Expropriation that provides for clear designation of a coordinating or ‘lead’ entity for expropriation. The Ministry of Environment should best coordinate expropriations at the national level, but there is currently no unit or person in charge of expropriation coordination at the Ministry.

In a related issue, expropriations for expansion of roads under Law N°55/2011 of 14/12/2011 governing roads in Rwanda are often done without proper expropriation procedures or compensation paid.⁹⁴ Although Articles 17 and 33 of the law governing roads guarantees compensation to people whose land is taken due to road widening, round-table participants, including District officials, seemed unaware of this right to compensation for road projects, especially district roads, which has led to landowners not receiving any compensation for road expansion takings, and often they may also have to continue to pay taxes on the portion of their land taken by the road but cannot be used. The burden appears to be on the landowner to request adjustment or correction of the land title to reflect the new dimensions of their land following the road expansion.

Key informants and round-table participants noted that problems with payment procedures, such as, rigidity in the mode and methods of payment required coupled with other factors like bureaucracy, poor planning/coordination, and the provision of wrong or incomplete information by the affected persons (such as wrong ID numbers or bank account numbers), cause delays in the payment of compensation.

Key informants and round-table participants noted that problems with payment procedures, such as, rigidity in the mode and methods of payment required coupled with other factors like bureaucracy, poor planning/coordination, and the provision of wrong or incomplete

Corporation (WASAC), Rwanda Energy Group (REG), Rwanda Civil Aviation Authority (RCAA) and Rwanda Transport Development Agency (RTDA). See also <http://mobile.igihe.com/ubukungu/article/leta-irasabwa-miliyari-4-frw-yo-kwishyura-abaturage-ingurane-y-ahagenewe>.

⁹¹ See Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.67-73. Kigali, Rwanda: USAID | LAND Project).

⁹² For example, if an expropriation for a road project is initiated by Rwanda Transport Development Authority (RTDA), after preparing the lists of those that need to be compensated, RTDA sends these lists to the Ministry in charge of Infrastructure (MININFRA), then MININFRA forwards the lists to the Ministry in charge of Finance and Economic Planning (MINECOFIN), which then sends the lists for payment to the National Bank of Rwanda (BNR), which pays the compensation to expropriated people through their respective banks. If compensation is then delayed, the affected person will often go the District, which will refer to the lists sent to RTDA (or another expropriating entity), but RTDA will refer to the lists sent to MININFRA and so on. Information from the round table discussions held on 9th November 2017 at MARASA hotel.

⁹³ This problem was even reiterated by the Minister of Local Government during his appearance before the Parliamentary Standing Committee on Political, Gender and Legal Affairs on 9th November 2017. Article 37 of the expropriation law sets a 5% compensation (of the total value of his/her property expropriated) for any expropriator who fails to pay the expropriated people within the 120 days prescribed by the law.

⁹⁴ See Articles 15, 16 and 22 of the Law N°55/2011 of 14/12/2011 governing Roads in Rwanda.

information by the affected persons (such as wrong ID numbers or bank account numbers), cause delays in the payment of compensation.⁹⁵ Many round-table participants called for payment procedures to be more flexible and adapted to individuals' particular circumstances in order to ensure they receive compensation in time. The expropriation law requires that monetary compensation be deposited into a bank account of the person to be expropriated.⁹⁶ However, this can be problematic in practice depending on the amount of compensation to be provided to the person to be expropriated. During interviews, officials from the Districts and other expropriating entities provided examples where individuals were paid compensation that was almost equivalent to the amount required by the bank just to open an account. This was especially common in partial expropriations related to water pipelines or electricity projects, where individuals might be paid just 10,000 – 15,000 frw or less. In such cases, individuals could end up losing money through the expropriation.⁹⁷

Other types of cases support key informant recommendations for flexibility in payment procedures.⁹⁸ For example, in cases where expropriated property belongs to more than one person, expropriating entities have been requiring that co-owners first separate the land so that each owner has their own land title. However, this procedure is cumbersome and costs additional money which landowners may not have. The expropriating entity could instead simply certify the proportional ownership of each owner, and then pay the owners based on their proportional ownership interest, saving money, time, and preserving fairness and justice. District officials, especially from outside Kigali, noted that some individuals still do not have land titles. An official from RLMUA echoed these concerns, estimating that around 20% of the total national land is yet to be titled.⁹⁹ Rather than delaying compensation while waiting for the land titling process, in such circumstances, the official at RLMUA suggested that the landowners could request the Executive Secretary of the Cell and the Sector to draft and sign a temporary title document certifying their ownership, which would then be sent to RLMUA for verification, especially in regards to the size and demarcations of the plot. After this certification from RLMUA, the landowners could be paid based on this temporary title document.

(b) Inaccurate valuations of land in favor of the interests of expropriating entities. Some key informants reported that certain institutions use their own staff as valuers, rather than the independent valuers, even though the expropriation law requires that valuation be conducted

⁹⁵ According to the recently commissioned study by the Rwanda Civil Society Platform entitled “The Analysis of Land Expropriation and Transfer Process in Rwanda”, 31% of the expropriated individuals/households face delays in payment of their compensation. For example, according to statistics shared by WASAC, as of 17th November 2017, they still had 1030 people waiting to be paid their compensation

⁹⁶ Article 38 of the expropriation law.

⁹⁷ WASAC reported an innovation in small payments where, under the guidance of the Ministry in charge of Local Government, expropriated people whose compensation was less than 20,000frw were paid by *cheque* to alleviate these additional administrative steps and costs for such small payments. Interview with the WASAC team led by Mr. Kajiwabo M. Joseph Poers, the Head of Community Mobilization Unity. Interview held on 22nd November 2017.

⁹⁸ E.g., the owner of the land may not be the owner of crops on the land. This happens under the practice of *kwatisha* (where a landowner might free of charge or under certain fees gives his or her land to another person for cultivation). In such circumstances, flexibility should be applied during payment so that the person who owns the crops but not the land does not lose out on the compensation provided during the expropriation process.

⁹⁹ Interview with Mr. Jean Baptiste Mukarange, Director of land Administration at RLMUA, held on 23rd November 2017.

by valuers certified by the IRPV.¹⁰⁰ These institutions allege that the independent valuers lack professionalism and inflate prices unreasonably,¹⁰¹ and want their own staff accredited as certified valuers to enable them to continue doing valuation for the institution's expropriation projects.¹⁰² While the professionalism and independence of the IRPV valuers can continually be improved and monitored, valuations done by the staff of expropriating entities would not be independent and could result in unreasonably low valuations of land that conveniently fit the budget of the expropriating entity rather than the market price of the land.¹⁰³ This can result in an arbitrary decision about how much compensation should be paid based on speculation as to the value of the crops destroyed. Participants in the round-table discussions and interviews also reported that the valuation report is in practice approved by members of the District Executive Committee, despite the fact that the law vests this power into the District Council.¹⁰⁴ This practice also highlights discrepancies between what is provided for by the law and what is done in practice. Stricter enforcement of the provision requiring independent valuers and review of the valuation reports by the District Council must be carried out, as well as sensitization of public institutions of the importance of supporting the IRPV and officially reporting problems related to the professionalism of the valuers or the valuation process rather than engaging in "self-help" procedures that harm the rights of individuals.

(c) Implementation of master plans is difficult to challenge. Activities relating to the implementation of land use and development of master plans are also considered to be in the public interest.¹⁰⁵ Development activities of private investors normally fall under this justification for expropriation. While the expropriation law requires expropriating entities using the master plan justification to "first negotiate with owners of assets that are affected by the project,"¹⁰⁶ round-table participants and key informants reported that individuals to be expropriated for implementation of master plans are often not approached. In practice, an investor who wants to carry out an activity that fits within the framework of a master plan often goes through the line government institution (either the Ministry or another public entity) rather than directly approaching the landowners,¹⁰⁷ and relies on the line institution to work with the

¹⁰⁰ Article 23, expropriation law. RTDA, for example, was one of the institutions reportedly using their own staff as valuers, as well as their own standards and prices not subject to review or the rules of the IRPV. RTDA has their own data collection forms and whose information they base on in determining the value of the land and/or property. In addition, the prices RTDA is currently using are those set in 2015.

¹⁰¹ Interview with RTDA official on 20th November 2017.

¹⁰² Interviews with RTDA official on 20th November 2017.

¹⁰³ Some expropriation projects have also been implemented before the valuation of the property is conducted. This problem is particularly common in water and electricity supply projects, where the landowner's crops are destroyed during the installation of electric poles and transmitters without prior assessment of the value of these crops. Interview with Mr. RUMAZIMINSI N. Seraphin, the Director of Preventing and Fighting Injustice Unit, on 20th November 2017. Also, according to the recently commissioned study by the Rwanda Civil Society Platform entitled "The Analysis of Land Expropriation and Transfer Process in Rwanda", over 60% of households expropriated for water & electricity projects report that they were not notified about the expropriation project affecting their lands

¹⁰⁴ Article 36 of the expropriation law.

¹⁰⁵ Article 5, expropriation law.

¹⁰⁶ Article 6, expropriation law.

¹⁰⁷ See James Karuhanga, 'Talks between CoK officials, slum residents hit deadlock' (New Times, January 25, 2018) [http://www.newtimes.co.rw/section/read/228299/where people, among other issues, were complaining to the Kigali City authorities for not giving them the chance to negotiate with the investor for the yet-to-be implemented contravention project of modern houses in Nyarutarama area](http://www.newtimes.co.rw/section/read/228299/where%20people,%20among%20other%20issues,%20were%20complaining%20to%20the%20Kigali%20City%20authorities%20for%20not%20giving%20them%20the%20chance%20to%20negotiate%20with%20the%20investor%20for%20the%20yet-to-be%20implemented%20contravention%20project%20of%20modern%20houses%20in%20Nyarutarama%20area). Last accessed on March 2, 2018 at <http://www.newtimes.co.rw/section/read/228299/>

District officials where the project is supposed to take place. The District (or City of Kigali) authorities then expropriate people based on the letter from the relevant Ministry or public entity as if the project is for that line institution rather than a private investor.¹⁰⁸ Officials from public institutions allege that direct negotiation with individual landowners would not be possible and could lead to speculation in land values, and do not recognize the legal requirement to firstly approach the concerned individuals for negotiation, as a useful check on the public interest determination for master plan projects—which might otherwise be abused merely for the financial gain of the investor.¹⁰⁹

(d) Confusion about administrative accountability for expropriation decisions. A key challenge for people seeking redress in some expropriation cases is the difficulty in knowing which institution is legally responsible for carrying out the expropriation and henceforth proper to complain against during the process. This problem is mainly caused by the fact that even in expropriation projects not initiated by the District, it is always the District leaders who convene the necessary meetings about the project and take the lead in explaining the project to the population.¹¹⁰ The District accordingly becomes the face of the expropriation project regardless of other entities involved. This results in affected individuals taking complaints about expropriation to the Local administrative authorities, even if at a particular stage, another institution or agency is actually the legally responsible interface.¹¹¹ The law does not address this situation. Given the responsibilities of the local authorities at the District level of ensuring the welfare of the community members and coordinating activities at the local level, it is understandable that complaints should go through them, but the procedure should be clear as to how the District authorities would be required to coordinate with the expropriating entity in

¹⁰⁸ Round table discussions held on 9th November 2017, interviews with Bugesera and Kicukiro district authorities on 22nd and 24th November 2017 and the interview the official from Rwanda Housing Authority on 24th November 2017.

¹⁰⁹ To avoid expropriation for master plan implementation related expropriation projects, e.g. having modern houses in a certain area, one potentially useful practice referenced by District authorities is to encourage landowners to organize and improve their land (e.g. by paving roads with the assistance of the relevant District authorities) and then privately sell their plots of land to private buyers or investors. Under this scheme, the landowners give land that the road would go through without receiving any compensation, and during the negotiation for the sale of their plots to the investor, they are able to negotiate a price that fairly compensates them for the total value of the land, including any land lost to the road construction. This approach has been used in Kicukiro district at the “Nunga site,” in Gahanga Sector, and at the “Bisambu site” in Gatenga Sector, among others. This allows citizens to deal directly with the investor and negotiate market prices for the land, and also saves the District authorities from acting as the expropriating entity on behalf of a private investor, using public resources to address disputes related to private investment. It also reportedly increases citizens’ satisfaction with the process and with the public authorities. By following the administrative requirements of the law in cases of expropriation for the purpose of implementing the master plan, the protections for landowners provided for in the law are evident.

¹¹⁰ See <http://www.newtimes.co.rw/section/read/228299/>. See also <http://www.newtimes.co.rw/section/read/228579/>. Round table discussions also confirmed that community meetings are mainly meant for providing information or giving instructions on how the project will be implemented rather than providing a forum for meaningful feedback and information about one’s rights to challenge official actions and decisions.

¹¹¹ Even in cases where the affected individuals know or come to know the actual expropriating entity, some face the challenge of knowing exactly where the offices of the expropriating entity are located, and may also have difficulty finding transport to reach to the offices of these expropriating entities (most of which are in Kigali). Legal Aid Forum, “The Implementation of Rwanda’s Expropriation Law and Outcomes on the Population” Final Report, p.63. Kigali, Rwanda: USAID | LAND Project).

handling affected people's complaints, and in which circumstances affected persons should directly deal with the expropriating entity.¹¹²

(e) Lack of legal awareness. Another big challenge in implementing the Law on Expropriation is lack of public awareness of the law and their rights in the expropriation process. For example, people may not know that they have a right to ask for the review of the decision to expropriate, and those who attempt to request review of this decision at the court level are often not informed that they have the right to seek a stay of such a decision pending the court decision on the merits. For their part, many local leaders are themselves not conversant with the law on expropriation (e.g., the procedure to solve claimants' issues and timelines to deal with these issues). This lack of knowledge about expropriation procedures may cause delay, and may also cause individuals to rely on local officials to their detriment, and miss other opportunities provided in the law to seek redress in the expropriation process.

(f) Failure to Properly Title Expropriated Land. District and RLMUA officials noted that government entities rarely registered or clearly demarcated expropriated land after an expropriation is completed, which can result in financial losses to the government in cases of double expropriation or double payment by the expropriating entity, or in cases of loss of land that has already been expropriated. This problem has most often arisen in projects that involve partial expropriation of land for projects like roads, water pipelines, and electricity installations.¹¹³ Even where the land title has been secured by the expropriating entity, the expropriating entity that is required to register that new acquired land does not always do so. For example, in case RAD 0082/2015/HC/KIG, Ntaganzwa was expropriated by Gasabo District, and later Rwemalika acquired that land from the District and held it for a long time after the expropriation of Ntaganzwa. However, the High Court ruled that there was no written evidence of the expropriation since Ntaganzwa still held the original title of the land in his name. Therefore, Gasabo District was ordered to pay the Ntaganzwa family compensation for

¹¹² Legal Aid Forum, "The Implementation of Rwanda's Expropriation Law and Outcomes on the Population" Final Report, p.40-43. Kigali, Rwanda: USAID | LAND Project). In some cases the District authorities have forwarded complaints to the proper institutions, although they have no clear obligation to do so. However, if the District does not forward the complaint to the proper authority, or notify the individual to do so, the individual's already short time limit to submit a complaint can lapse.

¹¹³ In partial expropriations, the original land titles are not taken by the expropriating institutions, but remain with the landholders. In this regard, if the expropriating institution does not proactively undertake the process of seeking the land title for the portion of the land that is expropriated, the expropriated person can either sell the expropriated land, mortgage the expropriated land, or agree to an expropriation of the same land by another agency. For example, WASAC officials reported in an interview that in Bugesera District, they had compensated some people for part of their land, but later this same land was expropriated again by the Ministry in charge of trade and industry for another project (Interview with WASAC officials on 22nd November 2017). Kicukiro District officials also suspect that cases exist of people who were paid twice or even three times during the expropriation for the Kanombe Airport because of lack of immediate demarcations after expropriation. Another issue that can come up in relation to partial expropriation where a land title of the expropriated person is not requested or withheld is the possibility of additional legal disputes over the land, e.g., when land has been mortgaged to a bank. According the law, the mortgagor is under an obligation "to notify the mortgagee of any change affecting the nature of the mortgage." (Article 13 of the Law N° 10/2009 of 14/05/2009 on Mortgages, as amended to date). However, this is not always done, especially in partial expropriations, which later creates problems in case the land owner defaults on his or her obligation to service the debt and the mortgagee wants to sell the mortgage.

the land, although according to Gasabo District, it had already paid the Ntaganzwa family for the expropriation, and Rwemalika had been the new owner of the land for some time.¹¹⁴

(g) Dedicated dispute resolution mechanisms not in place. The expropriation law does not explicitly provide for any dedicated mechanism through which disputes related to expropriation can be resolved, apart from the steps to be taken by individuals dissatisfied with the property valuation. In the absence of the formation of the Supervising Committees, this gap is even more acute. However, RTDA reported that it establishes a committee of 5 or more persons at the beginning of a proposed expropriation project to facilitate the resolution of any possible disputes that might arise during the process.¹¹⁵ The committee is comprised of, at a minimum, 2 people representing the landowners (1 man and 1 woman), the Executive Secretary of the concerned Cell, the Executive Secretary of the concerned Sector, and the person in charge of land matters at the Sector level, in addition to others who might be appointed on a case-by-case basis. According to RTDA, these committees have been successful in resolving citizens' concerns at an early stage¹¹⁶, saving unnecessary costs and other lost resources in the process.¹¹⁷ According to RTDA, the following data describes the complaints received and resolved in the past 3 years under this process:

Year	No. of complaints received	No. of complaints resolved	No. of pending complaints
2015	69	69	0
2016	127	127	0
2017 (to date)	224	176	48

While dispute resolution is at the heart of administrative justice, and a procedure like this could benefit all expropriations (notwithstanding other appeals procedures that could be retained and clarified under the Law on Expropriation), this type of mechanism is not formalized in any way. Formalizing and universalizing this kind of grassroots dispute resolution mechanism could help to ensure that conflicts are resolved at an early stage and with no (or minimal) cost for concerned individuals, while offering a degree of transparency.

¹¹⁴ Case RADA 0082/15/HC/KIG, between Rwemarika, vs Ntaganzwa Family and Gasabo District, the case ruled on 22/4/2016.

¹¹⁵ Interviews with RTDA official on 20th November 2017.

¹¹⁶ For example, issues to do with 1) land boundaries in case of a dispute (this happens especially where land is not yet titled); 2) dissatisfaction with valuation (the affected person might claim for example that during valuation the number of trees mentioned in the valuation report are less than what he/she has. The committee together with local leaders verify this and liaise with the expropriating entity for rectification); 3) doing advocacy in case of delays for payment, etc.

¹¹⁷ It should, however, be stressed that this mechanism of creating (informal) citizens expropriation support committees does not deprive the affected person of their right to use other appeal mechanisms that are provided for by the law in case citizen's issue(s) is not resolved.

Key problems with implementation of the expropriation law include but are not limited to:

- *Delays and Bureaucracy in the payment of compensation: Article 36 of the expropriation law requires that compensation be paid within 120 days of the approval of the valuation report. These delays are caused by the bureaucratic nature of the payment process, and in some instances, the compensation process has to go through more than three institutions, which can also confuse affected individuals regarding where to follow up about their payments and which institution may be accountable for harm caused by delay.*
- *Inaccurate valuations of land in favor of the interests of expropriating entities. Some key informants reported that certain institutions use their own staff as valuers, rather than the independent valuers, even though the expropriation law requires that valuation be conducted by valuers certified by the IRPV. These institutions allege that the independent valuers lack professionalism and inflate prices unreasonably, and want their own staff accredited as certified valuers to enable them to continue doing valuation for the institution's expropriation projects. This practice highlights discrepancies between what is provided for by the law and what is done in practice.*
- *Difficulties to challenge the implementation of master plans to challenge: While the expropriation law requires expropriating entities using the master plan justification to first negotiate with owners of assets that are affected by the project, Round-table participants and key informants reported that individuals to be expropriated for implementation of master plans are often not approached. Only where negotiations between the landowners and investors fail should public authorities intervene.*
- *Confusion about administrative accountability for expropriation decisions: It is difficult to know which institution is legally responsible for carrying out the expropriation and hence to know the proper institution to complain against during the process.*
- *Lack of Citizen's awareness of the law and their rights is also a challenge to the implementation of the law on expropriation.*
- *Failure to Properly Title Expropriated Land. The government entities rarely registered or clearly demarcated expropriated land after an expropriation is completed, which can result in financial losses to the government.*
- *Lack of dedicated dispute resolution mechanisms: The expropriation law does not explicitly provide for such mechanism, apart from the steps to be taken by individuals dissatisfied with the property valuation. In the absence of the formation of the Supervising Committees, this gap is even more acute.*
-

IV.5. Recommendations

Based on the foregoing challenges and problems, as well as gaps in the legal and regulatory framework related to expropriation, the following recommendations should be considered to ensure the government fulfills the intent of the expropriation law.

(a) Adopt and publish the Prime Minister's Order establishing committees in charge of supervision of expropriation projects. This Prime Minister's Order is provided for in the expropriation law and the role of these committees is essential with regard to community consultations and reviewing the relevance and legality of the expropriation projects. These committees would ensure accountability of the Executive Committee (at the level of the District or City of Kigali). Without the establishment of the Supervising Committees, Executive Committees will continue to both initiate the expropriation projects and review their relevance and legality, which can create significant conflicts of interest.

(b) Ensure that an effective coordination mechanism is in place. A clear coordination mechanism should be put in place to ensure that the expropriation law is respected by the public institutions involved in expropriation, including the provision of communications to relevant landowners and citizens, decisions and procedural steps required by the law, the timely payment of fair compensation to the affected people, and the speedy and effective handling of the people's complaints related to the project. The Ministry of Environment should take the lead on this by establishing a department in charge of expropriation to coordinate expropriation projects accordingly.

(c) Reinforce the requirement that investors negotiate directly with individuals in expropriations involved in executing master plans. The expropriation law provides for landowners to negotiate directly with investors in projects implementing master plans. In circumstances where landowners are unable to develop their land as required by the master plan, the district authorities should assist in organizing these people to help them increase the value of their land vis-à-vis private investors. To avoid or reduce continuous eviction of people, new approaches should be developed, such as making the original landowners shareholders in land development projects, or allowing them to form their expropriated land under cooperative arrangements with the new owner or investor.

(d) Support poor and vulnerable citizens to carry out counter-valuations. Article 33 of the expropriation law, which requires any person contesting a valuation to carry out a counter-valuation at his or her own expense should be revised to provide some government assistance for those who are indigent according to an objective standard, or to have the cost of the counter-valuation reimbursed by the court or government upon acceptance of such a counter-valuation.

(e) Enhance community participation in expropriation projects to ensure transparency at all stages. Along with the intended establishment of the Supervising Committees, which are supposed to conduct consultations with concerned community members, the population should also have access to meaningful involvement in expropriation decisions and processes. In turn legally required studies of the impact of the proposed projects on the welfare of the people and the environment should also be made public. The expropriation law could be amended to include this requirement for publication of these studies and other relevant information to ensure proper participation and accountability in expropriation projects. Alternatively,

ministerial instructions can also be issued to require this kind of transparency. Individuals being expropriated should further receive a standard package of information explaining how they can seek redress for any complaints they have related to the expropriation, and in particular where they should file their complaints depending on the stage in the process at which the harm occurs. The expropriating entity together with the local authorities should understand these responsibilities and the Ministry of Environment should monitor the process.

(f) Strengthen the capacities of public and private sector officials on the expropriation law. Insofar as local leaders remain on the front lines, liaising with the public and making key decisions in expropriation projects, their capacity to know and use the expropriation law must be continually improved. In this regard, Ministry of Environment should work closely with MINALOC and other relevant partners to develop a module on the expropriation law and related laws and regulations and organize trainings for public and private sector officials, with a focus on district and sub-district leaders, as they are the ones who have the most important roles to play in implementing expropriation projects. These trainings can be organized directly by the relevant ministries with the assistance of experts or they can be organized through the already existing training institutions like the Institute of Legal Practice and Development (ILPD), the Local Government Institute (LGI) or the Rwanda Management Institute (RMI).

(g) Incorporate greater flexibility into compensation payment methods. For small payments, the WASAC method of payment by *cheque* should be considered. Alternatively, the relevant compensation amount could be sent to the relevant Sector bank account and the Sector Executive Secretary could provide cash to expropriated persons (having them sign or fingerprint upon receipt). Flexible and innovative payment procedures should also be adopted where land is jointly owned, where landowners do not yet have the official titles to their land, or where people have been cultivating land under the practice of subleasing.

(h) Revise timelines for appeal and create committees for dispute resolution to incentivize citizens and expropriating entities to openly address and resolve complaints. Insofar as the timelines provided for by the law for both expropriated persons and the expropriating entity are for the most part unrealistic (hindering opportunities for dispute resolution), an amendment to the Law on Expropriation should be entertained, whereby citizens are given additional time to submit a complaint to the expropriating institution (especially in cases where they were in good faith confused or misled about where to file). Formalizing such committees in charge of dispute resolution could fulfill many of the key aims of administrative justice.

(i) Establish and publish clear criteria for what constitutes the “public interest.” Article 5 of the Expropriation Law gives the Ministry of Environment the power to determine if an activity is in the public interest. International standards recommend that, where possible, an *exhaustive* list of acts of public interest should be established as a matter of transparency and accountability. Accordingly, the current ‘catch-all’ provision of article 5 should be revised—either to incorporate an exhaustive list of activities deemed to be in the public interest, or to establish clear and objective criteria on which an activity can be determined as such.

(j) The IRPV should be supported to strengthen the capacity and professionalism of valuers. The IRPV needs to be supported in strengthening the capacity and professionalism of valuers, including through the development of effective monitoring and enforcement systems on

matters of performance and ethics. The Ministry of Environment¹¹⁸ should take the lead on such capacity building with the IRPV, which should be required to publish the annual list of land and property prices (which can serve as minimum prices for valuers in establishing market prices). Given the importance of this annual exercise of establishing market-based land and property prices (and the expensive nature of this activity, as reported by IRPV officials), the government should also consider providing some financial support to the Institute to enable it to honor its obligations. The IRPV should also keep on adopting clear and internationally accepted standards to guide valuers in developing the most accurate prices for each plot of land (such as proximity to roads, water, services, etc.).

(k) Expand the role of RLMUA in expropriation projects, especially through its One-Stop Centers. RLMUA can add value and expertise to the expropriation process with regard to developing and accessing plans and maps of the land where proposed expropriation projects are to be carried out. A more expansive and formalized role for RLMUA in the expropriation process should be incorporated into the law.

Key recommendations to improve the expropriation process include:

- *Adoption of the Prime Minister's Order establishing committees in charge of supervision of expropriation projects;*
- *Putting in place a clear coordination mechanism to ensure the respect of the expropriation law by institutions involved in the expropriation.*
- *Reinforcing the requirement that investors negotiate directly with individuals in expropriations involved in executing master plans;*
- *Supporting poor and vulnerable citizens to carry out counter-valuations;*
- *Enhancing community participation in expropriation projects to ensure transparency at all Stages of expropriation process;*
- *Strengthening the capacities of public and private sector officials on the expropriation law.*
- *Incorporate greater flexibility into compensation payment methods;*
- *Revising timelines for appeal and create committees for dispute resolution to incentivize citizens and expropriating entities to openly address and resolve complaints;*
- *Supporting the IRPV should to strengthen the capacity and professionalism of valuers;*
- *Expanding the role of RLMUA in expropriation, especially through its One-Stop Centers which can help in developing and accessing plans and maps of the land to be expropriated.*

¹¹⁸ The Ministry of Lands and Forestry is the line ministry for IRPV. Article 11 of the law N°17/2010 of 12/05/2010 establishing and organising the real property valuation profession in Rwanda requires the Council of IRPV to “to submit a quarterly activity report to the Minister in charge of lands.” Further, article 14 of the same law requires the council of IRPV to submit its meeting resolutions to the minister in charge of land for his/her comments before becoming final.

V. ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK RELATING TO PRIVATE LABOUR REGULATION IN RWANDA

V.1. Introduction

The increased imbalances in labour supply and demand can exacerbate the unequal bargaining power between employers and employees. Rwanda is undergoing an important transformation from an agrarian to a knowledge-based economy¹¹⁹, and the Vision 2020 development plan projects reducing the proportion of the population employed primarily in agriculture. Therefore, the Government of Rwanda is generous to private investment but it has also taken an active role in regulating private employment by ensuring that minimum terms and conditions of service are provided to them, including administrative complaints mechanisms to resolve disputes between employees and employers outside of courts. As the focus on skilled labour increases in Rwanda, so too does the reliance on administrative decision-making in the area of labour, including hiring, termination practices and conditions of employment.

The Constitution of Rwanda of 2003, as revised in 2015, grants all citizens the right to work and to have free choice in employment.¹²⁰ In addition, Rwanda is party to ILO Convention 122¹²¹, the ratification of which requires Rwanda to put in place a favorable legal and institutional environment for the development of employment for all.¹²² The Constitution also supports the principle of equal pay without discrimination, the right to form trade unions or employers' professional associations to promote legitimate professional interests is also recognized.¹²³ The employment principles provided by the Constitution and international instruments are mainly implemented by the law Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda. This law is supplemented by orders that clarify specific issues, including Prime Minister's Order N°125/03 of 25/10/2010 determining the mission, organization and functioning of the National Labour Council, Ministerial Order

Art. 30 of the Constitution of the Republic of Rwanda provides that:

Everyone has the right to free choice of employment. All individuals, without any form of discrimination, have the right to equal pay for equal work.

¹¹⁹ National Institute of Statistics Rwanda, *RPHC4 Thematic Report: Population Size, Structure and Distribution*, Kigali, Rwanda, viewed on 4 November 2017, from <http://www.statistics.gov.rw/publication/rphc4-thematic-report-population-size-structure-and-distribution>.

¹²⁰ See Article 30 of the Constitution of Rwanda. See also article 6 of the International Covenant on Economic Social and Cultural rights and article 15 of the African Charter on Human and People's Rights. Rwanda, as a member state of the International Labour Organization (ILO), has ratified and is implementing 28 ILO conventions that are contributing to the regulation of labour in Rwanda, including those relating to; C14 Weekly rest (Industry) convention, C17 Workmen's compensation (accidents) convention, C98 Right to organize and collective bargaining convention, and C100 equal remuneration convention. See http://www.lmis.gov.rw/scripts/jobmrkt/doc/List_of_ratified_conventions_by_Rwanda.pdf.

¹²¹ Employment policy convention (C 122).

¹²² Rwandan National Employment Policy, 2007, page 15.

¹²³ See Article 30- 31 of the Constitution.

N°09 of 13/07/2010 determining the election of workers representatives and fulfillment of their duties, and Ministerial Order N°07 of 13/07/2010 determining the work of the labour inspector.¹²⁴

In order to closely analyze the legal framework of private labour in Rwanda, the following analysis is divided into 3 major parts. The first part concerns the legal framework of rights in the private labour sphere which discusses some of the challenges in interpreting and implementing these rights. The second part will address the legal, procedural, and institutional framework governing appeals and other remedial mechanisms related to private labour disputes, including certain challenges encountered in operationalizing those mechanisms. The third part lists key conclusions and recommendations as to how legislation on private labour regulation can be implemented more effectively, particularly in the context of decision-making.

V.2. Regulation of private labour

The current labour law contains various provisions that regulate the relationship between employer and employee in private sector. The enforcement of the labour law and regulations is ensured by different organs such as Workers' Delegates, Labour Inspectors established at each District and at the National Level and courts. Worker's Delegates represent the staff before the management for issues of common and individual interest.¹²⁵ Labour inspectors have the responsibility of securing and monitoring the enforcement of the labour law at the workplace. They carry out inspection of the institution, and also mediate disputes between employers and employees on labour matters. Courts ensure the implementation of labour law in solving disputes between employers and employees submitted to them. The sections below discuss different laws governing the relationship between employee and employers in private sector.

V.2.1. Terms of an employment contract

The labour law and regulations do not provide specific guidance for the recruitment of employees in the private sector. Most of the terms of the contract¹²⁶ are a matter of negotiation between the employer and the employee, and both parties must respect the contract terms in

¹²⁴ See also Law N°05/2015 of 30/03/2015 governing the organization of pension schemes,, Ministerial Order N°06 of 13/07/2010 determining the list of worst forms of the child labour, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms, , Ministerial Order N°11 of 13/07/2010 determining the modalities and requirements for the registration of trade unions or employers' professional organizations, Ministerial Order N°15/19 of 13/06/2003 concerning weekly duration hours within public service as modified and complemented to date,, and Presidential Order N°06/01 of 16/02/2011 determining official holidays. It is important to note that most of these orders will be repealed soon since MIFOTRA is in the process of adopting new orders for implementing the new 2018 Labour Law. As of the time of publishing this report, the Ministry has initiated 12 orders that require cabinet approval.

¹²⁵ Ministerial order no 09 of 13/07/2010 determining modalities of electing workers representatives and fulfillment of their duties.

¹²⁶ Article 2 of the Ministerial Order N°05 of 13/07/2010 determining the major contents of a written contract. "All written contracts contain legal basis, complete identity of the employee and employer and the place of work, nature and duration of a contract, nature of the job, probation period, notice period, salary, allowances and deductions, date and place of payment, rate of overtime remuneration, labour collective conventions and internal rules and regulations."

good faith and in conformity with the law.¹²⁷ The nature of the job, the salary and other benefits must be indicated in the contract, and the employment contract may be oral or written, unless it exceeds 90 days or the work will be performed outside of Rwanda, in which case it must be written.¹²⁸ Salaries are also subject to negotiation between employee and employer. However, to provide a framework for such negotiation, some established standards are envisioned by the law.

V.2.2. Absence of a Uniform Minimum Guaranteed Wage in Rwanda

Workers are entitled by the labour law to right to payment of a salary for the work done.¹²⁹ In order to establish guidelines to fix salaries in the private sector, the Labour Law delegates a Ministerial Order to establish a Minimum Guaranteed Wage (MGW) for different categories of work.¹³⁰ However, this Order has not yet been adopted. During the round-table discussion, participants reported that the absence of this Order provides a room for violation of workers' rights with respect to wages and other benefits. The Ministry in charge of public service and labour reported that the establishment of the MGW has taken longer than expected because it is meant to be inclusive and applicable to both the formal and informal sectors, and should be based on a comprehensive wage survey carried out in all sectors, which has taken a long time to accomplish, as well as consultations with different stakeholders.¹³¹

The MGW framework also serves as the basis for calculating indemnities allocated to workers for issues such as accidents or injuries at work, and pensions. The Supreme Court of Rwanda has addressed the absence of the MGW by establishing a wage amount to be used when calculating different damages for cases related to labour. This amount was fixed at 2,500 Frw/day in *Nyetera Jean Baptiste vs CORAR*.¹³² In 2016, while deciding on the case of *SORAS Ltd vs Umuhoza Pacifique, Izabayo Sylvie and Niyoyita Jacques*¹³³, the basic amount was raised to 3,000 Rwf/day to adjust for a cost of living increase. Such cases decided by the Supreme Court serve as guidance to other courts on similar cases. However, the establishment of the MGW through the Ministerial Order remains as a gap for setting the terms of employment and settling disputes out of court.

The ministerial order on Minimum Guaranteed Wage is not yet adopted. The Supreme Court addressed the absence of MGW by fixing it to 3000 Rwf/day. See SORAS Ltd vs Umuhoza Pacifique et al. case, Case no RCAA 0049/14/CS of 25/11/2016. This is however a precedent for application in similar cases.

V.2.3. Termination terms

The Labour Law requires the following procedures for termination of an employment contract:

¹²⁷ Article 5 of Ministerial Order no 05 of 13/07/2010 determining the major contents and modalities for a written contract.

¹²⁸ Ministerial Order no 05 of 13/07/2010; Article 11 of the law regulating labour in Rwanda.

¹²⁹ Article 66 of the Labour Law.

¹³⁰ Article 68 of the Labour Law.

¹³¹ KII with MIFOTRA on 23/11/2017.

¹³² *Nyetera Jean Baptiste vs CORAR*, Case no RCAA 0202/7/CS of 09/04/2009.

¹³³ *SORAS Ltd vs Umuhoza Pacifique, Izabayo Sylvie and Niyoyita Jacques*, Case no RCAA 0049/14/CS of 25/11/2016.

- Adequate notice: Upon termination of the contract, the initiator must give a prior notice period of at least 15 days for the employee who has worked for less than one year and at least 1 month for the employee who has worked for more than one year.¹³⁴
- Reasons for termination: an employment contract may only be terminated or suspended for lawful reasons, including gross negligence in the case of a fixed-term contract, good faith or legitimate motives for an at-will contract¹³⁵, or technical or economic reasons, provided that the employer follows the legally required criteria when carrying out the lay-offs.¹³⁶Compensation for termination: The termination of an employment contract for a worker who has completed a period of at least 12 consecutive months of work requires the employer to pay the dismissal compensation in accordance with the law.¹³⁷ Article 31, para. 5 of the 2018 Labour Law provides for an exception by stating that the terminal benefits provided for under this Article are also allocated to an employee whose employment contract is terminated after six (6) months due to sickness in case he/she is unable to resume a work. It is also important to note that the code provides for an increment of terminal benefits for all employees. The amount goes up by one time of the average monthly salary for every employee.

Gross misconduct is a lawful ground for termination of the contract but its determination was left to the discretion of the Judges. This led to lack of consistency in Courts' practice.

In attempt to harmonise their practice, in the case RSOCAA0027/11/CCS between Euro Trade International vs Rwakirenga, the Supreme Court defined gross misconduct as [that which is so heavy that the relation between the worker and the employer is no longer possible and too unbearable to wait the end of the contract period]. Article 3(7) of the 2018 Labour law, which appears to draw from the Supreme Court, defines gross misconduct (referred to as gross negligence in the old code) by an employee based on the severity of the action, omission, conduct, its circumstances or consequences such as the employer can no longer continue to employ him/her.

In practice, some employers do not respect the required procedures for termination of employment contracts, as reported by participants in the round-table discussions. For instance, they indicated that some employers terminate the employment contracts of less experienced workers without proper reasons, simply to minimize the amount of dismissal compensation they have to pay.¹³⁸ Participants proposed increasing the dismissal compensation to discourage such calculations. Participants in the round-table discussions also indicated that private sector employers dismissed employees for what they said were economic

¹³⁴ Article 24 of the law regulating labour in Rwanda.

¹³⁵ Article 26- 28 of the law regulating labour in Rwanda.

¹³⁶ Article 31 of the law regulating labour in Rwanda.

¹³⁷ Article 30 and 31 of the law regulating labour in Rwanda. The dismissal benefits are calculated by years of experience: two times the average monthly salary for a worker within less than 5 years of experience, three times the average monthly salary for a worker with between 5 and 10 years of experience, four times the average monthly salary for a worker with between 10 and 15 years of experience, five times the average monthly salary for a worker with between 15 and 20 years of experience, six times the average monthly salary for a worker with between 20 and 25 years of experience, and seven times the average monthly salary for the worker with over than 25 years of experience.

¹³⁸ Article 31 of the law regulating labour in Rwanda; FGD held at MARASA hotel on 9th November 2017.

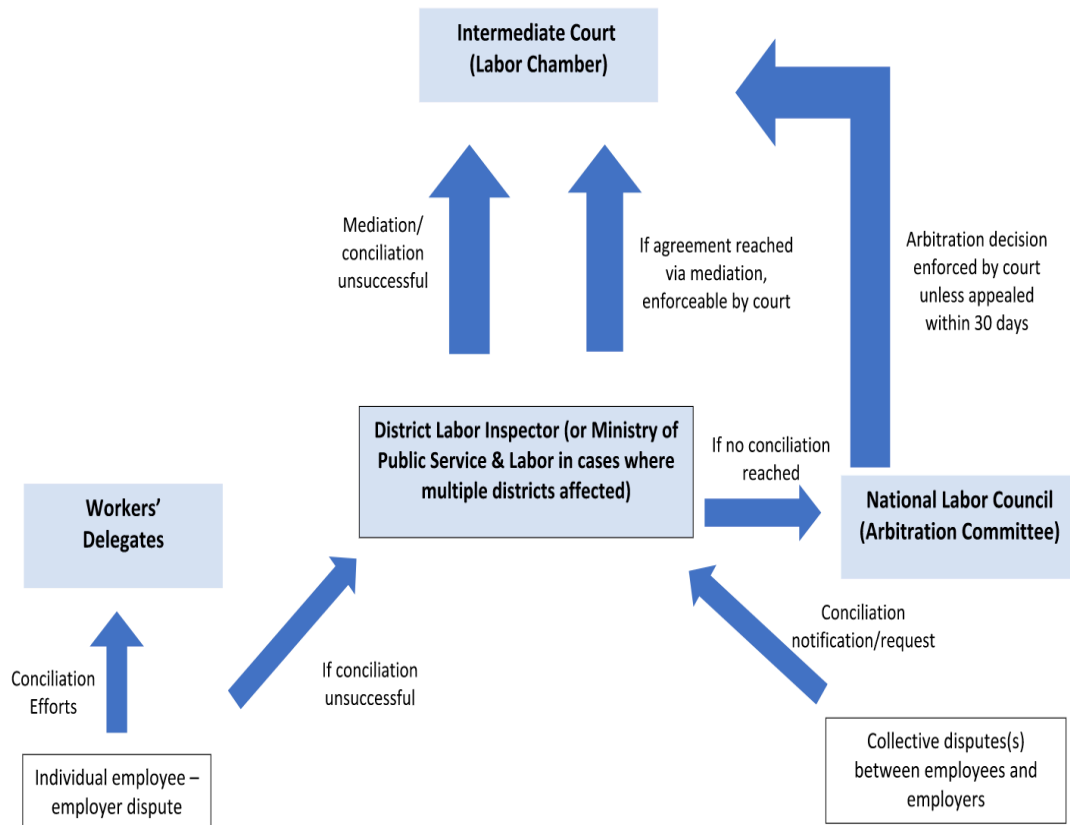
reasons, internal reorganizations, or restructuring, and then recruit new staff within a few days. Increasing dismissal compensation could prevent these abusive termination practices. There is also an issue of which acts constitute gross misconduct as a ground for lawful dismissal. Article 3(7) of the 2018 Labour law defines gross misconduct (referred to as gross negligence in the old code) by an employee based on the severity of the action, omission, conduct, its circumstances or consequences such as the employer can no longer continue to employ him/her. Article 26(3) further states that an Order of the Minister in charge of Labour establishes the list of gross misconduct. The old code had left the definition of gross negligence to the appreciation of the Courts. In this regards, the Courts had examined this issue in a number of cases such as *Niyitegeka Eric v. Banque Populaire du Rwanda Ltd case*¹³⁹ and *Jabo Martin v. A Voice for Rwanda case*,¹⁴⁰ but the Courts did not have consistent practice. The clear definition was laid down in the case RSOCAA0027/11/CCS between *Euro Trade International sarl vs Rwakirenga*,¹⁴¹ in which the Supreme Court defined gross misconduct as [*that which is so heavy that the relation between the worker and the employer is no longer possible and too unbearable to wait the end of the contract period*]. The definition in the 2018 labour code, which appears to draw from the Supreme Court definition, also has some gaps. In order to fill this gap and, the yet to be adopted ministerial order should not only provide for an indicative list of acts considered as gross misconduct but also the criteria for judging unlisted acts.

¹³⁹ *Niyitegeka Eric v. Banque Populaire du Rwanda Ltd*, Case No. RSOCA 0006/15/HC/NYA, 16 June 2015

¹⁴⁰ *Jabo Martin v. A Voice for Rwanda*, Case No RSOCA0025/15/HC/KIG, 09 September 2015.

¹⁴¹ *Euro Trade International Sarl vs Rwakirenga*, Case no RSOCAA0027/11/CCS, 13th March 2012, para 53.

Administrative Decision Pathways in Private Labor Disputes



V.3. Challenges in implementation of rights in the private labour sphere

V.3.1. Formation of unions

The constitutional right to form trade unions is also embedded in the labour law.¹⁴² It provides a comprehensive framework to address the rights of workers and employers to freely associate and collectively bargain. Thus, Ministerial Order N°11 of 07/09/2010 determines the modalities and requirements for the registration of trade unions and employers' professional organizations. However, according to Article 5 of the Order, a 90-day time limit exists for approval of an application for registration of a trade union, which can delay the establishment of the organization. The same article gives the Minister in charge of labour the power to propose modifications to the statutes of a trade union under registration, which vests the Minister with broad discretion to impact the powers of trade unions. Trade unions also face challenges in practice where employers create barriers for employees and trade unions to interact.¹⁴³ At the same time, the labour law does not provide protection for trade union representatives within a company. The absence of these protections deters workers from becoming members of trade unions, despite legal and constitutional protections for the rights of workers to be in trade unions. While many employers must be further sensitized to the business value and legal obligation of supporting workers, some private institutions have started to allow workers to elect their own representatives¹⁴⁴.

V.3.2. Workers' rights within the informal sector

The informal sector is less regulated than the formal sector and is the subject of ongoing regulatory and policy debates in Rwanda. The old labour law (2009) guaranteed informal sector workers a right to social security, to form and join trade unions, and to health and safety standards in the workplace.¹⁴⁵ The new code, under its Article 2 has extended the informal sector worker's protection to other important issues, namely; *the right to salary; the minimum wage in categories of occupations determined by an Order of the Minister in charge of labor; the right to leave; protection against workplace discrimination; protection from forced labor* and to *prohibited forms of work for the child, pregnant or breastfeeding woman*.

Despite this law, the sector is still inadequately regulated. Round-table participants highlighted the importance of clear understanding which businesses are considered to be in the informal sector in order to clarify the rights of informal workers, because some businesses operate contrary to the definitions provided by the labour law in this regard. CESTRAR¹⁴⁶, a confederation of trade unions in Rwanda, indicated that it receives some complaints from

¹⁴² Article and 83 of the law regulating labour in Rwanda.

¹⁴³ Interview with CESTRAR on 23/11/2017.

¹⁴⁴ Interview with CESTRAR on 23/11/2017.

¹⁴⁵ Article 2 of the labour law.

¹⁴⁶ La Centrale des Syndicats des Travailleurs du Rwanda (CESTRAR) was created in 1985 with the objectives of improving the socio-economic conditions of workers and creating solidarity among workers and involving them in trade unions activities. It has 16 National Trade Union Centre affiliations. (See Rwanda Labour Market Profile, 2016, page 1).

informal workers with regard to the implementation of the labour law and that it has intervened in conciliation between employers and workers in the informal sector.¹⁴⁷

V.3.3. Limitations of Labour Inspector's capacities and resources

Labour Inspectors are vested with a number of duties that apply to the day-to-day management of labour relations. Their duties include monitoring worker suspensions that involve salary seizure monitoring occupational risks in the workplace, monitoring certain trade union communications, and monitoring collective conventions for labour unions. The Labour Inspector's mandate is broad, and is required to report on any deviations from the law in the area of labour issues. The Labour Inspector has broad rights of inspection to carry out its duties, however, due to human resource and capacity limitations, the Labour Inspector's ability to carry out all of its duties could be compromised. For instance, participants in the round table indicated that labour inspectors work mostly in their office and put more efforts in handling cases brought to them. Since there is one labor inspector per district, (except two for Kigali city districts), they have no time to perform other inspection duties at the field. Lack of required expertise and materials to evaluate health and safety standards in workplace was also an issue raised by the participants.

Limitations of Labour Inspector's capacities and resources is a key challenge to labour dispute settlement. Participants in the round table indicated that labour inspectors put more efforts in handling cases brought to their offices. One labor inspector per district has no time to perform other inspection duties at the field. Lack of required expertise and materials to evaluate health and safety standards in workplace was also an issue raised by the participants in the round table.

V.4. Legal, Procedural, and Institutional Framework Governing Appeals and Remedial Channels in the Private Labour Sphere

There are a number of administrative entities in place to handle the disputes relating to the application of the labour law and its implementing regulations. Laws and regulations have made mandatory the submission of a dispute to certain bodies while recourse to others bodies remain optional.

V.4.1. Remedial mechanisms/channels

Remedial channels include judicial and non-judicial channels. The non-judicial channels include workers' delegates, the Labour Inspector, The Ministry of Public Service and Labour (MIFOTRA)¹⁴⁸, and the National Labour Council. The applicable channel to be used depends on whether the dispute is individual or collective in nature.

V.4.1.1. Appeals and remedial channels for individual labour disputes

¹⁴⁷ Interview with CESTRAR on 23/11/2017.

¹⁴⁸ Ministry of Public Service and Labour.

An individual labor dispute refers to a disagreement between a worker or several workers and the employer where the dispute is related to an alleged violation of a labor contract.¹⁴⁹ Two administrative organs may become involved in the settlement of individual labour disputes: workers' delegates and the Labour Inspector.

a) Workers' delegates

In an individual labour dispute between an employer and a worker, either party may request the intervention of workers' delegates, who are legally empowered to help settle the dispute amicably. This is the first opportunity for a worker (or employer) to seek recourse through an administrative mechanism and prevent litigation in case of a labour dispute, and it is a mandatory first step in resolving a private labour dispute.¹⁵⁰ If the parties fail to settle the dispute at this stage, the matter is referred to the Labour Inspector.

In practice, after receiving a Labor dispute, the Labour Inspector invites the concerned parties for conciliation. When conciliation efforts fail, the dispute may be taken before the competent court. The statement of conciliation or non-conciliation usually becomes the basis of any subsequent court claim.

b) Labour Inspector

Where a dispute is not settled with the workers' delegates, the aggrieved party then refers the matter to the Labour Inspector of the area where enterprise is located for mediation and settlement.¹⁵¹ One Labour Inspector is assigned to each District, as well as one at the National level, working in the Ministry of Public Service and Labour in the Labour Administration unit.¹⁵² Article 102, para.3 of the 2018 Labour Law further states that, in cases where the Labour Inspector of the area where an enterprise is located fails to settle the dispute due to the nature of the case or a conflict of interest, he/she should refer the dispute to the Labour Inspector at the national level stating the grounds for referral of such a dispute.

In the process of settling an individual labour dispute, a Labour Inspector may:

- Conduct inspection of the workplace where the dispute has arisen;
- Question under oath any person likely to have relevant information for settlement of the dispute;
- Invite assistance from any person who may be able to contribute to the amicable settlement of the dispute.

¹⁴⁹ Law regulating labour in Rwanda, Art. 3(11).

¹⁵⁰ Law regulating labour in Rwanda, Article 102,, para.1.

¹⁵¹ Law regulating labour in Rwanda, Art. 102, para.2. See also Article 3 Ministerial Order n°07 of 13/07/2010 determining the modalities of functioning of the labour inspector.

¹⁵² See article 2 of the Ministerial order no 07 of 13/07/2010 but due to the volume of work within the districts of Kigali City, there are 2 labour inspectors for each district of Kigali City and 3 labour inspectors at national level in Ministry of Public Service and Labour (Labour Administration unit).

In practice, a labour dispute, the Labour Inspector invites the concerned parties for mediation. Parties can be assisted or represented, and each party is given an opportunity to be heard during the conciliation process. After convening and conciliating both parties, the Labour Inspector records the conciliation minutes in a statement signed by both parties and each party obtains a copy thereof. The statement of conciliation or non-conciliation usually becomes the basis of any subsequent court claim.

V.4.1.2. Appeals and remedial channels for collective labour disputes

A collective labour dispute is defined as a disagreement between one or more employers on the one hand, and some or all employees on the other hand, which arises from collective convention or working conditions. ¹⁵³ A collective labour dispute may be handled through the Labour Inspector, the Minister in charge of Labour, or the National Labour Council.

a) Labour Inspector

Article 103 of the 2018 Labour Law provides that collective labour disputes arising in the home district of a labour inspector are referred to that inspector while collective disputes extending beyond a single district are handled by the Labour Inspector at the national level, The same provision in its para. 3 further states that an Order of the Minister in charge of labour determines the organisation, functioning of labour inspection and procedures for Labour dispute settlement. This order is yet to be adopted but the earlier (now abrogated) 2009 Labour Law provided for the following procedure:

“ the parties to a collective labour dispute must immediately notify the competent Labour Inspector of the dispute. ¹⁵⁴ Within 7 days, the Labor Inspector initiates conciliation proceedings and the parties can be represented or assisted at the hearing. The Labour Inspectors’ rights of inspection and questioning interested parties and witnesses apply in both individual and collective labour cases. The minutes of the conciliation proceedings are recorded and signed by both parties including any agreements reached and each party also receives a copy. An original copy of the minutes detailing an agreed upon resolution and serving as an administrative act/decision must be submitted to the competent court within 15 days of any conciliation agreement. Conciliation done under these conditions becomes enforceable on the day the decision is submitted to the competent court. ¹⁵⁵ While redress to courts is available in both individual and collective labour disputes after going through the proper administrative process with an Inspector, the decision made by the Labour Inspector in a collective dispute is filed with the court and becomes automatically enforceable, while in an individual dispute the party has the option to appeal to a court if the other party does not execute the settlement.”

The yet to be adopted order is likely to draw inspiration from this practice of the repealed law.

b) Minister in charge of Labour

¹⁵³ Article 3 of the law regulating labour in Rwanda.

¹⁵⁴ Article 143 of the labour law in Rwanda, 2009 (abrogated)

¹⁵⁵ *ibid.*

Article 103, para. 2 of the 2018 Labour Law provides that collective disputes extending beyond the home district of a labour inspector not settled by the Labour Inspector at the national level or not settled due to their nature or a conflict of interest are brought before the Minister in charge of labour. The ministerial order establishing the procedure is yet to be adopted but the current practice dictates that the Minister uses the same procedure as the Labour Inspector at the district level to resolve collective labour disputes.

c) National Labour Council

Article 124 of the 2018 Labour Law maintained article 163 of the earlier 2009 Labour Law (Law n° 13/2009 of 27/05/2009 regulating labour in Rwanda, and establishing the National Labour Council). The anticipated ministerial order has yet to establish the procedure for dispute settlement before the National Labour Council. However, the abrogated 2009 Labour Law provides that the National Labour Council (NLC) operates as an arbitration committee to resolve collective labour disputes referred to it by the Minister in charge of labour. In case of non-conciliation on a collective labour dispute, the Minutes prepared by Minister in charge of labour or by a Labour Inspector who heard the dispute are forwarded to the National Labour Council that will set up an Arbitration Committee to resolve the referred dispute.¹⁵⁶ The arbitration committee of the NLC is independent and takes decisions based on laws and collective conventions, as well as principles of equity in case the law is silent.¹⁵⁷ In handling a collective labour dispute, the Arbitration Committee follows the procedure indicated by the Labour Law for the settlement of collective labour disputes. Concerned parties are invited within 7 days for conciliation proceedings, and interested parties and witnesses are interviewed.¹⁵⁸ The Arbitration Committee takes minutes of the conciliation proceedings indicating any agreements reached by the parties.¹⁵⁹ A decision of the arbitration committee is immediately enforceable once notified to both parties by the Minister or labour inspector except when there is appeal to court within 30 days of the notification of the decision.¹⁶⁰

V.4.3. Judicial recourse in labour matters

Labour disputes that are not resolved after going through the mandatory administrative procedures may be referred to court.¹⁶¹ According to the laws related to the competence of courts, labour cases are submitted the Specialized Chamber for labour and administrative cases within the intermediate court.¹⁶² The labour and administrative chamber has the competence to hear all labour and social security cases and cases pertaining to:

- Individual or collective disputes arising out of employment between private employers and their employees;
- Employment contracts, apprenticeship contracts, collective agreements;

¹⁵⁶ *Ibid*, Article 144.

¹⁵⁷ *Ibid*, Article 147.

¹⁵⁸ *Ibid*, Article 146.

¹⁵⁹ See article 145 of the Labour law 2009 (Abrogated)

¹⁶⁰ *Ibid*.,Article 148.

¹⁶¹ *Ibid*., Article 102, para.4. .

¹⁶² Article 35 of the law n°30/2018 of 02/06/2018 determining the Jurisdiction of Courts and article 63 of the Law n°012/2018 of 04/04/2018 determining the Organization and Functioning of the Judiciary

- Disputes between employers and employees in regard to the application of social security laws; and claims for damages arising out of the breach of labour laws.¹⁶³.

Courts are not the preferred mechanism for resolving labour disputes under the law, and exhaustion of all administrative remedies is required by the law before submitting the case to court.¹⁶⁴ However, the last paragraph of the Article 140 of the labour law permits but does not require a judge to dismiss a claim brought where administrative remedies have not been exhausted. Round-table participants noted that this provision creates confusion for those who want to submit a dispute to court. Even if the provisions of the Article 140 appear to give a choice to a judge about whether to admit a case where the claimant has not exhausted administrative channels, in practice judges require exhaustion of administrative channels before hearing a case.

For instance, in the case RSOC 00144/2017/TGI/NYGE between GT Bank and Sengiyumva Francois for unfair dismissal, the court declared Francois's case inadmissible as he submitted his claim to the labour inspector and then to the court without taking it before the workers' delegate, which did in fact exist at GT Bank. The court's decision rested on the fact that Article 140 of the labour law was not fully respected because the claimant had not brought the case to the workers' delegate first. Round-table participants noted that this decision sets a time-consuming precedent where Article 140 does not strictly require exhaustion of administrative remedies. In the same vein, Labour Inspectors indicated that parties come before them not expecting conciliation, but just to have a document to be presented in a court so that they can proceed to court where they believe their claim will be more effective.¹⁶⁵ It is unclear whether the lack of trust in Labour Inspectors is due to their limited skills in resolving disputes or perception on their independence. The use of available administrative remedies is mutually beneficial to both parties in most cases, and the courts are an added backstop to protect individual rights if the concerned party is not satisfied with the decision taken during administrative proceedings. However, clarification about whether administrative remedies must be exhausted before taking a claim to court will be necessary to preserve judicial resources and provide clear direction to potential claimants in labour cases.

Article 102, para. 4 of the Labour code requires the exhaustion of all administrative remedies before submitting the case to Court. Even if the last paragraph of article 102 appears to give a choice to a judge about whether to admit a case when the claimant has not exhausted administrative remedies, in practice judges require exhaustion of administrative channels before hearing a case.

This is for example illustrated in RSOC00144/2017/TGI/NYGE between GT Bank and Sengiyumva Francois for unfair dismissal. The Court declared Francois's case inadmissible as he submitted his claim to the labor inspector and then to the court without taking it to the workers' delegates.

V.5. Challenges to dispute resolution in private labour matters

¹⁶³Article 35 of the law n°30/2018 of 02/06/2018 determining the Jurisdiction of Courts.

¹⁶⁴ Article 102, para.4 of the law regulating labour in Rwanda.

¹⁶⁵ FGD held at MARASA hotel on 09th November 2017.

While dispute-handling procedure related to private labour are provided by the laws, a number of challenges that hinder their effectiveness exist. This section discusses those challenges before making recommendations to overcome them.

V.5.1. Worker's delegate system ineffective

The labour law provides for workers' delegates in institutions to represent the first-level administrative process for labour disputes.¹⁶⁶ Ministerial Order n°09 of 13/07/2010 determines the modalities of electing workers' representatives, and designates their duties. In practice, the challenge is that some institutions do not have workers' delegates. Moreover, workers' delegates can be conflated with other organs especially in public institutions. For instance, in the case of Raturwa Daniel and the former School of Finance and Banking (SFB), Daniel, formerly employed by SFB, submitted his dispute to the High Court requesting the payment of salaries and other indemnities which had not been paid to him, allegedly due to his unfair dismissal. SFB's lawyer asked the court to reject Raturwa's claim because it had not been submitted to the workers' delegates before being submitted to court, as required under the Labour Law. In the analysis, the court decided to accept Daniel's claim, because SFB had an internal disciplinary committee which was not the same as a worker's delegate. Because SFB had not established the correct complaints mechanism, Daniel did not have administrative recourse before the court to resolve the labour dispute. The confusion between the internal disciplinary committee and the workers' delegates also indicates the lack of knowledge of labour law, even among employers, which hinders the implementation.

. The Law is silent on the protections accorded to representatives of the workers. Article 1 of the ILO Convention on Workers' Representatives¹⁶⁷ requires workers' representatives to be afforded protections from wrongful dismissal or other adverse actions based on their function as a workers' delegates. Round-table participants indicated that the absence of these protections jeopardizes the effectiveness of the workers' delegates in private institutions in Rwanda. Furthermore, while workers' delegates are the first administrative organ to which an individual labour dispute can be submitted, the applicable time limits for the dispute settlement before the workers' delegate is not stated in the law. The omission of a timeline for the decision weakens the institution of the workers' delegates. Clear timelines for the filing and proceeding of cases should be set by the law, as well as the standards/guidelines against which workers' delegates would use in promoting the conciliation of disputes.

V.5.2. Labour Inspectors' limitations

The responsibilities of labour inspectors include providing advice on compliance with the law, mediation between employers and workers, and inspection of companies, including other duties.¹⁶⁸ In practice, labour inspectors face a heavy workload due to the complexity of the cases they handle and their numerous duties. Although complete data from all labour inspectors

¹⁶⁶ Article 102 of the law regulating labour in Rwanda.

¹⁶⁷ C135 ILO Convention on workers' representatives.

¹⁶⁸ Article 3 of the Ministerial Order determining the modalities of the functioning of the labour inspector.

was not available, the table below illustrates the estimated number of cases labour inspectors received for mediation in the past 3 years¹⁶⁹:

Period	2014-2015	2015-2016	2016-2017
Cases received	2,937	2,554	3,335

This volume of cases causes delays in mediating disputes, and labour inspectors do not have enough time to dedicate to their other duties, such as ongoing monitoring and inspection. ILO Convention 81 on labour inspection provides for separate labour inspectors for industry and commerce. However, such distinction and specialization among labor inspectors for specific institutions or sectors such as industry or commerce is not provided in the Rwandan system.

Consequently, Labour Inspectors at the District level are in charge of inspecting all companies without distinction. This was also highlighted during the round table discussions where participants, including labor inspectors themselves, stressed that some sectors or industries, depending on the nature of the work, need specialized inspectors to be able to meaningfully and effectively perform the inspection role of the labor inspector.¹⁷⁰ Participants in the round-table discussion recommended the full domestication of ILO Convention 81 related to labour inspection in order to address the need for specialization in labour inspections. This recommendation was reiterated during the interview with CESTRAR.

Labour Inspectors face a heavy workload due to the complexity of the cases they handle and their other numerous duties.

Moreover, there is lack of specialization among labour inspectors. Participants in round table Discussion stressed that some sectors or industries, depending on the nature of the work, need specialized inspectors to be able to meaningfully and effectively perform the inspection role.

Furthermore, the Labour Law does not provide a time limit within which an individual labour dispute has to be resolved by the Labour Inspector. While some disputes may take longer than others to resolve, having some timelines in the law provides protection to all concerned parties. As the Labour Law sets time limits for the settlement of collective labour disputes, round-table participants proposed a review of the Labour Law and regulations in order to indicate the period within which an Inspector should settle a dispute. However, adding time limitations on the labour inspector’s settlement of disputes should be accompanied by increased resources and capacity for Labour Inspectors.

Another challenge Labour Inspectors face was that their power in dispute settlement was limited, because Labour Inspectors could not propose administrative sanctions based on a violation of the law discovered during an investigation. This is currently addressed by article 120 of the new Labour Law of 2018 which gave inspectors powers to issue some administrative sanctions. It reads: “[a]n employer who refuses to allow a labour inspector to enter an

¹⁶⁹ Where data from a Labour Inspector was missing for one year, the total number of cases was determined by calculating an average of the cases received by the Labour Inspector in other years. For the exact number of cases submitted to Labour Inspectors with the missing (averaged) data indicated, please see Annex A.

¹⁷⁰ FGD held at MARASA on 9th November 2017.

enterprise, refuses to provide information with him/her, or fails to respond to his/her summons or implement recommendations from a labour inspector, engages in administrative misconduct. He/she is liable to an administrative fine of not less than one hundred thousand Rwandan francs (FRW 100,000) and not more than two million Rwandan francs (FRW 2,000,000). Modalities for implementing of sanctions are to be determined by an order of the Minister in charge of labour concerning the organisation, functioning of labour inspection and procedure for labour disputes settlement (which is yet to be adopted).

Despite the power to take administrative sanctions, labour inspectors still lack specific power to take measures for enforcement of settlement decisions and must essentially rely on the voluntary compliance of the parties in the absence of any further legislative or regulatory provisions (or interpretation of new regulations by the courts). However, one of the parties to a settlement agreement can enforce it through courts, since the new law on civil, commercial, labour and administrative procedure (CCLAP) listed an agreement (settlement) contract signed by parties pursuant to a mediation concluded out of court as one of several permissible enforcement orders.¹⁷¹ Labour inspectors who participated in the round-table discussion also noted that the procedure for submitting a labour dispute to the Labour Inspector is often considered a mere legal formality before submitting the case to court, and the parties do not even expect or want to settle the claim before the Labour Inspector. This can be seen as a result of the limited power, effectiveness and slowness due to the work overload of Labour Inspectors, or perceived partiality. This affects the entire conciliation process because one or both of the parties may go into the mediation process without the desire to settle the claim outside of court. Labour Inspectors should have the power to impose enforceable sanctions in order to strengthen their legitimacy and make them more effective in monitoring the implementation of labour legislation.

V.5.4. Role of the Labour and Administrative Chamber

A specialized chamber in each of the country's intermediate courts deals with labour and administrative matters and is organized to have a designated judge to handle such cases. However, participants in the round-table discussion and CESTRAR in an interview noted that this judge may not have sufficient knowledge about all aspects of Labour Law. With the amendment of the law governing competence of courts, this chamber was merged with the administrative chamber to form one chamber. This means that its judges shall act both as administrative and labour law specialists. This might exacerbate the already existing lack of specialized skills. Trade unions such as COTRAF Rwanda¹⁷², and CESTRAR have noted an increase in violations of workers' rights, and an increase in labour disputes submitted to courts.¹⁷³ Respondents indicated that due to the large number of cases handled by the then specialized chamber in charge of labour, a specialized court to handle labour matters, staffed with specialized judges, should be created. MIFOTRA officials did not agree with the recommendation to create a specialized labour court due to the fact that Rwanda does not have a large number of labour cases overall and under the then system was able to resolve all

¹⁷¹ See article 241(7) of the law No 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure.

¹⁷² Congrès du Travail et de la Fraternité des Travailleurs du Rwanda.

¹⁷³ The Intermediate Chamber of the Court does receive numerous labour claims – at least double of the rest of the administrative complaints it receives annually. See Annex D for data on administrative and labour cases received.

submitted labour matters. A judge at Nyarugenge Intermediate Court agreed with MIFOTRA's view, affirming that the then specialized chamber at the intermediate court level was able to handle all labour matters.¹⁷⁴ While the issue of capacity of judges is to some extent a matter of opinion, MIFOTRA and the Intermediate Court at Nyarugenge did propose reinforcing the capacity of the labour Chamber through regular training to the judges in the intermediate and other courts that have responsibility for handling labour matters. In an interview, the judge of the High Court also echoed this position and stated that the important thing is the specialization of judges, which can be achieved through specialised trainings in labor law (such as international labor standards) and allocation of some judges to specifically handle labour cases¹⁷⁵.

Roundtable participants noted that due to the lack of awareness of their rights, workers seek help from other institutions, such as trade unions, which do not have a statutory mandate to resolve workers' disputes. For example, CESTRAR received 228 cases/complaints from January 2015 to October 2017.

V.5.4. Lack of awareness of workers' rights and procedure to follow

Labour sector is regulated by series of specific laws and regulations, and some workers are not aware of the administrative organs that exist to assist them in resolving their labour disputes. For example, round-table participants indicated that workers may not even know that they have the right to elect workers' delegates within their institutions¹⁷⁶. Due to their lack of awareness of their rights, workers seek help from other institutions, such as trade unions, which do not have a statutory mandate to resolve workers' disputes. CESTRAR reported that it often receives complaints from workers seeking advice on procedures to be followed in resolving labour disputes. Based on the nature of the complaint received, CESTRAR sometimes engages in conciliation between the employee and the employer, or in other cases it might direct the employee to the competent authority to resolve the dispute. CESTRAR indicated that through provision of advice and orientation, they educate workers about their rights and the procedures to be followed while seeking redress for their issues. According to the available statistics, CESTRAR received 228 cases/complaints from January 2015 to October 2017 (54 cases in 2015, 87 cases in 2016, and 87 cases in 2017). CESTRAR believes that the high number of cases they receive suggests that employers often do not respect labour regulations and this may warrant further consideration of damages for such disregard.

V.6. Recommendations

Based on the challenges to implementing the legal framework in regards to private labour, the following recommendations should be considered:

1. The enactment of the Ministerial Order related to the Minimum Guaranteed Wage

¹⁷⁴ KII with judges at Nyarugenge Intermediate Court on 28/11/2017.

¹⁷⁵ Interview with a High Court Judge, on 15th February 2019.

¹⁷⁶ FGD held at MARASA hotel on 09th November 2017.

In order to fix standards to be followed by different institutions in different sectors to determine salaries of workers and different benefits to be allocated to workers, the Ministerial Order setting the Minimum Guaranteed Wage must be adopted.. Courts have been filling in a minimum wage for the calculation of damages, but the intent of the law is to have the Minimum Guaranteed Wage for other purposes as well, to be set by the Minister, not by the Courts.

2. Ensure the full implementation of ILO Convention 135 in order to provide protection to workers' delegates.

Although the Labour Law requires workers' delegates to be afforded protections, the nature of protection is not defined by the law. The ILO Convention requires workers' delegates to receive protection from wrongful dismissal or other adverse actions based on their function as workers' delegates. Such protections could also apply to trade unions' representatives.

3. Ensure the full implementation of ILO Convention 81 in order to ensure specialization within the labour inspection.

Labour Inspectors are meant to inspect employment sites in the course of resolving disputes and in ensuring general compliance with labour laws. However, Labour Inspectors in Rwanda are not specialized in some sectors of their inspection. The ILO Convention designates specialization for Labour Inspectors based on industry or sector for greater effectiveness and efficient use of resources.

4. Ensure the full implementation of the Ministerial Order related to the election of workers' delegates to ensure all private institutions elect workers' delegates.

The role of workers' delegates in the disputes resolution process is essential, and courts have even dismissed cases where the parties did not utilize workers' delegates first. However, many institutions have not provided for the election of workers' delegates, which leads to delaying workers in accessing their rights, and can also lead to the waste of national resources where cases that could have been resolved by workers' delegates end up in courts.

5. Amend the labour law in order to clarify the requirement of the exhaustion of administrative remedies before bringing a labour claim before a court.

While the Labour Law does provide a judge with grounds to dismiss a case if administrative remedies have not been exhausted in a labour case, the judge can still do it. This makes exhaustion of administrative remedies an optional requirement, which may affect consistency and uniformity of the procedure, thus harming the effectiveness and authority of the administrative structures created to address private labour disputes.

6. Amend the labour law to increase dismissal compensation.

Despite the recent increment of the terminal benefits associated with a termination of an employment contract as provided under article 31 of the 2018 Labour Code, the compensation for dismissal of a worker is still relatively low. This can incentivize wrongful termination, especially of workers with less experience. Key informants, including judges, also raised this concern.

7. *Adoption of an order specifying the procedure and time limit within which individual labour disputes have to be settled by workers’ delegates and labour inspectors.*

In order to preserve the rights of workers who do submit their claims first to workers’ delegates or labour inspectors, some timelines for settlement of the dispute at these levels should be adopted by orders. While the timelines must allow for proper consideration of complex cases, a 7 day time limit with the option to extend could be a good starting point.

8. *Amend the Labour Law and Ministerial Order on the functioning of Labour Inspectors in order to increase the powers of Labour Inspectors.*

Labour Inspectors represent a key stage in dispute resolution and labour regulation in general, but their authority is limited. Vesting Labour Inspectors with the power to propose sanctions where non-respect of labour laws and regulations have been noticed serve to increase the Labour Inspectors’ relevance and authority. Therefore, the amendment of the ministerial order addressing the functioning of labour inspectors is necessary in order to determine the modalities of enforcement of administrative sanctions provided under article 120 of the labour law of 2018. Moreover, the order should provide labour inspectors with specific mechanisms to enforce settlement decisions. Other capacity building initiatives such as resource increases, and skills could also be vested in the Labour Inspectors.

9. *Provide increased capacity building efforts for judges handling labour matters on labour law and relevant labour issues.*

As judges continue to manage complex labour cases and as the legal framework is refined and updated, they should be provided with capacity-building to ensure they apply the laws equally, fairly and evenly in light of changing conditions of work and regulatory issues. Key informants mentioned the need for training of judges in certain specialised labour matters such as international labour standards. They also stressed the need to train labour inspectors on relevant labour laws and concrete mediation skills, since experience gained in court cases indicated quite a number of labour inspectors do not understand their legal responsibilities. One key informant said: “*Labour inspectors should understand their responsibilities very well. For example, if you look at cases involving employees with contracts, they indicate that some labour inspectors fail to carry out adequate inspections.*”

10. *Raise workers’ awareness of their rights and labour laws*

Workers themselves can be their own best advocates for their rights. Trainings and workshops organized by different partners, public institutions, and private institutions should be supported in order to provide workers with relevant information about their rights. In conclusion, the current labour legislation provides guidance to be followed in establishing employment contracts in the private sphere. It indicates rights and obligations of both the employer and the employee. Procedures to be followed and organs that intervene when a labour dispute arises are established. However, some areas of regulation need to be improved in order to ensure the effectiveness of provided mechanisms for solving problems. In this regard, the labour law and some Ministerial Orders will have to be amended in order to resolve issues raised, and the international conventions ratified by Rwanda should be fully incorporated into national laws and regulations in order to ensure that Government is executing its obligations from these conventions. All partners, public institutions, and private institutions, should work together in

ensuring the implementation of laws and regulation related to labour and promoting the respect of workers' rights.

Key recommendations to improve the labour dispute settlement system are the following:

- *The enactment of the Ministerial Order on the Minimum Guaranteed Wage;*
- *The full implementation of ILO Convention 135 on the protection to workers' delegates, ILO Convention 85 on the specialization of the labour inspectors and the Ministerial Order relating to the election of workers' delegates to ensure that all private institutions elect workers' delegates;*
- *Amendment of the labour law in order to: clarify the requirement of the exhaustion of administrative remedies before bringing a labour claim before a court; increase dismissal compensation; specify procedure and time limit for settlement of labour disputes by workers' delegates and labour inspectors;*
- *Adoption of the ministerial order on the functioning of labour inspectors, which will determine the modalities of enforcement of administrative sanctions provided under article 120 of the labour law of 2018;*
- *Increased capacity building efforts for labor inspectors, judges and other officials in charge of handling labour disputes;*
- *Raising workers' awareness of their rights and labour laws.*

VI. ANALYSIS OF LEGAL AND POLICY FRAMEWORK GOVERNING PUBLIC EMPLOYMENT IN RWANDA

VI.1. Introduction

The Constitution guarantees to all Rwandans the right to participate in the government of their country, including access to the public service in accordance with their competence and abilities.¹⁷⁷ This constitutional provision is specifically implemented by the Law n°86/2013 of 11/09/2013 establishing the general statutes for public service. This law states guidelines for the management of public servants. There are categories of public servants who are governed by special statutes, such as judicial personnel,¹⁷⁸ staff of the National Public Prosecution Authorities,¹⁷⁹ prison guards,¹⁸⁰ teachers from nursery, primary to secondary school,¹⁸¹ police

¹⁷⁷ Article 27 of the constitution of Rwanda of 2003 revised in 2015.

¹⁷⁸ Law n°10/2013 governing the Statutes of judges and judicial personnel.

¹⁷⁹ Law n°44bis/2011 of 26/11/2011 governing the statutes of prosecutors and other staff of the National Public Prosecution Authority.

¹⁸⁰ Presidential Order n°04/01 of 03/05/2012 establishing the special statutes governing prison guards

¹⁸¹ Presidential Order n°24/01 of 24/11/2016 establishing the special statutes governing teachers in nursery, primary and secondary education

officers,¹⁸² to mention but a few. Moreover, some other laws and regulations address the management of public servants and other work-related issues.¹⁸³

The analysis of the legal framework governing public employment in Rwanda shall be divided into 3 major parts. Firstly, it describes the legal, procedural, and institutional framework governing administrative decision-making and highlights some of the challenges to full implementation of the law in regards to recruitment, management, and discipline of public servants. The second part describes the legal, procedural, and institutional framework governing appeals and complaints mechanisms that deal with the disputes that may arise, and addresses implementation issues faced at these levels as well. The third part contains recommendations for ensuring the full implementation of legislation related to public employment in Rwanda.

VI.2. Legal, Procedural, and Institutional Framework Governing Administrative Decision-making

Every public institution has an authority entrusted with the competence to make decisions regarding the management of public servants.¹⁸⁴ This authority has the obligation to respect laws and procedures when making a decision. If any decision made by the authority is not in accordance with applicable laws, the decision may be appealed before the competent authority or before the court according the relevant law.

VI.2.1. Recruitment of public servants

VI.2.1.1. Procedures for public servants governed by the general statute

The modalities for the recruitment and nomination of public servants are regulated by a Presidential Order. Accordingly, a public servant is recruited if the organizational structure of the concerned institution was approved by the competent authority, the job position to be occupied is vacant, the vacant job position is budgeted for, and the vacant job position has a job description that was approved by the competent authority. The recruitment is done through an open and competitive process. A recruiting institution establishes an internal recruitment committee composed of the Director of human resources, a human resources officer, and another employee nominated by the management of the institution.¹⁸⁵ This committee is in charge of overseeing the recruitment process, conducted as follows:

- Announcement of a vacant post: a recruiting institution has to advertise the vacant post, through the e-recruitment system with all necessary details related to the job at least 5 days between the announcement and application deadline.¹⁸⁶ . However, if the vacant

¹⁸² Presidential Order n°30/01 of 09/07/2012 on specific statutes for police officers

¹⁸³ See, e.g, Presidential Order no°65/01 of 04/03/2014 determining modalities of imposing disciplinary sanctions to public servants; law no°18 of 28/04/2017 governing result based-performance management in branches of government; Prime Minister's order no°121/03 of 08/09/2010 establishing the procedure of performance appraisal and promotion of public servants; Presidential order no°144/01 of 13/04/2017 determining modalities for recruitment, appointment and nomination of public servants.

¹⁸⁴ Article 4 of Law n°86/2013.

¹⁸⁵ Article 4 & 5 of the Presidential Order no°144/01 of 13/04/2017.

¹⁸⁶ Article 6 of the Presidential Order no°144/01 of 13/04/2017.

post requires foreign expertise or if a special recruitment procedure is needed, , the recruiting institution should request the authorization of the Public Service Commission to determine other appropriate method of recruitment.

- Application: Any job applicant must fill and submit an electronic job application form with all supporting documents using e- recruitment process.¹⁸⁷
- Shortlisting: The shortlisting stage is to be conducted by at least 3 persons. Within 5 working days of receiving applications, the recruiting institution shall publish a list of candidates selected for the test and those who are not and the reasons thereof. . The candidates are notified through e-mails and telephone short messaging system. .¹⁸⁸
- Examination process: After shortlisting, the recruiting institution shortlisted candidates shall sit for written and oral exam. The recruiting institution may seek the assistance of another institution or hire a consultant to prepare, conduct and mark the exams.¹⁸⁹ The results of the written exams are to be published within 10 working days from the date on which exams are finalised. An oral exam should be conducted within 3 working days of the day following the date of publication of the results of the written exam.¹⁹⁰ The results of the oral exam are published in a period not exceeding 1 working day from the date on which the exam was finalised.
- Appointment of a public servant: A successful candidate has to score at least 70% in all the exams.¹⁹¹ The appointment of a successful candidate shall be done within thirty (30) working days from the date of the publication of final results.¹⁹²

In decentralized administrative entities, the Executive Secretary submits to the Executive Committee¹⁹³ the recruitment report for approval and appointment of staff. However, the Executive Secretary and Internal Auditor of decentralized entities are appointed by the relevant Council.¹⁹⁴

VI.2.1.2. Public servant governed by special statutes

The special statutes for certain public servants provide for the organs entrusted with the power of making decisions related to the management of the staff. . The recruitment of these staff follows similar procedures for the advertisement of positions, assessment of candidates, and appointment of successful candidates as ordinary public servants.

VI.2.2. Management and appraisal of public servants

¹⁸⁷ Article 8 of the Presidential Order no°144/01 of 13/04/2017.

¹⁸⁸ See Articles 9 and 10 of the Presidential Order no°144/01 of 13/04/2017.

¹⁸⁹ Article 11 of Presidential Order no°144/01 of 13/04/2017. Based on this article, Districts use the Rwanda Association of Local Government Authorities (RALGA) to recruit their staff.

¹⁹⁰ Article 15 of Presidential Order no°144/01 of 13/04/2017.

¹⁹¹ Article 19 of Presidential Order no°144/01 of 13/04/2017.

¹⁹² Article 21 of Presidential Order no°144/01 of 13/04/2017.

¹⁹³ The Executive Committee is one of the three management organs of a district. The executive committee is in charge of supervising the implementation of daily activities carried out at the District level. It has the power to appoint, suspend and permanently dismiss staff, apart from the Executive Secretary and the auditor. The Council is also one of the management organs of a District. It is composed of elected members. It has the power to appoint and dismiss the executive Secretary and Internal auditor at District level. It also has the power to receive complaints of the staff related to their appraisal.

¹⁹⁴ Article 25 of Presidential Order no°144/01 of 13/04/2017.

In 2015, the Government of Rwanda adopted the system of Result-Based Performance Management (RBM) for Rwanda Public Service to promote greater efficiency and effectiveness in public service. Thus, all public institutions across all service sectors (Executive, Judiciary, and Legislature) have to implement the RBM within their operations.¹⁹⁵

Each institution has to prepare and sign its institutional performance contract, and individual performance contracts with its staff¹⁹⁶ at the beginning of each fiscal year.¹⁹⁷ Each State organ has to monitor the implementation of individual performance contracts for its staff. A two-level panel¹⁹⁸ is entrusted with analysis and evaluation of performance contracts of staff in each institution. The results of the analysis and evaluation are recorded and signed by the public servant and his or her supervisor.¹⁹⁹ The general report of the performance appraisal for public servants is to be signed by the head of the institution and sent to the Minister in charge of public service. In local government institutions, the report is forwarded to the concerned Governor of the Province, with a copy to both the Minister in charge of local government and the Minister in charge of public service.²⁰⁰

VI.2.3. Discipline of public servants

VI.2.3.1. Public servants governed by the general statute

During the exercise of their duties, public servants are expected of a certain code of conduct and discipline. The disciplinary proceedings are initiated by a notice of misconduct which must be provided in written form to the concerned public servant. The public servant then has to respond to allegations within 5 working days. The competent authority has then 10 working days to inform the concerned servant whether the explanations produced are satisfactory or not. If that period expires without a written response to the public servant, then the employee's explanations are considered as satisfactory.²⁰¹

If the competent authority is not satisfied by the employee's explanations, the matter is sent to the internal disciplinary committee of the institution which should be established in every public institution.

Art. 18 of the Presidential order no 65/01 of 04/03/2014 determining modalities of imposing disciplinary sanctions to public servants requires each public institution to establish an internal disciplinary Committee of at least five (5) members with the following responsibilities:

- 1° carry out administrative investigations intended to the analysis of the circumstances surrounding the fault, its consequences and its proof;*
- 2° suggest a sanction to be imposed on the public servant and submit a relevant investigation report to the competent authority.*

¹⁹⁵MIFOTRA, Result-based Performance Management Policy (2015), page 3.

¹⁹⁶ Both public servants governed by the general statute for public service and those governed by special statutes sign performance contracts and are evaluated annually against these contracts.

¹⁹⁷ Article 13 of Law no°18/2017 of 28/04/2017 governing Result-Based Performance Management in Branches of the Government.

¹⁹⁸ A panel is composed of supervisors of the public servant to be appraised (Article 6 of the Prime Minister's Order).

¹⁹⁹ Article 6 of Prime Minister's Order no°121/03 of 08/09/2010.

²⁰⁰ Article 28 of Prime Minister's Order no°121/03 of 08/09/2010.

²⁰¹ Article 21 of Presidential Order no°65/01 of 04/03/2014.

The committee has power to conduct investigations and suggest any sanctions.²⁰² The public servant must be notified of decision taken against him/her within 5 working days the reception of the report from the internal disciplinary committee or the Minister in charge of public service.²⁰³

Any sanctions are notified through a letter issued by the competent authority, clarifying in detail the misconduct and its consequences.²⁰⁴ Sanctions are classified into two categories. Those of the first category (warning and reprimand) are imposed by the head of the institution after consultation with the internal disciplinary committee. Sanctions of the second category (delay in promotion, suspension for a period of up to 3 months without pay, and dismissal) are imposed by the appointing authority after consultation with the internal disciplinary committee and the Minister in charge of public service.²⁰⁵ If the sanction is dismissal, the competent authority shall first consult the Public Service Commission. In local government, staff are dismissed by their appointing local authority ²⁰⁶ after consulting the Public Service Commission.²⁰⁷ Administrative and judicial appeals mechanisms are available to public servants who are not satisfied with disciplinary actions taken against them.

²⁰² Article 19 of Presidential Order no°65/01 of 04/03/2014 determining the modalities of imposing disciplinary sanctions to public servants.

²⁰³ Article 22 of Presidential Order no°65/01 of 04/03/2014.

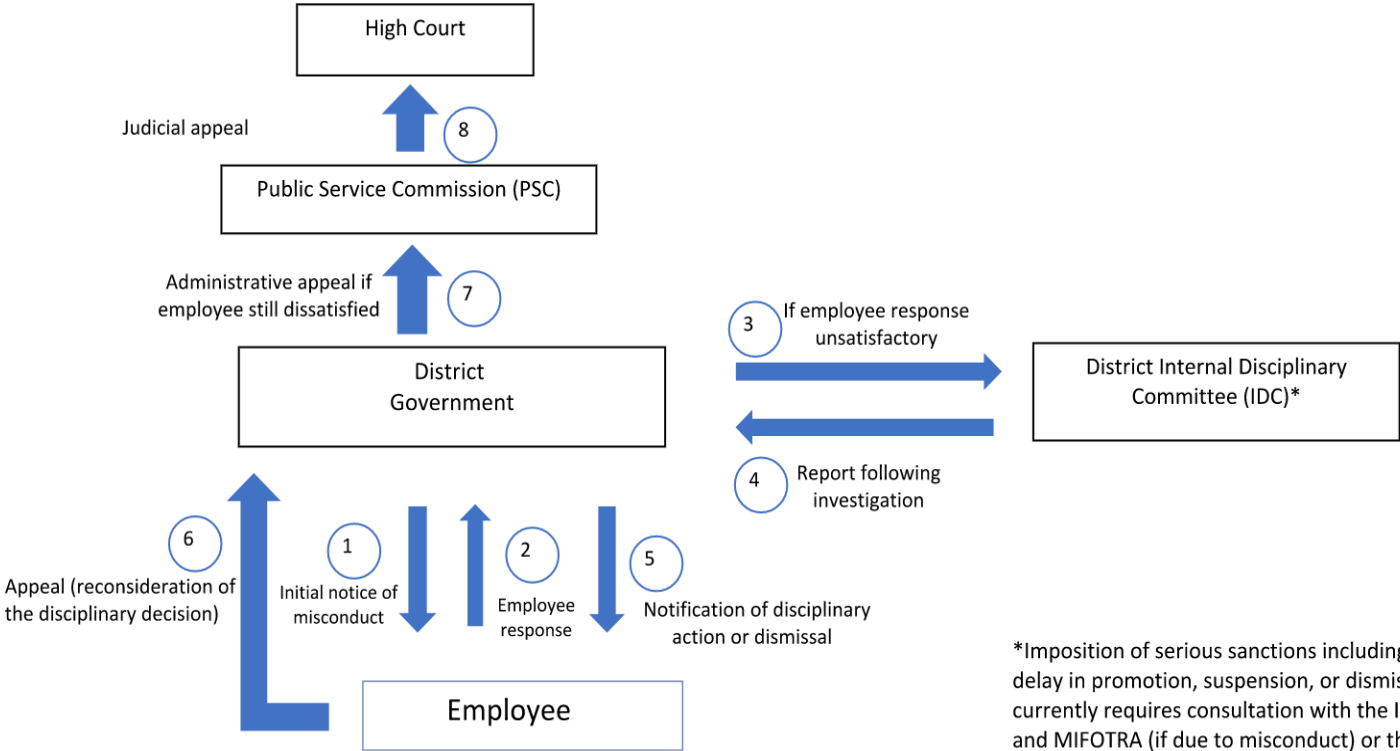
²⁰⁴ Article 24 of Presidential Order no°65/01 of 04/03/2014.

²⁰⁵ Article 17 of Presidential Order no°65/01 of 04/03/2014.

²⁰⁶ Article 56 of Law no°87/2013 of 11/09/2013 determining the organization and functioning of decentralized administrative entities.

²⁰⁷ Article 30 of Prime Minister's Order no°121/03 of 08/09/2010.

Administrative Decision Pathways in Public Employee Disciplinary/ Dismissal Cases



*Imposition of serious sanctions including delay in promotion, suspension, or dismissal currently requires consultation with the IDC and MIFOTRA (if due to misconduct) or the IDC and PSC (if due to performance)

VI.2.3.2. Public servants governed by special statutes

Special statutes governing some categories of public servants provide for their disciplinary procedures. The organs in charge of management of the staff have the power to impose disciplinary sanctions on the public servants under their authority. The relevant laws also provide for administrative and judicial appeals procedures where an employee is not satisfied with a disciplinary decision taken against him or her.

VI.3. Challenges in implementation of administrative decision making in Public Labour

VI.3.1. Implementation challenges for recruitment procedures

The e-recruitment system is used for publication of job postings, the submission of applications to available postings, and for appeals related to the recruitment process. While this system can provide better access to public service postings for all citizens of Rwanda, reduce transportation cost for applicants as well as more efficient handling of complaints regarding the recruitment process, some challenges to the full and fair implementation of the e-recruitment system remain:

- **Issue related to internet connectivity:** The use of e-recruitment is challenging for some individuals because it requires internet connectivity. Round-table participants indicated that candidates living outside of Kigali, especially in rural areas, face challenges in accessing the system.²⁰⁸ The EICV 4 report on access to internet indicates that in 2013-2014, around 9% of households had access to internet, while 33.5% of households in urban areas had internet access.²⁰⁹ These statistics show the disparity of access to internet between urban and rural dwellers, in addition to the overall low prevalence of internet access in general.
- **Issue of computer access:** To be able to use the e-recruitment system, a candidate must also have access to a computer to fill out the application and upload supporting documents. According to the EICV 4, providing data on access to ICT in Rwandan households, household ownership of a computer was 2.5% in 2013-2014. Households not owning an ICT device may still use public ICT services, although only 2% of households use public ICT devices and internet in Rwanda. The highest usage rate is found in Kigali (7%) compared to other provinces.²¹⁰ Computer illiteracy is also a challenge. Some candidates do not know how to upload supporting documents to the system, and others do not know how to submit their applications, or even search the system for open job postings. At the national level, only 7% of the population feels

²⁰⁸ FGD held at MARASA hotel on 9th November 2017.

²⁰⁹ National Institute of Statistics of Rwanda, Rwanda Integrated Household Living Conditions Survey (EICV) 2013-2014, Thematic Report-Utilities and amenities, *accessible at* <http://www.statistics.gov.rw/publication/eicv-4-thematic-report-utilities-and-amenities>.

²¹⁰ National Institute of Statistics of Rwanda, Rwanda Integrated Household Living Conditions Survey (EICV) 2013-2014, Thematic Report-Utilities and amenities; accessible on <http://www.statistics.gov.rw/publication/eicv-4-thematic-report-utilities-and-amenities>.

confident about using a computer. In urban areas, this number is up to 23%, compared to 4% in rural areas, as of the EICV 4 in 2013/14.²¹¹

- **Limited time to submit application:** Due to requirements of gathering supporting documentation for the application, along with the challenges many applicants will face in accessing a reliable internet connection and a computer, the period of 5 days provided by the Presidential Order is quite short and should be extended to ensure full and fair access to the recruitment process.
- **Contradiction between the system and the provisions of the Presidential Order:** The Presidential Order related to the recruitment of public servants provides that days are counted as working days. For example, an appeal based on recruitment has to be lodged within 3 working days and the institution to which the appeal is made has 3 working days to provide a response.²¹² The e-recruitment system counts by calendar days rather than working days, which impacts candidates who want to appeal, as well as the recruiting institutions which must respond and act according to the timelines set out by the Order. This issue was also highlighted by Kicukiro District officials, who indicated that some staff work during the nights and weekends in order to try to meet these timelines and avoid being disciplined for violating the required timelines.²¹³
- **Limited space to upload application documents:** Article 8 of the Presidential Order related to the recruitment of public servants states that a job applicant must scan and send a photo of his or her original national identity card and a copy of the applicant's degree to the recruiting institution using the e-recruitment system. In practice, some institutions may ask for other supporting documents such as a work certificate, or candidates may want to send other documents that are useful to support their application. However, Kicukiro District officials highlighted the lack of space to upload large files such as photographs as supporting documents to the application, causing some candidates to be unable to complete their applications.²¹⁴
- **The slow speed of the system:** The e-recruitment system is reported to be slow, causing candidates difficulties in accessing information about the available posts announced through the system, and completing applications on time, especially given the short time period for submitting applications. Recruiting institutions also recognized that the system is slow and does not allow them to work quickly on their tasks through the system as well.²¹⁵ The PSC has recognized that the e-recruitment system has some faults, including being slow, and not being user friendly, and reports that it has informed the Ministry in charge of public service, which manages this system, in order to correct these flaws and increase access to public employment.²¹⁶
- **Capacity of internal recruitment committee:** According to Article 5 of the Presidential Order an internal recruitment committee is composed of 3 members and shortlisting of candidates has to be done within 5 working days from the closing date of submission of applications. This may be too short for the committee to complete its review of applications.²¹⁷ Officials from Kicukiro District reported that a 3-member

²¹¹ National Institute of Statistics of Rwanda, Rwanda Integrated Household Living Conditions Survey (EICV) 2013-2014, Thematic Report-Utilities and amenities; accessible on <http://www.statistics.gov.rw/publication/eicv-4-thematic-report-utilities-and-amenities>.

²¹² See Article 18 of Presidential Order n°144/01.

²¹³ Interview with Kicukiro District held on 24 November 2017.

²¹⁴ Interview with Kicukiro District held on 24 November 2017.

²¹⁵ Interview with Kicukiro District held on 24 November 2017.

²¹⁶ Interview with Public Service Commission on 1st December 2017.

²¹⁷ Article 10 of the Presidential order no 144/01

recruitment committee is too small to handle shortlisting and appeals related to the application process within the time required by the Presidential Order Officials from Bugesera District also reported that the recruiting committee struggles to meet the deadlines for shortlisting due to the volume of applications.

- **Limited employment centres**²¹⁸: Employment centres have been established to facilitate candidates' access to information posted in the e-recruitment system and send in their applications. However, at this point, only 2 centres exist: one in Musanze District and another in Kigali City.²¹⁹ In view of the statistics from the EICV 4 related to the access to ICT tools, especially for candidates living in rural areas, the number of employment centres must be increased, targeting rural areas.

VI.3.2. Challenges in implementation of management and appraisal of public servants

a) IPPS System

The Prime Minister's Order regulating performance appraisal of public servants requires performance contract evaluations to be done in front of a panel of supervisors at two levels who are established to ensure transparency in the review process. Currently, the signing and evaluation of performance contracts are done through the Integrated Payroll and Personnel Information System (IPPS), a system that was established and operationalized after the publication of the Prime Minister's Order regulating performance appraisal. Kicukiro District officials noted that the IPPS system, however, is contrary to the provisions of the Prime Minister's Order, because IPPS only provides for one level of review of the performance contract. The Public Service Commission (PSC) also reported that some supervisors were unable to access the IPPS system due to technical problems and errors in the system.

b) Failure to apply the labour law to designated public servants

Public servants are recruited through a competitive process in one of two categories: public servants recruited under ordinary processes for posted and budgeted positions to whom the general statutes governing public service applies, and public servants recruited for contract positions for short-term or specialized needs to whom the labour law applies. This means that, within an institution, different public servants will need to be managed in different ways with regard to performance appraisal and discipline. However, reports indicate that institutions fail to apply the correct legal regime in practice to public servants governed by the labour law, and use the general statutes for public service for both categories. This situation can even mislead the contracted public servants, who may believe they are governed by the general statutes for public service.

For instance, in the case RADA 0015/13/CS Mulindahabi vs EWASA, Mulindahabi was hired by RECO RWASCO, which changed to EWASA, and claimed he was unfairly dismissed. Mulindahabi submitted his case to court for his unfair dismissal as a public servant under the general statutes for public service. In its decision, the Supreme Court found that Mulindahabi was a public servant governed by the labour law and not the general statutes for public service,

²¹⁸ Employment centres receive and post available vacancies from public and private institutions. It provides employment tips to fresh graduate and secretariat for application purposes.

²¹⁹ FGD held at MARASA hotel on 09th November 2017

so he could not make a claim based on the general statutes for public service. Mulindahabi had not been aware of his own status from the beginning of his contract with EWASA.

In some cases, the courts have held that contractual public servants are governed by the Labour Law,²²⁰ while in other cases; the Statute Governing Public Servants applies to them. The latter determination is exemplified by the case of *Government of Rwanda (MINEDUC) v. Dr. Karemangingo Charles*²²¹ and the case of *Water and Sanitation Corporation Ltd v. Nzaramba Pierre and others*²²² (where the plaintiffs were dismissed due to the refusal to take oath because of their religious belief). Basing on the General Statutes for Rwanda Public Service, the Court held that the dismissed employees were under the obligation to take oath according to the instruction from the Minister of Labor and Public Service.

*In some cases, Courts have held that contractual public servants are governed by the Statute Governing Public Servants. This is exemplified by the case of **Water and Sanitation Corporation Ltd v. Nzaramba Pierre and others**, where these contractual staff were dismissed due to the refusal to take oath because of their religious belief. The Court applied the statute of public servants to the plaintiffs and held that they were under the obligation to take oath according to the instruction from the Minister of Labor and Public*

The PSC indicated that it advises public institutions employing contractual staff to clarify the terms under which the public servant is hired to avoid these situations. The PSC has also proposed the issuance of a standardized contract to be used by all agencies hiring contractual public servants. As there is already a Ministerial Order related to the recruitment of contractual staff in public service, the PSC also recommends revising the law to include key detailed information on the management of such staff, and also the key provisions for the standardized contract to be used.

c) Confusion between political and technical staff at decentralized levels

Public institutions are comprised of technical staff and political staff. The recruitment and nomination of technical staff are regulated by the general statutes of public service, while political staff are nominated by the competent authority—in most cases the Cabinet, the Parliament, or the people through popular election. In all institutions, political leaders work together with technical staff to achieve the mission of the institution. Within the decentralized entities, some technical staff such as Executive Secretaries of Districts, Sectors, or Cells are considered as political leaders by the managing authorities, especially on how their career is managed. This can result in their losing access to certain rights of public servants, and round-table participants indicated that those staff has even resigned from their posts as if they are political leaders due to their own ignorance of their status as public servants and technical staff.

²²⁰ See for instance *Uwizeyimana Jean Bosco v. Leta y'u Rwanda*, RADA007/13/CS, 15 January 2016. In the same

perspective see also *Nsengimana Vincent v. National Agricultural Export Development Board (NAEB)*, RAD0006/15/TGI/NYGE, 23 April 2015.

²²¹ *Government of Rwanda (MINEDUC) v. Dr. Karemangingo Charles*, Case no RADA 0003/14/CS, 17 February 2016.

²²² *Water and Sanitation Corporation Ltd (WASAC) v. Nzaramba Pierre and others*, RADA No. 0004/14/CS, 10 March 2017

Participants also indicated the ignorance of the staff in charge of staff management, who fail to properly sensitize these public servants of their rights, roles, and responsibilities.

VI.3.3. Challenges in implementation of sanctions standards

a) MIFOTRA's role in approving sanctions

. The first-degree sanctions can be imposed by the head of the institution, and the second-degree sanctions can be imposed by the authority who appointed the public servant, but only after consultation with the Minister in charge of public service.²²³ This provision of the Order directs the Ministry to intervene in the day-to-day management of the staff of public institutions, while its role should be making policies and laws related to public service. Participants in a round-table discussion indicated that the Ministry in charge of public service should not be the agency consulted on disciplinary issues, but rather the PSC is the proper consultative body. Because the procedures related to dismissal for poor performance fall under the PSC's responsibilities, the PSC should also review decisions about sanctions in the second degree. In fact, MIFOTRA reported that, as a policy making institution, it should not be involved in direct implementation of the laws and policies, and believes its role should be monitoring them. It also believes that a public institution seeking to sanction an employee should be required to consult the PSC rather than itself (MIFOTRA). Designating the PSC to approve decisions to issue sanctions in the second degree would be in line with the mission of the Commission in its oversight role over public institutions.

Though the laws give MIFOTRA the power to approve sanctions, it reported that, as a policy making institution, it should not be involved in direct implementation of the laws and policies. It also believes that the approval of sanctions should be done by the PSC rather than itself (MIFOTRA).

b) Responsibility of members of the internal disciplinary committees

The committee plays an important role in disciplinary procedure, but because the membership of the committee is composed of employees of the institution, the members are being asked to approve disciplinary sanctions against their own colleagues. Kicukiro District officials noted that the members of disciplinary committees do not always feel comfortable approving sanctions for fellow public servants because they fear repercussions or reprisals. Furthermore, if a dispute over sanctions is submitted to a court and the court decision is different from the decision of the committee, members of the committee can even be punished according to the provisions of the Ministerial Instructions determining modalities for holding liable public servants who cause losses to the state, which state that "Any public servant who committed a fault causing a loss to the State shall be liable for damages".²²⁴ The PSC opposes such liability for members of the disciplinary committees who make decisions based on the laws in accordance with the power granted to them by a Presidential Order.

²²³ Article 17 of Presidential Order n°65/01 of 04/03/2014.

²²⁴ Article 5 of Ministerial Instructions n°002/M.J/AG/15 of 01/10/2015 determining modalities for holding liable public servants who cause losses to the state.

The PSC also noted the lack of clear guidelines and procedures for investigating employee misconduct makes the disciplinary process problematic in some cases.²²⁵ It is difficult to establish fault without such guidelines. Because of the vagueness in procedures, some public servants who have committed misconduct might not be disciplined because their cases cannot be properly investigated. The PSC recommended reinforcing the capacity and powers of the internal disciplinary committee in conducting investigations in order to affirm their confidence in their decisions and clarify the protections they enjoy, such as not being personally liable when they make a decision in accordance with the law.

c) Problems with blacklists

A public servant dismissed from the public service is to be registered on a blacklist and prohibited from recruitment into another position in the public service.²²⁶ The Order also provides a procedure for public servants to request removal from the blacklist. This list is updated by MIFOTRA in conjunction with the PSC after public servants have been sanctioned. In practice, reports indicate that a former public servant is added to this list directly after dismissal, but before the end of any appeals.²²⁷ Because the law provides opportunities to appeal before administrative authorities and before the court in some cases, a public servant should not be added to the blacklist before the decision is made at the final appeal. Even if public servants are added to the blacklist while their appeals are pending, a procedure should be adopted to ensure those who are successful on appeal are cleared from the blacklist.

VI.4. Legal, Procedural, and Institutional Framework Governing Appeals and Complaints Mechanisms

Where a public servant is aggrieved by one of the decisions made above in regards to his or her public employment, the public servant has a set of administrative and judicial remedies for appeal against that decision.

VI.4.1. Administrative appeals and remedial channels

VI.4.1.1. Appeals and remedial channels for prospective and public servants governed by general statute

a) Administrative appeal and remedial channels related to the recruitment of public servants

If an applicant for a public service position has a complaint regarding the recruitment process, he or she may lodge an appeal. In the first instance, the applicant should appeal to the recruiting institution within 3 working days starting from the date of the act or decision he or she is appealing. If the applicant is not satisfied with the decision made by the recruiting institution on appeal, he or she may appeal in the second instance to the Public Service Commission,

²²⁵ KII with PSC on 01/12/2017.

²²⁶ Article 27 of Presidential Order no°65/01 of 04/03/2014 determining modalities of imposing disciplinary sanctions to public servants.

²²⁷ FGD held on 9th November 2017.

within 2 working days from the date of the receipt of the response from the recruiting institution.²²⁸

This process is designed to provide swift access to an administrative appeals process for applicants to public service postings. At the District level, key informants noted that candidates for public service positions seem to be aware of their right to appeal recruitment decisions.²²⁹ According to Bugesera District officials, between 2015 and 2017, 26 candidates lodged appeals against the results of their written exams (although only 5 of these appeals were found justifiable). Three appeals related to the oral examinations were also submitted, but none of these were found justifiable.²³⁰ The low rate of successful appeals may show how the recruitment of public servants has improved since the enactment of the Presidential Order on recruitment. However, the overall number of appeals is still low and this may suggest that applicants are not even aware of their right to appeal.

b) Administrative appeal and remedial channels related to performance appraisal of public servants

The evaluation of the public servant's performance contract can result in the employee's promotion or dismissal, so the Prime Minister's Order on performance appraisal provides procedures for review of the score, and any decision made concerning the promotion or dismissal of a public servant. At the first instance, the public servant may lodge a complaint with the head of the institution employing him or her, within 15 days of notification of the appraisal results.²³¹ The head of the institution must seek advice from the panel that analysed and evaluated the staff at both levels before rendering a decision on the appeal. If the employee is not satisfied with the decision made by the head of the institution on the appeal, he or she may lodge a complaint with the Public Service Commission.²³² An appeal of a public servant working within local government shall be addressed to the Council of District at the first instance, and to the Public Service Commission at the second instance.

c) Administrative appeal and remedial channels related to dismissal of public servants

In case of dismissal, the public servant must file a written appeal, first to the authority that imposed the sanction, within 5 working days from the date he or she was notified of the sanction. The agency is then required to answer the appeal within 15 working days from the date the appeal is received.²³³ If the public servant is not satisfied with the decision on appeal, he or she may appeal for further review to the PSC within 5 working days from the date the first appeal was decided. The PSC must then decide on the appeal within 60 calendar days, and the decision of the PSC is not subject to any other administrative appeal,²³⁴ although recourse to the court is permitted.

²²⁸ See Article 18 of Presidential Order n°144/01.

²²⁹ Interview with Kicukiro District on 24/11/2017 and Interview with Bugesera District on 22/11/2017.

²³⁰ See the report received from Bugesera District.

²³¹ Article 33 of Prime Minister's order no°121/03 of 08/09/2010.

²³² Article 33 of Prime Minister's order no°121/03 of 08/09/2010.

²³³ Article 32 of Presidential Order n°65/01 of 04/03/2014.

²³⁴ Article 33 of Presidential Order n°65/01 of 04/03/2014.

VI.4.1.2. Appeals and remedial channels for public servants governed by special statutes

Public servants governed by special statutes are recruited and managed according to the principles provided by those statutes.

Judicial staff: The High Council of the Judiciary makes decisions relating to the appointment, promotion and removal of judges from their offices.²³⁵ The decisions of the High Council of the Judiciary are not appealable before any other judicial organ. The High Council of the National Public Prosecution Authority has authority over the exercise of prosecution functions, the conduct of prosecutors, and the personnel of the Public Prosecution Authority, with the exception of the Prosecutor General and the Deputy Prosecutor General.²³⁶ The decisions of the High Council of the NPPA may be appealed before a competent court.

Teachers: A teacher who is not satisfied with an employment decision made against him or her may lodge an appeal at the first level to the authority that took the decision, and at the second level with the District authorities. If the teacher is not satisfied with a decision made by the District, he or she can lodge a complaint with the Public Service Commission.²³⁷ Decisions of the PSC in regards to employment of teachers may be appealed before a court.

Prisons guards: Prisons guards on duty may be disciplined. At the first instance disciplinary sanctions are decided by a disciplinary committee established at prison's level. Prisons' guards who are not satisfied with a decision of a disciplinary committee may lodge an appeal before the High disciplinary committee of RCS.²³⁸ If a prison guard is not satisfied with administrative decision, he/she may submit the case to the court.

Police officers: Their special statutes provide for the procedures to be followed while imposing disciplinary sanctions by the competent authorities. A Police officer who feels wronged can institute an appeal. The Police High Council is entrusted with the power of taking a last decision on the matter concerning police officers.²³⁹

VI.4.2. Judicial recourse

The public service statutes allow an aggrieved public servant to file the case in a competent court, after he or she has exhausted available administrative remedies. The Chamber for labour and administrative matters is competent to receive disputes related to applications for revocation of administrative decisions or for damages arising from non-compliance with laws governing public service and all other cases related to administrative decisions taken at last instance by the administration.²⁴⁰

²³⁵Article 10 of Law n°10 of 08/03/2013 governing the statutes of judges and judicial personnel.

²³⁶ Article 40 of Law n°44bis/2011 of 26/11/2011 governing the statute of Prosecutors and other staff of the National Public Prosecution Authority as modified and complemented to date.

²³⁷ See Articles 45-47 of Presidential Order no°24/01 of 24/11/2106 establishing special statutes governing teachers in nursery, primary and secondary school.

²³⁸ See articles 16-19 of Ministerial instructions no 2/2014 of 04/12/2014 establishing prison guards code of conduct

²³⁹ Article 38 of the Presidential order no 30/01 of 09/07/2012 on specific statute for Police personnel.

²⁴⁰ Article 36 of the law n°30/2018 of 02/06/2018 determining the Jurisdiction of Courts.

VI.5. Challenges in implementation of appeal mechanisms

VI.5.1 Challenges related to legal framework

VI.5.1.1. Lack of enforcement mechanism to compel public officials to comply with the law

Although the statutes governing public servants are detailed and regulate all aspects of the recruitment, management, and discipline of public servants, round-table participants reported that many public officials continue to violate the law in the dismissal of public servants, performance appraisals done in violation of the procedures provided for by the law, and failure to respect the legal rights of public servants during restructuring of public institutions. Round-table participants also indicated that, in some cases, the officials do not take into account the legal advice provided by the legal officers/advisors of the institutions.

The PSC supported these claims, noting that, in some cases, public officials may lack knowledge of the relevant laws, while in others they wilfully violate the laws.²⁴¹ In order to address this issue and protect public servants, the existing ministerial instructions determining modalities for holding liable public servants who cause loss to the state, should be applicable to officials who make wrongful management decisions. Participants in a round-table discussion noted that these sanctions would help in reducing the number of decisions that are contrary to the law with regard to the management of public servants, and recommended for the full implementation of existing laws and regulations to ensure that authorities do not make illegal decisions.

Round-table participants reported that many public officials continue to violate the law relating to dismissal of Public servants, performance appraisals, and the legal rights of public servants during restructuring of public institutions.

They also indicated that, in some cases, some officials do not take into account the legal advice provided by the legal officers/advisors. The ministerial instructions determining modalities for holding liable public servants who cause loss to the government, should be applicable to such officials.

VI.5.1.2. Difficulty of calculating damages in favour of public servants

The general statutes for public service do not provide the basis for calculating damages in case of unfair dismissal of public servants, and administrative bodies are unable to address this issue. Key informants and Round-table participants indicated that public servants face difficulties requesting damages for unfair dismissal because the amount to be awarded is left to the discretion of the court. Accordingly, they recommended the revision of the law to indicate the basis for calculating such damages.²⁴² Judges at the Intermediate Court in Nyarugenge also emphasized the importance of receiving guidance on the applicable amount of damages in

²⁴¹ KII with PSC on 01/12/2017.

²⁴² FGD held on 9th November 2017.

unfair dismissal cases.²⁴³ High Court judges also echoed this concern.²⁴⁴ Courts have different practices. In some cases, courts seem to draw inspiration from labour law by awarding six months of salary as damages for unfair dismissal. This for instance *National University of Rwanda v. Dr Kiiza Charles* case,²⁴⁵ *Sebera v. Rwanda Development Board (RDB)*, RADA 0024/13/CS, November 14, 2014. In some other cases such as *Ukubaho Vivens v. The District of Muhanga*, the Courts award more or less than six months of compensation.²⁴⁶

The Law is silent on the issue of calculation of damages in case of unfair dismissal of a public servant. It is left to the discretion of the judges which led to inconsistency in courts practice. Some Courts award the six months of salary while others grant more or less than this amount.

Courts also have different approaches in awarding the damages for failure to issue the work certificate to the dismissed public servant. Some courts ruled that the public servant is entitled to damages in case of non-issuance of work certificate²⁴⁷ while other Courts rejected this request basing on the fact that the law n° 22/2002 of 9/7/2002 that was establishing the General Statute of Public servants did not impose this obligation on the administrative authority.²⁴⁸

VI.5.1.3. Lack of two-step review for certain public servants

While one of the strengths of the public service legislation is the provision of at least 2 levels of appeal when a public servant is not satisfied with an administrative decision taken against him or her, the High Council of the Judiciary is the last organ to make decisions regarding judges and judicial personnel, and its decisions cannot be appealed either before another administrative organ or a court. This entrusts a single body with the power to decide upon the career of judges. In discussions, round-table participants indicated that the High Council of the Judiciary is comprised of judges, so its decisions are likely to be fair to other judges. However, it was also noted that every public servant must be given an opportunity to submit his or her case before an appeals body of some kind. Participants proposed creating two degrees or chambers within the Council, a first degree and a second degree, so that the judicial personnel also have a level of appeal to go to for any adverse decision made against them.

VI.5.1.4. Lack of legal awareness among public servants

Public servants can fail to use legal provisions which protect them because they are not aware of their protections under the law. Round-table participants indicated that, in practice, public servants may fail to assert their rights because they are afraid of contradicting their employer.²⁴⁹ The PSC also emphasized on the lack of knowledge, indicating that capacity

²⁴³ Interview with Nyarugenge Intermediate Court on 28/11/2017.

²⁴⁴ Interview with the High Court Judge, on 15th February 2019

²⁴⁵ *National University of Rwanda v. Dr. Kiiza Charles* case, RADA0055/11/CS, 08 March 2013

²⁴⁶ *Ukubaho Vivens v. The District of Muhanga*, RAD 0006/14/TGI/MHG, 28 November 2014.

²⁴⁷ *Rutagengwa Francois v. BNR*, RADA0020/10/CS, 07/11/2011.

²⁴⁸ *Government of Rwanda (MINEDUC) v. Dr. Karemangingo Charles*, RADA 0003/14/CS, 17/2/2016.

²⁴⁹ FGD held at MARASA hotel on 9th November 2017.

building and legal awareness is needed for both the authorities that manage public servants, as well as the public servants themselves, as they are the key stakeholders in the process.²⁵⁰

VI.5.2. Challenges related to institutional framework

VI.5.2.1. Lack of enforcement power for Public Service Commission

The Presidential Order regulating recruitment of public servants recognizes the PSC as an organ before which candidates who are not satisfied with disciplinary decision against them may file an appeal. The Presidential Order determining the modalities for imposing disciplinary sanctions on public servants also allows public servants to appeal decisions made by their employers to the PSC. Also, a public servant who is not satisfied with the appraisal done by his or her employer may appeal against it at the second level to the PSC. All those provisions indicate that the PSC has a role to play in assisting public servants who are not satisfied with the administrative decisions to receive justice. However, reports indicate that some institutions do not implement the recommendations of the PSC.

Round-table participants noted that some institutions do not respect the recommendations of the PSC in particular to remove sanctions imposed by the public institution or to reinstate a public servant to his or her original position. In the case *Mukeshimana Lea vs Nyarugenge*²⁵¹ District, the PSC recommended the District vacate its decision to dismiss *Mukeshimana*, because the PSC found the dismissal unlawful, but the District refused, and the matter is now being heard by a court. In the case of *Nzeyimana Fred vs Bugesera District, Nzeyimana*, a District procurement officer, was dismissed by the District. When he brought a claim for wrongful dismissal before the PSC, the PSC found that the dismissal was illegal and requested the District to reconsider its decision to dismiss him. However, the District refused. *Nzeyimana* then submitted his claim to court, and the High Court confirmed that the dismissal was illegal, and has ordered the District to pay compensation.

Lack of enforcement power for Public Service Commission is a big challenge. Round-table participants noted that some institutions do not respect the recommendations of the Public Service Commission. The PSC itself even indicated that some public institutions do not implement its recommendations, and has resorted to working closely with the Office of the Prime Minister to obligate institutions to comply with the decisions of the PSC.

Bugesera District officials noted that some institutions may show reluctance in implementing certain recommendations of the PSC because they may feel the PSC is making recommendations based solely on the blind application of the law without considering the context that may have led to the dismissal, including other prior disciplinary sanctions. Sometimes, institutions may perceive that reinstatement of a public servant to his or her former position is not feasible, whether because the situation has become too tense or hostile, or because they have already replaced the dismissed public servant. MIFOTRA noted that public institutions should not be reluctant to implement the recommendations of the PSC, because the PSC is established by the

²⁵⁰ Interview with PSC on 1st December 2017.

²⁵¹ RAD00028/2018/TGI/Nyarugenge

Constitution and has a mandate to ensure that laws and regulations related to public service management are well implemented.²⁵² The PSC itself even indicated that some public institutions do not implement its recommendations, and has resorted to working closely with the Office of the Prime Minister to obligate institutions to comply with the decisions taken by the PSC, which has brought about improvements with regard to the implementation of their recommendations.²⁵³

VI.5.2.2. Lack of resources for the Public Service Commission

The PSC also plays a key role in handling disputes between public servants and their employers, and any decision made by the PSC is not subject to appeal before any other administrative body. In the past three fiscal years (July 2014 to June 2017), the PSC received 1,368 complaints or appeals (both those related to recruitment and placement of staff as well as those related to management of staff)²⁵⁴. Most of the complaints received related to the management of staff (79%). 41% of the complaints relates to the recruitment and placement of staff while 36% of the complaints related to dissatisfaction with the marks received from oral and written interviews²⁵⁵. Despite this volume of complaints, the PSC has a limited staff with which to handle complaints²⁵⁶, and it often has to conduct extensive analysis, investigations, and site visits in order to collect the information it needs to render its decision. Thus, the PSC needs additional resources and capacity for meeting the needs of all parties in public service in a fair and equitable way.²⁵⁷

VI.6. Recommendations

In order to ensure that public service is well organized and the rights of public servants are respected, the following recommendations are made:

- 1. The Presidential Order determining the modalities of imposing sanctions on public servants should be modified to remove the requirement to consult MIFOTRA.***

In order to harmonize procedures followed for the management of public servants, MIFOTRA should not be consulted in second-degree sanctions. Instead, this responsibility should be given to the PSC as the organ having an oversight role for the management of public servants. Because public institutions consult the PSC on decisions related to performance appraisal of public servants, the procedures for imposing disciplinary sanctions should also go through the PSC; MIFOTRA should remain the organ in charge of policy making, it does not need to be involved with implementing organs.

- 2. The Presidential Order determining the modalities of imposing sanctions should be amended to clarify the protections for members of the internal disciplinary committee.***

²⁵² KII with MIFOTRA officials on 23/11/2017.

²⁵³ KII with PSC on 01/12/2017.

²⁵⁴ Annual activity reports of the Public Service Commission, available at <http://psc.gov.rw/index.php?id=175>.

²⁵⁵ See PSC reports, available at <http://psc.gov.rw/index.php?id=175>. Full statistics on PSC's role in reviewing decisions related to public employment can be found in Annex B.

²⁵⁶ PSC has in total 40 staff, and only 18 staff handle technical matters within the Commission's mission.

²⁵⁷ KII with PSC on 01/12/2017.

Where members of the internal disciplinary committees will have to make decisions adverse to their fellow employees or against the wishes or decisions of management staff from time to time, they need statutory protection against reprisals in their employment status.

3. *The general statutes of public service should be revised to indicate the basis for calculating damages for unfair dismissal.*

Judges and other stakeholders have noted that because of the lack of a statutory basis for calculating damages for unfair dismissal, there is a problem of determination of a fair amount as it is left to the discretion of a judge. .

4. *The Presidential Order related to recruitment should be revised to extend the timeline for job postings and shortlisting*

To ensure that public institutions have enough time to handle recruitment, the timeline for job postings and shortlisting should be extended. The timeline for receiving applications should also be increased in order to allow applicants to prepare their applications.

5. *Technical deficiencies in the e-recruitment system should be addressed*

The file size capacity in the e-recruitment system should be increased, and the manner of calculating days should be harmonized with the Order, from calendar days to working days.

6. *MIFOTRA and the PSC should prepare and publish guidelines on how to use the e-recruitment system and should increase the number of employment centres across the country.*

Accessing the e-recruitment system is at the heart of accessing public service jobs. In order to ensure equal access to public service positions, the government must ensure that it provides access to information about how to use the system so that all potential applicants have the same information and opportunities to use the system and apply for public service jobs. Increasing the number of employment centres can help with disseminating this information and facilitating the use of the system even where individuals may not have access to the technology needed to use the system.

7. *MIFOTRA should update the IPPS system in order to harmonize it with the provisions of the Prime Minister's Order related to the appraisal of public servants.*

While the Prime Minister's Order related to the appraisal of public servants provides for two levels of review in performance appraisal, the IPPS system only provides for one. IPPS should be harmonized with the regulatory framework, ensuring public servants their rights in performance appraisal.

8. *The resources of the PSC should be increased to provide it with the full capacity to meet its statutory obligations.*

The PSC has a broad mandate, but lacks the resources to carry out its mandate with full authority. Increasing the staffing and financial capacity of the Commission will ensure that it

can fully meet its statutory obligations. A robust PSC is a key element of a fully functioning and fair public service in Rwanda.

9. Competent authorities should support sanctions against officials who wilfully violate the recommendations of the PSC.

One of the barriers faced by the PSC in fully exercising its authority is that public officials and institutions face no sanctions if they disregard the decisions or recommendations of the Commission. Statutory support for the sanctions and enforcement power of the PSC should be adopted to ensure the PSC fully functions within the role envisioned for it by law.

10. The PSC should organize trainings to build the capacity of the members of the internal disciplinary committees, especially in conducting investigations into the misconduct of public servants.

The PSC could play a role in reinforcing and building the capacity of the internal disciplinary committees, which address public servant disciplinary matters at the first instance. This could include reinforcing their decision-making authority, training on how to engage in dispute resolution regarding employee discipline, and ensuring they are aware of protections they enjoy against reprisals in the carrying out of their duties.

11. The PSC should sensitize all public servants to the existing laws and regulations on public service to ensure that they are aware of their rights.

The PSC can also carry out activities to raise the awareness of public servants about their legal rights in employment matters. This could include ensuring that contract workers in government and civil servants have solid awareness about the legal protections they enjoy, and understand how to make complaints and defend their rights if needed.

12. The PSC should organize capacity-building activities for officials managing public servants to ensure that they are aware of procedures to be followed in respect of the rights of public servants.

The management officials within public institutions need better information about the laws that apply to public service employment, and how to lawfully carry out management, appraisal, and discipline of public servants. Improving legal awareness is the first step in reducing the burden of claims about public service coming through the Commission and the courts.

13. MIFOTRA should issue a standard contract to be used by public institutions which hire contractual staff governed by the labour law.

The PSC recommends employing standardized contract terms to govern contracts for staff governed by the labour law. The terms could be adjusted according to their status. This could ease confusion about the differences in the rights between public servants and contractual staff.

Key recommendations to improve the administrative decision making in public employment include:

- *Revising the laws and regulations to indicate the basis for calculating damages for unfair dismissal and to extend the timeline for job postings and shortlisting;*
- *Addressing technical deficiencies in the e-recruitment system, issuing guidelines for its use and increasing the employment centers;*
- *Building the capacity of officials managing public servants and members of disciplinary committee on procedures to follow in respect of the rights of public servants;*
- *Issuing a standard contract (by MIFOTRA) to be used by public institutions which hire contractual staff governed by the labour law;*
- *Increasing the staffing and financial capacity of PSC and ensuring the enforcement of its decisions; and*
- *Raising the public servants' awareness of their rights through sensitization.*

14. The law governing the High Council of the Judiciary should be amended in order to establish two panels or levels within the High Council of the Judiciary to deal with employment disputes.

While other public servants enjoy 2 levels of review for disciplinary decisions and disputes, judicial staff should also enjoy the same type of review. While a second body need not be created, 2 panels could be formed within the High Council of the Judiciary to give judicial staff access to the second level of review, like all other public servants.

In conclusion, the current legislation regulating public employment provides for procedures guiding decision-making and also mechanisms to handle disputes which may arise. In general, the laws are detailed and clear, but some revisions are likely to improve their implementation. Nonetheless, some taken decisions are contrary to the law, sometimes due to ignorance of the law or wilfully acting in excess of legally granted authority. Measures should be taken to ensure that all decision relating to the management of public servants respect the required procedures and those sanctions are imposed to officials who make wrongful decisions in managing public servants.

VII. THE LEGAL AND POLICY FRAMEWORK GOVERNING THE PUBLIC PROCUREMENT PROCESS

VII.1. Introduction

As part of public financial management reform, the Government of Rwanda has been engaged in a number of initiatives aimed at streamlining its public procurement system in order to align

it with fundamental principles of transparency, competition, economy, efficiency, fairness and accountability. Since 2007, the government of Rwanda has adopted a number of legal and regulatory reforms to improve the procurement process, which has had significant results in combating, deterring, and preventing corruption, collusion and other forms of bid rigging in public procurement. Though challenges remain in the implementation of those principles, as the key pillars of public procurement in Rwanda, they guide the entire process.

This chapter will specifically assess and evaluate the legal, procedural, and institutional framework of the public procurement process in Rwanda. The first part lays out the legal, procedural, and institutional framework for administrative decision-making in the procurement process, including an analysis of how the basic principles of procurement are addressed by the relevant laws and procedures, and the challenges to implementation. The second part of this chapter shall focus on analysis of finding in terms of challenges of decision making in procurement process. Furthermore, in this chapter, we shall address the legal, procedural, and institutional framework for appeals and complaints in the public procurement process, including the challenges in implementation. The final part will provide a summary of the recommendations to address the challenges identified.

VII.2. Legal, Procedural, and Institutional Framework for Administrative Decision-Making in Public Procurement

VII.2.1. Relevant legal instruments in public procurement

In March 2007, the Law on public procurement was enacted, followed by the Law establishing the Rwanda Public Procurement Authority in December 2007. In January 2008, procurement regulations and standard bidding documents were issued.²⁵⁸ In 2011, a new law on the Rwanda Public Procurement Authority was adopted²⁵⁹, the procurement law was amended in 2013²⁶⁰, a Ministerial Order strengthening the standard bidding and contract documents was adopted in 2014²⁶¹, and an association of procurement professionals was created in 2016.²⁶² The 2013 amendment to the procurement law brought about a number of changes, including the elimination of criminal sanctions from the procurement law, which were moved to the Penal Code of 2012.²⁶³ The Procurement Law of 2008 and its amendments were recently replaced and repealed by the Law n°62/2018 of 25/08/2018 governing public procurement.

²⁵⁸ Ministry of Finance and Economic planning (MINICOFIN), Rwanda Public Procurement Authority (RPPA), Public Procurement User Guide, November 2010, p.1.

²⁵⁹ Law n°25/2011 of 30/6/2011 establishing the Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning Official Gazette n° 34 of 22/08/2011.

²⁶⁰ See Law N°05/2013 of 13/02/2013 modifying and complementing Law n°12/2007 of 27/03/2007 on Public Procurement, Official Gazette n°16 of 22/04/2013. This law provides the general and key principles as well as procedural aspects of public procurement process.

²⁶¹ Ministerial Order n°001/14/10/tc of 19/02/2014 establishing regulations on public procurement, standard bidding documents and standard contracts.

²⁶² Law n°011/2016 of 02/05/2016 establishing the association of procurement professionals and determining its organization and functioning, *Official Gazette*, n°21 of 23/5/2016.

²⁶³ See Articles 628-632 of Organic Law n°01/2012/OL of 02/05/2012 instituting the Rwandan Penal Code, *O.G.* n° Special of 14 June 2012. (hereinafter Rwandan Penal Code).

The penal code criminalises several procurement offences and provides punishments up to 3 years imprisonment. Those include colluding with bidders, disclosure of technical specification before the tender is published, and awarding a tender without open competitive bidding²⁶⁴ These provisions deter and punish bid rigging, which could allow prospective bidders to gauge what the procuring entity would consider to be a reasonable price for the tender, thereby depriving the procuring entity the opportunity of purchasing the goods or services at market price.²⁶⁵ Contrary to the 2013 amendment, the current procurement law provides for procurement offences in articles 188-194. While the application of imprisonment is critical to ensuring the integrity of the public procurement process, economic sanctions, as well as exclusion from the public procurement process, should also be considered to discourage collusion, corruptions and other related offences to reflect the economic character of the procurement process.

VII.2.2. Institutional framework for public procurement

VII.2.2.1. Rwanda Public Procurement Authority (RPPA)

The RPPA has the responsibility to approve the procurement plans submitted by each procurement entity in order to ensure that procurement entities comply with procurement law. However, there are no clear sanctions for procurement entities that fail to submit a procurement plan, and in practice this requirement is not respected. In addition to its review role in procurement planning, the RPPA also supervises public procurement matters in general, and advises the government and all public procurement entities on the policies and strategies in matters related to public procurement.²⁶⁶ However, the RPPA does not intervene directly in procurement processes, but rather takes a capacity-building and advisory role.

VII.2.2.2. Internal Tender Committees

The Internal Tender Committees in each procurement entity are responsible for evaluating bids, recommending the tender award; providing recommendations on all issues relating to public procurement; providing advice on tender documents before their publication; recommending tenders to be awarded through other method than the open competitive one; making recommendations on any change to be carried out on the procurement contract. This Committee is also in charge of opening bids in case they have not been submitted through e-procurement²⁶⁷. The Internal Tender Committee is composed of personnel from the procuring entity, including the Procurement officer, and members are appointed and dismissed by the Accounting Officer or Chief Budget Manager of the procuring entity.²⁶⁸ It is allowed to hire the services of external consultants to help the Internal Tender Committee when necessary. Decisions of the Internal Tender Committee are subject to appeal to the procurement entity itself as a step of administrative review. However, the practical result of this appeal level is

²⁶⁴ Articles 628-632 of Organic Law n°01/2012/OL of 02/05/2012 instituting the Rwandan Penal Code, *O.G. n°Special* of 14 June 2012.

²⁶⁵ H. F. FURTH *et al.*, *Suggestions for the Detection and Prevention of Construction Contract Bid Rigging*, <http://www.fhwa.dot.gov/programadmin/contracts/dotjbid.cfm>, accessed on June 25, 2014.

²⁶⁶ For details on RPPA mission, see article 3 of Law n°25/2011 of 30/06/2011 establishing Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning.

²⁶⁷ Article 10 of the Law n°62/2018 of 25/08/2018 governing public procurement.

²⁶⁸ Article 4 of Ministerial Order n°001/08/10/Min.

that the same Internal Tender Committee will end up reexamining its own decision. The bidder who is not satisfied with this decision may appeal to the Independent Review Panel.

VII.2.2.3. Accounting Officer/Chief Budget Manager

The Accounting Officer or Chief Budget Manager of each public institution or decentralized entity also plays a key role in the procurement process. In addition to appointing and dismissing members of the Tender Committee, this Officer also plays a review role over many aspects of the procurement process. The Officer approves all bidding documents, procurement evaluation reports and contract awards, signs all contracts, appoints contract managers, and provides overall management of contracts.²⁶⁹ Decisions of the Officer related to public procurement may be appealed, either to the procurement entity itself, or to the Independent Review Panel.

VII.2.2. Fundamental principles and processes guiding administrative decision-making in procurement

Administrative decision-making in public procurement is guided by the fundamental principles set forth in Article 6 of the procurement law indicated above. Those principles are considered as international standards of public procurement law as follows: transparency, competition, economy, efficiency, fairness, and accountability.²⁷⁰ These principles also provide the procedural framework for organizing the process by which procurement decisions are organized and finally rendered.

VII.2.2.1. Transparency

Transparency in public procurement means that information on the public procurement process must be available to everyone: contractors, suppliers, service providers and the public at large, unless there are valid and legal reasons to keep certain information confidential. A transparent system has clear and predictable rules of competition and mechanisms to ensure compliance with those rules. Records are open to inspection by public auditors or others such as unsuccessful bidders. This helps building public confidence in the public procurement system.²⁷¹ Transparency in decision-making in the public procurement process can be illustrated in the following steps:

- The first phase in the procurement process is the preparation and approval of the entity's Procurement Plan. Every procuring entity must prepare it at the beginning of each year and submit it for approval to the Rwanda Public Procurement Authority (RPPA).²⁷²
- The next phase consists of the preparation of bidding documents by the procurement entity. The bidding documents must be sufficiently clear to allow interested bidders to participate in the competition or bidding process.²⁷³

²⁶⁹ Article 4 of Ministerial Order n°001/08/10/Min.

²⁷⁰ Law n°62/2018 of 25/08/2018 governing public procurement.

²⁷¹ Rwanda Public Procurement Authority (RPPA), Introductory Training Module in Public Procurement, March 2012.

²⁷² Article 2 of Ministerial Order n°001/08/10/Min.

²⁷³ Article 30 of the law n°62/2018 of 25/08/2018 governing public procurement

- After preparation of bidding documents, they must be sufficiently publicized in such a way that any interested person can participate in the bidding process.²⁷⁴
- The next step is the opening of bids which brings the end to the bidding process. The modalities for opening bids using the e-procurement system are yet to be determined by an Order of the Minister as required by article 41 of procurement law 2018.
- The bids opening are followed by administrative, technical and financial evaluation.²⁷⁵ The end of the evaluation is followed by provisional notification to the selected bidder.²⁷⁶
- If no complaints are made within 7 days from the provisional notification, a final award of the tender and signing of the contract by the winning bidder will signify the end of the procurement process.²⁷⁷

Publicity and transparency limit the risk of bid rigging, referred to in the law as collusion²⁷⁸ or fraudulent practices, connivance, and lack of fairness. Article 1(9^o) of the procurement law defines collusive practices as an “arrangement between two or more parties designed to achieve an improper purpose, including influencing another party or the civil servant”²⁷⁹. Collusion is punishable by a ban from participation in public procurement for 4 years.²⁸⁰ In a case of corruption, the provisions of the Penal Code apply.²⁸¹

Transparency is also assured through the right of bidders to seek clarifications and additional information about the procurement documents as enshrined under article 35 of the procurement law.²⁸²

VII.2.2.2. Fairness and prohibition of discrimination

This principle requires that public sector procurement must be conducted without favor or discrimination, and that all prospective bidders must be provided with the same treatment at each stage of the procurement process. The main aspects of fairness in the procurement process are as follows:

- Decision-making and actions in the procurement process should be unbiased; procuring entities should grant no preferential treatment to individuals or firms.
- All bids should be considered on the basis of their compliance with the terms of the solicitation documents, and a bid should not be rejected for reasons other than those specifically stipulated in the solicitation document.
- A contract should only be signed with the bidder whose bid is compliant with and responds best to the requirements of the solicitation in terms of technical capability and price.

²⁷⁴ Article 32 of the law n°62/2018 of 25/08/2018 governing public procurement

²⁷⁵ *Ibid.*, Articles 42- 48 .

²⁷⁶ *Ibid.*, Article 49.

²⁷⁷ *Ibid.*

²⁷⁸ See Article 1(9^o) of 2018 procurement Law .

²⁷⁹ Article 1(9^o) of the 2018 procurement Law . .

²⁸⁰ . Article 183 of the 2018 procurement Law.

²⁸¹ Organic Law n°01/2012/OL of 02/05/2012 instituting the Penal Code.

²⁸² Article 15(4) of Ministerial Order n°001/14/10/tc of 19/02/2014 establishing regulations on public procurement, standard bidding documents and standard contracts.

- Bidders should have the right to challenge the bidding process whenever they feel that they were unfairly treated; such challenges must be based on the solicitation document and/or the procurement legal framework.²⁸³

For example, conflicts of interest are addressed by the law, which prohibits a firm from bidding where a civil servant, his/her parent, his/her spouse or his/her child is a shareholder with shares equal or greater than fifty percent (50%), representative or member of the board of directors for tenders of the entity where that civil servant is an employee in the bidding firm.²⁸⁴ This protects bidders from potential bias and conflicts of interest in procuring entities and individuals who might influence the decision on their bid, even if they are not on the tender committee.

The law requires the tender to be open to all persons who deal in commercial activities. Restricted tendering is only allowed when the goods or services are highly complex or specialized in nature, or are available only from a limited number of suppliers or contractors.²⁸⁵ However, the application of restricted tendering is made at the discretion of the procurement entity, and prospective bidders cannot appeal the decision for restricted tendering where they believe the application of restricted tendering was not necessary. While most other decisions made in the

procurement process give rise to a right to appeal where a bidder or even a prospective bidder believes the process was unfair or unlawful, it is unclear why the same right to appeal should not be applied in this case.

The bidders have the right to correct minor's errors. Bids should neither be disqualified for minor deviation. However, determination of minor error or deviation is left to the discretion of the Tender Committee. The lack of clear guidelines can lead to unfairness and corruption. The National Independent Review Panel noted the inconsistency on this issue in the KOPIBO v. Rubavu (2015) complaint.

Limitations on single sourcing of procurements are also a key aspect of fairness and the prohibition of discrimination. Article 23 of the Ministerial Order on public procurement allows public institutions to procure without going through the tender process only for purchases not exceeding 300,000 Rwanda francs (between \$300-400)²⁸⁶. This prevents the use of single source procurement for large tenders, while allowing public institutions to make small purchases without needing to go through the whole tender process. Article 23 of the procurement law also prohibits the splitting of procurement contracts with the aim of avoiding the application of competitive procurement, and provides for sanctions for any public official who violates that requirement. Single sourcing is also allowed in case of monopoly, urgency, additional work not exceeding 20% of the initial tender and the consultancy for the purpose of research, experimentation and study,²⁸⁷

²⁸³ Jorge Lynch, Public and Project Procurement for Novice and Aspiring Procurement Practitioners, <https://procurementclassroom.com/public-procurement-principles/>, visited on 26/1/2017.

²⁸⁴ Article 89 of the 2018 procurement law.

²⁸⁵ Article 22 of the 2018 procurement law

²⁸⁶ Ministerial Order n° 001/14/10/tc of 19/02/2014 establishing regulations on public procurement, standard bidding documents and standard contracts.

²⁸⁷ Article 24 of 2018 procurement law.

The law also allows bidders the opportunity to correct immaterial errors in their bid documents. Article 43 of the procurement law forbids procurement from being rigidly formalistic, including at the time of evaluating bids. The law requires a procuring entity to regard a tender as complying with the tender requirements even if the bid contains minor errors that do not materially depart from the requirements in the bidding notice, or if the bid contains omissions that may be corrected without altering the substance of the bid. The right of bidders to correct minor errors ensures that all bidders will be on equal footing, and the evaluation of bids will not be impacted by immaterial mistakes. Bids also should not be disqualified for a minor deviation from the tender requirements. However, the determination of what is a minor deviation or a major deviation from the tender requirements is at the discretion of the tender committee. In fact, the National Independent Panel Review found in the case of *KOPIBO vs Rubavu* (2015) that Rubavu District had qualified the same lack of qualification differently. Lack of clear guidance in the law makes the procurement process susceptible to unfairness and corruption.

VII.2.2.3. Competition

The principle of open bidding is the general rule for public procurement. An open system provides an opportunity for all eligible bidders to compete for the opportunity to provide goods, works, or services to the government, and ensures that no undue restrictions are placed on competing for a particular contract. .²⁸⁸ A violation of the principle of competition is one of the grounds upon which a bidder can appeal in the procurement process.

Public procurement requirements should be widely disseminated to increase the chances of a good market response leading to the award of competitively-priced contracts.²⁸⁹ In order to meet the publicity requirement, procuring entities are required to advertise the invitation to tender on the e-procurement portal, with the exception of where the estimated value of the tender of goods or supplies, works or consultancy or non-consultancy services being procured is below the threshold established by public procurement regulations. .²⁹⁰ These requirements ensure that all potentially qualified bidders will have the opportunity to learn about the tender and put in a bid if desired.

In order to ensure a wide variety of potential bidders, procurement entities are also prohibited from imposing requirements of or references to a “particular brand, trademark, trade name, patent, design type, specific origin or producer” in the tender documents, unless it is impossible to describe the characteristics of the goods, works or consultant services to be provided in another way.²⁹¹ Where no other terms are available to adequately describe the needed goods or services aside from trade names or similar names, words such as “or equivalent” must be added. This requirement prevents procurement entities from unnecessarily narrowing the scope of the services or goods to be provided, or favoring a particular bidder through the tender documents.

VII.2.2.4. Economy

²⁸⁸ Ministry of Finance and Economic planning (MINICOFIN) Rwanda public procurement authority (RPPA), Public procurement user Guide, November, 2010, p.1.

²⁸⁹ *Ibid.*

²⁹⁰ Article 32 of the 2018 procurement law.

²⁹¹ *Ibid.*, Article 31. .

The principle of economy in the procurement process focuses mainly on finding the lowest price for the services or goods offered to any public procurement entity.²⁹² Furthermore, in Rwanda, quality and cost-based selection (QCBS) is the default method of selection, which prioritizes quality of the offer, but makes cost a criteria for selection.²⁹³ Where a tender is awarded to a bidder with a higher price, the procurement entity must clearly explain the reasons of its decision. . A losing bidder who offered a lower price can appeal either to the procurement entity itself, to the Independent Review Panel, or to a competent court, which will determine whether the principle of economy was respected in spite of choosing a higher-priced offer. The ultimate purpose of the principle of economy is to obtain maximum value for money²⁹⁴.

A bidder can only claim penalties for late payment when such penalties are provided for in contract while the procuring entity has an automatic right to penalties non-execution, delays in contract execution and poor quality execution. This imbalance in the legal framework should be addressed through an amendment to the law or standard contracts in procurement.

VII.2.2.5. Efficiency

Efficient public procurement describes a system that operates in a timely manner, with minimal bureaucracy, while being responsive to the needs of the end-user of the goods or services procured. The principle of efficiency in public procurement is measured by the best proportion between used procurement budget and effects achieved²⁹⁵. Efficient public procurement is also procurement which is practical in terms of compatibility with the administrative resources and professional capabilities of the procuring entity and its personnel.²⁹⁶ An e-procurement system has been launched and is being used by procuring entities in furtherance of the goals of efficiency in public procurement.

The principle of efficiency is also reflected in paying the winning bidder on time, according to contract performance. However, a bidder may only claim penalties for late payment when such penalties are provided for in contract. While a bidder may be unaware of this standard or unable to negotiate such a term into the contract due to unequal bargaining power, a procuring entity has an automatic right to penalties for a bidder's non-material faults. This imbalance in the legal framework should be addressed through an amendment to the law or standard contracts in procurement.

The limited staffing capacity of the procurement unit could cause gaps and insufficiencies in the procurement process. It should be reviewed in light of the annual procurement plans to ensure efficiency in the procurement process.

²⁹² Rwanda Public Procurement Authority (RPPA), Introductory Training Module in Public Procurement, March 2012.

²⁹³ Article 72 of the 2018 Procurement Law.

²⁹⁴ Ministry of Finance and Economic planning (MINICOFIN) Rwanda Public Procurement authority (RPPA), Public procurement user Guide, November, 2010, p.10.

²⁹⁵ *Id.*

²⁹⁶ Ministry of Finance and Economic planning (MINICOFIN), Rwanda Public Procurement Authority (RPPA), Public Procurement User Guide, November 2010, p.1.

VII.2.2.6. Accountability

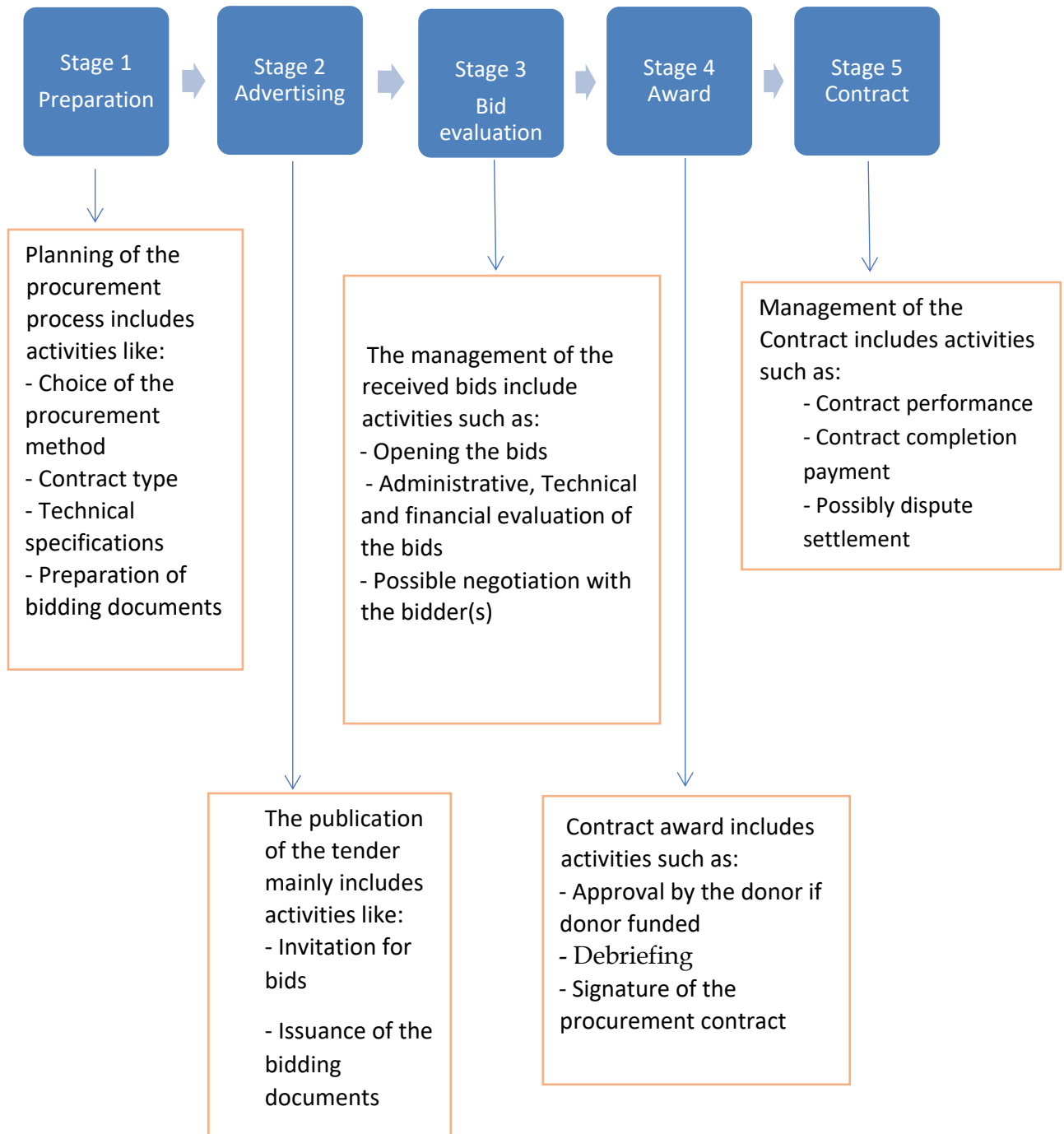
Accountability in the procurement process refers to enforcing established rules and procedures against all participants in the process. The enforcement of rules and procedures in the procurement process supports the credibility of the procuring entity by serving as a deterrent to collusion and corrupt practices.²⁹⁷ A key document in ensuring accountability in public procurement is the procurement plan, required to be created by each procurement entity when it prepares its annual budget.

Accountability also refers to sanctions and other measures to be taken against any person who breaches procurement rules. For example, any employee who refuses to receive work, supplies or services without justification shall be suspended from work for 3 months.²⁹⁸ This is an important tool in ensuring that work, supplies and services that are done in accordance with the procurement contract are not rejected without reason, minimizing opportunities for corruption among government officials.

²⁹⁷ Rwanda Public Procurement Authority (RPPA), Introductory Training Module in Public Procurement, March 2012.

²⁹⁸ Article 16 of the 2018 procurement law.

SUMMARY OF PROCUREMENT STAGES AND ACTIVITIES IN RWANDA



VII.2.3.1. Applications for review to procuring entities

All bidders and prospective bidders have a right to review of any decision taken during the procurement process. The procuring entity is the first level of review for bidders and prospective bidders. This request must be made in writing to the head of the procuring entity before the procurement contract is actually signed. The bidder or prospective bidder has 7 days to submit the request for review. This period runs from the date the bidder becomes aware of the circumstances giving rise to the request and the head of the procuring entity has 7 days within which to resolve the issue raised.²⁹⁹ Where the issue is not resolved to the satisfaction of the bidder, an appeal can be made to the relevant Independent Review Panel.

VII.2.3.2. Independent Review Panel

The Independent Review Panel (IRP) has the power to receive appeals on public procurement at the national level. It independently reviews complaints/appeals from bidders against decisions made in the procurement process.³⁰⁰ The IRP is composed of 11 members, appointed for 4-year terms. Members are drawn from the public sector, private sector and civil society. Members from the public sector shall not be more than five (5) in number and at least thirty percent (30%) of its members must be women.³⁰¹ Members of the tender committees as well individuals not authorized to be members of tender committees³⁰², the staff and members of the RPPA Board of Directors, and members of the relevant District Council cannot be members of the IRP, in order to avoid conflict of interest. Further guaranteeing fair and just decision-making at IRP, a quorum of at least two-thirds of all members of the panel must be present to make valid resolutions.³⁰³

The IRP has significant responsibilities in review of administrative decision-making in the procurement process. The Secretary of the IRP receives complaints from bidders and informs the members of the IRP about these cases.

Applications for review of decisions made in the tender process are subject to pre-screening³⁰⁴ by the officer of the IRP to verify whether:

- 1° the complainant submitted all the required documents;

²⁹⁹ Articles 50 of the 2018 Procurement Law

³⁰⁰ Article 12 and 52 of the 2018 Procurement Law.

³⁰¹ Article 49(1) of Ministerial Order n° 001/14/10/tc of 19/02/2014.

³⁰² Article 10 of Ministerial Order n° 001/14/10/tc of 19/02/2014 (those not authorized to be on IRPs include:

- 1° the head of a public body ;
- 2° Members of Executive committees of Districts and the City of Kigali;
- 3° the chief budget manager;
- 4° the Head of finance Unit;
- 5° the internal auditor;
- 6° the legal advisor;
- 7° the officer in charge of logistics.)

³⁰³ Articles 49(2) & 58(1) of Ministerial Order n° 001/14/10/tc of 19/02/2014.

³⁰⁴ Article 50 of 2018 Procurement Law. of

- 2° the fee was deposited on the appropriate account in case it is required;
- 3° the complainant appealed to other organs as provided for by the law;
- 4° the complainant appealed to an appropriate organ
- 5° the complainant appealed within the required time.³⁰⁵

The relevant officer of the IRP will decide whether an appeal meets these standards, and if not, the officer is required to make a report explaining the reasons for the denial of review, and submit it to the Chairperson of the IRP to make a final decision about whether to accept the request for review. Where the request is accepted, the procuring entity has 3-5 working days to produce relevant documents for the IRP, and the IRP will then fix a date for the hearing and determine whether it will hear both parties in writing or in person.³⁰⁶

A bidder who appeals to the IRP is required to pay a nonrefundable fee of 50,000 Rwandan francs for tenders amounting to 20,000,000 Rwandan francs or less, and 100,000 Rwandan francs for all other values of tenders.³⁰⁷ A bidder's right to appear before the IRP during hearings is not absolute and is decided upon in the discretion of the IRP.³⁰⁸

Article 52(1) of Ministerial Order n° 001/14/10/tc of 19/02/2014 states that "A bidder who appeals to the IRP is required to pay a nonrefundable fee of 50,000 Rwandan francs for tenders amounting to 20,000,000 Rwandan francs or less, and 100,000 Rwandan francs for all other values of tenders. This may affect the bidder's rights to challenge the unfair decision.

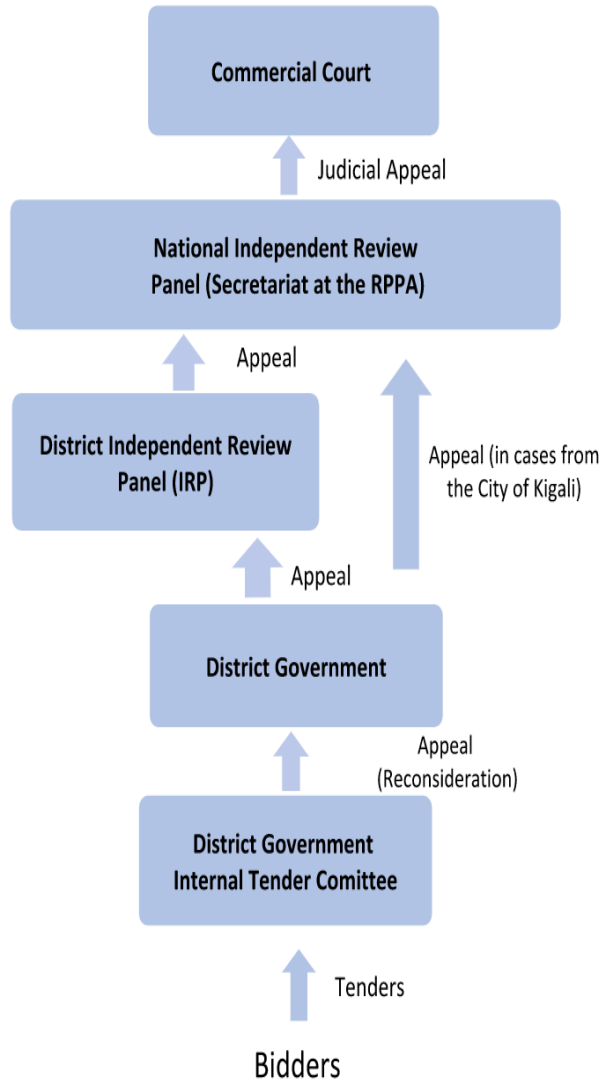
³⁰⁵ Article 54 of Ministerial Order n°001/14/10/tc of 19/02/2014.

³⁰⁶ Articles 54-57 of Ministerial Order n°001/14/10/tc of 19/02/2014.

³⁰⁷ Article 52(1) of Ministerial Order n° 001/14/10/tc of 19/02/2014.

³⁰⁸ Article 57(5) of Ministerial Order n°001/14/10/tc of 19/02/2014.

Administrative Decision Pathways in Public Procurement



VII.2.3.3. Other statutory review mechanisms

a) Submission of annual procurement plans to RPPA

Every procurement entity is required to submit an annual procurement plan to the RPPA by July 31 of each year.³⁰⁹ The objective of this review process is to give the RPPA the opportunity to contribute to the fight against bid rigging and ensure the respect of fundamental principles of procurement. If the RPPA finds that the procurement methods a procuring entity intends to use are likely to encourage collusion, it can refuse to approve the plan. However, it may be difficult in practice for some public institutions to comply with the requirements of planning and openness and transparency of procurement where the entity has a legitimate need to use single sourcing.³¹⁰ Furthermore, the law does not provide sanctions for an institution that fails to comply with the obligation to submit its annual procurement plan to the RPPA or accept the RPPA's determination on the plan.

b) Submission of quarterly reports on procurement

The Independent Review Panel is required to provide quarterly reports to the Minister in charge of public procurement..³¹¹ This reporting requirement serves a tool to review procurement planning and procurement processes to promote transparency in public procurement. However, where procuring entities do not have procurement plans, it is a challenge for the IRPs to evaluate overall performance in the procurement process.

VII.2.3.3. Court appeals

Any party seeking to challenge a decision made by an IRP may seek review of the decision in court.³¹² The Commercial Court is the competent court for hearing cases related to public tenders.³¹³ According to the interview held with the President of the Nyarugenge Commercial Court, most of the procurement cases they receive relate to termination of the procurement contract (unfairly and/or not respecting the procedure for termination)³¹⁴ There are many other recurrent issues such as the termination of contractual obligations due to delay in delivery,³¹⁵ termination of contractual obligations due to non-compliance of supplies with the agreed specifications/standards,³¹⁶ termination of contractual obligations due to changing circumstances or force majeure,³¹⁷ termination of contractual obligations due to procuring entity's own reasons,³¹⁸ and the issue of the non-performance of obligations arising from additional works or activities executed by the successful bidder.³¹⁹

³⁰⁹ Article 2(2°) of Ministerial Order n°001/14/10/tc of 19/02/2014.

³¹⁰ See also OECD, Designing Tenders to Reduce Bid Rigging: Helping governments to obtain best value for money, <http://www.oecd.org/competition/cartels/42594504.pdf>, accessed on May 27, 2014.

³¹¹ Article 61 of Ministerial Order n°001/14/10/tC of 19/02/2014.

³¹² Article 52, para. 2 of the 2018 Procurement Law.

³¹³ Article 81(16°) of the Law N°30/2018 of 02/06/2018 Determining the Jurisdiction of Courts.

³¹⁴ Interview with the President of the Nyarugenge Commercial Court, held on 28th November 2017.

³¹⁵ See ZENITH CC Sarl v. KIST, Case No. RADA0028/12/CS, 23 May 2014.

³¹⁶ DIDADA Supply Ltd v. Rwanda (MINALOC), Case No. RADA0018/12/CS, 18 July 2014.

³¹⁷ OCIR-thé v. SINFOTEC Sarl, Case No. RADA 0025/12/CS, 25 April 2014.

³¹⁸ SOGECO v. Nyarugenge District, Case No. RCom 0854/14/TC/Nyge, 28 October 2014.

³¹⁹ See *Guus van Balen v. Nyamagabe District*, Case No. RADA0001/12/CS, 15 May 2015;

The President of the Intermediate Court of Nyarugenge advised that staff and officials in public institutions put more attention to the preparation of the contract as well as to any necessary termination. They should ensure that contracts are well done and that the procedure is well respected during any termination. In this regard, capacities of relevant civil servants and heads of public institutions need to be strengthened as it would avoid some of the mistakes that cause loss to the government. The President of the Commercial Court also noted that most of the litigants are usually not aware of the existence of the Committee in charge of out of court settlement³²⁰ which helps to resolve cases involving government out of court, including procurement cases.

VII.3. Challenges in the Public Procurement Process in Rwanda

VII.3.1. Challenges in the legal framework governing public procurement

VII.3.1.1. Lack of definition of bid rigging and related practices

Some common fraudulent practices in procurement, including bid rigging, bid suppression,³²¹ bid rotation,³²² cover bidding,³²³ and market allocation³²⁴, are not clearly defined in the procurement law. This can have a negative impact on the effective application of the law. Also, viewed from a rights-based perspective, the strength of a law does not only lie in terms of its effectiveness in punishing perpetrators of violations, but also in its suitability to inform the citizens as to what acts are prohibited, so that they avoid engaging in them. Where definitions prohibited practices are not clear, individuals may not be able to conform their behavior to the law.

VII.3.1.2. Unfairness of Sanctions regimes to winning bidders

For each day a bidder delays performance, the procuring entity may charge penalties of one one-thousandth (1/1000) of the value of the uncompleted activities.³²⁵ These penalties are limited to 5% of the value of the tender overall, at which point the contract is automatically cancelled. However, in order for bidders to claim penalties against the procurement entity, especially in cases of delayed payments, the law requires such penalties to be provided for expressly by the contract, awarded after submission of an invoice complying with the contract terms. Where penalties are provided by the contract, some bidders have been successful in claiming for damages in the courts.

³²⁰ The Committee was established by the Cabinet meeting in its decision of 27/6/2001 and defined by Prime Minister's Instructions N°005/03 of 16/12/2015 governing the organization and functioning of the Committee in Charge of Out of Court Settlement.

³²¹ Bid suppression occurs when conspirators agree not to submit a *bid* so another can win the contract.

³²² Bid rotation refers to the practice of competing bidding firms "taking turns" at winning the job.

³²³ Cover bidding is the act of tendering an artificially high price for a contract, on the assumption that the tender will not be accepted and that the tender will be allocated to the second-highest bid.

³²⁴ Market allocation or market division schemes are agreements in which competitors divide markets among themselves. In such schemes, competing firms allocate specific customers or types of customers, products, or territories among themselves.

³²⁵ Article 181 of the 2018 Procurement Law. .

In the *Mariamantes Services Ltd v. RMI* case,³²⁶ the bidder Mariamantes Services Ltd³²⁷ provided food and other services for staff training events at the Rwanda Management Institute, Mariamantes sued RMI for damages for delayed payments. The court ordered the Institute to pay penalties of 18% of the value of the delayed payment on each invoice, based on a clear penalties clause in the contract. In *SOGECO HOPE Ltd v. Nyarugenge District* case,³²⁸, the Nyarugenge Commercial Court ordered Nyarugenge District to pay SOGECO HOPE Ltd penalties of 10,000,000 Rwandan francs due to delayed payments and illegal termination of a procurement contract to renovate the offices of Nyamirambo Sector. However, it is unclear whether the court would have awarded the damages for delayed payment alone if the District had not also illegally cancelled the contract.

A bidder can only claim penalties for late payment when such penalties are provided for in contract while the procuring entity has an automatic right to penalties in case of delays in contract execution. Basing on the contract, some bidders have been successful in claiming for damages in the courts. This is exemplified by Mariamantes Services Ltd v. Rwanda Management Institute case and SOGECO HOPE Ltd v. Nyarugenge District case.

VII.3.1.3. Limited staffing capacity and broad discretion of the Independent Review Panels

The IRP at the national level has one permanent staff member. Appeals for review to the IRPs are subject to pre-screening by the staff of the IRP.³²⁹ While members of the IRP must be informed about the decision to deny an application for review, this procedure of pre-screening appeals could cause prejudice against a bidder who files an application for review because it empowers a single person to prevent a complaint from being examined by the full bench of the IRP. The IRP is also required to decide upon any application for review within 30 days of receiving a complaint, although in some cases, an additional 30 days might be granted.³³⁰ Given the strict deadlines, the heavy discretionary authority vested in the staff member, and the importance of preserving the fairness of the procurement process through the IRPs, this lack of staffing capacity at the IRP, is a significant challenge to the fair and transparent functioning of IRP, which is the key mechanism of administrative review for procurement process. Reform of the powers and functions of the relevant officer of the IRP must be undertaken to ensure accountability and improve the appeals review process and make it more fair and open.

VII.3.1.2. Unfairness in access to review mechanism

³²⁶ *Mariamantes Services Ltd v. Rwanda Management Institute*, Rcom 0403/13/TC/HYE, 31/1/2014 upheld by the Commercial High Court in the case *Mariamantes Services Ltd v. Rwanda Management Institute*, RCOMA 0142/14/HCC, 25/4/2014 ..

³²⁷ Mariamantes Services Ltd is a commercial Company registered with RDB.

³²⁸ *SOGECO HOPE Ltd vs Nyarugenge District*, Rcom 0854/14/TC/NYGE, 28/10/2014.

³²⁹ Article 50, para. 3 of the 2018 Procurement Law.

³³⁰ Article 58(3) of the Ministerial Order n°001/14/10/tc of 19/02/2014, Article 70 of law n°12/2007 of 27/03/2007, as amended to date.

Where individuals do have review of their claims before an IRP, it is within the discretion of the IRP whether to grant an in-person hearing or accept arguments in writing only. This undermines the transparency of the IRP process, and denies the bidder the right to provide explanations or respond to claims or issues raised during the proceedings. In order to guarantee full and fair access to the rights enshrined in the procurement law, face-to-face confrontation between the bidder and the representative of the procurement entity should be provided as a matter of right, not left to discretion of the Review panel.

VII.3.1.3. Fees required for appeals could deter meritorious claims

The requirement to pay fees in order to appeal a procurement decision could prejudice certain claimants. While the requirement to pay these fees is done in order to prevent baseless complaints, it is done with no regard to the potential merit of the claims. No other administrative complaints process in Rwanda is subject to such payment of fees. Citizens should have the right to challenge illegal decisions made by the government, including decisions made in the procurement process by the tender committee or procurement entity, regardless of their income level or ability to pay a fee. Furthermore, these fees are not refundable, even where the claims are found to be meritorious.

In other similar circumstances, such as litigation, the winning party is often entitled to a refund of the fees related to bringing or defending the case. In the same spirit, the procurement entity could be required to refund a winning bidder, or even a bidder whose claim is accepted at the pre-screening stage. This change in the application of the fees would ensure that these fees are used to discourage meritless claims rather than potentially become a source of revenue for government institutions. In fact, at the national level, the IRP received 161 complaints in the past 3 fiscal years (July 2014 – June 2017), and among all claims declared admissible, 49% of the claims were successful and the government was held liable for breaching procurement procedure, so the requirement to pay fees to challenge a procurement decision has a negative impact on many bidders whose claims are in fact found meritorious.³³¹

At the District level, bidders may be even worse off. Although statistics on the number of filed and successful complaints were not available for District IRPs, participants in round-table discussions and interviews reported that bidders who participate in procurements at the District level often do not trust the District IRPs, and do not even bother to submit applications for review when they feel the procurement process has been unfair. By not submitting complaints to the District IRP in the first instance, bidders lose their right to appeal to the national IRP at the second level. Further reports by round table and interview participants noted that some bidders also avoid

According to its report, the NIRP received 161 complaints in the past 3 fiscal years (July 2014 – June 2017). 49% of the admitted claims were successful and the government was held liable for breaching procurement procedure. The requirement to pay non-refundable fees to challenge a procurement decision may have a negative impact on many bidders whose claims are in fact found meritorious. The procurement entity should be required to refund even a bidder whose claim is accepted at the pre-screening stage

³³¹ Annual activity reports of the NIRP accessed at <http://www.rppa.gov.rw/index.php?id=561>. Data was not available for reviews conducted at the District level. See Annex C for full available statistics.

appealing in order to maintain their reputation and relationships with the District. Given the lack of permanent, independent staff at the District IRPs, the potential for abuse of the pre-screening and appeals process at the District levels is significant and is likely to cause underreporting of misconduct in the procurement process, even where data is available.

VII.3.2. Challenges in implementing decision-making in public procurement

VII.3.2.1. Implementation of e-procurement

Ministerial Order n°001/14/10/TC of 19/02/2014 establishing regulations on public procurement, standard bidding documents and standard contracts was enacted in 2014 in order to bolster the legal framework of public procurement in Rwanda. However, as Rwanda has begun to implement e-

procurement, the 2018 procurement law was harmonized with the e-procurement system but some of the procurement regulations have become obsolete because many documents required in the bidding process are no longer necessary.. Therefore, those regulations also need to be harmonized with the e-procurement practice to ensure procurement entities know what their legal obligations are. Moreover, there should effective training on the use of e-procurement to procurement officers and bidders.

Despite RPPA capacity building efforts, procurement officers reported challenges in carrying out the contract management, especially for some complex and technical procurement contracts. Further training and collaboration with end user department can help to overcome this challenge.

VII.3.2.2. Overuse of minor corrections option

Under article 46 of the 2018 Procurement Law, this correction is only applicable with respect to bids that are not submitted through e-procurement system as provided for by law. The Auditor General’s report from June 2016 noted “an increasing trend in public entities where the internal tender committees frequently make price adjustments on bids submitted to correct arithmetic errors.” The report further notes that “whilst the practice is legally provided for under the procurement laws and regulations, its frequent use and changes in bid prices is an indicator of some emerging challenges in procurement, and could easily be abused.” For example, Nyamagabe District made such changes in 14 tenders awarded during the year.³³² Where the practice of making corrections is almost universal, it will be difficult to determine when the process is being abused or where the line between minor corrections and major corrections lies.

VII.3.2.3. Deficiencies in contract management skills

Procurement officers reported challenges in carrying out contract management for procurement contracts. Where the concerned department prepares the terms of reference for the procurement, that department does not intervene in contract management. It is left to the procurement officer, who may or may not have sufficient skills or clear information about the conditions giving rise to the tender and does not have the same substantive context for the work being done or the services being provided. Nonetheless, it is the procurement officer who would be held liable for any breach of procurement procedure. The Auditor General’s report

³³² Office of the Auditor General’s Report, 2016.

from 2016 noted a lack of general supporting documents to justify the tender procedures and has recommended “intensified efforts dedicated to project conceptualization, procurement and monitoring of government programs to ensure realization of intended objectives”.³³³ RPPA indicated that it has made efforts to increase capacity of procurement officers in the domain of procurement law, although challenges still remain because some contracts are complex and technical, further capacity building is needed.

VII.4. Recommendations

For proper administration of justice and decision-making in public procurement, the legal and institutional frameworks need to be strengthened as follows:

1. Capacity of procurement staff at public entities should be strengthened.

The staff of RPPA as well as those from public institutions must benefit from capacity-building in terms of procurement procedures. The training should be focused not only on the preparation of bidding and the whole process of the procurement, but also on contract management in terms of respecting the principles of procurement. Strategies should be adopted to ensure that the end-user department collaborates with the procurement department for better management of procurement contracts.

2. The law should provide for sanctions for a procurement entity that does not submit its annual procurement plan on time.

While the law creates an obligation for entities to submit an annual procurement plan, it does not provide for any sanction for those that fail to do so. This lack of sanctions harms the authority of the RPPA and undermines the fundamental principles of fairness, transparency, and accountability in the procurement process.

3. The law should provide for refunding of fees payable to file an appeal once a complaint is accepted or is successful.

The current framework of fees for appeals to the procurement process may be unfairly prejudicing bidders who suffered harm due to wrongful actions or decisions of procurement entities. In order to establish the fairness of the process, bidders who are successful in their claims, or even those who have their claims approved in the pre-screening process, should receive a refund of these fees.

4. Bidders should have the right to appear before the IRP at the hearings related to their claims.

The possibility to be heard in person at the IRP is in the discretion of the IRP. While the IRP is obligated to treat both parties the same in its decision about whether to grant an oral hearing, an aggrieved bidder should be permitted to appear in person at the hearing determining his or her claim in order to preserve the principles of fairness and transparency in the procurement process.

³³³ *Ibid.*

5. The procurement law should be revised to provide for automatic penalties payable to winning bidders for delayed payments.

In order to balance the rights of bidders with the rights of public entities, terms should be added to the standard procurement contract that provides penalties against procurement entities that violate the rights of winning bidders in the carrying out procurement contracts. Where procurement contracts are normally prepared by the procurement entity, they might not willingly add penalty provisions against themselves, so these terms must be required as standard.

Key recommendations to overcome the challenges met in the procurement include the following:

- *Building the capacity of procurement officers and other staff involved in procurement process.*
- *The law should provide for sanctions for a procurement entity that does not submit its annual procurement plan on time.*
- *The law should provide for refunding of fees payable to file an appeal once a complaint is accepted or is successful.*
- *Bidders should have the right to appear before the IRP at the hearings related to their claims.*
- *The procurement law should be revised to provide for automatic penalties payable to winning bidders for delayed payments.*

VIII. CROSS-CUTTING INSTITUTIONS THAT SUPPORT ADMINISTRATIVE JUSTICE IN RWANDA

In the field of administrative justice in Rwanda, several institutions that aim to provide greater access to justice also benefit individuals seeking to access their rights through administrative processes. In particular, the Office of the Ombudsman, the Committee in charge of Out-of-Court Settlements, and the Access to Justice Bureaus (known as *Maison d'Accès à la Justice-MAJ*) provide cross-cutting support for individuals seeking to access their rights in Rwanda. Furthermore, courts in Rwanda have review powers over administrative decision-making and may annul administrative actions and/or provide compensation for individuals harmed by administrative actions.

VIII.1. Office of the Ombudsman

The Office of the Ombudsman is an institution established by the Constitution of the Republic of Rwanda of 2003 (revised in 2015) under Article 139. As an implementing instrument of this provision, the law n°76/2013 of 11/9/2013 determines the Mission, Powers, Organization and Functioning of the Office of the Ombudsman (hereinafter referred to as “Law governing the

Office of Ombudsman”). The Office is independent and does not take direction from any other institution.³³⁴

Among other responsibilities, the Office of the Ombudsman will:

- Act as a link between the citizen and public and private institutions;
- Prevent and fight injustice, corruption and related offences in public and private entities;
- Receive and examine complaints from individuals and associations in connection with the acts of civil servants, State organs and private institutions, and mobilise such civil servants and institutions to resolve those complaints if it finds they are founded;
- Contribute to strengthening of good governance in all institutions by drawing the attention of such institutions where their functioning and relations are weak due to their contradiction with the law, with their respective responsibilities, with the State general policy or because they have a negative impact on the population;
- Advise public and private institutions as to the improvement of the quality of services delivered to the population.³³⁵

Article 8 of the Law governing the Office of the Ombudsman also requires the Ombudsman to refer to the appropriate institution any person who brings a complaint that falls in the competence of another institution. The same article, however, gives that right to the complainant to return his or her complaint to the Ombudsman in case the issue is not resolved in the other institution. The Office of the Ombudsman is an important institution with regard to ensuring access to administrative justice through helping to resolve any injustice, fight corruption that can occur in decision making processes and in the management of public and private institutions. The Office further gives advice on the respect of the law and on avoiding behaviours and practices likely to be a source of injustice, corruption or related offences. The Ombudsman also has the power “to request for disciplinary sanctions to be imposed against any employee whether Government, public or private who acted unjustly towards a person, an organization or an independent association, after written explanations and to determine what should be done so that those who suffered from injustice may find redress.”³³⁶

Without replacing other competent institutions, the Office of the Ombudsman may receive and handle any complaint involving corruption and injustice, including those related to the four research areas – Expropriation, Public employment, Private employment, and Public procurement. In handling these complaints, the office can make recourse to dialogue, mediation and conciliation as guiding processes, among others.³³⁷ The Office of the Ombudsman receives complaints from people who come to the head office in Kigali and through community outreach campaigns, which the Office regularly conducts. In this regard, the research team was provided with information on complaints related to expropriation received by the Office of the

³³⁴ Article 3 of the Law governing the Office of Ombudsman.

³³⁵ Article 7 of the Law governing the Office of Ombudsman specifically talks about the power to advise of the Office of Ombudsman where it states that “The Office shall provide advice to leaders and other civil servants or private operators with the aim of fighting behaviour and all practices likely to be a source of injustice, corruption and related offences.”

³³⁶ Article 10 of the Law governing the Office of Ombudsman.

³³⁷ Interview with the Director of Preventing and Fighting Injustice Unit, on 19th February 2019. See also The guiding principles of the Office under article 5 of the law no 76/2013 of 11/9/2013 determining the mission, powers, organization and functioning of the Office of the Ombudsman,

Ombudsman. The table below shows the number of expropriation-related complaints received by the Office of the Ombudsman between 2014 and 2017³³⁸:

Financial year	Number of complaints received ³³⁹
2014-2015	73
2015-2016	91
2016-2017	205

The figures above indicate that there has been an increase in the number of expropriation complaints in the past few years. Among the complaints received in 2016-2017 was one case that included 8,040 people from 23 districts claiming payment for their destroyed crops and damaged property during the construction of electric lines by the Rwanda Energy Group (REG). The total value of the claimed compensation for all of these properties is 1,029,956,850frw. This case is now being processed by REG and relevant District authorities following the recommendations provided by the Office of the Ombudsman to these institutions.³⁴⁰

The office of Ombudsman also received 29 administrative and Labour related complaints (12.8%) in the year 2016- 2017³⁴¹. This indicates that the office plays as significant role in administrative justice in Rwanda.

Challenges/issues:

- The Office of the Ombudsman has limited staffing capacity compared to the number of complaints received from the citizens.³⁴² As a result, there are delays in responding to people’s complaints.
- The value and requirement of being accountable and transparent has not yet become entrenched in the work and behaviors of some leaders.³⁴³
- Investigators and prosecutors have limited technical capacity in light of the complexity of cases involving corruption and injustice.³⁴⁴

The Office of Ombudsman plays a significant role in administrative Justice. The office has the power to receive and handle any complaint involving corruption and injustice, including those related to the four research areas. For example, among the complaints received 2016-2017 was one case that included 8,040 people from 23 districts claiming payment for their destroyed crops and damaged property during the construction of electric lines by the Rwanda Energy Group (REG).

³³⁸ Report from the Office of the Ombudsman submitted to LAF on 20th November 2017.

³³⁹ These cases include those received in writing (individual written complaint) as well as those received during the annual Anti-injustice campaigns (during which officials and staff from the Office of the Ombudsman do field visits).

³⁴⁰ Report from the Office of the Ombudsman submitted to LAF on 20th November 2017.

³⁴¹ Office of Ombudsman, Reports of activities, September 2017, p. 20 available at

<http://www.ombudsman.gov.rw>.

³⁴² Interview with the official at the Office of Ombudsman on 20th November 2017.

³⁴³ “The Mandate of the Office of the Ombudsman, Achievements, Best practices, Lesson learned and challenges faced,” report presented by the Office of Ombudsman in 2008.

[file:///C:/Users/user/Downloads/Rwanda%20Office%20of%20the%20Ombudsman%20\(1\).pdf](file:///C:/Users/user/Downloads/Rwanda%20Office%20of%20the%20Ombudsman%20(1).pdf)

³⁴⁴ Presentation made by the Chief Ombudsman on 18th February 2017 at the Consultative Meeting organized by members of the African Parliamentarians Network against Corruption (APNAC) in Kigali.

- Citizens' provision of incomplete information: Key informants stated that citizens do not provide complete information, which often requires further investigation to access the necessary evidence.
- Delay in implementation of recommendations: Key informants noted that, in some cases, officials delay the execution of the Office's recommendations. However, the Office usually requests that administrative sanctions be imposed on officials who failed to implement approved recommendations.
- Citizen lack of awareness of rights: Key informants noted that some citizens do not know their rights, which presents an ongoing challenge to administrative justice; awareness and public education activities simply must be sustained and enlarged.
- In order to effectively discharge their duties the Ombudsman Office staff could benefit greatly by having more training on investigation techniques, mediation and conciliation processes, and developments with substantive laws and regulations.

VIII.2. Committee in Charge of Out of Court Settlement

The Committee in Charge of Out of Court Settlement of cases involving the Government was established by the Cabinet meeting in its decision of 27/6/2001 and is defined by Prime Minister's Instructions N°005/03 of 16/12/2015 governing the organization and functioning of the Committee in Charge of Out of Court Settlement (hereinafter referred to as "Prime Minister's Instructions governing the Committee in Charge of Out of Court Settlement"). According to Article 5 of the Prime Minister's Instructions, the Committee is competent to amicably settle disputes involving public entities, both those that have already reached the courts and those that may be subject of litigation in the future. A case may be submitted to the Committee by the authorities or the advocate of the concerned public entity, or by the person who has a dispute with the public entity.³⁴⁵

The Committee is chaired by the Permanent Secretary of the Ministry of Justice. Though not a mandatory mechanism, this Committee can also be another avenue for the settlement of any complaint against a public entity, including those related to expropriation, public employment, and public procurement. The Committee also has the power to award compensation due to loss caused by an administrative decision or act.³⁴⁶ With regard to the force of the agreement reached through this mechanism, Article 31 of the Prime Minister's Instructions governing the Committee in Charge of Out of Court Settlement states that "The agreement signed between the parties shall have the same force as that of the final judgment of a competent court."

Challenges/issues:

There is limited awareness of the existence of the Committee in Charge of Out of Court Settlement of cases involving the Government. Most people (litigants) are not aware of the existence of this Committee, which leads them to end up in court without having explored this avenue of resolution.³⁴⁷

<http://ombudsman.gov.rw/en/?Corruption-cannot-be-curbed-with-no-cooperation-and-strong-anti-corruption#sthash.QxkUGFkH.dpbs>

³⁴⁵ Article 4 of the Prime Minister's Order governing the Committee in Charge of Out of Court Settlement.

³⁴⁶ Articles 23 - 30 of the Prime Minister's Order governing the Committee in Charge of Out of Court Settlement.

³⁴⁷ Interview with the President of the Commercial Court of Nyarugenge on 28th November 2017.

VIII.3. Access to Justice Bureaus (Maisons d'Accès à la Justice)

The Ministry of Justice has established Access to Justice Bureaus (MAJ) in all 30 districts (3 lawyers per District) as decentralized service to provide legal aid at free cost. Under the coordination of Access to Justice Coordination Unit, MAJ assure the activity of decentralized services of the Ministry of Justice, including those pertaining to legal assistance. The Ministry of Justice plans to expand MAJ activities to the Sector level starting in 2020³⁴⁸.

The *Maisons d'Accès à la Justice*, commonly known as “MAJ”³⁴⁹ have, the following major responsibilities:

- to advise people on law-related issues;
- to disseminate laws and regulations;
- to advise on *Abunzi* (community mediation) in legal matters and procedures, and monitor and follow-up on their activities;
- to coordinate the execution of court judgments and execute judgments for poor and vulnerable people;
- to provide legal assistance and legal representation in Courts for poor and vulnerable people;
- to handle all issues related to GBV;
- to assist citizens in conflict resolution through referral to various mediation mechanisms with other individuals or relevant institutions.³⁵⁰

In principle, MAJ does not handle administrative cases as a matter of principle (insofar as these cases involve other public servants),³⁵¹ but they can still provide general advice, engage in basic advocacy activities, and help steer individuals toward the right mechanisms or institutions in a case related to administrative matters.

Challenges/issues:

MAJ face the challenge of limited resources, in terms of both staff and logistics, esp. transportation³⁵². This had led to more limited outreach of the MAJ than envisioned, and hence

³⁴⁸ Interview with the Coordinator of Justice Sector Secretariat, Ministry of Justice, 13th March 2019.

³⁴⁹ These can be translated as “Access to Justice Bureaus/Offices”. MAJ legal officers work under the Ministry of Justice (MINIJUST).

³⁵⁰ See Ministry of Justice, MAJ Description, <http://www.minijust.gov.rw/services/maj/maj-description/> ; see also Law N°83/2013 of 11/09/2013 establishing the Bar Association in Rwanda and determining its organization and functioning [hereinafter 2013 Bar Association Law], at Article 68.

³⁵¹ For example they cannot provide legal representation (in a court of law) to a vulnerable person in a case against a public entity.

³⁵² Each district MAJ office is staffed with only three legal officers that are meant to cover the whole district and are stationed at the district level.

more limited citizen awareness of the existence of these Bureaus and the services they provide.³⁵³ The volume of the cases handled by MAJ staff confirm this challenge. According to the report of the Ministry of Justice, Access to Justice Bureau staff received 17,048 public legal aid requests countrywide, and of these 15,651 cases were civil, while 1,397 cases were criminal in nature.³⁵⁴ The report does not specifically indicate the number of administrative and labour cases covered, but they are covered under the category of civil cases. The average number of cases received is 568 per district³⁵⁵. The volume of these cases reveals that the MAJ staff is overloaded. Increasing the staffing capacity would be important for the effective performance of MAJ staff duties.

Access to Justice Bureaus (commonly known as MAJ) established in each District face the challenge of limited resources, both in terms of staff and logistics like transportation.

Each office has three Lawyers and yet the report indicated that the average number of cases received is 568 per district. Training and increasing the staffing capacity are some of the recommendations to overcome these challenges.

VIII.4. Legal Officers/Advisers

Article 3 and 4 of the ministerial instructions no 006/MOJ/AG 2016 of 04/02/2016 establishing standards and guidelines for public sector legal officers/advisers provides that their responsibilities include:

- To ensure that activities of the Government or Public institutions are carried out in accordance with the Law before any related decisions are taken
- To draft, negotiate and review contract as well as providing legal advice during their execution
- To provide advice on enforcement of the law on staff related decisions and on any other administrative decisions as well as on any other legal issues.
- To review and advise on issues related to the procurement process and the related documents before signing the contracts;
- To participate in activities on preparation of laws, orders, regulations and any other legal documents as well as in their interpretation to ensure that any action carried out is done in accordance with the law;
- To advise the institution for which he or she works on mechanisms to resolve any dispute without necessarily submitting such a dispute to the Court;

Article 5 further provides that the legal officer/adviser must provide an accurate and honest appraisal of the applicable law, even if that advice may constrain the institution from pursuing

³⁵³ See Legal Aid Forum “ICT for Justice: Citizen Feedback on Justice and Legal Services in Rwanda through ICT Platforms” Final Report, p. 43, Kigali, Rwanda.

³⁵⁴ Ministry of Justice, Annual Report of activities, 2016- 2017, p. 16 available at http://www.minijust.gov.rw/fileadmin/Documents/MOJ_Reports/Annual_report_Final_version2016_2017.pdf

³⁵⁵ *Ibid.*, p. 19.

its desired action. Despite these responsibilities, key informants and round-table participants indicated that, in some cases, government officials do not seek legal advice or do not take into account legal advice provided by the legal advisors of the institutions. Often, political expedience can trump the legal advice offered by the advisors. The PSC supported these claims, noting that, in some cases, public officials may lack knowledge of the relevant laws, while in others they wilfully violate the laws in order to accomplish some politically useful aims, or perhaps even corrupt ones.³⁵⁶

In order to avoid taking unlawful decisions that may lead to administrative responsibility, district officials responsible for expropriation, procurement and labour regulation decisions should without fail seek out and consider the advice of the district legal officer/advisers before taking administrative decision.

III.5. State attorneys

State attorneys play multiple roles in providing advice to Government and its institutions on legal matters as well as expertise and services involving state litigation. The Legal Services Department of the Ministry of Justice comprises the Government Legal Advisory Services Division and the Civil Litigation Services Division. The Government Legal Advisory Services assists the Attorney General in his or her role as Chief Government Technical Adviser and its duties comprise, among others, providing requisite advice to Government and its institutions on legal matters, assisting the Attorney General in coordinating the work carried out by Government Legal Advisers serving in different institutions, and coordinating any capacity building programs for the Government Legal Advisers. Key informants stated that although government agencies are encouraged to seek advice from MINIJUST, some officials do not seek such advice. In order to strengthen administrative justice through the use of legal advisory services, the Ministry adopted certain strategies, such as building up the capacity of legal advisers and state attorneys, and holding accountable any state officials who by their acts or omissions cause losses for the government as a result of negligence.³⁵⁷ In addition, the Ministry of Justice raises citizen awareness of legal requirements and procedures through the MAJ and other avenues.

The Civil Litigation Services Division consists of State Attorneys who provide expertise and services in litigation for and on behalf of the Government and its agencies. State attorneys collaborate with the legal advisers of relevant agencies in the preparation of court cases. In this regard, they often face challenges relating to the availability or quality of documentary evidence since government records may or may not be properly kept in some agencies.³⁵⁸

VIII.6. Courts

In the areas of Expropriation, Public employment, Private employment, and Procurement the courts are guided by Law No 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure (hereinafter referred to as “Code of Civil Procedure”). The Code

³⁵⁶ Key Informant interview with PSC on 01/12/2017.

³⁵⁷ Interview with Head of Legal Services Department, Ministry of Justice, 13th March 2019.

³⁵⁸ Interview with Head of Legal Services Department, Ministry of Justice, 13th March 2019.

of Civil Procedure provides the procedures, timelines and requirements for filing a claim and responding to a claim, among other matters. This law is the backbone of access to justice in administrative matters, immediately prior to, and during court proceedings, insofar as it establishes the court's review role in administrative decision-making. The Civil Procedure Code also provides for the exhaustion of administrative remedies, by requiring an aggrieved party to appeal to the immediate superior authority of an institution or official who makes an adverse administrative decision against him or her before lodging a complaint with the court³⁵⁹. The Civil Procedure Code also provides for the filing, where necessary or appropriate, for an annulment of an administrative act or decision, and gives the aggrieved individual a right to request compensation for any damages suffered due to the decision.³⁶⁰

Challenges/issues:

- Article 16 sets a hypothetical period of six months for the adjudication of a case. Despite the understanding that this article intends to ensure timely justice for litigants, it could also be detrimental to the interests of parties to the case as the court might rush through given case to abide by the time limit instead of ensuring a quality outcome. In this regard, the law should provide for a broad exceptions (for good cause shown) to this requirement in the case of delays necessitated by the interest of administration of justice. Delays in the adjudication of any case depend on the nature and complexity of the case and the resources of the court hearing the case. All cases cannot be adjudicated in the same amount of time as all cases are different.
- Article 9 of CCLAP states that: “a judge may encourage the parties to use conciliation (ADR) methods if either party believes that conciliation is the most appropriate way to resolve a dispute. The judge may him/herself mediate between the parties or alternatively, help them find a mediator of their choice, whereupon the hearing for the case is suspended for the duration of conciliation process. Moreover, articles 26-30 provide for conciliation/mediation during the pre-trial conference conducted by the Court registrar. However, the current law on arbitration³⁶¹ only addresses arbitration and conciliation in commercial matters. This law should be amended to permit such mediation/conciliation in non- commercial cases or a new law should be passed on this subject.
- There are several key challenges in mediation, however. Key informants noted that mediation often requires more time than either the judge or the parties anticipate, particularly if the judge is handling the mediation and is busy with other cases. Moreover, when mediation fails, a judge will have to recuse himself/herself from the case, which would likely entail the need for more judges on the bench in order to jump

The Code places the burden of proof on citizen as a plaintiff. This is a general principle governing evidence in civil, commercial, labour and administrative procedure.

Given the Administration's superior advantages compared to the citizen as a weaker party, the administration should bear the burden of proof.

³⁵⁹ Article 273 of the civil procedure code.

³⁶⁰ Articles 177-180 of the civil procedure code.

³⁶² Interview with High Court Judge, on 15th February 2018.

in to handle such instances of recusal. Key informants further stated that the lack of cooperation from lawyers is also another challenge to mediation. Lawyers who may want to gain revenue from litigation may actively dissuade litigants from considering mediation.

- The key informants recommended that in addition drawing mediators from the ranks of judges, there should be a major expansion of mediators who are lawyers. This requires more training in mediation for lawyers and judges alike. The CCLAP places the burden of proof and persuasion on the plaintiff, who is more often than not an individual citizen. While this may be sensible in some or even most cases since the individual will often have financial means and can afford a lawyer, in many other cases, the state will have advantages in both resources and information. On a case by case basis, it may be necessary for judges to impose the burden of proof on the state, as is (or should be) the case in administrative proceedings within the public administration. In some administrative cases, judges have in fact shifted the burden of proof to a state defendant, especially in employment cases (on appeal from a decision or non-decision from a labor inspector) when they find that the employer does not provide evidence to the employee pursuant to the litigation process.³⁶²

Other issues which are not specific to administrative justice also remain: backlog and corruption. Though a lot of efforts have been made to reduce the backlog in the courts, the issue still remains, especially at the Supreme Court and the High Court.³⁶³ The recently established Court of Appeal is one of the efforts to reduce the backlog. Furthermore, the perceived partiality of judges, lack of independence, and corruption also affect court users' satisfaction with the decisions and the work of the courts.³⁶⁴

VIII.7. Recommendations

To improve the contribution of these cross-cutting institutions in ensuring access to timely and effective access to administrative justice by citizens, the following recommendations should be considered:

- Strengthening the capacities of the Office of the Ombudsman.
- Strengthening the capacities of MAJ to enable them to reach out to people at the grass roots levels.
- Raising public awareness about the existence of these institutions and mechanisms, their responsibilities and services, and how they can be reached.
- Encouraging officials involved in administrative justice cases to consider the use of mediation in handling administrative disputes.
- Continuing to strengthen the capacities of judges, prosecutors and investigators to ensure delivery of quality justice.

³⁶² Interview with High Court Judge, on 15th February 2018.

³⁶³ According to the study conducted by Transparency International Rwanda, still over 20% of respondents claim waiting one year and longer to come to the first hearing since the complaint was lodged. Transparency International, "Situational Analysis of Professionalism and Accountability of Courts for a Sound Rule of Law in Rwanda (Year II)", 2015. <https://ombudsman.gov.rw/en/IMG/pdf/courtsmonitoringrwanda.pdf>.

³⁶⁴ Transparency International Rwanda "Situational Analysis of Professionalism and Accountability of Courts for a Sound Rule of Law in Rwanda (Year II)", 2015.

- Strengthening monitoring and accountability measures for the staff and leadership of both public and private sector institutions to promote rule of law and access to justice
- Revising the Civil Procedure Code to respond to some key issues such as the burden of proof in particular kinds of cases.
- Providing for the administrative law principle of proportionality. The principle of proportionality ordains that the administrative measure must not be more drastic than is necessary for attaining the desired result.³⁶⁵ The principle of proportionality is accepted as part of the background standard of judicial review in most civil law countries and many common law countries. Rwandan law is silent on the principle of proportionality. Including this principle in the CCLAP and other relevant legislation can improve administrative decision making and review thereof in the courts.

The principle of proportionality ordains that the administrative measure must not be more drastic than is necessary for attaining the desired result. Rwandan law should provide for the principle of proportionality as a ground for judicial review.

³⁶⁵ Justice Anand Byrareddy, *Proportionality vis -à-vis Irrationality in Administrative Law* (2008) 7 SCC J-29, p.32

ANNEX A

Number of complaints filed with District Labour Inspectors Annually from 2014-2017

No.	District	Number of complaints received		
		2014-2015	2015-2016	2016-2017
1	Gasabo	307	296	No report submitted
2	Kicukiro	347	177	151
3	Nyarugenge	501	359	846
4	Bugesera	159	94	110
5	Gatsibo	28	32	No report submitted
6	Kayonza	108	52	31
7	Kirehe	23	20	105
8	Ngoma	13	8	13
9	Nyagatare	191	No report submitted	No report submitted
10	Rwamagana	66	40	122
11	Karongi	29	50	67
12	Ngororero	36	24	26
13	Nyabihu	20	27	35
14	Nyamasheke	18	38	27
15	Rubavu	195	105	149
16	Rusizi	43	70	56
17	Rutsiro	No report submitted	No report submitted	59
18	Burera	29	36	24
19	Gicumbi	31	50	62
20	Gakenke	32	191	87
21	Musanze	15	No report submitted	276
22	Rulindo	44	16	11
23	Gisagara	04	No report submitted	10
24	Huye	183	21	54
25	Kamonyi	27	16	19
26	Muhanga	13	26	33
27	Nyamagabe	87	43	39
28	Nyanza	11	22	42
29	Nyaruguru	53	No report submitted	22
30	Ruhango	265	No report submitted	337

ANNEX B

Status of complaints/appeals received by the Public Service Commission annually from 2014-2016

Type of complaints	2014-2015			Total	2015-2016			Total	Grand total
	Justified or founded	Unjusti-Fied	Pending ³⁶⁶		Justified or founded	Unjusti-fied	Pending		
Complaints related to recruitment	31	62	0	93	35	56	0	91	184
Complaints related to management of staff	93	189	22	304	107	196	22	325	629
Total	124	251	22	397	142	252	22	416	

³⁶⁶ These are cases that were pending (had not been analyzed yet) by the time of reporting.

ANNEX C

Status of complaints/appeals received by the National Independent Review Panel annually from 2014-2017

No.	Designation	Year			Total
		2014-2105	2015-2016	2016-2017	
1.	Admissible and founded appeals	18	26	15	59
2.	Admissible and unfounded appeals	31	23	8	62
3.	Inadmissible appeals	9	5	9	23
4.	Terminated appeals	0	3	3	6
5.	Ongoing appeals ³⁶⁷	5	5	7	17
Total		63	62	42	

³⁶⁷ The analysis of these cases was still going on by the time of the annual reporting (i.e., no decision had been taken on the case/s).

ANNEX D: Number of Administrative and Labour cases received by Intermediate Courts Annually from 2014-2017

No.	INTERMEDIATE COURTS (IC)	2014-2015 ³⁶⁸		2015-2016		2016-2017		Total
		No. of Administrative cases registered	No. of labor cases registered	No. of Administrative cases registered	No. of labor cases registered	No. of Administrative cases registered	No. of labor cases registered	
1	IC of Nyarugenge	117	262	101	352	133	406	1,371
2	IC of Gasabo	60	84	24	138	133	406	845
3	IC of Nyagatare	13	5	105	10	15	3	151
4	IC of Ngoma	21	20	11	6	5	17	80
5	IC of Muhanga	11	17	6	18	12	17	81
6	IC of Huye	14	4	10	11	9	16	64
7	IC of Nyamagabe	10	2	7	11	11	2	43
8	IC of Rusizi	10	4	10	7	3	13	47
9	IC of Karongi	15	8	9	8	6	9	55
10	IC of Rubavu	7	20	4	33	6	9	79
11	IC of Gicumbi	5	5	6	18	4	13	51
12	IC of Musanze	9	27	9	18	15	21	99
Total		292	458	302	630	352	932	

³⁶⁸ Public institutions, including courts, in Rwanda report according to the financial year which starts in July to June of the following year.

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX IV (VOLUME I)



USAID
FROM THE AMERICAN PEOPLE



**HUMAN RIGHTS FIRST RWANDA ASSOCIATION (HRFRA) IN PARTNERSHIP
WITH THE UNIVERSITY OF BOSTON MASSACHUSETTS (UMASS)**

STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT

**REPORT ON THE CIVIL SOCIETY ORGANIZATIONS/MEDIA
FORUM OF 5TH OCTOBER 2018 AT NOBLEZA HOTEL– KIGALI**

Introduction

Human Rights First Rwanda Association (HRFRA), in partnership with the University of Massachusetts Boston (UMass) under the Strengthening Rwandan Administrative Justice (SRAJ)

Project, organized a Civil Society Organizations (CSOs) and Media forum that took place on 5th October 2018 at the NOBLEZA Hotel Kicukiro, Kigali. The forum was attended by over 25 different CSO and Media representatives, and was designed to foster strategic dialogue among the participants on ways in which CSOs (particularly legal aid organizations) and journalists could better inform and enrich each other's work around the topic of strengthening administrative justice in Rwanda. This was an integral part of the practical information-gathering stage (Phase II) of the SRAJ Project, a three-year initiative aimed at raising public consciousness about administrative justice in Rwanda, building capacity for improved administrative decision-making at the district level, and filling relevant gaps in the administrative legal framework. The SRAJ Project is supported by the U.S. Agency for International Development (USAID).

The forum was specifically focused on sharing participants' *particular experiences and challenges in addressing citizen needs (both legal and informational) relating to land expropriation and labor regulation*. These experiences were seen as helping to inform practical recommendations to improve the work of both CSOs (in terms of advocacy and representation) and journalists (in terms of public information dissemination). Ultimately, these efforts can be mutually reinforcing—with journalists able to amplify and make more accessible the work of relevant CSOs, and with CSO's able to help journalists write stories about the subject that are more accurate and compelling.

Administrative justice as a field encompasses the safeguarding of individual rights in public administration, particularly a citizen's rights to a fair administrative process and decisions that are legally grounded and supported by reasons and evidence. Administrative justice is especially concerned with the extent to which citizens and businesses are informed about their rights in the decision-making processes, are able to present evidence on their behalf, and have opportunities for appeal. It is understood that an effective system of administrative justice is principally concerned with improving the quality of front-line (first instance) administrative decision-making, so that decisions are rendered correctly the first time, thereby reducing the need for citizens to pursue appeals. This saves time and money for citizens and the government alike.

The workshop was an important opportunity for the participants to better understand the bigger picture of administrative justice as a vital area of "everyday justice" that is often obscured by attention given to higher-level legal and policy matters (in fact, administrative decisions vastly outnumber criminal cases and civil disputes, affecting thousands of ordinary citizens).

The forum, opened with introductions of each of the CSO and journalist participants; thereafter the Vice Chairman of the Board of HRFRA, Mr. Robert Turyahebwa opened the workshop, followed by remarks from UMass Rwanda Country Representative Mr. Seth Karamage.

1.2. Opening Remarks, Vice-Chairman of the Board, HRFRA

In his welcoming remarks, Mr. Turyahebwa told participants that HRFRA has been at the forefront of legal empowerment of the populace and access to justice, particularly as to land and labor related issues. He also added that after the workshop, it was expected that legal practitioners and journalists would forge ways to actively assist each other in educating the public about administrative justice issues, especially as to these issues. This will empower CSOs, journalists, and the public to hold government officials to account. He expressed his sincere thanks to the organizers and in particular UMass Boston, for having worked with HRFRA since the earliest planning for the workshop and for the time they devoted to making this event a reality. He thanked everyone for attending, and wished them a fruitful dialogue.



The Vice Chairman of the Board of Human Rights First Rwanda Association (L) giving his opening remarks.

1.3. UMass Rwandan Country Director's Opening Remarks

In his remarks, Mr. Karamage, began by explaining the genesis of the SRAJ Project and introduced the participants to the various organizations that are working in partnership with UMass in various capacities and stages of the Project, including the current information-gathering phase (the first phase addressed the legal and policy framework for administrative justice in Rwanda, focusing on possible gaps, contradictions and ambiguities. Mr. Karamage also described the project's legal partners, which included HRFRA, Institute for Policy Analysis and Research-Rwanda (IPAR), the Institute for Legal Practice and Development (ILPD), and several independent local consultants. Mr. Karamage stated that through its educational, training and outreach work, by the end of the project in early 2020, UMass and its partners expect Rwandan citizens and government officials to be significantly more informed about administrative justice, especially as it relates to rights and

procedure in the labor and land expropriation arenas. With the help of legal practitioners and media working synergistically to educate, inform and advocate, it is hoped that many key administrative justice challenges will be brought to the forefront of public attention, creating the conditions for government to invest in the legal, managerial, and capacity-building measures necessary for a stronger administrative justice system in Rwanda to emerge at all levels of government.



The UMASS Country Director (R) delivering his opening remarks

2. Overview Presentation on Key Land Expropriation Issues

Frank Mugisha, a lawyer with considerable knowledge of the legal framework governing land expropriation, talked about a number of problems involving the law governing land expropriation. He noted that Article 37 of the law has still not been properly implemented. That provision requires an expropriator/developer involved in an expropriation for the public interest to pay a fine of 5% of the valued amount of the property in cases where there is a delay in payment of compensation (more than 30 days) or there is a retraction of the planned project. Meanwhile, Article 9 of the law on expropriation envisions the establishment of Committees in Charge of Supervision of Projects of Expropriation in the Public Interest at the District Level possess oversight and public notification/consultation responsibilities, but these Committees are still not established pursuant to a long-delayed Prime Ministerial Order. This is causing significant problems in the proper execution of the land expropriation process.

Mr. Mugisha also added that citizens in most places are complaining about late compensation payment, causing them to suffer significant financial instability, especially since many of them are newly displaced and taken to relatively remote areas where they may find it hard to start their lives

anew and make a living. Overall, he noted that in practice, the key procedural stages of the expropriation process (planning and coordination for the Public Interest determination, notification and public participation, and valuation/compensation) are not being followed well by districts.



Frank Mugisha giving an overview of land expropriation issues.

3. Overview Presentation on Key Labor Regulation Issues

Innocent Ninsiima, a journalist and lawyer, compared the previous Rwandan labor code and the current one, which was just passed in 2018. Mr. Ninsiima compared the issue of work certificates under the previous labor code with its treatment with the new labor code passed last month, he noted that the previous labor law of 2009, was not precise on when the employer was required to issue a work certificate. Previously an aggrieved employee would use the Supreme Court case of NGIRIYUMVA Samuel VS EWSA -RADA 0022/09/CS OF 10/02/201 to argue that a work certificate should be issued immediately upon termination of the employment contract. In the new Labor code, Law N° 66/2018 of 30/08/2018, Mr. Ninsiima stated that article 34 paragraph 2, clearly provides that the employee may request a work certificate in writing and the employer is obliged to issue one within 15 days.



Innocent Ninsiima providing an overview of key labor issues

Mr. Ninsiima also compared the expiration of fixed term contracts under the previous labor code as opposed to the new one, whereas under previous labor code, the employment contract was tacitly renewed if the employee continued to work under the same terms and conditions it is now made clear under article 28 paragraph 4 under the new labor code that a fixed-term contract may not be renewed while the employee continues to work unless this is explicitly done in writing, although the employee must be remunerated based on actual worked days.

The treatment of gross misconduct under the law was also compared under the two versions of the labor code. Mr. Ninsiima stated that previously the employer could rely on his own judgement to characterize an act as gross misconduct and proceed to dismiss the employee for such an act; it was up to the judge's discretion to affirm or reject the characterization. Under the new code, the employer no longer has such latitude; the new law now stipulates that "an order of the Minister in charge of Labor establishes the list of acts qualifying as gross misconduct. However, the Ministerial Order with the list of acts of gross misconduct has not yet been issued.



Participants asking questions and commenting on the presentations of each of the facilitators

4. Group Discussions

The participants broke out into 2 groups (each a mixture of those with social justice and media backgrounds, respectively) to focus separately on the labor and land expropriation topics. Each group was provided with previously designed guiding questions for discussion, which were intended to draw out perspectives on practical experiences, challenges participants faced in their everyday work, and suggested solutions/recommendations for improving the administrative justice related the work of legal/social justice practitioners and journalists, respectively in the land expropriation and labor spheres.

4.1. Land Expropriation Group Discussion Concerns/Experiences, with Examples

- Expropriation is usually done abruptly; citizens are caught unaware most times. In most cases no consultations/studies have been performed to know the number of people being

expropriated, problems/issues facing these properties (e.g., if they are owned outright or mortgaged), whether citizens have any understanding of the basic procedures for expropriation or any opportunity to express their views (reference was made to a case in Burera District; there a project to construct feeder roads resulted in citizens being abruptly told about the expropriation without giving them prior notice about what was happening.)

- Delays in paying compensation are common, as well as less compensation than warranted based on the value of the land expropriated (e.g. in the case of Abatwa in Nyaruguru, Ndora, people's land was taken to build *imidugudu*, but they were not compensated nor were they given any of the houses built on their land).
- Citizens are sometimes left in suspense with detrimental impact to their lives (e.g., the situation in Gisenyi was cited, during plans to build an airport; the authorities valued the land and told the people they were going to be expropriated; they waited for 5 years with no news however and then the authorities came back and told them they were no longer going to be expropriated). These kinds of situations have a truly detrimental effect on people's lives because once an expropriation has been announced and the land has been valued, a person isn't allowed to use it for any other purpose and this can set them back economically if the expropriation project occurs late or never occurs.
- Due to District performance contracts, officials are always under pressure to meet implementation plans for *Imihigo*. This can adversely affect adherence to proper procedures including those related to compensation (there may also be budget constraints), lack of planning, notification/consultation, and other problems arising due to haste or preoccupation with other matters.
- Power dynamics and corruption do influence the degree of government fidelity to the law on land expropriation, and in the process land owners suffer the consequences, often receiving little money without considering the real value of the property (those with money have the power, and those with less capacity and information are the ones affected in terms of benefits or gains accrued from compensation).
- The public interest' determinations seem to be abused in the case of Master Plans, unlike a classic situation involving roads or power lines where the government is the central actor, in Master Plan situations, developers executing their business plans within Master Plan parameters tend to the land approach district officials directly and prematurely, instead of approaching the land owners to negotiate a fair price. Participants understandably see this as unfair since developers are supposed to negotiate with land owners privately without necessarily involving government authorities in any expropriation activities.



Group 1 discussing land expropriation related issues

Recommendations

- There should be citizen consultations before the value of property is assessed, and adequate time (recommended 30days) should be afforded concerned citizens to understand what is going to happen, ask questions, obtain external advice and plan what to do next.
- Sensitization of laws/procedures to the needs of citizens is imperative, as well as simplification and dissemination of the same; Citizens do not know their rights in the expropriation process, and much more awareness-raising needs to occur.
- Citizens must be paid/compensated before being expropriated.
- Educating and training of journalist on the expropriation law and procedures must occur; they cannot report effectively on issues they are not informed about.
- The same is true of local leaders; they require more training and oversight, esp. because they in most cases make mistakes out of ignorance of the law and procedures.
- Active citizen participation needs to be encouraged and amplified by CSOs, journalists, and others, so that they act as a mouth piece of the society and can serve as ambassadors so as to address people's problems to decision makers.
- The gazette laws and other legal instruments should be made available and rendered accessible in plain language to citizens to acquaint them with the relevant administrative processes; civil society should take the lead as well as media. The applicable terminologies used are difficult to understand, especially for those who do not know how to read and write. Written messages using pictures, drawings, etc. can be used to express properly the meaning of these terminologies.



*Rapporteur presenting findings/recommendations from the land expropriation
Discussion group*

4.2. Labor Regulation Group Discussion Concerns/Experiences

- ✓ Some people still work without contracts or any certifying document which they can utilize in seeking help when contesting cases of illegal termination.
- ✓ Labor inspectors are still few in the districts, which hinder them from going out to the field to conduct inspections of many organizations.
- ✓ Systems of labor governance are still weak in Rwanda and not in line with international labor stands that Rwanda ratified.
- ✓ Illegal termination of employment contracts is common in the informal sectors of employment (e.g., the cases of Rwanda Energy Group vs its former employees, where REG terminated 600 employees and their delegates; Chill Bull Company vs. its former employees; and Gakenye Company Limited, which terminated 200 employees). Employees who work in the informal sectors are not being paid for their overtime work, and this has also started to be a problem in the formal sectors. Moreover, the failure of many enterprises to make their Social Security contributions has become a serious problem; some employees don't get these contributions, even though it is their right as provided by the labor law
- ✓ Delays in resolving labor cases are common; this was exemplified by the Thomas Thito Case which took place in 2016 and it is still pending up to now.
- ✓ The Rwanda Revenue Authority is given too much power/priority in cases where it simply auctions the company's property in case of liquidation or insolvency, taking the whole amount in cases where it claims the company had unpaid taxes, and refusing to pay the salaries of the affected employees.
- ✓ There is a lack of specialized judges with labor expertise; the group raised an instance of someone being tried by a judge in a case of divorce and again finding that same judge

presiding in a labor related case and then again in land related case; this makes people questions the judge's expertise in all these areas.



Group 2 discussing labor related issues

Recommendations

- ✓ Education of employers, employees, government officials and citizens in general on labor laws and procedures is needed through media and relevant capacity building activities.
- ✓ Workers delegates need more legal and procedural protection as they frequently lose their jobs in the course of trying to protect and defend their fellow employees.
- ✓ Legal practitioners/ activists and media representatives should carry out meaningful sensitization work for the public on matters of administrative justice, backed with enough concrete data geared to the specific beneficiaries and the issues they are working on.
- ✓ The law of insolvency should be revised and provide for employees to be paid before anyone else (other creditors) in case of insolvency and liquidation.
- ✓ The numbers of district labor inspectors should be increased, and each district should have at least two labor inspectors, one to deal exclusively with inspections and investigation of labor violations and disputes, and the other to handle mediation and reconciliation activities.
- ✓ A specialized labor court should be established in the interest of both specialization/expertise and efficiency; it was noted that different labor- related cases have been in court for more than two years; e.g., the case of REG vs. its employees, whom it

illegally terminated in the restructuring process (in fact this case has been in court since 2016 and it is still pending).

- ✓ Along the same lines, there should be labor judges and prosecutors who are specially trained in labor matters. This would ensure that judges in particular have sufficient knowledge to handle labor cases and enough time to pay attention to detail, while also giving the citizens a level of trust in the system.
- ✓ Judges should be permanently assigned to the labor chamber; currently, they are not permanent, and are therefore not easily accessible to hear labor-related cases.
- ✓ More evidence-based research on labor-related issues is needed; the government should employ researchers to carry out research on a variety of critical labor-related issues country wide [the SRAJ Project will of course be collecting a wide range of information about the administrative process in labor cases starting later in October].
- ✓ Ensure better monitoring and follow up on the implementation of labor codes; government should devote more resources to overseeing proper adherence to the labor law by employers; enforcement and punishment should also be strengthened to discourage people from continuing to abuse the law [increasing the numbers of inspectors and strengthening their training could assist in this regard].
- ✓ Sensitization of both formal and informal sector employees on the labor law by all actors including the media, CSOs, and trade unions should be prioritized. Each sector should be given its own special attention, however, because they are all different with different issues.
- ✓ Research on labor laws and procedures, and production of short films and documentaries should be used in the sensitization and training of government officials and other concerned stakeholders.
- ✓ Media houses should be encouraged to write investigative stories on administrative justice issues especially those pertaining to land expropriation and labor that have been addressed in this workshop. These stories could especially help government officials to in learning from mistakes and helping to prevent similar problems in the future.
- ✓ CSO and media representatives should collaborate on media programs (e.g., radio and TV programs) to reach a wider audience across the nation.



Rapporteur presenting findings/ recommendations from the Labor discussion group

5. Conclusion

The workshop was concluded by Mr. Karamage, the UMass Country Director, who thanked everyone who spared his or her time to attend the workshop. He called on them to always attend such workshops whenever they are invited, since they directly benefit from such discussions and exchange of ideas. He also thanked HRFRA for organizing the workshop.

With the recommendations and insights received on expropriation and labor, Human HRFRA and its partners should endeavor to include them in their future implementation work. Moreover, information-sharing between CSOs and journalists should be sustained following the workshop; this interchange could help improve the work of both CSOs (in terms of amplification of advocacy and information-sharing efforts) and journalists (expanding their horizons and rendering their stories more technically accurate, compelling, and relevant to the public).



Group photo of the participants.

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX V (VOLUME I)

RWANDA TODAY

**Rights groups cry foul over
compensation delays for
expropriated land**

TUESDAY NOVEMBER 13 2018



In Rwanda, the law requires compensation to be paid within 120 days of the expropriation. PHOTO | Cyril NDEGEYA

In Summary

- Legal activists in the country have faulted the injustices involved in the expropriation and compensation process, where the government sometimes takes long to compensate those affected, with some not getting paid at all.
- The law requires compensation to be done within 120 days of the expropriation, but the implementing authorities have overlooked this, and some landowners take years without getting compensated.
 - The report points out a need for appropriate legal/regulatory reforms as well as proper co-ordination to address the procedural and bureaucratic issues that cause long delays in the payment of compensation.

By MOSES K. GAHIGI

[More by this Author](#)

Legal activists in the country have faulted the injustices involved in the expropriation and compensation process, where the government sometimes takes long to compensate those affected, with some not getting paid at all.

The law requires compensation to be done within 120 days of the expropriation, but the implementing authorities have overlooked this, and some landowners take years without getting compensated.

“Compensation is supposed to happen before expropriation is done, but in many cases this is not happening, people are being asked to leave before they are compensated,” said Seth Karamage, the project manager of the Strengthening Rwandan Administrative Justice Project.

A new survey by University of Massachusetts and Legal Aid Forum Rwanda shows that people reported long delays in receiving compensation, difficulty-receiving compensation for partial expropriations, and that it is almost impossible to determine which institution to follow up with about delayed payment.

It also says that government’s failure to establish Committees in Charge of supervision of the process of expropriation through a Prime Minister’s Order has created a critical institutional gap.

These committees, if put in place, could act as an interface between the population being expropriated and the expropriating entity, handling issues of notification, consultation, and approval or disapproval of the decision to initiate an expropriation.

“Given the short deadlines governing many aspects of the current expropriation process, the absence of the Supervising Committees effectively negates the rights of citizens to be clearly informed and consulted about an expropriation decision-including whether it is indeed in the public interest,” reads part of the report.

The report points out a need for appropriate legal/regulatory reforms as well as proper co-ordination to address the procedural and bureaucratic issues that cause long delays in the payment of compensation.

When *Rwanda Today* talked to Mukamana Esperance, the director-general for Rwanda Land Management and Use Authority, she concurred with the concerns, saying those who implement expropriation do not follow procedures.

“The right of the citizen should be observed in the process, citizens have no problem with being expropriated for public interest reasons, the problem is that expropriating authorities don’t follow the appropriate procedures in the policy,” she said.

The report recommends that a clear national policy co-ordination mechanism should be put in place to ensure the law is properly implemented, timely communication with landowners and the general public.

Publication of technical reports as required by the law, timely payment of fair compensation to affected individuals, and a speedy handling of complaints, with MINILAF should take the lead on this.

The government is currently facing off with residents of a popular slum locally known as “Bannyahe” in court, after up to 11,000 families residing in the slum were forced to move to give way for an investor.

The government had earmarked houses for them to be relocated into, yet the residents wanted financial compensation. The other concern is that the relocation approach only looked at home replacement ignoring their revenue sources since many of them rented out some of their houses in the slum for a living.

The definition of the term “public interest” as rationale for expropriation has also come under scrutiny, saying that legal reform is necessary to restrict the current non-exhaustive definition.

“If a ‘catch all’ category is retained for unusual circumstances, the law must be amended to provide specific guidance regarding both the grounds upon which expropriation for otherwise non-specified reasons can be initiated, and how such action can be challenged” reads the report.

Labour law not shielding workers from insolvent firms - unions

WEDNESDAY OCTOBER 17 2018



When firms become insolvent, employees are among the last to get their dues. PHOTO | CYRIL NDEGEYA

In Summary

- Workers' unions have raised concern about the way employees are treated when companies become insolvent, noting that many have gone unpaid when companies close.
- The 2009 labour law had given priority to employees of an insolvent company, which saw them being among the first people to be paid, but this is not catered for in the amended law. The issue has to now be addressed by the insolvency law.
- The insolvency law, which came into force this year, relegated the insolvent company's employees to seventh place among the entities supposed to be paid before the company shuts down, which unionists say is unfair.



By MOSES K. GAHIGI

[More by this Author](#)

Workers' unions have raised concern about the way employees are treated when companies become insolvent, noting that many have gone unpaid when companies close.

The 2009 labour law had given priority to employees of an insolvent company, which saw them being among the first people to be paid, but this is not catered for in the amended law. The issue has to now be addressed by the insolvency law.

The insolvency law, which came into force this year, relegated the insolvent company's employees to seventh place among the entities supposed to be paid before the company shuts down, which unionists say is unfair.

“What happens is that by the time it comes to paying the third entity, there is no money left,” said Bigirihirwe Jean de Dieu, a legal adviser at Cestrar, a syndicate of workers trade unions.

Mr. Bigirihirwe said they have come across a number of cases involving local or foreign companies which face liquidation, where other entities have received money the company owed them, but employees walk out with nothing.

“We saw this injustice when the former employees of Thomas and Pyron walked away with nothing and the same has happened when the Rwigara properties were auctioned off,” he said.

Legal experts who talked to this paper said that powerful organs like RRA should not be put in the same list as employees when it comes to being paid by insolvent companies as this leaves employees vulnerable.

“The employees should come first because they are the vulnerable party,” said Safi Akamikazi, a lawyer from Lawyers of Hope.

Workers' unions welcomed the recent changes to the new labour law, which was recently passed by the lower chamber of parliament, but remained concerned that the minimum wage was not passed.

Some of the key changes include giving powers to labour inspectors, who can now administer penalties to employers.

The new law has also come up with penalties for an employer who does not respect the recommendations of the labour inspector, or obstructs his or her work and is liable to a penalty of between Rwf100,000 to Rwf200,000.

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA
STRENGTHENING RWANDAN
ADMINISTRATIVE JUSTICE (SRAJ)
PROJECT – *Twimakaze Ubutabera mu Miyoborere*

FINAL REPORT ANNEXES –VOL. II

SRAJ PROJECT ANNEXES, VOLUME 2

TABLE OF CONTENTS

- Annex 6:** Documentation on the validation workshop for the Phase II District field research findings on administrative justice in practice (agenda, attendance list, and summary of findings)
- Annex 7:** Consolidated Report: Research Findings on Administrative Justice in Practice in Labor Regulation, Public Procurement, Public Employment, and Land Expropriation
- Annex 8:** Annex of field research data on labor regulation information
- Annex 9:** Annex of field research data on public procurement information
- Annex 10:** Annex of field research data on land expropriation-related information
- Annex 11:** Annex of field research data on public employment-related information

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX VI (VOLUME II)



Strengthening Rwandan Administrative Justice

Phase 2: VALIDATION WORKSHOP

An Analysis of Local Administrative Decision Making in Practice

Marriot Hotel, Kigali, Rwanda,

4 April, 2019

AGENDA

TIME	ACTIVITY
9.00AM-9:30AM	Arrival and Registration of participants
9:30AM-9:45AM	Welcome Remarks by Eugenia Kayitesi, Executive Director, IPAR-Rwanda
9:45AM-10:00AM	Presentation of the project by Seth Karamage, UMass Country representative
10.00 AM-10.15 AM	Presentation of the findings on: Administrative Justice in the Private labor domain
10.15 AM- 10.30 AM	Questions & Answers
10.30 AM-11.00 AM	Coffee break
11:00 AM-11:15AM	Presentation of the findings on: Administrative Justice in the Land expropriation domain
11.15 AM-11:30 AM	Questions & Answers
11:30 AM-11:45 AM	Presentation of the findings on: Administrative Justice in the Public employment domain
11:45 AM-12:00 PM	Questions & Answers
12:00 PM-12:20 PM	Presentation of the findings on: Administrative Justice in the Public procurement domain
12:20 PM-12:30 PM	Questions & Answers
12:30 PM-2:00 PM	Lunch & Networking
2:00 PM - 3:30 PM	Group session: Discussing recommendations & the way forward <ul style="list-style-type: none"> - Administrative Justice in the Private labor domain - Administrative Justice in the Land expropriation domain - Administrative Justice in the Public employment domain - Administrative Justice in the Public procurement domain
3:30 PM – 4:10 PM	Group session wrap up & presentations
4:10 PM - 4:30 PM	Closing Remarks IPAR-Rwanda UMass
4:30 PM -	Cocktail

Strengthening Rwandan Administrative Justice Phase II: Validation Workshop Marriott Hotel, Kigali, Rwanda, 4th April, 2019
ATTENDANCE LIST

No.	Name	Gender	Institution	Designation	Email	Phone No.
1	HABYARIMANA Enos	M	Kigali City	Citizen	enoshabyarimana@gmail.com	0788220046
2	Bosco KAGABA	M	IPAR-Rwanda	PR & Communication Consultant	hbosco@gmail.com	0788581321
3	RUKUNDWA NDIKUMANA James	M	Ruhango District	Citizen	RukuJames69@gmail.com	0788466634
4	RWAMURANGWA Anicet	M	Kigali City	Entrepreneur	anirangwa@gmail.com	0788768425
5	DUSABE Alice	F	Bugesera District	Citizen	alicedusa@gmail.com	0788253523
7	ABUDU Jean-Claude	M	Nyarugenge District	Citizen	abuduj@yahoo.com	0788855230

8	NSENGIYUMVA Jean Bosco	M	Individual	Citizen		0785328122
9	Evariste Gahima	M	IPAR-Rwanda	Research Fellow	e.gahima@ipar-rwanda.org	0788645375
10	Annet Mahoro	M	IPAR-Rwanda	M& E Officer	a.mahoro@ipar-rwanda.org	0788535060
11	Brenda Kayitesi	F	HRFRA	Legal Officer	brendakayitesi@gmail.com	0788538772
12	Alexandre Simons	M	IPAR-Rwanda	Director of Research	a.simons@ipar-rwanda.org	0781849722
13	Rwamirindi M	M	RPPA	Legal Officer	mrwamirindi@rppa.gov.rw	0788559971
14	Giraneza Josee	F	Office of Ombudsman	Researcher	giranezaj@gmail.com	0788551097
15	Hategekimana Daniel	M	Judiciary	Dir of Planning, M&E	danhatege@yahoo.fr	0788479886
16	Nabahire Ambrose	M	Minijust	Coordinator	nabahire@gmail.com	0788355556
17	Musabyeyezu Eugenie	F	UNDP	Program Associate	Eugenie.musabyeyezu@undp.org	078887541
18	Kamasa EM	M	RGB	Policy Analyst	ekamasa@rgb.rw	0788649665
19	KARYN Mushinzimana	F	Rwanda Law Reform Commission	Division Manager, Law Research & Reform	Karyn3@yahoo.fr	0788501003

20	Amutwendere Rogers	M	HRF	Program Assistant		0788609276
21	Ndayisaba Aimable	M	MIFOTRA	Legal research & Reform Officer	andayisaba@mifotra.gov.rw	0782733316
22	Gaga Didier	M	IPAR-Rwanda	Driver		0781917289
23	Nshimiyimana Chris	M	IRPV	Executive Secretary	lrpv.rw@gmail.com	0788501515
24	ACP Gilbert Gumira	M	NRS	SSG	Gilbert.gumira@nrs.gov.rw	0788309087
25	Rwamurangwa Anicet	M	Kigali City	Entrepreneur	anirangwa@gmai.com	0788768425
26	Frank Mugisha	M	USAID/DIU	JSS	fmugisha@ubutabera-mbere.com	0788302176
27	Kanzayire Bernadette	F	High Court	Vice President	bernadette.kanzayire@judiciary.gov.rw	0788307027
28	Berdelmann Uliah	M	GIZ	Project Manager		0786653811
29	Mbaraga Robert	M	OAG	LA	romb@oag.gov.rw	0788780600
30						
31	Muhayimana Olivier	M	NPSC	Litigation Officer	olimuhayimana@gmail.com	0781423822
32	Pacifique Kamugisha	M	Coffeetechlab University of Kigali		kamugishapacifique@gmail.com	07856604067

33	Jean Paul Mazimpaka	M	UR-RBA		mazijipaul@gmail.com	0788937353
34	Eugenia Kayitesi	F	IPAR-Rwanda	Executive Director	e.kayitesi@ipar-rwanda.org	0788305506
35	Rwabucyera Claude	M	NPPA		rwabucyera@gmail.com	0738644621



S TRENGTHENING
R WANDAN
A DMINISTRATIVE
J USTICE

**SUMMARY OF FIELD RESEARCH FINDINGS
AND RECOMMENDATIONS**

2019

For the past two years, the Strengthening Rwandan Administrative Justice Project (SRAJ) has been working to raise awareness of the importance of administrative justice to the further development of the Rwandan state, continued improvements in governance (including economic governance), and expansion of trust of its citizens.

At its core, administrative justice is about ensuring that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions about cases involving citizens' and businesses' individual circumstances and affairs. Administrative justice is also about how such decisions are communicated to people and how they are treated in the administrative process. Finally, while administrative justice also concerns appeals of such decisions to higher government authorities (including the courts), its focus is on the work of officials who serve as front-line (i.e., first instance) decision-makers.

Unlike the judgments of courts, which affect the lives of many hundreds of individuals each year, administrative decisions issued by the government impact the livelihoods and well-being of many thousands of citizens and businesses—in areas as diverse as public benefits determinations, business licensing and permitting, and protection of labor rights. Indeed, given the influence of administrative decisions on the lives of ordinary people and businesses - what some have called 'everyday' justice - improving the quality of administrative decision-making can have a profound impact on how citizens experience the operation of the legal system and various bureaucratic interactions throughout the country. That, in turn, can significantly influence the government's commitment to the rule of law and citizen perceptions of public administration.

Research has shown that the procedural dimension of justice systems matters greatly to citizens.¹ When citizens have a basic understanding of their rights and how the decision-making process works, when they are treated with courtesy and respect, given an opportunity to describe their situation and present evidence on their behalf, and provided with a written decision with supporting reasons, they are likely to view an administrative process as fundamentally fair – and less likely to feel that they have to appeal to the courts, politicians, or other forums for redress. Indeed, if disputes are addressed effectively, closer to the source of the problem—whether in the administration itself or in an area regulated by the administration— public satisfaction is likely to be higher and public officials are likely to be able to work more efficiently.

Administrative justice also raises important questions about the training and supervision of those who make administrative decisions: whereas many see such decision-making as a simple, straightforward, and somewhat lowly enterprise, others see the need for improved professionalization and remuneration of front-line decision-makers as a means of enhancing both citizen confidence and the job satisfaction and stature of public servants. In the latter view, capacity can be enhanced in the following skill areas: (1) knowledge of law, regulations, and policy; (2) clear and respectful communications with the public; (3) proper collection and management of information/evidence; (4) assessment and weighing of evidence and the generation of supportable findings; (5) the rendering of clear decisions and the giving of proper legal reasons; and (6) the capacity to learn from those who review their decisions (including higher authorities in the public administration, the ombudsman office, and the courts).

The SRAJ Project, supported by the U.S. Agency for International Development (USAID) and implemented by the University of Massachusetts Boston, the Institute for Policy Analysis and Research-Rwanda, (IPAR), Human Rights First Rwanda Association (HRFA), and Highlands Centre of Leadership for Development (L4D), is specifically intended to help assess and strengthen the general state of administrative justice in Rwanda. It has done so principally by examining the quality of administrative decision-making at the district level in four discrete regulatory areas – land expropriation, labor regulation, public procurement, and public employment—and then sharing this evidence with key government and non-governmental stakeholders to inform and implement improved capacity-building, public outreach, and legal reform efforts. Although this evidence is specifically tied to the four subject areas, it also touches upon a number of critical procedural justice matters that are common to all of them—and indeed to the entire public administration.

The district level has been the focus of the inquiry, because that is where the vast majority of administrative cases are decided in Rwanda's decentralized governance framework—and this is the locus of greatest need as a matter of both attention and resources. Since an in-depth study of all administrative subject areas was not feasible, the four particular subject areas were selected to provide significant illustrative insight into administrative justice opportunities and challenges; these areas all implicate a relatively large volume of administrative decisions and/or appeals, and involve significant policy issues about which the public has a reasonably high degree of awareness.

After closely studying the legal and policy framework

governing local decision-making in the four areas early last year,² the SRAJ team then undertook an in-depth field work analysis of how decision-making in the four subject areas operates in practice across 4-6 Rwandan districts (the districts-- Ruhango, Gicumbi, Gasabo, Nyarugenge, Rubavu, Bugesera—varied according to the particular area of administrative decision-making being examined). Our work was anchored by detailed surveys administered to some 631 Rwandan citizens who had received administrative decisions in the past 3-4 years (depending on the specific subject matter data available), in-depth semi-structured interviews with dozens of citizens, businesses, and district officials, and several group discussions with each of these three groups, including men and women who pursued labor complaints and public employment complaints, procurement bidders, private employers, and citizens from diverse backgrounds who had been subject to land expropriation.³ District officials interviewed included Mayors and Vice-Mayors, Executive Secretaries, Good Governance Officers, Legal Advisers, Land Officers, Corporate Service Managers, Procurement Officers, Human Resource Managers, and several other individuals. In the private labor area, we were able to survey 370 individuals (which constituted a representative sample (95%) of labor complainants in the country during the three-year period 2014-2017), while the public employment, land expropriation, and procurement surveys reached 100, 111, and 50 respondents, respectively.⁴ Our findings, which were discussed by 38 relevant governmental and non-governmental stakeholders at a workshop held on April 4, 2019, provide an interesting and insightful window on key aspects of the state of administrative justice in Rwanda at the present time. There are important strengths and challenges identified, including several critical opportunities for improvement. For example, while procurement bidders are unsurprisingly quite knowledgeable about the administrative process, those who have been subject to land expropriation are, by contrast, in great need of not only more information about their rights, but the adoption

by the government of procedures to ensure those rights are respected. Similarly, while many public employees appear to have pursued complaints quite readily, some private sector employees expressed fears of intimidation and failed to achieve resolution of their grievances with labor inspectors or the courts. Perhaps the most striking findings concern the many cases of district officials reportedly failing to provide written decisions to citizens or furnish any explanation for those decisions. Without documentary proof of these actions, or a legal and factual basis for a decision, citizens may be disadvantaged in pursuing their rights, opportunities for meaningful formal or informal dispute resolution may be lost, and public trust corroded.

While many of the specific findings point to possible policy reform recommendations—many of which were suggested by participants in the validation workshop-- the most salient aspect of this work is likely to be raising overall awareness of the centrality of administrative justice to Rwandan society; this is the work of the next phase of the project, which involves various kinds of media outreach work and targeted capacity-building activities with district officials. These efforts can stimulate a national dialogue about how this important dimension of the Rwandan legal system and public administration can be shaped in the years to come to serve the needs of the country and its people.

What follows are highlights from the field research in the four distinct subject matter areas. Clustered recommendations are presented, along with key supporting evidence from the field work findings.

¹ Tyler, T. R., 1988. "What is Procedural Justice? Criteria used by Citizens to Assess the Fairness of Legal Procedures," *Law & Society Review*, 22: 103–135; Tyler, T. R., 2006. *Why People Obey the Law*. Princeton, NJ: Princeton University Press.

² SRAJ Project, *Legal and Policy Framework/Contextual Analysis Report* (updated, May 2019).

³ Certain group discussions with districts officials also included those from the two pilot districts (Kicukiro and Kamonyi).

⁴ In the case of land expropriation and public procurement, citizens were surveyed about complaints dating back 4 years, while in the public employment and labor arenas, respondents were surveyed about complaints filed within the past 3 years.

A PRIVATE LABOR REGULATION

Labor regulation has an enormous impact on the livelihoods of millions of Rwandan citizens and on the health of the Rwandan economy. Most disputes involving employees and private employers are supposed to be handled initially by workers' delegates (who are elected at the place of employment) and if they are not resolved, employees are directed as necessary to labor inspectors in the appropriate district (who are staff of MIFOTRA - the Ministry of Public Service and Labor) for investigation, fact-finding and mediation. In fact, 81% of all citizens surveyed with labor complaints brought their cases initially to labor inspectors and only 5% said they went initially to workers' delegates. Proceeding to court, meanwhile, is supposed to be a last resort, even though many cases are handled in a purely pro forma manner by inspectors—either because they are overworked and/or lack effective mediation skills, or because employers (or their lawyers) resist settlement and believe that most citizens will not want or be able to pursue and a court appeal. In general, there are significant capacity issues affecting both the workers' delegates and the inspectors, as well as notable gaps in citizens' awareness of their rights and the processes to ensure such rights are respected. The findings and recommendations described below were derived from surveys administered to 370 citizens and interviews and group discussions conducted with more than 40 government officials (including labor inspectors) and several dozen employees and employers in six districts.⁵

Strengthening employee's awareness of their rights and dispute settlement procedures.

Many employees are generally not aware of their rights in workplace labor matters and of those surveyed, more than a third (37%) did not feel well informed about their rights. As many as 68% of those surveyed said they needed more information about dispute settlement procedures (and 65% needed more information about the rules on overtime pay in particular).

It is worth noting that the data showed that employees who were better informed had a higher probability of getting a written decision, getting an explanation of the reasons for a decision, getting information on how the administrative process works in the first instance, getting more attentive treatment from a relevant public official, and being given an opportunity to make their views known and offer any evidence supporting their case verbally or in writing. These findings clearly highlight the importance of having citizens be more informed.

Based on these findings, there should be activities supporting expanded employee legal awareness, so as to inform them of their rights and the availability of dispute resolution mechanisms (the role of mediation in particular). This could result in fewer workplace conflicts and less recourse to the courts, saving time and money for citizens and district governments alike. Trainings could be organized by appropriate CSO's operating in particular sectors of the economy or possessing particular expertise, including in mediation and conciliation.

Enhancing the functioning of workers' delegates:

Interviews and group discussions revealed that most workers' delegates do not have sufficient understanding of applicable labor law and many are intimidated by their employers (many workers fear reprisals or the taking of decisions against employees not merited by the facts). Some workers' delegates do not even function, as elections may not be held in some workplaces as required by law. Moreover, the surveyed citizens indicated that only 35% believed that workers' delegates had useful information about employee rights and dispute resolution. By contrast, 82% of surveyed employees said that labor inspectors had useful information to share on these matters.

Equally important, only 24% of employees found workers' delegates courteous in handling complaints and only 31% of them felt that delegates listened attentively to citizens' explanations of their cases (the figures were even worse for senior employer officials—only 11% and 6%, respectively). And even where workers' delegates got engaged and took (or explained) a decision, only 41% of the complainants surveyed said they received a written decision or an explanation of the reasons therefor. Still fewer (29%) said they were given an opportunity to provide evidence on their own behalf⁶. Consequently, it is vital to train workers' delegates on basic labor law issues and dispute settlement, and increase employee trust in, and reliance on, these workers' representatives (if possible, trade unions and/or relevant CSOs should take the lead in assessing the needs of workers' delegates and developing a suitable capacity building program). Training

⁵ Government officials from the two additional pilot districts (Kicukiro and Kamonyi) were also part of certain cross-district group discussions among similarly situated government officials.

is also needed for HR representatives and the senior leadership of firms. The law should also be amended to specifically improve protections for workers' delegates. In addition, as an ancillary matter, labor inspectors should ensure, through inspections and sanctions if necessary, that employers do not seek to influence the election of workers' delegates.

Raising employers' awareness of dispute resolution and settlement procedures:

Interviews with employers indicated that many have limited knowledge about dispute resolution and settlement procedures, especially the specific mediation role played by the labor inspectors. This lack of information can cause unnecessary adversarialism and non-compliance, creating inefficiencies for all three parties engaged in the process (employee, employer and inspector). Employers should be sensitized about the key conciliation role played by inspectors, as well as the benefits of mediation. Indeed, MIFOTRA, and the Private Sector Federation (PSF) should develop specific information plans in this regard. And since employers are often represented by lawyers in mediation, it is also crucial to encourage these lawyers to participate constructively in the mediation process in order to reach a genuine compromise and negotiated settlement. That would in turn discourage the parties from viewing the mediation process as a mere formal legal requirement before proceeding to court (where many citizens are hesitant or unable financially to go).

Adopting the ministerial order determining sanctions in cases of non-compliance with labor inspectors' decisions:

The current labor law (amended in August 2018) provides for sanctions against any employer who obstructs the functioning of the Labor Inspectorate or does not comply with on-site inspection findings and recommendations. However, the modalities for implementation of these sanctions are yet to be determined by an order of the Minister in charge of labor. This order should also extend the power of the labor inspector to impose sanctions in cases where employers delay or otherwise fail to comply with a settlement agreement that he or she has certified (fully 18% percent of citizens responding to the survey specifically mentioned this as their top recommendation for strengthening administrative justice in the labor sphere). This would greatly reduce obstruction by employers while reducing the need for employees to tie up significant resources seeking relief in the courts.

Ensuring that all employees sign valid contracts with their employers:

The Labor Law accepts the validity of unwritten employment contracts on condition that their duration not exceed ninety (90) consecutive days. Despite this requirement, some employers hire the services of employees for a period longer than ninety days without written contracts. If labor disputes arise in such cases, labor inspectors face difficulties in handling complaints from these employees without contracts being in place. While evidence rules are liberal in labor matters, such employees still encounter major difficulties in presenting credible evidence to support their complaints. Accordingly, labor inspectors should carry out regular inspections within different companies to ensure that all employees have valid contracts and impose sanctions on non-compliant employers. Moreover, employees should sign contracts in the language they understand best.

Strengthening the resources of the Labor Inspectorate.

Interviews and group discussions with citizens, employers, and inspectors alike indicated that labor inspectors are severely under-staffed. Having only one labor inspector per district creates massive workload challenges for both mediation and inspection activities, both of which require field work (this is true even in the three Kigali districts that have two inspectors each but that frequently have much higher volume caseloads). It is important to increase the number of labor inspectors in proportion to their workload, based on a needs assessment using clear criteria on how to calculate the additional resources to be allocated. Moreover, labor inspectors need tablets and specially designed applications to more efficiently maintain and transmit labor data. The Integrated Labor Administration System (ILAS) should also have a space for the proper recording of all reports.

Inspector training needs:

Citizens expressed generally high satisfaction with the work of labor inspectors. For example, large numbers of survey respondents (84%) judged labor inspectors to be courteous and 83% said that inspectors afforded them an opportunity to present evidence on their behalf. Moreover, 74% also said that inspectors had provided them with a written decision and 72% said that inspectors had explained the reasons for the decision that was issued. Nevertheless, citizen interviews surfaced some dissatisfaction with the effectiveness of mediation,

⁶ It is worth noting that the 26% of complainants who reported having a lawyer help them present their case indicated that their first instance complaints handlers (81% of whom were inspectors) were relatively more helpful, more attentive, more courteous, more likely to provide information, more open to receiving additional evidence, providing a written decision, providing reasons for a decision, describing how and where to appeal, and providing a more speedy decision. However, since most citizens can't afford a lawyer and many disputes could be resolved more expeditiously at the workplace (where citizens currently don't bring most of their labor complaints), it behooves policymakers to think more critically about improving problem-solving and mediation skills among worker's delegates and company representatives.

including the impression that inspectors were often more solicitous of employers and did not adequately engage employers to find genuine areas of agreement and compromise. Moreover, the fact that nearly a third (32%) of citizens surveyed did not receive a decision in writing is still very problematic, and can lead to confusion and difficulties in enforcing inspector orders, thereby creating an evidence gap. This in turn creates problems for the inspector being able to adequately assess employer conformity with applicable legal standards.

Meanwhile, employers and employees alike indicated in interviews that many inspectors needed stronger

mediation training to treat parties equally and bring them to agreement, and that they lacked specialized knowledge of particular industries, including mining (“Improved training for inspectors” was the second most common recommendation from citizens regarding administrative justice improvements in the labor sphere, accounting for 16% of respondents). This hampers uniform interpretation of the Labor Law (particularly with regard to its new amendments), the carrying out of effective inspections, and more effective and technically relevant mediation sessions (including the drafting of more useful conciliation minutes and other germane legal documents bearing on the particular employer and sector involved).

Survey Data from Complainants Involved in Private Labor Disputes ⁷



Most common issues prompting the making of a complaint

39% Salary

38% Unfair dismissal

36% Termination of contract

14% RSSB contributions



Key topics about which citizens need more information

68% Dispute settlement

65% Payment of extra hours

63% Unionization issues

57% Termination of contract



Citizen Information/ awareness

63% of complainants feel informed



Most relied-upon source of information about pursuing a complaint

19%

Lawyers

16%

Rights manual



Procedural transparency: Inspectors

79% Complainants received information on the process

83% Complainants afforded opportunity to provide evidence

74% Complainants received written decision

72% Decision accompanied by an explanation with reasons

68% Information provided about how and where to appeal

⁷ Quantitative survey information presented for this administrative subject, and for the other three subjects in this report, unless otherwise indicated, refer to respondents’ experience in the first institution or office (first instance) to which they brought their complaints.



Satisfaction with

Inspectors

82%

Provided useful information

84%

Showed courtesy

Workers' delegates

35%

Provided useful information

24%

Showed courtesy

Firm

16%

Provided useful information

11%

Showed courtesy



Response time for decision on initial (first instance) complaints

49% Within 1 month

22% Between 1 and 3 months



Key reasons for not pursuing a further (second instance) appeal

31%

Satisfied with the original employer decision

18%

Felt Intimidated

15%

Felt appeal would be too time consuming



Top citizen recommendations for reform

18%

Expand the power of labor inspectors to take enforceable decisions⁸

16%

Improve training and oversight of government officials

14%

Workers' delegates established and functioning

⁸“Improved training for inspectors” was the second most common recommendation from citizens regarding administrative justice improvements in the labor sphere—16% of respondents

LAND EXPROPRIATION

Land expropriation (the seizure of private property for purposes in the public interest) has been a relatively contentious area of administrative decision-making over the past several years, but despite a number of important substantive reforms, including a new expropriation law in 2015, a number of procedural challenges remain, including many legally required processes that remain to be implemented, or are not implemented as intended. In some cases, simply better planning and advance communication would yield significant improvements. The following recommendations and their underlying challenges are drawn from surveys conducted with 111 citizens, in-depth interviews with citizens and government officials, group discussions conducted with citizens and public officials, respectively, in each of four districts (Gasabo, Bugesera, Rubavu, and Gicumbi), as well as a cross-district group discussion with officials from the above four districts as well as the two pilot districts (Kicukiro and Kamonyi). Based on the survey results, the most common reasons for expropriation-related complaints were delays in paying compensation (61% of respondents) and unfair valuation (60% of respondents). In bringing such complaints, 59% of respondents went to the one-stop centers at the district level, where land officers with the most knowledge and responsibility for execution of the expropriation process are located; others indicated they first took complaints to other individuals, ranging from sector leaders or officers to senior district political figures.⁹

Improving planning, coordination and communication in expropriation projects involving central agencies:

There is no clear policy on coordination between district governments and central government agencies on expropriation projects. This issue arose several times in interviews with relevant district officials. Some expropriation projects initiated by the central government are conducted without involving the district; the district only learns about the expropriation when the citizens raise complaints. This can lead to real challenges in ensuring that consultation take place, addressing valuation and compensation modalities, and rendering decisions in a timely manner, as citizens may have already been expropriated when they first complain at the district. Since complaints are almost always received and handled by district officials, there should be advance planning, coordination and a clear channel of communication established between responsible central government and district officials. In particular, affected districts should be informed by letter and email of any expropriation project approved by central authorities.

Adopting and implementing the Prime Minister's order determining the organization, operational responsibilities, and composition of the committees in charge of supervision of projects of expropriation in the public interest:

As attested to by numerous public officials and citizens, the failure to establish the Committees in Charge of Supervision of the Process of Expropriation constitutes

a critical gap in the institutional framework for expropriation at the district level, leading to additional planning and coordination problems. The yet-to-be established Committees are supposed to act as the main interface between the population being expropriated and the expropriating entity, handling crucial issues of public notification, consultation, and informed decision-making as to the expropriation project under consideration. In the absence of these committees, the relevant District Executive Committees have assumed their responsibilities, for which they lack sufficient technical knowledge, and which places them in a potential conflict of interest (since they are the ultimate initiators of the expropriation). Only the more specialized and formally neutral committees envisioned by the Prime Minister's order can devote the time, effort, and perspective to adequately protect citizen rights in the expropriation process.

Improving consultation of citizens in the expropriation process:

As already noted, expropriation projects often take place without prior notification of, or consultation with, the public, particularly when central government agencies are the initiators. Sixty-six percent of citizens responding to the survey said they were not consulted by district government before a decision to expropriate was taken, and 64% of citizens said they were not consulted about the manner in which an expropriation would be implemented — which is not surprising given that respondents reported that their greatest need for information, is related to public consultation (53%). According to several individuals interviewed, this leaves

⁹ This kind of information is important; if citizens knowingly or unknowingly bring their complaints initially to an institution or office that is neither legally intended to receive complaints or lacks expertise, citizens and public officials are both likely to be frustrated and inefficiency may result.

citizens without adequate opportunity to offer their views on whether a project is indeed in the public interest (and how it can be conducted in as a non-disruptive manner as possible). This kind of information is important; if citizens knowingly or unknowingly bring their complaints initially to an institution or office that is neither legally intended to receive complaints or lacks expertise, citizens and public officials are both likely to be frustrated and inefficiency may result. Opportunity to offer their views on whether a project is indeed in the public interest, - and how it can be conducted in as a non-disruptive manner as possible - and without adequate time to begin plans and communications about the valuation of their property. Indeed, the second most commonly recommended improvement to the land expropriation process cited by those taking the survey - 26% of all respondents - was “ensuring that meaningful consultations with citizens take place with regard to an announced expropriation.”

Improving record keeping and documentation:

Field research indicated that expropriation files are usually not properly kept. There is no electronic filing (except in a few urban districts) and files in hard copies are often misplaced or even stolen. There is also a need for staff to better maintain all land related archives. Improving record keeping by creating an electronic filing system and using it systematically would greatly benefit overall management of the expropriation process and citizens who seek various administrative files in the complaint process.

Assisting citizens to challenge valuations:

Based on the survey results, citizens not only face significant difficulties in challenging expropriations (due often to the failure of local authorities to properly notify citizens of an impending expropriation activity), but also in obtaining what they perceive as fair compensation for their property. Indeed, the field research indicated that 45% of survey respondents received no notification of the valuation of their property by the government, and 64% of respondents were dissatisfied with the proposed valuation once they learned about it. While challenging a valuation is possible, it presents obstacles. First, citizens may not be aware of their rights to a counter-valuation. Second, obtaining a counter-valuation by a private property valuer may be expensive for many citizens—something confirmed by the field research, where the expense of a counter-valuation was deemed prohibitive for many, especially complainants belonging to the first and second Ubudehe categories. For example, only 9.9%

of respondents were able to pursue a counter-valuation, and 68% of these individuals were unaware that they had a right to such counter-valuation (22% said that obtaining a counter-valuation was too expensive). Of those who were able to pursue a counter-valuation, 63.6% were in fact able to have the independent private valuer’s report taken into consideration. Under these circumstances, the government should ensure that citizens are notified about their right to an independent valuation. It should also consider some mechanism by which poorer citizens (e.g., those in Ubudehe categories 1 and 2) can obtain an independent valuation at an affordable price. At the same time, the government should also increase the period allocated for counter-valuations: the existing period of 10 days is far too short for the citizens (never mind poorer citizens) to seek legal advice and access money to carry out an effective counter-valuation.¹⁰

Ensuring timely and fair payment of compensation:

As noted above, the survey indicated that the main reasons for expropriation-related complaints were delays in paying compensation and unfair valuation. The districts and concerned central agencies should accordingly improve budget planning in order to ensure sufficient funds for timely payment of compensation. Specifically, no expropriation activity should commence until the budget is transferred to the district in question. Meanwhile, the right to a counter-valuation should be a central part of consultations and communication with the public in the future.

Strengthening Public Awareness:

Most citizens are not aware of basic expropriation procedures and associated rights; indeed, 68% of the citizens interviewed reported not to be well informed. In fact, the most commonly recommended improvement cited by survey respondents (27% of citizens) was “improving public understanding of procedures and citizen rights in the expropriation process.”¹¹ Logically, there needs to be expanded public education efforts through various media such as radio and TV, as well as sensitization activities through public meetings/forums such as Umuganda. This need for a variety of communications channels was confirmed by the field research, which showed that the main sources of information for citizens on rights and processes related to expropriation included district land officers (44%), and radio or TV (28%). Fully, 75% of citizens said that if they were consulted, it was done through a public meeting or forum, and 77% of respondents found

¹⁰ At the validation workshop, several participants also suggested that the Council of Independent Property Valuers should be reformed to include representatives from the Ombudsman or the National Human Rights Commission, so as to improve the professionalism of the association and ensure that the rights of ordinary citizens are respected/promoted.

¹¹ It’s important to note that the vast majority of citizens (83.3%) who responded to the survey did not have legal representation when bringing their complaints to the district one-stop shop offices.

useful to consult with district officials.

Strengthening the capacity and training of district officials (especially staff of one stop centers):

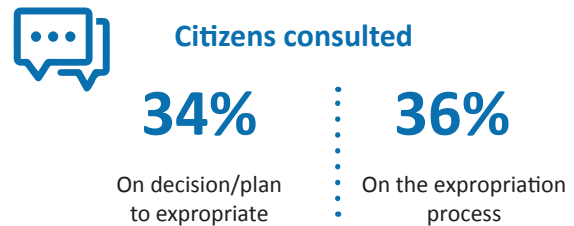
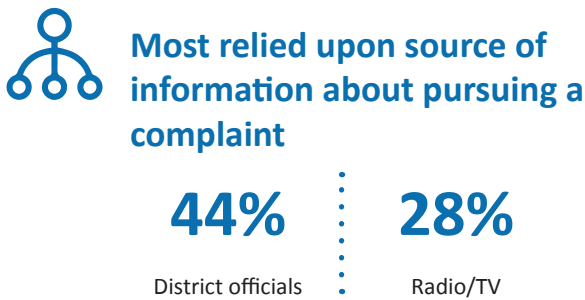
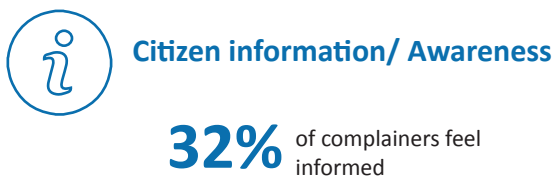
Based on the above challenges, and given their ground-level responsibilities related to expropriation (including complaints handling), district one-stop center officials should receive adequate training and resources to carry out their work and communicate effectively with citizens. This includes paying proper attention to procedural requirements and individual rights in the expropriation process; however, in an overwhelming number of cases, survey respondents indicated that district officials provided no explanation on the listing of properties to be expropriated (88%) or on the valuation process (90%).¹² Moreover, just over half of all complainants were not provided with either verbal or written information as to how the complaints process operated, and nearly two-third of citizens surveyed indicated they did not have an opportunity to present their views or offer evidence in support of their case (62%). Notably, nearly 79% of citizens were not provided with a written decision on their expropriation complaint (including valuation decisions),

and a very high percentage (87%) of citizens indicated that the decision was not accompanied by an explanation with reasons. An even large percentage of respondents -- 90% -- were likewise not given any information about how and where to appeal. Based on these findings, district officials must be given detailed training on how to communicate with citizens and provide basic procedural information (including through role play and simulation exercises), while being subjected to more stringent job performance criteria and workplace oversight. Moreover, district land managers should also be given GIS software and an adequate transport budget to meet with citizens on expropriation matters and more effectively discharge their duties.

Creating a forum for one stop center managers:

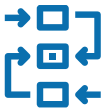
In a group discussion emerged the need to create a forum for all district one stop centers' personnel, where they could meet at least once a year to discuss common challenges and ways of addressing them most effectively. This would also help generate practical recommendations that could be forwarded to policy-makers to help improve the quality of their work.

Survey Data from Complainants Involved in Land Expropriation Disputes¹³



¹² One approach might be to insist that as part of their performance plan and evaluation, officials keep hard and soft copies of their written decisions on file, and that those decisions be scrutinized and documented by superiors regarding evidence of distribution to the citizen (via a signature) and inclusion of reasons for the decision and information about where to appeal if the citizen is not satisfied with the result.

¹³ Quantitative survey information presented for this administrative subject, and for the other three subjects in this report, unless otherwise indicated, refers to respondents' experience in the first institution or office (first instance) to which they brought their complaints.



Procedural Transparency

49% Complainants received information on the process

38% Complainants afforded opportunity to provide evidence

21% Complainants received a written decision

13% Decision accompanied by explanation with reasons

10% Info provided about how and where to appeal



Response time for decisions on first instance complaints

49% No response received at all at time of survey



Key reasons for not pursuing a complaint

38% Did not know that a further complaint was an option

14% Satisfied with the determination



Top recommendations for reform

27% Improve public understanding of procedures

26% Ensure public consultations take place



Helpfulness of information provided by officials

41% Found information useful

C PUBLIC PROCUREMENT

Public procurement at the district level has a very profound impact on businesses of all sizes and types in Rwanda and plays an important role in business perceptions of the overall investment climate in the country. The field research involved surveys administered to 50 bidders who had participated in tenders in five districts over the past four years, as well as in-depth interviews conducted with 20 district officials, group discussions with tender committee in four districts, and a group discussion with procurement officers from the five different districts. These sources of data collectively informed the findings and recommendations below. The most common reasons cited for disputes concerned the supporting documents required for tendering (23%), the application process/e-procurement (16%), and the selection criteria/process (22%).

Enhancing the professionalism and ethics of bidders:

Interviews and group discussions indicated that some bidders lack professionalism and ethics in participating in the procurement process. This sometimes leads to illegal practices, such as the submission of forged documents, and disqualification—often complained about—when the fault lies with the bidders themselves. Poor practices and/or low capacity have also led some bidders to submit unduly low price quotations, which may gain them the tender, but ultimately lead to non-fulfillment of their contractual obligations (which in turn generates disputes with local governments that could obviously might have been avoided). As revealed through the field research, still other bidders may betray a lack of professionalism by participating in multiple tenders at times when they lack the internal resources to carry out projects should they be awarded (resources are shifted from one tender to another due to poor or unrealistic planning, and relevant staff cannot be hired, causing deadlines and deliverables to be missed). Public education efforts (by the Ministry of Trade and Industry (MINICOM) and the PSF in cooperation with the Rwanda Public Procurement Authority (RPPA) – especially those highlighting the consequences of bad practices (including the imposition of sanctions or loss of contracts for poor performance) – could better alert firms to the dangers of engaging in unprofessional behavior.

Setting standard technical specifications/terms of references for common/similar tenders across the districts:

Field research also indicated that different districts may be pursuing exactly the same tenders but with different specifications/terms of reference. This creates unnecessary preparation and monitoring work for district governments and bidders alike. The RPPA, in collaboration with specialized institutions, could help the situation by providing more guidance and standard specifications/terms for similar tenders across all districts.

Strengthening market price guideline:

Interviews revealed that district officials very often lack accurate information about market prices. RPPA could address this problem by periodically conducting a national market price survey and regularly updating its applicable price indexes on its website in order to help district procurement officers better respect the principle of economy (i.e., value for money) as provided by the Procurement Law.

Delays in payment:

Interviews and group discussions with public officials and bidders indicated that there is a tendency for district governments to delay payments to bidders even while expecting the latter to deliver procured services in a timely fashion according to agreed-upon deadlines. This puts bidders in a financially vulnerable situation, and yet the law does not require the procuring entity to pay interest for payment delays unless this is specifically stipulated in the contract. A clear instruction on the importance of compliance with rules on timely payment of government supplies would ensure greater fairness and improve contractor performance.

Issuing guidelines to clarify the roles and responsibilities of procurement officers, tender committees, and user departments:

While the relevant district user department(s) should be involved from the stage of needs identification all the way to execution of the contract, if for any reason such department does not prepare adequate technical specifications in timely fashion, it can adversely affect any subsequent stages—particularly those of evaluation and contract management. This can lead to a variety of complaints. RPPA should issue clear guidelines and provide for appropriate oversight and training on the respective roles and responsibilities of these three actors in the procurement process (focusing on the key issues

of planning, specifications, evaluation, and contract management).

Strengthening the capacity of procurement officers, tender committee members, and contract managers from user departments:

Gaps in procurement knowledge among those responsible for various parts of the procurement process surfaced during the field research. If procurement decision-making at the district level is to be improved, specialized training for district officials in technical specifications, contract management, logistics/supply chain management, and tenders for specific types of public works, supplies, and consultancy projects must be expanded, along with proper communication skills/practices. These capacity needs were especially apparent when survey data on bidder complaints was examined: 80% of bidders said that they do not receive helpful information from district procurement and other officials regarding the complaints process (only independent review panels at the national and district level¹⁴ were viewed as providing useful information—100% and 80%, respectively).

More important, only 66% of complaining bidders said that they were given an opportunity to make their views known and to offer evidence in support of their case. And while 83% of bidders were provided with a written decision, only 75% were provided with reasons supporting the basis for the decision. Moreover, 77% of those dissatisfied with the initial procurement decision were not provided with information about how and where to further appeal their cases. Finally, district officials involved in rendering initial procurement decisions scored low with respect to general courtesy shown to complainants (only 32% of bidders). All this argues for significant and concerted capacity-building training to ensure that proper procedure is followed and bidders' rights are respected.

Consultation of legal advisers:

Interviews and group discussions indicated that at various stages of the procurement process, district legal advisers are not adequately consulted by procurement officers, tender committee members, or contract managers. This consultation should be systematically enforced through better district management processes and guidance to reduce the number of incorrect or improper decisions taken and in turn, prevent unnecessary disputes from arising.

Raising bidder's awareness of procurement procedures and associated rights:

Although 82% of bidders lodging complaints felt that they were either well informed or somewhat informed about rights related to the public procurement process, in depth interviews with bidders revealed a need for greater dissemination of information about both the operation of the procurement process and dispute settlement procedures—especially since some district officials fail to give bidders helpful background information (which bidders do believe is useful, especially, with regard to terms of reference (52%) and technical specifications and procedures/selection criteria (52%)). In this regard, free-standing information outreach as well as training should be organized for bidders, helping improve their understanding of their rights and responsibilities. This could also improve the quality of appeals—since many bidders simply complain orally about their grievances without submitting a factual record of what they believe is in dispute. This—combined with greater availability of mediation as an option in procurement disputes—could in turn lead to better practices on both sides and fewer disputes ending up in court.

Training on the use of e-procurement system:

Interviews and group discussions also indicated that in many cases, officials as well as bidders do not fully understand the e-procurement process—either in terms of the submission process or the initiation of appeals (it was revealed that some bidders actually press the button to submit a complaint before they have fully read the decision or the instructions for appealing). Expanded and improved training on e-procurement for both district officials and bidders should result not only in improvements to the e-procurement system—which 72% of bidders indicated was their top recommendation —,but more effective and targeted dispute resolution.

Providing temporary expertise to district for specific tenders.

Tenders requiring specialized expertise not available at the district level should be provided with technical assistance (through RPPA) from central government institutions — particularly tenders involving certain ICT functions and complex road construction projects, for which technical expertise is often not available at the district level.

¹⁴ It is important to note that the law N°62/2018 of 25/08/2018 governing public procurement abolished the District Independent Review Panels (See art. 12).

Survey Data from Complainants Involved in Public Procurement Disputes¹⁵



Most common issues prompting the making of a complaint

23% Supporting documents required for tendering

22% Procedures and/or selection criteria

16% Scoring or results of the tender evaluation



Citizen information/ Awareness

82% of complainants feel informed



Most relied upon source of information about pursuing a complaint

27% Internet/Umucyo website



Procedural transparency

81% Complainants received information on the process

66% Complainants afforded opportunity to provide evidence

83% Complainants received written decision

75% Decision accompanied by Explanations with reasons

23% Info provided about how and where to appeal



Satisfaction with service delivery by officials in handling complaints

20%

Provided useful information

32%

Showed courtesy



Satisfaction with types of information provided by officials

52% Terms of reference

52% Technical specification

52% Procedures and/or selection criteria



Main reasons for not pursuing a complaint

42% Too time consuming

32% Satisfied with the earlier decision

23% Would not change the outcome



Top recommendations for reform

72% Improve the e-procurement process

16% Expand mediation

12% Improve training of officials

¹⁵Quantitative survey information presented for this administrative subject, and for the other three subjects in this report, unless otherwise indicated, refers to respondents' experience in the first institution or office (first instance) to which they brought their complaints.

D PUBLIC EMPLOYMENT

Public employment decisions, while not so numerous relative to other areas of district government decision-making, have a significant impact on administrative justice in Rwanda due to their high visibility. In recent years, district governments have awarded substantial financial judgments to public employees whose appeal of disciplinary and counter termination decisions have been deemed by the courts to be unjustified based on inadequate documentary evidence and recordkeeping. A number of important findings have emerged from the information gathered by the SRAJ team through interviews and focus groups with public employees and district officials, as well as a survey administered to 100 employees from five districts concerning their experience with complaints about public employment decisions. The most common bases for complaints were recruitment and hiring disputes, and cases alleging unjust dismissal. The field research findings are the basis for the following recommendations and identification of underlying challenges:

Improving the recruitment process:

The field research indicated that while the application process is generally clear, RALGA often takes a lot of time to recommend people for positions. As a consequence, jobs frequently remain vacant for long periods of time, negatively impacting district personnel workloads. Meanwhile, the e-recruitment process should be made more flexible for those living in areas with poor internet connectivity by allowing certain documentation to be provided in hard copy form.

Improving promotion process:

While there are clear rules for promotion and salary increments, the associated budget is often lacking. Consequently, some districts do not pay the required horizontal promotion benefits and mission fees due to budget constraints. This can affect job performance and generate personnel complaints. A clear instruction on compliance with the existing rules on promotion and salary increments would ensure improvement of the promotion process. More effective planning will also enable districts to comply with the relevant legal requirements.

Raising awareness of public servants about their rights and procedures for dispute resolution:

While district employees are relatively familiar with their rights in the workplace (87% of respondents are well informed or somewhat well informed), there is a need for more information about minimum hourly wages, payment for extra hours, rights upon dismissal, and the availability of dispute settlement procedures. As many as 41% of those who were involved in a personnel matter were not given an opportunity to make their views known and offer evidence supporting their case verbally or in writing. And while 72% of respondents were provided with a written decision, 36% of those decisions were not accompanied by an explanation with reasons for the decision or information about how and where to further appeal their cases. These deficiencies can generate unnecessary confusion and undermine otherwise important dispute resolution opportunities.

District officials' consultation with the legal adviser:

The findings from the field indicate that consultation with the legal adviser on personnel decisions still occurs less frequently than intended in many cases, often due to orders by senior government officials and bypassing of the advisers by Executive Committees. Quite often, consultation only occurs after a dispute or appeal for a decision arises. Again, opportunities for proper decision-making and evidentiary support in the first place are lost. And even though consultation occurs more frequently after a dispute arises, opportunities for effective dispute resolution are also frequently lost, as parties become more intransigent.

Training of government officials to ensure better understanding of legal requirements and procedure:

Some officials do not understand certain decision-making procedures, especially in some disciplinary cases where there are defined procedures for documenting and presenting evidence and an opportunity to hear from the employee. Strengthening the capacity of HR officers and other decision-makers on alternative dispute resolution and on legal requirements governing contractual and non-contractual public servants could reduce the number of relevant disputes, including those ending up in court and resulting in adverse judgments.

Enhancing the capacity and protection of disciplinary committee members:

Some members of disciplinary committees are insufficiently knowledgeable about the laws and procedures governing public servants, including the investigation and documentation methods that can support recommendations made to supervisors. Moreover, the law should be strengthened to improve the protection of internal disciplinary committee members against reprisals from supervisors or fellow employees when certain decisions are taken.

Survey Data from Complainants Involved in Public Employment Disputes¹⁶



Most common reasons for making a complaint

51% Recruitment/hiring process

20% Unfair dismissal

11% Change of position (after restructuring)



Citizen information/ Awareness

87% of complainers feel informed



Most relied upon source of information about pursuing a complaint

50%
Manual of the public servant

33%
HR department



Key topics on which civil servants (applicants) need more information

72% Minimum hourly wage

56% Payment of extra hours

40% Rights upon dismissal

34% Dispute settlement procedure



Procedural transparency

71% Complainants received information on the process

59% Complainants afforded opportunity to provide evidence

72% Complainants received written decision

64% Decision accompanied by explanations with reasons

51% Information provided about how and where to appeal



Satisfaction with service delivery by officials handling complaints

59%
Received useful information

72%
Showed courtesy



Key reasons for not pursuing a complaint

58% Satisfied with the earlier decision

18% Would not change the outcome



Top recommendations for reform

43% Improve training of officials

32% Improve understanding of employee rights

¹⁶Quantitative survey information presented for this administrative subject, and for the other three subjects in this report, unless otherwise indicated, refers to respondents' experience in the first institution or office (first instance) to which they brought their complaints.

General Conclusions


The data collected and analyzed from the district field research demonstrate that while there are aspects of district level administrative decision-making that are functioning well in the eyes of citizens and public officials, there are also many areas requiring significant attention and improvement. For example, labor inspectors are generally well-regarded by citizens in terms of their helpfulness and courtesy, but it is well acknowledged by various public officials and the inspectors themselves that the latter are not only burdened with huge caseloads that hamper their effectiveness, but lack the legal powers and more advanced mediation skills that could make their dispute resolution role more influential. Similarly, legal advisers have a very important role to play at the district level in helping to ensure that decisions rendered by district officials are legally sound, yet are they often sidelined by local officials too eager to make quick decisions or dismiss legal concerns as inconsequential.

More broadly, across the four different subject areas, there are significant shortcomings in key procedural functions that go to the heart of administrative justice. In several different contexts, many citizens are not being provided with adequate information about how the complaints process works, are not being given an opportunity to present evidence on their side of the dispute, and are ultimately not being provided with a written decision and an explanation of reasons for that decision. All of these deficiencies can materially affect the fairness and efficiency of complaints handling, ultimately leading to more complaints and frustration that undermine public trust and unnecessarily consume state and private resources. If this report's findings and targeted recommendations can be acted upon in a strategic way over the next several years

—particularly those recommendations having to do with public awareness raising and district official training— this public trust can be strengthened and district government can better realize the aspirations set for it under the country's decentralization policies. The result can be a more prosperous economy and a more responsive public sector.



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org

Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX VII (VOLUME II)



S TRENGTHENING
R WANDAN
A DMINISTRATIVE
J USTICE

**FINDINGS AND RECOMMENDATIONS
FROM DISTRICT FIELD RESEARCH ON
ADMINISTRATIVE JUSTICE IN PRACTICE**



This report was produced in connection with the Strengthening Rwandan Administrative Justice (SRAJ) Project, which was funded by the United States Agency for International Development under Grant No. AID-696-A-17-00008. It was prepared by the Institute of Policy Analysis and Research (IPAR-Rwanda) and the University of Massachusetts Boston. The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States.

All the reports of the SRAJ project are available at www.ipar-rwanda.org

For further information contact:

Seth Karamage

Resident Country Director, SRAJ project, University of Massachusetts Boston

skaramage@gmail.com | +250 788 309 914

Introduction

At its core, administrative justice is about **ensuring that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions**. Administrative justice is also about how such decisions are communicated to people (as citizens, consumers, businesses, and CSOs) and what mechanisms exist for providing redress when decisions are decided incorrectly or perceived as such. While administrative justice also concerns appeals of such decisions to higher government authorities (including the courts), the focus is on improvements to alleged deficiencies in front-line (i.e., first instance) decision-making by rank-and-file public officials. This involves a thorough examination of how users and public officials understand how systems of administrative justice operate (across different subject areas, institutions (central and local government), and geographic locations, and how both can learn from both government-held data and independent research evidence. Such understanding of citizen system usage and official decision-making patterns, as well as learning from mistakes – via information from appeals systems and independent research can improve both resource utilization and quality of decision-making.

Given that administrative cases in any modern bureaucratic society, including those in Rwanda, dwarf the number of cases in the criminal or civil judicial systems– and exert a major influence on the welfare of ordinary people and businesses (administrative justice is inherently a mass system of justice) – improvements in administrative justice can have a disproportionate impact on the quality of government service delivery and on perceptions of government effectiveness and commitment to fair treatment of citizens under the law. A key hallmark of administrative justice is the extent to which the state, despite being a party to administrative disputes, nevertheless has a special, affirmative responsibility to protect the basic rights of individuals – to offset the inherent power imbalance in resources and information between the state and its citizens.

Research has shown that the procedural dimension of justice systems matter greatly to citizens.¹ When citizens have a basic understanding of their rights and how the decision-making process works, when they are treated

with courtesy and respect, given an opportunity to describe their situation and present evidence on their behalf, and provided with a written decision with supporting reasons, they are likely to view an administrative process as fundamentally fair – and less likely to feel that they have to appeal to the courts, politicians, or other forums for redress. Ultimately, a sound system of administrative justice enhances public trust in state institutions, as well as investor confidence in regulatory governance.

There is a delicate balance and tension in administrative decision-making between issues of efficiency, regularity, and the mechanical application of rules (often public administration priorities) and those of quality, individualized fairness, and appropriate decision-maker discretion (emphasized by those with a more legal or justice orientation). There are also important questions about the training and supervision of those who make administrative decisions: whereas many see such decision-making as a simple, straightforward, and somewhat lowly enterprise, others see the need for improved professionalization as a mean of enhancing both citizen confidence and the job satisfaction and stature of public servants. In the latter view, capacity (as well as perhaps remuneration and other resources) can be enhanced in the following skill/responsibility areas: (1) knowledge of law, regulations, and policy; (2) clear and respectful communications with the public; (3) proper collection and management of information/evidence; (4) assessment and weighing of evidence and the generation of supportable findings; (5) the application of law and the giving of proper reasons; and (6) the capacity to learning from decisions and the generation of appropriate guidance (quality assurance) from higher authorities (senior public administration, ombudsman offices, and the courts).

In this project, UMass Boston and its partners gathered and analyzed information that identified the most serious issues with the quality, transparency, and legality of administrative decision-making in Rwanda (principally at the District government level, where most administrative decisions – as opposed to policy – are made under the country’s decentralized governance), in order to help relevant Rwandan government and nongovernmental organizations use that information to spur critically

¹ See, e.g.: Tom R. Tyler, “Procedural Justice, Legitimacy, and the Effective Rule of Law,” *Crime and Justice* 30 (2003): 283-357; Tyler, T. R. (1988). What is Procedural Justice? Criteria used by Citizens to Assess the Fairness of Legal Procedures. *Law & Society Review*, 22, 103–135. doi:10.2307/3053563; Tyler, T. R. (2006b). *Why People Obey the Law*. Princeton, NJ: Princeton University Press.

needed administrative, legal, managerial/training, and civic awareness initiatives and reforms. Four areas of administrative decision-making are addressed intensively: public labor relations; private labor regulation; land expropriation, and public procurement. These areas have been selected based on the large numbers of cases that are decided by administrative officials, the relatively high visibility of and intrinsic public interest in such matters, and the extent to which two of the four areas implicate businesses, thereby potentially engaging the Rwandan private sector as a stakeholder for reforms.

Project Background and Context

The ultimate goal of the project is to improve administrative decisions so that they are clear, intelligible, grounded in law, and afford individual citizens and businesses procedural rights to understand the contours of the administrative process, present evidence on their behalf, and access effective avenues of appeal. The SRAJ Team objectively assessed the nature and scope of potential problems with administrative decision-making and used such policy-relevant evidence to: (1) Propose improved training programs on administrative decision-making for legal professionals and public officials; (2) Raise public awareness of citizen rights in the administrative process; and (3) Explore possibilities for legal and policy changes that would measurably strengthen such rights.

It is important to note the thrust of this project rests on existing Rwandan government policy commitments to improve the quality of governance, particularly at the district level. It aligns squarely with the government's efforts to strengthen administrative accountability and service delivery in accordance with the National Strategy for Transformation (NST-1), as well as with the country's Justice, Reconciliation, Law and Order Sector (JRLOS) Strategic Plan.

The project has been committed to studying and helping improve an area of public management that has generally been overlooked, but in the process, strives to achieve not only tangible, but sustainable results. These important efforts toward sustainability included the following initiatives:

- Assembling a wealth of information about administrative decision-making and recordkeeping in Rwanda at the local level (where the vast majority of such decisions affecting ordinary citizens and businesses are made) that in aggregate form, can be shared with the public to heighten public awareness of individual rights using a gender lens.
- Assisting Rwandan training institutions such as the Institute for Legal Practice and Development (ILPD) with various training curricula that can be refined in the future based on learning under the project and innovative pedagogical approaches. By acting intelligently on the data collected by the project, the Rwandan government will be in a strong position to mount expanded training and capacity-building efforts of the kind piloted by this project. These efforts can include those focusing on particular sectors, administrative jurisdictions (ministry/agency/local governments), units (departments or offices responsible for particular kinds of decisions or appeals), and/or legal and procedural issues.
- Transmitting to policymakers and other interested stakeholder's various policy recommendations and legal reforms (including those directly affecting administrative procedure) that can guide future reform efforts. Labor

This report compiles all the information gleaned from the research activities, which includes both a legal and policy framework analysis and a field research effort aimed at collecting a wealth of information about administrative justice in practice at the district level. While many of the project activities are exploratory and preliminary in nature—identifying problems with solid, policy-relevant evidence and initial information dissemination and capacity-building efforts, and then respectfully relying on government and civil society stakeholders to determine how best to integrate such work and insights into future reform initiatives—the SRAJ program provides an impetus for change that is locally owned and respectful of objective evidence.

Methodology

Program Subject Matter Parameters: Areas of Decision-making

In order to better understand the systematic characteristics of administrative decision-making in Rwanda, this program has sought to determine the nature, scope, and magnitude of actual or potential decision-making problems by examining them in a limited number of regulatory contexts that are characterized by: (1) a high volume of cases that affect large numbers of individuals and/or businesses; and (2) high-visibility areas of regulation and decision-making that are readily understandable to citizens and that have the potential to resonate in significant ways with the media and public opinion. This sampling has the potential to focus the attention of government and citizens alike and ensure that interventions designed to improve the quality and legality of decision-making have significant value for money.

Based on the above approach and criteria concerning decision-making subject areas for intensive research, UMass Boston and its Rwandan partners conducted discussions and expert consultations in February 2016, and selected four areas for research and analysis, balancing potential impact with time and cost considerations and recognizing that a study of this nature has not been undertaken heretofore. The four areas are: (1) public employment relations; (2) private employment regulation; (3) land expropriation; and (4) public procurement. Each area offers significant advantages, and together they promise to provide important insights into administrative decision-making in Rwanda as a whole.

All four areas meet the twin criteria of featuring relatively high numbers of cases and having reasonably high visibility to ordinary citizens and entail substantial decision-making authority at the district government level. All have a very direct bearing on citizens' livelihoods and most citizens are relatively knowledgeable about what is involved in such cases (and many have personal experience or know people who have been directly impacted).

In the labor areas, both public and private employment were examined, including public recruitment and termination decisions that are anecdotally known to

generate abundant grievances and lawsuits, and private sector labor regulation decisions that also generate a large number of disputes. Private employment in particular, brings in the perspectives of both employees and employers, and can have a tangible effect on the enabling environment for private investment.

Mixed methods

We used a mixed methods approach combining qualitative and quantitative analysis in the four areas vis- a-vis administrative justice.

In each area, the quantitative data was collected using a questionnaire (specific to each subject area).² Respondents were selected among individuals having registered complaints during the past three or four years (depending on the data readily available for the four subject areas³ – see below discussion re: district and respondents selection). Complainant lists in each area were obtained from the districts (see below discussion of district selection) and respondents were randomly chosen from these lists.⁴ We note that the sample of complainants in the area of private labor is nationally representative of labor complainants in Rwanda, comprising 370 respondents. The samples of the 3 other areas are not representative, but purposive in nature, reflecting limitations on available data as well as research costs. The sample size in land expropriation is 111 respondents, while those for public employment and procurement are 100 and 50, respectively. In each area, data was gathered on, but not limited to:

- ◇ Individual demographic characteristics (age, sex, education, ...)
- ◇ General knowledge of rights and dispute procedures in the subject area
- ◇ Access to information related to the subject matter
- ◇ The type of disputes
- ◇ The appeal process (Institution appealed to, response time, ...)
- ◇ Satisfaction with and various perceptions of, the dispute process

² The questionnaire is provided in annex.

³ 3 years for private labor regulations and public employment and 4 years for land expropriation and public procurement.

⁴ Statistics to determine the potential sample size were obtained from central authorities. Lists of complainants were obtained from the district.

- ◇ The transparency of the procedure and the decisions
- ◇ Key recommendations to strengthen administrative justice in the subject matter

The data analysis consisted of summary statistics and cross tabulations of the different variables constructed. A regression analysis was conducted on the labor component.

The qualitative data collection consisted of key informant interviews and group discussions in order to obtain a more granular and nuanced understanding of the procedures, practices, and perceived challenges (according to both citizens and officials) in each of the four areas.

Key informants interviews (KIIs) were conducted with district-level officials in each of the districts covered by the respective subject matter sampling methods,⁵ including (depending on the specific subject matter) Mayors or Vice-Mayors for Economic Development, Executive Secretaries, Legal Advisers, Documentation and Archives Officers/other Central Secretariat personnel, Good Governance Unit Managers, Labor Inspectors, Corporate Service Division Managers, Procurement Officers, HR and Administrative Unit Directors, HR Management Officers, Land Management Team Leaders, and Valuation Officers. In addition, employers and bidders were also interviewed for the private labor and the public procurement components, respectively. The discussion was guided by a researcher⁶ and questions about procedural experiences, practices, and challenges faced by individual complainants and officials were posed.

Group Discussions were conducted with groups of five to eight participants, male and female, in the respective districts, who were identified as having registered disputes/complaints at the district level in any of the four subject matter areas⁷. Special Group discussions for women were organized when the complaints were

about sexual harassment in workplaces, and in land expropriation, when the complaint addressed the lack of consultation of women in land expropriation processes. In addition, group discussions were held with tender committee members in the various districts (with regard to the procurement area) and with employers in the case of private labor regulation. The discussion was guided by a researcher and questions about common procedural and legal practices, challenges faced, and factors that helped and hindered their work were discussed by the participants.

Lastly, cross districts group discussions⁸ were conducted bringing together men and women officials across various districts who occupies the same position in district government (e.g. Group discussions among legal advisers or procurement officers).

District and respondent selection

The districts for the field research were selected in a three-stage process. First, six districts were selected to achieve a nationally representative survey sample in the private labor regulation component but to also maintain significant geographic diversity across the country's five provinces (see below the description of the specific selection procedure utilized). Second, five out of these six districts were selected to conduct the public procurement survey and the public employment survey. The selection of the five districts was also done such that all the provinces were represented and geographic diversity achieved. Third, the land expropriation survey was administered in four of the latter five districts. The four districts were selected during a workshop of researchers and in accordance with their direct relevance to land expropriation (all four districts had significant urban infrastructure projects over the past several years and had generated a reasonably significant number of expropriation-related complaints by citizens).

For the **private labor** topic, the list of labor complaints over the last three years and its distribution across

In preparation for the field research, interviews were conducted (and the respective surveys administered) in the districts of Kicukiro and Kamonyi as part of a piloting effort. Based on the results of the pilots, several questions of the survey and the KII's were slightly modified, as well as aspects of the protocol for administering the surveys.

The interview guide is provided in Annexes.

The following group discussions with citizens were held in each of the sampled districts (see the below description of the sampling methods): private labor (men, women, and a mix in each of the six selected districts), land expropriation (men and women in each of the four selected districts), and public employment (men, women and a mix in each of the five selected districts). A group discussion also was held among tender committee members in each district with regard to the procurement topic. For labor, a discussion was also conducted with several employers in each district, and for procurement, a discussion was held in each of the five districts with company representatives.

Cross-district group discussions were conducted after the data collection phase, and involved, respectively, the following similarly situated personnel: Legal Advisers, Documentation and Archives Officers/other Central Secretariat personnel, Good Governance Unit Managers, Labor Inspectors, Corporate Service Division Managers, Procurement Officers, HR Management Officers, and Directors of One Stop Centers. In addition to those officials from the target districts, officials in some of these group discussions were invited from Kamonyi and Kicukiro, which had served as districts for the piloting of the survey and interview protocols. The discussions were designed to presenting various preliminary findings from the field research in the target districts and obtained informed reactions from the participants

districts in Rwanda was shared with the SRAJ researchers by MIFOTRA (based on labor complaints data generated by labor inspectors all over the country and catalogued by district). The population we considered was limited to the list of employees who lodged the labor complaints in question. These individuals were of course unevenly spread across the country.

While it is certainly true that a large number of districts in the country have certain similar characteristics demographically (esp. due to substantial rural sectors and a few large urban sectors), it is imperative that we obtained a representative sample relevant to our specific objectives. Such a nationally representative sample was possible with respect to the issue of labor regulation, thanks to the availability of aggregate complaints data by district.

Our sampling is presented in two steps. We first compute the number of observation for national representativeness. We then select districts where observation will be collected.

The **Approach** first relies on some general principles and background:

1. First, it is important to note that urbanicity correlates very well with labor complaints (.777).
 3. Because urbanicity and number of labor complaints track well with each other, these can be used as a way to determine which districts should be considered for dropping from the study (due to their relative insignificance). Indeed, a combination of both serves the purpose. Applying this concept, we use the rule that a district gets dropped from consideration if its urbanicity is 3.0% or less and if the number of labor complaints is less than 100. Six districts can accordingly be dropped from consideration (Nyamasheke, Gisagara, Burera, Nyaruguru, Rutsiro, and Rulindo). Implementing this rule means that
- only 391 of the 7504 total labor complaints (5.2%) are being eliminated from consideration for selection into the sample (resulting in 95% coverage). Also, under this proposed design, 2 of 3 (67%) of the districts in Kigali are selected, and 4 of the 21 (19%) of the other districts in the sample are selected. That means overall, we are studying 6 of 24 (25%) of districts under consideration.
5. We have two strata: One for Kigali and one for the remaining 21 districts from the other four Provinces. Kigali needs to be a separate stratum due to its unique characteristics—both the huge volume of complaints and the complex and sophisticated nature of many of the individual cases.
 7. The selection method within the two strata is probabilistic in design, but also attempts to get the widest possible geographic spread across the country. This is accomplished by first using a type of random walk from district to district within each province sequentially (we develop an ordering of districts contiguously across first Southern province, then Western province, then Northern province and finally Eastern province).
 9. Next, using probability proportionate to size sampling (where the number of complaints within a district is the measure of size), a systematic random sample of four districts is chosen along the ordered geographic path developed in step 3 (we randomly pick a district along the ordered path that probabilistically hits a certain complaints range and then proceed to do the same until four districts are selected).⁹ This guarantees a geographic spread, while using probabilistic random sampling and in no way relies on any type of purposive selection of any district.
 11. For the Kigali stratum, two districts are randomly selected, again using probability proportionate to size sampling. This is crucial as a matter of eliminating

⁹ Outside Kigali, the districts are arranged along a path beginning with the Kamonyi district within the Southern Province (this was simply chosen as a convenient starting point). The path proceeds through all districts within that province until it passes into the Rusizi district in the Western Province. After going through all districts in that province, it passes into the Musanze district in the Northern Province, through that province and into the Nyagatare district in the Eastern province, ending after touching all districts in that last province. Because a probability proportionate to size selection of 4 districts is desired for geographic diversity, and because the number of complaints is used as a measure of size (due to their importance to the study and their high correlation with urbanicity), we focus on the 4129 complaints from the 21 districts that remain in this stratum after the 6 districts with insignificant numbers of complaints are dropped. Dividing the 4129 complaints by 4 (i.e., number of desired districts to sample) creates an interval of 1032.25. Then, a random number is generated between 1 and 1032 to serve as the seed to begin the selection process. Using the ordering of districts along geographic lines just described, and also using the number of complaints within each district, the first district selected into the sample will be the one that ends up containing the complaint corresponding to the randomly generated seed. For example, assume that the random seed was 714. The first district in the created path, Kamonyi, has 62 complaints, so it does not contain the 714th complaint. The next district along the path is Muhanga, which has 72 complaints. Therefore, Muhanga has the 63rd through 134th complaint and also does not contain complaint number 714. The third district in the path is Ruhango which has 602 complaints, which falls within the range containing the 135th through the 736th complaint; accordingly, this interval does contain the 714th complaint so Ruhango is selected into the sample. This process continues in this manner along the previously ordered path, next looking for the district that contains the $714 + 1032 = 1746$ th complaint. Then it looks for the district with the $1746 + 1032 = 2778$ th complaint and then finally the $2778 + 1032 = 3810$ th complaint. As advertised, the method utilized to select the four districts selected in this systematic sample, using a randomly generated start, is probabilistic (using proportionate to size criteria) and also creates a geographic spread along the contiguous path of districts originally created.

bias, but it is also crucial because each of the 3 Kigali districts are so unique in terms of complaints volume and certain demographic characteristics;

13. Here are the results of the district selection:

- a. For the Kigali stratum Nyarugenge and Gasabo districts were selected into the study.
- c. For the selection of four provinces from the rest of the country stratum, we drew the following districts: Ruhango from the Southern Province, Rubavu from the Western Province, Gicumbi from the Northern Province and Bugesera from the Eastern Province.

It is worth noting that the selection ended up with a district from each of the four provinces. Note that there is still a reasonable dispersion across level of urbanicity in the rest of the country stratum (2.8% - 8.1% range). There is also a reasonable dispersion across the numbers of complaints in this second stratum (146 - 602).

The **respondents** were selected from the 6 districts selected above. Within each district, respondents were randomly selected from the list of labor complaints individuals. The actual sample includes 370 respondents out of a population of 7504 complainants. Using a transformation of Yamane's sampling approach¹⁰, the

level of precision of the survey is 5.24%. At this level of precision, the sampling hence ensures national representativeness with respect to the individual labor complaints in Rwanda. District and sub-administrative representativeness cannot be claimed.

As mentioned above, five out of the six districts were selected to administer the survey in public procurement and in public employment. The districts were selected such that all four provinces plus the city of Kigali were represented. The surveys were hence conducted in Ruhango, Rubavu, Gicumbi, Bugesera and Gasabo. In land expropriation the survey was administered in four out of the latter five district. Ruhango was identified to be the less relevant district to the subject matter. The survey in Land expropriation was hence conducted in Rubavu, Gicumbi, Bugesera and Gasabo.

For the qualitative part, as previously mentioned, Group Discussions¹¹ were conducted in the districts where the survey was administered. In each area, key informant's interviews were conducted in the six districts, plus the two pilot districts: Kicukiro and Kamonyi. Data collected from the survey questionnaire, key informant's interviews and Group Discussions constitute the basis on which the findings are build, and which are presented, component by component in the next sections.

$$n = \frac{N}{1 + N(e)^2}$$

¹⁰ Yamane (1967:888), where n is sample size, N is population and e the level of precision.

¹¹The following group discussions were held: private labor (Men, women, mix), land expropriation (men and women), public employment (Men, women and mix), Public procurement (tender committee). In addition, views from employers were collected both on public procurement and private labor components.



Private Labor Regulation and Administrative Justice

1

An Overview of The Practice of Administrative Justice in Private Labor Regulation

This section provides a general description of the practice of administrative justice related to private labor complaints. It was informed by the Phase I Legal and Policy Framework Analysis conducted by the SRAJ project, as well as the Phase II field research (which included individual interviews and group discussions in 6 districts, involving more than 50 citizens, 20 representatives of private employers, and 40 officials from central and decentralized government entities. These actors have participated in the administrative process (with regard to labor regulation) as complainants (citizens), respondents (private firm representatives) and problem-solvers and (sometimes) mediators (public officials). Their views, against the backdrop of the operative legal framework, provide a multi-dimensional view of the current administrative process governing private labor disputes. This section is followed by a discussion of quantitative data obtained from a survey of citizens with personal experience in labor disputes, and then a summary of key findings and recommendations from the field research.



Nature of labor complaints

A private labor complaint arises when an employee of a private employer within a district makes a complaint about his or her employer to the appropriate authority at the district level. This authority is the labor inspector—a representative of the Ministry of Public Service and Labor (MIFOTRA). Complaints made by contracted employees of the district are also treated as private labor complaints.

The initiation of the dispute process in practice

The procedure for handling labor disputes usually starts with a claim before the employer. These claims often involve allegations of unjust dismissal, unpaid wages or overtime, or termination of contract for purported economic reasons. Employees usually consult their syndicates and/or their superiors (e.g., the human resources manager, Director General, or head of institution) in raising a complaint. If the dispute is not resolved, the employee is supposed to write a complaint letter to the workers' delegates at the firm for the purpose of exploring mediation. These employee representatives are empowered by the law to amicably settle individual labor disputes between employers and employees.¹² The workers' delegates call the disciplinary committee of the institution, which is supposed to handle the dispute. The employees elect the workers' delegate¹³ as required by article 114 of the Labor law.

There is a widespread view among those who have had labor disputes that employees seem to undervalue these elections and do not have confidence in the ability of delegates to resolve disputes. There is also some distrust of the delegates' independence; many believe top managers are in a position to influence such elections. In addition, workers' delegates are not adequately protected by the law when they take decisions against their employer.¹⁴ Furthermore, many citizens who were interviewed said that workers' delegates often take the side of the employer to avoid further conflicts and protect their own position, resulting in decisions that often go against employees³ who are more vulnerable. In certain other cases, employees have reported that inspectors may become overly familiar with, and sometimes biased toward, certain employers as a result of having previously inspected the latter's workplaces and having met with

¹² Art. 102 of the law N° 66/2018 of 30/08/2018 regulating labor in Rwanda (hereinafter Labor law)

¹³ For elections, see Ministerial Order n°09 of 13/07/2010 determining the modalities of electing worker's representatives and fulfillment of their duties.

¹⁴ Article 1 of the ILO Convention on Workers' Representatives requires workers' representatives to be afforded protection from wrongful dismissal or other adverse actions based on the role they play in workplace dispute resolution. In Rwanda, one of the current protection measures is stated in Article 30 of the Labor Law, which provides for an increase in damages in cases of unjust dismissal of workers' delegates' due to fulfillment of their workplace duties.

the workers' delegates, making workers' delegates less trusted as problem-solvers.

As a consequence of the foregoing, many employees are aware of these situations and some go to District officials (e.g., Good Governance Officers or Executive Committee members) or inspectors directly. Some even go to the court immediately, which is contrary to procedure. When the courts receive their complaints, they order the employees to return to the workers' delegates due to this violation of procedure.

According to Article 102 of the new Labor Law of 30/8/2018 (repealing labor law of 27/5/2009), when employees' representatives (workers' delegates) fail to settle a dispute amicably, the concerned party may refer the matter to the labor inspector of the area where the enterprise is located for mediation.¹⁵ In practice, when the dispute is not solved by workers' delegates, an employee usually does go to the inspector or approaches a district official who in turn typically refers him or her to the inspector. In fact, district officials by law have no official role in labor dispute resolution but may, out of courtesy, try to resolve disputes or offer some informal guidance. This can present problems, since dispute resolution is by law entrusted to labor inspectors – who are employees of the Ministry of Public Service and Labor (MIFOTRA) – and district officials may sometimes fail to provide sound or accurate advice. If and when the employee ends up in the labor inspector's office, he or she is able to explain the basis for the dispute with the employer, verbally or in writing.

Upon receipt of a complaint, the task of the labor inspector is thus to conciliate with the parties to the dispute. However, his/her role is not limited to conciliation; it is also to prevent disputes from occurring in the first place through periodic inspection of workplaces or investigation of an employer following multiple complaints lodged about particular issues – from compensation to safety.¹⁶ This preventive function can help guide employers on how to comply with the law, and raise general employer and employee awareness about legal requirements.

During the initial conciliation, the labor inspector is supposed to explain what the law stipulates depending on to the nature of the dispute. The inspector also asks whether the employee has brought the complaint to the attention of the employer via the workers' delegates. If the matter was not initially being referred

to the workers' delegates for possible resolution, some labor inspectors order the complainants to go back to the workers' delegates, but others handle the dispute without returning the matter to the workplace.

Once the complaint is received, the labor inspector sends a letter informing the employer of the dispute and calls the latter to appear for conciliation (via a written summons). The employer has to sign a "pour reception" of the letter acknowledging receipt. The summons indicates the name of the complainant, the subject matter (showing the provision of the law violated), the date of proposed conciliation, and a request to bring evidentiary documents supporting the employer's decision vis-à-vis the employee. Often this documentation does not exist, since proper labor contracts may not have been signed, nor reasons given verbally or in writing for a decision to terminate or refuse to pay wages/overtime. The summons requires a response from the employer within one week, and if it is not respected, a second summons is given.

In case of a further non-response, labor inspectors may also advise the complainant to use a non-professional bailiff (e.g., local authorities, such as cell secretary) to bring the employer to the conciliation. If the employer does not show up after the third summons, a decision is written indicating that the mediation was not respected by the employer. However, despite these refusals by some employers to appear for mediation – which is fairly common based on information relayed in multiple field interviews and group discussions – there is still no legal power vested in the inspector to sanction an employer for such refusal, and an employee is therefore forced to seek recourse in the courts.

Some labor inspectors apparently give the employee a written right to go to court if the other party refuses to show up with no justifiable reason following the second summons. In either case, a written decision by the inspector of employer non-compliance allows the employee to appeal to the court. In many cases, interviews revealed that employees do not know how to pursue their cases in court. They are unfamiliar with the procedure and lawyers may be both hard to find (especially in rural areas) and reluctant to accept a case unless the individual has a means to pay (legal aid providers may sometimes accept such cases on a free or reduced remuneration basis, but they may be hard to find in certain districts or may already have excessive caseloads).

¹⁵ Article 103 of the Labor Law stipulates that labor inspectors are empowered to settle collective labor disputes as well through mediation

¹⁶ See Article 113 of the Labor Law (2018), which stipulates that "The Labor Inspectorate is responsible for monitoring compliance with this Law, its implementing orders, collective agreements as well as awareness and providing advice on matters relating to Laws governing labor and social security." Settlement of Labor Disputes through Mediation (Arts. 102 & 103).



Role of inspectors

The labor inspector has the responsibility to monitor compliance with the Labor Law, its implementing orders and collective agreements (Art. 113 of Labor Law) and settlement of labor disputes through mediation (Articles 102 & 103). He/she is also responsible for raising awareness and advising on matters relating to the Labor and Social Security Laws (Art.113). Labor inspectors are directly responsible for managing private labor complaints. They are appointed by, and report to the Ministry of Public Service and Labor (MIFOTRA). Even though they work at the District level and are provided with office space by District authorities, they are administratively separate and they are accountable to MIFOTRA, not to District officials. Each urban district has two inspectors, while each rural district has one.

Mediation in practice

Mediation is supposed to occur when the employer and employee come to the labor inspector's office for conciliation. According to citizens and officials interviewed, there are usually delays in finding times to meet and resolve disputes, occasioned by the unavailability of the inspectors, one or the other party, or both. When the conciliation eventually commences, the labor inspector presents the applicable law and what can be expected from conciliation, which is of course a consensual process; a decision cannot be imposed by an inspector. However, according to many different interviewees, some inspectors do not have the knowledge and expertise to conciliate effectively; they may lack mediation skills to narrow the issues between the parties and build trust, lack a detailed knowledge of labor laws and regulations, and/or lack sufficient understanding of business processes and practices in particular industries (e.g. mining). They may also be unfamiliar with methods of calculating employee salaries, so as to maintain an independent view on this subject if and when settlement of back wages is under consideration.

During the conciliation process, each party is supposed to be given time to present evidence and their side of the story. The inspector seeks to find areas of compromise, but as field research interviews and group discussions indicated, if his or her mediation skills are not strong, if he or she does not create an atmosphere of equality between the parties, or if he or she is overworked and/or rushes the process, one or both parties may not be given time and space to express themselves adequately or may feel unduly pressured to reach agreement. Moreover, in some



Mediation outcomes

A mediation session may result in one of four outcomes: (1) Total conciliation; (2) Partial conciliation; (3) No conciliation; (4) Employer refusal to participate in mediation. In the case of partial or no conciliation, the inspector may ask the parties to continue to negotiate. The inspector then continues mediation until total conciliation is reached, or the inspector determines that the parties are unlikely to reach agreement. If a deadlock results, or the employer refuses to mediate, the inspector issues documentation that allows the parties to proceed to court (in the case of an individual dispute) or to the National Labor Council (in the case of a collective dispute). The National Labor Council uses arbitration procedure to reach a resolution, and its award is able to be enforced by the courts.

cases, employers may be represented or accompanied by a lawyer, whose presence can interfere with the effectiveness of the mediation process (some lawyers zealously advocate and adopt an adversarial stance that may be appropriate in a court of law, but unsuited for a genuine mediation dialogue)¹⁷.

In the course of conciliating, labor inspectors may carry out an inspection, including discussions with employers and employees, to obtain additional relevant information. There may also be other background information about the employee or the employer (including prior inspections data and the latter's overall compliance with the labor laws) that can illuminate the contours of the dispute in question.

¹⁷ A few interviewees also indicated that employers and/or their lawyers sometimes appeared to exert undue influence on inspectors or district officials based on their stature in the community or personal relationships.

With or without an inspection and additional evidence-gathering, the conciliation process may be concluded in the following ways: through total conciliation, partial conciliation or non-conciliation. Minutes of each mediation are taken and, in the case of partial or total conciliation, the employer and employee are asked to concur on deadlines for the execution of agreed-upon settlement terms. In some cases, a labor inspector may make regular follow-up field visits to check whether the agreement terms are executed (as might be expected, some companies respect and execute the conciliation agreements to the letter, while others do not). In some cases, companies fail to execute an agreement due to

insolvency or some other hardship. In these cases, if back wages or benefits are owed, inspectors may pursue further mediation efforts to determine, for example, how the company can pay in installments. However, despite new Labor Law amendments passed in 2018, inspectors still lack the power to enforce agreements on their own.

Most interviewees who had filed labor complaints can help those with modest financial resources to potentially obtain legal representation in private labor cases.

Inspections in practice

With regard to carrying out an inspection, labor inspectors must obtain information that affords them an objective, factual view of a company's treatment of its workers. The labor inspector works cooperatively with workers' delegates to collect such information and may do so through an announced or unannounced visit. The latter may occur if there is an indication that serious health and safety issues exist.¹⁸ However, until recently, a company could prohibit a labor inspector from conducting an inspection with impunity; there was no sanction available to enforce these procedures. Now, however, under Article 120 of the recently amended Labor Law (2018), administrative sanctions are available, notwithstanding the fact that modalities for implementing these sanctions are yet to be determined by an Order of the Minister in charge of labor.¹⁹

An inspection form has to be filled by the inspector during the inspection. This form is designed to provide a score at the end of the inspection. However, the form may not always be filled out completely because of lack of information or technical problems. The inspector provides a copy of the completed form to the employer and files a copy with the complaint. It does not appear that inspection forms are systematically reviewed and followed up on by the government, nor is this the case with mediated agreements (as a matter of recordkeeping and data analysis, depriving MIFOTRA



Inspections

According to Article 113 of the Labor Law (2018), the Labor Inspectorate is responsible for monitoring compliance with the labor law. Furthermore, Article 3 of Ministerial Order n°09 of 13/07/2010 determining the modalities of electing workers' representatives and fulfilment of their duties, states that the functions of a Labor Inspector shall be to secure the enforcement of the legal provisions relating to labor. To fulfill this function, labor inspectors have been entrusted with inspection powers.

of insights into recurrent problems, possible systemic problems with particular employers and sectors, and certain workload or other issues involving the duties of inspectors). Nevertheless, by conducting interviews with both employees and employer personnel pursuant to inspections, labor inspectors end up making recommendations that are at least reasonably evidence-based, which is sometimes sufficient to produce results. And based on new amendments to the Labor Law passed in 2018, inspectors do now have the power to sanction employers who violate remediation recommendations generated as a result of an inspection.

¹⁸ Article 6 of Ministerial order n°07 of 13/07/2010 determining modalities of the functioning of the labor inspection states that "[t]he Labor Inspector shall not be obliged to inform the employer or the representative of his/her intended visit. He/she may request to be accompanied during his/her visit by one staff delegate of his/her choice within the institution."

¹⁹ Article 120 states that "an employer who refuses to allow a labor inspector to enter an enterprise, refuses to provide information to him/her, fails to report to him/her via a summons or implement recommendations from a labor inspector, commits administrative misconduct. He/she is liable for an administrative fine of not less than one hundred thousand Rwandan francs (FRW 100,000) and not more than two million Rwandan francs (FRW 2,000,000)."

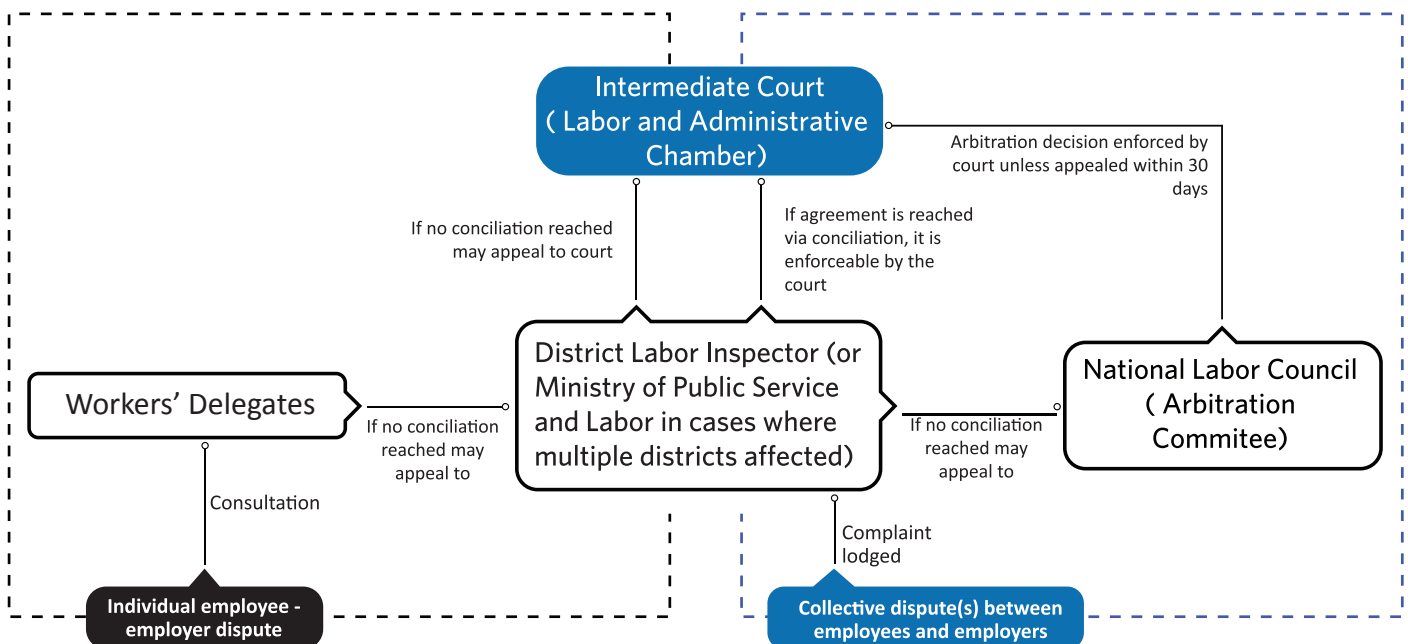


Inspections follow up

The inspector provides a copy of the inspection form to the employer and sets deadlines by which each violation must be corrected. One or more follow-up inspections are scheduled to ensure compliance. If particular egregious violations are found, the inspector will report the situation to MIFOTRA, which will determine whether operations should be suspended or the company should be closed. However the law appears unclear on this. Article 11 of the new Labor Law (2018) provides for offenses and penalties relating to occupational health and safety. It also provides for administrative sanctions to be levied for non-compliance with inspection procedures or recommendations.

Administrative Decision Pathways in Private Labor Disputes

The following graphic shows the overall pathways by which individual and collective private labor disputes can be pursued in the Rwandan administrative justice framework.

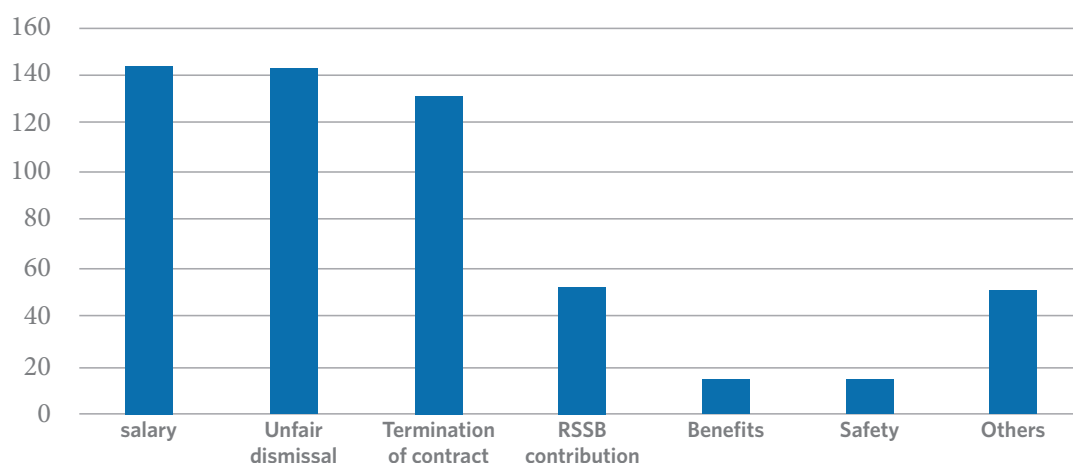


2

Private Labor Dispute Resolution: Quantitative Data on Administrative Justice in Practice

The nationally representative sample of labor complainants participating in a survey about dispute resolution generated a wealth of interesting data about the processing of individual labor complaints. Based on our sample of 370 respondents who pursued individual private labor complaints over the past three years for which data were available (2015-2017), Figure 1 indicates that the main reasons for complaining were related to salary issues, unfair dismissal, and termination of contract for alleged economic or technological reasons. More than 90% of the complaints are related to at least one of these reasons (note that a complaint may be a combination of these). Complaints related to Rwanda Social Security Board (RSSB) contributions came next, but were much smaller in volume (mentioned by about 14% of surveyed complainants). Safety complaints were much lower (4% of respondents). Notably, females lodged relatively more complaints about salary and fewer about unfair dismissal and termination of contract for economic or technological reasons. Also, respondents in the higher Ubudehe categories lodge relatively fewer complaints about salary.²⁰

Figure 1: Reasons for Lodging a Complaint (# of cases)²¹



Complainants in the sample were mostly male (75%). They were concentrated in Ubudehe categories 2 (25%) and 3 (67%), and were generally between the ages of 26 and 35 years (40%).²² A large number were university graduates (49%),²³ working in positions designated as permanent (97%) with full-time (92%) and open-ended (61%) contracts in private for-profit enterprises (82%). More than half have fewer than five years of experience (54%),²⁴ and had a household monthly income above 30,000 Rwf (87%).²⁵

The main reported source of information used by complainants concerning labor rights were lawyers (19%) and the employee rights manual of the institution (16%). By contrast, information that may be provided by an institution's HR and legal departments, respectively, was very seldom used (only 4% and 5%, respectively).

From the full sample of 370 respondents, fewer than two-thirds of the surveyed complainants (63%) felt informed about their labor rights, while more than one-third (37%) felt uninformed.²⁶ Looking at the characteristics of the two groups, it was noticeable that (i) men (36%) felt less informed than women (41%); (ii) individuals between the ages of 46 and 55 years were more informed than others,²⁷ which can be related to their working experience;

²⁰ 45% of complaints in Category 1 are related to salary, 41% in category 2, 38% in category 3, 0 in category 4.

²¹ IPAR's calculation.

²² Age category 36-45 accounts for 35%.

²³ Max. secondary diploma holders account for 17% and Max. Primary diploma holders account for 16%.

²⁴ 26% have between 5-9 years of experience

²⁵ 32% have income between 30,000 and 100,000 Rwf, 30% have income between 100,000 and 200,000 Rwf and 25% have income above 200,000Rwf.

²⁶ The distribution is: Not well informed at all 24%; Not very well informed 13%; Somewhat informed 27%; Very well informed 63%.

²⁷ 45% for 16-25 years; 60% for 26-35 years; 67% for 36-45 years; 64% for 45-55 years and 56% for 56 years and older.

(iii) complainants from a higher Ubudehe category felt much better informed²⁸; (iv) More educational attainment was correlated with complainants who self-identified as better informed.²⁹ In this regard, those with a University-level education seem to have had high degree of awareness of their labor rights (79% of them felt informed); and (v) there was no significant difference in workers self-identifying as full-time workers versus part-time workers.

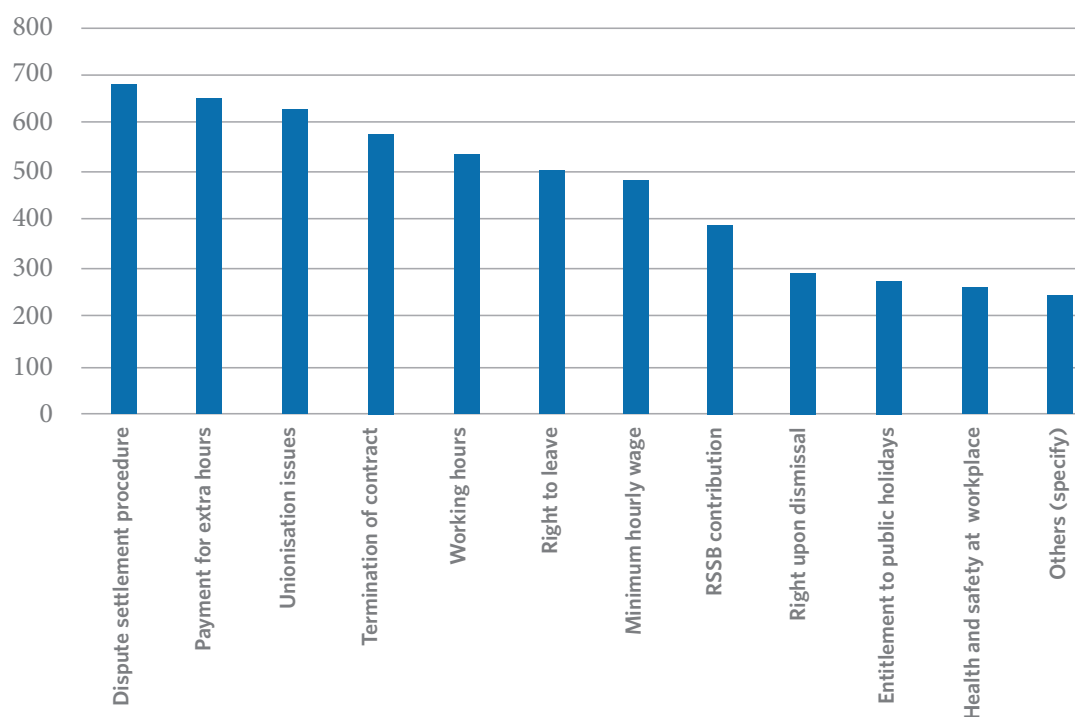
It is worth noting that employees who were better informed had a higher probability of getting a written decision, getting an explanation of the reasons for a decision, getting information on how the administrative process works in the first instance, getting more attentive treatment from a relevant public official, getting more courteous treatment, getting more helpful information, and being given an opportunity to make their views known and offer any evidence supporting their case verbally or in writing. These findings clearly highlight the importance of being informed.³⁰

The additional information about labor rights and labor issues that complainants said they needed spanned many topics. However, the greatest need for information concerned dispute settlement procedures (68% of respondents), payment for extra hours (65%) and unionization issues (63%). These were followed by termination of contract (57%), working hours (53%) and minimum wages (48%) Other topics about which some information was desired by complainants are indicated in Figure 2.

In further analyzing respondents' characteristics, it is worth noting that information about dispute resolution procedures was the most frequently mentioned by those from each of the four Ubudehe categories. However, some priority information needs appeared to be specific to particular groups:

- i. Females reported needing relatively more information on issues related to termination of contract and extra hours, and less about public holidays.
- ii. Complainants with lower levels of educational attainment mentioned the need for more information on unionization issues as their top priority, while complainants with higher levels of educational attainment said that more information on dispute settlement procedures was their greatest need.

Figure 2: Domain of information needed (in % of respondents)³¹



²⁸ 18% of complainants in Category 1 feel informed, 50% in category 2, 50% in category 3, 100% in category 4.

²⁹ 17% of complainants with no education feel informed, 35% for primary educated, 49% for Junior secondary educated, 62% for Secondary educated, 79% for University educated.

³⁰ These results are drawn from a multinomial regression results. The modeling strategy and the results table is provided in Annex A. For employees who are "somewhat informed" or "very well informed" the probability of getting a written decision compared to not getting a written decision is 3.7, or 5.4 times more likely, respectively, than for employees who are "Not well informed at all" holding other variables constant. Similarly, the probability of getting an explanation of the reasons for a decision is 5.0, or 7.8 times more likely; the probability of getting information on how the administrative process works in the first instance is 2.5, or 4.4 times more likely, and the probability of being given an opportunity to make their views known and offer any evidence supporting their case

In terms of where respondents reported going first to lodge a labor complaint, a very large number indicated they went to the labor inspector (81%). Many fewer reported appealing to a higher authority within their company (5%) or going to their firm's workers' delegates (5%). This is very noteworthy, as the law provides that citizens should first try to resolve a labor dispute within an enterprise by taking a complaint to their workers' representatives; accordingly, the high reported figure of going initially to the labor inspector seems to indicate a very low level of confidence in the workers' delegates, notwithstanding the legally prescribed procedure.³²

With regard to their interaction with labor inspectors, a large number of respondents said that they obtained useful information (84%), as opposed to respondents' experience with higher authorities in their workplace or with workers' delegates (from whom respectively only 16% and 35% instead of respondents reported getting useful information). Similarly, complainants indicated having a much better experience with labor inspectors when it came to courtesy shown to them, or attentiveness to their cases (84% found labor inspectors courteous and 81% found them attentive; by contrast, only 11% of respondents found company higher authorities courteous and 6% found them attentive, while the figures for workers' delegates were 24% and 31%, respectively).

It is also the case that if the employee was a male, the probability of getting more attentive treatment from a relevant public official (for most complainants, the labor inspector) was .41 times less likely than if the employee was a female, holding other variables constant. Similarly, the probability of getting more courteous treatment was .47 times less likely than if the employee was female, holding other variables constant. If the employee was in Ubudehe category 2 or 3, the probability of getting more attentive treatment from a relevant public official (for most complainants, the labor inspector) was 4.9 or 4.6 times more likely, respectively, than in the case of employees who were in Ubudehe category 1. Similarly, for employees in Ubudehe category 3, the probability of getting more courteous treatment was 3.6 times more likely than in the case of employees in Ubudehe category 1, holding other variables constant. (see all regression results in Annex A).

Similar disparate views emerged from the survey data regarding information provided about the appeals process by different actors: workers' delegates and higher authorities within the company were not seen as providing much of this information (respectively 35% and 26% of them were reported to furnish such information), while labor inspectors did so frequently (in 60% of the cases). A similar relative trend (with significantly better service provided by labor inspectors) was reported by respondents with respect to (1) being given an opportunity to provide evidence and make known his or her views of the case, (2) being provided a written decision and an explanation with reasons thereof, and (3) being furnished information about how and where to appeal. All of these practices reflect sound administrative justice principles.³³

Looking at case handling from the perspective of efficiency, about half of the complainants (49%) said that they received some kind of response to the substance of their complaint within 1 month of submitting it in the first instance to an individual or institution (which as noted above, means the labor inspector in slightly more than 4 out of 5 cases). Another 22% received a response within 1 to 3 months.

As for the issue of lawyer representation, the 26% of complainants who indicated that they had help from an attorney in presenting their case to this first instance institution were more likely than those who were unrepresented to say that their interlocutors – which, again, were labor inspectors in 81% of the cases – were more helpful, more attentive, and more courteous, and more likely to provide information, afford opportunities to complainants to present evidence and make their views known, provide complainants with a written decision,

verbally or in writing is 2.7, or 5.6 times more likely than for those employees who are "Not well informed at all". If the employee responds that he or she is "very well informed," the probability of getting more attentive treatment from a relevant public official is 2.3 times more likely than in the case of employees who are "not well informed at all.". Finally, if an employee answers that he/she is "very well informed," the probability of getting more helpful information is 3.0 times more likely than if the employee is "well informed," holding other variables constant. For employees who report being "very well informed", the probability of reporting more courteous treatment from a relevant public official is 2.427 times more likely than for employees who reported being "well informed" about the administrative process, holding other variables constant.

³¹ Calculation by IPAR.

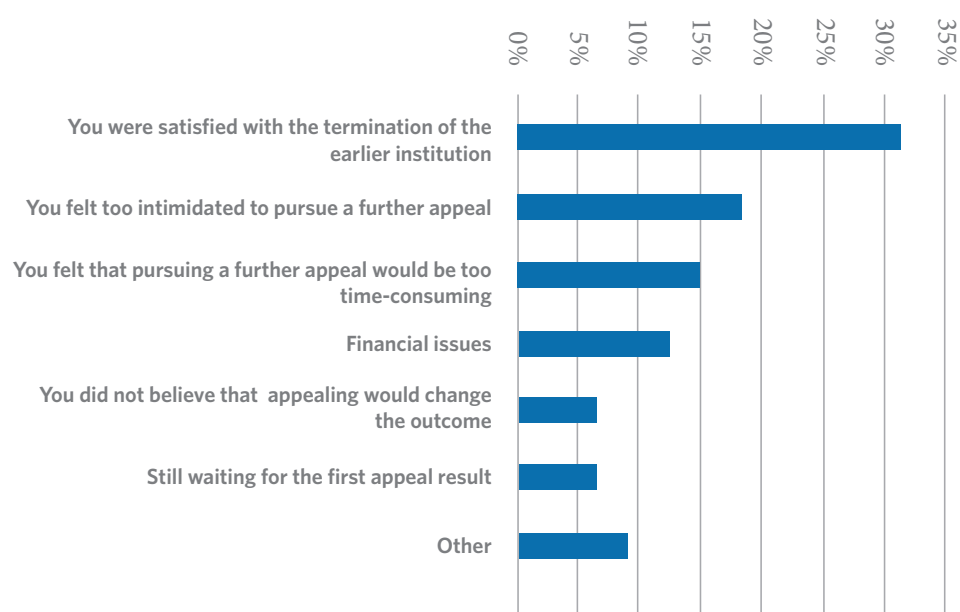
³² It is possible that some respondents did not consider workers' delegates as the 'initial' step in lodging a complaint as a procedural matter, but the wording of the survey asks the respondent where "did you go to complain/appeal first" about the dispute in question, and offers workers' delegates as an option. The most likely interpretation of the survey results is that citizens indeed went to the labor inspector directly, especially when viewed in the context of interviews separately conducted with citizens, many of whom expressed significant skepticism about the capacity of workers' delegates to effectively and objectively address employment disputes.

explain the reasons for the decision, provide information on how and where to appeal, and provide a swifter response to the substance of the complaint in question.

In terms of labor complainants pursuing additional appeals, 34% of survey respondents reported taking their complaints to a second forum. In this respect, when a complainant initially lodges a complaint with a higher authority within the employer, he or she typically pursues a second appeal to the labor inspector in 84% of the cases (and in 11% of the cases he or she does not pursue a second appeal). When the first recourse is to the workers' delegates, 69% of complainants lodge a second appeal to the labor inspector, while 29% do not pursue the complaint. When complainants first went to the labor inspector (which is the case for 4 out of 5 complainants), they proceed to courts in 25% of those cases, and 71% do not pursue any second appeal. The reasons why respondents did not pursue a complaint further³⁴ than the initial institution are provided in Figure 3. Among those who go no further, only 31% of them say they did so because they were satisfied with the initial determination of their case, while 18% of respondents said they felt too intimidated to pursue the complaint any further.

To the extent that most respondents pursuing recourse to a second institution took their appeal to the courts (60%) while a smaller cohort took their next appeal to the labor inspector (33%, which were those who first sought recourse solely within the company), different, but quite positive views were expressed as to the treatment received by citizens before these two institutions, respectively. At this stage of their respective journeys through the complaints process, citizens variously said that the courts and the labor inspector were very helpful or helpful in providing information relevant to their cases (respectively 95% and 85%), very courteous or courteous (respectively 94% and 90%) and very attentive or somewhat attentive in listening to their explanation of their cases (respectively 95% and 87%).

Figure 3: Reasons for not pursuing a complaint



³³ Survey respondents reporting on their experience before the various first instance complaint handlers had markedly different views on those actors' adherence to certain practices that follow sound administrative justice principles as follows:

(i) being afforded an opportunity to complainants to provide evidence and make their views known: Labor inspectors 83%, Workers' delegates 29%, higher authorities within firms 32%;

(ii) being provided with a written decision: Labor inspectors 74%, Workers' delegates 41%, higher authorities within firms 15%;

(iii) being provided with an explanation of the decision with reasons: Labor inspector 72%, Workers' delegates 41%, higher authorities within firms 16%;

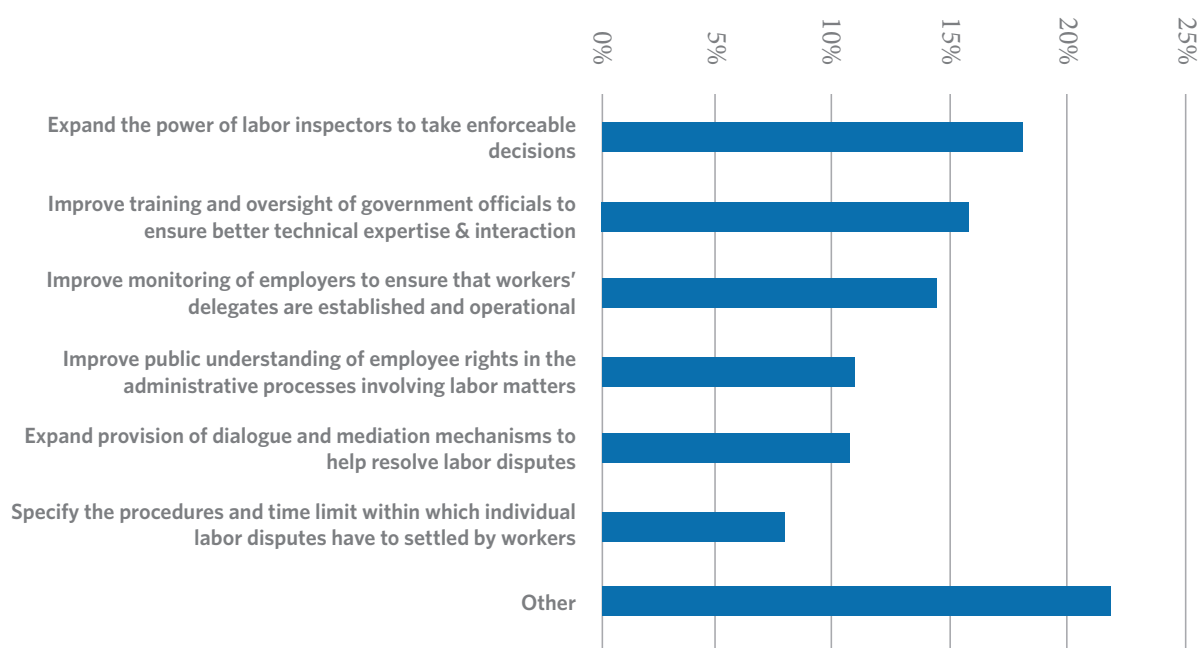
(iv) being provided with information on how and where to appeal: Labor inspector 68%, Workers' delegates 12%, higher authorities within firms 0%

³⁴ We note that 93% of the complainants who do not pursue a complaint first appealed to labor inspectors.

Among those who pursued a second appeal, only 17% of the complainants (that is 6% of the initial complainants) took their cases further, to a third appeal (which usually meant the courts, for those who initially lodged a complaint within the employer). For those who did not appeal further, the stated reasons for so doing included the following: 37% said they were still awaiting a decision from the second instance appeal forum, 25% were satisfied with the determination of the case by the second instance institution, and 14% said they felt too intimidated to pursue the case further.

Finally, survey respondents were asked to provide their top priority recommendations to strengthen administrative justice in Rwanda. The top 3 priorities identified by the respondents were as follows: Expand the power of labor inspectors to take enforceable decisions (18%),³⁵ Improve training and oversight of government officials to ensure better technical expertise and interactions with citizens in the handling of labor disputes (14%), and Improve monitoring of employers to ensure that workers' delegates are established and operational (15%). Other recommendations are provided in Figure 4.

Figure 4: Recommendations to SRAJ



³⁵ It is important to note that article 120 of the new Labor Law of 2018 provides for sanctions against employers who obstruct the functioning of the labor inspectorate. Modalities for implementing these sanctions are yet to be determined by an Order of the Minister in charge of labor. The law does not however expand the powers in relation to enforcement of settlement agreement.

3

Lessons Learned and Recommendations

A number of important lessons learned and recommendations emerged from the survey data collected in the six districts, the qualitative information gathered from citizen and public official interviews and focus group discussions, and from the validation workshop conducted with administrative justice stakeholders following the field research

Strengthening employee's awareness of their rights and dispute settlement procedures: are generally not aware of their rights in workplace labor matters and of those surveyed, more than a third (37%) did not feel well informed about their rights. As many as 68% of those surveyed said they needed more information about dispute settlement procedures (and 65% needed more information about the rules on overtime pay in particular (where field research indicated that employers frequently fail to pay overtime, or delay such payments). Many did not know what to look for in contracts or understand how to calculate or check their RSSB contributions. Validation workshop participants recommended that all employees need valid contracts, that employees and employers need to be educated about this, and that employees should be given ample time to read their contracts before signing them.

Based on these findings, there should be activities supporting expanded employee legal awareness, so as to inform them of their rights and the availability of dispute resolution mechanisms (the role of mediation in particular). This could be done, according to validation workshop participants, through both the media and workplace education. It was also specifically recommended that MIFOTRA hold its employment forums every six months (rather than every year) and do so at the district level. This educational effort could result in fewer workplace conflicts and less recourse to the courts, saving time and money for citizens and district governments alike. Specific trainings could be organized

by appropriate CSO's operating in particular sectors of the economy or with particular expertise, including that of mediation and conciliation.

Enhancing the functioning of workers' delegates: Interviews and group discussions revealed that most workers' delegates do not have sufficient understanding of applicable labor law and many are intimidated by their employers (many workers fear reprisals or the taking of decisions against employees not merited by the facts). Some worker's delegates do not even function, as elections may not be held in some workplaces as required by law. Moreover, the survey of citizens indicated that only about 2 in 5 of them (35%) found that workers' delegates had useful information about employees' rights and dispute resolution. By contrast, 82% of them believe labor inspectors have useful information to share on these matters. Equally important, only 24% of citizens found workers' delegates courteous in handling complaints and only 31% of them felt that delegates listened attentively to citizens' explanation of their cases

“
Workers delegates
are not protected
by the law, they
usually fear to
take decisions
related to disputes
between employees
employers, they just
keep quiet.
Group Discussion, 2019

(the figures were even worse for the higher authority within the employing institution--11% and 6%, respectively). And even where workers' delegates got engaged and took (or explained) a decision, only 41% of the complainants surveyed said they received a written decision or an explanation of the reasons therefor. Still fewer (29%) said they were given an opportunity to provide evidence on their behalf.³⁶

Consequently, it is vital to train workers' delegates on basic labor law issues and dispute settlement, and increase employee trust in, and reliance on, workers'

³⁶ It is worth noting that the 26% of complainants who reported having a lawyer help them present their case indicated that their first instance complaints handlers (81% of whom were inspectors) were relatively more helpful, more attentive, more courteous, more likely to provide information, more open to receiving additional evidence, providing a written decision, providing reasons for a decision, describing how and where to appeal, and providing a more speedy decision. However, since most citizens can't afford a lawyer and many disputes could be resolved more expeditiously at the workplace (where citizens currently don't bring most of their labor complaints), it behooves policymakers to think more critically about improving problem-solving and mediation skills among worker's delegates and company representatives.

delegates (if possible, trade unions and/or relevant CSOs should take the lead in assessing the needs of workers' delegates and developing a suitable capacity building program). Training is also needed for HR representatives and the leadership of firms. The law should also specifically improve protections for workers' delegates.

In addition, as an ancillary matter, labor inspectors should ensure, through inspections and sanctions if necessary, that employers do not seek to influence the election of workers' delegates. The firm is the first level of addressing private labor complaints and is key to reduce the burden of dispute resolution at the state level. In some private institutions, internal rules and regulations are working well for solving disputes between employee(s) and their employer. Those institutions usually have a mechanism for conflict resolution, which can take the form of a team or council composed by a legal adviser, a workers' representative and the management team. Within this framework, skilled representatives of employees - who may have received trainings at the district to improve their skills – have been reported to be drivers for solving most of the problems at the level of the company, together with the legal adviser who, when consulted, helps provide vital legal guidance.

Raising employers' awareness of dispute resolution and settlement procedures:

Interviews with employers indicated that many employers have limited knowledge about dispute resolution and settlement procedures, especially regarding the mediation role played by the labor inspectors. This lack of information can cause unnecessary adversarialism and non-compliance, creating inefficiencies for all three parties engaged in the process (employee, employer and inspector). Employers should be sensitized about the mandated and important mediation role played by inspectors as well as the benefits of mediation. Indeed, MIFOTRA, and the Private Sector Federation(PSF) should

develop specific information plans in this regard. And since employers are usually represented by lawyers in mediation, it is also crucial to encourage these lawyers to participate constructively in the mediation process in order to reach a genuine compromise or negotiated settlement. That, in turn, would in turn discourage the parties from viewing the mediation process as a mere formal legal requirement before proceeding to

court (where many citizens are hesitant or unable financially to go). In this respect, it was reported that when labor inspectors meet private employers and employees to make them aware of the law, the volume of disputes declines.

Adopting the ministerial order determining the sanctions in case of non-compliance of labor inspectors' decisions:

The current labor law (amended in August 2018) provides for sanctions against any employer who obstructs the functioning of the Labor Inspectorate or does not comply with on-site inspection findings and recommendations. However, the modalities for implementation of these sanctions are yet to be determined by an order of the minister in charge of labor. This order should

extend the power of the labor inspector to impose sanctions to cases where employers delay or otherwise fail to comply with a settlement agreement that he or she has certified (fully 18% percent of citizens responding to the survey specifically mentioned this as their top recommendation for strengthening administrative justice in the labor sphere)³⁷. This would greatly reduce obstruction by employers while reducing the need for employees to tie up significant resources seeking relief in the courts.

“
A challenge is when an institution prevents an inspection from being conducted. There is no fine to enforce these procedures {.....} and the report on inspection is therefore not followed. Without the enforcement regulation (via the Prime Minister's Order), the labor inspection is difficult

” KII, 2019

³⁷ Ideally, the order should also provide inspectors with the ability to sanction employers for repeated failure to comply with a summons for mediation.

Ensuring that all employees sign valid contracts with their employers: The labor law accepts the validity of unwritten employment contracts on condition that their duration does not exceed ninety (90) consecutive days. The labor law accepts the validity of unwritten employment contracts on condition that their duration does not exceed ninety (90) consecutive days. 26 Ideally, the order should also provide inspectors with the ability to sanction employers for repeated failure to comply with a summons for mediation.

Despite this requirement, some employers hire the services of employees for a period longer than ninety days without written contracts. If labor disputes arise in such cases, labor inspectors face difficulties in handling complaints from these employees without contracts being put in place. While evidence rules are liberal in labor matters, such employees still encounter major difficulties in presenting credible evidence to support their complaints. Accordingly, labor inspectors should carry out regular inspections within different companies to ensure that all employees have valid contracts and impose sanctions on non-compliant employers. Moreover, employees should sign contracts written in the language they understand best.

Strengthening the resources of the Labor Inspectorate: Interviews and group discussions with citizens, employers, and inspectors alike indicated that labor inspectors are severely under-staffed, and many are unable to hold office hours for more than two days per week, according to interviewees. Having only one labor inspector per district creates massive workload challenges for both mediation and inspection activities, both of which require field work (this is true even in the three Kigali districts that have two inspectors each but that frequently have even higher volume caseloads). It is important to increase the number of labor inspectors in proportion to their workload, based on a need assessment determining clear criteria on how to calculate the additional resources to be allocated. Moreover, labor inspectors need tablets and specially designed applications to more efficiently maintain and transmit labor data.

Very recently, labor inspectors have been equipped with a new electronic system in which they fill all data

regarding the labor in their respective district. The system is called ILAS (Integrated Labor Administrative System). It is an online case management system that has been shared by MIFOTRA. While the system is new, labor inspectors are starting to become familiar with it since and they have already received some trainings.

“
Labor inspectors need to be trained on how to calculate salaries[...], on mediation and conciliation skills[...], on the Integrated Labor Administrative System,[...] and on drafting minutes of mediation.
”

Group Discussion, 2019

This system is expected to increase the frequency and facilitate data collection. However, it was reported that ILAS should also have a space for the proper recording of all reports. In addition, peer learning between labor inspectors has been reported to improve knowledge. The peer learning occurs through social media platforms, on which labor inspectors share experience regarding their daily work. As there is a new law, with which inspectors are supposed to be familiar, labor inspectors have been active in creating different groups and platforms such as advisory council committee WhatsApp group and email groups, through which they share experience. This allows labor inspectors to anticipate

potential case and to learn how to deal with these cases.

Need for inspector training: Citizens expressed generally high satisfaction with the work of labor inspectors. For example, large numbers of survey respondents (84%) judged labor inspectors to be courteous and 83% said that inspectors afforded them an opportunity to present evidence on their behalf. Moreover, 74% also said that inspectors provided them with a written decision and 72% said that inspectors explained the reasons for the decision that was issued. Nevertheless, citizen interviews and group discussions surfaced significant dissatisfaction with the effectiveness of mediation, including the impression that inspectors were more solicitous of employers and did not adequately engage employers to find genuine areas of agreement and compromise. The fact that 34% of citizens surveyed did not receive a decision in writing is still challenging, and can lead to confusion and difficulties in enforcing inspector orders, thereby creating an evidence gap. This in turn creates problems for the inspector being able to adequately assess employer conformity with applicable legal standards.

Meanwhile, employers and employees alike indicated

in interviews that many inspectors needed stronger mediation training to bring parties to agreement and that they lacked specialized knowledge of particular industries, including mining (“improved training for inspectors” was the second most common recommendation from citizens regarding administrative justice improvements in the labor sphere—16% of respondents). This hampers uniform interpretation

of the Labor Law (particularly with regard to its new amendments), the carrying out of effective inspections, and more effective and technically relevant mediation sessions (including the drafting of more useful conciliation minutes and other germane legal documents bearing on the particular employer and sector involved).

4

Annex A: Regression outcomes

Variables descriptions

Male ----male=1, female=0

Education---- combine “None, never been to school “and “primary” into group “priedu”, and assign it as 1; then combine” Junior Secondary” and “ Advanced Secondary ” into group “secedu”, and assign it as 2; last, combine “Vocational” and “university” into group “highedu” and assign it as 3.

Lawyer presenting----if you received help from a lawyer in presenting your complaint to this institution.

Written decision----if you were provided with a written decision in the matter that was the subject of the complaint.

Second appeal----if you pursued a second appeal for your complaint.

Second appeal information---- if you were provided with information about how and where to further pursue a complaint/appeal in your case if you were dissatisfied with the decision in the first instance institution.

Process information----if information was provided verbally or in writing about how the complaint process operated.

View supporting----if you were given an opportunity to make your views known and to offer any evidence supporting your case verbally or in writing.

Decision explanation---- if the written decision was accompanied by an explanation with reasons for the decision.

To all the “yes/no” question, assign “yes” as 1, “no” as 0.

Table 1. Descriptive statistics

Variable	Mean	Std. Dev.	Min	Max
Male	.7533875	.4316244	0	1
Education	2.333333	.7625757	1	3
Ubudehe	2.683616	.5442592	1	4
Information	2.140921	1.046049	1	4
Lawyer presenting	.2228412	.4167334	0	1
Written Decision	.6852368	.4650697	0	1
Second Appeal	.6470588	.4785553	0	1
Second Appeal Information	.6155989	.4871323	0	1
Process Information	.729805	.4446802	0	1
View Supporting	.7743733	.4185778	0	1
Decision Explanation	.6685237	.4714009	0	1
Helpfulness (of the inspector)	1.712644	1.080698	1	4
Attentiveness (of the inspector)	1.737892	1.055443	1	4
Courtesy (of the inspector)	1.785915	1.057299	1	4

Regressions results

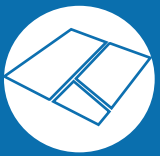
Table 2 Multilevel logistic regression models (Odds Ratios/Std.Err.)

	Binary logistic regression models					Ordinal regression models			
	Written Decision	Decision Explanation	Process Information	View supporting	Second Appeal	Helpfulness	Attentiveness	courtesy	
Gender: Male	.664 (.205)	.523** (.162)	.601 (.194)	.585 (.201)	.783 (.231)	.345*** (.121)	.411*** (.141)	.465** (.146)	
Education: secedu	.959 (.353)	.873 (.323)	1.178 (.436)	1.062 (.431)	.988 (.374)	.607 (.223)	.878 (.319)	1.147 (.386)	
highedu	.979 (.368)	.697 (.263)	1.137 (.430)	.636 (.257)	.784 (.297)	.980 (.381)	1.212 (.462)	1.460 (.514)	
Ubudehe: Category 2	.105** (.115)	.441 (.337)	.852 (.640)	.258 (.286)	.456 (.367)	1.471 (.993)	4.920** (3.114)	1.936 (1.159)	
Category 3	.136* (.149)	.475 (.357)	.759 (.558)	.258 (.283)	.736 (.588)	2.620 (1.760)	4.544** (2.814)	3.608** (2.137)	
Category 4	.065 (.108)	.279 (.409)	.332 (.486)	.099 (.164)	1.267 (1.929)	.958 (1.425)	2.195 (.179)	1.557 (2.176)	
Information: Not very well informed	1.681 (.688)	2.154* (.878)	1.720 (.695)	1.687 (.716)	.769 (.345)	1.038 (.423)	.675 (.274)	.893 (.341)	
Somewhat informed	3.703*** (1.60)	4.968*** (2.157)	2.467** (1.050)	2.688** (1.21)	.653 (.300)	1.656 (.730)	1.521 (.663)	1.335 (.534)	

Very well informed	5.350*** (2.371)	7.816*** (3.492)	4.143*** (1.837)	5.56*** (2.668)	.510 (.241)	2.931** (1.357)	2.262* (1.004)	2.427** (1.013)
Lawyer Presenting: Yes	2.016** (.669)	1.727* (.548)	1.841* (.622)	1.050 (.348)	.206*** (.060)	1.043 (.336)	1.022 (.317)	.919 (.263)
Second Appeal Information: Yes					2.400*** (.663)			
View Supporting: Yes						4.236***	3.652***	3.817***
Decision Explanation: Yes						(1.767)	(1.413)	(1.45)
						3.193***	3.148***	2.829***
Process Information: Yes						(1.172)	(1.109)	(.991)
						2.466**	4.919***	3.055***
						(1.073)	(1.985)	(1.229)
Pseudo R2	0.092	0.090	0.055	0.056	0.093	0.245	0.269	0.231
Number of Observations	344	344	344	344	343	333	336	340

Regress on Stata 15.1 Significance codes: P-value < 0.01 = "****", P < 0.05 = "***", P < 0.1 = "**"

Gender: female as a reference; Education: primary education as a reference; Ubudehe: Category 1 as a reference; Information: "Not well informed at all" as a reference



Land Expropriation and Administrative Justice

An Overview of the Practice of Administrative Justice in Land Expropriation

Land expropriation (the seizure of property for purposes in the public interest) has been a relatively contentious area of administrative decision-making over the past several years, but despite a number of important substantive reforms, including a new expropriation law in 2015, a number of procedural challenges remain, including many legally required processes that still need to be adopted via ministerial regulation, or are not implemented as intended. In some cases, simply better planning and advance communication with local authorities and the public would yield significant improvements.

This section of the report provides a general description of the practice of administrative justice related to land expropriation. It was informed by the SRAJ Project's Phase I Legal and Policy Framework Analysis, as well as the Phase II field research, which included in-depth interviews with citizens and government officials, group discussions conducted with citizens and public officials, respectively, in each of four districts (Gasabo, Bugesera, Rubavu, and Gicumbi), and cross-district group discussions with land officers from the above four districts and the two pilot districts (Kicukiro and Kamonyi) in which the survey instruments and interview guides were tested. Their views, against the backdrop of the operative legal framework, provide a multi-dimensional view of the current administrative process governing land expropriation. Following this section, we provide an overview of findings regarding the operation of the administrative process in practice, based on surveys administered to citizens with experience in that process. The report concludes with a summary of findings and policy recommendations.



Expropriation in the public interest

An act based on the power of government to seize a person's property for a purpose in the public interest after payment of fair compensation. The purpose can encompass anything from infrastructure (esp. roads) to master plans facilitating a variety of public works supportive of long-range urban planning and priority economic development. Insofar as the law does not give an exhaustive list of activities deemed to be in the public interest (see Article 5 of Law n° 32/2015 of 11/06/2015 relating to expropriation in the public interest - hereinafter referred to as "Expropriation law"), it is within the power of local committees of expropriation to determine/confirm the public interest nature of the proposed project. In reaching its decision, such committees are required to conduct a consultative meeting with the population living where the land is located to discuss the relevance of the expropriation project. However, the ministerial regulation establishing these committees has not yet been adopted, so that it is up to District Executive Committees to decide whether or how to conduct such consultations.

The process of land expropriation in practice

The administrative process is relatively uniform across the analyzed districts. However, the process differs when the project involving the expropriation of land is initiated by central authorities at the national level rather than by local authorities at the district level, as described below.

For projects initiated at the district level, the land expropriation law is used by district officials as the

basic procedural guide, following the steps according to Table 1. The process starts with identification of the site to be expropriated. There should then be a round of consultation with land owners, which may be conducted by the District Executive Committee³⁸ -- usually in the form of some kind of public meeting -- before the district takes a decision to expropriate the land. The District Council has the role of examining

³⁸ Article 11 of the Law on Expropriation states that the committee in charge of monitoring projects of expropriation in the public interest (referred to as a committee in charge of supervision under article 8 of that law) has to assess the relevance of the project within thirty (30) days after receiving the request for expropriation and conduct a consultative meeting with the affected population on the matter. As these committees have yet to be established by the Order of the Prime Minister, responsibility for the consultation falls to the district Executive Committee.

different projects of the district that may involve expropriation and are the ones to give the go-ahead on a project or stop it if necessary.³⁹

Subsequently, a separate meeting may be held to explain how citizens' land and appurtenant property will be listed, valued, and compensated.

After consultative meeting with the citizens, the Executive Committee submits in writing its decision to the District Council, which approves the expropriation in public interest as provided by article 15 of the Expropriation Law. This decision can be challenged in court within 30 days.

Once the decision on expropriation is made and the relevant land identified, (the specific decision to include a particular property on the expropriation list can be challenged in court within 15 days), the land is valued.⁴⁰ The owner of the land to be expropriated then has to provide the land title that shows ownership, his identity card, and his signature in order to accept the valuation. He must also provide his or her bank account number. The money is then supposed to be transferred.

Land owners who disagree with the valuation decision of the officials can make an appeal to the district government within 10 days, including via the use of a counter-valuation.⁴¹ If the complaint is accepted, the valuer goes back to verify the proposed compensation. The land to be expropriated can then be re-evaluated, usually by the district valuer. However, the complainant can instead hire a private certified valuer to carry out counter-valuation.⁴¹ If the district government rejects the complaint/counter-valuation, the citizen can still appeal this decision to the court, within 15 days. However, the above process is sometimes not honored in practice. At the same time, compensation was reported by many citizens interviewed in the field research to be delayed, often up to six months or more. Moreover, in practice, many citizens indicated that the short time frames for counter-valuation efforts to be undertaken are unrealistic and put citizens at a real disadvantage—especially since it can be costly to retain the services of an independent valuer and may take the citizen quite some time to find the money to pay for such services.



Procedure for application, assessment and approval of expropriation projects.

The application, assessment and approval for expropriation projects is supposed to follow this procedure:

Initial application: This is received by the Executive Committee at the district level (unless multiple districts within the City of Kigali are involved, in which case the Executive Committee for the City is the recipient, or the relevant Ministry, if multiple districts elsewhere are involved).

Consideration of the relevance of the project proposal for expropriation in the public interest: The Committee in charge of monitoring projects of expropriation in the public interest has to assess the relevance of the project within thirty (30) days after receiving the request for expropriation and is supposed to conduct a consultative meeting with the population concerning the relevance of the project of expropriation in the public interest (this is otherwise done by the District Executive Committee since the aforementioned committees still do not exist by law).

Decision on the relevance of a project of expropriation in public interest: When the Committee finds that the project is worthy of preliminary approval, it submits its decision in writing to the District Council (or the Kigali City Council or relevant Ministry, as the case may be) within 15 days after the consultative meeting with the concerned population.

Approval of expropriation in the public interest: On the basis of the decision of the Committee in charge of supervising projects for expropriation in the public interest (the Executive Committee currently), the next step is approval by one of the aforementioned competent organs within 15 days. The decision of approval must be announced on at least one of the radio stations with a wide audience in Rwanda and in at least one newspaper with a wide readership in order for the relevant parties to be informed thereof. Further, the list of landowners to be expropriated should be posted in a publicly accessible place at the office of the City of Kigali, the District, the Sector and the cell where the land is located (as the case may be) within 15 days of the approval of the expropriation.

³⁹ It also takes the role of providing advice and finding solutions to large-scale complaints that may arise from land expropriation, together with other relevant officials in the district. These are generally situations where the Mayor and Vice-Mayors may not otherwise find solutions or provide useful guidance to individuals or small groups of complainants.

⁴⁰ Article 23(2) of expropriation law indicates that "the valuation of land and property incorporated thereon shall be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda".

⁴¹ Article 34 of the Law on Expropriation provides for the right to counter-valuation.



Valuation and counter valuation of land and property: prescribed process

The valuation of land and property incorporated thereon must be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda. It must be conducted in the presence of the owner of the land and property incorporated thereon, or his or her lawful representatives, as well as in the presence of representatives of local administrative entities. The valuation must be completed within a period of 30 days. Where necessary, this period can be extended up to a maximum of 15 additional days, upon request by the government applicant for the expropriation, after approval by the designated organ. Within 15 days after the submission of the valuation report, the expropriator shall decide on the report prepared by valuers and publish it for information of the concerned persons.

Any person contesting the assessed value, may, at his/her own expense, engage the services of a different valuer or valuation firm recognized by the Institute of Real Property Valuers in Rwanda to carry out a counter-assessment. The counter-assessment and accompanying report must be generated within ten (10) days from the application for counter valuation. The expropriating entity must then take a decision thereon within five working days after the counter-valuation is received. When the counter-valuation report is accepted by the expropriator, it replaces the initial valuation report. When it is not accepted by the expropriator, the person to be expropriated who is not satisfied with that decision can challenge the matter in the competent court (in the case of district governments, the appropriate Intermediate Court). The appeal, however, will not suspend the expropriation process while it is pending.

If an expropriation is initiated and carried out by central authorities, the process is somewhat different, and unless the properties in question are in one or two discrete districts, the central government may not end up involving district authorities in carrying out the procedure. As a result, consultations with district officials, or with the land owners whose properties are targeted, may not be held, which is arguably not in compliance with the law. However, in many cases, district officials do collaborate with central government

officials, and are in charge of handling complaints—even where a wide range of central government officials may be involved in finding solutions to large-scale projects with significant opposition.⁴² In cases where master plans are involved, it was reported in the field research that some private investors with an interest in eventual development of the land in question may support district officials by providing legal advisors to develop creative solutions to potential landowner objections.

Key prescribed stages of the land expropriation process - district level

1. Application and identification of the site (site selection)
2. Consultation meeting with land owners
3. Decision of the District Council on the expropriation
4. Publication of the expropriation decision and the list of persons to be expropriated
5. Land valuation (under supervision of the district)
6. Approval and publication of valuation report regarding the properties to be expropriated
7. The fair compensation report is given to the land owners for signature
8. After the signature, the land owners submit documents allowing the compensation
9. After compensation, the land owners are given 90 days to move off the property and relocate

⁴² For example, interviews in the field research revealed the fact that in Gasabo District a group of members of the Parliament helped to find a solution with a group of property owner complainants, while in another case, the Ministry of Local Government intervened to help district officials find a solution with a large number of complainants.

The complaints process in practice

Although the law as set forth above prescribes certain activities to occur according to various time frames, in practice deviations may occur or decisions may be taken that are objected to by citizens. The field research conducted in four districts – both the surveys and interviews conducted with those who had pursued complaints in the past several years, as well as with public officials at the district level – surfaced considerable detail about how various expropriation complaints may arise, and how they are dealt with in practice.

To initiate any complaint related to land expropriation, most citizens are directed to go to the so-called One Stop Shop Center in the District, which is responsible for handling land and other commercial matters.⁴³ However, some citizens may instead choose to go to the Mayor's office or lower-level authorities such as village leaders (Umudugudu), or to cell (Akagari) and/or sector (Umurenge) leaders. Often this is done sequentially, starting with a lower authority and ending up with district authorities where the decisions are taken as a legal matter and where appropriate expertise resides. However, approaching lower-level local leaders first can be helpful from the standpoint of access and having such leaders provide guidance and advocacy, not to mention problem-solving that may obviate the need for the complaint altogether.

Citizen complaints brought to the One Stop Center can often be addressed rapidly in open meetings. People can present their complaints in open space before Center workers, who can sometimes provide solutions immediately. At a minimum, citizens can be given advice on expropriation procedures. Citizens who are not satisfied with key decisions regarding the decision to expropriate, inclusion of property on the expropriation list, and valuation/compensation amounts are directed to lawyers and/or private professional land valuers, where they can seek additional assistance. Notably, however, these workers are not professionally trained in mediation, which might otherwise afford some opportunities for resolution of problems without recourse to other individuals at the district level, or to institutions like the courts or the Ombudsman's office.

Complaints can, and often are, also entertained by Mayors, who may meet citizens during the office hours they regularly keep for citizen interactions. Although a Mayor is not specifically legally empowered to render decisions, he or she can provide possible solutions or guidance to complainants. For example, in cases involving land valuation disputes, a Mayor may suggest that a citizen asks for a counter valuation or where a valuation might seem low, request the district land valuer to make another attempt to value the property, possibly taking other factors about the property into consideration.

Most complaints do in fact arise when complainants are dissatisfied with their property valuation. In these cases, One Stop Center workers usually encourage citizens to seek a private professional valuer, in order to make a counter valuation. However, as the above example indicates, sometimes a second valuation may be conducted by the district on its own initiative, particularly if someone points out the extent to which potentially significant information was not considered the first time. In cases where a counter-valuation is made, the private valuer and the district valuer compare their respective valuations and deliberate in order to try to find common ground. If agreement is not possible, the citizen can appeal the district valuation to court.

Other types of complaints may concern the decision to expropriate land in the first place (which may be appealed directly to court) or the inclusion of specific properties in the proposed project (which can be appealed to the district government). These complaints may in turn be predicated on the government's failure to hold consultations with affected property owners and the community about whether the proposed seizure of land truly is in the public interest or could be done in a less intrusive or expansive manner at the contemplated site. Some interviews conducted in the districts seemed to suggest that if proper consultations were held, many expropriation-related complaints or citizen frustration could be avoided; in that case, the process might be better understood, citizen concerns could be received early in the process, and certain

⁴³ The ones directly responsible are those in the directorate of the One Stop Centers, which includes the Director, the lawyer of the Center (Land lawyer) and the Land Valuer. As discussed briefly below, certain other officials may get involved in certain aspects of the process, such as the Mayor, one or both Vice-Mayors (especially the Vice-Mayor responsible for economic and social affairs), the District Legal Advisor, and the Executive Secretary of the District. Those in charge of security may also be involved in the process.

problems could potentially be resolved without resort to complaints being registered. Still, in some cases, resolution of a complaint is not possible, particularly where valuations remain disputed or compensation is significantly delayed. In these instances, citizens often resolve to go to court, which is usually the Intermediate Court serving the district where the land is located.

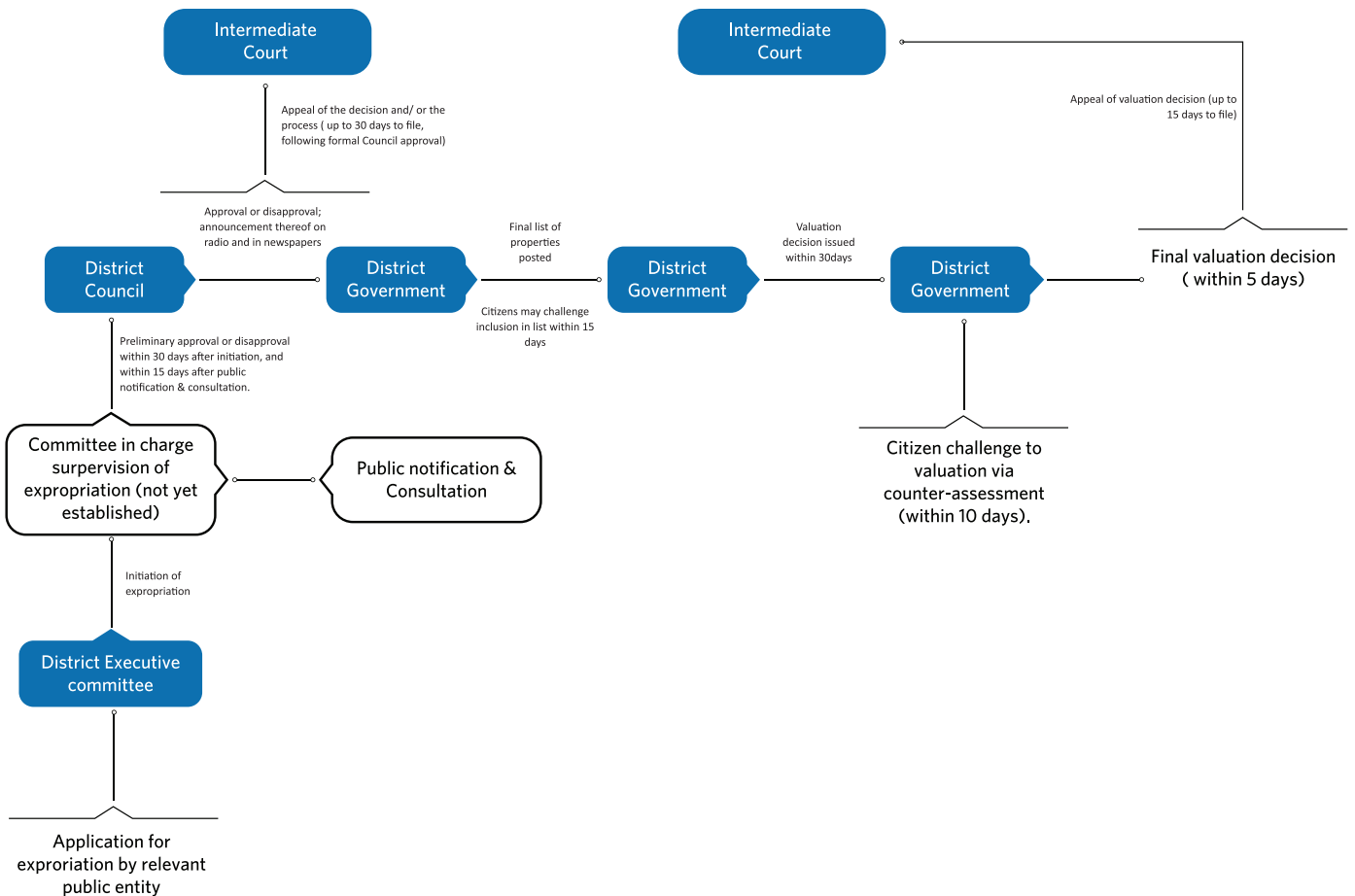
The overall administrative process governing land expropriation is depicted on the graphic below; the general decision flow is noted, along with key junctures in the process where citizens may bring complaints—in some cases to district authorities and in other cases to the courts).



Court appeals

Individuals affected by expropriation can take certain complaints to Court, including those seeking annulment of a decision to approve an expropriation, a revision of the valuation of property, or delays in payment of compensation. However, like with any other administrative case, administrative remedies must be exhausted before filing a claim in court. In cases of inaction by the district or other government ('administrative silence'), a complainant is usually allowed to submit a claim to court when a particular deadline for action has lapsed.

Administrative decision pathways: land expropriation



Cooperation/interactions between different government officials in practice

There are two important levels of cooperation among government officials involved in expropriation cases: (i) Cooperation between central and district authorities (including interactions with private investors); and (ii) cooperation among different officials within a district. Some of the details of these interactions were discussed during individual interviews or group discussions with district officials and to a lesser extent, with citizens who had been subject to expropriation.

- i. In the first case, the central government is inextricably involved in expropriations of any kind insofar as it is responsible for making funds available for expropriation projects, including funds for compensation. However, in some cases, central agencies implement their own projects (those with national significance or involving unique features that affect multiple districts) without consultation with districts. In many such cases, they simply sidestep district officials and go directly to the sector level where expropriations may need to occur in order to meet with citizens and sector officials (in which case, many procedures of the Expropriation Law may not be properly followed). In our field research, we learned that sometimes district officials are only made aware of the central government's plans in this regard when citizens come to complaint to them. This raises obvious issues of communication and coordination that could otherwise be obviated if central authorities were sharing their plans in advance and inclusive in implementing these projects.

It was also learned through the field research that districts share considerable information about planned expropriation processes with central government officials and with private investors (esp. where fulfillment of master plans is involved). They do so on a rather frequent and continuous basis through various correspondence so as to inform central authorities of the status of a project and any associated challenges.

Private investors willing to invest in the district, for their part, also engage in correspondence with both district and central authorities about the projects they want to implement and how this can fulfill certain plans that are in the public interest (e.g., details about the site, type of project, aim of the project, project duration). The districts assess

such projects and their impact on the development of the district, checking their conformity with the district master plan. If a district agrees that such projects are in line with the development objectives in the master plans, they typically give a go-ahead. In cases where the project is in contradiction with the master plan, it is rejected.

In rural areas, it was learned that investors may often come and negotiate only verbally with district officials, providing details of their project verbally, and then requesting permission to implement their project. District officials have been known to give a go-ahead for some of these projects without any significant written documentation of the process or the reasoning behind the decision. This can be very problematic for local government accountability.

- ii. Cooperation among district officials is inherent in the expropriation process, as described to some extent in the previous sub-sections. For example, the Land Lawyer and District Legal Advisor typically interact to a significant degree on legal issues surrounding the expropriation process and complaints handling. The One Stop Center Director, the Land Valuation Officer, and the District official designated to coordinate the expropriation project interact often, including at times when consultations are held. The Mayor, meanwhile, is often on the front lines in handling expropriation complaints, even if he or she has no official or legally prescribed role to do so. The Mayor can seek to find individual or group solutions to problems by consulting the Legal Advisor or the Land Lawyer, or can facilitate the directing of complainants to the staff of the One Stop Center.

While officials from the One Stop Center offices are supported by other officials, it was learned that they can also sometimes be involved in activities not at all related to land or business regulation. For example, staff of One Stop Centers have frequently worked on priority projects having to do with the sensitization of citizens concerning sexual harassment against women and young girls or educating the district population about health insurance.

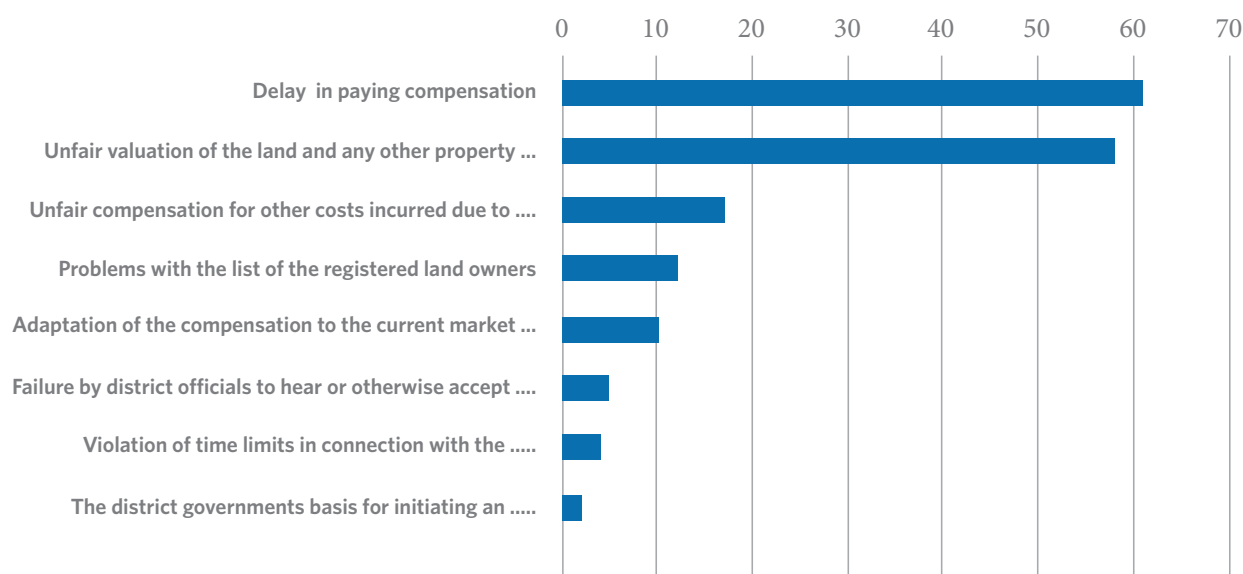
2

Land Expropriation Dispute Resolution: Quantitative Data on Administrative Justice in Practice

The field research conducted by the SRAJ project encompassed not only interviews with several dozens of citizens and public officials in four districts, but a survey sample of 111 citizen respondents⁴⁴ in each of the four sampled districts (Gasabo, Bugesera, Rubavu, and Gicumbi), who were selected based on their having been subjected to an expropriation within the past four years. Group discussions were also conducted with citizens and public officials, respectively, and a cross-district group discussion was held with land officials from the above four districts as well as the two pilot districts (Kicukiro and Kamonyi). The predominant characteristics of the citizens in the sample were as follows: Married (79.3%), older than age 55 (37.8%), men (57.7%), possessing at least a primary education diploma (76.5%), involved in farming activities (71.2%), belonging to the second Ubudehe category (44.1%), and with an income averaging less than 30,000 Rwf per year (45%). Persons living with a disability constituted 12.6% of the respondents.

For the most part, the complainants surveyed were mostly those who were expropriated due to projects involving future power plants, roads, or an airport. Insofar as a high proportion of these individuals were farmers, as noted above, they were likely prompted to file a formal complaint because they risked losing not only a place to live, but land critical to their subsistence. Figure 1 shows that of the various reasons the respondents had for registering formal complaints about expropriation, the vast majority addressed problems with delays in the payment of compensation (61%) or with allegedly unfair valuation (60%). Very few respondents, by contrast, registered a complaint about the government's basis for initiating an expropriation, indicating that most concerns revolved around payment and the fairness of the compensation process, not about expropriation as such or whether the seizure of land was legitimately in the public interest.

Figure 1: Reasons for complaining (# of cases)⁴⁵



⁴⁴ Note that the sample is not representative of the national population of complainants in land expropriation; as such the results cannot be generalized outside the respondents' population in the four subject districts.

⁴⁵ IPAR's calculation.

The expropriation process

In terms of self-reported levels of understanding of the expropriation process, 68.4% of complainants indicated that they were not aware of their rights in expropriation process.⁴⁶ When we disaggregate these respondents by certain characteristics, we find that men are slightly more aware of their rights in expropriation process (10 percentage points higher than in the case of women). We also note that awareness of rights seems to decrease with age; it is highest for people in their mid-twenties (41.7%) and lowest for people over 55 years of age (26.2%).

The main sources of basic information relied upon by respondents regarding the expropriation process were – in order of importance – communications with District officials such as the District Land Officer (44%), radio or TV (28%), lawyers (7%) and local leaders (5%). While consultations conducted by government officials were generally deemed helpful (77% of respondents found it somewhat helpful or very helpful), 2 out of 3 individuals affected by an expropriation were not consulted by district government before the latter took a decision to expropriate (i.e., 65.8% were not consulted on expropriation plans) and 64% were not consulted on how the expropriation was to be implemented).

Similarly, even following the decision to expropriate, 64% of citizens were not notified about the decision (indeed, 93% of the citizens who were not consulted on expropriation plans did not receive notification after the decision was taken). Conversely, when citizens were consulted about the decision to expropriate, they almost always reported being notified following the decision. For the 36% of citizens who were notified in some manner, 75% were informed through some kind of public meeting or forum and 25% by other verbal communication. In 25% of the cases, the notification was received one month before the relevant property was listed for expropriation. Otherwise it was received at least 3 or 6 months before such listing took place (respectively 28% and 48%).

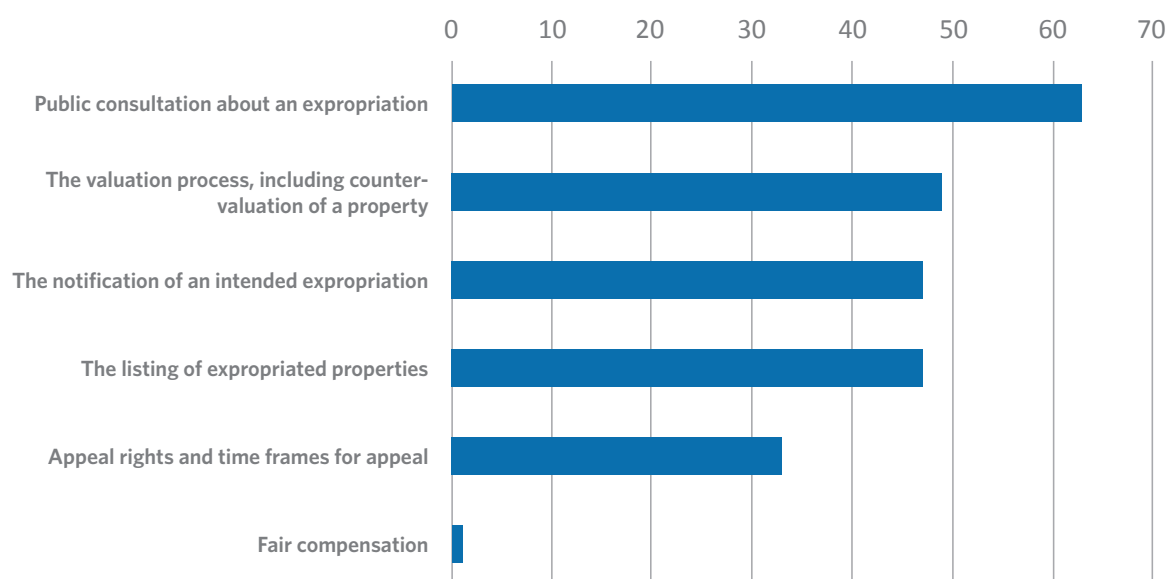
Only 10% of the complainants were given an opportunity to negotiate with a developer on the value of the land and/or any property incorporated thereon (in cases where consultations of this kind were not otherwise conducted by district officials), and only 55% of surveyed citizens were informed about the outcome of the property valuation process. If and when they were informed, respondents mentioned that they received the information in writing (52%), through a public meeting/forum (18%), or by other verbal means (22%).

Sixty-four percent (64%) of the respondents were dissatisfied with the outcome of the property valuation.⁴⁷ Ten percent (10%) pursued a counter-valuation through an independent property valuer, and of these individuals, 64% of the counter- assessment reports were considered, which resulted in some increase above the valuation.

When respondents were asked about what kinds of information they would have liked to receive more of (see Figure 2), the largest proportions cited information about public consultations (53%), the valuation process (including the right to counter-valuation of a property) (42%), the basis for the listing of expropriated properties (40%), being notified about the intended expropriation (40%), and information on appeal rights and timeframes for appeal (28%).

⁴⁶ 45.9% are “not well informed at all” while 22.5% are “not very well informed”.

⁴⁷ Very dissatisfied:21.6%; Somewhat dissatisfied:42.3%; Neutral:18.9%; Somewhat satisfied:14.1%; Very satisfied:2.7%.

Figure 2: Domain of information needed (in % of respondents)⁴⁸

The complaint process

As mentioned above, the main reasons cited by citizens in lodging complaints about expropriation were delays in the payment of compensation (61%) or problems with allegedly unfair valuation (60%). In bringing the initial complaint, a large proportion of citizens appealed to the One Stop Center in the District where the property is located (59%), which is to be expected given the expertise and responsibility of that unit for all matters related to land. Fewer respondents appealed to another authority within the district (19%) or to local leaders (11%).⁴⁹ In general, complainants reported that they chose the institution they filed their initial complaints with because they felt the institution would handle their dispute efficiently (63.2%). Despite this desire for efficient processing of their complaints, however, nearly half of the respondents had not received any response (49%) as of the time they were interviewed, and of those who did receive a response, 53% received it within 3 months.

As a procedural matter, respondents reported that they had generally unhelpful interactions with those to whom they brought their initial complaints. Slightly more than half of all respondents were not provided with any verbal or written information about how the complaint/appeal process operated (51%), and nearly two-thirds of respondents said they were not given an opportunity to make their views known and offer any evidence supporting their case (62.3%). Two-third of respondents (66%) said that they were not consulted by district government before a decision to expropriate was taken, and 64% of citizens said they were not consulted about the manner in which an expropriation would be implemented. Moreover, in the vast majority of cases, survey respondents indicated that district officials provided no explanation of the listing of properties to be expropriated (88%) or of the valuation process (90%).

At the conclusion of the process, a very large proportion of respondents (nearly four out of five complainants) were not provided with a written decision (79.2%), and an even larger number of respondents were not provided an explanation with reasons for the decision in question (87%). A still larger proportion of survey respondents

⁴⁸ IPAR's calculation.

⁴⁹ It is notably that respondents older than 55 and women are relatively less likely to file complaints (respectively 38% and 34% of their group). Similarly respondents who had either never gone to school or only had a primary education are less likely to file complaints (respectively 46% and 35% of their group).

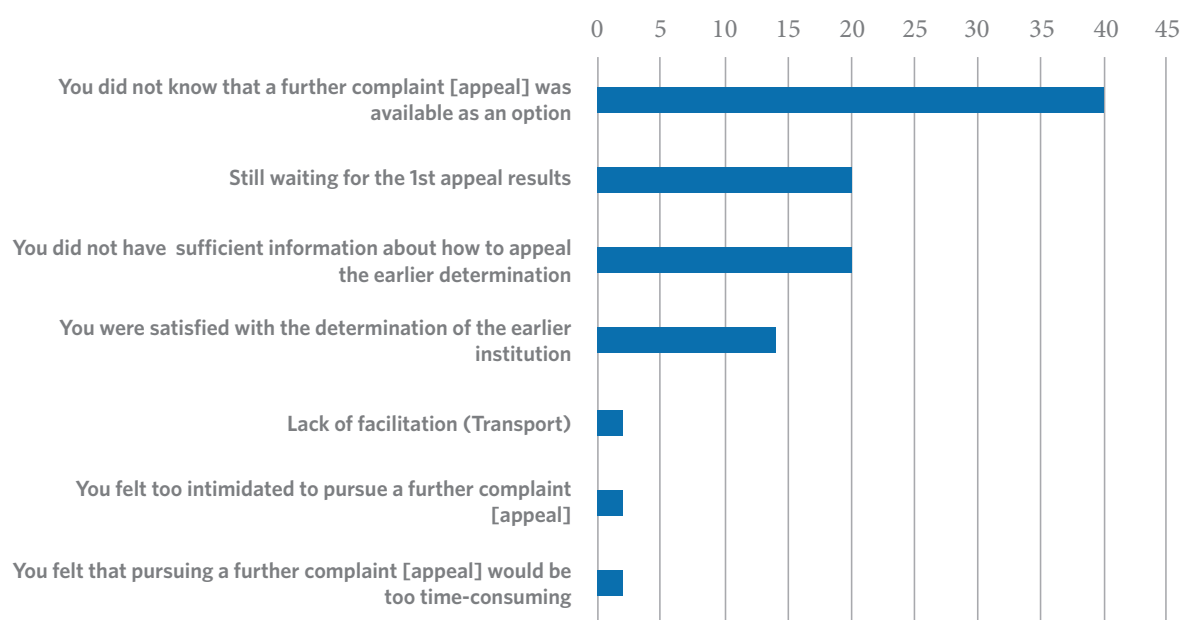
were not provided with information about how and where to further appeal their cases (89.6%). It is important to note that fully 88.3% of respondents reported that they were not represented by an attorney.⁵⁰

Respondents were additionally asked a number of questions about the extent to which those to whom they brought their initial complaints (as noted above, nearly 60% of these officials were associated with the One Stop Centers) provided helpful information of various kinds. Well over half of respondents (61%) said that they did not receive helpful information from these institutions/officials, while 39% said the information was helpful in some way.⁵¹ Interestingly, of the different individuals or institutions to which respondents said they brought their initial complaints, only Mayors were reported have provided very helpful information (60%). As for respondents' perception of the courtesy and attentiveness to their cases shown them by these individuals or institutions, here too Mayors received higher marks (100% and 80%, respectively) than officials working in the One Stop Centers (62% and 60%, respectively). Local leaders at village and cell levels were slightly better perceived (63% for both courtesy and attentiveness).

Of those who formally registered an initial complaint, 28% of survey respondents decided to pursue a further appeal. Of those who did so, 43% went to a higher authority within the central government—presumably MININFRA if, as is likely, some form of infrastructure is involved. One-third of all respondents (33%) went to the One-Stop Center, among whom 57% had registered a formal complaint with this unit the first time.

Of the 72% of respondents who did not pursue a further (second instance) appeal, 14% said they were satisfied with the determination made by district authorities initially, while 38% said they did not pursue an appeal because they lacked sufficient information about how to do so. Fully 60% of the respondents who did not pursue an appeal did not even know that a further appeal was available to them (see the various reasons provided by respondents in Figure 3 below). In terms of turnaround time, 22% of respondents received a response about their initial complaint within two weeks, while 26% of respondents received a response between 1 to 3 months. Twenty-two percent (22%) did not receive any response.

Figure 3: Reasons for not pursuing an appeal following a decision on an initial expropriation complaint



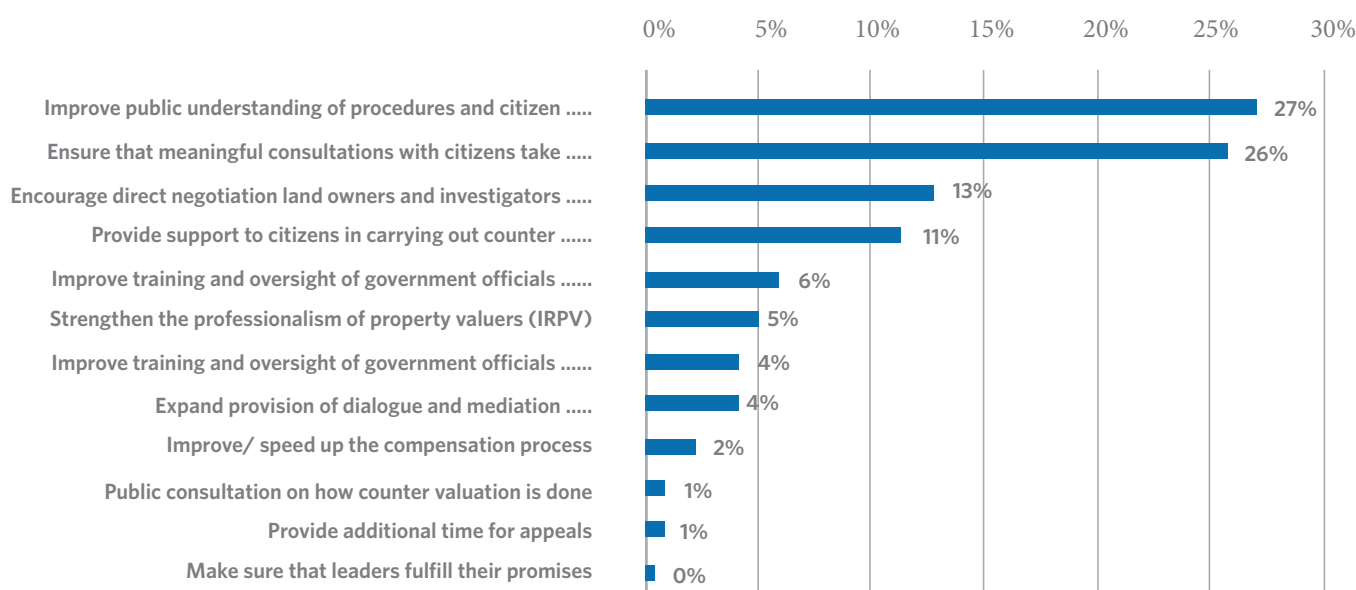
⁵⁰ The presence of the attorney (vs. no attorney) interestingly lowered the perceived helpfulness of information provided (22.2% vs. 38.2% helpful); while it was also associated with a lower level of perceived courtesy (44.4% vs 67.6% courteous) and a lower perception of the perceived attentiveness of officials listening to the citizens' explanation of their case (44.4% vs 64.7% attentive).

⁵¹ The presence of the attorney (vs. no attorney) lowers the helpfulness of information provided (22.2% vs. 38.2% helpful), it lowers the courtesy (44.4% vs 67.6% courteous) and the attentiveness (44.4% vs 64.7% attentive).

For those who pursued a further (second instance) appeal (as noted above, many went to MININFRA or, in the case of those who may have initially approached another part of district government, to the One Stop Centers), 52.4% of respondents felt that institutions they appealed to provided them with helpful information related to their case, were generally courteous (73.1%) and also generally attentive in listening to respondents’ explanation of their cases (71.4%). For the most part, the reported level of helpfulness from land office personnel within the One Stop Centers in providing information about the expropriation process was reasonably high (86%), while that provided by a higher authority within the central government was quite low (33%).⁵² Furthermore, even at this second stage appeal, respondents encountered numerous procedural shortcomings and obstacles. For example, 52% of respondents lodging such second instance appeals were not provided with a verbal or written information about how the complaint/appeal process operated. Only about half said they were given an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (52%). At the conclusion of the process, fully 74% of respondents were not provided with a written decision, and 78% were not provided a decision accompanied by an explanation with reasons therefor. However, 87% of respondents who pursued a second instance appeal did receive information about how and where to further appeal their cases. During this second instance appeal, 87% of respondents did not have a lawyer to help their present their case.

While only 11% of the respondents who initially registered an expropriation-related complaint pursued a third-instance appeal, those who did went variously to a higher authority within the central government, to the One Stop Center in the district in question, or even to the office of the President.⁵³ Given the ready availability of judicial appeal channels for a number of different purposes (valuation challenges, challenges to the decision to expropriate, etc.), only one appeal was reported to have been filed in court.

Figure 4: Recommendations to SRAJ



At the end of the survey, respondents were asked to identify the single most important recommendation they would make in order to improve administrative justice in land expropriation disputes. A number of procedural recommendations topped the list, with improving public understanding of procedures and citizen rights in the expropriation process receiving the most votes (27%), and ensuring that meaningful consultations with citizens take place with regard to an announced expropriation coming in second (26%). The third- and fourth most cited recommendations concerned the encouragement of direct negotiation between landowners and investors (where the government chooses not to engage in, or facilitate such negotiations) (13%); and the provision of support to citizens in carrying out counter-valuations (11%).

⁵² Land Bureau (frequency:31) and Central government (frequency:9): Very helpful (respectively 23.8% and 22.2%); Helpful (respectively 28.6% and 11.1%), Unhelpful (respectively).

⁵³ The number of cases reported to have been filed in these institutions were, however, only 1 or 2 each.

3

Lessons learned and Recommendations

A number of important findings emerged from the survey data collected in the four districts, as well as from the qualitative information gathered from citizen and public official interviews and group discussions, not to mention the validation workshop conducted with administrative justice stakeholders following the field research. These findings in turn informed a number of recommendations below, some of which flow directly from the stated preferences and priorities of survey respondents, and which demand accelerated attention from Rwandan government authorities.

Improving planning, coordination and communication in expropriation projects involving central agencies:

There is no clear policy on coordination between district governments and central government agencies on expropriation projects. This issue arose several times in interviews with relevant district officials. Some expropriation projects initiated by the central government are conducted without involving the district; the district only learns about the expropriation when the citizens raise complaints. This can lead to real challenges in ensuring that consultation takes place, addressing valuation and compensation modalities, and rendering decisions in a timely manner, as citizens may have already been expropriated when they first complain in the district. Since complaints are almost always received and handled by district officials, there should be advance planning, coordination and a clear channel of communication established between responsible central government authorities and district officials. In particular, affected districts should be informed by letter and email of any expropriation project approved by central authorities. This requirement should be enshrined in a Prime Minister's regulation, and/or through appropriate intra-ministerial directives from MININFRA and/or MINALOC.

Adopting and implementing the Prime Minister's order determining the organization, operational responsibilities, and composition of the committees in charge of supervision of expropriation projects in the public interest: AAs attested to by numerous public officials and citizens, the failure to establish the Committees in Charge of Supervision of Projects of Expropriation constitutes a critical gap in the institutional framework for expropriation at the district level, leading to additional planning and coordination problems. The yet-to-be established Committees are supposed to act as the main interface between the population being expropriated and the expropriating entity, handling crucial issues of public notification,

consultation, and informed decision-making as to the expropriation project under consideration. In the absence of these committees, the relevant District Executive Committees have had to assume these responsibilities, for which they sometimes lack sufficient technical knowledge, and which places them in a potential conflict of interest (since they are the ultimate initiators of the expropriation). Only the more specialized and formally neutral committees envisioned by the Prime Minister's order can devote the time and effort to adequately protect citizen rights in the expropriation process.

Improving consultation of citizens in the expropriation process:

As already noted, expropriation projects often take place without prior notification of, or consultation with, the public, particularly when central government agencies are the initiators. Sixty-six percent of citizens responding to the survey said they were not consulted by district government before a decision to expropriate was taken, and 64% of citizens said they were not consulted about the manner in which an expropriation would be implemented — which is not surprising given that respondents reported that their greatest need for information is related to public consultation (53%).

According to several individuals interviewed, this leaves citizens without an adequate opportunity to offer their views on whether a project is indeed in the public interest (and how it can be conducted in as a non-disruptive manner as possible), and without adequate time to begin plans and communications about the valuation of their property. Indeed, the second most commonly recommended improvement to the land expropriation process cited by those taking the survey - 26% of all respondents - was "ensuring that meaningful consultations with citizens take place with regard to an announced expropriation."

Improving record keeping and documentation: Field research indicated that expropriation files are usually not properly kept. There is no electronic filing (except in a few urban districts) and files in hard copies are often misplaced or even stolen. There is also a need for staff to better maintain all land related archives. Improving record keeping by creating an electronic filing system and using it systematically would greatly benefit overall management of the expropriation process and citizens who seek various administrative files in the complaint process.

Assisting citizens to challenge valuations: While it is reported that the law clearly guides how can a complainant can ask for a counter valuation, and how to compare the outcome of the two valuations, survey results indicate that citizens not only face significant difficulties in challenging expropriations (due often to the failure of local authorities to properly notify citizens of an impending expropriation activity), but also in obtaining what they perceive as fair compensation for their property.⁵⁴ Indeed, the field research indicated that 45% of survey respondents received no notification of the valuation of their property by the government whatsoever, and that 64% of respondents were dissatisfied with the proposed valuation once they learned about it.

While challenging a valuation is possible, it faces obstacles. First, citizens may not be aware of their rights to a counter-valuation. Second, obtaining a counter-valuation by a private property valuer may be expensive for many citizens— something confirmed by the field research, where the expense of a counter-valuation was deemed prohibitive for many citizens, especially complainants belonging to the first and second Ubudehe categories. For example, only 9.9% of respondents were able to pursue a counter-valuation, and 68% of these individuals were unaware that they had a right to such counter-valuation (22% said that obtaining a counter-valuation was too expensive). Of

“
There is no
electronic filing and
files in hard copies
are often misplaced
or even stolen.
Group Discussion, 2019

”

those who were able to pursue a counter-valuation, 63.6% were able to have the independent private valuer’s report taken into consideration.

Under these circumstances, the government should ensure that citizens are notified about their right to an independent valuation. It should also consider some mechanism by which poorer citizens (e.g., those in Ubudehe categories 1 and 2) can obtain an independent valuation at an

affordable price. At the same time, the government should also increase the period

allocated for counter-valuations: the existing period of 10 days is far too short for the citizens (never mind poorer citizens) to seek legal advice and access money to carry out an effective counter-valuation. This reform should be prioritized in future near-term amendments to the Law on Expropriation.

Ensuring timely and fair payment of compensation: As noted above, the survey indicated that the main reasons for expropriation-related complaints were delays in paying compensation and unfair valuation. The districts and concerned central agencies should accordingly improve budget planning in order to ensure sufficient funds for timely payment of compensation. Specifically, no expropriation activity should commence until the budget is transferred to the district in question. Meanwhile, the right to a counter-valuation should be a central part of consultations and communication with the public in any district in the future.

Strengthening public awareness: Most citizens are not aware of basic expropriation procedures and associated rights; indeed, 68% of the citizens interviewed reported that they were not well informed about the process. In fact, the most commonly recommended improvement cited by survey respondents (27% of citizens) was “improving public understanding of procedures and citizen rights in the expropriation process.”⁵⁵ Logically there should be expanded public education efforts through various media such as radio and TV, as well as sensitization activities through public meetings/

⁵⁴ Note that in Gasabo district, the property to be expropriated is valued twice. This avoids errors and reduces the number of complaints. A cost benefit analysis of this practice would help assessing its efficiency.

⁵⁵ It’s important to note that the vast majority of citizens (83.3%) who responded to the survey did not have legal representation when bringing their complaints to the district one-stop shop offices.

forums such as Umuganda. This need for a variety of communications channels was confirmed by the field research, which showed that the main sources of information for citizens on rights and processes related to expropriation included district land officers (44%), and radio or TV (28%). Indeed, fully 75% of citizens said that if they had been consulted, it was done through a public meeting or forum, and 77% of respondents said they found it useful to consult with district officials.

Strengthening the capacity and training of district officials (especially staff of one stop centers): Based on the above challenges, and given their ground-level responsibilities related to expropriation (including complaints handling), district One-Stop Center officials should receive additional training complementary to the trainings currently offered by Land Center (Rwanda Land Management and Use Authority) and by the Rwanda Housing Authority and resources to carry out their work and communicate effectively with citizens. This includes paying proper attention to procedural requirements and individual rights in the expropriation process; however, in an overwhelming number of cases, survey respondents indicated that district officials provided no explanation of the listing of properties to be expropriated (88%) or of the valuation process (90%). Moreover, just over half of all complainants were not provided with either verbal or written information as to how the complaints process operated, and

nearly two-thirds of citizens surveyed indicated they did not have an opportunity to present their views or offer evidence in support of their case (62.3%). Notably, nearly 4 out of 5 (79.2%) of citizens were not provided with a written decision on their expropriation complaint (including valuation decisions), and a very high percentage (87%) of citizens indicated that the decision was not accompanied by an explanation with reasons. An even higher percentage of respondents -- 89.6% -- were likewise not given any information about how and where to appeal. Based on these findings, district officials must be given detailed training on how to communicate with citizens and provide basic procedural information (including through role play and simulation exercises), while being subjected to more stringent job performance criteria and workplace oversight.⁵⁶ Moreover, district land managers should also be given GIS software and an adequate transport budget to meet with citizens on expropriation matters and more effectively discharge their duties.

Creating a forum for one stop center managers: In a focus group discussion the need to create a forum for all district one stop center personnel emerged. This is a forum where they could meet at least once a year to discuss common challenges and ways of addressing them most effectively. This would also help generate practical recommendations that could be forwarded to policy-makers to help improve the quality of their work.

⁵⁶ One approach might be to insist that as part of their performance plan and evaluation, officials keep hard and soft copies of their written decisions on file, and that those decisions be scrutinized and documented by superiors regarding evidence of distribution to the citizen (via a signature) and inclusion of reasons for the decision and information about where to appeal if the citizen is not satisfied with the result.



Public Procurement and Administrative Justice

1

An Overview of Administrative Justice in Practice in Public Procurement

Public procurement at the district level has a profound impact on businesses of all sizes and types in Rwanda and helps shape overall opinions about the state of the investment climate in the country. The perceived fairness of procurement processes and competence of procurement officials has an important bearing on public trust in local government. To explore the functioning of administrative justice in public procurement at the local level, field research was conducted in five districts (one from each Province and the City of Kigali). The research involved surveys administered to 50 bidders who had participated in tenders in the five districts over the past four years, as well as in-depth interviews conducted with 20 district officials, and group discussions with tender

committee members in four of the five districts. A group discussion was also conducted with procurement officers from each of the five different districts. These sources of data collectively informed the findings and recommendations below.

This section discusses the general contours of local procurement practice, based on both the applicable legal framework (as described in the SRAJ Project's Phase I Report) and the views of both citizens and district officials. The second section summarizes the results of the bidders' survey, while the third section contains key lessons learned and recommendations from the field research.



Public procurement and procurement disputes:

Public procurement encompasses the procedure through which a public entity acquires goods, construction, or services from outside vendors in return for a price. There are four types of public procurement in Rwanda: procurement for works; procurement for goods or supplies; procurement for consultancy services; and procurement for non-consultancy services.

Procurement disputes generally concern issues of compliance with the procurement rules, such as those related to the evaluation of bids (selection criteria), cancellation of the contract, and various penalties that may be assessed for failure to execute the contract as specified.

Procurement plans and the procurement process

The procurement process starts with the preparation of the public entity's budget for the financial year and the subsequent elaboration of a procurement plan indicating upcoming tenders and associated information.¹ The procurement process starts with the preparation of the public entity's budget for the financial year and the subsequent elaboration of a procurement plan indicating upcoming tenders and

associated information.⁵⁷ The procurement plans are prepared by different departments within the district government and consolidated to form a plan for the entire local entity. Procurement plans that are not put together properly or timely shared with the public often lead to disputes about potential tenders, according to private sector bidders who were interviewed as part of the field research.

⁵⁷ Article 16 of the law N°62/2018 of 25/08/2018 governing public procurement (hereinafter Public Procurement Law) requires each procuring entity to prepare and submit to the responsible Ministry and Rwanda Public Procurement Authority the annual procurement plan indicating activities to be submitted to tender and related budget.

The procurement process must follow key timelines as part of the execution of the procurement plan. The main steps of any procurement process are: preparation of the tender, advertisement of the tender (call for bids), bid evaluation, award of the contract, and contract management.

Once a tender is published, anyone can consult it for information about requirements and procedures. At this stage, it is common for bidders to have many kinds of questions—about terms of reference (which can be unclear or contradictory), the nature and format of required documents for the submission, and the e-procurement system—that can lead to disputes/claims. Clarifications may be needed, and a clear format for seeking and receiving such clarifications is necessary. Eventually, according to the prescribed timetable, bidders submit their bids and receive an evaluation, which can sometimes be judged by the bidder to be unfair. At this point, bidders can meet with officials in person in an effort to clarify the issues (allowing the latter to explain their decisions and reasons therefor), while others may simply elect to complain in writing.

The contract is negotiated and signed between the successful bidder and the Chief Budget Manager (see below for a description of his/her role). Following award, the contract is often amended due to changed circumstances, especially matters concerning the timeline for deliverables. Occasionally, contracts are even canceled for certain reasons, which can also lead to disputes. When the service/good in question has been delivered or the work has been completed, the district is obligated to pay the bidder. Failing to do so in due time may result in a complaint, although some bidders do not like to complain, since they want to work again with the procuring entities and do not want to spoil their relationship with them.



Public procurement stages

The principal stages of the procurement process include: Preparation, Advertisement, Bid Evaluation, Contract Award and Contract Management.

1. **Preparation of the tender documents:** This encompasses a number of different decisions and activities, starting with development of technical specifications and selection of the procurement method. For the most part, the procuring entity awards public procurement contracts through open competition, unless otherwise provided by law, which could encompass other methods such as restricted tendering; a request for quotations; single source procurement; or direct contracting.
2. **Bid evaluation:** This includes the opening of bids; evaluation of the bids, which consists of a detailed administrative, technical and financial review;; a further round of clarification and evaluation involving finalist bidders; and possible negotiation with the finalist(s).
3. **Award of the contract:** This stage entails contract negotiation and signing of the contract. It is important to note that the contract can be amended up to 20% of the initial tender price via an addendum to the contract.
4. **Contract management:** This stage involves monitoring of the execution of the contract. The procuring entity usually appoints a specific supervising official to monitor execution of the contract in collaboration with the procurement officer. Monitoring can include discussions about the timing and quality of the goods or services being delivered; clarifications or improvements necessary to bring the work into line with the contract requirements; and invoicing and payment for deliverables. It can also involve penalties or withholding of payment for delays or failures of performance.

Practice and recent changes in the procurement process

Until recently, the procurement process in districts and central institutions was guided solely by procurement law and regulations, as well as Rwanda Public Procurement Authority (RPPA) guidelines. The submission of bids was made by hand or by post to the physical address of the procuring entity. However, today, bids are submitted electronically following new electronic procurement (e-procurement) guidelines.⁵⁸ All submitted information can be electronically verified and retrieved by the RPPA in its role of overseeing all public procurement processes in the country.

A well-defined procurement process

RPPA as an institution has continuously sought to improve the procurement system based on fundamental principles of transparency, competition, and value for money. According to findings from key informant interviews and group discussions with district officials, the rules and regulations are now quite clear and the RPPA guidelines of RPPA well-articulated. In this regard, districts for the most part appear to follow transparent standards in preparing bid documents, evaluating tenders and awarding contracts. The tender document facilitates the process, as it indicates all information the supplier needs in order to prepare the solicited quotations and other materials. This information includes, among others things, documents required to be submitted by the supplier, necessary specifications, and a price schedule in an appropriate format. Moreover, the district legal advisor is supposed to actively assist, advise, and ensure that the legal requirements are followed.

Using IT Solutions: The E-procurement system

With the advent of the e-procurement system, regulations and guidelines are accessible online via a transparent interface that moves the user through the process step by step, making it harder for bidders

to make mistakes or miss certain requirements. Interviewees indicated that the system has reduced the number of bids disqualified due to the lack of items required to be submitted. Moreover, E-procurement has also improved the RPPA's auditing capabilities. No longer limited to conducting retrospective audits, the agency now has the ability to monitor ongoing web-based procurement processes to obtain real-time information, making it easier to detect problems and react to potential irregularities promptly. In general, by limiting discretion by front-line procurement officers at the district level, the e-procurement system curtails opportunities for bid manipulation or the extension of favors to certain bidders.

Key roles and responsibilities of district actors in the procurement process

While the entire district staff can be said to participate indirectly in the procurement process via their role in helping put together the district procurement plan, the implementation of the plan is led by specialized units and committees and overseen by the Chief Budget Manager (CBM), who is usually the Executive Secretary of the District. The CBM is mandated to establish a tender committee of seven members from different units, which has the job of evaluating tenders and recommending awards.⁵⁹ The tender committee is specifically charged with approving procurement plans, reviewing technical specifications, opening and evaluating bids, notifying bidders, and awarding contracts. It may also get involved to a limited extent in contract management. The tender committee reviews the technical specifications as well as tender requirements before they are published for purposes of quality assurance, fair competition, and transparency. The committee evaluates the bids and submits their evaluation results to the CBM/Executive Secretary.

⁵⁸ Article 4 of the Public Procurement Law requires the use of e-procurement for public procurement in all public procuring entities. However, RPPA may give authorization to conduct public procurement proceedings without using the e-procurement system upon request of the procuring entity, which must give proper grounds for not using the electronic system.

⁵⁹ Article 10 of Public Procurement Law provides that responsibilities of the Tender Committee include: evaluation of bids; recommendation for tender award; providing recommendations on all issues relating to public procurement; providing advice on tender documents before their publication; recommending tenders to be awarded through methods other than open competition; making recommendations on any change to be carried out on the procurement contract and the opening of bids in cases where they have not been submitted through the e-procurement system.

BOX1: Examples of Collaboration: Testimonies from Procurement Officers

One officer reported that the exchange of information between the authority and the procurement unit is well organized, especially regarding complaints related to tenders. Procurement unit works with the Chief Budget Manager (CBM) and Division Manager in charge of corporate services (DM) and technicians. She noted: “We work together, as we need advice from each other in order to resolve certain problems.” She explained that the DM is the one in charge of disseminating tenders after the tender requirements have been stated. The tender committee works with the DM and the whole procurement unit during the entire tender process. The legal advisor is not continuously involved in the process, but is kept in the loop so that in case a problem arises, he or she has a clear understanding of how the process was handled up to that point.

Another officer said he routinely seeks advice from the tender committee when he cannot resolve an issue. He thinks it is key that the legal advisor participates in the process, especially at the contracting stage where he advises on how the contract is proposed and how agreements should be formulated.

Yet another officer highlighted that the fact that procurement officers can readily ask other relevant staff for help, e.g.: asking the DM to resolve disputes or other problems before engaging in written correspondence (i.e.: before documenting how a case was handled).

The tender committee is composed of members selected from departments that will be using the procured goods/services in question based on the specific procurement. Members are appointed by the CBM of the district based on their technical knowledge in particular relevant fields. After nomination, the members are supposed to be provided training in the procurement process, even if they have been involved in prior procurements (since each procurement has its own specific requirements and idiosyncrasies). Nevertheless, it was reported during group discussions with both bidders and district officials that some members of a tender committee may have insufficient knowledge of the subject matter in question or may lack the requisite experience in contract management. This can lead to unnecessary confusion and mistakes, even when, as is necessary, members consult internal or external experts.

Meanwhile, one or two procurement officers are charged with following up on all of the district’s procurement obligations. The procurement officers essentially carry out day-to-day operations of the procurement process in collaboration with other members of the tender committee and the CBM. These operations include, among other things, preparation of tender documents; preparation and review of terms of reference (TOR) in collaboration with related departments; preparation and publication of related advertisements; receipt of submitted bids; organization and participation in the evaluation of bids, as well as notification to the

successful bidder. In addition, they receive and initially process any appeals from complaining bidders. The procurement officers also prepare the contract with the successful bidder, and get involved as necessary on an advisory basis in contract management in collaboration with the relevant district department.⁶⁰

Another important actor in procurement matters at the local level is the district legal advisor. The legal advisor participates in district management meetings, for the purpose of advising on legal and procedural requirements on any matter of the district. Legal advisors also specifically cross check the type of tender or bid to be awarded, so as to ensure it fits within the announced procurement plan of the district and associated district budget parameters. They also play a major role in helping procurement officers draft the different documents required by the procurement process. Finally, legal advisors provide legal advice during the handling of appeals from bidders, including with regard to the rights of bidders and communications with them (e.g., concerning the basis for a decision and the marshaling of relevant evidence/justification therefore).⁶¹

It is important to note that in the case of infrastructure procurements involving roads that are large and complex, districts may also utilize the support services of the Association d’Exécution des Travaux d’Intérêt Public (ASSETIP), an association that brings together various actors in the field of infrastructure projects. ASSETIP assists districts in planning, design,

⁶⁰ Article 11(7⁹) of Public Procurement Law provides that procurement officer(s) have, among other responsibilities, to monitor contract execution in collaboration with concerned departments.

⁶¹ One other function of the legal advisor is to guide the district leadership on how best to deal with internal legal matters involving procurements, e.g., possible measures to be taken against a member of a tender committee caught in, or suspected of, wrongful conduct. Note that every Tuesday in most districts, there is also a general staff meeting in which the Mayor seeks to address problems affecting the work of individual departments, including those involved in procurement matters.

procurement, delivery and maintenance of feeder roads. This kind of work may actually also require the cooperation of the Rwanda Transport Development Agency (RTDA), the Road Maintenance Fund (RMF), the Local Administrative Entities Development Agency (LODA), and the concerned districts to reach a consensus on the conceptual approach to the roads in question, not to mention material and unit costs for maintenance.

The process is intended to optimize the efficient use of resources by the Government. ASSETIP may also help streamline development of the terms of reference (ToR) and technical specifications for large, complex projects other than those concerning infrastructure. This has helped districts to recover many discrete costs while building their capacities.

Dispute resolution in procurement cases

According to the Procurement Law and associated regulations, those bidders appealing a procurement decision are required to write a letter to the relevant tender committee within seven (7) days following the announcement of the bid evaluation results (Art. 51(2) of the Law on Procurement). They are entitled to receive a response no later than seven (7) days after submitting their complaint (Art. 51(3)).⁶²

As noted above, some bidders mentioned that they try to settle a dispute orally through a meeting with procurement staff. In this case, the complaint process often stops after the discussion, with or without a satisfactory decision. Other appeals may be submitted in writing to the district procurement officer, even if they are initially addressed to the top leadership of the district through the central secretariat. Once the appeal is received, the district tender committee in question convenes a meeting to discuss the substance of the complaint and provide feedback.

If a bidder is not satisfied with the response at the district level, he/she can bring the appeal to the Independent Review Panel of the RPPA. The Independent Review Panel must make a decision within thirty (30) days following receipt of the appeal. If the panel is unable to reach a decision within thirty (30) days, it must inform both the procuring entity and the complainant of the need for extra time, which cannot exceed an additional thirty (30) days. In case of administrative silence by the IPR after the initial 30 days, a complainant is permitted to lodge an appeal to the competent court, which in this case means the Commercial Court.⁶³ This is also the applicable procedure when the complainant is otherwise dissatisfied with a decision rendered by the Independent Review Panel.



Appeal mechanisms

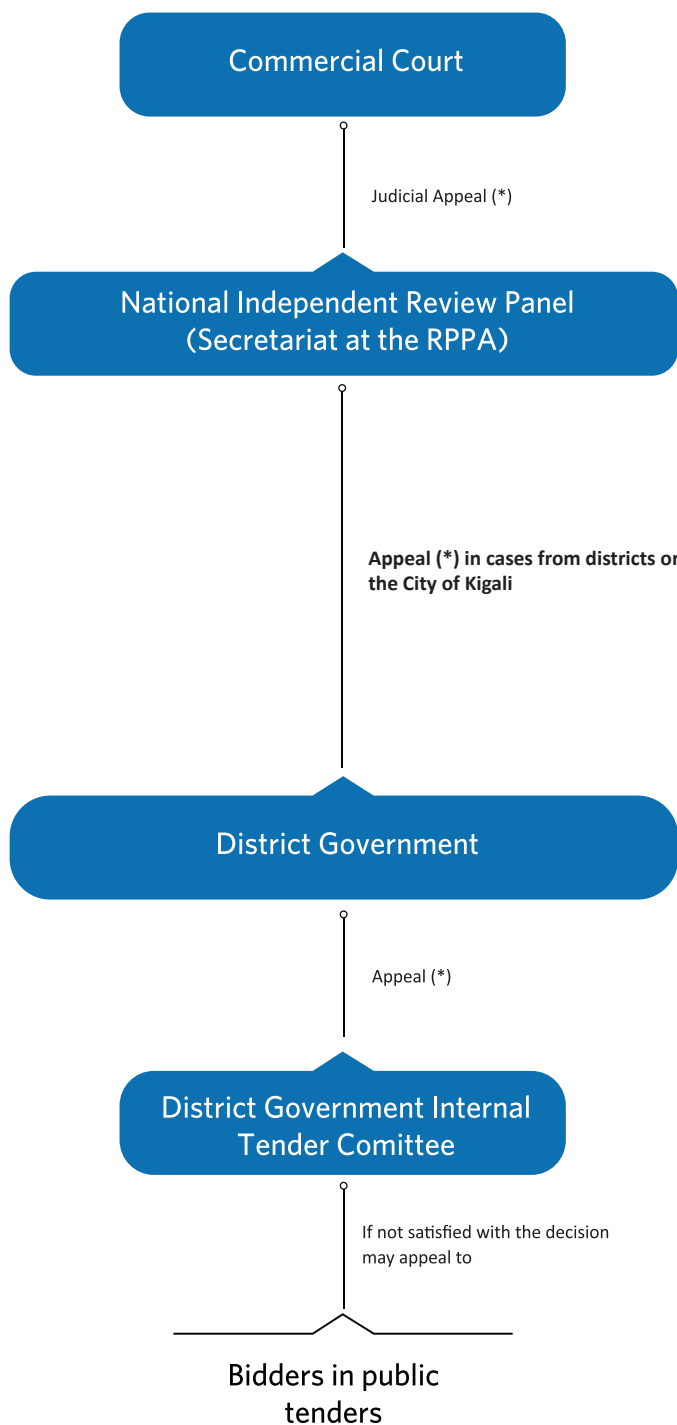
Below are the available remedies in procurement disputes:

1. **Request for review to the procuring entity:** A request for review is permitted if it is submitted within seven (7) days after the bidder becomes aware of the circumstances giving rise to the request. The procuring entity must respond within seven (7) days after receipt of the request for review.
2. **Review by Independent Review Panel:** A bidder who is not satisfied with a decision lodges a complaint with the Independent Review Panel. The Independent Review Panel must make a decision within thirty (30) days following receipt of the complaint. In case of any inability to do so, it must inform both the procuring entity and the complainant of the need for the extra time, which cannot go beyond an additional thirty (30) days. In case of failure to take a decision within thirty (30) days, or to inform both the procuring entity and the complainant of the need for the extra time, or in the case of an adverse decision by the IPR, the complainant is allowed to lodge his/her claim with the Commercial Court.
3. **Court Review (Commercial Court):** This is the last recourse for procurement disputes resolution. Lodging of the claim requires the exhaustion of administrative remedies, however.

⁶² From our survey, we note that 59.6% of bidders mentioned that they received feedback on their initial complaint within two weeks. Note that the survey is not representative of bidders in Rwanda as a whole, and these data should not be generalized beyond the sample.

⁶³ Article 81(16°) of the Law N°30/2018 of 02/06/2018, Determining the Jurisdiction of Courts, provides that the Commercial Court is the competent court for hearing cases related to public tenders.

Administrative Decision Pathways in Public Procurement



(*) If not satisfied with the previous decision, bidders may appeal to

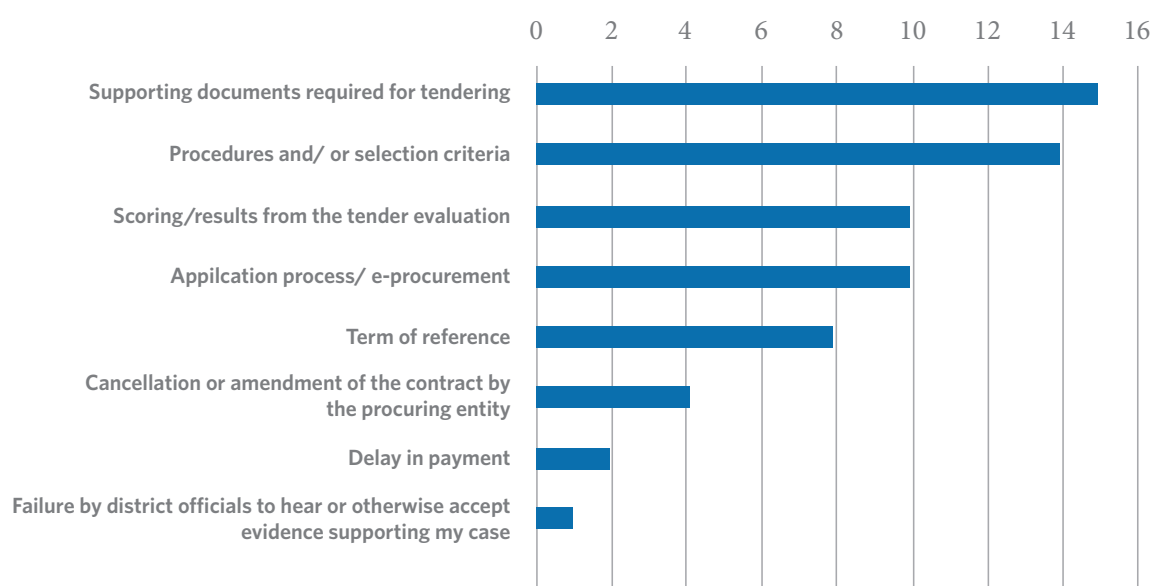
2

Procurement and Administrative Justice: Some Quantitative Data from Bidders

This section includes quantitative data derived from a survey of 50 private entities (bidders) across five districts⁶⁴ that lodged complaints about some aspect of the procurement process during the period 2015-2018. In terms of demographic characteristics, the sample of respondents consisted disproportionately of men (94%) with a university education (90%). The firms represented were made up mostly of small and medium businesses (SMEs - 82%), and the largest proportion came from the construction sector (36%); the next largest type of firm represented were those supplying general services (14%). Nearly 70% of the respondents had participated in public tenders more than 20 times in the last four years. Regarding the value of the tenders they were involved in, 40% of respondents reported to have participated in tenders with a value higher than 500.000.000 Rwf.

Figure 1 indicates that the main reasons that impelled respondents to lodge procurement appeals were related, respectively, to the supporting documents required for tendering (15 cases, or 23%); procedures and/or selection criteria (14 cases, or 22%); and the application process and the e-procurement, as well as the scoring/results from the tender evaluation (10 cases each, or 16%).

Figure 1: Reasons/basis for lodging complaining (# of cases) ⁶⁵



Out of the total sample of 50 bidders, 82% of complainants said they were informed⁶⁶ (either well informed or somewhat informed) about their rights related to the public procurement process, while 18% said they did not feel well informed. Individually, men (85%) felt well informed relative to women (33%)⁶⁷, and older respondents felt they were better informed than younger ones.⁶⁸ Meanwhile, 100% of large businesses reported being informed (well informed: 88.9% and somewhat informed 11.1%), while 78.1% of SMEs reported being informed (well informed: 41.5% and somewhat informed 36.6%). From a sectoral standpoint, the most well informed sectors are those comprising manufacturing; water supply, sewage, waste management and remediation activities; transportation and storage; food service and hospitality/accommodations; and information and communications—in all of

⁶⁴ The sample is obviously not representative of the national population of complainants in public procurement. The results cannot be generalized outside the respondents' sample..

⁶⁵ IPAR's calculation.

⁶⁶ Either well informed (50%) or somewhat informed (32%).

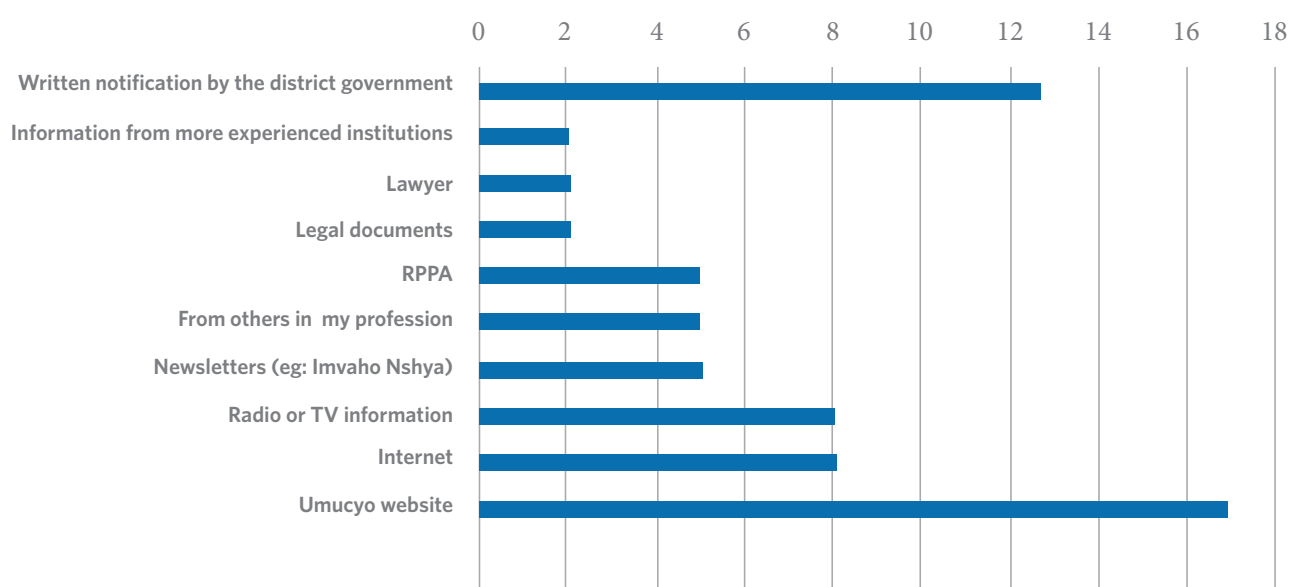
⁶⁷ Well informed (50%);Somewhat informed (32%); Not very well informed (12%); and Not well informed at all (6%).

⁶⁸ This result must be taken with caution given that there were only 3 women in the sample.

these sectors, 100% of respondents reported that they were at least somewhat informed about their rights in the procurement process.

The main source of information accessed by procurement complainants (see Figure 2) is the Umucyo (e-procurement) website, from which 27%⁶⁹ of the respondents obtained information. In terms of the types of information that respondents felt were useful to receive from district officials, 52% indicated that information about terms of reference were helpful, while the same number (52%) felt that information about technical specifications and procedures and/or selection criteria were helpful.

Figure 2: Main sources of information accessed by bidders (Frequency)⁷⁰



When respondents lodged complaints about some aspect of the procurement process (following any informal complaint or discussion that might be placed with the original tender committee), they mainly appealed to the district procurement officer (83%). When a complaint was presented to the district procurement officer, complainants generally reported receiving a response in less than 2 weeks (when complainants chose to complain initially to a higher authority within the district, they reported receiving a response in a less efficient time frame—1 to 3 months). In both of these cases, however, 80% of respondents indicated that they did not get helpful information from these institutions/officials. Only the Independent Review Panel was reported to have provided very helpful information, according to 4 out of 5 respondents. Similarly, procurement offices at the district level scored poorly with respect to courtesy or attentiveness shown to bidders (only 23% of respondents found procurement staff courteous and 26% found them attentive),⁷¹ while the national-level Independent Review Panel was found to be both courteous (4 out of 5 respondents find them very courteous) and attentive (3 out of 5 bidders found them very attentive).

In terms of further feedback about their experiences interacting with various first instance institutions on appeal (as noted above, this mostly concerns district procurement offices (83% of all respondents), 81% of bidders indicated that they were provided with verbal or written information about how the complaint/appeal process operated, and 66% said they were given an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing. At the conclusion of the appeal process, 83% of complainants were

⁶⁹ The question allowed for multiple answers. Except for people who asserted to not be well informed on procurement rights, the rest had up to two sources of information. The figure represents 17 out of 62 answers provided (i.e. 47 with at least one source of information and 15 with a second source of information). In numbers, 94% had a source of information (on 50 interviews) of which 32% had two sources of information (15 out of 47).

⁷⁰ IPAR's calculation.

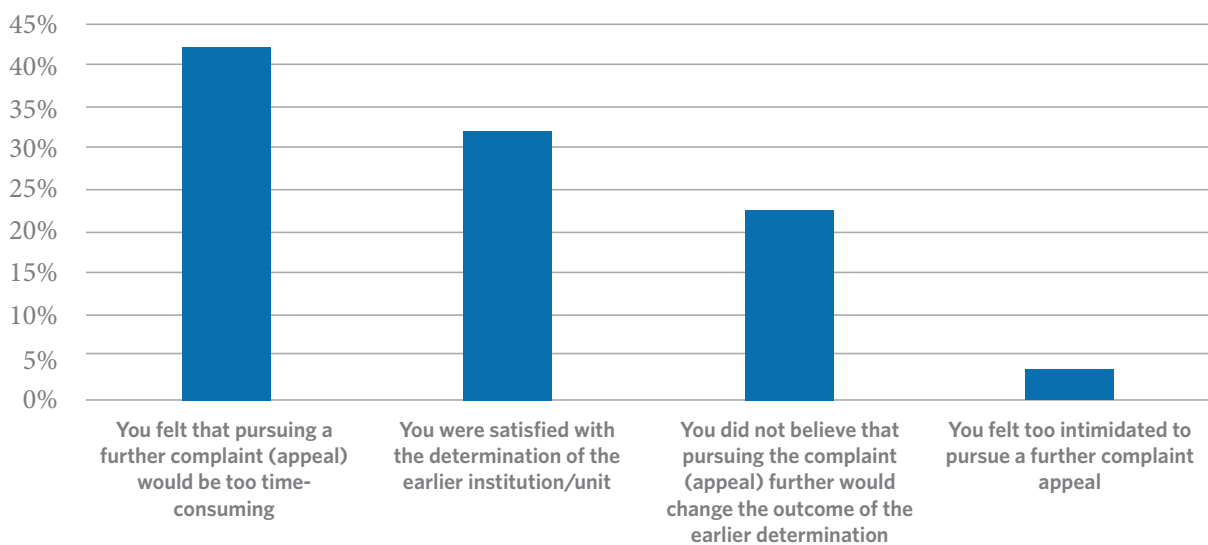
⁷¹ Very courteous 15.4%, Courteous 7.7%; Discourteous 20.5%; Very discourteous 38.5%.

Very attentive 15.4%; Somewhat attentive 10.3%; Mostly inattentive 12.8%; Not at all attentive 43.6%

provided with a written decision, and 75% of respondents reported receiving a decision that was accompanied by an explanation with reasons for the decision. However, 77% of respondents were not provided with information about how and where to further appeal their cases. At the initial stage of appealing a decision (where most bidders are effectively seeking some kind of review or reconsideration by the district government), as many as 85% of respondents said they had not been represented by a lawyer.

After this first level of appeal, 31% of complainants indicated that they pursued a second instance appeal to an independent review panel, either at the national level (36%, which now is the only IPR that exists), or at the district level (21%, where an independent review panel existed up until the fall of 2018, when the Procurement Law was amended). The reasons why nearly 70% of respondents did not pursue a complaint to a further (second instance) appeal level are provided in Figure 3. Of these, 32% of them did not pursue the case because they were satisfied with the determination of the prior appeal institution.

Figure 3: Reasons for not pursuing a further (second instance) complaint (by percentage)



When interacting with institutions to which they appealed in the second instance, 86% of those complainants reported being provided with verbal or written information about how the complaint/appeal process operated, 71% indicated that they had been given an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing, and at the conclusion of the process, 57% said they were provided with a written decision (and of those who received such a written decision, all respondents said it was accompanied by an explanation with reasons). However, fully 86% of respondents were not provided with information about how and where to further appeal their cases. At this second instance stage of appeal, 71% of respondents indicated they were not represented by a lawyer.⁷²

Most respondents (72%) felt that the most important improvement to be made regarding administrative justice in public procurement disputes are to improve the e-procurement system. 16% of respondents also recommended expanding provision mediation and other Alternative Dispute Resolution (ADR) mechanisms to help resolve certain procurement disputes, and 12% suggested improving training and oversight of government officials to ensure better understanding of legal requirements and procedure on procurement.

⁷² Only 5 respondents reported pursuing a third instance appeal, so drawing any conclusions from a number that small is not meaningful. Still, after the second instance appeal, 58% of this small pool of respondents decided not to pursue a further appeal, mainly because it would be too time-consuming (86%) or because they were satisfied with the administrative decision (14%).

Lessons Learned and Recommendations

Enhancing the professionalism and ethics of bidders:

Interviews and group discussions indicated that some bidders lack professionalism and ethics in participating in the procurement process. This sometimes leads to illegal practices, such as the submission of forged documents, and disqualification—often complained about—when the fault lies with the bidders themselves. Poor practices and/or low capacity have also led some bidders to submit unduly low price quotations, which may gain them the tender, but ultimately lead to non-fulfillment of their contractual obligations (which in turn generates disputes with local governments that could obviously might have been avoided). As revealed through the field research, still other bidders may betray a lack of professionalism by participating in multiple tenders at times when they lack the internal resources to carry out projects should they be awarded (resources are shifted from one tender to another due to poor or unrealistic planning, and relevant staff cannot be hired, causing deadlines and deliverables to be missed). Public education efforts – especially those highlighting the consequences of bad practices (including the imposition of sanctions or loss of contracts for poor performance) – could better alert firms to the dangers of engaging in unprofessional behavior.

Harmonizing technical specifications/terms of reference for similar tenders across the districts:

Field research also indicated that different districts may be pursuing exactly the same tenders but with different specifications/terms of reference. This creates unnecessary preparation and monitoring work for district governments and bidders alike. The RPPA could help the situation by providing more guidance and standard specifications/terms for similar tenders across all districts.

Strengthening market price guidelines: Interviews revealed that district officials very often lack accurate information about market prices. The RPPA could address this problem by periodically conducting a national market price survey and updating its applicable price indexes on its website in order to help district procurement officers better respect the principle of economy (i.e., value for money) as provided by the Procurement Law.

Delays in payment: Interviews and group discussions with public officials and bidders indicated that there is a tendency for district governments to delay payments to bidders even while expecting the latter to deliver procured services in a timely fashion according to agreed-upon deadlines. This puts bidders in a financially vulnerable situation, and yet the law does not require the procuring entity to pay interest for payment delays unless this is specifically stipulated in the contract. A clear instruction on this issue in the law or in RPPA regulations as a default stipulation should be adopted to ensure greater fairness and improve contractor performance.

Issuing guidelines to clarify the roles and responsibilities of procurement officers, tender committees, and user departments:

While the relevant district user department(s) should be involved from the stage of needs identification all the way to execution of the contract, if for any reason such units do not prepare adequate technical specifications in timely fashion, it may adversely affect any subsequent stages— particularly those of evaluation and contract management. This can lead to a variety of complaints. RPPA should issue clear guidelines and provide for appropriate oversight and training on the respective roles and responsibilities of these three actors (procurement officers, tender committees, and user departments) in the procurement process (focusing on the key issues of planning, specifications, evaluation, and contract management).

Strengthening the capacity of procurement officers, tender committee members, and contract managers from user departments:

Gaps in procurement knowledge among those responsible for various parts of the procurement process surfaced during the field research. If procurement decision-making at the district level is to be improved, specialized training for district officials in technical specifications, contract management, logistics/supply chain management, and tenders for specific types of public works, supplies, and consultancy projects must be expanded. These capacity needs were especially apparent when survey data on bidder complaints was examined: 80% of bidders said that they do not receive helpful information from

district procurement and other local officials regarding the complaints process (only independent review panels at the national and (formerly) district level were viewed as providing useful information—100% and 80%, respectively).

More important, only 66% of bidders surveyed said that they were given an opportunity to make their views known and to offer evidence in support of their case. And while 83% of bidders were provided with a written decision, only 75% were provided with reasons supporting the basis for the decision. Moreover, 77% were not provided with information about how and where to further appeal their cases. Finally, district officials involved in rendering initial procurement decisions scored low with respect to general courtesy shown to complainants (only 32% of bidders). All of this argues for significant and concerted capacity-building training to ensure that proper procedure is followed and bidders' rights are respected.

Consultation of legal advisers: Interviews and group discussions indicated that at various stages of the procurement process, district legal advisers are not adequately consulted by procurement officers, tender committee members, or contract managers. This consultation should be systematically enforced through better district management processes and guidance so as to reduce the number of incorrect or improper decisions taken and in turn, prevent unnecessary disputes from arising.

Raising bidder's awareness of procurement procedures and associated rights: Although 82% of bidders lodging complaints felt that they were either well informed or somewhat informed about rights related to the public procurement process, in depth interviews with bidders revealed a need for greater dissemination of information about both the operation of the procurement process and dispute settlement procedures—especially since some district officials apparently fail to give bidders helpful background information (which bidders do

believe is useful, especially with regard to terms of reference (52%) and technical specifications and procedures/selection criteria (52%)). In this regard, free-standing information outreach as well as training should be organized for bidders, helping improve their understanding of their rights and responsibilities. This could also improve the quality of appeals and reduce their incidence—since many bidders simply complain orally about their grievances without submitting a factual record of what they believe is in dispute. This—combined with greater availability of mediation as an option in procurement disputes—could in turn lead to better practices on both sides and fewer disputes ending up with the RPPA or in court.

Training on the use of e-procurement system: Interviews and group discussions also indicated that in many cases, officials as well as bidders do not fully understand the e-procurement process—either in terms of the submission process or the initiation of appeals (it was revealed that some bidders actually press the button to submit a complaint before they have fully read the decision or the instructions for appealing). Expanded and improved training on e-procurement for both district officials and bidders should result not only in improvements to the e-procurement system—which 72% of bidders indicated was their top recommendation—but more effective dispute resolution.

Providing temporary expertise to district for specific tenders. Tenders requiring specialized expertise not available at the district level should be supported with technical assistance by experts from the central level through RPPA—particularly tenders involving certain ICT functions and complex road construction projects, where technical expertise is often not available at the district level.



Public Employment and Administrative Justice

1

An Overview of the Practice of Administrative Justice in Public Employment

Public employment decisions, while not so numerous compared to decisions in other areas of district government activity, have a significant impact on the administrative justice in Rwanda due to their relatively high visibility. This is because the public sector is still large and several cases have ended up being litigated in courts. In recent years, several district governments have had to pay substantial financial compensation to public employees whose cases alleging unjust handling of disciplinary and/or termination procedure have been upheld by Rwandan courts. This is often due to inadequate documentary evidence and recordkeeping.

Field research conducted in five districts (one from each of the Provinces) by the SRAJ Project included interviews and group discussions with district officials and public servants who had been involved in employment-related disputes over the past four years. The findings from the research are shared in the three sections of this report. First, the general processes governing recruitment, discipline, evaluation, and termination are discussed, followed by quantitative data derived from a survey conducted with 100 public servants who had been involved such disputes. A final section contains lessons learned and policy recommendations stemming from the research findings.



Nature of public employment complaints

A public employment complaint may arise when an individual fails to be hired into a public job or receives unfair performance evaluation, or is disciplined in, or dismissed from, a public job. Only complaints regarding staff positions fall under the complaint processes for public labor; recruitment and complaints by contractual employees fall under private labor processes and are not handled in the electronic recruitment system as is the case with disputes involving staff.

The recruitment process and applicant appeals

With regard to recruitment practices and disputes that may arise therein, the office of the Director of Human Resources and Administration in the district is responsible for overseeing recruitment processes and procedures. However, the decision making authority is vested into the powers of the Mayor or the district executive committee. Appeals of such decisions may be taken to the Public Service Commission. All job openings are advertised on the electronic (e-) recruitment system by the Ministry of Public Service and Labor (MIFOTRA), and the job positions and associated descriptions are also posted at the district offices. Salaries are determined by MIFOTRA and are essentially uniform across all districts.

Shortlisting. Before shortlisting the candidates who are eligible for a given position, each dossier is reviewed by a three committee in the district composed of three members: the Director of Human Resources, the Human Resources Officer, and one other district

staff member appointed by the District Executive Committee. The list of the candidates who are selected for interviews is posted on the e-recruitment system, and the applicants receive an automated message indicating their application status (shortlisted or not shortlisted). The list of shortlisted candidates is also posted on the district's notice board, indicating time and dates for written and oral exams.

When an applicant feels that his or her application needs to be revisited for any reason, an appeal can be made in writing either through the e-recruitment system or to the concerned district directly. The review of the documents is then done again. If the District has made an error about the candidate's academic credentials and professional experience, it should rectify the error and reconsider the applicant's file. A short message is sent to the applicant informing him or her about the decision taken.



Recruitment procedures and appeals therefrom

Posting: An open position is posted on the e-recruitment system for five working days.

Application: Any job applicant must fill out and submit an electronic job application form with all supporting documents through the e-recruitment process.

Shortlisting: Every application is reviewed considering two criteria: 1) the candidate holds the appropriate government-issued identification; and 2) the candidate meets the educational requirements for the position. Shortlisted candidates are called for a written exam.

Initial (District) Appeal: An applicant who is not shortlisted may log an appeal in the e-recruitment system within 3 days. The institution must render a decision within 3 working days from the date of receipt of the appeal (art.18 of Presidential order n°144/01 of 13/04/2017 determining modalities for recruitment, appointment and nomination of public servants). If a mistake was made, the district must correct it and shortlist the applicant. If no mistake was made, an SMS goes out informing the applicant.

Public Service Commission Appeal: An applicant who is dissatisfied with a decision on appeal at the district level may then file an appeal with the Public Service Commission (PSC). The PSC must review the appeal and respond and inform the HRA Director of its decision in the system within a period of five (5) working days from the reception of the appeal (art.18(5)). If the applicant is dissatisfied with the PSC's decision, he or she may request a mediation session with the HRA Director and a staff member at the PSC.

Written Exam: Exams are scored and then entered in the e-recruitment system. An SMS is sent to each applicant with his or her score out of a total of 50 marks. If the score is above 25, the candidate is called for an oral exam.

Initial (District) Appeal: An applicant who wishes to appeal his or her score must first appeal to the district, using the e-recruitment system. The HR Director must request for the exam, attempt to explain the score and the questions that the applicant failed.

Appeal: If the applicant is unhappy with the explanation, he/she may appeal to the PSC. The PSC may arrange a mediation session with the applicant, a PSC representative, the Director for Administration and Human Resources, and the consultant who marked the exam to explain how specific questions were marked.

Oral Exam: The oral exam is scored on a maximum of 50 possible marks administered by RALGA. The scores are inputted into the e-recruitment system and combined with the scores from the written exam. The applicant with the highest score is offered the position, as long as the applicant earns a minimum combined score of 70.

The appeal process is the same as that related to a written exam.

Examination administration and marking. The only recruitment agency for local governments is the Rwanda Association of Local Government Authorities (RALGA), which prepares and supervises required examinations for shortlisted applicants. After sitting for the examinations and having them marked, applicants can find the results published after one week. Written exams are marked on the basis of a total possible score of 50. The pass mark is 25 out of 50. Applicants who score below 25 are not eligible for oral exams

(interviews). Those who are eligible for and take the oral exam are also scored on the basis of a total possible score of 50. The marks for the written and oral exams are then added together (the maximum score then becomes 100), and the candidate with the highest score is offered the position, on the condition that he/she has a total score of at least 70 (out of 100). If no one scores 70% or more, MIFOTRA re-advertises the position(s). At this stage, an applicant can lodge a claim that he/she has been under-marked via a written

to the district. The district Directorate (Department) of Administration and Human Resources, together with the recruitment agency (RALGA), then assesses the candidate's claim in an attempt to understand what might have happened. If the candidate's claim reveals any errors, they must be corrected and a response given to the candidate within five working days.

An applicant who remains dissatisfied with the decision taken at the district level is then required to file an appeal within two days to the Public Service

Commission.⁷³ There is a commission of inquiry at the PSC that carries out investigations, writes a report on the case, and recommends a decision. The PSC then informs the district of its decision. If the complainant is not satisfied with the PSC's decision, he/she can appeal the case to court.

Complaints arising from administrative (disciplinary) sanctions

Disciplinary proceedings in public employment are initiated by the employer. This may arise from alleged misconduct of an employee at work, which can encompass failing to report to work on time, leaving work early without notice, absenteeism without informing the line manager, and/or other cases of alleged negligence of work duties and responsibilities.⁷⁴ If the line manager or the human resources manager observes a problem of this nature, he or she informs the employee of the problem and seeks an explanation. The employee is given a chance to explain him/herself verbally, and a verbal warning can be given by the human resource office, if deemed appropriate. If the behavior in question persists, a notice of misconduct can be given in writing to the employee and he or she will be expected to respond in writing, explaining the reasons for his or her failure to respect the rules and regulations of his/her institution and applicable employment law.

If the written response given by the employee is not satisfactory, the human resources office can refer the matter to the district internal committee⁷⁵ to take disciplinary action. The internal district committee is composed of the Director of Human Resources, the Human Resources Officer (who is the secretary of the

office), the district Legal Advisor, the district Executive Committee Executive Secretary, and two professional and support staff representatives elected by their peers. After investigating the case, the internal district committee submits a report to the human resources office with a recommended decision on the employee to be made by the district. A notification of disciplinary action may be recommended; in some cases, dismissal can be taken as an option if the employee has engaged in gross misconduct.⁷⁶ The Public Service Commission is normally consulted in the case of any disciplinary sanctions in the second category.

Upon receiving the sanction, the employee can seek reconsideration of the disciplinary committee's decision by the office of the Mayor. If dissatisfied by the outcome in that office, the employee can pursue additional appeals to the Public Service Commission. The Commission can recommend a reduction in the penalty given to the employee, or recommend reconsideration of a dismissal. This constitutes the last step in the administrative settlement of disciplinary disputes. However, if the employee is still not satisfied with a PSC decision, the he or she can take his or her case to court.

⁷³ See article 18(5) of the Presidential Order n°144/01 of 13/04/2017 determining modalities for recruitment, appointment and nomination of public servants.

⁷⁴ Articles 8 and 9 of the Presidential order determining modalities for imposing disciplinary sanctions on public servants identify categories of disciplinary violations and corresponding sanctions. Infractions in the first category are sanctioned by a warning and reprimand, while an infraction in the second category is sanctioned by a delay in promotion, suspension for a period of up to three months without pay, or possible dismissal.

⁷⁵ The Committee has the power to investigate an employee's alleged misconduct and recommend an appropriate sanction (art. 19 of the Presidential Order no 65/01 of 04/03/2014 on modalities for imposing disciplinary sanctions on public servants).

⁷⁶ Article 14 of the Presidential Order no 65/01 of 04/03/2014 on modalities for imposing disciplinary sanctions on public servants refers to these as "serious disciplinary faults."

Performance Evaluation & Promotion

By law, every public servant is promoted horizontally to the next level/grade every three years, provided his or her performance has been evaluated at 60% or higher over a period of three consecutive years. Moreover, within a level/grade, public servants can receive an annual performance bonus of 5 % if they score 80% or more, and 3% if they score between 70% and 80%.

An employee's performance is evaluated with reference to the performance contract (Imihigo), that is are signed annually between the employee and the employer. In his/her performance contract, the employee indicates his/her expected achievements (for the first two quarters), and sets targets and measurable indicators in line with his/her job description. At the end of the performance contract period, the employee fills out his/her evaluation form. The line manager in turn evaluates the employee on the basis of achievable or expected results. Upon completion of the evaluation, the line manager meets with the employee (individually) so that he or she is provided with reasons for the different scores. The employee is invited to sign the performance evaluation – in which case the employee validates the evaluation.⁷⁷ However, the employee can refuse to sign the performance evaluation if he or she is dissatisfied with the score. In the latter case, the practice shows that employees usually bring the matter to the Mayor or to the Executive Committee and seek mediation of the dispute before any submission of the claim to the District Council, as required by law⁷⁸. If there is no resolution and the employee remains dissatisfied with the Council's decision, he or she can lodge an appeal with the Public Service Commission.⁷⁹

Dismissal

If disciplinary procedures result in a recommendation to terminate the employee's contract, the District



A Performance Evaluation Appeal

If an employee does not agree with a supervisor's performance evaluation, he or she may appeal to the Mayor. If the Mayor cannot facilitate agreement between the employee and supervisor, he or she must refer the appeal to the Executive Committee which, in turn, must convene an ad-hoc committee made up of staff directors who must investigate and recommend a decision. If the employee is still dissatisfied, he/she can appeal to the PSC.

Executive Committee is empowered by law to consult MIFOTRA which may approve termination, but also has the authority to reduce the punishment to a level lower than termination.⁸⁰ However, in case MIFOTRA approves the termination, the Mayor may dismiss the employee. When an employee engages in criminal activity, the Mayor may choose to dismiss him or her immediately without following the normal disciplinary procedures. Sometimes, however, due to haste or carelessness, employees are dismissed without proper documentation or consultation with district legal advisors, as was revealed in interviews and group discussions with various public officials.

If the employee wishes to appeal a dismissal, he or she has to first appeal to the Mayor within five working days from the date he or she was notified of the dismissal. The Mayor is then required to respond to the appeal within 15 working days from the date the appeal was received.⁸¹ If the Mayor does not

⁷⁷ Scores are sent to MIFOTRA once per year and these fully filled evaluation forms are the basis on which bonuses are paid. Employees who score-- between 60 and 70% in consecutive years receive additional feedback and training to raise their score in the next evaluation. However, employees who score below 60% for three consecutive years are subject to dismissal from public service.

⁷⁸ Article 33 of the Prime Minister's order no 121/03 of 08/09/2010 requires a public servant working in local government to appeal to the Council of the District in the first instance within 15 days from receiving notification of appraisal results

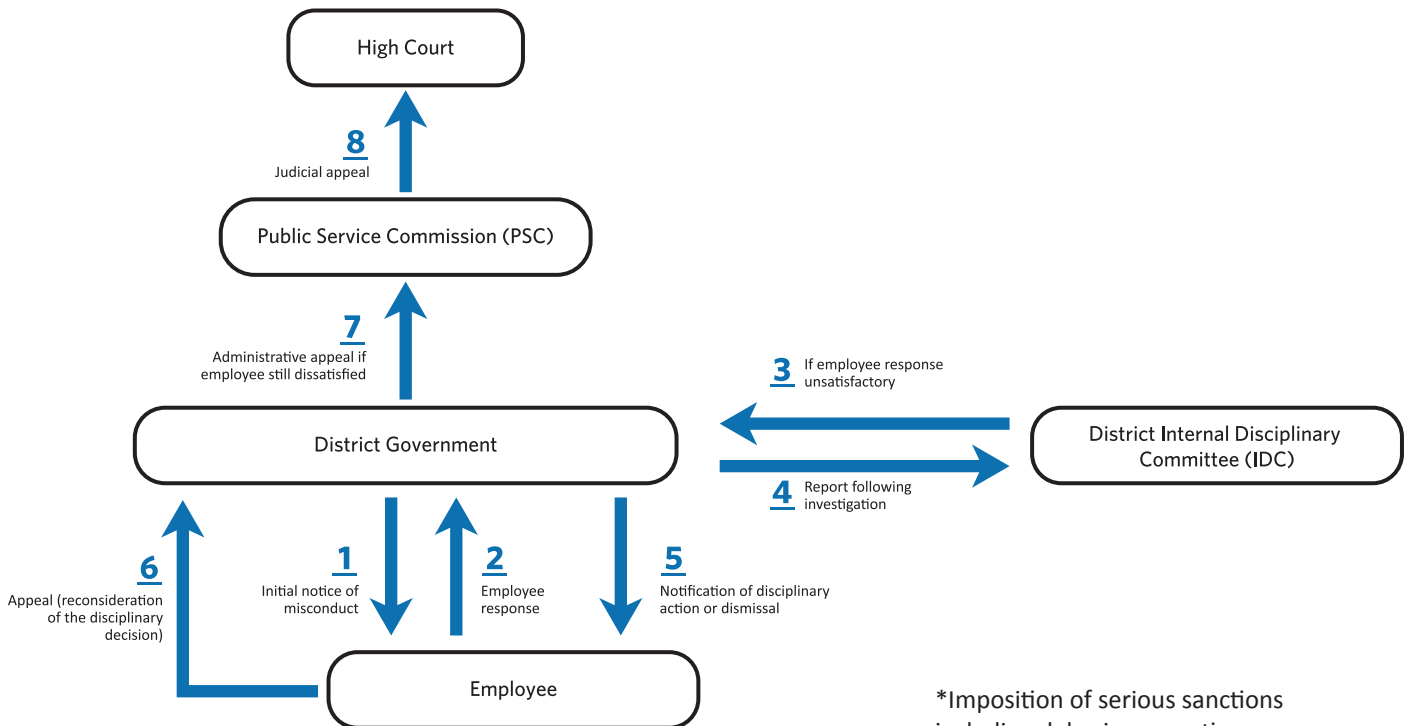
⁷⁹ Article 33 of the Prime Minister's order no°121/03 of 08/09/2010. An appeal of a public servant working within local government shall be addressed to the Council of the District in the first instance, and to the Public Service Commission in the second instance.

⁸⁰ As reflected by discussions among experts at a validation workshop hosted by the SRAJ Project last year, there is considerable support for having the PSC (not MIFOTRA) serve as the proper consultative body on dismissals, because the procedures related to dismissal fall under the PSC's responsibilities.

⁸¹ Article 32 of Presidential Order n°65/01 of 04/03/2014.

reverse the decision, the employee may next appeal to the PSC.⁸² If the employee is dissatisfied with the PSC's decision, he or she may appeal to the Court.⁸²

Administrative Decision Pathways in Public Employment Disciplinary/Dismissal Cases



*Imposition of serious sanctions including delay in promotion, suspension, or dismissal currently requires consultation with the IDC and MIFOTRA (if due to misconduct) or the IDC and PSC (if due to performance)

⁸² The PSC must decide on the appeal within 60 calendar days and, while the decision of the PSC is not subject to any other administrative appeal, recourse to the court is permitted (Article 33 of Presidential Order n°65/01 of 04/03/2014).

⁸³ It is important to note that public employment cases are handled by the intermediate Court Chamber for Labor and Administrative cases. However, the case is not be admissible before the chamber if the plaintiff fails to exhaust all administrative remedies.

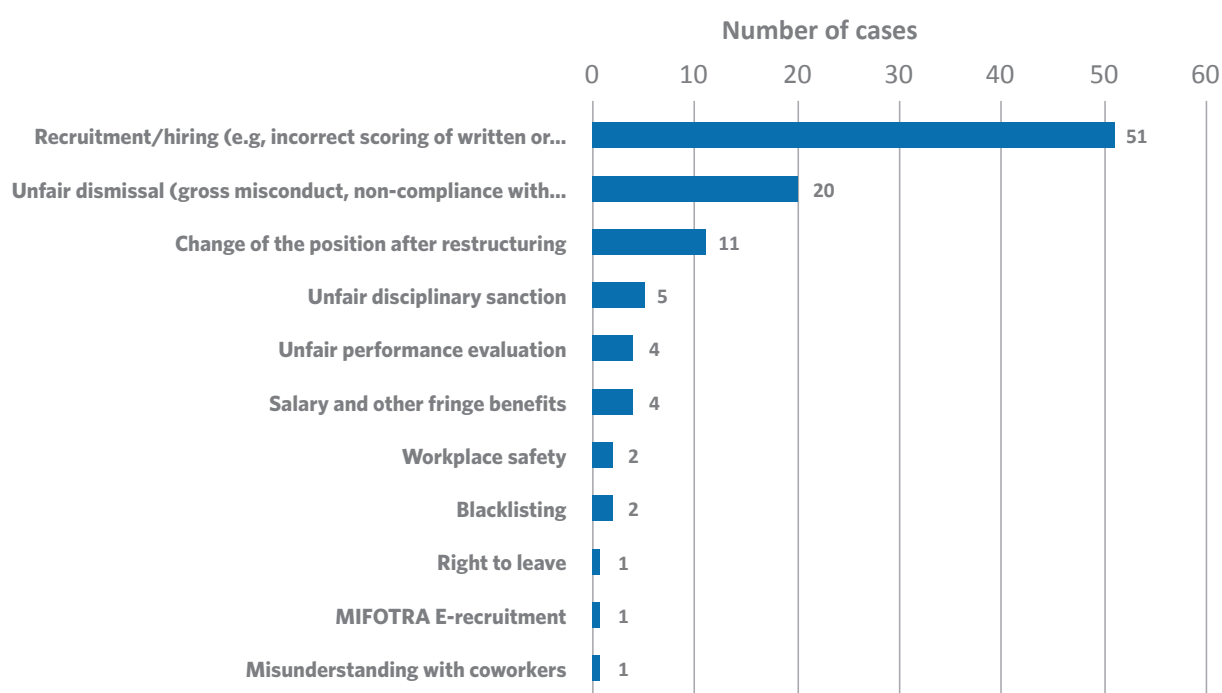
2

Administrative justice in numbers

Based on the results of our survey of 100 respondents, Figure 1 shows that disputes in public employment principally concern the recruitment process (51% of the complainants). Unfair dismissal and changes of position based on restructuring come next (respectively 20% and 11%). Other types of cases generate fewer complaints.

As for the individual characteristics of the surveyed respondents, most of them are married, male, and between the ages of 26 and 35,⁸⁴ while 84% are in Ubudehe category 3 and 94% have a university level of education. 92% of respondents have fewer than 15 years of experience, with the largest number (58%) having fewer than five years of experience. In terms of monthly income, more than a half of them (52%) earn more than 200.000 Rwf.

Figure 1: Reasons for bringing a complaint (frequency) ⁸⁵



Overall, 87% of respondents indicated that they were well informed about their rights in the workplace. When disaggregated by characteristics, men tend to be more aware of their rights than women (90% vs. 78%). Individuals with a university level education (89%) and senior public servants (92%) also feel well informed.⁸⁶

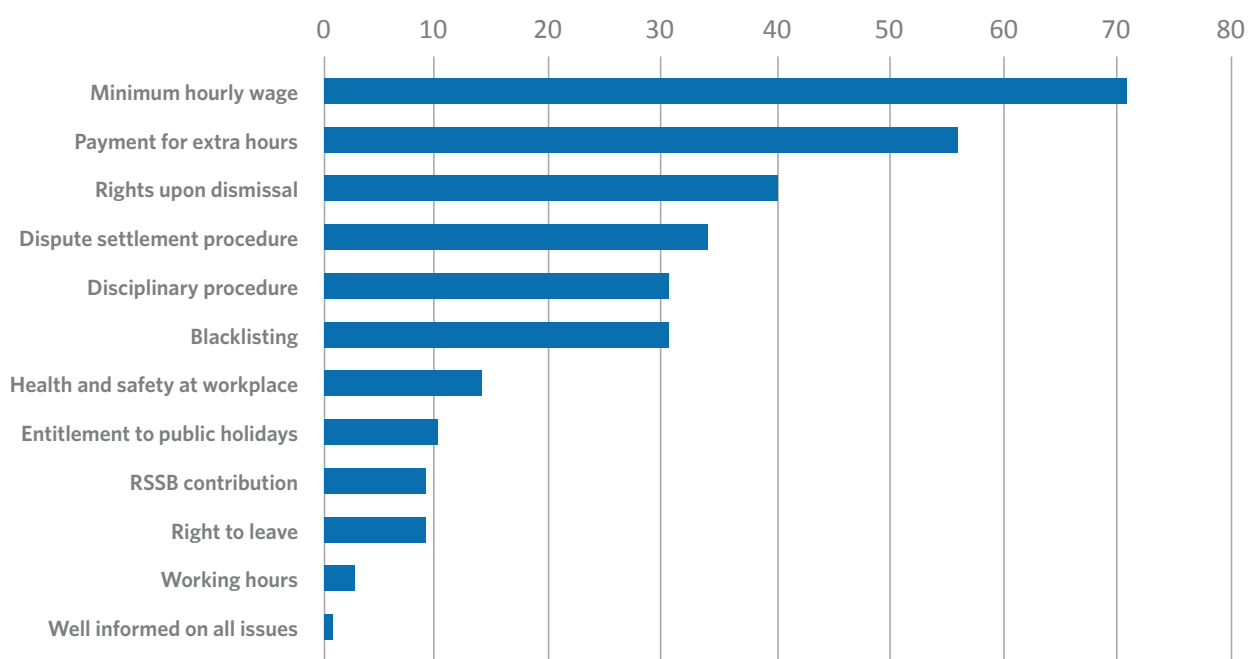
The respondents reported that they needed more information on various subjects, the top four of which were as follows, in descending order: minimum hourly wage, payment for extra hours, rights upon dismissal, and dispute settlement procedures (See Figure 2). When they need to access information on their rights in the workplace, the respondents said that they chiefly relied on the workplace manual on procedures (50%), the human resources department (33%), and the Internet (18%) (Note that they may use a combination of these sources).

⁸⁴ Male complainants represent 77% of the total sample, those married 70% and those between the ages of 26 and 35 constitute 61% of the sample.

⁸⁵ IPAR's calculation

⁸⁶ 25 percent of the sample belongs to the latter category. Note that 37% for respondents of university level reported to be "Very well informed" and 52.1% "Somewhat informed". Similarly, 40% of senior public servant reported to be "Very well informed" and 52% "Somewhat informed".

Figure 2: Types of additional information needed (% of respondents) ⁸⁷



When it comes to pursuing a complaint or appeal, complainants first go mainly to the district HR officer or to a higher authority in the district government such as the Mayor or the Executive Committee (44% and 23% of respondents, respectively). A lower percentage (16%) go to the Public Service Commission (PSC).⁸⁸ A large number of respondents (73%) reported that they appealed to these institutions because they understood this to be required by law. In terms of receiving a response on their case in this initial instance, just more than a half of respondents (53.3%) said they received a decision within two weeks.⁸⁹ At the first instance (mostly involving the Administration and Human Resources Department or some higher authority within the district, as noted above), a relatively large number of respondents reported that they were provided with information that was relevant to their cases (59%); and that the officials involved were courteous (72%) and attentive in listening to their explanation of the case (59%).⁹⁰

In terms of specific procedural interactions, the respondents said that at the first instance (i.e., for many, but not all respondents, this is the stage of appealing within the district government), they were provided with a verbal or written information about how the complaint/appeal process operated (71%) and had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (59%). At the conclusion of the process, the respondents said they were usually provided with a written decision (72%) and the decision was often accompanied by an explanation with reasons for the decision (64%). Only 51% indicated that they were provided with information on how and where to further appeal their cases.⁹¹ It is noteworthy that at this initial stage of appeal, most respondents (90%) were not represented by a lawyer.

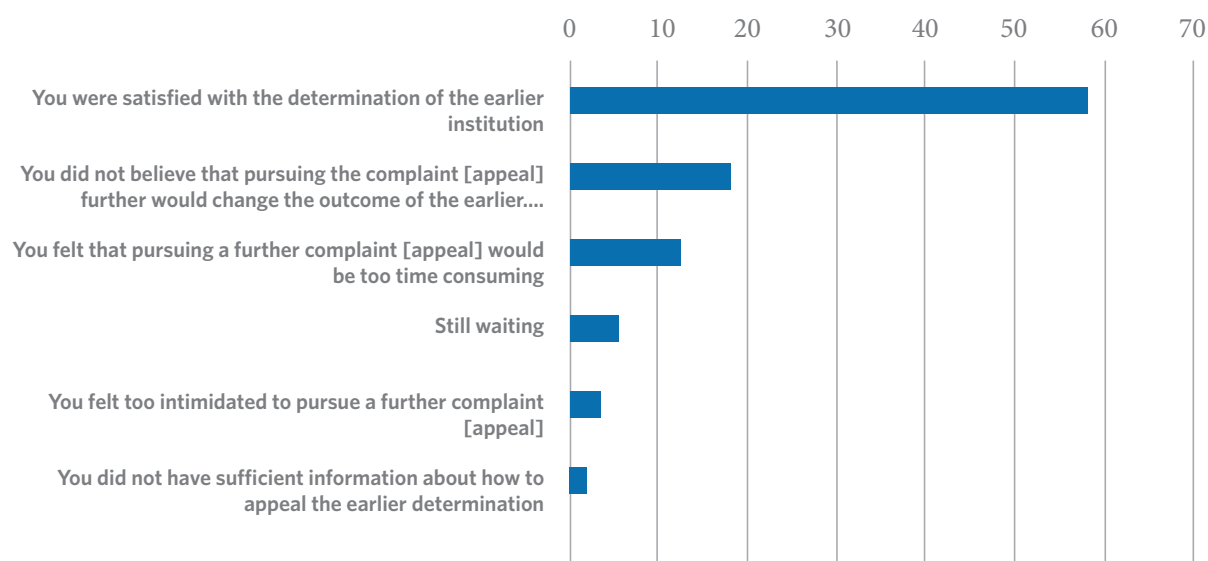
⁸⁷ IPAR's calculation.

⁸⁸ Other public servants appealed to the District Council (3%), Court (3%) or District Disciplinary Committee (1%). Ten percent of the complainants did not lodge a complaint/appeal. These figures reveal that some public servants are not aware of appropriate administrative pathways prescribed by the law.

⁸⁹ Between 2 weeks and 1 month: 13.3%; Between 1 and 3 months: 13.3%, More than 12 months 2.2%; Never received a response: 17.8%

⁹⁰ Information was "very helpful": 35.6%; "helpful":23.3%; Institutions were "Very courteous":22.2%; "Courteous":50%; "Very attentive":34.4%; "Attentive":31.3%; "Mostly inattentive":13.3%; "Not at all attentive":14.4%.

⁹¹ While similar these numbers may vary among institutions. For more precise data refer to Table 7 of the annexes.

Figure 3: Reasons for not pursuing a complaint⁹²

After an initial appeal, 39% of respondents decided to pursue the complaint further and 58% of those who did not do so said it was because they were satisfied with the decision they received. The majority of those pursuing a second appeal went to the PSC (54%) or to a higher authority within the district government (14%).⁹³

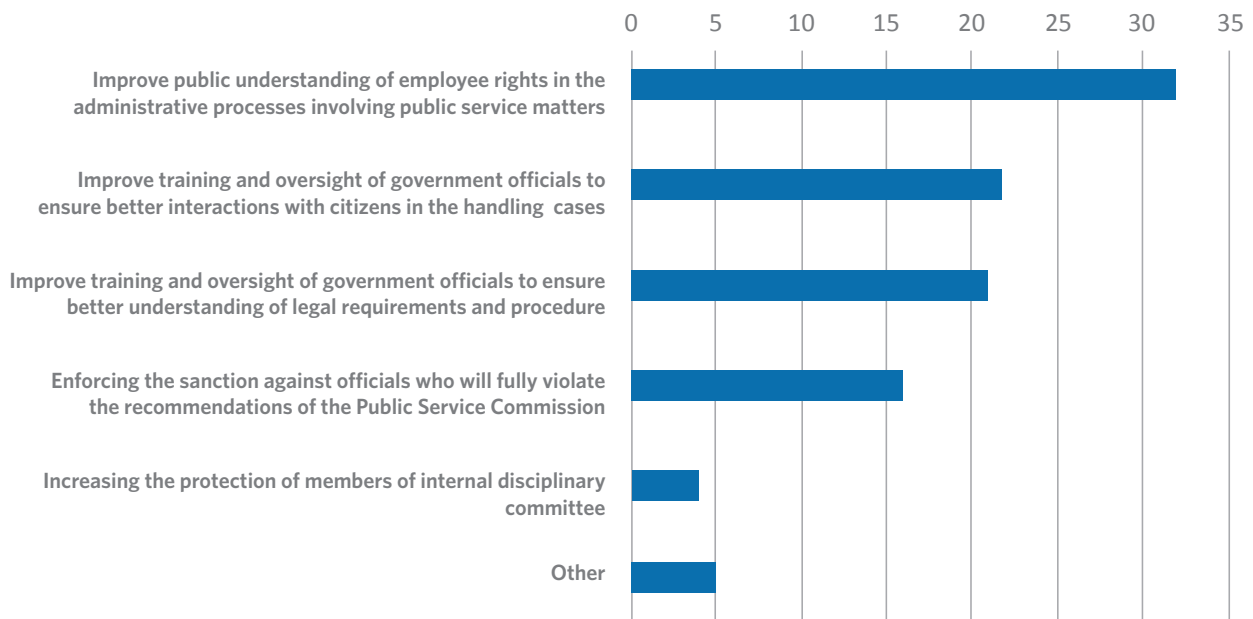
During interactions with these second instance institutions, the respondents said that they received helpful information that is relevant to their cases (69%), were received with courtesy (80%) and that officials listened attentively to their explanations of the case (74%).⁹⁴ Moreover, 77% of the respondents at this stage said they were provided with verbal or written information about how the complaint/appeal process operated and 68% had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing. At the conclusion of the process, 74% of respondents further noted that they were provided with a written decision, and for 69% the decision was accompanied by an explanation of reasons for the decision. Just below half of respondents (49%) were provided with information about how and where to further appeal their cases. At this stage, a very large number of respondents (83%) said they had not been represented by a lawyer.

Finally, when asked to provide priority recommendations to strengthen the administrative justice in Rwanda, survey respondents indicated that their top recommendations were: (1) Improving public understanding of employee rights in administrative processes involving public service matters (32%); (2) Improving training and oversight of government officials to ensure better interactions with public servants in the handling of cases (22%); and (3) Improving training and oversight of government officials to ensure better understanding of legal requirements and procedures (21%). Other reasons are provided in Figure 4.

⁹² IPAR's calculation

⁹³ We note that other public servants appealed to Court (11%), District council (11%), Province (3%), RALGA (3%) and MIFOTRA (3%). This indicates that some public servants are not aware of the appeal process provided by the law.

⁹⁴ Information was "Very helpful":45.7%; "Helpful":22.9%; Institution was "Very courteous":37.1%; "Courteous":42.9%; "Very attentive":42.9%; "Somewhat attentive":31.4%.

Figure 3: Reasons for not pursuing an appeal following a decision on an initial expropriation complaint

3

Lessons Learned and Recommendations

A number of important lessons were learned from the survey data collected in the five districts, the qualitative information gathered from citizen and interviews with public official and group discussions, and from the validation workshop conducted with administrative justice stakeholders following the field research.

Improving the recruitment process: The e-Recruitment system makes the work of officials easier. Applicants have to follow clear steps, and they cannot submit an application before these steps are completed. Indeed, the system also directly informs applicants about missing documents. In this respect, applications that are treated and processed by officials are automatically checked for completeness, which is reported to have reduced the number of complainants alleging that applications were missing certain information. This has also reduced the workload of employers who are otherwise required by law to respond to a complaint within five working days. However, some potential candidates live in rural areas where there is no electricity and/or internet connection. When they want to use the e-recruitment system, they may fail to meet application deadlines and requirements because of poor or lack of internet connectivity. In addition, they may not be familiar with the system and, therefore, insufficient knowledge of the new e-recruitment system may render it ineffective for a significant part of the population. In order to solve this problem, there should be a provision for the applicants to submit the needed documents in a hard copy form, upon a showing of good reasons (e.g., poor internet connectivity in the sector where the individual lives, etc.).

The field research also indicated that while the application process is generally clear, RALGA often takes considerable time to recommend people for the positions. As a consequence, jobs frequently remain vacant for a long period of time and, therefore, existing public servants are overwhelmed by work, as they end up performing the equivalent of two jobs. This also impacts their capacity to deal with complaints and otherwise respond to other public demands. Consequently, this aspect of the recruitment process should be improved.

Improving the promotion process: While there are clear rules for promotion and salary increments, the associated budget is often lacking. Consequently, some districts do not pay the required horizontal promotion benefits and mission fees due to budget constraints. This can affect job performance and lead to personnel complaints. A clear instruction on compliance with the existing rules on promotion and salary increments

would ensure the improvement of the promotion process. More effective planning will also enable districts to comply with the relevant legal requirements.

Raising the awareness of public servants about their rights and procedures for dispute resolution: While district employees are relatively familiar with their rights in the workplace (87% of respondents are well informed or somewhat well informed), there is a need for more information about minimum hourly wages, payment for extra hours, rights upon dismissal, and the availability of dispute settlement procedures. As many as 41% of those who were involved in a personnel matter were not given an opportunity to make their views known and offer evidence supporting their case verbally or in writing. And while 72% of respondents were provided with a written decision, 36% of those decisions were not accompanied by an explanation with reasons for the decision. Moreover, 49% of respondents said they were not provided information about how and where to further appeal their cases, and many as a result did not lodge complaints initially with the proper office as provided by law. These deficiencies can generate unnecessary confusion and undermine important dispute resolution opportunities.

Consulting legal advisers: The findings from the field research (interviews with various public officials) indicate that consultation of legal advisers on personnel decisions still occurs less frequently than intended in many cases, often due to orders by senior government officials or undue haste. Quite often, consultation only occurs after a dispute or appeal against a decision arises. Again, opportunities for proper decision-making and generation of evidentiary support are lost. In addition, even though consultation occurs more frequently after a dispute arises, opportunities for effective dispute resolution are also frequently forgone, as parties become more intransigent. Requiring district officials to involve legal advisers in any administrative decision-making process involving personnel issues (or any other subjects, for that matter) would help ensure that they take legally justified decisions that benefit both the district and public servants.

Training government officials to ensure better understanding of legal requirements and procedure:

Interviews and group discussions indicated that there is considerable trust by public officials in the legally provided employment procedures, and that the latitude for dialogue and clarification of disputes before any formal complaints are lodged allows for grievances to be settled amicably.

However, some officials apparently do not understand certain decision-making procedures, especially in certain disciplinary cases where there are defined steps for documenting and presenting evidence and an opportunity to hear from the employee. Strengthening the capacity of HR officers and other decision-makers with regard to alternative dispute resolution skills and the legal requirements governing contractual and non-contractual public servants could reduce the number of relevant disputes, including those that end up being

“
The officers in charge of Human Resources and Administration seem confident in their understanding of the law on public employment. This has had a positive impact on employee relations and on conflict management and resolution.
 Group Discussion, 2019

taken to courts and result in adverse judgments.

Enhancing the capacity and protection of disciplinary committee members: Some members of disciplinary committees have limited knowledge about the laws and procedures governing public servants, including investigation and documentation methods that can support the recommendations that are made to supervisors. Moreover, the law should be strengthened to increase the protection of internal disciplinary committee members against reprisals from supervisors and/or fellow employees when certain decisions are taken within the scope of their legitimate job responsibilities (in several cases, IDC members have been held personally liable for monetary damages stemming from incorrect disciplinary committee decisions/recommendations).

General Conclusions

The data collected and analyzed from the district field research in the four distinct subject areas reveal procedural good practices and challenges unique to certain of those regulatory fields as well as those that share similarities across those disparate regulatory domains. By the same token, the data demonstrate that while there are aspects of district level administrative decision-making that are functioning well in the eyes of citizens and public officials alike, there are also many areas requiring significant attention and improvement, particularly as regards practical citizen needs. These require dedicated government attention; if the promise of administrative justice is to be realized in a country that has a commitment to rule-based governance, the legal and capacity gaps that impede that promise must be properly understood and then addressed. That is the overarching goal of the Strengthening Administrative Justice (SRAJ) Project, and the Phase II findings represent the understanding that is necessary to undertake the evidence-based reforms envisioned in Phase III.

The mix of opportunities and challenges can be seen in the labor field—an area that obviously affects a huge proportion of the population and has a profound effect on the business enabling environment. For example, labor inspectors are generally well-regarded by citizens in terms of their helpfulness and courtesy according to the data collected. This is something to be acknowledged and built on, since it hints at the possibility that with greater time, resources, and skills, inspectors could fulfill well the proper problem-solving and mediation roles assigned to them. In fact, as recognized by citizens and public officials alike (including the labor inspectors themselves), the inspectors are not only burdened with huge caseloads that hamper their effectiveness, but lack the legal powers and more advanced mediation skills that could make their dispute resolution role more influential (the top recommendation from citizens about improvements in the labor dispute sphere was expanding the power of inspectors to take enforceable decisions). The biggest challenge, perhaps, concerns the proper establishment and training of workers' delegates; interviews with citizens and public officials painted a picture of barely functional workers' delegates in many firms—a situation that fails to address employment problems at their source and that indirectly provides employers with certain unhelpful power advantages vis-à-vis their employees. This situation

requires thoughtful legal and managerial attention from MIFOTRA and the Private Sector Federation.

Similarly, in the procurement field, there are many positive indicators, as well as some places where remedial efforts are clearly warranted. As an illustration, bidders from the business community have strongly favorable views of the procedural transparency of the procurement process; some 81% of survey respondents said that they received information from the government on how the procurement process worked, and 83% reported receiving a written decision on a procurement result. On the other hand, only 66% of those complaining about a procurement dispute said they were given an opportunity to present evidence on their own behalf—a somewhat anomalous fact in a system that has relatively well-informed and knowledgeable participants on both sides. And while fully 75% of respondents said that their written decision was accompanied by an explanation with reasons, one might well wonder why the other 25% of bidders did not receive such an explanation, which is a fairly fundamental expectation when one participates in a public tendering process. Even more surprising is that only 23% of respondents said that they were given information about how and where to appeal an adverse procurement outcome—and only 32% of respondents said that district officials treated them with courtesy in the procurement process. Clearly there are important pieces of information that need to be discussed in depth by key government stakeholders.

It is in the land expropriation area, however—where citizens are perhaps most vulnerable—where the challenges are perhaps the most stark. Only 34% of citizens said they had been notified or consulted in advance about an expropriation in which they had been involved, and only 36% said they were consulted in any way about how the expropriation process would unfold. With regard to other aspects of procedural transparency, only half of respondents received information about how the expropriation process worked, only 38% said they were given an opportunity to present evidence on their own behalf (a very significant finding, since this encompasses the important issue of being able to obtain a counter-valuation of one's property), only 21% received a written decision on the expropriation of their property, and a mere 13% received an explanation with reasons

for the decision. Most glaringly, just 10% of respondents said they were provided with information about how and where to appeal an expropriation decision—perhaps not so surprising in context, where government are often under pressure to move an expropriation process along and may not want to encourage such appeals. All in all, as was clear from the individual interviews with citizens, there is an enormous information gap that needs to be filled in order to make sure that affected individuals are treated with dignity and have a meaningful opportunity to challenge the valuation of their property by the district through recourse to an independent property valuer.

Finally, in the public employment area, one discerns an arena where there is a relatively good understanding of one's rights on the part of public employees (87% of those who had been involved in public employment-related disputes said they were well-informed), but less clarity and fidelity to the law on the part of supervisory personnel in district government. In general, as revealed in individual and group interviews with public officials, there is insufficient knowledge of what is required procedurally in for disciplinary, promotion, and termination decisions, and especially what kind of documentation is to be kept and utilized. In the end, it is generally a disappointment that as many as 28% of public employees said they did not receive any written decision in the first instance on their cases, that 36% of such employees indicated they did not receive an explanation with reasons for the employment decision, that 41% were not provided an opportunity to provide evidence on their own behalf, and 49% failed to receive information on how and where to appeal their adverse decision in the first instance.

Looking across the four different subject areas more broadly, then, one perceives significant shortcomings in key procedural functions that go to the heart of administrative justice. In essence, in several different contexts, a relatively large proportion of citizens are not being provided with adequate information about how the complaints process works and more significant numbers of citizens are not being given an opportunity to present evidence on their side of the dispute, and are ultimately not being provided with a written decision and an explanation of reasons for that decision. And a very large proportion of citizens are not being provided information about where to go to further appeal a first instance determination of their complaint at the district level. All of these deficiencies can materially affect the fairness and efficiency of complaints handling, ultimately leading

to more complaints and frustration that undermine public trust and unnecessarily consume state and private resources.

If this report's findings and targeted recommendations can be acted upon in a strategic way over the next several years —particularly those recommendations having to do with public awareness raising and district official training-- this public trust can be strengthened and district government can better realize the aspirations set for it under the country's decentralization policies. The result can be a more prosperous economy and a more responsive public sector.


But the commitment must be serious and substantial. It must address not only shortcomings in the training and supervision of district officials, but coordination guidance designed to ensure that district leadership knows where its authority lies, and where it needs to defer to other officials and institutions. For example, within district government, legal advisers have a very important role to play in helping to ensure that decisions rendered by district officials are legally sound. Yet insofar as they are often sidelined by local officials too eager to make quick decisions or dismiss legal concerns as inconsequential—something revealed in several different interviews and group discussions—it is very important that district leadership be strongly encouraged to consult with, and listen to, the advice of legal advisers in taking consequential decisions in these four areas, particularly in the case of land expropriation and public employment cases, where political priorities may sometimes overwhelm sound legal counsel. Similarly, in the case of labor regulation, district officials need to coordinate with, but acknowledge the independence and expertise of labor inspectors who report to MIFOTRA, and whose mission and roles are defined by international labor standards.

In the end, administrative justice is indeed a matter of meeting the needs and aspirations of ordinary citizens in achieving 'everyday justice' in the many different interactions they have with the state—from business licensing and permitting, to public benefits provision, to the four areas addressed in this field research. When these aspiration are addressed in a meaningful way, the Rwandan state can truly fulfill a major part of its good governance goals under the National Strategy for Transformation⁹⁵ and complement the sustained progress it has made on social and economic policy over the past two decades.

⁹⁵ In particular the following objective under the Transformational Governance Pillar: "Strengthen capable and responsible public institutions committed to citizens' advancement and efficient service delivery."



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org


Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda

For further information contact:

 **Seth Karamage**

Resident Country Director, SRAJ project, University of Massachusetts Boston

 +250 788 309 914

 skaramage@gmail.com

seth.karamage@umb.edu



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX VIII (VOLUME II)



S TRENGTHENING
R WANDAN
A DMINISTRATIVE
J USTICE

**PRIVATE LABOR
REGULATION**

ANNEX

T able of contents

Annex 1: Quantitative Results	1
1. General characteristics of the sample	1
2. Information on labor regulation	2
2.1 Prior information on labor regulation rights	3
2.2 Distribution of labor regulation awareness per characteristics	4
2.3 Source of information	4
3. Additional information needed	4
4. Dispute	5
5. First Complaint	6
5.1 Distribution of institutions appealed to for the first appeal	6
5.2 Reasons not to appeal	6
5.3 Institution appealed to for the first appeal per respondent’s characteristics	8
5.4 Reasons for choosing an institution and timeline to receive feedback for the first appeal	11
5.5 Interaction experience with the institution for the first appeal	14
6. Second Appeal	20
6.1 Institution appealed to for the second appeal	20
6.2 Matrix of the institution chosen for the second and first appeal	21
6.3 Institution appealed to for the second appeal per respondent’s characteristics	22
6.4 Reasons not to appeal	23
6.5 Reason for choosing the selected institution and feedback timeline	24
6.6 Interaction experience with the institution	25
7. Third appeal	31
7.1 Institution appealed to for the third appeal	31
7.2 Institution appealed to for the second appeal per respondent’s characteristics	32
7.3 Matrix of the institution chosen for the second and third appeal	34
7.4 Reasons not to appeal	35
7.5 Reason for choosing selected institutions and feedback timeline for the third appeal..	36
7.6 Interaction experience with the institution during the third appeal	37
8. Recommendations	42
ANNEX 2: Labor Regulations Survey	43

T ables of tables

Table 1: Characteristics of our sample	1
Table 2: Level of awareness on rights in the workplace by characteristic	3
Table 3: Reasons not to complain by District	7
Table 4.1.: Selected institution for the first complaint by characteristic	8
Table 4.2.: Disaggregation of chosen institutions by District	10
Table 5.1.: Reasons for choosing an institution and the timeline to receive feedback for the first appeal	11
Table 5.2.: Disaggregation of reasons for choosing the institution by District	13
Table 6.1.: Quality of interaction by institution of the first appeal	14
Table 6.2.: Quality of interaction with different institutions for the first appeal by District	15
Table 6.3.: Quality of support provided by institution for the first appeal	16
Table 6.4.: Quality of support provided by different institutions by District	17
Table 6.5.: Quality of support provided if the complainer had a lawyer	18
Table 7: Comparison of institution chosen for the second and first appeal (Frequency)	21
Table 8: Selected institution for the second appeal by characteristic	22
Table 9: Disaggregation of reasons for choosing an institution and timeline to receive feedback for the second appeal by Districts	24
Table 10.1.: Quality of the interaction by institution for the second appeal	25
Table 10.2.: Quality of the interaction with different institutions for the second appeal by District	26
Table 10.3.: Quality of support provided by institution for the second appeal	27
Table 10.4.: Quality of support provided by different institutions for the second appeal by District.]	29
Table 10.5.: Quality of support provided if the complainer had a lawyer	30
Table 11: Selected institutions for the third appeal by characteristic	32
Table 12: Comparison of institution chosen for the second and third appeal (Frequency)	34
Table 13.1.: Reasons for selecting institutions and feedback timeline for the third appeal	36
Table 13.2.: Disaggregation of reason and feedback timeline by District	37
Table 14.1.: Quality of the interaction by institution for the third appeal	37
Table 14.2.: Quality of support provided by institution for the third appeal	38
Table 14.3.: Quality of support provided by different institutions by District	40
Table 14.4.: Quality of support provided if the complainer had a lawyer	41

T ables of figures

Figure 1: Level of awareness on rights in the workplace	4
Figure 2: Source of information on labor rights	4
Figure 3: Topics in which additional information is needed	4
Figure 4: Reported subjects of labor-related disputes	5
Figure 5: Institutions to which respondents appealed the first time	6
Figure 6: Reasons respondents chose not to complain	6
Figure 7: Distribution of the institutions appealed to for the second appeal	20
Figure 8: Primary reasons respondents did not pursue a second appeal	23
Figure 9: Distribution of institutions appealed to for the third appeal	31
Figure 10: Reasons respondents chose not to pursue a third appeal	35
Figure 11: Recommendations	42

A NNEX 1: Quantitative Results

1 General characteristics of the sample

Table 1: Characteristics of our sample

		Frequency	Percentage
Gender	Male	278	75.34
	Female	91	24.66
Age	16-25 years	11	2.98
	26-35 years	149	40.38
	36-45 years	129	34.96
	46-55 years	64	17.34
	More than 55 years	16	4.34
Marital status	Single	70	18.97
	Married	287	77.78
	Divorced	3	0.81
	Separated	2	0.54
	Widower	7	1.9
Highest level of education	None, never been to school	6	1.63
	Primary	60	16.26
	Junior Secondary	51	13.82
	Advanced Secondary	63	17.07
	Vocational	9	2.44
	University	180	48.78
Working time	Full-time	342	92.68
	Part-time	27	7.32
Type of organization	Government institution (employee under contract)	11	2.98
	Private sector organization (profit making)	303	82.11
	International non-governmental organization (INGO)	11	2.98
	Local non-governmental organization(LNGO)	12	3.25
	Faith based organization(FBO)	29	7.86
	No employment	3	0.81
Form of contract	Fixed term contract	144	39.02
	Open ended contract	225	60.98
Type of worker	Permanent (6 months or longer)	333	90.24
	Temporary/Casual (Less than 6 months/hi	12	3.25
	Daily (worker hired on a daily basis)	24	6.5
Working experience	Less than 5 years	201	54.47
	5-9 years	97	26.29
	10-14 years	46	12.47
	15-19 years	20	5.42
	20-24 years	2	0.54
	25 years and above	3	0.81

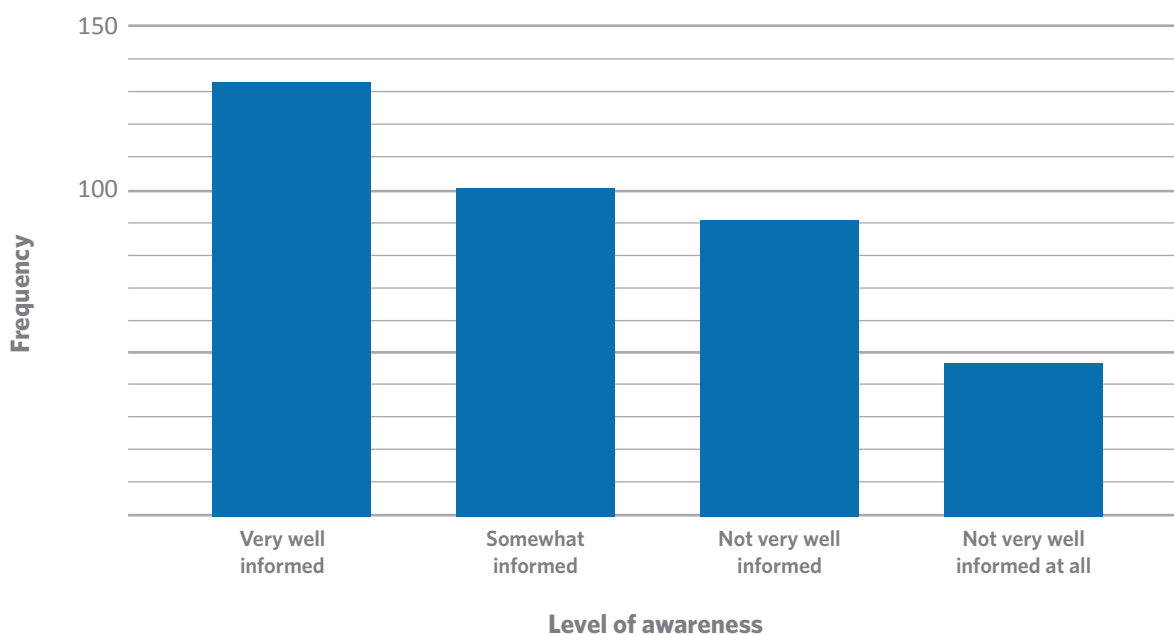
Household income per month	< 30,000 Rwf	36	9.76
	30,000 -100,000 Rwf	119	32.25
	100,000-200,000 Rwf	110	29.81
	Above 200,000 Rwf	94	25.47
	Do not know	10	2.71
Ubudehe category	Category 1	11	2.98
	Category 2	93	25.2
	Category 3	247	66.94
	Category 4	3	0.81
	Do not know	15	4.07
Disabled	Yes	11	2.98
	No	358	97.02
If yes, what kind of disability	Physical disability	8	72.73
	Mental health condition	3	27.27

Our sample is composed of 369 respondents, most of whom are able-bodied (97.02%), male (75.34%), and married (77.78%). The largest age category is 26-35 years, with 40.38% of respondents. Most respondents have also undergone some level of education, with 48.78% having attended university, and the majority are permanent workers and in the private sector, 90.24% and 82.11% respectively.

2 Information on Labor regulation

2.1 Prior information on labor regulation rights

Figure 1: Level of awareness on rights in the workplace



2.2 Distribution of labor regulation awareness per characteristics

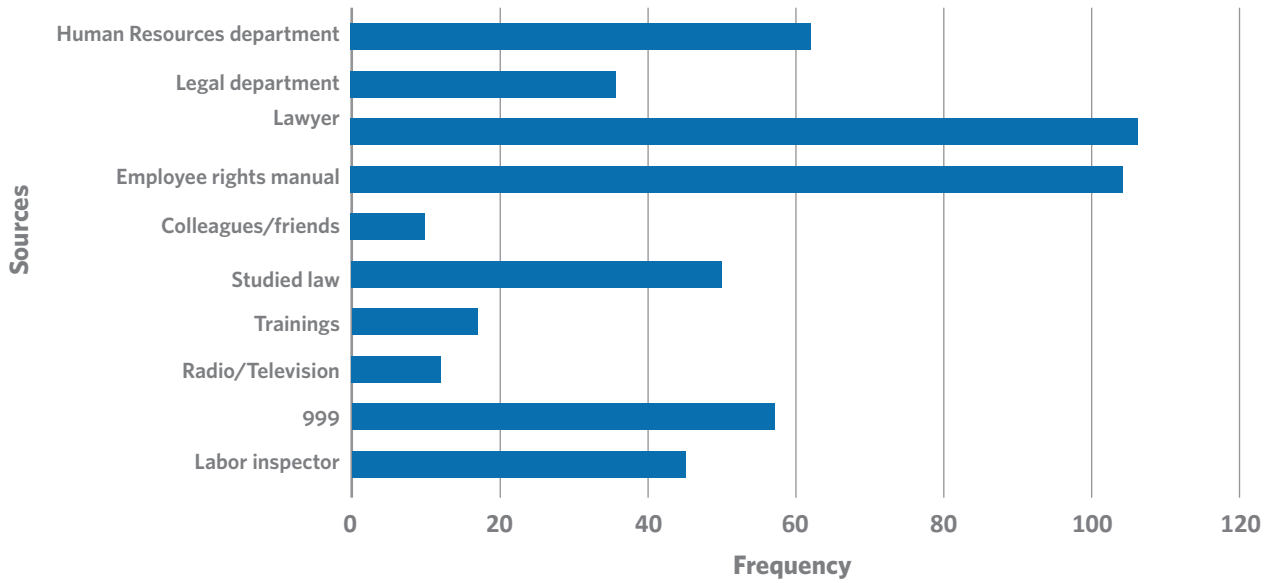
Table 2: Level of awareness on rights in the workplace by characteristic

		All categories (count)	Very well informed	Somewhat informed	Not very well informed	Not well informed at all
Gender	Male	278	37.05%	26.98%	24.10%	11.87%
	Female	91	31.87%	27.47%	25.27%	15.38%
Age	16-25 years	11	9.09%	36.36%	36.36%	18.18%
	26-35 years	149	32.89%	27.52%	25.50%	14.09%
	36-45 years	129	38.76%	28.68%	20.93%	11.63%
	46-55 years	64	43.75%	20.31%	26.56%	9.38%
	More than 55 years	16	25.00%	31.25%	25.00%	18.75%
Highest level of education	None, never been to school	6	0.00%	16.67%	33.33%	50.00%
	Primary	60	15.00%	20.00%	35.00%	30.00%
	Junior Secondary	51	19.61%	29.41%	35.29%	15.69%
	Advanced Secondary	63	25.40%	36.51%	25.40%	12.70%
	Vocational	9	11.11%	22.22%	33.33%	33.33%
	University	180	53.33%	26.11%	16.67%	3.89%
Type of organization	Government institution (employee under contract)	11	18.18%	18.18%	18.18%	45.45%
	Private sector organization (profit making)	303	33.00%	29.37%	25.74%	11.88%
	International non-governmental organization (INGO)	11	72.73%	18.18%	9.09%	0.00%
	Local non-governmental organization(LNGO)	12	16.67%	33.33%	25.00%	25.00%
	Faith based organization(FBO)	29	65.52%	10.34%	17.24%	6.90%
	No employment	3	33.33%	0.00%	33.33%	33.33%

Awareness increases with age until the respondents reach 55 years or above, with 43.75% of those aged 46-55 years reporting that they feel very well informed of their rights. Level of awareness also increases with education (those who attended vocational school being the exception). Only 3.89% of those who attended university feel not well informed at all, compared to 50% of those without an education.

2.3 Source of information

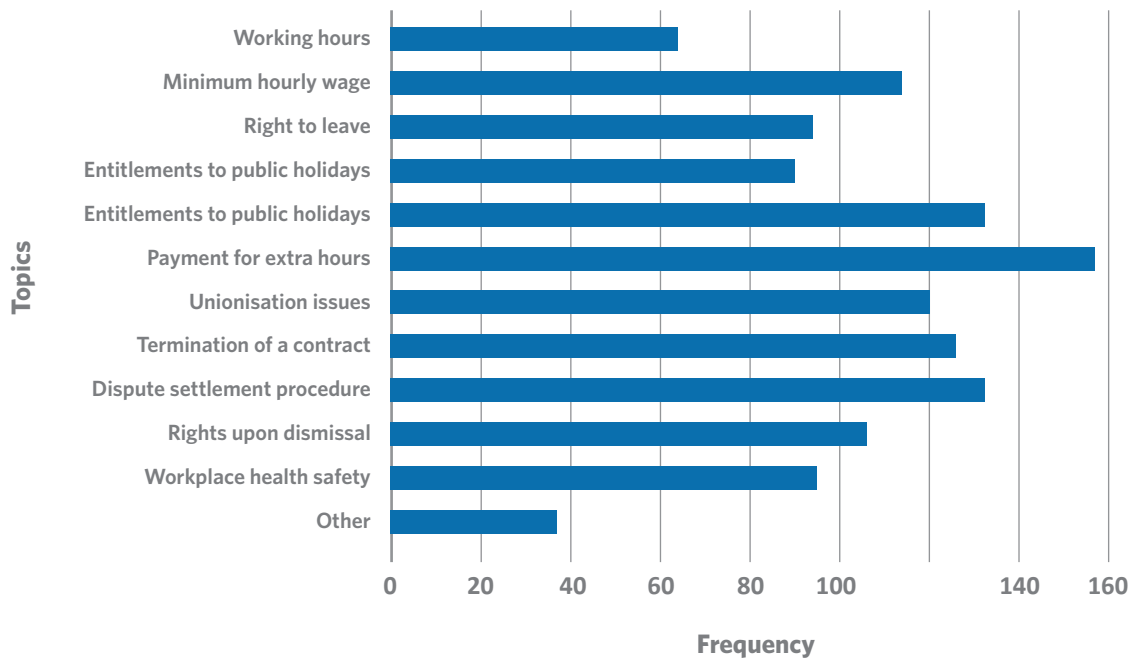
Figure 2: Source of information on labor rights



Respondents mainly receive information from lawyers and employee rights manuals.

3 Additional information needed

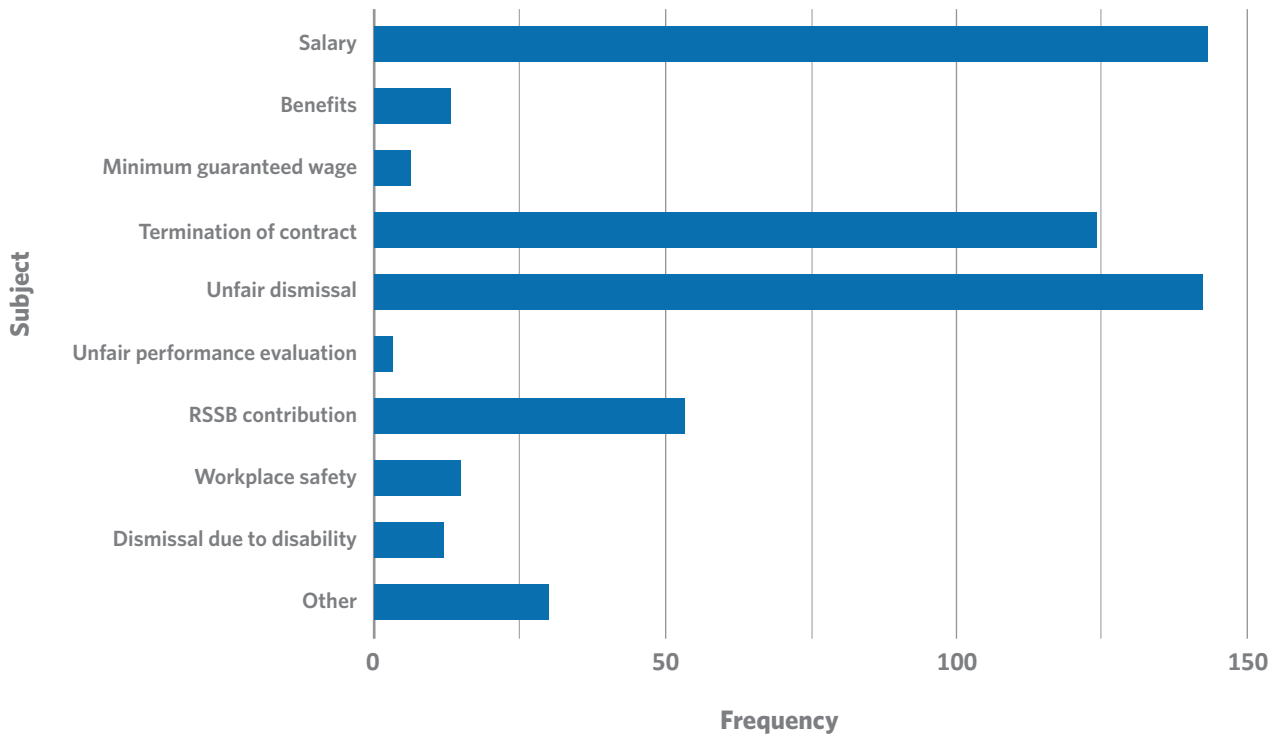
Figure 3: Topics in which additional information is needed



The distribution of responses suggests that respondents felt inadequately informed on a significant number of topics, but the most frequently reported topics were unionization issues, dispute settlement procedures, and payment for extra hours.

4 Dispute

Figure 4: Reported subjects of labor-related disputes

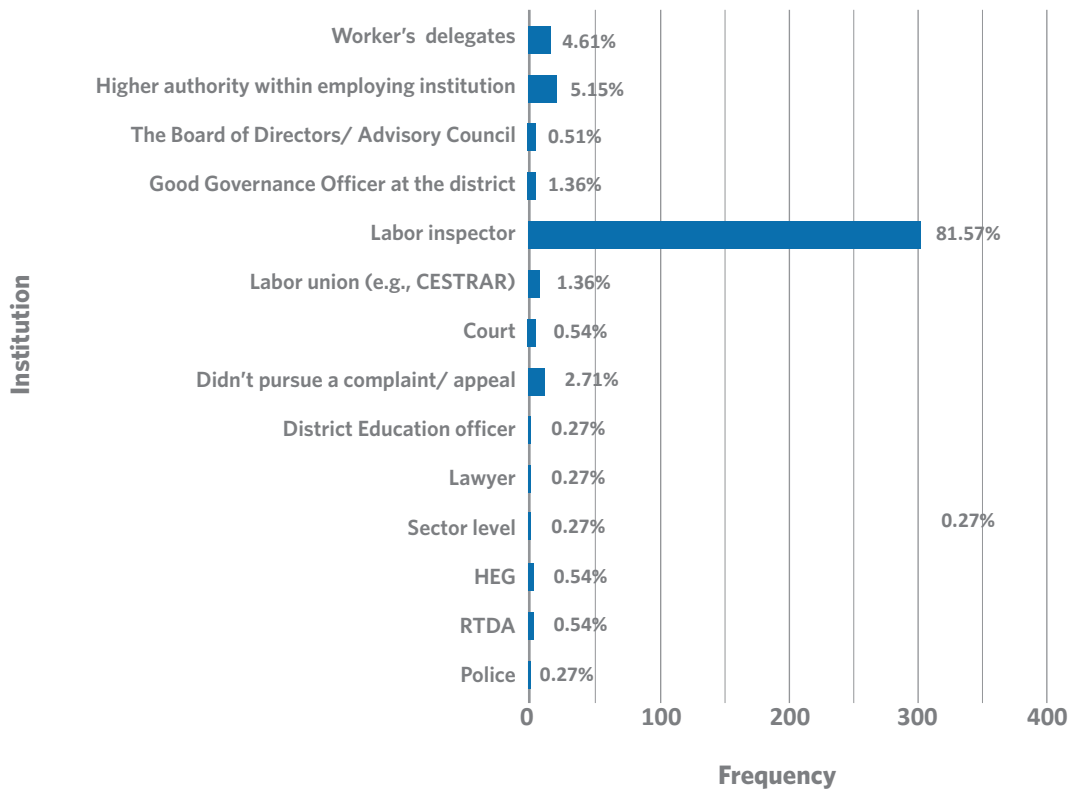


The majority of labor-related disputes pertain to issues of salary, termination of contract, and unfair dismissal

5 First Complaint

5.1 Distribution of institutions appealed to for the first appeal

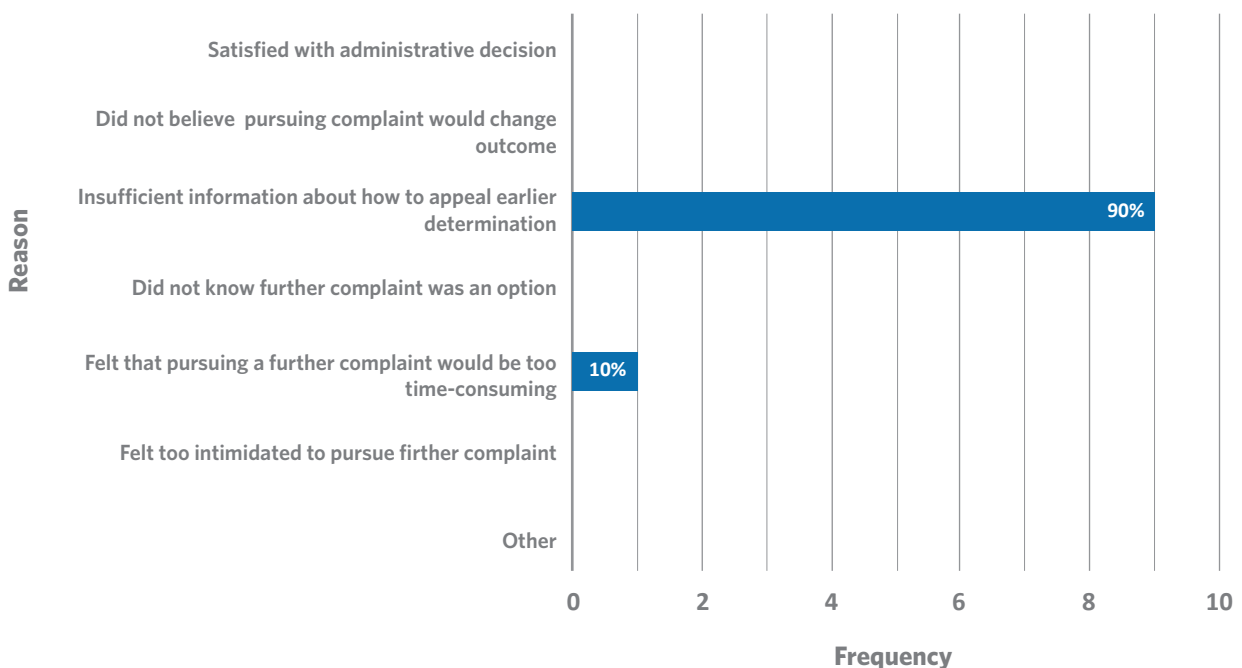
Figure 5: Institutions to which respondents appealed the first time



The vast majority (81.57%) of respondents first complained to the labor inspector, followed by 5.15% complaining to a higher authority within their employing institution and 4.61% complaining to the workers' delegates.

5.2 Reasons not to appeal

Figure 6: Reasons respondents chose not to complain



Among respondents who chose not to complain about the administrative decision, 90% did so because they did not have enough information about how to appeal the determination.

Table 3: Reasons not to complain by District

	Total	District B	District A	District D
You did not have sufficient information about how to appeal the earlier determination	90%	11.11%	0%	88.89%
You felt that pursuing a further complaint would be too time-consuming	10%	0%	100%	0%

5.3 Institution appealed to for the first appeal per respondent's characteristics

Table 4.1.: Selected institution for the first complaint by characteristic

	All categories (count)	Worker's delegates	Higher authority within employing institution	The Board of Directors/ Advisory Council	Good Governance Officer at District level	Labor inspector	Labor union (e.g., CESTRAR)	Court	Did not pursue a complaint/ appeal	District Education officer	Lawyer	Sector level	HEG	RTDA	Police
Gender	Male	5.04%	6.12%	0.00%	0.72%	79.86%	1.80%	0.72%	2.88%	0.36%	0.36%	0.36%	0.72%	0.72%	0.36%
	Female	3.30%	2.20%	2.20%	3.30%	86.81%	0.00%	0.00%	2.20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Age	16-25 years	9.09%	0.00%	0.00%	0.00%	81.82%	0.00%	0.00%	9.09%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	26-35 years	6.04%	4.03%	0.00%	0.00%	83.89%	0.67%	0.00%	2.68%	0.00%	0.67%	0.00%	0.00%	1.34%	0.67%
	36-45 years	3.10%	7.75%	1.55%	3.10%	75.19%	2.33%	1.55%	3.88%	0.78%	0.00%	0.78%	0.00%	0.00%	0.00%
	46-55 years	3.13%	4.69%	0.00%	1.56%	87.50%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	3.13%	0.00%	0.00%
	More than 55 years	6.25%	0.00%	0.00%	0.00%	87.50%	6.25%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Marital status	Single	5.71%	1.43%	0.00%	1.43%	88.57%	0.00%	0.00%	2.86%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Married	4.18%	6.27%	0.70%	1.39%	79.79%	1.74%	0.70%	2.44%	0.35%	0.35%	0.35%	0.70%	0.70%	0.35%
	Divorced	0.00%	0.00%	0.00%	0.00%	66.67%	0.00%	0.00%	33.33%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Separated	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%	0%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Widower	14.29%	0.00%	0.00%	0.00%	85.71%	0.00%	0.00%	0%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Highest level of education	None, never been to school	0.00%	0.00%	0.00%	0.00%	83.33%	0.00%	0.00%	16.67%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Primary	3.33%	5%	0.00%	0.00%	76.67%	5%	0.00%	6.67%	1.67%	1.67%	0.00%	0.00%	0.00%	0.00%
	Junior Secondary	1.96%	5.88%	0.00%	5.88%	84.31%	0.00%	0.00%	0.00%	0.00%	0.00%	1.96%	0.00%	0.00%	0.00%
	Advanced Secondary	3.17%	7.94%	0.00%	0.00%	84.13%	1.59%	0.00%	3.17%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Vocational	22.22%	22.22%	0.00%	0.00%	44.44%	0.00%	0.00%	11.11%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	University	5.56%	3.33%	1.11%	1.11%	83.33%	0.56%	0.00%	1.11%	0.00%	0.00%	0.00%	1.11%	1.11%	0.56%

Household income per month	< 30,000 Rwf	36	5.56%	0.00%	0.00%	0.00%	66.67%	8.33%	2.78%	11.11%	2.78%	2.78%	0.00%	0.00%	0.00%	0.00%
	30,000 -100,000 Rwf	119	3.36%	5.88%	0.00%	2.52%	84.03%	0.84%	0.00%	2.52%	0.00%	0.00%	0.00%	0.00%	0.00%	0.84%
	100,000-200,000 Rwf	110	4.55%	6.36%	0.00%	1.82%	85.45%	0.00%	0.00%	1.82%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Above 200,000 Rwf	94	6.38%	5.32%	2.13%	0.00%	78.72%	1.06%	1.06%	0.00%	0.00%	0.00%	1.06%	2.13%	2.13%	0.00%
	Do not know	10	0.00%	0.00%	0.00%	0.00%	90%	0.00%	0.00%	10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Ubudehe category	Category 1	11	0.00%	0.00%	0.00%	9.09%	81.82%	9.09%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Category 2	93	5.38%	8.60%	0.00%	2.15%	77.42%	2.15%	1.08%	3.23%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Category 3	247	4.05%	4.05%	0.81%	0.81%	83.40%	0.81%	0.40%	2.83%	0.40%	0.00%	0.40%	0.81%	0.81%	0.40%
	Category 4	3	0.00%	33.33%	0.00%	0.00%	66.67%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Do not know	15	13.33%	0.00%	0.00%	0.00%	80%	0.00%	0.00%	0.00%	0.00%	6.67%	0.00%	0.00%	0.00%	0.00%
Disabled	Yes	11	9.09%	9.09%	0.00%	0.00%	81.82%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	No	358	4.47%	5.03%	0.56%	1.40%	81.56%	1.40%	0.56%	2.79%	0.28%	0.28%	0.28%	0.56%	0.56%	0.28%

Table 4.2.: Disaggregation of chosen institutions by District

District	Worker's delegates	Higher authority within employing institution	The Board of Directors/ Advisory Council	Good Governance Officer at District level	Labor inspector	Labor union (e.g., CESTRAR)	Court	Did not pursue a complaint/ appeal	District Education officer	Lawyer	Sector level	HEG	RTDA	Police
District B	6	12	0	2	57	1	1	1	0	0	0	2	0	0
	7.32%	14.63%	0.00%	2.44%	69.51%	1.22%	1.22%	1.22%	0.00%	0.00%	0.00%	2.44%	0.00%	0.00%
District E	1	0	0	1	40	1	0	0	0	0	0	0	0	0
	2.33%	0.00%	0.00%	2.33%	93.02%	2.33%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
District A	2	1	0	0	79	0	0	1	0	0	0	0	2	0
	2.35%	1.19%	0.00%	0.00%	92.94%	0.00%	0.00%	1.18%	0.00%	0.00%	0.00%	0.00%	2.35%	0.00%
District C	3	1	2	1	41	2	0	0	1	0	1	0	0	1
	5.66%	1.89%	3.77%	1.89%	77.36%	3.77%	0.00%	0.00%	1.89%	0.00%	1.89%	0.00%	0.00%	1.89%
District D	4	4	0	1	48	1	1	8	0	1	0	0	0	0
	5.88%	5.88%	0.00%	1.47%	70.59%	1.47%	1.47%	11.76%	0.00%	1.47%	0.00%	0.00%	0.00%	0.00%
District F	1	1	0	0	36	0	0	0	0	0	0	0	0	0
	2.63%	2.63%	0.00%	0.00%	94.74%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Respondents appear more likely to appeal/complain as age increases, with 9.09% of 16-25 year-olds choosing not to pursue a complaint compared with 2.68% of 26-35 year-olds, 3.88% of 36-45 year-olds, and nobody aged 46 or higher. Those who attended vocational school appear more likely than other levels of education to appeal to the worker's delegate and a higher authority within the employing institution. Across all groups, labor inspector appears to be the most popular choice. The results are similar across Districts except that those from District B are more likely to appeal to a higher authority within the employing institution.

5.4 Reasons for choosing an institution and timeline to receive feedback for the first appeal

Table 5.1.: Reasons for choosing an institution and the timeline to receive feedback for the first appeal

Reason for choosing institution	All institutions	Worker's delegates	Higher authority within employing institution	The Board of Directors/ Advisory Council	Good Governance Officer at District level	Labor inspector	Labor union (e.g., CESTRAR)	Court	District Education officer	Lawyer	Sector level	HEG	RTDA	Police
You understood this to be required by law	249	12	5	2	3	224	0	1	0	0	0	0	2	0
You felt this institution had the necessary expertise	46	3	3	0	0	37	0	0	0	1	1	0	0	1
You felt this institution would handle your dispute efficiently	53	1	9	0	2	36	1	1	1	0	0	2	0	0
You know people at this institution	14.89%	5.88%	47.37%	0.00%	40%	12%	33.33%	50%	100%	0.00%	0.00%	100%	0.00%	0.00%
The institution was recommended by a friend	0.84%	0.00%	0.00%	0.00%	0.00%	0.33%	66.67%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
The institution was cost-efficient	0.56%	0.00%	0.00%	0.00%	0.00%	0.67%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Convenience	2	0	2	0	0	0	0	0	0	0	0	0	0	0
	0.56%	0.00%	10.53%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Time to receive feedback	115	10	2	2	3	90	3	0	1	0	1	1	0	1	0	1	0	1
Less than 2 weeks	32.03%	58.82%	10.53%	100%	60%	29.90%	60%	0.00%	100%	0.00%	100%	100%	0.00%	100%	100%	0.00%	100%	0.00%
Less than 1 month	61	1	1	0	0	57	0	0	0	0	0	0	0	0	0	2	0	0
1-3 Months	16.99%	5.88%	5.26%	0.00%	0.00%	18.94%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100%	0.00%	0.00%
	80	4	2	0	2	68	1	2	0	1	0	0	1	0	0	0	0	0
4-6 Months	22.28%	23.53%	10.53%	0.00%	40%	22.59%	20%	100%	0.00%	100%	0.00%	0.00%	100%	0.00%	0.00%	0.00%	0.00%	0.00%
	39	0	1	0	0	38	0	0	0	0	0	0	0	0	0	0	0	0
6-12 Months	10.86%	0.00%	5.26%	0.00%	0.00%	12.62%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	20	0	4	0	0	16	0	0	0	0	0	0	0	0	0	0	0	0
More than 12 months	5.57%	0.00%	21.05%	0.00%	0.00%	5.32%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	20	0	0	0	0	20	0	0	0	0	0	0	0	0	0	0	0	0
Never received a response	5.57%	0.00%	0.00%	0.00%	0.00%	6.64%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	24	2	9	0	0	12	1	0	0	0	0	0	0	0	0	0	0	0
	6.69%	11.76%	47.37%	0.00%	0.00%	3.99%	20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

The majority of respondents (69.94%) chose their selected institution because they understood it to be required by law. Most respondents received their responses within 3 months of complaining.

Table 5.2.: Disaggregation of reasons for choosing the institution by District

	All Districts	District B	District E	District A	District C	District D	District F	
Reason for choosing institution	You understood this to be required by law	249 69.94%	48 60%	33 76.74%	72 85.71%	38 74.51%	22 36.67%	36 94.74%
	You felt this institution had the necessary expertise	46 12.92%	9 11.25%	4 9.30%	3 3.57%	8 15.69%	20 33.33%	2 5.26%
	You felt this institution would handle your dispute efficiently	53 14.89%	21 26.25%	4 9.30%	6 7.14%	4 7.84%	18 30%	0 0.00%
	You know people at this institution	3 0.84%	1 1.25%	2 4.65%	0 0.00%	0 0.00%	0 0.00%	0 0.00%
	The institution was recommended by a friend	2 0.56%	1 1.25%	0 0.00%	1 1.19%	0 0.00%	0 0.00%	0 0.00%
	The institution was cost-efficient	1 0.28%	0 0.00%	0 0.00%	1 1.19%	0 0.00%	0 0.00%	0 0.00%
	Convenience	2 0.56%	0 0.00%	0 0.00%	1 1.19%	1 1.96%	0 0.00%	0 0.00%
	Less than 2 weeks	115 32.03%	25 30.86%	14 32.56%	21 25%	24 45.28%	17 28.33%	14 36.84%
	Less than 1 month	61 16.99%	12 14.81%	8 18.60%	17 20.24%	2 3.77%	14 23.33%	8 21.05%
	1-3 Months	80 22.28%	20 24.69%	6 13.95%	21 25%	6 11.32%	18 30%	9 23.68%
Time to receive feedback	4-6 Months	39 10.86%	3 3.70%	7 16.28%	11 13.10%	11 20.75%	3 5%	4 10.53%
	6-12 Months	20 5.57%	4 4.94%	3 6.98%	6 7.14%	5 9.43%	1 1.67%	1 2.63%
	More than 12 months	20 5.57%	7 8.64%	2 4.65%	5 5.95%	4 7.55%	0 0.00%	2 5.26%
	Never received a response	24 6.69%	10 12.35%	3 6.98%	3 3.57%	1 1.89%	7 11.67%	0 0.00%

5.5 Interaction experience with the institution for the first appeal

Table 6.1.: Quality of interaction by institution of the first appeal

	All institutions	Worker's delegates	Higher authority within employing institution	The Board of Directors/ Advisory Council	Good Governance Officer at District level	Labor inspector	Labor union (e.g., CESTRAR)	Court	District Education officer	Lawyer	Sector level	HEG	RTDA	Police
The representative was	220	4	0	2	5	200	4	1	1	1	0	2	0	0
	61.28%	23.53%	0.00%	100%	100%	66.45%	80%	50%	100%	100%	0.00%	100%	0.00%	0.00%
	55	2	3	0	0	47	0	0	0	0	1	0	2	0
	15.32%	11.76%	15.79%	0.00%	0.00%	15.61%	0.00%	0.00%	0.00%	0.00%	100%	0.00%	100%	0.00%
	26	1	1	0	0	22	0	1	0	0	0	0	0	1
	7.24%	5.88%	5.26%	0.00%	0.00%	7.31%	0.00%	50%	0.00%	0.00%	0.00%	0.00%	0.00%	100%
	47	9	12	0	0	26	0	0	0	0	0	0	0	0
	13.09%	52.94%	63.16%	0.00%	0.00%	8.64%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	11	1	3	0	0	6	1	0	0	0	0	0	0	0
	3.06%	5.88%	15.79%	0.00%	0.00%	1.99%	20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
How courteous was the institution	199	3	0	2	3	185	3	0	0	0	1	2	0	0
	55.43%	17.65%	0.00%	100%	60%	61.46%	60%	0.00%	0.00%	0.00%	100%	100%	0.00%	0.00%
	78	1	2	0	2	67	1	1	1	1	0	0	2	0
	21.73%	5.88%	10.53%	0.00%	40%	22.26%	20%	50%	100%	100%	0.00%	0.00%	100%	0.00%
	33	2	3	0	0	27	0	1	0	0	0	0	0	0
	9.19%	11.76%	15.79%	0.00%	0.00%	8.97%	0.00%	50%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	45	11	11	0	0	22	0	0	0	0	0	0	0	1
	12.53%	64.71%	57.89%	0.00%	0.00%	7.31%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100%
	4	0	3	0	0	0	1	0	0	0	0	0	0	0
	1.11%	0.00%	15.79%	0.00%	0.00%	0.00%	20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Listening	210	4	0	4	0	3	0	0	1	0	2	0	0
Very attentive when listening to the explanation of the case	58.50%	23.53%	0.00%	80%	0.00%	60%	0.00%	0.00%	100%	0.00%	100%	0.00%	0
Somewhat attentive when listening to the explanation of the case	66	1	2	1	1	1	1	0	0	0	0	2	0
Mostly inattentive when listening to the explanation of the case	18.38%	5.88%	100%	20%	5.26%	18.94%	20%	50%	0.00%	0.00%	0.00%	100%	0.00%
Not at all attentive in listening to the explanation of the case	32	3	0	0	7	0	1	1	0	0	0	0	1
Not applicable	8	1	0	0	2	1	0	0	0	1	0	0	0
	2.23%	5.88%	10.53%	0.00%	10.53%	1%	20%	0.00%	0.00%	100%	0.00%	0.00%	0.00%

Table 6.2.: Quality of interaction with different institutions for the first appeal by District

	All Districts	District B	District E	District A	District C	District D	District F
The representative was	220	31	23	57	38	41	30
Very helpful in providing information	61.28%	38.27%	53.49%	67.86%	71.70%	68.33%	78.95%
Helpful in providing information	55	15	11	12	6	7	4
Unhelpful in providing information	15.32%	18.52%	25.58%	14.29%	11.32%	11.67%	10.53%
Very unhelpful in providing information	26	10	3	6	1	3	3
Not applicable	7.24%	12.35%	6.98%	7.14%	1.89%	5%	7.89%
	47	21	3	8	5	9	1
	13.09%	25.93%	6.98%	9.52%	9.43%	15%	2.63%
	11	4	3	1	3	0	0
	3.06%	4.94%	6.98%	1.19%	5.66%	0.00%	0.00%
	199	29	25	53	36	27	29
	55.43%	35.80%	58.14%	63.10%	67.92%	45%	76.32%
	78	17	10	16	8	22	5
	21.73%	20.99%	23.26%	19.05%	15.09%	36.67%	13.16%
	33	11	5	7	1	7	2
	9.19%	13.58%	11.63%	8.33%	1.89%	11.67%	5.26%
	45	22	3	7	7	4	2
	12.53%	27.16%	6.98%	8.33%	13.21%	6.67%	5.26%
	4	2	0	1	1	0	0
	1.11%	2.47%	0.00%	1.19%	1.89%	0.00%	0.00%

Listening	Very attentive when listening to the explanation of the case	210	31	24	54	33	40	28
	Somewhat attentive when listening to the explanation of the case	58.50%	38.27%	55.81%	64.29%	62.26%	66.67%	73.68%
	Mostly inattentive when listening to the explanation of the case	66	15	9	17	9	11	5
	Not at all attentive in listening to the explanation of the case	18.38%	18.52%	20.93%	20.24%	16.98%	18.33%	13.16%
	Not applicable	32	14	4	5	3	3	3
		8.91%	17.28%	9.30%	5.95%	5.66%	5%	7.89%
		43	18	5	7	5	6	2
		11.98%	22.22%	11.63%	8.33%	9.43%	10%	5.26%
		8	3	1	1	3	0	0
		2.23%	3.70%	2.33%	1.19%	5.66%	0.00%	0.00%

Table 6.3.: Quality of support provided by institution for the first appeal

	All institutions	Worker's delegates	Higher authority within employing institution	The Board of Directors/ Advisory Council	Good Governance Officer at the District	Labor inspector	Labor union (e.g., CESTRAR)	Court	District Education officer	Lawyer	Sector level	HEG	RTDA	Police
Written or verbal information was provided about how the appeals process operated	Yes	262	6	5	4	237	3	2	0	0	2	0	0	1
	No	72.98%	35.29%	26.32%	100%	78.74%	60%	100%	0.00%	0.00%	100%	100%	0.00%	100%
You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	Yes	97	11	14	1	64	2	0	1	1	0	2	0	0
	No	27.02%	64.71%	73.68%	0.00%	21.26%	40%	0.00%	100%	100%	100%	0.00%	100%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	278	5	6	4	251	4	2	0	1	0	2	0	1
	No	77.44%	29.41%	31.58%	100%	83.39%	80%	100%	0.00%	100%	0.00%	100%	0.00%	100%
The written decision was accompanied by an explanation with reasons for the decision	Yes	81	12	13	1	50	1	0	1	0	1	0	2	0
	No	22.56%	70.59%	68.42%	0.00%	16.61%	20%	0.00%	100%	0.00%	100%	0.00%	100%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	246	7	3	4	224	2	2	0	0	0	2	0	0
	No	68.52%	41.18%	15.79%	100%	74.42%	40%	100%	0.00%	0.00%	0.00%	100%	0.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	113	10	16	1	77	3	0	1	1	1	0	2	1
	No	31.48%	58.82%	84.21%	0.00%	25.58%	60%	0.00%	100%	100%	100%	0.00%	100%	100%
The written decision was accompanied by an explanation with reasons for the decision	Yes	240	7	3	4	217	2	2	1	0	0	2	0	0
	No	66.85%	41.18%	15.79%	100%	72.09%	40%	100%	100%	0.00%	0.00%	100%	0.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	119	10	16	1	84	3	0	0	1	1	0	2	1
	No	33.15%	58.82%	84.21%	0.00%	27.91%	60%	0.00%	0.00%	100%	100%	0.00%	100%	100%

	Yes	2	0	2	3	206	3	2	1	0	0	2	0	0
You were provided with information about how and where to further appeal the case if dissatisfied with decision in this institution	Yes	221	0	2	3	206	3	2	1	0	0	2	0	0
	No	138	15	0	2	95	2	0	0	1	1	0	2	1
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	80	2	2	0	68	2	2	0	1	0	2	0	0
	No	279	15	0	5	233	3	0	1	0	1	0	2	1
If you are a person with a disability, you felt you were treated equitably	Yes	6	1	0	0	5	0	0	0	0	0	0	0	0
	No	5	0	1	0	4	0	0	0	0	0	0	0	0
		45.45%	0.00%	100%	0.00%	4.44%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Respondents were generally provided with written or verbal information as well as the opportunity to provide evidence and make their views known. Respondents were also usually provided with a written decision and explanation, and information about any further appeals. Most respondents, however, did not have help from a lawyer in presenting their cases.

Table 6.4.: Quality of support provided by different institutions by District

	All Districts	District B	District E	District A	District C	District D	District F
Written or verbal information was provided about how the appeals process operated	Yes	262	49	29	66	40	45
	No	97	32	14	18	13	15
You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	Yes	278	53	32	73	41	46
	No	81	28	11	11	12	14
At the conclusion of the process, you were provided with a written decision	Yes	246	42	26	65	35	44
	No	113	39	17	19	18	16
	31.48%	48.15%	39.53%	22.62%	33.96%	26.67%	10.53%

The written decision was accompanied by an explanation with reasons for the decision	Yes	240	39	26	64	36	43	32
	No	119	42	17	20	17	17	6
You were provided with information about how and where to further appeal the case if dissatisfied with a decision in this institution	Yes	221	32	26	62	35	35	31
	No	138	49	17	22	18	25	7
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	80	12	3	19	3	34	9
	No	279	69	40	65	50	26	29
If you are a person with a disability, you felt you were treated equitably	Yes	6	2	0	3	0	0	1
	No	5	3	1	0	0	0	1
		45.45%	60%	100%	0.00%	0.00%	0.00%	50%

Table 6.5.: Quality of support provided if the complainant had a lawyer

	Total	Had help from a lawyer	Did not have help from a lawyer
The representative was	220	54	166
Very helpful in providing information	61.28%	67.50%	59.50%
Helpful in providing information	55	14	41
Unhelpful in providing information	15.32%	17.50%	14.70%
Very unhelpful in providing information	26	6	20
Not applicable	7.24%	7.50%	7.17%
	47	6	41
	13.09%	7.50%	14.70%
	11	0	11
	3.06%	0.00%	3.94%

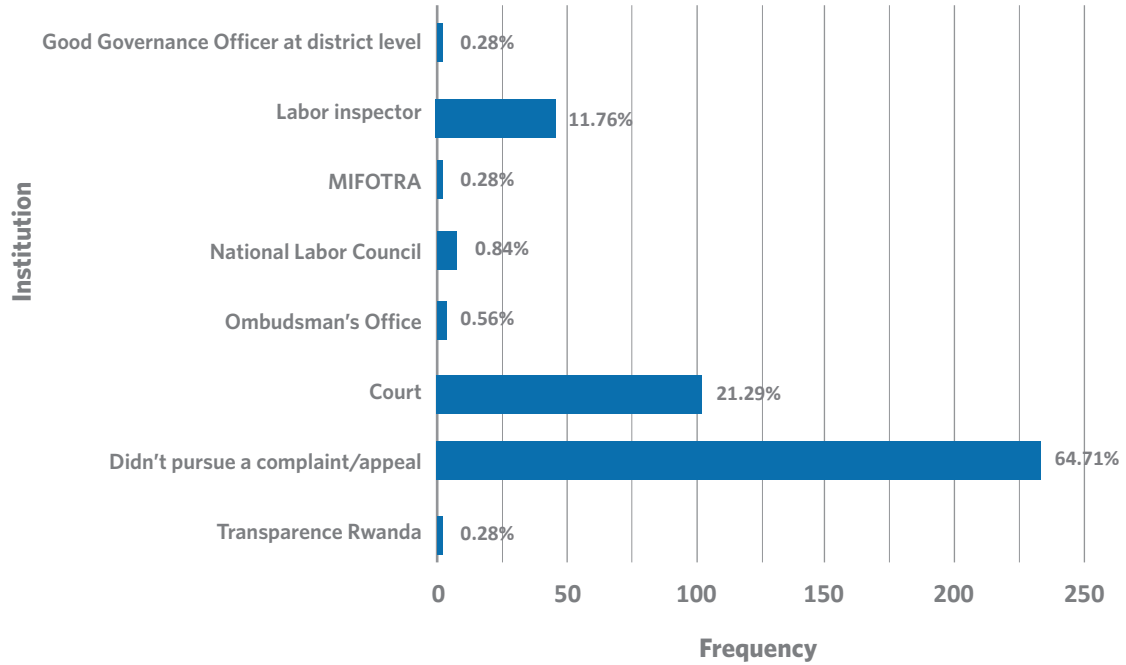
How courteous was the institution	Very courteous	199	45	154
		55.43%	56.25%	55.20%
	Courteous	78	21	57
		21.73%	26.25%	20.43%
	Discourteous	33	11	22
	9.19%	13.75%	7.89%	
Listening	Very discourteous	45	3	42
		12.53%	3.75%	15.05%
	Not applicable	4	0	4
		1.11%	0.00%	1.43%
	Very attentive when listening to the explanation of the case	210	50	160
	58.50%	62.50%	57.35%	
Somewhat attentive when listening to the explanation of the case		66	18	48
		18.38%	22.50%	17.20%
	Mostly inattentive when listening to the explanation of the case	32	9	23
		8.91%	11.25%	8.24%
	Not at all attentive in listening to the explanation of the case	43	3	40
	11.98%	3.75%	14.34%	
Not applicable		8	0	8
		2.23%	0.00%	2.87%

Respondents who had help from a lawyer appeared to have found their representatives slightly more helpful in providing information and more attentive when listening to the explanation of their case.

6 Second Appeal

6.1 Institution appealed to for the second appeal

Figure 7: Distribution of the institutions appealed to for the second appeal



Most respondents (64.71%) chose not to pursue a complaint/appeal, but of those who did, the most popular selected institution was court, with (21.29%) of respondents.

6.2 Matrix of the institution chosen for the second and first appeal

Table 7: Comparison of institution chosen for the second and first appeal (Frequency)

	Second appeal										Total
	Count Good Governance Officer at District level	Labor inspector	MIFOTRA	National Labor Council	Ombudsman's office	Court	Did not pursue a complaint/appeal	Transparence Rwanda			
Worker's delegates	0	11	0	0	0	0	5	0		16	
Higher authority within employing institution	0	16	0	0	0	1	2	0		19	
The Board of Directors/Advisory Council	0	2	0	0	0	0	0	0		2	
Good Governance Officer at District level	0	1	0	0	0	0	4	0		5	
Labor inspector	1	4	1	3	2	74	215	0		300	
Labor union (e.g., CESTRAR)	0	3	0	0	0	0	2	0		5	
Court	0	0	0	0	0	1	1	0		2	
District Education officer	0	0	0	0	0	0	1	0		1	
Lawyer	0	0	0	0	0	0	1	0		1	
Sector level	0	1	0	0	0	0	0	0		1	
HEG	0	2	0	0	0	0	0	0		2	
RTDA	0	2	0	0	0	0	0	0		2	
Police	0	0	0	0	0	0	0	1		1	
Total	1	42	1	3	2	76	231	1		357	

Only four of those who initially complained to the labor inspector returned to the labor inspector, and one person who initially complained at court returned to court. The remaining respondents either chose not to pursue a complaint or complained at a different institution.

6.3 Institution appealed to for the second appeal per respondent's characteristics

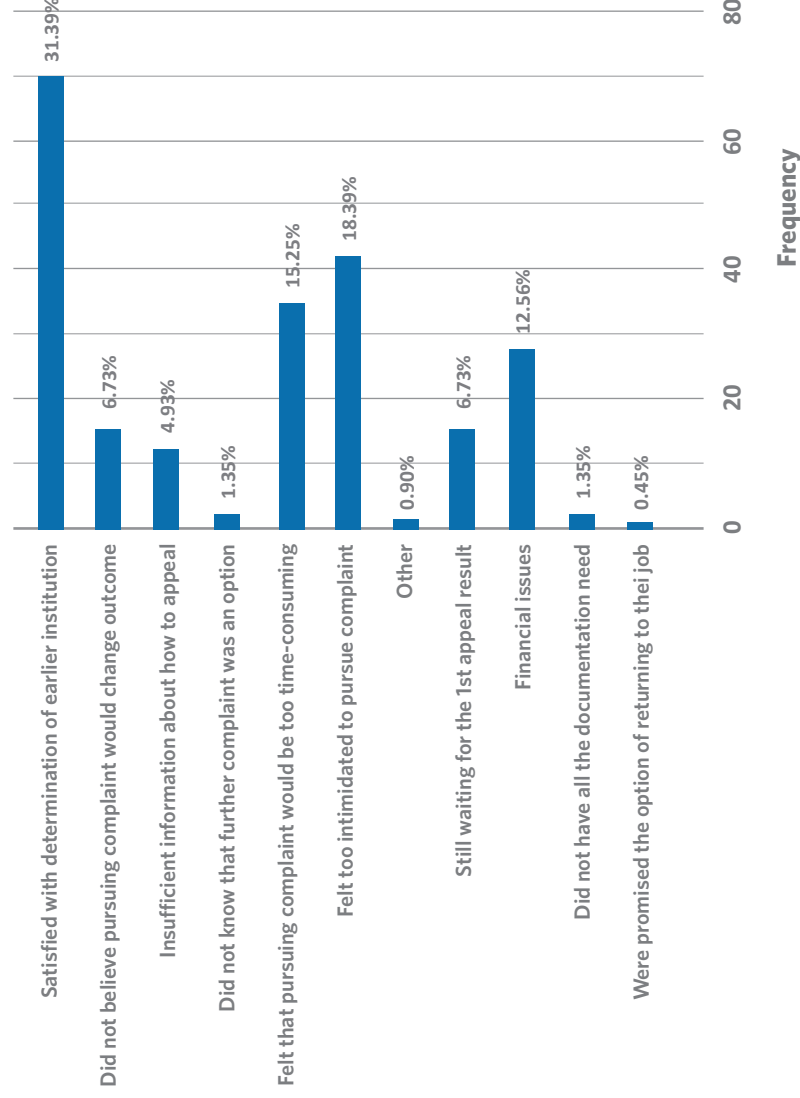
Table 8: Selected institution for the second appeal by characteristic

	All categories (count)	Good Governance Officer at District level	Labor inspector	MIFOTRA	National Labor Council	Ombudsman's office	Court	Did not pursue a complaint/appeal	Transparency Rwanda
Gender									
	Male	0.37%	0.37%	0.37%	1.12%	0.37%	20.90%	63.43%	0.37%
	Female	0.00%	0.00%	0.00%	0.00%	1.12%	22.47%	68.54%	0.00%
Age									
	16-25 years	0.00%	0.00%	0.00%	0.00%	0.00%	20.00%	70.00%	0.00%
	26-35 years	0.70%	0.70%	0.70%	1.40%	0.70%	23.08%	61.54%	0.70%
	36-45 years	0.00%	0.00%	0.00%	0.00%	0.00%	17.74%	68.55%	0.00%
	46-55 years	0.00%	0.00%	0.00%	0.00%	1.56%	25.00%	62.50%	0.00%
	More than 55 years	0.00%	0.00%	0.00%	6.25%	0.00%	18.75%	68.75%	0.00%
Highest level of education									
	None, never been to school	0.00%	0.00%	0.00%	0.00%	0.00%	40.00%	60.00%	0.00%
	Primary	0.00%	0.00%	1.82%	0.00%	3.64%	18.18%	65.45%	0.00%
	Junior Secondary	0.00%	0.00%	0.00%	0.00%	0.00%	17.65%	70.59%	0.00%
	Advanced Secondary	0.00%	0.00%	0.00%	1.64%	0.00%	18.03%	65.57%	0.00%
	Vocational	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	62.50%	0.00%
	University	0.56%	0.56%	0.00%	1.13%	0.00%	24.86%	62.71%	0.56%
Type of organization									
	Government institution	0.00%	0.00%	0.00%	0.00%	0.00%	18.18%	63.64%	0.00%
	Private sector organization	0.34%	0.34%	0.34%	1.03%	0.68%	21.92%	64.73%	0.34%
	International NGO	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	81.82%	0.00%
	Local NGO	0.00%	0.00%	0.00%	0.00%	0.00%	18.18%	63.64%	0.00%
	Faith based organization	0.00%	0.00%	0.00%	0.00%	0.00%	17.24%	65.52%	0.00%
	No employment	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%

Ubudehe category	Category 1	11	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	27.27%	72.73%	0.00%
	Category 2	90	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.11%	21.11%	60.00%	0.00%
	Category 3	239	0.00%	0.00%	0.42%	1.26%	0.42%	0.00%	0.00%	0.42%	21.34%	66.11%	0.42%
	Category 4	3	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	66.67%	0.00%
	Do not know	14	7.14%	7.14%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	21.43%	64.29%	0.00%

6.4 Reasons not to appeal

Figure 8: Primary reasons respondents did not pursue a second appeal



Many of the respondents were satisfied with the determination of the earlier institution but a number also refrained from pursuing a complaint because they felt too intimidated to pursue the complaint (18.39%), felt that the process would be too time-consuming (15.25%), or were inhibited by financial reasons (12.56%)

6.5 Reason for choosing the selected institution and feedback timeline

Table 9: Disaggregation of reasons for choosing an institution and timeline to receive feedback for the second appeal by Districts

	All Districts	District B	District E	District A	District C	District D	District F	
Reason for choosing institution	You understood this to be required by law	86	24	10	23	12	7	10
		68.80%	75.00%	90.91%	76.67%	75.00%	29.17%	83.33%
	You felt this institution had the necessary expertise	17	2	0	5	2	6	2
		13.60%	6.25%	0.00%	16.67%	12.50%	25.00%	16.67%
	You felt this institution would handle your dispute efficiently	20	5	1	1	2	11	0
		16.00%	15.63%	9.09%	3.33%	12.50%	45.83%	0.00%
	The institution was recommended by a friend	1	1	0	0	0	0	0
		0.80%	3.13%	0.00%	0.00%	0.00%	0.00%	0.00%
	Respondent was the accused	1	0	0	1	0	0	0
		0.80%	0.00%	0.00%	3.33%	0.00%	0.00%	0.00%
Time to receive feedback	Less than 2 weeks	26	6	1	6	12	0	1
		20.00%	16.67%	9.09%	19.35%	75.00%	0.00%	8.33%
	Less than 1 month	10	2	2	2	0	2	2
		7.69%	5.56%	18.18%	6.45%	0.00%	8.33%	16.67%
	1-3 Months	28	8	3	8	0	5	4
		21.54%	22.22%	27.27%	25.81%	0.00%	20.83%	33.33%
	4-6 Months	11	4	1	4	1	0	1
		8.46%	11.11%	9.09%	12.90%	6.25%	0.00%	8.33%
	6-12 Months	11	2	0	4	1	4	0
		8.46%	5.56%	0.00%	12.90%	6.25%	16.67%	0.00%
More than 12 months	6	2	2	0	1	0	1	
	4.62%	5.56%	18.18%	0.00%	6.25%	0.00%	8.33%	
Never received a response	38	12	2	7	1	13	3	
	29.23%	33.33%	18.18%	22.58%	6.25%	54.17%	25.00%	

6.6 Interaction experience with the institution

Table 9: Disaggregation of reasons for choosing an institution and timeline to receive feedback for the second appeal by Districts

	Total	Good Governance Officer at District level	Labor inspector	MIFOTRA	National Labor Council	Ombudsman's office	Court	Did not pursue a complaint/appeal	Transparency Rwanda
The representative was	79	0	27	0	2	1	48	0	1
	61.72%	0.00%	64.29%	0.00%	66.67%	50.00%	63.16%	0.00%	100.00%
	22	0	8	1	1	1	11	0	0
	17.19%	0.00%	19.05%	100.00%	33.33%	50.00%	14.47%	0.00%	0.00%
	6	0	4	0	0	0	2	0	0
	4.69%	0.00%	9.52%	0.00%	0.00%	0.00%	2.63%	0.00%	0.00%
	5	1	2	0	0	0	1	1	0
	3.91%	100.00%	4.76%	0.00%	0.00%	0.00%	1.32%	50.00%	0.00%
	16	0	1	0	0	0	14	1	0
	12.50%	0.00%	2.38%	0.00%	0.00%	0.00%	18.42%	50.00%	0.00%
How courteous was the institution	71	0	25	0	2	2	42	0	0
	55.47%	0.00%	59.52%	0.00%	66.67%	100.00%	55.26%	0.00%	0.00%
	31	0	10	1	1	0	18	0	1
	24.22%	0.00%	23.81%	100.00%	33.33%	0.00%	23.68%	0.00%	100.00%
	5	0	4	0	0	0	1	0	0
	3.91%	0.00%	9.52%	0.00%	0.00%	0.00%	1.32%	0.00%	0.00%
	6	1	3	0	0	0	1	1	0
	4.69%	100.00%	7.14%	0.00%	0.00%	0.00%	1.32%	50.00%	0.00%
	15	0	0	0	0	0	14	1	0
	11.72%	0.00%	0.00%	0.00%	0.00%	0.00%	18.42%	50.00%	0.00%



Listening	81	0	30	0	2	2	47	0	0
Very attentive when listening to the explanation of the case	63.28%	0.00%	71.43%	0.00%	66.67%	100.00%	61.84%	0.00%	0.00%
Somewhat attentive when listening to the explanation of the case	23	0	8	1	1	0	12	0	1
Mostly inattentive when listening to the explanation of the case	17.97%	0.00%	19.05%	100.00%	33.33%	0.00%	15.79%	0.00%	100.00%
Not at all attentive in listening to the explanation of the case	3	0	1	0	0	0	2	0	0
Not applicable	2.34%	0.00%	2.38%	0.00%	0.00%	0.00%	2.63%	0.00%	0.00%
	6	1	3	0	0	0	1	1	0
	4.69%	100.00%	7.14%	0.00%	0.00%	0.00%	1.32%	50.00%	0.00%
	15	0	0	0	0	0	14	1	0
	11.72%	0.00%	0.00%	0.00%	0.00%	0.00%	18.42%	50.00%	0.00%

For the second appeal, most respondents found their selected institutions very helpful in providing information (61.72%), very courteous (55.47%), and very attentive (63.28%). Reviews of the court and the labor inspectors show the most variance, though they also have the most respondents.

Table 10.2.: Quality of the interaction with different institutions for the second appeal by District

	All Districts	District B	District E	District A	District C	District D	District F
Very helpful in providing information	79	15	7	24	12	12	9
	60.77%	41.67%	63.64%	77.42%	75.00%	50.00%	75.00%
Helpful in providing information	22	7	2	2	4	5	2
	16.92%	19.44%	18.18%	6.45%	25.00%	20.83%	16.67%
Unhelpful in providing information	6	3	1	1	0	1	0
	4.62%	8.33%	9.09%	3.23%	0.00%	4.17%	0.00%
Very unhelpful in providing information	5	4	1	0	0	0	0
	3.85%	11.11%	9.09%	0.00%	0.00%	0.00%	0.00%
Not applicable	18	7	0	4	0	6	1
	13.85%	19.44%	0.00%	12.90%	0.00%	25.00%	8.33%

	71	15	6	22	12	7	9
Very courteous	54.62%	41.67%	54.55%	70.97%	75.00%	29.17%	75.00%
Courteous	31	7	3	5	4	10	2
Discourteous	23.85%	19.44%	27.27%	16.13%	25.00%	41.67%	16.67%
Very discourteous	5	3	1	0	0	1	0
Not applicable	3.85%	8.33%	9.09%	0.00%	0.00%	4.17%	0.00%
Very attentive when listening to the explanation of the case	6	5	1	0	0	0	0
Somewhat attentive when listening to the explanation of the case	4.62%	13.89%	9.09%	0.00%	0.00%	0.00%	0.00%
Mostly inattentive when listening to the explanation of the case	17	6	0	4	0	6	1
Not at all attentive in listening to the explanation of the case	13.08%	16.67%	0.00%	12.90%	0.00%	25.00%	8.33%
Not applicable	81	18	5	22	13	13	10
Very attentive when listening to the explanation of the case	62.31%	50.00%	45.45%	70.97%	81.25%	54.17%	83.33%
Somewhat attentive when listening to the explanation of the case	23	6	3	5	3	5	1
Mostly inattentive when listening to the explanation of the case	17.69%	16.67%	27.27%	16.13%	18.75%	20.83%	8.33%
Not at all attentive in listening to the explanation of the case	3	1	2	0	0	0	0
Not applicable	2.31%	2.78%	18.18%	0.00%	0.00%	0.00%	0.00%
Written or verbal information was provided about how the appeals process operated	6	5	1	0	0	0	0
	4.62%	13.89%	9.09%	0.00%	0.00%	0.00%	0.00%
	17	6	0	4	0	6	1
	13.08%	16.67%	0.00%	12.90%	0.00%	25.00%	8.33%

The feedback is similar across Districts, with most respondents reporting that their selected institutions were helpful, courteous, and attentive.

Table 10.3.: Quality of support provided by institution for the second appeal

	Total	Good Governance Officer at the District	Labor inspector	MIFOTRA	National Labor Council	Ombudsman's office	Court	Did not pursue a complaint/appeal	Transparency Rwanda
Written or verbal information was provided about how the appeals process operated	Yes	89	31	1	2	2	53	0	0
	No	39	11	0	1	0	23	2	1
		69.53%	73.81%	100.00%	66.67%	100.00%	69.74%	0.00%	0.00%
		30.47%	26.19%	0.00%	33.33%	0.00%	30.26%	100.00%	100.00%

You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	Yes	94	0	34	1	3	2	54	0	0
	No	73.44%	0.00%	80.95%	100.00%	100.00%	100.00%	71.05%	0.00%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	34	1	8	0	0	0	22	2	1
	No	26.56%	100.00%	19.05%	0.00%	0.00%	0.00%	28.95%	100.00%	100.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	77	0	33	0	2	1	41	0	0
	No	60.16%	0.00%	78.57%	0.00%	66.67%	50.00%	53.95%	0.00%	0.00%
You were provided with information about how and where to further appeal the case if dissatisfied with a decision in this institution	Yes	51	1	9	1	1	1	35	2	1
	No	39.84%	100.00%	21.43%	100.00%	33.33%	50.00%	46.05%	100.00%	100.00%
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	68	0	29	0	2	1	36	0	0
	No	53.13%	0.00%	69.05%	0.00%	66.67%	50.00%	47.37%	0.00%	0.00%
If you are a person with a disability, you felt you were treated equitably	Yes	60	1	13	1	1	1	40	2	1
	No	46.88%	100.00%	30.95%	100.00%	33.33%	50.00%	52.63%	100.00%	100.00%
Most respondents were provided with written or verbal information about how the appeals process operated (69.53%), were given an opportunity to express their views and provide any relevant evidence (73.44%), and were provided with a written decision at the conclusion of the appeals process (60.16%). However, many respondents were not given a written explanation for the decision (46.88%). Most respondents were provided information about how to further appeal (63.28%) and many were assisted by a lawyer (56.25%).	Yes	81	0	28	1	2	1	49	0	0
	No	63.28%	0.00%	66.67%	100.00%	66.67%	50.00%	64.47%	0.00%	0.00%
If you are a person with a disability, you felt you were treated equitably	Yes	47	1	14	0	1	1	27	2	1
	No	36.72%	100.00%	33.33%	0.00%	33.33%	50.00%	35.53%	100.00%	100.00%
If you are a person with a disability, you felt you were treated equitably	Yes	72	0	10	1	3	2	56	0	0
	No	56.25%	0.00%	23.81%	100.00%	100.00%	100.00%	73.68%	0.00%	0.00%
If you are a person with a disability, you felt you were treated equitably	Yes	56	1	32	0	0	0	20	2	1
	No	43.75%	100.00%	76.19%	0.00%	0.00%	0.00%	26.32%	100.00%	100.00%
If you are a person with a disability, you felt you were treated equitably	Yes	6	0	0	0	0	1	5	0	0
	No	75%	0.00%	0.00%	0.00%	0.00%	100%	71.43%	0.00%	0.00%
If you are a person with a disability, you felt you were treated equitably	Yes	2	0	0	0	0	0	2	0	0
	No	25%	0.00%	0.00%	0.00%	0.00%	0.00%	25%	0.00%	0.00%

Most respondents were provided with written or verbal information about how the appeals process operated (69.53%), were given an opportunity to express their views and provide any relevant evidence (73.44%), and were provided with a written decision at the conclusion of the appeals process (60.16%). However, many respondents were not given a written explanation for the decision (46.88%). Most respondents were provided information about how to further appeal (63.28%) and many were assisted by a lawyer (56.25%).

Table 10.4.: Quality of support provided by different institutions for the second appeal by District

	All Districts	District B	District E	District A	District C	District D	District F
Written or verbal information was provided about how the appeals process operated	Yes	20	5	24	15	14	11
	No	16	6	7	1	10	1
You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	Yes	22	5	25	15	16	11
	No	14	6	6	1	8	1
At the conclusion of the process, you were provided with a written decision	Yes	18	4	23	14	9	9
	No	18	7	8	2	15	3
The written decision was accompanied by an explanation with reasons for the decision	Yes	14	4	22	13	8	7
	No	22	7	9	3	16	5
You were provided with information about how and where to further appeal the case if dissatisfied with the decision in this institution	Yes	18	5	23	14	12	9
	No	18	6	8	2	12	3
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	12	7	22	8	13	10
	No	24	4	9	8	11	2
If you are a person with a disability, you felt you were treated equitably	Yes	1	0	3	0	0	2
	No	2	0	0	0	0	0
	25.00%	66.67%	0.00%	0.00%	0.00%	0.00%	0.00%

Table 10.5.: Quality of support provided if the complainer had a lawyer

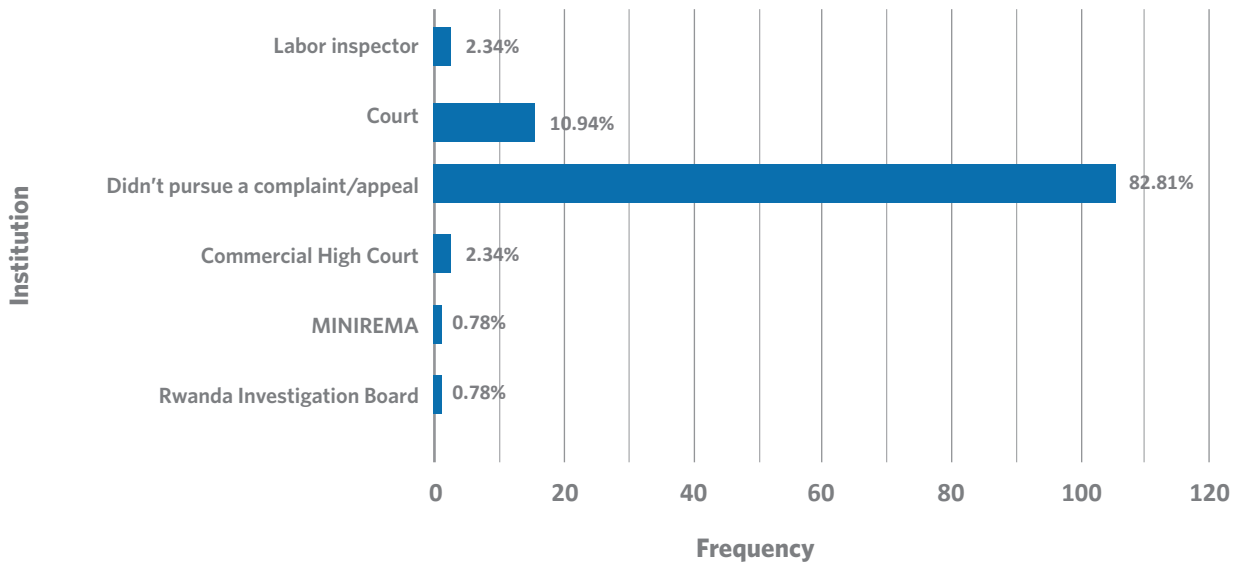
	Total	Had help from a lawyer	Did not have help from a lawyer	
The representative was	Very helpful in providing information	79 60.77%	50 69.44%	29 50.00%
	Helpful in providing information	22 16.92%	15 20.83%	7 12.07%
	Unhelpful in providing information	6 4.62%	2 2.78%	4 6.90%
	Very unhelpful in providing information	5 3.85%	1 1.39%	4 6.90%
	Not applicable	18 13.85%	4 5.56%	14 24.14%
		71 54.62%	45 62.50%	26 44.83%
How courteous was the institution	Courteous	31 23.85%	22 30.56%	9 15.52%
	Discourteous	5 3.85%	0 0.00%	5 8.62%
	Very discourteous	6 4.62%	1 1.39%	5 8.62%
	Not applicable	17 13.08%	4 5.56%	13 22.41%
		81 62.31%	51 70.83%	30 51.72%
		23 17.69%	15 20.83%	8 13.79%
Listening	Very attentive when listening to the explanation of the case	3 2.31%	1 1.39%	2 3.45%
	Somewhat attentive when listening to the explanation of the case	6 4.62%	1 1.39%	5 8.62%
	Mostly inattentive when listening to the explanation of the case	17 13.08%	4 5.56%	13 22.41%
	Not at all attentive in listening to the explanation of the case	17 13.08%	4 5.56%	13 22.41%
		17 13.08%	4 5.56%	13 22.41%
		17 13.08%	4 5.56%	13 22.41%

Respondents who were assisted by a lawyer were more likely to find their selected institutions helpful, courteous, and attentive.

7 Third appeal

7.1 Institution appealed to for the third appeal

Figure 9: Distribution of institutions appealed to for the third appeal



The vast majority of respondents (82.81%) chose not to pursue a third appeal, but of the respondents who did pursue a third appeal, the court was the most popular option (10.94%).



7.2 Institution appealed to for the second appeal per respondent's characteristics

Table 11: Selected institutions for the third appeal by characteristic

	Total (count)	Labor inspector	Court	Did not pursue a complaint/appeal	Commercial High Court	MINIRENA	Rwanda Investigation Board
Gender	Male	2.02%	11.11%	81.82%	3.03%	1.01%	1.01%
	Female	3.45%	10.34%	86.21%	0.00%	0.00%	0.00%
Age	16-25 years	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	26-35 years	1.79%	7.14%	83.93%	5.36%	0.00%	1.79%
	36-45 years	0.00%	20.51%	76.92%	0.00%	2.56%	0.00%
	46-55 years	8.00%	4.00%	88.00%	0.00%	0.00%	0.00%
	More than 55 years	0.00%	20.00%	80.00%	0.00%	0.00%	0.00%
Marital status	Single	0.00%	6.90%	93.10%	0.00%	0.00%	0.00%
	Married	3.23%	12.90%	78.49%	3.23%	1.08%	1.08%
	Divorced	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
Highest level of education	Separated	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	Widower	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	None, never been to school	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	Primary	5.00%	5.00%	85.00%	0.00%	0.00%	5.00%
	Junior Secondary	0.00%	0.00%	92.86%	0.00%	7.14%	0.00%
	Advanced Secondary	0.00%	9.09%	90.91%	0.00%	0.00%	0.00%
	Vocational	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%
University	66	3.03%	16.67%	75.76%	4.55%	0.00%	0.00%

Type of organization	5	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Government institution (employee under contract)									
Private sector organization	104	1.92%	13.46%	79.81%	2.88%	0.96%	0.96%	0.00%	0.00%
International non-governmental organization (INGO)	2	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Local non-governmental organization (LNGO)	4	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Faith based organization	10	10.00%	0.00%	90.00%	0.00%	0.00%	0.00%	0.00%	0.00%
No employment	3	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Ubudehe category									
Category 1	3	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Category 2	36	2.78%	2.78%	94.44%	0.00%	0.00%	0.00%	0.00%	0.00%
Category 3	83	2.41%	14.46%	77.11%	3.61%	1.20%	1.20%	1.20%	1.20%
Category 4	1	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Do not know	5	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%



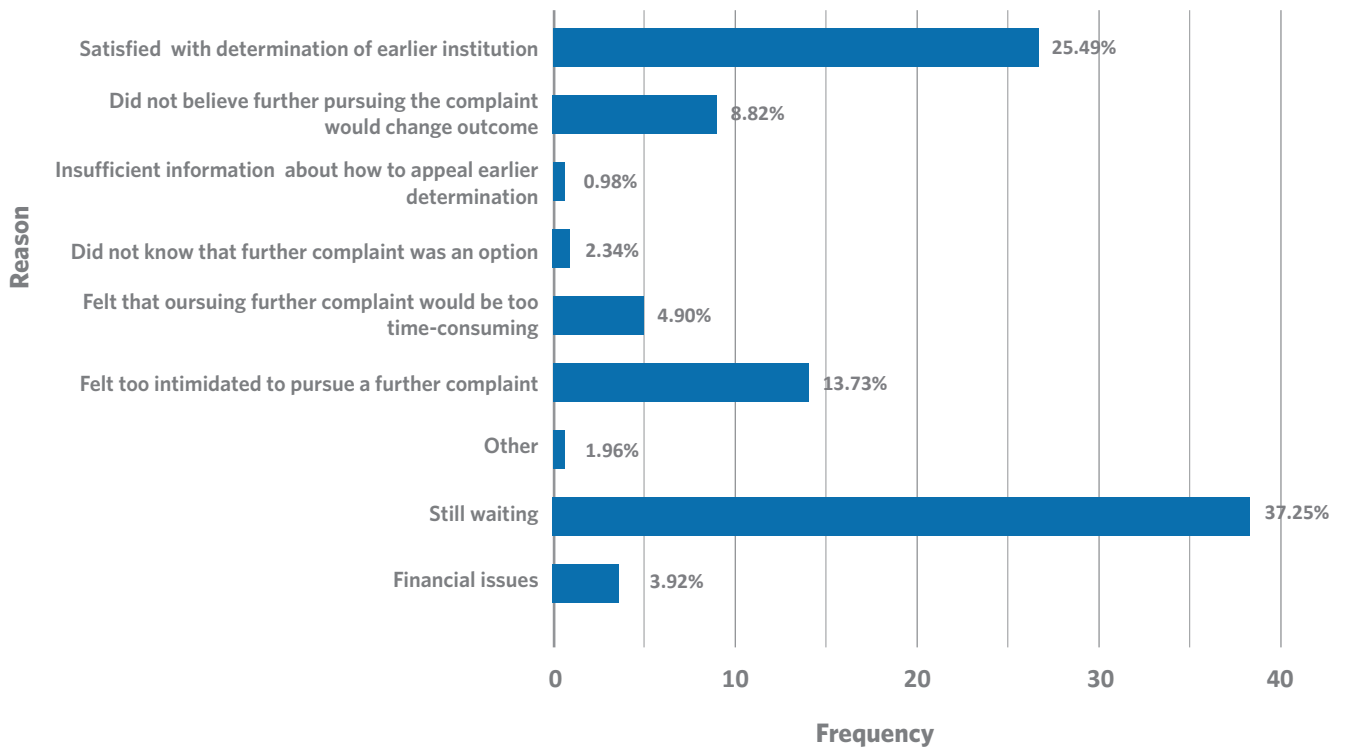
7.3 Matrix of the institution chosen for the second and third appeal

Table 12: Comparison of institution chosen for the second and third appeal (Frequency)

Second appeal	Third appeal							Total
	Labor inspector	Court	Did not pursue a complaint/appeal	Commercial High Court	MINIRENA	Rwanda Investigation Board		
Good Governance Officer at the District level	0	0	1	0	0	0	1	
Labor inspector	1	7	31	2	1	0	42	
MIFOTRA	0	0	0	0	0	1	1	
National Labor Council	0	0	3	0	0	0	3	
Ombudsman's office	0	0	2	0	0	0	2	
Court	1	7	66	1	0	0	75	
Did not pursue a complaint/appeal	0	0	2	0	0	0	2	
Transparence Rwanda	1	0	0	0	0	0	1	
Total	3	14	105	3	1	1	127	

7.4 Reasons not to appeal

Figure 10: Reasons respondents chose not to pursue a third appeal



Most respondents who chose not to pursue third appeals were still waiting for the decision from their second appeals (37.25%). Many respondents (25.49%) were satisfied with the determination of their second appeal, and some were too intimidated to pursue a second appeal (13.73%).

7.5 Reason for choosing selected institutions and feedback timeline for the third appeal

Table 13.1.: Reasons for selecting institutions and feedback timeline for the third appeal

	All institutions	Labor inspector	Court	Did not pursue a complaint/appeal	Commercial High Court	MINIRENA	Rwanda Investigation Board
Reason for choosing institution	You understood this to be required by law	2	10	1	2	0	0
	You felt this institution had the necessary expertise	66.67%	71.43%	100.00%	66.67%	0.00%	0.00%
	You felt this institution would handle your dispute efficiently	0	2	0	0	1	1
	The institution was recommended by a friend	13.04%	0.00%	14.29%	0.00%	0.00%	100.00%
	Less than 2 weeks	4	0	2	0	1	0
	Less than 1 month	17.39%	0.00%	14.29%	0.00%	33.33%	0.00%
	1-3 Months	4.35%	1	0	0	0	0
Time to receive feedback	6-12 Months	33.33%	0.00%	0.00%	0.00%	0.00%	0.00%
	Never received a response	4	1	0	0	1	1
		17.39%	33.33%	0.00%	0.00%	100.00%	100.00%
		2	1	0	0	0	0
		8.70%	33.33%	7.14%	0.00%	0.00%	0.00%
		6	0	4	0	2	0
		26.09%	0.00%	28.57%	0.00%	66.67%	0.00%
	5	0	5	0	0	0	
	21.74%	0.00%	35.71%	0.00%	0.00%	0.00%	
	6	1	3	1	1	0	
	26.09%	33.33%	21.43%	100.00%	33.33%	0.00%	

Most respondents (65.22%) chose their selected institutions because they felt this choice to be required by law.

Table 13.2.: Disaggregation of reason and feedback timeline by District

	All Districts	District B	District A	District C	District D
	15	7	4	3	1
	65.22%	87.50%	100.00%	60.00%	16.67%
You understood this to be required by law	3	0	0	1	2
You felt this institution had the necessary expertise	4	0	0	1	3
You felt this institution would handle your dispute efficiently	1	1	0	0	0
The institution was recommended by a friend	4.35%	12.50%	0.00%	0.00%	0.00%
Less than 2 weeks	4	1	0	3	0
Less than 1 month	16.00%	10.00%	0.00%	60.00%	0.00%
1-3 Months	2	1	0	0	1
6-12 Months	8.00%	10.00%	0.00%	0.00%	16.67%
Never received a response	6	2	2	2	0
	24.00%	20.00%	50.00%	40.00%	0.00%
	5	1	2	0	2
	20.00%	10.00%	50.00%	0.00%	33.33%
	8	5	0	0	3
	32.00%	50.00%	0.00%	0.00%	50.00%

7.6 Interaction experience with the institution during the third appeal

Table 14.1.: Quality of the interaction by institution for the third appeal

	All institutions	Labor inspector	Court	Did not pursue a complaint/appeal	Commercial High Court	MINIRENA	Rwanda Investigation Board
The representative was	7	0	5	0	2	0	0
Very helpful in providing information	30.43%	0.00%	35.71%	0.00%	66.67%	0.00%	0.00%
Helpful in providing information	4	0	2	0	0	1	1
Unhelpful in providing information	17.39%	0.00%	14.29%	0.00%	0.00%	100.00%	100.00%
Very unhelpful in providing information	3	1	2	0	0	0	0
Not applicable	13.04%	33.33%	14.29%	0.00%	0.00%	0.00%	0.00%
	5	2	3	0	0	0	0
	21.74%	66.67%	21.43%	0.00%	0.00%	0.00%	0.00%
	4	0	2	1	1	0	0
	17.39%	0.00%	14.29%	100.00%	33.33%	0.00%	0.00%

How courteous was the institution	Very courteous	7	0	5	0	2	0	0	0.00%
		30.43%	0.00%	35.71%	0.00%	66.67%	0.00%	0.00%	0.00%
	Courteous	6	1	3	0	0	1	1	100.00%
		26.09%	33.33%	21.43%	0.00%	0.00%	100.00%	100.00%	100.00%
	Discourteous	2	1	1	0	0	0	0	0.00%
		8.70%	33.33%	7.14%	0.00%	0.00%	0.00%	0.00%	0.00%
	Very discourteous	4	1	3	0	0	0	0	0.00%
		17.39%	33.33%	21.43%	0.00%	0.00%	0.00%	0.00%	0.00%
	Not applicable	4	0	2	1	1	33.33%	0	0.00%
		17.39%	0.00%	14.29%	100.00%	0.00%	0.00%	0.00%	0.00%
Listening	Very attentive when listening to the explanation of the case	8	0	6	0	2	0	0	0.00%
		34.78%	0.00%	42.86%	0.00%	66.67%	0.00%	0.00%	0.00%
	Somewhat attentive when listening to the explanation of the case	3	0	1	0	0	1	1	100.00%
		13.04%	0.00%	7.14%	0.00%	0.00%	100.00%	100.00%	100.00%
	Mostly inattentive when listening to the explanation of the case	3	2	1	0	0	0	0	0.00%
		13.04%	66.67%	7.14%	0.00%	0.00%	0.00%	0.00%	0.00%
	Not at all attentive in listening to the explanation of the case	5	1	4	0	0	0	0	0.00%
		21.74%	33.33%	28.57%	0.00%	0.00%	0.00%	0.00%	0.00%
	Not applicable	4	0	2	1	1	1	0	0.00%
		17.39%	0.00%	14.29%	100.00%	33.33%	0.00%	0.00%	0.00%

Only 47.82% of respondents found their selected institutions helpful. Slightly over half of respondents (56.52%) found their selected institutions courteous, and just under half (47.82%) found the institutions attentive when listening to their cases.

Table 14.2.: Quality of support provided by institution for the third appeal

		All institutions	Labor inspector	Court	Did not pursue a complaint/appeal	Commercial High Court	MINIRENA	Rwanda Investigation Board
Written or verbal information was provided about how the appeals process operated	Yes	10	0	6	0	3	1	0
	No	43.48%	0.00%	42.86%	0.00%	100.00%	100.00%	0.00%
		13	3	8	1	0	0	1
		56.52%	100.00%	57.14%	100.00%	0.00%	0.00%	100.00%

You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	Yes	14	0	10	0	3	1	0
	No	9	3	4	1	0	0	1
At the conclusion of the process, you were provided with a written decision	Yes	8	0	5	0	3	0	0
	No	11	2	6	1	0	1	1
The written decision was accompanied by an explanation with reasons for the decision	Yes	8	0	5	0	3	0	0
	No	11	2	6	1	0	1	1
You were provided with information about how and where to further appeal the case if dissatisfied with the decision in this institution	Yes	7	0	4	0	3	0	0
	No	12	2	7	1	0	1	1
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	11	1	7	0	3	0	0
	No	8	1	4	1	0	1	1
		60.87%	0.00%	71.43%	0.00%	100.00%	100.00%	0.00%
		39.13%	100.00%	28.57%	100.00%	0.00%	0.00%	100.00%
		42.11%	0.00%	45.45%	0.00%	100.00%	0.00%	0.00%
		57.89%	100.00%	54.55%	100.00%	0.00%	100.00%	100.00%
		42.11%	0.00%	45.45%	0.00%	100.00%	0.00%	0.00%
		57.89%	100.00%	54.55%	100.00%	0.00%	100.00%	100.00%
		36.84%	0.00%	36.36%	0.00%	100.00%	0.00%	0.00%
		63.16%	100.00%	63.64%	100.00%	0.00%	100.00%	100.00%
		57.89%	50.00%	63.64%	0.00%	100.00%	0.00%	0.00%
		42.11%	50.00%	36.36%	100.00%	0.00%	100.00%	100.00%

Less than half (43.48%) of the respondents were provided with written or verbal information about how the appeals process operated. Most of the respondents (60.87%) were given an opportunity to express their views and offer any relevant evidence. Only 42.11% of respondents were provided with a written decision at the end of the appeals process, with 42.11% of respondents reporting that they received an explanation for their decision. Only 36.84% were provided with information about a further appeals process, but many respondents (57.89%) were assisted in presenting their complaint by a lawyer.

Table 14.3.: Quality of support provided by different institutions by District

	All Districts	District B	District A	District C	District D	
Written or verbal information was provided about how the appeals process operated	Yes	10	2	4	3	1
		40.00%	20.00%	100.00%	60.00%	16.67%
You were given an opportunity to make your views known and offer any evidence supporting your case verbally or in writing	No	15	8	0	2	5
		60.00%	80.00%	0.00%	40.00%	83.33%
At the conclusion of the process, you were provided with a written decision	Yes	14	4	4	3	3
		56.00%	40.00%	100.00%	60.00%	50.00%
The written decision was accompanied by an explanation with reasons for the decision	No	11	6	0	2	3
		44.00%	60.00%	0.00%	40.00%	50.00%
You were provided with information about how and where to further appeal the case if dissatisfied with the decision in this institution	Yes	8	2	4	0	2
		38.10%	33.33%	100.00%	0.00%	33.33%
You had help from a lawyer in presenting your complaint/appeal to this institution	No	13	4	0	5	4
		61.90%	66.67%	0.00%	100.00%	66.67%
You were provided with information about how and where to further appeal the case if dissatisfied with the decision in this institution	Yes	8	2	4	0	2
		38.10%	33.33%	100.00%	0.00%	33.33%
You had help from a lawyer in presenting your complaint/appeal to this institution	No	13	4	0	5	4
		61.90%	66.67%	0.00%	100.00%	66.67%
You were provided with information about how and where to further appeal the case if dissatisfied with the decision in this institution	Yes	7	2	4	0	1
		33.33%	33.33%	100.00%	0.00%	16.67%
You had help from a lawyer in presenting your complaint/appeal to this institution	No	14	4	0	5	5
		66.67%	66.67%	0.00%	100.00%	83.33%
You had help from a lawyer in presenting your complaint/appeal to this institution	Yes	11	3	4	2	2
		52.38%	50.00%	100.00%	40.00%	33.33%
You had help from a lawyer in presenting your complaint/appeal to this institution	No	10	3	0	3	4
		47.62%	50.00%	0.00%	60.00%	66.67%

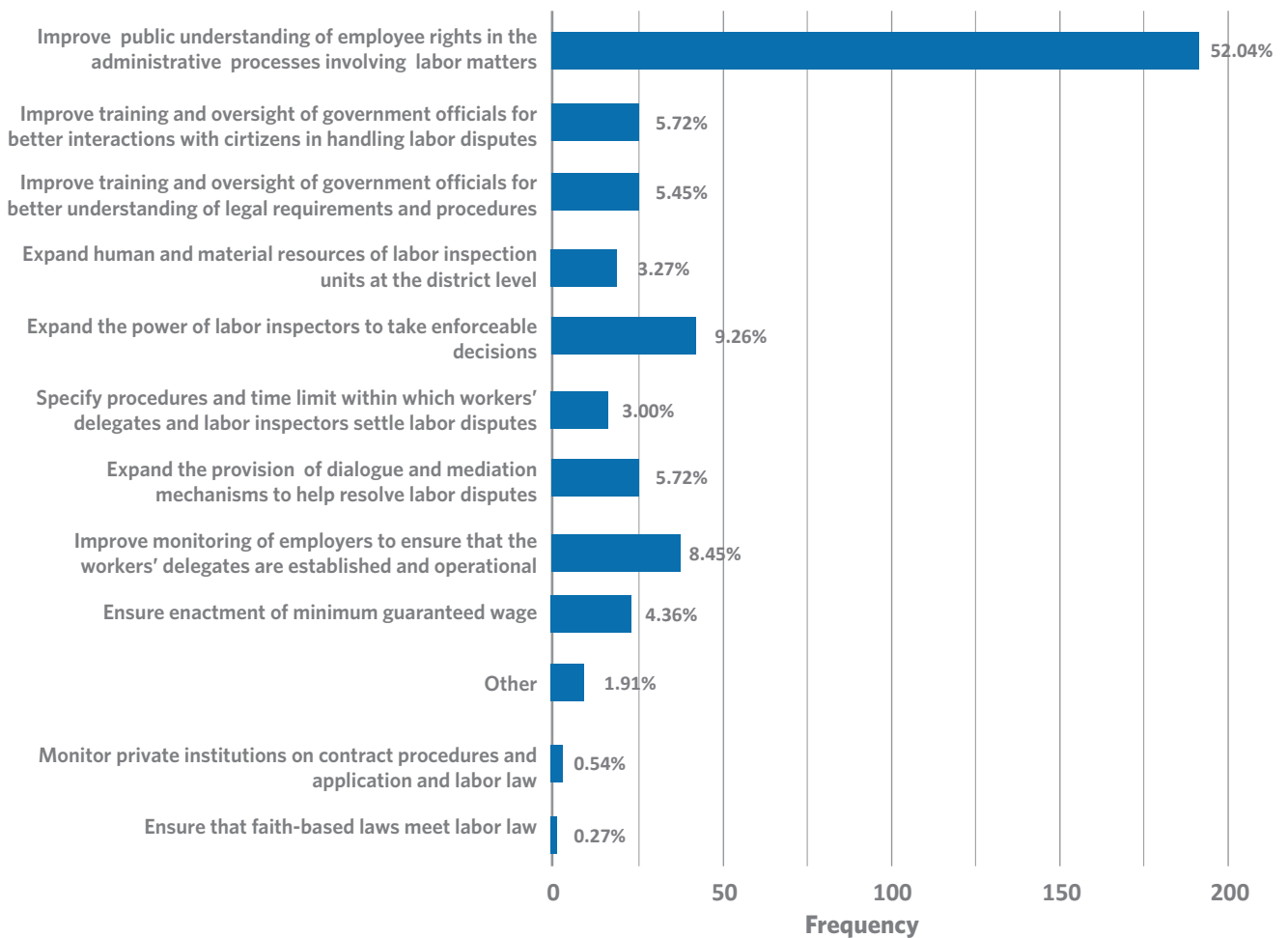
Table 14.4.: Quality of support provided if the complainant had a lawyer

	Total	Had help from a lawyer	Did not have help from a lawyer
The representative was	7	7	0
	33.33%	63.64%	0.00%
	3	1	2
	14.29%	9.09%	20.00%
	2	1	1
	9.52%	9.09%	10.00%
How courteous was the institution	3	1	2
	14.29%	9.09%	20.00%
	6	1	5
	28.57%	9.09%	50.00%
	7	7	0
	33.33%	63.64%	0.00%
Listening	3	1	2
	14.29%	9.09%	20.00%
	1	1	0
	4.76%	9.09%	0.00%
	4	1	3
	19.05%	9.09%	30.00%
6	1	5	
28.57%	9.09%	50.00%	
8	8	0	
38.10%	72.73%	0.00%	
2	0	2	
9.52%	0.00%	20.00%	
1	1	0	
4.76%	9.09%	0.00%	
4	1	3	
19.05%	9.09%	30.00%	
6	1	5	
28.57%	9.09%	50.00%	

Respondents who were assisted by a lawyer were more likely to find their chosen institutions helpful, courteous, and attentive.

8 Recommendations

Figure 11: Recommendations



Most respondents (52.04%) felt that the most important improvement to be made regarding administrative justice in labor disputes are to improve public understanding of employee rights in the administrative process. 9.26% of respondents also recommended expanding the powers of labor inspectors to take enforceable decisions, and 8.45% suggested improving the monitoring of employees to ensure that the workers' delegates are established and operational.

ANNEX 2: Labor Regulations Survey

Consent Statement: Your decision to participate in this research is entirely voluntary. You may choose not to participate or you may withdraw from the study for any reason without penalty of any kind. Do we have your consent to proceed?

1. Yes
2. No

Section 1: Demographic Identification

Q 1.1. Gender	<ol style="list-style-type: none"> 1. Male 2. Female
Q 1.2. Marital status	<ol style="list-style-type: none"> 1. Single 2. Married 3. Divorced 4. Separated 5. Widow(er)
Q 1.3. Age	Indicate years _____
Q 1.4. Highest level of education	<ol style="list-style-type: none"> 1. None, never been to school 6. Primary 2. Junior Secondary 7. Advanced Secondary 8. Vocational 9. University
Q 1.5. Are you a person with a disability	<ol style="list-style-type: none"> 3. Yes 1. No
Q 1.5.1. If yes, Q.1.5 what kind of disability?	<ol style="list-style-type: none"> 1. Physical disability 2. Vision impairment 3. Deaf and dumb 4. Mental health condition 5. Other (Specify)
Q 1.6. Working time	<ol style="list-style-type: none"> 1. Full- time 2. Part-time
Q 1.7. Type of organization	<ol style="list-style-type: none"> 1. Government institution (employee under contract) 2. Private sector organization (profit making) 3. International non- governmental organization (INGO) 4. Local non - governmental organization(LNGO) 5. Faith based organization(FBO) 6. Other (Specify)
Q 1.8. Form of contract	<ol style="list-style-type: none"> 1. Fixed term contract 2. Open ended contract
Q 1.9. Type of worker	<ol style="list-style-type: none"> 1. Permanent (6 months or longer) 2. Temporary/Casual: hired for a limited period of time for a specific task) 3. Daily (worker hired on daily basis)
Q 1.10. Working Experience	<ol style="list-style-type: none"> 1. Less than 5 years 2. 5-9 years 3. 10-14 years 4. 15-19 years 5. 20-24 years 6. 25 years and above

Q 1.11. Ubudehe category	<ol style="list-style-type: none"> 1. Category 1 2. Category 2 3. Category 3 4. Category 4 5. Do not know
Q 1.12. Household Income per month	<ol style="list-style-type: none"> 1. < 30,000 2. 30,000-100,000 3. 100,000-200,000 4. Above 200,000 6. Do not know

Section 2: Labor Regulation-Related Questions

Q 2.1. To what extent would you say that you're informed about your rights in the workplace?

1. Very well informed
2. Well informed
3. Not very well informed
4. Not well informed at all

Q 2.2. About which of the following topics do you feel you need more information? (Please check all that apply)

1. Working hours
2. Minimum hourly wage
3. Right to leave
4. Entitlements to public holidays
5. Payment for extra hours
6. Unionization issues
7. RSSB contributions
8. Termination of a contract
9. Dispute settlement procedure
10. Rights upon dismissal
11. Health and safety at workplace
12. Other (Specify)

Q 2.3. How do you find out information about your rights at work if you needed to? (Please check all that apply)

1. Human Resources department
2. Legal department
3. Lawyer
4. Read the employee rights Manual
5. Other (Specify)

Q 2.4. According to the information we have, you've had at least one labor-related dispute related to an administrative decision at the district level during the past three years. What was the dispute about? (Please check all that apply) [IF THE INDIVIDUAL HAD MORE THAN ONE LABOR-RELATED DISPUTE, REQUEST THAT THE RESPONDENT ADDRESS THE MOST RECENT DISPUTE WITHIN THE PAST THREE YEARS].

1. Salary
2. Benefits
3. Minimum guaranteed wage
4. Termination of contract (incl. non-compliance with notice period, technical and/or economic reasons, restructuring)
5. Unfair dismissal (gross negligence, non-compliance with applicable procedure)
6. Unfair performance evaluation
7. RSSB contributions
8. Workplace safety
9. Dismissal due to disability
10. Other (Specify).....

Q 2.5. For this dispute, where did you go initially to complain/appeal?

1. Worker's delegates
2. A higher authority within the employing institution
3. The Board of Directors/Advisory Council
4. Good Governance Officer at the district level
5. Labor inspector
6. Labor union (e.g., CESTRAR)
7. MIFOTRA
8. National Labor Council
9. Ombudsman's Office
10. Court
11. Did not pursue a complaint/appeal
12. Other(specify)

Q 2.6. Why did you choose to go to this institution first?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.7. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.8. After complaining/appealing to the individual or institution/unit identified in Q 2.5, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.9. When you think about your experience with the institution or individual identified in Q 2.5, would you say that

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were

1. Very courteous
2. Courteous
3. Discourteous
4. Very discourteous
5. Not applicable

c. The representative(s) I interacted with:

1. Was very attentive when listening to my explanation of the case
2. Was generally attentive in listening to my explanation of the case
3. Was generally inattentive in listening to my explanation of the case
4. Was very inattentive in listening to my explanation of the case
5. Not applicable

Q 2.10. When you think about your experience with the institution identified in Q 2.5, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision.
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/Paralegal if I could have had one
 1. Yes
 2. No

Q 2.11. If you are a person with disability, when you think about your experience with the institution identified in Q 2.5, would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

1. Yes
2. No

Q 2.11.1. If not Q 2.11, what was the problem?

- 1) I could not read the documents presented
- 2) I could not hear what they were saying
- 3) I could not reach their offices (Stairs)
- 4) I could not communicate verbally
- 5) Other (Specify)

Q 2.12. If you pursued your complaint further, to what institution did you take such complaint/appeal?

1. A higher authority within the employing institution

2. The Board of Directors/ Advisory Council
3. Good Governance Officer at the district level
4. Labor inspector
5. Labor union (e.g., CESTRAR)
6. MIFOTRA
7. National Labor Council
8. Ombudsman's Office
9. Court
10. Did not further pursue a complaint/appeal
11. Other(specify) _____

Q 2.13. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.14. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.15. If you pursued a complaint/appeal to the institution identified in Q 2.12, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.16. When you think about your experience with the institution or individual identified in Q 2. 12, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case

5. Not applicable

Q 2.17. When you think about your experience with the institution identified in Q 2.12, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision.
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/Paralegal if I could have had one
 1. Yes
 2. No

Q 2.18. If you are a person with disability, when you think about your experience with the institution identified in Q 2.12., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 18.1. If not Q 2.18, what was the problem?

- 1) I could not read the documents presented
- 2) I could not hear what they were saying
- 3) I could not reach their offices (Stairs)
- 4) I could not communicate verbally
- 5) Other (Specify)

THIRD APPEAL

Q 2.19. If you pursued your complaint further, to what institution did you take such complaint [appeal]?

1. A higher authority within the employing institution
2. The Board of Directors/Advisory Council
3. Good Governance Officer at the district level
4. Labor inspector
5. Labor union (e.g., CESTRAR)
6. MIFOTRA
7. National Labor Council
8. Ombudsman's Office
9. Court
10. Did not pursue a complaint/appeal
11. Other(specify)_____

Q 2.20. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law

2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.21. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.22. If you pursued a complaint/appeal further to the institution identified in Q 2.19, how long did it take to receive some response about the substance of this complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.23. When you think about your experience with the institution or individual identified in Q 2.19, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.24. When you think about your experience with the institution identified in Q 2.19, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision.
 1. Yes
 2. No

4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/Paralegal if I could have had one
 1. Yes
 2. No

Q 25. If you are a person with disability, when you think about your experience with the institution identified in Q 2.19., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 25.1. If not Q 2.25., what was the problem?

- 1) I could not read the documents presented
- 2) I could not hear what they were saying
- 3) I could not reach their offices (Stairs)
- 4) I could not communicate verbally
- 5) Other (Specify)

Q 2.26.1. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in labor disputes. Please select what you believe is the most important suggestion.

1. Improve public understanding of employee rights in the administrative processes involving labor matters
2. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of labor disputes
3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures
4. Expand human and material resources of labor inspection units at the district level
5. Expand the power of labor inspectors to take enforceable decisions
6. Specify the procedures and time limit within which individual labor disputes have to be settled by workers' delegates and labor inspectors, respectively.
7. Expand provision of dialogue and mediation mechanisms to help resolve labor disputes
8. Improve monitoring of employers to ensure that that workers' delegates are established and operational.
9. Ensure enactment of the minimum guaranteed wage.
10. Other (Specify) _____

Q 2.26.2. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in labor disputes. Please select what you believe is the second most important suggestion.

1. Improve public understanding of employee rights in the administrative processes involving labor matters
2. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of labor disputes

3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures
4. Expand human and material resources of labor inspection units at the district level
5. Expand the power of labor inspectors to take enforceable decisions
6. Specify the procedures and time limit within which individual labor disputes have to be settled by workers' delegates and labor inspectors, respectively.
7. Expand provision of dialogue and mediation mechanisms to help resolve labor disputes
8. Improve monitoring of employers to ensure that that workers' delegates are established and operational.
9. Ensure enactment of the minimum guaranteed wage.
10. Other (Specify) _____

A NNEX 3: Qualitative guidelines

1. Employees in private sector employment who have experienced disputes with their employers

1. What kinds of labor disputes have you been involved in at the district level over the past three years? [Probe: salary, leave related benefits, termination of contract (non-compliance with notice period, for gross misconduct, technical and/or economic reasons), unfair dismissal, RSSB contributions, etc.]
2. How well did you understand the administrative procedures that were involved in this/these dispute(s)? How well prepared did you feel in challenging the decision against you? Did you have any apprehension about proceeding to challenge this decision? If so, why? If not, why not?
3. Where did you go to dispute this decision, and why? [Probe: procedural issues and also if there were multiple disputes, where and why disputes were taken along certain pathways]
4. How long did it take to receive a decision from this individual/institution? If this determination went against you, did you appeal your case further? [Probe: where did you go, and why?]
5. How would you describe the kind of treatment you received from _____ [Probe: different institutions]? Their level of courtesy? Opportunities to provide evidence? Provision of information? Taking a decision within a reasonable time? Clear written explanation for decisions?) [Fine to repeat many such questions in the survey so as to gain more texture and nuance]
6. If you had the occasion to interact with one or more labor inspectors, how would you characterize their knowledge and skills level? [Probe also: their level of courtesy? Opportunities to provide evidence? Provision of information? Specialized knowledge? Clear written explanation for decisions? Effectiveness?] [Could implicate their lack of enforcement power].
7. Did you seek legal help when you sought to challenge/dispute an employment decision? Where did you seek such help? If you didn't seek such help, why? [Probe: cost, accessibility, fears]
8. What would you say was the biggest problem with the labor dispute process that you encountered? [Probe: lack of information/clarity of the process; slowness of the process; lack of responsiveness/lack of knowledge or expertise of the labor inspector, etc.].
9. Were you aware of company internal rules and regulations that addressed hiring, promotion, discipline, and occupational safety? Were they disseminated to you and other employees or were they otherwise available to read? Did the company make an effort to explain them or offer training on them, particularly for employees who may have had difficulties with reading or writing?
10. How would you assess the availability and quality of assistance provided by mediation/conciliation committees (workers' delegates) at places you have worked in the past three years? Were you aware of the existence of any defined procedure for disciplinary hearings in the place(s) you worked during the past three years? If this procedure existed, was it generally used/respected?
11. In general, do you believe that the existing labor dispute resolution organs (particularly mediation committees at work and labor inspectors) are provided with the powers and resources to protect the rights of workers? If not, why not?
12. What generally would you say were the biggest challenges you faced in trying to challenge the

- administrative decision(s) against you? Based on what you may know of others with labor disputes, what are the biggest challenges for citizens generally in challenging such administrative decisions? [Probe: Lack of awareness of workers' rights and labor dispute procedure, ineffectiveness of worker's delegate system, lack of specialization among labor inspectors, lack of enforcement power, etc.]
13. What recommendations would you make for the improvement of the labor disputes process? [Probe: Increase awareness of employees' rights and procedures for seeking redress; enactment of the legal instrument on minimum guaranteed wage; reinforcing the capacity of the labor inspector (staffing capacity, training, resources, etc.); increasing the power of the labor inspector (esp. power to take enforceable decisions); specification of procedures and time limit within which individual labor disputes have to be settled by workers' delegates and labor inspectors, etc.)

2. District decision makers responsible for private employment decisions (Principally labor inspectors)


1. How well do you think private employment disputes are handled at the district level? What about the process works well, and what doesn't, and why? What seem to be the biggest challenges for labor inspectors and the dispute resolution process generally? What are the major challenges that you personally face in handling private labor disputes? [Probe: lack of resources, lack of power to take binding decisions, staffing capacity, lack of specialization, etc.]
2. How effectively do you or any district colleagues respond to the complaints related to private employment laws and regulations raised by employees? What kinds of cases are particularly challenging? [Probe: Time limit for responding to complaints; resources/staffing; conciliation mechanisms/avenues to reduce recourse to court, etc.]
3. What steps do you take to ensure that employees' or employer's rights are properly respected within the administrative process overseen by the Labor Inspection Unit? [Probe: extent to which facts and legal issues are examined and documentation/evidence solicited; whether additional information-gathering is undertaken; whether any burdens of proof are adhered to, however informally; what kind of information is provided to the citizen to inform him/her of his/her rights; what other recourse/appeals channels are available; whether time frames for resolution are communicated, etc.]
4. How do you interact with the Legal Adviser and/or the company legal advisors in handling labor disputes? What kind of challenges have you faced in coordinating your work with the Legal Adviser? [Probe: extent to which there is coordination/consultation on matters of policy or legal interpretation, etc.]
5. What kind of professional training have you received? In what areas do you or others have particular training needs that are not being sufficiently addressed? What areas for future training should be prioritized? How would those areas help improve your job effectiveness and performance?
6. Overall, what would you recommend for addressing the challenges facing government officials seeking to resolve labor disputes or related administrative decisions at the district level? [Probe: revision of the laws and procedures to improve certain aspects of dispute resolution or to eliminate ambiguities or contradictions in the law; greater enforcement powers for labor inspectors; increasing staffing levels for inspectors; creating a special labor chamber within the courts, and encouraging judicial specialization, etc.].
7. How do you interact with the labor administration department at the Ministry of Public service and

labor? Do you sometimes challenge its decisions?

8. Are you familiar with the national labor council, the decision it makes and how it operates?
9. In the actual sense, how independent are you from the respective governance organs (the mayor, the vice mayors, the district executive secretary) at the district and how do you cope with the sometimes contradicting decisions that they can make or tell you to make?
10. Do you have an opinion as to whether labor inspectors have too many masters to serve (the mayor, the vice mayors, the District Executive Secretary and the Labor Administration)? Does this state of affairs interfere with their proper functioning?



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org

Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX IX (VOLUME II)



S TRENGTHENING **R** WANDAN **A** DMINISTRATIVE **J** USTICE

Public Procurement Data Analysis

ANNEX

T able of contents

ANNEX 1: Quantitative Results	1
1. General characteristics	1
2. Information on public procurement rights	2
2.1 Prior information	2
2.2 Source of Information if needed	4
3. Tender participation	5
3.1 Frequency of tender participation	5
3.2 Type of tenders in which complainers are involved in	7
3.3 Frequency of tender application in government institution	7
3.4 Value of tenders involved in	8
4. Explications during the process	10
5. Dispute	11
6. First appeal	11
6.1 Institution appealed to for the first appeal	11
6.2 Reasons for not complaining	12
6.3 Institution appealed to for the first appeal per respondent's characteristics	12
6.4 Reasons for choosing the institution and the feedback timeline	14
6.5 Interaction experience with the institution	16
7. Second appeal	21
7.1 Institution appealed to for the second appeal	21
7.2 Reasons for not complaining for the second appeal	21
7.3 Institution appealed to for the second appeal per respondent's characteristics	22
7.4 Reasons for choosing the institution and the feedback timeline	23
7.5 Interaction experience with different institution during the second appeal	25
8. Third appeal	30
8.1 Institution appealed to for the third appeal	30
8.2 Reasons for not complaining for the third appeal	30
8.3 Institution appealed to for the third appeal per respondent's characteristics	31
8.4 Reasons for choosing the institution and the feedback timeline	32
8.5 Interaction experience with the institution	33

ANNEX 2: Public Procurement Survey	37
Consent Form	37
Section 1: Demographic identification	47
Section 2: Procurement related questions	38
ANNEX 3: Qualitative guidelines	49
1. Procurement Contractors (Bidders)	49
2. District decision makers responsible for public procurement decisions (principally procurement officers)	50

T ables of tables

Table 1: Characteristics of our sample	1
Table 2: Level of awareness on rights in procurement processes by characteristic	2
Table 3: frequency of tender participation	5
Table 4: Value of tenders frequently participated in per characteristic	8
Table 5: Helpfulness of explanation provided by district	10
Table 6: Selected Institution for the first appeal per respondent’s characteristic	12
Table 7.1.: Reasons for choosing an institution and the timeline to receive a feedback	14
Table 7.2.: Reasons for choosing an institution and the timeline to receive a feedback per district ..	15
Table 8.1.: Quality of the interaction by institution for the first appeal	16
Table 8.2.: Quality of the interaction by different institutions for the first appeal per district	17
Table 8.3.: Quality of support provided by institution for the first appeal	19
Table 8.4.: Quality of support provided by different institutions per district	20
Table 9: Selected Institution for the second appeal per respondent’s characteristic	22
Table 10.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal	24
Table 10.2.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district	25
Table 11.1.: Quality of the interaction with complainers by institution for the second appeal	26
Table 11.2.: Quality of the interaction with different institutions for the second appeal per district ..	27
Table 11.3.: Quality of support provided by institution for the second appeal	27
Table 11.4.: Quality of support provided by different institutions for the second appeal per district ..	29
Table 12: Selected Institution per respondent’s characteristic for the third appeal	31
Table 13.1.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal	32
Table 13.2.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district	32
Table 14.1.: Quality of the interaction with complainers by institution for the third appeal	33
Table 14.2.: Quality of the interaction with different institutions for the third appeal per district	34
Table 14.3.: Quality of support provided by institution for the third appeal	35
Table 14.4.: Support provided by different institutions for the third appeal per district	36

T ables of figures

Figure 1: Level of awareness on rights in procurement processes	2
Figure 2: Source of information on rights in procurement processes (Frequency)	4
Figure 3: Tender participation frequency (Percentage)	5
Figure 4: Type of tender (percentage)	7
Figure 5: Institutions involved (Frequency)	7
Figure 6: Value of tenders frequently participated in (Percentage)	8
Figure 7: Frequency of procurement - related dispute reason	11
Figure 8: Distribution of institution appealed to for the first appeal (in percentage)	11
Figure 9: Distribution of institution appealed to for the second time (in percentage)	21
Figure 10: Reasons for not complaining for the second time (Frequency)	21
Figure 11: Reasons for not complaining (Percentage)	30

A NNEX 1: Quantitative Results

1 General Characteristics

Table 1: Characteristics of our sample

Characteristics		Frequency	Percentage
DISTRICT	District C	5	10%
	District B	13	26%
	District F	7	14%
	District A	16	32%
	District D	9	18%
Gender	Male	47	94%
	Female	3	6%
Marital status	Single	3	6%
	Married	47	94%
Age	26-35 years	16	32%
	36-45 years	20	40%
	46-55 years	12	24%
	More than 55 years	2	4%
Highest level of education	Primary	1	2%
	Junior Secondary	1	2%
	Advanced Secondary	3	6%
	University	45	90%
Size of the business	Small and medium enterprise (SME)	41	82%
	Large enterprise	9	18%
Business sector	Agriculture and livestock	4	8%
	Manufacturing	1	2%
	Water supply, sewage, waste management and remediation activities	1	2%
	Construction	18	36%
	Wholesale and retail trade	2	4%
	Transportation and storage	3	6%
	Food service and hospitality/accommodations	1	2%
	Information and communication	4	8%
	Professional, scientific, and technical activities	4	8%
	Human health and social work activities	1	2%
	Cleaning services	3	6%
	General supply of service	7	14%

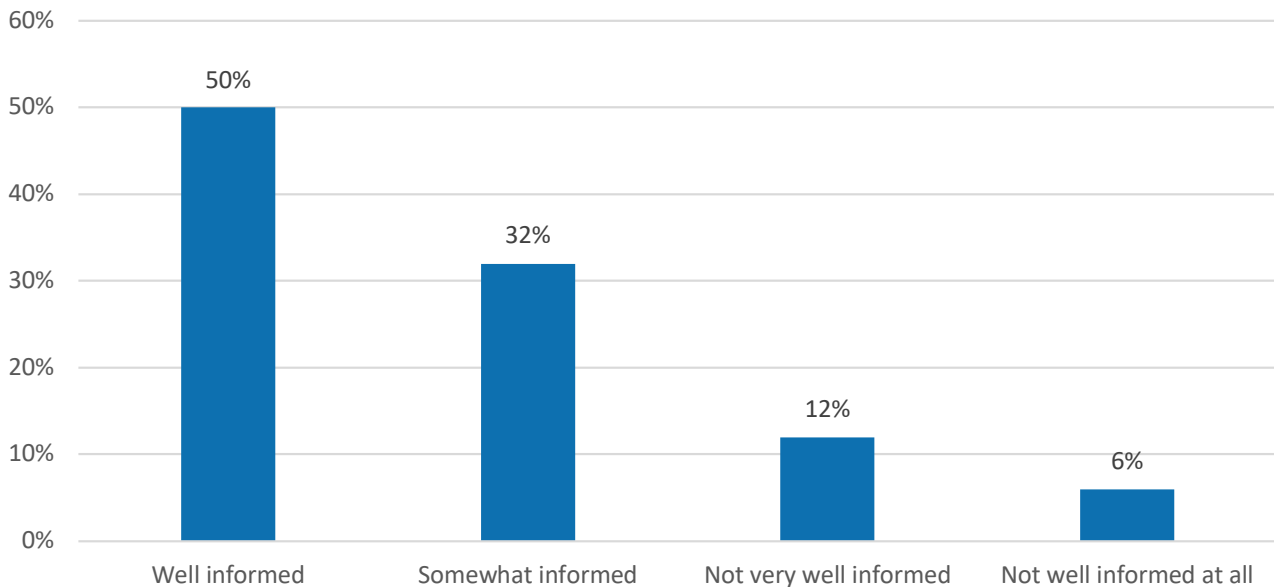
Based on our sample composed by 50 respondents, complainers on public procurement related disputes are married men (both 94%) with a university education (90%), they own small and medium businesses (82%) and are mostly active in the construction sector (36%) and in supplying general services (14%).

PS: There were no disabled person in the sample. Therefore, no analysis on disability impact

2 Information on public procurement rights

2.1 Prior information

Figure 1: Level of awareness on rights in procurement processes



Overall 82% of respondents are either well informed or somewhat informed about their rights in procurement process. However, it seems that men are way well informed than women (85.1% against 33.3%), complainers in District A and District C districts are the least aware individuals with respectively 66.6% and 80% of informed individuals while the rest of the district's respondents are well informed and somewhat informed at a level higher than 80%. Regarding the size of the business, larger businesses are well informed than smaller ones (i.e. 41.5% for the latter against 88.9% when it comes to larger ones). Lastly, the most well informed sectors are manufacturing; water supply, sewage, waste management and remediation activities; transportation and storage; Food service and hospitality/accommodations; and information and communication sector (all respondent from these sectors affirmed to be 100% at least somewhat informed on their rights in procurement processes). The least aware individuals are from professional, scientific and technical activities and general supply of services sectors (respectively informed at 50% and 57.2%).

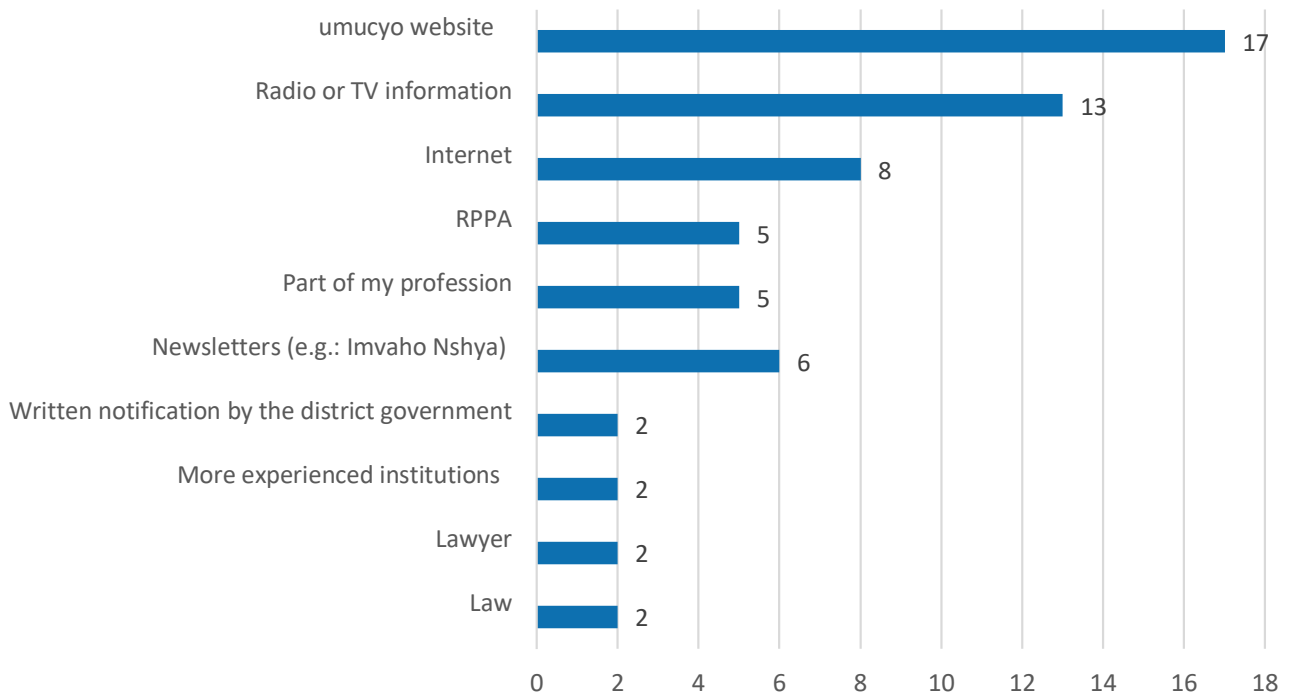
Table 2: Level of awareness on rights in procurement processes by characteristic

		All categories	Well informed	Somewhat informed	Not very well informed	Not well informed at all
DISTRICT	District C	5	4	0	0	1
		100.00%	80.00%	0.00%	0.00%	20.00%
	District F	7	2	4	1	0
		100.00%	28.60%	57.10%	14.30%	0.00%
	District B	13	11	1	0	1
		100.00%	84.60%	7.70%	0.00%	7.70%
	District D	9	4	2	2	1
		100.00%	44.40%	22.20%	22.20%	11.10%
	District A	16	4	9	3	0
		100.00%	25.00%	56.20%	18.80%	0.00%

Gender	Male	47	25	15	5	2
		100.00%	53.20%	31.90%	10.60%	4.30%
	Female	3	0	1	1	1
		100.00%	0.00%	33.30%	33.30%	33.30%
Age	26-35 years	16	6	6	2	2
		100.00%	37.50%	37.50%	12.50%	12.50%
	36-45 years	20	12	4	3	1
		100.00%	60.00%	20.00%	15.00%	5.00%
	46-55 years	12	6	5	1	0
		100.00%	50.00%	41.70%	8.30%	0.00%
	More than 55 years	2	1	1	0	0
		100.00%	50.00%	50.00%	0.00%	0.00%
Size of the enterprise	Small and medium enterprise (SME)	41	17	15	6	3
		100.00%	41.50%	36.60%	14.60%	7.30%
	Large enterprise	9	8	1	0	0
		100.00%	88.90%	11.10%	0.00%	0.00%
Business sector	Agriculture and livestock	4	1	2	1	0
		100.00%	25.00%	50.00%	25.00%	0.00%
	Manufacturing	1	1	0	0	0
		100.00%	100.00%	0.00%	0.00%	0.00%
	Water supply, sewage, waste management and remediation activities	1	1	0	0	0
		100.00%	100.00%	0.00%	0.00%	0.00%
	Construction	18	10	6	2	0
		100.00%	55.60%	33.30%	11.10%	0.00%
	Wholesale and retail trade	2	2	0	0	0
		100.00%	100.00%	0.00%	0.00%	0.00%
	Transportation and storage	3	1	2	0	0
		100.00%	33.30%	66.70%	0.00%	0.00%
	Food service and hospitality/ accommodations	1	1	0	0	0
		100.00%	100.00%	0.00%	0.00%	0.00%
	Information and communication	4	2	2	0	0
		100.00%	50.00%	50.00%	0.00%	0.00%
	Professional, scientific, and technical activities	4	0	2	2	0
		100.00%	0.00%	50.00%	50.00%	0.00%
	Human health and social work activities	1	1	0	0	0
		100.00%	100.00%	0.00%	0.00%	0.00%
Cleaning services	3	1	1	0	1	
	100.00%	33.30%	33.30%	0.00%	33.30%	
General supply of service	7	3	1	1	2	
	100.00%	42.90%	14.30%	14.30%	28.60%	

2.2 Source of Information if needed

Figure 2: Source of information on rights in procurement processes (Frequency)



When needed individuals involved in the public procurement process find their information on the Umucyo website (i.e.: Rwanda online E-procurement website), on radio/TV or on internet.

3 Tender participation

In general, during the last four years; complainers participated in public tenders in supply of goods and materials type of tender mainly at district level for more than 20 times (70%). Moreover, often participate in tender with a value larger than 500 Million Rwf (43.2%).

3.1 Frequency of tender participation

Figure 3: Tender participation frequency (Percentage)

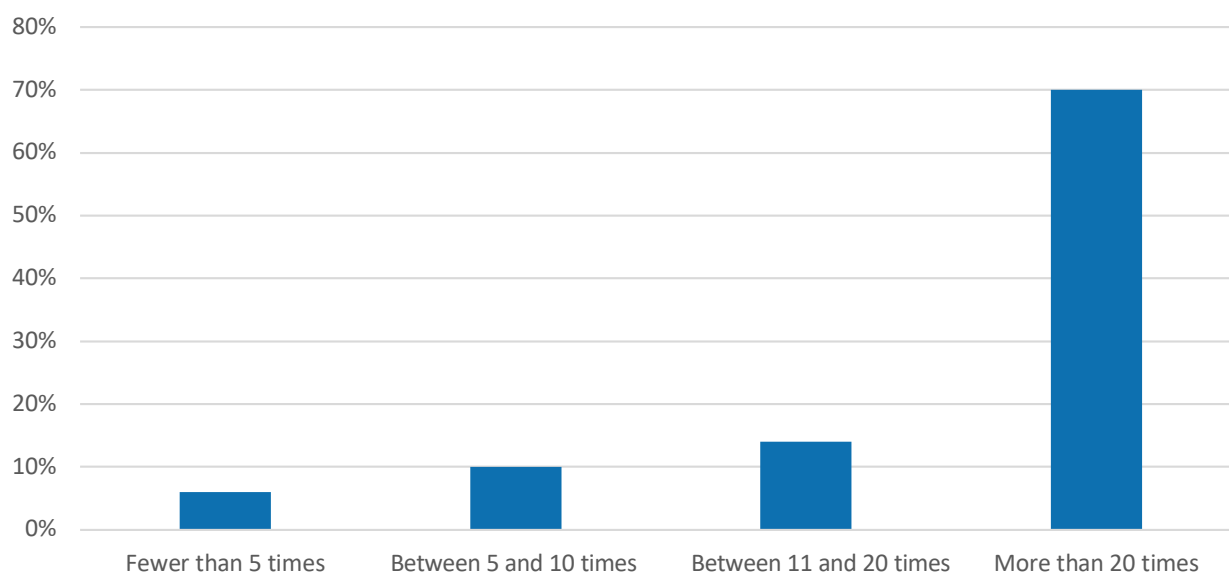


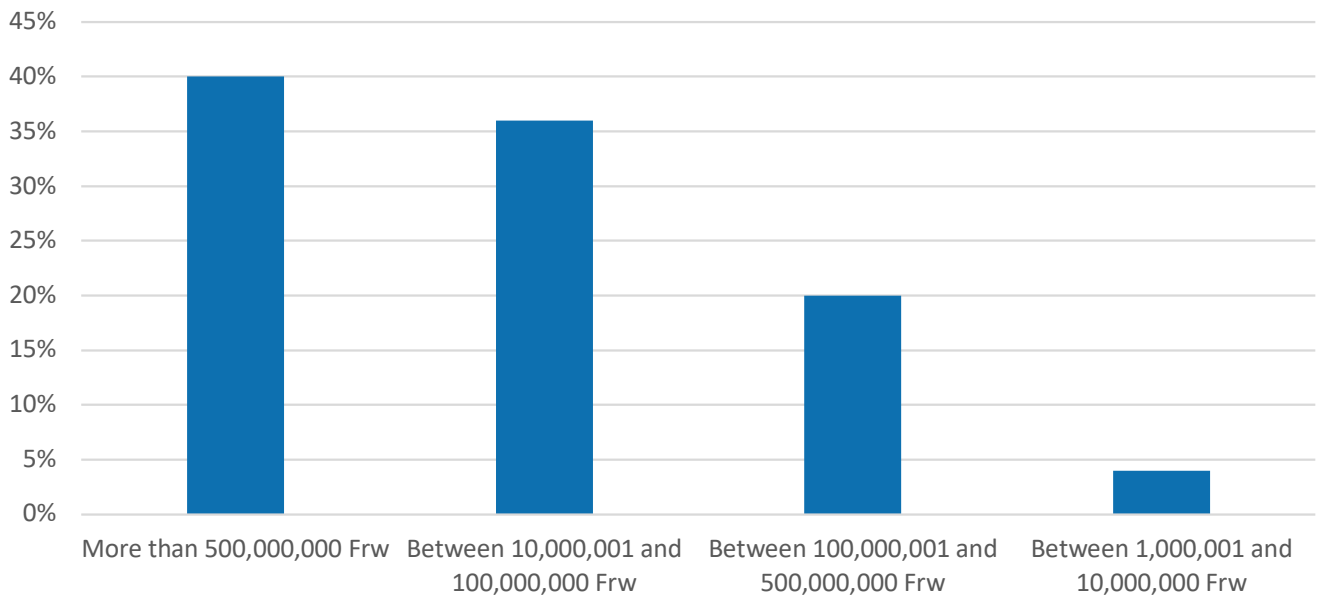
Table 3: frequency of tender participation per complainer's characteristics

		All category	Fewer than 5 times	Between 5 and 10 times	Between 11 and 20 times	More than 20 times
DISTRICT	District C	5	0	1	2	2
		100.00%	0.00%	20.00%	40.00%	40.00%
	District F	7	3	0	1	3
		100.00%	42.90%	0.00%	14.30%	42.90%
	District B	13	0	1	2	10
		100.00%	0.00%	7.70%	15.40%	76.90%
District D	9	0	0	1	8	
	100.00%	0.00%	0.00%	11.10%	88.90%	
District A	16	0	3	1	12	
	100.00%	0.00%	18.80%	6.20%	75.00%	
Gender	Male	47	3	5	6	33
		100.00%	6.40%	10.60%	12.80%	70.20%
	Female	3	0	0	1	2
		100.00%	0.00%	0.00%	33.30%	66.70%

Age	26-35 years	16	0	0	2	14
		100.00%	0.00%	0.00%	12.50%	87.50%
	36-45 years	20	1	1	4	14
		100.00%	5.00%	5.00%	20.00%	70.00%
	46-55 years	12	1	3	1	7
		100.00%	8.30%	25.00%	8.30%	58.30%
More than 55 years	2	1	1	0	0	
	100.00%	50.00%	50.00%	0.00%	0.00%	
Size of the enterprise	Small and medium enterprise (SME)	41	3	4	5	29
		100.00%	7.30%	9.80%	12.20%	70.70%
	Large enterprise	9	0	1	2	6
		100.00%	0.00%	11.10%	22.20%	66.70%
Business sector	Agriculture and livestock	4	0	0	1	3
		100.00%	0.00%	0.00%	25.00%	75.00%
	Manufacturing	1	0	1	0	0
		100.00%	0.00%	100.00%	0.00%	0.00%
	Water supply, sewage, waste management and remediation activities	1	0	0	0	1
		100.00%	0.00%	0.00%	0.00%	100.00%
	Construction	18	1	1	4	12
		100.00%	5.60%	5.60%	22.20%	66.70%
	Wholesale and retail trade	2	0	0	0	2
		100.00%	0.00%	0.00%	0.00%	100.00%
	Transportation and storage	3	1	0	0	2
		100.00%	33.30%	0.00%	0.00%	66.70%
	Food service and hospitality/	1	0	0	1	0
		100.00%	0.00%	0.00%	100.00%	0.00%
	Information and communication	4	0	1	1	2
		100.00%	0.00%	25.00%	25.00%	50.00%
	Professional, scientific, and technical activities	4	0	1	0	3
		100.00%	0.00%	25.00%	0.00%	75.00%
	Human health and social work activities	1	0	0	0	1
		100.00%	0.00%	0.00%	0.00%	100.00%
	Cleaning services	3	0	0	0	3
		100.00%	0.00%	0.00%	0.00%	100.00%
	General supply of service	7	1	1	0	5
		100.00%	14.30%	14.30%	0.00%	71.40%

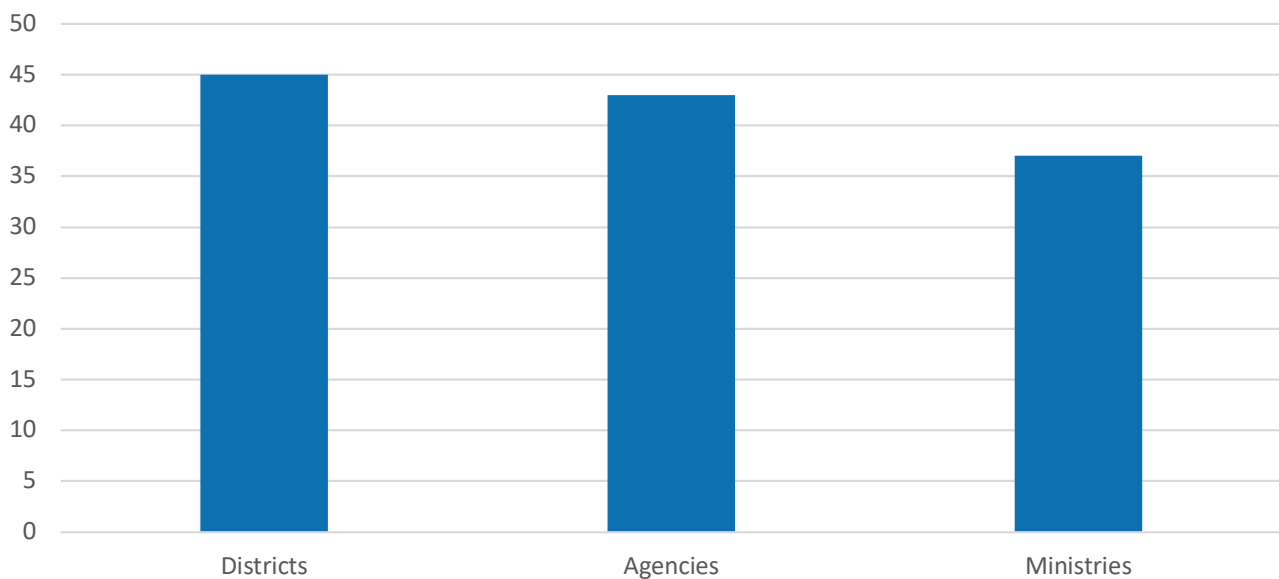
3.2 Type of tenders in which complainers are involved in

Figure 4: Type of tender (percentage)



3.3 Frequency of tender application in government institution

Figure 5: Institutions involved (Frequency)



3.4 Value of tenders involved in

Figure 6: Value of tenders frequently participated in (Percentage)

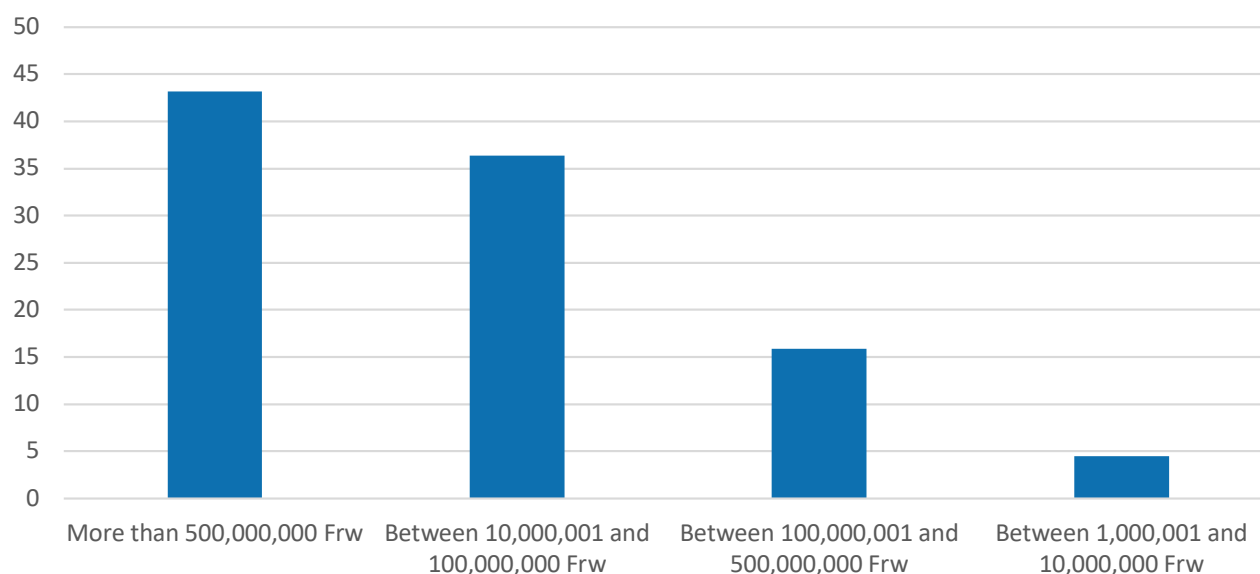


Table 4: Value of tenders frequently participated in per characteristic

Monetary value of tenders		All categories	Between 1,000,001 and 10,000,000 Frw	Between 10,000,001 and 100,000,000 Frw	Between 100,000,001 and 500,000,000 Frw	More than 500,000,000 Frw
DISTRICT	District C	5	0	2	1	2
		100.00%	0.00%	40.00%	20.00%	40.00%
	District F	7	0	2	1	4
		100.00%	0.00%	28.60%	14.30%	57.10%
	District B	13	0	4	3	6
		100.00%	0.00%	30.80%	23.10%	46.20%
	District D	9	1	5	2	1
		100.00%	11.10%	55.60%	22.20%	11.10%
	District A	16	1	5	3	7
		100.00%	6.20%	31.20%	18.80%	43.80%
Gender	Male	47	2	16	10	19
		100.00%	4.30%	34.00%	21.30%	40.40%
	Female	3	0	2	0	1
		100.00%	0.00%	66.70%	0.00%	33.30%
Age	26-35 years	16	1	7	2	6
		100.00%	6.20%	43.80%	12.50%	37.50%
	36-45 years	20	1	6	6	7
		100.00%	5.00%	30.00%	30.00%	35.00%
	46-55 years	12	0	4	2	6
		100.00%	0.00%	33.30%	16.70%	50.00%
	More than 55 years	2	0	1	0	1
		100.00%	0.00%	50.00%	0.00%	50.00%

Size of the enterprise	Small and medium enterprise (SME)	41	2	17	7	15
		100.00%	4.90%	41.50%	17.10%	36.60%
	Large enterprise	9	0	1	3	5
		100.00%	0.00%	11.10%	33.30%	55.60%
Business sector	Agriculture and livestock	4	0	1	0	3
		100.00%	0.00%	25.00%	0.00%	75.00%
	Manufacturing	1	0	0	0	1
		100.00%	0.00%	0.00%	0.00%	100.00%
	Water supply, sewage, waste management and remediation activities	1	0	0	0	1
		100.00%	0.00%	0.00%	0.00%	100.00%
	Construction	18	1	6	3	8
		100.00%	5.60%	33.30%	16.70%	44.40%
	Wholesale and retail trade	2	0	1	0	1
		100.00%	0.00%	50.00%	0.00%	50.00%
	Transportation and storage	3	0	1	0	2
		100.00%	0.00%	33.30%	0.00%	66.70%
	Food service and hospitality/ accommodations	1	0	1	0	0
		100.00%	0.00%	100.00%	0.00%	0.00%
	Information and communication	4	0	0	1	3
		100.00%	0.00%	0.00%	25.00%	75.00%
	Professional, scientific, and technical activities	4	1	1	2	0
		100.00%	25.00%	25.00%	50.00%	0.00%
	Human health and social work activities	1	0	0	1	0
		100.00%	0.00%	0.00%	100.00%	0.00%
	Cleaning services	3	0	1	1	1
		100.00%	0.00%	33.30%	33.30%	33.30%
	General supply of service	7	0	5	2	0
		100.00%	0.00%	71.40%	28.60%	0.00%

4 Explications during the process

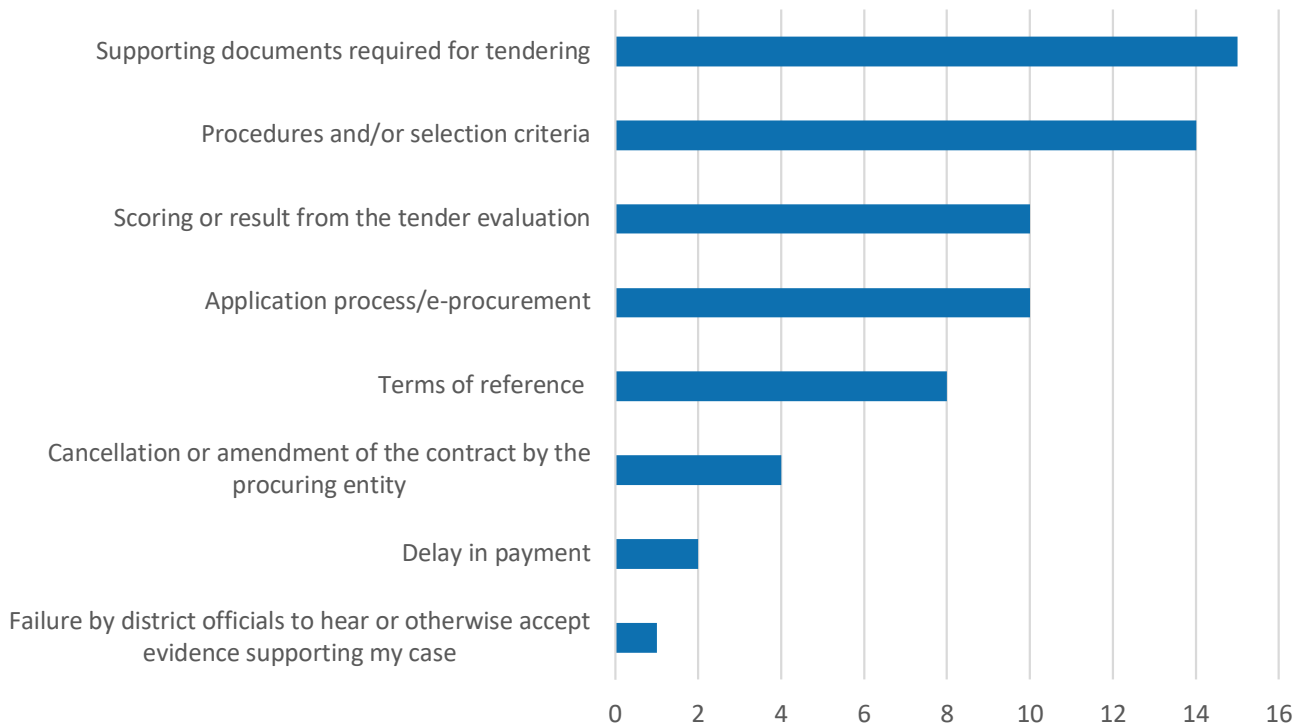
Table 5: Helpfulness of explanation provided by district

How helpful was the explanations		All district	District C	District F	District B	District D	District A
Explanation on Terms of references	Did not Explain	18%	40%	14%	8%	44%	6%
	Explained; Very helpful	42%	40%	57%	39%	22%	50%
	Explained; Somewhat helpful	10%		14%	15%		13%
	Explained; Not very helpful	10%		14%	8%	11%	13%
	Explained; Not at all helpful	20%	20%		31%	22%	19%
Explanation on Technical specifications	Did not Explain	18%	60%	14%	8%	33%	6%
	Explained; Very helpful	36%	20%	57%	31%	22%	44%
	Explained; Somewhat helpful	16%		14%	15%	22%	19%
	Explained; Not very helpful	6%		14%	8%		6%
	Explained; Not at all helpful	24%	20%		39%	22%	25%
Explanation on procedures and/or selection criteria	Did not Explain	26%	60%		15%	33%	31%
	Explained; Very helpful	34%	20%	71%	39%	22%	25%
	Explained; Somewhat helpful	18%		29%	15%	22%	19%
	Explained; Not very helpful	2%					6%
	Explained; Not at all helpful	20%	20%		31%	22%	19%
Explanation on Appeal rights and time frames for appeal	Did not Explain	36%	40%	43%	15%	44%	44%
	Explained; Very helpful	30%	40%	43%	31%	22%	25%
	Explained; Somewhat helpful	2%					6%
	Explained; Not very helpful	2%			8%		
	Explained; Not at all helpful	30%	20%	14%	46%	33%	25%

Overall, district government representatives provide explanation on questions from bidders when they need during the course of the procurement process at the district level. Moreover, when district government representatives provide information it is perceived as either very helpful or somewhat helpful by bidders.

5 Dispute

Figure 7: Frequency of procurement - related dispute reason

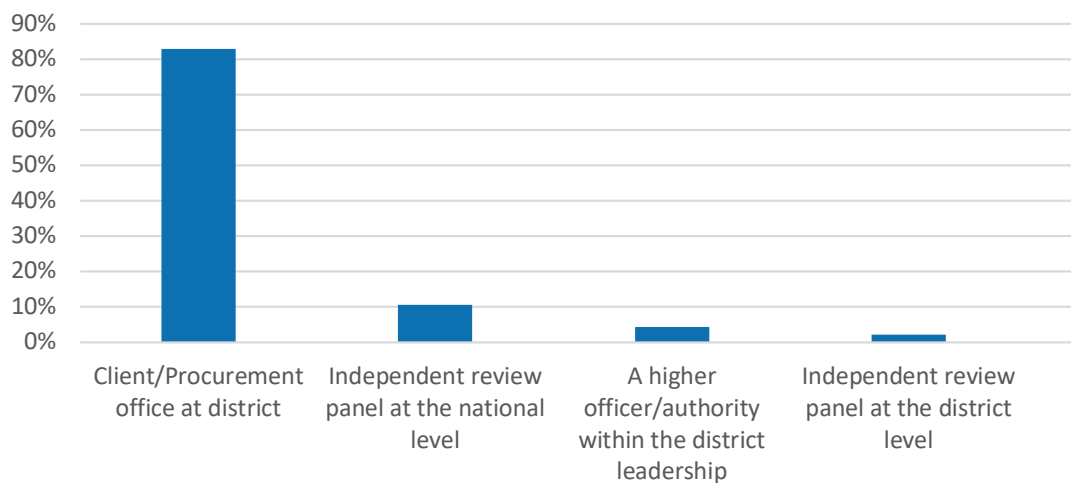


During the past four years, the dispute in which complainers were involved in was regarding supporting documents required for tendering, procedures and/or selection criteria and scoring or result from the tender evaluation.

6 First appeal

6.1 Institution appealed to for the first appeal

Figure 8: Distribution of institution appealed to for the first appeal (in percentage)



For the first complaint, complainers addressed their complaints to the procurement officer at district level (83%) and a small number of complainers went to an independent review panel at the national level.

6.2 Reasons for not complaining

All respondents (count=3) who did not complain for the first time did not appeal because they were satisfied with the administrative decision.

6.3 Institution appealed to for the first appeal per respondent's characteristics

Table 6: Selected Institution for the first appeal per respondent's characteristic

	All institutions	Client/ Procurement office at district	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	Did not pursue a complaint/appeal
District C	5	2	1	1	1	0
	100.00%	40.00%	20.00%	20.00%	20.00%	0.00%
District F	7	6	100.00%	0	0	0
	100.00%	85.70%	14.30%	0.00%	0.00%	0.00%
District B	13	9	0.00%	0	4	0
	100.00%	69.20%	0.00%	0.00%	30.80%	0.00%
District D	9	8	0.00%	0	0	1
	100.00%	88.90%	0.00%	0.00%	0.00%	11.10%
District A	16	14	0.00%	0	0	2
	100.00%	87.50%	0.00%	0.00%	0.00%	12.50%
Gender	47	36	200.00%	1	5	3
Male	100.00%	76.60%	4.30%	2.10%	10.60%	6.40%
Female	3	3	0.00%	0	0	0
	100.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Size of the enterprise	41	36	100.00%	0	1	3
Small and medium en- terprise (SME)	100.00%	87.80%	2.40%	0.00%	2.40%	7.30%
Large enterprise	9	3	100.00%	1	4	0
	100.00%	33.30%	11.10%	11.10%	44.40%	0.00%

Business sector	Agriculture and livestock	4	3	0.00%	0	0	1	0.00%	0	0	1	25.00%
	Manufacturing	1	1	100.00%	75.00%	0	0	0.00%	0	0	0	0.00%
	Water supply, sewage, waste management and remediation activities	1	1	100.00%	100.00%	0	0	0.00%	0	0	0	0.00%
	Construction	18	16	100.00%	100.00%	0	0	100.00%	0	1	0	0.00%
	Wholesale and retail trade	2	2	100.00%	100.00%	0	0	0.00%	0	5.60%	0	0.00%
	Transportation and storage	3	1	100.00%	33.30%	0	0	100.00%	0	1	0	0.00%
	Food service and hospitality/accommodations	1	0	100.00%	0.00%	1	0	0.00%	1	33.30%	0	0.00%
	Information and communication	4	2	100.00%	50.00%	0	0	0.00%	0	2	0	0.00%
	Professional, scientific, and technical activities	4	3	100.00%	75.00%	0	0	0.00%	0	50.00%	1	25.00%
	Human health and social work activities	1	0	100.00%	0.00%	0	0	0.00%	0	1	0	0.00%
	Cleaning services	3	3	100.00%	100.00%	0	0	0.00%	0	100.00%	0	0.00%
	General supply of service	7	6	100.00%	85.70%	0	0	0.00%	0	0	1	14.30%
		100.00%	85.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	14.30%

6. 4 Reasons for choosing the institution and the feedback timeline

Table 7.1.: Reasons for choosing an institution and the timeline to receive a feedback

	All institutions	Client/ Procurement office at district	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level
Reasons for choosing the institution	You understood this to be required by law	44 95.70%	2 100.00%	1 100.00%	5 100.00%
	You felt this institution/unit would handle your dispute efficiently	1 2.20%	0 0.00%	0 0.00%	0 0.00%
	Recommended by the system (e-procurement)	1 2.20%	0 0.00%	0 0.00%	0 0.00%
	Less than 2 weeks	28 59.60%	1 2.60%	1 50.00%	0 0.00%
	Less than 1 month	9 19.10%	4 10.30%	0 0.00%	1 100.00%
Feedback timeline	1-3 Months	4 8.50%	3 7.70%	1 50.00%	0 0.00%
	4-6 Months	1 2.10%	0 0.00%	0 0.00%	1 20.00%
	Never received a response	5 10.60%	5 12.80%	0 0.00%	0 0.00%

The main reason complainers chosen the institution they complained to was because they understood it as a requirement by the law. 20% Respondent from District C added that they felt that the institution would handle their dispute efficiently. And overall received a feedback in less than 2 weeks mainly when their complaints are address to the procurement officer at district level.



Table 7.2.: Reasons for choosing an institution and the timeline to receive a feedback per district

		All districts	District C	District F	District B	District D	District A
Reasons for choosing the institution	You understood this to be required by law	44	4	7	12	7	14
		95.70%	80.00%	100.00%	92.30%	100.00%	100.00%
	You felt this institution/unit would handle your dispute efficiently	1	1	0	0	0	0
Feedback timeline	Recommended by the system (e-procurement)	2.20%	20.00%	0.00%	0.00%	0.00%	0.00%
		1	0	0	1	0	0
	Less than 2 weeks	2.20%	0.00%	0.00%	7.70%	0.00%	0.00%
		28	2	5	7	6	8
	Less than 1 month	59.60%	40.00%	71.40%	53.80%	75.00%	57.10%
		9	2	1	4	0	2
1-3 Months	19.10%	40.00%	14.30%	30.80%	0.00%	14.30%	
	4	1	0	0	1	2	
4-6 Months	8.50%	20.00%	0.00%	0.00%	0.00%	12.50%	14.30%
	1	0	0	1	0	0	
Never received a response	2.10%	0.00%	0.00%	7.70%	0.00%	0.00%	0.00%
	5	0	1	1	1	1	2
	10.60%	0.00%	14.30%	7.70%	12.50%	14.30%	



6.5 Interaction experience with the institution

Table 8.1.: Quality of the interaction by institution for the first appeal

	All institutions	Client/ Procurement office at district	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level
The information provided was	Very helpful in providing the information relevant to your case	6	0	1	4
	Helpful in providing the information relevant to your case	23.40%	0.00%	100.00%	80.00%
	Unhelpful in providing the information relevant to your case	2	0	0	0
	Very unhelpful in providing the information relevant to your case	4.30%	5.10%	0.00%	0.00%
	Not Applicable	6	5	0	1
	Very courteous	12.80%	12.80%	0.00%	20.00%
	Courteous	27	25	2	0
	Discourteous	57.40%	64.10%	100.00%	0.00%
	Very discourteous	1	1	0	0
	Not Applicable	2.10%	2.60%	0.00%	0.00%
How courteous was the institution	Very helpful in providing the information relevant to your case	11	6	1	4
	Helpful in providing the information relevant to your case	23.40%	15.40%	0.00%	80.00%
	Unhelpful in providing the information relevant to your case	4	3	0	1
	Very unhelpful in providing the information relevant to your case	8.50%	7.70%	0.00%	20.00%
	Not Applicable	8	8	0	0
	Very courteous	17.00%	20.50%	0.00%	0.00%
	Courteous	17	15	2	0
	Discourteous	36.20%	38.50%	100.00%	0.00%
	Very discourteous	7	7	0	0
	Not Applicable	14.90%	17.90%	0.00%	0.00%

Listening	10	6	0	1	3
Were very attentive when listening to your explanation of the case	21.30%	15.40%	0.00%	100.00%	60.00%
Were somewhat attentive in listening to your explanation of the case	6	4	1	0	1
Were mostly inattentive in listening to your explanation of the case	12.80%	10.30%	50.00%	0.00%	20.00%
Were not at all attentive in listening to your explanation of the case	5	5	0	0	0
Not Applicable	10.60%	12.80%	0.00%	0.00%	0.00%
	19	17	1	0	1
	40.40%	43.60%	50.00%	0.00%	20.00%
	7	7	0	0	0
	14.90%	17.90%	0.00%	0.00%	0.00%

At this stage of appeal, complainers felt that the information provided was either unhelpful or very unhelpful (70.2%). Moreover, during their interaction complainers felt that the institution they complained to was mostly inattentive or not at all attentive in listen to their explanation of the case (56%) and that they were discourteous or very discourteous with them (53.2%).

Table 8.2.: Quality of the interaction by different institutions for the first appeal per district

	All districts	District C	District F	District B	District D	District A
The information provided was	Very helpful in providing the information relevant to your case	11	1	1	5	2
	Helpful in providing the information relevant to your case	23.40%	20.00%	14.30%	38.50%	25.00%
	Unhelpful in providing the information relevant to your case	2	0	1	0	1
	Very unhelpful in providing the information relevant to your case	4.30%	0.00%	14.30%	0.00%	0.00%
	Not Applicable	6	1	2	1	1
		12.80%	20.00%	28.60%	7.70%	12.50%
		27	3	3	7	4
		57.40%	60.00%	42.90%	53.80%	50.00%
		1	0	0	0	1
		2.10%	0.00%	0.00%	0.00%	12.50%



How courteous was the institution	Very courteous	11	1	2	5	1	2	
		23.40%	20.00%	28.60%	38.50%	12.50%	14.30%	
	Courteous	4	1	0	2	0	1	
		8.50%	20.00%	0.00%	15.40%	0.00%	7.10%	
	Discourteous	8	0	2	2	1	3	
		17.00%	0.00%	28.60%	15.40%	12.50%	21.40%	
	Very discourteous	17	2	3	4	3	5	
	36.20%	40.00%	42.90%	30.80%	37.50%	35.70%		
	Not Applicable	7	1	0	0	3	3	
		14.90%	20.00%	0.00%	0.00%	37.50%	21.40%	
Listening	Were very attentive when listening to your explanation of the case	10	1	1	5	1	2	
		21.30%	20.00%	14.30%	38.50%	12.50%	14.30%	
	Were somewhat attentive in listening to your explanation of the case	6	2	1	1	0	2	
		12.80%	40.00%	14.30%	7.70%	0.00%	14.30%	
	Were mostly inattentive in listening to your explanation of the case	5	0	1	2	0	2	
		10.60%	0.00%	14.30%	15.40%	0.00%	14.30%	
	Were not at all attentive in listening to your explanation of the case	19	1	4	5	3	6	
	40.40%	20.00%	57.10%	38.50%	37.50%	42.90%		
	Not Applicable	7	1	0	0	4	2	
		14.90%	20.00%	0.00%	0.00%	50.00%	14.30%	



Table 8.3.: Quality of support provided by institution for the first appeal

	All institutions	Client/ Procurement office at district	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	
Information was provided verbally or in writing about how the complaint process operated.	Yes	38	30	2	1	5
	No	9	9	0	0	0
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	31	25	1	1	4
	No	16	14	1	0	1
At the conclusion of the process, you were provided with a written decision	Yes	39	31	2	1	5
	No	8	8	0	0	0
The written decision was accompanied by an explanation with reasons for the decision	Yes	35	27	2	1	5
	No	12	12	0	0	0
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	11	6	0	1	4
	No	36	33	2	0	1
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	7	3	2	0	2
	No	40	36	0	1	3
	85.10%	92.30%	0.00%	100.00%	60.00%	

When interacting with institutions they appealed to for the first appeal, complainants were provided with a verbal or written information about how the complaint/appeal process operated (80.9%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (66%). At the conclusion of the process, complainants were provided with a written decision (83%), and the decision was accompanied by an explanation with reasons for the decision (74.5%). However, when the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (76.6%). Moreover, at this stage of appealing they were not represented by a lawyer (85.1%).

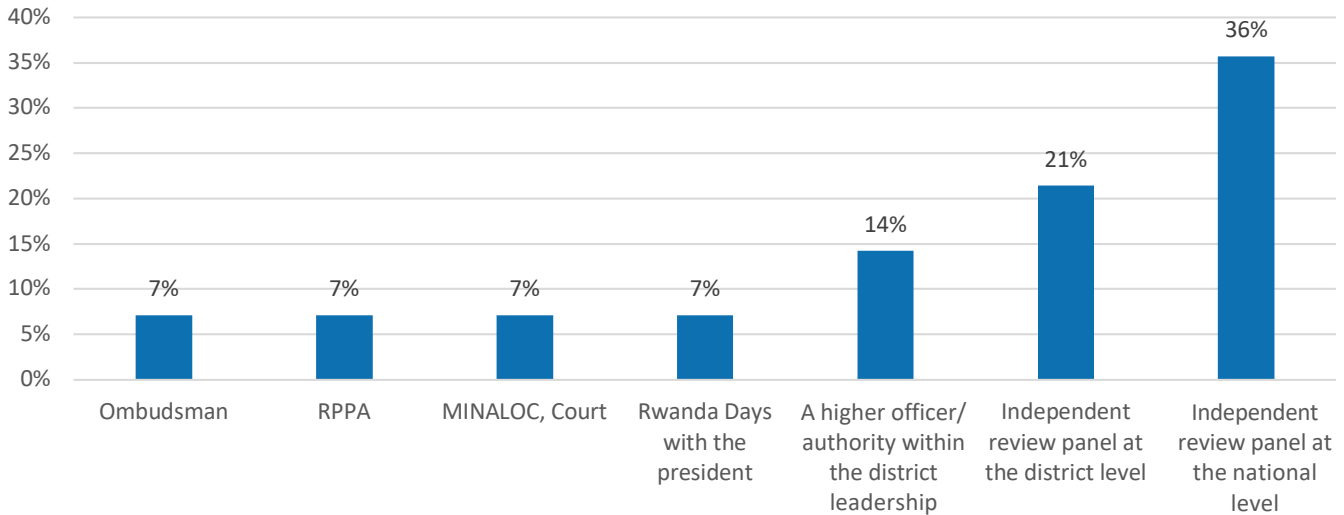
Table 8.4.: Quality of support provided by different institutions per district

	All districts	District C	District F	District B	District D	District A
Information was provided verbally or in writing about how the complaint process operated.	Yes	5	6	11	5	11
	80.90%	100.00%	85.70%	84.60%	62.50%	78.60%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	No	0	1	2	3	3
	19.10%	0.00%	14.30%	15.40%	37.50%	21.40%
At the conclusion of the process, you were provided with a written decision	Yes	3	4	9	4	11
	66.00%	60.00%	57.10%	69.20%	50.00%	78.60%
The written decision was accompanied by an explanation with reasons for the decision	No	2	3	4	4	3
	34.00%	40.00%	42.90%	30.80%	50.00%	21.40%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	4	6	11	5	13
	83.00%	80.00%	85.70%	84.60%	62.50%	92.90%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	1	1	2	3	1
	17.00%	20.00%	14.30%	15.40%	37.50%	7.10%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	4	3	10	6	12
	74.50%	80.00%	42.90%	76.90%	75.00%	85.70%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	1	4	3	2	2
	25.50%	20.00%	57.10%	23.10%	25.00%	14.30%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	2	0	5	1	3
	23.40%	40.00%	0.00%	38.50%	12.50%	21.40%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	3	7	8	7	11
	76.60%	60.00%	100.00%	61.50%	87.50%	78.60%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	2	2	2	1	0
	14.90%	40.00%	28.60%	15.40%	12.50%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	3	5	11	7	14
	85.10%	60.00%	71.40%	84.60%	87.50%	100.00%

7 Second appeal

7.1 Institution appealed to for the second appeal

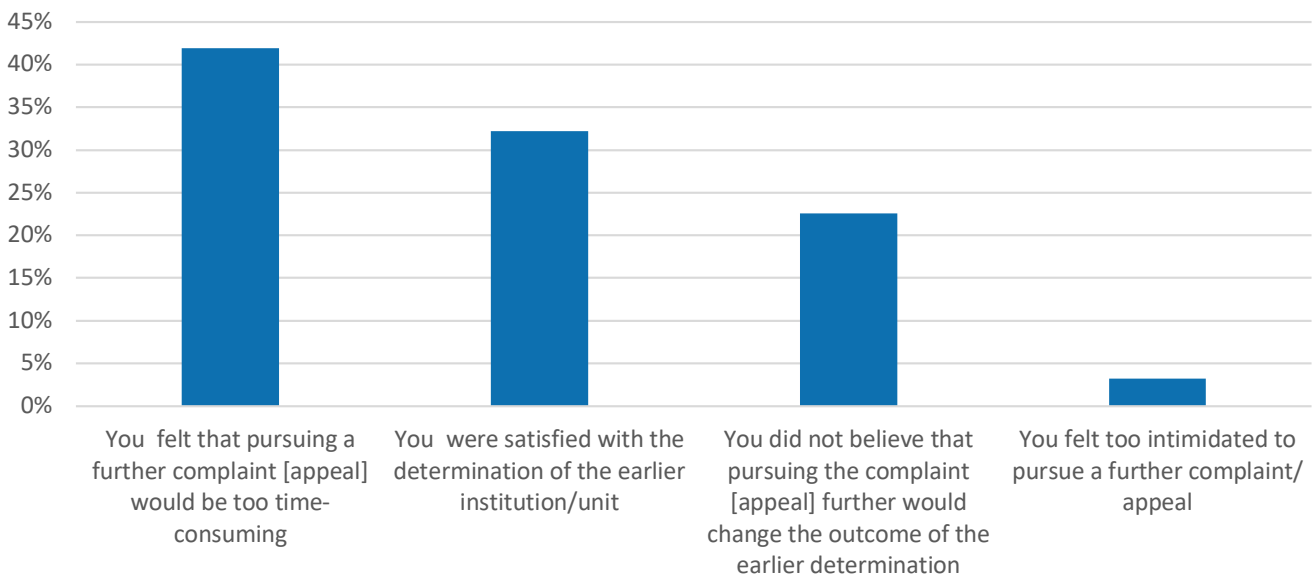
Figure 9: Distribution of institution appealed to for the second time (in percentage)



For their second appeal, complainers that pursued their complaints further mainly presented their cases to an independent review panel either at the district level (21%) or at the national level (36%).

7.2 Reasons for not complaining for the second appeal

Figure 10: Reasons for not complaining for the second time (Frequency)



From the individuals who complained for the first time 69.6% of them did not pursue their complaints further. Mainly because they felt that pursuing further their complaints would be too time consuming for them (42%). While for 32% of them did not pursue the case because they were satisfied with the determination of the earlier institution.



7.3 Institution appealed to for the second appeal per respondent's characteristics

Table 9: Selected Institution for the second appeal per respondent's characteristic

	All categories (Count)	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	Ombudsman	Did not pursue a complaint/ appeal	RPPA	MINALOC, Court	Rwanda Days with the president
Gender	Male	5.40%	8.10%	10.80%		67.60%	2.70%	2.70%	2.70%
	Female			33.30%	33.30%	33.30%			
Size of the enterprise	Small and medium enterprise (SME)	5.60%	8.30%	13.90%	2.80%	63.90%	2.80%	2.80%	
	Large enterprise					75.00%			25.00%
Business sector	Agriculture and livestock			50.00%		50.00%			
	Manufacturing					100.00%			
	Water supply, sewage, waste management and remediation activities		100.00%						
	Construction	5.90%	11.80%	5.90%	5.90%	64.70%	5.90%	5.90%	
	Wholesale and retail trade					100.00%			
	Transportation and storage			50.00%					50.00%
	Information and communication			50.00%		50.00%			
	Professional, scientific, and technical activities					100.00%			
	Cleaning services					100.00%			



DISTRICT	General supply of service	6			16.70%	66.70%	16.70%	
	District F	7	14.30%	14.30%	14.30%	14.30%	14.30%	14.30%
	District A	14	7.10%	7.10%	21.40%	64.30%		
	District B	8		12.50%		87.50%		
	District C	3				66.70%		33.30%
	District D	8			12.50%	87.50%		

7.4 Reasons for choosing the institution and the feedback timeline

Table 10.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal

	All institutions	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	Ombudsman	RPPA	MINALOC, Court	Rwanda Days with the president
Reasons for choosing the institution	You understood this to be required by law	10	2	3	5		0	0
	You felt this institution/unit had the necessary expertise	76.90%	100.00%	100.00%	100.00%		0.00%	0.00%
	You felt this institution/unit would handle your dispute efficiently	2	0	0	0		1	0
		15.40%	0.00%	0.00%	0.00%		100.00%	0.00%
Feedback timeline	Less than 2 weeks	1	0	0	0		0	1
		7.70%	0.00%	0.00%	0.00%		0.00%	100.00%
	Less than 1 month	7	0	1	5	0	0	1
		50.00%	0.00%	33.30%	100.00%	0.00%	0.00%	100.00%
	1-3 Months	3	1	2	0	0	0	0
		21.40%	50.00%	66.70%	0.00%	0.00%	0.00%	0.00%
Never received a response	2	1	0	0	0	0	1	0
	14.30%	50.00%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%
	14.30%	0.00%	0.00%	0.00%	100.00%	100.00%	0.00%	0.00%

For their second appeal most complainers' choice was driven by the understanding of what is required by the law (76.9%) and their feeling regarding the expertise and efficiency of the chosen institution. Regardless of the chosen institution, it most of time took complainers less one month to receive a feedback (73.3%).

Table 10.2.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district

	All districts	District C	District F	District B	District D	District A
Reasons for choosing the institution	You understood this to be required by law	10 76.90%	0 0.00%	3 60.00%	1 100.00%	5 100.00%
	You felt this institution/unit had the necessary expertise	2 15.40%	1 100.00%	1 20.00%	0 0.00%	0 0.00%
	You felt this institution/unit would handle your dispute efficiently	1 7.70%	0 0.00%	1 20.00%	0 0.00%	0 0.00%
Feedback timeline	Less than 2 weeks	8 53.30%	0 0.00%	2 33.30%	2 100.00%	3 60.00%
	Less than 1 month	3 20.00%	0 0.00%	2 33.30%	0 0.00%	1 20.00%
	1-3 Months	2 13.30%	1 100.00%	0 0.00%	0 0.00%	1 20.00%
	Never received a response	2 13.30%	0 0.00%	2 33.30%	0 0.00%	0 0.00%

7.5 Interaction experience with different institution during the second appeal

Table 1.1.1.: Quality of the interaction with complainers by institution for the second appeal

	All institutions	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	Ombudsman	RPPA	MINALOC, Court	Rwanda Days with the president
The information provided was	Very helpful in providing the information relevant to your case	4 28.60%	0 0.00%	3 60.00%	1 100.00%	0 0.00%	0 0.00%	0 0.00%
	Helpful in providing the information relevant to your case	2 14.30%	0 0.00%	1 20.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%
	Unhelpful in providing the information relevant to your case	1 7.10%	0 0.00%	1 33.30%	0 0.00%	0 0.00%	0 0.00%	0 0.00%
	Very unhelpful in providing the information relevant to your case	6 42.90%	1 50.00%	2 66.70%	1 20.00%	0 0.00%	1 100.00%	1 100.00%
	Not Applicable	1 7.10%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	1 100.00%	0 0.00%
	Very courteous	3 21.40%	0 0.00%	0 0.00%	3 60.00%	0 0.00%	0 0.00%	0 0.00%
	Courteous	3 21.40%	1 50.00%	0 0.00%	1 20.00%	1 100.00%	0 0.00%	0 0.00%
How courteous was the institution	Discourteous	3 21.40%	1 50.00%	1 33.30%	0 0.00%	0 0.00%	0 0.00%	0 0.00%
	Very discourteous	4 28.60%	0 0.00%	2 66.70%	0 0.00%	0 0.00%	1 100.00%	1 100.00%
	Not Applicable	1 7.10%	0 0.00%	0 0.00%	0 0.00%	1 100.00%	0 0.00%	0 0.00%

Listening	Very attentive when listening to your explanation of the case							3	1	0	0	0
	4	0	0	0.00%	60.00%	100.00%	0.00%					
Somewhat attentive in listening to your explanation of the case	2	1	0	0	1	0	0	0	0	0	0	0
	14.30%	50.00%	0.00%	0.00%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Mostly inattentive in listening to your explanation of the case	2	0	1	1	0	0	0	0	0	0	1	1
	14.30%	0.00%	33.30%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	100.00%
Not at all attentive in listening to your explanation of the case	5	1	2	1	1	0	0	0	1	0	0	0
	35.70%	50.00%	66.70%	20.00%	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Not Applicable	1	0	0	0	0	0	0	0	1	0	0	0
	7.10%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%

In general, during their interactions with complainers, the information provided by institutions was not helpful in terms of relevance with complainers' cases (.). Moreover, institutions are not perceived as courteous nor attentive when listening to complainer's explanations. However, this trend is not applicable when complaining to the ombudsman, independent review panel at national level and with a higher authority with the district.

Table 11.2.: Quality of the interaction with different institutions for the second appeal per district

The information provided was	All districts							District C	District F	District B	District D	District A
	4	0	0	0.00%	2	0	1					
Very helpful in providing the information relevant to your case	2	1	0	0	1	0	0	0	0	0	1	1
	13.30%	16.70%	0.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	0.00%	20.00%	20.00%
Helpful in providing the information relevant to your case	1	0	0	0	1	0	0	0	0	0	0	0
	6.70%	0.00%	0.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Unhelpful in providing the information relevant to your case	7	1	1	1	1	2	0	0	0	0	3	3
	46.70%	100.00%	16.70%	16.70%	16.70%	100.00%	0.00%	0.00%	0.00%	0.00%	60.00%	60.00%
Very unhelpful in providing the information relevant to your case	1	0	0	0	1	0	0	0	0	0	0	0
	6.70%	0.00%	0.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Not Applicable	1	0	0	0	1	0	0	0	0	0	0	0
	6.70%	0.00%	0.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

How courteous was the institution	Very courteous	3	0	1	0	1	1	1
		20.00%	0.00%	16.70%	0.00%	100.00%	20.00%	20.00%
	Courteous	3	0	2	0	0	1	1
		20.00%	0.00%	33.30%	0.00%	0.00%	20.00%	20.00%
	Discourteous	3	0	1	0	0	2	2
		20.00%	0.00%	16.70%	0.00%	0.00%	40.00%	40.00%
	Very discourteous	5	1	1	2	0	1	1
		33.30%	100.00%	16.70%	100.00%	0.00%	20.00%	20.00%
	Not Applicable	1	0	1	0	0	0	0
		6.70%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%
Listening	Very attentive when listening to your explanation of the case	4	0	2	0	1	1	1
		26.70%	0.00%	33.30%	0.00%	100.00%	20.00%	20.00%
	Somewhat attentive in listening to your explanation of the case	2	0	1	0	0	1	1
		13.30%	0.00%	16.70%	0.00%	0.00%	20.00%	20.00%
	Mostly inattentive in listening to your explanation of the case	2	0	2	0	0	0	0
		13.30%	0.00%	33.30%	0.00%	0.00%	0.00%	0.00%
	Not at all attentive in listening to your explanation of the case	6	1	0	2	0	3	3
		40.00%	100.00%	0.00%	100.00%	0.00%	60.00%	60.00%
Not Applicable	1	0	1	0	0	0	0	
	6.70%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	

Table 11.3.: Quality of support provided by institution for the second appeal

		All institutions	A higher officer/ authority within the district	Independent review panel at the district level	Independent review panel at the national level	Ombudsman	RPPA	MINALOC, Court	Rwanda Days with the president
Information was provided verbally or in writing about how the complaint process operated.	Yes	12	2	3	5	0	0	1	1
		85.70%	100.00%	100.00%	100.00%	0.00%	0.00%	100.00%	100.00%
	No	2	0	0	0	1	1	0	0
		14.30%	0.00%	0.00%	0.00%	100.00%	100.00%	0.00%	0.00%

You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	10	1	1	5	1	0	1	1	0	1	1
	No	71.40%	50.00%	33.30%	100.00%	100.00%	0.00%	100.00%	100.00%	0.00%	100.00%	100.00%
At the conclusion of the process, you were provided with a written decision	Yes	4	1	2	0	0	1	0	0	1	0	0
	No	28.60%	50.00%	66.70%	0.00%	0.00%	100.00%	0.00%	100.00%	100.00%	0.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	8	1	3	2	0	0	1	0	0	1	1
	No	57.10%	50.00%	100.00%	40.00%	0.00%	0.00%	100.00%	100.00%	0.00%	100.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	6	1	0	3	1	1	0	1	1	0	0
	No	42.90%	50.00%	0.00%	60.00%	100.00%	100.00%	0.00%	100.00%	100.00%	0.00%	0.00%
You had help from a lawyer in presenting your complaint/ appeal to this institution/unit	Yes	8	1	3	3	0	0	1	0	0	1	0
	No	57.10%	50.00%	100.00%	60.00%	0.00%	0.00%	100.00%	100.00%	0.00%	100.00%	0.00%
When interacting with institutions they appealed to for their second appeal, complainers was provided with a verbal or written information about how the complaint/ appeal process operated (85.7%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (71.4%). At the conclusion of the process, complainers were provided with a written decision (57.1%), and the decision was accompanied by an explanation with reasons for the decision (85.7%). Moreover, at this stage of appealing they were not represented by a lawyer (71.4%).	Yes	2	1	0	1	0	0	0	0	0	0	0
	No	14.30%	50.00%	0.00%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
You had help from a lawyer in presenting your complaint/ appeal to this institution/unit	Yes	6	1	0	2	1	1	0	1	1	0	1
	No	42.90%	50.00%	0.00%	40.00%	100.00%	100.00%	0.00%	100.00%	100.00%	0.00%	100.00%
You had help from a lawyer in presenting your complaint/ appeal to this institution/unit	Yes	4	1	1	0	0	0	0	0	0	1	1
	No	28.60%	50.00%	33.30%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	100.00%
You had help from a lawyer in presenting your complaint/ appeal to this institution/unit	Yes	10	1	2	5	1	1	1	1	1	0	0
	No	71.40%	50.00%	66.70%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	0.00%	0.00%

When interacting with institutions they appealed to for their second appeal, complainers was provided with a verbal or written information about how the complaint/ appeal process operated (85.7%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (71.4%). At the conclusion of the process, complainers were provided with a written decision (57.1%), and the decision was accompanied by an explanation with reasons for the decision (85.7%). Moreover, at this stage of appealing they were not represented by a lawyer (71.4%).

Table 11.4.: Quality of support provided by different institutions for the second appeal per district

	All districts	District C	District F	District B	District D	District A	
Information was provided verbally or in writing about how the complaint process operated.	Yes	13	1	4	2	1	5
	No	86.70%	100.00%	66.70%	100.00%	100.00%	100.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	2	0	2	0	0	0
	No	13.30%	0.00%	33.30%	0.00%	0.00%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	11	1	5	1	1	3
	No	73.30%	100.00%	83.30%	50.00%	100.00%	60.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	4	0	1	1	0	2
	No	26.70%	0.00%	16.70%	50.00%	0.00%	40.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	9	1	4	2	0	2
	No	60.00%	100.00%	66.70%	100.00%	0.00%	40.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	6	0	2	0	1	3
	No	40.00%	0.00%	33.30%	0.00%	100.00%	60.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	9	1	3	2	0	3
	No	60.00%	100.00%	50.00%	100.00%	0.00%	60.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	6	0	3	0	1	2
	No	40.00%	0.00%	50.00%	0.00%	100.00%	40.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	2	0	2	0	0	0
	No	13.30%	0.00%	33.30%	0.00%	0.00%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	13	1	4	2	1	5
	No	86.70%	100.00%	66.70%	100.00%	100.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	4	1	2	1	0	0
	No	26.70%	100.00%	33.30%	50.00%	0.00%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	11	0	4	1	1	5
	No	73.30%	0.00%	66.70%	50.00%	100.00%	100.00%

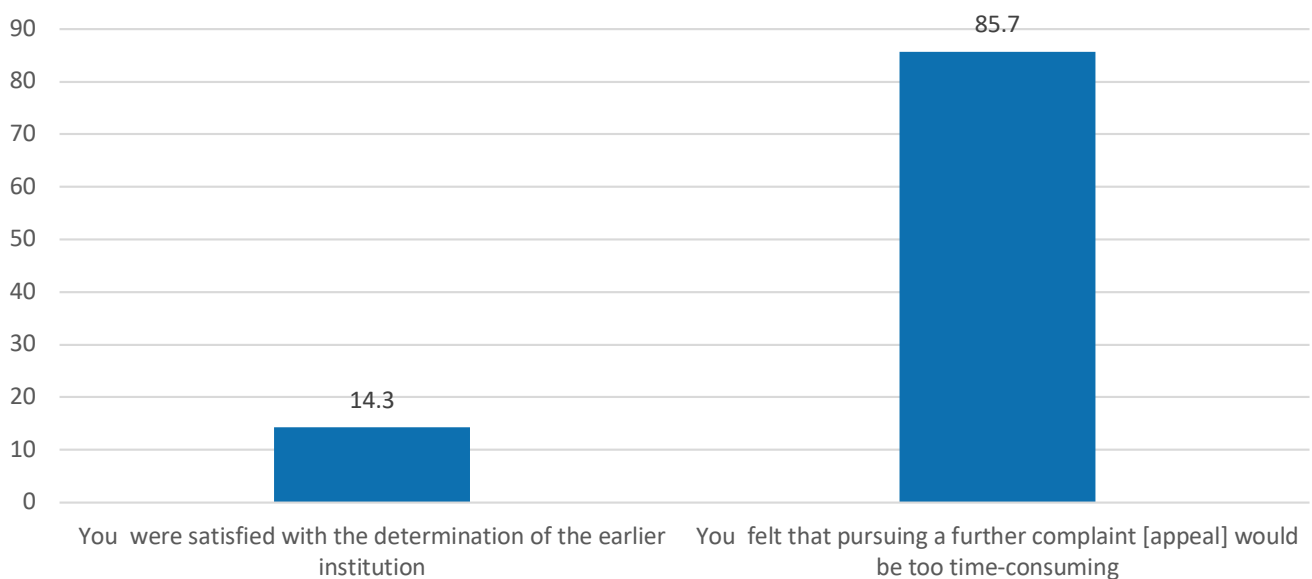
8 Third appeal

8.1 Institution appealed to for the third appeal

Complainers choice of institution to complain to for the third appeal was equally distributed between and independent review panel at the national level, to courts, to the ombudsman, to transparency Rwanda and to the e-procurement support system. Knowing that from our sample only 5 individuals pursued their complaint to the third appeal.

8.2 Reasons for not complaining for the third appeal

Figure 11: Reasons for not complaining (Percentage)



58.3% of the individuals who complained for the second appeal did not pursue their complaints to the third appeal mainly because they felt that pursuing a further complaint would be too time consuming. Furthermore, 14% of them it was because they were satisfied with the determination of the institution during the second appeal.

8.3 Institution appealed to for the third appeal per respondent's characteristics

Table 12: Selected Institution per respondent's characteristic for the third appeal

	All categories (Count)	Independent review panel at the national level	Courts	Ombudsman	Did not pursue a complaint/ appeal	Transparency Rwanda	E-procurement system support
Gender	Male	10.00%	10.00%		60.00%	10.00%	10.00%
	Female			50.00%	50.00%		
Size of the enterprise	Small and medium enterprise (SME)	9.10%	9.10%	9.10%	63.60%		9.10%
	Large enterprise					100.00%	
Business sector	Agriculture and livestock				100.00%		
	Water supply, sewage, waste management and remediation activities	100.00%					
	Construction		20.00%	20.00%	40.00%		20.00%
	Transportation and storage				50.00%	50.00%	
	Information and communication				100.00%		
	General supply of service				100.00%		
DISTRICT	District F			20.00%	60.00%	20.00%	
	District A				75.00%		25.00%
	District B	100.00%					
	District C		100.00%				
	District D				100.00%		

8.4 Reasons for choosing the institution and the feedback timeline

Table 13.1.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal

	All institutions	Independent review panel at the national level	Courts	Ombudsman	Transparency Rwanda	E-procurement system support
Reasons for choosing the institution	You understood this to be required by law	1 100.00%	1 100.00%	0	1 100.00%	0 0.00%
	You know people at this institution/unit who could help you	0 0.00%	0 0.00%	0	0 0.00%	1 100.00%
Feedback timeline	Less than 2 weeks	1 100.00%	0 0.00%	0	1 100.00%	0 0.00%
	1-3 Months	0 0.00%	1 100.00%	0	0 0.00%	0 0.00%
	Never received a response	0 0.00%	0 0.00%	1 100.00%	0 0.00%	1 100.00%

Consistent with what was perceived for the second appeal the main reason driving the choice of complainers when they are choosing the institution to appeal to is because it is required by the law (80%). Again it takes overall less than 1 month to receive a feedback from institutions they appealed to.

Table 13.2.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district

	All districts	District C	District F	District B	District A
Reasons for choosing the institution	You understood this to be required by law	4 80.00%	1 100.00%	2 100.00%	0 0.00%
		1 20.00%	0 0.00%	0 0.00%	1 100.00%
	You know people at this institution/unit who could help you	0 0.00%	0 0.00%	0 0.00%	0 0.00%



Feedback timeline	3	0	1	2	0
Less than 2 weeks	37.50%	0.00%	33.30%	100.00%	0.00%
Less than 1 month	1	0	1	0	0
1-3 Months	12.50%	0.00%	33.30%	0.00%	0.00%
Never received a response	2	1	0	0	1
	25.00%	100.00%	0.00%	0.00%	50.00%
	2	0	1	0	1
	25.00%	0.00%	33.30%	0.00%	50.00%

8.5 Interaction experience with the institution

Table 14.1.: Quality of the interaction with complainers by institution for the third appeal

	All institutions	Independent review panel at the national level	Courts	Ombudsman	Transparency Rwanda	E-procurement system support
The information provided was	2	0	0	1	1	0
	40.00%	0.00%	0.00%	100.00%	100.00%	0.00%
	2	1	1	0	0	0
	40.00%	100.00%	100.00%	0.00%	0.00%	0.00%
How courteous was the institution	1	0	0	0	0	1
	20.00%	0.00%	0.00%	0.00%	0.00%	100.00%
	2	0	0	1	1	0
	40.00%	0.00%	0.00%	100.00%	100.00%	0.00%
Listening	1	0	1	0	0	0
	20.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	2	1	0	0	0	1
	40.00%	100.00%	0.00%	0.00%	0.00%	100.00%
Very helpful in providing the information relevant to your case	3	0	1	1	1	0
	60.00%	0.00%	100.00%	100.00%	100.00%	0.00%
	1	1	0	0	0	0
	20.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Very unhelpful in providing the information relevant to your case	1	0	0	0	0	0
	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	1	1	0	0	0	0
	20.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Not Applicable	1	0	0	0	0	1
	20.00%	0.00%	0.00%	0.00%	0.00%	100.00%
	2	0	0	1	1	0
	40.00%	0.00%	0.00%	100.00%	100.00%	0.00%
Very courteous	1	0	1	0	0	0
	20.00%	0.00%	100.00%	0.00%	0.00%	0.00%
	2	1	0	0	0	1
	40.00%	100.00%	0.00%	0.00%	0.00%	100.00%
Courteous	3	0	1	1	1	0
	60.00%	0.00%	100.00%	100.00%	100.00%	0.00%
	1	1	0	0	0	0
	20.00%	100.00%	0.00%	0.00%	0.00%	0.00%
Very discourteous	2	0	0	0	0	0
	40.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	3	0	1	1	1	0
	60.00%	0.00%	100.00%	100.00%	100.00%	0.00%
Very attentive when listening to your explanation of the case	1	1	0	0	0	0
	20.00%	100.00%	0.00%	0.00%	0.00%	0.00%
	1	0	0	0	0	0
	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Not at all attentive in listening to your explanation of the case	1	0	0	0	0	0
	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	1	0	0	0	0	1
	20.00%	0.00%	0.00%	0.00%	0.00%	100.00%
Not Applicable	1	0	0	0	0	1
	20.00%	0.00%	0.00%	0.00%	0.00%	100.00%
	1	0	0	0	0	0
	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%



For their third appeal, complainers receive helpful information relevant to their cases from institution they appealed (75%), three out five institutions are courteous and attentive when listening to complainer's cases. when interacting with complainers.

Table 14.2.: Quality of the interaction with different institutions for the third appeal per district

	All districts	District C	District F	District B	District A
The information provided was	Very helpful in providing the information relevant to your case	0 0.00%	2 66.70%	0 0.00%	0 0.00%
	Very unhelpful in providing the information relevant to your case	1 50.00%	1 33.30%	2 100.00%	0 0.00%
	Not Applicable	0 25.00%	0 0.00%	0 0.00%	2 100.00%
How courteous was the institution	Very courteous	0 25.00%	2 66.70%	0 0.00%	0 0.00%
	Courteous	1 12.50%	0 100.00%	0 0.00%	0 0.00%
	Discourteous	2 25.00%	0 0.00%	1 33.30%	0 50.00%
Listening	Very discourteous	3 37.50%	0 0.00%	2 100.00%	1 50.00%
	Very attentive when listening to your explanation of the case	3 37.50%	1 100.00%	2 66.70%	0 0.00%
	Mostly inattentive in listening to your explanation of the case	1 12.50%	0 0.00%	0 0.00%	1 50.00%
	Not at all attentive in listening to your explanation of the case	3 37.50%	0 0.00%	1 33.30%	2 100.00%
	Not Applicable	1 12.50%	0 0.00%	0 0.00%	1 50.00%

Table 14.3.: Quality of support provided by institution for the third appeal

	All institutions	Independent review panel at the national level	Courts	Ombudsman	Transparency Rwanda	E-procurement system support
Information was provided verbally or in writing about how the complaint process operated.	Yes	1	1	0	1	0
	No	0	0	1	0	1
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	0	1	0	1	0
	No	1	0	1	0	1
At the conclusion of the process, you were provided with a written decision	Yes	1	1	0	1	0
	No	0	0	1	0	1
The written decision was accompanied by an explanation with reasons for the decision	Yes	1	1	0	1	0
	No	0	0	1	0	1
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	0	1	0	1	0
	No	1	0	1	0	1
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	1	1	0	1	0
	No	0	0	1	0	1

When interacting with institutions they appealed to, complainants were provided with a verbal or written information about how the complaint/appeal process operated (75%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing when appealed to two out of five institutions (i.e. court and transparency Rwanda). At the conclusion of the process, complainants were provided with a written decision (75%), and the decision was accompanied by an explanation with reasons for the decision (62.5%). When the decision was not satisfying for them, they were provided with information

about how and where to further appeal their cases again when appealing at court or transparency Rwanda level. Moreover, at this stage of appealing they were represented by a lawyer (72.5%).

Table 14.4.: Support provided by different institutions for the third appeal per district

	All districts	District C	District F	District B	District A
Information was provided verbally or in writing about how the complaint process operated.	Yes	6	2	2	1
	No	75.00%	100.00%	100.00%	50.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	2	1	0	1
	No	25.00%	0.00%	0.00%	50.00%
At the conclusion of the process, you were provided with a written decision	Yes	4	2	1	0
	No	50.00%	100.00%	50.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	4	1	1	2
	No	50.00%	0.00%	50.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	6	2	2	1
	No	75.00%	100.00%	100.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	2	1	0	1
	No	25.00%	0.00%	0.00%	50.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	5	2	2	0
	No	62.50%	100.00%	100.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	3	1	0	2
	No	37.50%	0.00%	0.00%	100.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	4	2	1	0
	No	50.00%	100.00%	50.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	4	2	1	0
	No	50.00%	100.00%	100.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	5	2	2	0
	No	62.50%	100.00%	100.00%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	3	1	0	2
	No	37.50%	0.00%	0.00%	100.00%

ANNEX 2: Public Procurement Survey

Consent Form

Your decision to participate in this research is entirely voluntary. You may choose not to participate or you may withdraw from the study for any reason without penalty of any kind. **Do we have your consent to proceed?**

1. Yes
2. No

Section 1: Demographic identification

(Interviewer Please Circle Correct Answer)

Q 1.1. Gender	<ol style="list-style-type: none"> 1. Male 2. Female
Q 1.2. Marital status	<ol style="list-style-type: none"> 1. Single 2. Married 3. Divorced 4. Separated 5. Widow (er)
Q 1.3. Age	Indicate years _____
Q 1.4. Highest level of education	<ol style="list-style-type: none"> 1. None, never been to school 2. Primary 3. Junior Secondary 4. Advanced Secondary 5. Vocational 6. University
Q 1.5. Are you a person with a disability?	<ol style="list-style-type: none"> 1. Yes 2. No
Q 1.5.1. If yes, Q.1.5 what kind of disability do you have?	<ol style="list-style-type: none"> 1. Physical disability 2. Vision impairment 3. Deaf and dumb 4. Mental health condition/ 5. Other (Specify)
Q 1.6. Size of the enterprise	<ol style="list-style-type: none"> 2.1. Small and medium enterprise (SMEs) 1. Large enterprise

Q 1.6. Business sector	<ol style="list-style-type: none"> 2. Agriculture and livestock 3. Mining and quarrying 4. Manufacturing 5. Energy (electricity, gas, etc.) 6. Water supply, sewage, waste management and remediation activities 7. Construction 8. Wholesale and retail trade 9. Motor vehicle and motorcycle repair 10. Transportation and storage 11. Food service and hospitality 12. Information and communication 13. Financial and insurance activities 14. Professional, scientific, and technical activities 15. Education 16. Human health and social work activities 17. Arts, entertainment and recreation 18. Other (specify)
------------------------	---

Section 2: Procurement related questions

Q 2.1. Prior to the initiation of the most recent procurement, to what extent would you say that you were informed about your rights as a citizen/enterprise in the procurement process?

1. Very well informed
2. Well informed
3. Not very well informed
4. Not well informed at all

Q 2.2. How do you find information about your rights in the procurement process if you need to? (Tick all that applies)

1. District government land officer
2. District government Good Governance officer
3. Written notification by the district government?
4. Radio or TV information
5. Lawyer
6. Other (specify)

Q 2.3. How many times have you participated in any public (government) tenders in the last four years?

1. Fewer than 5 times
2. Between 5 and 10 times
3. Between 11 and 20 times
4. More than 20 times

Q 2.4. What types of tenders were involved? (Tick all that applies)

1. Supply of goods and/or materials
2. Non-consultance Services
3. Consultancies
4. Works/infrastructure

Q 2.5. Of the following government institutions, where have you tendered?

1. Districts
2. Ministries
3. Agencies
4. None of the above

Q 2.6. Among the tenders in which you participated in the last five years, which of the following monetary values have you tendered for (Please check all that apply)?

1. Less than 1,000,000 Frw
2. Between 1,000,001 and 10,000,000 Frw
3. Between 10,000,001 and 100,000,000 Frw
4. Between 100,000,001 and 500,000,000 Frw
5. More than 500,000,000 Frw

Q 2.7.1 During the course of the procurement process at the district level, did district government representatives help explain terms of reference you did not understand, and if so, how helpful were the explanations?

1. Did not Explain
2. Explained; Very helpful
3. Explained; Somewhat helpful
4. Explained; Not very helpful
5. Explained; Not at all helpful

Q 2.7.2. During the course of the procurement process at the district level, did district government representatives help explain technical specifications you did not understand, and if so, how helpful were the explanations?

1. Did not Explain
2. Explained; Very helpful
3. Explained; Somewhat helpful
4. Explained; Not very helpful
5. Explained; Not at all helpful

Q 2.7.3. During the course of the procurement process at the district level, did district government representatives help explain procedures and/or selection criteria you did not understand, and if so, how helpful were the explanations?

1. Did not Explain
2. Explained; Very helpful
3. Explained; Somewhat helpful

4. Explained; Not very helpful
5. Explained; Not at all helpful

Q 2.7.4. During the course of the procurement process at the district level, did district government representatives help explain appeal rights and time frames for appeal you did not understand, and if so, how helpful were the explanations?

1. Did not Explain
2. Explained; Very helpful
3. Explained; Somewhat helpful
4. Explained; Not very helpful
5. Explained; Not at all helpful

Q 2.7.5. Other (Specify)

Q 2.7.6. During the course of the procurement process at the district level, did district government representatives help explain any OTHER the issues you did not understand, and if so, how helpful were the explanations??

1. Did not Explain
2. Explained; Very helpful
3. Explained; Somewhat helpful
4. Explained; Not very helpful
5. Explained; Not at all helpful

Q 2.8. According to the information we have, you've had at least one expropriation-related dispute at the district level during the past four years. What was the dispute about? [IF THE INDIVIDUAL HAD MORE THAN ONE EXPROPRIATION-RELATED DISPUTE, REQUEST THAT THE RESPONDENT ADDRESS ONLY THE MOST RECENT DISPUTE WITHIN THE PAST FOUR YEARS].

1. Terms of reference
2. Application process/e-procurement
3. Scoring or result from the tender evaluation
4. Procedures and/or selection criteria
5. Supporting documents required for tendering
6. Contract management
7. Delay in payment
8. Interest on overdue payment by the public institution
9. Cancellation or amendment of the contract by the procuring entity.
10. Failure by district officials to hear or otherwise accept evidence supporting my case
11. Blacklisting
12. Other (Specify)

Q 2.9. For this dispute, where did you go initially to complain/appeal?

1. Procurement office at district
2. A higher authority within the district government
3. Independent review panel at the district level
4. Independent review panel at the national level

5. Courts
6. Ombudsman
7. Did not pursue a complaint/appeal
8. Other (specify)

Q 2.10. Why did you choose to go to this institution first?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.11. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision.
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option.
5. You felt that pursuing a complaint/appeal would be too time-consuming.
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.12. After complaining/appealing to the individual or institution/unit identified in Q 2.9, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.13. When you think about your experience with the institution or individual identified in Q 2.9, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:

1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.14. When you think about your experience with the institution identified in Q 2.9, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing.
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision.
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit.
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer if I could have had one.
 1. Yes
 2. No

Q 2.15. If you are a person with disability, when you think about your experience with the institution identified in Q 2.9., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes

- 2) No

Q 2.15.1. If not Q 2.15., what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

SECOND APPEAL

Q 2.16. If you pursued your complaint further, to what institution did you take such complaint/appeal?

1. A higher authority within the district government
2. Independent review panel at the district level
3. Independent review panel at the national level
4. Courts
5. Ombudsman
6. Did not pursue a complaint/appeal
7. Other(specify)

Q 2.17. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.18. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.19. If you pursued a complaint/appeal to the institution identified in Q 2.16, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months

4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.20. When you think about your experience with the institution or individual identified in Q 2.16, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.21. When you think about your experience with the institution identified in Q2.16, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing.
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision.
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied

with the decision in this institution/unit

1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
1. Yes
 2. No
7. You would have used a free lawyer if I could have had one
1. Yes
 2. No

Q 2.22. If you are a person with disability, when you think about your experience with the institution identified in Q 2.16., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.22.1. If no Q 2.22., what was the problem? Q 2.22.

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

THIRD APPEAL

Q 2.23. If you pursued your complaint further, to what institution did you take such complaint [appeal]?

1. Independent review panel at the district level
2. Independent review panel at the national level
3. Courts
4. Ombudsman
5. Did not pursue a complaint/appeal
6. Other(specify)

Q 2.24. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.25. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option/
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.26. If you pursued a complaint/appeal to the institution identified in Q 2.23, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.27. When you think about your experience with the institution or individual identified in Q 2.23, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case.
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with::
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.28. When you think about your experience with the institution identified in Q 2.23, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No

2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit.
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer if I could have had one
 1. Yes
 2. No

Q 2.29. If you are a person with disability, when you think about your experience with the institution identified in Q 2.23, would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.29.1. If not Q 2.29., what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)/

Q 2.30.1. What would you suggest/recommend as the most important action that could be taken to improve the procurement process at the district level. Please select what you believe is the most important suggestion.

1. Improve the e-procurement system
2. Improve bidders' understanding of procedures and rights in the procurement process through improved information provision
3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures in procurement

4. Expand provision mediation and other ADR mechanisms to help resolve certain procurement disputes
5. Increase collection and dissemination of procurement information (standard bidding documents, Procurement plan, awarded contracts, IRP decisions)
6. Other (Specify)

Q 2.30.2. What would you suggest/recommend as the most important action that could be taken to improve the procurement process at the district level. Please select what you believe the second most important suggestion.

1. Improve the e-procurement system
2. Improve bidders' understanding of procedures and rights in the procurement process through improved information provision
3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures in procurement
4. Expand provision mediation and other ADR mechanisms to help resolve certain procurement disputes
5. Increase collection and dissemination of procurement information (standard bidding documents, Procurement plan, awarded contracts, IRP decisions)
6. Other (Specify)

A NNEX 3: Qualitative guidelines

1. Procurement Contractors (Bidders)

1. How many times have you participated in any public (government) tenders in the last four years? What types of tenders were involved? [Probe: Terms of reference involved, supply of goods and/or materials, Consultancies, Works/infrastructure, general monetary amounts, etc.] [Also okay to probe multiple tenders ; this is more flexible than the survey]
2. How well did you understand the procurement process? Did the district government representatives help explain any of the issues you did not understand? [Probe specific issues, such as terms of reference, tender documents, technical terms, selection criteria, tender procedures, appeal rights, etc.]. If so, how would you assess the help of district officials in explaining any issues you did not understand in the procurement process? [Probe: their courtesy, provision of helpful information, attentiveness in listening explanation, timeliness, etc.]
3. What kind of procurement disputes have you been involved in at the District level over the past four years? How well did you understand the administrative procedures that were involved in this/these dispute(s)? How well prepared did you feel in challenging the decision against you? Did you have any apprehension about proceeding to challenge this decision? If so, why? If not, why not?
4. Where did you go to dispute/complain about this/these issues/decisions, and why did you choose this course of action? [Probe: Procurement office at district, a higher authority within the district government, Independent review panel at the district level, Independent review panel at the national level, Courts, Ombudsman and other alternative avenues and why this avenue was chosen —either due to the reputation of the institution, a sympathetic official, personal connections, trust in the institution, etc.].
5. If you pursued a complaint somewhere, how would you describe the kind of treatment you received from that institution? [Probe: Their level of courtesy? Opportunities to make your views and offer supporting evidence? Provision of information verbally or in writing? Taking a decision within a reasonable time? Clear written explanation for decisions? Provision of information on further complaint/appeal? Etc.].
6. How would you characterize the knowledge and skills of the district officials with whom you interacted on procurement related issues?
7. How long did it take to receive a decision from this individual/institution? If this determination went against you, did you appeal your case further? [Probe: where did you go, and why?]
8. Overall, what do you see as the main challenges that are/may be encountered in the complaint/appeal process? [Probe: lack of information/clarity of the process; lack of knowledge of bidders' rights and available redress, slowness of the process; ambiguities in the law, lack of responsiveness/lack of knowledge or expertise of the procurement officers, complaint cost, independence of procurement officers and Review Panels, etc.]
9. What would you recommend for the improvement of the procurement process? [Probe: different kinds of recommendations — either legal, organizational or managerial, etc. These may include the following: Revising the laws and regulations, Improving the e-procurement system, increasing awareness of bidder's rights and procedures for seeking redress, training and oversight of government officials to

ensure better understanding of procurement process, expand provision of dialogue and mediation mechanisms to help resolve certain procurement disputes, reinforcing the capacity of the procurement officers (staffing capacity, training, resources, etc.); involving the users/technicians in the management of specific domains of the contracts, improving procurement processes by involving technicians from advert to the end, etc.

2. 2. District decision makers responsible for public procurement decisions (principally procurement officers)


1. What are challenges do you generally face in the procurement process? [Probe: ambiguities in the law, use of e-procurement, preparation of technical specifications for technical and complex tenders (e.g., tenders related to road construction, medical and ICT equipment, etc.), joint ventures, addendum, lack of sufficient skills for contract management (especially for some complex and technical procurement contracts), lack of procedure for market survey, , lack of contract negotiation skills, etc.]
2. What steps do you take to ensure that bidder's rights are properly respected within the procurement process? [Probe: compliance with the procurement laws and regulations; provision of information to bidders on their rights and available recourse/appeals avenues; provision of information on any issue they do not understand in the procurement process, communication of time frames for resolution of dispute, etc.]
3. How well do you think procurement disputes are handled at the district level? What about the process works well, and what doesn't, and why?
4. What do you think are the biggest challenges facing government officials seeking to resolve procurement disputes at the district level and the dispute resolution process generally? What are the major challenges that you personally face in handling procurement disputes? [Probe: lack of resources, limited staffing capacity of the Independent Review Panels, lack of specialized procurement skills in some technical and complex tenders, corruption, interference by the third party, delay in procurement, lack of penalties for defaulting public entity, fraud, specialized tenders such as medical and ICT related tenders, ambiguities in the law, broad discretion of the Independent Review Panels, cost of appeals, etc.]
5. How effectively do you respond to the complaints related to procurement laws and regulations raised by bidders? [; providing information to citizen, the level of courtesy, decision within reasonable time, conciliation mechanisms/avenues to reduce recourse to court; required documents for consideration of bidders' complaints, etc.]
6. Do you think that district recordkeeping and documentation related to procurement activities are adequate? How do kept tenders inspire you in preparation of new tender documents? How can they be improved?
7. How do you interact with the District Legal Adviser in handling procurement disputes? What kind of challenges have you faced in coordinating your work with the Legal Adviser? [Probe: extent to which there is coordination/consultation on matters of policy or legal interpretation, etc.]
8. Have there been any Court or Ombudsman decisions [reports] relating to procurement that have reversed or modified any decisions of your district? In what way? Has this provided a learning experience and if so, how?
9. What do you see as the key challenges encountered by district officials in handling procurement disputes?

[Probe: gaps/contradictions/ambiguities in law/procedure, lack of knowledge of procurement laws/procedures, appeals time frames, inadequate resources, delay in payment, lack of sanctions to public entity in case of delayed payments, independence of review panel at District level, lack of automatic right to appear before IRP, complaint fees, etc.].

10. What kind of professional training have you received? In what areas do you or others have particular training needs that are not being sufficiently addressed? What areas for future training should be prioritized? How would those areas help improve your job effectiveness and performance?
11. Overall, what would you recommend for overcoming the challenges encountered by government officials seeking to handle procurement disputes? [probe: Revision of the laws and procedures to improve certain aspects of dispute resolution or to eliminate ambiguities or contradictions in the law, capacity building of procurement officers and other officials involved in the procurement process, reinforcing the staffing capacity in the District IRP, refunding the complaint fees, right to appear before independent review panel, providing for penalties in case of delayed payment, etc.]



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org

Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX X (VOLUME II)



S TRENGTHENING
R WANDAN
A DMINISTRATIVE
J USTICE

**LAND EXPROPRIATION
DATA ANALYSIS**

ANNEX

T able of contents

ANNEX 1: Quantitative Results	1
1. General characteristics of the sample	1
2. Information on expropriation rights	2
2.1. Prior information on expropriation rights (Descriptive)	2
2.2. Level of awareness per respondent's characteristics	2
2.3. Source of information	3
3. Expropriation motivations	4
4. Consultations	5
5. Valuation	6
6. Counter-valuation	6
7. Additional information needed	7
8. Dispute reason	8
9. First Appeal	9
9.1. Institution appealed to for the first appeal	9
9.2. Reasons not to appeal	9
9.3. Institution appealed to per respondent's characteristics	11
9.4. Reason for choosing the institution and feedback timeline	13
9.5. Interaction experience with the institution	16
10. Second appeal	22
10.1. Institution appealed to for the second appeal	22
10.2. Institution appealed to for the second appeal per respondent's characteristics	24
10.3. Reasons not to appeal for the second appeal	26
10.4. Reason for choosing the institution and feedback timeline	26
10.5. Interaction experience with the institution	29
11. Third appeal	35
11.1. Institution appealed to for the third appeal	35
11.2. Institution appealed to for the third appeal per respondent's characteristics	36
11.3. Reasons not to appeal for the third appeal	38
11.4. Reason for choosing the institution and feedback timeline for the third appeal	39
11.5. Interaction experience with the institution	41
12. Recommendations	46

ANNEX 2: Land Expropriation Survey47

Consent statement:47

 Section 1: Demographic identification47

 Section 2: Land expropriation related questions48

ANNEX 3: Qualitative guidelines61

 1. Citizens who have experienced expropriation disputes61

 2. District decision-makers responsible for land expropriation decisions61

List of figures

Figure 1: Level of awareness on expropriation rights (Percentage)	2
Figure 2: Source of information on expropriation process right (Frequency)	3
Figure 3: Stated reason to expropriate (Frequency)	4
Figure 4: Type of properties affected by the expropriation (Frequency)	4
Figure 5: Topic in which additional information is needed (frequency)	5
Figure 6: Frequency of land expropriation-dispute reason	8
Figure 7: Distribution of institution appealed to for the first time (in percentage)	9
Figure 8: Main reasons for not complaining (in percentage)	9
Figure 9: Distribution of institution appealed to for the Second appeal (in percentage)	22
Figure 10: Reasons for not complaining (Frequency)	26
Figure 11: Distribution of institution appealed to for the third appeal (in percentage)	35
Figure 12: Reasons for not complaining (Frequency)	38
Figure 13: Recommendation	46
Table 1: Characteristics of our sample	1
Table 2: Level of awareness on expropriation rights by characteristic	2
Table 3.1.: Level of consultation with citizens	5
Table 3.2.: Level of consultation with citizens by district	5
Table 4: Property valuation process	6
Table 5: Counter-valuation process	6
Table 6: Level of explanations on expropriation process issues	7
Table 7: Main reasons for not complaining per district	10
Table 8: Selected Institution for the first appeal per respondent's characteristic	11
Table 9.1.: Reasons for choosing an institution and the timeline to receive a feedback for the first appeal	13
Table 9.2.: Reasons for choosing an institution and the timeline to receive a feedback for the first appeal per district	15
Table 10.1.: Quality of the interaction by institution the first appeal (In percentage)	16
Table 10.2.: Quality of the interaction by institution the first appeal per district	17
Table 10.3.: Quality of support provided by institution the first appeal (In percentage).....	19
Table 10.4.: Quality of support provided by different institutions for the first appeal per district	21
Table 10.5.: Quality of support provided during the first appeal if the complainer had a lawyer	21

Table 11: Matrix of the institution chosen for the second and first appeal	23
Table 12: Selected Institution for the second appeal per characteristic	24
Table 13.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal	27
Table 13.2: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district	28
Table 14.1.: Quality of the interaction by institution for the second appeal	29
Table 14.2.: Quality of the interaction by different institutions for the second appeal per district	30
Table 14.3.: Quality of support provided by institution for the second appeal	31
Table 14.4.: Quality of support provided by different institutions for the second appeal per district	32
Table 14.5.: Quality of support provided by different institutions for the second appeal if the complainer had a lawyer	33
Table 15.1.: Selected Institution for the third appeal per respondent’s characteristic	36
Table 15.2.: Matrix of the institution chosen for the second and third appeal	37
Table 16.1.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal	39
Table 16.2.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district	40
Table 17.1.: Quality of the interaction by institution for the third appeal	41
Table 17.2.: Quality of the interaction by different institutions for the third appeal per district	42
Table 17.3.: Support provided by institution for the third appeal	43
Table 17.4.: Support provided by different institutions for the third appeal per district	44
Table 17.5.: Support provided by different institutions for the third appeal if the complainer had a lawyer	45

A NNEX 1: Quantitative Results

1 General characteristics of the sample

Table 1: Characteristics of our sample

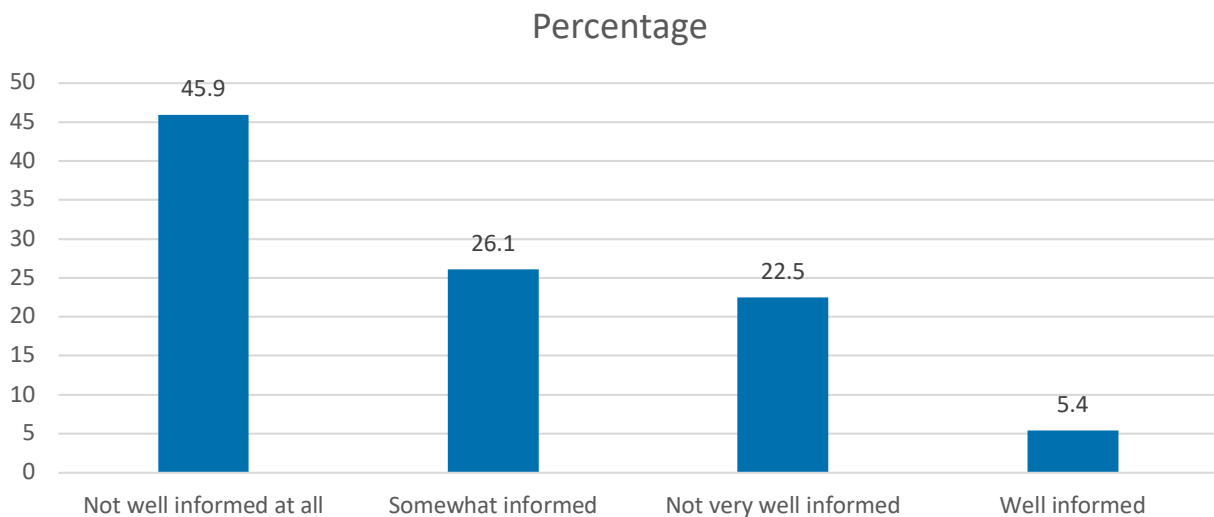
		Frequency	Percentage
Gender	Male	64	57.7
	Female	47	42.3
Age	16-25 Years	2	1.8
	26-35 years	12	10.8
	36-45 years	33	29.7
	46-55 years	22	19.8
	More than 55 years	42	37.8
Marital status	Single	2	1.8
	Married	88	79.3
	Divorced	2	1.8
	Separated	1	0.9
	Widower	18	16.2
Highest level of education	None, never been to school	26	23.4
	Primary	51	45.9
	Junior Secondary	17	15.3
	Advanced Secondary	10	9
	Vocational	1	0.9
	University	6	5.4
Main occupation	None	6	5.4
	Farmer (Agriculture and Livestock)	79	71.2
	Self Employed	6	5.4
	Trader	10	9
	Civil Servant	4	3.6
	Employee of a Non-government Organization	1	0.9
	Retired	2	1.8
	driver	2	1.8
	Constructor	1	0.9
Household income per month	< 30,000 Rwf	50	45
	30,000 -100,000 Rwf	24	21.6
	100,000-200,000 Rwf	7	6.3
	Above 200,000 Rwf	8	7.2
	Don't know	22	19.8
Ubudehe category	Category 1	15	13.5
	Category 2	49	44.1
	Category 3	46	41.4
	Don't know	1	0.9
Disabled	Yes	14	12.6
	No	97	87.4

Our sample represented by 111 respondents is mainly composed by married men (respectively 79.3% and 57.7%), aged more than 55 years (37.8%), with at least a primary education diploma (76.5%). They are mostly involved in farming activities (71.2%). The age difference can be explained by the fact that old individuals are more likely to own a land than younger individual. Most complainers belong to the second ubudehe category (44.1%) and their households earn less than 30,000 Rwf (45%). Our sample is constituted by 12.6% of persons living with a disability. Among which, 64.3% has physical disability, 21.4% a mental health condition and the rest have at an equal rate a vision impairment or are deaf and dumb (Both 7.1%).

2 Information on expropriation rights

2.1. Prior information on expropriation rights (Descriptive)

Figure 1: Level of awareness on expropriation rights (Percentage)



2.2. Level of awareness per respondent's characteristics

Table 2: Level of awareness on expropriation rights by characteristic

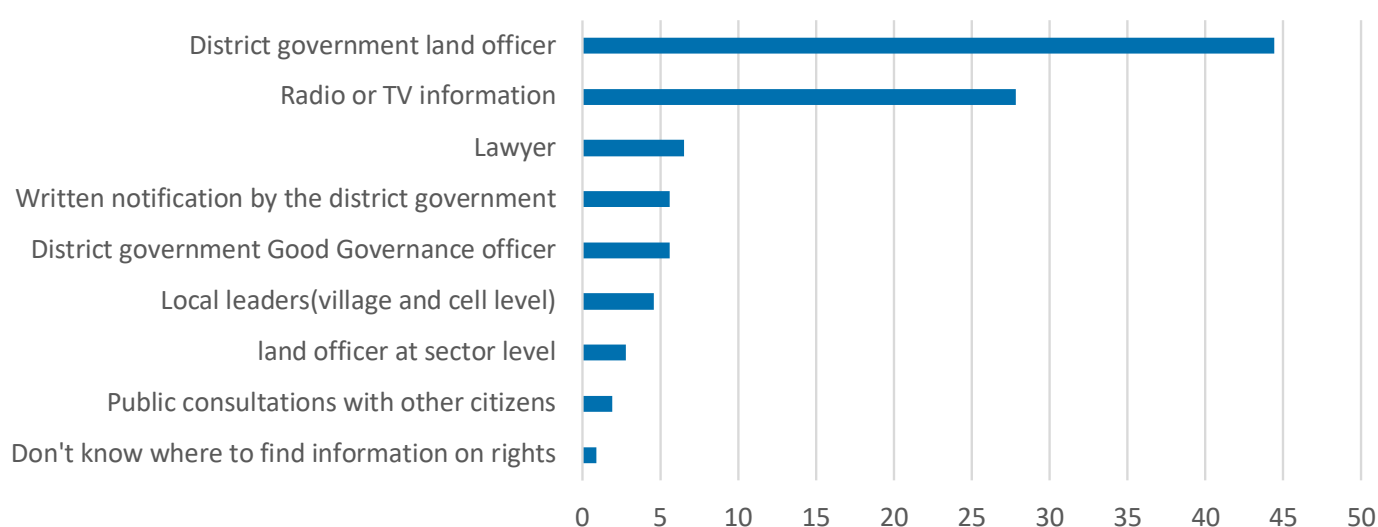
		All categories (Count)	Well informed	Somewhat informed	Not very well informed	Not well informed at all
Gender	Male	64	7.80%	28.10%	23.40%	40.60%
	Female	47	2.10%	23.40%	21.30%	53.20%
Age	16-25 Years	2	0.00%	0.00%	0.00%	100.00%
	26-35 years	12	0.00%	41.70%	8.30%	50.00%
	36-45 years	33	12.10%	24.20%	24.20%	39.40%
	46-55 years	22	4.50%	27.30%	22.70%	45.50%
	More than 55 years	42	2.40%	23.80%	26.20%	47.60%

Highest level of education	None, never been to school	26	0.00%	34.60%	19.20%	46.20%
	Primary	51	7.80%	17.60%	23.50%	51.00%
	Junior Secondary	17	5.90%	41.20%	17.60%	35.30%
	Advanced Secondary	10	0.00%	20.00%	40.00%	40.00%
	Vocational	1	0.00%	0.00%	0.00%	100.00%
	University	6	16.70%	33.30%	16.70%	33.30%
Main Occupation	None	6	16.70%	33.30%	0.00%	50.00%
	Farmer (Agriculture and Livestock)	79	2.50%	25.30%	26.60%	45.60%
	Self Employed	6	0.00%	33.30%	16.70%	50.00%
	Trader	10	10.00%	20.00%	20.00%	50.00%
	Civil Servant	4	25.00%	50.00%	0.00%	25.00%
	Employee of a Non-government Organization	1	0.00%	0.00%	0.00%	100.00%
	Retired	2	0.00%	0.00%	50.00%	50.00%
	driver	2	50.00%	0.00%	0.00%	50.00%
	Constructor	1	0.00%	100.00%	0.00%	0.00%

In general, complainants are not aware of their rights in expropriation process (68.4%) (i.e.: 45.9% assure to not be well informed at all while 22.5% to not be very well informed). When we disaggregate by characteristics, we found that men are slightly more aware of their rights in expropriation process (10 percentage point of difference with women). Moreover, awareness seems to decrease with age, it is the highest for people in their mid-twenties (41.7%) and lowest for people with more than 55 years (26.2%).

2.3 Source of information

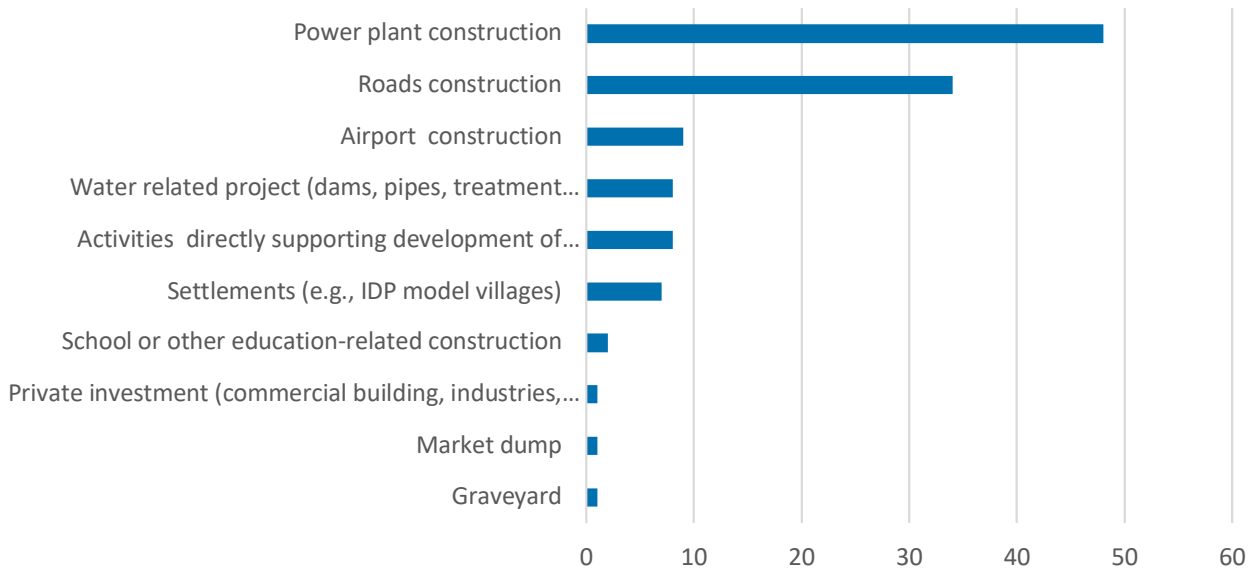
Figure 2: Source of information on expropriation process right (Frequency)



When complainants need information on expropriation processes, they mainly address their question to district land officers (44.4%) or listen to radio/TV (27.8%).

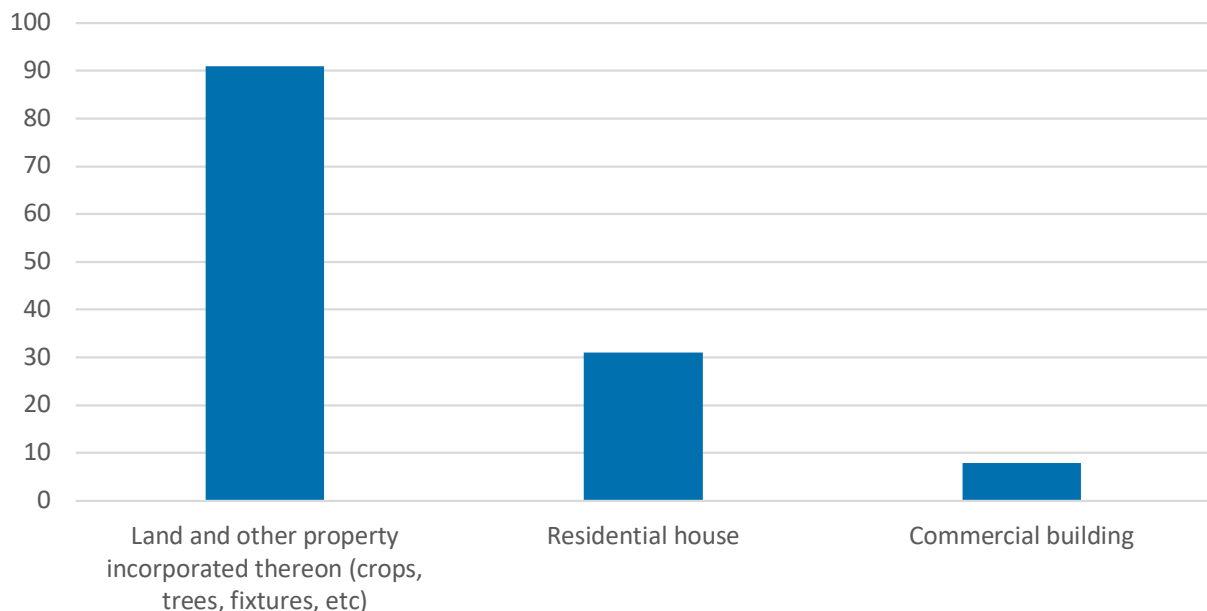
3 Expropriation motivations

Figure 3: Stated reason to expropriate (Frequency)



Complainers were expropriated mainly because their land was listed as a recipient of a power plant, road or an airport.

Figure 4: Type of properties affected by the expropriation (Frequency)



The expropriation they were involved in affected mostly their land and other properties/activities incorporated to the land. This can be linked with the number of farmers in the sample and conclude that the complainers did complain because they did not only lose a place to live but also their subsistence.

4 Consultations

Table 3.1.: Level of consultation with citizens

		Frequency	Percentage
Consultation on expropriation plans	Yes	38	34.2
	No	73	65.8
Consultation on the expropriation implementation	Yes	40	36
	No	71	64
Notification mechanism (conditional on consultation)	Public Meeting/Forum (e.g. After umuganda, etc.)	30	75
	Announcement in a place of worship	1	2.5
	Verbal notification	8	20
	written notification	1	2.5

Overall, individuals affected by an expropriation were mostly not consulted by district government before the latter took a decision to expropriate (65.8%). Still, at implementation level, citizens were mainly not consulted (64%). For the 36% that was consulted, they were notified in a public meeting/forum (75%). When we disaggregate by district, we found that all the 4 district; except District D; follows the same trend. The latter seems to make consultations both on the planning and the implementation level and like other districts notify individuals during public meetings.

Table 3.2.: Level of consultation with citizens by district

		All district (Count)	District A	District B	District C	District D
Consultation on expropriation plans	Yes	38	29.60%	24.10%	26.70%	60.00%
	No	73	70.40%	75.90%	73.30%	40.00%
Consultation on the expropriation implementation	Yes	40	40.70%	24.10%	20.00%	64.00%
	No	71	59.30%	75.90%	80.00%	36.00%
Notification mechanism (conditional on consultation)	Public Meeting/Forum	30	63.60%	85.70%	100.00%	68.80%
	Announcement in a place of worship	1	0.00%	0.00%	0.00%	6.20%
	Verbal notification	8	36.40%	14.30%	0.00%	18.80%
	written notification	1	0.00%	0.00%	0.00%	6.20%

5 Valuation

Table 4: Property valuation process

		Frequency	Percentage
Value negotiation opportunity	Yes	11	9.9
	No	100	90.1
Informed on the value outcome	Yes	61	55
	No	50	45
Notification mechanism	Public Meeting/Forum (e.g.: After umuganda, etc.)	11	18
	In writing	31	50.8
	Verbally	13	21.3
	Posting at public office (e.g. cell, sector, district offices)	6	9.8
Satisfaction with the value	Very satisfied	3	2.7
	Somewhat satisfied	16	14.4
	Neutral	21	18.9
	Somewhat dissatisfied	47	42.3
	Very dissatisfied	24	21.6

In our sample 90.1% of respondents did not have an opportunity to negotiate the value of their property with the developer. 55% were informed on the outcome of the property valuation process and were mainly notified in a written document (50.8%); which is incredibly important as a matter of documentation and individual rights. In terms of satisfaction with the outcome value, respondents affirmed that they were not satisfied with the given value (63.9%) among which 42.3% were somewhat dissatisfied and 21.6% were very dissatisfied with the value of their propriety.

6 Counter-valuation

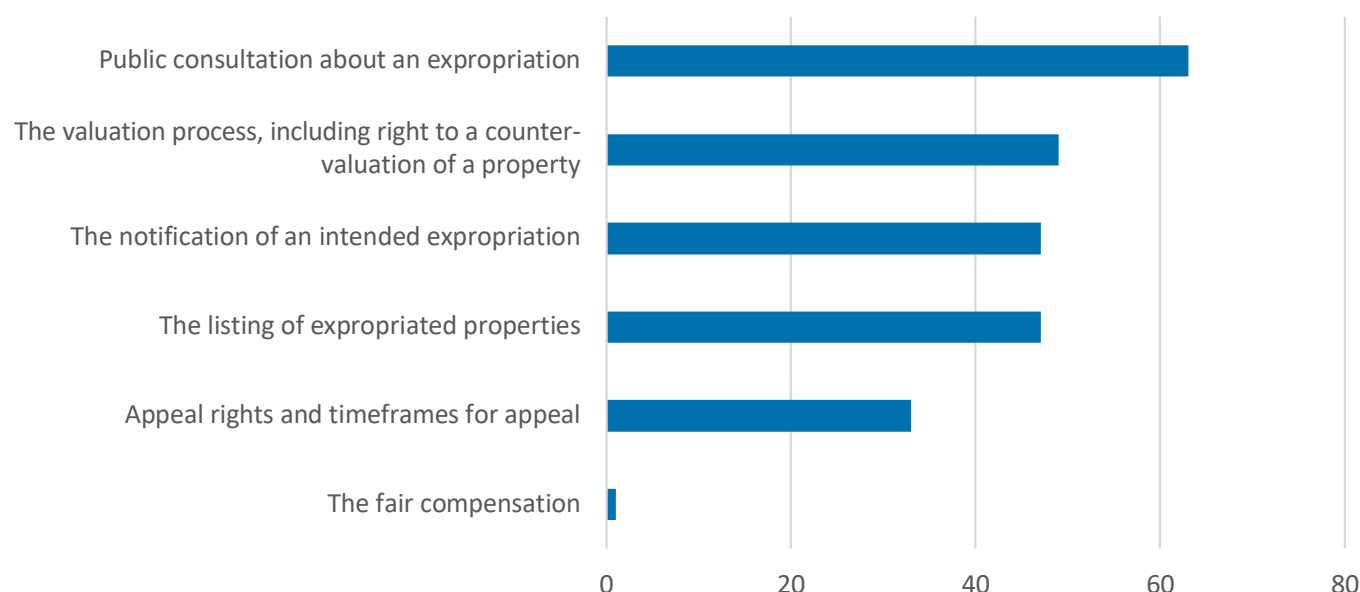
Table 5: Counter-valuation process

		Frequency	Percentage
Counter-valued with Independent Private Valuers (IPV)	Yes	11	9.9
	No	100	90.1
Consideration of the counter-valuation	Yes	7	63.6
	No	4	36.4
Reasons for not counter-value	The time provided by law was too short	1	1
	The counter valuation was too expensive	22	22
	You were unaware of the right to obtain a counter-valuation	68	68
	You did not believe that a counter-valuation would change the outcome	9	9

Although a number of complainers was not satisfied with the outcome value of their property, only 9.9% of our sample had the opportunity to pursue a counter-valuation with an independent private valuer (IPV). Mainly because they were unaware of the right to obtain a counter-valuation (68%). Meanwhile, those who pursued a counter-valuation; the report of the IPV was taken into consideration (63.6%) by the developer.

7 Additional information needed

Figure 5: Topic in which additional information is needed (frequency)



During the expropriation process, complainants needed more information on public consultations about an expropriation and on the valuation process, including the right to a counter-valuation of a property.

Table 6: Level of explanations on expropriation process issues

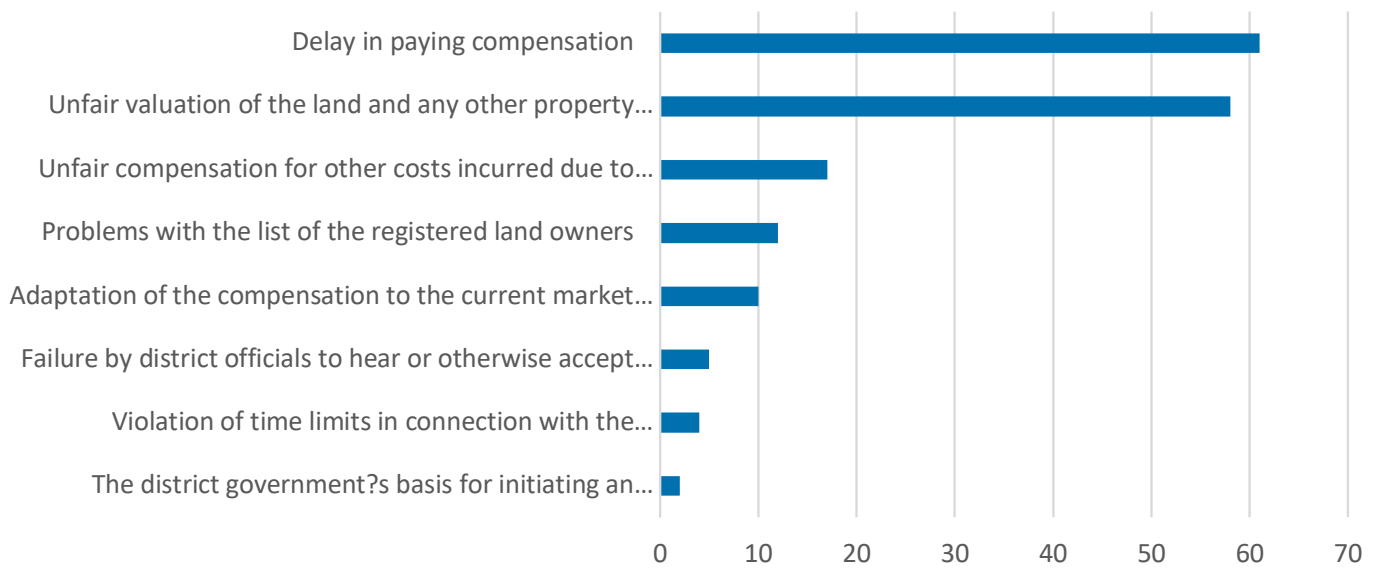
The notification of an intended expropriation		
If explained, How helpful was the explanations	Very helpful	40.00%
	Somewhat helpful	45.00%
	Not very helpful	15.00%
	Not at all helpful	0%
Public consultation about an expropriation		
If explained, How helpful was the explanations	Very helpful	35.30%
	Somewhat helpful	41.20%
	Not very helpful	23.50%
	Not at all helpful	0%
The listing of expropriated properties		
If explained, How helpful was the explanations	Very helpful	38.50%
	Somewhat helpful	53.80%
	Not very helpful	7.70%
	Not at all helpful	0%
Valuation process, including right to a counter-valuation of a property		
If explained, How helpful was the explanations	Very helpful	36.40%
	Somewhat helpful	54.50%
	Not very helpful	0%
	Not at all helpful	9.10%

Appeal rights and timeframes for appeal		
If explained, How helpful was the explanations	Very helpful	35.70%
	Somewhat helpful	57.10%
	Not very helpful	0%
	Not at all helpful	7.10%

When provided, district government's explanations on issues related to expropriation process were in general helpful to citizen.

8 Dispute reason

Figure 6: Frequency of land expropriation-dispute reason

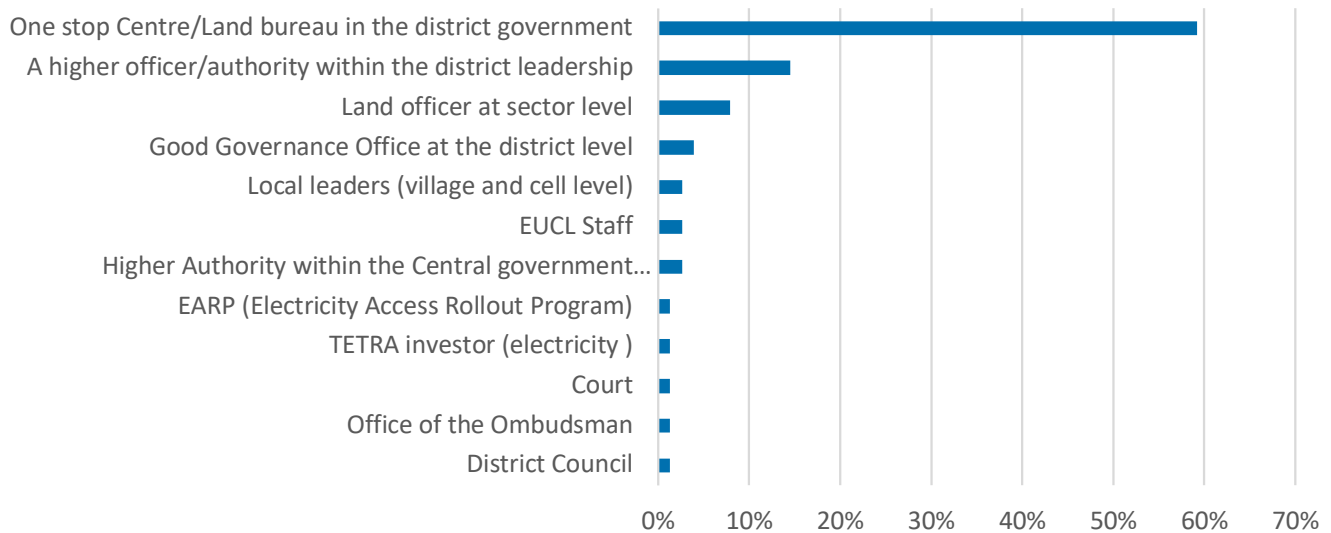


Regarding the dispute in which they were involved in, most disputes were related to delays in paying the compensation (61%) and complaints about unfair valuation (60%). The least frequent being about the district government's basis for initiating an expropriation. Thus, the issue seems to be much more about the fairness of the process, not expropriation as such.

9 First Appeal

9.1 Institution appealed to for the first appeal

Figure 7: Distribution of institution appealed to for the first time (in percentage)



For their first appeal, complainers involved in the expropriation disputes appealed to a district one stop center (59%).

9.2 Reasons not to appeal

Individuals who did not pursue their complaint affirmed that it was mainly because they did not have sufficient information about how to appeal the earlier determination (37.9%)—which shows the need for information. And fully 20.7% did not know that a complaint was available to them.

Figure 8: Main reasons for not complaining (in percentage)

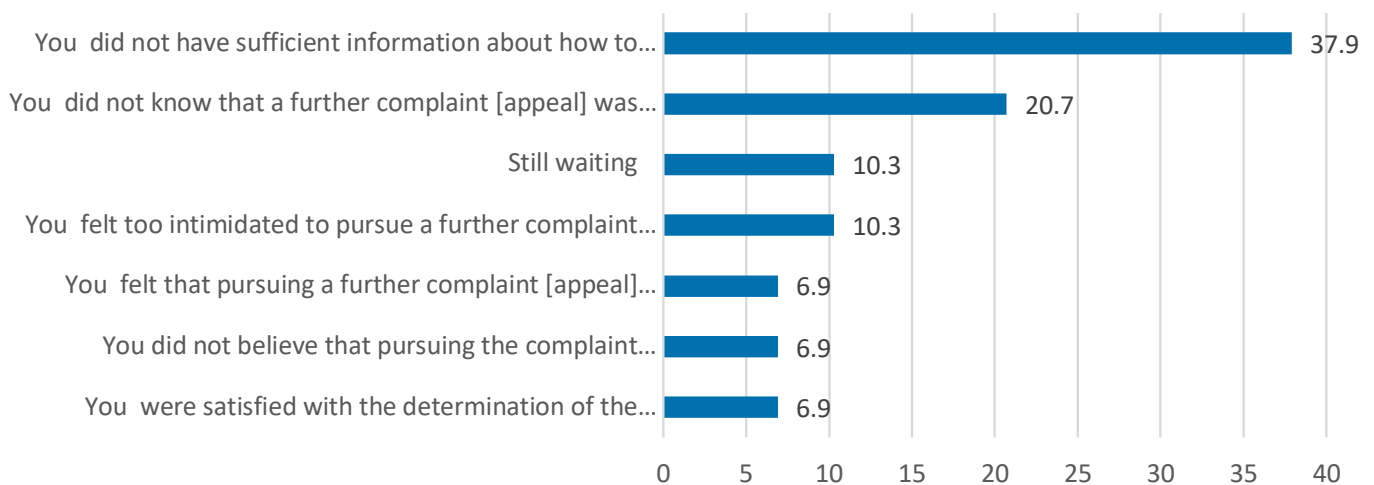


Table 7: Main reasons for not complaining per district

	Total	District A	District B	District C	District D
You were satisfied with the determination of the earlier institution	6.90%	10.00%	0.00%	11.10%	0.00%
You did not believe that pursuing the complaint [appeal] further would change the outcome of the earlier determination	6.90%	10.00%	0.00%	11.10%	0.00%
You did not have sufficient information about how to appeal the earlier determination	37.90%	20.00%	71.40%	44.40%	0.00%
You did not know that a further complaint [appeal] was available as an option	20.70%	20.00%	14.30%	11.10%	66.70%
You felt that pursuing a further complaint [appeal] would be too time-consuming	6.90%	10.00%	0.00%	11.10%	0.00%
You felt too intimidated to pursue a further complaint [appeal]	10.30%	10.00%	14.30%	0.00%	33.30%
Still waiting	20%	20.00%	0.00%	11.10%	0.00%

9.3 Institution appealed to per respondent's characteristics

Table 8: Selected Institution for the first appeal per respondent's characteristic

	All categories (Count)	One stop Center/Land bureau in the district government	Good Governance Office at the district level	A higher officer/authority in the district leadership	District Council	Higher Authority within the Central government	Office of the Ombudsman	Court	Didn't pursue a complaint [appeal]	Mayor of the district	Land officer at sector level	EUCL Staff	Local leaders (village and cell level)	TETRA investor (electricity)	EARP (Electricity Access Rollout Program)
Gender	Male	34.90%	4.80%	7.90%	1.60%	1.60%		1.60%	28.60%	7.90%	7.90%	1.60%			1.60%
	Female	48.90%		2.10%		2.10%	2.10%		34.00%		2.10%	2.10%	4.30%	2.10%	
Age	16-25 Years	50.00%			50.00%										
	26-35 years	25.00%				8.30%			25.00%	8.30%	8.30%	8.30%		8.30%	8.30%
	36-45 years	43.80%	6.20%					3.10%	28.10%	6.20%	6.20%	3.10%	3.10%		
	46-55 years	54.50%		9.10%					27.30%	4.50%	4.50%				
	More than 55 years	35.70%	2.40%	9.50%		2.40%	2.40%		38.10%	2.40%	4.80%		2.40%		
District	District A	37.00%		3.70%		3.70%	3.70%		40.70%	7.40%			3.70%		
	District B	55.20%		6.90%					27.60%			6.90%			3.40%
	District C	36.70%							40.00%		16.70%		3.30%	3.30%	
	District D	33.30%	12.50%	12.50%	4.20%	4.20%		4.20%	12.50%	12.50%	4.20%				
Highest level of education	None, never been to school	30.80%		3.80%		3.80%	3.80%		46.20%	3.80%	3.80%		3.80%		
	Primary	41.20%	2.00%	3.90%					35.30%	3.90%	7.80%	2.00%	2.00%		2.00%
	Junior Secondary	62.50%	12.50%	6.20%	6.20%				12.50%						

	Advanced Secondary	10	40.00%	20.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%		
	Vocational	1									100.00%		
	University	6	33.30%				16.70%	16.70%	16.70%			16.70%	
	None	6	100.00%										
Main Occupation	Farmer (Agriculture and Livestock)	79	33.30%	1.30%	5.10%	1.30%	2.60%	1.30%	3.80%	35.90%	7.70%	2.60%	1.30%
	Self Employed	6	50.00%	16.70%				33.30%					
	Trader	10	50.00%	10.00%				30.00%	10.00%				
	Civil Servant	4		25.00%				25.00%	25.00%				
Ubu-dehe category	Employee of an NGO	1	100.00%										
	Retired	2	50.00%	50.00%									
	Driver	2	100.00%										
	Constructor	1	100.00%										
	Category 1	15	46.70%	6.70%				33.30%			13.30%		
	Category 2	49	38.80%	4.10%				38.80%	4.10%	10.20%			2.00%
	Category 3	46	40.00%	6.70%	6.70%	2.20%	4.40%	2.20%	6.70%	2.20%	4.40%	2.20%	
Do not know	1	100.00%											

Some interesting things to ponder are the fact that males seemed more likely to appeal to a higher authority within the district leadership or the mayor, (as did older respondents). And that nearly 80% of those who didn't appear had either never gone to school or only had a primary education. When disaggregated per district, the general trend is still applicable. Although, in District C the choices are more focused on the one stop center, land officers at sector level, local leaders and an investor (TETRA) while other districts are diversified in terms of choices.

9.4 Reason for choosing the institution and feedback timeline

Table 9.1.: Reasons for choosing an institution and the timeline to receive a feedback for the first appeal

All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Office of the Ombudsman	Court	Mayor of the district	Land officer at sector level	EUCL Staff	Local leaders (village and cell level)	TETRA investor (electricity)	EARP (Electricity Access Rollout Program)
You understood this to be required by law	5	3	0	0	0	0	1	0	1	0	0	0	0
	6.60%	6.70%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%
You felt this institution/unit had the necessary expertise	17	15	0	1	0	0	0	1	0	0	0	0	0
	22.40%	33.30%	0.00%	100.00%	0.00%	0.00%	0.00%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
You felt this institution/unit would handle your dispute efficiently	48	26	6	0	2	1	0	4	4	2	1	0	0
	63.20%	57.80%	100.00%	0.00%	100.00%	100.00%	0.00%	80.00%	66.70%	100.00%	50.00%	0.00%	0.00%
It is convenient to where you live	4	1	0	0	0	0	0	0	0	0	1	1	0
	5.30%	2.20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	50.00%	100.00%	0.00%
You know people at this institution/unit who could help you	1	0	0	0	0	0	0	0	0	0	0	0	1
	1.30%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%
I was asked to go there	1	0	0	0	0	0	0	0	1	0	0	0	0
	1.30%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%

Time to receive feed-back	Less than 2 weeks	8	3	0	0	0	0	0	0	0	1	1	1	1	0	0
		10.30%	6.70%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	20.00%	16.70%	50.00%	50.00%	100.00%	0.00%
	Less than 1 month	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
		2.60%	4.40%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	1-3 Months	13	5	1	4	1	1	0	0	0	0	0	1	0	0	0
		16.70%	11.10%	33.30%	66.70%	100.00%	50.00%	0.00%	0.00%	0.00%	0.00%	0.00%	50.00%	0.00%	0.00%	0.00%
	4-6 Months	7	6	1	0	0	0	0	0	0	0	0	0	0	0	0
		9.00%	13.30%	33.30%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	6-12 Months	3	1	0	0	0	0	0	0	1	0	0	0	0	1	1
		3.80%	2.20%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%
	More than 12 months	7	2	0	0	0	0	0	1	1	2	1	0	0	0	0
		9.00%	4.40%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	20.00%	33.30%	50.00%	0.00%	0.00%	0.00%	0.00%
	Never received a response	38	26	1	2	0	1	0	0	2	3	0	0	0	0	0
		48.70%	57.80%	33.30%	33.30%	0.00%	50.00%	100.00%	0.00%	40.00%	50.00%	0.00%	0.00%	0.00%	0.00%	0.00%

In general, complainants choose the institution they appealed to for the first time because they felt the institution would handle their dispute efficiently. They said to have mostly never received a response at the time of the interview (49.4%) and when they did receive a response it took less than 3 months (29.1%). Although for the one-stop shops, having a fair number of complaints take up to 3 months seems slower than it should be.

Table 9.2.: Reasons for choosing an institution and the timeline to receive a feedback for the first appeal per district

		All districts	District A	District B	District C	District C	
Reason for choosing this institution	You understood this to be required by law	5 6.60%	0 0.00%	1 4.80%	2 11.10%	2 9.50%	
	You felt this institution/unit had the necessary expertise	17 22.40%	4 25.00%	2 9.50%	9 50.00%	2 9.50%	
	You felt this institution/unit would handle your dispute efficiently	48 63.20%	12 75.00%	17 81.00%	4 22.20%	15 71.40%	
	It is convenient to where you live	4 5.30%	0 0.00%	0 0.00%	2 11.10%	2 9.50%	
	You know people at this institution/unit who could help you	1 1.30%	0 0.00%	1 4.80%	0 0.00%	0 0.00%	
	I was asked to go there	1 1.30%	0 0.00%	0 0.00%	1 5.60%	0 0.00%	
	Time to receive feedback	Less than 2 weeks	8 10.10%	1 5.60%	3 14.30%	3 16.70%	1 4.50%
		Less than 1 month	2 2.50%	0 0.00%	1 4.80%	1 5.60%	0 0.00%
		1-3 Months	13 16.50%	3 16.70%	4 19.00%	0 0.00%	6 27.30%
		4-6 Months	7 8.90%	0 0.00%	2 9.50%	0 0.00%	5 22.70%
6-12 Months		3 3.80%	0 0.00%	1 4.80%	0 0.00%	2 9.10%	
More than 12 months		7 8.90%	3 16.70%	1 4.80%	1 5.60%	2 9.10%	
Never received a response		39 49.40%	11 61.10%	9 42.90%	13 72.20%	6 27.30%	

9.5 Interaction experience with the institution

Table 10.1.: Quality of the interaction by institution the first appeal (In percentage)

	All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Office of the Ombudsman	Court	Mayor of the district	Land officer at sector level	EUCL Staff	Local leaders (village and cell level)	TETRA investor (electricity)	EARP (Electricity Access Rollout Program)	
The information provided was	Very helpful in providing the information	14 18.40%	0 0.00%	1 16.70%	0 0.00%	0 0.00%	1 100.00%	0 0.00%	3 60.00%	2 33.30%	0 0.00%	1 50.00%	0 0.00%	0 0.00%	
	Helpful in providing the information	14 18.40%	1 33.30%	1 16.70%	1 100.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	2 100.00%	0 0.00%	0 0.00%	0 0.00%	
	Unhelpful in providing the information	14 18.40%	1 33.30%	1 16.70%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	2 33.30%	0 0.00%	0 0.00%	1 100.00%	0 0.00%	
	Very unhelpful in providing the information	32 42.10%	1 42.20%	3 50.00%	0 0.00%	2 100.00%	0 0.00%	0 0.00%	1 100.00%	2 40.00%	33.30%	0 0.00%	1 50.00%	0 0.00%	1 100.00%
	Not applicable	2 2.60%	0 4.40%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%
How courteous was the institution	Very courteous	10 13.20%	0 6.70%	2 33.30%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	1 20.00%	1 16.70%	0 0.00%	1 50.00%	1 100.00%	1 100.00%	
	Courteous	40 52.60%	1 55.60%	2 33.30%	1 100.00%	0 0.00%	1 100.00%	1 100.00%	4 80.00%	3 50.00%	2 100.00%	0 0.00%	0 0.00%	0 0.00%	
	Discourteous	19 25.00%	2 24.40%	2 66.70%	0 0.00%	2 100.00%	0 0.00%	0 0.00%	0 0.00%	2 33.30%	0 0.00%	1 50.00%	0 0.00%	0 0.00%	
	Very discourteous	7 9.20%	0 13.30%	0 0.00%	1 16.70%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	0 0.00%	

Listening	All districts													
	19	4	1	3	0	0	1	1	2	4	0	1	1	1
Very attentive when listening to your explanation of the case	25.00%	8.90%	33.30%	50.00%	0.00%	0.00%	100.00%	100.00%	40.00%	66.70%	0.00%	50.00%	100.00%	100.00%
Generally attentive in listening to your explanation of the case	29	23	0	1	1	0	0	0	2	0	2	0	0	0
	38.20%	51.10%	0.00%	16.70%	100.00%	0.00%	0.00%	0.00%	40.00%	0.00%	100.00%	0.00%	0.00%	0.00%
Generally inattentive in listening to your explanation of the case	13	7	2	1	0	2	0	0	1	0	0	0	0	0
	17.10%	15.60%	66.70%	16.70%	0.00%	100.00%	0.00%	0.00%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Very inattentive in listening to your explanation of the case	15	11	0	1	0	0	0	0	0	2	0	1	0	0
	19.70%	24.40%	0.00%	16.70%	0.00%	0.00%	0.00%	0.00%	0.00%	33.30%	0.00%	50.00%	0.00%	0.00%

Overall, during their interaction with complainers; institutions provide unhelpful information (60.5%), however were courteous (65.8%) and attentive when listening to complainer's explanation of their cases (63.2%).

Table 10.2.: Quality of the interaction by institution the first appeal per district

	All districts	District A	District B	District C	District D
The information provided was	Very helpful in providing the information	14	2	1	5
		18.20%	9.50%	5.60%	22.70%
Helpful in providing the information		14	4	5	4
		18.20%	19.00%	27.80%	18.20%
Unhelpful in providing the information		14	3	5	4
		18.20%	14.30%	27.80%	18.20%
Very unhelpful in providing the information		32	11	7	8
		41.60%	52.40%	38.90%	36.40%
Not applicable		3	1	0	1
		3.90%	4.80%	0.00%	4.50%

How courteous was the institution	Very courteous	10	2	4	2	2	13.00%	12.50%	19.00%	11.10%	9.10%	
	Courteous	40	9	7	11	13	51.90%	56.20%	33.30%	61.10%	59.10%	
	Discourteous	19	3	5	5	6	24.70%	18.80%	23.80%	27.80%	27.30%	
	Very discourteous	7	2	5	0	0	9.10%	12.50%	23.80%	0.00%	0.00%	
	Not applicable	1	0	0	0	1	1.30%	0.00%	0.00%	0.00%	4.50%	
	Listening	Very attentive when listening to your explanation of the case	19	5	4	4	6	24.70%	31.20%	19.00%	22.20%	27.30%
		Generally attentive in listening to your explanation of the case	29	7	5	9	8	37.70%	43.80%	23.80%	50.00%	36.40%
		Generally inattentive in listening to your explanation of the case	13	2	4	1	6	16.90%	12.50%	19.00%	5.60%	27.30%
		Very inattentive in listening to your explanation of the case	15	2	8	4	1	19.50%	12.50%	38.10%	22.20%	4.50%
		Not applicable	1	0	0	0	1	1.30%	0.00%	0.00%	0.00%	4.50%



Table 10.3.: Quality of support provided by institution the first appeal (In percentage)

	All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Office of the Ombudsman	Court	Mayor of the district	Land officer at sector level	EUCL Staff	Local leaders (village and cell level)	TETRA investor (electricity)	EARP (Electricity Access Rollout Program)
Information was provided verbally or in writing about how the complaint process operated.	Yes	37	16	1	4	1	2	1	4	4	1	1	1	0
		48.70%	35.60%	33.30%	66.70%	100.00%	100.00%	100.00%	80.00%	66.70%	50.00%	50.00%	100.00%	0.00%
	No	39	29	2	2	0	0	0	1	2	1	1	0	1
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	29	12	1	3	1	0	1	3	3	1	2	1	0
		38.20%	26.70%	33.30%	50.00%	100.00%	0.00%	100.00%	60.00%	50.00%	50.00%	100.00%	100.00%	0.00%
	No	47	33	2	3	0	2	0	2	3	1	0	0	1
At the conclusion of the process, you were provided with a written decision	Yes	16	8	0	1	1	1	0	2	2	0	1	0	0
		21.10%	17.80%	0.00%	16.70%	100.00%	50.00%	0.00%	40.00%	33.30%	0.00%	50.00%	0.00%	0.00%
	No	60	37	3	5	0	1	1	3	4	2	1	1	1
The written decision was accompanied by an explanation with reasons for the decision	Yes	10	5	0	1	0	0	0	2	1	0	1	0	0
		13.20%	11.10%	0.00%	16.70%	0.00%	0.00%	0.00%	40.00%	16.70%	0.00%	50.00%	0.00%	0.00%
	No	66	40	3	5	1	2	1	3	5	2	1	1	1
	86.80%	88.90%	100.00%	83.30%	100.00%	100.00%	100.00%	100.00%	60.00%	83.30%	100.00%	50.00%	100.00%	100.00%



You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	8	3	0	0	1	0	0	0	0	1	0	0	1	0
			10.50%	6.70%	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	16.70%	0.00%	0.00%	100.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	68	42	3	6	0	2	1	1	3	5	2	2	0	1
		89.50%	93.30%	100.00%	100.00%	0.00%	100.00%	100.00%	100.00%	60.00%	83.30%	100.00%	100.00%	0.00%	100.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	9	5	1	1	1	0	0	1	0	0	0	0	0	0
		11.80%	11.10%	33.30%	16.70%	100.00%	0.00%	0.00%	100.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	67	40	2	5	0	2	1	0	5	6	2	2	1	1
		88.20%	88.90%	66.70%	83.30%	0.00%	100.00%	100.00%	0.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

When interacting with institutions they appealed to, complainants were not provided with a verbal or written information about how the complaint/appeal process operated (51.3 %), did not have an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (61.80%). At the conclusion of the process, complainants were not provided with a written decision (78.9%), and the decision was not accompanied by an explanation with reasons for the decision (86.8%). When the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (89.5 %). Moreover, at this stage of appealing they were not represented by a lawyer (88.2%).

Table 10.4.: Quality of support provided by different institutions for the first appeal per district

		All districts	District A	District B	District C	District D
Information was provided verbally or in writing about how the complaint process operated.	Yes	37	10	6	8	13
		48.10%	62.50%	28.60%	44.40%	59.10%
	No	40	6	15	10	9
		51.90%	37.50%	71.40%	55.60%	40.90%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	29	5	5	9	10
		37.70%	31.20%	23.80%	50.00%	45.50%
	No	48	11	16	9	12
		62.30%	68.80%	76.20%	50.00%	54.50%
At the conclusion of the process, you were provided with a written decision	Yes	16	4	3	1	8
		20.80%	25.00%	14.30%	5.60%	36.40%
	No	61	12	18	17	14
		79.20%	75.00%	85.70%	94.40%	63.60%
The written decision was accompanied by an explanation with reasons for the decision	Yes	10	3	2	0	5
		13.00%	18.80%	9.50%	0.00%	22.70%
	No	67	13	19	18	17
		87.00%	81.20%	90.50%	100.00%	77.30%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	8	1	0	3	4
		10.40%	6.20%	0.00%	16.70%	18.20%
	No	69	15	21	15	18
		89.60%	93.80%	100.00%	83.30%	81.80%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	9	2	3	0	4
		11.70%	12.50%	14.30%	0.00%	18.20%
	No	68	14	18	18	18
		88.30%	87.50%	85.70%	100.00%	81.80%

Table 10.5.: Quality of support provided during the first appeal if the complainer had a lawyer

		Total	Had help from a lawyer	Did not had help from a lawyer
The information provided was	Very helpful in providing the information	14	1	13
		18.20%	11.10%	19.10%
	Helpful in providing the information	14	1	13
		18.20%	11.10%	19.10%
	Unhelpful in providing the information	14	2	12
		18.20%	22.20%	17.60%
	Very unhelpful in providing the information	32	5	27
		41.60%	55.60%	39.70%
	Not applicable	3	0	3
		3.90%	0.00%	4.40%

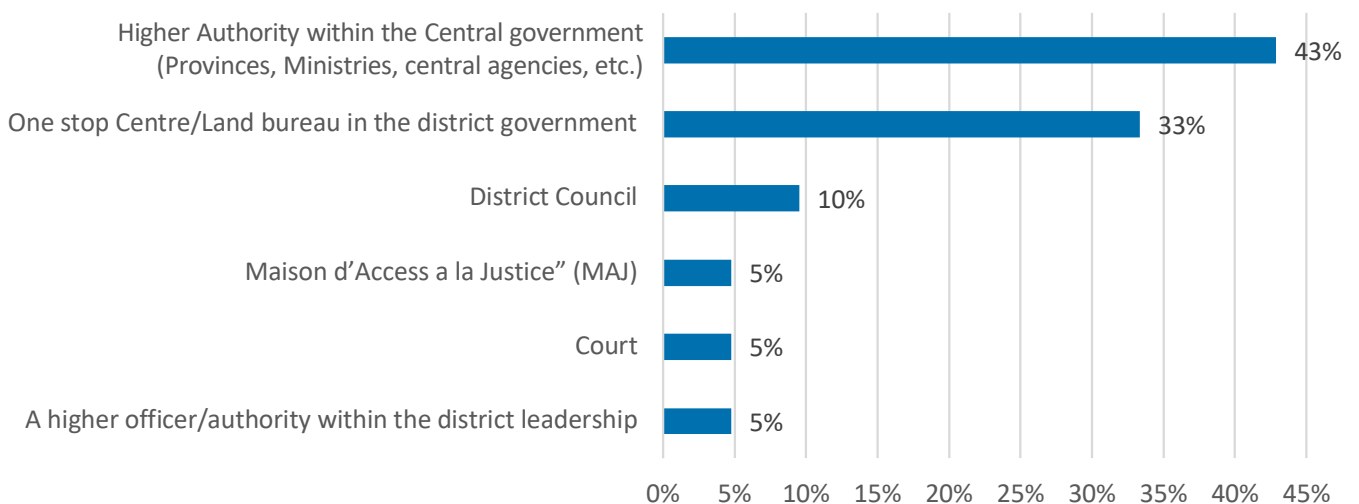
How courteous was the institution	Very courteous	10	1	9
		13.00%	11.10%	13.20%
	Courteous	40	3	37
		51.90%	33.30%	54.40%
	Discourteous	19	3	16
		24.70%	33.30%	23.50%
Very discourteous	7	2	5	
	9.10%	22.20%	7.40%	
Not applicable	1	0	1	
	1.30%	0.00%	1.50%	
Listening	Very attentive when listening to your explanation of the case	19	2	17
		24.70%	22.20%	25.00%
	Generally attentive in listening to your explanation of the case	29	2	27
		37.70%	22.20%	39.70%
	Generally inattentive in listening to your explanation of the case	13	4	9
		16.90%	44.40%	13.20%
Very inattentive in listening to your explanation of the case	15	1	14	
	19.50%	11.10%	20.60%	
Not applicable	1	0	1	
	1.30%	0.00%	1.50%	

From the table above, we can see for the first appeal that the presence a lawyer did not change the way complainers were received by institutions.

10 Second appeal

10.1 Institution appealed to for the second appeal

Figure 9: Distribution of institution appealed to for the Second appeal (in percentage)



For their second appeal, complainers mainly appealed at a higher authority within the central government (43%) and at a one stop center (33%).

Table 11: Matrix of the institution chosen for the second and first appeal

	Second appeal							Total
	Count One stop Center/ Land bureau in the district government	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Court	Didn't pursue a complaint/ appeal	Maison d'Access a la Justice' (MAJ)	
One stop Center/Land bureau in the district government	4	0	0	6	1	34	0	45
Good Governance Office at the district level	0	0	0	1	0	1	0	2
A higher officer/authority within the district leadership	0	1	0	2	0	3	0	6
District Council	0	0	1	0	0	0	0	1
Higher Authority within the Central government	0	0	0	0	0	2	0	2
Office of the Ombudsman	0	0	0	0	0	1	0	1
Court	1	0	0	0	0	0	0	1
Mayor of the district	0	0	0	0	0	4	1	5
Land officer at sector level	2	0	0	0	0	4	0	6
EUCL Staff	0	0	1	0	0	1	0	2
Local leaders (village and cell level)	0	0	0	0	0	2	0	2
TETRA investor (electricity)	0	0	0	0	0	1	0	1
EARP (Electricity Access Rollout Program)	0	0	0	0	0	1	0	1
Total	7	1	2	9	1	54	1	75



From those who pursued their complaint for the second appeal, 4 individuals returned to the one stop center while only one individual returned to a higher authority within the district leadership.

10.2 Institution appealed to for the second appeal per respondent's characteristics

Table 12: Selected Institution for the second appeal per characteristic

	All categories	One stop Center/ Land bureau in the district government	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Court	Didn't pursue a complaint [appeal]	Maison d'Acces a la Justice' (MAJ)
Gender	Male	6.80%	2.30%	2.30%	11.40%	2.30%	72.70%	2.30%
	Female	12.90%		3.20%	12.90%		71.00%	
Age	16-25 Years			50.00%			50.00%	
	26-35 years	11.10%		11.10%	11.10%		66.70%	
	36-45 years	13.60%			9.10%	4.50%	72.70%	
	46-55 years	6.20%			25.00%		62.50%	6.20%
	More than 55 years	7.70%	3.80%		7.70%		80.80%	
Highest level of education	None, never been to school	7.10%			7.10%		85.70%	
	Primary	6.20%			15.60%	3.10%	75.00%	
	Junior Secondary	7.10%		7.10%	14.30%		71.40%	
	Advanced Secondary		11.10%	11.10%	11.10%		66.70%	
	Vocational	100.00%						
	University	40.00%					40.00%	20.00%

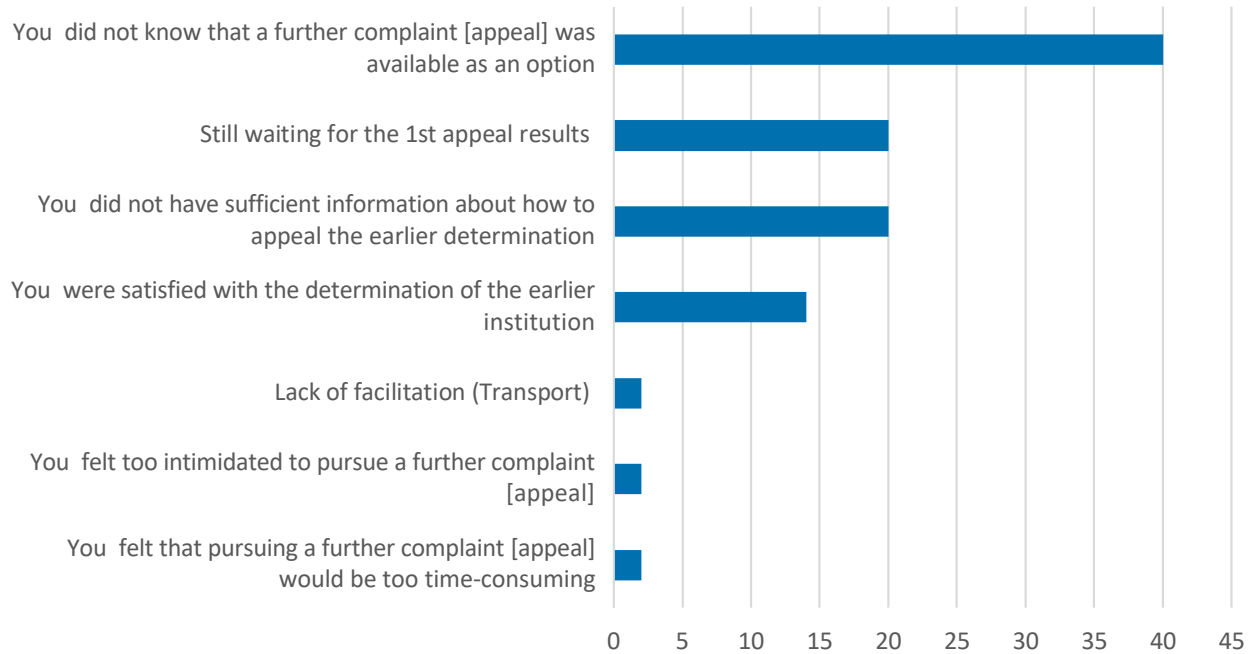


Main Occupation	None	6													
Farmer (Agriculture and Livestock)	79	12.00%						4.00%	8.00%		2.00%			74.00%	100.00%
Self Employed	6													100.00%	
Trader	10								14.30%					85.70%	
Civil Servant	4	33.30%					33.30%								33.30%
Employee of an NGO	1								100.00%						
Retired	2								50.00%					50.00%	
driver	2								100.00%						
Constructor	1													100.00%	
Ubudehe category	Category 1	15	10.00%				10.00%	10.00%	10.00%					60.00%	
	Category 2	49	10.00%						13.30%		3.30%			73.30%	
	Category 3	46	8.80%					2.90%	11.80%					73.50%	2.90%
	Do not know	1												100.00%	

10.3 Reasons not to appeal for the second appeal

Among the individuals who complained for the first time, 72% did not pursue their complaints further. Mainly because they were not aware that a further complaint was an option. Another compelling argument for a need of more information being provided by the government or NGOs to citizens.

Figure 10: Reasons for not complaining (Frequency)



10.4 Reason for choosing the institution and feedback timeline

For their second appeal complainers' choice in terms of institution was driven by expertise of the institution (19%). Moreover, after their appeal they would receive a feedback from the institution in less than 6 months (60.8%).

Table 13.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal

	Total	One stop Centre/ Land bureau in the district	A higher officer/ authority within the district	District Council	Higher Authority within the Central government	Court	Maison d'Access a la Justice" (MAJ)
Reason for choosing this institution	2	1	0	0	1	0	0
	9.50%	14.30%	0.00%	0.00%	11.10%	0.00%	0.00%
	4	1	0	0	2	1	0
	19.00%	14.30%	0.00%	0.00%	22.20%	100.00%	0.00%
	14	5	1	2	6	0	0
	66.70%	71.40%	100.00%	100.00%	66.70%	0.00%	0.00%
	1	0	0	0	0	0	1
	4.80%	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%
	5	2	0	1	2	0	0
	23.80%	28.60%	0.00%	50.00%	22.20%	0.00%	0.00%
Time to receive feedback	6	1	1	1	3	0	0
	28.60%	14.30%	100.00%	50.00%	33.30%	0.00%	0.00%
	3	2	0	0	1	0	0
	14.30%	28.60%	0.00%	0.00%	11.10%	0.00%	0.00%
	2	0	0	0	2	0	0
	9.50%	0.00%	0.00%	0.00%	22.20%	0.00%	0.00%
	2	2	0	0	0	0	0
	9.50%	28.60%	0.00%	0.00%	0.00%	0.00%	0.00%
	3	0	0	0	1	1	1
	14.30%	0.00%	0.00%	0.00%	11.10%	100.00%	100.00%



Table 13.2: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district

	Total	District A	District B	District C	District D	
Reason for choosing this institution	You understood this to be required by law	2 9.50%	0 0.00%	1 14.30%	0 0.00%	1 10.00%
	You felt this institution/unit had the necessary expertise	4 19.00%	0 0.00%	2 28.60%	0 0.00%	2 20.00%
	You felt this institution/unit would handle your dispute efficiently	14 66.70%	2 100.00%	4 57.10%	2 100.00%	6 60.00%
	You know people at this institution/unit who could help you	1 4.80%	0 0.00%	0 0.00%	0 0.00%	1 10.00%
Time to receive feedback	Less than 2 weeks	5 21.70%	1 50.00%	3 42.90%	0 0.00%	1 8.30%
	1-3 Months	6 26.10%	0 0.00%	2 28.60%	0 0.00%	4 33.30%
	4-6 Months	3 13.00%	0 0.00%	1 14.30%	1 50.00%	1 8.30%
	6-12 Months	2 8.70%	1 50.00%	1 14.30%	0 0.00%	0 0.00%
	More than 12 months	2 8.70%	0 0.00%	0 0.00%	1 50.00%	1 8.30%
	Never received a re-sponse	5 21.70%	0 0.00%	0 0.00%	0 0.00%	5 41.70%

10.5 Interaction experience with the institution

Table 14.1.: Quality of the interaction by institution for the second appeal

	All institutions	One stop Center/ Land bureau in the district government	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Court	Maison d'Access a la Justice" (MAJ)
The information provided was	5	3	0	0	2	0	0
	23.80%	42.90%	0.00%	0.00%	22.20%	0.00%	0.00%
	6	3	0	2	1	0	0
	28.60%	42.90%	0.00%	100.00%	11.10%	0.00%	0.00%
	2	0	1	0	1	0	0
	9.50%	0.00%	100.00%	0.00%	11.10%	0.00%	0.00%
	8	1	0	0	5	1	1
	38.10%	14.30%	0.00%	0.00%	55.60%	100.00%	100.00%
	3	1	0	0	2	0	0
	14.30%	14.30%	0.00%	0.00%	22.20%	0.00%	0.00%
How courteous was the institution	12	6	0	2	2	1	1
	57.10%	85.70%	0.00%	100.00%	22.20%	100.00%	100.00%
	6	0	1	0	5	0	0
	28.60%	0.00%	100.00%	0.00%	55.60%	0.00%	0.00%
	7	2	0	1	3	0	1
	33.30%	28.60%	0.00%	50.00%	33.30%	0.00%	100.00%
	8	5	0	1	1	1	0
	38.10%	71.40%	0.00%	50.00%	11.10%	100.00%	0.00%
	5	0	1	0	4	0	0
	23.80%	0.00%	100.00%	0.00%	44.40%	0.00%	0.00%
Listening	1	0	0	0	1	0	0
	4.80%	0.00%	0.00%	0.00%	11.10%	0.00%	0.00%

For the second appeal, complainants felt that institutions they appealed to, provided them with helpful information related to their case (52.4%), were courteous (71.4%) and attentive in listening to their explanation of the case (71.4%). In general, the land office helpfulness is fairly high, while the higher authority within the central government is quite low. This also replicated in part in the courtesy and listening questions.

Table 14.2.: Quality of the interaction by different institutions for the second appeal per district

	All districts	District A	District B	District C	
The information provided was	Very helpful in providing the information	5	0	1	3
		21.70%	0.00%	14.30%	50.00%
	Helpful in providing the information	6	1	2	3
		26.10%	50.00%	28.60%	0.00%
	Unhelpful in providing the information	2	0	1	0
		8.70%	0.00%	14.30%	0.00%
	Very unhelpful in providing the information	8	1	3	1
		34.80%	50.00%	42.90%	50.00%
	Not applicable	2	0	0	0
		8.70%	0.00%	0.00%	0.00%
How courteous was the institution	Very courteous	3	0	2	0
		13.00%	0.00%	28.60%	0.00%
	Courteous	12	1	2	2
		52.20%	50.00%	28.60%	100.00%
	Discourteous	6	1	3	0
		26.10%	50.00%	42.90%	0.00%
Listening	Not applicable	2	0	0	0
		8.70%	0.00%	0.00%	0.00%
	Very attentive when listening to your explanation of the case	7	0	2	0
		30.40%	0.00%	28.60%	0.00%
	Generally attentive in listening to your explanation of the case	8	1	2	2
		34.80%	50.00%	28.60%	100.00%
	Generally inattentive in listening to your explanation of the case	5	0	3	0
		21.70%	0.00%	42.90%	0.00%

Very inattentive in listening to your explanation of the case	1	1	0	0	0
	4.30%	50.00%	0.00%	0.00%	0.00%
Not applicable	2	0	0	0	2
	8.70%	0.00%	0.00%	0.00%	16.70%

Table 14.3.: Quality of support provided by institution for the second appeal

	All institutions	One stop Center/Land bureau in the district government	A higher officer/ authority within the district leadership	District Council	Higher Authority within the Central government	Court	Maison d'Access a la Justice" (MAJ)
Information was provided verbally or in writing about how the complaint process operated.	Yes	6	0	1	2	1	1
	No	85.70%	0.00%	50.00%	22.20%	100.00%	100.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	1	1	1	7	0	0
	No	14.30%	100.00%	50.00%	77.80%	0.00%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	5	0	1	4	1	1
	No	71.40%	0.00%	50.00%	44.40%	100.00%	100.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	2	1	1	5	0	0
	No	28.60%	100.00%	50.00%	55.60%	0.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/ unit	Yes	5	0	0	1	0	0
	No	28.60%	0.00%	0.00%	11.10%	0.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	2	1	2	8	1	1
	No	71.40%	100.00%	100.00%	88.90%	100.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/ unit	Yes	3	0	1	1	0	0
	No	42.90%	0.00%	50.00%	11.10%	0.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/ unit	Yes	4	1	1	8	1	1
	No	57.10%	100.00%	50.00%	88.90%	100.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/ unit	Yes	1	0	1	1	0	0
	No	14.30%	0.00%	50.00%	11.10%	0.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/ unit	Yes	6	1	1	8	1	1
	No	85.70%	100.00%	50.00%	88.90%	100.00%	100.00%



You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes		No		0	2	0	0
	3	1	0	1				
	14.30%	14.30%	0.00%		0.00%	22.20%	0.00%	0.00%
	18	6	1		2	7	1	1
	85.70%	85.70%	100.00%		100.00%	77.80%	100.00%	100.00%

When interacting with institutions they appealed to, complainers were not provided with a verbal or written information about how the complaint/appeal process operated (52.4 %). They had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (57.1%). At the conclusion of the process, complainers were not provided with a written decision (71.4%), and the decision was not accompanied by an explanation with reasons for the decision (76.2%). When the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (85.7%). Moreover, at this stage of appealing they were not represented by a lawyer (85.7%).

Table 14.4.: Quality of support provided by different institutions for the second appeal per district

	All district	District A	District B	District C	District D	
Information was provided verbally or in writing about how the complaint process operated.	Yes	11	1	1	1	8
	No	47.80%	50.00%	14.30%	50.00%	66.70%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	12	1	6	1	4
	No	52.20%	50.00%	85.70%	50.00%	33.30%
At the conclusion of the process, you were provided with a written decision	Yes	12	1	3	1	7
	No	52.20%	50.00%	42.90%	50.00%	58.30%
The written decision was accompanied by an explanation with reasons for the decision	Yes	11	1	4	1	5
	No	47.80%	50.00%	57.10%	50.00%	41.70%
The written decision was accompanied by an explanation with reasons for the decision	Yes	6	1	1	0	4
	No	26.10%	50.00%	14.30%	0.00%	33.30%
The written decision was accompanied by an explanation with reasons for the decision	Yes	17	1	6	2	8
	No	73.90%	50.00%	85.70%	100.00%	66.70%
The written decision was accompanied by an explanation with reasons for the decision	Yes	5	1	1	0	3
	No	21.70%	50.00%	14.30%	0.00%	25.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	18	1	6	2	9
	No	78.30%	50.00%	85.70%	100.00%	75.00%

You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes					No				
	3	0	1	2	3	3	0	1	2	3
	13.00%	0.00%	14.30%	0.00%	16.70%	20	2	6	2	10
	87.00%	100.00%	85.70%	100.00%	83.30%	3	1	1	0	1
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes					No				
	13.00%	50.00%	14.30%	0.00%	8.30%	20	1	6	2	11
	87.00%	50.00%	85.70%	100.00%	91.70%					

Table 14.5.: Quality of support provided by different institutions for the second appeal if the complainer had a lawyer

	Total	Had help from a lawyer	Did not have help from a lawyer
The information provided was	5	2	3
	100.00%	40.00%	60.00%
	6	0	6
	100.00%	0.00%	100.00%
	2	0	2
	100.00%	0.00%	100.00%
How courteous was the institution	8	1	7
	100.00%	12.50%	87.50%
	2	0	2
	100.00%	0.00%	100.00%
	3	2	1
	100.00%	66.70%	33.30%
The information provided was	12	0	12
	100.00%	0.00%	100.00%
	6	1	5
	100.00%	16.70%	83.30%
	2	0	2
	100.00%	0.00%	100.00%

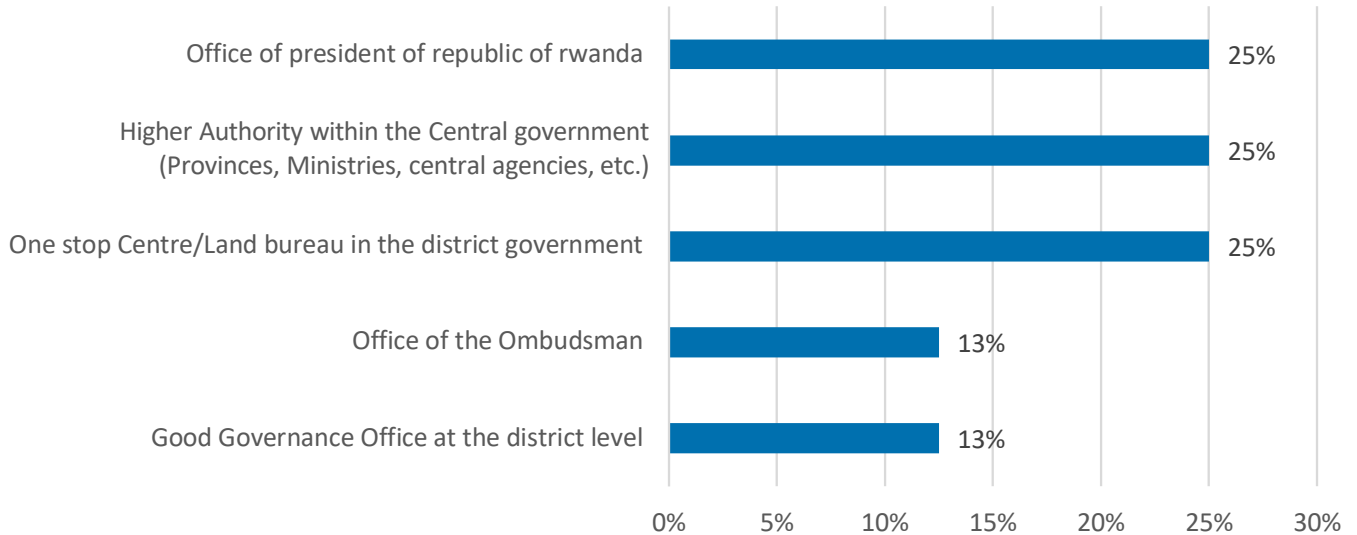


Listening	7	2	5	7	
				100.00%	71.40%
Very attentive when listening to your explanation of the case	8	0	8	100.00%	71.40%
Generally attentive in listening to your explanation of the case	5	0	5	100.00%	100.00%
Generally inattentive in listening to your explanation of the case	1	1	0	100.00%	100.00%
Very inattentive in listening to your explanation of the case	2	0	2	100.00%	0.00%
Not applicable	100.00%	0.00%	100.00%	100.00%	100.00%

11 Third appeal

11.1. Institution appealed to for the third appeal

Figure 11: Distribution of institution appealed to for the third appeal (in percentage)



For their third appeal, complainants in expropriation related dispute appealed equally in the office of the president, to a higher authority within the central government and at a one stop center (25%). The rest appealed in the office of the ombudsman and at the good governance office at district level (both 13%).



11.2. Institution appealed to for the third appeal per respondent's characteristics

Table 15.1.: Selected Institution for the third appeal per respondent's characteristic

	All categories	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	Higher Authority within the Central government	Office of the Ombudsman	Didn't pursue a complaint [appeal]	Office of President of Republic of Rwanda
Gender	Male	8.30%	8.30%	16.70%	8.30%	50.00%	8.30%
	Female	11.10%				77.80%	11.10%
Marital status	Single					100.00%	
	Married	12.50%		6.20%	6.20%	62.50%	12.50%
	Divorced		50.00%	50.00%			
	Widower					100.00%	
Age	16-25 Years		100.00%				
	26-35 years					100.00%	
	36-45 years	33.30%		16.70%		50.00%	
	46-55 years				16.70%	66.70%	16.70%
	More than 55 years			20.00%		60.00%	20.00%
Highest level of education	None, never been to school	50.00%					50.00%
	Primary					87.50%	12.50%
	Junior Secondary		25.00%	25.00%	25.00%	25.00%	
	Advanced Secondary					100.00%	
	Vocational					100.00%	
	University	33.30%		33.30%		33.30%	



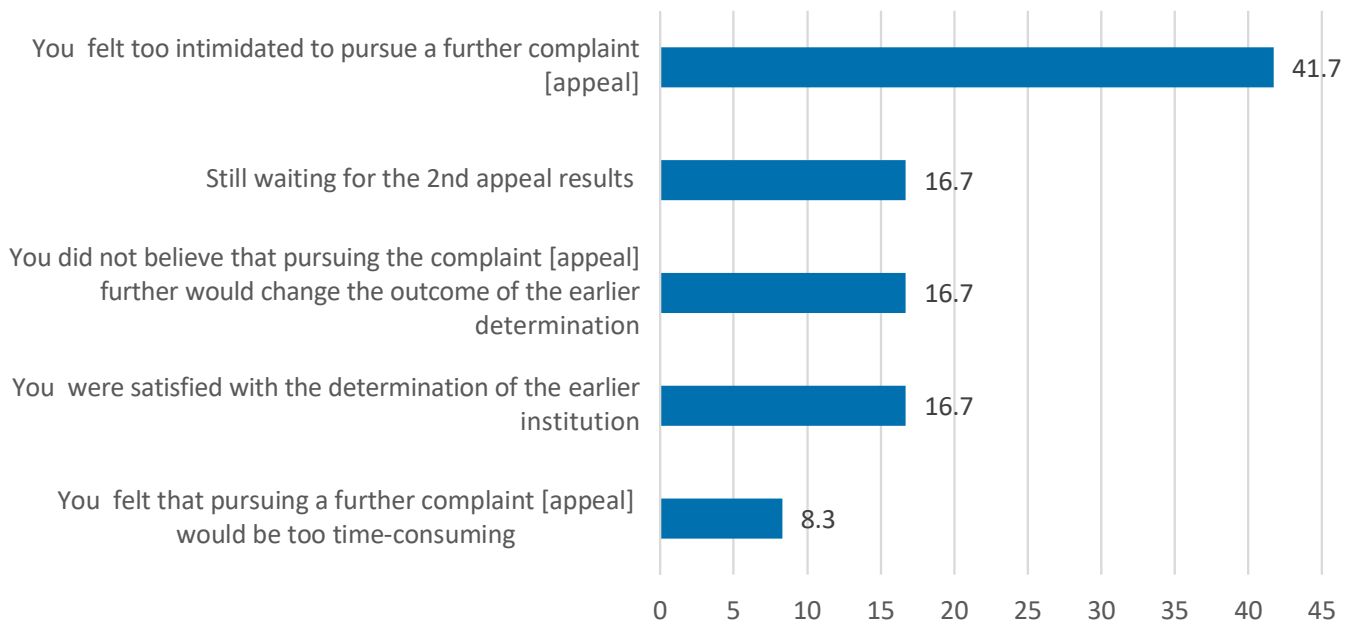
Main Occupation	Farmer (Agriculture and Livestock)	4	15.40%	7.70%			61.50%	15.40%
	Trader	1					100.00%	
	Civil Servant	2		33.30%			66.70%	
	Employee of an NGO	2				100.00%		
	Retired	1		100.00%				
	driver	15					100.00%	
Ubudehe category	Category 1	49	25.00%				75.00%	
	Category 2	46				12.50%	62.50%	25.00%
	Category 3	1	11.10%	11.10%		22.20%	55.60%	

Table 15.2.: Matrix of the institution chosen for the second and third appeal

	Third complaint							Total
	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	Higher Authority within the Central government	Office of the Ombudsman	Didn't pursue a complaint [appeal]	office of president of republic of Rwanda		
One stop Center/Land bureau in the district government	2	0	1	0	4	0	7	
A higher officer/authority within the district leadership	0	0	0	0	1	0	1	
District Council	0	1	0	0	1	0	2	
Higher Authority within the Central government	0	0	1	1	5	2	9	
Court	0	0	0	0	1	0	1	
Maison d'Access a la Justice" (MAJ)	0	0	0	0	1	0	1	
Total	2	1	2	1	13	2	21	

11.3. Reasons not to appeal for the third appeal

Figure 12: Reasons for not complaining (Frequency)



Among those who appealed for the second time 61.9% did not appeal for the third time; mainly because they felt too intimidated to pursue a further complaint (41.7%) and only 16.7% of them were satisfied with the determination of the earlier institution.

11.4. Reason for choosing the institution and feedback timeline for the third appeal

Table 16.1.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal

	All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	Higher Authority within the Central government	Office of the Ombudsman	Didn't pursue a complaint [appeal]	office of president of republic of Rwanda
Reason for choosing this institution	1	1	0	0	0	0	0
	11.10%	50.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	2	1	0	0	0	0	1
	22.20%	50.00%	0.00%	0.00%	0.00%	0.00%	50.00%
	5	0	1	1	1	1	1
	55.60%	0.00%	100.00%	50.00%	100.00%	100.00%	50.00%
Time to receive feedback	1	0	0	1	0	0	0
	11.10%	0.00%	0.00%	50.00%	0.00%	0.00%	0.00%
	3	2	0	0	0	0	1
	33.30%	100.00%	0.00%	0.00%	0.00%	0.00%	50.00%
	4	0	1	1	1	0	1
	44.40%	0.00%	100.00%	50.00%	100.00%	0.00%	50.00%
	1	0	0	0	0	1	0
	11.10%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%
	1	0	0	1	0	0	0
	11.10%	0.00%	0.00%	50.00%	0.00%	0.00%	0.00%

The reason behind the choice of complainers to go to a particular institution was because they felt that the chosen institution would handle their dispute efficiently (55.6%).

Table 16.2.: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district

	Total	District A	District B	District D
Reason for choosing this institution	1	0	0	1
	11.10%	0.00%	0.00%	25.00%
	2	1	1	0
	22.20%	50.00%	33.30%	0.00%
	5	1	2	2
	55.60%	50.00%	66.70%	50.00%
Time to receive feedback	1	0	0	1
	11.10%	0.00%	0.00%	25.00%
	3	1	1	1
	27.30%	50.00%	33.30%	16.70%
	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
	1	0	1	0
	9.10%	0.00%	33.30%	0.00%
	1	0	0	1
	9.10%	0.00%	0.00%	16.70%
2	0	0	2	
18.20%	0.00%	0.00%	33.30%	

11.5. Interaction experience with the institution

Table 17.1.: Quality of the interaction by institution for the third appeal

	All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	Higher Authority within the Central government	Office of the	Didn't pursue a complaint [appeal]	office of president of republic of Rwanda
The information provided was	Very helpful in providing the information	4	1	0	0	0	2
	Helpful in providing the information	44.40%	50.00%	100.00%	0.00%	0.00%	100.00%
	Unhelpful in providing the information	3	1	0	1	0	0
	Not applicable	33.30%	50.00%	0.00%	50.00%	0.00%	0.00%
		1	0	0	0	1	0
		11.10%	0.00%	0.00%	0.00%	100.00%	0.00%
		1	0	0	1	0	0
How courteous was the institution	Very courteous	11.10%	0.00%	0.00%	50.00%	0.00%	0.00%
	Courteous	5	2	0	1	0	2
	Very discourteous	55.60%	100.00%	0.00%	50.00%	0.00%	100.00%
		3	0	1	1	0	0
		33.30%	0.00%	100.00%	50.00%	0.00%	0.00%
		1	0	0	0	1	0
		11.10%	0.00%	0.00%	0.00%	100.00%	0.00%
Listening	Very attentive when listening to your explanation of the case	5	2	0	1	0	2
	Generally attentive in listening to your explanation of the case	55.60%	100.00%	0.00%	50.00%	0.00%	100.00%
	Generally inattentive in listening to your explanation of the case	3	0	1	1	0	0
		33.30%	0.00%	100.00%	50.00%	0.00%	0.00%
		1	0	0	0	1	0
		11.10%	0.00%	0.00%	0.00%	100.00%	0.00%
		1	0	0	0	1	0

When appealing for the third time, complainants felt that the institutions they interacted with; provided them with helpful information related to their cases (77.7%), were courteous (88.9%) and were attentive in listening to their explanation on their cases (88.9%).

Table 17.2.: Quality of the interaction by different institutions for the third appeal per district

	Total	District A	District B	District D
The information provided was	Very helpful in providing the information	4 36.40%	2 66.70%	2 33.30%
	Helpful in providing the information	3 27.30%	0 0.00%	1 16.70%
	Unhelpful in providing the information	1 9.10%	0 0.00%	0 0.00%
	Not applicable	3 27.30%	0 0.00%	3 50.00%
	Very courteous	5 45.50%	1 50.00%	2 66.70%
How courteous was the institution	Courteous	3 27.30%	0 0.00%	2 33.30%
	Very discourteous	1 9.10%	1 33.30%	0 0.00%
	Not applicable	2 18.20%	0 0.00%	2 33.30%
	Very attentive when listening to your explanation of the case	5 45.50%	1 50.00%	2 33.30%
	Generally attentive in listening to your explanation of the case	3 27.30%	0 0.00%	2 33.30%
Listening	Generally inattentive in listening to your explanation of the case	1 9.10%	1 33.30%	0 0.00%
	Not applicable	2 18.20%	0 0.00%	2 33.30%



Table 17.3.: Support provided by institution for the third appeal

	All institutions	One stop Center/ Land bureau in the district government	Good Governance Office at the district level	Higher Authority within the Central government	Office of the Ombudsman	Didn't pursue a complaint [appeal]	office of president of republic of Rwanda
Information was provided verbally or in writing about how the complaint process operated.	Yes	4 2	1	1	0	0	0
	No	44.40% 0	100.00%	50.00%	0.00%	0.00%	0.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	5 2	0	1	100.00%	100.00%	100.00%
	No	55.60% 0	0.00%	50.00%	0.00%	0.00%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	6 2	1	1	1	0	1
	No	66.70% 0	100.00%	50.00%	100.00%	0.00%	50.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	3 2	0	1	0	1	1
	No	33.30% 0	0.00%	50.00%	0.00%	100.00%	50.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	4 2	1	0	0	0	1
	No	44.40% 0	100.00%	0.00%	0.00%	0.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	5 2	0	2	1	1	1
	No	55.60% 0	0.00%	100.00%	100.00%	100.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	4 2	1	0	0	0	1
	No	44.40% 0	100.00%	0.00%	0.00%	0.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	5 2	0	2	1	1	1
	No	55.60% 0	0.00%	100.00%	100.00%	100.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	7 2	1	1	1	1	1
	No	77.80% 0	100.00%	50.00%	100.00%	100.00%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	2 2	0	1	0	0	1
	No	22.20% 0	0.00%	50.00%	0.00%	0.00%	50.00%

When interacting with institutions they appealed to, complainants were not provided with a verbal or written information about how the complaint/appeal process operated (55.6%), they had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (66.7%). At the conclusion of the process, complainants were not provided with a written decision (55.6%), and the decision was not accompanied by an explanation with reasons for the decision (55.6%). When the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (44.4%). Moreover, at this stage of appealing they were represented by a lawyer (77.8%).

Table 17.4.: Support provided by different institutions for the third appeal per district

	Total	District A	District B	District D
Information was provided verbally or in writing about how the complaint process operated.	Yes	1	0	3
	No	50.00%	0.00%	50.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	1	3	3
	No	50.00%	100.00%	50.00%
At the conclusion of the process, you were provided with a written decision	Yes	2	1	3
	No	100.00%	33.30%	50.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	0	2	3
	No	0.00%	66.70%	50.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	1	1	2
	No	50.00%	33.30%	33.30%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	1	2	4
	No	50.00%	66.70%	66.70%
Total	4	1	0	3
	36.40%	50.00%	0.00%	50.00%
Information was provided verbally or in writing about how the complaint process operated.	7	1	3	3
	63.60%	50.00%	100.00%	50.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	6	2	1	3
	54.50%	100.00%	33.30%	50.00%
At the conclusion of the process, you were provided with a written decision	5	0	2	3
	45.50%	0.00%	66.70%	50.00%
The written decision was accompanied by an explanation with reasons for the decision	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	7	1	2	4
	63.60%	50.00%	66.70%	66.70%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
Total	7	1	2	4
	63.60%	50.00%	66.70%	66.70%
Information was provided verbally or in writing about how the complaint process operated.	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	7	1	2	4
	63.60%	50.00%	66.70%	66.70%
At the conclusion of the process, you were provided with a written decision	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
The written decision was accompanied by an explanation with reasons for the decision	7	1	2	4
	63.60%	50.00%	66.70%	66.70%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	4	1	1	2
	36.40%	50.00%	33.30%	33.30%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	7	1	2	4
	63.60%	50.00%	66.70%	66.70%
Total	7	2	2	3
	63.60%	100.00%	66.70%	50.00%
Information was provided verbally or in writing about how the complaint process operated.	4	0	1	3
	36.40%	0.00%	33.30%	50.00%

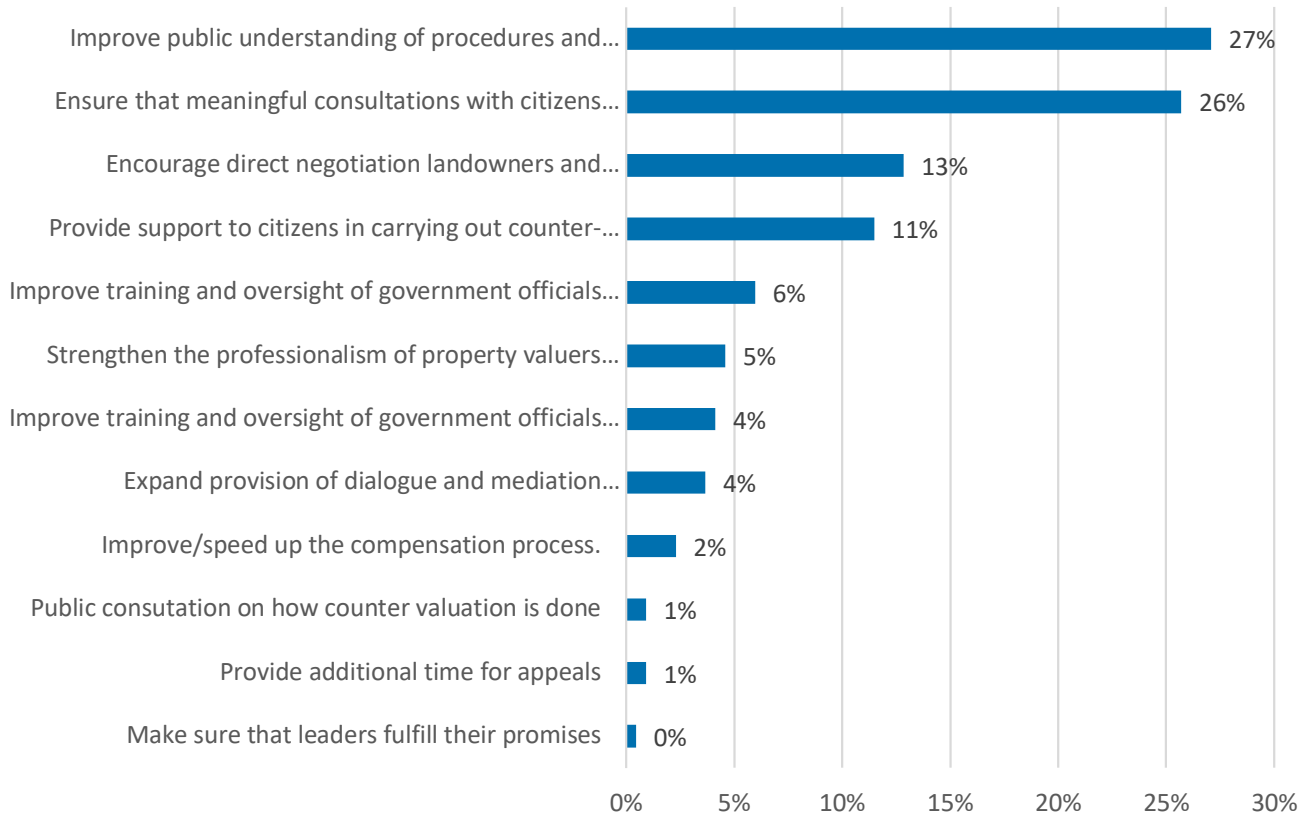
Table 17.5.: Support provided by different institutions for the third appeal if the complainant had a lawyer

	Total	Had help from a lawyer	Did not have help from a lawyer	
The information provided was	Very helpful in providing the information	4 100.00%	3 75.00%	1 25.00%
	Helpful in providing the information	3 100.00%	2 66.70%	1 33.30%
	Unhelpful in providing the information	1 100.00%	1 100.00%	0 0.00%
	Not applicable	3 100.00%	1 33.30%	2 66.70%
	Very courteous	5 100.00%	4 80.00%	1 20.00%
	Courteous	3 100.00%	2 66.70%	1 33.30%
How courteous was the institution	Very discourteous	1 100.00%	1 100.00%	0 0.00%
	Not applicable	2 100.00%	0 0.00%	2 100.00%
	Very attentive when listening to your explanation of the case	5 100.00%	4 80.00%	1 20.00%
	Generally attentive in listening to your explanation of the case	3 100.00%	2 66.70%	1 33.30%
Listening	Generally inattentive in listening to your explanation of the case	1 100.00%	1 100.00%	0 0.00%
	Not applicable	2 100.00%	0 0.00%	2 100.00%

For the third appeal the presence of a lawyer influences the support provided by institutions.

12 Recommendations

Figure 13: Recommendation



As recommendation to how best to improve administrative justice in land expropriation disputes complainers recommended to improve public understanding of procedures and citizen rights in the expropriation process (27%) and to ensure that meaningful consultations with citizens take place with regard to an announced expropriation (26%).

A NNEX 2: Land Expropriation Survey

Consent statement:

Your decision to participate in this research is entirely voluntary. You may choose not to participate or you may withdraw from the study for any reason without penalty of any kind. **Do we have your consent to proceed?**

1. Yes
2. No

Section 1: Demographic identification

Q 1.1. Gender	<ol style="list-style-type: none"> 1. Male 2. Female
Q 1.2. Marital status	<ol style="list-style-type: none"> 1. Single 2. Married 3. Divorced 4. Separated 5. Widow(er)
Q 1.3. Age	Indicate years _____
Q 1.4. Highest level of education	<ol style="list-style-type: none"> 1. None, never been to school 2. Primary 3. Junior Secondary 4. Advanced Secondary 5. Vocational 6. University
Q 1.5. Are you a person with a disability?	<ol style="list-style-type: none"> 1. Yes 2. No
Q 1.5.1. If yes, Q.1.5 what kind of disability do you have?	<ol style="list-style-type: none"> 1. Physical disability 2. Vision impairment 3. Deaf and dumb 4. Mental health condition 5. Other (Specify)
Q 1.6. Main Occupation	<ol style="list-style-type: none"> 1. None 2. Student 3. Farmer (Agriculture and Livestock) 4. Self Employed 5. Trader 6. Civil servant 7. Employee of a Non-Government Organization 8. Retired 9. Other (Specify)
Q 1.7. Ubudehe category	<ol style="list-style-type: none"> 1. Category 1 2. Category 2 3. Category 3 4. Category 4 5. Do not know
Q 1.8. Household Income per month	<ol style="list-style-type: none"> 1. < 30,000 2. 30,000-100,000 3. 100,000-200,000 4. Above 200,000 5. Don't know

Section 2: Land expropriation related questions

Q 2.1. Before the land expropriation took place, to what extent would you say that you were informed about your rights as a citizen in the expropriation process in which you were involved?

1. Very well informed
2. Well informed
3. Not very well informed
4. Not well informed at all

Q 2.2. How would you find information about your rights in the expropriation process if you need to?

1. District government land officer
2. District government Good Governance officer
3. Written notification by the district government?
4. Radio or TV information
5. Lawyer
6. Other (specify)

Q 2.3. In the case of expropriation in which you were involved, what were the stated reasons for the expropriation? (Select all that applies)

1. Roads construction
2. Water related project (dams, pipes, treatment plants, etc.)
3. Power plant construction
4. Airport construction
5. Telecommunication lines
6. Hospital or other public health related construction
7. School or other education-related construction
8. Activities directly supporting implementation of master plans
9. Mineral or other natural resource extraction (incl. gas and oil pipelines, etc.)
10. Private investment (commercial building, industries, etc.)
11. Settlements (e.g., IDP model villages)
12. Other (Specify)

Q 2.4. Which types of your properties were affected by expropriation? (Circle all that applies).

1. Residential house
2. Commercial building
3. Land and other property incorporated thereon (crops, trees, fixtures, etc.)
4. Other (Specify).....

Q 2.5. Did the district government where your property is located discuss the expropriation plans with you in some way prior to taking a decision on expropriation?

1. Yes
2. No

Q 2.6. Were you and other land owners notified in some way about the decision approving the expropriation prior to its implementation?

1. Yes
2. No

Q 2.7. How were you notified?

1. Public meeting/forum
2. Announcement in a place of worship
3. Verbal notification
4. Written notification
5. Radio announcement
6. Television announcement
7. Newspaper
8. Other (Specify)_____

Q 2.8. How soon before your property was listed for expropriation did you receive some notification of a decision to expropriate by the district government?

1. Less than 1 week
2. Less than 2 weeks
3. Less than 1 month
4. Less than 3 months
5. Less than 6 months

Q 2.9. Were you given the opportunity to first negotiate with the developer on the value of the land and/or any property incorporated thereon?

1. Yes
2. No

Q 2.10. Were you informed about the outcome of the property valuation process?

3. Yes
4. No

Q 2.11. How were you informed?

1. Public Meeting/Forum (e.g., after *umuganda*, etc.)
2. In writing
3. Verbally
4. Posting at public office (e.g. cell, sector, district offices)
5. Radio announcement
6. Publication in newspaper
7. Property valuer
8. Other (Specify)_____

Q 2.12. How satisfied were you with the outcome of the property valuation?

1. Very satisfied
2. Somewhat satisfied
3. Neutral
4. Somewhat dissatisfied
5. Very dissatisfied

Q 2.13. Did you pursue a counter-valuation through an independent property valuer?

1. Yes
2. No

Q 2.14. Was the counter-assessment report considered?

1. Yes
2. No

Q 2.15. What was the outcome of the counter-valuation report?

1. Initial value increased
2. Initial value decreased
3. No change

Q 2.16. What was the reason that you did not have your property assessed by someone else?

1. The time provided by law was too short
2. The counter valuation is expensive
3. Unaware of the right to obtain a counter-valuation
4. Did not believe that a counter-valuation would change the outcome
5. Other(specify)

Q 2.17. As to which of the following issues did you feel you needed additional information during the expropriation process? (check all that apply)

1. The notification of an intended expropriation
2. Public consultation about an expropriation
3. The listing of expropriated properties
4. Valuation process, including right to a counter-valuation of a property
5. Appeal rights and timeframes for appeal
6. Other (specify).....

Q 2.18.1.A. Did district government representatives help explain the notification of an intended expropriation, you did not understand?

1. Yes
2. No

Q 2.18.1.B If Yes Q 2.18.1.A. how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.18.2.A Did district government representatives help explain the public consultation about an expropriation, you did not understand?

1. Yes
2. No

Q 2.18.2.B If Yes Q 2.18.2.A., how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.18.3.A Did district government representatives help explain the listing of expropriated properties, you did not understand?

1. Yes
2. No

Q 2.18.3.B If Yes Q 2.18.3.A., how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.18.4.A. Did district government representatives help explain the valuation process, including right to a counter-valuation of a property, you did not understand?

1. Yes
2. No

Q 2.18.4.B If Yes Q 2.18.4.A., how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.18.5.A Did district government representatives help explain the appeal rights and timeframes for appeal, you did not understand?

1. Yes
2. No

Q 2.18.5.B If Yes Q 2.18.5.A., how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.18.6.A Other (Specify)

Q 2.18.6.B Did district government representatives help explain any other procedural issues or rights, was it explained? you did not understand?

1. Yes
2. No

Q 2.18.6.C If Yes Q 2.18.6.B., how helpful were the explanations?

1. Very helpful
2. Somewhat helpful
3. Not very helpful
4. Not at all helpful

Q 2.19. According to the information we have, you've had at least one expropriation-related dispute at the district level during the past four years. What was the dispute about? [IF THE INDIVIDUAL HAD MORE THAN ONE EXPROPRIATION-RELATED DISPUTE, REQUEST THAT THE RESPONDENT ADDRESS ONLY THE MOST RECENT DISPUTE WITHIN THE PAST FOUR YEARS]

1. The district government's basis for initiating an expropriation
2. Problems with the list of the holders of rights registered on land
3. Unfair valuation of the land and any other property incorporated thereon
4. Unfair compensation for other costs incurred due to expropriation (e.g., disruption of business, etc.)
5. Delay in paying compensation
6. Adaptation of the compensation to the current market value due to the delayed compensation payment
7. Violation of time limits in connection with the expropriation process
8. Failure by district officials to hear or otherwise accept evidence supporting my case
9. Other (Specify)

Q 2.20. For this dispute, where did you go to complain/appeal first?

1. One stop Center/Land bureau in the district government
2. Good Governance Office at the district level
3. A higher officer/authority within the district leadership
4. District Council
5. Security organs (e.g., Rwanda Investigation Bureau, RIB, Police, etc.)
6. Higher Authority within the Central government (Provinces, Ministries, central agencies, etc.)
7. Office of the Ombudsman
8. Court
9. Didn't pursue a complaint/appeal
10. Other(specify) _____

Q 2.21. Why did you choose to go to this institution first?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)_____

Q 2.22. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming.

6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify).....

Q 2.23. After complaining/appealing to the individual or institution/unit identified in Q 2.20, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.24. When you think about your experience with the institution or individual identified in Q 2.20, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.25. When you think about your experience with the institution identified in Q 2.20, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No

4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/paralegal if I could have had one
 1. Yes
 2. No

Q 2.26. If you are a person with disability, when you think about your experience with the institution identified in Q 2.20, would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.26.1. If not Q 2.26, what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

SECOND APPEAL

Q 2.27. If you pursued your complaint further, to what institution did you take such complaint/appeal?

1. One stop Center/Land bureau in the district government
2. Good Governance Office at the district level
3. A higher officer/authority within the district leadership
4. District Council
5. Security organs (e.g., Rwanda Investigation Bureau, RIB, Police, etc.) Higher Authority within the Central government (Provinces, Ministries, central agencies, etc.)
6. Office of the Ombudsman
7. Court
8. Didn't pursue a complaint/appeal
9. Other(specify)

Q 2.28. What was the main reason to go to next to this institution or individual?

1. You understood this to be required by law

2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify) _____

Q 2.29. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.30. If you pursued a complaint/appeal to another institution, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.31. When you think about your experience with the institution or individual identified in Q 2.27, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case

4. Was very inattentive in listening to my explanation of the case
5. Not applicable

Q 2.32. When you think about your experience with the institution identified in Q 2.27, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit.
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer if I could have had one
 1. Yes
 2. No

Q 2.33. If you are a person with disability, when you think about your experience with the institution identified in Q 2.27., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.33.1. If not Q 2.32., what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

THIRD APPEAL

Q 2.34. If you pursued your complaint further, to what institution did you take such complaint/appeal?

1. One stop Center/Land bureau in the district government
2. Good Governance Office at the district level
3. A higher officer/authority within the district leadership
4. District Council
5. Security organs (e.g., Rwanda Investigation Bureau, RIB, Police, etc.)
6. Higher Authority within the Central government (Provinces, Ministries, central agencies, etc.)
7. Office of the Ombudsman
8. Court
9. Didn't pursue a complaint/appeal
10. Other (specify)

Q 2.35. What was the main reason to go to next to this institution or individual?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify) _____

Q 2.36. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.37. If you pursued a complaint/appeal to another institution, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months

Q 2.38. When you think about your experience with the institution or individual identified in Q 2.34, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.39. When you think about your experience with the institution identified in Q 2.34, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision
 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit/.
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer if I could have had one
 1. Yes

2. No

Q 2.40. If you are a person with disability, when you think about your experience with the institution identified in Q 2.34., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.40.1. If not Q 2.40., what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

Q 2.41.1. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in land expropriation disputes. Please select what you believe is the most important suggestion.

1. Improve public understanding of procedures and citizen rights in the expropriation process
2. Strengthen the professionalism of property valuers (IRPV)
3. Ensure that meaningful consultations with citizens take place with regard to an announced expropriation
4. Provide support to citizens in carrying out counter-valuations
5. Provide additional time for appeals
6. Encourage direct negotiation landowners and investors seeking to execute master plans
7. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of expropriations
8. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures in expropriations
9. Expand provision of dialogue and mediation mechanisms to help resolve expropriation disputes
10. Other (Specify)

Q 2.41.2. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in land expropriation disputes. Please select what you believe is the second most important suggestion.

1. Improve public understanding of procedures and citizen rights in the expropriation process
2. Strengthen the professionalism of property valuers (IRPV)
3. Ensure that meaningful consultations with citizens take place with regard to an announced expropriation
4. Provide support to citizens in carrying out counter-valuations
5. Provide additional time for appeals
6. Encourage direct negotiation landowners and investors seeking to execute master plans
7. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of expropriations
8. Improve training and oversight of government officials to ensure better understanding of legal requirements

and procedures in expropriations

- 9. Expand provision of dialogue and mediation mechanisms to help resolve expropriation disputes
- 10. Other (Specify)

A NNEX 3: Qualitative guidelines

1. Citizens who have experienced expropriation disputes

1. Please describe the circumstances of the expropriation activity within the past four years in which your property was affected [what kind of an expropriation was it?], and how you became informed about it [if there was more than one, the citizen can also explain this].
2. How well did you understand the administrative procedures that were involved in this/these dispute(s)?
3. What kinds of expropriation-related disputes were you involved in at the district level? [Probe: each and every potential aspect of dispute--e.g., non-compliance with expropriation rules re: notification and consultation, validity of public interest rationale, listing of affected property, valuation of property, counter-valuation process and result, payment of fair compensation in timely fashion, etc.].
4. Where did you go to dispute/complain about this/these issues/decisions, and why did you choose this course of action? [Probe: alternative avenues and why this avenue seemed attractive—either due to the reputation of a department/unit, a sympathetic official, personal connections, etc.].
5. Where, specifically did you go for redress? If you did not pursue any complaint, what was the reason for not doing so? [Probe: factors regarding the individual's own personal characteristics/circumstances as well as other factors having to do with information regarding options, logistical impediments, reputation of a certain institution, lack of information on available avenues, time consuming, expensive, etc.]
6. If you pursued a complaint somewhere, how would you describe the kind of treatment you received from that institution? [Probe: opportunities to provide evidence? Provision of information? Clear written explanation for decisions? Etc.].
7. How would you assess the help of district/sector/cell officials in explaining any issues you did not understand in the expropriation process? [Probe: their courtesy, provision of helpful information, timeliness, etc.]
8. Were you in a position to access any kind of legal assistance? Why not? [Probe: issues of access, finances, attitude, knowledge/availability of legal aid, reliance on MAJ for any information/guidance, etc.]. Was a lawyer or paralegal able to help, and if so, how?
9. Overall, what do you see as the main challenges that are/may be encountered in the complaint/appeal process? [Probe: adequacy of information and notification, time frames for obtaining counter-valuation or appealing a compensation amount, etc.]
10. What would you recommend for the improvement of the expropriation process? [Probe: different kinds of recommendations—from the legal to the organizational/managerial, etc.]


2. District decision-makers responsible for land expropriation decisions

1. Can you describe the general level of expropriation activity in your district over the past three years? [Probe: How frequently does it occur? What types of activities/project have required significant levels of expropriation? To what extent is it necessitated by Master Plans? etc.]
2. How the land expropriation is carried out as a procedural matter in your district? [Probe: depth of knowledge of the law and proper procedure, incl. notification and consultation requirements]. What legal guidance do you receive on land expropriation matters, and from which institution(s) do you receive it? How would you assess its clarity/usefulness?

3. Who at the district level is responsible for conducting the expropriation process? [Probe: extent to which personnel understand roles and responsibilities under the law, esp. in the absence of the Prime Minister's Order and official creation of Supervisory Committees; see how the process is actually organized and whether rules and procedures are understood].
4. How do you typically communicate about the expropriation process to the public? To affected citizens specifically? [Probe: Radio, television, newspaper, places of worship, poster, etc.]. Do you believe these forms of communication are effective? Why? On what evidence do you base your opinion?]
5. What documentation do you believe is necessary for citizens to be able to practically advocate for their interests in a procedurally fair way? Do you provide such information? Via what means/formats?
6. Do you hold any kind of consultations with citizens? How such consultations are made known to the affected public, and how are they organized and carried out as a matter of procedure and documentation?
7. How is the district government set up to respond to complaints regarding expropriation raised by citizens? [Probe: existing channels for receiving and redressing complaints, including formal and informal appeals; required documents for consideration of citizens' complaints, time of feedback, etc.]
8. Do you think that district recordkeeping and documentation related to land expropriation activities are adequate? How could they be improved? What data do you currently have regarding land matters that could be utilized more effectively?
9. Does the District Legal Adviser play a useful role in the expropriation process? How? How could that role be improved/strengthened? [Probe: issues of political authorities conflicting with/overruling legal adviser or land officers, others on various issues]
10. Have there been any Court or Ombudsman decisions [reports] relating to land expropriation that have reversed or modified any decisions of your district? In what way? Has this provided a learning experience and if so, how have organizational processes been modified?
11. What do you see as the key challenges encountered by district officials in carrying out land expropriation activities? [Probe: gaps/contradictions/ambiguities in law/procedure, lack of knowledge of expropriation laws/procedures, challenges with property valuation/counter evaluation(eg: issue of market value), appeals time frames, inadequate resources, professionalism of property valuers, lack of dedicated dispute resolution mechanisms, lack of effective coordination mechanisms, lack of flexibility in payment methods, etc.].
12. What do you think are the most important district government capacity gaps that need to be addressed in order for land expropriation processes to function properly? To better satisfy the substantive and procedural needs/expectations of citizens? What can be done to address them [Probe: improved/expanded training in expropriation law/procedure, additional resources/staffing, improved oversight, etc.]
13. What recommendations would you make for overall administrative justice system as it pertains to labor dispute processing and resolution?



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org

Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX XI (VOLUME II)



S TRENGTHENING **R** WANDAN **A** DMINISTRATIVE **J** USTICE

Public Employment Data Analysis

ANNEX

T able of contents

ANNEX 1: Quantitative Results	1
1. General characteristics of the sample	1
2. Information on public labor rights	2
2.1 Prior information on labor rights (Descriptive)	2
2.2 Level of awareness per respondent's characteristics	2
2.3 Additional information needed	3
2.4 Source of information	4
3. Dispute reason	4
4. First Appeal	5
4.1 Institution appealed to for the first appeal	5
4.2 Main reasons for not appealing	5
4.3 Institution appealed to per respondent's characteristics	6
4.4 Reasons for choosing the institution and feedback timeline	7
4.5 Interaction experience with institutions	9
5. Second Appeal	13
5.1 Institution appealed to for the second complaint:	13
5.2 Reasons to not appeal	13
5.3 Institution appealed to for the second appeal per respondent's characteristics	14
5.4 Reason for choosing the institution and feedback timeline	15
5.5 Interaction experience with the institution	17
6. Third appeal	22
6.1 Institution appealed to for the third appeal:	22
6.2 Reasons to not appeal for the third appeal	22
6.3 Institution appealed to for the third appeal per respondent's characteristics	23
6.4 Reasons for choosing the institution and feedback timeline	24
6.5 Interaction experience with the institution	25
ANNEX 2: Public Employment Survey	29
CONSENT FORM	29
Section 1: Demographic identification	29
Section 2: Public employment regulation-related questions	30

ANNEX 3: Qualitative guidelines40

- 1. Interview guide for public employment regulation - core questions for district decision makers responsible for public employment40
- 2. Questions for group discussion40

T ables of tables

Table 1: Characteristics of our sample	1
Table 2: Level of awareness on rights in workplace by characteristic	2
Table 3: Selected Institution per respondent’s characteristics	6
Table 4.1: Reasons for choosing an institution and the timeline to receive a feedback (In percentage)..	7
Table 4.2.: Reasons for choosing an institution and the timeline to receive a feedback per district ..	8
Table 5.1 Quality of the interaction by institution (In percentage)	9
Table 5.2: Quality of the interaction by different institutions per district	10
Table 5.3: Quality of support provided by institution (In percentage)	11
Table 5.4: Quality of support provided by different institutions per district	12
Table 6: Selected Institution for the second appeal per characteristic	14
Table 7.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal (In percentage)	15
Table 7.2: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district	16
Table 8.1.: Quality of the interaction with complainers by institution for the second appeal (In percentage)	17
Table 8.2.: Quality of the interaction with complainers by different institutions for the second appeal per district	18
Table 8.3.: Quality of support provided by institution for the second appeal (In percentage)	19
Table 8.4.: Quality of support provided by different institutions for the second appeal per district ..	20
Table 9: Selected Institution per characteristic for the third appeal	23
Table 10.1: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal (In percentage)	24
Table 10.2: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district	25
Table 11.1.: Quality of the interaction with complainers by institution for the third appeal (In percentage)	26
Table 11.2.: Quality of the interaction with complainers by different institutions for the third appeal per district	27
Table 11.3.: Quality of support provided by different institutions for the third appeal (In percentage)	27
Table 11.4.: Quality of support provided by institution for the third appeal per district	28

T ables of figures

Figure 1: Level of awareness on rights in the workplace	2
Figure 2: Topic in which additional information is needed (frequency)	3
Figure 3: Source of information on rights at workplaces (Frequency)	4
Figure 4: Frequency of labor related-dispute reason	4
Figure 5: Distribution of institution appealed to for the first appeal (in percentage)	5
Figure 6: Reasons for not complaining (In percentage)	5
Figure 7: Distribution of institution appealed to for the second time (in percentage)	13
Figure 8: Reasons for not complaining for the second time (Frequency)	13
Figure 9: Distribution of institution appealed to for the third time (in percentage)	22
Figure 10: Reasons for not complaining for the third appeal (percentage)	22

A NNEX 1: Quantitative Results

1 General characteristics of the sample

Table 1: Characteristics of our sample

	Characteristics	Frequency	Percentage
DISTRICT	District D	21	21
	District E	24	24
	District F	22	22
	District A	13	13
	District B	20	20
Gender	Male	77	77
	Female	23	23
Marital status	Single	30	30
	Married	70	70
Age	16-25 years	1	1
	26-35 years	61	61
	36-45 years	31	31
	46-55 years	7	7
Highest level of education	Advanced Secondary	5	5
	Vocational	1	1
	University	94	94
Employment category	Politician and senior public servant	25	25
	Professional	50	50
	Technician	15	15
	Supporting staff	10	10
Working Experience	Less than 5 years	58	58
	5-9 years	23	23
	10-14 years	11	11
	15-19 years	7	7
	25 years and above	1	1
Ubudehe category	Category 1	2	2
	Category 2	8	8
	Category 3	85	85
	Category 4	4	4
	Do not know	1	1
Household Income per month	< 30,000 Rwf	1	1
	30,000 -100,000 Rwf	11	11
	100,000-200,000 Rwf	30	30
	Above 200,000 Rwf	52	52
	Do not know	6	6

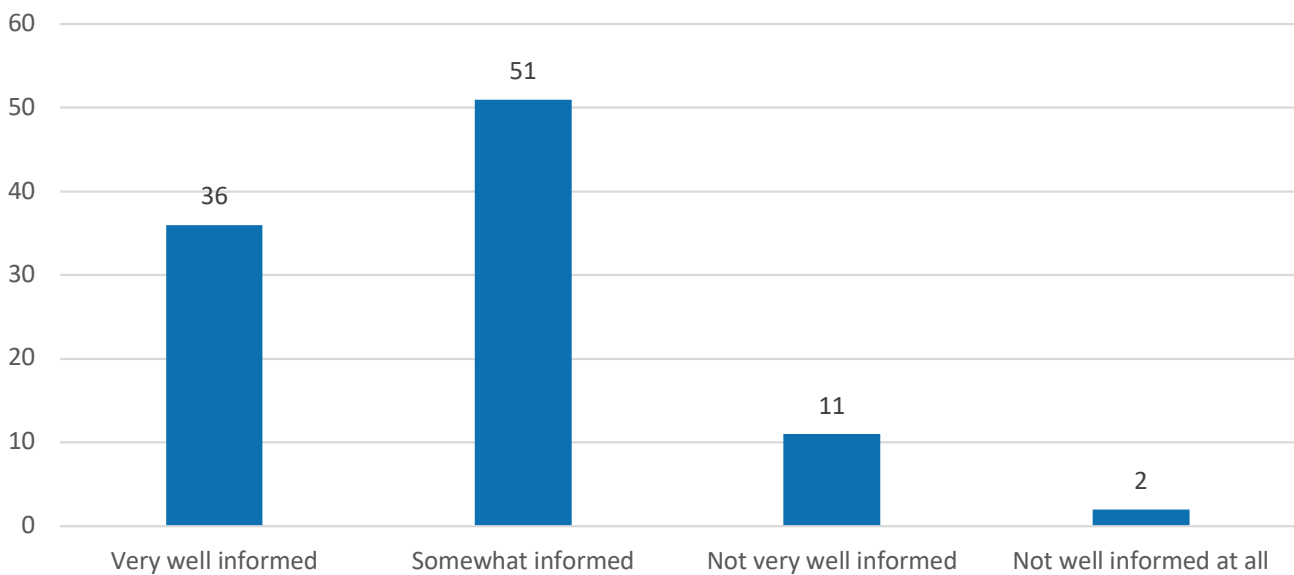
Our sample; based on 100 respondents with a case of public labor related dispute; is mainly composed by married (70%) men (77%) in their mid-twenties – early thirties (61%) with a university education (94%) with a working experience below 15 years (92%) and employed as a professional (50%).

Remark: regarding disabled individuals, the only disabled individual in the sample did not pursue to a second appeal. He also said that he received an equitable treatment when appealing for the first time.

2 Information on public labor rights

2.1 Prior information on labor rights (Descriptive)

Figure 1: Level of awareness on rights in the workplace



In general, complainers involved in a public labor related dispute are aware of their rights at workplace (87%). When disaggregated by characteristics, men are slightly more aware than women (89.7% against 78.2%). Individuals with a university level are more informed (89.3%). Politician and senior public servant (92%) and people with an experience of 25 years and above (100%).

2.2 Level of awareness per respondent's characteristic

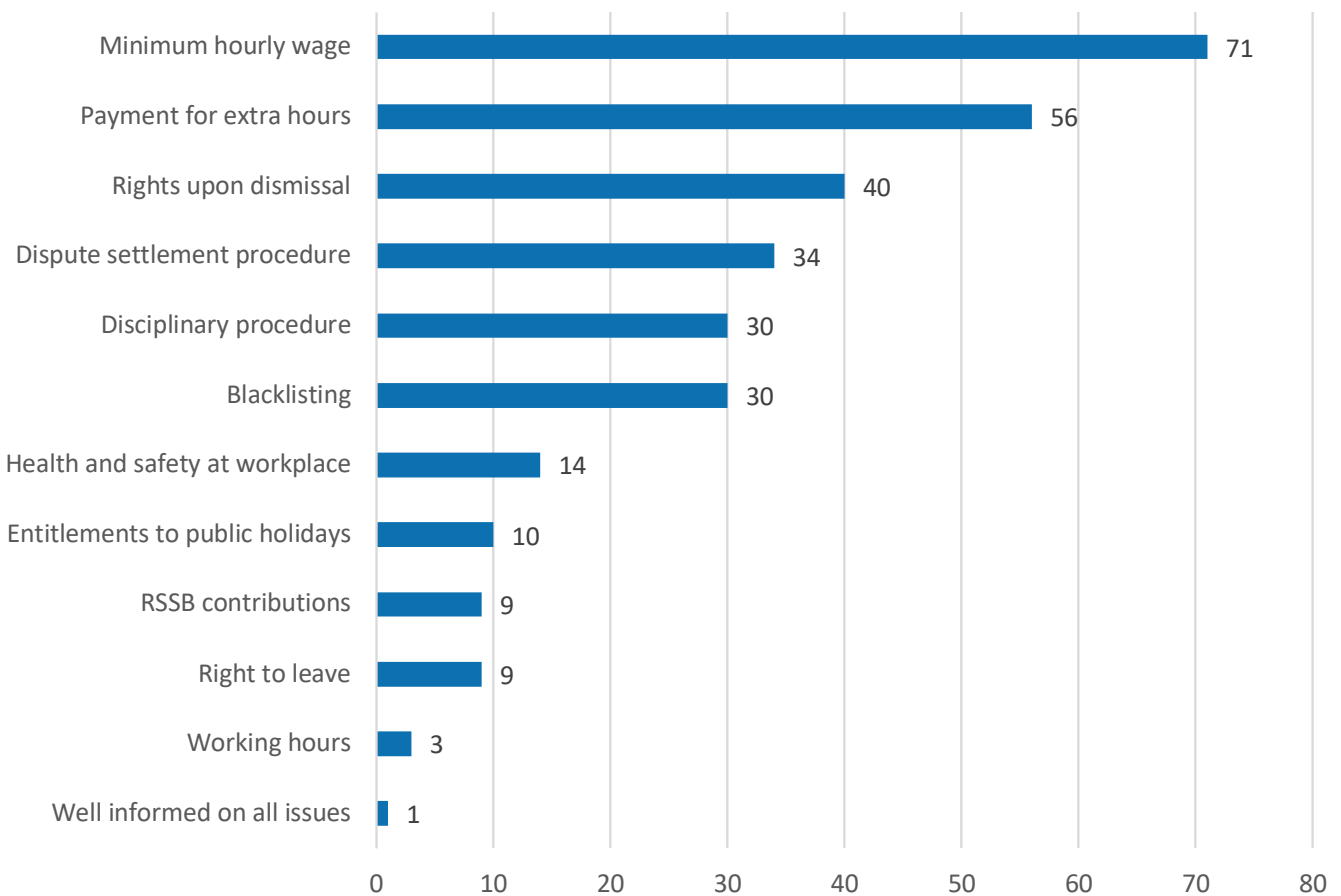
Table 2: Level of awareness on rights in workplace by characteristic

		Very well informed	Somewhat informed	Not very well informed	Not well informed at all
Gender	Male	40.30%	49.40%	10.40%	0.00%
	Female	21.70%	56.50%	13.00%	8.70%
Highest level of education	Advanced Secondary	20.00%	40.00%	40.00%	0.00%
	Vocational	0.00%	0.00%	100.00%	0.00%
	University	37.20%	52.10%	8.50%	2.10%

Employment category	Politician and senior public servant	40.00%	52.00%	8.00%	0.00%
	Professional	36.00%	54.00%	10.00%	0.00%
	Technician	33.30%	53.30%	13.30%	0.00%
	Supporting staff	30.00%	30.00%	20.00%	20.00%
Working Experience	Less than 5 years	32.80%	51.70%	12.10%	3.40%
	5-9 years	30.40%	65.20%	4.30%	0.00%
	10-14 years	54.50%	27.30%	18.20%	0.00%
	15-19 years	42.90%	42.90%	14.30%	0.00%
	25 years and above	100.00%	0.00%	0.00%	0.00%

2.3 Additional information needed

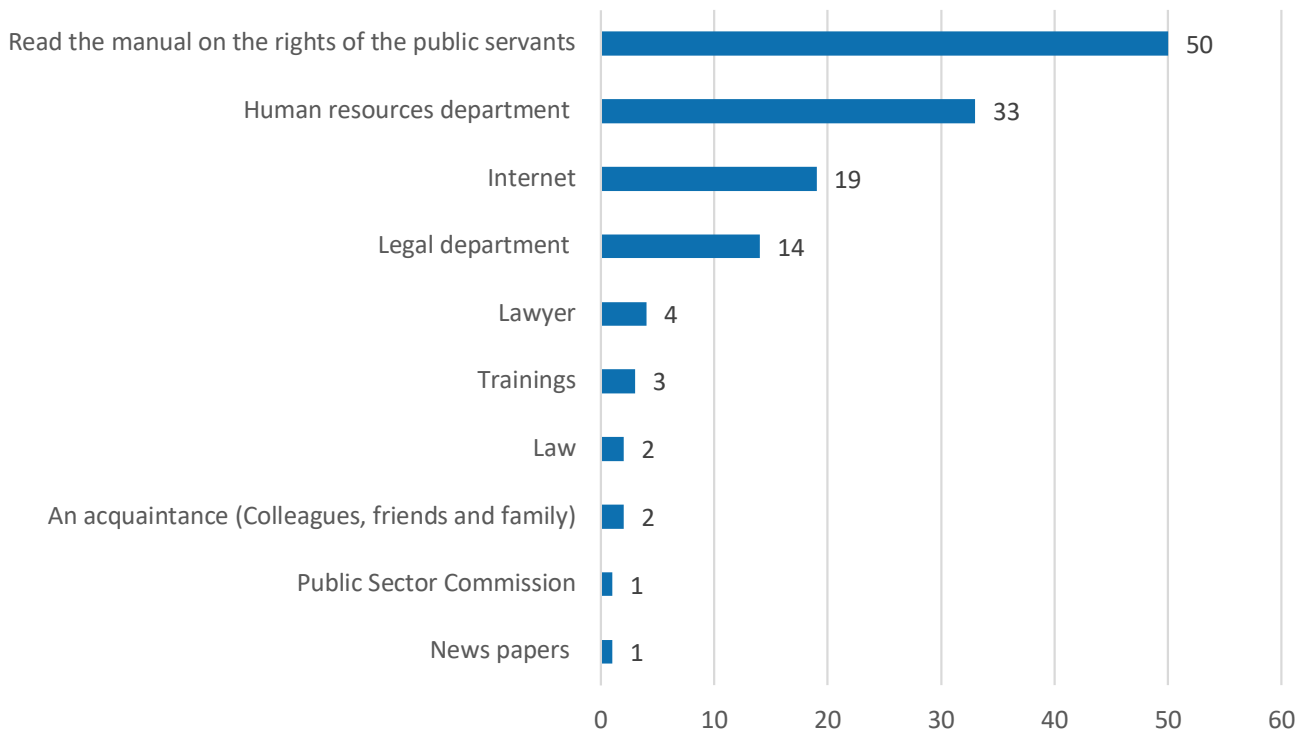
Figure 2: Topic in which additional information is needed (frequency)



Respondents felt that they need more information mainly on minimum hourly wage, payment for extra hours and on their rights upon dismissal.

2.4 Source of information

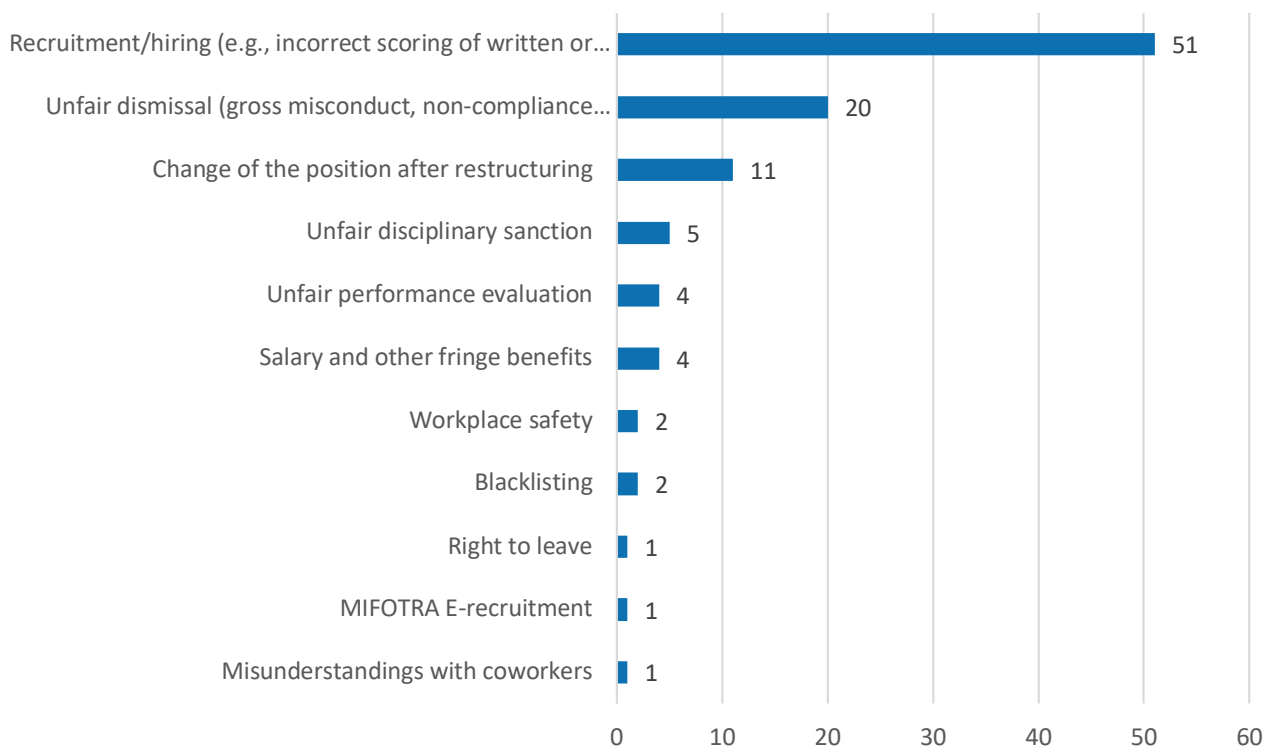
Figure 3: Source of information on rights at workplaces (Frequency)



When needed respondents find information on their rights at workplace reading the manual of the public servants and from the human resources department.

3 Dispute reason

Figure 1: Level of awareness on rights in the workplace

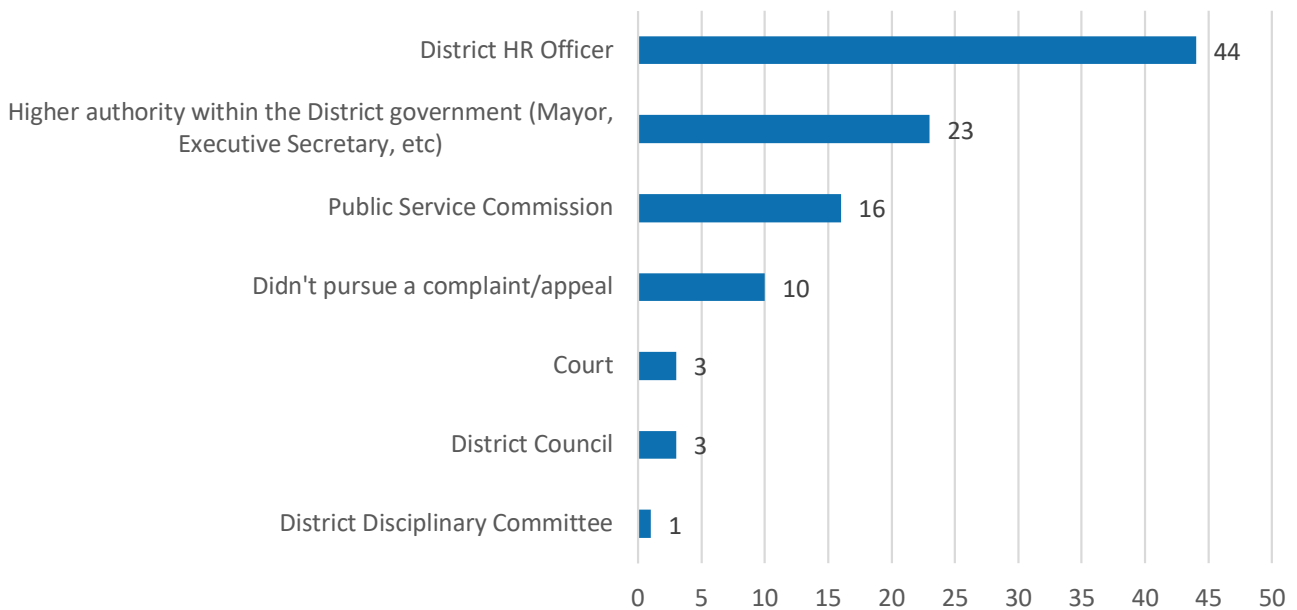


Over the past three years, labor relate dispute arisen mainly because complainers had issues with the recruitment /hiring procedures, had unfair dismissal and because their position was changed after restructuring.

4 First Appeal

4.1 Institution appealed to for the first appeal

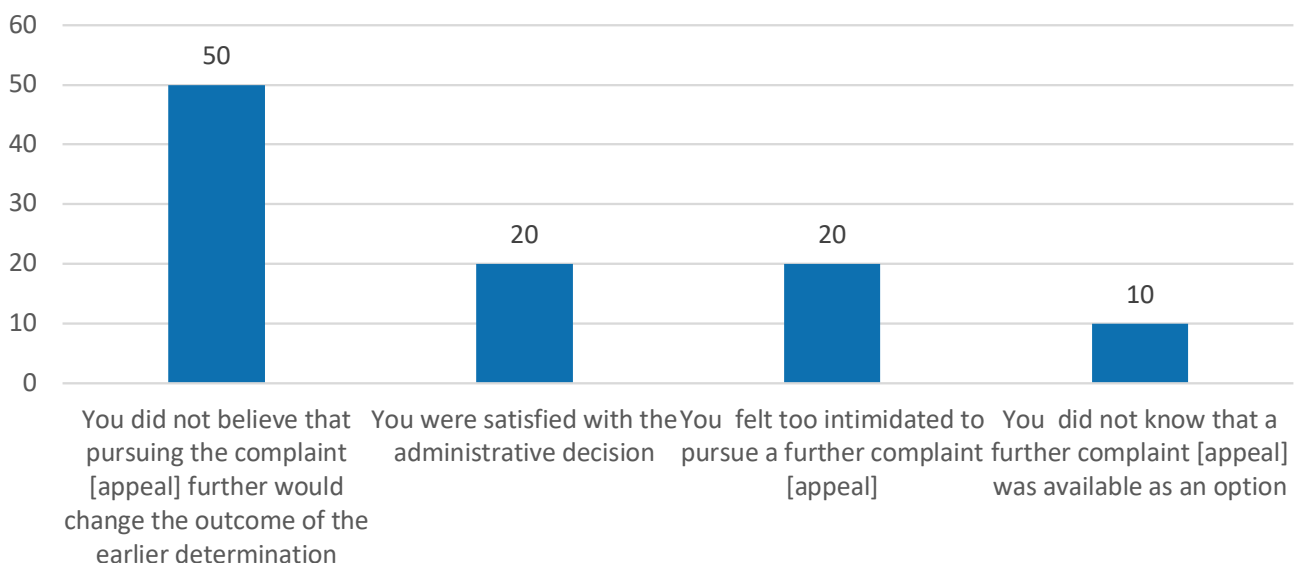
Figure 5: Distribution of institution appealed to for the first appeal (in percentage)



For their first appeal complainers mainly complaint at the district HR officer (44%) and to a higher authority within the district government (23%).

4.2 Main reasons for not appealing

Figure 6: Reasons for not complaining (In percentage)



From the sample 10 persons did not pursue any appeal. Primarily because they did not believe that pursuing the complaint further would change the outcome (50%). While, (20%) were satisfied with the administrative decision.

4.3 Institution appealed to per respondent's characteristics

Table 3: Selected Institution per respondent's characteristics

Characteristics	All categories	District HR Officer	District Disciplinary Committee	Higher authority within the District government	District Council	Public Service Commission	Court	Didn't pursue a complaint/ Appeal
Gender	Male	44.20%	1.30%	20.80%	3.90%	16.90%	3.90%	9.10%
	Female	43.50%	0.00%	30.40%	0.00%	13.00%	0.00%	13.00%
DISTRICT	District D	33.30%	0.00%	19.00%	0.00%	33.30%	0.00%	14.30%
	District E	50.00%	0.00%	25.00%	8.30%	4.20%	4.20%	8.30%
	District F	31.80%	0.00%	40.90%	0.00%	13.60%	9.10%	4.50%
	District A	61.50%	0.00%	23.10%	7.70%	0.00%	0.00%	7.70%
	District B	50.00%	5.00%	5.00%	100.00%	0.00%	25.00%	15.00%
	District C	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Age	16-25 years	47.50%	0.00%	14.80%	3.30%	19.70%	1.60%	13.10%
	26-35 years	41.90%	3.20%	38.70%	0.00%	9.70%	0.00%	6.50%
	36-45 years	28.60%	0.00%	14.30%	14.30%	14.30%	28.60%	0.00%
	46-55 years	20.00%	0.00%	40.00%	20.00%	20.00%	0.00%	0.00%
Highest level of education	Advanced Secondary	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%
	Vocational	45.70%	1.10%	22.30%	2.10%	14.90%	3.20%	10.60%
Employment category	University	44.00%	4.00%	36.00%	4.00%	4.00%	4.00%	4.00%
	Politician and senior public servant	44.00%	0.00%	24.00%	2.00%	20.00%	4.00%	6.00%
	Professional	40.00%	0.00%	6.70%	6.70%	26.70%	0.00%	20.00%
	Technician	50.00%	0.00%	10.00%	0.00%	10.00%	0.00%	30.00%

Working Experience	Less than 5 years	58	55.20%	0.00%	13.80%	0.00%	17.20%	1.70%	12.10%
	5-9 years	23	39.10%	0.00%	26.10%	8.70%	13.00%	0.00%	13.00%
	10-14 years	11	18.20%	0.00%	54.50%	9.10%	9.10%	9.10%	0.00%
	15-19 years	7	14.30%	14.30%	42.90%	0.00%	28.60%	0.00%	0.00%
	25 years and above	1	0.00%	0.00%	0.00%	0.00%	0.00%	100.00%	0.00%

The distribution by characteristics follow the general trend in terms of chosen institution to appeal to for the first appeal.

4.4 Reasons for choosing the institution and feedback timeline

Table 4.1: Reasons for choosing an institution and the timeline to receive a feedback (In percentage)

	All institutions	District HR Officer	District Disciplinary Committee	Higher authority within the District government	District Council	Public Service Commission	Court
Reason the institution was chosen	You understood this to be required by law	73.30%	81.80%	100.00%	82.60%	50.00%	0.00%
	You felt this institution/unit had the necessary expertise	12.20%	6.80%	0.00%	0.00%	31.20%	66.70%
	You felt this institution/unit would handle your dispute efficiently	12.20%	9.10%	0.00%	13.00%	0.00%	33.30%
	You know people at this institution/unit who could help you	2.20%	2.30%	0.00%	4.30%	0.00%	0.00%
	Less than 2 weeks	53.30%	54.50%	0.00%	43.50%	33.30%	62.50%
Time to receive feedback	Less than 1 month	13.30%	9.10%	0.00%	17.40%	25.00%	0.00%
	1-3 Months	13.30%	9.10%	0.00%	17.40%	12.50%	0.00%
	More than 12 months	2.20%	4.50%	0.00%	0.00%	0.00%	0.00%
Never received a response	17.80%	22.70%	100.00%	21.70%	0.00%	0.00%	

Complainers mainly choose the institution to complain to because they understood it to be required by the law (73.3%), the trend goes for all the institution expect for when it comes to appeal at court level where complainers appeal there either because they felt that the court had the necessary expertise (66.7%) or would handle the case more efficiently (33.3%). Moreover, regardless of where they appealed to; complainers would receive feedback in less than 2 weeks (53.3%).

Table 4.2.: Reasons for choosing an institution and the timeline to receive a feedback per district

	All Districts	District D	District E	District F	District A	District B	
Reason the institution was chosen	You understood this to be required by law	66	12	20	13	7	14
		73.33%	66.67%	90.91%	61.90%	58.33%	82.35%
	You felt this institution/unit had the necessary expertise	11	3	1	5	1	1
		12.22%	16.67%	4.55%	23.81%	8.33%	5.88%
Time to receive feedback	You felt this institution/unit would handle your dispute efficiently	11	2	1	3	3	2
		12.22%	11.11%	4.55%	14.29%	25.00%	11.76%
	You know people at this institution/unit who could help you	2	1	0	0	1	0
		2.22%	5.56%	0.00%	0.00%	8.33%	0.00%
Less than 2 weeks		48	10	13	9	2	14
		53.30%	55.56%	59.09%	42.86%	16.67%	82.35%
	Less than 1 month	12	2	4	6	0	0
		13.30%	11.11%	18.18%	28.57%	0.00%	0.00%
1-3 Months		12	3	1	3	5	0
		13.30%	16.67%	4.55%	14.29%	41.67%	0.00%
	More than 12 months	2	1	0	0	1	0
		2.20%	5.56%	0.00%	0.00%	8.33%	0.00%
Never received a response		16	2	4	3	4	3
		17.80%	11.11%	18.18%	14.29%	33.33%	17.65%

4.5 Interaction experience with institutions

Table 5.1 Quality of the interaction by institution (In percentage)

	All institutions	District HR Officer	District Disciplinary Committee	Higher authority within the District government	District Council	Public Service Commission	Court
The information provided was	Very helpful in providing the information relevant to your case	31.80%	0.00%	34.80%	66.70%	37.50%	66.70%
	Helpful in providing the information relevant to your case	29.50%	0.00%	17.40%	0.00%	25.00%	0.00%
	Unhelpful in providing the information relevant to your case	11.40%	0.00%	17.40%	0.00%	25.00%	0.00%
	Very unhelpful in providing the information relevant to your case	27.30%	100.00%	30.40%	33.30%	12.50%	33.30%
How courteous was the institution?	Very courteous	15.90%	0.00%	26.10%	33.30%	25.00%	66.70%
	Courteous	50.00%	0.00%	43.50%	33.30%	68.80%	33.30%
	Discourteous	22.70%	0.00%	13.00%	33.30%	6.20%	0.00%
	Very discourteous	6.80%	100.00%	17.40%	0.00%	0.00%	0.00%
Listening	Not applicable	4.50%	0.00%	0.00%	0.00%	0.00%	0.00%
	Was very attentive when listening to your explanation of the case	31.80%	0.00%	26.10%	33.30%	43.80%	100.00%
	Was somewhat attentive in listening to your explanation of the case	27.30%	0.00%	39.10%	33.30%	37.50%	0.00%
	Was mostly inattentive in listening to your explanation of the case	20.50%	0.00%	8.70%	0.00%	6.20%	0.00%
	Was not at all attentive in listening to your explanation of the case	11.40%	100.00%	26.10%	0.00%	6.20%	0.00%
	Not applicable	9.10%	0.00%	0.00%	33.30%	6.20%	0.00%

During the complainer's interaction with institutions, institutions are courteous with complainers (72.2%) and are attentive when listening to complainers' explanation of their cases (65.5%). The information provided by these institutions are qualified as helpful in terms of relevance to complainers' cases (58.9%).



Table 5.2: Quality of the interaction by different institutions per district

	All districts	District D	District E	District F	District A	District B
The information provided was:	Very helpful in providing the information relevant to your case	6	11	6	5	4
	Helpful in providing the information relevant to your case	33.33%	50.00%	28.70%	41.67%	23.53%
	Unhelpful in providing the information relevant to your case	3	3	5	3	7
How courteous	Very unhelpful in providing the information relevant to your case	16.67%	13.64%	23.81%	25.00%	41.18%
	Very unhelpful in providing the information relevant to your case	13	1	4	1	4
	Very unhelpful in providing the information relevant to your case	14.44%	4.55%	19.05%	8.33%	23.53%
Was the institution?	Very unhelpful in providing the information relevant to your case	24	7	6	3	2
	Very courteous	26.67%	31.82%	28.57%	25.00%	11.76%
	Courteous	20	4	3	4	3
Listening	Courteous	22.22%	0.18.8	14.29%	33.33%	17.65%
	Discourteous	45	8	14	4	9
	Very discourteous	50.00%	44.44%	66.67%	33.33%	52.94%
Listening	Discourteous	15	2	1	4	3
	Very discourteous	16.67%	11.11%	4.76%	33.33%	17.65%
	Not applicable	8	2	3	0	1
Listening	Not applicable	8.89%	11.11%	14.29%	0.00%	5.88%
	Was very attentive when listening to your explanation of the case	2	1	0	0	1
	Was somewhat attentive in listening to your explanation of the case	2.22%	4.55%	0.00%	0.00%	5.88%
Listening	Was mostly inattentive in listening to your explanation of the case	31	10	5	6	4
	Was not at all attentive in listening to your explanation of the case	34.44%	33.33%	23.81%	50.00%	23.53%
	Not applicable	28	8	9	2	6
Listening	Was very attentive when listening to your explanation of the case	31.11%	44.44%	42.86%	16.67%	35.29%
	Was mostly inattentive in listening to your explanation of the case	12	3	1	2	1
	Was not at all attentive in listening to your explanation of the case	13.33%	16.67%	4.76%	16.67%	5.88%
Listening	Not applicable	13	3	5	2	2
	Was very attentive when listening to your explanation of the case	14.44%	5.56%	23.81%	16.67%	11.76%
	Was mostly inattentive in listening to your explanation of the case	6	0	1	0	4
Listening	Was not at all attentive in listening to your explanation of the case	6.67%	0.00%	4.76%	0.00%	23.53%
	Not applicable					

Table 5.3: Quality of support provided by institution (in percentage)

		All institutions	District HR Officer	District Disciplinary Committee	Higher authority within the District government	District Council	Public Service Commission	Court
Information was provided verbally or in writing about how the complaint/appeal process operated	Yes	71.10%	70.50%	100.00%	65.20%	33.30%	87.50%	66.70%
	No	28.90%	29.50%		34.80%	66.70%	12.50%	33.30%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	58.90%	54.50%		52.20%	66.70%	75.00%	100.00%
	No	41.10%	45.50%	100.00%	47.80%	33.30%	25.00%	
At the conclusion of the process, you were provided with a written decision	Yes	72.20%	63.60%	100.00%	69.60%	100.00%	87.50%	100.00%
	No	27.80%	36.40%		30.40%		12.50%	
The written decision was accompanied by an explanation with reasons for the decision	Yes	64.40%	61.40%	100.00%	52.20%	66.70%	81.20%	100.00%
	No	35.60%	38.60%		47.80%	33.30%	18.80%	
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	51.10%	56.80%	100.00%	34.80%	66.70%	43.80%	100.00%
	No	48.90%	43.20%		65.20%	33.30%	56.20%	
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	10.00%	6.80%		13.00%			100.00%
	No	90.00%	93.20%	100.00%	87.00%	100.00%	100.00%	

When interacting with institutions they appealed to for the first time, complainants were provided with a verbal or written information about how the complaint/appeal process operated (71.1%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (58.9%). At the conclusion of the process, complainants were provided with a written decision (72.2%) and the decision was accompanied by an explanation with reasons for the decision (64.4%). When the decision was not satisfying for them, they were provided with information about how and where to further appeal their cases (63.2%). Moreover, at this stage of appealing they were not represented by a lawyer (90%).

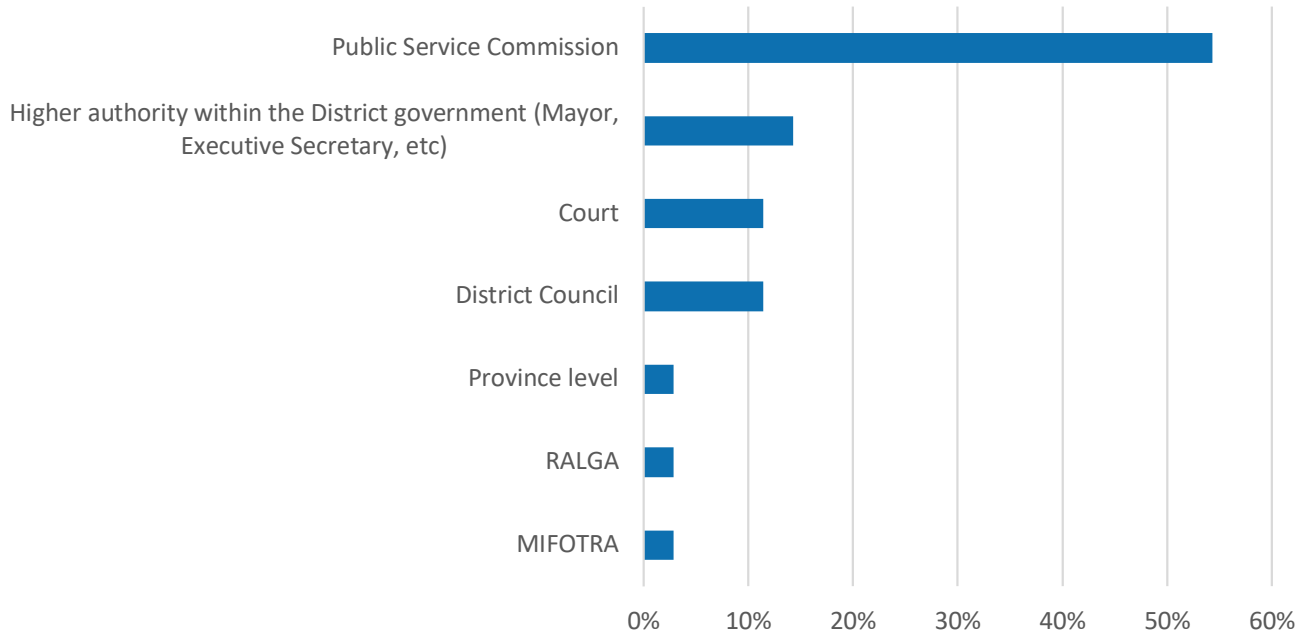
Table 5.4: Quality of support provided by different institutions per district

	Total	District D	District E	District F	District A	District B
Information was provided verbally or in writing about how the complaint/appeal process operated	Yes	16	14	14	6	14
		71.11%	88.89%	66.67%	50.00%	82.35%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	No	2	8	7	6	3
		28.89%	11.11%	33.33%	50.00%	17.65%
At the conclusion of the process, you were provided with a written decision	Yes	10	15	12	7	9
		58.89%	55.56%	57.14%	58.33%	52.94%
The written decision was accompanied by an explanation with reasons for the decision	No	8	7	9	5	8
		41.11%	44.44%	42.86%	41.67%	47.06%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	13	15	17	7	13
		72.22%	72.22%	80.95%	58.33%	76.47%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	5	7	4	5	4
		27.78%	27.78%	19.05%	41.67%	23.53%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	12	12	14	6	14
		64.44%	66.67%	66.67%	50.00%	82.35%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	6	10	7	6	3
		35.56%	33.33%	33.33%	50.00%	17.65%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	6	12	12	7	9
		51.11%	33.33%	57.14%	58.33%	52.94%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	12	10	9	5	8
		48.89%	66.67%	42.86%	41.67%	47.06%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	0	3	4	2	0
		10.00%	0.00%	13.64%	16.67%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	No	18	19	17	10	17
		90.00%	10.00%	86.36%	83.33%	10.00%

5 Second Appeal

5.1 Institution appealed to for the second complaint:

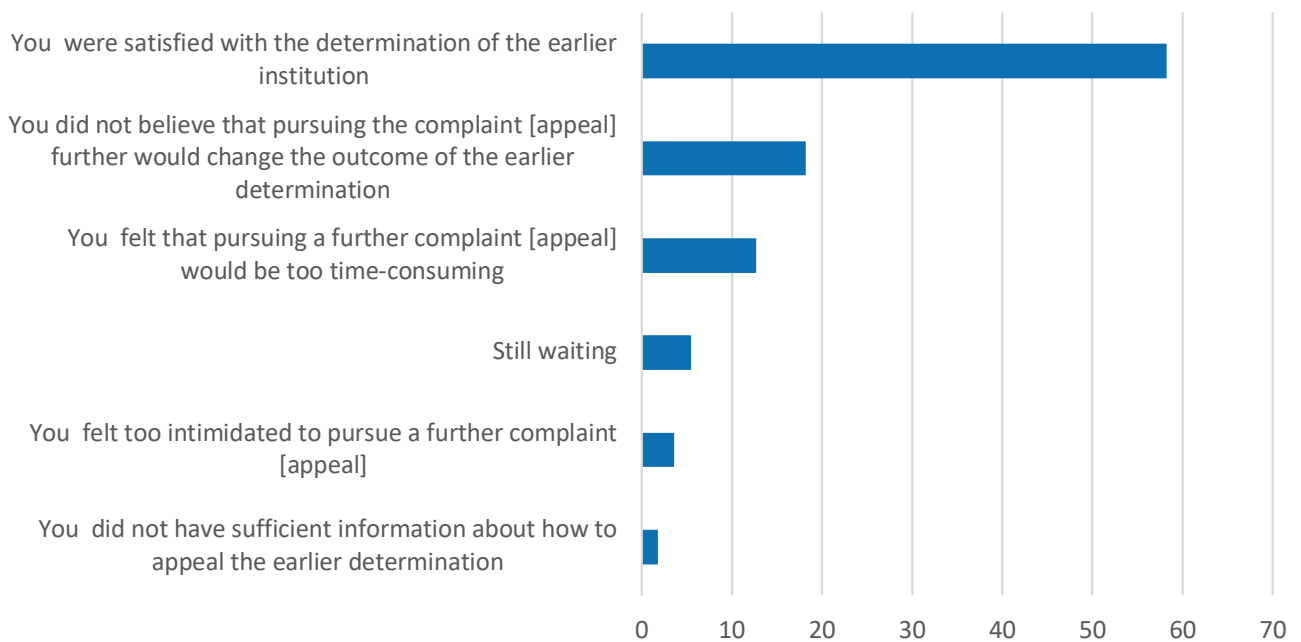
Figure 7: Distribution of institution appealed to for the second time (in percentage)



For their second appeal, complainers appealed mainly to the public service commission (54%) and to a higher authority within the district government (14%).

5.2 Reasons to not appeal

Figure 8: Reasons for not complaining for the second time (Frequency)



Among individuals who complained for the first time 61% did not pursue their complaints. Among which 58.2% it was because they were satisfied with the determination of the earlier institution and 18.2% because they did not believe that pursuing the complaint further would change the outcome of the first appeal.

5.3 Institution appealed to for the second appeal per respondent's characteristics

Table 6: Selected Institution for the second appeal per characteristic

	All categories	Higher authority within the District government	District Council	Public Service Commission	MIFOTRA	Court	Didn't pursue a complaint/appeal	RALGA	Province level
DISTRICT	District D	5.60%		22.20%			66.70%	5.60%	
	District E		4.50%	31.80%			63.60%		
	District F	9.50%	4.80%	23.80%	4.80%	9.50%	47.60%		
	District A		16.70%	8.30%		16.70%	50.00%		8.30%
	District B	11.80%		11.80%			76.50%		
Gender	Male	7.10%	5.70%	22.90%		5.70%	55.70%	1.40%	1.40%
	Female			15.00%	5.00%		80.00%		
Age	16-25 years						100.00%		
	26-35 years	5.70%	5.70%	20.80%	1.90%		66.00%		
	36-45 years	6.90%	3.40%	27.60%		13.80%	41.40%	3.40%	3.40%
	46-55 years						100.00%		
Highest level of education	Advanced Secondary			60.00%			40.00%		
	Vocational						100.00%		
	University	6.00%	4.80%	19.00%	1.20%	4.80%	61.90%	1.20%	1.20%
Employment category	Politician and senior public servant	8.30%	12.50%	20.80%		8.30%	41.70%	4.20%	4.20%
	Professional	6.40%		21.30%	2.10%	4.30%	66.00%		
	Technician			25.00%			75.00%		
	Supporting staff		14.30%	14.30%			71.40%		
Working Experience	Less than 5 years	5.90%	2.00%	15.70%		2.00%	72.50%		2.00%
	5-9 years	10.00%	5.00%	25.00%		5.00%	50.00%	5.00%	
	10-14 years		9.10%	27.30%	9.10%	9.10%	45.50%		
	15-19 years		14.30%	42.90%		14.30%	28.60%		
	25 years and above						100.00%		

The distribution by characteristics follow the general trend in terms of chosen institution to appeal to for the second appeal.

5.4 Reason for choosing the institution and feedback timeline

Table 7.1.: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal (In percentage)

	All institutions	Higher authority within the District government	District Council	Public Service Commission	MIFOTRA	Court	RALGA	Province level
Reason the institution was chosen	You understood this to be required by law	40.00%	75.00%	63.20%	100.00%	75.00%	0.00%	0.00%
	You felt this institution/unit had the necessary expertise	8.60%	0.00%	5.30%	0.00%	0.00%	0.00%	0.00%
	You felt this institution/unit would handle your dispute efficiently	31.40%	20.00%	25.00%	0.00%	25.00%	100.00%	100.00%
Time to receive feedback	Less than 2 weeks	20.00%	25.00%	0.00%	0.00%	0.00%	100.00%	100.00%
	Less than 1 month	8.60%	0.00%	10.50%	0.00%	0.00%	0.00%	0.00%
	1-3 Months	45.70%	0.00%	73.70%	0.00%	50.00%	0.00%	0.00%
	4-6 Months	8.60%	20.00%	10.50%	0.00%	0.00%	0.00%	0.00%
	6-12 Months	2.90%	0.00%	0.00%	0.00%	100.00%	0.00%	0.00%
	More than 12 months	2.90%	0.00%	0.00%	0.00%	25.00%	0.00%	0.00%
	Never received a response	11.40%	50.00%	5.30%	0.00%	25.00%	0.00%	0.00%

Overall the main reason driving the choice of an institution to appeal to for the second complaint is because complainers understood it to be required by the law (60%). When disaggregated by institution the trend still applies except for choosing the Rwandan Association of Local Government Authorities (RALGA) or an institution at province level where the main reason is that complainers felt the institution would handle the dispute efficiently.

The time to receive a feedback varies depending on the institution; it can take less than 2 weeks (i.e. for a complaint to a higher authority within the district government, to RALGA or to an institution at province level) to between 4 to 6 months for a complaint at MIFOTRA. Although some cases never even received a response (11.4%). However, the general trend remains around a feedback in between 1 to 3 months (45.7%).

Table 7.2: Reasons for choosing an institution and the timeline to receive a feedback for the second appeal per district

	All districts	District D	District E	District F	District A	District B
Reason the institution was chosen	21	3	6	6	3	3
	60.00%	50.00%	75.00%	54.55%	50.00%	75.00%
	3	0	0	2	1	0
	8.57%	0.00%	0.00%	18.18%	16.67%	0.00%
You felt this institution/unit had the necessary expertise	11	3	2	3	2	1
	31.43%	50.00%	25.00%	27.27%	33.33%	25.00%
	7	2	0	1	2	2
	20.00%	33.33%	0.00%	9.09%	33.33%	50.00%
Time to receive feedback	3	0	2	0	0	1
	8.57%	0.00%	25.00%	0.00%	0.00%	25.00%
	16	2	5	6	2	1
	45.71%	33.33%	62.50%	54.55%	33.33%	25.00%
Less than 1 month	3	2	0	1	0	0
	8.57%	33.33%	0.00%	9.09%	0.00%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
1-3 Months	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
4-6 Months	4	0	1	1	2	0
	11.43%	0.00%	12.50%	9.09%	33.33%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
6-12 Months	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
More than 12 months	4	0	1	1	2	0
	11.43%	0.00%	12.50%	9.09%	33.33%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%
Never received a response	4	0	1	1	2	0
	11.43%	0.00%	12.50%	9.09%	33.33%	0.00%
	1	0	0	1	0	0
	2.86%	0.00%	0.00%	9.09%	0.00%	0.00%

5.5 Interaction experience with the institution

Table 8.1.: Quality of the interaction with complainers by institution for the second appeal (In percentage)

	All institutions	Higher authority within the District government	District Council	Public Service Commission	MIFOTRA	Court	RALGA	Province level
The information provided was:	Very helpful in providing the information relevant to your case	60.00%	25.00%	42.10%	0.00%	75.00%	0.00%	100.00%
	Helpful in providing the information relevant to your case	22.90%	0.00%	42.10%	0.00%	0.00%	0.00%	0.00%
	Unhelpful in providing the information relevant to your case	8.60%	20.00%	0.00%	0.00%	0.00%	0.00%	0.00%
	Very unhelpful in providing the information relevant to your case	20.00%	20.00%	75.00%	5.30%	100.00%	25.00%	0.00%
	Not applicable	2.90%	0.00%	0.00%	5.30%	0.00%	0.00%	0.00%
How courteous was the institution?	Very courteous	37.10%	25.00%	31.60%	0.00%	50.00%	0.00%	100.00%
	Courteous	42.90%	40.00%	52.60%	0.00%	50.00%	100.00%	0.00%
	Discourteous	20.00%	0.00%	75.00%	15.80%	0.00%	0.00%	0.00%
	Very discourteous	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Listening	Was very attentive when listening to your explanation of the case	42.90%	80.00%	25.00%	36.80%	50.00%	0.00%	100.00%
	Was somewhat attentive in listening to your explanation of the case	31.40%	20.00%	0.00%	42.10%	25.00%	100.00%	0.00%
	Was mostly inattentive in listening to your explanation of the case	8.60%	0.00%	25.00%	10.50%	0.00%	0.00%	0.00%
	Was not at all attentive in listening to your explanation of the case	11.40%	0.00%	25.00%	5.30%	25.00%	0.00%	0.00%
	Not applicable	5.70%	0.00%	25.00%	5.30%	0.00%	0.00%	0.00%

In general, during their interaction with institutions for their second appeal, complainers receive helpful information relevant to their cases (68.6%), are received with courtesy (80%) and institutions were attentive to their cases' explanation (74.3%).

Table 8.2.: Quality of the interaction with complainers by different institutions for the second appeal per district

	Total	District D	District E	District F	District A	District B
The information provided was:	16	1	3	4	4	4
	45.71%	16.67%	37.50%	36.36%	66.67%	10.00%
	8	1	3	3	1	0
	22.86%	16.67%	37.50%	27.27%	16.67%	0.00%
	3	3	0	0	0	0
	8.57%	50.00%	0.00%	0.00%	0.00%	0.00%
	7	1	1	4	1	0
20.00%	16.67%	12.50%	36.36%	16.67%	0.00%	
How courteous was the institution?	1	0	1	0	0	0
	2.86%	0.00%	12.50%	0.00%	0.00%	0.00%
	13	1	1	3	5	3
	37.14%	16.67%	12.50%	27.27%	83.33%	75.00%
	15	3	5	6	0	1
	42.86%	50.00%	62.50%	54.55%	0.00%	25.00%
	7	2	2	2	1	0
20.00%	33.33%	25.00%	18.18%	16.67%	0.00%	



Listening	1					2					3					4					5							
	15	16.67%	25.00%	27.27%	83.33%	10.00%	3	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Was very attentive when listening to your explanation of the case	42.86%	16.67%	25.00%	27.27%	83.33%	10.00%	11	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Was somewhat attentive in listening to your explanation of the case	31.43%	50.00%	37.50%	45.45%	0.00%	0.00%	3	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Was mostly inattentive in listening to your explanation of the case	8.57%	16.67%	25.00%	0.00%	0.00%	0.00%	4	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Was not at all attentive in listening to your explanation of the case	11.43%	16.67%	0.00%	18.18%	16.67%	0.00%	2	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Not applicable	5.71%	0.00%	12.50%	9.09%	0.00%	0.00%	2	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Table 8.3.: Quality of support provided by institution for the second appeal (In percentage)

	All institutions		Higher authority within the District government		District Council	Public Service Commission	MIFOTRA	Court	RALGA	Province level
	Yes	No	Yes	No						
Information was provided verbally or in writing about how the complaint process operated.	77.10%	40.00%	77.10%	40.00%	50.00%	84.20%	100.00%	100.00%	100.00%	100.00%
	22.90%	60.00%	22.90%	60.00%	50.00%	15.80%	0.00%	0.00%	0.00%	0.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	68.40%	80.00%	68.40%	80.00%	25.00%	84.20%	0.00%	50.00%	0.00%	100.00%
	31.40%	20.00%	31.40%	20.00%	75.00%	15.80%	100.00%	50.00%	100.00%	0.00%
At the conclusion of the process, you were provided with a written decision	74.30%	60.00%	74.30%	60.00%	50.00%	84.20%	100.00%	75.00%	0.00%	100.00%
	25.70%	40.00%	25.70%	40.00%	50.00%	15.80%	0.00%	25.00%	100.00%	0.00%
The written decision was accompanied by an explanation with reasons for the decision	68.60%	40.00%	68.60%	40.00%	25.00%	89.50%	100.00%	50.00%	0.00%	100.00%
	31.40%	60.00%	31.40%	60.00%	75.00%	10.50%	0.00%	50.00%	100.00%	0.00%

You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	48.60%	40.00%	25.00%	52.60%	0.00%	75.00%	0.00%	100.00%
	No	51.40%	60.00%	75.00%	47.40%	100.00%	25.00%	100.00%	0.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	17.10%	0.00%	0.00%	15.80%	0.00%	50.00%	0.00%	100.00%
	No	82.90%	100.00%	100.00%	84.20%	100.00%	50.00%	100.00%	0.00%

When interacting with institutions they appealed to for the second time, complainants were provided with a verbal or written information about how the complaint/appeal process operated (77.1%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (68.4%). At the conclusion of the process, complainants were provided with a written decision (74.3%), and the decision was accompanied by an explanation with reasons for the decision (68.6%). When the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (51.4%). Moreover, at this stage of appealing they were represented by a lawyer (82.9%).

Table 8.4.: Quality of support provided by different institutions for the second appeal per district

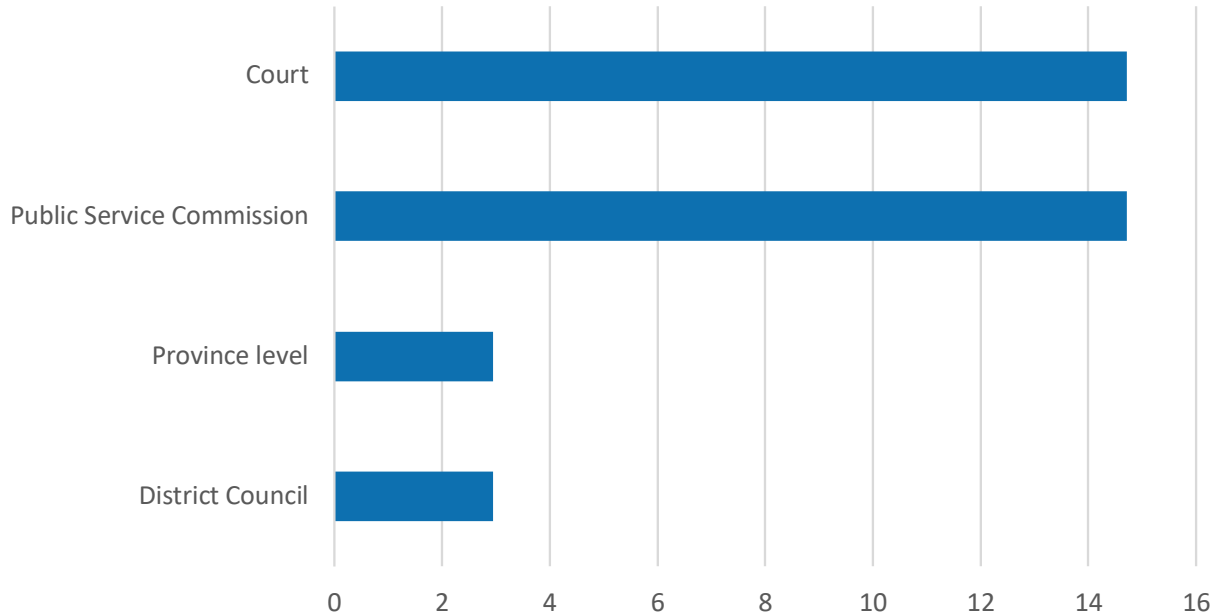
	All districts	District D	District E	District F	District A	District B
Information was provided verbally or in writing about how the complaint process operated.	27	5	6	8	5	3
	Yes	77.14%	83.33%	75.00%	72.73%	83.33%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	8	1	2	3	1	1
	No	22.86%	16.67%	25.00%	27.27%	16.67%
At the conclusion of the process, you were provided with a written decision	24	4	5	7	4	4
	Yes	68.57%	66.67%	62.50%	63.64%	66.67%
The written decision was accompanied by an explanation with reasons for the decision	11	2	3	4	2	0
	No	31.43%	33.33%	37.50%	36.36%	33.33%
At the conclusion of the process, you were provided with a written decision	26	3	7	8	4	4
	Yes	74.29%	50.00%	87.50%	72.73%	66.67%
The written decision was accompanied by an explanation with reasons for the decision	9	3	1	3	2	0
	No	25.71%	50.00%	12.50%	27.27%	33.33%
At the conclusion of the process, you were provided with a written decision	24	4	5	8	4	3
	Yes	68.57%	66.67%	62.50%	72.73%	66.67%
The written decision was accompanied by an explanation with reasons for the decision	11	2	3	3	2	1
	No	31.43%	33.33%	37.50%	27.27%	33.33%

	17	1	5	4	5	2
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	48.57%	16.67%	36.36%	83.33%	50.00%
		18	5	7	1	2
	No	51.43%	83.33%	63.64%	16.67%	50.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes	6	0	0	3	0
		17.14%	0.00%	0.00%	50.00%	0.00%
	No	29	6	11	3	4
	82.86%	10.00%	62.50%	10.00%	50.00%	10.00%

6 Third appeal

6.1 Institution appealed to for the third appeal:

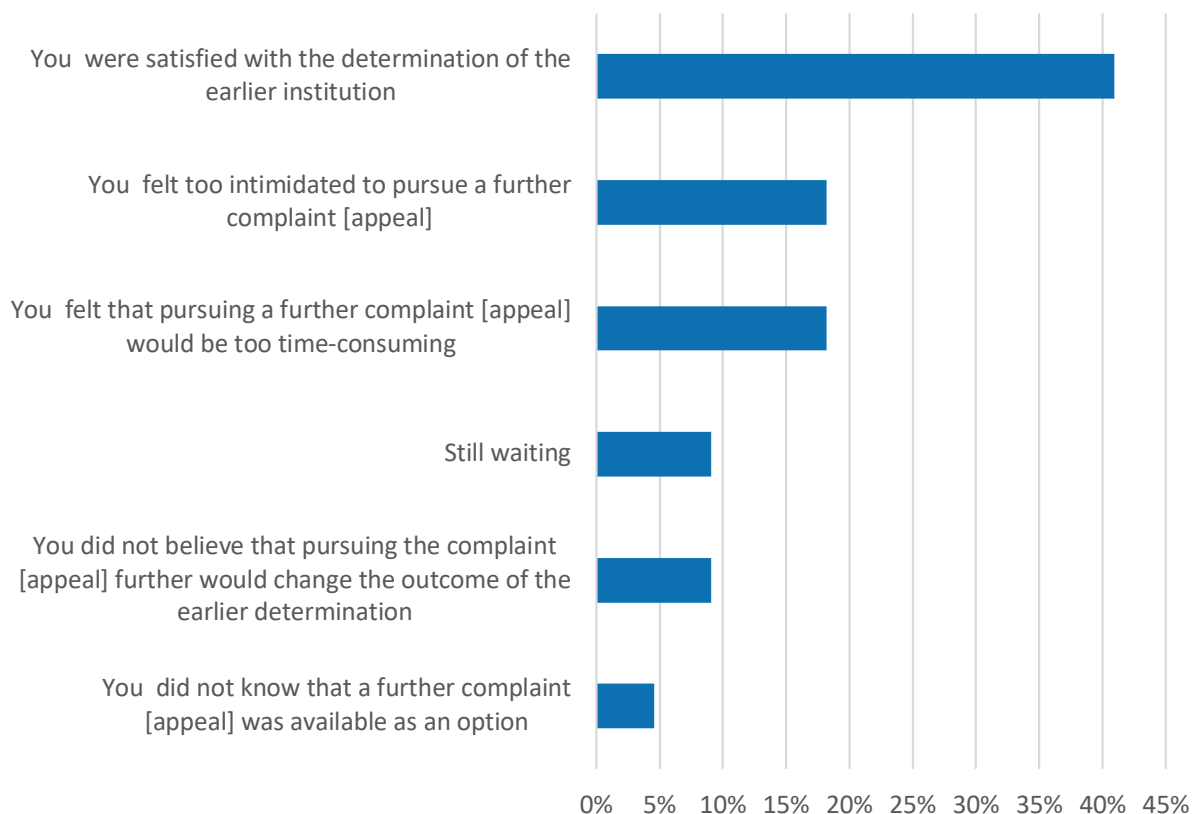
Figure 9: Distribution of institution appealed to for the third time (in percentage)



For their third appeal, complainers complained to the court and to the public service commission both with equal distribution and the rest went complaining to an institution at province level and to the district council.

6.2 Reasons to not appeal for the third appeal

Figure 10: Reasons for not complaining for the third appeal (percentage)





Among individuals that complained for the second time, 65.7% of them did not continue further their complaints mainly because they were satisfied with the determination of the institution they complained to for the second time (41%).

6.3 Institution appealed to for the third appeal per respondent's characteristics

Table 9: Selected Institution per characteristic for the third appeal

	All categories	District Council	Public Service Commission	Court	Didn't pursue a complaint/ appeal	Province level
DISTRICT	District D	0.00%	16.70%	0.00%	83.30%	0.00%
	District E	0.00%	25.00%	12.50%	62.50%	0.00%
	District F	9.10%	9.10%	27.30%	54.50%	0.00%
	District A	0.00%	16.70%	0.00%	66.70%	16.70%
	District B	0.00%	0.00%	25.00%	75.00%	0.00%
	Male	31	0.00%	12.90%	12.90%	71.00%
Gender	Female	4	25.00%	25.00%	25.00%	0.00%
	26-35 years	18	5.60%	16.70%	5.60%	5.60%
	36-45 years	17	0.00%	11.80%	23.50%	64.70%
Age	Advanced Secondary	3	0.00%	0.00%	100.00%	0.00%
	University	32	3.10%	15.60%	15.60%	3.10%
Employment category	Politician and senior public servant	14	0.00%	14.30%	7.10%	7.10%
	Professional	16	6.20%	12.50%	18.80%	62.50%
	Technician	3	0.00%	0.00%	0.00%	100.00%
	Supporting staff	2	0.00%	50.00%	50.00%	0.00%
	Less than 5 years	14	0.00%	14.30%	7.10%	78.60%
Working Experience	5-9 years	10	0.00%	0.00%	20.00%	70.00%
	10-14 years	6	16.70%	33.30%	0.00%	50.00%
	15-19 years	5	0.00%	20.00%	40.00%	40.00%

The distribution by characteristics follow the general trend in terms of chosen institution to appeal to.

6.4 Reasons for choosing the institution and feedback timeline

The choice of the institution to appeal to for the third time was only driven by the fact that it was perceived as required by the law (83.3%) or because the institution was believed to be the most efficient in handling the dispute. Again the time to receive a feedback varies a lot per institution and can take less than 2 weeks if complained at district council level to more than a year if complained at an institution at province level.

Table 10.1: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal (In percentage)

	All institution	District Council	Public Service Commission	Court	Province level
Reason the institution was chosen	You understood this to be required by law	100.00%	80.00%	80.00%	100.00%
	You felt this institution/unit would handle your dispute efficiently	16.7%	20.00%	20.00%	
Time to receive feedback	Less than 2 weeks	100.00%	20.00%		
	Less than 1 month	8.3%	20.00%		
	1-3 Months	25.0%	40.00%	20.00%	
	4-6 Months	8.3%		20.00%	
	6-12 Months	8.3%		20.00%	
	More than 12 months	16.7%		20.00%	100.00%
	Never received a response	16.7%	20.00%	20.00%	

Table 10.2: Reasons for choosing an institution and the timeline to receive a feedback for the third appeal per district

	All districts	District D	District E	District F	District A	District B
Reason the institution was chosen	You understood this to be required by law	10	3	2	1	
	You felt this institution/unit would handle your dispute efficiently	83.33%	10.00%	60.00%	10.00%	10.00%
	2	0	2	0	0	
	16.67%	0.00%	40.00%	0.00%	0.00%	

Time to receive feedback	2	1	0	1	0	1	0	0
Less than 2 weeks	0.16.67	10.00%	0.00%	20.00%	0.00%	20.00%	0.00%	0.00%
Less than 1 month	1	0	0	1	0	1	0	0
1-3 Months	8.33%	0.00%	0.00%	20.00%	0.00%	20.00%	0.00%	0.00%
4-6 Months	3	0	1	1	1	1	1	0
6-12 Months	25.00%	0.00%	33.33%	20.00%	50.00%	20.00%	0.00%	0.00%
More than 12 months	1	0	0	1	0	1	0	0
Never received a response	8.33%	0.00%	0.00%	20.00%	0.00%	20.00%	0.00%	0.00%
	2	0	0	0	1	0	1	1
	16.67%	0.00%	0.00%	0.00%	50.00%	0.00%	10.00%	10.00%
	2	0	1	1	0	1	0	0
	16.67%	0.00%	33.33%	20.00%	0.00%	20.00%	0.00%	0.00%

6.5 Interaction experience with the institution

Table 11.1.: Quality of the interaction with complainers by institution for the third appeal (In percentage)

	All institutions	District Council	Public Service Commission	Court	Province level
The information provided was:	33.3%		40.00%	40.00%	
Very helpful in providing the information relevant to your case	16.7%			20.00%	100.00%
Helpful in providing the information relevant to your case	16.7%		20.00%	20.00%	
Unhelpful in providing the information relevant to your case	33.3%	100.00%	40.00%	20.00%	
Very unhelpful in providing the information relevant to your case	16.7%		20.00%	20.00%	
How courteous was the institution?	58.3%		60.00%	60.00%	100.00%
Very courteous	8.3%		20.00%	20.00%	
Courteous					
Discourteous					
Very discourteous	16.7%	100.00%	20.00%	20.00%	



Listening	Was very attentive when listening to your explanation of the case	33.3%	40.00%	20.00%	100.00%
	Was somewhat attentive in listening to your explanation of the case	41.7%	40.00%	60.00%	
	Was mostly inattentive in listening to your explanation of the case	8.3%	20.00%		
	Was not at all attentive in listening to your explanation of the case	16.7%	100.00%	20.00%	

Although interactions with institutions complainers are received with courtesy (74.7%) and their explanations observed attentively (75%). There seems to be a controversy around the information they receive from these institutions as 50% of the individuals that made a third appeal said that the information provided to be helpful and the rest argued that it was not helpful. The court and institutions at province level seems to be the institutions that are providing helpful information (respectively at 60% and 100%)

Table 11.2.: Quality of the interaction with complainers by different institutions for the third appeal per district

	All districts	District D	District E	District F	District A	District B
The information provided was:	Very helpful in providing the information relevant to your case	4	0	1	1	1
	Helpful in providing the information relevant to your case	33.33%	0.00%	33.33%	20.00%	50.00%
	Unhelpful in providing the information relevant to your case	2	0	0	1	0
	Very unhelpful in providing the information relevant to your case	16.67%	0.00%	0.00%	20.00%	50.00%
	Very courteous	2	1	0	1	0
How courteous was the institution?	Courteous	4	0	2	2	0
	Discourteous	33.33%	0.00%	66.67%	40.00%	0.00%
	Very discourteous	2	0	1	0	0
		16.67%	10.00%	0.00%	20.00%	0.00%
		7	1	3	3	1
	58.33%	10.00%	33.33%	60.00%	50.00%	
	1	0	1	0	0	
	8.33%	0.00%	33.33%	0.00%	0.00%	
	2	0	0	2	0	
	16.67%	0.00%	0.00%	40.00%	0.00%	

Listening	Was very attentive when listening to your explanation of the case				
	4	0	1	2	0
Was somewhat attentive in listening to your explanation of the case	33.33%	0.00%	33.33%	20.00%	10.00%
Was mostly inattentive in listening to your explanation of the case	5	1	1	2	1
Was not at all attentive in listening to your explanation of the case	41.67%	10.00%	33.33%	40.00%	10.00%
	1	0	1	0	0
	8.33%	0.00%	33.33%	0.00%	0.00%
	2	0	0	2	0
	16.67%	0.00%	0.00%	40.00%	0.00%

Table 11.3.: Quality of support provided by different institutions for the third appeal (In percentage)

	All institutions	District Council	Public Service Commission	Court	Province level
Information was provided verbally or in writing about how the complaint process operated.	Yes		80.00%	80.00%	100.00%
	No	100.00%	20.00%	20.00%	
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	100.00%	80.00%	80.00%	100.00%
	No		20.00%	20.00%	
At the conclusion of the process, you were provided with a written decision	Yes		100.00%	80.00%	
	No	100.00%		20.00%	100.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	100.00%	60.00%	80.00%	
	No		40.00%	20.00%	100.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes		60.00%	80.00%	
	No	100.00%	40.00%	20.00%	100.00%
You had help from a lawyer in presenting your complaint/appeal to this institution/unit	Yes			80.00%	100.00%
	No	100.00%	100.00%	20.00%	

When interacting with institutions they appealed to for the third time, complainants were provided with a verbal or written information about how the complaint/appeal process operated (75%), had an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (83.3%). At the conclusion of the process, complainants were provided with a written decision (75%), and the decision was accompanied by an explanation with reasons for the decision (66.7%). When the decision was not satisfying for them, they were not provided with information about how and where to further appeal their cases (58.3%). Moreover, at this stage of appealing they were not represented by a lawyer (58.3%) unless it was at court level and province level where 80% were represented by a lawyer at court and all that complained at province level were represented by a lawyer.

Table 11.4.: Quality of support provided by institution for the third appeal per district

	All Districts	District D	District E	District F	District A	District B
Information was provided verbally or in writing about how the complaint process operated.	Yes	9	1	3	2	1
	No	75.00%	10.00%	10.00%	40.00%	10.00%
You were given an opportunity to make your views known and to offer any evidence supporting my case verbally or in writing	Yes	3	0	0	3	0
	No	25.00%	0.00%	0.00%	60.00%	0.00%
At the conclusion of the process, you were provided with a written decision	Yes	10	1	2	4	2
	No	83.33%	10.00%	66.67%	80.00%	10.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	2	0	1	1	0
	No	16.67%	0.00%	33.33%	20.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	9	1	3	3	1
	No	75.00%	10.00%	10.00%	60.00%	10.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	3	0	0	2	0
	No	25.00%	0.00%	0.00%	40.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	8	0	2	4	1
	No	66.67%	0.00%	66.67%	80.00%	10.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	4	1	1	1	0
	No	33.33%	10.00%	33.33%	20.00%	0.00%
You were provided with information about how and where to further appeal your case if you were dissatisfied with the decision in this institution/unit	Yes	7	1	2	2	1
	No	58.33%	10.00%	66.67%	40.00%	10.00%
The written decision was accompanied by an explanation with reasons for the decision	Yes	5	0	1	3	0
	No	41.67%	0.00%	33.33%	60.00%	0.00%

A NNEX 2: Public Procurement Survey

CONSENT FORM

Your decision to participate in this research is entirely voluntary. You may choose not to participate or you may withdraw from the study for any reason without penalty of any kind. **Do we have your consent to proceed?**

1. Yes
2. No

Section 1: Demographic identification

Q 1.1. Gender	<ol style="list-style-type: none"> 1. Male 2. Female
Q 1.2. Marital	<ol style="list-style-type: none"> 1. Single 2. Married 3. Divorced 4. Separated 5. Widow(er)
Q 1.3. Age	Indicate years _____
Q 1.4. Highest level of education	<ol style="list-style-type: none"> 1. None, never been to school 2. Primary 3. Junior Secondary 4. Advanced Secondary 5. Vocational 6. University
Q 1.5. Are you a person with a disability	<ol style="list-style-type: none"> 1. Yes 2. No
Q 1.5.1. If yes, Q.1.5 what kind of disability?	<ol style="list-style-type: none"> 1. Physical disability 2. Vision impairment 3. Deaf and dumb 4. Mental health condition 5. Other (Specify)
Q 1.6. Employment category	<ol style="list-style-type: none"> 1. Politician and senior public servant 2. Professional 3. Technician 4. Supporting staff
Q 1.7. Working Experience	<ol style="list-style-type: none"> 1. Less than 5 years 2. 5-9 years 3. 10-14 years 4. 15-19 years 5. 20-24 years 6. 25 years and above

Q 1.8. Ubudehe categories	1. Category 1
	2. Category 2
	3. Category 3
	4. Category 4
	5. Do not know

Section 2: Public employment regulation-related questions

Q 2.1. To what extent would you say that you're informed about your Rights in the workplace?

1. Very well informed
2. Well informed
3. Not very well informed
4. Not well informed at all

Q 2.2. About which of the following topics do you feel you need more information? (Please check all that apply)

1. Working hours
2. Minimum hourly wage
3. Right to leave
4. Entitlements to public holidays
5. Payment for extra hours
6. RSSB contributions
7. Blacklisting
8. Disciplinary procedure
9. Dispute settlement procedure
10. Rights upon dismissal
11. Health and safety at workplace
12. Other (Specify)

Q 2.3. How do you find out information about your rights at work if you needed to? (Please check all that apply)

1. Human Resources department
2. Legal department
3. Lawyer
4. Read the manual on the rights of the public servants
5. Other (Specify).....

Q 2.4. According to the information we have, you've had at least one labor-related dispute related to an administrative decision at the district level during the past three years. What was the dispute about? [IF THE INDIVIDUAL HAD MORE THAN ONE LABOR-RELATED DISPUTE, REQUEST THAT THE RESPONDENT ADDRESS THE MOST RECENT DISPUTE WITHIN THE PAST THREE YEARS]

1. Recruitment/hiring (e.g., incorrect scoring of written or oral examination; other irregularity):
2. Salary and other fringe benefits
3. Minimum guaranteed wage

4. Change of the position after restructuring
5. Blacklisting
6. Unfair disciplinary sanctions
7. Unfair dismissal (gross negligence, non-compliance with applicable procedure)
8. Unfair performance evaluation
9. RSSB contributions
10. Workplace safety
11. Other (Specify)

Q 2.5. For this dispute, where did you go to complain/appeal first?

1. District HR Officer
2. District Disciplinary Committee
3. Higher authority within the District government (Mayor, Executive Secretary, etc)
4. District Council
5. Public Service Commission
6. Human Rights Commission
7. MIFOTRA
8. Ombudsman's Office
9. Court
10. Didn't pursue a complaint/appeal
11. Other (specify) _____

Q 2.6. Why did you choose to go to this institution first?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.7. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.8. After complaining/appealing to the individual or institution/unit identified in Q 2.5, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks

2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.9. When you think about your experience with the institution or individual identified in Q 2.5, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.10. When you think about your experience with the institution identified in Q 2.5, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision.
 1. Yes
 2. No

4. The written decision was accompanied by an explanation with reasons for the decision/ 1. Yes
2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
1. Yes
2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
1. Yes
2. No
7. You would have used a free lawyer/Paralegal if I could have had one.
1. Yes
2. No

Q 2.11. If you are a person with disability, when you think about your experience with the institution identified in Q 2.5, would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.11.1. If not Q 2.11, what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

SECOND APPEAL

Q 2.12. If you pursued your complaint further, to what institution did you take such complaint/appeal?

1. Higher authority within the District government (Mayor, Executive Secretary, etc)/
2. District Council
3. Public Service Commission
4. Human Rights Commission/
5. MIFOTRA
6. Ombudsman's Office
7. Court
8. Didn't pursue a complaint/appeal
9. Other(specify)_____

Q 2.13. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live

5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.14. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)

Q 2.15. If you pursued a complaint/appeal to the institution identified in Q 2.12, how long did it take to receive some response about the substance of your complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.16. When you think about your experience with the institution or individual identified in Q 2.12, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable
- b. The representative(s) I interacted with were:
 1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
 1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.17. When you think about your experience with the institution identified in Q 2.12, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision
 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/Paralegal if I could have had one
 1. Yes
 2. No

Q 2.18. If you are a person with disability, when you think about your experience with the institution identified in Q 2.12., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.18.1. If not Q 2.18, what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

THIRD APPEAL**Q 2.19. If you pursued your complaint further, to what institution did you take such complaint [appeal]?**

1. District Council
2. Public Service Commission
3. Human Rights Commission

4. MIFOTRA
5. Ombudsman's Office
6. Court
7. Didn't pursue a complaint/appeal
8. Other(specify)/ _____

Q 2.20. What is the main reason that you went to this institution or individual next?

1. You understood this to be required by law
2. You felt this institution/unit had the necessary expertise
3. You felt this institution/unit would handle my dispute efficiently
4. It is convenient to where I live
5. You know people at this institution/unit who could help me
6. Other (specify)

Q 2.21. If you decided not to pursue a complaint/appeal of some kind, what was the most important reason for not doing so?

1. You were satisfied with the administrative decision
2. You did not believe that pursuing a complaint/appeal would change the outcome of the decision
3. You did not have sufficient information about how to pursue a complaint/appeal
4. You did not know that a complaint/appeal was available as an option
5. You felt that pursuing a complaint/appeal would be too time-consuming
6. You felt too intimidated to pursue a complaint/appeal
7. Other (Specify)/

Q 2.22. If you pursued a complaint/appeal further to the institution identified in Q 2.19, how long did it take to receive some response about the substance of this complaint/appeal?

1. Less than 2 Weeks
2. Less than 1 Month
3. 1-3 Months
4. 4-6 Months
5. 6-12 Months
6. More than 12 Months
7. Never received a response

Q 2.23. When you think about your experience with the institution or individual identified in Q 2.19, would you say that:

- a. The representative(s) I interacted with were:
 1. Very helpful in providing information relevant to your case
 2. Helpful in providing information relevant to your case
 3. Unhelpful in providing information relevant to your case
 4. Very unhelpful in providing information relevant to your case
 5. Not applicable

- b. The representative(s) I interacted with were:
1. Very courteous
 2. Courteous
 3. Discourteous
 4. Very discourteous
 5. Not applicable
- c. The representative(s) I interacted with:
1. Was very attentive when listening to my explanation of the case
 2. Was generally attentive in listening to my explanation of the case
 3. Was generally inattentive in listening to my explanation of the case
 4. Was very inattentive in listening to my explanation of the case
 5. Not applicable

Q 2.24. When you think about your experience with the institution identified in Q 2.19, would you say that:

1. Information was provided verbally or in writing about how the complaint/appeal process operated.
 1. Yes
 2. No
2. You were given an opportunity to make my views known and to offer any evidence supporting my case verbally or in writing
 1. Yes
 2. No
3. At the conclusion of the process, I was provided with a written decision 1. Yes
 2. No
4. The written decision was accompanied by an explanation with reasons for the decision/. 1. Yes
 2. No
5. You were provided with information about how and where to further appeal my case if I was dissatisfied with the decision in this institution/unit
 1. Yes
 2. No
6. You had help from a lawyer in presenting my complaint/appeal to this institution/unit
 1. Yes
 2. No
7. You would have used a free lawyer/Paralegal if I could have had one.
 1. Yes
 2. No

Q 2.25. If you are a person with disability, when you think about your experience with the institution identified in Q 2.17., would you say that: the representatives of the institution you interacted with gave you an equitable treatment?

- 1) Yes
- 2) No

Q 2.25.1. If not Q 2.25., what was the problem?

- 1) I couldn't read the documents presented
- 2) I couldn't hear what they were saying
- 3) I couldn't reach their offices (Stairs)
- 4) I couldn't communicate verbally
- 5) Other (Specify)

Q 2.26.1. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in public employment disputes. Please select what you believe is the most important suggestion

1. Improve public understanding of employee rights in the administrative processes involving public service matters
2. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of public employment disputes
3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures/
4. Increasing the staffing and financial capacity of the Public Service Commission
1. Enforcing the sanctions against officials who willfully violate the recommendations of the Public Service Commission
5. Encouraging recourse to the Committee in Charge of Out of Court Settlement
6. Building the capacity of members of the internal disciplinary committee in conducting investigations
7. Increasing the protection of members of internal disciplinary committee
8. Ensure enactment of the minimum guaranteed wage
9. Other (Specify) _____

Q 2.26.2. We are interested in soliciting your suggestions or recommendations on how best to improve administrative justice in public employment disputes. Please select what you believe is the second most important suggestion.

1. Improve public understanding of employee rights in the administrative processes involving public service matters
2. Improve training and oversight of government officials to ensure better interactions with citizens in the handling of public employment disputes
3. Improve training and oversight of government officials to ensure better understanding of legal requirements and procedures
4. Increasing the staffing and financial capacity of the Public Service Commission
5. Enforcing the sanctions against officials who willfully violate the recommendations of the Public Service Commission

6. Encouraging recourse to the Committee in Charge of Out of Court Settlement
7. Building the capacity of members of the internal disciplinary committee in conducting investigations
8. Increasing the protection of members of internal disciplinary committee
9. Ensure enactment of the minimum guaranteed wage
10. Other (Specify) _____

A NNEX 3: Qualitative Guidelines

1. Interview guide for public employment regulation - core questions for district decision makers responsible for public employment


1. How is the dispute resolution process structured within the district/government? [Probe: the functioning of disciplinary committees, composition, training for its members, and maintaining proper documentation, its independence, etc?]
2. How effectively do you think you or any district colleagues respond to the complaints related to public employment laws and regulations raised by employees?[Time limit for responding to complaints; provision of relevant information, opportunity to provide supporting evidence, resources/staffing, particularly challenging cases]
3. How do you interact with the District Legal adviser, Public Service Commission and/or Disciplinary committees at district level in handling Public employment disputes? [consultation, cooperation with PSC, etc]
4. What would you say are the biggest challenges facing government officials seeking to resolve public employment disputes or related administrative decisions at the district level? [Probe: Probe: Cooperation, access to information in the administration 's files, compliance with recommendations, consultation, communication, challenges in recruitment, performance evaluation, disciplinary procedure, appeals, etc]
5. What are the weaknesses and strengths of Public employment dispute resolution process? [Probe: Institutional framework and procedure]
6. What would you recommend as the most important actions to be taken to address the challenges encountered by government officials seeking to effectively handle public employment disputes? [Probe: recommendations related to laws, staffing capacity, training, etc.]

2. Questions for group discussion

1. How well did you understand the administrative procedures that were involved in this/these dispute(s)?
2. How would you describe the kind of treatment you received from officials you interacted with?
3. What generally would you say were the biggest challenges you encountered in public employment dispute resolution process? [Legal assistance, access to district records, lack of information on their rights and available remedies, etc.]
4. 4What would you recommend for the improvement of the Public employment dispute resolution process?



The Institute of Policy Analysis and Research (IPAR-Rwanda)

 Kimihurura, KG 627 St, Building No.4

 P.O Box 6005 Kigali-Rwanda

 Tel: (+250) 789099704

 E-mail: info@ipar-rwanda.org |  Website: www.ipar-rwanda.org

Find us on Social Media

 Facebook: IPAR Rwanda |  Twitter: @iparrwanda



USAID
FROM THE AMERICAN PEOPLE



Institute of Policy Analysis
and Research - Rwanda

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA
STRENGTHENING RWANDAN
ADMINISTRATIVE JUSTICE (SRAJ)
PROJECT – *Twimakaze Ubutabera mu Miyoborere*

FINAL REPORT ANNEXES –VOL. III

SRAJ PROJECT ANNEXES, VOLUME 3

TABLE OF CONTENTS

- Annex I2:** Jan. 10, 2019 validation workshop for ILPD graduate diploma courses in labor and procurement law (agenda, attendance list, and ILPD minutes)
- Annex I3:** Documentation on the labor regulation graduate diploma course (course description and objectives, curricula, and HEC approval letter)
- Annex I4:** Documentation on the Procurement law graduate diploma course (course description and objectives, curricula, and HEC approval letter)
- Annex I4A:** Documentation on the labor regulation executive training (short) courses curricula (for courses on labor inspections, labor mediation, occupational safety and health, international labor standards, and social dialogue; letter of appreciation to SRAJ Project by ILPD Rector).
- Annex I5:** Labor mediation handbook and background survey of key labor mediation stakeholders

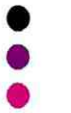
FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XII (VOLUME III)

Agenda for the Validation Workshop on the DLLP and DPP Courses

Time	Activity	Person concerned
8:30-900	Arrival of Guests	In charge of Registration
9:00 - 9:15	Brief about SRAJ Project	SRAJ Project Manager
9:15 – 9:20	Welcome remarks	The Rector of ILPD
9:20 – 9:40	Keynote Address	The Guest of Honor
9:40 - 9:45	Group Photo	Protocol
9:45-10:00	Health Break	
10:00 - 10:45	Presentation of the Curriculum – Diploma course in Labour Law Practice (DLLP)	Labour Law Experts
10:45- 11:30	Presentation of the Curriculum – Diploma Course in Procurement Practice (DPP)	Public Procurement Experts
11:30-12:00	Comments and Inputs to DLLP Curriculum - Plenary session	Participants
12:00- 12:30	Comments and Inputs to DPP Curriculum - Plenary session	Participants
12:30-13:30	Lunch	
13:30-14:15	Group discussions	Groups
14:15- 15:00	Inputs to DLLP Curriculum – Plenary session	Labour Law Group
15:00- 15:45	Inputs to DPP Curriculum- Plenary session	Procurement Group
15:45-16:00	Closing remarks	PS MINIJUST

LIST OF PARTICIPANTS VALIDATION WORKSHOP FOR THE DLLP & DPP PROGRAMS ON 10th JANUARY
2019
VENUE: MARRIOTT HOTEL

No	NAMES	Institution	Telephone	Email	SIGNATURE
1	HABIBULASHAKA Theogene	Supreme Court	07856573924	theogene.kabamabwaka@judiciary.gov.rw	
2	Richard Mugisha	ILPD	0788206034	richard.mugisha@ipld.co.rw	
3	Epimayo M	ILPD	0787616394	epimayo.murph@ipld.rw	
4	JOHN M. RUTTA	ILPD	0783577399	johnrutta@yahoo.com	
5	MURASI Innocent	RALGA	0788309482	murasi@ralga.rw	
6	Brenda Kayitesi	HRFRA	0788558772	brendakayitesi@gmail.com	
7	SSP ERIC KANYABUGANZA	RNP	0788311126	dlegal@police.gov.rw	
8	Jean Paul MARIMPAKA	Attorney Sectuerior	0785660467	mazijipaul@gmail	
9	Henry J. Musoke	NTF	07849338087	henry.musoke@NTFConsult.com	
10	John Rwiruhira	L4D	07883872	johnrwi@rwhira@gmail.com	
11	FUZAH SARIS	MINJUST	0788485605	alexia.fuache@minjust.gov.rw	
12	Celestin Sibomana	RPPA	0788610223	csibomana@rppa.gov.rw	



13	Stany Bazrimana	UR-CBE	0788690864	stanybana@gmail.com	
14	Germain Yansimeye	RTDA	0788589215	germain.yansimeye@irda.gov.rw	
15	Karumusa E. Steven	RTEMO	0788673730	germo RTA puzail.com	
16	Angelina NUCANZA	ES-NPSC	0788301588	angelanza@jalwa.com	
17	Anthony Busingo	EPS/HRD/HR	0788308964	aprodlo@isulicinc@jalwa.com	
18	Godfrey Kamukunde	Consultant	0788302021	klawug@jalwa.com	
19	Robert W. Mbaraga	OAG	0720770060	romba@oag.gov.rw	
20	Dr. Kwilura T. Bidan	LPD	0788495778	bidan.kwilura@lpd.ac.rw	
21	Grace Sebageni	ILO	0788310267	sebageni@ilo.org	
22	BALINANT Shumbari	RTA	0788306971	balanantae@gmail.com	
23	MBARUBUKYE Xavier	Office of the Ombudsman	0788300233	see.permanent@ombudsman.gov.rw	
24	GASHATISA Aloys	NPSC/Lawyer	0788513360	aloyis.gashayisa@npsc.gov.rw	
25	Ngoboka Stanley	MINALOC	0789538613	stanleyngoboka@jalwa.com	
26	KAMEZA Michiel	Off of the Inbudsman	0789976089	kameza.michiel@gmail.com	
27	SIBOMANA Jean d'Amour	LPD	0788891482	jean.sibomana@lpd.ac.rw	
28	Marguerite MURARATE	RTB	0788872446	muramagye@gmail.com	

29	Jelly Rubagiza	DMI	0788905717	jo.rubagiza@gmail.com	
30	Sabelle Kalihangabo	RIB	0788302919	alop@ib.gov.rw dumwera.kaliharabe appa.gov.rw	
31	Habimana Jean Janvierica	NDDA	0783575083	jeanjanvierica@ndda.gov.rw	
32	KARARUBANA Zuber BARREAU	Supreme Court	0783575083	judicial.kolutions.Tou.com jeanclaudemarceljean @judiciary.gov.rw	
33	NSENGIYUMVA Z Claude	Consultant	+27 824688771	mmuhwizi@multisec.org	
34	Prof EVANCE KARUKA	Consultant	0788452331	evance.karuka@udc.rw	
35	KANAKA Ronette	ILPD	0788452331	ronette.kandana@ilpd.ac.rw	
36	BENURUSO Alice	ILPD	0788452331	alice.benuruso@ilpd.ac.rw	
37	Bugigana Charles	ILPD	0785525144	charles.bugigana@ilpd.ac.rw	
38	MAAZI N. ERIC	CESSRAL	0788563249	maazi_eric@hotmail.com	
39					
40					
41					
42					
43					

VALIDATION WORKSHOP FOR THE DIPLOMA IN PROCUREMENT PRACTICE (DPP) AND DIPLOMA IN LABOR LAW PRACTICE (DLLP)

The workshop for the validation of DPP and DLLP organized by the Institute of Legal Practice and Development with the support of USAID (through Strengthening Rwandan Administrative Justice/SRAJ Project) was held on 10th January 2019 at Marriot Hotel/Kigali.

This workshop was organized to ensure that both programs are designed in line with the expectations of ILPD stakeholders.

Participants from various government agencies, Private, NGOs and different development partners participated in the workshop.

The workshop provided an opportunity for the stakeholders to discuss and provide inputs to the curriculum proposed and developed by experts in Labor Law Practice and Procurement Practices respectively.

The following comments and revisions were provided by the stakeholders during the validation workshop:

1. The participants suggested that since the programs will be delivered as postgraduate programs only graduates should be admitted.
2. It was noted that according to the proposed mode of delivery for both programs, the contact period (teaching hours) is about 25%. Therefore participants recommended ILPD to ensure that the candidates (who are already professionals and working) will not be distracted so that the quality of students still remains.
3. Participants suggested that DLLP should also cover the public service law.



4. The DLLP should also cover disciplinary actions and look at the criminal aspect of the actions of the employees especially those in Gov't. It should also cover the offenses that are probable in the public service when one commits a disciplinary action;
5. The DLLP should touch more on Child labour, social dialogue and investigations, audit and labour inspection so that the course touches more on the practical issues on the field;
6. It was proposed that ILPD should develop other related modules in the area of labour law such as OSH, labour inspection, etc.
7. It was proposed that ILPD should seek the accreditation for both DPP and DLLP from the International recognized Agencies.
8. Participants reminded ILPD that the process of identifying the potential trainers for both programs should start as soon as possible as they may be requested by the Higher Education Council during the accreditation process.
9. Participants commended the introduction of both programs as a big part government litigations come from public procurement and Human resource management.
10. Participants suggested that Lawyers with the existing Diploma in Legal Practice holders should be admitted.
11. A topic on "introduction to research" should be included in both programs.
12. A topic on contract management and dispute resolution should be included in DPP.
13. A topic on payment systems such as currencies, letters of credits, INCOTERMS should also be included in DPP.
14. A topic on records management should also be included in DPP.
15. The consultants who are developing both programs should include a list of reading materials (key references).

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XIII (VOLUME III)

SUMMARY: DIPLOMA IN LABOUR AND PRACTICE (DLLP)

The following course, Diploma in Labour Law and Practice was specifically developed by Mr Godfrey Kamukunde and Professor Evance Kalula for the Institute Legal Practice and Development (ILPD) in Rwanda under the auspices of the SRAJ Project. It is a graduate level diploma course targeted at a diverse range of professionals working in the Labour market sector, to give them a basic but high-level practical understanding of Labour law and social justice in the workplace in Rwanda.

The course takes into account the reality that much of the day-to-day 'practice' of Labour law is in the hands of advisors, officials and representatives who are not lawyers, and who may have little or no formal legal training.

The course takes account of these realities and aims to provide a comprehensive exposition of the area of 'labour law in action and context', to enhance to the knowledge and skills those working people and professionals in the discipline of Labour law, the opportunity to access training in practical application of Labour law both in the workplace, in dispute resolution, and in the inspection and implementation of international norms adopted and adhered to by Rwanda.

It thus targets, among others, Human Resources practitioners, Government inspectors of health and safety standards, employers' and workers' representatives, and legal professionals who wish to enhance specialist understanding of labour and social law. The course is in eight modules covering a broad spectrum of law at work, including contemporary issues in Labour law; international Labour law; collective employment law; management of conflict; Labour dispute resolution; social security law, health and safety at work; field attachment project; and a research module.

The course is innovative in combining face to face learning, on line and experiential learning through attachment and field work. Another innovation is a research

component intended to reinforce academic understanding of the subject matter blended with practical application.

The course is also a result of extensive benchmarking with similar courses development elsewhere by the ILO and in other African jurisdictions.

Although the initial and main focus is Rwanda, the course offers scope for extension beyond the country, to be adapted to take on students of the rest of the Eastern African region and from elsewhere in Africa, in keeping with the long-term vision of the ILPD. In keeping with that outlook, although the main lecturers will be from Rwanda, a number of international specialists, including officials of the International Labour Organization (ILO) will be involved in the teaching of the course not only to enhance its comparative and international aspects, but even more importantly, to help to develop capacity and transfer of skills to local teachers.

Evance Kalula, Ph.D.

Emeritus Professor of Law,

University of Cape Town;

Chair, ILO Committee on Freedom of Association (CFA).

evance.kalula@uct.ac.za

MODULE 1: CONTEMPORARY ISSUES IN LABOUR LAW

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Contemporary issues in labour law
3. **Year:** 1 year of DLLP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. a. **Core module (Yes or No):** No
5. b. **Elective module (Yes or No):** No
5. c. **Pre-requisite module(s):** No
5. d. **Co-requisite module(s):** No
5. e. **Prohibited combinations:** None

6. **Allocation of study and teaching hours ()**

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content (not more than five lines)**

This module provides an introduction to Labour Law from both a national and international perspective. It helps students gain a better understanding of Rwandan Labour Law, International Labour Law, the International Labour Organization and the concept of Social Justice.

8. **Graduate Attributes & Learning Outcomes**

A. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

A.1. Social Justice in the context of Rwanda

A.2. History of Labour Law in Rwanda;

A.3. The International Labour Organization (ILO) (the history of the ILO Role of the ILO, International Labour Standards and ILO conventions ratified by Rwanda);

A.4. Ethics in labour law:

- i) Ethical conduct for officials, managers, representatives and practitioners
- ii) Ethical issues in dispute resolution, including mediation and conciliation
- iii) Standard of conduct of workplace actors and parties.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1.** Gain a better understanding of Rwandan Labour Law, International Labour Law, the International Labour Organization and the concept of Social Justice
- B.2.** Apply this theoretical knowledge in their daily labour law practices;
- B.3.** Demonstrate a clear understanding of the ILO conventions ratified by Rwanda and how these have been domesticated;
- B.4.** Demonstrate a clear insight of the ethical issues at work and how these are best handled.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

- C.1.** Enhance skills in building arguments in debates and writing related to Rwandan and international labour laws.
- C.2.** Use ICT to carry out research in labour law and practice.
- C.3.** Share and disseminate practical knowledge in labour law and practice.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1.** Recognize, critically analyze, evaluate, appreciate, express and solve some key issues relating ethical conduct in the application of labour laws and the application of the ILO ratified conventions and recommendations.
- D.2.** Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others.
- D. 3.** Demonstrate a high level of independence and ownership of the decisions taken during the implementation of labour laws.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. Demonstrate a high level of expertise and understanding of the ILO conventions ratified by Rwanda and to solve some key issues relating to ethical conduct in the application of labour laws.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. To effectively plan, set career goals and practice the application of labour laws in their day to day lives.

D.6. Understand different practical issues involved in the application of ILO ratified conventions from a national, regional and international;

D.7. Demonstrate a high level of independence and ownership of the decisions taken during the implementation of labour laws.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.8. Take initiative to update their knowledge and skills in order to adequately handle any emerging labour law related issues. Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in the practice and application of ILO ratified conventions by Rwanda.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.9. Work collectively towards a common goal at different levels

D.10. Work with people of different age, gender, race, religion, political persuasion

D.11. Work as an individual and as a member of a team in order for example to promote good labour law practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.12. to formulate ideas on labour law related matters as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.13. Identify and use strategies to effectively handle labour law related issues.

D.14. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.15. Effectively apply the labour laws in their day to day activities leading to a reduction of injustices that would otherwise result from the improper understanding and application of labour laws.

D.16. Help their respective employers by changing the way labour related matters are handled thus reducing the number of labour related disputes/cases heading to court.

9. Indicative Content

- Social Justice in the context of Rwanda
- History of Labour Law in Rwanda
- The International Labour Organization(ILO)
 - i) The history of the ILO
 - ii) Role of the ILO
 - iii) International Labour Standards
 - iv) ILO conventions ratified by Rwanda
- Ethics in labour law
 - i) Ethical conduct for officials, managers, representatives and practitioners
 - ii) Ethical issues in dispute resolution, including mediation and conciliation
 - iii) Standard of conduct of workplace actors and parties.

10. Learning and Teaching Strategy

The module is intended to be student-centered and highly interactive as indicated in the programme specification. Students will hence have the opportunity to provide feedback in class.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14, D.15, D.16.
Final assessment	50	A.1, A.2, A.3, A.4, B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.12, D.13, D.14, D.15, D.16.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

14. Indicative Resources

Core Text (include number in library or URL) (inc ISBN)

- ILO conventions and recommendations ratified by Rwanda;
- ILO, report of the committee of experts on the application of conventions and recommendations, (articles 19, 22, and 35 of ILO constitution), international labour office, Geneva, 2016- 2018.
- ILO, report of the committee of experts on the application of conventions and recommendations: Individual observations concerning all the ratified conventions by Rwanda, published between 2016 - 2018.
- Governing body, International labour office, 297th session on strategies and practices for labour inspection, Geneva, 2006.
- International Labour Organisation, recording and notification of occupational accidents and disease: an ILO code of practice, Geneva, International Labour Office, 1996.
- ILO Declaration on Social Justice for a Fair Globalisation, Adopted by the International Labour Conference, ILO, 97th Session, Geneva, June 2008.
- Declaration of Philadelphia, adopted by the International Labour Conference, 26th session, Philadelphia, May 1944.
- International Labour Organisation Constitution, adopted by the International Labour Conference, 26th session, Philadelphia, May, 1944.
- ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference, 86th Session, Geneva, June, 1998.
- Universal Declaration of Human Rights, UN GA res. 217A (III), 1948.

- Covenant on Economic, Social and Cultural Rights, UN GA res. 2200 (XXI), 1966.
- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.
- Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.

Background Texts (include number in library or URL) (inc ISBN)

- ILO declaration on decent work for all, adopted by the international labour conference, 97th Session, Geneva, 10 June 2008.
- International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.
- ILO, *Social security: A new consensus*, Geneva, International Labour Office, 2001.
- International Labour Office, Social security standards and the ILO campaign for the extension of social security, adopted at the 303rd Session of Governing Body, Geneva, November, 2008.
- ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Discrimination (Employment and Occupation) Convention, 1958, (no.111), Rwanda, published, 2018.
- ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Rwanda, published, 2018.

Journals

-

Key websites and on-line resources

- <https://www.ilo.org/global/lang-en/index.htm>
- https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103460

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

Laptop will be required

Others

- Flip charts and markers

15. Please add anything else you think is important

16. ILPD will avail facilities for guest speakers that will be invited

17. Module Team

a) Academic staff

1. Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.
2. Mr. Godfrey Kamukunde (Labour law specialist, consultant, advocate at Rwanda Bar Association and Part time lecturer - ILPD, ULK);

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The Supreme Court
3. Ministry of Justice (MINIJUST)
4. Rwanda Bar Association
5. ILO- Rwanda country office.

b) Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 2: INDIVIDUAL LABOUR LAW

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Individual labour law
3. **Year:** 1 year of DLLP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. **a. Core module (Yes or No):** No
5. **b. Elective module (Yes or No):** No
5. **c. Pre-requisite module(s):** Contemporary issues in labour law
5. **d. Co-requisite module(s):** No
5. **e. Prohibited combinations:** None

6. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content** (not more than five lines)

This module focuses on Individual Labour Law. Individual Labour Law regulates the relationship between workers, employing entities, trade unions and governments. The objective of this module is for students to have an understanding of individual labour law by being able to identify the elements of the individual contract of employment and having an understanding of the Labour Law legislation and case law in Rwanda.

8. **Graduate Attributes & Learning Outcomes**

B. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

A.1. Individual Labour Law;

A.2. The basic conditions of employment legislation in Rwanda (What issues may be varied in terms of the law?, employment termination and notice periods);

A.3. The equity and discrimination at work (the core principles of the law; Unfair Discrimination as per Rwandan law; Child labour and its prohibited forms and sexual harassment and dispute resolution relating to the alleged unfair discrimination);

A.4. Skills development and vocational training (apprenticeship and internship contracts; core principles of Rwandan labour laws and policies on skills development and vocational training).

A.5. Practical issues associated with individual labour laws.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

B.1. Critically analyse the concept of individual labour and apply the same principles in their day today activities;

B.2. Effectively apply the basic conditions of employment legislation with particular emphasis on controversial issues such as employment contract conclusion and termination;

B.3. Master and apply the core principles of equity and discrimination at work;

B.4. Master and apply the core principles of Rwandan labour laws and policies on skills development and vocational training.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

C.1. Enhance skills in building arguments in debates and writing in individual labour law related matters;

C.2. Use ICT to carry out research on individual labour law related issues;

C.3. Disseminate practical knowledge on individual labour Laws.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

D.1. Recognize, critically analyze, evaluate, appreciate, express and solve key individual labour law related matters in compliance with the governing labour and social security laws and practices.

D.2. Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others.

D. 3. Plan and organise their individual labour law related work.

b. Employability and career development

Having successfully completed this module, students should be able to:

D.4. To effectively plan, set career goals and perform labour law related career in compliance with the governing legal instruments.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues entailed in application of individual labour laws from a national and regional perspective;

D.6. To effectively plan, set career goals and practice the application of individual labour laws notions in their day to day lives;

D.7. To plan and effectively handle controversial issues arising from the conclusion, implementation and termination of employment contracts.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.8. Take initiative to update legal knowledge and skills in order to apply adequate laws to any emerging labour law related issue and as appropriate recommend the amendment of the respective domestic laws of the respective students' country of origin.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.9. Work collectively towards a common goal at different level.

D.10. Work with people of different age, gender, race, religion, political persuasion.

D.11. Work as an individual and as a team member to promote best labour law practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.12. to formulate ideas on labour law related matters as a result of the reading, researching and professional engagement;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.13. Identify and use relevant laws to effectively handle different individual labour law related issues;

D.14. Demonstrate high levels of integrity at the workplace and in their everyday life and act in compliance with the laws in force.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.15. Effectively apply the principle of economy and effectiveness in the handling of individual labour related matters thus reducing the losses incurred by their employers in endless law suits.

9. Indicative Content

- Individual Labour Law
 - i) Concept of Individual Labour Law
- The Basic Conditions of Employment legislation in Rwanda
 - i) Who is covered by it?
 - ii) What issues may be varied in terms of the law?
 - iii) Employment termination
 - iv) Notice Periods
- The Equity and Discrimination at Work
 - i) What are the core principles of the law?
 - ii) What is meant by Unfair Discrimination?
 - iii) Child labour and its prohibited forms
 - iv) What is meant by 'Sexual Harassment'?
 - v) Dispute resolution paths of disputes relating to alleged unfair discrimination
- Skills Development and Vocational Training
 - i) Apprenticeship and internship contracts

- ii) Core principles of Rwandan labour laws and policies on skills development and vocational training.

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2, B.3, B.4.,C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14; D.15.
Final assessment:	50	A.1, A.2, A.3, A.4, B1, B.3, C.1, C.2, D.5, D.6, D.7, D.12, D.13.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

14. Indicative Resources

Core Texts

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.
- Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda

- Decree law of 22 August 1974 concerning the organisation of social security in Rwanda, Published in the 1977 official gazette, p 42 as amended.
- Law n° 27 of 27/6/2007 determining responsibilities, organisation and functioning of a Health Insurance Scheme for Employees (RAMA), 2007.
- Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.
- Ministerial order n° 10 of 28/07/2010 determining the modalities of declaration of the enterprise, workers and nature of employer register.

Background Texts (include number in library or URL) (inc ISBN)

- Social Security (Minimum Standards) Convention, 1952, adopted by the ILO general conference, 35th session, Geneva, June, 1952.
- Governing body, International labour office, 297th session on strategies and practices for labour inspection, Geneva, 2006.
- International Labour Organisation, recording and notification of occupational accidents and disease: an ILO code of practice, Geneva, International Labour Office, 1996.
- Recommendation no.189 on Job Creation in Small and Medium-Sized Enterprises, 1998 (R189 of 1998) adopted by the International Labour Conference, 86th session, Geneva, June, 1998.
- Transforming the present- protecting the future, report of the committee of inquiry into a comprehensive system of social security for South Africa, March (2002).
- Republic of Rwanda, National Institute of Statistics for Rwanda, Demographic and Health Survey, 2005.
- Social Security Fund of Rwanda (SSFR), social security statistical bulletin for the first semester, 2007.

Key websites and on-line resources

- www.mifotra.gov.rw
- www.rssb.rw
- www.primature.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

16. Module Team

a) Academic staff

1. Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.
2. Mr. Godfrey Kamukunde (Labour law specialist, consultant, advocate at Rwanda Bar Association and Part time lecturer - ILPD, ULK);
3. Mr. Kananga Patrick –Director of Labour Administration – MIFOTRA;
4. Prof. David Woolfrey – Professor of law from South Africa;
5. Ms. Angelina Muganza- Executive Secretary of the Public Service Commission- Rwanda.

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The Supreme Court
3. Ministry of Justice (MINIJUST)
4. Rwanda Bar Association

c) Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 3: COLLECTIVE EMPLOYMENT LAW

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Collective Employment Law
3. **Year:** 1 year of DPP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. **a. Core module (Yes or No):** No
5. **b. Elective module (Yes or No):** No
5. **c. Pre-requisite module(s):** Individual labour law
5. **d. Co-requisite module(s):** No
5. **e. Prohibited combinations:** None

6. **Allocation of study and teaching hours (See Notes of Guidance)**

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content (not more than five lines)**

This module focuses on Collective Labour Law. Collective Labour Law deals with matters relating to the tripartite relationship between the employee, employer and unions. The module will enable students to have an understanding of the general principles of collective labour law and Collective Agreements and the relevant Rwandan legislation.

8. **Graduate Attributes & Learning Outcomes**

C. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

- A.1.** What collective labour law is all about;
- A.2.** Organizational rights (those rights covered by the law and those of trade unions);
- A.3.** Industrial Action (what constitutes a trike and lockout);

A.4. Collective Agreements (what these are and how to determine whether or not an agreement is a collective one);

A.5. Dispute resolution institutions created by the law (representation in dispute and grievance resolution and how unfair dismissal and other labour disputes are resolved).

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

B.1. Compare and contrast the different good practices in the handling of collective disputes and agreements;

B.2. Apply the theoretical knowledge in preparation and daily handling of collective disputes and agreements;

B.3. Identify and use different techniques in grievance handling and resolution;

B.4. To effectively manage and resolve all work related risks in a more legalistic and pragmatic way;

B.5. Prepare for and handle unfair dismissals and other labour disputes at work.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

C.1. Enhance their skills in building arguments in debates and writing on collective disputes and agreements.

C.2. Use ICT to carry out research on dispute handling and resolution.

C.3. Analyse and disseminate findings on practical issues relating to collective labour and its surrounding notions.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

D.1. Recognize, critically analyse, and evaluate dispute handling and resolution.

D.2. Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others.

D. 3. Plan, organise and handle work related disputes and grievances.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. To effectively apply the knowledge and skills acquired in the handling of collective disputes, grievances and agreements.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues in collective dispute handling and identification from a national, regional and international perspective.

D.6. Use the acquired skill in Planning and handling work related disputes and grievances from an international perspective.

D.7. To plan investigations in grievance identification and handling and communicating their findings.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.8. Using the skills and knowledge acquired during the training, students should be in position to use the same in handling and resolving collective disputes, grievances and agreements.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.9. Work collectively towards a common goal at different levels

D.10. Work with people of different age, gender, race, religion, political persuasion

D.11. Work as an individual and as a member of a team in order to promote a good culture of proper collective dispute handling.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.12. to formulate ideas on collective agreements and dispute handling as a result of reading, researching and professional discussions.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.13. Identify and use strategies to effectively identify and handle collective agreements and disputes.

D.14. Demonstrate integrity at and act responsibly towards others both at work and in their everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.15. Effectively identify and handle collective agreements and disputes in such a way that is financially beneficial to both the employer and the employee.

9. Indicative Content

- What Collective Labour Law is.
- Organizational Rights:
 - a) What rights are covered by the law?
 - b) Rights of a Trade Union
 - i) When do they acquire organizational rights?
 - ii) What are the rights of a trade union?
- Industrial Action
 - i) What is a 'strike' in terms of the law?
 - ii) What is a 'lockout' in terms of the law?
 - iii) What constitutes Industrial Action?
- Collective Agreements
 - i) What is a Collective Agreement?
 - ii) How to determine whether an agreement is a collective agreement
- Dispute resolution institutions created by the law?
 - i) Representation in dispute and grievance resolution.
- Resolving unfair dismissal and other labour disputes.

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning, practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14; D.15.
Final assessment	50	A.1, A.2, A.3, A.4, B1, B.3, C.1, C.2, D.5, D.6, D.7, D.12, D.13.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

14. Indicative Resources

Core Texts

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.

Background Texts (include number in library or URL) (inc ISBN)

- Right to Organise and Collective Bargaining Convention, 1949, adopted by the International Labour Conference, 32nd session, Geneva, July, 1949.
- Freedom of Association and Protection of the Right to Organise Convention, 1948, adopted by the ILO general conference, 31st session, San Francisco, June, 1948.
- Minimum Wage-Fixing Machinery Convention, 1928, adopted by the ILO general conference, 11th session, Geneva, June, 1928.
- Olivier MP, Smit N and Kalula ER, *Social Security: a legal Analysis*, (2003), University of Cape Town, Lexis Nexix Butterworth.
- Pieters D, *Social protection of the next generation in Europe*, (1997), London-The Hague- Boston, Kluwer law international, EISS Year book.
- Somavia Juan, ILO Director-General, Preface to: *Les normes internationales du travail: un patrimoine pour l'avenir – Mélanges en l'honneur de Nicolas Valticos*, (2004), ILO.
- Strydom EML et al, *Essential social security law*, (2001), JUTA law, Cape Town, South Africa.

Key websites and on-line resources

- https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312232:NO

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

Laptop will be required

Others

- Flip charts and markers

15. Please add anything else you think is important

16. ILPD will avail facilities for guest speakers that will be invited

17. Module Team

a) Academic staff

1. Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.
2. Prof. David Woolfrey – Professor of law from South Africa.

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The Supreme Court
3. Ministry of Justice (MINIJUST)
4. Rwanda Bar Association
5. ILO- Rwanda country office.

c) Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 4: MANAGEMENT OF CONFLICT

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Management of Conflict
3. **Year:** 1 year of DLLP Semester: 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. **a. Elective module (Yes or No):** No
5. **b. Pre-requisite module(s):** Individual labour law and collective employment law
5. **c. Co-requisite module(s):** No
5. **d. Prohibited combinations:** None

5. Allocation of study and teaching hours (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

6. Brief description of aims and content (not more than five lines)

This module focuses on conflict management in labour related issues. It enables students to gain a better understanding of the principles relating to conflict management.

7. **Graduate Attributes & Learning Outcomes**

D. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

A.1. Conflict management (Causes of work related conflicts; managing work related conflicts in the public and private sector and managing feedback from conflicts for the affected people).

A.2. How performance evaluation and appraisal in the public service and the private sector is done to avoid conflict.

A.3. Conciliation under Rwandan law, what happens when it fails and the roles of the Public Service Commission/Council of Commissioners; Disciplinary Committees and Employees' representatives.

A.4. Application of sanctions at work (disciplinary sanctions and rules of procedure; imposition of administrative sanctions in the public service and appeal against administrative sanctions in the public service).

A.5. Case law in labour matters.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

B.1. Effectively manage conflicts at work.

B.2. Make informed judgments/decisions in matters relating to conflicts and their management at work.

B.3. Demonstrate the ability to respond to and manage work related conflicts.

B.4. Effectively handle work related conflicts arising from the implementation of the employment contract.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

C.1. Communicate with peers, more senior colleagues and experts on conflict management

C.2. Use ICT to carry out research and find solutions to different issues arising from conflict management.

C.3. Disseminate practical knowledge in conflict management to a wide range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

D.1. Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in conflict management.

D.2. Express a high degree of autonomy, with full responsibility in taking and implementing decisions relating to conflict management.

D.3. Plan, organise and practice work related conflict management as a professional.

b. Employability and career development

Having successfully completed this module, students should be able to:

D.4. Effectively plan, set career goals and practically perform worked related conflict management.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues involved in work related conflict from a national, regional and international perspective.

D.6. Understand and practice in a wider perspective work related conflict management.

D.7. Plan conflict management investigations in a wider perspective, analyze data and communicating their findings.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.8. Take initiative to update knowledge and skills in order to adequately handle any emerging issue in work related conflict management.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.9. Work collectively towards a common goal at different levels.

D.10. Work with people of different age, gender, race, religion, political persuasion.

D.11. Work as an individual and as a member of a team in order to promote good work related conflict management practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.12. Formulate ideas on work related conflict management matters as a result of reading, researching and professional discussion.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.13. Identify and use experience- based strategies to effectively handle worked related conflicts.

D.14. Demonstrate integrity in the workplace and act responsibly towards others at work and in their everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.15. Effectively apply work related conflict management skills to prevent or solve any such conflicts thus reducing unnecessary expenses incurred in litigation.

8. Indicative Content

- Conflict Dispute management
 - i) Defining and analyzing conflict
 - ii) Developing negotiation and conflict management skills
 - iii) Causes of work related disputes
 - iv) Managing work related disputes in the Public and Private Sector
 - v) Managing feed-back from disputes for the affected people.
- Performance evaluation and appraisal in:
 - i) The public service
 - ii) The private sector
- Conciliation
 - a) What is 'conciliation' in terms of Rwandan labour law?
 - b) What happens when conciliation fails?
 - c) Identifying the different conflict handling processes
 - d) The roles of:
 - i) The Public Service Commission/Council of Commissioners
 - ii) Disciplinary Committees
 - iii) Employees' representatives.
- Application of sanctions at work
 - a) Disciplinary sanctions and rules of procedure
 - b) Imposition of administrative sanctions in the public service
 - c) Appeal against administrative sanctions in the public service.

- Case law in labour matters.

9. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

10. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2., B.3, B.4, C.2, D.5, D.6, D.7, D.9, D.10, D.11, D.12, D.13, D.14, D. 15.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2., B.3, B.4, C.2, D.5, D.6, D.7, D.9, D.10, D.11, D.12, D.13, D.14, D. 15.

12. Strategy for feedback and student support during module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

13. Indicative Resources

Core Texts

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.
- Discrimination (Employment and Occupation) Convention, 1958, adopted by the ILO general conference, 42nd session, Geneva, June, 1958.
- Equal Remuneration Convention, 1951, adopted by the ILO general conference, 34th session, Geneva, June, 1951.
- Freedom of Association and Protection of the Right to Organise Convention, 1948, adopted by the ILO general conference, 31st session, San Francisco, June, 1948.
- Right to Organise and Collective Bargaining Convention, 1949, adopted by the International Labour Conference, 32nd session, Geneva, July, 1949.

Background Texts

- Auer, P, *Protected mobility for employment and decent work: Labour market security in a globalised world*, Employment strategy papers 2005/1, Employment analysis and research unit, employment strategy department, ILO, Geneva, 2005.
- Bercisson B and Estlund C, *Regulating labour in the wake of globalisation, new challenges, new institutions*, Columbia-London Law series, Hart publishing, Oxford and Portland, Oregon, USA, (2008).
- Boeri, T et al, *Labour regulations in developing countries: a review of the evidence and directions for future research, social protection and labour*, The World Bank, discussion paper no. 0833, October 2008.
- Sengenberger, W *International labour standards in the globalised economy: obstacles and opportunities for achieving progress*, Cambridge university press, Cambridge, United Kingdom, (2006).
- Storm, S, *Why labour market regulation may pay off: worker motivation, coordination and productivity growth*, ILO, employment analysis and research unit, Economic and labour market analysis department, Economic and labour market paper no. 4, 2007.
- World Bank, *The effects of globalisation on the working conditions of in developing countries: An analysis framework and country study results*, World Bank employment policy premier, no. 9, March, 2008.

Key websites and on-line resources

- www.ilo.org
- www.mifotra.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required

Others

- Flip charts and markers

14. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

15. Module Team

a) Academic staff

1. Ms. Angelina Muganza- Executive Secretary of the Public Service Commission- Rwanda.
2. Prof. David Woolfrey – Professor of law from South Africa.
3. Mr. Kananga Patrick –Director of Labour Administration – MIFOTRA.

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The private sector federation (PSF) of Rwanda
3. Ministry of Justice (MINIJUST)
4. Rwanda Bar Association
5. ILO- Rwanda country office.

c) Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 5: LABOUR DISPUTE RESOLUTION

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Labour Dispute Resolution
3. **Year:** 1 year of DLLP **Semester:** 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Individual labour law, collective employment law and conflict management.
5. c. **Co-requisite module(s):** No
5. d. **Prohibited combinations:** None

5. Allocation of study and teaching hours (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

6. Brief description of aims and content (not more than five lines)

This module focuses on the various forms of labour dispute resolution in and outside work. The module will enable students to gain a better understanding of matters of jurisdiction, types of dismissal, grounds for dismissal and the mechanisms available to resolve labour disputes.

7. Graduate Attributes & Learning Outcomes

E. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

- A.1. The various forms of dispute resolution that are used in instances of disputes in labour matters.
- A.2. The various organs involved in the labour dispute settlement and how they function.
- A.3. Knowledge and understanding of the process of Conciliation, Co-arbitration and arbitration

- A.4. The dismissal process in the public and private sector and handling of proof in such cases
- A.5. The concept of arbitration, the legal requirements and how it is done in labour matters
- A.6. Understand the concept and application of review in labour matters.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively handle labour related disputes both at work and outside work
- B.2. Using the acquired skills and knowledge deal with and appropriately resolve labour disputes
- B.3. Demonstrate the ability to handle labour disputes and provide original responses to the challenges facing labour dispute resolution in Rwanda.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

- C.1. Communicate with peers, more senior colleagues, special experts on work related dispute resolution in and outside of work.
- C.2. Use ICT to carry out research and find solutions to different issues arising from work related dispute resolution.
- C.3. Disseminate practical knowledge on work related dispute resolution to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in labour dispute resolution.
- D.2. Express a high degree of autonomy, with full responsibility in implementing labour dispute resolution.
- D.3. Demonstrate self-drive in handling any issues relating to labour dispute resolution and finding viable and lasting solutions.

b. Employability and career development

Having successfully completed this module, students should be able to:

- D.4. Effectively and practically perform any career involving labour dispute resolution.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues involved in labour dispute resolution from a national, regional and international perspective.

D.6. Look labour dispute resolution from a wider perspective and pursue it to a much high level locally and regionally.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take their own personal initiatives to keep upgrading their skills and knowledge in order for them to adequately handle any emerging issue in labour dispute resolution.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal in labour dispute resolution both at work and outside of work.

D.9. Work with people of different age, gender, race, religion, political persuasion in matters of labour dispute resolution.

D.10. Work as an individual and as a member of a team in order to promote best practices labour dispute resolution.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Carry out research and apply new developments in labour dispute resolution.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use the acquired skills in resolving labour disputes both at work and outside of work.

D.13. Demonstrate high levels of integrity at the workplace and work as role models when handling labour disputes.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively handle and resolve labour disputes to the satisfaction of the employer thus leading to a reduction in the number of work related disputes heading to court.

8. Indicative Content

- Organs of labour administration
 - i) Labour administration
 - ii) National labour council
 - iii) Occupational safety and health committees
 - iv) Labour inspection
 - v) Private employment agencies.
- Jurisdiction in Conciliation, Co-arbitration and arbitration
- Dismissal
 - i) What is a dismissal?
 - ii) What are the different types of dismissal?
 - iii) Onus of proof in dismissal disputes
- Misconduct
 - i) What is misconduct?
 - ii) What are the types of misconduct?
 - iii) Fairness in misconduct dismissals
- Dismissal for incapacity
- Remedies for unfair dismissals
- Arbitration
 - i) Introduction to Arbitration
 - ii) Fair Arbitration process
 - iii) Jurisdiction to Arbitrate
 - iv) How to conduct Arbitration
 - v) Stages of the Arbitration process
- Review
- Variation and rescission

9. Learning and teaching strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

10. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, A.6, B.1, B.2., B.3, B.4, C.2, D.5, D.6, D.9, D.10, D.11, D.12, D.13, D.14.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2., B.3, B.4, C.2, D.5, D.6, D.9, D.10, D.11, D.12, D.13.

12. Strategy for feedback and student support during the module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

13. Indicative Resources

Core Text

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.
- Discrimination (Employment and Occupation) Convention, 1958, adopted by the ILO general conference, 42nd session, Geneva, June, 1958.
- Equal Remuneration Convention, 1951, adopted by the ILO general conference, 34th session, Geneva, June, 1951.
- Freedom of Association and Protection of the Right to Organise Convention, 1948, adopted by the ILO general conference, 31st session, San Francisco, June, 1948.
- Right to Organise and Collective Bargaining Convention, 1949, adopted by the International Labour Conference, 32nd session, Geneva, July, 1949.

Background Texts

- Auer, P, *Protected mobility for employment and decent work: Labour market security in a globalised world*, Employment strategy papers 2005/1, Employment analysis and research unit, employment strategy department, ILO, Geneva, 2005.
- Boeri, T et al, *Labour regulations in developing countries: a review of the evidence and directions for future research, social protection and labour*, The World Bank, discussion paper no. 0833, October 2008.

- Deain, S and Wilkinson, F ‘Rights Vs efficiency? The economic case for transnational labour standards’, *Industrial law journal*, December (1994)23, (4), 289-310.
- Hepple, B ‘New approaches to international labour regulation’, *Industrial law Journal*, December (1994)26, (4), 353-366.
- Hepple, B, ‘Labour laws and global trade’, *Industrial law journal*, (2005)34, (4), 302-405.
- Sengenberger, W *International labour standards in the globalised economy: obstacles and opportunities for achieving progress*, Cambridge university press, Cambridge, United Kingdom, (2006).
- Storm, S, *Why labour market regulation may pay off: worker motivation, coordination and productivity growth*, ILO, employment analysis and research unit, Economic and labour market analysis department, Economic and labour market paper no. 4, 2007.

Key websites and on-line resources

- www.ilo.org
- www.mifotra.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required

Others

- Flip charts and markers

14. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited.

15. Module Team

a) Academic staff

1. Prof. David Woolfrey – Professor of law from South Africa.
2. Mr. Kananga Patrick –Director of Labour Administration – MIFOTRA.
3. Ms. Angelina Muganza- Executive Secretary of the Public Service Commission- Rwanda.

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The private sector federation (PSF) of Rwanda
3. Ministry of Justice (MINIJUST)
4. Rwanda Bar Association
5. ILO- Rwanda country office.

16. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 6: SOCIAL SECURITY LAW, HEALTH AND SAFETY AT WORK

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Social Security Law, Health and Safety at Work
3. **Year:** 1 year of DLLP **Semester:** 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Individual labour law, collective employment law and conflict management.
5. c. **Co-requisite module(s):** No
5. d. **Prohibited combinations:** None
6. **Allocation of study and teaching hours (See Notes of Guidance)**

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content (not more than five lines)**

This module focuses on social security from a wider perspective. It delves into some of the key aspects of social security such as social assistance and protection and occupational health and safety at the work place. The module will enable students get a proper insight into the various social security notions from a local and international perspective. They will then be able to compare what they have learnt with the actual on ground.

8. **Graduate Attributes & Learning Outcomes**

F. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

A.1. Social security and its surrounding notions;

A.2. Social assistance schemes (the need for social security, who is subjected to social security in Rwanda, risks covered: professional, work accidents, actual work accidents, route accidents and occupational illness).

A.3. Health and safety at work: provisions and implementation, including inspection.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

B.1. Master and effectively apply the social security notions at their places of work

B.2. Comply with social security requirements as enshrined in the applicable legal instruments

B.3. Make informed social security decisions in their day to day work.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

C.1. Communicate and engage their peers, more senior colleagues and experts on matters relating to social security.

C.2. Use ICT to carry out social security related research that in turn guides decision and policy makers

C.3. Disseminate practical knowledge in social security and its surrounding notions to a wide range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

D.1. Recognize, critically analyse, evaluate, appreciate and apply social security notions in their day to day work.

D.2. Express a high degree of autonomy, with full responsibility while exercising their social security obligations/duties.

D.3. Demonstrate a sense of integrity and other values in social security related matters.

b. Employability and career development

Having successfully completed this module, students should be able to:

D.4. Effectively apply ethical standards in social security related matters in their career.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues involved in social security related matters from a national, regional and international perspective.

D.6. Understand social assistance schemes and occupational safety and health from a national and global perspective and their impact towards achieving the decent work agenda.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take their own personal initiatives to keep upgrading their skills and knowledge in the area of social security order for them to adequately handle any emerging social security challenges.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level

D.9. Work with people of different age, gender, race, religion, political persuasion

D.10. Work as both as an individual or a team member in order to promote good social security practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Formulate ideas on social security matters as a result of the reading, researching and professional discussion.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively deal ethics issues relating to social security

D.13. Demonstrate integrity in the workplace and act responsibly towards others at work and in their everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply ethical standards in social security matters thus reducing occupational risks and accidents and thus respecting the social security rights of workers.

9. Indicative Content

- Comparative and international bench marks and developments in social protection and social security.
- Definition of social security (coverage, social insurance, Rwanda Health Insurance -RAMA, Military Medical Insurance-MMI, Community Based Health Insurance – (CBHI).
- Social assistance schemes (the need for social security, who is subjected to social security in Rwanda, risks covered: professional, work accidents, actual work accidents, route accidents and occupational illness).
- Health and safety at work: provisions and implementation, including inspection.

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, B.1, B.2, B.3, C.2, D.1, D.2, D.3, D.4, D.5, D.6, D.8, D.9, D.10, D.11, D.12, D.13.
Final assessment	50	A.1, A.2, A.3, B.1, B.2, B.3, C.2, D.1, D.2, D.3, D.4, D.5, D.6, D.8, D.9, D.10, D.11.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive module. They will hence have the opportunity to give feedback. An evaluation form will be given to all students at the end of the course.

14. Indicative Resources

Core Texts

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.
- Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Law n° 70/2018 of 31/08/2018 amending Law n°03/2015 of 02/03/2015 governing the organisation of community-based health insurance scheme in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.
- Protocol no. 155 of 2002 to the Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 90th session, Geneva, June, 2002.
- Recommendation no.194, List of Occupational Diseases, 2002, adopted by the general conference of ILO, 90th session, Geneva, June, 2002.
- Recommendation no.184 on Home Work, 1996 adopted by the International Labour Conference, 83rd session, Geneva, June, 1996.
- Recommendation no. 067 of Philadelphia concerning Income Security, 1944, adopted by International Labour Conference, 26th Session, Philadelphia, April, 1944.
- International labour conference (ILC), Promotional Framework for Occupational Safety and Health Recommendation, 2006, adopted by the International Labour Conference, 95th Session, Geneva, May, 2006.

Background Texts (include number in library or URL) (inc ISBN)

- Boeri, T et al, *Labour regulations in developing countries: a review of the evidence and directions for future research, social protection and labour*, The World Bank, discussion paper no. 0833, October 2008.

- Sengenberger, W *International labour standards in the globalised economy: obstacles and opportunities for achieving progress*, Cambridge university press, Cambridge, United Kingdom, (2006).
- Bray, M and Murray, G 'Globalisation and labour regulation', *The journal of industrial relations*, (June 2000)42,(2), 167-172.
- Deain, S and Wilkinson, F 'Rights Vs efficiency? The economic case for transnational labour standards', *Industrial law journal*, December (1994)23, (4), 289-310.
- Compensation for occupational injuries and diseases amendment act (COIDA), Act n° 61 of 1977 as amended.
- Decree law of 22 August 1974 concerning the organisation of social security in Rwanda, Published in the 1977 official gazette, p 42 as amended.
- International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.
- ILO, *Social security: A new consensus*, Geneva, International Labour Office, 2001.
- International Labour Office, Social security standards and the ILO campaign for the extension of social security, adopted at the 303rd Session of Governing Body, Geneva, November 2008.
- International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.
- Al-Tuwaijri Sameera et al, *Beyond death and injuries: the ILO's role in promoting safe and healthy jobs*, (2008), Geneva, ILO.
- Langendonck Jef van (ed.), *The right to social security*, (2007), vol.12, Antwerpen-Oxford, Intersentia.
- Mashava Lawrence, *A compilation of essential documents on the right to social security* (2000), vol.6, Pretoria, centre for human rights, South Africa.
- Olivier MP, Smit N and Kalula ER, *Social Security: a legal Analysis*, (2003), University of Cape Town, Lexis Nexis Butterworth.
- Olivier MP et al, *Introduction to social security*, (2004), Durban, Lexis Nexis Butterworths.
- Olivier MP et al, *The extension of social security protection in South Africa- a legal inquiry*, (2001), Siber ink CC, Claremont, South Africa.

Key websites and on-line resources

- www.ilo.org
- www.mifotra.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers who will be invited.

16. Module Team

a) Academic staff

1. Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.
2. Mr. Godfrey Kamukunde (Labour law specialist, consultant, advocate at Rwanda Bar Association and Part time lecturer - ILPD, ULK).

b) Guest speakers would include people from:

1. Ministry of Public Service and Labour (MIFOTRA)
2. The Supreme Court
3. Ministry of Justice (MINIJUST)
4. Military Medical Insurance (MMI)
5. ILO- Rwanda country office
6. Rwanda Social Security Board (RSSB).

b) Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 7: FIELD ATTACHMENT AND PROJECT WORK

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Field attachment and project work
3. **Year:** 1 year of DLLP **Semester:** 2 **Credits:** 60
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Individual labour law, collective employment law and conflict Management.
5. c. **Co-requisite module(s):** All
5. d. **Prohibited combinations:** None

5. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	
Seminars/workshops	
Practical classes/laboratory	
Structured exercises	
Set reading etc.	
Self-directed study	
Assignments – preparation and writing	
Examination – revision and attendance	
Other: Practice	All 60 credits
Total	

6. **Brief description of aims and content** (not more than five lines)

The objective of this module is to get students acquainted with real-life working experiences and to enable them put into practice what they have studied.

The module objectives are:

- To provide practical and job-related competences to the students.
- To develop and inculcate into students work ethics and experience sharing.
- To provide an interactive environment for trainers, students and stakeholders.
- To enable application of the principles and techniques theoretically into real life problems solving solutions.

7. Graduate Attributes & Learning Outcomes

G. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

- A.1.** How to apply practical and job-related competences in their daily duties
- A.2.** Labour and social security laws and their surrounding notions and applying these in real life situations.
- A.3.** Application of the principles and techniques theoretically into real life problems solving solutions
- A.4.** How to interact with their employers and different stakeholders/labour market players.
- A.5.** Apply work ethics and standards in their daily duties.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1.** Effectively apply the acquired theoretical labour law knowledge into real life problems solving;
- B.2.** Demonstrate practical responses to issues arising from the application of labour and social security laws;
- B.3.** Effectively handle any practical issues arising at the workplace.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

- C.1.** Communicate with peers, more senior colleagues, special experts on practical skills acquired from the field work;
- C.2.** Use ICT to carry out research and apply any emerging developments in labour and social security laws;
- C.3.** Disseminate practical knowledge in labour and social security laws to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1.** Recognize, critically analyze, evaluate, appreciate, express and solve practical issues encountered in workplace;
- D.2.** Express a high degree of autonomy, with full responsibility in handling practical labour and social security law issues.

D. 3. Plan and organise labour and social security related work.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. Practically perform any labour and social security related career.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Understand different practical issues involved in labour and social security law practice from a national, regional and international perspective.

D.6. Understand and solve practical labour and social security issues arising from factors such as globalisation and integration.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiatives and update their knowledge and skills for them to adequately handle any emerging issue in the area of labour and social security.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level.

D.9. Work with people of different age, gender, race, religion, political persuasion.

D.10. Work as an individual and as a member of a team in order to promote labour law practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Formulate ideas on labour and social security matters as a result of the practice.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively handle labour and social security related issues.

D.13. Demonstrate integrity in the workplace and act responsibly towards others at the work and in their everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply practical skills in handling labour and social security related cases which will lead to better performance at the work place thereby saving money for the employer and the employee alike.

8. Indicative Content

- The application of the theoretical knowledge acquired in different modules as indicated above.

9. Learning and Teaching Strategy

The field work will be done under the supervision of a mentor designed by ILPD from a pool of experts with practical skills in labour and social security matters.

10. Assessment Strategy

The assessment strategy will focus on in performance in practical assignments at field work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
Field attachment:	100	All learning outcomes will be covered at the end of this module.

12. Strategy for feedback and student support during module

This will be a student-centred learning. They will hence have the opportunity for give their feedback. An evaluation form will be given to all students at the end of the module.

13. Indicative Resources

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.
- Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Law n° 70/2018 of 31/08/2018 amending Law n°03/2015 of 02/03/2015 governing the organisation of community-based health insurance scheme in Rwanda.

- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.
- Protocol no. 155 of 2002 to the Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 90th session, Geneva, June, 2002.
- Recommendation no.194, List of Occupational Diseases, 2002, adopted by the general conference of ILO, 90th session, Geneva, June, 2002.
- Recommendation no.184 on Home Work, 1996 adopted by the International Labour Conference, 83rd session, Geneva, June, 1996.
- Recommendation no. 067 of Philadelphia concerning Income Security, 1944, adopted by International Labour Conference, 26th Session, Philadelphia, April, 1944.
- International labour conference (ILC), Promotional Framework for Occupational Safety and Health Recommendation, 2006, adopted by the International Labour Conference, 95th Session, Geneva, May, 2006.

Background Texts (include number in library or URL) (inc ISBN)

- Al-Tuwaijri Sameera et al, *Beyond death and injuries: the ILO's role in promoting safe and healthy jobs*, (2008), Geneva, ILO.
- Boeri, T et al, *Labour regulations in developing countries: a review of the evidence and directions for future research, social protection and labour*, The World Bank, discussion paper no. 0833, October 2008.
- Bray, M and Murray, G 'Globalisation and labour regulation', *The journal of industrial relations*, (June 2000)42,(2), 167-172.
- Compensation for occupational injuries and diseases amendment act (COIDA), Act n° 61 of 1977 as amended.
- Deain, S and Wilkinson, F 'Rights Vs efficiency? The economic case for transnational labour standards', *Industrial law journal*, December (1994)23, (4), 289-310.
- Decree law of 22 August 1974 concerning the organisation of social security in Rwanda, Published in the 1977 official gazette, p 42 as amended.
- ILO, *Social security: A new consensus*, Geneva, International Labour Office, 2001.

- International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.
- International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.
- International Labour Office, Social security standards and the ILO campaign for the extension of social security, adopted at the 303rd Session of Governing Body, Geneva, November 2008.
- Langendonck Jef van (ed.), *The right to social security*, (2007), vol.12, Antwerpen-Oxford, Intersentia.
- Mashava Lawrence, *A compilation of essential documents on the right to social security* (2000), vol.6, Pretoria, centre for human rights, South Africa.
- Olivier MP et al, *Introduction to social security*, (2004), Durban, Lexis Nexis Butterworths.
- Olivier MP et al, *The extension of social security protection in South Africa- a legal inquiry*, (2001), Siber ink CC, Claremont, South Africa.
- Olivier MP, Smit N and Kalula ER, *Social Security: a legal Analysis*, (2003), University of Cape Town, Lexis Nexis Butterworth.
- Sengenberger, W *International labour standards in the globalised economy: obstacles and opportunities for achieving progress*, Cambridge university press, Cambridge, United Kingdom, (2006).

Key websites and on-line resources

- www.ilo.org
- www.mifotra.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- computer at work place

Computer requirements

- Laptop will be required

Others

- Mentorship form

14. Please add anything else you think is important

- ILPD will avail facilities for mentors

15. Module Team

a) Mentors

Experts from the following institutions will be mentors:

- Ministry of Public Service and Labour (MIFOTRA)
- The Supreme Court
- Ministry of Justice (MINIJUST)
- Military Medical Insurance (MMI)
- ILO- Rwanda country office
- Rwanda Social Security Board (RSSB).

b) Unit approval

Rector, Vice Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 8: RESEARCH PAPERS IN LABOUR LAW PRACTICE

1. **Module Code:** CTE 1111 **Institution:** ILPD
2. **Module Title:** Research papers in Labour law practice
3. **Year:** 1 year of DLLP **Semester:** 2 **Credits:** 20
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Individual labour law, collective employment law and conflict Management.
5. c. **Co-requisite module(s):** Social Security Law, Health and Safety at Work
5. d. **Prohibited combinations:** None

5. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	
Seminars/workshops	50
Practical classes/laboratory	
Structured exercises	
Set reading etc.	
Self-directed study	
Assignments – preparation and writing	
Examination – revision and attendance	
Other: Research project	150
Total	200

6. **Brief description of aims and content** (not more than five lines)

The objective of this module is to get students acquainted with research skills which would enable them carry out research in labour and social security matters. Through research, students would be exposed to and try to handle some of the challenges employers and employees encounter in their pursuit of work.

7. **Graduate Attributes & Learning Outcomes**

H. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and an understanding of:

- A.1.** The methods and techniques of research in labour and social security matters.
- A.2.** Analysis of labour and social security data.
- A.3.** Presentation of their research findings.

A.4. Application of research findings to solve real life problems.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively apply theoretical research findings into real life problems solving;
- B.2. Demonstrate research based solutions to issues arising from labour and social security practice;
- B.3. Effectively use research to find solution to any practical issue arising from labour and social security practice.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, students should be able to:

- C.1. Communicate with peers, more senior colleagues, specialists and experts on the research findings in labour and social security law;
- C.2. Use ICT to carry out research and find solution to any emerging issue in labour and social security matters;
- C.3. Disseminate research finding in labour and social security matters to a wide range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. collect and critically analyse labour and social security data;
- D.2. express a high degree of autonomy, with full responsibility in researching on practical labour and social security issues;
- D. 3. Plan and organise their research in labour and social security matters.

b. Employability and career development

Having successfully completed this module, students should be able to:

- D.4. Use the acquired research skills in the effective pursuit of their career in labour and social security matters.

c. Global citizenship

Having successfully completed this module, students should be able to:

D.5. Practically carryout and handle different labour and social security mattes from a national, regional and international perspective.

D.6. Consider factors such as globalisation and integration in finding research based solutions to labour and social security issues.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiatives and update their knowledge and skills for them to adequately handle any emerging issue in the area of labour and social security.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at a different level

D.9. Carry out joint research with people of different age, gender, race, religion, political persuasion

D.10. Work as an individual and as a member of a team in order to promote research based labour and social security practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. As a result of research, students should be able to formulate new ideas in the area of labour and social security.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively handle labour and social security related issues;

D.13. Demonstrate integrity in the workplace and act responsibly towards others both in and outside of work.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Carry out research on different labour and social security issues with the aim of minimising costs of handling labour and social security matters at work.

8. Indicative Content

- Students will carry out research on different labour and social security issues
- Write two (2) research papers.

9. Learning and Teaching Strategy

- The student will be required to write two articles in labour and social security subjects/topics under the supervision of trainer selected by ILPD.
- The student will also be required to make a presentation of the two articles before a panel of experts selected by ILPD.

10. Assessment Strategy

The assessment strategy will focus on performance in practical assignments and field work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
2 research papers	50 per each (Total 100)	All learning outcomes will be covered upon completion of writing and presentation of the two papers required under this module.

12. Strategy for feedback and student support during module

This will be a student-centred learning. They will therefore have the opportunity for give their own feedback. An evaluation form will also be given to all students at the end of the course.

13. Indicative Resources

Core Text to read in research project

- Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.
- Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.
- Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.

- Law n° 70/2018 of 31/08/2018 amending Law n°03/2015 of 02/03/2015 governing the organisation of community-based health insurance scheme in Rwanda.
- Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.
- Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.
- Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.
- Protocol no. 155 of 2002 to the Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 90th session, Geneva, June, 2002.
- Recommendation no.194, List of Occupational Diseases, 2002, adopted by the general conference of ILO, 90th session, Geneva, June, 2002.
- Recommendation no.184 on Home Work, 1996 adopted by the International Labour Conference, 83rd session, Geneva, June, 1996.
- Recommendation no. 067 of Philadelphia concerning Income Security, 1944, adopted by International Labour Conference, 26th Session, Philadelphia, April, 1944.
- International labour conference (ILC), Promotional Framework for Occupational Safety and Health Recommendation, 2006, adopted by the International Labour Conference, 95th Session, Geneva, May, 2006.

Background Texts

- Auer, P, *Protected mobility for employment and decent work: Labour market security in a globalised world*, Employment strategy papers 2005/1, Employment analysis and research unit, employment strategy department, ILO, Geneva, 2005.
- Bercisson B and Estlund C, *Regulating labour in the wake of globalisation, new challenges, new institutions*, Columbia-London Law series, Hart publishing, Oxford and Portland, Oregon, USA, (2008).
- Boeri, T et al, *Labour regulations in developing countries: a review of the evidence and directions for future research, social protection and labour*, The World Bank, discussion paper no. 0833, October 2008.
- Sengenberger, W *International labour standards in the globalised economy: obstacles and opportunities for achieving progress*, Cambridge university press, Cambridge, United Kingdom, (2006).
- Storm, S, *Why labour market regulation may pay off: worker motivation, coordination and productivity growth*, ILO, employment analysis and research unit, Economic and labour market analysis department, Economic and labour market paper no. 4, 2007.

- World Bank, *The effects of globalisation on the working conditions of in developing countries: An analysis framework and country study results*, World Bank employment policy premier, no. 9, March, 2008.

Key websites and on-line resources

- <https://www.ilo.org/global/lang--en/index.htm>
- https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103460
- www.mifotra.gov.rw
- www.rssb.rw
- www.primature.gov.rw
- https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312232:NO
- www.ilo.org

Teaching/Technical Assistance

Laboratory space and equipment

- Books at library
- e-resources

Computer requirements

- Laptop will be required

Others

- Supervision form

14. Please add anything else you think is important

- ILPD will avail facilities for mentors

15. Module Team

a) Supervisors

Experts from the following institutions will supervise the papers:

- Ministry of Public Service and Labour (MIFOTRA)
- The Supreme Court
- Ministry of Justice (MINIJUST)

- Military Medical Insurance (MMI)
- ILO- Rwanda country office
- Rwanda Social Security Board (RSSB).

b) Unit approval

Rector, Vice Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

INSTITUTE OF LEGAL PRACTICE AND DEVELOPMENT (ILPD)

DIPLOMA IN LABOUR LAW PRACTICE (DLLP)

MISSION REPORT, CONCEPT NOTE, COURSE OUTLINE AND CHANGES BROUGHT BY LAW N° 66/2018 OF 30/08/2018 REGULATING LABOUR IN RWANDA

Authors: Professor Evance Kalula, Ph.D
Mr. Godfrey Kamukunde – (LLB, LLM - UCT)

September 2018

TABLE OF CONTENTS

APPRECIATION	- 4 -
SECTION ONE: MISSION REPORT FOR THE CONSULTATIONS ON THE NEED TO INTRODUCE A	- 5 -
DIPLOMA IN LABOUR LAW AND PRACTICE (DLLP) AT ILPD.....	- 5 -
1. OBJECTIVE.....	- 5 -
2. THE TARGETED BENEFICIARIES.....	- 5 -
3. CONSULTATIVE MEETINGS WITH KEY STAKEHOLDERS.	- 5 -
4. OUTCOME OF THE CONSULTATIONS.....	- 6 -
5. DELIVERY PLAN FOR THE MATERIALS PREPARED.....	- 8 -
6. WAY FORWARD.....	- 9 -
SECTION TWO: INTRODUCTION, METHODOLOGY & COURSE OUTLINE FOR THE DLLP MODULE	- 9 -
1. INTRODUCTION.....	- 9 -
2. GOAL OF THE PROGRAMME AND TARGETED BENEFICIARIES.....	- 9 -
3. ENTRY REQUIREMENTS	- 11 -
4. COURSE FEES	- 11 -
5. DURATION AND DELIVERY PLAN	- 11 -
i. Duration.....	- 11 -
ii. Delivery plan.....	- 13 -
6. MODE OF DELIVERY	- 14 -
a. Traditional face to face approach	- 15 -
b. Online Learning approach.....	- 15 -
c. Hybrid/Blended approach	- 16 -
d. Experiential learning	- 16 -
e. Use of case law and international labour standards (ILS).....	- 17 -
7. SUMMATIVE ASSESSMENT	- 18 -
8. MENTORSHIP	- 18 -
9. COURSE OUTLINE	- 18 -
Module 1: Contemporary Issues in Labour Law	- 18 -
Module 2: Individual Labour Law	- 19 -
Module 3: Collective Employment Law.....	- 20 -
Module 4: Management of Conflict	- 21 -
Module 5: Labour Dispute Resolution.....	- 22 -
Module 6: Social Security Law, Health and Safety at Work.....	- 23 -

SECTION THREE: KEY REFERENCES	- 24 -
PRIMARY SOURCES.....	- 24 -
Statutes.....	- 24 -
Conventions	- 24 -
CODES OF PRACTICE.....	- 25 -
Protocols and Recommendations	- 25 -
Regulations	- 26 -
National laws	- 27 -
SECONDARY SOURCES	- 27 -
ILO REPORTS AND SURVEYS.....	- 28 -
NATIONAL POLICY DOCUMENTS, REPORTS AND SURVEYS	- 29 -
SECTION FOUR: CHANGES BROUGHT BY THE NEW LAW N° 66/2018 OF	- 29 -
30/08/2018 REGULATING LABOUR IN RWANDA.....	- 29 -
1° SCOPE (ART.2)	- 29 -
2° MINIMUM AGE FOR ADMISSION TO EMPLOYMENT (ART.5).....	- 30 -
3° CONCLUSION OF EMPLOYMENT CONTRACT (ART. 11).....	- 30 -
4° MOVING AN EMPLOYEE TO ANOTHER POSITION (ART.17)	- 30 -
5° OCCUPATIONAL ACCIDENT OR DISEASE (ART. 19)	- 30 -
6° SUSPENSION OF EMPLOYMENT CONTRACT DUE TO ADMINISTRATIVE INVESTIGATION BY AN EMPLOYER (ART. 20)	- 30 -
7° RIGHT TO BE REINSTATED IN EMPLOYMENT AFTER BEING DISMISSED FOR ECONOMIC OR TECHNICAL REASONS (ART. 22).....	- 31 -
8° COMPENSATION NOTICE (ART. 25)	- 31 -
9° TERMINATION OF EMPLOYMENT CONTRACT FOR GROSS MISCONDUCT (ART. 26)	- 31 -
10° TERMINATION OF EMPLOYMENT CONTRACT (ART. 27 & 28)	- 31 -
11° DAMAGES FOR TERMINATION OF EMPLOYMENT CONTRACT (ART. 30).....	- 32 -
12° TERMINAL BENEFITS (ART. 31)	- 32 -
13° DISCIPLINARY SANCTIONS (ART. 42)	- 33 -
14° PRIVATE EMPLOYMENT AGENCIES (ART. 115).....	- 33 -
15° DECLARATION OF AN ENTERPRISE AND EMPLOYEES (ART. 116)	- 33 -
16° OFFENCES AND THEIR PENALTIES (ART. 117 AND 119)	- 34 -
17° ADMINISTRATIVE SANCTIONS	- 34 -
a) Obstructing the functioning of the labour inspectorate (Art. 120).....	- 34 -
b) Temporary closure of an enterprise (Art. 121).....	- 34 -
18° PAYMENT OF SALARIES FOR EMPLOYEES EXECUTING PUBLIC OR PRIVATE TENDERS (ART.122)	- 34 -
-	
19° ON-GOING EMPLOYMENT CONTRACTS AT THE TIME OF COMMENCEMENT OF THIS LAW (ART. 123)	- 35 -

APPRECIATION

This piece of work would not have come to finality had it not been for the important contribution from other people. We are therefore grateful to the team from the Center for Peace, Democracy, and Development, McCormack Graduate School of Policy and Global Studies, University of Massachusetts Boston (UMass Boston) for their financial support towards this project.

Most particularly, we are profoundly grateful to Professor Malcolm Russell-Einhorn and Mr. Seth Karamaga from UMass Boston for their tireless support during the inception phase of the project. Seth, your facilitation of the mission beyond the call of duty deserves immense commendation.

We would also like to extend our sincere thanks to the Government of Rwanda for making this happen. A big thank you to the Chief Justice – Professor Sam Rugege, the Rector of ILPD – Dr. Didas Kayihura, the then Dean of the School of Law – University of Rwanda – Dr Etienne Ruvebana and representatives from the International Labour Organisation (ILO) – Rwanda country office.

SECTION ONE: Mission report for the consultations on the need to introduce a Diploma in Labour Law and Practice (DLLP) at ILPD

1. Objective.

The idea of introducing a Diploma in labour Law practice (DLLP) was introduced by the ILPD following the persistent existence of gaps in the application of labour laws in Rwanda. Rwanda like many of its East African counter parts has no specialised labour courts dealing specifically with labour related matters nor does it have specialised labour law practitioners handling labour related matters including conciliation and arbitration.

It is against this backdrop that various but key stakeholders had to be consulted to get their view on whether they think the introduction of this course would be a good idea and what in their opinion they think (or would like) the course to cover. We also had to get their view on who they think should be the targeted beneficiaries.

2. The targeted beneficiaries.

According to all the stakeholders we met, the targeted beneficiaries should be Labour and social security law practitioners (both current and prospective) in Rwanda and those from within the region. They thus proposed: labour inspectors and judicial officers, labour administration staff, Occupational Safety and Health (OSH) experts both at Ministerial and company levels, National Labour Council (NLC) members, employees' delegates at the level of different institutions and companies, members of the Private Sector Federation (PSF) charged with labour related matters, trade unionists, human resource officers, industrial relations practitioners, managers and legal practitioners.

3. Consultative meetings with key stakeholders.

The following key stakeholders were met:

- i) The Ministry of Public Service and Labour (MIFOTRA)
- ii) The Private Sector Federation(PSF)
- iii) CESTRAR (Trade Union)
- iv) International Labour Organisation (ILO) –Rwanda country office
- v) The office of the Chief Justice
- vi) The Institute of Legal Practice and Development (ILPD)
- vii) Various labour inspectors
- viii) Selected Human Resource Professionals from two large companies in Rwanda

- ix) University of Rwanda (UR) – School of law, and
- x) Selected legal practitioners from well-established law firms.

4. Outcome of the consultations.

All the stakeholder consulted voiced strong support and demonstrated overwhelming enthusiasm for the introduction of the programme. Indeed, the reaction to the proposed course was unanimous, in warmly welcoming the opportunity it would present.

To take a number of examples, the Ministry of Public Service and Labour in which inspectors are based, spoke of the difficulties of lack of trained capacity that hinders the proper implementation of both Rwandan law and international obligations, in particular ILO Conventions ratified by Rwanda.

Similarly, the Chief Justice welcomed the initiative which he thought would improve judges' role in Labour Law and dispute resolution and thus enhance the effectiveness of judicial intervention. In particular, we were pleasantly surprised by the Chief Justice's eagerness to have the Programme include judges at all levels.

The Dean of the School of Law at the University of Rwanda similarly welcomed such a course, which would not only add practical value to legal practitioners but also provide the opportunity for synergy between the School and the ILPD.

The representative of the ILO we met was also keen on the course and like the Director of the ILPD, saw the possibility of embracing the rest of the region drawing on existing ILO programs for Rwanda and the regional office. In his view the Programme would enhance Rwanda's capacity to implement both Core and ratified Conventions.

More generally, the ILO and the University of Rwanda's School of Law saw good prospects of synergy between some of their projects and Programmes, and the course. Below is a recap of the outcomes of the consultation:

- i) The need for the programme to be designed in such a way that it can be undertaken by lawyers and non-lawyers. This according to them is because most of the labour and social security practitioners in Rwanda and the region are not necessarily trained lawyers. The cited examples include labour inspectors in Rwanda and Human

Resource Professionals who are in most cases engaged in the application of labour and social security laws.

- ii) The course should help bridge the current labour law skills gap among various practitioners – Judges, advocates, labour inspectors, etc. It was also noted that most of the judges and practitioners lack hands-on experience or specific training in labour related matters. This in turn affects the quality of judgements rendered, interpretation and application of labour laws.
- iii) The introduction of the course would help Rwanda and the region at large build a pool of labour law specialists. These specialists would in the long run help change the interpretation and application of labour laws in their own countries. They would also engineer change in labour and social security laws and policies in their respective jurisdictions.
- iv) Teaching the course in Rwanda would help the government reduce on the cost of training its employees in labour and social security related matters. We established that the government of Rwanda sends a specific number of its employees to different labour law training centres in Africa and the world at large. For instance, some employees are sent to the ILO training centre in Cameroon, others to Mauritius and Turin – in Italy, etc. This proves very expensive for them yet a limited number of employees benefit.
- v) The need for a reduction in the number of labour disputes heading to court. It was highlighted during the consultations that many of the labour disputes go to court either because the labour inspectors did not carry out well the conciliation process or because the various practitioners did not properly apply (or interpret) the law to address the situation at hand. This breeds conflicts at work and sometimes violation of the rights of workers. Skills and knowledge from the course would help bridge this gap.

Nonetheless, some challenges were also highlighted by some of the stakeholders consulted.

One of the most apparent that the Chief Justice drew our attention to was lack of sufficient time at the disposal of an already stretched Judiciary. He nevertheless recognized the importance of the course and said that he would endeavor to enable as many judges and other judicial officers to participate.

In stressing the need to take account of existing initiatives in the region, it could be implied that the ILO official was flagging the need not to duplicate what is already in place but he nonetheless acknowledged that no similar Programme exists in the region and hoped there would be prospects to extend it to other countries in the region.

Fear was also expressed on whether the labour law practitioners who will be trained will come up as specialists and not practitioners. They expressed the need for the course to be drafted in such a way that it facilitates and empowers practitioners such as labour inspectors to effectively carry out their work.

The representative of the Ministry of Public Service and Labour (MIFOTRA) voiced the need for the curriculum to touch some of the conventions ratified by Rwanda, so that the trainees get an insight into what these are and the benefits of their ratification. He expressed concerns regarding the disregard of the application of the already domesticated conventions, thus leading to the violation and sometimes neglect of the international standards and labour rights of workers.

All in all, it is envisaged that the responses to all the above mentioned gaps will be provided during our additional meetings with the stakeholders.

5. Delivery plan for the materials prepared.

Given the wide scope and coverage of the module, we realised that there is need for the development of the different sources and materials for the course. Once developed, these materials will be shared with all the students during the course.

Since the sourcing and development of the relevant course materials was not part of the scope of our work, a separate arrangement for their sourcing and development may need to be discussed and agreed upon.

6. Way forward.

Given the submission deadline to the high council of education that ILPD has set for itself, there is need for the module to be finalised by the end of November or early December 2018 so that the necessary approvals are sought before the end of the year. We are working towards this deadline.

From our discussion with the ILPD, they would like the course to be both local and international/regional. This implies that they will be accepting applicants from East Africa and the rest of Africa. It is therefore envisaged that the lecturers would be predominantly Rwandan. Nonetheless, in keeping with current capacity inadequacy and the need for understudy, some lecturers from outside Rwanda will be included not only to ensure international benchmarking but also to anticipate ILPD plans to go international, particularly in the region.

SECTION TWO: Introduction, methodology & course outline for the DLLP Module

1. Introduction

The Institute of Legal Practice and Development (ILPD) proposes to introduce a Diploma programme in Labour Law Practice (DLLP). The course, which is proposed to commence in 2019, would offer a diploma in keeping with the ILPD's mandate in other areas. The proposed programme will be a 'labour law in context' course.

This document provides an outline of the proposed course, along with timelines as part of the work plan.

2. Goal of the programme and targeted beneficiaries

The course is proposed with the aim of creation of a programme in Labour Law and Practice, to enhance knowledge and skills in the application of labour law in different settings, initially in Rwanda, but with the possibility of adapting the course for participants from different countries of the region.

The course works from the reality that the day to day practice of labour law at an advanced level and in its full spectrum largely is in the hands of labour law practitioners who often are

non-lawyers. It will be aimed at professionals, including labour inspectors and judicial officers, labour administration staff, Occupational Safety and Health (OSH) experts both at Ministerial and company levels, National Labour Council (NLC) members, worker's delegates at the level of different institutions and companies, members of the Private Sector Federation (PSF), trade unionists, human resource officers, industrial relations practitioners, managers, legal practitioners, owners and senior employees of businesses and labour consultants.

For a variety of reasons, it often is difficult for these practitioners to undertake a formal study both of labour law and the practice of labour law at the required advanced level.

As such, the goal of this course is to provide labour law practitioners with the opportunity to study both labour law and the practice of labour law at a level comprehensive and advanced enough to ensure a high quality of service delivery in an advisory capacity to their employers and clients in both the private and public sectors.

During the course, the study of labour law principles will be undertaken at a detailed level. Consideration is also given to the fact that law most often is taught in a rather sterile classroom environment where students are provided with static sets of facts and required to apply principles to facts. While it is true that this skill remains at the core of any practice of law (and labour law), the reality is that principles are not always static, facts are not always static and there are processes to follow in real life within which principles are applied. In short, you cannot study labour law without studying labour law practice and procedure as well.

Ultimately, this comprehensive course aims to provide participants with the required knowledge and skills to function as 'ready to practice' arbitrators, conciliators or representatives of, or advisors to their employers or organisations in all areas of labour law.

Upon completion of the programme, participants will be equipped in the following:

- i) will have fundamental knowledge of labour law and its application in the Rwandan labour market and context;
- ii) will have a deeper understanding of labour law and the ability to apply it in practice;
- iii) will be able to conduct basic and essential workplace dispute resolution and *in limine* hearings effectively;

- iv) will be able to draft legal documents including arbitration awards and rulings.
- v) Will have the necessary soft skills, interpersonal skills and communication skills and the ability to appropriately apply them during labour dispute prevention and resolution processes.

3. Entry Requirements

The entry requirements for the course are possession of at least a Bachelor's degree in any field with an interest to specialise in labour law and practice.

4. Course Fees

The course fees will be determined by ILPD and any changes in the fees structure will be communicated from time to time.

5. Duration and delivery plan

i. Duration

The course will be offered for a duration of 24 weeks (6 months). Six (6) weeks will be used for interface between the lecturers and students, while the remaining 18 weeks will be used for field work under the mentorship programme, assignments/exercises, individual/group presentations and course work. The mentors for the respective topics will be the responsibility of the ILPD. For international students, the mentors will be identified by ILPD in the respective country of origin of the student.

The 24 weeks will be taught in two (2) semesters, each semester covering 12 consecutive weeks as follows:

- a) First semester:
 - The first 3 weeks will be for contact time (classroom lectures). This implies face to face interaction between the instructor and the participant. During this period, at least three (3) modules in line with the course outline will be covered.
 - The remaining nine (9) weeks will be for mentorship, assignments/exercises, individual/group presentations and course work.

b) Second semester:

- The first 3 weeks of this semester will also be for contact time (classroom lectures). This implies face to face interaction between the instructor and the participant. During this period, the remaining three (3) modules in line with the course outline will be covered.
- The remaining nine (9) weeks of this semester will also be for mentorship assignments/exercises, individual/group presentations and course work.

There will also be two written papers during the course – one at the end of each semester. Students will be allowed a period of one month (at the end of every semester) to make a presentation on the findings in their respective papers.

The topic to be presented on by each respective student will be chosen from the topics taught/covered in that respective semester. Those who fully qualify in the 1st Semester will be the only ones eligible to continue to the 2nd Semester.

The same period (1 month) will be used to attend to any outstanding issues for students (appeals, orientation, re-taking the course, etc).

In the period of interface between lecturers and students, there will be individual assignments given by each respective guest lecturer to students. These may be marked by the respective guest lecturer who handled the module.

Depending on availability, course materials may be sent in advance to students to enable them familiarize themselves with those materials before the commencement of the teaching by the guest lecturer.

As indicated below, since the course is further broken down into six (6) modules, the contact period in the first semester will be used to cover the first three (3) modules while the remaining three (3) modules will be covered in the contact period in the second semester.

ii. Delivery plan

Weeks (based on the assumption that the length of the course is 6 months)	1	2	3	4	5	6	7	8	9	10	11	12
FIRST SEMESTER												
Contact Period (classroom lectures)												
1. Contemporary issues in Labour Law												
Social Justice in the context of Rwanda												
History of labour law in Rwanda												
The International Labour Organisation(ILO)												
Ethics in Labour Law												
Individual assignments/exercises												
2. Individual Labour Law												
Individual labour Law												
Basic conditions of employment legislation in Rwanda												
Equity and Discrimination at work												
Skills development and Vocational training												
Individual assignments/exercises												
3. Collective Employment Law												
What is collective Labour law												
Organisational rights												
Industrial action												
Collective agreements												
Dispute resolution institutions created by the law												
Individual assignments/exercises												
Mentorship programmes, Assignments/exercises, individual/group presentations and course work												
Evaluation of assignments and mentorship.												
Presentation of a written paper												
SECOND SEMESTER												
Weeks (based on the assumption that the length of the course is 6 months)	13	14	15	16	17	18	19	20	21	22	23	24
Contact Period (classroom lectures)												
4. Conflict Management												
Dispute management												

Performance evaluation and appraisal in the public and private sector													
Conciliation													
Application of sanctions at work													
Individual assignments/exercises													
5. Labour Dispute Resolution													
Organs of labour administration													
Jurisdiction in conciliation, co-arbitration and arbitration													
Dismissal													
Misconduct													
Dismissal for incapacity													
Remedies for un fair dismissals													
Arbitration													
Review													
Variation and recession													
Individual assignments/exercises													
6. Social Security Law, Health and Safety at Work													
Comparative and international bench marks and developments in social protection and social security													
Definition of social security coverage (social insurance, Rwanda Health Insurance, MMI and CBHI).													
Health and Safety at work: Provisions and implementations including inspections.													
Individual assignments/exercises													
Mentorship programmes, Assignments/exercises, individual/group presentations and course work													
Evaluation of assignments and mentorship.													
Presentation of a written paper													

6. Mode of delivery

In deciding the mode of delivery, consideration is given to the participants who will register for the course. Various factors must be taken into consideration including the working environments of the working class and the geographical location of the students.

There are various modes of delivery that are available and below we consider the advantages and disadvantages of each before making a decision on the mode that would be the most effective.

a. Traditional face to face approach

The traditional approach involves the course being fully delivered on the ILPD campus with face to face interaction between the instructor and the participant. This approach allows for participants to have direct interaction with lecturers on a regular basis. However, it assumes that all participants would be available to attend classes and it is time consuming, as such this approach may not be suitable for working participants or participants outside of Kigali.

The block of face to face teaching which we recommend is critical in not only allowing participants to interact with teachers but in the exchange of different experiences through group work. The reality however is that it would not be practical to have face to face learning and teaching for most participants who are bound to be working people. It would be therefore necessary to have some long distance learning elements such as assignments and work based projects included.

b. Online Learning approach

An online learning approach entails participants learning the entire contents of the programme online, with all materials and evaluations being made available to the participants online. This allows for participants to undertake distance learning thus catering to a wider range of participants. However, this approach only allows for minimal interaction between students and lecturers. Besides, the realities of online facilities available to most students should be taken into account.

That said, long distance learning in particular through electronic media would have limitations for many participants occasioned by the limited nature of infrastructure in Rwanda generally, and participants' specific situations.

c. Hybrid/Blended approach

This approach is perhaps the best solution for the proposed program, as it would combine the traditional face-to-face and online approaches. A portion of the course would be delivered on a face to face basis and the other portion would involve online learning, with materials being made available online to be used by participants. The benefits of the two approaches are therefore combined, making this the most effective mode of delivery. This approach allows for the benefits of the two approaches to be used.

Hybrid learning may take the form of block lectures whereby participants have traditional lectures with instructors for a certain period and thereafter access all necessary materials and evaluations online to complete the programme. Alternatively, hybrid learning may take the form of having lectures on weekends and participants accessing the materials and evaluations online.

Hybrid learning is viewed as the most effective mode of delivery for the proposed approach. It is proposed that the programme be presented through block lectures and other materials and evaluations be made available online. This will allow for a wider range of participants, including those outside of Kigali to participate. This is because this approach allows for participants to be on site for short periods of time and still be able to work.

In our considered opinion based on experience elsewhere, both in Africa and beyond, the blended approach is best for the kind of course taking into account both the practical situation of the target market of participants and what is feasible in the use process of both face to face and long distance learning.

d. Experiential learning

Experiential learning will be incorporated in the course in a number of ways. In keeping with the 'hands on' practical approach to the course, both examples of actual cases and devised case studies will be used. These will consist of real cases that have transpired in Rwanda and

other jurisdictions. In that respect, case studies devised by the ILO and used in various training workshops, including the Turin Training Centre.

As indicated in the work plan, while the ultimate intention is to develop local expertise as quickly as possible, to build capacity for sustainability, international experts will be used as guest speakers together with local experts.

In particular we got a sense that the ILO would be glad to assist with guest speakers and training experts. This approach is also in keeping with the ILPD's plans to expand the offer of this and other courses to the region and beyond. Experiential learning will also be heightened by practical role play in group work and in assignments intended to reinforce the practical nature of the course. **In addition, arrangements for attachments and short internships in relevant workplaces will be included to heighten experiential and practical learning outcomes.**

e. Use of case law and international labour standards (ILS)

In addition, the role of the courts, particularly jurisprudence in the form of cases will be a critical element of the conflict management section at two levels. The first level will be the use of case law as the ultimate authority in illustrating the practical impact of court decisions on the implementation of the law not only in conflict management but in other areas of the course as precedents.

Perhaps more importantly for our purposes – every court decision is an example of how that court went about analysing facts and law and applied the law to the facts of the case. As such, every court decision is an example of 'legal argument': reading cases will hone your ability to make a legal argument, which lies at the heart of your ability to practise labour law.

Court decisions will be therefore used as examples of how the law affects and guides practice.

The second level will be related to the use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to. The ILO has also developed training materials highlighting instances in which

courts can rely on ILS to reach decisions, to assist member states to implement fundamental principles of the ILO Constitution and ratified standards. This part will be particularly useful in the socialization not only judges and other judicial officers on the course but also other participants, like legal practitioners and workers' representatives.

7. Summative Assessment

Summative assessments will be carried out at the end of each module, and individual/group presentations, mentorship programme, course work and a written research paper will all be evaluated. A summative evaluation for the entire course will comprise marks for each of the elements that a student will be evaluated on.

8. Mentorship

It is proposed that each student should have a mentor who will support, guide and advise him/her on aspects of their work. They will plan the tasks with students and also assess them in respect of the assigned tasks. Mentorship will be for a period of 18 weeks in total – with at least 9 weeks per semester.

Mentors will be experienced professionals who themselves are good and respected models of practice in the same field as the students. Their role will be to coach students in fundamental skills and then assess their performance in real life situations.

ILPD will recruit, train and pay the mentors to perform those tasks. The role will normally take one day a week though can sometimes stretch to two. If all goes according to plan, mentors should be appointed by early March at the latest.

9. Course Outline

This section contains a detailed outline of the proposed modules of the course.

Module 1: Contemporary Issues in Labour Law

This module will provide an introduction to Labour Law from both a national and international perspective. The objectives of the module would be for the participants to gain a better understanding of Rwandan Labour Law, International Labour Law, the International Labour Organization and the concept of Social Justice.

The areas to be covered in the module will include:

- 1) Social Justice in the context of Rwanda
- 2) History of Labour Law in Rwanda
- 3) The International Labour Organization(ILO)
 - a) The history of the ILO
 - b) Role of the ILO
 - c) International Labour Standards
 - d) ILO conventions ratified by Rwanda
- 4) Ethics in labour law
 - a) Ethical conduct for officials, managers, representatives and practitioners
 - b) Ethical issues in dispute resolution, including mediation and conciliation
 - c) Standard of conduct of workplace actors and parties.

Module 2: Individual Labour Law

This module will focus on Individual Labour Law. Individual Labour Law regulates the relationship between workers, employing entities, trade unions and governments. The objective of this module is for participants to have an understanding of individual labour law by being able to identify the elements of the individual contract of employment and having an understanding of the Labour Law legislation and case law in Rwanda.

The areas to be covered in the module:

- 1) Individual Labour Law
 - a) Concept of Individual Labour Law

- 2) The Basic Conditions of Employment legislation in Rwanda
 - a) Who is covered by it?
 - b) What issues may be varied in terms of the law?
 - c) Employment termination
 - d) Notice Periods
- 3) The Equity and Discrimination at Work
 - a) What are the core principles of the law?
 - b) What is meant by Unfair Discrimination?
 - c) Child labour and its prohibited forms
 - d) What is meant by 'Sexual Harassment'?
 - e) Dispute resolution paths of disputes relating to alleged unfair discrimination
- 4) Skills Development and Vocational Training
 - a) Apprenticeship and internship contracts
 - b) Core principles of Rwandan labour laws and policies on skills development and vocational training.

Module 3: Collective Employment Law

This module will focus on Collective Labour Law. Collective Labour Law deals with matters relating to the tripartite relationship between employee, employer and union. The module will enable participants to have an understanding of the general principles of Collective Labour Law and Collective Agreements and the relevant Rwandan legislation.

The module will cover the following areas:

- 1) What is Collective Labour Law
- 2) Organizational Rights
 - a) What rights are covered by the law?
 - b) Rights of a Trade Union
 - i) When do they acquire organizational rights?

- ii) What are the rights of a trade union?
- 3) Industrial Action
 - a) What is a 'strike' in terms of the law?
 - b) What is a 'lockout' in terms of the law?
 - c) What constitutes Industrial Action?
- 4) Collective Agreements
 - a) What is a Collective Agreement?
 - b) How to determine whether an agreement is a collective agreement
- 5) Dispute resolution institutions created by the law?
 - a) Representation in dispute and grievance resolution.
 - b) Resolving unfair dismissal and other labour disputes

Module 4: Management of Conflict

This module will focus on conflict management in labour related issues, but incorporate fundamental conflict resolution approaches and methods. This module will enable participants to gain a better understanding of the principles relating to conflict management.

Topics covered will include:

- 1) Dispute management
 - i) Causes of work related disputes
 - ii) Managing work related disputes in the Public and Private Sector
 - a. Facilitating hard conversations
 - b. Dialogue versus Debate
 - c. Window opening and Door opening questions
 - d. Anger management (Emotional hijacking and science of human brain)

- e.
 - iii) Managing feed back from disputes for the affected people
- 2) Performance evaluation and appraisal in:
 - i) The public service
 - ii) The private sector
- 3) Conciliation
 - a) What is ‘conciliation’ in terms of Rwandan labour law?
 - b) What happens when conciliation fails?
 - c) The roles of:
 - i) The Public Service Commission/Council of Commissioners
 - ii) Disciplinary Committees
 - iii) Employees’ representatives.
- 4) Application of sanctions at work
 - a) Disciplinary sanctions and rules of procedure
 - b) Imposition of administrative sanctions in the public service
 - c) Appeal against administrative sanctions in the public service.
- 5) Case law in labour matters.

Module 5: Labour Dispute Resolution

This module will focus on the various forms of dispute resolution that can be used in instances of dispute in labour matters. The module will enable participants to gain a better understanding of matters of jurisdiction, types of dismissal, grounds for dismissal and the mechanisms available to resolve labour disputes.

The module will cover the following areas:

- 1) Organs of labour administration
 - i) Labour administration

- ii) National labour council
 - iii) Occupational safety and health committees
 - iv) Labour inspection
 - v) Private employment agencies.
- 2) Jurisdiction in Conciliation, Co-arbitration and arbitration
- 3) Dismissal
 - a) What is a dismissal?
 - b) What are the different types of dismissal?
 - c) Onus of proof in dismissal disputes
- 4) Misconduct
 - a) What is misconduct?
 - b) What are the types of misconduct?
 - c) Fairness in misconduct dismissals
- 5) Dismissal for incapacity
- 6) Remedies for unfair dismissals
- 7) Arbitration
 - a) Introduction to Arbitration
 - b) Fair Arbitration process
 - c) Jurisdiction to Arbitrate
 - d) How to conduct Arbitration
 - e) Stages of the Arbitration process
- 8) Review
- 9) Variation and Recession

Module 6: Social Security Law, Health and Safety at Work

- 1) Comparative and international bench marks and developments in social protection and social security
- 2) Definition of social security (coverage, social insurance, Rwanda Health Insurance - RAMA, Military Medical Insurance-MMI, Community Based Health Insurance – (CBHI)
- 3) Social assistance schemes (the need for social security, who is subjected to social security in Rwanda, risks covered: professional, work accidents, actual work accidents, route accidents and occupational illness)
- 4) Health and safety at work: provisions and implementation, including inspection.

SECTION THREE: Key references

PRIMARY SOURCES

Statutes

Constitution of the Republic of Rwanda of 2003 revised in 2015.

Conventions

Promotional Framework for Occupational Safety and Health Convention, 2006, adopted by ILO general conference, 95th session, Geneva, May, 2006.

Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 67th session, Geneva, June, 1981.

Working Environment (Air pollution, noise and vibration), Convention, 1977, adopted by ILO general conference, 63th session, Geneva, June, 1977.

Employment Injury Benefits, Convention 1964, adopted by ILO general conference, 48th session, Geneva, July, 1964.

Right to Organise and Collective Bargaining Convention, 1949, adopted by the International Labour Conference, 32nd session, Geneva, July, 1949.

Night Work (Women) Convention (Revised), 1948 adopted by ILO general conference, 31th session, San Francisco, July, 1948.

Labour Inspection Convention, 1947, adopted by ILO general conference, 30th session, Geneva, July, 1947.

Workmen's Compensation (Accidents) Convention, 1925, adopted by ILO general conference, 7th session, Geneva, June, 1925.

Employment Policy Convention, 1964, adopted by the ILO general conference, 48th session, Geneva, July, 1964.

Social Security (Minimum Standards) Convention, 1952, adopted by the ILO general conference, 35th session, Geneva, June, 1952.

Freedom of Association and Protection of the Right to Organise Convention, 1948, adopted by the ILO general conference, 31st session, San Francisco, June, 1948.

Minimum Wage-Fixing Machinery Convention, 1928, adopted by the ILO general conference, 11th session, Geneva, June, 1928.

Codes of Practice

Governing body, International labour office, 297th session on strategies and practices for labour inspection, Geneva, 2006.

International Labour Organisation, recording and notification of occupational accidents and disease: an ILO code of practice, Geneva, International Labour Office, 1996.

Protocols and Recommendations

Protocol no. 155 of 2002 to the Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 90th session, Geneva, June, 2002.

Recommendation no.194, List of Occupational Diseases, 2002, adopted by the general conference of ILO, 90th session, Geneva, June, 2002.

Recommendation no.184 on Home Work, 1996 adopted by the International Labour Conference, 83rd session, Geneva, June, 1996.

Recommendation no. 067 of Philadelphia concerning Income Security, 1944, adopted by International Labour Conference, 26th Session, Philadelphia, April, 1944.

Recommendation no.189 on Job Creation in Small and Medium-Sized Enterprises, 1998 (R189 of 1998) adopted by the International Labour Conference, 86th session, Geneva, June, 1998.

International labour conference (ILC), Promotional Framework for Occupational Safety and Health Recommendation, 2006, adopted by the International Labour Conference, 95th Session, Geneva, May, 2006.

ILO, Resolution and Conclusions concerning social security, International Labour Conference, 89th Session, Geneva, June, 2001.

Regulations

ILO Declaration on Social Justice for a Fair Globalisation, Adopted by the International Labour Conference, ILO, 97th Session, Geneva, June 2008.

Declaration of Philadelphia, adopted by the International Labour Conference, 26th session, Philadelphia, May 1944.

International Labour Organisation Constitution, adopted by the International Labour Conference, 26th session, Philadelphia, May, 1944.

ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference, 86th Session, Geneva, June, 1998.

International Covenant on Economic, Social and Cultural Rights, UN GA res. 2200A (XXI), 1966.

Convention on the Elimination of All Forms of Discrimination against Women, UN GA, res. 34/180, 1979.

Universal Declaration of Human Rights, UN GA res. 217A (III), 1948.

Covenant on Economic, Social and Cultural Rights, UN GA res. 2200 (XXI), 1966.

National laws

Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda.

Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.

Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.

Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.

Law n° 70/2018 of 31/08/2018 amending Law n°03/2015 of 02/03/2015 governing the organisation of community-based health insurance scheme in Rwanda.

Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda

Decree law of 22 August 1974 concerning the organisation of social security in Rwanda, Published in the 1977 official gazette, p 42 as amended.

Law n° 27 of 27/6/2007 determining responsibilities, organisation and functioning of a Health Insurance Scheme for Employees (RAMA), 2007.

Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.

Ministerial order n° 10 of 28/07/2010 determining the modalities of declaration of the enterprise, workers and nature of employer register.

SECONDARY SOURCES

ILO Reports and Surveys

ILO, report of the committee of experts on the application of conventions and recommendations, (articles 19, 22, and 35 of ILO constitution), international labour office, Geneva, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning the right to organise and collective bargaining convention, 1949 (no.98), Rwanda, published 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning labour inspection convention, 1947 (no. 81), Rwanda, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual direct request concerning labour inspection convention, 1947(no. 81), Rwanda, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning workmen's compensation (Accidents) convention, 1925, (no.17), Rwanda, published, 2017.

ILO general survey of the committee of experts on the application of conventions and recommendations on labour inspection, report III (part 1(B), 95th session, 2006.

ILO declaration on decent work for all, adopted by the international labour conference, 97th Session, Geneva, 10 June 2008.

International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.

ILO, *Social security: A new consensus*, Geneva, International Labour Office, 2001.

International Labour Office, Social security standards and the ILO campaign for the extension of social security, adopted at the 303rd Session of Governing Body, Geneva, November, 2008.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Discrimination (Employment and Occupation) Convention, 1958, (no.111), Rwanda, published, 2018.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Rwanda, published, 2018.

National Policy documents, Reports and Surveys

Republic of Rwanda, Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012, September 2007.

Republic of Rwanda, Ministry of Finance and Economic Planning, *National social security policy*, February 2009.

Transforming the present- protecting the future, report of the committee of inquiry into a comprehensive system of social security for South Africa, March (2002).

Republic of Rwanda, National Institute of Statistics for Rwanda, Demographic and Health Survey, 2005.

Social Security Fund of Rwanda (SSFR), social security statistical bulletin for the first semester, 2007.

SECTION FOUR: Changes brought by the new law n° 66/2018 of 30/08/2018 regulating labour in Rwanda

The new law N° 66/2018 of 30/08/2018 regulating Labour in Rwanda that repealed the Law N° 13/2009 of 27/05/2009 regulating Labour in Rwanda has brought some of the following modifications:

1° Scope (Art.2)

The new Law N° 66/2018 of 30/08/2018 regulating Labour in Rwanda applies to employment relations based on an employment contract between an employee and an employer in the private sector.

It applies also to contractual staff in Public Sector unless otherwise provided by the law establishing the general statutes for public service.

The repealed law was applied to informal sector only for issues relating to **social security, trade union organizations and health and safety at workplace.**

However, this new law regulating labour in Rwanda has extended its scope to informal sector on other aspects such **as the minimum wage** in categories of occupations which shall be determined by an Order of the Minister in charge of labour; **the right to leave and protection against workplace discrimination.**

2° Minimum age for admission to employment (Art.5)

In this new law, the Minimum age for admission to employment remains at sixteen (16) years as it was in the repealed law. But this new law provides an exception where “a child aged between thirteen (13) and fifteen (15) years is allowed to perform only light works in the context of apprenticeship.” An Order of the Minister in charge of labour shall establish the list of light works for the child provided for a child between 13-15 years old.

Note that **Light work** in this new law is defined as: “*a work which cannot have a detrimental effect on child’s health, child development and child’s education or other aspects of child’s life interest.*” (Art.3 paragraph 26).

3° Conclusion of Employment contract (art. 11)

This new law provides that an employment can be for a fixed term or indefinite and it can be written or unwritten as it was in the repealed law.

In the repealed law, an unwritten contract was not exceeding six consecutives (6) months.

But in this new law, the duration of unwritten employment contract cannot exceed ninety (90) consecutive days.

4° Moving an employee to another position (art.17)

This new law provides that “an employer, due to the enterprise’s interests, can transfer an employee to a position different from the one he or she applied for but which is at the same level as that one he or she applied for without reducing his or her salary and other benefits. And an employer cannot transfer an employee to another level of employment which can result in reducing his/her level and salary without the employee’s consent”.

5° Occupational accident or disease (Art. 19)

For the purpose of compensating employees who had occupational accident or disease while they were not insured in social security, the new law provides that “an employee having an occupational accident or disease while the employer has not contributed for him or her in a social security body in Rwanda, receives from the employer compensation equivalent to the social benefits he or she would have received from a social security body in Rwanda if the employer had contributed for him/her, including medical and related expenses. Again, an employee cannot be dismissed as a result of occupational accident unless a recognized doctor declares him/her unfit to resume service in the employment he/she held prior to the accident.

6° Suspension of employment contract due to administrative investigation by an employer (art. 20)

This new law provides that “an employer can suspend an employee in writing (**for administrative investigation**) in a period not exceeding thirty (30) days without payment

but the employee's salary is calculated and retained. If, after the investigation, the employee's innocence is proven, the employer reinstates the employee and pays him/her all his/her salary that was retained for him/her.

7° Right to be reinstated in employment after being dismissed for economic or technical reasons (Art. 22)

This article provides that an employee dismissed for economic or technical reasons and whose dismissal does not last more than six (6) months is entitled to be reinstated in employment without competition when he or she meets the profile required for the position to which the employer seeks to fill.

8° Compensation notice (Art. 25)

This articles provides that “any contract termination without notice or without having fully observed the notice period results in the party responsible for termination paying the other party the damages which cannot go below his/her three (3) month salary, nor exceed his/her six (6) month salary. However, if the employee has more than ten (10) years of experience with the same employer, damages cannot exceed his/her nine (9)-month net salary.

In the repealed law, it was provided that a party wishing to terminate a contract without giving or respecting the period of notice compels the responsible party to pay the other party an allowance corresponding to the **salary and other benefits** from which the worker would have benefited during the notice period that was not been effectively respected.

Under this new law, any contract termination without notice or without having fully observed the notice period results in the party responsible for termination paying the other party the compensation provided for by this Law.

9° Termination of employment contract for gross misconduct (Art. 26)

This article provides that an employer terminates an employment contract without notice in case of employee's gross misconduct. If an employment contract is terminated for gross misconduct, the employer must notify the employee within forty-eight (48) hours of the occurrence of evidence of the gross misconduct specifying the grounds for termination.

The repealed law was not specifying when the period of forty-eight (48) hours starts to run and the gross misconduct was appreciated by the court. But now, an Order of the Minister in charge of labour shall establish the list of gross misconduct.

10° Termination of employment contract (Art. 27 & 28)

These articles provide that an indefinite term employment contract and a fixed term contract are terminated by consent of parties or for legitimate reasons, or by the end of the contract period for a fixed term contract.

11° Damages for termination of employment contract (Art. 30)

This article provides that “unlawful termination of employment contract gives rise to the payment of damages. Damages paid to the employee victim of unfair dismissal cannot go below his/her three (3) month salary, nor exceed his/her six (6) month salary. However, if the employee has more than ten (10) years of experience with the same employer, damages cannot exceed his/her nine (9)-month net salary.

In the repealed law, it was provided that an unlawful termination of a fixed term contract before its expiration period leads to the payment of salaries of the remaining period and dismissal compensation for open ended contract. But in this new law, these were removed and the new law provides that for any termination of an employment contract (indefinite and fixed-term), the party who is not satisfied by the decision of termination requests for damages provided in this article.

12° Terminal benefits (Art. 31)

In the repealed law (art. 35), it was provided that the dismissal or an employment contract termination for a worker who has completed a period of at least twelve (12) consecutive months of work entails the payment of dismissal benefits.

However, in this new law, the terminal benefits are provided only for employees whose contracts are **terminated due to economic reasons, technological transfer or sickness** and for an employee having served for at least twelve (12) consecutive months.

Note that terminal benefits have been increased as follows compared to dismissal compensations that were provided in the repealed law:

- ✓ two (2) times the average monthly salary for the employee having less than five (5) years of service with the same enterprise;
- ✓ three (3) times the average monthly salary for the employee having between five (5) and ten (10) years of service with the same enterprise;
- ✓ four (4) times the average monthly salary for the employee having between ten (10) and fifteen (15) years of service with the same enterprise;
- ✓ five (5) times the average monthly salary for the employee having between fifteen (15) and twenty (20) years of service with the same enterprise;
- ✓ six (6) times the average monthly salary for the employee having between twenty (20) and twenty five (25) years of service with the same enterprise;

- ✓ seven (7) times the average monthly salary for the employee having over twenty-five (25) years of service with the same enterprise.

13° Disciplinary sanctions (Art. 42)

Compared to the repealed law which was not providing disciplinary sanctions that may be taken by employers for disciplinary faults, this new law provides that “Subject to the favourable provisions of collective conventions, rules of procedure or employment contract and depending on the severity of the misconduct, the disciplinary sanctions that may be imposed on the employee are the following:

- 1 ° oral warning;
- 2 ° written reprimand;
- 3 ° temporary suspension not exceeding eight (8) working days without pay;
- 4 ° dismissal.

14° Private employment agencies (Art. 115)

This new law provides how Private employment Agencies in Rwanda are established and their functioning.

A Private employment agency is a natural or non-government legal person, which provides one or more of the following labour market services:

- a. matching offers and applications for employment, without becoming a party to the human resource management;
- b. looking for job seekers with a view of making them available to an employer and continuing to assign them tasks and supervise them;
- c. providing advice on labour-related matters;
- d. training of jobseekers;
- e. providing job-related information;
- f. other services relating to job seeking which can be approved by the Minister in charge of labour, after consulting employees’ organisations and employers’ organisations.

The new law provides that a person wishing to establish a private employment agency applies for an authorisation granted by the Minister in charge of labour. An Order of the Minister in charge of labour determines modalities for establishment of private employment agencies and their functioning.

15° Declaration of an enterprise and employees (Art. 116)

This law provides that an employer who opens an enterprise declares it in writing to the labour inspectorate of his/her area, provides an initial declaration of information relating to the situation of his/her employees within one (1) month from commencement of the enterprise and shall notify the closure or relocation of the enterprise fifteen (15) days before closing business or relocating enterprise.

16° Offences and their penalties (art. 117 and 119)

This new Law provides penalties for employers or enterprises who commit offences of employing the children in works that are prohibited for a child in this law like (***work which are physically harmful to the child; work underground, under water, at dangerous heights or in confined spaces***), and for an employer or employee who causes to another person an occupational accident or diseases, in the following manner:

- a) An employer who personally subjects a child to any of the prohibited forms of work commits an offence and is liable to imprisonment for a term of not less than two (2) years and not more than five (5) years and a fine of not less than five hundred thousand Rwandan francs (FRW 500,000) and not more than five million Rwandan francs (FRW 5,000,000) or one of these penalties.
- b) If an employer or an employee who, through clumsiness, carelessness, inattention, negligence, failure to observe the rules or any other lack of precaution, causes danger commits an offence and is liable to imprisonment for a term of not less than six (6) months and not more than two (2) years and a fine of not less than five hundred thousand Rwandan francs (FRW 500,000) and not more than two million Rwandan francs (FRW 2,000,000) or one of these penalties.

17° Administrative Sanctions

a) Obstructing the functioning of the labour inspectorate (Art. 120)

This new law provides that an employer who refuses to allow a labour inspector to enter an enterprise, refuses to provide information with him or her, fails to report to him/her summon or implement recommendations from a labour inspector, commits an administrative misconduct. He/she is liable to an administrative fine of not less than one hundred thousand Rwandan francs (FRW 100,000) and not more than two million Rwandan francs (FRW 2,000,000).

The Modalities for implementing sanctions referred to under Paragraph One of this Article are determined by an Order of the Minister in charge of labour.

b) Temporary closure of an enterprise (Art. 121)

This new law provides also that for the purpose of preserving national interests, the Minister in charge of labour can decide a temporary closure of an enterprise.

18° Payment of salaries for employees executing public or private tenders (Art.122)

For the purpose of ensuring the payment of salaries of employees working in public or private tenders, this law provides that “A successful bidder who sub-contracts a part of the

tender to a third party is responsible for payments of employees' salaries in case the sub-contractor has not paid employees' salaries".

A successful bidder who is awarded a tender is not entitled to payments without showing to the procuring entity the proof that he/she has paid the debt related to salaries of employees employed.

In case a successful bidder fails to pay the employees' salaries, the procuring entity retains the amount equivalent to employees' salaries, until the successful bidder proves that he/she has paid the employees.

However, if the payment is not effected by the successful bidder in a period of forty five (45) days, the procuring entity pays the concerned employees the salaries equivalent to the amount retained.

**19° On-going employment contracts at the time of commencement of this Law
(Art. 123)**

The new law provides that "Employment contracts that were concluded before commencement of this Law remain valid. However, any clause of an employment contract contrary to this Law must be in conformity with this Law within twelve (12) months from the commencement of this Law".



Kigali, 20/06/2019
N° 1769 /12.00/2019

MINISTRY OF EDUCATION
P.O. BOX 622, Kigali - RWANDA

The Rector,
Institute of Legal Practice and Development (ILPD)
Nyanza, Southern Province

Dear Rector,

Re: ILPD's applications for accreditation of new Postgraduate programs

Reference is made to ILPD's submission to the Higher Education Council (HEC) applications for accreditation of four (4) new Postgraduate programs.

The assessment of ILPD's readiness to host the new academic programs indicated a collaborative nature of the proposed academic programs involving: partners, sponsors and financing modalities; the uniqueness of the proposed programs, their relevance to the labour market; and the fact that, the proposed programs went through ILPD's internal verification and approval process. Generally, the rationale, objectives, structure and modules descriptions for the proposed programs are in compliance with the established Higher Education norms and standards.

Based on the above, I am pleased to inform you that, the following two (2) programmes have been accredited:

- a) *Postgraduate Diploma in the Bailiffs Practice***
- b) *Postgraduate Diploma in Labour Law Practice***

However, the following two (2) programmes have not been accredited:

- a) *Diploma in Procurement Practice***
- b) *Postgraduate Diploma in Tax Investigation***

The Higher Education Council (HEC) will monitor the implementation of the newly accredited academic programs to ensure that the conditions given (in the detailed report, on the basis of which these academic programs have been accredited), are put in place and sustained. The management of ILPD is encouraged to address the recommendations given in respect of the unaccredited programs, and to re-submit a revised application to HEC for further consideration.

Sincerely,

Dr. Eugene MUTIMURA
Minister of Education



Cc:

- Minister of Justice and Attorney General
- Minister of State in Charge of Primary and Secondary Education
- Permanent Secretary, MINEDUC
- Executive Director, HEC

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XIV (VOLUME III)

COURSE DESCRIPTION AND MODULES FOR THE GRADUATE DIPLOMA
COURSE ON PROCUREMENT PRACTICE

The Post Graduate Diploma Programme in Procurement Practice (DPP)

This programme, perhaps the first of its kind in the East and Southern African region, is a result of effort of carefully selected team from Institute of Legal Practice and Development (Rwanda), National University of Rwanda, the USAID/Rwanda Strengthening Rwandan Administrative Justice (SRAJ) Project, the University of Massachusetts Boston and the Contractor from Uganda who has practical and theoretical expertise in the area of procurement.

An effective public procurement system is crucial for any developing country; providing procurement professionals with the right procurement knowledge, skills and competences is should be prioritized.

Education in Rwanda should among others aim at making learners fit into the communities they are citizens of and making the next generation original thinkers, competent, honest and committed workers who can contribute to their personal and community good. Rather than being examination centered, the education system should be competence based, with a more practical orientation. The programme content should be relevant and tailored to the learners' needs, to win their interest and full engagement. The procurement profession, with its great influence on the public resources therefore, is a great pillar in Rwanda's realization of these strategic goals.

The work of procurement professionals requires a deeper understanding of both legal and non-legal aspects of procurement. In their daily duties, procurement professionals apply laws and regulations governing procurement process. Despite this, there is no institution that offers the diploma in procurement with emphasis on both legal and non-legal aspects involved in procurement process.

The envisaged pedagogy will be the one to lead to learning outcomes which emphasize competencies that include application and creation of knowledge, along with the development of important skills and dispositions. In addition to non-legal aspects of procurement, procurement professionals require analytical skills (analyse, critique, judge, compare and contrast, evaluate and assess), operational skills, managerial skills, communication skills, team skills, people skills, interpersonal skills, statistical skills, research skills among others. The training programme will incorporate acquisition of these skills in various courses taught and through various pedagogical and anagogical methods.

The supporting functions like admission and student support, period of study, proper balance between face to face and the field and the assessment strategy have been well thought out to optimize the outcomes and impact of the programme.

MODULE 1: INTRODUCTION TO PUBLIC PROCUREMENT

1. **Module Code:** To determined by ILPD **Institution:** ILPD
2. **Module Title:** Introduction to Public procurement
3. **Year:** 1 year of DPP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. a. **Core module (Yes or No):** No
5. b. **Elective module (Yes or No):** No
5. c. **Pre-requisite module(s):** None
5. d. **Co-requisite module(s):** None
5. e. **Prohibited combinations:** None

6. **Allocation of study and teaching hours ()**

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content (not more than five lines)**

This module introduces the trainees to the basic concepts of public procurement and supply chain management that become a basis for advanced topics in this knowledge area.

8. **Graduate Attributes & Learning Outcomes**

A. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Key Steps of the procurement process;
- A.2. Basics in supply Chain management;

- A.3. Critical analysis of problems associated with purchasing in different environments / context;
- A.4. Different stakeholders in public procurement;

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Compare and contrast different procurement theories and their significance in his/her duties
- B.2. Apply the theoretical knowledge in the daily procurement duties;
- B.3. Identify and use strategies for handling key issues related to the procurement practice;
- B.4. Effectively manage the supply chain.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Enhance skills in building arguments in debates and writing related to Procurement;
- C.2. Use ICT to carry out research on procurement related issues;
- C.3. Disseminate practical knowledge in procurement.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyse, evaluate, appreciate, express and solve key procurement issues encountered at any level of government or private institution;
- D.2. Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others;
- D. 3. Plan and organise his/her procurement related work.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

- D.4. Plan, set career goals and perform practical procurement related career.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

- D.5. Understand different practical procurement issues from a national, regional and international perspective;
- D.6. Inquire into global issues such as globalization, sustainable development and their implication on procurement;
- D.7. Plan investigations in global themes, analyze data and communicating their findings.

d. Lifelong learning

Having successfully completed this module, students should be able to:

- D.7. Take initiative to update knowledge and skills in order to adequately handle any emerging procurement issue.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

- D.8. Work collectively towards a common goal at different level;
- D.9. Work with people of different age, gender, race, religion, political persuasion;
- D.10. Work as an individual and as a member of a team in order to promote good procurement practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

- D.11. Formulate ideas on procurement matters as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

- D.12. Identify and use strategies to effectively handle procurement related issues
- D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply the value for money principle in procurement process and thus reduce unnecessary expenses.

9. Indicative Content

- Overview of the procurement process; definition, principles, procurement planning, bidding documents preparation, advertising, pre-bid meeting and site visits, bid closing/opening, evaluation, contract award, contract implementation, commissioning and delivery.
- Introduction to research methods in procurement
- Introduction to Supply chain management;
- Purchasing in different environments / context;
- stakeholders in public procurement;
- value chain;
- outsourcing;
- international procurement;
- strategic procurement;
- project procurement,
- sustainable/ green procurement

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments, field attachment work and research papers.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7,

		D.8, D.9, D.10, D.11, D.12, D.13, D.14
Final assessment	50	A.1, A.2, A.3, A.4, B1, B.2, B.3, B.4, C.2, C.3, D.1, D.3, D.11, D.12, D.13

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Text

- Law N°62/2018 of 25/08/2018 governing public procurement;
- Law N° 14/2016 of 02/05/2016 governing public private partnerships;
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015;
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.
- Kenneth Lysons and Brian Farrington (2006); Purchasing and Supply Chain Management (Seventh Edition), Pearson Education Limited

Background Texts

- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Peter Baily, David Farmer, David Jessop and David Jones (2006) Purchasing Principles and Management (Ninth Edition), Pearson Education Limited

Journals

- A. Ancarani, ‘Service Sourcing’, in K.V. Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 187
- F. Roodhooft and A. van den Abbeele, "Public procurement of consulting services – Evidence and comparison with private companies" (2006) 19 IJPSM 490
- H-J. Priess, “Conflict of Interest in Tender Proceedings: How to Deal with Conflicts of Interest (Family Ties, Business Links and Cross-Representation of contracting Authority Officials and Bidders)” (2002) 11 Public Procurement Law Review 153

Key websites and on-line resources

<https://www.cips.org/en/knowledge/.../publicprocurement>

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required
- Internet connection

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

16. Module Team

A. Academic staff

1. Prof. Moses Muhwezi
2. Mr Jean Paul Mazimpaka (UR & RBA)
3. Mr Celestin Sibomana (RPPA)

B. Guest speakers would include people from:

1. RPPA
2. Ombudsman's Office
3. MINIJUST
4. Rwanda Bar Association
5. Judiciary
6. Public Prosecution
7. RIB
8. RDB (PPP Unit)

17. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	

	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 2: PROCUREMENT LEGAL FRAMEWORK

1. **Module Code:** To be determined by ILPD **Institution:** ILPD
2. **Module Title:** Procurement Legal Framework
3. **Year:** 1 year of DPP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. **a. Core module (Yes or No):** No
5. **b. Elective module (Yes or No):** No
5. **c. Pre-requisite module(s):** Introduction to Public Procurement
5. **d. Co-requisite module(s):** None
5. **e. Prohibited combinations:** Needs identification and supplier management

6. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content** (not more than five lines)

This module aims at equipping participants with knowledge of laws and regulations that are relevant to procurement profession. These are not limited to procurement laws but also other laws such as the laws governing public private partnerships, contract, public finances, etc. The module also aims at helping the participants to know the techniques and methods of interpretation of the laws as well as the application of these laws in solving procurement problems.

8. **Graduate Attributes & Learning Outcomes**

C. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Laws governing the procurement process such as procurement law, public private partnership law, law governing state finances and property, etc;
- A.2. Regional and international conventions relating to procurement;
- A.3. Liability for breach of procurement laws and offences and their penalties in particular;
- A.4. Techniques and methods of interpretation of different laws related to procurement;
- A.5. Practical issues associated with procurement related laws.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Critically analyse different applicable procurement laws;
- B.2. Effectively apply the relevant laws and instruments in handling different procurement issues arising from the work;
- B.3. Identify and use adequate laws in handling a given case in procurement practice;
- B.4. Apply different INCOTERMS in supply chain management.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Enhance skills in building arguments in debates and writing in Procurement related laws;
- C.2. Use ICT to carry out research on procurement law related issues;
- C.3. Disseminate practical knowledge in procurement Laws.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyse, evaluate, appreciate, express and solve key procurement issues in compliance with laws governing procurement process
- D.2. Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others.
- D. 3. Plan and organise his/her procurement related work.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. To effectively plan, set career goals and perform practical procurement related career in compliance with procurement laws.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical procurement laws from a national, regional and international perspective;

D.6. Inquire into the global issues such as globalization, sustainable development, regional integration and their implication on procurement laws;

D.7. To plan investigations in global procurement law themes, analyze data and communicating their findings;

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update legal knowledge and skills in order to apply adequate laws to any emerging procurement issue and to suggest amendment of the laws where necessary.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices based on relevant procurement laws.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. To formulate ideas on procurement law matters as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use relevant laws to effectively handle different procurement related issues;
D.13. Demonstrate integrity in the workplace and act in compliance with the laws in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply the principle of economy and effectiveness in procurement process and adequate laws, hence this will reduce the loss incurred by the government or any other employer in litigation.

9. Indicative Content

- Introduction to procurement and Rwandan procurement law;
- Procurement - the battle of forms;
- The Rwanda Public Procurement Authority;
- Procurement offences and penalties;
- The regional public procurement protocols – EAC, COMESA;
- The convention on international sale of goods (CISG) 1980;
- Public Private partnerships Law in Rwanda
- Laws governing states finances and property
- INCOTERMS;
- Financing international sale agreements;
- Intellectual property laws
- Interpretation of procurement related laws

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, B.1, B.2, B.3, B.4; C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14
Final assessment:	50	A.1, A.2, A.3, A.4, A.5, B1, B.2, B.3, B.4; C.2, C.3, D.1, D.3, D.11, D.12, D.13, D.14.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Texts

- Law N°62/2018 of 25/08/2018 governing public procurement
- Law N° 14/2016 of 02/05/2016 governing public private partnerships
- Organic Law n°12/2013/OL of 12/09/2013 on State finances and property
- The regional public procurement protocols – EAC, COMESA
- Protocol on Public Procurement
- The convention on international sale of goods (CISG) 1980
- The Law n° 50/2008 of 09/09/2008 determining the procedure for disposal of state private assets
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.

Background Texts

- Margret Griffiths and Ivor Griffiths (2002), Law for Purchasing and Supply (Third Edition) Prentice Hall
- Chuah J.C.T. The Law of International Trade (Second Edition) London, Sweet and Maxwell, 2001

Journals

- S. Arrowsmith and C. Nicholas, “Regulating Framework Agreements under the UNCITRAL Model Law on Procurement”, ch.2 in S. Arrowsmith (ed.), Reform of the UNCITRAL Model Law on Procurement: Public Procurement Regulation for the 21 st Century(Thomson Reuters/West, 2009) 95
- V. Mosoti, “Reforming the Laws on Public Procurement in the Developing World: the Example of Kenya” (2005) 54 International and Comparative Law Quarterly 621

Key websites and on-line resources

- Independent Review panel, “Decisions” available at www.rppa.gov.rw
- www.judiciary.gov.rw
- www.primature.gov.rw

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required
- Internet connection

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

16. Module Team

A. Academic staff

4. Prof. Moses Muhwezi
5. Mr Jean Paul Mazimpaka (University of Rwanda& Rwanda Bar Association)
6. Me Theophile MBONERA(Head of legal services Department, Minijust)
7. Kabibi Speciose (Division manager civil litigation, Minijust)

B. Guest speakers would include people from:

1. RPPA
2. Ombudsman's Office
3. MINIJUST
4. Rwanda Bar Association
5. Judiciary
6. Public Prosecution
7. RIB
8. RDB (PPP Unit)

C. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

1. **Module Code:** To determined by ILPD **Institution:** ILPD
2. **Module Title:** NEEDS IDENTIFICATION AND SUPPLIER MANAGEMENT
3. **Year:** 1 year of DPP **Semester:** 1 **Credits:** 10
4. **First year of presentation:** 2019
5. a. **Core module (Yes or No):** No
5. b. **Elective module (Yes or No):** No
5. c. **Pre-requisite module(s):** Introduction to Public Procurement, Procurement legal Framework.
5. d. **Co-requisite module(s):** None
5. e. **Prohibited combinations:** Contract management; Procurement Ethics.

6. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content** (not more than five lines)

This module aims at equipping the participants with skills to prepare and write a statement of requirements so that appropriate goods, services and works are acquired and timely delivered.

8. **Graduate Attributes & Learning Outcomes**

A. **Knowledge and Understanding**

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. The needs identification process;
- A.2. Stakeholders in needs identification and specification;
- A.3. Preparing and writing specifications;

- A.4. Risk management in needs identification and specification; supplier sourcing;
- A.5. Logistics and distribution management;
- A.6. Market survey procedures.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Compare and contrast the different good practices in need identification;
- B.2. Apply the theoretical knowledge in preparation and writing specifications in the daily procurement duties;
- B.3. Identify and use different techniques for effective identification of the needs in the procurement process;
- B.4. To effectively manage the risks and the supplier in procurement process;
- B.5. To prepare adequate tender documents.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Evaluate a wide range of numerical and graphical information related to needs identification;
- C.2. Use ICT to carry out research on needs identification related issues;
- C.3. Analyse and disseminate findings on practical issues involved in needs identification.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in the preparation of technical specifications at any level of government or private institution.
- D.2. Express a high degree of autonomy, with full responsibility for own work, and significant responsibility for others.
- D. 3. Plan, organise and write adequate tender documents.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. To effectively apply the knowledge to improve his/her procurement career, especially in relation to preparation of the tender documents.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical issues on needs identification from a national, regional and international perspective.

D.6. Inquire into global issues such as globalization, sustainable development and their implication on needs identification;

D.7. To plan investigations in global themes, analyze data and communicating their findings.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills in order to adequately identify needs in relation to any development in procurement.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices in general and needs identification techniques in particular.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. to formulate ideas on needs identification issues as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively identify needs in the procurement process

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively identifying the needs, acquiring appropriate goods and services at reasonable cost and timely delivery of essential service.

9. Indicative Content

- Introduction to needs identification and specification;
- The needs identification process;
- Stakeholders in needs identification and specification;
- Preparing and writing specifications;
- Standards and standardization;
- Evaluation of performance;
- Risk management in needs identification and specification; supplier sourcing;
- Supply markets, local, regional or international;
- warehousing and inventory management;
- Logistics and distribution management;
- Supplier evaluation

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered

In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, A.6, B.1, B.2, B.3, B.4, B.5; C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, A.6, B1, B.2, B.3, B.4, B.5, C.2, C.3, D.1, D.3, D.11, D.12, D.13, D.14.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Texts

- Law n° 62/2018 of 25/08/2018 governing public procurement (art. 31 determining the rules governing rules determining specifications of goods or supplies, works and non-consultancy services)
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015.
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.

Background Texts (include number in library or URL) (inc ISBN)

- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Barrat, C., and Whitehead, M., (2004), Buying for Businesses: Insights in Purchasing and Supply Chain Management. The Atrium Southern Gate, Chichester. John Wiley and Sons Ltd.
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited.
- Peter Baily, David Farmer, David Jessop and David Jones (2006) Purchasing Principles and Management (Ninth Edition), Pearson Education Limited

Journals

- A. Ancarani, 'Service Sourcing', in K.V. Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 187
- F. Roodhooft and A. van den Abbeele, "Public procurement of consulting services – Evidence and comparison with private companies" (2006) 19 IJPSM 490

Key websites and on-line resources

- <https://www.cips.org/en/knowledge/procurement-topics-and...need.../setting-kpis>

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required
- Internet connection

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

16. Module Team

A. Academic staff

1. Prof. Moses Muhwezi
2. Stanley Banzimana (Lecturer UR)

B. Guest speakers would include people from:

1. RPPA
2. RTDA
3. REG
4. Ombudsman's Office
5. RDB

C. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

1. **Module Code:** To be determined by ILPD **Institution:** ILPD
2. **Module Title:** **Contract Management and Dispute Resolution**
3. **Year:** 1 year of DPP Semester: 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Introduction to Public Procurement, Procurement legal framework, Needs identification and supplier management.
5. c. **Co-requisite module(s):** None
5. d. **Prohibited combinations:** None

6. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

7. **Brief description of aims and content** (not more than five lines)

This module aims at equipping the participants with the understanding of negotiation, drafting, amendment, interpretation and management of the procurement contract. It also acquaints them with the skills in resolving the disputes that may arise from the contract management.

8. **Graduate Attributes & Learning Outcomes**

A. **Knowledge and Understanding**

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Contract negotiation;
- A.2. Essentials of contract drafting;
- A.3. Essentials of contract management;
- A.4. Contract amendment;

- A.5. Contract interpretation;
- A.6. Dispute management in contracting environment.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively negotiate different procurement contracts;
- B.2. Make informed judgment in managing different tenders including complex tenders;
- B.3. Demonstrate original responses in handling practical issues arising from procurement contract practice;
- B.4. Effectively handle the disputes arising from procurement contract.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Communicate with peers, more senior colleagues, special experts on contract management
- C.2. Use ICT to carry out research and find solutions to different issues arising from contract management.
- C.3. Disseminate practical knowledge in contract management to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyse, evaluate, appreciate, express and solve key issues encountered in contract management;
- D.2. Express a high degree of autonomy, with full responsibility in taking and implementing decisions relating to procurement contract management;
- D.3. Plan and organise his/her contract management related work.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

- D.4. To effectively plan, set career goals and practically perform contract management related career.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical issues involved in procurement contract management from a national, regional and international perspective;

D.6. Understand global contracting and contract management;

D.7. Plan investigations in global themes, analyze data and communicating their findings.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills in order to adequately handle any emerging issue in procurement contract management.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices;

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. to formulate ideas on procurement contract management matters as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively handle procurement contract management related issues

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply contract management skills to prevent or solve any dispute that may arise from contractors and thus reduce unnecessary expenses incurred in litigation.

9. Indicative Content

- Understanding contracts and contracting;
- Formation of Contract;
- Managing Risk in Contract;
- Negotiations;
- Essentials of drafting a contract;
- Drafting Service Level Agreements;
- Drafting Clear and Concise Contracts;
- Drafting Memorandum of Understanding,
- Letter of Intent and Non-Disclosure Agreement;
- FIDIC contracts;
- essentials in contract management
- Recording and archiving
- Contract Interpretation;
- Changes to the contract (addendum)
- Dispute management in the contracting environment
- Global contracting and contract management;
- Contemporary issues in project and contracts management;
- Managing variations and claims

10. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

11. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, A.6, , B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, A.6, B1, B.2, B.3, B.4, C.2, C.3, D.1, D.3, D.11, D.12, D.13.

13. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Texts

- Law N°62/2018 of 25/08/2018 governing public procurement
- Law N° 14/2016 of 02/05/2016 governing public private partnerships
- Law n° 45/2011 of 25/11/2011 governing contracts
- Kenneth Lysons and Brian Farrington (2006); Purchasing and Supply Chain Management (Seventh Edition), Pearson Education Limited
- Advanced Project and Contract Management (2006) – Chartered Institute of Purchasing and Supply
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009

Background Texts

- Arrowsmith, Sue 1998. National and International Perspectives on the Regulation of Public Procurement: Harmony or Conflict? In Public Procurement: Global revolution, edited by Sue Arrowsmith and Arwel Davies, 3-26. London, Boston: Kluwer Law International.
- Odhiambo Walter and Paul Kamau, 2003. Public procurement: Lessons from Kenya, Tanzania and Uganda. OECD Technical Papers 208.

Journals

- G.L. Albano, G. Calzolari, F. Dini, E. Iossa and G. Spagnolo, “Procurement contracting strategies”, ch.4 in N. Dimitri, G. Piga and G. Spagnolo (eds), Handbook of Procurement (Cambridge: CUP, 2006) 82
- W.C. Lawther, ‘Contract Negotiations’ in K.V Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 563;
- P. Dunham, "Balancing Sovereignty and the Contractor's Rights in International Construction Arbitrations Involving State Entities" (2006) 23 International Construction Law Review 130;

Key websites and on-line resources

- www.pmi.org

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required
- Internet connection

Others

- Flip charts and markers

15. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

16. Module Team

A. Academic staff

1. Prof. Moses Muhwezi
2. Mr Jean Paul Mazimpaka (UR & RBA)
3. David Furaha (State attorney)
4. Isabelle Kalihangabo (RIB)

B. Guest speakers would include people from:

1. Ombudsman's Office
2. MINIJUST
3. RDB (PPP Unit)
4. RTDA
5. REG
6. RHA

C. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

1. **Module Code:** To be determined by ILPD **Institution:** ILPD
2. **Module Title:** Electronic procurement
3. **Year:** 1 year of DPP **Semester:** 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Introduction to Public Procurement, Procurement legal framework, Needs identification and supplier management, Contract management.
5. c. **Co-requisite module(s):** None
5. d. **Prohibited combinations:** None

5. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

6. **Brief description of aims and content** (not more than five lines)

This module aims at equipping the participants with the understanding of the relevant factors to consider in developing the e-procurement strategy as well as practical issues involved in the use of e-procurement.

7. **Graduate Attributes & Learning Outcomes**

D. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Growth and importance of electronic procurement;
- A.2. Factors to consider when developing and implementing the e-procurement strategy;
- A.3. E-procurement performance measurement;

- A.4. Use of e-procurement in general and Rwanda in particular;
- A.5. Challenges of implementing the e-procurement strategy;
- A.6. E-procurement in a comparative perspective.

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively use the e-procurement in Rwanda;
- B.2. Measure the performance of e- procurement in Rwanda;
- B.3. Improve the use of e-procurement in his/her duties
- B.4. Demonstrate original responses in dealing with practical challenges in the implementation of the e-procurement in Rwanda;

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. To communicate with peers, more senior colleagues, special experts on the implementation of e-procurement in general and in Rwanda in particular;
- C.2. Use ICT to carry out research and find solutions to different issues arising from use of e-procurement;
- C.3. Disseminate practical knowledge on e-procurement to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in electronic procurement
- D.2. Express a high degree of autonomy, with full responsibility in implementing electronic procurement;
- D.3. Demonstrate self- direction in handling any issue arising from the use of electronic procurement.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

- D.4. effectively practically perform any career involving electronic procurement.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical issues involved in electronic procurement from a national, regional and international perspective.

D.6. Consider global themes such as globalisation, integration in the development and implementation of electronic procurement. .

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills in order to adequately handle any emerging issue in electronic procurement.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices;

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Carry out research and apply new developments in electronic procurement;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively use electronic procurement;

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively use electronic procurement which eliminates the paper work and speed up the procurement process and thus helps to reduce costs and save time.

8. Indicative Content

- Introduction to e-procurement – key terms, evolution, drivers, benefits
- Growth and importance of electronic procurement;
- Factors to consider when developing and implementing the e-procurement strategy;
- E-procurement systems
- E-procurement performance measurement
- Challenges of implementing the e-procurement strategy;
- European Union Directives on electronic procurement;
- Electronic procurement in Rwanda

9. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

10. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, A.6, , B.1, B.2, B.3, B4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, A.6, B1, B.2, B.3, C.2, C.3, D.1, D.3, D.11, D.12, D.13.

12. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

13. Indicative Resources

Core Text

- Law N°62/2018 of 25/08/2018 governing public procurement(Electronic procurement provisions)
- Abby Semple (2015), A Practical Guide to Public Procurement, Oxford University Press, first edition.
- Knut Leipold (2007) Electronic Government Procurement (e-GP) Opportunities and Challenges.

Background Texts

- Dale Neef (2001) E-Procurement: From Strategy to Implementation
- Kenneth LYson and Micheal Gillingham (2001), Purchasing and Supply Chain Management, (Sixth Edition) Financial Times Pitman Publishing

Journals

- S. Croom and A. Brandon-Jones, ‘Key Issues in E-Procurement: Procurement Implementation and Operation in the Public Sector’ in K.V. Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 445
- K. Vaidya, A.S. M. Sajeev and G. Callender, “Critical Factors That Influence E-Procurement Implementation Success in the Public Sector” (2006) 6 Journal of Public Procurement 70

Key websites and on-line resources

- www.nextenders.com

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

- Laptop will be required
- Internet connection

Others

- Flip charts and markers

14. Please add anything else you think is important

ILPD will avail facilities for guest speakers that will be invited

15. Module Team

A. Academic staff

1. Prof. Moses Muhwezi
2. Mr Celestin Sibomana (RPPA)

B. Guest speakers would include people from:

1. RPPA
2. Ombudsman's Office
3. MINIJUST

16. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 6: PROCUREMENT ETHICS

1. **Module Code:** To be determined by ILPD **Institution:** ILPD
2. **Module Title:** Procurement Ethics
3. **Year:** 1 year of DPP Semester: 2 **Credits:** 10
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Introduction to Public Procurement, Procurement legal framework, Needs identification and supplier management, Contract management
5. c. **Co-requisite module(s):** Electronic Procurement
5. d. **Prohibited combinations:** None

5. **Allocation of study and teaching hours** (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	25
Seminars/workshops	11
Practical classes/laboratory	
Structured exercises	
Set reading etc.	24
Self-directed study	12
Assignments – preparation and writing	20
Examination – revision and attendance	8
Other:	
Total	100

6. **Brief description of aims and content** (not more than five lines)

The objective of this module is to provide participants with understanding of ethical issues involved in the procurement process.

7. **Graduate Attributes & Learning Outcomes**

E. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

A.1. Ethical issues relating to suppliers;

- A.2. Ethical standards and codes of conduct for procurement professionals;
- A.3. Purchasing and fraud;
- A.4. Corporate social responsibility and the purchasing function;
- A.5. Procurement audit;
- A.6. Corruption and collusion as well as other procurement offences and their penalties

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively apply ethical standards in procurement profession;
- B.2. Comply with procurement rules and audit regulations
- B.3. Take decisions in compliance with ethical codes of conducts governing procurement professionals;
- B.4. Abide by laws on procurement offences in the daily duties.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Communicate with peers, more senior colleagues, special experts on matters relating to procurement ethics;
- C.2. Use ICT to carry out research relating to ethical standards for procurement professionals;
- C.3. Disseminate practical knowledge in procurement ethics to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyze, evaluate, appreciate, express ethical standards issues;
- D.2. Express a high degree of autonomy, with full responsibility in his/her procurement duties.
- D. 3. Demonstrate a sense of integrity and other values in procurement duties.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

- D.4. To effectively apply ethical standards in a procurement related career.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical issues involved in procurement ethics from a national, regional and international perspective.

D.6. Understand issues such globalisation and integration and their ethical implications in procurement;

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills in order to adequately deal with any emerging issue in procurement ethics.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices based on ethical standards.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. to formulate ideas on procurement ethics matters as a result of the reading, researching and professional discussion;

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively deal with procurement ethics related issues;

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply ethical standards in procurement decision making and thus reduces corruption and related offences in the procurement.

8. Indicative Content

- Introduction to ethics;

- Ethical issues relating to suppliers;
- Purchasing and fraud;
- Procurement audit
- Ethical codes of conduct;
- Corporate social responsibility and the purchasing function;
- Ethical training;
- Standards;
- corruption and collusion in public procurement;
- Emerging issues in ethics.

9. Learning and Teaching Strategy

This will be a student-centred learning or interactive methodology as indicated in the programme specification.

10. Assessment Strategy

The assessment strategy will focus on in-class learning practical assignments and field attachment work.

11. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
In-course practical assessment:	50	A.1, A.2, A.3, A.4, A.5, A.6, B.1, B.2, B.3, B.4, C.1., C.2, C.3, D.1, D.2, D.3, D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11, D.12, D.13, D.14.
Final assessment	50	A.1, A.2, A.3, A.4, A.5, A.6, B1, B.2, B.3, B.4; C.2, C.3, D.1, D.3, D.11, D.12, D.13.

12. Strategy for feedback and student support during module

This will be a student-centred learning or interactive methodology. They will hence have the opportunity to feedback. An evaluation form will be given to all trainees at the end of the course.

13. Indicative Resources

Core Texts

- Law N°62/2018 of 25/08/2018 governing public procurement
- Ministerial Instruction No 001/11/10/TC of 24/01/2011 Establishing the Professional Code of Ethics Governing Public Agents Involved in Public Procurement
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited
- OECD, Bribery in Public Procurement: Methods, Actors and Counter-measures (OECD Publishing, 2007)
- OECD, Integrity in Public Procurement: Good Practice from A to Z (OECD Publishing, 2007)

Background Texts

- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015.
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009

Journals

- P. Pease, “What makes a good procurement oversight body?—Lessons from recent experience” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 95
- M. Greenwood and J.M. Klotz, “The fight against corruption in public procurement: an introduction to best practices” in R. Hernández García (ed.), International Public Procurement: a Guide to Best Practice (Globe Law and Business, 2009) 5

Key websites and on-line resources

- www.cips.org

Teaching/Technical Assistance

Laboratory space and equipment

- Projector will be required

Computer requirements

Laptop will be required

Others

- Flip charts and markers

14. Please add anything else you think is important

ILPD will avail facilities for guest speakers who will be invited.

15. Module Team

A. Academic staff

1. Isabelle Kalihangabo (RIB)
2. Nyirurugo Jean Marie(NPPA)
3. Celestin Sibomana(RPPA)

B. Guest speakers would include people from:

1. RPPA
2. Ombudsman's Office
3. MINIJUST
4. RPPA
5. RIB

16. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	

	Print Name	
--	------------	--

MODULE 7: FIELD ATTACHMENT AND PROJECT WORK

1. **Module Code:** To be determined by RPPA **Institution:** ILPD
2. **Module Title:** Field Attachment and project work
3. **Year:** 1 year of DPP Semester: 2 **Credits: 60**
4. **First year of presentation:** 2019 **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Introduction to Public Procurement
5. c. **Co-requisite module(s):** All other modules
5. d. **Prohibited combinations:** None

6. Allocation of study and teaching hours (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	
Seminars/workshops	
Practical classes/laboratory	
Structured exercises	
Set reading etc.	
Self-directed study	
Assignments – preparation and writing	
Examination – revision and attendance	
Other: Practice	All 60 credits
Total	

7. Brief description of aims and content (not more than five lines)

The objective of this course is to get the learner acquainted with real-life working experience and to enable the learner apply skills learnt in school at the actual work place. Course objectives are:

- To provide practical and job-related competences to the students.
- To develop and inculcate work ethics, employment demand and responsibilities to graduates.
- To provide an interactive environment for trainers, trainees and stakeholders.
- To enable application of the principles and techniques theoretically into real life problems solving solutions.

8. Graduate Attributes & Learning Outcomes

F. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Apply practical and job-related competences in his/her daily duties
- A.2. Procurement employment demand and responsibilities
- A.3. Application of the principles and techniques theoretically into real life problems solving solutions
- A.4. importance of interaction of his/her institution and different stakeholders
- A.5. Application of work ethics standards in his/her duties

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively apply the acquired theoretical procurement knowledge into real life problems solving;
- B.2. Demonstrate practical responses to issues arising from procurement responsibilities;
- B.3. Effectively handle any practical issue arising from the workplace.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Communicate with peers, more senior colleagues, special experts on practical skills acquired from the field work;
- C.2. Use ICT to carry out research and apply any emerging development in procurement;
- C.3. Disseminate practical knowledge in procurement to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Recognize, critically analyze, evaluate, appreciate, express and solve practical issues encountered in workplace;

D.2. Express a high degree of autonomy, with full responsibility in handling practical procurement issues.

D. 3. Plan and organise his/her procurement related work.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

D.4. Practically perform any procurement related career.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

D.5. Understand different practical issues involved in procurement practice from a national, regional and international perspective.

D.6. Understand and solve practical procurement issues arising from factors such as globalisation and integration.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills in order to adequately handle any emerging issue in procurement.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Work with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote good procurement practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Formulate ideas on procurement matters as a result of the practice.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively handle procurement related issues

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Effectively apply practical skills in handling procurement cases which will lead to better performance in procurement and hence save money for procuring entity.

9. Indicative Content

The student will apply the theoretical knowledge acquired in all modules taught in this programme.

10. Learning and Teaching Strategy

The field work will be done under the supervision of a mentor designed by ILPD from a pool of experts with practical skills in Public Procurement.

11. Assessment Strategy

The assessment strategy will focus on in performance in practical assignments at field work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
Field attachment:	100	All learning outcomes will be covered at the end of the this module

13. Strategy for feedback and student support during module

This will be a student-centred learning. They will hence have the opportunity for feedback. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Text to use in field work

- Law N°62/2018 of 25/08/2018 governing public procurement
- Law N° 14/2016 of 02/05/2016 governing public private partnerships
- Organic Law n°12/2013/OL of 12/09/2013 on State finances and property
- The convention on international sale of goods (CISG) 1980
- Law n° 45/2011 of 25/11/2011 governing contracts
- The [Law n° 50/2008 of 09/09/2008 determining the procedure for disposal of state private assets](#)
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015.
- Advanced Project and Contract Management (2006) – Chartered Institute of Purchasing and Supply
- H-J. Priess, (ed.), Getting the Deal Through: Public Procurement 2010 (Global Competition Review: London, 2010)
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.
- Knut Leipold (2007) Electronic Government Procurement (e-GP) Opportunities and Challenges.
- R. Hernández Garcia (ed.), International Public Procurement: A Guide to Best Practice (Globe Law and Business, 2009)

Background Texts

- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Barrat, C., and Whitehead, M., (2004), Buying for Businesses: Insights in Purchasing and Supply Chain Management. The Atrium Southern Gate, Chichester. John Wiley and Sons Ltd.
- Chuah J.C.T. The Law of International Trade (Second Edition) London, Sweet and Maxwell, 2001
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited.

- Peter Baily, David Farmer, David Jessop and David Jones (2006) Purchasing Principles and Management (Ninth Edition), Pearson Education Limited
- Dale Neef (2001) E-Procurement: From Strategy to Implementation

Online resources

- <https://www.cips.org/en/knowledge/.../publicprocurement>
- <https://www.cips.org/en/knowledge/procurement-topics-and...need.../setting-kpis>
- www.pmi.org
- www.nextenders.com
- www.cips.org

Teaching/Technical Assistance

Laboratory space and equipment

- computer at work place

Computer requirements

- Laptop will be required
- Internet connection

Others

- Mentorship form

15. Please add anything else you think is important

ILPD will avail facilities for mentors

16. Module Team

A. Mentors

Experts from the following institutions will be mentors:

- RPPA
- Ombudsman's Office
- MINIJUST
- Rwanda Bar Association
- Judiciary
- RDB

- Academic institution
- RTDA
- RHA

17. Unit approval

Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

MODULE 8: RESEARCH PROJECT

1. **Module Code:** To be determined by ILPD **Institution:** ILPD
2. **Module Title:** Research project
3. **Year:** 1 year of DPP Semester: 2 **Credits:** 20
4. **First year of presentation:** 2019
5. **Core module (Yes or No):** No
5. a. **Elective module (Yes or No):** No
5. b. **Pre-requisite module(s):** Introduction to Public Procurement, Procurement legal framework; needs identification and supplier management.
5. c. **Co-requisite module(s):** Contract management, Procurement ethics, Electronic procurement
5. d. **Prohibited combinations:** None

6. Allocation of study and teaching hours (See Notes of Guidance)

Total student hours _____	Student hours
Lectures	
Seminars/workshops	50
Practical classes/laboratory	
Structured exercises	
Set reading etc.	
Self-directed study	
Assignments – preparation and writing	
Examination – revision and attendance	
Other: Research project	150
Total	200

7. Brief description of aims and content (not more than five lines)

The objective of this course is to get the participant acquainted with the research experience which would enable him/her enable carry out research to deal with different procurement challenges that may arise from their daily duties.

8. Graduate Attributes & Learning Outcomes

G. Knowledge and Understanding

Having successfully completed this module, students should be able to demonstrate knowledge and understanding of:

- A.1. Methods and Techniques of research in procurement;
- A.2. Analysis of procurement data

- A.3. Presentation of the research findings
- A.4. Application of research findings to solve real life problems

B. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- B.1. Effectively apply theoretical research findings into real life problems solving;
- B.2. Demonstrate research based solutions to issues arising from procurement practice;
- B.3. Effectively use research to find solution to any practical issue arising from procurement practice.

C. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- C.1. Communicate the research findings in procurement with peers, more senior colleagues, specialists and experts;
- C.2. Use ICT to carry out research and find solution to any emerging issue in procurement;
- C.3. Disseminate research finding in procurement to a range of audiences.

D. General Transferable Skills

a. Personal, Intellectual, and Professional Autonomy and Astuteness

Having successfully completed this module, students should be able to:

- D.1. Collect and critically analyse procurement data;
- D.2. Express a high degree of autonomy, with full responsibility in researching on practical procurement issues;
- D. 3. Plan and organise his/her research in procurement related matters.

b. Employability and career development

Having successfully completed this module, trainee should be able to:

- D.4. Take research based decisions for effective performance of any procurement related career.

c. Global citizenship

Having successfully completed this module, trainees should be able to:

- D.5. Carry out research on different practical procurement issues from a national, regional and international perspective.
- D.6. Consider factors such as globalisation and integration in finding research based solutions to procurement issues.

d. Lifelong learning

Having successfully completed this module, students should be able to:

D.7. Take initiative to update knowledge and skills through research in order to adequately handle any emerging issue in procurement.

e. Collaboration, Teamwork and Leadership

Having successfully completed this module, students should be able to:

D.8. Work collectively towards a common goal at different level;

D.9. Carry out joint research with people of different age, gender, race, religion, political persuasion;

D.10. Work as an individual and as a member of a team in order for example to promote research based procurement practices.

f. Research, Creativity and Innovation, Scholarship and Enquiry

Having successfully completed this module, students should be able to:

D.11. Formulate new ideas on procurement matters as a result of the research.

g. Ethical, Social and Professional Understanding

Having successfully completed this module, students should be able to:

D.12. Identify and use strategies to effectively handle procurement related issues

D.13. Demonstrate integrity in the workplace and act responsibly to others in work and everyday life.

h. Financial literacy

Having successfully completed this module, students should be able to:

D.14. Carry out research on different procurement issues and take reasoned decisions which help to acquire adequate goods, at reasonable costs and on time.

9. Indicative Content

- Students will carry out research on different procurement issues;
- Students will be required to write two research papers.

10. Learning and Teaching Strategy

- The participant will be required to writing two articles in procurement subjects under the supervision of an expert selected by ILPD;
- The participant will also be required to make a presentation of the two articles before the panel of experts to be designed by ILPD.

11. Assessment Strategy

The assessment strategy will focus on in performance in practical assignments at field work.

12. Assessment Pattern

Component	Weighting (%)	Graduate Attributes & Learning outcomes to be covered
2 research papers	50 per each (Total 100)	All learning outcomes will be fully covered upon completion of writing and presenting two papers required for this module.

13. Strategy for feedback and student support during module

This will be a student-centred learning. They will hence have the opportunity for feedback during the presentation of their work. An evaluation form will be given to all trainees at the end of the course.

14. Indicative Resources

Core Text to read in research project

- Law N°62/2018 of 25/08/2018 governing public procurement
- Law N° 14/2016 of 02/05/2016 governing public private partnerships
- Organic Law n°12/2013/OL of 12/09/2013 on State finances and property
- The convention on international sale of goods (CISG) 1980
- Law n° 45/2011 of 25/11/2011 governing contracts
- The [Law n° 50/2008 of 09/09/2008 determining the procedure for disposal of state private assets](#)
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015.
- Advanced Project and Contract Management (2006) – Chartered Institute of Purchasing and Supply
- H-J. Priess, (ed.), Getting the Deal Through: Public Procurement 2010 (Global Competition Review: London, 2010)
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.
- Knut Leibold (2007) Electronic Government Procurement (e-GP) Opportunities and Challenges.
- R. Hernández Garcia (ed.), International Public Procurement: A Guide to Best Practice (Globe Law and Business, 2009)
- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Barrat, C., and Whitehead, M., (2004), Buying for Businesses: Insights in Purchasing and Supply Chain Management. The Atrium Southern Gate, Chichester. John Wiley and Sons Ltd.
- Chuah J.C.T. The Law of International Trade (Second Edition) London, Sweet and Maxwell, 2001
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited.
- Peter Baily, David Farmer, David Jessop and David Jones (2006) Purchasing Principles and Management (Ninth Edition), Pearson Education Limited
- Dale Neef (2001) E-Procurement: From Strategy to Implementation

Key websites and on-line resources

- <https://www.cips.org/en/knowledge/.../publicprocurement>
- <https://www.cips.org/en/knowledge/procurement-topics-and...need.../setting-kpis>
- www.pmi.org
- www.nextenders.com
- www.cips.org

Teaching/Technical Assistance

Laboratory space and equipment

- Books at library
- e-resources

Computer requirements

Laptop will be required

Others

- Supervision form

15. Please add anything else you think is important

ILPD will avail facilities for mentors

16. Module Team

1. Supervisors

Experts from the following institutions will supervise the papers:

- RPPA
- Ombudsman's Office
- MINIJUST
- Rwanda Bar Association
- Judiciary
- RDB (PPP Unit)
- RTDA
- RHA
- Academic institution
- NPPA
- RIB
- WORLD BANK Group
- UNDP
- ASSOCIATION OF PROCUREMENT PROFESSIONALS IN RWANDA (*APPR*)

17. Unit approval

Rector, Vice Rector, Academic Dean and registrar will approve this unit.

Department	Official	Date
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	
	Signature	
	Print Name	

Seen and agreed

Library	Signature	
	Print Name	
ICT	Signature	
	Print Name	

Institute of Legal Practice and Development (ILPD)

P.O Box: 49 Nyanza

Avenue des sports Nyanza, Southern Province.

Tel: (+250)0252533238

Email: info@ilpd.ac.rw

Web-site: www.ilpd.ac.rw

**SPECIFICATION OF THE POSTGRADUATE DIPLOMA
PGROGRAMME IN PROCUREMENT PRACTICE (DPP) FOR
INCORPORATION INTO THE ILPD CURRICULUM**

YEAR 2019

1. PROGRAMME DETAILS

1.1 <u>Programme Title</u>	Postgraduate Diploma Programme in Procurement Practice (Pg DPP)			
1.2 <u>Exit Awards</u>	The Postgraduate diploma in Procurement Practice (Pg DPP).			
1.3 <u>Modes of Attendance</u> <i>(please tick</i>	Part-time		Full-time (See details on learning and teaching strategy)	
	Distance Learning		Work-based Learning	
	Other (please		Short course	
1.4 <u>Resource group:</u> (See Notes of Guidance)	1		5	
	2		6	
	3		Other (write in)	
	4			
<u>1.5. First year of presentation</u>	2019			
<u>1.6. Programme Leader</u>	Academic Dean at the Institute of Legal Practice and Development (ILPD)			
1.7. Faculty/School/Centre administratively responsible for the programme	Institute of Legal Practice and development			
1.8. Programme development Team	<ul style="list-style-type: none"> - Prof Moses Muhwezi, PhD - Mr Jean Paul Mazimpaka (Advocate at Rwanda Bar Association and lecturer- UR) - Dr Dida Kayihura, Rector ILPD - Sadiki Bagwaneza (Academic Dean – ILPD) - Samuel Nzakomeza, Director of research, training and consultancy- ILPD 			

2. PROGRAMME FUNDING AND NEED FOR RESOURCES

2.1. Funding

The programme will primarily be funded by the tuition fees from the students. ILPD will admit many procurement professionals from government institutions under government sponsorship students as well private sponsored students from private companies or individuals who want to acquire procurement knowledge. .

2.2. Project student numbers

ILPD is projecting to admit 50 students in the first year of presentation, 60 students in the second year and 65 students in third year.

2.3. Staffing (Teaching team)

These courses in this programme will be taught by experts with professional experience in procurement. Some of them include:

- Prof Moses Muhwezi
- Mr Jean Paul Mazimpaka (advocate and lecturer-University of Rwanda)
- Mr Celestin Sibomana (RPPA)
- Me Theophile MBONERA
- Stanley Banzimana (Lecturer UR)
- David Furaha (State attorney)
- Isabelle Kalihangabo
- Nyirurugo Jean Marie(NPPA)
- Other experts from RPPA, RDB, RTDA, REG, RHA, Minijust, Judiciary, NPPA, RIB, Office of Auditor General, Office of Ombudsman, Academic institutions, Association of Procurement Professional in Rwanda (APPR),etc.

3. PROGRAMME BACKGROUND AND RATIONALE

An effective public procurement system has many benefits to a developing country; that desires to have cost savings, acquiring appropriate goods and services and timely delivery of essential service, among others. Providing procurement professionals with the right procurement knowledge, skills and competences is vital in realization of the above benefits.

In this context, ILPD, in partnership with The Strengthening Rwandan Administrative Justice (SRAJ) Project, developed the Post- Graduate Diploma course in Procurement Practice (Pg DPP). SRAJ is a 3-year, USAID-supported initiative aimed at improving the quality, consistency, legality and transparency of decision-making by Rwandan district authorities in administrative cases that involve thousands of citizens and businesses. The project is implemented by University of Massachusetts Boston with local partners.

The Project focuses on improvements in decision-making in four discrete subject areas: Public procurement (procurement of goods, services, non-consulting services and works); Land expropriation (government seizure of land for public use); Public employment (hiring, promotion, and dismissal of government employees) and Private labor regulation (certain terms and conditions of employment, including safety).

This post graduate diploma Course is under the capacity building aspect of the project. In order to advance both the objectives of the SRAJ Project and the mission of the Institute for Legal Practice and Development, and to increase the skills of the procurement professionals in Rwanda, ILPD in partnership with UMass Boston developed two post-graduate- level courses at ILPD- one in procurement law and the other in private labour regulation. This concept note concerns the Post- graduate Diploma in Procurement Practice (DPP).

Education in Rwanda should among others aim at making learners fit into the communities they are citizens of and making the next generation original thinkers, competent, honest and committed workers who can contribute to their personal and community good. Rather than being examination centered, the education system should be competence based, with a more practical orientation. The programme content should be relevant and tailored to the learners' needs, to win their interest and full engagement. The procurement profession, with its great influence on the public resources therefore, is a great pillar in Rwanda's realization of these strategic goals.

The work of procurement professionals requires a deeper understanding of both legal and non-legal aspects of procurement. In their daily duties, procurement professionals apply laws and regulations governing procurement process (eg: Law n°62/2018 of 25/08/2018 governing public procurement, orders and regulations). Despite this, there is no institution that offers the diploma in procurement with emphasis on both legal and non-legal aspects involved in procurement process.

The envisaged pedagogy will be the one to lead to learning outcomes which emphasize competencies that include application and creation of knowledge, along with the development of important skills and dispositions. Therefore, this diploma programme is necessary to offer procurement professionals an opportunity to have an advanced knowledge of different legal and non – legal issues involved in the procurement processes. In addition to non-legal aspects of procurement, procurement professionals require analytical skills (analyse, critique, judge, compare and contrast, evaluate and assess), operational skills, managerial skills, communication skills, team skills, people skills, interpersonal skills, statistical skills, research skills among others. The training programme will incorporate acquisition of these skills in various courses taught and through various pedagogical and anagogical methods.

The preparation of this programme was based on the analysis of different procurement instruments such as the Law n°62/2018 of 25/08/2018 Law governing public procurement, orders and regulations as well cases from the Independent Review Panel and the Courts. We

also used the comparative approach to analyse the current procurement programmes in other national and international higher learning institutions. This helps us to learn from their practice and thus prepare a programme that satisfies the global citizenship requirements.

In addition to this, we held consultations with different stakeholders, among others; one can mention the Ministry of Infrastructure, the Ministry of Justice, Rwanda Public Procurement authority, Private Sector Federation, Office of auditor general and the Office of the Ombudsman. This helped to develop a programme that better fit with the needs of the procurement professionals. Despite the government efforts to build the capacity of procurement professionals, this needs assessment carried out in August 2018 revealed that there are still some training needs. During this assessment,

The course will focus on these major issues identified during the needs assessment:

- Procurement planning and budgeting
- Preparation of the tender document (eg: involvement of the User department)
- Needs identification and specifications (especially for technical and complex tenders such medical, ICT, Construction, etc)
- The role of different actors involved in the procurement process
- Supplier management
- Ethics in procurement
- Understanding and interpretation of procurement laws and other relevant laws such contract law, transport law, tax law, etc)
- Incoterms
- Joint venture agreement
- Procurement methods
- Evaluation of bids
- Public Private Partnerships (PPPS)
- Project procurement
- Market survey procedures
- Contract negotiation and drafting
- Changes to contract (Addendum)
- Fraud detection and Information sharing
- Contract management (especially for complex tenders such as construction tenders, issue of service level agreement, contract variation etc)
- Procurement Dispute settlement mechanisms
- Coordination of the procurement process
- Payment system, etc

4. OBJECTIVES (AIMS) OF THE PROGRAMME

The overall Objective of the DPP is to equip the procurement professionals with a comprehensive knowledge that covers legal and non- legal aspects of Procurement and also good practices in Public Procurement. Delivered in a practical approach that includes learning from each other, participants will be able to develop expertise in Public Procurement. Enhanced skills of procurement professionals will also increase professionalism in the procurement profession.

5. PROGRAMME SPECIFIC LEARNING OUTCOME

5.1. Knowledge and understanding

Having successfully completed this programme, trainees should be able to demonstrate knowledge and advanced understanding of:

- the Procurement process and the supply chain management;
- Procedural and substantive laws and regulations governing the procurement process, their interpretation and application to procurement cases;
- Preparation and writing of technical specifications of the needs in public procurement
- Supplier management in the public procurement;
- Negotiation, drafting, amendment and management of procurement contract;
- Mechanisms for dispute resolution in public procurement;
- Development and implementation of the electronic procurement;
- Ethical conducts of procurement professionals in general;
- The mechanisms to fight against corruption and collusion public procurement;
- Liability for breach of procurement laws;
- Application of the principles and techniques theoretically into real life problems solving solutions;
- Research methods in public procurement that can help to find research based solutions to real problems arising from procurement duties;

5.2. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this module, students should be able to:

- To adequately apply procurement laws throughout the procurement process;
- To effectively prepare technical specifications of the desired needs;
- To negotiate, draft and amend a contract in accordance with laws and standards;
- To effectively manage procurement contracts especially those involving complex tenders;
- To demonstrate ethical conducts in procurement responsibilities;
- To implement the electronic procurement;
- To apply theoretical knowledge into real life problems solving;
- To carry out research in procurement in order to find the research based solutions to procurement problems.

5.3. Communication/ICT/Numeracy/Analytic Techniques/Practical Skills/Information Literacy

Having successfully completed this module, trainees should be able to:

- To communicate with peers, more senior colleagues, specialist and experts on procurement practice related matters;
- Use ICT to carry out research on procurement law related issues;
- Disseminate practical knowledge in procurement practice.

5.4. General Transferable skills

Having successfully completed this module, trainees should be able to:

- Recognize, critically analyze, evaluate, appreciate, express and solve key issues encountered in procurement process;
- Express a high degree of autonomy, with full responsibility in handling procurement issues;
- To effectively plan, set career goals and practically perform procurement related career.
- Understand different practical issues involved in procurement from a national, regional and international perspective.

6. PROGRAMME STRUCTURE

The programme comprises eight (8) modules. Six of them will be offered in two semesters while other two modules will cover the whole period of the programme. These are the following:

Module Title	Semester	Programme outcomes
Module 1: Introduction to public procurement	I	All programme outcomes will be achieved at the end of the programme
Module 2: Procurement legal framework	I	
Module 3: Needs identification and supplier Management	I	
Module 4: Contract management and dispute Resolution	II	
Module 5: Electronic procurement	II	
Module 6: Procurement ethics	II	
Module 7: Field attachment	I&II	
Module 8: Research project	I&II	

7. LEARNING AND TEACHING STRATEGY

7.1. Period and modalities for Course delivery

This programme will be offered on full time basis. The course will be delivered in a period of 8 months divided into two semesters. The face to face sessions will cover a period of six months while two months will be dedicated to research and presentations of the research papers, i.e. one month between two semesters for the first paper and the last month for the second paper.

The participants will study face to face with the Trainer **one week per month**. The trainer will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develops critical thinking and solution based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties.

The remaining three weeks will be reserved to field work attachment, assignments and research paper. Since the objective of this course is to get the learner acquainted with real-life working experience and to enable the learner apply skills learnt in school at the actual work place, the ILPD will appoint a mentor for participants and determine the modalities of mentorship in the workplace. These mentorship regulations will indicate the requirements to be designated as a mentor, activities to be done, follow up mechanisms, assessment modalities, etc.

In addition to face to face sessions and the field attachment under mentorship, the participants will also be required to write two articles during their period of study.

7.2. Teaching methodology

The course will be largely practical. The facilitators will be using practical cases from Independent Review Panel and the Courts. In case there is no real case, the facilitators will use hypothetical cases but which are locally based to be well appreciated by the learners. Case studies will be used to help the candidates to contextualise active procurement legal problems against a background of realistic scenarios with the opportunity to apply the relevant rules of law that they will have been lectured on.

Participants will also be given an opportunity to make group and class discussions on different challenges they meet in their daily duties. Candidates will be expected to have prepared essential reading on case law, legislation, and other procurement rules prior to the class session, and will discuss the legal issues raised by the reading in an interactive fashion in order that the class can engage in problem solving facilitated by the trainer. This requires the trainer to submit the course materials to the trainee before engaging them in a face to face session. Further reading will be recommended after each session to progress and further the candidate's Procurement knowledge and skills. Library resources, the Internet and daily readings will be part of the course.

Role plays, video clips, guest lectures from experienced procurement practitioners and class discussions between participants will help learners to gain practical skills. Exercises and group work will also be used to enable the trainees to synthesize and apply what they have learned.

We acknowledge that in addition to the need for the hard skills, learners should have proficiency in soft skills too. A procurement practitioner requires interpersonal skills, communication skills, research skills, analytical skills, time management, planning and organizational skills. The teaching style will be oriented towards use of examples, modeling at practice. Use of experiential learning, group projects tasks and presentations, discovery learning and dialogic analysis of case method will be some of the strategies to have soft competences embedded into the hard competences.

8. ASSESSMENT STRATEGY

The assessment consists of in course- assessment that weights 40% (for practical works done in face to face sessions); 40 % for field work attachment and 20% for research papers.

9. ADMISSION CRITERIA

Eligibility to this programme requires a Bachelor's degree. It does not require any specialized degree. However, candidates with an undergraduate degree or a professional qualification in areas such as Law, Procurement, Logistics and Transport, Business, Management, Leadership, Entrepreneurship, Finance, Marketing, Pharmacy, Medicine, Engineering or related areas are particularly eligible for this programme.

This programme is designed in particular for:

- a) Procurement officers whose role demands an understanding of the procurement rules
- b) Legal advisers whose role includes advising on public procurement
- c) Auditors
- d) State attorneys dealing with public procurement matters
- e) Ombudsman office staff
- f) Investigators and prosecutors whose role include public procurement issues
- g) Judges involved in procurement matters
- h) Advocates dealing with procurement cases
- i) Other persons whose responsibilities concern public procurements

10. Strategy for student support

This will be a student-centred learning or interactive methodology. They will hence have the opportunity for feedback in class. In addition to this, an evaluation form will be given to all trainees at the end of the each module as well as at the end of the programme.

11. Indicative learning resources

a. Core texts

- Law N°62/2018 of 25/08/2018 governing public procurement
- Law N° 14/2016 of 02/05/2016 governing public private partnerships
- Organic Law n°12/2013/OL of 12/09/2013 on State finances and property
- The convention on international sale of goods (CISG) 1980
- Law n° 45/2011 of 25/11/2011 governing contracts
- The Law n° 50/2008 of 09/09/2008 determining the procedure for disposal of state private assets
- Abby Semple, A Practical Guide to Public Procurement, Oxford University Press, first edition, 2015.
- Advanced Project and Contract Management (2006) – Chartered Institute of Purchasing and Supply
- H-J. Priess, (ed.), Getting the Deal Through: Public Procurement 2010 (Global Competition Review: London, 2010)
- Kenneth Lysons and Brian Farrington (2006), Purchasing and Supply Chain Management (Seventh Edition) Pearson Education Limited
- Khi v. Thai, International Handbook of Public Procurement, CRC Press, 2009.
- Knut Leipold (2007) Electronic Government Procurement (e-GP) Opportunities and Challenges.
- R. Hernández Garcia (ed.), International Public Procurement: A Guide to Best Practice (Globe Law and Business, 2009)

b. Background texts

- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Arjan J. Van Weele (2005), Purchasing and Supply Chain Management – Analysis, Strategy, Planning and Practice (Fourth Edition) Thomson Learning
- Arrowsmith, Sue 1998. National and International Perspectives on the Regulation of Public Procurement: Harmony or Conflict? In Public Procurement: Global revolution, edited by Sue Arrowsmith and Arwel Davies, 3-26. London, Boston: Kluwer Law International.
- Barrat, C., and Whitehead, M., (2004), Buying for Businesses: Insights in Purchasing and Supply Chain Management. The Atrium Southern Gate, Chichester. John Wiley and Sons Ltd.

- C.P. McCue, *Fundamentals of Leadership and Management in Public Procurement*. (NIGP,2005)
- Chuah J.C.T. *The Law of International Trade (Second Edition)* London, Sweet and Maxwell, 2001
- Dale Neef (2001) *E-Procurement: From Strategy to Implementation*
- Kenneth LYson and Micheal Gillingham (2001), *Purchasing and Supply Chain Management, (Sixth Edition)* Financial Times Pitman Publishing
- Kenneth Lysons and Brian Farrington (2006), *Purchasing and Supply Chain Management (Seventh Edition)* Pearson Education Limited.
- M. Bult-Speiring and G. Dewulf, *Strategic Issues in Public Private Partnerships; An international perspective* (Blackwell Publishing, 2006)
- Margret Griffiths and Ivor Griffiths (2002), *Law for Purchasing and Supply (Third Edition)* Prentice Hall
- OECD, *Bribery in Public Procurement: Methods, Actors and Counter-measures* (OECD Publishing, 2007)
- OECD, *Integrity in Public Procurement: Good Practice from A to Z* (OECD Publishing, 2007)
- Peter Baily, David Farmer, David Jessop and David Jones (2006) *Purchasing Principles and Management (Ninth Edition)*, Pearson Education Limited
- Peter Baily, David Farmer, David Jessop and David Jones (2006) *Purchasing Principles and Management (Ninth Edition)*, Pearson Education Limited
- S. Arrowsmith (ed.), *Reform of the UNCITRAL Model Law on Procurement: Public Procurement Regulation for the 21st Century* (Thomson Reuters/West, 2009).

Journals

- A. Ancarani, ‘Service Sourcing’, in K.V. Thai (ed), *International Handbook of Public Procurement*, (London: CRC Press, 2009) at 187
- F. Roodhofs and A. van den Abbeele, "Public procurement of consulting services – Evidence and comparison with private companies" (2006) 19 *IJPSM* 490
- G.L. Albano, G. Calzolari, F. Dini, E. Iossa and G. Spagnolo, “Procurement contracting strategies”, ch.4 in N. Dimitri, G. Piga and G. Spagnolo (eds), *Handbook of Procurement* (Cambridge: CUP, 2006) 82
- H-J. Priess, “Conflict of Interest in Tender Proceedings: How to Deal with Conflicts of Interest (Family Ties, Business Links and Cross-Representation of contracting Authority Officials and Bidders)” (2002) 11 *Public Procurement Law Review* 153
- J.J. Snider Smith, “Competition and Transparency: What Works for Public Procurement Reform” (2008) 39 *Public Contracts Law Journal* 85
- M. Greenwood and J.M. Klotz, “The fight against corruption in public procurement: an introduction to best practices” in R. Hernández Garcia (ed.), *International Public Procurement: a Guide to Best Practice* (Globe Law and Business, 2009) 5
- N. Caldwell and E. Barker, ‘Procurement Process in the Public Sector: An International Perspective’ in K.V. Thai (ed), *International Handbook of Public Procurement*, (London: CRC Press, 2009) at 427

- P. Dunham, "Balancing Sovereignty and the Contractor's Rights in International Construction Arbitrations Involving State Entities" (2006) 23 International Construction Law Review 130;
- P. Pease, "What makes a good procurement oversight body?—Lessons from recent experience" in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 95
- S. Arrowsmith and C. Nicholas, "Regulating Framework Agreements under the UNCITRAL Model Law on Procurement", ch.2 in S. Arrowsmith (ed.), Reform of the UNCITRAL Model Law on Procurement: Public Procurement Regulation for the 21 st Century(Thomson Reuters/West, 2009) 95
- S. Croom and A. Brandon-Jones, 'Key Issues in E-Procurement: Procurement Implementation and Operation in the Public Sector' in K.V. Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 445
- W.C. Lawther, 'Contract Negotiations' in K.V Thai (ed), International Handbook of Public Procurement, (London: CRC Press, 2009) at 563;

Key websites and on-line resources

- <https://www.cips.org/en/knowledge/.../publicprocurement>
- <https://www.cips.org/en/knowledge/procurement-topics-and...need.../setting-kpis>
- www.pmi.org
- www.nextenders.com
- www.cips.org
- <http://sate.gr/nea/international%20handbook%20of%20Public%20Procurement.pdf>

REPUBLIC OF RWANDA



Kigali, 14/10/2020
Nº: 2513 /12.00/2020

MINISTRY OF EDUCATION
P.O. BOX 622, Kigali - Rwanda

The Rector,
Institute of Legal Practice and Development (ILPD)
Nyanza, Southern Province

Dear Rector,

Re: ILPD's application for accreditation of new Postgraduate programs

Reference is made to ILPD's re-submission to the Higher Education Council (HEC), of the application for accreditation of two (2) new Postgraduate programs: Postgraduate Diploma in Procurement Practice and Postgraduate Diploma in Tax Investigation;

The assessment of ILPD's preparedness to host the new academic programs involved discussions between HEC's review team and ILPD officials; and virtual inspection of the ILPD's campus to assess the physical infrastructure and facilities. The assessment of compliance was based on the established Higher Education Norms and Standards. The guiding documents comprised, among others, the ILPD application report, proposed academic programs narratives (including evidence of resources) from ILPD and expert review reports for each of the proposed new programs.

The assessment indicated ILPD's readiness to effectively offer and support the new proposed academic programs including: the collaborating partners; the collaborative nature of the proposed academic programs with already identified sponsors and financing modality; the uniqueness of the proposed programs and their relevance to the labour market; and the fact that, the proposed programs went through ILPD's internal verification and approval process. Generally, the rationale, objectives, structure, modules descriptions, and funding modalities for the proposed programs are in compliance with the established Higher Education Norms and Standards.

Based on the above, I am pleased to inform you that the **two (2) new programs have been accredited.**

The Higher Education Council (HEC) will closely monitor the implementation of the newly accredited academic programs, and to ensure that the conditions prescribed (in the detailed report, on the basis of which these academic programs have been accredited, are put in place and sustained.

Sincerely,

Dr. Valentine UWAMARIYA
Minister of Education



Digitally signed by
MINEDUC (Minister)
Date: 2020.10.14
12:01:12 +02'00'

Cc.:

- Minister of Justice
- Minister of State in Charge of Primary and Secondary Education
- Minister of State in Charge of ICT & TVET
- Permanent Secretary, MINEDUC
- Executive Director, HEC

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XIVA (VOLUME III)

**CONCILIATION/MEDIATION OF LABOUR DISPUTES
PROGRAMME DESCRIPTION**

YEAR 2020

TRAINING PROGRAMME DETAILS

1. SHORT COURSE TITLE

Conciliation/Mediation Training Programme

2. AWARD AFTER COMPLETION OF THE TRAINING PROGRAMME

Upon completion of the Training Programme and fulfillment of all the requirements of the Training programme, the participant will be awarded a Certificate in Conciliation and Mediation of Labour Disputes.

3. TRAINING PROGRAMME BACKGROUND AND RATIONALE

Rwanda economic integration has contributed a lot in terms of rising of the economic growth, however unequal distribution of its benefits and recent changes in the labour market have affected traditional labour dispute resolution methods hence increase of social tensions. According to different annual labour inspector's reports, the industrial disputes between employers and workers have been on a dramatic rise. Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda mandates workers representatives and labour inspectors to amicably settle both individual and collective labour dispute through amicably arrangement.

The place of adversarial rights-based processes such as labour tribunals or arbitration is not in dispute, but alongside this is a growing recognition of the value of effective consensus-based dispute resolution methods including conciliation and mediation and therefore this has placed pressure on frequently under resourced and under-staffed labour administration departments and other dispute resolution machinery. Court systems are rapidly overloaded with cases, leading to delays and rising costs for both workers and employers. Governments are increasingly aware of the need to improve labour relations and enhance the prospects of industrial peace in order to ensure stable economic and social development, therefore conciliation/mediation plays an important role in the way in which employers, employees and their representative organizations, including trade unions, find agreed solutions to common problems in the workplace, enterprise and different levels.

An agreement reached through conciliation/mediation has usually benefits for all parties involved. First of all, it creates an opportunity for disputing parties to find a mutually beneficial solution to a dispute when negotiation has failed. Secondly, the intervention of an independent conciliator/ mediator often helps parties reduce the extent of their differences. The outcome of a successful labour conciliation/ mediation is a new equilibrium that resolves the prevailing dispute and establishes the foundations of a more co-operative relationship. It is well known that when parties have agreed the terms of the resolution to a dispute instead of having a decision imposed upon them by a third party, they are much more likely to comply with that outcome. Enforceability is therefore much less of a problem.

In addition, an effective dispute managing system promoting consensus-based initiatives reduces both the cost and the time associated with traditional methods of dispute resolution whether it be through tribunals, arbitration or the use of strikes and lockouts. An effective conciliation/mediation system therefore enhances social peace while lightening the burden of work for labour tribunals. Voluntary conciliation and arbitration can play an important role in the prevention and settlement of disputes, while labour tribunals allocate their resources to a smaller number of proceedings, thus raising the quality of their activities without diminishing access to justice for employers and employees.

According to Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda, use of conciliation and mediation is mandatory in managing labour conflict in order to relieve pressure on courts. It's crucial therefore that conciliators/mediators' capacities are strengthened to inspire confidence in both parties to a dispute if they are to help them achieve an effective agreement. Such experts need to be trained in conflict management and negotiation processes, as well as in the process of conciliation/mediation, so that they can assist the bargaining partners to resolve labour disputes and achieve mutually beneficial outcomes which meet their underlying needs and concerns, without resorting to the court system.

4. TARGETED AUDIENCE

According to all the stakeholders we met, the targeted beneficiaries should include:

- a) current or future conciliators/mediators from the Ministry of Labour or from labour dispute resolution bodies/agencies;
- b) Labour lawyers;
- c) Labour administration and labour inspection officials;
- d) Line managers (i.e. any persons who have the responsibility for managing others);
- e) Human resources managers and officers;
- f) UN Staff and ombudspersons;
- g) Industrial relations experts and practitioners;
- h) Employers' and Workers' representatives; and
- i) conflict management specialists.

5. OBJECTIVES OF THE TRAINING PROGRAMME

Against this background, the objectives and focus of this programme are to assist conflict participants dealing with interpersonal and relationship-based workplace conflict to:

- a) Assess and certify the competencies of those involved in conciliation/mediation of labour disputes and therefore contribute to an increased recognition of their role and functions;
- b) Explore tools and strategies for the prevention of labour disputes in the workplace;
- c) Get acquaintance with successful experiences of prevention of labour disputes and identify possible ways to improve their approaches in their own organizations;
- d) Develop participants' knowledge and understanding of consensus-building approaches to conflict management and dispute resolution. Emphasis is placed on how to help the parties reach an agreement that allows mutual gains and a strengthened relationship between the parties;
- e) Enhance the participants' capacity to effectively prevent and manage labour disputes;
- f) Be more self-aware (of their own predominant conflict handling style and patterns of behaviour and thought which informs their way of handling conflict);
- g) Enhance and/or develop their knowledge, skills and competencies to intervene early in the life of a conflict before it escalates into a dispute;
- h) Identify effective conflict management styles and adopt situation-appropriate styles and processes;
- i) Work towards outcomes which address the parties' underlying needs and concerns; and
- j) Adopt behaviours and enhance and/or develop their core skills and competencies which support them in achieving more effective and sustainable outcomes.

6. LEARNING OUTCOMES

6.0. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this short course, trainees should be able to:

- a) Recognizes the importance of effective labour dispute-resolution systems;
- b) Demonstrates and understands the guiding principles of effective conflict-prevention and management;
- c) Effectively applies the best practices in preventing and managing Labour disputes;
- d) Critically analyses the existing dispute-management processes, practices and frameworks within organizations for its improvement;
- e) Compare and contrast the different good practices in labour dispute-resolution systems;
- f) Apply the theoretical knowledge in preventing and managing Labour disputes;
- g) Identify and use different techniques in effective conflict-prevention and management.

7. KEY TOPICS THIS TRAINING PROGRAMME TO COVER

The Training programme will focus on some of these major areas identified during consultation with the various stakeholders:

- Introduction and overview of the course
- An introduction to conciliation/mediation
- The conflict dynamic
- ILO Conventions and Recommendations on the topic
- Rwanda labour and labour dispute management
- Process management skills
- Problem management skills
- Effective people skills
- Responding to challenges
- The conciliation/mediation process
- Labour dispute resolution
- Grievance handling
- Responses to conflict
- Understanding conflict
- Approaches to conflict management
- Outcomes in conflict management
- Skills and behaviors for effective conflict management
- Preparing for conflict conversations
- Writing resolutions

8. TRAINING PROGRAMME METHODOLOGY, LEARNING AND TEACHING STRATEGY

8.0 STRUCTURE AND METHODS THAT WILL BE USED

The Training programme is proposed to be held on the ILPD premises or any other designated location. The training programme will be face to face sessions and will be delivered in a period of five (5) days. This Training programme will be offered on a full time basis. The participants will study face to face with the Trainer for five (5) days.

8.1 LEARNING AND TEACHING STRATEGY

Different methods will be used in the delivery of this short course in consideration of the level of participants for this course. Instructors will consider various factors including the working environments of the working class.

The courses will be fully delivered face to face at ILPD campus. This is a participatory and interactive course, and activities are included in most training course. This will allow the participants to have direct interaction with lecturers on a regular basis. This will assist participants to exchange different experiences through in class or group work.

Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

In order to engage participants, instructors will involve participants on online learning, with materials being made available online to be used by participants. This will allow participants after face to face lecturers to get time to access all necessary materials online in order to do assigned work or to get more insight on the subject matter and it will allow participants to be on site for short periods of time and still be able to work where possible.

The instructors also will use practical approach to deliver the course by applying both examples of actual cases and devised case studies in classroom exercises and provide role plays/Drills and games to understand the concepts and theories. Different materials

will be available like role-play training material, specifically developed for this training programme. These will consist of real practical examples and cases on ground that have transpired in Rwanda. Other best practices examples will also be applied especially those that was published by ILO and used in various training workshops, including the Turin Training Centre.

The Instructor will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develop critical thinking and solution-based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties.

Participants will be involved in role plays, in which they will have the opportunity to play the role of the conciliator/ mediator at all stages of the conciliation/mediation process, and will be coached and assessed on the basis of a competency framework. Different exercises are foreseen and will be assessed. Participants will receive feedback after each session relating to the conducted exercises.

Participants will also be presented with pertinent documentation as a follow-up to the presentations in order to expand the knowledge about the topics.

A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-ofcourse evaluation questionnaire will be used to allow participants to express their views about the training experience.

For sustainability purposes by building capacities of local experts, where possible international experts will be used in training as guest speakers together with local experts. As also highlighted above, experiential learning will also be applied in practical role play in group work and in assignments intended to reinforce the practical nature of the course. Also, participants will have access to the ILPD library.

The participants will be introduced on use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to and other developed training materials to assist member states to implement fundamental principles of the ILO Constitution and ratified standards.

The assessment strategy will include: knowledge assessment at the start and at the end of the training, take-home/class group assignments, course project work, case analysis, presentation, plenary discussions which will be done in form of seminar in order to develop the interpersonal skills and team work and class attendance of 90% for trainees in the course.

8.2 ALLOCATION OF STUDY AND TEACHING HOURS

Item	Allocated hours
Pre-course assignment and knowledge assessment questionnaire	2
Lectures	28
Assignments – writing and preparations	10
Total	40

9. TRAINING PROGRAMME DEVELOPMENT TEAM AND LECTURERS

The training programme will be developed by:

- Mr. Twahirwa Alexander (Labour law specialist, International Labour Organization and a practitioner lawyer, with assistance of
- Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.

Resource persons will be selected for their professional experience and subject knowledge. It will consist of:

- a) Developers of this training programme;
- b) Outsourced international experts;
- c) ILO Experts;
- d) External lecturers/experts from Ministry of Public Service and Labour, Employers and Trade union.

10. TRAINING PROGRAMME FUNDING AND ADMINISTRATION

10.1 Short course commencement

The ILPD is planning to start teaching this short course on International labour standards by end of 2020.

10.2 Programme leader

This Training programme will be administered by the Institute of legal practice and development. The Training programme leader is: _____

10.3 Funding

The Training programme will primarily be funded by the tuition fees from the participants. ILPD will also admit practioners from public institutions under government sponsorship as well private sponsored participants from private companies or individuals who want to acquire conciliation and mediation skills and knowledge. ILPD is projecting to conduct this Training programme twice a year. The number of participants in the first cohort of presentation is estimated at.....and a second cohort ofparticipants.

11. ADMISSION CRITERIA

Eligibility to this programme will be new recruited employees and practioners with a practical experience in labour matters. It does not require any specialized degree. However, candidates with an undergraduate degree or a professional qualification in areas such as Law, Human Resource Management, Supply chain management, Business administration, Management, Public administration, Entrepreneurship, Finance, Marketing, or related areas are particularly eligible for this programme.

This training programme is designed in particular for:

- Labour inspectors and judicial officers,
- Labour administration staff,
- Occupational Safety and Health (OSH) experts both at Ministerial and company levels,
- National Labour Council (NLC) members,
- Employees' delegates at the level of different institutions and companies,
- Members of the Private Sector Federation (PSF) charged with conciliation and mediation;
- Trade unionists,
- Human resource officers,
- Judges and advocates;
- Industrial relations practitioners, and
- Managers and other legal practitioners.

12. LANGUAGES

Participants will be required to be proficient in English language as the training materials will be available in English only.

13. FELLOWSHIPS/STRATEGY FOR PARTICIPANT SUPPORT

Concerning fellowships, this will be determined by ILPD after commencement of the course to qualified candidates coming from eligible local institutions and other countries. The Training programme is intended to be student-centered and highly interactive. Students will hence have the opportunity to provide feedback in class. In addition to this, an evaluation form will be given to all trainees at the end of the training programme.

14. INDICATIVE LEARNING RESSOURCES:

1. PRIMARY RESOURCES

Statutes

Constitution of the Republic of Rwanda of 2003, revised in 2015.

Conventions ratified by Rwanda

1	Night Work (Women) Convention, 1919 (No. 4)	18.09.1962
2	Right of Association (Agriculture) Convention, 1921 (N0 11)	18.09.1962
3	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)	18.09.1962
4	Weekly Rest (Industry) Convention, 1921 (No. 14)	18.09.1962
5	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)	18.09.1962
6	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)	18.09.1962
7	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	18.09.1962
8	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)	18.09.1962
9	Forced Labour Convention, 1930 (No. 29)	23.05.2001
10	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)	18.09.1962
11	Recruiting of Indigenous Workers Convention, 1936 (No. 50)	18.09.1962
12	Safety Provisions (Building) Convention, 1937 (No. 62)	18.09.1962

13	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)	18.09.1962
14	Labour Inspection Convention, 1947 (No. 81)	2.12.1980
15	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	8.11.1988
16	Night Work (Women) Convention (Revised), 1948 (No. 89)	18.09.1962
17	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)	18.09.1962
18	Right to Organise and Collective Bargaining Convention, 1949 (NO 98)	8.11.1988
19	Equal Remuneration Convention, 1951 (No. 100)	2.12.1980
20	Abolition of Forced Labour Convention, 1957 (No. 105)	18.09.1962
21	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	2.02.1981
22	Equality of Treatment (Social Security) Convention, 1962 (No. 118) <i>Has accepted Branches (d) to (g)</i>	21.09.1989
23	Minimum Age (Underground Work) Convention, 1965 (No. 123) <i>Minimum age specified: 18 years</i>	1.06.1970
24	Holidays with Pay Convention (Revised), 1970 (No. 132) <i>Length of holiday specified: 18 working days. Has accepted the provisions of Article 15, paragraph 1(a).</i>	13.05.1991
25	Works' Representatives Convention, 1971 (No. 135)	8.11.1988
26	Minimum Age Convention, 1973 (NO138) <i>Minimum age specified: 14 years</i>	15.04.1981
27	Worst Forms of Child Labour Convention, 1999 (NO 182)	23.05.2000
28	Employment policy Convention, 1964 (NO 122)	05:08:2010
29	Tripartite Consultations Convention, 1976 (No.144)	29.01.2018
30	Labour Administration Convention, 1978 (No.150)	29.01.2018
31	Occupation safety and Health Convention, 1981 (No. 155)	29.01.2018
32	Promotion Of Collective Bargaining Convention 1981, (No. 154)	29.01.2018

33	Private Employment Agencies Convention, 1997 (No. 181)	29.01.2018
34	Promotional framework for Occupational safety and Health Convention, 2006 (No. 187)	29.01.2018

Relevant ILO instruments adopted by the International Labour Conference and protocols

- 1) ILO Declaration on Social Justice for a Fair Globalisation, Adopted by the International Labour Conference, ILO, 97th Session, Geneva, June 2008.
- 2) Declaration of Philadelphia, adopted by the International Labour Conference, 26th session, Philadelphia, May 1944.
- 3) International Labour Organisation Constitution, adopted by the International Labour Conference, 26th session, Philadelphia, May, 1944.
- 4) ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference, 86th Session, Geneva, June, 1998.
- 5) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- 6) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- 7) Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
- 8) Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- 9) Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)
- 10) Conclusions concerning tripartite consultation at the national level on economic and social policy, International Labour Conference, 84th session, 1996
- 11) ILO Declaration on Fundamental Principles and Rights at Work", ILC 86th session, 1998
- 12) Resolution concerning tripartism and social dialogue, International Labour Conference, 90th session, 2002
- 13) ILO Declaration on Social Justice for a Fair Globalization, International Labour Conference, 97th session, 2008
- 14) ILO-International Training Centre Social Dialogue-A manual for trade union education

National laws

1. Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda and its application orders.
2. An Order of the Minister in charge of labour determining the modalities of election of employees' representatives and their alternates, their duties and conditions for fulfilling them.
3. Ministerial Order N° 001/19.20 du 17/03/2020 relating to labour inspection.
4. Prime Minister's Order determining the mission, organisation and functioning of the National Labour Council.

5. Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.

2. SECONDARY RESOURCES

ILO Reports and Surveys

- 1) ILO, report of the committee of experts on the application of conventions and recommendations, (articles 19, 22, and 35 of ILO constitution), international labour office, Geneva, 2017.
- 2) ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning the right to organise and collective bargaining convention, 1949 (no.98), Rwanda, published 2017.
- 3) ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning labour inspection convention, 1947 (no. 81), Rwanda, 2017.
- 4) ILO declaration on decent work for all, adopted by the international labour conference, 97th Session, Geneva, 10 June 2008.
- 5) Thematic Brief, Achieving Decent Work and Inclusive Growth: THE BUSINESS CASE FOR social dialogue, ILO-OECD
- 6) J. Ishikawa (2003): "Key features of national social dialogue: A social dialogue resource book" (Geneva, ILO).
- 7) Daza Perez, José Luis: Social Dialogue in the Public Service, Social Dialogue Working Paper No. 11 (Geneva, ILO, 2002).
- 8) Kostner, Karl: Social Dialogue in South Africa, Social Dialogue Paper No. 5 (Geneva, ILO, 2000).

National Policy documents, Reports and Surveys

- 1) Republic of Rwanda, Ministry of Public Service and Labour, Annual Reports on application of ratified ILO Conventions, 2017, 2018 and 2019
- 2) Republic of Rwanda, 7 Years Government Programme (National Strategy for Transformation 1) 2017–2024
- 3) Republic of Rwanda, Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012, September 2007.
- 4) Republic of Rwanda, Ministry of Public Service and Labour, *National Employment policy*, 2019.
- 5) ILO, compliance risk assessment in the building construction sector in Rwanda, 2019.
- 6) Decent work country programme, February 2018

7) CESTRAR-Baseline survey on the social dialogue situation in Rwanda, June 2013.

Internet source

ILO: IFP/DIALOGUE website on "Social Dialogue" at
www.ilo.org/public/english/dialogue/ifpdial/sd/index.htm accessed on 27.03.2020.

**INTERNATIONAL LABOUR STANDARDS
PROGRAMME DESCRIPTION**

YEAR 2020

TRAINING PROGRAMME DETAILS

1. SHORT COURSE TITLE

International Labour Standards

2. AWARD AFTER COMPLETION OF THE TRAINING PROGRAMME

Upon completion of the Training Programme and fulfillment of all the requirements of the Training programme, the participant will be awarded a Certificate in International Labour Standards.

3. TRAINING PROGRAMME BACKGROUND AND RATIONALE

The most important functions of the International Labour Organization's (ILO) is the setting of International labour standards (ILS), and these standards are adopted through tripartite arrangements and take the form of Conventions, Recommendations and Protocols. Conventions are international treaties that are open to ratification by member States. By ratifying them, member States formally undertake to make their provisions effective, both in law and in practice, and to report on their application at regular intervals. Recommendations are non-binding instruments which provide guidance for national policy, legislation and practice.

The ILS reflect the fact that countries have diverse cultural and historical backgrounds, legal systems, and levels of economic development, therefore the constituents (Government, Employers and Workers organizations needs to know how these standards are adopted and its impact to domestic legislation and compliance mechanism.

ILS cover a wide range of subjects in the world of work, namely freedom of association, collective bargaining and industrial relations; forced labour; child labour; equality of opportunity and treatment; tripartite consultation; labour administration and inspection; employment policy and promotion; vocational guidance and training; employment security; wages; working time; occupational safety and health; social security; maternity protection; social policy; migrant workers; HIV/AIDS; seafarers; fishers; dockworkers; indigenous and tribal peoples; and specific categories of workers. Before development of this training course, key stakeholders was consulted to get their view on whether they think the introduction of this Short course Training programme would be a good idea and

what in their opinion they think (or would like) the course to cover, and it was clearly indicated that there is persistent existence of gaps in the application of labour standards and labour laws in Rwanda.

All the stakeholders consulted voiced strong support and demonstrated overwhelming enthusiasm for the introduction of the Training programme. Indeed, the reaction to the proposed course was unanimous, in warmly welcoming the opportunity it would present. To take a number of examples, the Ministry of Public Service and labour in which inspectors are based, spoke of the difficulties of lack of trained capacity that hinders the proper implementation of both Rwandan law and international obligations, in particular ILO Conventions ratified by Rwanda. Also, the Dean of Law school centre similarly welcomed such a training programme because it can equip practitioners in labour standards that would not manage to go for a Diploma course for one year.

The ILO representative also are keen on the training programme because this will be very key in capacity building of labour practitioners', trade union members and employers organization members in fulfillment of their obligations in standards reporting mechanisms and implementation of both Core and ratified Conventions.

Rwanda like many of its East African counter parts has no specialised labour courts dealing specifically with labour related matters nor does it have specialised labour law practitioners handling labour related matters including in general labour standards application.

The ILO has developed mechanisms for monitoring the application of ILS in law and practice. These mechanisms, which are unique at the international level, are based on the evaluation by independent experts of the manner in which obligations are complied with and on the examination of cases by the ILO's bodies, therefore, the labour practitioners' need to know the application these ILS in order to comply with them.

4. TARGETED AUDIENCE

According to all the stakeholders we met, the targeted beneficiaries should include:

- a) Government officials responsible for matters relating to national and international labour standards, including the fulfilment of the obligations laid down by the ILO

Constitution which includes Labour and social security law practitioners in Rwanda and those from within the region; labour inspectors and judicial officers, labour administration staff, Occupational Safety and Health (OSH) experts both at Ministerial and company levels, National Labour Council members (NLC) members, employees' delegates at the level of different institutions and companies, representatives of employers' and workers' organizations responsible for labour matters; and

- b) Human resource officers, industrial relations practitioners, managers and legal practitioners.

5. OBJECTIVES OF THE TRAINING PROGRAMME

- i) To strengthen national capacity to follow International Labour Standards procedures, including the discharge of reporting obligations under the ILO Constitution.
- ii) To acquire expert knowledge, understanding and application of Labour Laws and International Labour standards.
- iii) To bridge the current labour law skills gap among various practitioners – labour practitioners', Judges, advocates, labour inspectors, etc. It was noted that most of the judges and practitioners lack hands-on experience or specific training in labour related matters. This in turn affects the quality annual reports submitted to ILO on ratified and non-ratified conventions, judgements rendered, interpretation and application of labour laws.
- iv) To enhance the capacity of the labour practitioners' to have a broader understanding of the Labour Laws and progressively create an enabling environment for compliance.
- v) To create awareness on the need for decent jobs both in informal and formal sector through innovative implementation strategies by legal and regulatory agencies.
- vi) To equip lawyers and non-lawyers with labour laws skills and knowledge. This is because our findings indicated that most of the labour and social security

practitioners in Rwanda and the region are not necessarily trained lawyers and thus lack even the basic labour law skills and knowledge. The cited examples include labour inspectors in Rwanda and Human Resource Professionals who are in most cases engaged in the application of labour and social security laws.

- vii) To help Rwanda and the government in particular reduce on the cost of training its employees in international labour standards matters. We established that the government of Rwanda sends a specific number of its employees to different labour law training centres in Africa and the world at large. For instance, some employees are sent to the ILO training centre in Cameroon (cladati) others to Mauritius and Turin – in Italy, etc. This proves very expensive for them yet a limited number of employees benefits.
- viii) The need for a reduction in the number of labour disputes heading to court. It was highlighted during the consultations that many of the labour disputes go to court either because the labour inspectors did not carry out well the conciliation process or because the various practitioners did not properly apply (or interpret) the law to address the situation at hand. This breeds conflicts at work and sometimes violation of the rights of workers. Skills and knowledge from the course would help bridge this gap.

6. LEARNING OUTCOMES

6.0. Cognitive/Intellectual skills/Application of Knowledge

Having successfully completed this short course, trainees should be able to:

- a) Gain a better understanding of Rwandan Labour Law, International Labour standards, the International Labour Organization and the structure and its different organs;
- b) Apply this theoretical knowledge in their daily labour law practices;
- c) Advise their respective institutions on compliance with labour standards;
- d) Demonstrate a clear understanding of the ILO conventions ratified by Rwanda and how these have been domesticated;
- e) Demonstrate a clear insight of the ethical issues at work and how these are best handled.

- f) Demonstrate the procedures of standard setting, submission, ratification, regular and special supervision in the fields covered by the ILO's mandate.
- g) Gain more understanding on how International Labour Conference adopts and applies ILS.
- h) Apply acquired in-depth knowledge on the instruments and supervisory machinery of the ILS system.
- i) Demonstrate knowledge on how domestic judges and lawyers can use international labour law to solve labour disputes.
- j) Master and know how to use the databases on ILS and on case law.
- k) develops policies and devising programmes to promote decent work.
- l) Demonstrate a clear understanding of Fundamental rights vis-à-vis labour laws.
- m) Effectively master the equality before the law and its application in Labour Laws.
- n) Masters and applies key terms, theories/concepts and practices within the field of international labour standards.

7. KEY TOPICS THIS TRAINING PROGRAMME TO COVER

The Training programme will focus on some of these major areas identified during consultation with the various stakeholders:

- ILO's mandate and structure.
- ILS procedures: (standard setting and Standard Review Mechanism; submission; ratification, entry into force and denunciation; regular system of supervision: reporting procedures (articles 22 and 19 of the ILO Constitution), and the Committee of Experts of the Application of Conventions and Recommendations (CEACR), Conference Committee on the Application of Standards; special procedures: freedom of association complaints, representations under article 24 of the ILO Constitution and complaints under article 26 of the ILO Constitution.
- ILO Supervisory system, focusing on the main structures and procedures of the Conference Application of Standards Committee (CAS) and Committee on Freedom of Association (CFA)
- International Labour Standards content on core labour standards: freedom of association and collective bargaining, forced labour, child labour, equality of opportunity and treatment; tripartite consultation; labour inspection; employment policy and promotion; occupational safety and health.
- Constitution and Labour Laws.
- History of Labour Law in Rwanda.

- International Labour standards and labour law terminology, trends and characteristics.
- Fundamental principles and labour rights.
- Major aspects of Labour Laws highlighting the Core Labour Standards and the Basic Conditions of Employment legislation in Rwanda.
- The Contribution of Labour Laws to the overall business environment.
- Compliance of Labour Laws and challenges in Rwanda.
- Implementation and enforcing of Labour Laws in Rwanda.
- Country examples of the innovative practices in extending labour and labour related laws.

8. TRAINING PROGRAMME METHODOLOGY, LEARNING AND TEACHING STRATEGY

8.0 STRUCTURE AND METHODS THAT WILL BE USED

The Training programme is proposed to be held on the ILPD premises or other designated location. The training programme will be face to face sessions and will be delivered in a period of five (5) days. This Training programme will be offered on a full time basis.

The participants will study face to face with the Trainer for five (5) days. The trainer will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develop critical thinking and solution based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties.

8.1 LEARNING AND TEACHING STRATEGY

Different methods will be used in the delivery of this short course in consideration of the level of participants for this course. Instructors will consider various factors including the working environments of the working class.

The courses will be fully delivered face to face at ILPD campus. This is a participatory and interactive course, and activities are included in most training course. This will allow the participants to have direct interaction with lecturers on a regular basis. This will assist participants to exchange different experiences through in class or group work.

Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

In order to engage participants, instructors will involve participants on online learning, with materials being made available online to be used by participants. This will allow participants after face to face lecturers to get time to access all necessary materials online in order to do assigned work or to get more insight on the subject matter and it will allow participants to be on site for short periods of time and still be able to work where possible.

The instructors also will use practical approach to deliver the course by applying both examples of actual cases and devised case studies in classroom exercises and provide role plays/Drills and games to understand the concepts, theories; complete the presentations; resources (bibliographic references, internet links and documents addressing the themes covered by the part or chapter.

Different materials will be available like role-play training material, specifically developed for this training programme. These will consist of real practical examples and cases on ground that have transpired in Rwanda. Other best practices examples will also be applied especially those that was published by ILO and used in various training workshops, including the Turin Training Centre.

For sustainability purposes by building capacities of local experts, where possible international experts will be used in training as guest speakers together with local experts. As also highlighted above, experiential learning will also be applied in practical role play in group work and in assignments intended to reinforce the practical nature of the course. Also, participants will have access to the ILPD library.

Participants will also be presented with pertinent documentation as a follow-up to the presentations in order to expand the knowledge about the topics.

A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-of-course evaluation questionnaire will be used to allow participants to express their views about the training experience.

The participants will be introduced on use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to and other developed training materials to assist member states to implement fundamental principles of the ILO Constitution and ratified standards.

The assessment strategy will include: knowledge assessment at the start and at the end of the training, take-home/class group assignments, course project work, case analysis, presentation, plenary discussions which will be done in form of seminar in order to develop the interpersonal skills and team work and class attendance of 90% for trainees in the course.

8.2 Allocation of study and teaching hours

Item	Allocated hours
Pre-course assignement and knowledge assessment questionnaire	2
Lectures	28
Assignments – writing and preparations	10
Total	40

9. TRAINING PROGRAMME DEVELOPMENT TEAM AND LECTURERS

The training programme will be developed by:

- Mr. Twahirwa Alexander (Labour law specialist, International Labour Organization and a practitioner lawyer, with assistance of

- Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.

The lecturers of this training programme will include:

- a) Developers of this training programme.
- b) Outsourced ILO Experts on the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and one of the main ILO bodies supervising the application of ILS by member States.
- c) Specialists from the International Labour Office.
- d) External lecturers/experts from Ministry of Public Service and Labour, Employers and Trade union.

10. TRAINING PROGRAMME FUNDING AND ADMINISTRATION

10.1 Short course commencement

The ILPD is planning to start teaching this short course on International labour standards by end of 2020.

10.2 Programme leader

This Training programme will administered by the Institute of legal practice and development. The Training programme leader is: _____

10.3 Funding

The Training programme will primarily be funded by the tuition fees from the participants. ILPD will admit many labour law practitioners from public institutions under government sponsorship as well private sponsored participants from private companies or individuals who want to acquire International labour standards skills and knowledge. ILPD is projecting to conduct this Training programme twice a year. The number of participants in first cohort of presentation is estimated at.....and second cohort ofparticipants.

11. ADMISSION CRITERIA

Eligibility to this programme will be new recruited employees and practioners with a practical experience in labour matters. It does not require any specialized degree. However, candidates with an undergraduate degree or a professional qualification in areas such as Law, Human Resource Management, Supply chain management, Business

administration, Management, Public administration, Entrepreneurship, Finance, Marketing, or related areas are particularly eligible for this programme.

This training programme is designed in particular for:

- Labour inspectors and judicial officers,
- Labour administration staff,
- Occupational Safety and Health (OSH) experts both at Ministerial and company levels,
- National Labour Council (NLC) members,
- Employees' delegates at the level of different institutions and companies,
- Members of the Private Sector Federation (PSF) charged with labour related matters,
- Trade unionists,
- Human resource officers,
- Judges and advocates;
- Industrial relations practitioners, and
- Managers and other legal practitioners.

12. FELLOWSHIPS/STRATEGY FOR PARTICIPANT SUPPORT

Concerning fellowships, this will be determined by ILPD after commencement of the course to qualified candidates coming from eligible local institutions and other countries. The Training programme is intended to be student-centered and highly interactive. Students will hence have the opportunity to provide feedback in class. In addition to this, an evaluation form will be given to all trainees at the end of the training programme.

13. INDICATIVE LEARNING RESSOURCES:

1. PRIMARY RESOURCES

Statutes

Constitution of the Republic of Rwanda of 2003 revised in 2015.

Conventions ratified by Rwanda

1	Night Work (Women) Convention, 1919 (No. 4)	18.09.1962
---	---	------------

2	Right of Association (Agriculture) Convention, 1921 (N0 11)	18.09.1962
3	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)	18.09.1962
4	Weekly Rest (Industry) Convention, 1921 (No. 14)	18.09.1962
5	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)	18.09.1962
6	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)	18.09.1962
7	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	18.09.1962
8	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)	18.09.1962
9	Forced Labour Convention, 1930 (No. 29)	23.05.2001
10	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)	18.09.1962
11	Recruiting of Indigenous Workers Convention, 1936 (No. 50)	18.09.1962
12	Safety Provisions (Building) Convention, 1937 (No. 62)	18.09.1962
13	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)	18.09.1962
14	Labour Inspection Convention, 1947 (No. 81)	2.12.1980
15	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	8.11.1988
16	Night Work (Women) Convention (Revised), 1948 (No. 89)	18.09.1962
17	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)	18.09.1962
18	Right to Organise and Collective Bargaining Convention, 1949 (N0 98)	8.11.1988
19	Equal Remuneration Convention, 1951 (No. 100)	2.12.1980
20	Abolition of Forced Labour Convention, 1957 (No. 105)	18.09.1962
21	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	2.02.1981
22	Equality of Treatment (Social Security) Convention, 1962 (No. 118) <i>Has accepted Branches (d) to (g)</i>	21.09.1989
23	Minimum Age (Underground Work) Convention, 1965 (No. 123) <i>Minimum age specified: 18 years</i>	1.06.1970

24	Holidays with Pay Convention (Revised), 1970 (No. 132) <i>Length of holiday specified: 18 working days. Has accepted the provisions of Article 15, paragraph 1(a).</i>	13.05.1991
25	Works' Representatives Convention, 1971 (No. 135)	8.11.1988
26	Minimum Age Convention, 1973 (N0138) <i>Minimum age specified: 14 years</i>	15.04.1981
27	Worst Forms of Child Labour Convention, 1999 (N0 182)	23.05.2000
28	Employment policy Convention, 1964 (N0 122)	05:08:2010
29	Tripartite Consultations Convention, 1976 (No.144)	29.01.2018
30	Labour Administration Convention, 1978 (No.150)	29.01.2018
31	Occupation safety and Health Convention, 1981 (No. 155)	29.01.2018
32	Promotion Of Collective Bargaining Convention 1981, (No. 154)	29.01.2018
33	Private Employment Agencies Convention, 1997 (No. 181)	29.01.2018
34	Promotional framework for Occupational safety and Health Convention, 2006 (No. 187)	29.01.2018

Note: All Recommendations on above conventions

Protocols

Protocol no. 155 of 2002 to the Occupational Safety and Health Convention, 1981, adopted by ILO general conference, 90th session, Geneva, June, 2002.

Regulations

ILO Declaration on Social Justice for a Fair Globalisation, Adopted by the International Labour Conference, ILO, 97th Session, Geneva, June 2008.

Declaration of Philadelphia, adopted by the International Labour Conference, 26th session, Philadelphia, May 1944.

International Labour Organisation Constitution, adopted by the International Labour Conference, 26th session, Philadelphia, May, 1944.

ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference, 86th Session, Geneva, June, 1998.

International Covenant on Economic, Social and Cultural Rights, UN GA res. 2200A (XXI), 1966.

Convention on the Elimination of All Forms of Discrimination against Women, UN GA, res. 34/180, 1979.

Universal Declaration of Human Rights, UN GA res. 217A (III), 1948.

Covenant on Economic, Social and Cultural Rights, UN GA res. 2200 (XXI), 1966.

ILO Declaration for the Future of Work.

Convention on Harassment at Work, and its Recommendation.

Global Commission Report on the Future of Work

Commissions of Inquiry reports on ILS at work for example the ones on Venezuela and Zimbabwe and others.

National laws

Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda and its application orders.

Law n°. 06/2003 of 22/03/2003 modifying and complementing the decree law of August 22, 1974 concerning the organisation of social security in Rwanda.

Law n° 05/2015 of 30/03/2015 governing the organization of pension schemes in Rwanda.

Law n° 003/2016 of 30/03/2016 Law establishing and governing maternity leave benefits scheme in Rwanda.

Law n° 70/2018 of 31/08/2018 amending Law n°03/2015 of 02/03/2015 governing the organisation of community-based health insurance scheme in Rwanda.

Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda

Decree law of 22 August 1974 concerning the organisation of social security in Rwanda, Published in the 1977 official gazette, p 42 as amended.

Law n° 27 of 27/6/2007 determining responsibilities, organisation and functioning of a Health Insurance Scheme for Employees (RAMA), 2007.

Ministerial order n° 623/06 enumerating the list of professional diseases, published in 1980 Gazette, P 573.

Ministerial order n° 10 of 28/07/2010 determining the modalities of declaration of the enterprise, workers and nature of employer register.

2. SECONDARY RESOURCES

ILO Reports and Surveys

ILO, report of the committee of experts on the application of conventions and recommendations, (articles 19, 22, and 35 of ILO constitution), international labour office, Geneva, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning the right to organise and collective bargaining convention, 1949 (no.98), Rwanda, published 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning labour inspection convention, 1947 (no. 81), Rwanda, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual direct request concerning labour inspection convention, 1947(no. 81), Rwanda, 2017.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning workmen's compensation (Accidents) convention, 1925, (no.17), Rwanda, published, 2017.

ILO general survey of the committee of experts on the application of conventions and recommendations on labour inspection, report III (part 1(B), 95th session, 2006.

ILO declaration on decent work for all, adopted by the international labour conference, 97th Session, Geneva, 10 June 2008.

International Labour Office, *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Consultation Paper /International Labour Office, Social Security Department – Geneva: ILO, 2008.

ILO, *Social security: A new consensus*, Geneva, International Labour Office, 2001.

International Labour Office, Social security standards and the ILO campaign for the extension of social security, adopted at the 303rd Session of Governing Body, Geneva, November, 2008.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Discrimination (Employment and Occupation) Convention, 1958, (no.111), Rwanda, published, 2018.

ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning Labour Clauses (Public Contracts) Convention, 1949 (No. 94), Rwanda, published, 2018.

National Policy documents, Reports and Surveys

Republic of Rwanda, Ministry of Public Service and Labour, Annual Reports on application of ratified ILO Conventions, 2017,2018 and 2019

Republic of Rwanda, 7 Years Government Programme (National Strategy for Transformation 1) 2017–2024

Republic of Rwanda, Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012, September 2007.

Republic of Rwanda, Ministry of Finance and Economic Planning, *National social security policy*, February 2009.

Rwanda development Board (2019), National skills development and employment promotion strategy 2019/2024.

ILO, compliance risk assessment in the building construction sector in Rwanda, 2019.

Transforming the present- protecting the future, report of the committee of inquiry into a comprehensive system of social security for South Africa, March (2002).

Republic of Rwanda, National Institute of Statistics for Rwanda, Demographic and Health Survey, 2005.

LABOUR INSPECTION COURSE

PROGRAMME DESCRIPTION

YEAR 2020

TRAINING COURSE DETAILS

I. Course title: Labour inspection

II. Certificates

Upon completion of the training course and fulfillment of all its requirements, participants will be awarded with a certificate entitled “Certificate in Labour Inspection”.

III. Introduction/Background

The inspection of workplaces has been a priority for the International Labour Organization (ILO) ever since its foundation in 1919. At its first International Labour Conference in the same year, a recommendation was adopted on the establishment of both a “system of efficient factory inspection” and government services charged with “safeguarding the health of workers”. Since that time, the importance of the subject has grown steadily, particularly with the adoption firstly of the Labour Inspection Convention, 1947 (No.81) and then the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and their accompanying recommendations.

Labour inspection is an important public function provided by the State and is an essential part of the labour administration system. Labour inspection plays a key role to ensure fairness in the workplace and good governance of the labour market. Labour inspection has a three-fold role:

- Secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work (provisions relating to hours, wages, safety, health and welfare, the employment of young persons);
- Supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- Bring to the notice of the competent authority defects or abuses not specifically covered by existing labour law provisions.

The ILO has adopted a number of international labour standards relating to labour inspection, the most important one being the Labour Inspection Convention No. 81, which establishes the principles, functions and main characteristics of labour inspection, with a focus on industry and commerce.

Convention No. 81 has been one of the most widely ratified of all ILO Conventions (as at July 2006, 135 member States have so far ratified this Convention and others have enacted its policies). Consequently, almost all countries in the world now have some form of labour inspectorate that covers most if not all of the formal employment sectors, if not the informal economy. That Convention has stood the test of time, but with the challenges of a rapidly changing world of work,

inspectors more than ever need up-to-date policy and operational advice in order to remain effective, and to be well trained for what is an increasingly demanding yet important task.

To meet the associated training needs, a five (5) day training programme was developed, through which participants will be trained to plan and carry out labour inspections in a more comprehensive manner, focusing on prevention.

IV. Learning Outcomes

Cognitive/Intellectual skills/Application of Knowledge

At the end of the training programme participants will be able to:

- Identifies and applies International Standards, principles, functions, practices and challenges of labour inspection as well as the status, resources, powers and duties of labour inspectors for effective performance;
- Demonstrates and understands the need for the adoption of a labour inspection policy, inspection planning, and the monitoring and evaluation of labour inspection in improving future performance;
- Demonstrates knowledge on how to apply key points to plan, prepare, conduct, follow-up and report on a labour inspection visit;
- Critically analyses the main problems of working conditions, Wages, Working time and work organization, Work and family, Maternity protection, Psychosocial issues, Workers in the informal economy;
- Demonstrates and applies the knowledge on employment relationship and related issues;
- Demonstrate a clear understanding of the principles and concepts of occupational safety and health (OSH), the role of labour inspection in OSH, hazard identification, risk assessment and risk control;
- Master and be familiar with different tools to support labour inspection: databases, checklists, forms and other tools;
- Master and apply the characteristics of the main categories of vulnerable workers, and explain the challenges for labour inspectorates in detecting and protecting such workers;
- Describe strategies to improve the enforcement of labour legislation, recognize the role of the quality of regulations as an important factor in compliance and identify the key elements of the sanctions systems and some alternative modalities for sanctioning;
- Explain the differences and inter-linkages between various compliance strategies;
- Demonstrate knowledge on applications of the main tools for labour inspection activities.
- Make informed labour inspection decisions in their day to day work.
- Make informed decisions in matters relating to labour inspection and labour administration.
- Demonstrate a clear insight of the ethical issues at work and how these are best handled as labour inspectors.

V. Content

The course will cover the following topics:

- General Framework; Labour Administration and its key functions;
- Introduction to labour inspection: principles, functions and main characteristics;
- Strategies of compliance;
- Inspection of working conditions;
- Inspection of the employment relationship;
- Inspection of occupational safety and health;
- Labour inspection visit;
- Tools for labour inspection
- Policies and procedures
- Cooperation and partnership
- Vulnerable groups
- Labour inspection visits
- Institutional capacity building.

VI. Methodology, Learning and Teaching Strategy

The Training programme is proposed to be held on the ILPD premises or other designated location. The training programme will be face to face sessions and will be delivered in a period of five (5) days. This Training programme will be offered on a full-time basis.

The participants will study face to face with the Trainer for five (5) days.

Different methods will be used in the delivery of this short course in consideration of the level of participants for this course. Instructors will consider various factors including the working environments of the working class.

The courses will be fully delivered face to face at ILPD campus. This is a participatory and interactive course, and activities are included in most training course. This will allow the participants to have direct interaction with lecturers on a regular basis. This will assist participants to exchange different experiences through in class or group work.

Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

In order to engage participants, instructors will involve participants on online learning, with materials being made available online to be used by participants. This will allow participants after

face to face lecturers to get time to access all necessary materials online in order to do assigned work or to get more insight on the subject matter and it will allow participants to be on site for short periods of time and still be able to work where possible.

The trainer will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develop critical thinking and solution-based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties. In addition to that, different methods will be used to discuss the theories and concepts, cases studies, classroom exercises and role plays/Drills and games will also be applied to understand the concepts, theories; complete the presentations; resources (bibliographic references, internet links and documents addressing the themes covered by the part or chapter.

This course has been designed according to a learner-centered approach in order to better involve participants and keep them motivated. It is highly interactive and engaging. Different methods will be used such as storytelling, scenarios, videos and interactive activities to make the content interesting, relevant and also entertaining.

The instructors also will use practical approach to deliver the course by applying both examples of actual cases and devised case studies in classroom exercises and provide role plays/Drills and games to understand the concepts and theories. Different materials will be available like role-play training material, specifically developed for this training programme. These will consist of real practical examples and cases on ground that have transpired in Rwanda. Other best practices examples will also be applied especially those that was published by ILO and used in various training workshops, including the Turin Training Centre.

For sustainability purposes by building capacities of local experts, where possible international experts will be used in training as guest speakers together with local experts. As also highlighted above, experiential learning will also be applied in practical role play in group work and in assignments intended to reinforce the practical nature of the course.

Participants will also be presented with pertinent documentation as a follow-up to the presentations in order to expand the knowledge about the topics.

A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-ofcourse evaluation questionnaire will be used to allow participants to express their views about the training experience.

The participants will be introduced on use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to and other developed training materials to assist member states to implement fundamental principles of the ILO Constitution and ratified standards.

VII. Allocation of study and teaching hours

Item	Allocated hours
Lectures	29
Assignments – writing and preparations	10
Final test	1
Total	40

VIII. Assessment strategies

A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-of-course evaluation questionnaire will be used to allow participants to express their views about the training.

The assessment strategy will include: knowledge assessment at the start and at the end of the training, take-home/class group assignments, course project work, case analysis, presentation, plenary discussions which will be done in form of seminar in order to develop the interpersonal skills and team work and class attendance of 90% for trainees in the course.

IX. Participants

Participants to this training programme shall comprise:

- Labour inspectors from central and district levels;
- Staff from the labour administration system involved in labour protection;
- Employers' and workers' representatives with special interest in labour inspection;
- Staff from Government Institutions whose mandate includes inspections services including but not limited to Rwanda Social Security Board, Rwanda Mining, Petroleum and Gas Board, City of Kigali, Rwanda Standards Board, Rwanda Environmental Management Authority, Rwanda Housing Authority, Rwanda Food and Drug Authority;
- Trade Unions and private sector federation members.

X. Language

Participants will be required to have proficiency in the English language as training materials will be available in English only.

XI. Teaching /Technical assistance

The teaching team will be selected based on professional experience and subject knowledge. It will consist of academic resource persons and other resource personnel from labour administration and inspection background who will include:

- Experts from the Ministry of Public Service and Labour
- Experts from ILO;
- Consultants in labour matter.

XII. Course commencement

The ILPD is planning to start teaching this labour inspection training course by the end of 2020.

XIII. Training cost

The training cost for labour inspection training course is payable in advance by the participant or his/her sponsoring organization. It includes:

- tuition fees
- training materials and books
- use of training facilities and support services.

XIV. Programme Development Team

The training programme will be developed by:

- Mr. Twahirwa Alexander (Labour law specialist, International Labour Organization and a practitioner lawyer
- Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.

XV. Indicative resources

1. Primary resources

International legislative framework

C081 - Labour Inspection Convention, 1947 (No. 81)

P081 - Protocol of 1995 to the Labour Inspection Convention, 1947

R081 - Labour Inspection Recommendation, 1947 (No. 81)

R082 - Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
 C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129)
 R133 - Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
 C150 - Labour Administration Convention, 1978 (No. 150)
 R158 - Labour Administration Recommendation, 1978 (No. 158)
 C160 - Labour Statistics Convention, 1985 (No. 160)
 R170 - Labour Statistics Recommendation, 1985 (No. 170)
 C122 - Employment Policy Convention, 1964 (No. 122)
 R122 - Employment Policy Recommendation, 1964 (No. 122)
 R169 - Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
 R084 - Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84)
 C095 - Protection of Wages Convention, 1949 (No. 95)
 R085 - Protection of Wages Recommendation, 1949 (No. 85)
 C131 - Minimum Wage Fixing Convention, 1970 (No. 131)
 R135 - Minimum Wage Fixing Recommendation, 1970 (No. 135)
 C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)
 R180 - Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180)
 C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)
 C106 - Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
 R103 - Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103)
 C175 - Part-Time Work Convention, 1994 (No. 175)
 R182 - Part-Time Work Recommendation, 1994 (No. 182)
 R116 - Reduction of Hours of Work Recommendation, 1962 (No. 116)
 C155 - Occupational Safety and Health Convention, 1981 (No. 155)
 P155 - Protocol of 2002 to the Occupational Safety and Health Convention, 1981
 R164 - Occupational Safety and Health Recommendation, 1981 (No. 164)
 C161 - Occupational Health Services Convention, 1985 (No. 161)
 R171 - Occupational Health Services Recommendation, 1985 (No. 171)
 C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
 R197 - Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)
 R097 - Protection of Workers' Health Recommendation, 1953 (No. 97)
 R102 - Welfare Facilities Recommendation, 1956 (No. 102)
 R194 - List of Occupational Diseases Recommendation, 2002 (No. 194)
 C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)
 R067 - Income Security Recommendation, 1944 (No. 67)
 R202 - Social Protection Floors Recommendation, 2012 (No. 202)
 C130 - Medical Care and Sickness Benefits Convention, 1969 (No. 130)
 R134 - Medical Care and Sickness Benefits Recommendation, 1969 (No. 134)
 C128 - Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
 R131 - Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131)
 C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

R121 - Employment Injury Benefits Recommendation, 1964 (No. 121)
C183 - Maternity Protection Convention, 2000 (No. 183)
R191 - Maternity Protection Recommendation, 2000 (No. 191)

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
C135 - Workers' Representatives Convention, 1971 (No. 135)
R143 - Workers' Representatives Recommendation, 1971 (No. 143)
C151 - Labour Relations (Public Service) Convention, 1978 (No. 151)
R159 - Labour Relations (Public Service) Recommendation, 1978 (No. 159)
C154 - Collective Bargaining Convention, 1981 (No. 154)
R163 - Collective Bargaining Recommendation, 1981 (No. 163)
R091 - Collective Agreements Recommendation, 1951 (No. 91)
R113 - Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
R092 - Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)
R094 - Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94)
R129 - Communications within the Undertaking Recommendation, 1967 (No. 129)
R130 - Examination of Grievances Recommendation, 1967 (No. 130)
C138 - Minimum Age Convention, 1973 (No. 138)
R146 - Minimum Age Recommendation, 1973 (No. 146)
C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)
R190 - Worst Forms of Child Labour Recommendation, 1999 (No. 190).

National legislative framework

1. The Constitution of the Republic of Rwanda of 2003 revised in 2015
2. Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda
3. Ministerial Order N°02 du 17/05/2012 determining conditions for occupational health and safety

4. Ministerial Order N°01/Mifotra/15 of 15/01/2015 determining modalities of establishing and functioning of occupational health and safety committees
5. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for construction sector, 2019
6. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for mining sector, 2019
7. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for Factory sector, 2019
8. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for health sector, 2019
9. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for agriculture sector, 2019
10. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for hospitality sector, 2019
11. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for risk assessment, 2019
12. The presidential order No. 164/06/2 of 22/08/1974 establishing the contribution rates in social security branches including occupational hazard;
13. Ministerial order no. 623/06 of 14/08/1980 determining the list of occupational diseases;
14. Presidential order No.544/06 of 13/11/1981 revising the amount of pension and occupational hazards benefits paid by National institution of Social Security;
15. Ministerial order No. 1931 Bis of 08/12/1987 establishing the modalities of declaration of work accident and occupational disease;
16. The presidential order No.671/06 of 21/12/1987 determining the modalities of employers' registration, employees' affiliation and the payment of benefits;
17. The law No.32/1988 of 12/10/1988 modifying and completing the decree law of 22/08/1974 on the organization of social security the art.1 states the modification of art 28 of the decree law of 22/08/1974;
18. Ministerial Order N° 04/Cab.M/015 of 18/05/2015 determining urban planning and building regulations
19. Law N° 06/2003 of 22/03/2003 modifying and completing the Decree
20. Law of August 22, 1974 concerning organization of social security
21. Presidential Order N° 069/01 of 13/04/2018 increasing pension and occupational hazards benefits granted by Rwanda Social Security Board

22. The Law N° 58/2018 of 13/08/2018 on mining and quarry operations.

2. Secondary resources

Secondary resources will be different reports including:

1. Decent Work Country Program (DWCP) of 2018
2. National policy on occupational safety and health of 2014
3. National OSH strategy for 2018-2024
4. Social security policy of 2009
5. Health sector policy of 2015
6. National Policy & Strategy for Water Supply and Sanitation Services of 2010
7. Public transport policy and strategy for Rwanda of 2012
8. Rwanda Social Security Board reports on occupational injuries compensation
9. Labour inspection reports
10. Rwanda Mining, Petroleum and Gas Board (RMB) reports on occupational safety and health
11. OSH Country profile
12. National Institute of Statistics of Rwanda (NISR) surveys.

OCCUPATIONAL SAFETY AND HEALTH COURSE

PROGRAMME DESCRIPTION

YEAR 2020

TRAINING COURSE DETAILS

I. Course title: Occupational Safety and Health

II. Award after completion of the training Course

Upon completion of the training course and fulfillment of all its requirements, participants will be awarded with a certificate entitled “certificate in occupational safety and health”.

III. Rationale for OSH Course

The economic costs of occupational injuries and deaths are colossal, at the enterprise, national and global levels. Taking into account compensation, absenteeism, interruption of production, training and retraining and recruitment, medical expenses, and so on, estimates of these losses are routinely put at roughly 4% of global GDP every year, and possibly much more. In both developed and developing countries, the rapid pace of technological change, combined with the persistence of unsafe or environmentally threatening working conditions, has served to focus attention on the need to create a safe, healthy working environment and to promote a new safety culture at the workplace. Through ILO recommendations, the governments, Public and private sector organizations throughout the world are required to play each its role to close the above crucial OSH issues:

On the national level, the government of Rwanda has set up the OSH policy, and rules regulating OSH services at the Rwandan workplaces and especially the following show the needs in terms of OSH professionals in needs:

Article 49 of the Ministerial Order N°02 of 17/05/2012 determining conditions for occupational health and safety stipulates that any establishment which has at least between fifty (50) and one hundred and fifty (150) employees who use products, machines and processes that can cause accidents and diseases related to work assigned to them or to the environment in which they work shall be required to hire a healthy and safety professional. However, establishment and industry employing at least more than one hundred and fifty (150) employees using products, machines and processes that can cause accidents and diseases shall have a workplace health and safety expert.

With this progressive increased concern to improve occupational safety and health (OSH) at enterprises/organization levels, the public and private organizations throughout the world are increasingly seeking OSH professionals who can catalyze these processes, and it is not always easy to find professionals with the right skills. It’s important to notify that becoming a safety and health professional requires multidisciplinary training. The OSH profession calls for a broad-based educational background combined with specialized knowledge in various sciences (medicine, physics, chemistry and engineering) and social sciences (behavior, motivation and communication) together with the principles and concepts of management.

Accordingly, ILPD would like to introduce both the professional training course on occupational safety and health which will no doubt help the Government to fulfill its commitment in as far as training qualified personnel in OSH is concerned.

IV. Course objectives

- Recognize and Understand the Importance of Workplace Hazards
- Respond positively and effectively in relation to occupational safety, health and environment with a minimum of supervision
- Enhance abilities to critically appraise risk in a variety of complex situations
- Design and implement management solutions to reduce risk
- Develop an informed, critical and imaginative attitude towards professional practice

Provide students with a critical awareness of the inter-relationship between organizational psychology and culture; the workplace environment; health and the natural environment based on risk management principles and methods.

V. Learning Outcomes

Cognitive/Intellectual skills/Application of Knowledge

At the end of this course, participants will be able to:

- Organize efforts of an organization to improve its OSH
- Advise employers and workers on OSH technical requirements and on the decisions to be made for an adequate management of OSH
- Develop and implement preventive strategies for the organization
- Apply a broad educational background to effectively lead, influence, and achieve the OSH goals and objectives of their employers
- Effectively communicate and collaborate inside a diverse work environment
- Work in an ethical and professional manner
- Engage in professional development to continue to grow throughout their careers.

VI. Indicative contents

- Introduction to OSH
- Safety & Health Standards
- Occupational Safety
- Occupational Hygiene
- Occupational Medicine
- Occupational Psychosociology and Ergonomics

- Risk Assessment
- Accident Investigation
- Organization of OSH at the enterprise level
- Participatory approaches for the improvement of the working conditions.

VII. Allocation of study and teaching hours

Item	Allocated hours
Lectures	29
Assignments – writing and preparations	10
Final test	1
Total	40

VIII. Learning and teaching strategies

The Training programme is proposed to be held on the ILPD premises or other designated location. The training programme will be face to face sessions and will be delivered in a period of five (5) days. This Training programme will be offered on a full-time basis.

The participants will study face to face with the Trainer for five (5) days.

Different methods will be used in the delivery of this short course in consideration of the level of participants for this course. Instructors will consider various factors including the working environments of the working class.

The courses will be fully delivered face to face at ILPD campus. This is a participatory and interactive course, and activities are included in most training course. This will allow the participants to have direct interaction with lecturers on a regular basis. This will assist participants to exchange different experiences through in class or group work.

Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

In order to engage participants, instructors will involve participants on online learning, with materials being made available online to be used by participants. This will allow participants after face to face lecturers to get time to access all necessary materials online in order to do assigned

work or to get more insight on the subject matter and it will allow participants to be on site for short periods of time and still be able to work where possible.

The trainer will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develop critical thinking and solution-based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties. In addition to that, different methods will be used to discuss the theories and concepts, cases studies, classroom exercises and role plays/Drills and games will also be applied to understand the concepts, theories; complete the presentations; resources (bibliographic references, internet links and documents addressing the themes covered by the part or chapter.

This course has been designed according to a learner-centered approach in order to better involve participants and keep them motivated. It is highly interactive and engaging. Different methods will be used such as storytelling, scenarios, videos and interactive activities to make the content interesting, relevant and also entertaining.

The instructors also will use practical approach to deliver the course by applying both examples of actual cases and devised case studies in classroom exercises and provide role plays/Drills and games to understand the concepts and theories. Different materials will be available like role-play training material, specifically developed for this training programme. These will consist of real practical examples and cases on ground that have transpired in Rwanda. Other best practices examples will also be applied especially those that was published by ILO and used in various training workshops, including the Turin Training Centre.

Participants will also be presented with pertinent documentation as a follow-up to the presentations in order to expand the knowledge about the topics. A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-ofcourse evaluation questionnaire will be used to allow participants to express their views about the training experience.

For sustainability purposes by building capacities of local experts, where possible international experts will be used in training as guest speakers together with local experts. As also highlighted above, experiential learning will also be applied in practical role play in group work and in assignments intended to reinforce the practical nature of the course. Participants will be provided with documentation with which to expand their knowledge of the topics. Also, participants will have access to the ILPD library.

The participants will be introduced on use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to and other developed training materials to assist member states to implement fundamental principles of the ILO Constitution and ratified standards.

IX. Assessment strategies

The assessment strategy will include knowledge assessment at the start and at the end of the training using questionnaires, classroom-based assignments, homeworks, presentations, plenary discussions among others and teamwork and class attendance of 90% for trainees in the course.

X. Targeted audience

The course has been specifically designed for the following participants with a university degree but without previous specialization in OSH, who are working, or wish to work, as OSH professionals:

- Practitioners in occupational health and safety in respective institutions
- Engineers
- Human resource personnel
- Managers
- Labour inspectors
- Hygienists
- Public health officers
- Environmental health officers,
- Nurses
- Physicians,
- Chemists
- Trade unionists,
- OSH committees
- Workers representatives.

XI. Participants' requirements

The following are essential for admission to this course:

- hold a first university degree
- a working knowledge of spoken and written English.

XII. Teaching /Technical assistance

The teaching team will be selected based on professional experience and subject knowledge. It will consist of academic resource persons and OSH practitioners who will include:

- OSH experts from the Ministry of Public Service and Labour
- OSH specialists from enterprises;
- Consultants in OSH
- OSH specialists from ILO.

XIII. Course commencement

The ILPD is planning to start teaching this training course occupational safety and health by the end of 2020.

XIV. Training cost

The training cost for the professional course on occupational safety and health is payable in advance by the participant or his/her sponsoring organization. It includes:

- tuition fees
- training materials and books
- use of training facilities and support services.

XV. Programme Development Team

The training programme will be developed by:

- Mr. Twahirwa Alexander (Labour law specialist, International Labour Organization and a practitioner lawyer
- Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.

XVI. Indicative resources

1. Primary resources

International legislative framework

<https://www.iloencyclopaedia.org/organizations>

<https://www.ilo.org/dyn/legosh/en/f?p=14100:1000:0::NO::>

https://www.ilo.org/dyn/cisdoc2/cismain.home?p_lang=en

https://www.ilo.org/safework/info/publications/WCMS_113134/lang--en/index.htm

C081 - Labour Inspection Convention, 1947 (No. 81)

R081 - Labour Inspection Recommendation, 1947 (No. 81)

P081 - Protocol of 1995 to the Labour Inspection Convention, 1947

R097 - Protection of Workers' Health Recommendation, 1953 (No. 97)

R102 - Welfare Facilities Recommendation, 1956 (No. 102)

R082 - Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)

R115 - Workers' Housing Recommendation, 1961 (No. 115)

C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)

C115 - Radiation Protection Convention, 1960 (No. 115)

R114 - Radiation Protection Recommendation, 1960 (No. 114)

Occupational Safety and Health Convention, 1981 (No. 155)

Recommendation (No. 164)

Protocol of 2002 (No. 155)

List of Occupational Diseases Recommendation, 2002 (No. 194)

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

Recommendation (No. 197)

Occupational Health Services Convention, 1985 (No. 161)

Recommendation (No. 171)

Codes of Practice

C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

R121 - Employment Injury Benefits Recommendation, 1964 (No. 121)

C167 - Safety and Health in Construction Convention, 1988 (No. 167)

R175 - Safety and Health in Construction Recommendation, 1988 (No. 175)

C170 - Chemicals Convention, 1990 (No. 170)

R177 - Chemicals Recommendation, 1990 (No. 177)

C174 - Prevention of Major Industrial Accidents Convention, 1993 (No. 174)

R181 - Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)

C176 - Safety and Health in Mines Convention, 1995 (No. 176)

R183 - Safety and Health in Mines Recommendation, 1995 (No. 183)

C184 - Safety and Health in Agriculture Convention, 2001 (No. 184)

R192 - Safety and Health in Agriculture Recommendation, 2001 (No. 192)

R133 - Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)

C139 - Occupational Cancer Convention, 1974 (No. 139)

R147 - Occupational Cancer Recommendation, 1974 (No. 147)

C148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

R156 - Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)

C161 - Occupational Health Services Convention, 1985 (No. 161)

R171 - Occupational Health Services Recommendation, 1985 (No. 171)

C162 - Asbestos Convention, 1986 (No. 162)

R172 - Asbestos Recommendation, 1986 (No. 172)

National legislative framework

1. The Constitution of the Republic of Rwanda of 2003 revised in 2015
2. Law N° 66/2018 of 30/08/2018 regulating labour in Rwanda
3. Ministerial Order N°02 du 17/05/2012 determining conditions for occupational health and safety
4. Ministerial Order N°01/Mifotra/15 of 15/01/2015 determining modalities of establishing and functioning of occupational health and safety committees

5. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for construction sector, 2019
6. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for mining sector, 2019
7. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for Factory sector, 2019
8. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for health sector, 2019
9. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for agriculture sector, 2019
10. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for hospitality sector, 2019
11. Ministry of Public Service and Labour, Occupational Safety and Health Regulation for risk assessment, 2019
12. The presidential order No. 164/06/2 of 22/08/1974 establishing the contribution rates in social security branches including occupational hazard;
13. Ministerial order no. 623/06 of 14/08/1980 determining the list of occupational diseases;
14. Presidential order No.544/06 of 13/11/1981 revising the amount of pension and occupational hazards benefits paid by National institution of Social Security;
15. Ministerial order No. 1931 Bis of 08/12/1987 establishing the modalities of declaration of work accident and occupational disease;
16. The presidential order No.671/06 of 21/12/1987 determining the modalities of employers' registration, employees' affiliation and the payment of benefits;
17. The law No.32/1988 of 12/10/1988 modifying and completing the decree law of 22/08/1974 on the organization of social security the art.1 states the modification of art 28 of the decree law of 22/08/1974;
18. Ministerial Order N° 04/Cab.M/015 of 18/05/2015 determining urban planning and building regulations
19. Law N° 06/2003 of 22/03/2003 modifying and completing the Decree
20. Law of August 22, 1974 concerning organization of social security
21. Presidential Order N° 069/01 of 13/04/2018 increasing pension and occupational hazards benefits granted by Rwanda Social Security Board
22. The Law N° 58/2018 of 13/08/2018 on mining and quarry operations.

2. Secondary resources

Secondary resources will be different reports including:

1. Decent Work Country Program (DWCP) of 2018
2. National policy on occupational safety and health of 2014
3. National OSH strategy for 2018-2024
4. Social security policy of 2009
5. Health sector policy of 2015
6. National Policy & Strategy for Water Supply and Sanitation Services of 2010
7. Public transport policy and strategy for Rwanda of 2012
8. Rwanda Social Security Board reports on occupational injuries compensation
9. Labour inspection reports
10. Rwanda Mining, Petroleum and Gas Board (RMB) reports on occupational safety and health
11. OSH Country profile
12. National Institute of Statistics of Rwanda (NISR) surveys.

SOCIAL DIALOGUE AND COLLECTIVE BARGAINING

PROGRAMME DESCRIPTION

YEAR 2020

TRAINING PROGRAMME DETAILS

1. SHORT COURSE TITLE

Social Dialogue and collective bargaining

2. AWARD AFTER COMPLETION OF THE TRAINING PROGRAMME

Upon completion of the Training Programme and fulfillment of all the requirements of the Training programme, the participant will be awarded a certificate in Social dialogue and collective bargaining.

3. TRAINING PROGRAMME BACKGROUND AND RATIONALE

3.1: Social Dialogue

Social dialogue is the involvement of workers, employers and governments in decision-making processes on employment and workplace issues. According to International Labour Organization, social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organizations), with or without indirect government involvement.

Social dialogue plays a key role in promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security and human dignity. It is both a means to strengthen democratic decision-making and to achieve decent work; as well as an end in itself. The main objective of social dialogue is to improve the quality of decisions and policies and through the involvement main stakeholders in the world of work. Successful social dialogue structures and processes have the potential to resolve important economic and social issues, deal with economic crises, encourage good governance, reduce inequality and promote growth.

The extent of social dialogue has a direct impact on the climate of social peace and stability as well as the overall governance of the labour market and the economy as a

whole. There is no “one size fits all” model of social dialogue that can be readily exported from one context to another; there is a rich diversity in institutional arrangements, legal frameworks, traditions, and practices of social dialogue throughout the world. Adapting social dialogue to the specific situation is key to ensuring full ownership and sustainability of the process. As much as social dialogue may differ from country to country, the overriding principles of freedom of association and the effective recognition of the right to collective bargaining remain the same.

In Rwanda, social dialogue has been anchored in a number of key national policy, legal and institutional frameworks. In addition, the United Nations system (including the International Labour Organization) has also included strengthening of good governance and social dialogue in its development frameworks. It takes different forms on regional, sectorial, tripartite social dialogue which allows government, employers and workers' organizations (through their representatives) as equal and independent partners to seek solutions to issues of common concerns.

At national, sectoral, enterprise or territorial level, collective bargaining allows an employer or a group of employers on the one hand and one or more workers' organizations on the other to jointly: determine working conditions and terms of employment, regulate relations between employers and workers, and/or regulate relations between employers or their organizations and workers' organizations. This unique and distinct form of social dialogue plays a key role in the governance of labour market.

3.2: Collective bargaining

The promotion of collective bargaining at all levels is key to productive, equitable and stable employment relations. While an enabling regulatory framework and other measures to promote collective bargaining are essential, its effectiveness is often hampered by the poor negotiation skills of the bargaining parties. They may adopt a negotiating style that precludes satisfactory outcomes.

More often than not, the negotiation skills of the parties are confrontational and undermine trust, which is the foundation of sound labour relations. The Freedom of

Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) lay the basis for democratic and stable labour relations. The importance of promoting collective bargaining is enshrined in the Collective Bargaining Convention, 1981 (No. 154) and its accompanying Recommendation (No. 163).

The skills, knowledge and capacity of those representing employers and workers' organizations are critical in preventing labour disputes and achieving outcomes and agreements that take into account the interests of all parties. Effective negotiation skills are not merely 'common sense'. They are acquired through a combination of training and experience. Therefore, this course aims to develop participants' capacities to improve their negotiation skills and therefore to reach satisfactory outcomes for their organizations.

Despite the positive policy and legal frameworks existing in the country, social dialogue mechanisms have been characterized as being ineffective. According to the Rwanda Decent Work Country Programme (R-DWCP), the main challenges facing social dialogue include the lack of tolerance by employers to trade unions, and little respect for the right to organize, freedom of association and to collective bargaining for trade unions; aggressive negotiation styles and approaches by trade unions; limited knowledge of ILO principles and standards on social dialogue by the tripartite partners; limitations in negotiations skills; and failure to fully comprehend the benefits of social dialogue. Therefore, this training programme is a unique opportunity to discuss and analyze the different forms of, and approaches to social dialogue and collective bargaining, leading to improved knowledge and skills to effectively contribute to social dialogue in their own environment.

4. TARGETED AUDIENCE

According to all the stakeholders we met, the targeted beneficiaries should include:

- a) Officials from the Ministry of Labour especially labour administration departments;
- b) Officials from selected Government Institutions (Social Security, Education, Gender, social policies, etc.);
- c) Industrial relations practitioners;
- d) Representatives from employers' organizations;

- e) Representatives from workers' organizations;
- f) Members and staff of national tripartite bodies, and other social dialogue institutions;
- g) Personnel from institutions involved in promoting social dialogue (including academic, research institutions, non-governmental organizations);
- h) Anyone who is expected to be involved, directly or indirectly, in negotiations, whether at enterprise, sectoral/branch, local or national level;
- i) Parliamentarians, community leaders, civil society and other stakeholders in society (e.g. development banks, international financial institutions).

5. OBJECTIVES OF THE TRAINING PROGRAMME

Against this background, the objectives and focus of this exciting programme is to:

- a) Provide knowledge of the functioning of Social Dialogue processes and offer ideas for interactive methods for teaching;
- b) Provide advanced knowledge needed to contribute to the establishment or consolidation of social dialogue, industrial relations and collective bargaining;
- c) Increase trade unionists' and employers representatives capacities to participate actively in Social Dialogue processes at the sectoral, national and Regional levels;
- d) Develop a shared understanding of what Social Dialogue is, what benefits it can bring and what challenges it presents;
- e) Provide space for practitioners to share the experiences they already have and be able to build experiences and an opportunity for developing strategies for strengthening Social Dialogue in the different national contexts.
- f) Assess and certify the competencies of those involved in conciliation/mediation of labour disputes and therefore contribute to an increased recognition of their role and functions;
- g) Develop participants' capacities to improve their negotiation skills and therefore to reach satisfactory outcomes for their organizations;
- h) Explore tools and strategies for the prevention of labour disputes in the workplace;
- i) Get acquaintance with successful experiences of prevention of labour disputes and identify possible ways to improve their approaches in their own organizations;
- j) Develop participants' knowledge and understanding of consensus-building approaches to conflict management and dispute resolution. Emphasis is placed on how to help the parties reach an agreement that allows mutual gains and a strengthened relationship between the parties;
- k) Enhance the participants' capacity to effectively prevent and manage labour disputes;
- l) Be more self-aware (of their own predominant conflict handling style and patterns of behaviour and thought which informs their way of handling conflict);
- m) Enhance and/or develop their knowledge, skills and competencies to intervene early in the life of a conflict before it escalates into a dispute;

- n) Identify effective conflict management styles and adopt situation-appropriate styles and processes;
- o) Work towards outcomes which address the parties' underlying needs and concerns; and
- p) Adopt behaviours and enhance and/or develop their core skills and competencies which support them in achieving more effective and sustainable outcomes.

6. LEARNING OUTCOMES

6.0. Cognitive/Intellectual skills/Application of Knowledge.

Having successfully completed this short course, trainees should be able to:

- a) Effectively applies the conditions for effective social dialogue and industrial relations;
- b) Demonstrates and understands the key international labour standards as tools for promoting social dialogue;
- c) Applies effectively trends and different modalities of social dialogue and trends in industrial relations;
- d) Masters and applies good practices of social dialogue and industrial relations from different regions;
- e) Masters tripartite social dialogue and industrial relations in their own institutions and understands how to strengthen it;
- f) Understands how to formulate recommendations to strengthen the national institutions of tripartite social dialogue and industrial relations at all levels;
- g) Effectively understands how actively one-use negotiation theory;
- h) Critically analyses on how to choose and when to apply interest-based negotiation as opposed to positional-based bargaining;
- i) Apply newly-acquired negotiation techniques;
- j) Demonstrates on how to improve negotiation skills that allow mutual gains.

7. KEY TOPICS THIS TRAINING PROGRAMME TO COVER

The Training programme will focus on some of these major areas identified during consultation with the various stakeholders:

7.1 Social Dialogue

- Definition of key concepts pertaining to social dialogue and tripartism;
- Different forms and actors of social dialogue;
- Describe the roles of the ILO in enabling social partners to engage in social dialogue;
- Recall the content of relevant International Labour Standards; (International legislation and structures)
- Structures of Social Dialogue (International and National Social Dialogue);

- Role of social partners and ILO in strengthening Social Dialogue;
- Enabling conditions for Social Dialogue;
- Key factors for effective social dialogue;
- Advantages of good Social Dialogue;
- Problems of Social Dialogue;
- The benefits of social dialogue;
- Criteria and conditions for good Social Dialogue;
- Specific Social Dialogue on working conditions;
- Gender mainstreaming;
- Case studies on social dialogue.

7.2: Collective Bargaining

- Identifying typical mistakes made by negotiators;
- The conflict dynamic / How conflict develops into a dispute;
- Different approaches to dispute resolution;
- Outcomes in negotiation;
- Different approaches to negotiation;
- What positional negotiation looks like;
- A problem solving model;
- The anatomy of needs based negotiation / Stages of needs-based negotiation;
- The negotiators' dilemma;
- Costs and benefits of different styles of negotiating;
- How to maximize joint value and achieve optimum outcomes;
- The significance of alternatives to a negotiated agreement;
- Reality testing;
- How to open up a zone of possible agreement;
- The mandating dynamic;
- Preparation for negotiation;
- Behaviours of effective negotiators;
- Working with interests and needs;
- Reframing / Extracting needs;
- Finding mutual gains outcomes;
- The use of questions / Generating options and brainstorming;
- Managing your own emotion and responding effectively to the emotions of others;
- Helping people save face / Negotiating with difficult people.

8. TRAINING PROGRAMME METHODOLOGY, LEARNING AND TEACHING STRATEGY

8.0 STRUCTURE AND METHODS THAT WILL BE USED

The Training programme is proposed to be held on the ILPD premises or other designated location. The training programme will be face to face sessions and will be delivered in a period of five (5) days. This Training programme will be offered on a full time basis.

The participants will study face to face with the Trainer for five (5) days.

8.1 LEARNING AND TEACHING STRATEGY

Different methods will be used in the delivery of this short course in consideration of the level of participants for this course. Instructors will consider various factors including the working environments of the working class.

The courses will be fully delivered face to face at ILPD campus. This is a participatory and interactive course, and activities are included in most training course. This will allow the participants to have direct interaction with lecturers on a regular basis. This will assist participants to exchange different experiences through in class or group work.

Trainers should be aware of the need for, and techniques to ensure, active participation by course participants. They will need to encourage participants to share their own personal experience with relevant issues, as a way of enhancing learning by all. However, the tight timeframe means that there are also course elements where trainers will simply present information to participants.

In order to engage participants, instructors will involve participants on online learning, with materials being made available online to be used by participants. This will allow participants after face to face lecturers to get time to access all necessary materials online in order to do assigned work or to get more insight on the subject matter and it will allow participants to be on site for short periods of time and still be able to work where possible.

The instructors also will use practical approach to deliver the course by applying both examples of actual cases and devised case studies in classroom exercises and provide role plays/Drills and games to understand the concepts and theories. Different materials will be available like role-play training material, specifically developed for this training programme. These will consist of real practical examples and cases on ground that have transpired in Rwanda. Other best practices examples will also be applied especially those that was published by ILO and used in various training workshops, including the Turin Training Centre.

The Instructor will act like a facilitator to allow the participants to discuss issues and investigate topics in greater depth, develop critical thinking and solution-based learning skills in participants. The discussion will put emphasis on practical case studies related to their daily duties.

Participants will be involved in role plays, in which they will have the opportunity to play the role of the conciliator/ mediator at all stages of the conciliation/mediation process, and will be coached and assessed on the basis of a competency framework. Different exercises are foreseen and will be assessed. Participants will receive feedback after each session relating to the conducted exercises.

Participants will have the opportunity to look into several experiences of social dialogue in a direct manner through interaction with the key players of social dialogue and compare them with their own experience and context. It is expected to create a culture and momentum of dialogue to be promoted and deepened by the participants afterwards.

For sustainability purposes by building capacities of local experts, where possible international experts will be used in training as guest speakers together with local experts. As also highlighted above, experiential learning will also be applied in practical role play in group work and in assignments intended to reinforce the practical nature of the course. Also, participants will have access to the ILPD library.

Participants will also be presented with pertinent documentation as a follow-up to the presentations in order to expand the knowledge about the topics.

A permanent monitoring of the learning process will be conducted throughout the training by the course co-ordinator. At the end of the course, an individual end-ofcourse evaluation questionnaire will be used to allow participants to express their views about the training experience.

The participants will be introduced on use of International Labour Standards (ILS), in particular universal norms, Conventions and other treaties that Rwanda has ratified or is party to and other developed training materials to assist member states to implement fundamental principles of the ILO Constitution and ratified standards.

The assessment strategy will include: knowledge assessment at the start and at the end of the training, take-home/class group assignments, course project work, case analysis, presentation, plenary discussions which will be done in form of seminar in order to develop the interpersonal skills and team work and class attendance of 90% for trainees in the course.

8.2 Allocation of study and teaching hours

Item	Allocated hours
Pre-course assignment and knowledge assessment questionnaire	2
Lectures	28
Assignments – writing and preparations	10
Total	40

9. TRAINING PROGRAMME DEVELOPMENT TEAM AND LECTURERS

The training programme will be developed by:

- Mr. Twahirwa Alexander (Labour law specialist, International Labour Organization and a practitioner lawyer, with assistance of
- Prof. Evance Kalula, Emeritus professor of Law, University of Cape Town (UCT), South Africa.

Resource persons will be selected for their professional experience and subject knowledge. It will consist of:

- a) Developers of this training programme;
- b) Outsourced international experts;
- c) ILO Experts;
- d) External lecturers/experts from Ministry of Public Service and Labour, Employers and Trade union members.

10. TRAINING PROGRAMME FUNDING AND ADMINISTRATION

10.1 Short course commencement

The ILPD is planning to start teaching this short course on International labour standards by end of 2020.

10.2 Programme leader

This Training programme will administered by the Institute of legal practice and development. The Training programme leader is: _____

10.3 Funding

The Training programme will primarily be funded by the tuition fees from the participants. ILPD will admit other practioners from public institutions under government sponsorship as well private sponsored participants from private companies or individuals who want to acquire conciliation and mediation skills and knowledge. ILPD is projecting to conduct this Training programme twice a year. The number of participants in first cohort of presentation is estimated at.....and second cohort ofparticipants.

11. ADMISSION CRITERIA

Eligibility to this programme will be new recruited employees and practioners with a practical experience in labour matters. It does not require any specialized degree. However, candidates with an undergraduate degree or a professional qualification in areas such as Law, Human Resource Management, sociology, Business administration, Management, Public administration, Entrepreneurship, Finance, Marketing, or related areas are particularly eligible for this programme.

This training programme is designed in particular for:

- Labour inspectors and judicial officers,
- Labour administration staff,
- National Labour Council (NLC) members,
- Employees' delegates at the level of different institutions and companies,
- Members of the Private Sector Federation (PSF) dealing with social dialogue;
- Negotiators;
- Trade unionists,
- Human resource officers,
- Judges and advocates;
- Industrial relations practitioners, and
- Managers and other legal practitioners.

12. LANGUAGE

Participants will be required to be proficient in English language as the training materials will be available in English only.

13. FELLOWSHIPS/STRATEGY FOR PARTICIPANT SUPPORT

Concerning fellowships, this will be determined by ILPD after commencement of the course to qualified candidates coming from eligible local institutions and other countries. The Training programme is intended to student-centered and highly interactive. Students will hence have the opportunity to provide feedback in class. In addition to this, an evaluation form will be given to all trainees at the end of the each module as well as at the end of the training programme.

14. INDICATIVE LEARNING RESSOURCES:

1. PRIMARY RESOURCES

Statutes

Constitution of the Republic of Rwanda of 2003 revised in 2015.

Conventions ratified by Rwanda

1	Night Work (Women) Convention, 1919 (No. 4)	18.09.1962
2	Right of Association (Agriculture) Convention, 1921 (NO 11)	18.09.1962
3	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)	18.09.1962
4	Weekly Rest (Industry) Convention, 1921 (No. 14)	18.09.1962
5	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)	18.09.1962
6	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)	18.09.1962
7	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	18.09.1962
8	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)	18.09.1962
9	Forced Labour Convention, 1930 (No. 29)	23.05.2001
10	Workmen's Compensation (Occupational Diseases) Convention	18.09.1962

	(Revised), 1934 (No. 42)	
11	Recruiting of Indigenous Workers Convention, 1936 (No. 50)	18.09.1962
12	Safety Provisions (Building) Convention, 1937 (No. 62)	18.09.1962
13	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)	18.09.1962
14	Labour Inspection Convention, 1947 (No. 81)	2.12.1980
15	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	8.11.1988
16	Night Work (Women) Convention (Revised), 1948 (No. 89)	18.09.1962
17	Labour Clauses (Public Contacts) Convention, 1949 (No. 94)	18.09.1962
18	Right to Organise and Collective Bargaining Convention, 1949 (NO 98)	8.11.1988
19	Equal Remuneration Convention, 1951 (No. 100)	2.12.1980
20	Abolition of Forced Labour Convention, 1957 (No. 105)	18.09.1962
21	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	2.02.1981
22	Equality of Treatment (Social Security) Convention, 1962 (No. 118) <i>Has accepted Branches (d) to (g)</i>	21.09.1989
23	Minimum Age (Underground Work) Convention, 1965 (No. 123) <i>Minimum age specified: 18 years</i>	1.06.1970
24	Holidays with Pay Convention (Revised), 1970 (No. 132) <i>Length of holiday specified: 18 working days. Has accepted the provisions of Article 15, paragraph 1(a).</i>	13.05.1991
25	Works' Representatives Convention, 1971 (No. 135)	8.11.1988
26	Minimum Age Convention, 1973 (NO138) <i>Minimum age specified: 14 years</i>	15.04.1981
27	Worst Forms of Child Labour Convention, 1999 (NO 182)	23.05.2000
28	Employment policy Convention, 1964 (NO 122)	05:08:2010
29	Tripartite Consultations Convention, 1976 (No.144)	29.01.2018
30	Labour Administration Convention, 1978 (No.150)	29.01.2018
31	Occupation safety and Health Convention, 1981 (No. 155)	29.01.2018

32	Promotion Of Collective Bargaining Convention 1981, (No. 154)	29.01.2018
33	Private Employment Agencies Convention, 1997 (No. 181)	29.01.2018
34	Promotional framework for Occupational safety and Health Convention, 2006 (No. 187)	29.01.2018

Relevant ILO instruments adopted by the International Labour Conference and protocols

- 1) ILO Declaration on Social Justice for a Fair Globalisation, Adopted by the International Labour Conference, ILO, 97th Session, Geneva, June 2008.
- 2) Declaration of Philadelphia, adopted by the International Labour Conference, 26th session, Philadelphia, May 1944.
- 3) International Labour Organisation Constitution, adopted by the International Labour Conference, 26th session, Philadelphia, May, 1944.
- 4) ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference, 86th Session, Geneva, June, 1998.
- 5) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- 6) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- 7) Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
- 8) Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- 9) Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)
- 10) Conclusions concerning tripartite consultation at the national level on economic and social policy, International Labour Conference, 84th session, 1996
- 11) ILO Declaration on Fundamental Principles and Rights at Work", ILC 86th session, 1998
- 12) Resolution concerning tripartism and social dialogue, International Labour Conference, 90th session, 2002
- 13) ILO Declaration on Social Justice for a Fair Globalization, International Labour Conference, 97th session, 2008
- 14) ILO. 2009. "Recovering from the crisis: A Global Jobs Pact", Geneva.
- 15) ILO-International Training Centre Social Dialogue-A manual for trade union education

National laws

- 1) Law n° 66/2018 of 30/08/2018 regulating labour in Rwanda and its application orders.
- 2) An Order of the Minister in charge of labour determining the modalities of election of employees' representatives and their alternates, their duties and conditions for fulfilling them.

- 3) Prime Minister's Order determining the mission, organisation and functioning of the National Labour Council.
- 4) Law n°86/2013 of 11/09/2013 establishing the general statute of public service in Rwanda.

2. SECONDARY RESOURCES

ILO Reports and Surveys

- 1) ILO, report of the committee of experts on the application of conventions and recommendations, (articles 19, 22, and 35 of ILO constitution), international labour office, Geneva, 2017.
- 2) ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning the right to organise and collective bargaining convention, 1949 (no.98), Rwanda, published 2017.
- 3) ILO, report of the committee of experts on the application of conventions and recommendations: Individual observation concerning labour inspection convention, 1947 (no. 81), Rwanda, 2017.
- 4) ILO declaration on decent work for all, adopted by the international labour conference, 97th Session, Geneva, 10 June 2008.
- 5) Thematic Brief, Achieving Decent Work and Inclusive Growth: THE BUSINESS CASE FOR social dialogue, ILO-OECD
- 6) J. Ishikawa (2003): "Key features of national social dialogue: A social dialogue resource book" (Geneva, ILO).
- 7) Daza Perez, José Luis: Social Dialogue in the Public Service, Social Dialogue Working Paper No. 11 (Geneva, ILO, 2002).
- 8) Kostner, Karl: Social Dialogue in South Africa, Social Dialogue Paper No. 5 (Geneva, ILO, 2000).

National Policy documents, Reports and Surveys

- 1) Republic of Rwanda, Ministry of Public Service and Labour, Annual Reports on application of ratified ILO Conventions, 2017, 2018 and 2019
- 2) Republic of Rwanda, 7 Years Government Programme (National Strategy for Transformation 1) 2017–2024
- 3) Republic of Rwanda, Economic Development and Poverty Reduction Strategy (EDPRS) 2008-2012, September 2007.
- 4) Republic of Rwanda, Ministry of Public Service and Labour, *National Employment policy*, 2019.
- 5) Rwanda development Board (2019), National skills development and employment promotion strategy 2019/2024.

- 6) ILO, compliance risk assessment in the building construction sector in Rwanda, 2019.
- 7) Decent work country programme, February 2018
- 8) CESTRAR-Baseline survey on the social dialogue situation in Rwanda, June 2013.

Internet source

ILO: IFP/DIALOGUE website on “Social Dialogue” at
www.ilo.org/public/english/dialogue/ifpdial/sd/index.htm accessed on 27.03.2020.

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE PROJECT
ANNEX XV (VOLUME III)

SRAJ Project Mediation Handbook

Eben A. Weitzman, PhD
Bernadette Uwicyeza
Alexander Twahirwa
Seth Karamage

Center for Peace, Democracy and Development
Department of Conflict Resolution, Human Security and Global Governance
University of Massachusetts Boston

Preface

Purpose

This mediation handbook is intended as both a training companion and a desk reference for the MIFOTRA Labor Inspector, as well as for other stakeholders in the labor mediation process.

- It provides an *ethical framework*, setting expectations of fairness and integrity which shall guide the conduct of mediators.
- It provides a *guide to mediation*, laying out a structured, highly effective process, including best practices for supporting parties in moving from stalemate to mutually satisfying solutions, and for defusing angry or contentious confrontations.
- It identifies *standards of conduct* based on the ethical framework and supporting the mediation process presented here.
- It offers an *inventory of key skills* for effective mediation, with guidance on how to develop and deploy these skills.
- Finally, this handbook includes a set of key resources for the mediator, such as frameworks for written agreements and guides for presenting the benefits of mediation to potential participants.

Audience

Who is this handbook for? Primarily the MIFOTRA Labor Inspector, but this is not the only audience. This handbook may be helpful to any participant in a mediation conducted by a Labor Inspector, as it establishes a shared set of expectations about the principles, expectations, and process involved in a mediation. In fact, this function may extend to any stakeholder to a labor mediation to be conducted by a MIFOTRA Labor Inspector—such as an employer’s association or a trade union—again by creating a set of shared expectations. Finally, insofar as the Draft Alternative Dispute Resolution Policy of Rwanda’s Ministry of Justice (Republic of Rwanda Ministry of Justice, June 2020) proposes that labor disputes may be mediated not only by Labor Inspectors, but also potentially by, or with the help of a community of other mediators recognized by MIFOTRA (in collaboration with trade unions, relevant professional associations, and district officials, this handbook can form the basis of a common approach to, and set of expectations about, modern labor mediation in Rwanda.

Method of Development

This handbook was developed by the Strengthening Rwandan Administrative Justice (SRAJ) Project, a program funded by the US Agency for International Development and implemented by the University of Massachusetts Boston. Under the leadership of resident project manager Seth Karamage, the handbook initiative involved the expertise of UMass Boston Professor Eben Weitzman (a conflict resolution specialist), Bernadette Uwicyeza, a Rwandan mediation expert, Alexander Twahirwa, a Rwandan labor law specialist, Malcolm Russell-Einhorn, SRAJ Project Director and a comparative administrative law specialist, and various staff from MIFOTRA. It

was informed by research conducted by SRAJ into the state of labor relations and labor mediation in Rwanda, and by deep discussion between SRAJ, MIFOTRA, and the above partners.

The specific approach to mediation presented here was strongly shaped by surveys of Labor Inspectors, employers, and trade union representatives so that we could learn the perspectives of these different stakeholder groups on what is effective in mediation, what is not, and what is essential to a mediation being fair. We applied what we learned from these surveys to a review of best practices in labor mediation from around the world, drawing on experience and frameworks from Rwanda, South Africa, the United States, and the International Labor Organization (ILO). The result represents a framework and specific method for labor dispute mediation based on best practices from around the world, and customized to fit Rwanda's unique context.

Introduction

Conflict in life and in the workplace is inevitable, but it can often be resolved in constructive ways. In fact, if approached with skill and patience, conflict can lead to growth, change, and improvement.

Often, the parties in conflict can work together directly through constructive *negotiation* or *bargaining* to identify each party's interests and find mutually agreeable solutions. When this fails, a skilled, independent, neutral third party—a *mediator*—can facilitate the discussions. Thus, mediation is essentially facilitated—or assisted—negotiation. The International Labor Organization (ILO) defines mediation (or conciliation—they use the terms interchangeably) as follows:

Conciliation/mediation is assisted bargaining. This requires that conciliators/mediators know and understand the bargaining and negotiation process in the first instance, including the different approaches to negotiation, as well as how to build on those processes to help the disputants reach an agreement.

The capacities required for successful conciliation/mediation are a mix of knowledge, skills, experience and personal qualities that include a willingness to listen, patience, sincerity, honesty and a sense of humour. (International Training Centre of the ILO, 2013, p. 146)

Similarly, the United States Federal Mediation and Conciliation Service (FMCS) sets forth a vision of the purpose, nature and value of mediation in employment contexts:

In grievance mediation, the parties are completely responsible for designing their own solution. The mediator does not make a binding decision for the parties, but rather guides them to their own mutually-acceptable resolution of the grievance. Instead of creating winners and losers, the grievance mediation process develops cooperative problem-solving between labor and management. (Federal Mediation & Conciliation Service, 2009, p. 2)

This handbook is rooted in the perspective on conflict and mediation expressed in these statements. It provides an ethical framework, a guide to mediation, standards of conduct, an inventory of key skills, and a set of key resources. It is intended as a handbook—as a reference to keep and use throughout the career of the labor mediator.

For purposes of this Handbook, the term 'mediation' is used throughout to refer interchangeably to mediation and conciliation in labor matters, even though the latter term frequently appears in legislation and regulations when referring to labor mediation processes. This is consistent not only with the International Labor Organization definition of the term, but with the Rwanda Draft Alternative Dispute Resolution (ADR) Policy, which has adopted 'mediation' as a practical umbrella term in all fields of law to refer to various conciliation or other dispute resolution processes employing a third party neutral. However, the practical guidance herein is specific to the labor dispute context.

Ethics

Mediators play an essential role in the resolution of disputes that can have profound impact on the lives of employees, relations between employers and employees, and the success of organizations of all kinds. Accordingly, it is of the highest importance that mediators conduct themselves according to the highest standards of ethical practice. We adopt here the values and operating principles of the South African Commission for Conciliation, Mediation and Arbitration has a statement of values and operating principles, summarized by the ILO thus:

- **Integrity**
 - We are honest and ethical in everything we do.
 - We deliver on our commitments.
 - We are accountable and responsible for our performance.
- **Diversity**
 - We are a team of highly qualified individuals that is representative at all levels of our country's diversity.
- **Transparency**
 - We work in a manner that is open and transparent, guided by our statutory obligations and commitments.
- **Excellence**
 - We are committed to excellence.
 - We continuously strive to deliver quality work.
- **Accountability**
 - We continuously measure ourselves against our commitments and we hold ourselves responsible for our actions and the outcomes of our work.
 - We are committed to each other and all we do.
- **Respect**
 - We value differences in people and ideas and we treat others with fairness, dignity and respect.
 - We foster a culture of trust, respect, teamwork, communication, creativity, equal opportunity and empowerment. (International Training Centre of the ILO, 2013, p. 154)

In applying these values and ethical principles, it is essential to bear in mind that these apply to the mediator's responsibilities toward the parties, toward other mediators, toward their agency and profession, toward the public, and toward the mediation process. It is also important to note that these values align closely with those enumerated in the Procedure Manual for Labour Inspectors (Ministry of Public Service and Labour (MIFOTRA), 2016) as the code of conduct for Labour Inspectors:

- Integrity
- Impartiality
- Professional Secrecy
- Confidentiality regarding the source of complaint

- Independence
- Free decision making
- Selflessness

Mediation of Labor Disputes in Rwanda

The role of the mediator in labor disputes in Rwanda has the potential to have enormous positive impact on the working lives of Rwandans, on relations between employers and employees, on the success of businesses throughout the country. Mediators support employers and employees in finding amicable, mutually satisfactory agreements to workplace disputes of all kinds. Mediation can be particularly effective in addressing the wide range of issues that typically arise from employee grievances, including conflicts over working practices, scarce resources, conflicting perceptions and evaluation of worker performance, discriminatory treatment of workers (including sexual or other forms of worker harassment) and allegations of unjust discipline or termination.

In addition to noting the importance of mediation in potentially resolving workplace disputes and avoiding resort to the courts, the Rwanda Draft ADR Policy (Republic of Rwanda Ministry of Justice, 2020) notes the importance of supplementing the role of labor inspectors in mediation by building on other human resources available at the community level, including trade unions, workers' representatives, and employer representatives. This handbook is designed to support the efforts of all of the diverse actors who may ultimately be involved in labor dispute resolution. The work of those engaged in labor mediation can be challenging, but it can also be a source of great satisfaction. This handbook can help.

How to Use This Handbook

There are at least three ways to use this handbook.

1. **As a training resource.** The handbook provides a complete framework and method for mediation, along with ethical guidance and key resources. As such it can be used as a supporting document or even the basis for mediation training.
2. **As a desk reference.** With both a detailed framework for mediation and a brief outline, information on labor law and policy, sections on key skills and standards of practice, and a host of practical resources, the handbook can be used in preparation, or for quick reference during a mediation.
3. **For setting context and expectations.** A key value and principle of practice in mediation is transparency. Sharing the manual, or key sections of it, with parties and other stakeholders can help establish a shared frame of reference for what to expect of mediation.

Structure of This Handbook

Chapter 1 provides an overview of mediation, it's background, principles and objectives. It introduces a framework of standards of practice.

Chapter 2 provides a review of the legal and policy frameworks for mediation of labor disputes in Rwanda.

Chapter 3 explains how to mediate. It introduces a detailed four-stage model of mediation, specifically designed for the mediation of labor disputes in Rwanda.

Chapter 4 provides a set of essential mediation skills.

Chapter 5 contains a brief outline for the competencies the MIFOTRA mediator should master. This can form the basis for mediation training customized for MIFOTRA mediators.

Chapter 1: Overview of Mediation

Concept and Practice of Mediation

Mediation is assisted negotiation. The mediator is impartial, committed to providing a fair, constructive process in which parties determine their own outcomes. Essential to this is that parties determine their own outcomes, and that any agreement they enter into in mediation must be entered into voluntarily. This means that the foremost obligation of the mediator is to create and facilitate a process in which parties can find agreements to which they mutually choose to commit.

Needs and Interests-Based Approach

Fundamental to creating such a process is the concept of a *needs and interests-based* approach to conflict. The Rwanda Draft ADR Policy (Republic of Rwanda Ministry of Justice, 2020) defines such an approach thus:

The purpose of meditative processes in Rwanda will be to create solutions that consider the causes and consequences of conflict and crime by developing mutual understanding through dialogue of the underlying needs and interests of the people involved. Though these processes may be designed to uncover the truth of what happened, they also examine the deeper truth of how we Rwandans are interconnected and how we can both hurt, heal and help each other, by meeting one another's basic needs that make up our common humanity, such as the need for dignity, safety, autonomy, understanding and care (p. 59).

Such an approach emphasizes that in order to assist parties in moving from stalemate to resolution, it is essential to focus on true underlying needs rather than surface-level demands or positions that parties may have taken. It further places an emphasis on searching for agreements that meet each party's underlying needs. This allows for greater flexibility in searching for creative solutions, development of more mutually-satisfying and durable agreements, and the building of goodwill through the process.

Values, Principles

Mediation as a mechanism of conflict resolution is grounded in a set of values and principles. These values are endorsed in various iterations across the world, in international bodies such as the ILO, and in nations from the Republic of South Africa to the United States. The ILO argues that the greatest emphasis should be placed on consensus-based processes such as mediation, because these approaches, in giving the parties the greatest control of the outcome, lead to the greatest likelihood that the underlying issues will be resolved, that the relationship between the parties will be preserved, and that the parties will be satisfied with the results (International Training Centre of the ILO, 2013). We adopt the following values and principles of practice:

- 1. Fairness**
 - 1.1. Impartiality**
 - 1.2. Equality**
 - 1.3. Self-determination**
 - 1.4. Voluntary Participation**
 - 1.5. Voluntary Agreement**
- 2. Integrity**
 - 2.1. Independence**
- 3. Respect for Persons**
- 4. Non-adversarial, needs-based approach to conflict**
- 5. Quality of the process**
- 6. Confidentiality**
- 7. Diversity of Neutrals**

Box 1: Values and Principles of Practice

Each of these values and principles of practice is expanded, below, as standards of conduct which shall guide the professional practice of mediators.

Standards

Mediation programs around the world are founded upon a set of key Standards of Conduct. These standards are defined in service of ensuring that the values described above are maintained, and that mediators enact the skillset necessary to produce the positive, constructive outcomes for which mediation is valued.

The ILO frames the expectations for labor mediation thus:

Where disputes cannot be prevented or resolved through dialogue between workers and employers, conciliation/mediation represents the next step in the process. It is possible, however, for conciliation/ mediation to take place at any time, even before internal procedures have been exhausted.

In some jurisdictions, a distinction is made between 'conciliation' and 'mediation'. However, for the purpose of this publication, no such distinction is made. The term 'conciliation/mediation' is used to cover a process that is:

- voluntarily entered into by the party initiating the dispute, with the other party then being required to join the process
- an extension of the bargaining/negotiation process that commences when negotiations break down
- conducted by an independent, impartial third party with no power to make a determination or judgment
- conducted by a person whose role is to facilitate a negotiation process, with a view to assisting the parties to generate a wide range of options for consideration and reach a mutually acceptable resolution

- free of cost to the disputants (other than the cost of time in attending conciliation meetings and preparing for the discussions)
- private and confidential
- speedily set up, informal and flexible
- non-adversarial
- low risk in that it is supportive of the need to maintain and, if possible, improve the ongoing relationship between employer and worker.

Conciliation/mediation provides a means of exploring the parties' common and opposing interests, which can be a beneficial process even in rights disputes. Also, in some countries, conciliators/mediators may have industry-specific knowledge (e.g., transport, chemicals) that can be valuable in assisting the disputing parties to generate options. (International Training Centre of the ILO, 2013, pp. 142–143)

The Supreme Judicial Court of the Commonwealth of Massachusetts in the United States roots its standards for mediators in the court's philosophy of mediation:

Philosophy: Mediators have an obligation to the public and the profession to conduct their practice in a competent and ethical manner. Central to the code of behavior required of mediators is a commitment to and respect for the parties and the mediation process. Central also is the personal integrity with which each mediator enhances the quality of the process. (Commonwealth of Massachusetts, Trial Court Standing Committee On Dispute Resolution, 2005, p. 84)

Standards of Conduct for MIFOTRA Mediation

Consistent with these aspirations for mediation, we adopt the following set of Standards, based upon the values and principles laid out above.

- 1. Fairness**
 - 1.1. Impartiality**
 - 1.2. Equality**
 - 1.3. Self-determination**
 - 1.4. Voluntary Participation**
 - 1.5. Voluntary Agreement**
- 2. Integrity**
 - 2.1. Independence**
- 3. Respect for Persons**
- 4. Non-adversarial, needs and interests-based approach to conflict**
- 5. Quality of the process**
- 6. Confidentiality**
- 7. Diversity of Neutrals**

1. Fairness

The first value, fairness, is of central importance if the agreement resulting from a mediation is to be respected and upheld by the parties. The mediator must keep in mind at all times that fairness—or the parties’ sense of justice—is composed of multiple parts. *Distributive Justice* is the party’s feeling that the outcome is fair. *Procedural Justice* is the party’s feeling that the process by which the outcome was reached was fair. In fact, if the party does not feel that the process was fair, they are likely to feel that the outcome is unfair as well, even if it is an outcome that appears objectively fair. In order for parties to feel that the outcome of a mediation is fair, *both* of these aspects of fairness, or justice, must apply.

In preparing this handbook, we surveyed employers, trade unions, and Labor Inspectors from across Rwanda, and asked them what they thought the most important conditions of fairness were. The responses from all three groups aligned, and the key requirements for fairness that they identified were that:

- Parties have the opportunity to fully explain their concerns
- Witnesses heard from when relevant
- Mediator has relevant knowledge of the law
- Mediator treats parties equally
- All relevant information shared
- Power balanced
- Voluntariness of participation
- Voluntariness of agreement

It is important to recognize that while Rwandan MIFOTRA Labor Mediators can require parties to appear for a mediation, in the end the parties must be free to end participation and proceed to an adjudicatory process. Further, any agreement ultimately entered into must be entered into voluntarily.

Therefore, the following standards contribute to the first standard of Fairness.

1.1 Impartiality

The mediator must maintain a position of neutrality, or impartiality. That is, the mediator may not favor one party or the other in the process of mediation. Many mediators find it challenging to remain truly neutral, and in fact many people argue that you cannot ever know that you do not have even a small amount of unconscious bias. Therefore, many mediators find it helpful to think about this in terms of *multi-partiality*. That is, rather than trying to make sure I have zero bias, I commit myself to being partial towards *each* of the parties, toward making sure that *all* parties get what they need.

1.2 Equality

The mediator must maintain a process in which parties have equal rights, equal voice in the process, equal standing, and an equal opportunity to be heard.

1.3 Self-Determination

Parties determine their own outcomes. They must not be imposed either by the mediator, by one of the parties over the other, or by some other outside person.

1.4 Voluntary Participation

Essential to self-determination is that participation in mediation is voluntary. In some instances, policy or law may require that parties attempt to find a resolution via mediation before proceeding to some other step, such as adjudication. However, beyond a requirement to appear, and to make a good faith effort to participate in mediation, parties must maintain the freedom to choose how far they will proceed in mediation, what issues they are willing to negotiate, and when they wish to end the mediation.

1.5 Voluntary Agreement

Of critical importance, the mediator can support the standards of Fairness and Equality by upholding the principle that any agreement requires unanimous, voluntary consent.

2. Integrity

The mediator must in all cases conduct himself or herself with integrity and adhere to a strict standard of ethics. This includes but is not limited to avoiding conflicts of interest or seeking personal gain.

2.1 Independence

The mediator must be independent of any undue influence. This means that while the labor inspector represents the state as an official matter, in the context of private labor disputes the inspector exhibits strict neutrality and both within and outside the mediation process and is scrupulous about avoiding any favoritism or conflict of interest that would compromise such neutrality.

3. Respect for Persons

Respect for persons means recognizing and respecting the human and legal rights of each participant in the mediation.

4. Non-adversarial, needs and interests-based approach to conflict

The goal of the mediator is to create a process in which the parties work together to find a mutually-agreeable solution that meet their needs and interests. The mediator works at all times to help the parties avoid contentious, adversarial approaches, and instead to work together toward a resolution all can accept. Rather than creating winners and losers, the process of mediation should generate a cooperative problem-solving between an employer and employee.

5. Quality of the process

The mediator at all times approaches mediation with the highest standards of professional excellence. This begins before first contact with the parties, and continues through pre-mediation intake, planning the process, conducting the mediation, and any follow-up activities.

6. Confidentiality

Discussions within a mediation session shall be held confidential by the mediator, except for enforcement of any final agreement entered into. The mediator and parties may only disclose the content of mediation discussions as required by law. Communications in private meetings between the mediator and individual parties shall also be held confidential by the mediator at the request of the party. Confidentiality is thus at two levels: confidentiality of all mediation communications and confidentiality of information exchanged with the mediator in private meetings.

7. Non admissibility of mediation communication as evidence in subsequent proceedings

Communications made in mediation cannot be used as evidence in subsequent proceedings.

8. Diversity of Neutrals

Consistent with requirements for fairness, integrity, impartiality and equality, there should be a diversity of available mediators maintained on the roster of the agency providing mediation service. Diversity of gender, age, ethnicity and other demographic factors should reflect those of the population of participants in mediation.

Chapter 2. Mediation in Labor Disputes in Rwanda: Legal and Policy Framework

Types of disputes

Workplace disputes can embrace individual or collective disputes regarding any terms or conditions of employment, ranging from unpaid wages and overtime to workplace health and safety. According to research undertaken in 2019 by the SRAJ Project, the leading issues giving rise to individual labor complaints in Rwanda during the period 2015-2017 were salary issues (including unpaid wages, unfair dismissal, and termination of contract for alleged economic or technological reasons). 90% of all labor complaints during this period were at least partially related to at least one of these three reasons. Complaints related to Rwanda Social Security Board (RSSB) contributions comprised 14% of all complaints, and safety issues 4%. These and other disputes represent a major part of labor inspectors' workload, as well as the workload of Rwandan courts, and only through effective mediation in which both parties have confidence can these workloads be lessened over time.

The Current Legal Framework and the Latitude it Affords Mediation Approaches

Although the law provides for workers' delegates to serve as the first level of recourse for disputes between employers and an individual employee (Labor Law, Art. 140), in practice the absence of elected delegates in most workplaces, or the lack of trained delegates even in cases where they exist, is problematic. This means that in practice, almost all individual labor disputes are handled in the first instance by a labor inspector. The inspector's role is to seek to allow the parties to resolve their dispute voluntarily, and then if resolution proves unsuccessful, to permit either party (usually the employee) to go to court (or in the case of a collective labor dispute, to the National Labor Council). In this manner, the inspector serves as an administrative exhaustion mechanism, designed to bring maximum local knowledge and agency to the dispute resolution process and reduce the numbers of disputes referred to higher authorities.

As a backdrop to this administrative dispute resolution process, inspectors are empowered by law to conduct an inspection of the workplace where the dispute has arisen; take oral or documentary evidence therefrom; question under oath any person likely to have relevant information for settlement of the dispute; and invite assistance from any person who may be able to contribute to the amicable settlement of the dispute (Labor Law, Article 3).

In practice, the labor inspector invites the concerned parties to a dispute for mediation via a written summons (Prime Ministerial Order on Labor Inspection, No. 001/19.20, Article 11). The parties must appear within seven days from the date of the summons, unless there is valid written justification provided, whereupon a second summons may be issued. (Order on Inspection, Article 12). A fine may be assessed if a party fails to provide valid written justification for his or her failure to answer a summons (Order on Inspection, Art. 23).

The Order on Inspection is relatively silent on how 'conciliation of the parties' is to be structured. The Order (Article 16) merely provides that the inspector "explain to the parties how the process is [to be] conducted," and must do so "with impartiality" so as to ensure that "all parties have adequate opportunities to be heard, to be involved in the process, and have, if so required, the opportunity to seek legal advice." The provision concludes by noting that the

inspector “is prohibited from imposing on the parties” to reach agreement. This obviously leaves open a wide range of methods and techniques for helping the parties clarify the parameters of their dispute and possibly reach agreement. In addition, the training manual for labor inspectors provides no specific guidance (p. 13) on how a labor dispute is to be mediated and settled. Again, this opens up a wide range of possibilities for conciliation methods, which this Handbook is designed to provide. Perhaps the most important thing for an inspector to do in creating the most conducive conditions for dialogue and possible settlement is to make the parties comfortable and ensure that there is trust in the inspector as an impartial listener; this is especially important given the fact that the labor inspector is a government official and some citizens may be reticent to suggest ideas or challenge an employer in such a context.

Against this backdrop, other important possibilities for structuring mediation approaches include (1) ensuring that both parties and the mediator are clear about time and other expectations, and (2) ensuring that the parties come prepared with documentation and any other relevant information to maximize the usefulness of the initial session. For the most part, inspectors currently bear very large caseloads and may consciously or unconsciously rush mediation sessions in order to maximize efficiency, often at the cost of fairness and creating an atmosphere of trust and empathy. Inspectors, with their supervisor, need to be clear about what amount of (expanded) time is necessary to create minimum conditions of trust and to make sure time expectations are clear for both employers and employees. As a corollary, because time is valuable, inspectors need to be explicit in their summonses to the parties that that the latter appear on time, and prepared for a mediation session (and wield penalties as necessary for parties who fail to appear without good faith excuses).

Although field research conducted by the USAID-funded Strengthening Rwandan Administrative Justice (SRAJ) Project revealed that some labor inspectors have a tendency to deviate at times from strict neutrality and may push the parties to a conclusion (acting at times more like arbitrators) for reasons ranging from their knowledge of labor law to a desire to clear their own dockets, the Order on Inspection clearly intends that the parties own their dispute at the outset and are given the opportunity to also own any solution, which can be memorialized by a written settlement (in the case of agreement) or “minutes of non-agreement” (if no agreement is reached)(Order on Inspection, Art. 14). In a notable change reflecting 2018 revisions to the Labor Law, inspectors may levy fines themselves on parties failing to honor the terms of a settlement agreement (Order on Inspection, Art. 23).

“Mediation” and “Conciliation”

While the legal term ‘conciliation’ used in the Labor Law and Prime Ministerial Order governing inspectors conforms to the legal vocabulary used in Rwanda and used by the International Labor Organization (ILO), the term ‘mediation’ is used interchangeably with conciliation by the ILO and is functionally equivalent, denoting neutral third-party assistance (in this case by a public official) to the parties in seeking to reach a mutually acceptable solution dispute by themselves. The key purpose of the inspector, acting in this neutral role, is to identify behaviors and interests that can help bring the parties nearer to resolution and to do so

without making any determination or judgment or imposing a settlement on the parties or instructing the parties in any way as to what they should agree to.

The purpose of using the term mediation in this handbook, however, is twofold: First, it connects labor dispute resolution to the ever-growing and innovative global literature and practice on mediation—in which a wealth of behavioral insights and use of creative framing techniques can be put to the most effective use. Second, it is important to recognize the centrality of mediation to the country’s draft Alternative Dispute Resolution Policy, which is nearing final approval and which not only explicitly refers to mediation in the private employment context, but recommends the future development of a new *Abunzi* “Community Service Mediation Scheme” to help resolve labor disputes – by having a roster of Community Service Mediators from the ranks of employers, worker’s delegates, and trade unions assist labor inspectors as needed (see Draft ADR Policy April 2020, pp. 40-41). Such additional assistance or representation is permitted by Article 13 of the Order on Inspections and is seen as a practical necessity in helping inspectors not only with a burgeoning caseload (that in some cases prevents them from carrying out necessary proactive inspections) but in enhancing specialization in particular sectoral employment domains. May be in preamble at least in summary so that it is clear from the beginning that we opt for the term mediation. Because it is a general trend in the use of terms 5 see analysis we made in the document concept note of extending mediation and ADR draft Bill).

Implications

The practical import of this legal and policy framework is that the field is wide open for the introduction of tested mediation methods that honor the ownership of the process by the parties, respect their voluntariness, and bolster the impartiality of the inspector. And in light of where the country is moving with the new ADR Policy, there is also room for creativity and innovation in thinking about ways to supplement the primary dialogue between the parties, on a case-by-case basis, with ancillary dialogues between and among potential interested mediator representatives from the ranks of employers, workers’ delegates, and trade unions.

CHAPTER 3: How to Mediate—The Four Stage Model: A Mediation Process Framework

Mediation is assisted negotiation. The parties have been unable to negotiate successfully by themselves, and you are there to help them negotiate effectively to reach a solution they can both voluntarily agree to.

To keep the process moving forward productively, it is very helpful to keep it structured. This

Stages of Mediation: Overview

Our model consists of four stages. These four stages are preceded by the process of *Convening* the mediation, also an essential ingredient.

Convening the Mediation: Setting up for mediation

Inviting the parties, gathering information, setting expectations

I. Opening the Mediation

Welcoming the parties, explaining mediation, setting the tone, building trust, setting expectations.

II. Exploring/Defining the Issues

Identifying needs and interests underlying positions: Taking the time to hear from each of the parties—and any witnesses—in full to be sure that everyone understands the underlying needs and interests that must be satisfied

TRANSITION: REFRAME

Before proceeding to Stage III, reframe the dispute as a Mutual Problem to be Solved Collaboratively

III. Finding Solutions

Generating solutions that will mutually satisfy each party's underlying needs. This process should be creative and collaborative.

IV. Closing the Mediation

Confirming agreement, writing it up, concluding the session.

Box 2: Stages of Mediation: Overview

simple four-stage model will help you set the proper expectations, carefully discover each party's interests, find solutions that all can accept, and craft a clear agreement. Box 2 shows a brief overview of the stages. These are explained in detail in the next section.

Stages of Mediation: Procedure

Here we present the four stages in detail, and we present it *twice*. First, you will find a detailed, annotated explanation of the stages, including important reminders and suggestions. This will be particularly helpful as you first learn this model.

Following this detailed explanation, you will find a simplified Outline version. Stripped of much of the detail, the Outline is an easy quick reference for the mediator who has already learned the model and can be easily used either just before—or even during—the mediation.

Pre-Mediation: Convening

Before the parties ever set foot in the room where the mediation will take place, the mediator has done important work that will impact the course of the entire process. *The goal in the convening stage is creating the conditions for an effective mediation.* The mediator gathers critical information about the case, identifies stakeholders who need to provide information or participate. Perhaps most importantly, the mediator has first communications with the parties, providing an opportunity to begin building trust, and to set expectations for a voluntary, constructive process. Some specific things to consider include:

- Conflict mapping: analysis of the claims being made by the parties before convening and mediating
- Identify stakeholders: the team that helps labor inspector to mediate
- Reaching out to the parties (employee and employer) to build trust and willingness to participate meaningfully
- Address concerns about mediation: past experience, pre-mediation conditions, emotions, power relations...etc.
- Checking that parties have the authority to settle: are there representatives with full authority to settle the dispute?
- Design the process that meet the needs of the parties
 - Do we need to start with individual meetings with each party or go directly to joint session?
 - Encouraging parties to meet face to face in joint session, explaining the benefits of this joint session
- Logistical arrangements: time, venue

Stage I: Opening the Mediation

Before beginning the discussion of the issues that bring the parties to the mediation, it is essential that the mediator begin to create the appropriate environment and expectations. *The entire “Opening” stage takes place before beginning to hear from the parties about the case.*

- [Set up the room]

Try to make it comfortable for a dialogue between the parties.

Possible initial meetings with each of the parties

- Introductions

Introduce yourself and others

Be sure to include everyone present, as well as their roles

- Explain process, mediator's role

Explain the nature of mediation, and the role you will play. Be sure to include:

- Confidentiality (notes destroyed)

You will keep everything you learn confidential, with the exception of where required by law to report. You will destroy your notes after the mediation is complete.

- Voluntary

Participation is voluntary, and either party may end the mediation at any time.

- Participants will decide (not mediator)

It is up to the participants to craft their agreement, and entering into it is voluntary

- Mediator "neutrality" or "multi-partiality"

The mediator is a neutral facilitator. Some mediators like to say that they are "multi-partial"—that is, they are committed to making sure that ALL parties are satisfied. It is essential to manage expectations about neutrality. This begins with clearly stating a commitment to neutrality, and then carrying through on that commitment.

- Format (time frame) outline the day

Clarify any time constraints to the mediation session, whether it will happen in one setting or multiple.

- Groundrules

Establish the following set of groundrules. You may wish to modify with experience. Be sure to get each party's agreement. This will help you to keep order, and keep parties working together in good faith. You can always remind them that they have agreed to abide by these groundrules.

- Listen without interrupting
- No putdowns or name-calling

- Try as hard as you can to solve the problem
- Express your needs and feelings without blaming
- No physical fighting
- Answer any questions

Stage II: Exploring/Defining Issues

In this stage, the parties will share their perspectives, and the mediator will facilitate with the two key goals of 1) allowing each party to think through the underlying needs and interests that are most important to them, and 2) allowing the parties to hear each other's perspectives.

The mediator explains who will present first and why, and will ensure that each party has the time needed to share their perspective.

One key to a durable agreement is successfully discovering the underlying interests or concerns that parties have. If the true issues are not addressed in an agreement, there is sure to be more trouble later on.

Essential to this is understanding the difference between *positions* and *interests*. Positions are the initial demands that parties make. For example:

1. I want the Tuesday afternoon shift
2. you must work weekends
3. I need a 5% salary increase, etc.

Interests are the underlying needs that these demands are attempting to meet. For the positions listed above, these might be:

1. I need one free morning a week to take care of my child
2. there is more work than is getting done during the week
3. I need to improve my financial position

In each of our examples, the *interest* statement can be satisfied in more ways than the *position* statement. In the first case, perhaps there is a different morning the worker could be given, or a supplement given to help pay for childcare. In the second case, perhaps there are other ways to get the additional work done. In the third case, perhaps there is a pension contribution the employer can make or some other financial incentive. Getting to underlying interests creates a great deal more room to find creative solutions.

- **Get from positions to interests**
 - Hear from each side

If one party seems like they will have a hard time listening, it can be helpful to start with them first

- One at a time!

Always take the time to fully explore one party's concerns, finding their underlying interests, before turning to the other party

- Active listening

Always practice active listening:

- Ask open-ended questions
- Paraphrase back what you have heard to check for understanding:
- "So, what I hear you saying is that..."

- Listen for, acknowledge, confirm underlying needs/interests
- Neutralize language

If a party uses inflammatory language, you can help to calm things down and help the parties hear each other better by restating the important part of what has been said, in a more acceptable way.

- "Is there anything else?"
- Caucus if and only if necessary

If the parties are not communicating well, if they can't listen to each other, or if you suspect that there are things they are not saying, you can meet separately with each of the parties.

- Explain that you will meet with EACH of them
- Try to make sure to give them equal time
- Have a clear agreement about whether what is said in "caucus" is confidential from the other side

- Perspective taking

As you talk with the parties to learn about their interests, and you practice active listening, paraphrasing back what you are hearing, you are allowing the party to feel heard—and you are also allowing the other party a chance to start to understand them better.

"It sounds like it has been very hard to be a single parent for your 3 children since your wife died last year, and you are trying to find ways to still meet your obligations at work so you can take care of your family."

- Highlight any common ground

Whenever you learn anything which the two parties agree on, or have in common, be sure to point that out as something to build upon!

TRANSITION: Reframe

Once you think you have a complete understanding of each side's interests, you will want to help the parties reframe the dispute as a Mutual Problem to be Solved Collaboratively. This is the key to constructive conflict resolution. You can do this by asking the following question:

What can we do so that Party A's interests, which are [name party A's interests, as you have discovered in Stage II], and Party B's interests, which are [name Party B's interests] can all be met?

As you move into Stage III, encourage the parties to find solutions that meet *everyone's interests*.

Stage III: Looking for Solutions: Principles

In the search for solutions, the mediator must have a mastery of the *principles* underlying the creation of mutually-satisfactory agreements, as well as of the *process* for creating them. We begin with the principles.

- **Engage parties in finding their own solutions**
- Start with easiest issues, work toward harder ones

This builds momentum

- Use Problem-Solving techniques to find creative solutions:
 - Expanding the pie
 - find ways to work together to create more of a resource to be divided
 - Nonspecific compensation
 - Find new ways to compensate for yielding on an issue (e.g., "If you are willing to work on Tuesday afternoons, I will get you that new computer you have been asking for").
 - Logrolling
 - each side concedes on issues they find less important

builds good-faith, momentum

- Bridging
 - create new options that satisfy underlying interests

Stage III: Looking for Solutions: Techniques

The mediator uses specific techniques to apply the principles above. These are the specific steps the mediator can take to support the parties in finding their own solutions. Parties often arrive at a mediation thinking they can only either win or lose, and they may need considerable support from the mediator in order to be able to engage in problem-solving together. These are some of the most effective techniques the mediator can use.

- Facilitate perspective taking
 - Have them talk directly to each other

- What did you hear her say?
 - What would you most like him to understand?
- Facilitate brainstorming
 - What could you do to meet his needs X, Y, Z?

Encourage parties to name as many ideas as they can think of, even though some will not work.

- Start broad, then narrow down
- Coach participants to be good negotiators
- Highlight common ground
- Narrow down to most acceptable agreement

Stage IV: Closing the Mediation

Once the parties have arrived at an agreement—or set of agreements—that they are ready to accept, follow these steps to make the agreement as durable as possible.

- Test for viability:

We know that there is always a chance that new problems will emerge. Ask the parties to talk about how they can navigate new problems:

- “What will you do if...?” [he is late to work again; she does not pay you on time again; etc.]

- If worried about power, caucus

If you are concerned that one party may be agreeing only because they are afraid of the other party’s power, ask for a Caucus to meet separately with each party, and ask whether they are really comfortable with the agreement. See notes on Caucus in Stage II.

- Confirm details of agreement

- **Write agreement:**

- List mutual obligations first
- Balance obligations (if possible)
- State what, not why
- Clear and simple language
- Pronouns invite ambiguity--use names
- Be explicit about expectations (avoid “Fairly,” “Satisfactorily”)
- No admission of wrongdoing
- No abbreviations

- Be prepared to change it if the parties are not satisfied with the way you write it
- **Closing without an agreement:**

In the event that no agreement is reached, there is still an important opportunity for the mediator to help the parties: Commend the efforts made, notice any progress made and leave open the door for possible settlement.

Stages of Mediation: Outline

Here is as simple outline of the four-stage model for easy reference.

Pre-Mediation: Convening

- Conflict mapping
- Identify stakeholders
- Reach out to parties to build trust
- Address concerns about mediation
- Check that parties have authority to settle
- Design the process that meet the needs of the parties
- Logistical arrangements: time, venue

Stage I: Opening the Mediation

- [Set up the room]
- Introductions
- Explain process, mediator's role
 - Confidential (notes destroyed)
 - Voluntary
 - *Participants* will decide (not mediator)
 - Mediator "neutrality" or "multi-partiality"
 - Format (time frame)
- Groundrules
 - Listen without interrupting
 - No putdowns or name-calling
 - Try as hard as you can to solve the problem
 - Express your needs and feelings without blaming
 - No physical fighting
- Answer any questions

Stage II: Exploring/Defining Issues

- **Get from positions to needs**
 - Hear from each side (who first?)
 - One at a time!
 - Active listening
 - Listen for, acknowledge, confirm underlying needs
 - Neutralize language
 - "Is there anything else?"
 - Caucus if and only if necessary
- Perspective taking (mediator)
- Highlight any common ground

TRANSITION: Reframe

Stage III: Looking for Solutions: Principles

- **Engage parties in finding their own solutions**
- Start broad, then narrow down
- Start with easiest issues, work toward harder ones
 - builds momentum
- Problem Solving:
 - Expanding the pie
 - find ways to work together to create more of a resource to be divided
 - Nonspecific compensation
 - find new ways to compensate for yielding on an issue
 - Logrolling
 - each side concedes on issues they find less important
 - Bridging
 - create new options that satisfy underlying interests

Stage III: Looking for Solutions: Techniques

- Facilitate perspective taking
 - Have them talk directly to each other
 - What did you hear her say?
 - What would you most like him to understand?
- Facilitate brainstorming
 - What could you do to meet his needs X, Y, Z?
- Coach participants to be good negotiators
- Highlight common ground
- Narrow down to most acceptable agreement

Stage IV: Closing the Mediation

- Test for viability:
 - “What will you do if...?”
- If worried about power, caucus
- Confirm details of agreement
- **Write agreement:**
 - List mutual obligations first
 - Balance (if possible)
 - State what, not why
 - Clear and simple language
 - Pronouns invite ambiguity--use names
 - Be explicit (avoid “Fairly,” “Satisfactorily”)
 - No admission of wrongdoing
 - No abbreviations
 - Be prepared to change it

Chapter 4: Mediation Skills

The four-stage model of mediation provides a framework for the mediator to use in guiding the parties through a tested and reliable process that provides a strong chance for arriving at satisfying, durable solutions for even the most difficult conflict. But memorizing the sequence is not enough. Mediators must be trained in a set of essential skills.

Pre-Mediation: Convening:

Convening, as described above, is an essential step in mediation. A variety of skills can help the mediator effectively use the convening process to set the stage for a successful mediation.

Intake

In many ways, the mediation begins long before the parties come to meet with the mediator. In the first conversations, the mediator begins to establish the principles, values and tone that will define the mediation. During intake conversations, the mediator can have a great influence on how the rest of the mediation will proceed by addressing the following:

- Identify stakeholders
- Create willingness to come to the mediation table
- Create willingness to participate meaningfully
- Address participants concerns
- Exchange of information between the parties
- Design the process with the parties
- Logistical arrangements
- Assure fairness, neutrality
- Clearly communicate nature of process
 - Benefits, including
 - impact of voluntary mutual agreement
 - improved relationships post-mediation
- Outcomes
 - Only if mutually agreed to
 - Parties tend to find them far more satisfactory
- Impact on subsequent action
 - Attempting mediation does NOT prevent bringing the case to a higher tribunal if the mediation is unsuccessful
 - A good conversation in mediation can help to de-escalate conflict and avoid further difficulty.

Getting Parties to The Table

Many mediators find that one of the hardest parts of mediation is simply getting the necessary parties to the mediation table. Employers may fear losing money or setting harmful precedents. Workers may fear intimidation or retaliation from their employers. Fortunately,

the mediator has valuable tools available. First, the very items addressed in the Intake can go a long way to assuring parties that mediation is low risk and worth a try.

If that is not successful, there are other avenues the mediator can try:

- The mediator can have a frank conversation with the party about the fact that they may have more to lose by NOT trying mediation
- The MIFOTRA labor mediator does have the authority, if needed, to compel participation, at least in an attempt at mediation

Mediation

In the course of the mediation process itself, it will be essential that mediator have strong skills in listening, de-escalating conflict, uncovering underlying interests, helping parties find creative solutions, getting to agreement, and writing agreements. In particular, essential mediation skills include:

- Active Listening
 - Active listening is more than just attentive listening. The active listener supports the speaker in saying what *they* want to say and assures that the speaker knows they have been heard. Key to active listening are:
 - Asking open-ended questions (move to the next paragraph)
 - Reflecting back the listener has heard
 - Checking for understanding
 - Avoiding interpretation or judgement
 - Reframing
 - Summarizing
 - paraphrasing
- Asking questions
 - The skilled mediator is aware of the different responses elicited by different kinds of questions. Choose question types that will elicit the type of response that will be most helpful:
 - Open- ended questions
 - Hypothetical questions
 - Clarifying questions
 - Elaborated questions
- Using neutral language
 - Particularly important for de-escalation. Parties may use accusatory, inflammatory language. The mediator can restate the party's underlying concern, but in a neutral way.
 - For example, "he's cheating me out of my pay" can be re-stated by the mediator, in reflecting back what's been said thus: "So, if I understand you correctly, you don't think you are being paid fairly, is that right?"
- Identifying issues

- Presentations of concerns and history from the parties can be long, complicated and confusing. At other times they can be extremely brief and provide little information at all.
- Through the active listening process, the mediator works to identify the *key issues* the parties need addressed for a satisfactory agreement and lists these out for the parties. These will become the framework for a solution.
- Problem-solving
 - Re-frame the conflict as a *mutual problem to be solved collaboratively*. Now engage the parties in thinking creatively about ways that *all* parties can have their needs met. Some particularly effective methods include:
 - Brainstorming
 - Moving quickly, parties think of as many different *possible* ideas as they can, with no obligation to agree to any specific idea. Just generate as long a list as possible, as quickly as parties can think of things and the mediator can write them down. If possible, even encourage funny or silly or unrealistic ideas. The essence of brainstorming is to encourage creativity—very often, a workable idea or two will emerge from a long list of hypotheticals.
 - Expanding the pie
 - find ways to work together to create more of a resource to be divided
 - Nonspecific compensation
 - find new ways to compensate for yielding on an issue
 - Logrolling
 - each side concedes on issues they find less important
 - Bridging
 - create new options that satisfy underlying interests
- Encouraging participation
 - Create comfort for all parties.
 - Ask for reactions, thoughts, concerns.
 - Structure turn taking: first hear from one party, then from the next
 - Insist on a no-interruption rule (unless parties are working together well and creatively to understand one another or craft an agreement and you are sure that interruptions are not interfering with anyone being heard)
- Overcoming barriers to agreement
 - Check for underlying concerns
 - Caucus: Meet separately with parties to learn whether they have concerns they are not sharing
- De-escalation
 - If conflict escalates, the mediator must be prepared to help restore calm, and enable the parties to work together effectively. Key de-escalation techniques include:

- Mediator remains calm, projects confidence in the process and in the parties
 - Ask parties to take turns talking
 - Mediator speaks directly with one party at a time, using active listening and neutral language to help party express concerns constructively
 - Take a break
 - Use caucus meetings to talk separately with the parties about their concerns, and to help them stay calm
- Agreement writing

Neutrality (ethical skills): How to compensate for bias

Some mediators talk about *neutrality* as a key in mediation, while others talk about *impartiality*. Whichever term you prefer, it is important to recognize that this is both a value and a skill. As mediators, we commit to holding ourselves as unbiased as possible, to refrain from giving advantage to one party or the other, and to avoid mediating in any case in which we might have a conflict of interest, financial or otherwise.

Stating this as a value, however, is not always sufficient. Often it takes work: self-examination, introspection. It is possible to learn to recognize when one is biased, and to either self-correct or withdraw.

Some mediators find it helpful to replace the concept of *impartiality* with that of *multi-partiality*. That is, rather than trying to simply keep myself from favoring either party, I commit to making sure that ALL parties are satisfied with the outcome. This can both overcome bias and help the mediator to be even more effective in guiding the parties in working toward a mutually-satisfactory solution.

Power-balancing

One of the great challenges any mediator will face is when mediating between parties where there is a great power imbalance. In employment mediation, it is often (but not always!) the case that the employer has greater power than the employee (see the discussion of power from the ILO in the box below).

What can the mediator do? There are many approaches that can be helpful. Here are a few:

- Make strong use of the four-stage model. By controlling the pace and process of the conversation, the mediator helps to immediately change the power dynamics in the room
- Be very deliberate about Stage 2: Exploring the issues. Remember to talk with the parties one at a time, giving the employee all the time they need to fully express their perspective
- Use a Caucus if you feel one party is intimidated and discuss their concerns and their options
- Use a Caucus before an agreement is signed, and make sure that the party is agreeing of their own free will

The ILO identifies key aspects of power in employment contexts.

Power simply means the ability to influence others as a result of the position a person or institution holds, the technical competence and ability of a person or institution, and the personal characteristics of the persons who are interacting. In short, power is a combination of position, technical competence, and personality.

An individual employee, for example, has limited position power. A trade union, however, particularly one representing all or a significant number of employees in an enterprise or industry, may have considerable power and thus be able to influence the outcome of its interactions with an individual employer or group of employers.

An individual employer, particularly one that is a major employer of labour or generates considerable government revenue has significant power and can dominate its interactions with individual employees, trade unions and, indeed, the Government itself.

The interactions between employees and employers are influenced not only by the power they possess but the way in which that power is used. Where power is used to dominate another party, or unilaterally determine an outcome (e.g., the level of wages and benefits payable to workers), and where no effort is made to share power in any shape or form, overt disagreement may be avoided but, inevitably, conflict will manifest itself in one form or another. (International Training Centre of the ILO, 2013, p. 8)

Box 3: ILO Key Aspects of Power

Chapter 5: Training—Mediator’s Competencies

The qualification standards of the Supreme Judicial Court in Massachusetts in the United States (Commonwealth of Massachusetts, Trial Court Standing Committee On Dispute Resolution, 2005) are presented in the form of a helpful skills checklist. These can be found in Box 4 on the following two pages.

Mediator’s competencies may be thought of in the following categories:

Process skills. The mediator manages the process. Process skills are key and may represent 60 % of the qualifications required.

Substantive knowledge. Substance knowledge is the knowledge of the specific industry within which the dispute is arising, such as manufacturing, banking, IT and telecommunications, etc.

Knowledge of the litigation environment. Knowledge of the labor regulations and litigation environment.

Mediator’s mind. The mediator comes to mediation without agenda, without pre-conceived solutions, with an open mind and curiosity.

Personality and self-awareness. There is a room for diversity of personalities and diversity of styles. The most important for the mediator is the awareness of his/her personality in order to develop a style that builds on his/her own personality traits.

Please review the checklist in Box 5 for detail on these and other competencies.

III. Mediator Skills Checklist

Philosophy: Mediators have an obligation to the public and the profession to conduct their practice in a competent and ethical manner. Central to the code of behavior required of mediators is a commitment to and respect for the parties and the mediation process. Central also is the personal integrity with which each mediator enhances the quality of the process.

The following list of observable behaviors is not intended as an exhaustive list, but as a reflection of the minimum requirements for basic mediator competency. The skills evaluation checklist should be used to evaluate mediators during training, mentoring, and evaluation:

A. Managing the Process

The mediator:

1. Is able to explain the mediation process and role of mediator
2. Sets a tone that helps to put people at ease
3. Guides transitions between stages
4. Has a good sense of timing
5. Is flexible in tailoring the process to the needs of the parties
6. Respects the parties' rights to make their own decisions
7. Upholds the parameters of confidentiality

B. Managing Interactions

The mediator:

1. Maintains an open, honest and supportive atmosphere
2. Treats parties with respect and affirmation
3. Maintains neutrality
4. Demonstrates effective active listening skills
5. Uses clear language
6. Maintains composure when challenged
7. Avoids appearance of bias or favoritism
8. Handles conflict and strong emotions effectively
9. Helps parties to see things positively
10. Helps parties to see problems from the others' point of view
11. Is able to ask tough questions in a non-threatening manner
12. Avoids giving opinions or making judgments
13. Works cooperatively with co-mediator
14. Keeps discussions focused on issues relevant to the negotiations
15. Demonstrates patience and persistence

C. Managing Information

The mediator:

1. Asks relevant and open-ended questions
2. Presents and re-frames information clearly
3. Seeks understanding of underlying needs
4. Determines areas of flexibility
5. Keeps track of new information and changing perspectives
6. Develops strategic direction
7. Introduces brainstorming or role reversal to encourage re-evaluation of positions and development of options
8. Encourages parties to develop new solution
9. Identifies common interests
10. Encourages collaborative efforts between parties
11. Recognizes potential areas of agreement
12. Summarizes at appropriate times
13. Supports parties' control of the outcome
14. Helps to frame a clear, balanced, specific and future-oriented agreement

(Commonwealth of Massachusetts, Trial Court Standing Committee on Dispute Resolution, 2005, pp. 84–85)

Box 4: Massachusetts SJC Mediator Skills Checklist (continued)

Chapter 5: Conclusion

Mediation is one of the most effective processes for resolving conflict in sustainable ways. The skilled mediator employs a consistent, structured process that has been developed over many years, in contexts across the globe, grounded in sound principles.

The skilled mediator has mastery of:

1. A firm **ethical framework**
2. The underlying **principles of mediation**
3. A consistent, **structured process** for guiding conflicting parties from an often-contentious stalemate to a mutually satisfying agreement
4. The necessary **skills** to support the parties in identifying underlying needs, finding solutions, and reaching agreement
5. The relevant **laws** and **policies** that govern the matters under discussion

This handbook provides the labor mediator with both an introduction to, and a set of reference materials for, each of these.

Bibliography

- Commonwealth of Massachusetts, Trial Court Standing Committee on Dispute Resolution. (2005). *Supreme Judicial Court Rule 1:18: The Uniform Rules on Dispute Resolution Including Explanatory and Implementation Materials*. Commonwealth of Massachusetts.
- Federal Mediation & Conciliation Service. (2009). *FMCS Grievance Mediation*. FMCS Federal Mediation & Conciliation Service. <https://www.fmcs.gov/wp-content/uploads/2017/01/FMCS-GrievanceMediation-2009-view.pdf>
- Foley, K., & Cronin, M. (2015). *Professional Conciliation of Collective Labor Disputes: A Practical Guide*. Geneva: ILO.
- Heron, R., & Vandenabeele, C. (1999). *Labor Dispute Resolution: An Introductory Guide*. Geneva: ILO.
- International Training Centre of the ILO (Ed.). (2013). *Labor dispute systems: Guidelines for improved performance*. International Training Centre of the ILO.
- Law Regulating Labor in Rwanda, Law No. 66/2018, August 30, 2018.
- Ministry of Public Service and Labour (MIFOTRA). (2016). *Procedure Manual for Labour Inspection*. Republic of Rwanda.
- Prime Ministerial Order on Labor Inspection, No. 001/19.20, March 17, 2020
- Republic of Rwanda Ministry of Justice. (2020). *Alternative Dispute Resolution Draft Policy*.
- Supreme Judicial Court Rule 1:18: Uniform Rules on Dispute Resolution*. (2020). Mass.Gov. <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-rule-118-uniform-rules-on-dispute-resolution>

MIFOTRA Survey Summary

Prepared by Eben Weitzman, PhD Center for Peace, Democracy and Development University of Massachusetts Boston September 10, 2020

Participants

Inspectors n=18
Employers n=18
Trade Union Reps n=11

Skill Needs

A few questions were unique to the Labor Inspectors (LIs), based upon their unique experience, while others were relevant to the other groups.

Most Important Skills

We asked a few questions about skills that were important, and skills that were needed. At the top of the list was the need for labor and legal knowledge, with this followed by the importance of mediation/conciliation skills (see Fig 1).

Figure 1



For the employers and trade unions, the responses were similar. And consistent. There were a small number of employers who had much experience with mediation, so the overall numbers are lower.

Table 1: Employer list of mediator skills

Employer: In your experience what are the most important skills for a mediator?	Frequency
HR Experience	1
Communication	2

Business Knowledge	1
Legal Knowledge	1
Mediation	1

For the trade unions, the responses closely mirror those of the Labor Inspectors.

Figure 2: Trade Union list of mediator skills

Unions: In your experience what are the most important skills for a mediator?	Frequency
Mediation and Negotiation Skills	6
Union movement skills	1
Labor and legal knowledge	8
International labor knowledge	3
Importance of collective agreements	1
Protection of union representative	1
Integrity	1

These are consistent with our conclusions from the LI surveys above, but add some additional elements beyond mediation that we might consider.

Challenges in Mediation

We also asked the Labor Inspectors what the greatest challenges were for them during a mediation.

Table 1

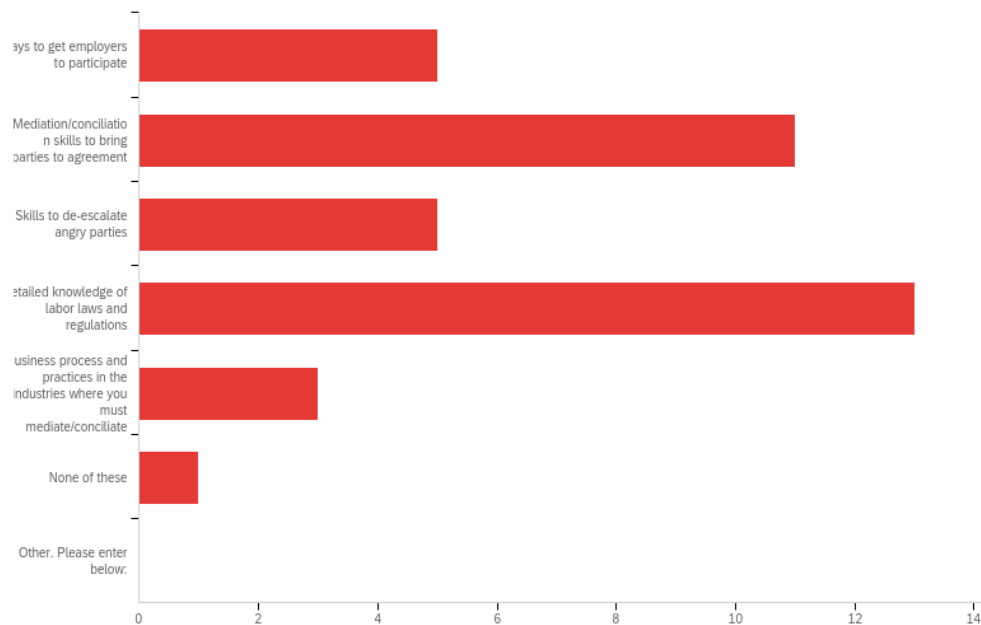
		Statistics							
		How challenging? – Employer refuses to participate	How challenging? – Employer refuses to be agreeable	How challenging? – Worker is afraid to participate	How challenging? – Worker refuses to be agreeable	How challenging? – Parties get angry, escalate	How challenging? – Writing a clear settlement agreement	How challenging? – Lack of evidence	How challenging? – Lack of a written contract or credible documentation of an oral contract
N	Valid	18	17	16	17	17	17	17	17
	Missing	0	1	2	1	1	1	1	1
Mean		3.89	3.76	3.00	3.12	3.47	1.24	3.18	3.47
Std. Deviation		1.183	1.147	1.461	1.409	1.179	.562	1.380	1.375

1=Not challenging, 5=Extremely challenging

Employers refusing to participate, or to be agreeable when participating, were reported as the most challenging issues. After that, they found parties getting angry and escalating to be the next greatest challenge. Each of these are challenges for which there are skills to be gained that may be helpful. The Inspectors also reported the lack of a contract or evidence to be challenging, and we might also think about constructive approaches to dealing with this challenge in a mediation.

Of our 18 participants, 14 reported receiving helpful training in labor law and regulation, and 12 in mediation/conciliation skills generally. Respondents were less likely to report having been trained in specific mediation skills such as getting parties to the table, or de-escalating angry parties.

Figure 3: Labor Inspectors Report of Helpful Training Received



And 17 of 18 reported that they had when writing an agreement, they had a clear, easy-to-use format that meets the needs of the cases they have. These results as well can add to our understanding of the skills we should include.

Challenges to Getting to The Mediation Table

For LI's focused on getting parties to the table for a mediation, the greatest obstacles reported were scheduling, employer fearing losing, and employer fearing more cases coming to light.

Table 2

		Statistics						
		Problem getting participation? – Employer refuses to participate	Problem getting participation? – Employer fears losing	Problem getting participation? – Employer fears embarrassment	Problem getting participation? – Employer fears more cases coming to light	Problem getting participation? – Worker is afraid to participate	Problem getting participation? – Worker fears retaliation	Problem getting participation? – Scheduling so all parties can attend
N	Valid	18	18	17	18	18	16	17
	Missing	0	0	1	0	0	2	1
Mean		2.00	3.33	2.53	2.83	1.67	2.44	3.76
Std. Deviation		.686	1.283	1.375	1.505	.686	1.263	1.033

1=never, 5=always

For Employers, the question takes a different turn: what are the challenges to participating? The perspective is different. For Employers, we received only 4 responses to this question, but for these respondents, the challenges listed were:

Table 3

Employers: In your experience what are the greatest challenges to participating in a mediation/conciliation? Please list no more than 3
Unlawful termination and separation
-The laws do not favor institutions -laws not well known by the lawyers who mediate with the employee
1. Mediation process 2. Resistance 3. lack of referrals
Most of time it is time consuming and labour inspectors decision is neg-ligated in the labor court. Labour Inspectors , seem to be not valued or respected by the court

For the Trade Union representatives, we had more responses to the same question (10 of 11 respondents answered the question), and were able to do generate some themes, as shown in Table 4.

Table 4

Unions: In your experience what are the greatest challenges to participating in a mediation/conciliation?	Frequency
Employers don't know or respect labor rights	6
Employers won't agree	3
Lack of dialogue	3
Union rep not well trained	2
LI not enough power	2
Workers don't know rights	2
LI overwhelmed	1
Employers prefer court	1
Parties don't know importance of reconciliation	1
Expect LI to make decision	1

Employers power	1
Employers block union membership	1
Parties don't see benefit	1

The results from across the 3 respondent groups would seem to suggest that the most important issues for us to address to increase participation would be:

- LI Skills
 - Power-balancing
 - Conducting effective intake sessions
 - Assure fairness, neutrality
 - Clearly communicate nature of process
 - Benefits, including
 - impact of voluntary mutual agreement
 - improved relationships post-mediation
 - Outcomes
 - Impact on subsequent action
- Other
 - Support for authority of Lis
 - Public education on benefits of mediation
 - Public education on labor rights

Fairness

For mediation, just as for other processes of managing disputes, fairness and the uniform perception of fairness, are crucial aspects to acceptance, participation, and success. We were able to learn from all three of our participant groups—Labor Inspectors, Employers, and Trade Unions—about the elements of mediation that they believe to be essential to fairness.

In general our respondents from both the employer and trade union groups tended to find mediation outcomes “Somewhat Fair,” with employers a bit more satisfied than the trade unions.

Table 5: Fairness

	Extremely Unfair	Somewhat Unfair	Neither Fair nor Unfair	Somewhat Fair	Extremely Fair
Employers			1	3	1
Trade Unions		1	4	3	2

From both the employer and the labor perspective, our respondents tended to see almost every one of the procedures we asked about as “Very Important” or “Extremely Important.” (See Figures 3 and 4).

Figure 4: Trade Unions' Rating of Fairness Procedures

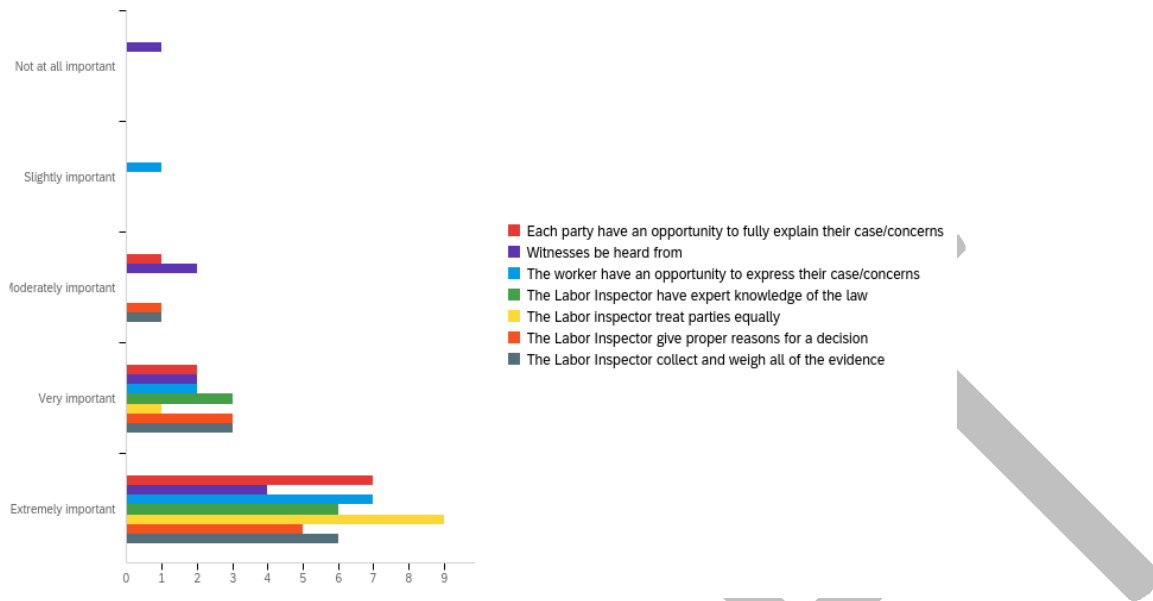
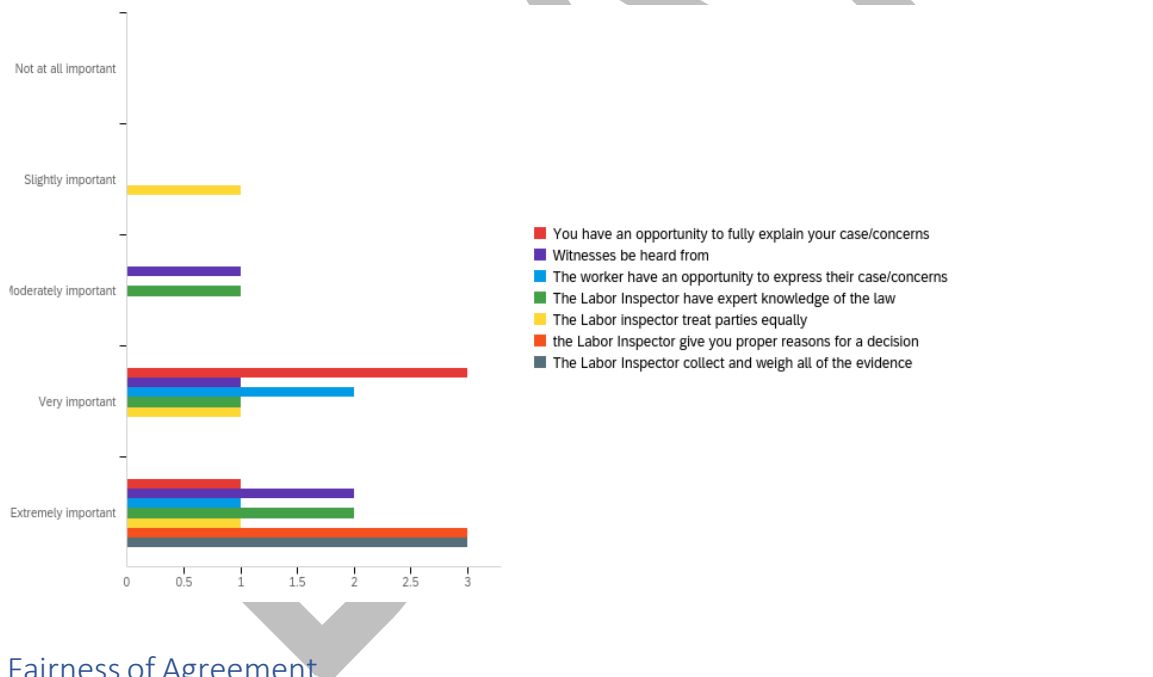


Figure 5: Employer Rating of Fairness Procedures



Fairness of Agreement

Finally, in addition to asking about the specific LI behaviors/skills that are necessary for a fair outcome, we also asked about the elements of agreement. Here again, there was significant convergence among our respondent groups.

Figure 6: Employers views of fairness elements

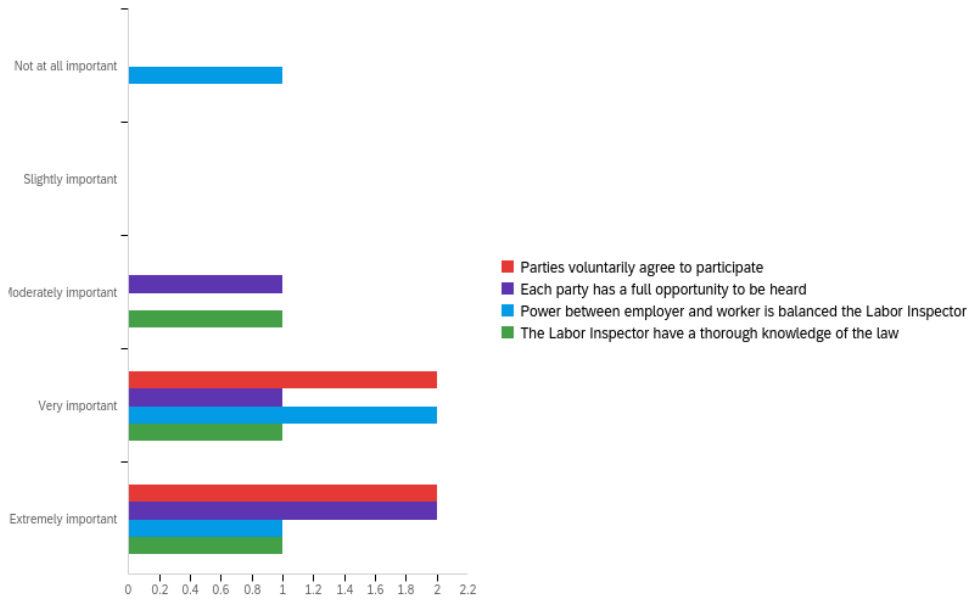


Figure 7: Trade Union views of fairness elements

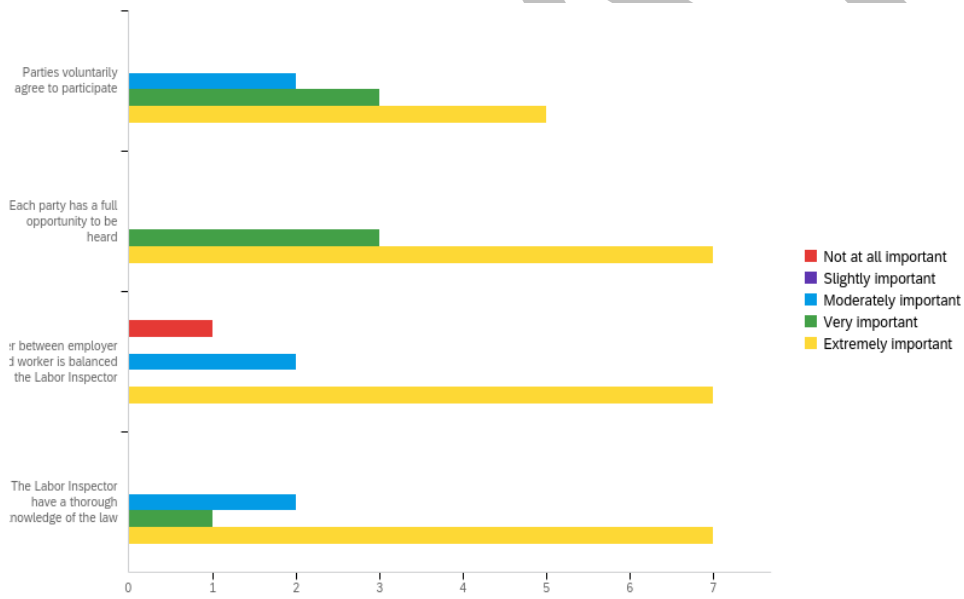
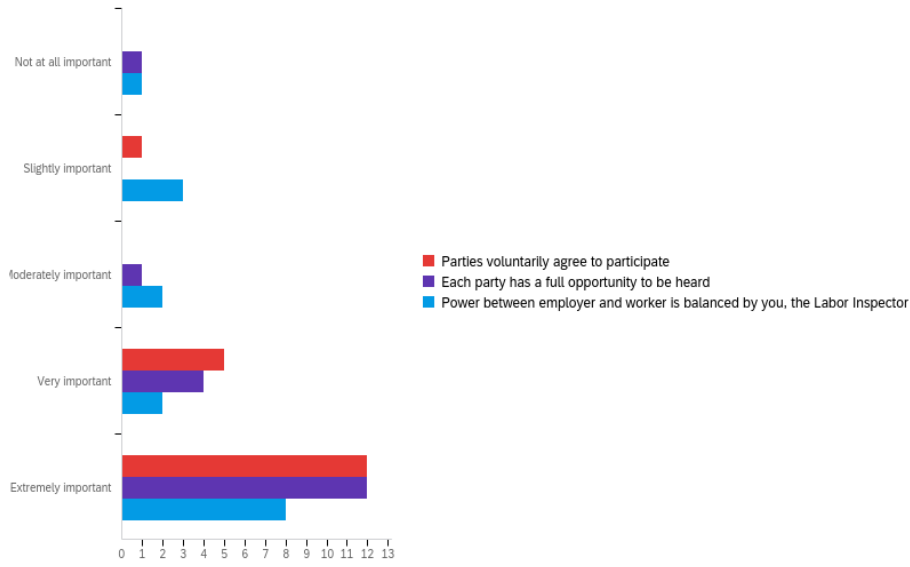


Figure 8: Labor Inspectors views of fairness elements



These results clearly show widespread agreement on the principles of voluntary participation, power balancing, LI knowledge of the law, and voluntary agreement to any outcome.

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov



USAID
FROM THE AMERICAN PEOPLE



USAID/RWANDA
STRENGTHENING RWANDAN
ADMINISTRATIVE JUSTICE (SRAJ)
PROJECT – *Twimakaze Ubutabera mu Miyoborere*

FINAL REPORT ANNEXES –VOL. IV

SRAJ PROJECT ANNEXES, VOLUME 4

TABLE OF CONTENTS

- Annex 16:** Reports on first wave of TV/radio broadcasts (reports on shows on land expropriation and administrative justice, procurement and administrative justice, and labor regulation and administrative justice)
- Annex 17:** Consolidated reports on the second wave of TV/radio broadcasts (reports on shows on labor regulation and administrative justice, procurement and administrative justice, child labor protection and administrative justice, and land expropriation and administrative justice; audio and physical advertisements for the shows)
- Annex 18:** Brochures on citizens' labor rights in English and Kinyarwanda
- Annex 19:** Documentation on a strategic forward technical assistance agenda for MIFOTRA (summary memo describing the agenda; letter of support for the agenda by the MIFOTRA Minister)

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XVI (VOLUME IV)

**Ist Wave Broadcasts of the
TV/Radio Programs on Land
Expropriation and
Administrative Justice**

Contents

1. Introduction.....	3
1.2. Structure of the Policy Dialogues.....	3
1.3. Participants in the live talk show for land expropriation	4
2. The Land Expropriation Live Talk Show.....	5
2.1. <i>How would you describe the fairness in the current expropriation and compensation procedures and processes in Rwanda?</i>	5
2.2. <i>How can public authorities ensure that citizens are properly notified, consulted and receive timely compensation?</i>	7
2.3. <i>What are the key challenges facing Government entities at central and district levels in the expropriation processes?</i>	9
2.4. Recommendations for improving expropriation process in Rwanda.....	10
3. Overall appreciation of the live talk show on land expropriation.....	11
3.1. What went well	11
3.2. What needed to be improved.....	11
4. General conclusion and lessons learnt	12
5. Annexes.....	14
Annex 1.Key Issues raised during call-in, SMS and on other platforms	14
Annex 2. Screenshot that shows the live stream on Facebook	19
Annex 3: Screenshot that shows the facebook report.....	19
Annex 4: Screenshot that shows the time people views tweets.....	20
Annex 5: Screenshot that shows the overall report on twitter.....	21

1. Introduction

Over the past two and a half years, the *Strengthening Rwandan Administrative Justice (SRAJ project)*, under funding from USAID, has been working to raise awareness of the importance of administrative justice to improvements in governance and the strengthening of trust between government officials and citizens.

Administrative justice involves a government's use and observance of proper legal and procedural rules in making decisions on individual cases affecting the rights of citizens and businesses. These decisions also tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, SRAJ aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions about cases involving citizens' and businesses. In addition, administrative justice is about how decisions are taken and communicated to people and how they are treated in the administrative process.

In this regard, SRAJ project implementation consists of three following phases:

- Legal and Policy Framework
- Analysis of Local Administrative Decision-making in Practice
- Capacity-Building/Training Activities, Media Outreach, and Legal/Regulatory Reforms

1.1. SRAJ Project Partners

The SRAJ project is implemented by the following partners:

- University of Massachusetts- Boston as the lead implementer
- The Institute of Policy Analysis and Research (IPAR-Rwanda)
- The Institute of Legal Practice and Development
- Human Right First Association (HRF), and
- The Highlands Centre of Leadership for Development (L4D).

1.2. Structure of the Policy Dialogues

Policy dialogues are part of core activities of SRAJ project and form a key element of the Project's public outreach efforts. They aim to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. In the context of this collaboration, the policy dialogues have been structured around the

following three main thematic areas: Private Labor Regulation, Public Procurement, and Land Expropriation.

The L4D’s approach to policy dialogue is a two stage approach including: (i) a pre-media session, in which all the panelists, the journalist who will host the show, the SRAJ project manager and L4D staff involved in the implementation of the SRAJ policy dialogue phase gather for briefing about the projects objectives, the research findings as well and the thematic areas that will be discussed during the media show; (ii) the live talk show as detailed in succeeding sections of this report. The choice of the panelists was dictated by a number of factors, including: acknowledged experts on matters to be discussed (e.g., a senior representative of Transparency International Rwanda, known for its concern for the integrity and fairness of the the land expropriation process) case), a senior official from the lead government institution in charge of implementing programs and interventions related to the matter to be discussed (in this case the Ministry of Local Government-MINALOC), as well as a key stakeholder in the expropriation process, a representative from the Rwanda Institute of Property Valuers).

As part of the preparatory activities, an educational video clip on land expropriation was aired on TV1 two times before the live talk show. Moreover, the public was given an opportunity to participate in the panel discussion through a phone-in session as well as platforms such as Twitter, Facebook and WhatsApp. Finally, short video clips of citizens being interviewed about expropriation (so-called VoxPops) were also aired during the show.

The shows were conducted through live radio and television programs on Radio and TV1, together with 10 synchronously broadcasted community radio programs throughout the country. The policy dialogue constituted an opportunity to hear from the above key stakeholder various diverse perspectives on how the issues gained through the SRAJ Project’s legal (Phase I) and district field (Phase II) research can better inform policy makers’ and the public’s views on what constitute valuable reforms for the current land expropriation process. This report discusses the live talk show on **Land Expropriation and Administrative Justice** that was aired on 13th/March/2020 on TV1 for an hour and half, in the expanded format used for these programs following the experience with the first two pilot shows on labor and procurement.

1.3. Participants in the live talk show for land expropriation

Panelists of the talk show were selected from a pool of potential experts in the area of land expropriation as listed below. They represent different institutions/sectors, namely the government (the Ministry of Local Government - MINALOC), civil society (Transparency International Rwanda), the Private sector (Institute of Real Property Valuers), and expert researchers (L4D). Below is the attendance list for the panelists.

Name of the Institutions/Organization	Name of the expert	Position of the Representative	Participation to the Show
Ministry of Local Government (MINALOC)	Mr. Yves Bernard Ningabire,	Director General, Local Government Planning, Monitoring and Evaluation	Present

Transparency International Rwanda (TIR)	Mrs. Marie Immaculée Ingabire	Chairperson of the Rwandan National chapter of the TIR	Present
The Institute of Real Property Valuers (IRPV)	Mr. Munyabugingo Bonavemture	Board Member and Representative of reference price, IRPV	Present
Highlands Centre of Leadership for Development (L4D)	Prof. Alfred R. Bizoza	Researcher, policy analysts and L4D President	Present

In the following sub-sections, we present a narrative description of the main content of the talk show, key matters discussed, major challenges faced in implementing land related expropriation projects, and recommendations for improving the land expropriation process. We also discuss ideas for how this kind of show could be improved.

2. The Land Expropriation Live Talk Show

The live radio and TV talk show addressed the theme of **“Ensuring procedural fairness in the expropriation process and making the system work as intended.”**

Discussions around this theme focused on five main guiding questions:

1. *How fair are the current expropriation and compensation procedures in Rwanda?*
2. *How can public authorities ensure that citizens are properly notified, consulted and given the opportunity to provide evidence about the value of their land and receive timely compensation?*
3. *What are the key challenges facing Government entities at central and district levels in the expropriation processes?*
4. *How can the expropriation process be improved? What can be done to make the expropriation system work better for people?*

1.1. How would you describe the fairness of the current expropriation and compensation procedures in Rwanda?

The representative panelist from MINALOC during the show explained that the Ministry is very much focused on sensitizing the public to their right to fair compensation in the land expropriation process. In this regard, MINALOC has put in place a number of policy measures, including:

- (i) In collaboration with districts, MINALOC reviews and ensures that all projects involving expropriation in the public interest approved by districts are well prepared and in accordance with the expropriation law. District executive committees are required to play a key role in engaging in advance the affected communities to ensure that a fair valuation of people’s assets is given as prescribed in the expropriation law;
- (ii) Every semester, MINALOC meets with other ministries and government agencies whose projects involve expropriations in the public interest [such as the ministry of infrastructure (MININFRA), Rwanda Energy Group Limited

(REG), Water and Sanitation Corporation (WASAC) and The Local Development Entities Development Agencies (LODA)] to monitor and evaluate the implementation of the expropriation projects approved by the district authorities.

Overall, it is in MINALOC's mandate to coordinate the all expropriation processes at different levels (while the implementation responsibilities fall under the districts' mandate) in order to not only promote fairness and good governance in the expropriation process but also ensure that recommended social and economic development projects throughout the nation are not impeded by expropriations that are poorly planned and/or managed. Despite efforts by MINALOC and districts in promoting fairness in the Rwanda's expropriation process, there are still issues to be addressed. Indeed, the panelist from Transparency International Rwanda (TIR) highlighted the fact that the land unit pricing (amount per m²) applied during expropriation in the public interest in many places does not promote fair compensation of people's assets as it is *far below* the fair market value of the land. She also added that land values in Rwanda are highly subject to fluctuations and these are not taken into consideration in the compensation process. Moreover, there may not be a reasonable opportunity for dialogue and negotiation around valuation. For example, a citizen calling into the show stated that

Rwanda Energy Group (REG) installed some Electricity poles near his cooperative's location four 4 years ago. The affected citizens were not satisfied with the compensation amount they received from the expropriator. The process, such as it was, was inadequate and did not include a meaningful opportunity to reach any agreement, so the citizens were told by the expropriator to simply pursue the matter in court".

The MINALOC representative took note of the caller's remarks and took the caller's number, promising to address the issue as soon as possible.

Overall, the TIR's representative's comments indicated that there is still a real need for strengthening dialogue between citizens and local government on matters of expropriation. This goes to the need to honor the notification and consultation provisions that are contained in the law on expropriation, but are not consistently followed by district authorities, esp. in the absence of the necessary Prime Minister's Order needed to implement the functioning of district committees specifically tasked with supervising expropriations.

The TIR representative also raised the issue of unethical practices by some land valuers in plotting with some people to inflate the latter's assets affected by the expropriation process, opening room for corruption. This ends up making the Government of Rwanda pay for an over-estimated valuation, costing the Government a significant amount of money. She illustrated this by giving an example of a person who borrowed one Million Rwandan Francs to pay a property valuer so that his compensation was inflated and multiplied three times.

Two other cases, cited by citizens who texted during or following the broadcast, revealed similar corruption problems:

In one SMS, a listener said reported that in "Kimicanga, some houses were given a higher value after their owners promised some money to property valuers."

Similarly, another listener texted that In Gicumbi district, Ruyaga sector, there is a house that has been valued 3 times and compensated 3 times during the Bassin-Rukomo” road construction.”

These two cases show examples of corruption in the valuation and compensation process resulting from informal agreements between affected citizens and certain property valuers.

Overall, the IRPV representative expressed surprise (genuine or not) in hearing about such misconduct by some of the organization’s members and provided a phone number to which unethical property valuers can be reported. He further stated that the IRPV has an established disciplinary committee to handle matters of misconduct and severe disciplinary measures are taken against members who act unethically, including suspension. It was not discussed how often these measures are invoked, or in what particular circumstances.

It was also discussed that in some cases citizens do not report misbehaving property valuers during the expropriation process, fearing under-valuation of their properties. They are also not sure that disciplinary measures will likely be taken against misbehaved property valuers. Therefore, citizens prefer taking their cases to TV1, TIR, and the Ombudsman’s offices rather than confronting the IPRV.

In addition, the panelist from IRPV argued that land valuers are by law expected to play a significant role in promoting fairness in the expropriation process, as they facilitate the agreement between citizens who have properties to be expropriated and the government requiring land/assets for public interests. In fact, IRPV reviews land market prices and reference prices every year and use the prevailing land market prices to guide valuers in determining prices for different areas. Furthermore, with the intention of reducing delays in the expropriation process, the IRPV has published a list of certified valuers through its website so that citizens can easily identify and reach them for assistance when needed. In order to address this issue, real property valuers were given identification cards to show people who need their services. However, the IRPV representative conceded that challenges remain for people in remote areas where access to the internet and quality services from these property valuers is still problematic.

Most important in this discussion, however, was the assertion by several panelists that the published reference prices are in some cases not fully up to date, nor are they consistently considered by valuers during land valuation. It was therefore recommended that the IRPV closely monitor how valuers perform their duties and assess the level of professionalism they have. Appropriate capacity building programs for property valuers must be developed, as they currently seem inadequate.

1.2. How can public authorities ensure that citizens are properly notified, consulted, and receive timely compensation?

This discussion started with a summary presentation of the SRAJ Project district research findings by Prof. Bizozza, who represented L4D. He indicated that citizens primarily complain about not being informed and not being consulted during the inception phase of expropriation. He argued that the field research demonstrated that most citizens are not

satisfied with the valuation reports, nor the overall implementation of the expropriation projects in the public interest. Notification is spotty and genuine consultation is noticeably absent in most cases. The TIR representative affirmed the similarities between the research findings and a range of complaints that they routinely receive at their offices.

Moreover, the issues raised in the show regarding land pricing and compensation are also in agreement with the research findings summarized by Mr. Bizoza. In fact, he noted that market prices are often not taken into consideration in calculating compensation. He also highlighted a gap in implementation of the current expropriation law; although it provides for the possibility of shareholding with the owner of the assets, this is seldom done due to poor understanding and execution of the law by the local authorities. Even though expropriation is stated to be ‘in the public interest,’ it fails to provide this or other adequate options for people affected by an expropriation to participate in an associated development project as a shareholder of some kind (e.g., where commercial related activities are involved, such as markets, industrial zones, etc.). Thus, there is a vast need for more public education about the law to ensure that such options can be put on the table and incorporated into long-term planning.

In this regard, the MINALOC representative reiterated the need for more effective planning of all activities involved in expropriation. For example, he explained that expropriation projects that are to be approved at the beginning of every fiscal year (in July) start to be planned in October of the previous year, which gives ample time to citizens and the authorities to engage in dialogue and find options for compromise that can fit the needs of all concerned parties. However, he argued that “in some cases local authorities do not engage concerned people in a timely fashion but rather rush into implementation without engaging in the necessary consultation or reaching agreement”.

Generally, the MINALOC representative claimed that according to the report from the Rwanda Governance Board (i.e., the Citizens Report Card), as well as TIR, citizen engagement is improving across sectors, including in matters related to expropriation. At the same time, the number of pending delayed compensations cases have shrunk from from 45,000 to 21,000 over the past two years, thanks to drastic measures taken by MINALOC and other implementing partners. However, the role of CSOs is crucial in helping citizens and the government better understand what is necessary for proper social dialogue and consultation on expropriation matters.

Notably, the panelists commented on the various VoxPop video segments aired during the show. They emphasized the significant differences in people’s understanding of the expropriation law. Indeed, while citizens in Kigali showed good levels of understanding and confidence by quoting articles in the law that protecting them, those in rural and remote areas showed limited knowledge of their rights. In an SMS, a listener said that

[c]itizens are in a very weak positions on matters related to land expropriation; people who were expropriated 5 years ago where Gatera fuel’s tank was located have still not received their compensation and are not allowed to do any rehabilitation of their houses.

The VoxPops also corroborated the fact that local governments were for the most part consistently failing to consult and engage citizens adequately throughout the expropriation processes, and specifically highlighted how limited the opportunities were for citizens to provide evidence of on the value of their properties; this constitutes the root cause the most significant expropriation process problems, and was highlighted in both the Phase I SRAJ Report and the Phase II field research report; many citizens are not even told that under the law, they have an opportunity to obtain a counter-valuation or challenge the government valuation of their property, nor is the time allowed for counter-valuation (10 days) adequate to protect the rights of citizens.

In order to improve Rwanda's expropriation process, the panelists agreed that public authorities should ensure that:

- Citizens understand clearly the benefits they may have in the expropriation process, including counter-valuation, instead of only being informed about the expropriation being in the public interest (which itself is often poorly explained);
- Plans for expropriation are implemented well in advance in order to avoid potential delays in the project's implementation and payment of compensation;
- Citizens are not stopped from continuing r short-term economic activities such as cultivating non-perennial crops or making modest improvements to property. On this issue the TIR representative said that it is deplorable that local leaders stop citizens from cultivating short-term crops such as beans, maize, Irish potatoes, etc. while waiting for an expropriation that might take more than a year, thereby pushing some people into deprivation. It is important to set clear timelines for expropriation, clear rules for what can and cannot be done, and ensure accountability for those decisions;
- Delays in payments are avoided, which is principally a matter of clarity in budgeting and in communications;
- The pricing of properties reflect the realities of the market, which may require triangulation of multiple sources of information.

1.3. *What are the key challenges facing Government entities at the central and district levels in the expropriation processes?*

The panelists during the show unanimously agreed that the law on expropriation is well drafted and relatively clear, but in the absence of a required Prime Minister's Order creating district supervisory committees in charge of expropriation and having those bodies develop local guidelines for notification, consultation, and dialogue, there is insufficient instruction for local authorities on practical execution of the law. At the same time, even the basic provisions of the law on expropriation are not enforced and respected by all parties. However, the

panelists identified a number of more specific challenges facing the central authorities and the districts in applying the expropriation law, including:

- Lack of proper resettlement studies for the projects involving expropriation. This involves detailed planning for different options for citizens, as well as contingency provisions covering interim issues like minor improvements to property and the harvesting of crops. On this latter issue, *a caller* stated that “An expropriator promised to build a retaining wall to sustain the houses that were affected when building a road but in vain. Now our houses are unsafe as they do not have entrance; they are basically just hanging on, off the top of the mountain”.
- Limited opportunities for comprehensive and constructive dialogue between all parties involved in expropriation and at all levels (signaling a need for better social dialogue practices);
- Delay in payments once the valuations have been made.
- Unfair measurement of compensation, causing complaints and litigation, and widespread resistance to moving, thereby delaying the implementation of projects;
- Poor planning of expropriation projects, insufficient understanding and skills on the part of local authorities (including a desire to simply please central authorities), and an associated lack of consultation. The latter could surface creative solutions to a number of problems, including various issues raised by citizens about everything from the valuation process to resettlement options;
- Varieties of corruption engaged in by some property valuers, including with certain landowners;

1.4. Recommendations for improving the expropriation process in Rwanda

In order to improve the expropriation process in Rwanda, the following recommendations arose during the live talk show (some of the recommendations were provided by citizens, in addition to those by panelists; the former were furnished via telephone call in remarks, text message, and social media comments during the show):

- (i) Public authorities should prioritize citizens’ awareness of their rights with regard to expropriation, focusing on people living in the rural areas;
- (ii) Stress citizens’ role in the national development process in order to empower them and ensure a greater voice in the conduct of expropriations and to ensure more transparent, effective and efficient procedures;
- (iii) Local authorities should improve the planning of projects involving expropriation and ensure timely engagement with citizens via effective notification, consultation, and other social dialogue with affected populations;
- (iv) Ensure land prices reflect market realities and that compensation accurately reflects those realities;
- (v) Closely monitor, investigate, and where appropriate audit informal relations between citizens affected by expropriation and property valuers, so as to reduce

- corruption and ensure prices are not inflated (this could also entail bringing criminal prosecution against those found to have engaged in such conduct);
- (vi) Report cases of misconduct of property valuers and ensure adequate disciplinary measures are taken within the IRPV (and criminal prosecution where warranted);
 - (vii) Improve transparency and information flow between citizens and local authorities throughout the expropriation process;
 - (viii) Citizens should be given the opportunity to choose the type of the compensation they need and want – a house or money, but also alternative resettlement options where that is feasible, as well as possibilities to become shareholders of some kind in the planned expropriation projects;
 - (ix) Citizens should be given an opportunity, as provided by law, to provide evidence of the actual values of their assets (counter-valuation), which in turn should be considered in determining the property value (the law should also be amended to provide at least 20-30 days for such counter-valuation to occur, and consideration should be given to creation of a government fund to pay some proportion of the costs of counter-valuation for citizens of limited financial means).

2. Overall reflection on the execution of the live talk show on land expropriation

This section summarizes what went well with the program, as well as challenges faced during the airing of the live talk show.

2.1. What went well

- The panel had a very good composition that reflected diverse points of view and expertise;
- All the panelists arrived on time;
- Social media account and telephone lines for this campaign were mentioned before and during the show for the public to participate (through call-in, SMS, Twitter, Facebook and WhatsApp). All these platforms perfectly worked during the show

2.2. What needs to be improved

- The moderator from TV1 did not systematically follow the guiding questions for the show (he chose a free style approach with spontaneous probing of the panelists). Consequently, the L4D representative had to work hard to ensure that the discussion covered the key questions pre-identified as the focus of the show;
- During the live talk show, more time needs to be dedicated to reading the SMSs, allowing more phone calls and exploring via discussion ideas raised by citizens during the show; the show started 30 minutes after the planned time, which is in contrary to what was advertised. However, overall, the show covered more than an hour and half, as planned.

- Because of the very big interest in the topic of land expropriation, the time allotted did not permit as many SMSs and social media account comments to be read as desirable during the show;
- The show on Radio 1 was cut off 15 minutes before the end of the show due to the delay that happened at the beginning of the show.
- Because citizens shared more of their views and complaints through the SMS and social media platforms than through other means, in future work like this, there should be someone actively engaging the citizens and responding to their questions during the show, because the moderator cannot efficiently manage both the running the show and at the same time sufficiently engaging people online; this also prevented as many questions and comments from being addressed.

3. General conclusion and lessons learned

This show on land expropriation marks the final stage of a first wave of live talk shows and rebroadcasting on certain subject matter areas and administrative justice. Overall, the discussions held during the live talk show on land expropriation confirmed what was revealed by the research findings, especially the identified issues related to valuation and compensation, citizens consultation in the expropriation process, citizens' awareness of their rights, issues of poor planning in expropriation projects--causing delays in payment and citizens complaints).To conclude, several key recommendations issued from this program that can inform not only future policy dialogue, but concrete project interventions. More specifically:

- Misconduct by some property valuers in the expropriation process constitutes a major window for corruption. Therefore, there is need for IRPV to adopt stronger monitoring and punitive measures to dissuade all forms of malpractice;
- Capacity building programs for local authorities is essential to help them understand and apply the legal requirements for citizen notification and consultation in land expropriations;
- Other capacity buildings are needed to train property valuers in good valuation practices as well as sound ethical practices;
- Citizens' understanding of their rights under the expropriation law remains low, especially amongst those in rural areas; there needs to be much more public education about the law and its requirements, as well as good practices by local authorities; these can be modeled through publicity of various kinds, including the new expropriation video produced by the SRAJ Project;
- Proactive planning and timely and responsive engagement with citizens are key for the success of expropriation projects. Not only local leaders, but senior MINALOC officials need to ensure that these practices are carried out and sustained;
- Prevailing prices on the land market should be clearly documented and referred to by property valuers and local authorities.

4. Annexes

Annex 1. Key Issues raised during call-in, SMS and on other platforms

Call in Time					
Caller Identity	Reason for calling	Brief description of the issue	Action the caller took for his/her concern	Questions asked for more clarification	Response provided
Caller A	Request for advocacy	REG installed some Electricity poles near their cooperative location four 4 years ago. They were not satisfied with the compensation amount they received from the expropriator. The mediation process did not reach to anything; and they were told by the expropriator to escalate the issue into court.	They escalated the case into court.	However, the phone line was cut-off in the middle of the conversation, the representative of Minaloc wanted to know if they have worked with any other certified valuer to make the counter valuation report of their property before going into court.	The Minaloc representative promised to follow up that case.
Caller B	Request for guidance on where he can bring his case.	In a place called 'Ibumbogo bwa Bunzuzu Masizi Gasati', an expropriator promised to build a wall to sustain the houses that were left when building a road but in vain. Now their houses are unsafe as the houses are just hanging on top of the mountain.	He wrote a letter to the City of Kigali explaining his concern.		The Minaloc representative during the show promised to follow up his case, as he noted down all his contacts.
SMS					
SMS 1	Comment on unfair valuation of assets	In Bugesera district in the sector of Ntarama, a plot that was previously bought on 1 million Rwandan Francs is now being resold on three		The message was read during the show, but no comments from the	

		hundred Rwandan Francs, after being crossed by some electrical installation in that area.		panelists due to limited time.	
SMS 2	Providing Comments on the misconduct of property valuers.	In a place called <i>Kimicanga</i> , one house could be given a higher value as long as you promise to pay additional money in a corruptive manner to the valuer.			<p>The IRPV representative during the show acknowledged that, there still need to enforce the dialogue with the valuers to make their work more professional and remind them that corruption is punished by the law.</p> <p>The TIR representative also said that the government should also put in place serious measures to follow up people who steals the government and misuse tax payers money.</p>
SMS 3	Advocacy	This person lives in Kabuga; she said that citizens are in a very weak positions in matters related to land expropriation; she gave an example of people who were expropriated 5 years ago where Gatera fuel's tank are located, and still did not received their compensation and are not allowed to do anything to their houses.		The message was read during the show, however panelists did not manage to make any comments due to limited time of the show.	
SMS 5	Providing Comments	In Gicumbi district Ruyaga sector, there is one house that has been valued 3 times and the same house was paid 3 times by the project in charge of expropriating the properties along the road Bassin-Rukomo.			<p>The IRPV representative during the show acknowledged his participation to the show. Also, requested all the citizens to report all fraudulent cases to their association also to their respective local authorities.</p> <p>He highlighted that it should be every Rwandans initiative to promote a fair and transparent service delivery. He also provided a phone line number that people would call to report fraudulent cases or ask for guidance (+250 783177760).</p>
SMS 6	Making Advocacy	He wonders why the district authorities approve poor quality houses given as compensation to expropriated people. He gave an example of people expropriated in Bugesera			The representative of Minaloc during the show said that, he was not aware that people were not happy with the compensation they got and

		Airport project and mentioned that by now some of these houses are destroyed and that people were not happy with the compensation			promised to follow up on the state of the houses. The TIR representative said that authorities involved in such activities should be punished
SMS 7	Request for clarity	In some cases, people are asked to participate in the community development by availing free land (without compensation) to access water and electricity in the community but when water comes some people are not granted access. Sometimes the expropriation law is somehow confusing.			The TIR representative advised to always have written contracts/agreement
Moderator's question	Clarification	He needed some clarification on one case in Huye district where citizens were requested to build their plots, and uproot their banana plantation saying that those plantations are not authorized to be in town.			The representative of Minaloc said that the case of Huye did not happen without the consultation with the citizens. He revealed that it has been different correspondences on that issue however some citizens still resisted on that change. He said that citizens who were mistakenly affected by that action should claim for the fair compensation
What's APP					
Comment 2	Comments	In a place called " Kangondo" people were not consulted about the relevance of the project of expropriation for public interest, which made difficult the implementation of that project.			The Minaloc representative during the show said that this concern has been in there for longtime, however he assured the public that the Ministry made this a priority and that in the previous weeks the Minister of local governance and the City of Kigali visited those houses and The houses are at 90% of complete execution.
Twitter					
Tweet # 1	Providing comments	People in Rusizi district, Nyakabuye Sector, Nyabitare cell spent 5 years waiting for REG to pay the compensation amount for the damages occurred when fixing the Bweyeye electricity poles.		The message was read during the show; however, panelists did not make any	

				comments due to limited time of the show.	
Tweet # 2	Providing comments	What will you do if the expropriator tells you that the compensation is calculated for the land only not for the house built on that land?		The message was read during the show; however, panelists did not make any comments due to limited time of the show.	
Tweet # 3	Advocacy	The executive committees in some districts drastically increase land taxes without clear basis			The message was specifically addressed to the TIR representative who promised to follow the issue up. She therefore took the opportunity to provide a phone line that could be used to report cases or seek for assistance in the future. The phone line is 2641.
Tweet # 4	Comments	The Minaloc phone number provided never get responded.			The Minaloc representative during the show apologized for any network issues that ever happened before to their phone line however he highlighted that the number is available during working hours from 8am to 5pm. The number is 5353.
Tweet # 6	Comments	The sender agreed 100% with the TIR representative that; it is common that people who corrupt the valuers; their properties are given higher prices in the valuation report than those who pay the valuers according to the law. He also disclosed a case, in a place called karama / Bumbogo in 2012-2013, people who did not have land there got compensated; furthermore, the habit were repeated even during the expropriation project to build the			The sender was remaindered that it is always good to report those cases to promote a better service delivery in the expropriation process by informing either TIR, Local authorities or any other partners involved in the expropriation processes.

		Kigali Convention Center similar cases re-appeared.			
Facebook comments					
Comment 1	Question	What are the criteria for selecting houses that are in swamp areas? This is asked because, one will find some houses that are really in swamp areas but were not touched by the expropriation project!		This message was not read during the show due to limited time.	
Comment 2	Comments	Local authorities should properly implement the expropriation law, give room for citizens to claim their rights on their properties and not favoring entrepreneurs more than the population they are supposed to serve		This message was not read during the show due to limited time.	

Annex 2. Screenshot that shows the live stream on Facebook

55 live views/ 15 likes/ 2 Comments.



Annex 3: Screenshot that shows the facebook report comprises of: 7,137 People reached/ 998 Engagement, 55 likes



Annex 4: Screenshot that shows the time people views tweets

2, 277 / Times people interacted with this Tweet 223

Impressions	2,277
times people saw this Tweet on Twitter	
Total engagements	223
times people interacted with this Tweet	

Annex 5: Screenshot that shows the overall report on twitter

TV1 Rwanda @TV1Rwanda It is on this friday at 08:00 AM at the heart of content TV&Radio1 @UMassBoston @RwandaGov . pic.twitter.com/9jS5JYivne	
Impressions	1,550
times people saw this Tweet on Twitter	
Media views	173
all views (autoplay and click) of your media are counted across videos, vines, gifs, and images	
Total engagements	49
times people interacted with this Tweet	
Media engagements	39
number of clicks on your media counted across videos, vines, gifs, and images	
Likes	6
times people liked this Tweet	
Profile clicks	4

Appendix # 5: Screenshot that shows the advert promotion was played before the show

TV1 Rwanda @TV1Rwanda · Mar 12

It is on this friday at 08:00 AM at the heart of content TV&Radio1 @UMassBoston @RwandaGov .



The video player shows a promotional graphic with three logos: TV1 (a green '1' on a white background), LD (Highlands Centre of Leadership for Development), and UMass Boston. The video has 169 views and is currently at 0:06 of a 0:37 duration. The player interface includes a play button, a volume icon, and a full-screen icon.

1st Wave Broadcasts of the TV/Radio Programs on Public Procurement and Administrative Justice

Report

1. Introduction

Over the past two and a half years, the *Strengthening Rwandan Administrative Justice (SRAJ project)*, under funding from USAID, has been working to raise awareness of the importance of administrative justice to improvements in governance and the strengthening of trust between government officials and citizens.

Administrative justice involves a government's use and observance of proper legal and procedural rules in making decisions on individual cases affecting the rights of citizens and businesses. These decisions also tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, SRAJ aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions about cases involving citizens' and businesses. In addition, administrative justice is about how decisions are taken and communicated to people and how they are treated in the administrative process.

In this regard, SRAJ project implementation consists of three following phases:

- Legal and Policy Framework
- Analysis of Local Administrative Decision-making in Practice
- Capacity-Building/Training Activities, Media Outreach, and Legal/Regulatory Reforms

1.1. SRAJ Project Partners

The SRAJ project is implemented by the following partners:

- University of Massachusetts- Boston as the lead implementer
- The Institute of Policy Analysis and Research (IPAR-Rwanda)
- The Institute of Legal Practice and Development
- Human Right First Association (HRF), and
- The Highlands Centre of Leadership for Development (L4D).

2. Structure of the Policy Dialogues

The policy dialogues broadcast on TV and community radio stations are among the core activities of the Project under Phase III—ensuring that policy makers and the general public

are informed and contribute to solutions supportive of administrative justice. The policy dialogues in this first wave of programs on administrative justice are addressed to the subjects of Private Labor Regulations, Public Procurement, and Land Expropriation.

The policy dialogues were designed to feature a panel discussion of challenges in administrative justice in these three topical areas, to be broadcast through live radio and television talk show programs (on TV1 and 10 community radio programs) across the country, reaching in all provinces. These dialogues constituted a valuable opportunity to gather not only competing views of the panellists—typically drawn from the ranks of government officials, NGO leaders, and independent (often academic) experts, but also community views (from citizens calling into the shows), researchers, and other interested parties. A centrepiece of the shows was having the Phase II research findings from the project’s district field work shared and highlighted in the remarks of the panellists.

This report specifically discusses:

- (i) The first and second live talk shows on the topic of **Public Procurement and Administrative Justice** that were respectively aired on 03rd October, 2019 and 10th October, 2019 on TV1;
- (ii) Information from the rebroadcast of the second show on the same thematic area, which was done on February 7, 2020;
- (iii) Listeners’ feedback from the call-in segment and social media platforms

It is important to note that before the airing of the shows, preparatory activities were conducted, including a pre-session where all panellists and the TV moderator were invited to agree on the sub-topics to be covered and the key messages to communicate to the public in line with the project’s overarching objectives and research findings.

2.1. Participants in the live talk shows for public procurement

Experts in the area of public procurement who participated in talk shows are listed below.

Name of the Institutions/Organization	Name of the expert	Position of the Re	Show 1	Show 2
Rwanda Public Procurement Authority.	Mr Celestin Sibomana	Director of Capacity Building	Present	Present
Transparency International Rwanda	Mr. Appolinaire Mupiganyi	Executive Director	Present	Present
The Bidders association	Mr. Kazawadi Dedeki & Dr Alexis Nsengumuremyi	Secretary of the Construction Association for the first show; Chairperson of the Association for the second show	Present	Present
Highlands Centre of Leadership Development	Mr. John Rwirahira	Managing Director	Present	Present

2.2. The First Live Talk Show

This section provides a narrative description of how the live talk shows on procurement were conducted, matters discussed, challenges faced and areas for further improvement.

The show kicked-off with a summary presentation of the research findings of the public procurement component of the Project, highlighting complaints facing the participants in public procurement processes, including:

- Limited clarity regarding supporting document requirements;
- Unclear procedures and/or selection criteria, as well scoring criteria;
- Limited internet connection in some areas, harming e-procurement participation;
- Language barriers resulting from the fact that the e-procurement system only uses English;
- Limited bidder awareness of the tender processes and procurement laws;

The **first** live radio and TV talk show covered the theme of ***“How can the competence and professionalism of bidders and procurement officers be strengthened?”***

Discussion around this theme focused on four main guiding questions:

1. How would you describe the professionalism of both bidders and procurement officers in Rwanda?
2. How much better is the e-procurement system supporting bidder participation in a more transparent procurement process?
3. What are the most important remaining challenges in bidding processes in Rwanda?
4. What are the most salient recommendations to strengthen the competence and professionalism of bidders and procurement officers in Rwanda?

The outcome of the discussions under each of the above questions are presented in headings below.

2.2.1. The professionalism of both bidders and procurement officers in Rwanda

The representative of the Rwanda Public Procurement Authority (RPPA) during the show argued that the e-procurement system was initiated by the government of Rwanda so as to benefit from the use of ICT in promoting transparency and enhance quality of service delivery.

With regard to professionalism, the RPPA representative said that professionalism could be assessed by looking at the overall tendering process – from the procurement plan to the contract signing stage. Furthermore, in talking about professionalism, one has to automatically think of the user’s capacities and skills to in using the existing e-Procurement system. The professionalism of bidders, could be judged in part by looking at the increasing numbers of bidders currently registered in the system and the number of users who have received trainings on how to use the system (more than 1,000 bidders had already been trained at the time of the show). He also noted that RPPA initiated a training program for all

procurement officers across state institutions, with the aim of equipping them with the required skills to support bidders in their respective jurisdictions.

Despite the training provided by the RPPA on the use of e-procurement (commonly known as the “*Umucyo*” system), the representative from the bidders’ association maintained that a lack of competence and skills required for bidding was a huge challenge, particularly in the specific areas of navigating the registration process, the English language, the use of computers and time management (adhering to deadlines).

On the *procurement officers’ side*, according to the representative from Transparency International Rwanda (TIR), procurement officers lack professionalism in their day-to-day activities and this is evidenced by the number of claims and complaints filled by bidders, especially the analysis of the submitted supporting documents for tenders. This was borne out by the findings in the Phase II field research by the Project. Similarly, the representative of the bidder’s association said that bidders’ applications are interpreted differently by procurement officers due to the terms of reference which in many cases aren’t clear enough; that in turn reflects their uneven capacities in writing the terms of reference.

The TIR representative reiterated that due to the limited clarity of some bidding documents some procurement officers can use such vagueness to exclude undesired bidders in favour of others, which can spur corruption. However, in order to prevent such potential corruption risks, the RPPA representative said that an analysis of the submitted tender documents is done in small groups ranging from 5 to 7 people, which can ensure diverse viewpoints and increase attention to specific facts and criteria set in advance of the evaluation.

2.2.2. E-procurement and transparency of the procurement process

The aim of this sub-section is to capture the perceptions of the panellists on the extent to which the e-procurement system has contributed to strengthening transparency in the procurement process.

Overall, the TIR representative acknowledged significant improvements so far achieved since the establishment of E-Procurement. He argued that “the establishment of E-Procurement has contributed to the improvement of transparency in the Rwanda’s procurement system”. He noted a study conducted in 2011 (prior to the establishment of E-procurement) by the TIR that revealed that 90% of the respondents believed that there was some level of corruption in procurements. Since the establishment of E-Procurement, that figure has dropped precipitously. The representative of TIR further noted appreciatively the initiative of RPPA and their partners in fighting against corruption and confirmed that there is good improvement in the procurement process. This was confirmed by a “*Caller Z*” to the Program, who supported the idea that bidders are generally happy with the E-procurement system as it has made the procurement process fairer and more transparent.

The “*caller Z*” also argued that “before the E-Procurement system, bidders used to submit their tenders in hard copies and sometimes those documents could easily disappear due to the receivers’ carelessness, something that can no longer happen with the current system”.

Also, with the E-procurement system, submission of false documents such as the bid security and RSSB Certificate is easily tracked and rejected by the system if found to be fraudulent. The “caller Z” finally expressed appreciation for the fact that the E-procurement system also helps automatically correct potential errors such as erroneous addition of different cost items. Yet another added value of the E-procurement system is that it is connected to the insurance companies and banks, which provides convenience in bid securities as well as the RSSB (for the provision of the Social Security Certificates), limiting the aforementioned risk of forgery while at the same time saving the time for the procurement authorities in processing the paperwork.

2.2.3. The remaining Challenges in bidding processes in Rwanda

Despite commendable achievements in improving the Rwanda’s procurement system, there remain a number of challenges which still need to be addressed. Indeed, as highlighted by the TIR representative, these problem remain: **(i)** some procurement officers prepare tender documents that are tailor-made to the bidders they want to favour—something also highlighted by TIR’s own research. This opens a window for corruption that needs to be effectively closed by better procurement supervision and oversight. Another challenge is **(ii)** limited internet coverage (especially for bidders living outside Kigali and secondary cities) that limits the effective access to and use of the E-procurement system. This reduces the chances of bidders from rural districts in the procurement process and raises questions about fairness in economic opportunities and unnecessary discrimination.

On the bidders’ side, **(iii)** most of them do not adequately use the time allocated to bids and wait until the last day to submit when the system is congested; this reflects simply poor time management. **(iv)**The language used by the procurement system was also mentioned as a big challenge as many Rwandan bidders do not use English as their working language. Currently, there are no French and English versions of the E-procurement system.

2.2.4. Recommendations / Areas of improvements

The panellists highlighted areas that still require improvement in order to strengthen the competencies and professionalism of procurement officers as detailed below.

For Procurement officers

- ***Avoid misinterpretation and confusion that could lead to corruption:*** In this regard, reference was made to a commonly used closing paragraph stating that “the bidder shall have the right to add any other supporting document related to the tender” without necessarily specifying the type or nature of such document, opening the door to an uneven playing field where a high score may ride on such supplemental documentation. RPPA should ensure that such vagueness is absolutely avoided.

- *Regularly train procurement officers* and ensure through training exercises and experiential learning that tender documents are rid of as much ambiguity as possible.
- *Build the capacity* of tender committee members to effectively analyze and make adequate and informed decisions in selection process of tenders. Here too, practical exercises are essential.
- *Design a program* to strengthen the skills and the technical expertise of bidders, particularly outside Kigali. Again, this must be done through experiential learning and practical exercises and/or simulations.

For bidders

- *Bidders should work closely and proactively with RPPA* to solve any difficulties encountered while using the E-procurement system.
- *Build the capacity of bidders* to increase their confidence in filing their claims/protests without fear of being excluded from future tenders (this is currently a big problem, as it is in many other parts of the world).
- *Increase the competencies of bidders in core skills*, especially in IT skills, English and general familiarity with bidders' rights under the law.
- *Increase the awareness of bidders about their responsibility to report cases of malfeasance or technical difficulties* encountered in the E-procurement system.
- Advocate for the establishment of one or more *E-procurement systems in the private sector* in order to improve transparency and accountability in private sector procurement processes (currently, there is no such a system in the private sector).
- Improve *compliance with procurement law and procedure* as stated in tender document (through both education and enforcement activities).

2.2.5. What went well, what did not go well and what to improve in the next first show

This sub section summarizes what went well and challenges faced during the airing of the first talk show as observed during the debriefing meeting held post the show.

i. What went well

- All the invited panelists attended the show and arrived on time;
- Good questions were asked by the moderator who was well prepared;
- Good responses were provided by the panelists, although in many cases they did not specifically relate challenges to the field data or to specific provisions in the current procurement law;
- All other synchronized programs on community radio programs were mentioned during the show in order for listeners to choose channels of their preference.

ii. What did not go well

- The moderator from Ishingiro did not interact adequately with the panelists prior to the show and consequently he seemed at times to stumble on their names;
- The show started 10 minutes after the planned time, which brought pressure to the moderator and the panelists to package and deliver their messages within a more compressed amount of time;
- The studio set up was slightly disorganized: panelists were seated on chairs of different height and the table's height was not proportional to that of the chairs;
- There was only one technician operating all cameras in technical room, which seemed unprofessional and caused some disturbance in the studios;
- The moderator did not specifically mention the social media accounts to be used by listeners during and after the show;

iii. Measures taken to address the observed issues

After reflection, the team come up with the following actions to improve the next shows:

- Prof Bizoza was requested to call the panelists and acknowledge the deficiencies on the first show and insist on the importance of adhering to all pre-show planning agreements;
- Ishingiro was instructed to pay attention on organizing a separate debrief session before the show in the studio;
- Ishingiro was requested to ensure the phone line in TV1 studios is working and set an alternative phone line that could be used in case the first choice does not work. Also, the line should stay on as people continue to send in their messages/questions throughout the period of the program. Ishingiro was reminded that the call in segment by citizens is very important to the policy dialogues and any truncation of this feature is unacceptable;
- It was agreed that the social media accounts for this campaign should be explicitly mentioned during the show (by the moderator) and should be displayed on screen during the show;
- Ishingiro was also requested to plan for a meet with Senior TV1 Management and presents the observations made on the previous shows in a writing;
- Ishingiro was requested to pass by TV1 to verify if all the expressed demands were taken into consideration by TV1 for the subsequent programs.

2.3. The Second Live Talk Show

The second live talk show was aired on 10th/October/2019. As with the first show, the second show started with a brief presentation of the research findings, highlighting the key issues as

described in previous section. The second show addressed this particular theme: ***“How can there be more procedural fairness in procurement? —balancing government contract management needs with due attention to transparency and reasonable filing and other transaction costs?”*** More specifically, the live talk show tried to answer the following four main questions:

1. How would you describe the fairness of the procurement procedures at present?
2. How would you describe the fairness of the government’s current approach to contract management?
3. What are the practical implications of the Government’s current approach to contract management?
4. Recommendations / what needs to be done in order to improve fairness and transparency in procurement and contract management?

The substance of the ensuing discussions is presented in the sub-sections below.

2.3.1. Fairness of the procurement procedure in Rwanda

The fairness of procurement procedure was primarily defined by the panellists as *“Just and equal treatment of all the qualified bidders participating in a particular tender”*. This is possible when laws and regulations governing procurement in Rwanda are respected by all parties (bidders and procurements officials)—from the drafting of the tender documents, to the bidding process, to evaluation and section of winners, as well as the signing of contracts. More importantly, it was argued that procurement officers need to make sure that the information about the tender is fairly provided and that all people had equal opportunity to bid and in a transparent way.

With regard to procurement processes, a number of listeners gave their feedback through phone calls and SMSs as summarised below.

- In his call, a listener (**Y**) stressed the fact that in some cases, tender documents provide unclear information about tenders, implying that much more capacity building of procurement officers is still required. Similarly, another caller (**A**) emphasized the need for RPPA to provide timely technical support to bidders facing challenges in using E-procurement; this must be intentionally and systematically furnished.
- A third caller (**B**) asked for clarification of the possibility to participate in the bidding process through E-procurement without an access code. The RPPA representative reiterated that it is a requirement to register with RISA and get an electronic identification that gives access to E-procurement. In an SMS, another listener (**C**) asked if there is any need to go through E-procurement in small tenders involving things like small office furnishings or decorations. The response to the SMS was that all big tenders, small or big, are applied for and accessed through E-procurement. Therefore, it is imperative that all potential bidders have the online identification for accessing the E-procurement system. This shows that some bidders still do not have

the required information as to how the E-procurement system works. This is a challenge for RPPA to solve; it must continuously build the capacity of potential bidders regarding their understanding of the overall procurement process.

- Another listener (**D**) called asking whether districts have full autonomy over the bidding processes associated with their tenders. In his response to the question, the RPPA representative confirmed that districts, and all procuring entities have full control of their bidding process; the E-procurement system merely provides them with a consistent platform/technical facility.

2.3.2. Fairness of the Government contract management

The representative from the bidder's association highlighted that fact that the Government of Rwanda has made tremendous improvements in making the Rwandan procurement system more equitable and transparent. He argued that the current procurement law is well structured and provides adequate protection to bidders throughout the bidding process, up to the point of winning bids, when significant issues of contract management take over.

Bidders face big challenges in contract management, including delays in payment for work done, which not only has tremendous negative implications for project execution but also opens windows for corruption. In fact, these delays are in some cases are meant to oblige bidders to give bribes to contract managers. Perhaps not surprisingly enough, many of the bidders who have faced this challenge may decide not to formally complain, fearing the possibility of being excluded from future tenders.

Panellists unanimously agreed that in some cases, delays in payment are not critical, but when they become excessive or recurrent, bidders end up getting severely penalized, which adversely affects administrative justice.

2.3.3. Practical implications of the Government's current approach to contract management

Bidders are adversely affected by bad contract management practices that characterize many aspects of the current government contract management style, especially the long processes associated with getting executed work approved. Indeed, most of the bidders use bank loans to execute various works for the government and pay high interest rates, viewing it as an unfortunate cost of doing business. Therefore, significant delays in approving and receiving completed work can cause serious harm to bidders and perpetuate unfortunate corruption as well.

One of the most negative effects of poor contract management is follow-on impact of contractors delaying payment of workers, which causes frequent labor conflict. Indeed, a listener called in about this problem, asking for guidance in the process to follow for protesting/complaining about such situations. Similarly, an SMS was received asking what

procedures to follow if the contractors do not pay workers. In his response, the bidders' association representative mentioned that most of the delays are due to payment delays by clients/the Government, which means pressure should be directed there in the first place. He also argued that the issue is also dealt with by the bidders association if it is revealed that a member of the association is intentionally delaying payment of its workers. In such a case, measures are taken, which could include blacklisting the offending company from bidding in the future. With regard to processes to follow when contractors are unable to pay their workers as highlighted in the SMS, the RPPA representative stated that the terms of contract should clearly specify the procedure to follow in case the contractors do not pay. There is also a need to ensure that the situation is escalated to local and national authorities for further investigations and support. Here again, this may indicate the poor level of awareness in certain quarters about not only procurement procedures but the laws governing labor relations in the private sector (so that workers too have sufficient knowledge of their rights and can bring complaints to both the contractors and the government).

According to the research findings, observed delays in approving and paying bidders are generally not justifiable, as all tenders are supposed to be properly planned for in advance and given adequate budget; accordingly, there are no legal and practical reasons why there should be government delays in payment, unless there are corrupt motivations at work (or of course, there are problems with the actual planning and budgeting process).

The representative of RPPA stated that issues of contract management are discussed in annual refresher sessions that are held by district authorities and bidders, and there is hope that these meetings, along with improved budgeting practices, will improve the payments situation. At the same time, the TIR representative insisted that bidders should not be silent on issues of poor contract management practices; they must speak up and engage in collective advocacy where necessary and not be afraid to lose future opportunities.

2.3.4. What went well, what did not go well and what to improve in the next show

This sub section summarizes what went well and what did not go well during the second live talk show on procurement.

What went well

- The organizers were at the studio on time to check if the logistics are well set;
- Panelists were there ahead of time;
- The show started on time and ended on time;
- TV1 was very flexible whenever challenges that require quick interventions arise;
- The moderator played very well his role and the show was very interactive;
- The show received very evidence based calls from citizens (as discussed in the section of the second level talk show)

What did not go well

- The social media accounts were announced before the show but were not displayed on the screen during the live talk show;
- The synergy between radios in broadcasting of the live talk shows on procurement was not effective as some of the radios were not connected with TV1 during the show.

2.3.5. Summary of the Rebroadcasting of the Second Show

The second live talk show on procurement was largely rebroadcasted in an expanded 90-minute format on TV1 on 7th February 2020 following a new contract arrangement between L4D and TV1 that saw Radio Ishingiro dropped from the management team.

The purpose of this rebroadcast was to give another chance to the citizens to call into the show, providing a much longer call in segment (some 15 minutes longer) than that provided in the first two shows.

In order to reach the objective of reaching out to more members of the public, different techniques were adopted, including advertisement of the show, pre-established platforms for call-ins and SMS during the rebroadcast, as well as expanded social media outreach on Facebook and Twitter.

Some information was removed in order to remain focused on the pre-established content of the show. During the rebroadcasting:

- The show started on time and was aired live on the TV1 and its social media accounts
- The adverts for the show were aired 4 times prior to the show
- Listeners actively participated on the social media accounts with 22 views, 6 likes, 3 comments on Facebook and 210 views, 12 likes and 2 retweets on Twitter, and there was
- 1 SMS

It is noteworthy, but not surprising, that social media participation was weak; this is not, in this case, necessarily a reflection on poor preparation or the interest in the topic; rather, it is indicative of the very low participation of the Rwandan public on this kind of social media (i.e., a show with a kind of political topic). Rwandan citizens are reticent to comment in these circumstances as a matter of prudence and not drawing attention to themselves.

Comments on Facebook

In all of the 3 Facebook comments, listeners were confirming that they are following the show being rebroadcasted with interest.

Comments on Twitter

In the first comment on Twitter, the listener in question appreciated the topic of the show and argued that while service delivery in general cannot be 100% perfect, it is imperative that everyone make such service delivery accountable by absolutely reporting on challenges faced.

The second tweet emphasised that procurement service delivery has significantly improved, especially with the establishment of E-procurement system.

Comment through SMS

The received SMS highlighted the fact there is a very big challenge in the procurement process related to 12 basic education schools. The show organizers further engaged the writer of the SMS to know what kind of challenges these schools were really facing and discovered, according to him, the school committees are not autonomous in their decisions and in fact made bad procurement decisions based on outcomes dictated by their superiors.

2.3.6. Recommendations/Areas for improvement

In order to strengthen the fairness of the Government contract management, panellists in the second live talk show proposed the following recommendations:

- RPPA should design contract management sensitization campaigns across the various government institutions and regularly monitor how contract management for key projects is being handled.
- Strengthen the accountability mechanisms in contract management across government institutions and conduct audits to ensure compliance.
- The contract should clearly state the payment modalities and specify who is responsible for contract management for accountability purposes
- E-invoicing should be made effective in order to ensure tracking of the payments and their approval process in the system in order minimize the risks for potential delays in payment;
- Bidders should confidently claim their rights to be paid for timely work done.
- The contracts should allow for punitive measures (i.e., damages/penalties) for unnecessary delays from government clients (similar to what is the practice in commercial contexts).

An interesting outcome from the second live talk show

There were pledges from RPPA to include in their annual workshop with the bidders a special session on “Contract Management,” particularly as to the issue of raising legitimate complaints about government breaches of an agreement.

3. General Conclusion and Lessons learnt

Despite certain technical challenges caused by Ishingiro that affected the interaction between the public and the panelists during the policy dialogue on public procurement (especially

during the first live talk show), the synergy between partners (SRAJ, L4D, HRF and Ishingiro) was instrumental in overcoming these challenges and delivering the desired objectives. The discussions confirmed what was revealed by the Project's Phase I and Phase II research findings, especially issues related to inconsistent selection criteria, unclear supporting documents, and language barriers. What was learned and re-emphasized can inform future policy dialogues and project interventions. The following are the key ones to consider for the future:

- Some procurement officers' practices (such as designing tender documents that are tailor made to specific bidders) as well as intentional delays in payment for completed works are major windows for corruption;
- Limited internet connection and language barriers are major challenges for many potential bidders to access E-procurement system;
- There is need to design more robust capacity development programs for both procurement officers and bidders in order to address the identified challenges pertaining to both procurement officers' behavioral changes and bidders' ability to know and advocate for their rights;
- RPPA should design contract management sensitization campaigns across the government institutions and establish a related monitoring and evaluation framework (including audits).

=====

Appendix I. Deliverables related to the procurement shows

=====

A. What L4D received

- L4D received DVDs for the first and second live shows

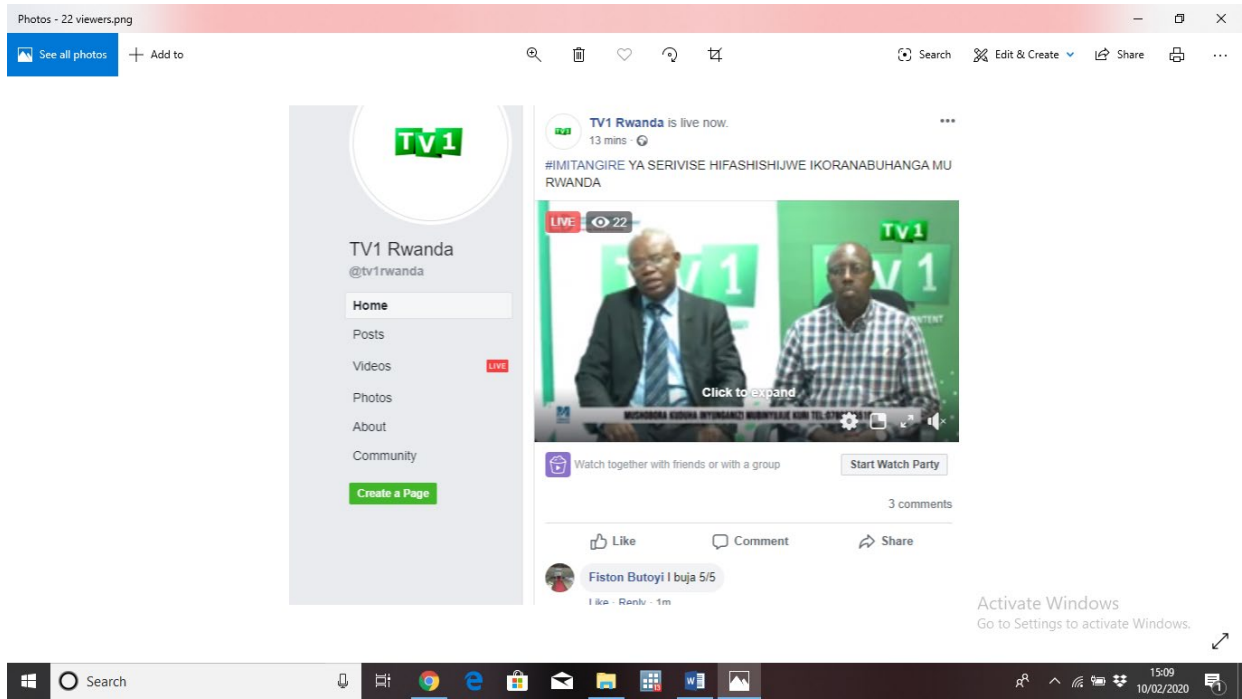
B. Things that were promised but not delivered to L4D

- Radio Ishingiro did not submit proof of synchronous broadcasting with the other radio programs (it was anticipated and required that Ishingiro would submit CDs and adverts/jingle from different radios channels; this will be insisted on for this program and for any subsequent programs.

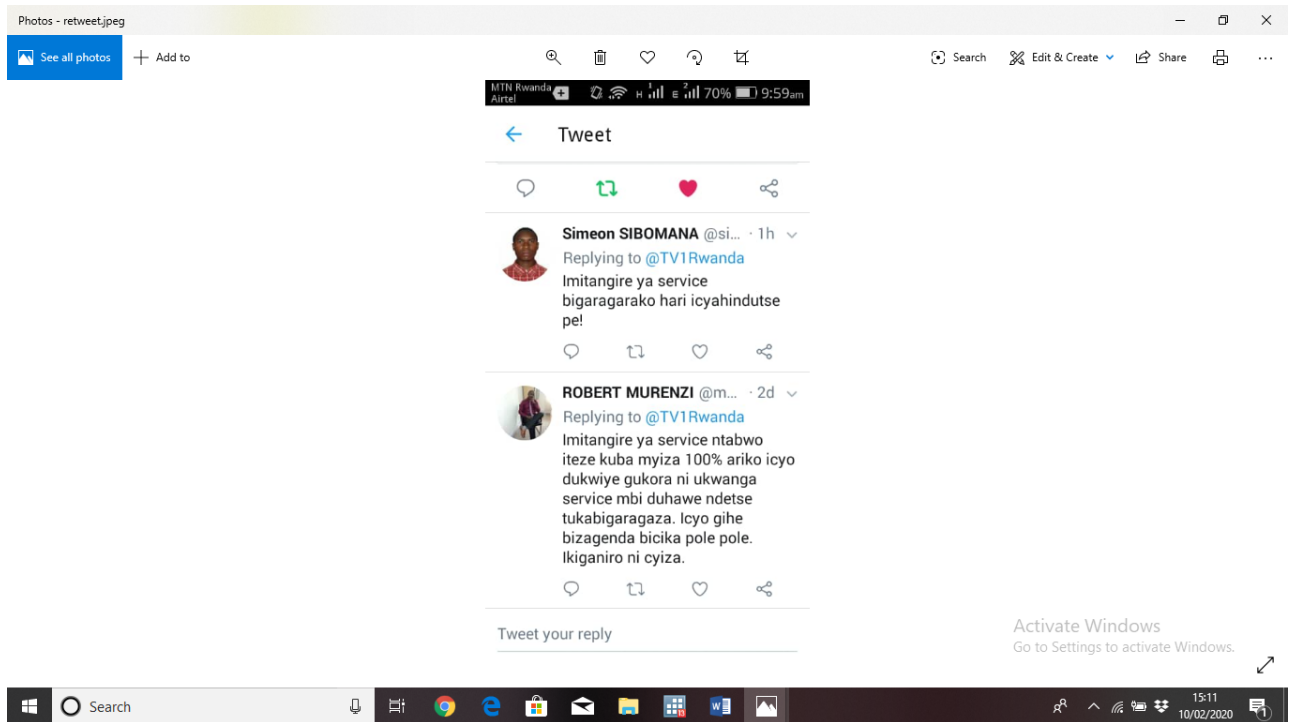
=====

Appendix II. Screenshot of the re-broadcasting of the public procurement show

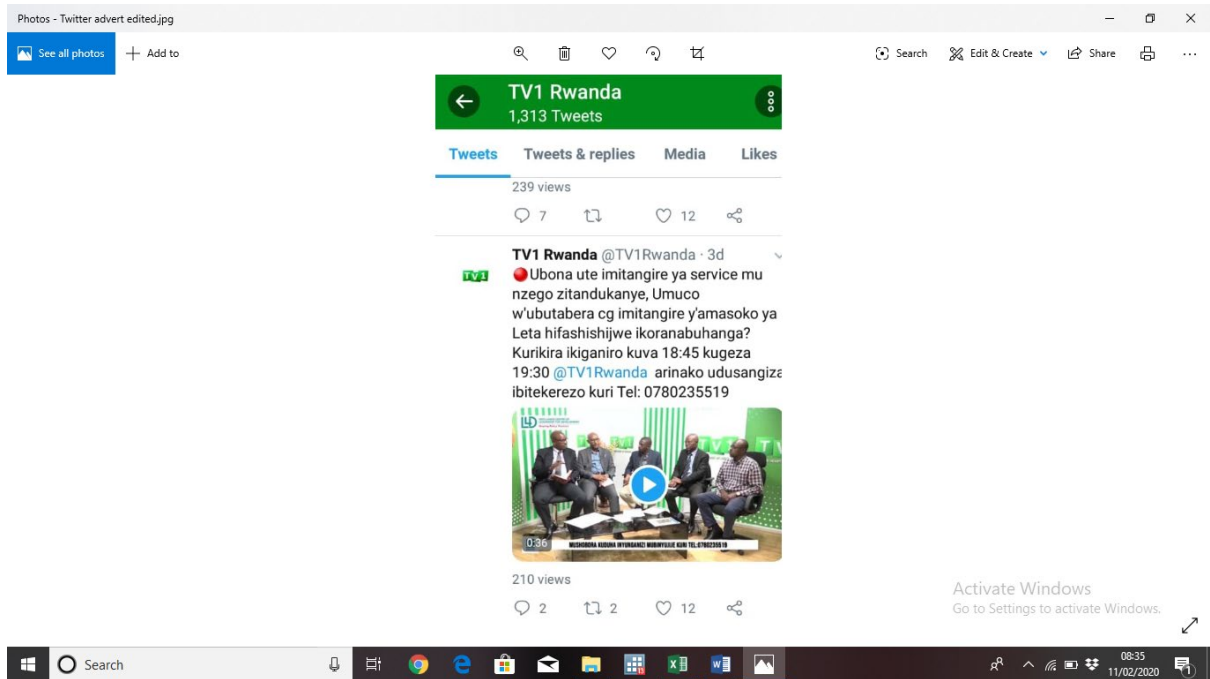
=====



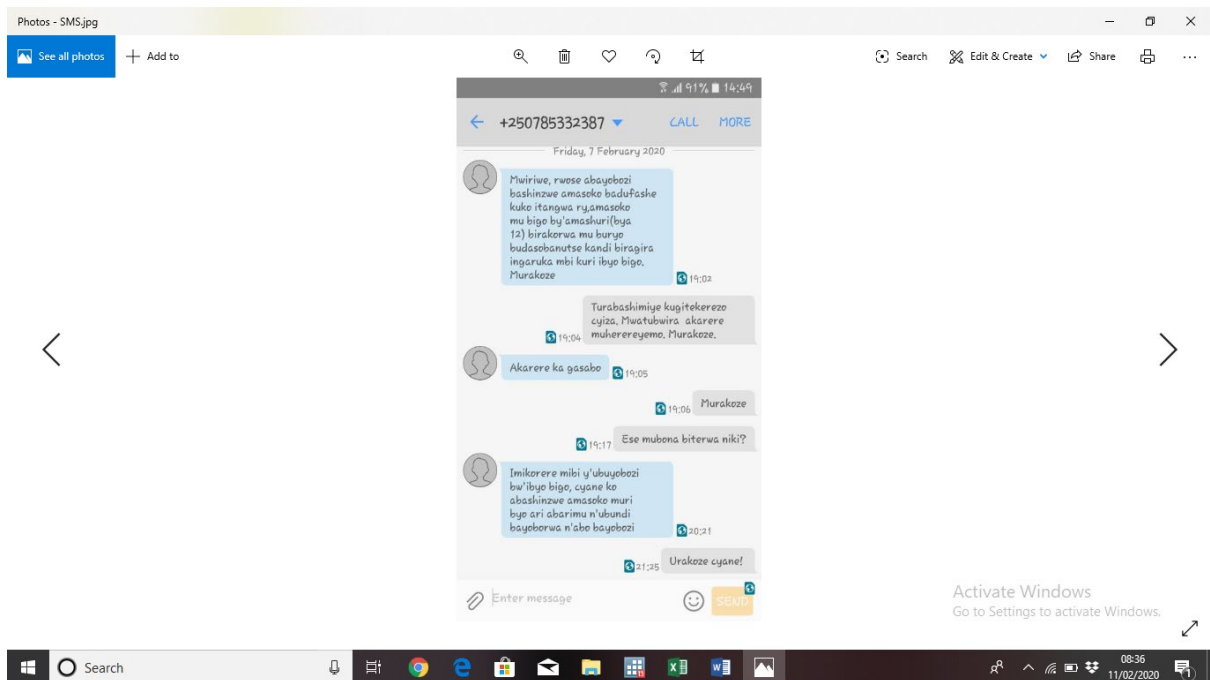
Screenshot #1: Live stream on Facebook, 22 viewers, 3 Comments



Screenshot #2: The 2 Retweets



Screenshot #3: Live stream on Twitter, 210 Views, 12 likes on Twitter



Screenshot #4: SMS



1st Wave Broadcasts of the TV/Radio Shows on Private Labor Regulation and Administrative Justice

1. Introduction

This report covers the second TV and radio programs on labor regulation and administrative justice aired on September 12, 2019, and the rebroadcasting of the main segments of that program on 14th February 2020 on TV1. The initial show was aired on TV1, IZUBA TV, Radio Ishingiro, Radio Salus, and Radio Isangano; the second show was aired on Isango Star TV and 10 community radio stations, including those above.

1. Participants and Background

- Innocent Ndahiro, Governance and Decentralization Policy Specialist in the Ministry of Local Government (MINALOC)
- Mr Kananga Patrick, Director of Labor Administration in the Ministry of Labor (MIFOTRA).
- Professor Alfred R. BIZOZA, Managing Director of Highlands Center of Leadership for Development (L4D ltd)

2. Leading Questions asked and summary of responses provided

Question 1: How would you describe the functioning and effectiveness of labor inspectors in resolving labor related disputes in the private sector?

Responses provided:

Mr Patrick from MIFOTRA defined a Labor Inspector as a public servant appointed by and reporting to MIFOTRA and responsible for handling inspections of private workplaces and resolving disputes therein, both collective and individual. He is based at the district level in line with the decentralization policy, though he is administratively accountable not to the respective local government but to MIFOTRA.

Functions of the labour inspector

A labor Inspector has 4 main responsibilities:

- Monitoring the compliance of the labor law in private and semi-private institutions.
- Resolving labor disputes between the employees and employer through mediation.
- Acting as a legal adviser on labor law and related issues.
- Providing coaching and training to private institutions' personnel and semi-private institutions on labor law and related issues.

In summary, he argued that the first three responsibilities emphasize addressing potential disputes through awareness raising and advisory services based on the labour law while the last one highlights the need to equipping personnel with knowledge on how to handle issues in these areas.

Talking about the tasks of the labor inspectors, Mr. Patrick was asked to weight the various kinds of work performed by the labor inspectors. He responded to this question based on the 2018 Labour force survey where labor inspectors were said to serve 190,000 private

institutions but that over the past 3 years, 80% of the complains received were addressed without their reaching the courts [this was, however, misleading, in that many cases are not resolved, but allow one or both parties to seek resolution in the courts, and most employees—being without sufficient financial means and also possibly intimidated by the prospect—do not pursue their rights in court].

Question 2. What are, the key challenges faced by labor inspectors in fulfilling their roles?

Prof. Bizoza provided an overview of key challenges as reflected by the Phase II SRAJ Project research findings of the study done by the project partners. These include: (i) employees do not have enough knowledge about how their salaries are calculated and what are the constituent parts of their salary package, (ii) unfair dismissal is widespread, as well as contract termination of employees that may lack the requisite legal bases; and (iii) benefit contributions and other incentives may not be made/respected by the employer. He argued that in some cases, once initiated, some employees feel intimidated by the employers and fail to pursue their rights in the workplace—either through an HR representative or a workers’ delegate (if they exist), while others lack financial means. In addition, some other employees simply don’t proceed with their cases due to the time and stress involved—and they may have limited hope/trust that pursuing their case will change any outcome.

Question 3. What would you say about the relationship between the labor inspectors on one hand and MIFOTRA and Districts on the other hand?

Mr. Patrick said that the relationship between labor inspectors, MIFOTRA and district officials is quite good, while the representative of Ministry of local Government (MINALOC) said that the fact that labor inspectors nowadays report to the central level (MIFOTRA) is a challenge for good communications and coordination at the local level. In response, Mr. Patrick said that insofar as labor inspectors are provided with office space at the district level, they do report directly to the district authority in terms of human resource management. That is partly true, but for the most part, labor inspectors are supposed to report to MIFOTRA on all substantive matters and the provision of technical assistance.

Question 4: How can MIFOTRA and district officials better support the work of inspectors?

The reporting systems of labor inspectors to MIFOTRA is done through their respective district officials, therefore it becomes easier for the district at least to monitor their capacity in resolving disputes and to be alerted to labor problems, esp. systemic ones. Also, labor inspectors, like other employees of the district are eligible to benefit from training and coaching; however, that training and coaching is limited. There is a kind of shared responsibility for such training between MINALOC and MIFOTRA, but there is a huge need for better, more practical, and more frequent training.

3. Key issues raised during the show

On the Labor Inspectors side

Karanganwa Jean Bosco, a Labour inspector in Gicumbi District, in one of the Vox Pop video segments, argued that, sometimes, the mediation process is problematic as employers are not always available or willing to come to the labor inspector's office for mediation; they frequently decline the invitation or fail to answer it at all, while in other cases when they show-up they refuse to sign any mediation minutes, whether or not any actual agreement/settlement is reached.

For this particular issue; Mr. Patrick highlighted that the labor law article 102 gives the right to the labor inspector to follow up cases in their district after workers' delegates fail to reconcile parties. However, again, it was pointed out that such workers' delegates seldom exist in any functioning state in most medium and large workplaces and often they are ill equipped to resolve disputes even when they are in fact functioning. Meanwhile, it is also the case that mediation is often not carried out properly by labor inspectors who may not listen carefully to the facts, make both parties fully at ease, or have the time to spend with the parties helping them reach some agreement on their own. That in turn means that the minutes of the mediation sessions are often fruitless and do not result in any actual settlement. Still, the parties are in fact encouraged to sign the minutes, which memorialize their efforts to reach some agreement and which they can take to court if they so desire.

4. Key ideas/recommendations for follow-up and possible advocacy

- The outcome of the discussions highlighted the existing procedures to follow when trying to resolve work related disputes. Those procedures were, however, lacking in efficacy in many cases, particularly at the workplace level.
- There is a need for continuous advocacy on the rights of employees at the workplace level, at the inspectorate level, and finally in the courts. Obviously, if each level is well equipped to resolve disputes, the parties may be better satisfied and the inspectors and/or courts relieved of unnecessary burdens.
- MIFOTRA is committed to continue training labor inspectors and to share them with the aforementioned research findings on private labor regulation to help them make more sense of the work they are meant to do, but also to inform senior MIFOTRA and MINALOC officials of what needs to happen in terms of improving the skills of inspectors and also making sure that workers' delegates are functional.

5. Citizen call-in segment

Kayishema, a resident of Karongi District called in to raise his concern regarding a construction company he worked for 20 years without any health insurance and the trouble he went through when he got sick.

- Panelists advised him to take his claim to the labor inspector of Karongi District so that he/she advise him on how to follow up his case.

Chartine from Gicumbi District asked about the conditions necessary for an employee to benefit from horizontal promotion. She said that this is a common problem for all employees of MINISANTE.

- She was advised to talk to the workers' delegates in her institution if the case is not sorted out, and then to escalate it to the labor inspector.

Another caller: How long does it take for "nyakabyizi" (casual workers) to sign a contract?

- Mr. Patrick from MIFOTRA said it all depends on the nature of the contract the person has signed with the employer; however, he said that according to the law, if he/she has worked more than 90 days at a workplace, the employee must be given a formal contract.

6. Social Media

➡ Description of social media used and number of participants

In order to engage the audience and motivate their listenership, Radio Ishingiro used its social media platforms, including Twitter, Facebook and YouTube to send related messages and invitations to follow the talk show.

On this particular show Ishingiro managed to make 8 posts on Facebook containing key messages relating to the main themes. These messages reached 4,359 listeners, and among them 177 expressed their commitment to listen to the show, while 70 of them also clicked the like icon and 23 commented on the posts.

Ishingiro also managed to post 23 tweets with key messages in regard with private labor regulation. The tweets did not earn much reaction; however, we believe they increased the number of people who followed the shows, since we tagged influential Twitter users, including Twitter accounts of concerned institutions such as MINALOC, Transparency International Rwanda, MIFOTRA and HRFRA.

A video drama on public labor regulation and an advert for the TV show were also uploaded on Radio Ishingiro YouTube Channel.

➡ Summary of key ideas provided via Social media

Almost all comments on Radio Ishingiro social media accounts confirmed their awareness and that they were ready to listen to the show. These are some of the few comments received.

- **Listener 1 from Rulindo:** Without enforcement of labor law both employee and the employer face serious consequences.
- o **Listener 2:** Employees should have contracts, but competent authorities need to seriously monitor whether employers abide by the terms of those contracts.

- **Listener 3.** Local leaders should carry out outreach trips and help settle disputes instead of only sitting in the comfort of their offices.

It is important to highlight that, after the show, Radio Ishingiro received information about the case of a young lady whose hands were cut off by a machine of a tea factory in Rulindo District of Northern Province. The team is still following up the case and it was reported to the institutions in charge for investigation and she was also advised to at least attempt to follow the normal procedures.

7. Lessons learned and areas for improving the next sessions/shows

The team observed that one hour is not enough to cover the entire content / key messages from the panelists and also give enough time for audience to call in and send SMS. As a result, it was decided to rebroadcast the show another time for 90 minutes and to leave more time for citizen call-ins and commentary by the panellists thereon.

8. Rebroadcasting objectives

The main objective of the rebroadcasting was to provide an expanded opportunity for citizens to provide their views and comments on issues related to private labour regulation and administrative justice, insofar as the earlier programs were limited to 60 minutes and experienced some technical difficulties with citizen call-ins. In order to achieve this expanded opportunity, the show was extensively advertised on radio and TV1 as well as on social media platforms (Facebook and Twitter). A call-in and SMS facility was set and communicated to the public prior to the show.

9. Summary Analysis of Issues Raised During the Rebroadcasting

This section provides a summary analysis of the key issues raised during the rebroadcasting of the radio and TV programs on private labour regulation and administrative justice. Details of the issues are presented in the table below and are structured around the following three subject matter components.

a. Limited public understanding of, or skepticism about, the role of workers' delegates

Many news reports on labor issues indicate that workers' delegates are not established in most private firms, even though this is provided by law. This is echoed in the SRAJ Project's field research on labor regulation and administrative justice. This absence in some cases is explained by the fact that they do not exist (and are not expected to exist) in small or family businesses (under 10 employees). On the other hand, in firms with 10 or more employees, workers' delegates are still generally absent. Most employers either do not want, or do not understand, the role of workers' delegates to take root on their premises, thinking that they will cause more problems than they solve. When delegates do exist, they are generally not freely elected by the workforce, as is envisioned by law, but rather appointed by the employer or otherwise put forward as candidates by the employer for simple ratification by employees. In these cases, the delegates do not inspire trust among their fellow employees and are seen as being instead loyal to, and an advocate for,

management. In some case, the influence of employers is even more explicit, whereby there is actual coercion exerted on workers' delegates or they are overtly biased on behalf of management.

Recommendations

Several recommendations arose

- *Sensitize private organisations with ten or more workers and ensure the establishment of workers delegates in those organizations. This should be done in close collaboration with the Private Sector Federation.*
- *Build the capacity of workers delegates to effectively play their roles professionally and without fear of their employers.*

b. Limited knowledge about the role of Labor inspectors

It was also revealed that most people are not aware of the labour inspectors and how they can help solve labour related cases. For instance, cases of illegal dismissal were highlighted during the rebroadcasting but very few citizens tend to file complaints with the labour inspectors (as opposed to district and sector officials). Some are not even aware of their existence.

It was also indicated that labour inspectors were given very big responsibilities but not the transport and incidental costs necessary to reach lots of citizens but also employers (when they conduct inspections). Several listeners expressed doubts about the competence of inspectors and their ability to challenge the managers of private companies about systemic abuses or serious individual legal infractions.

Recommendation

- *Raise awareness in workplaces of the role of labor inspectors in solving labor related conflicts.*
- *Build the capacity of labor inspectors in negotiations and their ability to confidently engage with managers of private companies, esp. while carrying out and following up on inspections. .*

c. Other labor related issues raised during the rebroadcasting

The rebroadcasting also highlighted other labor related issues directly or indirectly linked to administrative justice. These include:

- Issues related to salary setting where staff at same position levels perceive the existence of different salaries for ostensibly the same works;
- Employers that fail to regularly pay their social security contributions for their workers;
- Workers who work the whole year without receiving annual leave;
- Workers who have not been given the right to obtain a copy of their contract, and who can therefore not claim rights related to the contract (fearing to be fired);
- Unsafe working environments

- Informal workers who should otherwise be given contracts for the time they have served (longer than 90 continuous days);
- Failure of employers to pay for medical insurance for their workers
- Mistreatment or harassment of workers by some organizations

On all these issues, it was indicated that the SRAJ Project is committed to engaging with MIFOTRA to improve working conditions and compliance with employers' legal obligations.

Highlights for the re-broadcasting of the Private Labour show

Call in Time					
Caller Identity	Reason for calling	Brief description of the issue	Action the caller took for his concern	Questions asked for more clarification	Response provided
Name: Muhawenimana Aphrodis Northern Province Ruvabu District Telephone#: 0788742279	Request for advocacy	He signed a contract with a Lawyer called Jean Jacques Komezusenge. The contract said that, he would be paid 15% of commission on each of the case brought in their law firm. After a period, the Lawyer refused to pay a cumulative amount of about 10 million Rwandan Francs for the cases brought in by Mr Aphrodis	Mr Aphrodis wrote a letter to Rwanda Bar Association (RBA) requesting for mediation between him and the lawyer in order to get his payment. In that letter he copied MINIJUST, MINALOC, POLICE STATION RUBAVU, RIB but he never got any response from RBA. Instead, the lawyer started threatening him through phone calling after learning that Mr Aphrodis raised his concern to these organs	This caller was asked if they had workers' delegates in their law firm? He argued that the law firm is a kind of a family business where the wife handles all the administration stuff.	Mr Aphrodis was advised to look for the labor inspector in Rubavu district and present his case with the copy of all the transmitted documents to RBA.
Rwanyonga Dominic City of Kigali Nyarugenge District Telephone Number: 0788685045	Request for advocacy	Mr Dominic spent 6 years working as a nurse on a one year renewable contract for Kabgayi Diocese under the project called "COAG". He, was dismissed from his job without a notice letter of the contract termination and he was not given any terminal benefits dismissal allowance.	He wrote a letter to the Diocese complaining on the way he was informally dismissed from his position as a nurse. The legal advisor of the diocese told him informally that the law does not oblige the employer to give a dismissal notice letter or any payment for people working on a short-term basis (one year contract).	This caller was asked if they had the workers delegates in that project? And if he tried to consult him/her for mediation process as he was sure the contract says that they should be at least a notice of cancellation of 15 days before the termination of the contract. We also	We advised him to go to the labor inspector and present his case and get in order to get appropriate advice on the way forward.

				asked him if he knows that the labor inspector did exist in their district but did not seem to be aware.	
Gumiriza Jean Marie City of Kigali Kicukiro District Telephone Number: 0788414117	Request for advocacy	He used to work for a school called "les Petits Poussins" as a teacher. Now the school is called "Mother Marry Complex School" and is located in Kibagabaga. For the time he worked for that school, the headmaster used to pay their salaries cash and sometimes through their bank accounts. Now the issue is that, he used to claim that headmaster should regularly pay social security contributions which the headmaster did not want to do and finally this became the basis to terminate his contact.	He went to look for the Labor inspector in Gasabo district however, he feels that the labor inspector did not perform well his job as a mediator. He said that by the time he left the labor inspector's office the headmaster called threatening him, giving an impression that the labour inspector had informed the headmaster. Finally, the labour inspector did not take any action on the matter	This caller was asked why he went directly to the labor inspector without trying to sort the problem with the workers delegates at his former working place as the workers delegates within the school. He said that the workers delegates fear the boss and are likely to decide in favour of the boss, fearing for negative outcomes.	Due to his limited trust for the workers delegates, Mr, Jean Marie was advised to take the case to RSSB. RSSB will use their power by requesting the school to complete the missing contribution. We also promised that we will escalate the issue to MIFOTRA in order to ensure that the Labor inspector are transparent in handling cases and in explaining the process to the public.
Name: Nsabiyumva Adrien Estern Province Bugesera District Telephone Number: 0782873456	Request for advocacy	He used to work for a Chinese company for road construction called "SINO HYDRO" which currently changed the name into "STECOL". The company operates in Nyagatare District. After he has stopped him this company, Mr Adrien, went to check his social security contribution and found that the company contributed for only 5	He went to look for the Labor inspector in Nyagatare but he feels that the labor inspector did not take his case with seriousness, as he has never called for a meeting with both parties.	This caller was asked if they used to have worker's delegate in that company? He said that workers' delegates are present however they are elected by the employer, therefore he could not trust their judgement.	We advised him to go back to the labor inspector and at least get a report as it is the only way he can escalate his case to courts. He was also advised to also talk to RSSB to get his contributions complete.

		months over the past 5years he worked for that company.			
Name: Anonymous Northern Province Musanze Distric Telephone Number: Kept anonymous	Reporting inequalities	<ol style="list-style-type: none"> 1. In RDB virunga people spent more than a year working without contract. 2. The salaries are different for people on the same position (example some rangers are paid 105,000 Rfws other 137,000 Rfws). Also, they are a very big difference of people in different level (Examples guides are paid three time bigger than the rangers). 3. Workers are deducted the transport fees directly from their salary as they have to use a Van. However they were surprised to see that some of the workers received informally a message (SMS) stopping them to use the staff van. 	He does not want to raise that issue at his work as this would cause him problems	We asked him if they have workers delegates there and said that they do not have them.	We promised that we are going to follow up their case by informing institutions in charge like MIFOTRA and RDB Headquarter for follow up of this unfortunate case.
Name: Anonymous Kigali City Nyarugenge District	Request for advocacy	She works for a cleaning company called "Abitanga Gicumbi Company" that operates in Nyamirambo. The	Nothing because they do not have freedom to talk		To look for the labor inspector in Nyarugenge to help the mediation between the workers and

<p>Telephone Number: 0783708768</p>		<p>manager of the Company is called MUGENGA, her telephone number is 0788568458. Her concerns are detailed below:</p> <ol style="list-style-type: none"> 1. They do not have holidays, 2. They do not have workers delegates (KAPITA's are expected to play the workers delegated but have no confidence to challenge the bosses) 3. No freedom to express their views, 4. They are always threatened by the Manager, 5. The Manager always delay to pay their salary yet the contract said that, the payment should not exceed the 5th of each month. 			<p>the employees however we, also promised to escalate this issue to the institutions in Charge.</p>
<p>Name:Kamilindi Theogène City of Kigali Telephone Number: 078898782</p>	<p>Request for advocacy</p>	<ol style="list-style-type: none"> 1. He wanted to know who make the advocacy of private institutions as he thought that Mifotra deals only with public workers. 	<p>Nothing as they do not have contract to present as their basis of claims. Also he feels that the labor inspectors are not motivated to help them settling issues as they always postpone appointments and</p>		<p>We promised to escalate this issue to MIFOTRA for follow up, as the caller feels that it is the same in most of the Transport Agencies as transporters always complain about that.</p>

		<ol style="list-style-type: none"> 2. He works for the transport agency called "Ugusenga Express" operating in Karongi and Rusizi District. He is requesting for advocacy to keep a copy of their contracts, 3. They are always having delays in payment of their, and could not make any claim as they do not keep copy of their contracts, 4. The company does not pay constantly their social security contribution. 	<p>their ways of working require a lot of procedures.</p>		
SMS					
<p>Name: Jean Paul Havugimana Location: Rubavu District Telephone:0782823870</p>	Request for advocacy	<ol style="list-style-type: none"> 1. This person has a feeling that the Labor inspector in Rubavu does not perform well his work, as he found that many workers in private sector in Rubavu work without contracts. As result, no allowances are given to them or notice letter for contract termination. 		<p>We tried to call this person for further details however he could not pick the phone.</p>	<p>We acknowledged received his sms and promise to escalate his concern to the labor inspector in Rubavu for follow up.</p>

		<p>2. Another issue, is that in many working places there are no restrooms</p> <p>3. Unsafe working environment (eg. People in charge to unload glass but without helmets and other forms of protections such as boots, gloves)</p>			
<p>Name: Location: Rubavu District Telephone:0783746777</p>	Request for advocacy	He wanted the expert team in the studio to touch on institutions which do not pay the medical insurance for their workers.		This person was asked if they have ever expressed their needs through their respective workers delegates, however he said that they do not have them.	Sensitization for the establishment and ensure that the issue of health insurance is tabled
<p>Name: Location: Gasabo District Telephone:0788746737</p>	Providing a comment	This person perceives that awareness sensitization is more required in private sector than in public sector. He pointed pubs that mistreat their workers.			We acknowledged received his/her concern and promise to escalate the issue to the institutions in charge.
<p>Name: Location: Telephone: 0785469346</p>	Providing a comment	This person, explained that the labor inspector was given heavy responsibility however he was not given facilities to reach people in their working places like transport facilities. He also commented on what the expert in the studio were discussing that the labor inspector reports			We acknowledged received his message and thank his for following up the show.

		<p>directly to Mifotra yet his based at the district. He supported this idea saying that reporting to Mifotra easy their works. What he sees as an issue is just the lack of transport to reach the workers in their respective sites.</p>			
What's APP					
<p>Location: Kirehe District/ Telephone: 0788844493</p>		<p>This person firstly appreciate the show and requested to have the phone number of MIFOTRA's representative to the show.</p> <p>She explained that her employer stopped her salary illegally yet she is a public employee and this is the 3 months since the employer terminated her contact.</p> <p>She got sick and the headmaster requested her to look for herself a person to replace her during her sick period. She (The employee) was paying that person from her own pocket for a period of 3months. After that period she was surprised to see the letter stopping her from work, the reason being that she quitted the job yet the headmaster is the one who advised that teacher to look for a</p>		<p>This person was requested if she has ever visited the labor inspector in Kirehe; however she responded that she never knew about his existence and instead she wrote to the Public Commission for help to sort out that problem.</p>	<p>We promised to escalate this issue to Mifotra for follow up and advised her to talk to the Labour inspector</p>

		replacement in her sick period. The headmaster wrote to the Mayor of Kirehe to remove her from the payroll from the month of October.			
Facebook comments					
Muheto Fred	Providing a comment	This person feels like the labor inspector should be based at the sector level because sometimes it is hard for casual workers to reach at the district offices.			
Nsengiyumva Janvier		He said that the labor inspectors are not being effective as they fear to talk to the employers yet their main role is to create a good working environment between the employees and their employers.			

Screenshot1

This summarise the feedback received on Facebook social media Platform during the rebroadcast of this show: **368 views, 15likes, 3 comments and 2 shares**

Search

Byishimo Home Create

Shaping Policy Practices

TV1 TV1 TV1

Kuwa Gatanu 18h10'-19h45'

Kwimakaza ubutabera mu miyoborere

Like Comment Share

TV1 Rwanda Follow

15 3 Comments 2 Shares

368 Views · on Thursday

Mu rwego rwo kwimakaza ubutabera mu miyoborere, TV1 yabateguriye ikiganiro gitambuka kuri uyu wa gatanu taliki 14/02/2020 kuva 18h10 aho tuganira ku ngingoo ebyiri: Akamaro k'intumwa z'umurimo ndetse n'umuhare rw'umugenzuzi w'umurimo mu Karere. Tanga ibitekerezo ku mbuga nkoranyambaga za TV1 cg uhamagare kuri numero 0760235519

Comments (3)

Most Relevant

Muheto Fred Umugenzuzi wumurimo mukarere bazamumanure bamushyire mumurenge kuko twe banyakabyizi duhura nibazo byinshi anko mukarere hakaba kure
Like Reply · 3d

Nsengiyumva Janvier umugenzuzi wumurimo uwo mwanya bazawukureho ntacyo umaze hari aho nakoze yarahageraga ntakome akigendera bucece
Like Reply · 3d

Nsengiyumva Janvier ngo atiteranya daaaa
Like Reply · 3d

Activate Windows
Go to PC settings to activate Windows.

Write a comment...

Screenshot 2:

This summarise the feedback received on Twitter social media Platform during the rebroadcast of this show :112 views on twitter, 3 retweets and 6 likes

See all photos + Add to

Search Edit & Create Share

TV1 Rwanda
1,330 Tweets

Tweets Tweets & replies Media Likes

TV1 Rwanda @TV1Rwanda · 4d
Ntucikwe n'ikiganiro twabateguriye aho tugaruka ku muco wo kwimakaza ubutabera mu miyoborere. Ni kuri uyu wa gatanu taliki 14/02/2020 18h10. Watanga inyunganizi cg ukabaza binyuze ku mbuga nkoranyambaga za [@TV1Rwanda](#)



0:35

112 views

3 6

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XVII (VOLUME IV)



STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT
Twimakaze Ubutabera mu Miyoborere

**REPORT on the FALL 2020 TV
& RADIO PROGRAMS on
ADMINISTRATIVE JUSTICE**

November 27, 2020

SUMMARY AND CROSS-CUTTING PERSPECTIVES

This consolidated report contains four individual reports on the TV and radio broadcasts that were simultaneously broadcast on Star Isango TV and ten community radio stations (Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa) and that dealt with administrative justice in the context of four different sectoral subjects: labor regulation, child labor protection, public procurement, and land expropriation. The shows were designed to raise public awareness of administrative justice as an overarching aspect of good governance, share certain findings from the SRAJ Project’s district-level field research, and provoke public discussion of these topics by ordinary citizens and government officials. This was to be accomplished through a panel discussion that would highlight key themes and debates (usually featuring three panelists—with at least one each from government and the CSO community, and one associated with the SRAJ Project); through a so-called VoxPops segment where video interviews were conducted with ordinary citizens to help identify some of their biggest grievances with the way that administrative decisions were taken; and finally through a citizen call-in segment where those listening in the audience could ask questions or make comments by phone or text message.

Each report on the shows describes the planning and organization thereof; the themes for panel discussion (which mostly addressed legal and practical challenges affecting administrative justice), the comments made by the listening audience via both phone calls and social media messages, and some of the main recommendations offered by the panelists.

In a country with significant constraints on open debate, such shows offer a real opportunity to acquaint the public with several major subject areas where administrative justice issues are very much at the forefront, and to push the government in the direction of meaningful change. This is especially important for promoting evidence-base policy change, since the discussions were underpinned by the empirical evidence gathered through the SRAJ Project’s Phase I and Phase II reports (especially the latter, which consists of the district field research on the law in practice). At the same time, since the shows offered an opportunity for citizens to call into the shows with questions and/or comments, this generated another opportunity for citizens (as well as the panelists) to model more open discourse and questioning of authority. The shows’ aim was to ensure that all partners, especially policy makers, were informed of, and contributed to, solutions that could advance administrative justice. The experience of the Project was that the discussions often prompted panelists to carry on further conversations after the program, particularly if two government officials appeared on the show, representing different institutions, and were able to voice the need to do a better job of coordinating on identified policy reform priorities. In some cases, this might have prompted senior officials in the government to task lower-level officials to look into certain issues in more depth as a means of better understanding the dimensions of a particular problem. This was at least the case with regard to communications established between the Rwandan Public Procurement Authority (RPPA) and the Ministry of Public Service and Labor (MIFOTRA) with regard to proper enforcement of labor law standards by bidders on government procurements; and appears to have been the case with regard to communications following the show on child labor protection (between the Ministry of Local Government (MINALOC) and MIFOTRA).

In addition to showing that there is a definite audience for these kinds of shows in Rwanda, and that they can surface otherwise controversial topics if the right panelists are invited and they are able to offer constructive solutions to identified challenges, the shows provided the following learning insights, both substantive and organizational. Substantively, these insights stood out:

- There is significant ignorance of the law on the part of district officials and (in the case of labor regulation), labor inspectors. While in many cases senior district officials have a tendency to act impulsively or disregard

the law for political expediency, in most cases lower-level officials who are at the front lines with citizens and businesses simply do not have a strong grounding in the law, which results in legal errors being committed that harm both citizens and the state.

- In other instances, there is actual corruption taking place, with local officials or labor inspectors looking the other way or trying to avoid alienating strong private actors, such as large investors (in the expropriation arena) or other powerful businesses interests (in the case of labor and procurement cases).
- There is very poor coordination between officials within district government as regards certain kinds of dispute resolution, and also poor coordination among different government bodies (as is the case in all four areas, but particularly evident with child labor and expropriation cases, both of which require inter-disciplinary expertise and planning/budgeting). This can range from a lack of coordination and communication between decision-makers and legal advisers (in all 3 areas, as well as public employment) or between senior officials and ground-level officials (esp. apparent in the case of expropriation or procurement cases); or between different government bodies (as is true in labor and expropriation situations).
- Procedural transparency is often very weak, as revealed by the SRAJ district field research and citizen call-in comments—where citizens truly don't know what to expect in the administrative process, and also may not understand the implications of not resolving a problem at the district level and having instead to go to court to protect their interests.
- Documentation of the respective administrative procedures can be poor, so that citizens in some situations may end up without a signed decision that they can appeal to higher administrative levels or the courts.

Organizationally, there were some important lessons learned from the shows:

- The concept of administrative justice was sometimes poorly articulated; in the future, more time needs to be spent with the moderators and indeed, even the panelists, ensuring that they are on the same page about what is being highlighted thematically or definitionally;
- There was often a problem getting panelists to focus on factual evidence stemming from the district field research; in under-emphasizing this, the moderators allowed some panelists to get away with assertions that were either far too general and unhelpful from a problem-solving perspective or failed to address the specific views of citizens and their very real problems.
- Panelists were insufficiently challenged by each other in ways that could have helped focus discussion or allow the dialogue to generate clearer distinctions or recommendations. This could have been done in a way that highlighted problems with platitudinous pronouncements but still created a respectful atmosphere.
- Panelists could and should have been directed more clearly by the moderators to answer some of the more specific and well articulated questions from the citizens calling into the program. It sometimes appeared that the citizen questions, though referenced in most cases, were not answered in any satisfactory way.
- In the future, such questions—and some of the more intelligible social media questions—should be responded to by the panelists following the show, as a matter of respect and public service to the general population. This could be written into the agreements reached with the TV station as well as the various panelists.
- It may be helpful to have the radio jingles on the radio stations aired even a bit more frequently than two times, so as to drive more citizens to listen to the programs. This too could be negotiated and agreed to up front by the project and the stations.
- Rebroadcasting of the shows should also be contemplated to ensure that more people view/her the shows. This also could be negotiated, although it's unclear what the cost-benefit would actually be, i.e., how much less



STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT
Twimakaze Ubutabera mu Miyoborere

**RADIO and TV PROGRAM on
LABOR REGULATION and
ADMINISTRATIVE JUSTICE**

August 13, 2020

The TV program on Labor Regulation and Administrative Justice was aired on August 9, 2020 from 2-3:30 p.m., while also being broadcast simultaneously on ten community radio stations to maximize coverage across the country.

1. INTRODUCTION

The *Strengthening Rwandan Administrative Justice (SRAJ project)*, with funding from USAID, has over the past 2 ½ years sought to raise awareness about the importance of administrative justice to improved governance, a more stable business environment, and greater trust between government officials and citizens.

Administrative justice involves the use and observance of proper legal and procedural rules by the government in making decisions on individual cases affecting citizens' and businesses' rights. These decisions tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, the SRAJ project aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions. In addition, it seeks to ensure that decisions are taken and communicated clearly to people so that they understand how the administrative process works.

In this regard, SRAJ project implementation consists of three following phases:

- Development of a Legal and Policy Framework and Contextual Analysis
- Analysis of Local Administrative Decision-making in Practice (at the District level)
- Capacity-Building/Training Activities, Media Outreach/Policy Dialogues, and Legal/Regulatory Reforms based on the foregoing empirical evidence.

a. Structure and Purpose of the TV/Radio Policy Dialogues

The Phase III policy dialogues represent a core feature of the SRAJ project's public awareness campaign, which is designed both to educate the public about key concepts and concerns regarding administrative justice in the four focal areas, and to pinpoint important areas for reform among the government elite, who watch these TV programs or hear about them more than the average citizen. The TV shows are simultaneously broadcast on ten different community radio station spanning all geographic regions of the country (these include Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa, all of which are simulcast with ISANGO Star Television and Radio).

Typically there are three expert panelists (although sometimes there are four), including one or two from the government plus and one or two representatives from independent organizations (either CSOs, academia, etc.). The discussion is moderated by one or two TV news hosts. At the end of each program, time is set aside for citizens to call into the show to ask questions or make comments.

In a country with significant constraints on open debate, such shows offer a real opportunity to acquaint the public with a major subject area where administrative justice issues are very much at the forefront, and to push the government in the direction of meaningful change. This is especially important for promoting evidence-base policy change, since the

discussions are underpinned by the empirical evidence gathered through the Phase I and Phase II reports (especially the latter, which consists of the district field research on the law in practice). At the same time, since the shows offer an opportunity for citizens to call into the shows with questions and/or comments, this is another opportunity for citizens (as well as the panelists) to model more open speech and questioning of authority. The shows’ aim is to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. The experience of the Project is that the discussions often prompt panelists to carry on further conversations after the program, particularly if two government officials are on the show from different institutions needing to do a better job of coordinating on identified policy reform priorities. They may also prompt senior officials in the government to task lower-level officials with looking into certain issues in more depth as a means of better understanding the dimensions of a particular problem.

In conducting the TV policy dialogues, the Project employs a two stage process that includes (1) a pre-media planning session, in which all the target panelists, the journalist who will host the show and SRAJ project manager involved in the implementation of the policy dialogue gather to review (a) the overarching goals of the project with regard to the shows; and (b) the research findings that will anchor the discussion as well as the thematic areas that will be discussed during the show; and (2) the live talk show itself. The choice of the panelists is dictated by a number of factors, including the notoriety of the experts and media experience; and seniority (in the case of government officials but also some CSO representatives as well).

Also as part of the preparatory activities, the TV station is enjoined to air several jingle clips or advertisement spots that preview the show, as well as one or two showings of a relevant video drama relating to the topic at hand that was previously produced for the show and for use as a separate training vehicle for foreign students. During the show itself, citizens are able to use platforms such as Twitter, Facebook and WhatsApp to register their views on the discussion. Additionally, previously produced ‘VoxPops’—candid video interviews with ordinary citizens about their views on the subjects under discussion—are aired at different junctures in the show to reflect the salience and topicality of the subjects at issue, and how members of the public feel about them.

b. Participants in the live talk show on private labor regulation and administrative justice

Panelists for this talk show were selected from a potential pool of experts in the area of labor regulation, and represented a range of different institutions and sectors, including the government (the Ministry of Public Service and Labor (MIFOTRA)), civil society (Transparency International Rwanda (TIR)), and the private sector, the private sector (in the form of an official from CESTRAR, the trade union confederation), and a legal expert with a background in labor law. Below is the attendance list for the panelists.

Name of the Institutions/Organization	Name of the Participant	Position of the Representative	Participation in the Show
Ministry of Public Service and Labor (MIFOTRA)	Dr. Faustin Mwambari	Director General, Private Labor and Employment, Ministry of Public Service and Labor	Absent
Transparency International Rwanda (TIR)	Mrs. Colette Ndabarushimana	Legal Coordinator, TIR	Present

CESTRAR (Rwanda Workers' Trade Union Confederation)	Mr. Michel MusoniJordi	Deputy GS in CESTRAL (Rwanda workers' Trade union Confederation)	Present
Legal expert	Mr. Alexandre Twahirwa	Legal expert and analyst	Present

Note that the MIFOTRA representative was unable to attend the show due to a high-level cabinet discussion of amendments to the new Labor Law, which was ongoing.

2. PRIVATE EMPLOYMENT LIVE TALK SHOW

The live radio and TV talk show covered the thematic area of “**Ensuring Fairness and Transparency in the Implementation of the Labor Law through Government Institutions and Private Employers.**” Challenges and areas for improvement were sought to be highlighted through five main guiding questions:

- a. What do you understand the strengthening of administrative justice to entail?
- b. How would you link the theme of administrative justice to the handling of labor complaints?
- c. How would you rate the level of respect for administrative justice in labor regulation decision-making and dispute resolution, and what is the role of trade unions in this process?
- d. What does MIFOTRA do to ensure fair labor dispute resolution as the public body responsible for private labor regulation?
- e. How would you assess the role of labor inspectors and workers' representatives in helping to solve labor complaints/disputes effectively?
- f. What can be done to best improve administrative justice in the field of labor regulation?

What do understand the strengthening of administrative justice to entail?

Mr. Twahirwa emphasized that the rule of law is strengthened in the administrative arena through administrative justice, which means a respect for the law and its proper implementation. When the laws are disregarded this immediately means that there is a lack of justice. For fair and transparent administrative justice in the labor context, labor inspectors, employers and employees have to follow labor rules and regulations. Fair and transparent procedures must exist and be known and all decisions must be based on the law. There were several types of labor cases reported in the Project's research that had substantive and procedural violations:

- (i) Termination of contract
- (ii) Unfair dismissal
- (iii) Working without a contract
- (iv) Failure to pay salaries
- (v) Failure to pay into the social security fund (RSSB contributions)
- (vi) Failure to pay for additional hours/overtime

Overall, panelists agreed that these cases are a big concern for labor rights in the workplace. But they also agreed that there is a broader impact in society in terms of a potentially depressed standard of living for many citizens as well as a business environment that has unnecessary turmoil and instability/lesser productivity. These issues must be better addressed for the sake of the country's future development.

How would you link administrative justice with labor complaints?

The TIR representative stated that justice depends on the presence of good governance. She further indicated that the 2018 Labor Law is very well structured, but the question is whether it is being implemented as intended. A next question is whether the Prime Ministerial Orders are bridging the inevitable gaps in the law, and then, do laborers, employers, officials, etc. really understand and respect the law and the orders? Good governance depends on administrative justice. And that in turn requires respect for the law by the authorities. If the respect isn't present, labor rights are violated.

How would you rate respect for administrative justice in the area of labor regulation, and what is the role of trade unions in this process?

The labor union representative emphasized the importance of labor law as a living form of guidance to everyone who is involved in work issues. Most employers believe they are so superior to workers in terms of their knowledge of work and the law involved that there is inevitable exploitation. In this regard, citizens posting to social media sent these messages:

“Hello, I am in Masoro special economic zone, specifically in the textile industry where employers release employees late in the night and they don't pay them for those extra hours--counting beyond 5:00 PM. They are extremely disrespecting labor law in the process.”

“Hello most employees do know about their rights but they are afraid to fight for those rights to due high levels of intimidation and fear of losing their jobs. I work for an export company and a have a contract that clearly says that closing hour is 5:00PM but I have never left work before 7:30 -8:00PM. And if I have tried to approach my boss, he/she harshly says that if am not willing to work as it is, I will be replaced straight away. Aaaaah this work status is frustrating”

These typical violations of labor law are being done by employers who somehow feel superior to their employees due to their money and power. This dynamic needs to be addressed through social dialogue according to the trade union representative. In this context, the Covid-19 situation has created even more unfairness by employers who have suspended workers due to economic shock but without proper procedure and/or official dialogue. Instead, abrupt notes were sent without proper communication to employees. This was confirmed through some of the VoxPops segments.

As similar situation that was recounted by the TIR representative involved big investors preventing government officials from carrying out labor inspections at these investors' companies. Because of the huge investment, some of the companies that belong to these investors are not prioritized for inspection, allowing them to completely overlook compliance with labor laws. She went on to say that there is a big gap in managing private labor matters. Whereas there is a separate Public Service Commission (PSC) that deals with public employment issues, there is no comparable body that handles private labor disputes. She said implementation of the law is of course a gradual process but still there is employer intimidation whereby employees fear to report their cases and failed to receive justice. TIR has taken steps to advocate for better compliance by calling employers who have been identified as negligent, informing the authorities about such cases, and providing advice to employees seeking justice. She further recommended additional advocacy through these kind of live talk shows—this requires a collaborative task for journalists, civil society actors, and related public bodies in sensitizing the entire public to understand and respect labor regulations.

The trade union representative said that although they advocate as best they can for laborers, it is still too expensive to pursue many complaints to a final conclusion (which can take 2 years); the time and money involved are too great,

and people get discouraged. And this situation simply emboldens employers to continue to violate the law. However, many employers are ignorant of the law and unwittingly generate lots of complaints, which can cause them a lot of problems, so even these firms would do well to follow the law.

What does MIFOTRA do to ensure fair labor dispute resolution as the public body responsible for private labor regulation?

Mr. Twahirwa suggested that there was more that MIFOTRA could do to complementarily with RSSB and RDB to ensure greater compliance with labor law. MIFOTRA should pass (register) investors through RDB and RSSB in a way that would focus on labor compliance as well as simply what the investors are bringing to the table monetarily. New investors who are aware of the law still aren't being required to really respect the law because they are copying the other employers who are violating labor rights: *"Let's say that I am investing in telecommunications: how can I pay RSSB contributions for 1200 workers yet my neighbor in the same business paid for only 100 out of 1000 and there was no follow up or punishment? Obviously, I will immediately copy him/her."* MIFOTRA really needs to regulate this; otherwise, investors (incl. foreign investors) are hiding in the shadow of the huge money they are bringing in.

The TIR representative affirmed that there are great things that have been done by MIFOTRA, but also elaborated on the fact that there is still a long way to go toward process improvement. She repeated that there is a role for some kind of dedicated dispute resolution and compliance body on the private employment side like that of the Public Service Commission (PSC). And legal advisers don't really do their job; they fear to lose it so they always simply do what the employers want. We are left with the labor inspectors who are the only real bridge between employers and employees. Things must be improved so that people don't keep coming to the Ministry of Labor from a long distance to queue up to handle their complaints.

VOX POPS from mistreated employees

I-1. First interview: *"I experienced contract termination on 1/4/2020 due to covid19 impacts. They promised us that we would be called back once Covid19 slows down but till now no one has gotten back to us yet. We have a clear letter that indicates that we should be brought back at this point to work and a few of us were called but this is the third month with no feedback, I am still waiting for the feedback."*

I-2. Second interview: *We work in a mining company but we don't have contracts, we get paid at the rate of production and we get that amount on a monthly basis but we don't get any fixed salary; they only count the tonnage you've harvested during the month. Basically according to the boss you can get 1000 per week at his mercy. 1kg is 1700F. If you don't get any minerals, you can't get paid, even when you've been working a month or more.*

I-3. Third interview: *I was working for COTEVM and I saw a letter terminating my contract during the day when I was at work. I was told that the letter is in accordance with the labor law. I was told that the reason is the organization's poor financial ability due to Covid19 impacts. I was not alerted before; they was no negotiation or dialogue apart from receiving that letter. Now two out of four employees are fired but I've heard that someone replaced me and she is earning more than I used to. She is being paid two thousand per day (2000F) yet I was earning less. How could this be so if the company financials are running low? I reported the case to the labor inspector.*

The TIR representative remarked on this high rate of complaints reported to TIR during the pandemic. These cases need to be better investigated.

How would you assess the role of labor inspectors and workers' representatives in resolving labor complaints?

❖ The Labor Inspector's Role

Labor inspectors were seen as the only bridge that can serve as a reasonable solution for disputes arising between employers and employees. But each of the panelists, the citizens calling in, and those sending social media messages agreed that inspectors' performance is problematic. The following were offered as reasons for the inspectors' malfunctioning.

They do not do field inspections: Labor inspectors are required to do improvised visits to private institutions [even without warning], which is a pure source of information on how rules and regulations are or are not respected at work. Said one message sender: "Hello my name is Patrick. Please ask those so-called labor inspectors how I can spend ten years at work without even a single visit from them. How will they get to know the actual labor situations if they stay at their office?"

They lack the ability to mediate and conciliate employers and employees: it was said that people come all the way to present their complaints at The Ministry of Labor because they don't trust labor inspectors and they are not able to mediate complaints properly.

- **Poor qualification in law:** It was highlighted during the show that most labor inspectors didn't study law courses and they do not update themselves on changes in the law. This disqualifies them from offering justice. Said one message sender: *Valentin [the Moderator], most labor inspectors are not qualified in the law, so they must be replaced qualified ones.*
- **Poor collaboration among public inspectors:** There are different kinds of public inspectors, who are working in different sectors but you find them working in the same areas sometimes. Why can't they collaborate in their daily inspection through giving information to one another? If inspectors of construction have visited site, it shouldn't be difficult for them to call labor inspectors about the employees who have no working contract, as they all work for public institutions and have public welfare in mind.
- **Corruption:** Investors were said to be blinding labor inspectors by paying them large bribes. Said one message sender: *"Again investors corrupt labor inspectors during the start of the business. From my view, don't expect labourers to be getting justice anytime soon.*
- **Sanctioning power.** Inspectors are also limited in their capacity to mitigate labor conflicts through their sanctioning power. While they have some independent ability to use it, they have not so far.
- **High volume of work:** Every district has only one labor inspector [although Kigali districts have two]. It was said that it is hard for them to make visits to a numerous companies registered in a district and also hold office hours.

❖ The Role of Workers' Representatives

The CESTRAR representative highlighted the role of trade unions in training workers delegates. He acknowledged that they were not as powerful as labor inspectors but they “do whatever they can.” Although employees are supposed to elect workers’ delegates, in many cases employers override labor rules during the voting process and simply nominate their own choices. This renders the delegates less independent. He noted that any private company that has more than 10 workers should vote for workers’ delegates in the presence of labor inspectors. labor inspectors.

Vox pops from mistreated Workers

Vox pop1: Employee (Nzeyimana Philip) *“Workers’ delegates are not elected by us, they are nominated by the bosses. So they are not delegated for workers but rather the employers. Like nowadays we are not paid our salaries and it is rare to see a delegate advocating for us. How can you spend 40 days without a monthly salary yet we are only paid 30 days? If they [the delegates] were actually productive, this couldn’t happen to us.”*

Vox pop2: Employee (Shema Fabien): *“No one can easily see him/her [delegates]; they are not for us, and they are only for our bosses, since they don’t press to claim our extra hours at work.”*

The CESTRAR representative said that delegates, being workers themselves, can be afraid of being fired. This is certainly a constraint, but the law now protects them; if a delegate is fired in the course of advocating for employees, he/she can seek legal protection. In some cases, there delegates who may serve at the favor of their bosses, but they should be reminded that those bosses are not above the law.

Phone Calls from Listeners

Jean Pierre in Muhanga. *“What does the so-called labor inspector do—when and how? CESTRAR and TIR were pointing their fingers at the private sector, but how do you assess a situation where 20 people in a district resigned or were forced to resign? How can people with different duties in the same institution resign at the same time, same hour, and same day? If this happens without any investigation, how can one say that the labor inspectors are active? Have you ever seen how when Police intervene in cases of accidents or security risks, no one really knows how they get there? But they do. You have touched on the important cases where big investors are somehow prioritized over citizens’ rights. This should be discussed again so as to arrive at some sustainable solution.*

Nizeyimana Jean de Dieu in Gicumbi. *“I’ve really liked the show but I want you to highlight the situation with football clubs as well, whereby players are dismissed and unfairly treated as if they have no contract. Another thing is related to private schools, where teachers are working extra hours and not paid for them. They may be not aware about their rights, so this show should be done many times in order for the general public to be sensitized.”*

Iyakaremye Gervais, Bugesera. *“I am glad that this show has come to happen. It relates to what I have been going through. People may think that it doesn’t exist but here I am to testify what I saw. I have been Executive Secretary in a private school called Lycee de la Saint Trinity APRED for 23 years. But frankly I have experienced so much injustice that I felt like giving up. Through all those 23 years of work I wasn’t paid any extra hours. I claimed those hours to the Director but he always told me that they would not pay me for overtime. And now, another four months of my salary from September 2019 through December 2019 has never been paid. On top of all of this, on 3rd January 2020 I was unfairly dismissed without even an official letter, no indemnification, no nothing, no RSSB, and I am only one year away from my retirement. I pursued my case from the sector level up to the Mayor of the District, and then to the labor inspector, but I received no justice at any of these levels until I decided to go to the Ministry of Labor—but surprisingly, they simply sent me back to the same inspector. The Ministry told me that I could probably not afford going to court and that it consumes a lot of time, so they advised me to go back to the District to the same labor inspector who heard looked at my case earlier. I am now still waiting for the result, as she [inspector] instructed my former employer to pay the RSSB contributions before the end of 2020.”*

What can be done to better improve administrative justice in the area of labor regulation?

Here are some recommendations that were highlighted by participants on the talk show.

- For justice to reign, we recommend the restructuring of procedures that can help citizens to be more fairly/transparently treated, particularly to be able to afford the cost of going to court.
- The current labor law might be well structured, but it is not adequately helping employees. There are three aspects to better implementation of the law:
 - a) Enforcing awareness campaigns on the law, including rights and settlement procedures. Workers, employers, workers' delegates, and trade unions should be well sensitized about labor laws because in most cases employers say that "had I known this before, I wouldn't make this mistake." Which proves that some of them do not know the labor law as well as they should.
 - b) There should be a stronger clearer provision to the Ministerial Order on Inspections to ensure better compliance with an inspector's decision/order.
 - c) And last but not least, there should be stronger overall enforcement through sanctions.
- Several audience members requested that, during restructuring of laws, employees should be consulted and be given a chance to share their inputs before laws are approved by the cabinet and Parliament.
- Citizens should be encouraged to promptly provide information on labor-related problems as they do with the RIB in case of crime, or police in the case of accidents.
- Labor inspectors' role should be revised to greatly increase their capacity to sustainably resolve labor disputes [through mediation]. On this, it was further recommended that Gasabo Economic one should have its own labor inspector due to the high volume of settlements there. His/her duties should focus on respecting (complying with) the laws, mediation and conciliation to solve labor cases, child labor prevention, safety at work (construction & mining site), labor statistics, inspecting a substantial number of companies in each district, taking into account its geographic dimensions.
- For mediation and conciliation, the labor inspector should not try to resolve more than 3 cases a day; otherwise he/she will have no time for inspections, which in turn will mean a failure to prevent larger numbers of labor-related cases from arising [i.e., a question of proactive prevention].
- Collaboration among public institutions like land centers, RPPA and MIFOTRA on labor matters should be strengthened; this would leverage the compliance power of the government.
- There should be reinforcement of social dialogue practices between employers and employees as a pillar for preventing labor disputes and thereby preventing unnecessary losses to private company owners.

Messages with captions

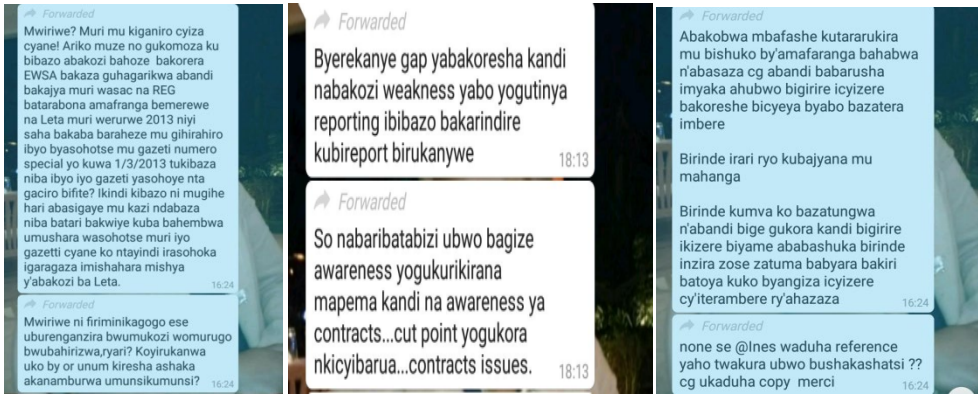


Figure 1: “You are doing a very good show, but remember also to talk about employees who were working for EWSA which turned to be WASAC and REG now. So, some employees were appointed in WASAC others in REG but those who are not appointed are still waiting for their salaries and compensation since 2013, as it was published in the Gazette special number of 1/3/2013. Those who are still at work are not getting paid according to the promises written in this Gazette.”

“Hello, this is a firm in Kagogo. I wanted to ask about the rights of housemaids—when will their rights be respected if their bosses dismiss them without paying their owed wages?”

Figure 2: “This show has really proved the gaps stemming from employers [not honoring their obligations] and the weakness of employees failing to report violations in a timely manner; they only seem to speak when they are no longer at work.”

“This show is creating an awareness of administrative procedures and the benefit of having written contracts.....esp. re: the working of extra hours.”

Figure 3: “Ladies should not be cheated by old businessmen or those who promise to take them out of the country. They might be actually have enough self-confidence and be hard-working enough to get the wealth they are longing for, instead of hoping to find it the wrong way.”

Figure 4: “Ines [co-moderator], would you please share a copy of these findings? If not, where can we get them, please?”

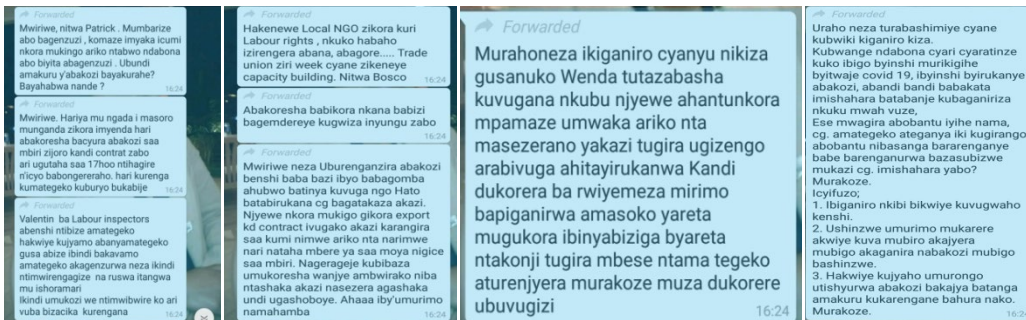


Figure 4: “Hello my name is Patrick. Please ask those so-called labor inspectors how I can spend ten years at work without even a single visit [from them].. How will they get to know labor situations if they stay at their offices?”

“Hello, I am in Masoro special economic zone, specifically in the textile industry where employers release employees late in the night and they don’t pay them for those extra hours--counting beyond 5:00 PM. They are extremely disrespecting labor law in the process.”

“Valentin, most of labor inspectors are not qualified in law, so they must be replaced with qualified ones. Again investors corrupt labor inspectors during the start of the business. From my view, don’t expect labourers to be getting justice anytime soon.”

Figure 5: “I recommend there be a local NGO in charge of Labour rights as they exist for child rights, women rights, etc..... Trade unions are very weak; they are still in need of capacity building. I am Bosco.”

“Employers violate the labour laws intentionally to increase their own profits.”

“Hello, most employees do know about their rights but they are afraid to fight for those rights to due high levels of intimidation and fear of losing their jobs. I work for an export company and a have a contract that clearly says that closing hour is 5:00PM but I have never left work before 7:30 -8:00PM. And if I have tried to approach my boss, he/she harshly says that if am not willing to work as it is, I will be replaced straight away. Aaaaah this work status is frustrating.”

Figure 6: “Hi, this is a very great talk show; the problem is that I won’t get you to share my case in depth. I have been working for a company for a year without a contract. And if someone tries to ask about this situation, he/ she is dismissed immediately. Yet we are working for investors who are qualified [winning bidders] in several public procurement projects.”

Figure 6: Hello, we really appreciate this debate, it is very helpful. In my opinion, you should have done this before, because many private countries are using the shadow of Covid 19 as the reason for dismissals of many employees and the reduction of salaries without dialogue as the labor law requires, etc. What would you recommend to those employees? And what laws can cover them to get back what they deserve? Thank you, here are my recommendations to you: 1) Air a number of debates like this one, 2) Labor inspectors should do field visits as much as they can. 3) Rwandans should be provided a free toll number to call for problems with labor cases.

Link to the talk show: https://youtu.be/T6me4ujb_Hc

Studio photo



The three panelists and two moderators: Left Colette Ndarushimana (TIR), Musoni Jordi Michel (CESTRAR), Alexandre Twahirwa (legal expert and analyst). Moderators on the right side: Valentin Umuhire and Ines Nyinawumuntu.



STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT
Twimakaze Ubutabera mu Miyoborere

**TV and RADIO PROGRAM on
PUBLIC PROCUREMENT and
ADMINISTRATIVE JUSTICE**

September 2, 2020

The TV program on Public Procurement and Administrative Justice was aired on August 30, 2020 from 2-3:30 p.m., while also being broadcast simultaneously on ten community radio stations to maximize coverage across the country.

1. INTRODUCTION

The *Strengthening Rwandan Administrative Justice (SRAJ project)*, with funding from USAID, has over the past 2 ½ years sought to raise awareness about the importance of administrative justice to improved governance, a more stable business environment, and greater trust between government officials and citizens.

Administrative justice involves the use and observance of proper legal and procedural rules by the government in making decisions on individual cases affecting citizens' and businesses' rights. These decisions tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, the SRAJ project aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions. In addition, it seeks to ensure that decisions are taken and communicated clearly to people so that they understand how the administrative process works.

In this regard, SRAJ project implementation consists of three following phases:

- Development of a Legal and Policy Framework and Contextual Analysis
- Analysis of Local Administrative Decision-making in Practice (at the District level)
- Capacity-Building/Training Activities, Media Outreach/Policy Dialogues, and Legal/Regulatory Reforms based on the foregoing empirical evidence.

a. Structure and Purpose of the TV/Radio Policy Dialogues

The Phase III policy dialogues represent a core feature of the SRAJ project's public awareness campaign, which is designed both to educate the public about key concepts and concerns regarding administrative justice in the four focal areas, and to pinpoint important areas for reform among the government elite, who watch these TV programs or hear about them more than the average citizen. The TV shows are simultaneously broadcast on ten different community radio station spanning all geographic regions of the country (these include Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa, all of which are simulcast with ISANGO Star Television and Radio).

Typically there are three expert panelists (although sometimes there are four), including one or two from the government plus and one or two representatives from independent organizations (either CSOs, academia, etc.). The discussion is moderated by one or two TV news hosts. At the end of each program, time is set aside for citizens to call into the show to ask questions or make comments.

In a country with significant constraints on open debate, such shows offer a real opportunity to acquaint the public with a major subject area where administrative justice issues are very much at the forefront, and to push the government in the direction of meaningful change. This is especially important for promoting evidence-base policy change, since the

discussions are underpinned by the empirical evidence gathered through the Phase I and Phase II reports (especially the latter, which consists of the district field research on the law in practice). At the same time, since the shows offer an opportunity for citizens to call into the shows with questions and/or comments, this is another opportunity for citizens (as well as the panelists) to model more open speech and questioning of authority. The shows’ aim is to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. The experience of the Project is that the discussions often prompt panelists to carry on further conversations after the program, particularly if two government officials are on the show from different institutions needing to do a better job of coordinating on identified policy reform priorities. They may also prompt senior officials in the government to task lower-level officials with looking into certain issues in more depth as a means of better understanding the dimensions of a particular problem.

In conducting the TV policy dialogues, the Project employs a two stage process that includes (1) a pre-media planning session, in which all the target panelists, the journalist who will host the show and SRAJ project manager involved in the implementation of the policy dialogue gather to review (a) the overarching goals of the project with regard to the shows; and (b) the research findings that will anchor the discussion as well as the thematic areas that will be discussed during the show; and (2) the live talk show itself. The choice of the panelists is dictated by a number of factors, including the notoriety of the experts and media experience; and seniority (in the case of government officials but also some CSO representatives as well).

Also as part of the preparatory activities, the TV station is enjoined to air several jingle clips or advertisement spots that preview the show, as well as one or two showings of a relevant video drama relating to the topic at hand that was previously produced for the show and for use as a separate training vehicle for foreign students. During the show itself, citizens are able to use platforms such as Twitter, Facebook and WhatsApp to register their views on the discussion. Additionally, previously produced ‘VoxPops’—candid video interviews with ordinary citizens about their views on the subjects under discussion—are aired at different junctures in the show to reflect the salience and topicality of the subjects at issue, and how members of the public feel about them.

b. Participants in the live talk show for public procurement

Panelists on the talk show were selected from a pool of experts in the area of Public Procurement as listed below. They represent different institutions/sectors, including the government (Rwanda Public Procurement Authority (RPPA), civil society (Transparency International Rwanda TIR), and a legal expert and analyst.

Below is the attendance list for the panelists.

Name of the Institutions/Organization	Name of the Participant	Position of the Participant	Participation to the Show
Rwanda Public Procurement Authority (RPPA)	Ms. BUHIGA Goreth	Director of Monitoring and Audit - RPPA	present
Transparency International Rwanda (TIR)	Ms. Marie Immaculee INGABIRE	Chairperson of the Rwandan National Chapter of the TIR	Present
Legal expert	Mr. Alexandre TWAHIRWA	Legal expert and analyst	Present

In the following sections below, we present a narrative description of the content of the live talk show as it unfolded chronologically, by setting forth key themes, highlighting major challenges faced in implementing public procurement laws and regulations, and noting areas for further improvement.

2. PUBLIC PROCUREMENT LIVE TALK SHOW

The live radio and TV talk show covered the thematic area of “**Ensuring Fairness and Transparency in the Implementation of Procurement Law in Public Institutions.**”

Discussions around this theme focused on these guiding questions:

- *How would you describe the degree of fairness existing in the current procurement procedures and processes in Rwanda?*
- *What are the key challenges facing both bidders and Government entities at the central and district levels in the procurement process?*
- *What is the role of public institutions to helping to address such challenges?*
- *How can the procurement process be improved? What can be done to make the e-procurement work better for users?*

i. How would you describe the fairness in the current procurement procedures and processes in Rwanda?

The panelist from **Rwanda Public Procurement Authority (RPPA)** stated that the e-procurement system (online system that is being used in public tenders) has solved a lot of procurement issues, although there are still some aspects yet to systematize online, like contract management and references. Poor planning, however, was cited as the main source of most current problems, which in particular favored some bidders in preparing their tender documents and discouraged others through the use of certain unnecessary clauses. For example, in some cases there is a request for a bidder to have a high credit line even in projects that do not need such financial proof, as is the case with certain consultancy services. There are also sometimes exaggerated criteria, requirements for which automatically discourage certain bidders. The good thing is that experience was removed from the list of requirements, which means that a new young investor/bidder can more readily compete with the older big ones.

The representative from Transparency International Rwanda (TIR) added that their own perspective sometimes didn't allow them to see everything that RPPA sees; it is good that RPPA can see what is not going well. She agreed that e-procurement has solved some issues but not all.

She stated that at TIR they received a complaint from an investor who tendered and won, but was not immediately given the contract because a firm he was competing against promised to add on \$600,000. This tender is still apparently pending, and TIR approached RPPA but they said they don't engage in such cases that involve financial contributions from the sponsors. The real question is that the funding to the government is classified as a source of budgetary funds on the budget list of MINECOFIN, so why doesn't the RPPA simply follow up on this case if the money is not legally authorized? This sponsor money is coming from the African Development Bank to the Rwandan Government but it seems like some officials (so-called big fishes) are targeting to take these funds into their own pockets. This is corruption and it's been exacerbated by the weakness of the RPPA. *“I have physical proof of the team that is going to share this hoard of money.”*

The TIR representative continued by highlighting the weak aspects of government attempts to enforce proper implementation of the law with regard to procurement processes: “Umwana utumva murugo agira ingamba afatirwa” (“A child who doesn’t listen to his/her parents has to be punished”). Due to lax enforcement, corruption has not been curbed as a result of negative solidarity among officials, many of whom are working for themselves, not for the citizens. The sad part is that no one is trying to properly educate them for positive change (She used the term ‘abacancuro’—musicians, i.e., they are not being properly orchestrated).

The RPPA representative interjected that while she didn’t have a direct answer to this since she is in charge of audit and monitoring, she mentioned that similar cases are in fact being found through their internal audit reports and reports from the Auditor General; however, RPPA staff is seeking to orient public officials properly in the course of evaluating all published public procurements before contracts are signed—so as to ensure that the process was fairly conducted.

Mr. Twahirwa emphasized that the rules are clearly stated but are not respected and some are not well structured. Alexandre a legal expert and analyst, highlighted on the talk show topic of strengthening administrative justice through respecting law of public procurement. Laws, guidelines, ministerial order are clearly stated but are not respected although some are not well structured. The procurement laws themselves don’t cover labor rights as such, even though compliance with labor laws by bidders is required/expected. He did give a negative example where standard bidding documents might have clauses that should work to the benefit of citizens but don’t. This is where contractors are to be fully paid on time, yet citizens working for those contractors may not be paid. There is a guarantee clause that full payment to the contractor should be made only when citizens are paid, but in reality contractors do not comply with it. There are lots of instances where citizens claim that investors left them unpaid. The procurement process tends to focus on salaries yet there are other rights like safety issues, insurance, and so on. Why shouldn’t bid documents not have a clause that insists on proper enforcement of all labor rights for workers employed by the contractors: After all, the social security payments clause was added after the RSSB raised it; the salary clause was added after MIFOTRA raised it. Why can’t all these issues be anticipated beforehand?

ii. *What are the key challenges facing both bidders and Government entities at central and district levels in the procurement process?*

All panelists were pleased to elaborate on the challenges facing both bidders and public entities, as follows:

- a. ***There is corruption in tendering:*** TIR representative referred to one case reported in Kamonyi District Hospital. “*One young contractor came to us when he was asked for a payment during the tender process by someone on the staff of Kamonyi District Hospital. We helped him out and the offense was punished. Although the contractor struggled to get into the next market, which was in Gisagara District Hospital (he was frustrated by blacklisting that occurred after the prior incident), this led to TIR meeting the District Mayor and the Director General of the Hospital to advocate for fairness and justice in the new tender and eventually the guy got into that market. There is accordingly unofficial blacklisting among government officials to ensure that any bidder who reports on corruption is never awarded a tender; bidders choose to not report bad acts of officials for the sake of winning over the next market. We are therefore requesting that bidders be honest and reveal this early, with physical proof if possible, to bring this to an end.*”
- b. ***Contractor workers may not be paid.*** The TIR representative mentioned that tenderers say that they can’t pay laborers in order to win bids from corrupt officials [i.e. unofficial payments]. Then contractors may leave the project in the middle with regard to some payments because the allocation of money has been misused.

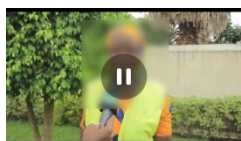
- c. ***Contract invoices are delayed.*** Invoices take too long to be processed, which can lead to contractors being unable or unwilling to pay citizens. This is due to poor planning and budgeting for a given activity by public entities. Also they may withhold invoices in order to get corrupt unofficial payments to expedite things.
- d. ***Laws or procedures may be in place but are not observed during implementation and the tendering process.*** Standard bidding documents may be utilized but not followed, and may even be edited according to the offer, which provides a golden opportunity for some officials to discourage particular bidders by setting unreasonable requirements.
- e. ***Some older/more senior public officials may violate procurement procedures.*** Older, more senior procurement officers are more likely to be the ones who are violating procurement laws and procedures, since the newer/younger ones have been specifically trained by RPPA. Trainings may be offered not only to officials, but bidders as well, but attendees are often junior staff, not the more senior staff at the contractors.
- f. ***Negative solidarity among public officials.*** The ones who offer opportunities to the contracts at public entities hold more power than the RPPA, which leads to negative solidarity among government officials (which can even extend to RPPA in some cases). The TIR representative emphasized on the culture of “INTORE NTITANGA INDI” [one should not report on another] is hard to break.
- g. ***Chains of subcontractors*** in one project can bring in issues and make the payments process very long. This layering surely is affecting the laborers of small projects like Public cleaners, security guards and so on.
- h. ***Governments ensuring broader public welfare in contracting.*** The government is generally protecting contractors and itself but not citizens who may be working on public projects. The government should be covering citizens in public procurement rather than merely protecting itself.

iii. ***What is the role of public institutions in addressing the above challenges?***

RPPA representative said that as a regulatory body, it is doing what it can to address these challenges through upgrading of the e- procurement system, and through the training of contractors and public officials. Decentralization in public procurement was cited as a strong mechanism that is helping create smoother implementation of district procurement processes. RPPA is planning to do a review of invoices and evaluate when these are received and paid out. RPPA is strongly requesting citizens to report instances where tender rules and regulations are not respected. In upgrading the e-procurement system—especially the contract management platform—will help to track when invoices were issued and the dates for payment.

VOX POPS of laborers, subcontractors and HE Paul KAGAME

- ***There were several examples of laborers complaining about not being paid by contractors***



Inema Followers Company: They were contracted to construct road a road connecting Gatsata-Nyacyonga –Marenge. This was workers complaining about not getting paid their salaries for three months.



UNIRDA, Top Cleaner. This is a cleaning company and the picture shows one of the cleaners claiming that he and others have not been paid for two and half months. He said that the excuse behind this is that government is not respecting contract terms when it comes to payment. The speaker is also a cleaner and said he didn't get his salary on time since he started the company. However, they always pay us when we go on strike and I speak about this everywhere I go. Still, right now my plans have failed since I was planning to pay for tuition fees but this was not possible due to irregularity of payment. A woman who is also a cleaner said that she was paid half of her money in April and May but not her full pay in June and July; this affects her daily ability to live. She also claimed these delays and partial payments affected her ability to pay her rent and her neighbors are cursing her due the debt she owe them.

Subcontractors highlighting some challenges they meet in the tendering process



Manufacturers are tendering at lower prices, which hinders subcontractors from competing on market prices; this results in monopolistic behavior, e.g., if I am to supply shoes somewhere, the shoe manufacturer decides to offer them at a wholesaler price.



Larger tenders/markets are not being offered to younger contractors due to experience clauses. I don't know if they are worried that we are not qualified.



Contractor NEMERIMANA Alexandre from ECOMESOGI said: "e-procurement has addressed fraud issues like forged documents (RSSB certificate, guaranty, etc....They are all systemized. Although many citizens are unfamiliar with this system, I wish every district could train all bidders on it.

Government officials highlighting payment issues



HATEGEKIMANA FRED, Executive Secretary of Nyarugenge District: Yes we sometimes fail to pay contractors on date due. By now we owe them three months in the project of three main roads under construction due to lack of money because we normally get money from revenue which is mostly collected at the end of December and January.

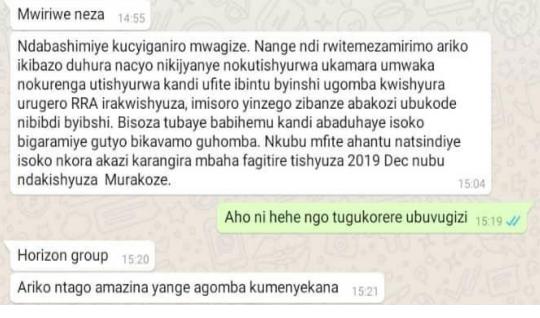

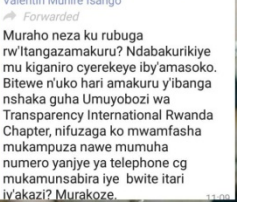

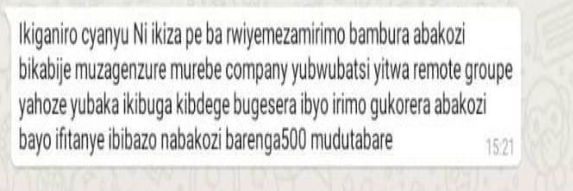


President of the Republic of Rwanda: Contractors, investors and all involved levels are not allowed to deceive citizens. We have to fight against this culture of leaving citizens unpaid. Contractors are being paid so they also have to pay laborers. Poor planning at the government level should be addressed so as to allow quick payment to the contractors.

MESSAGE TEXTS FROM LISTENERS

No	Screen Shot of Original Text	Translation in English
1	<p>Valentin Muhire Isango  Forwarded</p> <p>Ntabwo ibibazo biri mu masoko byakemurwa n'amategeko gusa. Kuko hari naho uhura n'ikibazo ubona ko ari nta ngingo y'itegeko umuntu yareba. Ahubwo nk'umuryango nyarwanda turenze amaso ibi turebe uko turushaho gutegura umunyarwanda wujuje ubunyamugayo no gukunda igihugu. Naho ibindi bisigaye niyo bitunganye abantu babyica kubera inyungu zabo. 11:09</p>	<p><i>"Public procurement issues will not be solved only with law, because there may be cases that do not have clauses that address this [the situation]. So as Rwandans let us enforce fairness and patriotism among us. Otherwise there will be violations by people who are looking out for their own benefit"</i></p>
2	<p>Valentin Muhire Isango  Forwarded</p> <p>Mwiriwe neza, ndabaza abatumirwa, ESE kuki barwiyemezamirimo bakomeje kwambura abaturage? ikindi ese akarere, ntakuntu kajagasinyana narwiyemeza mirimo agatanga integwa noneho yaramuka yambuye ibye bigatezwa cyamunara? Abaturage bakishurwa? Murakoze ni Firiminikagogo 11:09</p>	<p><i>"How are you? My question goes to the panelists: Would you like to explain to me how contractors keep spoiling [abusing] employees without paying them. I suggest Districts gain some collateral which can help them to pay citizens in case of non-payment. Thank you. This is Firimini Kagogo"</i></p>
3	<p>Valentin Muhire Isango  Forwarded</p> <p>Hari ikindi kibazo cya Ruswa mbona cyarangira igihe urwego rwa PSF ruganirije abanyamuryango barwo. Ba Rwiyezamirimo bose bahize ko batazongera gutanga Ruswa nibwira ko byageraho bigashira. Ikindi usanga hari aho Rwiyezamirimo ashaka no gutanga amafaranga ari ntawamusabye niyo ruswa. 11:09</p>	<p><i>"There is another issue of corruption which needs the intervention of the Private sector Federation (PSF). I find that even though investors are promising never to give out any kind of corrupt payment they sometime initiate it with officials even when it is not requested."</i></p>
4	<p> Forwarded</p> <p>Bavandimwe, nagira ngo mbashimire kuri iki kiganiro cyiyanyeye no kubahiriza amategeko mu itangwa ry'amasoko. 11:09</p>	<p><i>"Dear brothers and sisters I wanted to thank you for this talk show about administrative justice with respect to public procurement law."</i></p>
5	<p>Valentin Muhire Isango  Forwarded</p> <p>Amasoko twarayatsindiraga mbere ya eprocurement ariko aho haziyeye Umucyo Numwijima bikoreye ngo babihe bamwe bishakiye 11:09</p>	<p><i>"Before E-procurement we could compete and win but since UMUCYO started it looks like it is actually their dark shade to promote whomever they prefer."</i></p>
6	<p>Valentin Muhire Isango  Forwarded</p> <p>Nitwa fulgence ndi mukarere ka gatsibo nonese niba amafaranga yabaterankunga batayakurikirana leta ibayaratse ayiki? Cg ibayarayakiye ibifi binini? Ingabire akomereze aho murakoze 11:09</p>	<p><i>"My name is Fulgence from Gatsibo District. If RPPA doesn't do follow-up on sponsors' financial [issues] why would government ask for it? Or it is being requested for the big fish? [Top leaders]. Ingabire (TIR representative) keep it up. Thank you."</i></p>
7	<p>Valentin Muhire Isango  Forwarded</p> <p>Ariko rppa yagiye yerekana amasoko Ku nzego ziyobora aho ibintu bizakorerwa 11:09</p>	<p><i>"RPPA should decentralize public procurement according to the location of the projects." Why don't they punish those who violate the laws?"</i></p>

8	<p>Hello, ni Elyse Natete irusizi, ninjye wabahamagaye mukiganiro kirigutambuka ubu cyarimo madame Anne Marie wa transparency. Ndabiiingiiinze nimufashe ijwi ryanjye murikuremo kuko mana ntamahoro mfite nyuma yuko executive wa Nkungu abimenye. Nimufashe pe, ninjye wavuze uko abashinzwe Akanama kamasoko ariko gasigaye kayatsindira 11:09</p>	<p><i>“Hello this is Elyse NATETE from Rusizi. I am the one who called during the talk show. I am humbly requesting you to delete my voice since I am being harassed by the authorities I have reported.”</i></p>
9	<p>Valentin Muhire Isango Forwarded</p> <p>Muraho neza....erega ibintu byose byanditse neza yewe namategeko uko azakurikizwa byanditse neza ariko nkuko Goreth yabivuze ati hari ibyo RPPA idasaba ariko ukumva hari inzego zibisaba....uwo usaba ibitagenwe urumva ko aba afite icyo agamije</p> <p>Ikibazo cy'ishyirwa Mu bikorwa ry'ibyanditse neza ni nacyo Immaculee ahora arwana nabyo ntaho aya avuga ko inyandiko zuko ibintu bigomba gukorwa zidahari....cg zanditse nabi.....ariko implementation na liberite ikabije usangana inzego zimwe na zimwe zigira Mu masoko wanabibwira abakuriye ugasanga barakubwira ko bazakurikirana bigahera ukoooo....gusa e commerce Wenda izagira ibyo ikosora ariko si byose kuko udakurikiza amategeko ntabwo abikora bihishe pe biba bigaragara 11:09</p> <p>Valentin Muhire Isango Forwarded Murakoze 11:09</p>	<p><i>“Hello, everything is well and clearly written. Even the law is very clear but as Goreth (RPPA) said there are some criteria that are being added. Would you not call this cheating? Sometimes they adjust criteria for their benefit; how would you call it then? Does RPPA do any follow up on this? That is what TIR is fighting for. Marie Immaculee has never said that the laws are not there but the main issue is how they are being implemented. Mostly government officials are not following the laws and procedures but if you try to report them nothing is being done with them It's us who wait for e-commerce to make new changes but still if people are not following law, this will remain a challenge. Thank you.”</i></p>
10	<p>Valentin Muhire Isango Forwarded</p> <p>RPPA mishyireho abantu bakurikirana ba rwiyezamirimo bamburaabakozi niba bahari se ubu koko murabona bakora uko bikenewe 11:09</p>	<p><i>“RRPA helps us set up a committee which can do follow up on contractors who don't pay citizens. They don't value labor because they can get others at any time.”</i></p>
11	<p>Nitwa christella. Iki kiganiro Ni cyiza. Ba rwiyezamirimo baba babara ayo bazakuramo ibyo kureba abakozi ntacyo biba bibabwiye. Abatanga amasoko bakwiye kureba cyane uburenganzira bw'umuturage ukeye kurya buri muni kd ntahandi akura 11:09</p>	<p><i>My name is Christella, This is a great discussion, it's true that contractors do not mind about their employees; their focus is only on their own benefit so government should set new measures that cover citizens who work for their “daily bread.”</i></p>
12	<p>Valentin Muhire Isango Forwarded</p> <p>Haracyariho akarengane gakabije ninayo mpamvu mwavuzeko mwabuze ba rwiyezamirimo banini baza kuri camera ngo bahamye ibibera mu gikari 11:09</p>	<p><i>“Injustice is still there, contractors know a lot about public procurement fate [results] but fear to talk; that's why you said that they refused to give you an interview.”</i></p>
13	<p>Wiriwe Muvandimwe. Muri iyi minsi nta masoko manini Leta ifite uretse imihanda kuko andi yarangiye nk' amashuri,materinite... Abashoramari sibontandaro yo kutishyura abakozi ahubwo ni Leta itishyurira igihe.Ikindi nuko abo bafite facture zacu bazitindana ngo tubanze tubarebe. Ikindi ni ubuhemu bwa ba Rwiyezamirimo babanza kujya</p>	<p><i>“Hello brother, nowadays, government seems to not have a lot of public project except roads. Because maternity and schools seem to be completed. Investors are not the source of not paying employees but rather public institutions do not pay on time. Again those with our invoices, they intentionally keep them for so long just for you to go and see them [meaning giving them corrupt informal payments]. This means the</i></p>

	kwikemurira imishinga yabo aho kwishyura abakozi. Kubya Ruswa byo abayaka baba barusha imbaraga RPPA niyo mpamvu batanabarega kuko ntacyo babikoraho.	<i>unfairness of investors who go to accomplish their activities rather than paying employees. Regarding corruption, those who ask for corruption payments seem to be powerful than RPPA, so people fail to report them because RPPA cannot do anything about this.</i>
14	Muri 2018 natsindiye isoko ryo kuvugurura ikaragiyo rya Nyagatare. Narihawe na MINEDUC bansaba certificat de bon execution, ndayishaka nyibona intwaye hafi miliyoni. Nyuma isoko bahita baricancellling. Nandikiye RPPA ariko ntacyo babikozeho	<i>"In 2018 I was awarded a project of upgrading Nyagatare milk zone by MINEDUC. I was requested to buy an execution guaranty which took me around million francs; then after that they cancelled the tender. I wrote to RPPA but they didn't do anything about this."</i>
15		<i>"Contractors are unfairly treated by the government in terms of payment and yet they accuse you of not paying employees, RRA tax, rent etc. How would you be able to cover all this if the government is not paying you back? For instance: I was given a tender somewhere, the project was fully completed and invoice was issued in December 2019, but until now I am still waiting for that payment. They contracted with Horizon group."</i>
16		<i>"Why don't you enforce sanctions to punish those who violate the law?"</i>
17		<i>"How have you been? I am following this talk show about public procurement practices. I really want you to connect me to the TIR representative because I have secure information I want to share with her. You can either give her my number or share with me her cell phone number. Thank you."</i>
18		<i>"Please provide me with the number of that lady from TIR I really want to give her some information."</i>
19		<i>"This talk show is very nice. Contractors do not pay their laborers. If you want to confirm go and see what Remote Group, a construction company in charge of Bugesera airport is doing to the laborers. They have issues with over 500 employees. Please come and save us."</i>

Phone Calls from Listeners

1. **Phone Call--Elyse from Rusizi.** *"In the procurement process you discover that the victim is an employee, e.g., local leaders are members of a tender committee, and they use other names to be awarded those projects. Previously, the Executive Secretary of Nkungu Sector in Rusizi took my stones for one of the school construction projects but up to now I am still fighting to be paid. I called TIR and they did a follow up and thank them even though I am still yet to be paid. Citizens are frustrated."*

2. **Phone Call--Jean Pierre from Muhanga.** *“I followed this talk show but I wanted to highlight the issue of negative solidarity. Investors are condemned (Coupable d’etre victim) but as Immaculee mentioned there is still injustice; you might think that things are being done through the online system, yet there is someone behind the scenes who is being helped to know what to fill in so as to win the tender. Thus, all kinds of money is being spent in corruption, which is very much affecting the contractors to the extent they sometimes leave a project half-way without paying workers. How will RPPA manage this? How will they really help new investors [bidders]?”*
- iv. **How can the public procurement process be improved? What can be done to make the e-procurement system work better for bidders?**

Here are some recommendations highlighted by participants on the talk show:

- All government bodies must wake up and collaborate to promote transparency in public procurement.
- Upgrade the E-procurement system through the addition of a contract management option
- E-procurement should include the requirement of having proof of workers’ payment and the government should take into consideration the laborers’ payment before paying the contractor.
- Reform procurement law to better connect it to full compliance of bidders with labor laws and regulations.
- Provide much more training on e- procurement
- Private sector be involved in training tender committees
- RPPA should learn to treat complainants well—learning how to resolve complaints more effectively because citizens have insufficient trust in the RPPA—the TIR representative used the phrase **“KUJYA KUREGERA RPPA NI NKO KUREGA MUSINGA KURI RWABUGIRI”** (*“Reporting your case to RPPA looks like you are reporting King Musinga to King Rwabugiri”*)

NB: TIR expressed gratitude for sitting with an RPPA representative in the studio for the first time.

Links to the talk show: <https://youtu.be/D-7IUD5-PjY>; <https://youtu.be/a5CCB3esR7g>



Panelists on the show: From left, Goreth Buhige from RPPA, Marie Immaculee from TIR, Alexandre Twahirwa, legal expert and analyst. Moderators on the right side: Valentin Umuhire and Anne Marie Niwemwiza.



STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT
Twimakaze Ubutabera mu Miyoborere

**TV and RADIO PROGRAM on
CHILD LABOR PROTECTION
and ADMINISTRATIVE JUSTICE**

October 4, 2020

The TV/radio broadcast was aired on Sunday October 4th October 2020 from 2-3:30 p.m.

1. INTRODUCTION

The *Strengthening Rwandan Administrative Justice (SRAJ project)*, with funding from USAID, has over the past 2 ½ years sought to raise awareness about the importance of administrative justice to improved governance, a more stable business environment, and greater trust between government officials and citizens.

Administrative justice involves the use and observance of proper legal and procedural rules by the government in making decisions on individual cases affecting citizens' and businesses' rights. These decisions tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, the SRAJ project aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions. In addition, it seeks to ensure that decisions are taken and communicated clearly to people so that they understand how the administrative process works.

In this regard, SRAJ project implementation consists of three following phases:

- Development of a Legal and Policy Framework and Contextual Analysis
- Analysis of Local Administrative Decision-making in Practice (at the District level)
- Capacity-Building/Training Activities, Media Outreach/Policy Dialogues, and Legal/Regulatory Reforms based on the foregoing empirical evidence.

a. Structure and Purpose of the TV/Radio Policy Dialogues

The Phase III policy dialogues represent a core feature of the SRAJ project's public awareness campaign, which is designed both to educate the public about key concepts and concerns regarding administrative justice in the four focal areas, and to pinpoint important areas for reform among the government elite, who watch these TV programs or hear about them more than the average citizen. The TV shows are simultaneously broadcast on ten different community radio station spanning all geographic regions of the country (these include Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa, all of which are simulcast with ISANGO Star Television and Radio).

Typically there are three expert panelists (although sometimes there are four), including one or two from the government plus and one or two representatives from independent organizations (either CSOs, academia, etc.). The discussion is moderated by one or two TV news hosts. At the end of each program, time is set aside for citizens to call into the show to ask questions or make comments.

In a country with significant constraints on open debate, such shows offer a real opportunity to acquaint the public with a major subject area where administrative justice issues are very much at the forefront, and to push the government in the direction of meaningful change. This is especially important for promoting evidence-base policy change, since the discussions are underpinned by the empirical evidence gathered through the Phase I and Phase II reports (especially the

latter, which consists of the district field research on the law in practice). At the same time, since the shows offer an opportunity for citizens to call into the shows with questions and/or comments, this is another opportunity for citizens (as well as the panelists) to model more open speech and questioning of authority. The shows' aim is to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. The experience of the Project is that the discussions often prompt panelists to carry on further conversations after the program, particularly if two government officials are on the show from different institutions needing to do a better job of coordinating on identified policy reform priorities. They may also prompt senior officials in the government to task lower-level officials with looking into certain issues in more depth as a means of better understanding the dimensions of a particular problem.

In conducting the TV policy dialogues, the Project employs a two stage process that includes (1) a pre-media planning session, in which all the target panelists, the journalist who will host the show and SRAJ project manager involved in the implementation of the policy dialogue gather to review (a) the overarching goals of the project with regard to the shows; and (b) the research findings that will anchor the discussion as well as the thematic areas that will be discussed during the show; and (2) the live talk show itself. The choice of the panelists is dictated by a number of factors, including the notoriety of the experts and media experience; and seniority (in the case of government officials but also some CSO representatives as well.

Also as part of the preparatory activities, the TV station is enjoined to air several jingle clips or advertisement spots that preview the show, as well as one or two showings of a relevant video drama relating to the topic at hand that was previously produced for the show and for use as a separate training vehicle for foreign students. During the show itself, citizens are able to use platforms such as Twitter, Facebook and WhatsApp to register their views on the discussion. Additionally, previously produced 'VoxPops'—candid video interviews with ordinary citizens about their views on the subjects under discussion—are aired at different junctures in the show to reflect the salience and topicality of the subjects at issue, and how members of the public feel about them.

b. Participants in the live talk show for Child Labor Protection

Below is the attendance list for the panelists.

Name of the Institutions/ Organization	Name of the expert	Position of the Representative	Participation on the Show
National Commission for children (NCC)	Mr Lambert HATEGEKIMANA	Child Rights Protection and Promotion Officer, National Commission for Children	present
Ministry of public service and labor (MIFOTRA)	Mr. Patrick KANANGA	Director of Labor Administration, MIFOTRA	Present
Legal expert and Analyst	Mr. Alexandre TWAHIRWA	Legal expert and analyst	Present

2. CHILD LABOR LIVE TALK SHOW

Discussions around this theme focused on five main guiding questions:

- *How would you describe the status of child labor in Rwanda?*
- *What are the key challenges facing both private and government institutions in fully implementing child labor protection legislation and policies?*
- *What is being done to meet these challenges?*
- *What can be recommended for future improvement of enforcement and other activities aimed at curbing child labor in Rwanda*

I. How would you describe child labor status in Rwanda?

Moderators introduced the topic and elaborated on some key examples of present child labor work observed: children carrying heavy load of stones from mining site, being sold for prostitution, being used as street beggars, harvesting tea, rice, and so on. However, they requested panelists to start by explaining who is a child, what is forbidden work for Rwandan children, and how can they be protected.

The NCC representative described that anyone under the age of 18 is considered a child under the law; this means that he/she is under his/her parents' care, and they must cover his/her basic needs.

It is in the absence of this aforementioned care that child labor starts. We call it child labor when it deprives child of his/her childhood, potential and dignity and is harmful to physical and mental development. He further said that we “are not where we need to be; we desire Rwanda to be on the international lists of countries that have decent parents who protect their children against child labor.”

Patrick Kananga, the MIFOTRA representative, expressed his appreciation of the talk show because it helps stimulate answers for the issues presented and creates a space for raising awareness during the debate. He differentiated prohibited from light work, since the former is any work that has a detrimental effect on the child's right, health and other aspects of a child's life. He also mentioned three important ways of addressing child labor problems:

- National targets to reduce child labor
- Government policies, laws, and outreach activities reduce child labor
- Public participation in the fight against child labor.

He further noted that this should not be the task of one institution but rather should be a multi-pronged activity of many institutional stakeholders. There are laws and policies in place, but they need to be properly implemented.

II. What are the key challenges preventing private and government institutions from properly implementing child labor law and policies?

- 1) All of panelists agreed that the main challenge is poor coordination among government institutions.

Legal expert Alexander Twahirwa said this was an issue of administrative justice, insofar as prevention of administrative (labor) disputes dictated strong public-private cooperation. This means not only employers and

MIFOTRA but also NCC, MINEDUC, the Police, and MINALOC. He mentioned a situation where children needed to be removed from mining labor and given an opportunity to work in handicrafts. But other institutions pointed out that there were lots of things that needed to work in tandem for this to happen, including availability of schools, rehabilitation centers, etc.

- 2) Citizens are not aware about age categories. Parents may think that it is right for children between 5 to 12 years old to engage in money related activities because they were educated to the contrary. This is also true about many local leaders.
- 3) The MIFOTRA and NCC representatives agreed on the need for much better awareness raising and the poor performance thus far of the local child protection steering committees. However, the legal expert highlighted problems of top-down giving of commands rather than nurturing bottom-up reporting and offering of suggestions. Also a lack of clarity about to whom the committee should report, and when? And based on what capacity building? In general, local governments are not properly coordinated to help prevent child labor.
- 4) The NCC Representative mentioned that children are being forced into child labor because they don't have basic necessities at home. Parents are not providing for them due to the gap in poverty reduction government programs. He also added that employers are taking advantage of children because of course they can be paid less—so indeed much of the problem lies with employers who should obey the law. He added that an annual compliance forum by MIFOTRA is not enough to raise sufficient awareness regarding the prevention of child labor.
- 5) Mr. Twahirwa pointed out that child labor prevention doesn't appear in the priorities of Imihigo for the districts. He declared that child committees are in fact overloaded with responsibilities, since they are already assigned other duties regarding labor issues, community policing, etc. These may interfere with them meeting goals of removing children from illegal work. The NCC representative said the child committees often visit a particular site or employer once a year, which is not enough, given the prevalence of child labor in the country.
- 6) In the Vox Pops video segments, parents called upon the government to help them protect their children from illegal child labor, while the Vice Mayor of Musanze District declared that parents will be severely punished by law if they don't stop forcing their children into child labor.

III. What are being done to overcome the above challenges?

Patrick Kananga declared that the situation today under the law is improved; if one compares the 2009 Labor Law and the 2018 Labor Law, the latter makes child labor a punishable act that can include prison, and not just fines. He added that Labor Inspectors do conduct field inspections but given their overall workload can't cross the whole districts frequently so that is why the numbers of child labor protection steering committees members were increased in number to include a village leader, a security person, someone involved in community policing, and others to help inspectors reach every site.

It was noted that most citizens simply pass by scenes of child labor and don't react to it. All citizens should responsibly report on what they see. The moderator asked in the law and ministerial orders and policies are clear and all those construction sites near roads are clearly visible with child labor going on, what is missing to address the problem? Mr. Kananga answered that it is due to the poor participation of parents in understanding and monitoring such situations.

VOX POPS/Reportage (Children, Parents and Local Government Officials)

According to the research findings recently published in May 2020 by The National Commission on Human Rights, there is still unlawful child labor present all over the country. Here are citizens we interviewed out in the field.

Child1: He is a boy of 10 years old, he works in harvesting tea plantation and rice harvesting), fetching water. He carries stone from mining company. He has parents and he gets their permission before leaving home.

Child2: They tell us to go in town to look for money for feeding the family.

Some of the parents are blaming children but others are suspecting some parents of relinquishing their responsibility to care of their children, which immediately makes it easy for them to make wrong choices with regard to child labor.

Parent1: I leave home early--5:00 in the morning. I used to leave them at home but now on my way back home I meet them selling sugar cane on the street.

Parents2: Due to school closures, children are everywhere looking for money.

If you can go up to that mining site you can find many little prostitute girls selling themselves.

Parents3: As parents, we have to provide for their needs and approach local leaders for help where it needed.

Parents4: Nowadays children are tough on us just aggressively looking for money. We need government intervention, because if you try to punish them they feel like you won't them get money and they feel that getting money in any way is their right.

Vice Mayor of Musanze District "I personally appreciate the effort of radio and TV stations promoting talk shows and debate on child labor policies where there was insufficient awareness previously. We also do local community meetings as part of our own awareness campaign but still parents do not want to participate in this. So we are going to have to punish them directly without having to take a long time by going to court.

Audience (Selected Phone calls and Messages)

Caller A" Hello, my name is Joseph Murindwa from Kanombe. Thank you for this good debate. In general child labor issues stem from parents who are irresponsible. Taking care of your children is very important so there is a need to help parents cover their children basic needs. I would also suggest heavy punishment to those who employ children, every site manager should not employ an under 18 years old. If someone is found doing this, he must be strongly punished.

Caller B" My name is Kigina. Children are the ones who usually go without parents' permission, so the solution for parents is to cooperate with their children through discussion.

Caller C" Anastasia remarked that there is family conflict and poverty which lead her 4 children to engage in child labor. She called for government intervention to help allay family conflict because it causes children to engage in prohibited work to simply get on with their lives.

Messages Sent During the Talk Show

Message 1: MIFOTRA should tell us those that have been involved in child labor, how many of them are really punished? The problem that we have in Rwanda is that we set policies and laws but do not implement and follow up.

Message2: Hello, thank you for this debate. Child labor is due to poverty. Do you want them to stay home idle with nothing to eat? Better you provide them with job and advocate for fair wage and salaries.

Message3: Children are highly exploited, they are the ones who make bricks at schools and other constructions, and they carry loads of stone from mining sites. They harvest tea especially in Karongi District is excessive.

IV. Some Recommendations at the Conclusion of the Show

- Awareness campaigns should be enlarged and they should be consistent because annual compliance is not enough as said earlier.
- Child labor committees should be given much more capacity so that they could better sensitize parents about the problems of child labor
- There should be a proper coordination among government institutions to fight against child labor in terms of monitoring and reporting.
- Social well-being must be improved for the families that are likely to be the victims of child labor. This means enhancing poverty reduction programs.
- The public should ultimately be responsible for prevention.
- The public needs to send prompt information to local leaders on child labor issues that are observed.



Kwimakaza ubutabera duhashya imirimo ibujijwe ikoreshwa abana

183 views · 3 days ago

- Panelists on the left: Patrick Kananga, MIFOTRA; Lambert Hategekimana, NCC; Alexander Twahirwa, legal expert and analyst. Moderators on the right side: Valentin Umuhire and Ines Ghislaine



STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE (SRAJ) PROJECT
Twimakaze Ubutabera mu Miyoborere

**TV and RADIO PROGRAM on
LAND EXPROPRIATION and
ADMINISTRATIVE JUSTICE**

October 25, 2020

The policy dialogue on land expropriation and administrative justice was broadcast on the following ten community radios (synergized with Isango Star TV) across the country: Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa. The show aired on 25th October 2020 from 2 p.m. to 3:30 p.m.

1. INTRODUCTION

The *Strengthening Rwandan Administrative Justice (SRAJ project)*, with funding from USAID, has over the past 2 ½ years sought to raise awareness about the importance of administrative justice to improved governance, a more stable business environment, and greater trust between government officials and citizens.

Administrative justice involves the use and observance of proper legal and procedural rules by the government in making decisions on individual cases affecting citizens' and businesses' rights. These decisions tangibly affect the public's perception of the government's fidelity to the rule of law and fundamental notions of 'everyday' justice. When administrative decisions are improperly made or procedures not followed, the public may not only be frustrated and feel poorly treated, but may flood district officials and the Ombudsman's Office with complaints. Still other citizens and businesses may bring appeals to the courts, consuming state resources and occupying the time of state attorneys in cases that otherwise could have been decided correctly at the district level in the first place.

By promoting administrative justice, the SRAJ project aims to ensure that public bodies and those who exercise public functions make legally supportable, reasoned, timely, procedurally fair, and intelligible decisions. In addition, it seeks to ensure that decisions are taken and communicated clearly to people so that they understand how the administrative process works.

In this regard, SRAJ project implementation consists of three following phases:

- Development of a Legal and Policy Framework and Contextual Analysis
- Analysis of Local Administrative Decision-making in Practice (at the District level)
- Capacity-Building/Training Activities, Media Outreach/Policy Dialogues, and Legal/Regulatory Reforms based on the foregoing empirical evidence.

a. Structure and Purpose of the TV/Radio Policy Dialogues

The Phase III policy dialogues represent a core feature of the SRAJ project's public awareness campaign, which is designed both to educate the public about key concepts and concerns regarding administrative justice in the four focal areas, and to pinpoint important areas for reform among the government elite, who watch these TV programs or hear about them more than the average citizen. The TV shows are simultaneously broadcast on ten different community radio station spanning all geographic regions of the country (these include Izuba, Ishingiro, Isangano, Huguka, Energy, Inkoramutima, Authentic, Fine FM and Voice of Africa, all of which are simulcast with ISANGO Star Television and Radio).

Typically there are three expert panelists (although sometimes there are four), including one or two from the government plus and one or two representatives from independent organizations (either CSOs, academia, etc.). The discussion is moderated by one or two TV news hosts. At the end of each program, time is set aside for citizens to call into the show to ask questions or make comments.

In a country with significant constraints on open debate, such shows offer a real opportunity to acquaint the public with a major subject area where administrative justice issues are very much at the forefront, and to push the government in

the direction of meaningful change. This is especially important for promoting evidence-base policy change, since the discussions are underpinned by the empirical evidence gathered through the Phase I and Phase II reports (especially the latter, which consists of the district field research on the law in practice). At the same time, since the shows offer an opportunity for citizens to call into the shows with questions and/or comments, this is another opportunity for citizens (as well as the panelists) to model more open speech and questioning of authority. The shows' aim is to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. The experience of the Project is that the discussions often prompt panelists to carry on further conversations after the program, particularly if two government officials are on the show from different institutions needing to do a better job of coordinating on identified policy reform priorities. They may also prompt senior officials in the government to task lower-level officials with looking into certain issues in more depth as a means of better understanding the dimensions of a particular problem.

In conducting the TV policy dialogues, the Project employs a two stage process that includes (1) a pre-media planning session, in which all the target panelists, the journalist who will host the show and SRAJ project manager involved in the implementation of the policy dialogue gather to review (a) the overarching goals of the project with regard to the shows; and (b) the research findings that will anchor the discussion as well as the thematic areas that will be discussed during the show; and (2) the live talk show itself. The choice of the panelists is dictated by a number of factors, including the notoriety of the experts and media experience; and seniority (in the case of government officials but also some CSO representatives as well).

Also as part of the preparatory activities, the TV station is enjoined to air several jingle clips or advertisement spots that preview the show, as well as one or two showings of a relevant video drama relating to the topic at hand that was previously produced for the show and for use as a separate training vehicle for foreign students. During the show itself, citizens are able to use platforms such as Twitter, Facebook and WhatsApp to register their views on the discussion. Additionally, previously produced 'VoxPops'—candid video interviews with ordinary citizens about their views on the subjects under discussion—are aired at different junctures in the show to reflect the salience and topicality of the subjects at issue, and how members of the public feel about them.

b. SRAJ Project Partners

Under the funding from USAID, the SRAJ project has been implemented by the following partners:

- University of Massachusetts Boston as the lead implementer
- The Institute of Policy Analysis and Research (IPAR-Rwanda)
- The Institute of Legal Practice and Development (ILPD)
- Human Right First Association (HRF)
- Value Production Co., Ltd
- Highlands Centre of Leadership for Development (L4D)

c. Structure of the Policy Dialogues

Policy dialogues are part of the core activities of SRAJ project and form a key element of the Project's public outreach efforts. They aim to ensure that all partners, especially policy makers, are informed of, and contribute to, solutions that advance administrative justice. In the context of this collaboration, the policy dialogues have been structured around the following four main thematic areas: **Private Labor Regulation, Public Procurement, Child Labor Protection, and Land Expropriation.**

In conducting the policy dialogues, a two stage approach is employed, which includes: (I) a pre-media session, in which all the target panelists, the journalist(s) who will host the show, and the SRAJ project manager all gather for a briefing on the project’s objectives, the project’s research findings, and the thematic areas that will be discussed during the show; and (II) the live talk show itself, as detailed in the following sections of this report. The choice of the panelists is dictated by a number of factors, including: the expertise of specialists on the matters to be discussed (e.g., Transparency International Rwanda TIR, which is knowledgeable about issues of fairness in land expropriation), knowledgeable and responsible officials from lead government institutions involved in implementing government policy in the subject area (particularly senior officials, such as those from MINALOC), and a knowledgeable non-governmental representative (in this case the SRAJ Project Manager). Furthermore, as part of preparatory activities, a Jingle (sound) clip on land the expropriation talk show on good practices in land expropriation and administrative justice was aired twice on ten community radios (named above in the previous section) and Isango Star television in advance of the live talk show. Finally, during the live show, the public is given an opportunity to participate in the debate through phone calls, messages (SMS) and other platforms such as Twitter, Facebook, and WhatsApp. During the show, so-called ‘VoxPops’ video interviews with ordinary citizens are shown, in this case highlighting some of the key issues faced by citizens in navigating the land expropriation process in Rwanda.

c. Participants in the Live Talk Show for Land Expropriation

Panelists of the talk show were selected among a pool of experts in the area of land expropriation as listed below. .

Name of the Institution/ Organization	Name of the Expert	Position of the Representative	Participation in the Show
Ministry of Local Government (MINALOC)	Mr. Samuel DUSENGIYUMVA	Permanent Secretary of MINALOC	Present
Strengthening Rwanda Administrative Justice (SRAJ)	Mr. Seth KARAMAGE	Resident Project Manager, SRAJ Project, Univ. of Massachusetts Boston Country Director	Present
Transparency International Rwanda (TIR)	Ms. Odette MUKARUKUNDO	ALAC Regional coordinator of western and northern province (TIR)	Present

The following sections of the report include a narrative description as to how the live talk show was conducted; a summary of the key discussion items; highlights of major challenges facing proper implementation of land expropriation procedures; and areas for further improvement/reform.

2. LAND EXPROPRIATION LIVE TALK SHOW

The live radio and TV talk show covered the thematic area of **“Strengthening Administrative Justice by Ensuring Fairness and Transparency in the implementation of Land Expropriation Procedures.”**

Discussions around this theme focused on five main guiding questions:

- a. To what extent is land expropriation furthering good practices in the development of the country?*

- b. *How would you describe the current status of land expropriation in Rwanda?*
- c. *What are the key challenges facing both private and governmental institutions in properly implementing the current land expropriation law and associated policies?*
- d. *What are the challenges facing ordinary citizens during and following the land expropriation process?*
- e. *What is being done to overcome the above challenges, especially by the responsible government bodies?*
- g. *What are key recommendations for reform to improve the fairness of the land expropriation process in Rwanda?*

Moderators' introduction to the show

After receiving the guest panelists, the moderators provided this fundamental charge:

“The topic of land expropriation is repeatedly being discussed in Rwandan Media. We received a call before the show that suggested the problems with land expropriation will only be solved by the end of the world! The topics we are discussing today, which focus on complaints from citizens, are similar to those being discussed elsewhere, and previously, and surprisingly, nothing changes from year to year, despite the law being very clear on the subject.”

So, today, let's at least base our discussion on the research findings on land expropriation previously published by different institutions such as the National Commission on Human Rights, The Rwandan Ombudsman's Office, and the SRAJ project. But we will especially focus on the 2019 Report by the SRAJ Project—a collaboration of the University of Massachusetts and IPAR-Rwanda, under funding from the US Agency for International Development (USAID).

A. To what extent is land expropriation furthering good practices in the development of the country?

Seth Karamage, representative of SRAJ, stated that this is not a problem but an answer—that if administrative justice is followed, good practices can take root. What we call administrative justice concerns the needs of citizens to receive fair and transparent services from public officials (from the local to the central level, village to ministry). The SRAJ educational (public awareness) materials that were published on the project's research findings are called AMAHIRWE IWACU. This name should tell you why expropriation can be a proper response to citizens' development, because citizens, if they are fairly compensated for their property, will doubly profit from being able to use new infrastructure created with the use of expropriated land. And if property valuation is not done fairly, then it is up to public officials to ensure that the rules are in fact properly followed and that ultimately a fair value is offered. In other words, if the rule of law is honored, country development will follow.

Certainly Rwanda is undergoing rapid development, which leads to a high expropriation rate to support roads, schools, electrical lines, airport, hospitals, and so on. Although the expropriation law provides procedures to protect the rights of property owners in the expropriation process, if the rules are not properly followed and enforced, then property owners are not given their due and attention is paid only to the future projects.

Odette Mukarukundo, representative of TIR added that the expropriation laws and procedures were designed to promote fairness and transparency. But TIR has received many cases of citizens not treated fairly during the expropriation process.

The Permanent Secretary of MINALOC Mr. Samuel Dusengiyumva, appreciated that the show was discussing these matters because *“it is exactly talking about the issues we face day to day that will bring us more awareness of*

the problems and can then address appropriate solutions.” He added that the expropriation process and implementation of master plans are two parallel programs which are planned to change the country’s economic and development status; however, there is wide acknowledgment that procedures for implementation of the law must be improved.

B. How would you describe the current status of land expropriation in Rwanda?

Mr. Dusengiyumva said that according to the Expropriation Law no: 32/2015, there is a relatively detailed description of how property can be expropriated, but payments cannot be processed immediately. Investors themselves must pass through several hurdles with district authorities, including an assessment of whether the development is in the public interest. And then the valuation process.

Moderators: *“Referring to the figures from the SRAJ research findings, would you say that the land expropriation laws and procedures are being respected and followed accordingly?”*

Mr. Karamage first explained the methods used in the research and among these he mentioned interviews of district officials as well as detailed surveys administered to citizens who had been subject to land expropriation during the past four years. So, the key question is: based on the research findings, why are citizens not aware of the key procedures under the expropriation law, and why are public officials apparently not following those procedures?

Note that this awareness is definitely lacking; 64% of citizens surveyed replied that they were not aware of the key land expropriation procedures and 90% of the citizen complainants didn’t know where to go for further appeal (e.g., for an unfair valuation) after presenting their complaints to officials at the district level.

C. What are the key challenges facing both private and governmental institutions in properly implementing the current land expropriation law and associated policies?

The following issues were noted by the panelists and those from the audience sending in messages.

- **Poor planning and coordination:** Planning and coordination were said to be the foundation of fair and just compensation because when expropriation procedures go as planned, there are not only sensitization efforts by officials but also community consultation with the property owners, so the latter know their rights and can plan ahead for questions and counter-valuations. In addition poor planning leads to improper budgeting, which in turns leads to delays in paying compensation. The TIR representative gave one example of this, regarding a road in Gicumbi; a citizen there complained of late compensation but this was already past the time when the road was completed and in use.
- **Lack of knowledge of procedures.** The TIR representative further noted that public officials simply do not have sufficient knowledge of the procedures, which leads to errors and citizen dissatisfaction, as well as increases in court cases. The SRAJ representative added that these numerous court cases pose a big challenge to the country’s development because they consume a lot of time and money from the government budget. This taxes social capital and creates a distance between citizens and their government in terms of those who are service recipients and those who are service providers.
- **Poor citizens’ documentation:** The MINALOC representative meanwhile stated that some problems stem from confusing or erroneous land titles where there is conflicting documentation as between the names on the property in question. This creates delay as well.

D. What are the challenges facing ordinary citizens during and after the expropriation process?

- The TIR representative said that citizens are not being consulted in the process of expropriation; there is no advance communication and citizens only get a short message at the time the property valuation is to take place. Yet citizens are entitled under the law to be consulted about whether the expropriation is in the public interest, to pose questions about the process, and to be prepared to engage actively in the valuation of the property.
- Citizens, who find themselves confused and lacking sufficient information, end up going back and forth to different levels of local government looking for justice because they are not properly informed about how the process is supposed to work.. There is simply a very low level awareness at the district level.
- All of the panelists agreed that the current procedures nevertheless do not provide enough time (only 10 days) for citizens to obtain a counter-valuation. This is especially problematic given that many citizens do not even have the resources to afford a counter-valuation.
- Again, inadequate and delayed payment of compensation are at the top of the problems encountered, according to the SRAJ research findings. The TIR representative gave some additional examples from Gicumbi and Burera where an electric line was constructed; since 2102, citizens have still not been paid for the damage to their properties that occurred when the line was installed. It is common for the local authorities to drag their feet and promise that the payment will come in the next year’s budget. The law, however, is clear—citizens must be paid before the property is actually seized and taken for the construction or other work. This also causes financial harm to price; the price may change due to the market in the intervening time.
- The TIR representative noted that road construction is often leaving people in highly unstable property ownership situations, insofar as many homeowners have property taken away from them alongside roads (for road widening or construction) and are then not only unable to obtain many kinds of construction permits but are also unable to utilize the houses as collateral.

‘VOX POPS’ of citizens who have confronted issues in the expropriation process

The table below details various citizens’ ‘Vox Pops’ interviews in different locations.

No	Location	Participants	What they said
1	Juru sector Musovu cell Kingaju village	P1 Kanzayire Francine	We were told that we are being expropriated due to airport construction. They were willing to build us houses as compensation and provide us with marshland but we are still unable to cultivate it due to lack of money.
		P2	They didn’t fully implement what was agreed upon at the beginning. Yes, we really appreciate the country’s speedy development, but we need leaders and journalists to advocate for us. We were farmers but now we are not allowed to have even one animal at our houses. We appreciate the houses we’ve been given, but we can’t eat this window glass!
		P3	I had a farm and I used to fetch water nearby but since I came here there is no clean water and we have no ability to cultivate this marshland. My advice on this

			issue is that we get the further small cash compensation that we were promised, so that life can move on.
		P4	We were promised to be compensated with some cash, which was to help us live here in the first days, but as of now, we haven't gotten any; we just survive by hoping we get a job at the airport site. If we had been given some kind of [monetary] foundation, we wouldn't be struggling like this. In case any of my relatives might be expropriated in the future, I would not advise them to choose in-kind compensation rather than cash compensation because we struggled a lot after receiving these houses.
		P5	Comparing my current life with before, I would choose to go back, because we only have a house here and it doesn't help in feeding the family.
	Not mentioned	P6	I had a completed house during the road construction and a compacting machine destroyed this near side and you can see that it is almost down. After this incident we have approached several levels of government including the district level but they have only told us that they are follow-up. But they are not getting back to us with any response and that's why we have been forced to leave iron sheets up on the side of the house; we have no other choice.
	Not mentioned	P7	We should be actively engaged during the valuation process to determine the value of the property according to the actual market price.
	Not mentioned	P8	They've built this road without offering us as citizens any compensation, so they have nowhere to stay and nothing to eat. This is my testimony; every property which was near road, like my banana plantation, has not been compensated for.
	Not mentioned	P9	The house was in a good condition near the road from Base-Gicumbi. These cracks you see were due to the compaction during construction of this road and we were not paid for this. We are now already a year in the house in this condition and are at risk because it could fall on us. We went to the sector and they said it is what happens with the road construction. We do not know where and to whom we can go to seek justice.

Interview on procedures/Mayor of Musanze district

All the properties that have been damaged by public infrastructure construction must be compensated in the following way. In first phase there should be an in-depth study before any activity is undertaken. Then there should be an

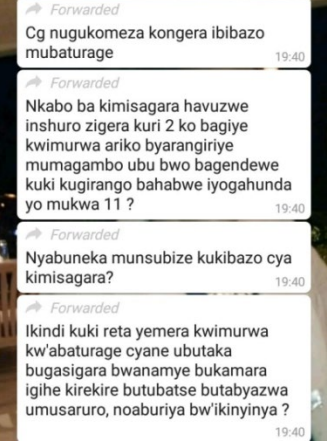
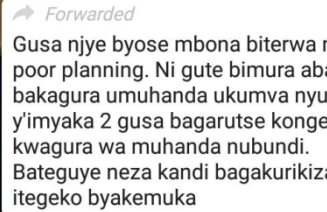
awareness campaign with the citizens to prepare them to understand how and why the proposed activity is in the public interest. Here in Musanze District, we vote as a committee of eight people, of which four are citizens and the others are from the investor community. This to make sure that all activities carried out at the site are done safely; if at some point they damage any citizens' property to any extent, this has to be reported and compensated. This all has to be done in accordance with the Expropriation Law and associated procedures. The district role is also to hire property valuers.

Audience (Selected Phone calls and Messages)

NO	Messages from audience	Translation
1	<p><i>Forwarded</i></p> <p>Gashirabake Yves. Iyo ubuyobozi bw'umurenge nubw'akagari baciye umuhanda mu kibanza cy'umuturage ntihagire icyo bamuha kandi yarahageneye kuhubaka, icyo gihe umuturage abariza he? 13:59 ✓</p>	<p>Gashirabake, Yves. When sector and cell leaders mark the road in the plot you are planning to construct, where can a citizen go for justice and information?</p>
2	<p><i>Forwarded</i></p> <p>Jules Wo Mu Birambo Mwiriwe Neza Nkibisanzwe Ni Jules Ndi Karongi Mumurenge Wa Gashali Ahangaha Byifashe Neza Nubwo Atari 100% Kwimura Abantu Kunyungu Rusange Bikorwa Neza Nubwo Haraho Wumva Bamwe Badahabwa Ingurane Nukwisubiraho Bakajya Bimura Abantu Bakabaha Ningurane 13:59 ✓</p>	<p>Jules from Birambo. Hello, this is Jules as usual from Karongi District, Gashali Sector. Here land expropriation is fair, though I can't assure it at 100%. Expropriation in the public interest is being done perfectly; however some are not being paid property compensation. This should be remedied and expropriators should provide full property compensation to those who are being expropriated.</p>
3	<p><i>Forwarded</i></p> <p>Habarugira Uri Mugesera Mwiriwe? Harigihe bimura umuturage ntibamuhe ingurane bumvikanyeho 100% muge mudukorera ubuvugizi rubanda rugufi rurarengana 13:59 ✓</p>	<p>Habarugira from Mugesera. Hello? Sometimes they don't pay property compensation at 100% as agreed. Please advocate for citizens against injustice.</p>
4	<p><i>Forwarded</i></p> <p>Ni Tuyikunde hano mugatindori turabakurikiye gusa ibikorwaremezo byimura abantu bikorwaneza ikibazo nuko harigihe amafaranga asohoka ntashoke ageze kuri beneyo hagacamo igihe kinini 13:59 ✓</p>	<p>This is Tuyikunde from Gatindori; We are following the talk show. The infrastructure is well built, but the problem is that money for compensation is authorized and yet doesn't reach beneficiaries in timely fashion.</p>
5	<p><i>Forwarded</i></p> <p>Bizimana Papias Potential Mwiriwe nez mbakuri kiye nd mumurenge wa rugabano karongi. Ndabakunda cyane pe. Kuringewe mbona leta ikwiye kujya ariyo ikora igena gaciro ahantu hagiye gukorwa ibikorwa remezo. Maze igakangurira abaturage gushaka ibyangobwa kugihe. Murakoze 13:59 ✓</p>	<p>Bizimana Papias Potential. Good afternoon, I am following the talk show from Rugabano Sector in Karongi District. I love you so much. For me, I would want the Government to conduct the property valuation as part of the land expropriation process. Also it should mobilize citizens to get land titles document on time. Thank you.</p>

6	<p>Forwarded</p> <p>Edouard Niringiyimana : Yewe bamwe mu bantu bimurwa bakunze guhura n'imbogamizi pe! Nk'ubu nkatwe Akarere ka Muhanga kimuye abaturange ariko ntikabaha ingurane none kugeza na n'ubu bacyari mu gihirahiro. 13:59 ✓</p>	Edouard Niringiyimana. Some of the expropriated people often confront various challenges during expropriation process. Like now, Muhanga District has expropriated people without paying property compensation. Right up until now, citizens are in doubt.
7	<p>Forwarded</p> <p>Nitwa Ihorahabona jean de Dieu mutubarize ikibazo cya kangondo inyarutarama baraduseneyeye none aho baduseneyeye batatwishyuye 19:40</p>	My name is Ihorahabona Jean de Dieu. Please advocate for us on the issue of Kangondo Nyarutarama where they destroy our houses with no compensation payment.
8	<p>Forwarded</p> <p>Mwiriwe neza. Mutubarize niba hari aho byemewe cg bitemewe gutanga ingurane ikwiye cyane cyane ahakorwa imihanda y'ibitaka na VUP/ PUBLIC WORKS cg iya kaburimbo. Urugero nko mu Murenge wa Gasange/Gatsibo. 19:40</p>	Good afternoon. Could you please ask for us if somewhere there is payment of fair compensation allowed and on the other hand, not allowed. Especially re: the tracing of feeder roads that are created through VUP/public works, tarmac road e.g., Gasange Sector Gatsibo District
9	<p>Forwarded</p> <p>Mwiriwe nashakaga kubaza iyo bavuze ngo I ikorwa remezo bijyanye n'inyungu rusange nko mucyaro bagakora umuhanda ahegereye isambu yawe Wenda nk'ishyamba itaka ryose rigashyirwa mumurima w'umuturage inturusu zose bakazitwira wanaza ngo ni inyungu rusange ubwo ibyo biremewe 19:40</p>	Hello, I wanted to ask if they build roads near a forest in the public interest and yet they burry all of the trees with the soil from the road tracing; is that allowed? Is it fair?
10	<p>Forwarded</p> <p>Mwiriwe neza? Ntuye Nyarutarama muri kangondo 2, muri 2017 akarere ka Gasabo kaje kutubarira imitungo yacu baduha amagenagaciro ,aho kuduha amafaranga kuko niyo twabasabye ,batubwiye ko bumvikanye n,umushoramari ngo atwubakire amazu muri Busanza-Kicukiro,ayo mazu twarayanze kuko atajyanye n,agaciro k,imitungo yacu,kuva icyo gihe kugeza ubu 2020 baracyaduhatira kujya murayo mazu,mutubarize niba akarere katarirengagije itegeko ryo kwimura.Murakoze 19:40</p>	Good afternoon, I live in Nyarutarama Kangondo 2. In 2017 Gasabo District came to expropriate us from here and brought valuers but they refused to give us compensation in cash as we requested before. They agreed with an investor to build us houses in Busanza/Kicukiro but we refused completely because these are not as valuable as our current properties are. Since 2017 up to 2020 they have forced us to use the new houses. Please ask if the District has not violated the expropriation law. Thank you.
11	<p>Forwarded</p> <p>Nitwa Ndungutse fabrice ndi imuhanga Iness utubarize abo basesenguzi kuki leta itanga ingurane idahwanye nagaciro kubutaka abaturage batswe 19:40</p>	My name is Ngungutse Fabrice from Muhanga. Iness: please ask on our behalf why the government pays less than our property's market value

12	<p>Forwarded</p> <p>Ibyo bavuga bitandukanye nibyo bakora amategeko tubona ari nka mavaze arimo indabo nziza ariko ntacyo bikora</p> <p>19:40</p>	<p>They act differently from what they say. Yes, they create fair laws, but these look like pots full of beautiful flowers, with which you can do nothing.</p>
13	<p>Forwarded</p> <p>Mwiriwe neza, rwose ibyo muri kuvuga byose nukuri nibyo byibereye kuri terrain Baraza bakatubarira bakatwishyura nyuma y'imyaka itanu kandi bakaduha ayo twabariwe. Ese kuki babona ingengo yubaka ibyo bikorwa bakabura ayo kwishyura abimuwe badafite naho gutura.</p> <p>Ese umuyobozi wa Minaloc aravuga ko Hari ibiri kunozwa nibiki? Ko itegeko rihari nabaryica bakaba baryica bariya bakabikora rimwe kabiri gatatu ntawe uvuga ubwo kunozwa avuga nugushyiraho Andi mategeko? Iyi ministeri ifite ububasha bwo kurenforca implementation yitegeko kd ibi bintu bimaze igihe kinini sinibaza niba bagishaka umuti.</p> <p>Nanbye umugani w'uwo muntu mbona iki kibazo kizakemuka Imana igatutse</p>	<p>Good afternoon, you are truly talking about what's happening on the ground. They offer compensation five years after the property valuation. How can they obtain the budget to build such infrastructure and still fail to pay those who are expropriated and don't have anywhere to stay?</p> <p>What might be improved is if the panelist from MINALOC says that the law is clear and implementers who violate it willingly are not punished. Are they going to revise the law? No. This ministry is powerful enough to reinforce proper implementation of the law as a matter of fairness and transparency. If they don't, then I too think that nothing will change until the world ends.</p>
14	<p>Forwarded</p> <p>Mwiriweee, murakoze kukiganiro kiza murimo, nabazaga abo bayobizi ese ko hari ubutaka bwimuwemo abantu hariya ikinyina bunaze igihe kirekire cyane bwagenewe iki ? Ikindi ese bariya Bantu barimo kwimurwa Aho bita bannyahe ko ikibazo cyabo kitarakemuka, nkaba narumvise ngo kimisagara na gatenga nazo muruku kwezi kwa 11 barumurwa ese bamaze kwishyurwa cg nabo bzamera nkabo muri bannyahe murakoze</p> <p>19:40</p> <p>Forwarded</p> <p>Cg nugukomeza kongera ibibazo mubaturage</p> <p>19:40</p>	<p>Hi, thank you for a good debate. My question goes to the leaders. There is land in Kinyinya from which people were expropriated, but it is been a very long time with no activity; what is that land being used for? Again, people from Bannyahe as well; their case is still ongoing and I heard that Kimisagara and Gatenga are also going to be expropriated, but are they going to be paid or will you make the same error with as was the case with those in Bannyahe [Nyarutarama]. Thank you.</p> <p>Or you will keep stressing citizens?</p>

15		<p>Like those from Kimisagara, we've heard twice that they will be expropriated but it ended up failing. What did you base that on, to provide that plan of November?</p> <p>Please reply to me on the issue of Kimisagara.</p> <p>Again, why does the government support expropriation a lot, but then citizens' land remains unexploited for so long, like in the case of Kinyinya?</p>
16		<p>The issue is found in poor planning. They expropriate people for road expansion and after two years, you hear them repeating the same process. Good plans plus fair law implementation must be the answer to this.</p>

E. What is being done to overcome the above challenges, especially by the responsible government bodies?

The MINALOC representative indicated that the challenges reported above were presented before the issuance of the ministerial order that highlighted the importance of fair implementation of the expropriation regulations. There were also decisions issued from the Ombudsman's Office and other government bodies emphasizing administrative justice during the expropriation process. These are all taken to solve the problems/wrongs done in the past and it is providing solutions, as there were 5332 cases worth 2,7billion RwF but now 4958 of such cases are resolved and paid. It is now clear and being monitored to ensure that every expropriator has paid property owners on time. It is now very clear that expropriators have no reason to delay payments to property owners even though on some big public projects they sometimes don't fully follow written rules and regulation, but this also needs to be reformed and corrected.

He added that, as the SRAJ representative already noted, poor planning is the source of insufficient expropriation budgets, and so a feasibility study needs to be conducted earlier to ensure that given activities are included in targeted planning. Also, the dissemination of master plans will decrease the rate of expropriation, as the more citizens are aware of this, the more settlements are triggered, which provide a golden opportunity to decrease the cost of expropriation. And there is also improvement in channels of collaboration among public institutions.

We have conducted an evaluation in 27 districts and we have discovered that pending debts are being paid. Also our focus is on incoming projects, which should be well planned to reduce these stories of delay. Leaders should be trained on how to orient all issues regarding expropriation. Land week is promoting people to easily get land titles and this too will reduce the delay in payments. MINICOM has tried to put citizens first during expropriations in industrial areas. It is not operating at 100% but they are trying.

The SRAJ representative intervened at this point, indicating that the last woman featured in the Vox Pops said that she and others had approached the sector and district officials, but now they don't know whom to go to for justice. Why is this? Did they at least visit her, or if those at the sector level had no answers, why didn't she at least get justice at the district level? Leaders could prove one way or another that she is or isn't telling the truth about the condition of the house before the road construction. If we all agree that administrative justice can be defined as the light shone on the services delivered to the citizen, then the way help listen to citizens has implications for their trust in the fairness and transparency of those services delivered by public bodies. Government is like the father of the family, who is in charge of responding to his children's questions and providing satisfactory answers. .

F. What are key recommendations for reform to improve the fairness of the land expropriation process in Rwanda?

The following recommendations were highlighted during the show:

- **Improving notice procedures:** Giving expropriated households adequate notice of a prospective expropriation affecting their properties and including genuine public participation and consultation in the expropriation process is crucial. This would include meetings and involvement of property owners at every stage. This in turn ensures property capacity building for the property owners, so that they are informed and have trust in the process—not signing for things they don't understand and then having misgivings or feeling betrayed later.
- **Improving planning and valuation procedures for expropriation projects:** Improper planning has a direct bearing on inadequate budgeting, deliberate under-valuation, delays in payment and other undue harms to citizens. There needs to be proper planning, collaboration, and execution by public authorities.
- **Improving transparency and accountability in the expropriation process:** This goes to the heart of accuracy in the valuation step, sticking with announced timelines for expropriation and payment, and minimizing opportunities for corruption (which can occur through collusion of certain valuers with investors and/or local officials).
- **Improving documentation:** Public offices should enhance the practice of properly recording and filing all documentation relating to expropriation, using both hard and soft copies to ensure redundancy. Citizens, meanwhile, need to properly safeguard their land titles to avoid confusion and what are often resulting late payments.
- **Enhancing collaboration with civil society:** This is needed to help with civic education, the monitoring of government follow-through and adherence to the legal procedures, and disseminating research findings on expropriation procedures.
- **Assisting more actively with the valuation process.** The Government should help citizens in not only furnishing the names of reliable private valuers to help with counter-valuation of property, but helping subsidize the price of retaining a private valuer for citizens with modest means. If the valuation process can be actively monitored by District Councils, citizens should be largely protected from failures to follow the legal procedures.

Link to the show talk video recording: <https://youtu.be/ouIU-10TTT0>

STUDIO PHOTO



Panelists on the left: Mr. Samuel Dusengiyumva from MINALOC, Mr. Seth Karamage from the SRAJ Project, and Ms. Odette Mukarukundo from TIR. On the right: Moderators Valentin Umuhire and Ines Nyinawumuntu.

TV/RADIO PROGRAM ADVERTISEMENTS AND AUDIO 'JINGLES'



Urubuga
rw'Itangazamakuru
30-08-2020/14h-15h30





BUHIGA Goreth
RPPA

Iyubahirizwa ry'amategeko mu itangwa ry'amasoko ya Leta



INGABIRE M. Immaculée
TIR



TWAHIRWA Alexander
UMUSESENGUZI

ABANYAMAKURU

- UMUHIRE Valentin
- NIWEMWIZA Anne-Marie

Mugikurikira kuri :









[Labor jingle July 2020 by VP on Isango Star TV](#)



Urubuga
rw'Itangazamakuru
09-08-2020/14h-15h30



ABATUMIRWA



NDABARUSHIMANA Colette
LEGAL COORDINATOR/TIR

Insanganyamatsiko

Kwimakaza ubutabera mu miyoborere hubahirizwa amategeko agenga umurimo



MUSONI Jordi Michel
DEPUTY GS/ CESTRAR



TWAHIRWA Alexander
LEGAL ANALYST

ABANYAMAKURU

- UMUHIRE Valentin
- NYINAWUMUNTU Ines

Mugikurikira kuri :









[Public Procurement jingle August 2020 by VP on Isango Star TV](#)

Urubuga rw'itangazamakuru
04-10-2020/14h-15h30

ABANYAMAKURU
UMUHIRE Valentin
Ines Ghislaine

Kwimakaza ubutabera mu miyoborere duhashya imirimo ibujijwe ikoreshwa abana



Lambert HATEGEKIMANA
NCC



Alexander TWAHIRWA
IMPUNGUKE MU MATEGEKO



Patrick KANANGA
MIFOTRA

PGL **ARJ**

[Child labor jingle October 2020 by VP on Isango Star TV](#)

Urubuga rw'itangazamakuru
25-10-2020/14h-15h30

ABANYAMAKURU
UMUHIRE Valentin
Ines Ghislaine

Kwimakaza ubutabera mu miyoborere hubahirizwa amategeko agenga kwimura abantu ku mpamvu z'inyungu rusange



DUSENGIYUMVA
Samuel/PS MINALOC



KARAMAGE
Seth/SRAJ



MUKARUKUNDO
Odette/TIR

PGL **ARJ**

ISANGO STAR RADIO AND TV VOICE OF AFRICA ISANGANO RADIO HUGUKA RADIO FINE FM RADIO
INKORAMUTIMA RADIO ISHINGIRO RADIO IZUBA RADIO AUTHENTIC RADIO ENERGY RADIO

[Land Expropriation jingle October 2020 by VP on Isango Star TV](#)

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XVIII (VOLUME IV)

- Kwirinda gukoresha amasezerano y'igihe gito (akazi k'igihe gito, kadahoraho, k'ibihe runaka, k'umunsi n'akibiraka) usibye mu bihe bidanzwe kandi bidahoraho ukurikije imiterere yabyo (amasezerano atanditse agomba guhindurwamo ayanditse nyuma y'amezi atandatu keretse biteganijwe n'amategeko).
- Gusuzuma byimazeyo niba aho ukorera nta bibazo byateza ingaruka mbi ku buzima n'umutekano, no gukora ku buryo hatangwa amahugurwa ku ngamba z'umutekano ku kazi kandi zigashyirwa mu bikorwa.

Bigenda bite mu gihe umukoresha atubahirije inshingano afite ku mukozi?

- Abakozi n'umukoresha bashobora kwikemurira ibibazo bafitanye mbere yo kujya mu zindi nzego. Abahagarariye abakozi bashobora kuba abahuzi mu biganiriro hagati y'umukozi n'umukoresha.
- Iyo badashoboye kumvikana, abakozi cyangwa umukoresha bashobora kutanga ikirego ku mugenzuzi w'umurimo mu karere kugira ngo agerageze gukemura ayo makimbirane.
- Iyo umugenzuzi agerageje ibishoboka byose ariko amakimbirane ntashobore gukemuka, ashobora gutanga ibimenyetso byerekana ko amakimbiranye atakemutse, maze umukozi akabyifashisha agana urukiko kugira ngo akurikirane uburenganzira bwe.

Ni iki abakozi b'ikigo bashobora gukora kugira ngo bakorere abakoresha babo imirimo itanga umusaruro?

- Gukorera ku gihe umurimo ashinzwe kandi akagera ku musaruro atezweho;
- Kubahiriza amabwiriza ahabwa n'umukoresha cyangwa umuhagarariye keretse iyo ayo mabwiriza ashobora guteza akaga cyangwa akaba anyuranye n' amategeko agenga umurimo;

- Kwirinda ibikorwa byahungabanya umutekano we cyangwa uwa bagenzi be cyangwa uwo ku kazi muri rusange;
- Kwirinda imikorere mibi cyangwa gusiba ku mpamvu zitemewe;
- Kwita ku murimo wahawe gukora;
- Gufata neza ibikoresho by'umukoresha wahawe cyangwa ushinze kugenzura..

Bigenda bite mu gihe umukozi atubahirije inshingano afite ku mukoresha?

- Umukoresha ashobora kugenda atanga impanuro n'ibihano bikurikirana muri ubu buryo: gutanga impanuro mu magambo atanditse, kwihanangiriza mu buryo bwanditse, guhagarika umukozi by'agateganyo mu minsi igera ku munani (8)y'akazi nta guhembwa, no kwirukanwa.
- Umukoresha ashobora gufatira umukozi ikindi cyemezo hakurikijwe amategeko ngengamikorere y'ikigo , nko gusuzuma imikorere y'umukozi cyangwa kumumanura mu ntera
- Umukoresha ashobora kwirukana umukozi mu gihe yakoze ikosa rikabije cyangwa ikindi cyaha gikomeme, ariko abanje kubimumenyeshya mbere y'amasaha 48;
- Umukoresha ashobora kwiyambaza umukozi uhagarariye abandi cyangwa umugenzuzi w'umurimo kugira ngo baganire ku kibazo afitanye n'umukozi mu rwego rwo gukumira ingaruka mbi zavuka ku migendekere y'akazi.
- Mu gihe iyo mishyikirano inaniranye, umukoresha ashobora kurega uwo mukozi mu rukiko.

**KWIMAKAZA
UBUTABERA MU
MIYOBORERE
HUBAHIRIZWA
AMATEGEKO
AGENGA UMURIMO:
UBURENGANZIRA
BW'IBANZE
N'INSHINGANO
Z' UMUKOZI
N'UMUKORESHAKA**

Ubutabera mu miyoborere bivuga iki?

Ubutabera mu miyoborere ni urwunge rw'ibitekerezo bisaba inzego za Leta n'abayobozi (ndetse n'ibigo byigenga bikora imirimo y'urwego rusange) gukurikiza amahame anyuranye y'imikorere ikwiye y'ubutabera, ikurikije amategeko, kandi inyuze mu mucyo mu gihe bafata ibyemezo cyangwa bakora ibikorwa byo mu rwego rw'ubuyobozi.



Ni gute ubutabera mu miyoborere bugira ingaruka ku mategeko agenga umurimo?

Amahame y'ubutabera mu miyoborere asaba abayobozi ba Leta gufata ibyemezo byemewe, byumvikana, kandi mu buryo bukwiye. Ubutabera mu miyoborere rero ni uburyo bukomeye bwo kurengera imibereho y'abakozi mu bibazo biri mu rwego rw'itegeko rigenga umurimo byagejewe ku bagenzuzi b'umurimo n'abandi bayobozi ba Leta bireba bafite ububasha bwo gufata ibyemezo. Muri ibyo bibazo hashobora kubamo ibyerekeranye n'umutekano mu mikorere y'akazi, ubwishyu n'ubwasisi bitangwa n'abakoresha, hamwe n'amakimbirane yose yo mu rwego rw'igenzura ry'umurimo. Ikibazo cyose cy'amakimbiranye mu kazi gishobora gukemurwa n'umugenzuzi w'umurimo watorejwe gutega amatwi ibitekerezwe by'impande zose bireba kandi agatanga igisubizo cyumvikanyweho.

Ni ubuhe burenganzira bw'umurimo abakoresha bagomba kubahiriza no guteza imbere kugira ngo bimakaze umwuka mwiza mu kazi mu buryo burambye kandi bagire abakozi batanga umusaruro?

Gutanga amakuru:

- Gutangaza politiki y'uburenganzira bw'abakozi n'amategeko agenga imyitwarire bishingiye ku mategeko agenga umurimo no kugisha inama umugenzuzi wawe w'umurimo
- Gukora ku buryo abakozi mu kigo cyawe bamenyeshwa amahame yose agenga imyitwarire kandi bashobora kuyabona mu rurimi rwabo.
- Gutangaza amakuru ku byerekeye uburyo ikigo cyawe gikemura ibibazo bitandukanye by'abakozi, byaba ibyerekeranye n'ihungabanywa ry'umutekano mu kazi, n'iby'ihohoterwa rishingiye ku gitsina.

Gukemura no gukumira amakimbirane

- Gukomeza gahunda yo gukemura ibibazo by'abakozi ku kazi, gutanga raporo ku bijyanye n'ihungabanywa ry'uburenganzira bwabo cyangwa iry'amategeko agenga imyitwarire mu kazi, no kumenyekanisha ayo mategeko.
- Gushyiraho uburyo butandukanye bwo gutanga ibibazo; urugero: gukoresha umurongo wa telefoni, ubutumwa bugufi cyangwa "imeli", kandi ukemerera abakozi gutanga ibibazo ku buryo hatamenyekana ubitanze.
- Gukora iperereza ku bibazo byatanzwe no kubikemura mu gihe gikwiye;
- Gukora ku buryo hatorwa cyangwa hashyirwaho abakozi bahagarariye abandi kandi bakagishwa inama ku buryo bukwiye bwo gukemura ibibazo (ndetse bagashyirwa no mu bagomba gukemura ibyo bibazo)
- Kwemerera abakozi kuvugisha ukuri kandi ku mugaragaro ku bijyanye n'imikorere y'akazi, ndetse no mu gihe cy'inama rusange kugira ngo habeho ubwisanzure bwo kuvuga ibibazo ibyo ari byo byose bihari.
- Gushyiraho uburyo bwo gusuzuma impanuka zishobora kuba kugira ngo hamenyekane ahakenewe gukorwa izindi nyigo cyangwa ahagomba kunozwa neza.
- Kugisha inama Umuyobozi ushinze abakozi cyangwa Umujyanama mu by'amategeko mbere yo fata icyemezo cyo mu rwego rw'amategeko kireba umukozi; kwitaba ubutumire bw'Umugenzuzi w'umurimo no kubahiriza amabwiriza ye.

Imicungire y'amasezerano mu rwego rwo gukumira ibibazo

- Gushyiraho amasezerano yo ku rwego rwemewe, arimo ingingo ivuga ko umukoresha wese agomba kubahiriza amasezerano ku burenganzira bw'abakozi.

- Gushyiraho ingamba zo gufasha abahawe amasoko bananiwe kubahiriza uburenganzira bw'abakozi. Iyo hari aho ihohoterwa ryagaragaye, ni ngombwa gukora mu buryo bwubaka kugira ngo ikibazo cyatewe no kutubahiriza amategeko gikemuke. Mu gufata ibyemezo byose bijyanye n'amasoko (kugura cyangwa gutanga amasoko), ni ngombwa kuzirikana iyubahirizwa ry'uburenganzira bw'abakozi.
- Guha abakozi umushahara w'icyumweru cy'akazi (nta gukoresha amasaha y'ikirenga) kandi uwo mushahara ukaba uhagije kugira ngo umuryango ubone ibyo ukeneye. Inzira yo kugena uwo mushahara igomba kuganirwaho no kumvikanwaho n'imiryango iharanira uburenganzira bw'abakozi mu gihugu.
- Gukora ku buryo habaho guhitamo amasaha y'ikirenga nta gahato, akemerwa, kandi akishyurwa hakurikijwe amategeko.
- Gukora ku buryo abakozi bahagaritswe babimenyeshwa mbere, nibura mu minsi 15, no mu minsi 30 iyo umukozi arengeje umwaka mu kazi—mu gihe iyo minsi itubahirijwe hashobora gutangwa indishyi.
- kwirinda gukoresha abantu bari minsi y'myaka 16 (nk'uko amategeko agenga umurimo abiteganyaye); niba hari aho usanze imirimo ikoreshe abana, ugomba kugisha inama komite zashyizweho kugira ngo hafatwe ingamba zo gukemura icyo kibazo.
- Kubahiriza uburenganzira bw'abakozi ku bwisanzure bwo kwishyira hamwe, kumvikana n'umukoresha, no kwinjira mu ishyirahamwe bihitiyemo.
- Gukora ku buryo abakozi, cyane cyane abagore na ba nyamuke badakorerwa ivangura iryo ari ryo ryose (ryaba irishingiye ku gitsina, ibara ry'uruho, ubwoko, idini, n'ibindi), harimo ibijyanye n'imishahara, imiterere y'akazi, ikiruhuko cyo kubyara, n'izindi nyungu umukozi agenerwa n'amategeko.
- Gukora ku buryo abakozi, cyane cyane abagore na ba nyamuke barindwa uburyo ubwo ari bwo bwose bw'itotezwa ku kazi cyangwa iterabwoba, harimo n'ihohoterwa rishingiye ku gitsina.

that are temporary in nature (unwritten contracts must roll over into written contracts after six months unless provided by law).

- Assess comprehensively your workplace for health and safety risks, and ensure adequate safety mechanisms are implemented and trained upon.

What if an employer fails to honor his/her responsibilities to the employee?

- Employees can attempt to settle issues with the employer before taking any further steps. Workers' delegates can assist in mediating such communications between a worker and employer
- If such dialogue fails, either the employees or the employer can file a complaint with the district labor inspector to attempt to conciliate the dispute.
- If an inspector fails to conciliate the dispute despite reasonable efforts, he may provide evidence of non-settlement that an employee may take to court in pursuit of his/her rights.

What can employees of the company do in order to render profitable services to their employers?

- Personally, carry out his/her work or service on time and achieve expected performance;
- Respect the employer's or his/her representative's instructions unless they pose a danger or are otherwise in violation of the law;
- Abstain from actions that would threaten his/her security and that of his/her colleagues or the workplace;

- Avoid poor performance or unexcused absences.
- Exercise due care in the execution of assigned work.
- Take proper care of the property of the employer entrusted to the worker or under the immediate control of the worker.

What if an employee does not honor his/her obligations to the employer?

- The employer can engage in progressive discipline, which includes the sequence of the following: giving an oral warning; issuing a written reprimand; temporarily suspending an employee for up to eight (8) working days without pay; and dismissal.
- The employer can take such other action against an employee as may be indicated in internal rules and regulations, such as evaluating the performance of an employee or demoting them to a lesser position.
- The employer can fire an employee with 48 hours' notice if he/she commits gross misconduct or other more serious violation.
- The employer can report an employee to workers' representatives or a labor inspector for negotiation and to prevent possible harm to the business.
- If such negotiation and conciliation fail, an employer can take such an employee to court.



Work by: Human Rights First
Rwanda Association

STRENGTHENING ADMINISTRATIVE JUSTICE IN LABOR LAW ENFORCEMENT: KEY WORKER AND EMPLOYER RIGHTS AND OBLIGATIONS

What Is Administrative Justice?

Administrative justice is a set of concepts that requires public institutions and officials (as well as private institutions performing public functions) to adhere to various due process principles of fairness, legality, and transparency when making administrative decisions, or taking administrative actions.



How does Administrative Justice affect labor regulation?

Administrative justice principles require public authorities to render decisions that are lawful, reasonable and procedurally fair. Administrative justice is therefore a powerful means of protecting workers' livelihoods in matters within the scope of the Law on Labor brought to the attention to labor inspectors and other relevant government officials with decision-making authority. This can include matters of safe working conditions, payments and benefit contributions by employers, and all manner of labor disputes falling within the purview of labor oversight and inspections. Any individual labor dispute can be mediated by a labor inspector who is trained to listen carefully to the views of all relevant parties and render an agreed-upon settlement of the matter(s) in question

What labor rights should employers respect and promote in order to create a sustainable work environment and productive workforce?

Information dissemination

- Publish labor rights policies and a code of conduct based on labor laws and confer with your labor inspector for advice thereon.
- Ensure workers in your company are made aware of any such code of conduct and can access it in their own language
- Publish information about how the company deals with worker grievances of any kind--from safety violations to sexual harassment

Dispute resolution and prevention

- Maintain a workplace grievance handling system for workers to report violations of their rights or the company code of conduct, and publicize its existence.
- Provide a variety of ways to report complaints e.g., via a hotline, SMS, and/or email, and allow workers to submit complaints anonymously.
- Investigate grievances submitted and resolve them in a timely manner
- Ensure workers' representatives are elected/established and are consulted on appropriate grievance procedures (and included in the remediation of grievances).
- Allow workers to speak honestly and openly about working conditions, including at
 - general meetings to ensure they feel comfortable in raising any issues.
- Establish a system for risk assessment to identify where further study and/or workplace improvements are necessary.
- Consult HR managers and/or legal advisers before taking legal action vis-à-vis an employee; respect the summonses and orders of labor inspectors

Proactive Contract Management

- Establish a standard contract and include a clause stating that any service supplier must comply with relevant labor rights agreements.
- Establish a strategy to assist suppliers who are failing to uphold workers' rights. When a violation

is exposed, work constructively to address non compliance. Take labor rights performance into account in making all procurement(purchasing/sourcing) decisions.

- Provide workers a wage for a regular working week (without overtime) that suffices for a family to meet basic needs. The process for determining this wage should be discussed and agreed upon with local unions and labor organizations.
- Ensure that overtime is freely chosen, recognized, and compensated in accordance with the law.
- Ensure that employees being terminated are given at least 15 days advance notice--30 days when the employee has been employed for more than a year—and note that you may be liable for damages if notice provisions are violated.
- Refrain from employing people under the minimum age of 16 years (in accordance with the Labor Law); where child labor is found to exist, you should consult with established local committees in developing a plan for redress.
- Honor workers' right to freedom of association, right to collective bargaining, and the ability to join a union of their choice.
- Ensure that workers, particularly women and minorities, are free from discrimination of any kind (gender, race, ethnicity, religion, etc.), including with respect to wages, working conditions, maternity leave, and social benefits.
- Ensure that workers, particularly women and minorities, are protected from all forms of workplace harassment or intimidation, including sexual harassment.
- Desist from the use of limited duration contracts (short term, temporary, seasonal, day labor and casual labor) except in exceptional circumstances

FINAL REPORT
STRENGTHENING RWANDAN ADMINISTRATIVE JUSTICE
PROJECT
ANNEX XIX (VOLUME IV)

**Enabling Effective Compliance (EEC) by Rwanda’s Labor Inspectorate:
Strengthening Inspectors’ Capacity to Support Rwanda’s National Transformation Strategy and
Protect Workers’ and Children’s Rights during the post-COVID-19 Economic Recovery**

Overview. This Concept outlines a program to strengthen labor law enforcement in Rwanda through:

- Expanded training of inspectors at the Institute for Legal Practice and Development, including new courses devoted to child labor protection and public employment dispute handling;
- Practical explanations of labor laws and regulations for inspectors, employers, and employees alike, including promotion of simplified contract forms for employees in a language they understand;
- Enhanced collection and analysis of inspections data to enhance strategic enforcement practices and tangible results for inspectors, along with heightened accountability and public awareness,
- Expanded use of social dialogue to anticipate and resolve systemic labor policy and practice problems;
- Extensive public communications through TV and radio programs and video dramas; and
- Strengthening of key partnerships – with district governments, universities, and youth organizations – to raise public awareness of citizens’ labor rights and improve labor law compliance efforts, particularly with regard to child labor protection and occupational safety issues.

This program, which is supported by the Ministry of Public Service and Labor (MIFOTRA) via extensive discussions and a letter to UMass Boston, will build on the foundation laid by the 3 ½ -year Strengthening Rwandan Administrative Justice (SRAJ) Project. That project has drawn attention to the importance of ‘everyday justice’ in the administrative process and focused government and public attention on improving the work of labor inspectors. The project has also highlighted the importance of labor peace and a sound labor regulatory environment for sustained economic growth in the country.

Current State of Affairs in Labor Compliance. While MIFOTRA has worked to improve labor law compliance efforts over the past decade in a variety of key areas—including child labor protection and occupational safety – labor inspectors need dramatically increased training and other help to better and carry out inspections, enforcement, and public education activities. Without such assistance, none of the policy initiatives of the government – or assistance objectives of donors –can be properly realized in the labor sphere. This is even more necessary now that a new Ministerial regulation on inspections is in force— one that puts additional sanctions authority in the hands of inspectors. While MIFOTRA must ultimately increase the number of inspectors in urban districts to address unmet needs, there are critical interim opportunities to organize the work of inspectors more strategically, including the use of inspections and other data to help guide priority-setting and creation of new work routines and objectives.

Capacity and strategy gaps loom even larger in the current COVID-19 environment. As the Rwandan economy reopens, many Rwandan employers are failing to meet fundamental obligations to their employees, including making timely payments and benefit contributions. Others are illegally terminating many workers pretextually based on the pandemic, circumventing health and safety requirements, and in some sectors, expanding exploitation of child labor (child labor steering committees are insufficiently operational and require additional guidance on reporting obligations). A key provision in the 2018 Labor Law requiring government contractors to honor certain legal provisions is being widely ignored.

In this context, it is imperative to build on the accomplishments of the SRAJ Project, which have included:

- Publication of a labor law framework analysis that identified several gaps and contradictions, many of which were taken up in the 2018 Labor Law and 2020 Ministerial order on inspections.

- Conduct of field research on labor dispute handling in six districts, involving nearly 700 citizens and 150 public officials; results were published and shared with government stakeholders.
- Development of a diploma course in labor law for inspectors and other professionals to be offered at the Institute for Legal Practice and Development (ILPD), as well as short courses at ILPD on mediation methods, international labor standards, inspections, occupational safety, and social dialogue.
- Multiple TV and radio broadcasts on good practices in labor regulation, featuring citizen call-in segments and video dramatizations of various legal scenarios, including child labor protection.
- Development of brochures on citizen rights in workplace labor disputes that will be distributed for educational purposes in all 30 districts to labor inspectors, district officials, and citizen groups.

Proposed EEC Activities. The key activities envisioned as part of the EEC initiative are as follows:

- **Expanded use of social dialogue to anticipate and resolve systemic problems.** While social dialogue is an integral aspect of the ILO's Decent Work Agenda and is encouraged by generally by MIFOTRA, there is now interest in encouraging expanded use of consultation and information-sharing at the *local level* between employers and employees through the good offices of the Labor Inspectorate, particularly where dialogue on issues like child labor protection can be more sustained, intimate, and specific.
- **Provision of mediation training materials and Training of labor inspectors on mediation skills.** In the existing SRAJ program, mediation training syllabus and a mediation handbook are being produced for the use of labor inspectors. In order to effectively use these being developed materials, we anticipate producing training materials on mediation and extensively train labor inspectors on mediation. If the labor inspectors are well equipped in handling and preventing conflicts at work places, this will well place Rwandan private sector in the direction of NST 2050 in terms of improving economic productivity—where by the underlying factor is improving conflict resolution capacity between employers and employees, hence creating decent jobs.
- **Expanded training of inspectors, including on child labor protection.** Pilot training via ILPD's sustainable platform will take place starting this fall in selected courses, but there is a need for multiple waves of induction and reinforcement in all relevant courses, including additional ones on child labor protection, data management, and public labor dispute resolution. We intend to rigorously evaluate the uptake of training in the workplace and its impact, building on a baseline established this summer.
- **Practical explanations of labor laws and regulations for inspectors, employers, and employees.** A perennial obstacle to the practical implementation of law is insufficient explication of pertinent legal requirements for users in actual applied situations. We will work with MIFOTRA and legal consultants to draft plan language guidance materials – including model contracts -- for use by inspectors in their work and for employers via outreach efforts through the Private Sector Federation (PSF) and its compliance forums. Additional information dissemination to citizens will occur through district governments (Good Governance Officers), TV/radio programming, and various legal aid groups.
- **Enhanced collection and analysis of inspections data.** Inspections data offer MIFOTRA a truly important untapped source of information that can guide strategic planning and resource use, enforcement priorities, the uncovering of patterns of employer or industry inspections violations, and remediation of common deficiencies in inspector mediation and sanctioning practices. Above all, it can help raise inspectorate accountability. MIFOTRA has signaled its interest in improving the quality and use of data that are, or could be, collected, and discussions are underway about a multi-year plan to help inspectors make better use of inspections and mediation data in their daily work. All of this will be reinforced by introducing data utilization components into all of the labor short courses at ILPD.
- **Extensive public communications through TV and radio programs and video dramas.** We have already demonstrated the strong reception that our TV and radio programs have elicited from employers, ordinary citizens, and government elites—particularly in spurring action at MIFOTRA. We intend to expand the numbers of programs and citizen call-in segments, especially with regard to employer labor law compliance in a post-COVID-19 environment and the operation of child labor steering committees.

- ***Engaging local universities, key business entities and youth associations to strengthen enforcement, particularly with regard to child labor protection.*** We envision strengthening labor law compliance through concerted action by key partners working with inspectors, employers, and citizens. These include youth organizations (where youth can advocate credibly for child labor protection and other Decent Work priorities), universities (where the importance of strong labor law enforcement and employment opportunities can be inculcated in law and business administration courses), and district governments (which can amplify inspectorate compliance and education efforts with regard to child labor protection steering committees).

REPUBLIC OF RWANDA



MINISTRY OF PUBLIC SERVICE AND LABOUR

Kigali, on 01st October 2020
N° 1562/19.18

Mr. KARAMAGE Seth
Resident Country Director, Rwanda
Strengthening Rwandan Administrative Justice (SRAJ) Project
University of Massachusetts

Re: Project endorsement

Dear Karamage,

Reference is made to your letter dated 10th August 2020 requesting for endorsement of the proposed project aimed at Enabling Effective Compliance (EEC) to Labour law and regulations, especially in areas of Social Dialogue, Capacity Building of Child Labour Committees and Labour Inspectors;

Reference also made to the already accomplished Strengthening Rwandan Administrative Justice (SRAJ) Project implemented in close collaboration with the Ministry of Public service and Labor and its key stakeholders mainly the Institute of Legal Practice and Development (ILPD) and the project's noticeable achievements especially in the areas of Labor governance and decent work which include but not limited to:

- Development of a diploma course program in labour law practice ;
- Co-creation with MIFOTRA of TV and Radio talk programs on labor governance topics and video dramas on good practices in labor law enforcement and their dissemination through employers compliance forum in February 2020; and
- Development of five short executive training courses in various areas namely: International Labor Standards, Labor dispute mediation, Labor inspection, Occupational Safety and Health, and Social dialogue;

I would like to support the new proposed project named Enabling Effective Compliance for further partnership in Labour law and regulations enforcement with anticipated contribution to decent work agenda and promotion of productive jobs in Rwanda. The Ministry looks forward to further collaboration in the definition of the prospective project implementation modalities and the actual implementation in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kayi'.

Digitally signed by
MIFOTRA (MINISTER)
Date: 2020.10.01
10:32:16 +02'00'

RWANYINDO KAYIRANGWA Fanfan
Minister of Public Service and Labour

U.S. Agency for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov