



**Legal
Assistance
for Economic
Reform**

Rwanda Case Study 1:
Using pro bono support to
build government capacity

DFID Legal Assistance for Economic Reform Programme

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LASER

LASER (Legal Assistance for Economic Reform) is a DFID-funded programme aiming to improve investment climates in eight developing countries by helping to identify and solve commercial law and justice problems, as well as documenting and sharing lessons about how to do this. Problem-driven and iterative in nature, LASER supports partner governments to develop initiatives that are country owned and led. Its logframe commits to activities under broad outputs, but the specifics are determined at the country level with counterparts on a rolling basis. After a successful one month pilot in February 2014, the Government of Rwanda requested a LASER Resident Adviser be embedded within the Ministry of Justice for a year. The LASER Resident Adviser, Sarah Callaghan, arrived in Rwanda in July 2014 and will remain in post until June 2015.

Why pro bono support for training?

In discussions between LASER, the Ministry of Justice (MINIJUST) and the Institute of Legal Practice and Development (ILPD), it was identified that government lawyers do not have up to date or in depth knowledge of key commercial law areas relevant to Rwanda's growth agenda. Areas identified by MINIJUST and ILPD and discussed with LASER at the pilot stage included privatisation, Public Private Partnerships, contract management, litigation management and construction law. In addition, it was recognized that ILPD, the body that provides continuing legal education and training, has a small budget and largely relies on international expertise to provide trainings in areas of commercial law.

Support to ILPD to identify appropriate commercial law trainers was included as a possible area for a LASER Rwanda initiative because it addressed a country-identified need and was in accordance with LASER's proposed outcomes. At the outset it was envisaged that LASER support would contribute to i) an increased capacity of government legal officers in particular areas and ii) enhanced ILPD capacity to engage pro bono assistance to undertake commercial law trainings.

Why construction law?

A problem driven and iterative approach was taken to determine which of the possible training areas was a priority. In discussion with ILPD it was agreed that construction law and projects training was the immediate priority, largely because of the number of infrastructure related contracts that have experienced serious delays and resulted in litigation. For example, the Office of the Auditor General's report for the financial year 2012/13 states that poor implementation of construction works resulted in delays to 45 contracts (with a value of 23 billion RwF/approximately £21 million) and the abandonment of 9 contracts for construction works (with a value of 900mil RwF/approximately £828,000). Litigation management was the second priority. The financial loss caused by litigation is a primary concern of the Minister of Justice. The Auditor-General's report maintains that the government lost 550 million RwF (approximately £506,000) in damages and penalties during the financial year 2012/13. Consultations with international firms that have worked with the Government of Rwanda confirmed the need for capacity building in major litigation.

The Permanent Secretary of MINIJUST expressed a desire for the construction law training to include a component on supervision of works. LASER proposed including the new contract management tools.

Both of these are areas that LASER was already working with MINIJUST on to strengthen contract management.

Construction training outcomes
<ul style="list-style-type: none">strengthened capacity of government legal officers to draft, negotiate and manage construction contractslegal officers have increased transactional skills and the ability to identify and manage risks in construction projects.

LASER’s contribution

When the LASER Adviser arrived in Rwanda, none of the commercial law trainings had firm dates and trainers for two of the three priority trainings had not been identified. MINIJUST had had initial discussions with Paul Hastings about providing some of the trainings and had asked ILPD to discuss details of the trainings with Paul Hastings. These discussions had stalled due to a lack of on the ground presence of Paul Hastings and a change of personnel at ILPD. LASER reinitiated the conversation and, building on an understanding of the value government placed on regional expertise, facilitated access to regional pro bono providers, through the Africa Legal Network (ALN).

The professional services (development of the curriculum and provision of training) were provided pro bono while LASER paid for the airfares, accommodation and per diem of the trainers. This approach enables a diversity of firms to undertake pro bono work, including those who may not otherwise have the corporate support or means to engage.

LASER played a coordination and liaison role, sharing policy documents, laws and draft tools with the pro bono providers to ensure the curriculum was tailored to the context. LASER also worked closely to coordinate development of the curriculum by the two firms (Paul Hastings and Anjarwalla & Khanna), ensuring the involvement of regional and local lawyers to add appropriate perspectives.

A review and re-drafting of MINIJUST’s draft supervision of works model contract was already in LASER’s workplan. LASER combined engagement of pro bono support to review the draft model contract, with provision of training on it. At the outset this appeared simple enough.

However, the multiple communications and requests for extensions of time indicated there were challenges involved in providing input on the draft model contract. These were not clear to the client and LASER until face-to-face discussions were held on the margins of the training. After a short meeting, all parties quickly recognised the need to better understand and define GoR expectations for supervisors and policy preferences for different construction scenarios. As a result, LASER is working with the parties to explore the potential to develop policy guidance to supplement the model contract.

While it was not as straightforward as anticipated, the approach of having the trainers review the draft model contract added value to the training. Participants received substantial training on a draft model contract they will be required to use. It allowed participants to have an in-depth discussion on drafting specific clauses with senior practitioners in the field. It also enabled the trainers to understand the type of contracts and challenges that participants were dealing with and accordingly informed delivery of their training sessions.

LASER supported MINIJUST and ILPD to tailor the training evaluation tools to measure the participant’s change in capacity over time. The end of training evaluation form was developed so that a follow-up survey can be undertaken in March 2015 to assess how the legal officers have applied the knowledge from the training in their day-to-day work. This will be combined with a survey of the legal officers’ supervisors to measure any change in capacity.

LASER is working with ILPD to document the lessons from this experience and draft guidance on identifying, engaging and managing pro bono services for future trainings. This may take the form of a guide listing firms with relevant expertise and a checklist on issues to discuss with providers.

Lessons from the initiative

Matching supply to demand

Consultation with the Government of Rwanda (GoR) on a range of issues revealed the importance of tailoring best practices to the context and the value placed on regional experience. Therefore, while Paul Hastings was already committed and interested in the training, LASER initiated discussions with the Africa Legal Network (ALN) on their interest in being involved. LASER then facilitated a joint approach between Paul Hastings and ALN. Both firms indicated that the networking and sharing of experiences between them was an unexpected benefit of this initiative. LASER has a useful role to play because it has contacts and networks that local institutes often may not have and which may be wider than those institutions that directly approach GoR.

LASER has identified the need to better understand the constraints faced by a broader range of potential pro bono providers, to support the goal of a better matching of demand and supply. For example, early consultations have revealed that Treasury Solicitors are well placed to undertake individual desk-work and provide useful expertise for government on drafting, while regional firms can add a reality check on international best practice.

south - south knowledge exchange
<p>ALN is an alliance of independent top tier African law firms. It is the largest and only grouping of its kind in Africa, with close working relationships across its members. ALN’s firms are committed to working together to provide extensive coverage and on-the-ground experience. ALN assists member firms by developing common knowledge sharing platforms and enhancing their capacity and capability to service a growing volume of high value domestic and international corporate and commercial advisory work across Africa.</p> <p>ALN through its founding firm, Anjarwalla & Khanna, and their Rwandan member, K-Solutions, delivered sessions using case studies from Kenya and Rwanda as well as a high-level overview on risks and bankability issues in sub-saharan Africa.</p>

Increased quality of support

LASER's real value-add is in improving the quality and appropriateness of pro bono support. The provision of background information such as the findings of the Office of the Auditor-General's report, laws, existing contracts and GoR priorities helps pro bono providers to better understand the context and tailor the content of the training to the client's reality. Previous engagement in the context by the pro bono providers, also contributes to better quality support.

Discussions with pro bono providers about the scope of work and desired outcomes revealed that they were largely not familiar with the concept of linking advisory and training services. That is, firms often have experience in flying in to provide training and impart their knowledge. However, reviewing a draft contract and combining this with curriculum development was a relatively new approach for pro bono providers. MINIJUST had used this approach in training on mining contracts with Ganzagna University in 2013 and had found the model useful.

While managing inputs from two firms with different approaches was time consuming and required LASER to play a significant facilitation role, the inclusion of different perspectives added greatly to the value of the training and stimulated meaningful discussion amongst participants.

Practical considerations for future engagements:

Taking an active role to improve the quality and appropriateness of pro bono assistance requires a significant amount of time and resources from both suppliers and those requesting support. Practical considerations for both sets of actors, building on the lessons learnt from the LASER Rwanda initiative, are set out below.

For developing country institutions and development practitioners:

- Provide clear written instructions to pro bono providers, including an explanation of the client's needs and expected outputs
- Obtain a commitment from the providers at the outset to meet deadlines, including a discussion about the reasons for them
- Obtain written agreement to basic principles (e.g. the UK Joint Pro Bono Protocol for Legal Work) at the outset
- Allow sufficient lead-in-time for the above discussions
- Recognise that generally you will engage with a pro bono focal person, but you may on occasion need direct access to the individuals providing the legal service
- Understand pro bono providers' incentives for engaging.

For pro bono providers:

- Seek information on relevant domestic laws and the political and institutional factors driving the request for support
- Where possible encourage and enable lawyers providing the pro bono service to engage with the client directly (i.e. not through administrative, business development or junior colleagues)

- Where possible when developing training materials provide real life examples, precedents and resources for further research
- Develop practical exercises and group work to make training sessions more applied
- Know your audience - clarify the language skills and experience level of training participants
- Where you are able to provide inputs that respond to the client's actual needs you are more likely to build effective relationships.

