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**SUMMARY OF FIELD RESEARCH FINDINGS
AND RECOMMENDATIONS**

2019

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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



Most common reasons for making a complaint

61% Delay in compensation

60% Unfair valuation



Citizen information/ Awareness

32% of complainers feel informed



Most relied upon source of information about pursuing a complaint

44%

District officials

28%

Radio/TV



Citizens consulted

34%

On decision/plan to expropriate

36%

On the expropriation process



Key topic on which citizens need more information

63%

Public consultations

49%

Valuation process

47%

Listing of expropriated properties

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.

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