



Case study

Embedding reform and exiting: LASER's application of the hourglass approach to achieve sustainable results

DFID Legal Assistance for Economic Reform Programme

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Acronyms

ADR	Alternative dispute resolution
DDD	Doing development differently
DFID	The Department for International Development
GoR	Government of Rwanda
ILPD	Institute of Legal Practice and Development
JPIP	The World Bank's Judicial Performance Improvement Programme
LASER	Legal Assistance for Economic Reform
LDP	The Law & Development Partnership
MINICOM	Government of Rwanda's Ministry of Commerce
MINIJUST	Government of Rwanda's Ministry of Justice
ODI	Overseas Development Institute
OPM	Oxford Policy Management
ROLE UK	Rule of Law Expertise UK
WB	The World Bank

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:

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

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

This case study is part of a suite of LASER products that develop latest thinking on approaches to institutional reform. The thinking drawn on has been badged in various ways including *problem-driven iterative adaptation*; *systems approaches*; *politically smart locally-led development*; *adaptive programming*; *doing development differently (DDD)*; and *thinking and working politically*.

This paper has been written by Clare Manuel, LASER's Programme Director, with support from LASER team leader, Deborah Mansfield, and other LDP and LASER team members. LASER products can be accessed via the LASER website: www.laserdev.org/resources.

Executive Summary

This case study describes how LASER has gone about enabling systemic change and sustainable uptake of reforms that address complex institutional problems in Kenya, Rwanda, Sierra Leone, Somaliland and Uganda. In each of these countries LASER has designed-in a sustainable approach from the start based on: (i) local ownership and leadership of reforms based on developing country (rather than donor) priorities; (ii) use of country (rather than donor programme) systems; and (iii) an understanding that the role of the donor / development practitioner is to support (rather than buy) reform. The case study uses LASER's hour glass methodology¹, illustrated with examples from LASER interventions, to show how these principles guide LASER operations every step of the way.

Introduction and background

1. LASER's provision of technical assistance to assist developing countries to improve their investment climates is based on three key principles: (i) local ownership and leadership of reforms based on developing country (rather than donor) priorities; (ii) use of country (rather than donor programme) systems; and (iii) an understanding that the role of the donor / development practitioner is to support (rather than buy) reform. LASER embraces these principles because they are good development practice and most likely to achieve sustainable

¹ LASER's second synthesis paper 'Doing Development Differently – Delivering institutional reform at scale' (October 2015)

reform that continues after donor assistance has ceased, thus enhancing value for donor money.

2. LASER's approach has been conceptualised as the hourglass approach (see LASER second synthesis paper - Delivering institutional reform at scale: problem-driven approaches supported by adaptive programming² and the box below).

The seven phases of the LASER hourglass approach

Note: The phases described below are not applied in a linear fashion. Rather, progress occurs through trial and error, a series of 'small bets', with short lesson learning loops involving doubling back and learning from experience

Phase one: Identify the issues and recognise their complexity – in each country where LASER works there are a wide range of investment climate problems identified as 'priorities, each located in a complex, multi-institutional political environment or 'system'

Phase two: Do some analysis but not too much – LASER undertakes a light touch analysis of the issues from four perspectives (i) technical; (ii) political; (iii) value for money; and (iv) potential for an external actor (DFID) to make a difference.

Phase three: Find an entry point - a problem a relevant organisation cares about - The entry point is what the relevant organisation (usually part of government) – and not the donor - perceives the problem to be. The problem (or set of problems) can be at any level – from strategic to operational.

Phase four: Growing the engagement organically – Learning about and understanding the problems occurs through discovery and doing, rather than primarily by analysis: by getting stuck in and offering to help. From a narrow entry point, a skilled and facilitative development practitioner will 'join the dots' and develop a more strategic intervention.

Phase five: Consider the scope for donor programming, but think outside the box about the shape of the programme - If money is part of the problem, consider the scope for (i) new donor programming; or (ii) better use of existing donor or government funding.

Phase six: Donor programme crystallises – Ensure seamless implementation, with on-going assistance in the form of scoping / design / learning by doing before any new programming begins.

Phase seven: Implement the programme, but maintain flexibility where appropriate – Once any new programme's funding level and delivery mechanism are 'locked in' use an adaptive programming approach to ensure accountability for donor funds, while maintaining flexibility to respond to new opportunities and to lessons learnt as implementation progresses.

3. The key characteristics of the hourglass approach are:
 - a lengthy 'scoping/design' process (typically 1-2 years), before programme 'crystallisation';
 - a narrow entry point through a problem that local people who have power to bring about change care about;
 - a new approach to scoping/designing reform programmes which focuses on learning by doing – iterating around problems to deconstruct them and facilitating local people to identify solutions that work for them;

² LASER's second synthesis paper 'Doing Development Differently – Delivering institutional reform at scale' (October 2015)

- scoping/design phase characterised by no pre-determined programme budget or delivery mode: programme 'form' should follow 'function', and be determined near the end of the scoping/design phase; and
 - once the programme has 'crystallised' and its delivery model and funding levels determined, the appropriate degree of flexibility for effective implementation are maintained during the implementation phase, consistent with DFID Smart Rules and requirements for programme management.
4. This case study describes how LASER has applied the hour glass approach to enable systemic and sustainable change. Examples are drawn from LASER's work in Kenya, Somaliland and Uganda (where LASER ceased operating in May 2016) and Rwanda and Sierra Leone (where interventions will end in November 2016). In each case, LASER's approach has been to provide technical assistance on investment climate reform issues to government line ministries and / or to the Judiciary (the latter on commercial dispute resolution). In most cases support has been provided primarily through posting a resident, embedded adviser to the relevant partner institution; but other forms of technical assistance have also been used, including drawing on highly specialised pro bono legal expertise, and supporting the piloting of an innovative Law and Policy Fellowship scheme, based on the successful ODI fellowship scheme for economists³. The box below provides a brief summary of what LASER has achieved.

LASER intervention overview: reforms LASER has supported

Kenya: LASER has supported the Judiciary's introduction of alternative dispute resolution (ADR) into the Kenyan legal system in the form of court annexed mediation – something that has been a priority for the Judiciary for nearly 15 years. By supporting the piloting of ADR in the High Court in Kenya, LASER has helped the Judiciary to test a practical solution to improving the investment climate by making commercial dispute resolution faster and cheaper. It also has the potential to improve access to dispute resolution and to reduce the case backlog in commercial courts. LASER technical assistance has been through a project manager to help the Judiciary kick start the pilot, and part time senior technical inputs to facilitate decision making and the development of an M&E framework.

Rwanda: LASER has helped the Government to strengthen its contract management process at national and district level, potentially reducing substantial financial losses currently being incurred through litigation resulting from weak contract management. LASER support was provided through a resident adviser embedded in the Ministry of Justice (MINIJUST), and also through a more junior resource - a LASER funded Oxford Law and Policy Fellow employed by the Ministry of Trade & Industry to provide capacity building and technical support across the Ministry.

Sierra Leone: LASER has supported the Government to prioritise and formulate commercial law and justice reform at a national level. LASER supported the Government of Sierra Leone to include for the first time a commercial law and justice component in its national Justice Sector Reform Strategy and Investment Plan. LASER's resident embedded adviser has provided full time support to the Law Officers on the negotiation and management of contracts and to line ministries and the Judiciary on other priority commercial law and justice reforms that underpin the delivery of the national level post-Ebola recovery plan.

Somaliland: LASER supported the Government on trade policy, electricity regulation and investment promotion. LASER's embedded adviser in the Ministry of Foreign Affairs and International Cooperation has helped the government to improve the skills of the team negotiating a trade agreement with Ethiopia and to begin to develop the regulatory framework for the electricity sector.

³ <https://www.odi.org/odi-fellowship-scheme>

Uganda: LASER worked with the Judiciary to prepare the roll out of a small claims procedure to magistrates' courts nationwide. The procedure makes it easier, cheaper and faster for small businesses to resolve commercial disputes.

LASER's six lessons for enabling sustained reform

5. Time will tell if the reforms that LASER has supported are sustained. Early indications are that they will be. This is because they are reforms that have been identified and are being led by the developing country concerned. This is an 'upside down' view of how to do development⁴: it is not the developing country that buys into a donor reform programme, rather LASER 'buys into' country owned and led reforms, and supports them. This approach 'designs in' sustainable exit from the start.
6. As will be detailed in the rest of this case study, six key lessons have emerged from LASER's application of the hourglass approach on how to embed reform and then exit:
 - Lesson 1: Focus on problems that are priorities for partners and where reform has in-built traction. Sustainability is about ownership. LASER 'buys in' to problems that developing country organisations, that have power to bring about change, care about, and takes 'small bets' to support reform where there appears to be real traction for change.
 - Lesson 2: Work in a politically smart and flexible manner. LASER engages with the power wielded (or not) by decision makers and champions, and the political will to drive changes forward. The programme considers the capacity of individuals and the maturity of the organisation involved to engage with LASER, develop solutions and implement changes. Combined with the inherent flexibility of an adaptive programme, this has allowed LASER to progress only those work streams most likely to be sustainable and to achieve long term impact.
 - Lesson 3: Facilitate contextually relevant solutions. The role of LASER technical experts is not to deliver international best practice, but rather to facilitate the development of local solutions. This involves collaboration over an extended time, building relationships of trust, and working as colleagues with local partners to assist them to develop 'their' owned, solutions.
 - Lesson 4: Consider affordability and value for money up front. LASER's initial analysis during Phase 1 of the hourglass considers (among other things) the affordability and cost benefit of potential reforms. A reform that only works when it is underwritten by donor money is not long term sustainable. Reforms need to be considered in the light of the funds available to take them forward and / or the strength of the case for investing in them in the light of the benefits they will deliver.
 - Lesson 5: Use local systems, don't invent parallel ones. LASER has no convening power of its own, but works 'behind the scenes' to support local reform processes. This may mean linking in with high level national planning and resource allocation processes, and with existing organisational structures and processes. Where new structures (e.g. a committee)

⁴ S Unsworth 'An Upside Down View of Governance' (2010)

are required these are convened by the developing country partner, with LASER support where necessary.

- Lesson 6: Leverage on-going funding and assistance where needed. Part of LASER's offer is to help developing country partners to build partnerships and relationships so that they can leverage on-going funds or assistance. Where on-going funding and / or assistance is required, LASER has assisted developing country clients to access it from new DFID programming, other donor programming, developing country national budgets, and from the private sector (including specialised legal advisers working both on a commercial basis, and pro bono).

Applying the lessons in practice: examples from LASER interventions

7. The rest of this case study describes how LASER has applied these lessons in Kenya, Rwanda, Sierra Leone, Somaliland and Uganda through the hourglass approach.

Phase 1: Identify the issues and recognise their complexity

8. Investment climate problems that LASER engages with are usually well understood and have been analysed by donors and experts in a plethora of reports and studies. In most cases the difficulty is not identifying the constraints to growth, the problems is how to move reform forward where it has proved intractable, often over many years.

Kenya – LASER has supported improved contract enforcement processes, by working with the Judiciary to introduce alternative dispute resolution (ADR) into the court system. There have been various unsuccessful attempts in Kenya over the past 15 years to introduce ADR. In early 2015, LASER spotted what had the potential to be a real opening for locally-led and owned reform in this area and was able to support it⁵.

Uganda – LASER's initial scoping study⁶ considering potential engagement in Uganda recognised a wide range of investment climate issues that constrain private sector development. These had changed little over the past 20 years, and in some cases had worsened. LASER's political economy analysis recognised the deep incentives to maintain the status quo.

Bangladesh – LASER contributed to the design of the second phase of the DFID supported Bangladesh Investment Climate Facility, through undertaking a political economy analysis of key constraints to growth. Power and the need for reformed regulation of the power sector has long been recognised by a range of commentators as a binding constraint to growth, but the incentives to retain the status quo are strong. Previous donor efforts to engage with the issue have had very little success: the key donor achievement over the past three years has been to get the name of the regulatory authority changed⁷.

- Lesson 2: Work in a politically smart and flexible manner. LASER recognises that the time may not be ripe to solve some investment climate problems, and that in some cases LASER's technical assistance approach may not be appropriate. In Bangladesh, an approach based around

⁵ LASER's Kenya Case Study 'Exploring how to use a problem-driven iterative adaptation approach in restructuring pre-existing institutional reform programmes' (November 2015)

⁶ LASER's Uganda Case Study 'Designing an Institutional Reform Programme at Scale' (December 2015)

⁷ LASER engagement completion report 'Next phase of DFID support to investment climate reform in Bangladesh' (February 2015)

supporting collective action and taking 'small bets' for reform was proposed. In Uganda and Kenya the Judiciary, rather than the executive appeared to offer openings to support genuine reform.

Phase 2: Do some analysis, but not too much

9. LASER draws on systems approaches, and the notion that complex institutional systems are best understood through a process of discovery ('getting stuck in') rather than undertaking more and more technical analysis⁸. For this reason, LASER has developed an initial 'light touch' analytical framework for scoping out whether to engage. This is based on a simple matrix and a traffic light scoring system that considers investment climate problems through four lenses: (i) technical analysis; (ii) political economy analysis; (iii) potential for an external actor to make a difference; (iv) value for money.

In Uganda and Somaliland LASER undertook formal light touch scoping studies before engaging and getting 'stuck in'. It was recognised that analysis could only take the programme's understanding of investment climate problems so far. Initial entry points were identified based on the traffic light analysis. In Uganda the initially identified problem, with the strongest likelihood of supporting sustainable reform (contract enforcement for small firms and the introduction of small claims procedure) proved fruitful. In Somaliland, initial engagement on power sector regulation subsequently broadened out into unforeseen support to the development of a trade policy framework and bilateral transit agreement with Ethiopia for the use of Berbera Port.

➤ Lesson 2: Work in a politically smart and flexible manner

In Uganda the Judiciary were keen to consider the cost /benefit implications of the introduction of small claims procedure, with a view to persuading the Ministry of Finance to invest in rolling out the procedure. LASER bought into this approach. At the start of LASER's engagement the programme, commissioned by the Judiciary, undertook a cost benefit analysis of Uganda's long-standing Commercial Court⁹ (which deals with high level disputes, rather than small claims). The study was able to link sustained improvements in the Commercial Court's performance with Uganda's marked expansion in lending including to women, sustained reduction in non-performing loans, and sharp increase in foreign direct investment. The study suggested that if the Court were responsible for just 1% of the US\$2.5bn pa increase in private sector lending and 1% of the US\$1bn pa increase in foreign direct investment this would have covered the total investment in the Court (donor and government) thirty times over. LASER is now supporting the Judiciary to undertake similar analysis of the new small claims procedure to help them secure Government or donor funds to support the roll out to magistrates' courts nationwide.

➤ Lesson 4: Consider affordability and value for money up front

Phase 3: Find an entry point – a problem that a relevant organisation cares about

10. LASER's offer is to provide technical expertise to help with a problem where there is, or appears to be, real traction for change. There needs to be a genuine opening for reform and potential

⁸ LASER's second synthesis paper 'Doing Development Differently – Delivering institutional reform at scale' (October 2015)

⁹ LASER Uganda 'Retrospective study of the progress, performance and impact of the Uganda Commercial Court 1996-2015' (November 2015)

for a partnership between the programme and a relevant local organisation (government or the Judiciary). Importantly, the initial entry point is a problem which the relevant organisation cares about. This may be different from what the donor or other experts perceive the problem 'should' be.

The initial problem may be a highly strategic one: for example in Sierra Leone it was how to raise the profile of commercial law and justice within national planning and resource allocation processes; in Somaliland it was electricity sector regulation. In some cases the initial entry point problem was much more operational: in Kenya it was organising a retreat for the Judges to develop a plan for piloting a system for alternative dispute resolution.

➤ **Lesson 1: Focus on problems that are priorities for partners**

Phase 4: Grow the engagement organically and 'learn by doing'

11. LASER has no convening power. The programme intentionally has a low in-country profile and 'hides' behind its client, the local partner. This is key to LASER's approach to sustainability. The programme does not have a life or presence of its own, and aims not take the credit for achievements it has supported: rather LASER's work is all about supporting the capability of its local partner organisation, and 'their' initiatives. This approach means that the support offered needs to include people who offer not only the appropriate technical expertise, but also (and possibly more importantly) have the necessary 'soft skills' to work with their local counterparts, usually 'behind the scenes', to support their ownership of the reform process.
12. Key to this approach is working within local structures and systems, and not inventing new 'programme' ones. This mean supporting the embedding of reforms within local policy making, planning and resource allocation processes. It also means working with partners to help them to develop solutions, and not presenting them with ours.

Kenya: From initial support (a 'small bet') to supporting the Judiciary to deliver a retreat to plan an ADR pilot, LASER's engagement grew, and was embedded within a local organisation and local processes. Thus the programme responded to the Judiciary's request to provide an interim project manager (local consultant) for the ADR pilot. Key activities were supporting the Judiciary to put in place appropriate processes to help the ADR Operational Committee, which was responsible for the ADR pilot, to function more effectively; helping stalled discussions within the Judiciary to move forward by coordinating engagement between decision makers (including the co-chairs of the ADR Operational Committee, the Registrar of the High Court, and Head of the Mediation Accreditation Committee); and securing a venue for the pilot.

Rwanda: During the annual planning and budgeting process, the Ministry of Finance and Economic Planning encouraged all sectors to actively engage with the private sector to discuss and consider how best to meet national poverty reduction targets. In addition, the Justice, Reconciliation, Law and Order Sector had agreed at the JRLOS 4th annual peer review on the need for more evidence based decision making. LASER used these two national priorities and planning processes as the entry point for supporting the JRLOS Secretariat to undertake consultations with the private sector. The feedback would contribute to a better understanding by the justice sector of commercial law and justice constraints, allowing for more evidence-based planning at the sector level. The findings were shared

with key sectoral stakeholders and informed ongoing policy development and the annual budgeting and prioritisation process.

Sierra Leone: LASER has supported the Ministry of Justice to move commercial law and justice reform up the agenda; both within the Judiciary, and across government. By raising awareness of the importance of the role of the commercial court in strengthening investor confidence in Sierra Leone and encouraging donor support, LASER aimed to stimulate systemic change in how the court is perceived and supported by the government. Although LASER support is still underway in Sierra Leone, some success which points at sustainability has already been achieved. Specifically, the importance of commercial law and justice reform and the importance of the Fast Track Commercial Court is recognised in the new set of national indicators for the second phase of post Ebola recovery - the President's Recovery Priorities - and a judicial conference took place where reforms to the Fast Track Commercial Court were debated and 'owned' by the judiciary. Reform of the Fast Track Commercial Court has been identified as a national level priority under the second phase Presidential Recovery Plan and other commercial law and justice reforms, such as improved contracting on agribusiness investments, underpin the Plan.

Somaliland: LASER has supported the government to develop key policies and plans, which the government is now operationalising. These include a Trade Policy Framework, and an action plan on electricity and paper on challenges in the electricity sector which has fed into the Ministry of Energy's road map for the sector.

Uganda: LASER has supported the Judiciary's small claim procedure pilot by working with local counterparts to develop a monitoring and evaluation framework, a roll out strategy, a costed work plan and a cost benefit analysis of the pilot. These tools have enabled the Judiciary to strengthen their pilot, and to ensure that the lessons learnt during it are built into the continuing nationwide roll out of the new procedure.

➤ **Lesson 3: Facilitate contextually relevant solutions**

13. Capacity development and training are key LASER activities and vital for ensuring sustainability. The programme's approach is to work in a highly participatory manner alongside local counterparts, building relationships of trust and mutual respect. Where training is provided it is developed jointly with local counterparts and is highly context specific.

Rwanda: LASER supported MINIJUST (Rwanda's Ministry of Justice) to develop tools and processes to strengthen contract management, particularly on the importance of identifying risks and accessing legal advice early on, and not only once serious problems have been encountered (as is currently the case). The approach has been to work with local counterparts to develop model contracts and a contract management handbook, as well as improving reporting processes, and coordination mechanisms with legal officers across institutions. LASER supported the roll out and embedding of these tools and processes within MINIJUST systems and across government, including supporting MINIJUST to develop a long term contract management training and capacity development strategy, enabling formal training and on the job mentoring to continue beyond LASER engagement.

Similarly, LASER's support to MINICOM (Rwanda's Ministry of Commerce) includes helping to improve operational systems and processes within MINICOM, and is supporting MINICOM to identify and access external expertise on commercial law as required.

In addition, a key part of LASER's approach to sustainable training has been to work with Rwanda's government legal training institute, ILPD, to enable them to access appropriate international support on a sustainable basis. Thus LASER worked alongside ILPD in identifying and deploying pro bono trainers and to develop a handbook on how to develop and manage relationships with pro bono

training organisations. This includes contact details for organisations providing international training services and checklists for managing engagement with pro bono providers.

Somaliland: A key component of the work done in Somaliland was the delivery of training and ongoing on the ground technical support to increase - in a systemic and sustainable manner - trade negotiation capacity within government. This included the delivery of formal training sessions, as well as operational and research support from the LASER resident advisor and LASER trade and economic advisor. The resident advisor also worked to improve internal organisational capacity, for example through the development of a toolkit of template and standard forms for both trade and investment promotion activities. LASER supported the Ministry of Foreign Affairs to develop work plans and tools for trade negotiation to continue after LASER's departure. These included the continuing trade negotiations, investment in the port of Berbera, the Corridor Economic and Road Development and Fundraising Conference, and the organisation of investment conferences / forums.

Uganda: LASER developed the small claims procedure M&E framework in a highly participatory manner, working with Judiciary staff directly involved in frontline implementation, including clerks. Feedback from participants at the LASER facilitated workshops was very positive about LASER's role in strengthening understanding of M&E and its significance for the pilot.

➤ **Lesson 3: Facilitate contextually relevant solutions**

14. Sustainability depends on affordability. LASER's supports partners to undertake reform that are long-term affordable and are good value for money. LASER is currently working on a paper that sets out to establish a conceptual framework for analysing the costs and benefits of delivery models for commercial law and justice. The research will support: donors to prioritise resource allocations to commercial law and justice reforms; alternative funders to consider the prospects of investing in these or similar models; and developing country governments to undertake cost benefit analysis themselves, and make the case for additional funding of the delivery models in question.

Kenya: LASER supported the Judiciary to put in place an M&E framework. This leaves the Judiciary with a tool that allows them to monitor results and refine the pilot on an ongoing basis, and collect data that will eventually help make a case for (and feed into the design of) the roll out of court annexed mediation across the country. This would represent a significant systemic change in how commercial disputes in Kenya are resolved.

Rwanda: LASER is supporting MINIJUST to undertake a contract management impact analysis aimed at helping the Ministry to make a business case for further government investment in contract management reforms and capacity building, by influencing the approach of the Ministry of Finance, the Ministry of Finance, the National Capacity Building Secretariat and other Government of Rwanda (GoR) institutions to the management of major projects and use of external legal advice.

Uganda: The roll out strategy for the Judiciary's small claims procedure which LASER worked with the Judiciary to develop includes a business case for investment in the new procedure. This provides the Judiciary with the information and analysis needed to make the case for increased funding to both the Ministry of Finance and donors.

➤ **Lesson 5: Consider affordability and value for money up front**

Phase 5: Consider the scope for donor programming, but think outside the box about the shape of the programme

15. Part of the LASER offer to developing countries is to assist with leveraging additional funds and support. This could be through:
- new donor programming – as in Uganda where LASER was tasked by the DFID-Uganda country office to scope out the potential for new programming;
 - leveraging better use of (or in some cases unblocking) existing donor funding – as in Kenya where LASER support enabled the unlocking of World Bank Judiciary Performance Improvement Project funds¹⁰;
 - government funds – in all countries where LASER has engaged, the assumption has been that ultimately the reforms supported have to be affordable by government, thus the focus on value for money and cost benefit (see box 8 in paragraph 14 above).

Kenya: LASER helped to establish a more effective working relationship between the Judiciary and the World Bank's Judicial Performance Improvement Programme (JPIP) to help it serve the needs of the Judiciary better. JPIP is a US \$120 million, four-year World Bank financed loan and is the World Bank's second ever largest investment in justice worldwide. LASER's intervention has directly influenced the World Bank's decision to continue with the JPIP programme, which was not performing adequately when LASER engagement started. LASER helped the World Bank to restructure JPIP to be more responsive to the needs of the judiciary and to Kenya's court users and to build in some continued flexibility within the programme so that it can continue to respond to changing context and evolving needs.

Rwanda: Supporting the Ministry of Justice (MINIJUST) and Institute of Legal Practice and Development (ILPD) to access and build relationships with a range of partners who are able to meet some of the government's needs for external legal expertise (both on a commercial and a pro bono basis) once LASER has withdrawn, including from DFID's ROLE UK programme, the UK Government Legal Department, BPP University and private law firms. This is coupled with supporting the development of procedures within government to encourage systemic uptake of specialist legal expertise at appropriate points in the procurement and contract management cycle. In particular LASER has helped MINIJUST to develop a pre-qualified list of international firms for use across government with accompanying guidance for users and pro bono offers from the firms. This is a first step in introducing consistency in accessing and provision of legal advice across government institutions that may, in the longer term help to ensure better terms for the GoR in their contracts with investors and reduce litigation.

Sierra Leone: LASER has supported the systemic uptake of commercial law and justice reform within Sierra Leone. Reform of the Fast Track Commercial Court has been identified as a national level priority under the second phase Presidential Recovery Plan. The plan is funded mainly by DFID and will ensure a sustained focus on commercial justice reform once LASER withdraws. In addition, LASER is helping the Law Officers Department to identify opportunities to draw down on and maximise the benefits of what is a long standing offer of pro bono assistance from an international law firm, putting in place improved foundations for ongoing support on commercial contracting across government once the LASER adviser leaves.

¹⁰ LASER's Kenya case study 'Exploring how to use a problem-driven iterative adaptation approach in restructuring pre-existing institutional reform programmes' (November 2015)

➤ **Lesson 6: Leverage on-going funding and assistance where needed to allow seamless support**

Phase 6: Donor programme crystallises

16. A key aspect of LASER's hourglass approach is ensuring seamless ongoing support where this is needed. Where this is in the form of new donor programming, which will likely be implemented by a new supplier recruited through a procurement process, it will be important to ensure an overlap between the start of the new programme, and the withdrawal of the support provided during Phases 1-5 (which will have been categorised by design-by-doing with a high degree of flexibility and low cost). An overlap and a phased withdrawal of the support provided during Phases 1-5 will enable relationships of trust built up in lengthy design to be capitalised on, and momentum to be maintained.

Kenya: A key stage in LASER's withdrawal from Kenya was the handover from the interim project manager to a replacement, who was recruited independently by the Judiciary. LASER provided interim funding for the post, whilst concurrently supporting the Judiciary to secure follow on funding from the World Bank for this role. This request was successful, and the JPIP procurement plan now includes long term funding for the project manager position as well as funding for two additional programme officers. LASER's role as programme manager of the ADR pilot is therefore now being taken on by the Judiciary with support from JPIP, allowing LASER an opportunity to exit from Kenya without jeopardising the success of the pilot.

Rwanda: In this case there is no specific successor donor programme. LASER has exited in a careful, phased way. A year's support from an embedded adviser was replaced by an adviser working on a month-on, month-off basis. The part time nature of this support is, in part, to reduce dependence on LASER experts and reflects the changing nature of support requested by MINIJUST.

➤ **Lesson 6: Leverage on-going funding and assistance where needed to allow seamless support**

Phase 7: Implement the programme, but maintain maximum flexibility

17. This phase relates to major, scaled up donor programming, which is not part of LASER's mandate. However, LASER has worked with donors to encourage an approach to major programming which embraces the 'LASER sustainability approach' of flexibility, and on-going lesson-learning and re-design throughout the life of the programme.

Kenya: LASER helped to establish a healthy working relationship between the Judiciary and the World Bank Judicial Performance Improvement Programme (JPIP). LASER championed the need for increased flexibility and responsiveness within JPIP, a recommendation taken up by the World Bank, which will enable the JPIP programme to more appropriately address local needs and changes in context in future.

- **Lesson 3: Facilitate contextually relevant solutions**
 ➤ **Lesson 2: Work in a politically smart and flexible manner**

Conclusion

18. Many of LASER's activities – training, capacity development, technical support – are entirely conventional and have been undertaken in many donor institutional reform programmes. LASER's approach to sustainability has been not so much about what the programme has done, but more about the way it has gone about it: through country owned and led reform; supporting local reform efforts; and learning, flexing and adapting along the way. Ensuring that reform is only supported where it is embedded within local processes, and goes beyond a single champion would seem to be likely to lead to sustained reform.
19. However, it is too soon to assess the sustainability of the reforms that LASER has supported. It may be that in the longer term some will fall by the wayside, drop from governments' agendas, or be overtaken by events. But there is some evidence that LASER's approach works to deliver sustainable reform. LASER undertook a retrospective study of Uganda Commercial Court looking at the extent to which DFID's support to the Court from 2000-2005 has contributed to sustained reform today¹¹. The study concluded that reform has been sustained, with the Court transforming the time taken to process commercial cases: from over five years – to eighteen months currently, despite a seven fold increase in the number of cases being heard. Ten years from the end of DFID support the Commercial Court now has more Judges and is fully funded by government. It also continues to be well regarded by stakeholders, and acts as a model of best practice for the rest of the Judiciary. The study noted that donor (particularly DFID) support to the Commercial Court back in 2000 – 2005 can be seen as an early example of LASER's approach of starting with a locally identified problem; being locally (rather than donor) led, context specific and politically informed; and designed and implemented in a highly flexible and adaptive way.

¹¹ LASER Uganda 'Retrospective study of the progress, performance and impact of the Uganda Commercial Court 1996-2015' (November 2015)