



**Legal
Assistance
for Economic
Reform**

Rwanda Case Study 7: Lessons from supporting a Law & Policy Fellow in Rwanda

DFID Legal Assistance for Economic Reform Programme

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The Legal Assistance for Economic Reform (LASER) programme is an institutional reform programme that supports developing countries to strengthen their investment climates. It is a £4.3 million DFID-funded initiative (2014-17) implemented by The Law & Development Partnership (LDP) and KPMG. LASER has three broad components:

- (1) Working with developing countries to support new approaches to investment climate reform that deliver results;
- (2) Supporting the appropriate targeting of legal technical assistance; and
- (3) Learning and disseminating lessons about good practice in investment climate programming.

LASER works in two main ways:

1. Directly with developing country governments (including Ministries of Justice, Commerce, Trade and the Judiciary) on investment climate/commercial law and justice problems - in a demand driven, politically informed and highly flexible way; and,
2. With donors (to date, DFID and the World Bank Group) on the design of large-scale investment climate/institutional reform programming which incorporates flexible, adaptive approaches.

LASER has a strong focus on working in fragile and conflict affected states, working in Bangladesh, Kenya, Burma, Uganda, Rwanda, Sierra Leone, Somaliland and Tanzania.

This case study is part of a suite of LASER products which address latest thinking on approaches to institutional reform (including *doing development differently*, *thinking and working politically* and *problem driven iterative adaptation*), which can be accessed via the LASER website at www.laserdev.org/resources.

This case study assumes some familiarity with thinking on doing development differently, problem driven iterative adaptation (PDIA), and systems approaches. For more background on these approaches see LASER's synthesis papers at www.laserdev.org/resources/synthesis-papers.

The paper has been written by the LASER team with input from LASER's Law and Policy Fellow, Sarah Brewin, in the Rwandan Ministry of Trade and Industry (MINICOM), and from MINICOM officials.

Introduction: Law and Policy Fellows

1. LASER deploys a range of different ways to provide effective technical assistance on investment climate issues to developing countries. This has included embedding resident advisers in line ministries for up to a year, and deploying part-time and short-term advisers. This case study looks at emerging lessons from one particular model - a pilot initiative supported by LASER which supplies a junior lawyer to a line ministry position, with salary paid by the developing country government¹. This is part of The Oxford Law and Policy Fellowship scheme - a pilot modelled on the Overseas Development Institute's Fellowship Scheme which has for over 50 years successfully deployed young economists (and more recently statisticians) – 'fellows' – to developing countries². Since its inception in 1963 over forty country governments and regional organisations have participated in the Scheme. Fifty-two years on, the success of the scheme is clearly

¹ The salary is topped up by the Fellowship Scheme in order to provide competitive terms to the junior lawyers and secure exceptional candidates.

² www.odi.org/fellowship-scheme

demonstrable by a consistently high demand for Fellows from governments³ and by the continued support over the years from its major funder, DFID.

The Oxford Law and Policy Fellowship Scheme

The scheme provides law and policy fellows to developing country governments, full time for up to two years, with the objective of providing outstanding early career legal advisors, to address gaps in local capacity. Fellows are employed by, and directly accountable to, the ministry in which they work, supporting senior officials and enabling the transfer of knowledge and skills between fellows and colleagues engaged in law and policy. Four fellows, including a fellow funded by LASER, were deployed to Rwanda, Djibouti and Zanzibar in the first year of the pilot in 2015. Two international development consultancy firms, LDP (implementing LASER) and Oxford Policy Management (OPM) partnered to pilot the first year of the scheme. In addition to the LASER funding for one fellow, OPM and LDP contributed financial resources to the pilot, with OPM leading implementation and funding the remainder of the programme.

2. LASER has supported the deployment of a Law and Policy Fellow to a line position in Rwanda's Ministry of Trade and Industry (MINICOM) since October 2015. Like the ODI Fellowship scheme, the deployment is for two years. The Fellow is an employee of MINICOM, and works in the Legal Team that provides services to the rest of the Ministry and reports directly to the Permanent Secretary. The Legal Team advises on a wide range of issues including competition, consumer protection, intellectual property, commodity value chain development, market infrastructure, international trade and regional integration, investment promotion and industrial development. The Legal Team's services include legislative drafting, policy development, reviewing contracts, international trade and investment agreements and treaties, and providing ad hoc advice.
3. This case study explores lessons from applying a problem-driven, iterative approach to the Fellowship scheme, from identification of need and the recruitment process to how the Fellow has applied such an approach to her work. The paper outlines what has worked well and why, what has been less successful and why, and includes reflections on how the Rwandan context has contributed to these successes and lessons.

Emerging lessons from the 'Fellow' model

4. The LASER Rwanda Fellow is only eight months into her two-year position and has built strong collegiate relationships of trust with local counterparts, and established her credentials as a source of strong technical advice. Specific areas of support include:
 - **Supporting the Legal Team's capacity to negotiate bilateral investment treaties (BIT) and development of practical guidelines on how to negotiate effectively:** These guidelines and a model BIT are still under development. The development of the guidelines and model are a result of positive feedback from the Minister on detailed advice given by the Fellow in respect of individual BITs being negotiated and interest from the BIT negotiating team on clearer

³ ODI (2016) ODI Fellowship Scheme 2016. ODI, London.

guidance. The next step will be to obtain the Minister's approval of the guidelines, seek input from MINIJUST (justice), MINEAC (East African community) and MINAFFET (foreign affairs) amongst other government stakeholders, and then use the guidelines to conduct training for the BIT negotiation team and MINICOM Legal Team.

- **Working with local colleagues to reform intellectual property (IP) law:** In March 2016 MINICOM organised an IP law workshop which was led by the Fellow. Ahead of the workshop she undertook an initial review of the IP law for consideration. This represented the first revision of the law since its commencement in 2009, at a time when MINICOM senior staff recognise that there was limited technical capacity and understanding around IP in the country. The original law was drafted by international consultants, so the workshop represented a taking on of ownership of IP law and policy in Rwanda. The workshop was also the first collaboration between MINICOM (the IP policy maker), the Rwanda Development Board (the IP administrator) and NIRDA (the industrial research and development agency) on IP issues. The draft law is currently tabled for the next senior technical committee meeting of MINICOM, where it will be discussed and internally validated, following which it will proceed to external consultations.
5. It is too early in the Fellow's deployment to evaluate it; a review will be undertaken at the end of the LASER programme, and lessons drawn. However, two things are clear at this stage: Firstly, while the lessons outlined here are preliminary, they resonate with LASER's broader experience as articulated in several of our products⁴. Secondly, MINICOM (which is paying the Fellow's salary) is enthusiastic about the scheme and believes it adds a great deal of value to the service provided by the Legal Team. MINICOM and the Fellow have pointed to a number of distinctive features of the scheme which they believe are making it a success, and these are discussed below.

Clear local demand and articulation of need

6. MINICOM's demand for the Fellow's services was clear. A senior LASER legal adviser had, for the previous year, been embedded in Rwanda's Ministry of Justice (MINIJUST)⁵, focusing on commercial contract management. The LASER adviser developed strong relationships of trust with counterparts in the Government of Rwanda, including in MINICOM, and had registered a solid number of successes. MINICOM had requested additional support from LASER on a number of investment climate issues which the programme was unable to respond to due to resource limitations. However, as the senior adviser's year-long deployment came to an end, LASER recognised the need for continued in-country support to make a lasting, transformative impact. A longer period in which to continue working closely with Rwandan counterparts would enable initial early successes to be capitalised on. In essence, during LASER's first year its engagement

⁴ A long scoping period contributes to supporting locally identified problems; working in a politically informed way supports genuine local ownership and sustainability but takes time and challenges with applying PDIA in Rwanda. As articulated in the following LASER products: *Politically smart approaches to donor investment climate programming*; *Monday morning in Kigali: what do you do when you get off the plane?*; *Delivering institutional reform at scale: problem-driven approaches supported by adaptive programming*; *Adaptive programming in practice: shared lessons from DFID-funded LASER and SAVI*.

⁵ See LASER Rwanda case studies: LASER (2015) *Rwanda Pilot Case Study: PDIA in practice during the LASER pilot - Domestic Resources*; LASER (2015) *Rwanda Pilot Case Study: PDIA in practice during the LASER pilot - Foreign Direct Investment*; LASER (2016) *Enhancing Government contract management processes to stem significant financial losses*.

with MINICOM was a period of scoping to understand the political economy and the issues of concern to the Ministry. Identification of the need for long term assistance was the entry point for further engagement. This closely aligns with the hourglass approach to institutional reform outlined in LASER's second synthesis paper, *Delivering institutional reform at scale: Problem-driven approaches supported by adaptive programming*.

7. The LASER senior adviser worked closely with MINICOM to assist officials to identify their needs, capacity gaps and what they were looking for in a Fellow in terms of technical skills, experience and background. This involved support to translate their desire for the right mix of technical skills to meet the Ministry's specifications and interpersonal skills to make an effective contribution within an unfamiliar and politically driven context into clear terms of reference. The recruitment process identified two possible candidates from which MINICOM could select. MINICOM's close involvement in developing the terms of reference, expressing their prerequisites and making the final decision helped to generate authentic ownership of and commitment to the success of the fellowship.
8. This approach of LASER and the Fellowship scheme listening and responding meaningfully to locally identified needs on the one hand, and the Ministry being clear about its needs on the other, has been fundamental to the scheme demonstrating early success. In particular, MINICOM having experience with ODI Fellows and other embedded advisers as well as having a clear reform agenda is a critical combination. MINICOM has solid experience working with foreign technical assistance from which it has learnt the importance of soft skills as well as technical qualifications, recognised the value of the expertise being offered, and understood how to effectively engage Fellows to help the Ministry achieve their reform agenda. In addition, there has been consistency in the personnel who drafted and approved the terms of reference for the Fellow, engaged in discussions on the scheme and ultimately selected and employed the Fellow. This has contributed to a clear vision and understanding of the role of the Fellow within the Ministry and meant she has faced few of the obstacles commonly associated with embedding foreign advisers.

The benefits of early-career professionals

9. Feedback from the MINICOM Legal Team is that using an early-career professional to provide technical assistance helps create an equal and collegiate relationship between the Fellow and local staff. They have observed that the LASER Rwanda Fellow is more approachable, enthusiastic and flexible than other technical experts they have worked with who are more advanced in their careers and embedded in the Ministry at a more senior level. There may therefore be benefits to a programme, or a donor, supporting a mix of technical assistance. More junior advisers or Fellows may be more flexible and approachable because they are less intimidating. Combining this type of technical assistance with backstopping support, or by having Fellows embedded within a broader programme, as is the case with the MINICOM Fellow, appears to provide good value for money for donors.

Building relationships that enable capacity building in small but meaningful ways

10. The LASER Rwanda Fellow has observed that a key advantage to being embedded in a team within a developing country ministry as a local employee is that it enables genuine relationships to be

built that a short term adviser, or one seen as very senior or autonomous cannot typically achieve. Being regarded as a local staff member who has made a commitment to live and work in the country is helpful in developing relationships with local colleagues, who may be sceptical of short term ‘fly in fly out’ technical assistance, based on past experiences. Building relationships of trust is an art rather than a science and will always depend on the context and personalities involved. Some of the measures the Fellow took early on to develop these relationships include regularly socialising outside of work with colleagues and their families, attending colleagues’ weddings, visiting unwell colleagues in the hospital, and attending other work functions (often treated as optional by other external advisors) such as commemoration events for the genocide. The fellow has sought to learn about her colleagues’ backgrounds and families and frequently offers non-work related assistance such as reviewing a co-worker’s university papers or assisting in negotiations with a landlord. The fellow has made a sustained effort to learn Kinyarwanda, a language not widely spoken outside of the country and so one which few foreign advisors attempt to learn. This contributes to the sense of commitment to and genuine interest in the country and people.

11. This focus on developing close working relationships has been crucial to the Fellow’s ability to work in a politically and culturally sensitive way. Where there is a bond of trust and a belief that the Fellow is on their team, colleagues are far more open and forthcoming in providing the political background, cultural context or history to a matter which enables the Fellow to leverage her technical skills in the most effective manner. In addition, local colleagues have extensive local networks based on long-term and often informal social relationships, which are available to the Fellow by virtue of sharing the same space and working as part of the same team.
12. On the Government of Rwanda side, local counterparts in MINICOM’s Legal Team state that they appreciate the strong emphasis on interpersonal skills in the recruitment criteria, noting that the Fellow has the technical competencies they sought, but importantly is able to use and transfer those competencies because of the soft skills identified during recruitment. The importance of spending the initial period understanding colleagues, the political economy and partners’ ways of working cannot be overstated and is reflected in other LASER guidance.
13. The LASER Rwanda Fellow’s solid relationships strengthened her understanding of the context and in turn helped her to identify and implement small but significant capacity building initiatives. After some months working within the Legal Team, the Fellow observed first-hand some of the deficiencies in the work-processes of the team which were hampering its effectiveness. The Fellow suggested the introduction of new systems, which meant small and manageable changes, which have nevertheless made a marked improvement to the efficiency of the team. These include the use of a shared calendar to notify team members of commitments, and a system of reminders to follow up external correspondence or internal advice to ensure next steps are taken in a timely fashion. Another example is the use of a shared cloud drive⁶ to facilitate document sharing and ensure continuity of work when a member of the team is away. The Fellow also instigated a weekly team meeting to plan the team’s workload and coordinate and allocate tasks.

⁶ A web-based service that provides [storage](#) space on a remote server.

14. Although these are all small, incremental improvements, reflective of working in a problem driven and iterative manner, the Fellow, her colleagues and their direct supervisor, the Permanent Secretary, have all noted that they have improved the quality and timeliness of the Legal Team's outputs. The need for these changes would not have been identified without the Fellow being embedded in the Ministry, and having a strong enough working relationship with the team to be able to suggest changes to existing working habits.

Identifying and leveraging technical assistance needs

15. The anticipated outcome from LASER's engagement with MINICOM, through the Fellow, is increased capacity to identify and articulate demand for technical assistance for law and justice reforms. This outcome was developed based on an understanding of MINICOM's needs, reform priorities and interest in drawing on international resources where appropriate. This assumption has so far proved valid, the LASER Rwanda Fellow's familiarity with the breadth of the work of MINICOM has enabled her to identify technical capacity needs within the Ministry, and to help shape those needs into requests for appropriate specialist international technical assistance. The role of the Fellow in complementing and enhancing the effectiveness of external resources is not limited to the LASER programme; the Fellow has connected with donors such as the World Bank Group, and worked to assist them in communicating and coordinating with the Ministry on a project aimed at strengthening competitive markets in Rwanda and establishing an independent competition and inspectorate authority. The Fellow has also assisted the Ministry to seek inputs on a draft law relating to tobacco control from the McCabe Centre for Law & Cancer, and has accessed resources developed jointly by LASER, BPP University Law School, ROLE-UK and Rwanda's Institute of Legal Practice and Development (ILPD) to inform a training proposal for MINICOM staff on professional liability. The MINICOM Legal Team considers that a key value add of the Fellow lies in bringing an international perspective to local problems, and an awareness of and ability to leverage external resources, such as the LASER programme and other facilities for technical legal advice and support.

Working in politically smart ways requires flexibility in programming

16. Developing requests for technical assistance in an organic way led by genuine local demand, but with a strong understanding of the types of external technical support available, has resulted in requests for assistance that are adequately tailored and fit for purpose, and therefore resulting reforms are more likely to 'stick'. However, supporting genuine local demand requires the Fellow to work in a politically smart way, which takes time to result in 'deliverables' or tangible outputs.
17. The LASER Rwanda Fellow has already been in a position to match an area of need for short term specialist policy development and drafting support with assistance offered by LASER. The Minister of Trade and Industry asked the Legal Team to review the internal trade law. In doing so, the Fellow identified the need for international technical assistance to develop a new law. The Fellow discussed with her colleagues the most appropriate way of proposing this to the Minister, and as a result they decided to undertake the initial analysis internally before proposing external assistance. This required liaising closely with, and bringing into the process, another government institution. The Fellow and her colleagues held a series of protracted discussions with senior colleagues from that other institution, who were ultimately not interested in engaging on the law

revision process, largely due to the particular personalities involved. This route took time and required diplomacy and an awareness of the context to navigate difficult characters and work with the timeframes involved when seeking decisions from senior officials. It also provided a useful lesson for the Fellow and MINICOM about the extent to which they will engage with the relevant institution in future.

18. Throughout this process, the approach taken by the Fellow to engaging effectively with government colleagues was adapted several times to respond to new information, either that passed on by her colleagues in response to events or through her own observations. Ultimately, the MINICOM Legal Team secured agreement from the Minister on a way forward, which involved seeking a partnership with LASER to develop a new law with international expertise provided by LASER, and local support and context provided by the Legal Team and Fellow.
19. Applying problem driven and iterative approaches in practice means responding to and working with the context. In this case, that meant several months of discussions with a range of senior officials to ensure there was genuine local ownership of a request for international assistance, that is likely to mean a more sustainable and embedded outcome that builds partners' capacity. This example demonstrates the inherent tension between a problem driven, iterative approach and donor accountability requirements. That is, the need to balance accountability (here logframe milestones) with the flexibility to ensure that programming is truly demand led and not driven by donor reporting requirements. This tension is discussed in more detail in LASER's third synthesis paper *Adaptive programming in practice: Shared lessons from DFID-funded LASER and SAVI*.

Working politically sometimes means offering workable rather than ideal solutions

20. While a problem driven, iterative approach can support local ownership and sustainable institutional reform, it is not always appropriate or valued by developing country partners. Where a government, or an institution, has a clear reform agenda and a preferred method of working, it can be difficult to argue the benefits of spending time to better understand the underlying causes of a problem and consider in detail a range of appropriate solutions. It is common in Rwanda to legislate as a means to change behaviour and implement government priorities, yet this may not always be the most effective mechanism to achieve policy outcomes. The Fellow's experience, like the LASER Adviser before her, has been that if responses to requests for advice are not considered helpful, it may mean that further input from that individual or user department is not sought in future. Therefore, the Fellow has found that working in a politically informed way, that supports effective long term relationships, sometimes means balancing the desire to provide best practice solutions with advice that is workable and meets partners' immediate needs.

Conclusion

21. Early indications from LASER's experience in Rwanda is that the Law and Policy Fellowship scheme offers value for money, quality and effective technical assistance. Not only has the Fellow been able to provide direct and relevant assistance to MINICOM, but also has been able to leverage additional specialist international support – and to assist the Ministry to recognise when this is needed and to articulate their specific needs. This has largely been possible after only eight

months due to the Fellow applying her soft skills to build relationships of trust and understand the context which has enabled her to work in a politically informed, problem driven and iterative way. LASER will continue to monitor the Fellow model over the next year, with a view to a final assessment as part of LASER's programme completion evaluation in May 2017.

22. Key lessons and suggestions from the Rwandan experience, for donors and implementers considering applying problem driven, iterative approaches to technical assistance, and specifically Fellows, include:

- Fellows may be best placed within a broader programme that enables adequate scoping, and an in-depth understanding of the context, of partners' needs, and of the appropriateness of embedding a Fellow in a particular Ministry.
- Understand the balance of soft skills and technical qualifications the partner is looking for, and consider candidates with the right fit for the organisational and national culture.
- A Fellow can be effectively employed where there is genuine local interest in having a Fellow and the partner government has a clear vision for how the expertise can be used to help them achieve its goals. This may often be tied to the stability of the senior team in the institution.
- Be realistic in setting deliverables during the first six months of embedded assistance. There needs to be space during this period to build relationships of trust and understand the ways of working while responding to genuine demand without being driven by programme or funding imperatives.
- Recognise that working in a politically informed way sometimes means taking a pragmatic view about the long term relationship or programme outcomes and providing workable rather than best practice solutions.