TRANSPARENCY INTERNATIONAL RWANDA

SITUATIONAL ANALYSIS OF PROFESSIONALISM AND ACCOUNTABILITY OF COURTS FOR A SOUND RULE OF LAW IN RWANDA (Year II)

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Transparency International Rwanda
P.O. Box 6252 Kigali, Rwanda
Tel. +250(0)788309583
Toll free: 2641 (to report cases of corruption)
E-mail: info@tirwanda.org
Website: www.tirwanda.org

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Paradigm change in the justice sector: from quantity to quality

1. Executive summary

This study contributes to the vision of "*a country governed by rule of law, endowed with an efficient and independent judicial system, close to litigants and rendering coherent and consistent rulings.(Supreme High Court, 2013)*".The second edition of this *Situational analysis* is a product of the project of ***Monitoring Courts and Tribunals to Achieve a More Professional, Effective and Accountable Justice System in Rwanda*** with the ultimate objective to identify problems of quality of judgment and hence contribute to build a more professional, effective and accountable judicial system in Rwanda.

This year's edition builds on the findings from previous year, and where applicable, compares the progress made. It brings an update, new findings and evidence to optimize policy making and monitoring of the justice sector in Rwanda. Specifically, the study i) gathers evidence on strengths or weaknesses of courts and tribunals; ii) promotes a culture of accountability in the justice system and iii) formulates widely agreed policy solutions to tackle the weaknesses previously identified.

On the positive side, the findings based on the sample data suggest that perceptions about the satisfaction with decisions of courts have slightly improved. It is especially appreciated that the proportion of hearings delayed by 6 months and more has been reduced. The qualification of judges and their professionalism as well as sanctioning of judicial misconduct might be behind the factors leading to higher trust and satisfaction with the judiciary system, disregarding different court instances. The positive impact of the implementation of judicial reforms, partly influenced by the first edition of this monitoring, can be felt and is an encouragement also for this year's monitoring.

However, it is fair to admit that some challenges still persist. Despite improvements in reducing the backlog of court hearings and shortening the time till execution of a judgment is delivered, still over 20% of respondents claim waiting one year and longer to come to the first hearing since the complaint was lodged. The delays are caused mainly by the time between case submission and the date of court decision announcement and the time between case submission and date of first hearing. In the same vein, citizens put high court fees, perceived partiality of judges, lack of independence and corruption as main reasons of dissatisfaction.

Despite anti-corruption campaigns spearheaded by the police, Ministry of Justice, appeal judicial bodies and Transparency International, around one out of ten respondents has claimed to witness or participate in corruption while dealing with a court. Furthermore, the average amount spent on a bribe has been put at Rwf 642,989. Only 20% respondents claiming to witness corruption have been reported to the police, president of the court or some other institution. Despite firm political will and mechanisms in place, the research suggests that too many cases of corruption stay unreported. Provided that most respondents have a high trust in police and other institutions of law and order, these findings call for much more effort to expose corruption in the judiciary.

To sustain the positive trend and address highlighted challenges, this study puts forward a number of recommendations for further discussion and necessary policy action in very specific areas. The *demand for accountability in the judiciary* must be mobilized amongst the public. Presidents of Courts at all instances, Rwanda National Police, Civil Society Organisations, media, etc. have a role to play in publishing positive practices such as examples of exposing corruption, speedy handling of court hearings, impartiality of judges and so on. Suggestion boxes, toll-free hotlines and awareness building amongst the public about the right to appeal and complain are only some examples of tools to be systematically promoted. The functioning and impact of these tools must be regularly monitored at all judicial instances.

Prevention is important but consequences in cases where malpractices are proven must be duly followed. The Rwandan Judiciary proves committed to not tolerating any infringement of code of ethics. In this respect, during the past ten years, the High Council of Judiciary has imposed disciplinary sanctions, which vary from warning notice to dismissal. Over the past 10 years an average of 4 court personnel were dismissed per year in this regard.

This study reveals that the main reasons of dissatisfaction come with *quality parameters of judgments such as perceived lack of impartiality, lack of compliance with court procedures or even laws*. Even outright crimes such as corruption are an issue. It is evident, and recognized by public, that judges have been successful in addressing the backlog of court cases to great extent.

Equal access to justice for all must also be ensured. Economic cost of justice comes as the biggest challenge experienced by respondents, especially at the lowest court instance at the primary courts' level. Almost 5 in 10 respondents (i.e. 48.9%) have raised this concern. The court fee seems to be a real burden to the people attending courts. The level of impact of that fee as perceived by respondents stands high at 75.4% cumulatively. Facilitation of free access to justice for poor and alternative dispute resolution mechanisms must be strengthened to minimize the risks that the poorest and most vulnerable segment of the population can face, especially to be excluded on the basis of lack of financial means.

To sustain many positive trends witnessed by this research and address number of remaining challenges, an outcome-based monitoring of agreed recommendations generated through this research has to be an opening of for the next generation of Voice and Accountability project. Rigorous assessment of not only the commitment but also of the implementation and impact of these recommendations has to constitute a baseline for every successive reporting. As witnessed by the past and evidenced in this report, positive steps to close gaps in the Judiciary generate tangible improvements for the public and are also appreciated through their satisfaction in number of key justice areas.

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5. INTRODUCTION

5.1 Background

The vision of the judiciary as it is stated in the Supreme Court`s strategic plan 2009-2013, is as follows: "*Rwanda, a country governed by rule of law, will be endowed with an efficient and independent judicial system, close to litigants and rendering coherent and consistent rulings.*" And from the same source, the mission of the judiciary is as follows: "T*o dispense justice with equity and integrity with a view to serving litigants, thus contributing to the reinforcement of rule of law, particularly in respect of fundamental liberties and human rights.*"

To achieve the vision and mission of the judiciary, a lot has been undertaken to ensure that justice is accessed (physical and financial access) easily and administered fairly. However, a lot needs to be done to address some of the challenges identified in the judiciary. The 2008 functional review of the Supreme Court undertaken by the Adam Smith International (ASI) under the leadership of the Ministry of Public Service and Labor identified a number of challenges that face justice; one of them is the issue of quality of judgments which is hardly ever measured. Data from Advocacy and Legal Advisory Centers (ALAC), TI-RW programme providing access to legal aid since 2009, also show instances where judges don`t follow the law in their judgments hence the poor quality of the judgment. Such cases from ALAC and other TI-RW's evidence based projects including Rwanda Bribery Index have actually been the inspiration of this project.

Indeed, although the judges are regularly evaluated, the emphasis in the evaluation of the justice sector is given on the number of cases completed while the quality does not receive the attention it deserves. Poor quality of judgments and problems with legal compliance may be due to different reasons such as lack of skills, lack of sufficient time to research on cases when necessary, personal position vis-a-vis one of the parties and, importantly, cases of corruption involving one of the parties to a judicial case.

The evaluation of quality of judgments is under the responsibility of the inspectorate department of the Supreme Court, which is understaffed to conduct all required inspection work. As shown in the previous study on professionalism of courts, some judges to meet quotas of cases handled without proper regard to the quality and compliance of all legal procedures.

Given this background, TI-Rw initiated the project of ***Monitoring Courts and Tribunals to Achieve a More Professional, Effective and Accountable Justice System in Rwanda*** to fill the gap. *Using adequate tools of monitoring/observing the courts and tribunals* to identify any weaknesses to be addressed or any strength to be built on to handle the identified problem of quality of judgment and hence contribute to build a more professional, effective and accountable justice system in Rwanda.

In 2014, as part of the implementation of this project, a report on the first round of monitoring was produced on the "Situational analysis of professionalism and accountability of courts for a sound rule of law in Rwanda". Following that report, a second round of courts monitoring using suggestion boxes and observation exercise was undertaken with the aim to: i) investigate the level of professionalism of courts in Rwanda; ii) assess the level of accountability of judges; iii) formulate operational recommendations to address gaps and challenges identified. This edition builds up on the findings from previous year, and where applicable, compares the progress made. In other areas, it brings new findings and evidence to optimize policy making and monitoring of the justice sector in Rwanda.

5.2 Objectives of the project and the study

The overall objective of the proposed project is to *contribute to strengthening the rule of law in Rwanda by achieving a more professional, effective and accountable justice system*.

Specifically, the project aims to:

1) Gather evidence on strengths or weaknesses of courts and tribunals;
2) Promote a culture of accountability in the justice system;
3) Formulate widely agreed policy solutions to tackle the weaknesses previously identified.

5.3 Indicator framework

In order to assess the level of professionalism in Rwandan courts, an indicator framework to objectively guide the assessment has been developed. This indicator framework distinguishes between dimensions and indicators as shown in the table below:

Table 1:Indicator framework

INDICATOR FRAMEWORK	
Dimension	Indicator
Respondents' experience with courts	Level of court attended by respondents
	Proportion of respondents who attended courts in first instance
	Court attended by respondents in first instance
Professionalism of judges	Qualification of judges
	Satisfaction with courts decisions
	Satisfaction with the services delivered by courts
	Incidence of corruption among judges/integrity
Accountability of judges	Appeal in case of dissatisfaction with court decision
	Reporting cases of corruption if encountered
	Existence of procedures to address judicial misconduct or substandard performance

6. METHODOLOGY

6.1. Approaches and methods

This study combined both qualitative and quantitative approaches. Desk research and individual interview methods served in the collection of data. Qualitative data were collected through interviews with judges, registrars, court clients (litigants) and detainees, while quantitative data were gathered through questionnaire (via suggestion boxes).

- **Desk research:** This consisted in reviewing existing literature on judicial system in Rwanda. Laws, courts and prisons reports were largely reviewed in this regard to assess courts' performance and the extent to which court's decisions meet legal standards. Please see biography at the end of the report for detailed record.

- **Interviews:** These were conducted with judges, registrars, court clients (litigants) and detainees to get their insights into a set of the study dimensions including judges' professionalism, courts effectiveness, etc.

- **Questionnaire:** A structured questionnaire was designed and handed to courts' clients by TI-Rw staff, who were deployed to selected courts and prisons where suggestion boxes had been established to that end. Citizens seeking service were therefore asked to fill the questionnaire and drop it in the suggestion box nearby. The questionnaire included a set of questions focusing mainly on citizens' satisfaction with courts' services, professionalism, integrity and effectiveness.

6.2. Sampling design

The main target population for this study is comprised of users of courts services. They include mainly the population in all its diversity. For practical reasons, the study focused on people who sought services from courts, i.e. those who had cases in courts (primary, intermediate courts, the High Court, commercial courts and the High Commercial Court), both those in courts and those in prisons (both detainees and prisoners). The Supreme Court was not included given that ordinary people are not allowed to appear in this court if not represented by a lawyer. A sample of 2804 individuals in both categories participated in this study and filled the questionnaire. Below is the sample distribution by courts and prisons.

Table 2: Spatial distribution of the sample by courts and prison

Region	Court Or Prison	Frequency	Percent
Kigali	Commercial High Court Kigali	*103*	*3.7%*
	High Court Kigali	*99*	*3.5%*
	Intermediate Court Gasabo	*142*	*5.1%*
	Primary Court Nyamata	*130*	*4.6%*
	Primary Court Rusororo	*121*	*4.3%*
	Prison GASABO	*115*	*4.1%*
East	Intermediate Court Ngoma	*102*	*3.6%*
	Primary Court Kabarondo	*94*	*3.4%*
	Primary Court Kigabiro	*165*	*5.9%*
	Prison RWAMAGANA	*161*	*5.7%*
North	Commercial Court Musanze	*101*	*3.6%*
	Intermediate Court Musanze	*126*	*4.5%*
	Primary Court Gahunga	*97*	*3.5%*
	Primary Court Muhoza	*108*	*3.9%*
	Prison MUSANZE	*135*	*4.8%*
South	Commercial Court Huye	*100*	*3.6%*
	Intermediate Court Huye	*107*	*3.8%*
	Primary Court Ndora	*102*	*3.6%*
	Primary Court Ngoma	*117*	*4.2%*
	Prison MUHANGA	*101*	*3.6%*
West	Intermediate Court Rusizi	*112*	*4.0%*
	Primary Court Kagano	*110*	*3.9%*
	Primary Court Kamembe	*143*	*5.1%*
	Prison NYAKIRIBA	*113*	*4.0%*
	Total	*2804*	*100.0%*

Source: TI-RW 2015, primary data

As shown in the table above, respondents were drawn from 5 prisons and 19 courts. Courts include the High Court, 10 primary courts, 5 intermediate courts, the High Commercial Court and 2 commercial courts. Suggestion boxes were therefore established at the offices of these institutions and questionnaires were dropped in the latter boxes after being filled by respondents assisted by enumerators.

In addition, interviews were conducted with judges and lawyers. They included the Inspector General of Courts at Supreme Court, judges at the High Court, judges at commercial courts, judges at intermediate courts, lawyers at Rwanda Bar Association.In regards to the desk research, relevant documentation that the researchers could access was useful in informing on key areas of the Rwandan judicial system.

6.3. Data collection

Prior to embarking on field work, a team of enumerators were recruited and trained on the questionnaire and how they should sensitize and facilitate the respondents to the questionnaire and the suggestion boxes. They were instrumental in collecting quantitative data from courts' clients. One enumerator was appointed to one institution to that end. As mentioned above, respondents included individuals with cases in courts, both those in prisons and those out of them. The data collection through questionnaire and suggestion boxes took 3 months to be completed. TI-Rw research staff ensured a rigorous supervision of data collection.

In regards to the qualitative data, proficient researchers including a law university professor conducted both interviews and desk research.

6.4. Data analysis

For the purpose of data processing, a specific data entry template was designed using Statistical Package for Social Sciences (SPSS). Quantitative data were captured by data entry staff under the supervision of the Consultant's IT specialist. After this task, the IT specialist conducted data cleaning and analysis.

The scoring logic used the following scale where a numeric value was assigned to each response option as follows:

- **Formula used to calculate questions' score:**

A Weighted Average Mean was used to calculate the questions score which isan average in which each quantity to be averaged is assigned a weight. These weightings determine the relative importance of each quantity on the average as indicated in the formula below:

$$\bar{x} = \frac{\sum_{i=1}^{n} x_i w_i}{\sum_{i=1}^{n} w_i}$$

Where x1, x2… xn are quantitative scores (0, 2, 3, 4) and w1, w2… wn are frequency scores corresponding to respective qualitative scores.

- **Formula used to calculate indicator's score**

The first step in the scoring process is to construct a score for each question using the above mentioned formula. As a second step, question scores are aggregated into a score for each sub-indicator. The sub-indicator score is computed as a simple mean of associated question scores (Qscores).

The same process is used to calculate the indicator score and the overall score as indicated in the following formula:

$$Sub-Indicator\ Score\ X_i = \frac{\sum Q\ Score\ X_i}{n}$$

$$Indicator\ Score\ X_i = \frac{\sum SI\ \ Score\ X_i}{n}$$

$$Overal\ Score\ X_i = \frac{\sum I\ Score\ X_i}{n}$$

where **SQ** : sub-question
Q : question
SI : Sub-indicator
I: indicator
n: Number of questions, sub-indicators and indicators

- **Scoring scale**

The above scoring logic will use the following scale where a numeric value is assigned to each response option as follows:

Table 3: Scoring scale

Response option	Score	Perception value
Inexistent/very low performance	0.0–1.9	0%–20%
Low performance	2.0–2.9	21%–40%
Moderate performance	3.0–3.9	41%–60%
High performance	4.0-4.9	61%–80%
Very high performance	5.0	81%–100%

7. CONCEPTUAL OVERVIEW OF THE PROFESSIONALISM OF JUDGES

Behind the methodological approach to the study consisting of the construction of indicators' framework and measuring the corresponding variables, there is a firm set of ethical and moral considerations that are enshrined in laws and ministerial orders of the Ministry of Justice and other institutions. They define the very notion of rule of law in Rwanda. This section brings the most important ethical paradigms, which guide the technical part of this study.

Why does judges' professionalism matter?

A fair and efficient administration of justice is an essential safeguard for human rights and rule of law. The rule of law can be understood as a legal-political regime under which the law restrains the government by promoting certain liberties and creating order and predictability regarding how a country functions. In the most basic sense, the rule of law is a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power.

To ensure that the rule of law is respected in the country, justice must be rendered in the name of people and the professionals of justice sector in general and judges in particular must be guided by principles and ethics.

The word "ethics" means science of morality, art of directing human conduct. It is also the study of the general nature of morals and of the specific moral choices to be made by the individual in his/her relationship with others, the philosophy of morals = moral philosophy[1]. It is the rules of standards governing the conduct of the members of a profession.

For people engaged in legal professions, especially judges, deontology manifests as ethical rules which dictate what they can and cannot do in the course of practicing their professions, allowing the legal profession to be self-regulating. Ethical codes set standards for the profession, provide guidance for practitioners facing ethical dilemmas, and increase both judicial systems and the public's trust of people practicing legal professions[2].

In performing their regular tasks, judges should be guided by the following duties as provided for by the Law No. 09/2004 of 29 April 2004 relating to the Code of Ethics for the Judiciary (O. G. No 11, of 1st June 2004) and international or regional instruments.

- **The duty of independence**

In the exercise of his/her profession, the judge has the duty to remain independent vis-à–vis all. Under Article 4 of the Code of Ethics for the Judiciary, a judge shall be independent. He/she independently examines matters before him/her and takes decision without any external pressure. He/she should not be placed under subordination. He/she must preserve his/her moral and intellectual independence.

- **The duty of integrity**

Integrity is seen as the quality of having a sense of honesty and truthfulness in regard to the motivations for one's actions. Integrity of judges must be in place if we are to have justice. In respect of this duty, judges must ensure compliance with the law and behave exemplarily. He/she must, in accordance with the oath of office, discharge his/her duties impartially (Art. 6 Code of Ethics). They must not be interfered with, and they must not accept bribes. Judges shall not directly or indirectly accept any gift, advantage, privilege or reward that can reasonably be perceived as being intended to influence the performance of their judicial functions.

[1] D. MORTIMER SCHWARTZ, R. C.WYDICK and aliis, *Problems in Legal Ethics*, 6th ed, USA, West Group, 2003

[2] A. M. NGAGI, *Professional Legal Ethics*, University of Rwanda, College of Arts and Social Sciences, School of Law, Course LLB IV, 2014-2015, unpublished.

- **The duty of diligence**

Judges must act diligently in the exercise of their duties and devote their professional activities to those duties. They have to take reasonable steps to maintain and enhance the knowledge, skills and personal qualities necessary for judicial office. They are required to perform all judicial duties properly and expeditiously, and deliver their decisions and any other rulings without undue delay.

This duty is expressed in the following terms:
A judge should perform his/her work with due care and diligently. For this purpose, he/she must:
- handle without delay cases submitted to him/her;
- write judgments as soon as possible after deliberation;
- maintain order and decorum in all matters before court;
- devote his/her professional capacity in the interest of work and respect his/her official working hours (art. 9 Code of Ethics).

- **The duty of impartiality**

The impartiality of a court can be defined as the absence of bias, animosity or sympathy towards either of the parties. Courts must be impartial and appear impartial. Thus, judges have a duty to step down from cases in which there are sufficient motives to put their impartiality into question[3].

The right to be tried by an impartial tribunal implies that judges (or jurors) have no interest or stake in a particular case and do not hold pre-formed opinions about it or the parties. Cases must only be decided "on the basis of facts and in accordance with the law, without any restriction"[4]. The Council of Europe has reiterated this principle, by saying that "Judges should have unfettered freedom to decide cases impartially, in accordance with their conscience and their interpretation of the facts, and in pursuance of the prevailing rules of the law"[5]. Impartiality' of the court implies that judges must not harbor preconceptions about the matter put before them, and that they must not act in ways that promote the interests of one of the parties.

Impartiality means that judges have to not favoring one person and ensure the appearance of neutrality in the discharge of their judicial functions. They must avoid any conflict of interest, or being placed in a situation, which might reasonably be perceived as giving rise to a conflict of interest.

[3]International Commission of Jurists, *International principles on the independence and accountability of judges, lawyers and prosecutors,* Geneva, 2009 .

[4]*UN Basic Principles on the Independence of the Judiciary*, *doc. cit.,* Principle 2.

[5]Council of Europe, *Recommendation No. R (94)*, *doc. cit*, Principle I.2.d. See also Principle V.3.b: "Judges should in particular have the following responsibilities: to conduct cases in an impartial manner in accordance with their assessment of the facts and their understanding of the law, to ensure that a fair hearing is given to all parties and that the procedural rights of the parties are respected pursuant to the provisions of the Convention".

8. PRESENTATION OF KEY FINDINGS

8.1. Demographic characteristics of respondents

This section covers selected socio-demographic characteristics of participants who responded to the questionnaire. Key variables presented here include sex, age and employment status.

Table 4: selected socio-demographics of respondents

Variable		Frequency	%
Sex	**M**	1901	67.8%
	F	903	32.2%
	Total	***2804***	***100.0%***
Age	**Less than 20**	32	1.2%
	20-29	590	21.7%
	30-39	1008	37.0%
	40-49	658	24.1%
	50-59	308	11.3%
	60-69	97	3.6%
	70-79	30	1.1%
	80 and Above	2	0.1%
	Total	***2725***	100.0%
	Total	***2931***	**100%**
Employment of respondents	**Unemployed**	38	1.4%
	Student	58	2.1%
	Farmer	1002	36.6%
	Self-Employed	577	21.1%
	Employed by Government, CSOs, or Private Sector	197	7.2%
	Lawyer or Legal Assistant	236	8.6%
	Prisoners	626	22.9%
	Total	***2734***	100.0%

Source: TI-RW 2015, primary data

The data suggest that the majority of respondents (close to 7 in 10 respondents) are male. This does not imply that men have necessarily more cases than women to take in court. It can rather be assumed that, as 63% of households in Rwanda are male-headed, they are likely to be represented by men (husbands) in court.

Concerning the age of respondents, the study suggests that, cumulatively, around 8 in 10 respondents are aged between 20 and 49. In the same vein, around 6 in 10, i.e. 61.1 % are alone aged between 30 and 49 cumulatively. These are people in economically and socially active age, majority of whom are married, except the particular situation of widows and few divorced. It can thus be argued that being both socially and economically active implies also possibility for conflicts or litigations that are likely to involve court cases.

With regards to the employment status, the table above indicates that beside prisoners who represent 22.9% , the large majority of other respondents are farmers and those running self-business (57.7% cumulatively). One can therefore assume that people in these categories are likely to be involved in court cases due to the fact that the majority of such cases are largely related to land issues. A small minority of respondents (15.8% cumulatively) includes people employed in government, CSOs and private sector institutions as well as lawyers. Lawyers do naturally defend people litigants in courts.

8.2. Respondents' experience with courts

This section provides details on the proportion of court clients who filled the suggestion box questionnaires admitting to have sought justice at different court levels as shown below:

Table 5: Number of respondents by category of courts and prisons

	Frequency	Percent
Primary Courts	**1187**	**42.3%**
Intermediate Courts	**589**	**21.0%**
Commercial Courts	**201**	**7.2%**
Commercial High Court	**99**	**3.5%**
High Court	**103**	**3.7%**
Prisons	**625**	**22.3%**

Source: TI-RW 2015, primary data

Around 4 in 10 (i.e. 42.3%) respondents were in primary courts at the time of filling the questionnaire while 35.4% (cumulatively) were in higher courts (from intermediate courts to the High Court). Slightly less than a quarter of all respondents were in prisons at the time of the research.

Table 6: Courts attended by respondents in first instance

	Frequency	%(2015)	2014
Primary Courts	1689	63.5%	64.0%
Intermediate Courts	584	21.9%	20.8%
Commercial Courts	230	8.6%	8.6%
High Court	109	4.1%	4.8%
High Commercial Court	37	1.4%	0.7%
Supreme Court	12	0.5%	1.1%
Total	***2661***	100.0%	

Source: TI-RW 2015, primary data

The data suggests that the lower the court, the higher the proportion of cases examined. Primary courts emerged as type of jurisdictions most approached by the

respondents (63.5%), followed by intermediate courts (21.9%). Very small proportion attended commercial courts (including High Commercial Court) and higher courts such as the High Court and the Supreme Court. Thus, the majority of cases that ordinary people take to courts is in the competence of primary courts in the first resort and can be referred to higher courts for appeal reasons. The data also suggests very low proportions of cases taken to commercial courts, the High Court and the Supreme Court. One major explanation for this situation is that commercial courts are specialized and cannot therefore examine non-commercial matters. In the same vein, the High Court and the Supreme Court are legally competent to examine appeal cases and other few and specific cases in first resort.

A comparative analysis on the proportion of cases examined at first instance for the previous and the current year (2015) shows that the frequency of attendance by respondents at different court levels have not significantly changed.

8.3. Professionalism of courts

The professionalism of courts stands among key dimensions in assessing any justice system. This proves of a paramount importance given that any court, which does not abide by the principle of professionalism, cannot deliver a fair and timely justice. For the purpose of this situational analysis, court professionalism was assessed through qualification of court personnel (judges and registrars), quality of court, incidence of corruption among judges/integrity, satisfaction with courts decisions, satisfaction with the services delivered by courts. The two latter indicators are broken into various sub-indicators, which include judges' independence, impartiality to name but a few.

8.4. Qualification of judges

According to the article 12. 2. of the law n°10/2013 of 08/03/2013 governing the statutes of judges and judicial personnel[6] "any person aspiring to be a judge should be a holder of at least a bachelor degree in law and a certificate issued by a judicial training institution recognized by the Government". The table below presents the outcome.

Table 7: Qualification (degree in law) of Judges as for June 2014[7]

	Total	PhD		Masters		A0		A1		A2		% Female
		M	F	M	F	M	F	M	F	M	F	
Judges	288	1	-	28	13	146	99	1	-	-	-	39
Registrars	275	-	-	1	-	89	108	6	5	33	33	53
Total	563	1	0	29	13	235	207	7	5	33	33	46

Source: TI-RW 2015, primary data

The data suggests that all judges (100%: 288/288) have a university degree in law (only one holding an associate degree). Interestingly, almost 4 in 10 judges are women.

[6] *Official Gazette* n° 15 of 15/4/2013

[7] *Supreme Court, Report on the achievements of judiciary of Rwanda for the past ten years(July 2004-June 2014)*

Considering the constitutional minimum requirement for women to be at least 30% in the decision-making positions, one can argue that the proportion of women judges stands above the minimum. Although this proportion is undoubtedly encouraging, more efforts are needed to get to the parity (50%). Surprisingly, the majority of courts registrars are women (53%). From a gender perspective, this proves both encouraging and challenging. It is encouraging in that the proportion of women in this position reached the parity (and moved even further). However, looking at the position itself, one can wonder whether or not women tend to take that position that is close to the traditionally "feminized" position of secretary rather than competing even for the positions of judges.

Furthermore, the study revealed that beyond academic qualifications, judges and registrars have accumulated necessary experience to meet their respective responsibilities. According to the 2014 Supreme Court report[8], judges and court staff have benefited from continuous legal training in various fields of Law. The same report contends that legal tools were developed; judges and court staff got exposure through knowledge sharing and various study visits.

8.5. Satisfaction with court's decision

As mentioned above, judges should be guided by duties such as integrity, independence and impartiality as provided for by the Law No. 09/2004 of 29 April 2004 relating to the Code of Ethics for the Judiciary (O. G. No 11, of 1st June 2004) and international or regional instruments.

Table 8: Level of satisfaction of clients (who are not in prison) with courts decisions

	Frequency	Percent(2015)	**2014**
Very dissatisfied	**150**	**18.1%**	
Dissatisfied	**130**	**15.7%**	
Fairly satisfied	**232**	**28.1%**	
Satisfied	**315**	**38.1%**	
Total	**827**	**100.0%**	
Score/4	***2.86***	***71.5%***	***68.8%***

Source: TI-RW 2015, primary data

The score for the level of respondents' satisfaction with courts' decisions, based on the weighted average, stands at (71.5%). The level of satisfaction with courts decisions can be considered as a good indicator of judges' independence, impartiality and integrity as a whole, when it comes to rendering quality service to the population. It is however clear from the table above that there has been a slight improvement on the level of satisfaction by court clients in court decisions in 2015 as the score has improved by

[8] ibidem

almost 3 points between 2014/15. This means that the level of professionalism in Rwandan courts might have improvedcompared to the previous year.

Table 9: Level of satisfaction with courts' decision disaggregated by level of court

		Very dissatisfied	Dissatisfied	Fairly satisfied	Satisfied	Total	Score (2015)	2014
Primary Court	Fr	20	11	42	127	200	**3.38**	**3.61**
	%	10.0%	5.5%	21.0%	63.5%	100.0%	**84.5%**	**72.2%**
Intermediate Court	Fr	42	63	88	120	313	**2.91**	**3.08**
	%	13.4%	20.1%	28.1%	38.3%	100.0%	**72.8%**	**61.6%**
Commercial Court	Fr	2	1	10	13	26	**3.31**	**3.72**
	%	7.7%	3.8%	38.5%	50.0%	100.0%	**82.7%**	**74.3%**
Commercial High Court	Fr	15	17	13	13	58	**2.41**	**3.73**
	%	25.9%	29.3%	22.4%	22.4%	100.0%	**60.3%**	**74.7%**
High Court	Fr	5	5	7	9	26	**2.77**	**2.77**
	%	19.2%	19.2%	26.9%	34.6%	100.0%	**69.2%**	**55.5%**

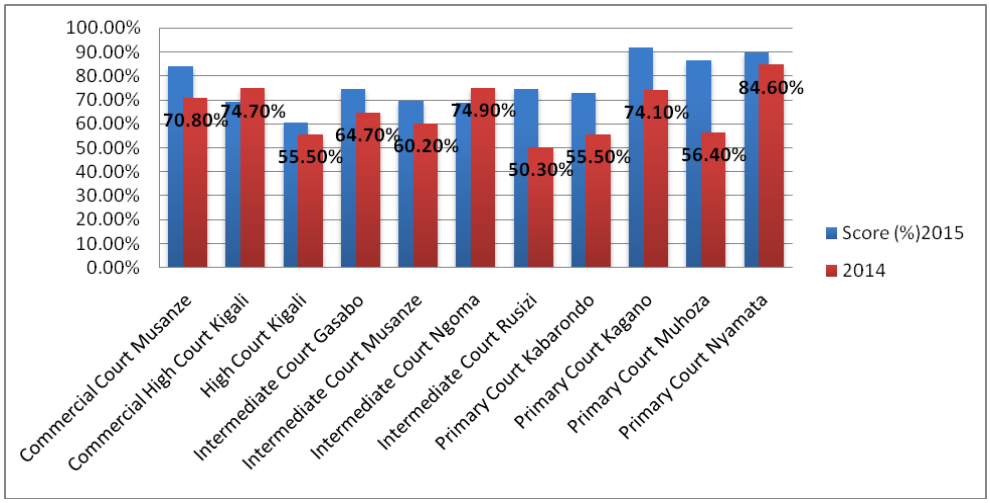
Source: TI-RW 2015, primary data

Respondents' satisfaction with courts' decisions appear to be very high for primary courts (84.5%) and commercial courts (82.7%). It is high with intermediate courts (72.8%) and the High Court (69.2%) and drops to 60% with the High Commercial Court. The data implies that the lower the court the higher the satisfaction. Similarly, the data suggests a higher level of satisfaction with decisions rendered by first instance level courts than appellate ones. Generally, at all court levels, apart from the Commercial High Court, there has been remarkable increase in the level of satisfaction with court decisions, meaning the level of professionalism in Rwandan courts is progressively improving.

- ✓ **Level of satisfaction with court decisions disaggregated by court**

The figure below shows the level of citizens' satisfaction with court decisions from different courts. However, in some courts the number of respondents on this particular aspect was negligible such that they had to be dropped from this analysis. These include Huye Commercial Court, Huye Intermediate Court, Gahunga, Kamembe, Kigabiro, Ndora, Ngoma and Rusororo Primary Courts.

Figure 1: Level of satisfaction with court decisions disaggregated by court



Source: TI-RW 2015, primary data

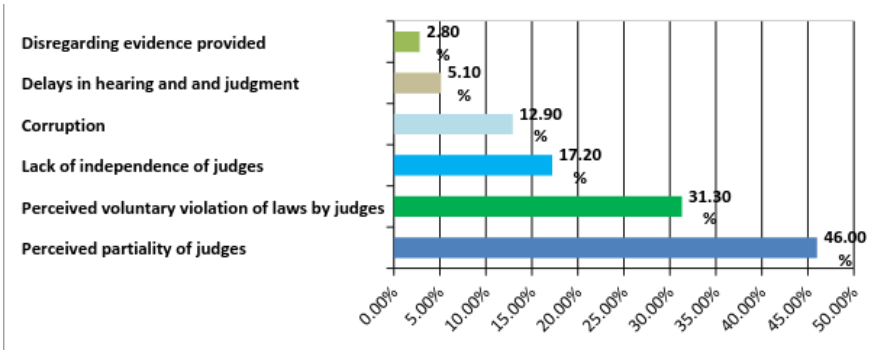
According to the data in the figureabove, court clients indicate that they were very satisfied(above 80%) with courts decisions in some of the courts such as Kagano,Nyamata,Muhoza Primary courts and Musanze Commercial court, while Kigali High court, Ngoma Intermediate Court, Musanze Intermediate Court and Kigali Commercial High Court were the least scored.

Generally, as compared to the previous year, there was an improvement in respondents' satisfaction with court decisions except in Kigali Commercial High Court and Ngoma Intermediate Court.

Reasons behind dissatisfaction with courts decisions

Although there was a noticeable overall satisfaction with court decision by clients, it was apparent in some courts that the court decisions were not satisfactory. The reasons advanced are as indicated in the figure below

Figure 2: Reasons behind dissatisfaction with courts decisions



Source: TI-RW 2015, primary data

Perceived partiality of judges emerged as the main reason of dissatisfaction with courts decisions, among those who did not express full satisfaction. It is followed by perceived voluntary breach of laws by judges (31.3%), lack of independence of judges (17.2%), corruption (12.9%) and other various reasons including delays and disregarding evidence. Having a feeling of unfair decision made by judges as well as other reasons expressed by dissatisfied respondents are likely to entail loss of confidence in courts and thus prevent them from resorting to those judicial institutions.

Comparatively with the previous year, the findings in the year under review on reasons of clients' dissatisfaction with court decision reveal the same trend.

4.3.1. Satisfaction with the services delivered by courts

Clients satisfaction with services rendered by courts is measured through indicators such as avoidance of adjournment of cases, compliance with procedures, abstinence from corruption, impartiality during court hearing , independence of judges and court cost.

Table 10: Respondents' satisfaction with the services delivered by courts

	Not Satisfactory At All	Not Satisfactory	Somewhat Satisfactory	Satisfactory	Very Satisfactory	Total	Score
Avoidance of Adjournment of cases	289	405	579	965	378	2616	3.28
	11.0%	15.5%	22.1%	36.9%	14.4%	100.0 %	65.6 %
Compliance with procedures	256	514	561	870	377	2578	3.23
	9.9%	19.9%	21.8%	33.7%	14.6%	100.0 %	64.6 %
Abstinence from corruption	184	299	407	1014	647	2551	3.64
	7.2%	11.7%	16.0%	39.7%	25.4%	100.0 %	72.9 %
Impartiality during court hearing	285	446	462	898	486	2577	3.33
	11.1%	17.3%	17.9%	34.8%	18.9%	100.0 %	66.6 %
Independence of judges	173	256	467	1039	625	2560	3.66
	6.8%	10.0%	18.2%	40.6%	24.4%	100.0 %	73.2 %
Court cost	435	682	560	624	244	2545	2.83
	17.1%	26.8%	22.0%	24.5%	9.6%	100.0 %	56.5 %
Average							66.6 %

Source: TI-RW 2015, primary data

Respondents appear to be most satisfied with the independence of judges and abstinence from corruption. The levels of satisfaction with both aspects prove to be high 73.2% and 72.9% respectively. These findings prove to be encouraging as they display a good perception of the Rwandan judiciary in terms of both independence and resistance from corruption despite some gaps that still need to be addressed. Satisfaction with impartiality of judges during the hearing, avoidance of adjournments, compliance with procedures and fairness of court decisions stand also high, but below 70%.

However, satisfaction with the court fee stands at the lowest level (the lowest with 56%). Since last year (2014), the fee related to lodging a case has been significantly increased (above 10 times higher than was previous provided for by the law, depending on the court level) and, following this, media reports highlighted grievances from ordinary people arguing that such a rise would prevent some people from resorting to courts if need be.

Table 11: Time taken from lodging a complaint to the first hearing by court level

		Between 1-6 months	Between 7-12 months	Between 1-2 years	Beyond 2 years	Total
Primary court	**Fr**	1556	472	218	114	2360
	%	49.4%	28.4%	13.4%	8.8%	100.0%
Intermediate court	**Fr**	533	282	69	36	920
	%	60.0%	24.8%	8.7%	6.5%	100.0%
High court	**Fr**	141	104	76	18	339
	%	88.0%	7.9%	1.6%	2.6%	100.0%
Supreme court	**Fr**	13	9	6	53	81
	%	77.8%	15.6%	3.3%	3.3%	100.0%
Total	**Fr**	2243	867	369	221	3700
	%	56.4%	25.0%	10.9%	7.6%	100.0%

Source: TI-RW 2015, primary data

The data suggests that close to a half of respondents who attended primary courts were able to attend the first hearing at least within a 6 month period following the date on which their cases were lodged in courts. However, almost a similar proportion spent between 7 months and 2 years or more to get to the first hearing. This challenges the capacity of the Judiciary in Rwanda to deliver a timely justice. Such delays are also noted in other courts such as intermediate courts. However, the proportion of respondents whose cases had been significantly delayed (more than 6 months before the first hearing) in higher courts (the High Court and Supreme the Court) drops very significantly as shown in the table above. Close to 8 cases or above were brought to the 1st hearing within 6 months latest. It is worth noting that, despite some delays in rendering timely justice, tremendous effort has been observed in Rwandan courts in

reducing backlogs at all court levels. As a matter of facts, in primary courts, the average time it takes a case to be decided is less than four months. With Supreme Court, the average time it takes for a case to be processed has been dropped from 6 years in 2012 to 3 years in 2014[9].

Table 12: Major periods that are affected by failure to meet legal deadlines

	Frequency	Percent (N=1503)
The time between case submission and date of first hearing	731	48.6%
The time between case submission and the date of court decision announcement	756	50.3%
Time between case submission and the date of court resolution submission	465	30.9%
The time between case submission and the date of issuing the Enforcement formula	290	19.3%

Source: TI-RW 2015, primary data

The study reveals that the time between case submission and the date of court decision announcement and the time between case submission and date of first hearing are most affected by delays. Almost the majority of respondents have highlighted these issues. Other significant delays are reported between case submission and the date of court resolution submission (incarubanza), and the time between case submission and the date of issuing the enforcement formula(kashe mpuruza). Again, this supports the findings above on delays to get justice in Rwanda.

Table 13: Perceived reasons behind the non-respect of legal deadlines

	Frequency	Percent (N=2002)
Perceived lack of commitment of judges and registrars.	*516*	25.8%
Too many backlogs cases	*1183*	59.1%
Insufficient number of judges and registrars	*792*	39.6%
Low salary of judges and registrars	*107*	5.3%
Insufficient court equipment and materials	72	3.6%
Others	131	6.5%

Source: TI-RW 2015, primary data

Various factors explain delays to deliver timely justice to litigants. The majority of respondents attribute those delays to backlogs. Others believe that such delays are caused by insufficiency of judges and registrars and perceived lack of commitment of judges and registrars.

[9] Supreme Court 2014

Table 14: Critical issues faced by courts' clients

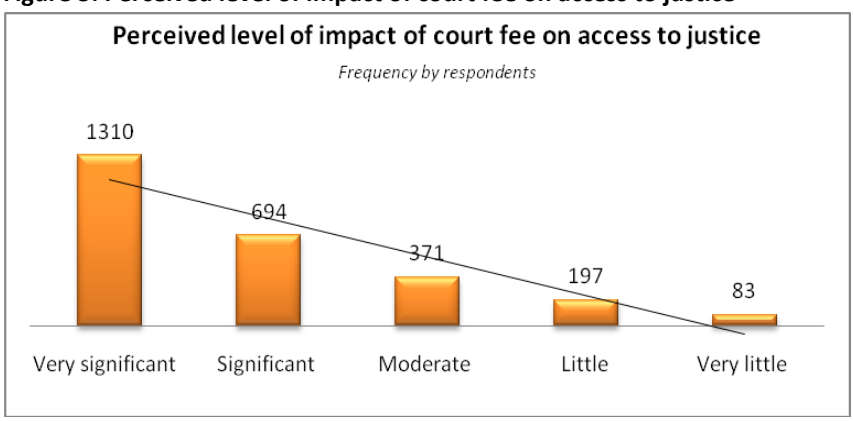
	Frequency	Percent (N=2474)
Economic cost of justice	1210	48.9%
Failure to respect legal deadlines/delays	921	37.2%
Too long to get justice	795	32.1%
Partiality of judges	564	22.8%
Legal representation	539	21.8%
Many adjournments	528	21.3%
No execution of courts decisions	484	19.6%
Unfair decisions made by judges	358	14.5%
Corruption	149	6.0%
Independence of judges	147	5.9%
Refusal to receive complaints/court suits	127	5.1%

Source: TI-RW 2015, primary data

Economic cost of justice stands as the most challenge experienced by respondents. Almost 5 in 10 respondents (i.e. 48.9%) have raised this concern. The cost related issue was also echoed in the previous table where satisfaction with the cost of justice scored the least. Failure to respect legal deadline and delayed justice emerged as other critical issues faced by the respondents, followed by partiality of judges, legal representation issue, many adjournments of hearings, failure to execute courts decisions, unfair decisions made by judges appear. Though not in high proportions, these are serious issues that call for substantial improvements of the judiciary.

Failure to meet legal deadlines and delays to get justice stand among reoccurring issues in the Rwandan judiciary. Despite great effort made to face this issue, much is yet to be done to guarantee timely justice to people. Issues of economic cost of justice and delays to get justice are further examined below.

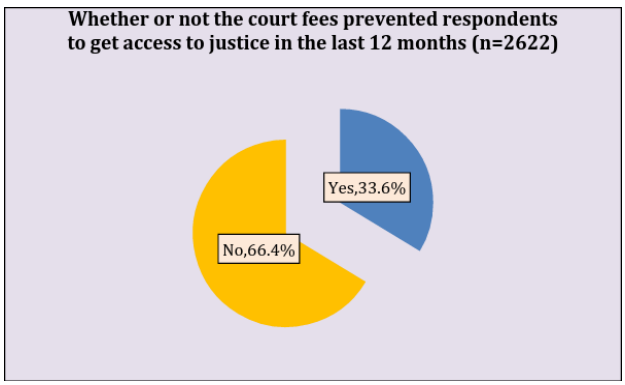
Figure 3: Perceived level of impact of court fee on access to justice



Source: TI-RW 2015, primary data

The court fee seems to be a real burden to the people attending courts. The level of impact of that fee as perceived by respondents stands high at 75.4% cumulatively. The economic cost of justice needs to be affordable to people. When justice becomes very costly, it tends to be a justice for the well-off and therefore denied to the poor. Despite the fact that institutions such as Mediation Committees and *Maisonsd'Acces a la Justice* (MAJ) provide free of charge disputes mediation, and legal assistance and representation respectively, many people end up taking their cases in courts. This entails costs related to transport, lawyers' fee, legal expenses, meals, etc. the said costs are sometimes pushed up by recurring adjournments of hearing sessions.

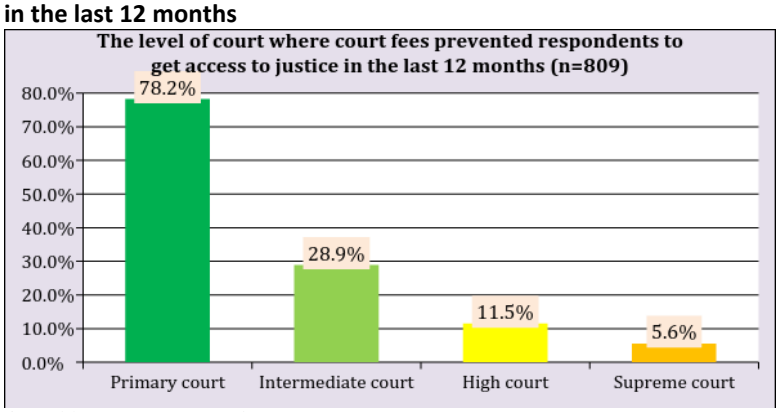
Figure 4: Whether or not the burden of court fee prevented respondents to get access to justice in the last 12 months



Source: TI-RW 2015, primary data

The majority of respondents did not miss any judicial service (justice) as a result of failing to afford the court fee. However, the data suggests that around 3 in 10 (33.6%) were not able to seek some service in courts due to financial constraints. This backs the argument under the preceding figure that a costly justice gets denied to the less well off.

Figure 5: Level of court where court fees prevented respondents to get access to justice in the last 12 months



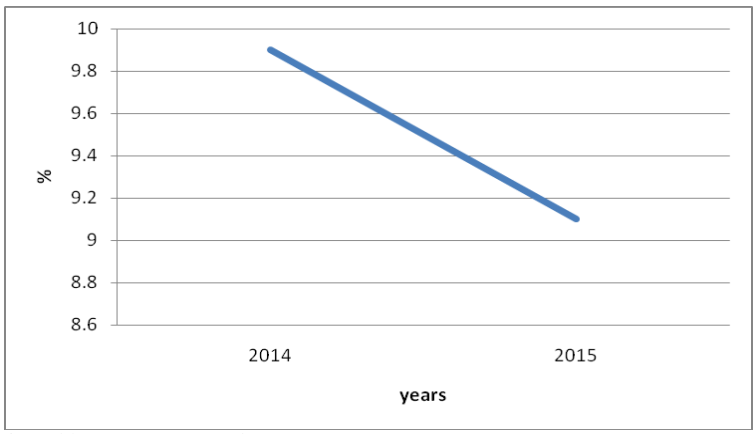
Source: TI-RW 2015, primary data

The data suggests that close to 8 in 10 respondents (i.e. 78.2%) who failed to access justice due to high court cost were targeting primary courts, while close to 3 in 10 were targeting intermediate courts, probably for appeal purposes. Small proportions of them were targeting higher courts. Surprisingly, that data indicates no single respondent targeting commercial courts who was eventually prevented from accessing justice due to financial constraints. Can this simply imply that people who decide to take their matters in commercial courts are always well off? On the other hand one can assume that the subject matter is generally higher than the cost to be incurred in following cases in commercial courts.

4.3.2. Incidence of corruption among judges/integrity

In a previous figure, 11.7% of respondents who were not satisfied with court decisions evoked corruption as justification. This is also evidenced by the findings presented below.

Figure 6: Proportion of respondents who experienced corruption cases in courts (in 2014 and 2015)



Source: TI-RW 2015, primary data

Close to 1 in 10 respondents, that is 9.9% and 9.1% for year 2014 and 2015 respectively, experienced cases of corruption in their interaction with judges. In other words, every tenth respondent did encounter some corruption malpractice throughout the process of seeking justice. This fact is rather worrying given the fact that incidences of corruption tend to be rather underreported. Provided that sector of justice should be exemplary in the impartiality and transparency towards the public, justice stand out as one of the areas with highest frequency of reported corruption (see RBI 2014). Other surveys such as Rwanda Local Governance Barometer revealed nearly similar proportions. Tackling of this problem should be a priority and one of the most urgent policy areas coming out of this research. Furthermore, it is also disturbing that in comparison to the previous year (2014) the incidence of corruption remains stable with a drop within the margin of statistical error.

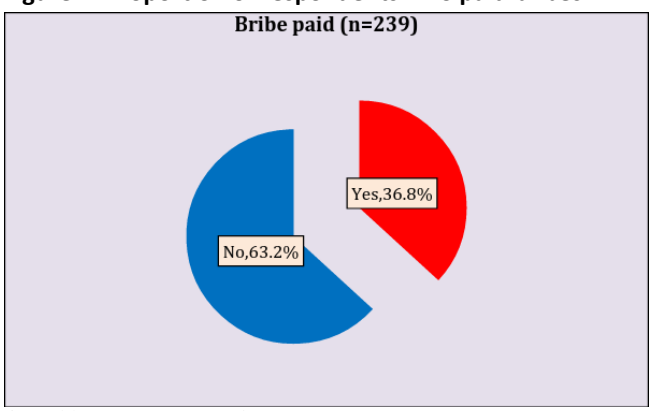
Table 15: Types of corruption they experienced in courts

Corruption type	Frequency	Percent(n=239)
Bribery	156	65.3%
Favoritism	71	29.7%
Nepotism	65	27.2%
Gender based corruption	5	2.1%

Bribery emerges as the form of corruption encountered by the highest proportion of respondents who experienced corruption in courts as it was the case in the previous assessment. Slightly above 6 in 10 respondents who experienced corruption fall in this form. According to some participants, bribery involves largely money, though in few cases it may consist of in-kind barter. However, the data suggests that favoritism and nepotism (cumulatively) account for more than a half of respondents who encountered corruption cases. Gender based corruption appears to be rare in courts as suggested by the table above. The questions are: How many respondents did actually pay a bribe when it was demanded or proposed? How much money was paid?

This is examined in the figure and table below.

Figure 7: Proportion of respondents who paid bribes



Source: TI-RW 2015, primary data

The figure shows that the majority of those who experienced cases of bribery (proposed or demanded) refrained from paying it. This suggests that not all service seekers who encounter corruption cases do actually pay it. Various reasons may explain this situation. While some people can simply resist such a malpractice, others do not move further with corruption as they cannot afford it or are fearful of the consequences resulting from that malpractice. However, an important proportion (36.8%) of those who encountered bribe did actually pay it. This proportion reveals that much is yet to be done to mobilize the general public against the corruption. Not only they should be helped to understand that they should neither accept to pay for their rights, nor try to indulge service providers in corruption in order to obtain undeserved services. The amount spent in bribe is examined in the table below:

Table 16: Amount of money paid as bribe

	Frequency	Percent(2015)	2014
Less than 100,000Rwf	36	40.9%	
100,000Rwf to 250,000Rwf	23	26.1%	
251,000Rwf to 500,000Rwf	12	13.6%	
501,000Rwf to 1,000,000Rwf	6	6.8%	
Above 1,000,000Rwf	11	12.5%	
Total	88	100.0%	
Total Amount Paid	*56,583,000*		*15,990,000 Rwf*
Average size	*642,989*		*228,429Rwf*

Source: TI-RW 2015, primary data

The data suggests those 36 respondents or 40,9% paid less than Rwf 100,000 or USD 143. Additionally, close to 40% (cumulatively) of respondents paid between Rwf 100,000 and 500,000, while around 1 in 10 (i.e.12.5%) respondents who paid bribe in courts spent more than Rwf 1,000,000.The data also suggests that Rwf 56,583,000 were paid by respondents in bribes in courts. The average amount spent by every respondent who paid a bribe stands at Rwf 642,989. These are significant amounts of money spent in bribe to get "justice". It is an indication that corruption ruins people's economies; while they try to buy services they should have for free or simply get undeserved services at the expenses of those entitled to them. Looking at the previous assessment, the amount paid in bribe has gone up significantly as it has tripled. This implies that getting involved in a bribe is a costly business. The decision theory suggests that high initial investment is motivated by high-expected returns. Therefore, the damage to the society as a whole in monetary terms but also on the side of moral corrosion is likely to be extensive.

Table 17: Aggregated score of courts professionalism

Indicator	Score(%)
Independence of judges	73.2
Courts effectiveness in fulfilling their responsibilities	66.6
Clients experience with Integrity of judges (ability to refrain from corruption)	89.9
Quality of judgment (satisfaction with court decision)	71.5
Qualification of judges	100
AVERAGE SCORE	**80.2%**

Source: TI-RW 2015, primary data

Overall, the level of professionalism of Rwandan courts stands high (80.2%). Indeed, almost all judges have required academic qualification (at least bachelor degree in law); high citizens' satisfaction with court decisions (71.5%), very high integrity among judges (89.9%), moderate level of effectiveness of courts in fulfilling their responsibilities (66.6%). Critical issues raised above including delays largely affect the moderate level of effectiveness of courts.

8.6. Accountability of judges

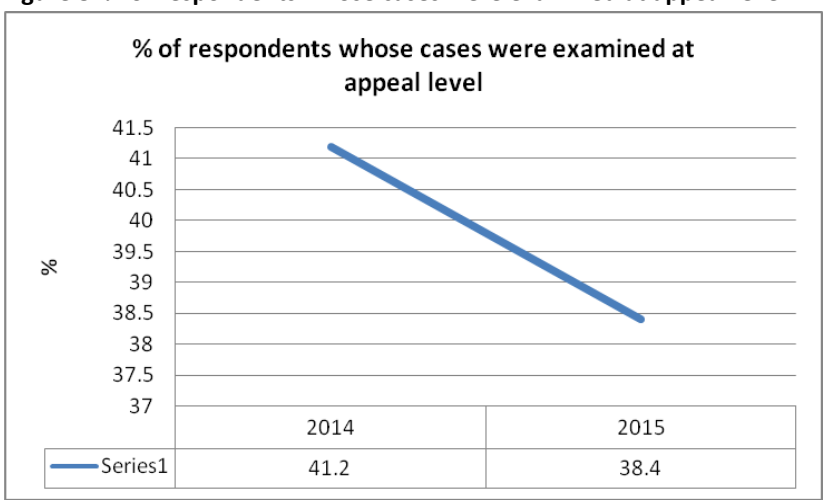
When dispensing justice, judges are required to behave following the ethics and the law, which governs their profession. One of the ways that can ensure quality and timely justice is the possibility for judges to be held accountable for their misconduct in rendering justice, and the capacity for courts' clients to appeal in case of dissatisfaction with court decision or to complain about any feeling of injustice or victimization during the judicial process. While the issue of professionalism of courts and therefore the judges has been largely covered in the above section, this section focuses on the accountability of judges with a particular emphasis on the extent to which courts clients exert their right to appeal in case of dissatisfaction with court resolution, clients' ability to report actual and perceived corruption and the existing mechanisms to address judicial misconduct or substandard performance and the extent to which they are enforced.

8.7. Appeal in case of dissatisfaction with court decision

Article 163 of the Law N° 18/2004 of 20/06/2004 related to Civil Court, commercial, social and administrative procedure stipulates that the party to the trial proceedings when not happy with the court resolution, has the right to appeal within 30 days from the day of hearing or from the time they become aware of the judgment.

In Rwanda, litigants are aware of their right to appeal to higher courts in order to have decisions in the first degree reformed. It is common knowledge now that the courts inspection carries regular visits and more importantly scrutinizes the quality of decisions.

Figure 8: % of respondents whose cases were examined at appeal level



Source: TI-RW 2015, primary data

It emerges from the figure above that around 4 in 10 respondents, that is 41.2% and 38.4% in year 2014 and 2015 respectively)had their cases examined at appellate level. The data suggests no significant deviation in proportion of respondents whose cases were examined at appeal level between the two years as shown in the figure above**.**

Table 18: Courts attended by respondents in first and second instance of appeal

First appellate instance			
	Frequency	**Percent(2015)**	**2014**
Intermediate Courts	675	68.0%	66.8%
High Court	214	21.6%	19.3%
High Commercial Court	63	6.4%	5.0%
Supreme Court	40	4.0%	8.9%
Total	992	100.0%	
Second appellate instance			
	Frequency	**Percent(2015)**	**2014**
High Court	120	63%	54.6%
High Commercial Court	24	13%	11.2%
Supreme Court	45	24%	34.2%
Total	189	100%	

Source: TI-RW 2015, primary data

Even at appellate level, the lower the court the higher the proportion of cases examined. Intermediate courts appeared to be the most attended by respondents at first appellate instance. This is obvious given that the highest proportion of respondents had their cases examined in primary courts as shown above. Very small proportions had their cases appealed at the High Commercial Court and the Supreme Court. Competences of courts both in terms of first resort and appeal matters are determined by laws and are to be abided to as such. At second appellate level, the high receives relatively more cases than the Commercial and Supreme courts.

It emerges from this available data that the High Court and the Supreme Court deal largely with appeal cases. Depending on the court, which examines cases in the first resort, the latter courts are competent to try cases at the appeal level among others. In regards to the High Commercial Court, it is also competent to examine appeal cases from commercial courts among others.

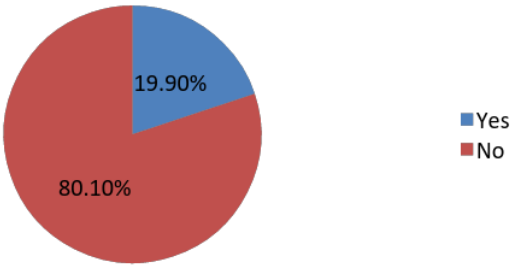
Comparatively, appeal cases received by the Supreme court were reduced by half in 2015 at 1st appeal instance and by 10% in the 2nd appeal instance.

Reporting cases of corruption if encountered

As discussed above, judges' accountability may involve both performance and behavior/conducts. One of the areas of ethical conducts that attracted our attention is corruption. From accountability viewpoint, the analysis focused on whether or not

courts' clients who personally experience or hear about corruption cases do actually report them to relevant institutions or people. In figure 3 above, the data suggests that close to 1 in 10 respondents, that is 9.1%, experienced cases of corruption in their interaction with judges. Clients' behaviors after encountering actual or alleged corruption are examined below.

Figure 9: Proportion of respondents who reported corruption cases they experienced



Source: TI-RW 2015, primary data

Reporting cases of corruption proves very problematic. The data suggests that 8 in 10 respondents who experienced cases of corruption did not report them to any relevant persons or institutions. Only 2 in 10 reported such cases. This situation indicates the extent to which the fight against corruption remains challenging. Rwanda is well known to have firm political will and have in place strong anti-corruption mechanisms. However, those mechanisms hardly deliver expected results if many victims of corruption do not report such cases. Why do many people not report corruption cases? This is examined in the table below.

Table 19: Reasons for not reporting cases of corruption experienced by respondents

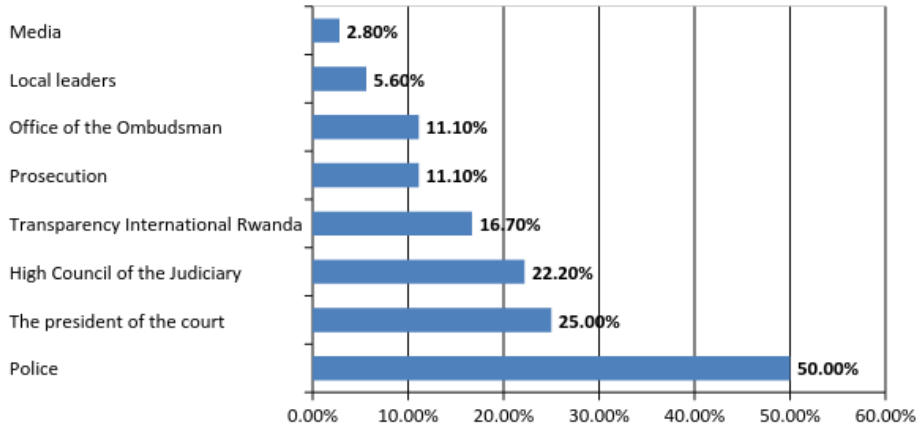
	Frequency	Percent (n=162)
No positive outcome expected	***79***	48.8%
Fear of consequences/reprisals	***77***	47.5%
Do not know the institutions to be approached	***48***	29.6%
Fear of spending time in many institutions	***28***	17.3%
Was in prison	8	4.9%
Lack of evidence	3	1.9%

Source: TI-RW 2015, primary data

The feeling that no positive outcome who follow reporting corruption cases, and fear of consequences or reprisal after reporting emerged as most important reasons behind silence on corruption cases. Other significant reasons include ignorance of relevant institutions to report to and fear of wasting time in many institutions. While some respondents may be actively involved in corruption cases and therefore fail to denounce themselves, others do actually face a number of challenges that demotivate them to report over corruption. This calls for increased efforts in raising people's awareness of corruption and safe mechanisms in place to facilitate reporting in a confidential or anonymous way. Additionally, the effectiveness of such anti-corruption

mechanisms and institutions and the extent to which the larger public is informed on their performance and impact could be vital in increasing the number of people reporting corruption cases. The table below examines main institutions or people whom corruption cases were reported to.

Figure 10: Institutions or people to which corruption cases were reported



Source: TI-RW 2015, primary data

The National Police emerges as the institution approached by the majority of the few respondents who reported cases of corruption they encountered in courts. Other respondents in this category approached mainly the President of the Court involved and the High Council of the Judiciary as well as Transparency International Rwanda. Surprisingly, a very small proportion of respondents approached an institution such as the Office of the Ombudsman, whose mandate is to fight corruption and injustice. One can argue that the National Police is more decentralized than other institutions and thus more accessible than others.

8.8. Procedures to address judicial misconduct or substandard performance

To ensure that judges act responsibly and adhere to judicial performance standards, article 14, sections 2 and 3 of the Organic Law n°07/2012/OL of 19/09/2012 determining the organization, powers and functioning of the high council of the judiciary, provides measures to deal with judicial misconduct or failure to act in accordance with judicial performance standards.

In terms of promoting accountability in the administration of the judicial system, special emphasis has been put on the following[10]:

- Enhancing court administration and regular reporting on court activities;

[10]Supreme Court (2014) *Report on the Achievements of the Judiciary of Rwanda for the Past Ten Years (July 2004-June 2014)*

- Regular staff meetings at different court levels to discuss issues related to efficiency and improvement in service delivery;
- Quarterly meetings of the Chief Justice and Presidents of Courts and Chief Registrars to discuss legal issues, to adopt strategies for better administration of justice and to improve service delivery;
- Exchange ideas on decided cases and the application of laws;
- Discussing regularly on cases overturned at appeal level;
- Monitoring the implementation of adopted strategies;
- Ensuring professionalism and ethics of judges.

Furthermore, the Rwandan Judiciary highlights that it is committed to not tolerate any infringement of code of ethics. In this respect, during the past ten years, the High Council of Judiciary has imposed disciplinary sanctions summarized in the table below.

Table 20: Sanctions imposed by the Judiciary to the staff (June 2004- July 2014)[11]

Sanction	Number of staff
Dismissal over corruption and related misconduct	26
Dismissal over infringement of the law on ethics code	14
Various disciplinary measures	17
Temporary suspension	5
¼ deduction from the salary	7
Official blame/warning	4
Warning notice	1

Source: TI-RW 2015, primary data

The data suggest manifestly that the judiciary personnel that fail to abide by the code of ethics are seriously held accountable. Tough sanctions are imposed and these include even dismissals. Over the last 10 years, 40 personnel (cumulatively) of the judiciary have been dismissed over misconducts, that is an average of 4 staff per year. Furthermore, various disciplinary measures were taken against some personnel. These are partly aimed at providing opportunities for the staff to improve their behaviors.

As to conclude on the accountability dimension, various mechanisms to hold the judges and court staff accountable are in place. A significant proportion of court clients who are not satisfied with the court resolution use the right to challenge the resolution through appeal.

Surprisingly, very few of those who experience or hear of corruption cases do actually report them. This negative attitude has also been highlighted by other studies on corruption in Rwanda. An in-depth research should be conducted to elicit this problem.

At the Judiciary level, mechanisms to hold judges and other courts' personnel accountable are in place. They consist largely of sanctions, which vary from warning notice to dismissal.

[11] ibidem

9. CONCLUSION AND RECOMMENDATIONS

Despite a tangible progress having been made compared to last year (2014), areas, which are hampering satisfaction, must be clearly named and the policy responses appropriately designed. This research clearly shows areas of improvements (backlog of cases, competency of judges, etc.) but it also names areas where *more action from policy makers and all justice stakeholders are imminent*. Below are specific findings and possible recommendations as a basis for informed policy making in the area of justice.

Finding 1:
The level of respondents' satisfaction with courts' decisions stands relatively high and positive trend in the increase of satisfaction levels is sustained. Satisfaction with courts' decisions appears to be very high for primary courts and commercial courts while it drops when it comes to intermediate courts and the High Court and with the High Commercial Court.

Recommendation 1:
In order to sustain the positive trend in the increase of satisfaction, especially the appellate levels of the judicial institutions such as High Court, the appealed verdicts shall be scrutinised so that the accuracy of procedural and legal steps of intermediary courts are ensured. This will lead to a significant reduction of judgment errors in terms of legal and methodological proceeding. In end effect, such a safeguard will leave to higher satisfaction of the public with the performance of the judiciary in Rwanda.

Finding 2:
Perceived partiality of judges emerged as the main reason of dissatisfaction with courts decisions, among those who did not express full satisfaction. It is followed by perceived voluntary breach of laws by judges (31.3%), lack of independence of judges (17.2%), corruption (12.9%) and other various reasons including delays and disregarding evidence. Considering the fact that obvious bias of perception-based survey ought to be controlled in a situation where one party loses and another wins a court hearing, breach of law by judges, lack of independence and corruption must have zero tolerance in the justice sector.

Recommendation 2:
Presidents of Courts at all instances, High Council of Judiciary, Rwanda National Police, Civil Society Organisations, media and, importantly, the public at large must be active in demanding accountability from all instances of justice. Positive practices have to be published, lessons learnt utilised by policy makers. *Individual cases of breach of laws, lack of independence and corruption* have to be followed and justice ensured as these malpractices severely compromise the trust of public in the system of justice. Suggestion boxes, toll-free hotlines and awareness building amongst the public about the right to appeal and complain are concrete activities to address main causes of dissatisfaction with courts.

Finding 3:
A lot of progress has been done in addressing the persistent backlog of court cases. Close to a half of respondents who attended primary courts were able to attend the first hearing at least within a 6 month period following the date on which their cases were lodged in courts. This is encouraging as it is the primary courts that are the first instance of justice for the public. However, still almost a similar proportion spent between 7 months and 2 years or more to get to the first hearing. Nearly 20% of all respondents claim that it takes more than 1 year to come to the first hearing at the primary court. The delays are related mainly to *the long time between case submission and the date of court decision announcement* and *the long time between case submission and date of first hearing.*

Recommendation 3:
Addressing the backlog, especially at the primary and intermediary courts, means to *shorten the time between the submission of a case and the announcement of court decision and case submission and first court hearing*. While it is understood that the increase of number of judges cannot be addressed within a short time-span, a number of tasks that would significantly help in addressing the backlogs are rather administrative. The increase of administrative staff and their efficiency in handling the workload is thus a priority that can lead to 'quick wins'. The revision and suggestions on how to address these gaps shall come from the Ministry of Justice.

Finding 4:
While satisfaction of the public and observations suggest that progress has been made in speeding the justice, the data suggests that 'quality' of judgments might not be catching up. The main reasons of dissatisfaction come with *quality parameters of judgments such as perceived lack of impartiality, lack of compliance with court procedures or even laws*. Even outright crimes such as corruption are an issue. It is evident, and recognized by public, that judges have been successful in addressing the backlog of court cases to great extent. However, one of the main messages of this report is that the change of the paradigm from justice fast to justice fast and high quality must be instilled in the justice sector.

Recommendation 4:
While quotas for judges to cater for a certain number of cases might have been instrumental in reducing the backlog of cases, quality standards can be further improved. Higher instances of courts and justice appeal system should make sure that quantity is not on the expense of the quality of judgments. The Supreme Court shall strengthen the existing monitoring framework, which will reduce quality gaps within the judicial system.

Finding 5:
Economic cost of justice comes as the biggest challenge experienced by respondents, especially at the lowest court instance. Almost 5 in 10 respondents (i.e. 48.9%) have raised this concern. The court fee seems to be a real burden to the people attending courts. The level of impact of that fee as perceived by respondents stands high at 75.4% cumulatively. There is a real danger that especially the poorest, and most vulnerable segment of the population is likely to be excluded on the basis of lack of financial means. This negative effect might force the population to retort to other means of justice or, even worse, their exclusion from the justice system altogether.

Recommendation 5:
The Ministry of Justice should re-examine the legal fee to make it more reasonable and therefore affordable in order to avoid such a denial of justice. A nation-wide debate might be also necessary to discuss how can high costs for accession of the justice system be reduced for the segment of population living below extreme poverty (around 24% of the population). Civil society and development partners might be consulted on ways how the justice system can facilitate help to financially weak individuals who are in many cases primary victims of injustice.

Finding 6:
The incidence of corruption must be taken seriously. Close to 1 in 10 respondent experienced cases of corruption in their interaction with judges. Bribery emerges as the form of corruption encountered by the biggest proportion of respondents who experienced corruption in courts as it was the case in the previous assessment. Whereas this is not a sign that a bribe was actually paid in 10% of cases, corruption might still be a serious challenge to address. To illustrate the extent of the financial transactions involved corruption, the average amount spent by every respondent who paid a bribe stands at Rwf 642,989. Furthermore, only in our sample, the cumulative amount of bribes paid stands at *15,990,000 Rwf.*

Recommendation 6:
Further research and analytical work might be needed to understand the triggers of corruption and 'positive drivers' to eliminate their causes. This research exposes bribery but many other types of corruption such as clientelism, patronage, nepotism, etc. might go further unnoticed. As control mechanisms within the justice sector and also competent bodies on the side of police and prosecution are in place, a discussion might be needed on how to support the change of behavior of those who are corrupt and those who offer corruption. As corruption is a crime where coercion from all sides involved makes repression difficult, incentives for behavior changes might be important for prevention of this crime in the justice sector. MINIJUST shall spearhead specific initiatives in this respect.

Finding 7:
Reporting of cases of corruption or any other malpractice in the justice sector remains very low. Reasons provided by respondents include among others, the feeling that no positive outcome follows reporting corruption cases, and fear of consequences or reprisal after reporting emerged as most important reasons behind silence on corruption cases.

Recommendation 7:
Two-prone approach might be taken to address this issue on the part of authorities but also on the part of the public. The Office of the Ombudsman, Rwanda National Police, Supreme Court, MINIJUST, TI-Rw, and National Public Prosecution Authority should increase their effort to put in place safe mechanisms for reporting corruption cases. In the same vein, the Ministry of justice and other justice stakeholders (including those in the fight against corruption) and CSOs should increase activities aimed at raising awareness of the community with regard to corruption especially the reporting. Presence of visual materials at courts' houses and awareness campaigns for concerned citizens would be a good start on the part of the public. Whistle-blowers must be encouraged to come forward and their protection must be fully ensured so that existing laws in place are strictly respected.

Finding 8:
Prevention is important but consequences in cases where malpractices are proven must be duly followed. The Rwandan Judiciary proves committed to not tolerating any infringement of code of ethics. In this respect, during the past ten years, the High Council of Judiciary has imposed disciplinary sanctions, which vary from warning notice to dismissal. Over the past 10 years an average of 4 court personnel were dismissed per year in this regard.

Recommendation 8:
Publishing of these cases through media might be powerful in sending a signal that breaches of ethics are not tolerated and their reporting, if proven, is duly followed by competent authorities. Actions further supporting prevention and repression of breaches of ethics must be duly followed by the implementation at all levels of justice. Working with the public on building awareness about their rights is again crucial in generating the 'accountability demand gap' that might still exist in the justice sector.

Finding 9:
A number of positive steps have been made, especially in addressing backlogs and delays in court hearings, the competency of judges, responsiveness of court officials to the public, etc. This has been possible partly due to the follow up on recommendations from previous monitoring and subsequent advocacy actions. Positive steps to close gaps in the justice sector generate tangible improvements for the public and are also appreciated through their satisfaction in number of key justice areas. Additional tools such as Web-based System for Court Monitoring recently developed by CSOs will help to further monitor courts' performance.

Recommendation 9:
To sustain this positive trend, an outcome-based monitoring of agreed recommendations generated through this research has to be an opening for the next generation of Voice and Accountability project. Rigorous assessment of not only the commitment but also of the implementation and impact of these recommendations has to constitute a baseline for every successive reporting.

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II. Book and other documents

1. Council of Europe, *Recommendation No. R (94)*, *doc. cit*, Principle I.2.d.

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3. MORTIMER D. SCHWARTZ, R. C.WYDICK and aliis, *Problems in Legal Ethics*, 6th ed, USA, West Group, 2003.

4. NGAGI M. A., *Professional Legal Ethics*, University of Rwanda, College of Arts and Social Sciences, School of Law, Course LLB IV, 2014-2015, unpublished.

5. United Nations, *UN Basic Principles on the Independence of the Judiciary*, *doc. cit.,* Principle 2.

10. ANNEX: Questionnaire

IBIBAZO BIGENEWE ABATURAGE BAGANA INKIKO

Ibi bibazo byateguwe na TRANSPARENCY INTERNATIONAL RWANDA, kandi bigenewe abantu bagana inkiko bakeneye serivise z'ubutabera zitangwa n'inkiko. Ni mu rwego rw'ubushakashatsi bukorwa n'uyu muryango mu rwego rwo gusesengura imikorere y'inkiko mu Rwanda.Turifuza ko wasubiza ibi bibazo witonze hanyuma uru rupapuro urushyire mu gasandugu k'ibitekerezo kabigenewe. Ahuzuzwa mu magambo cyangwa imibare wandikeho igisubizo cyawe. Aho ibisubizo bitandukanye biteganyijwe, turagusaba ko waca akaziga ku mubare ujyanye n'igisubizo cyawe. Turakwizeza ko ibisubizo byawe bizasesengurwa mu buryo bw'ibanga. Urakoze cyane ku musanzu utanze usubiza ibi bibazo.

Akarere urukiko ruherereye mo	
Itariki	
Izina ry'urukiko	

Igitsina	Gabo	1
	Gore	2
Imyaka		
Umurimo Akora		

Q1. Vuga urwego rw'urukiko wagejejeho ikibazo cyawe	
Urwego rwa mbere	1
Urwego rw'ubujuririre	2

Q2. Ese ni uruhe rukiko wagejejeho ikibazo cyawe kurwego rwa mbere?	
Urukiko rw'Ibanze	1
Urukiko Rwisumbuye	2

Urukiko rw'Ubucuruzi	3
Urukiko Rukuru	4
Urukiko Rukuru rw'Ubucuruzi	5
Urukiko rw'Ikirenga	6

Q3.Ese waba warareze murukiko rw'ubujurire?

Yego	**1**
Oya	**2 ⟶ Q5**

Q3.1 Ese ni uruhe rukiko waregeye mu rwego rw'Ubujurire bwa mbere?

Urukiko Rwisumbuye	1
Urukiko Rukuru rwa Repubulika	2
Urukiko Rukuru rw'Ubucuruzi	3
Urukiko rw'Ikirenga	4

Q3.2 Ese ni uruhe Urukiko waregeye kurwego rw'ubujurire bwa kabiri ?

Urukiko Rukuru rwa Repubulika	1
Urukiko Rukuru rw'Ubucuruzi	2
Urukiko rw'Ikirenga	3
Ntarwo	4

Q4. Ese icyo waregeye wakiboneye igisubizo kikunyuze?

Yego	1	*Jya kuri Q4.1*
Oya	2	*Jya kuri Q.4.2.*

Q4.1 Igisubizo wahawe cyakunyuze kuruhe rugero?

Sinanyuzwe namba	1
Sinanyuzwe	2
Nanyuzwe biringaniye	3
Naranyuzwe	4
Naranyuzwe cyane	5

Q4.2. Niba kitarakunyuze ubona impamvu ari izihe?

Kubogama k'umucamanza/abacamanza	1
Ruswa	2
Kutagira ubwigenge ku mucamanza/abacamanza	3
Uburangare bw'umucamanza/ kutita ku inshingano	4
Ikindi (kivuge)	5

Q5. Unyuzwe ute na serivisi wahawe n'inkiko ushingiye kuri ibi bikurikira:

#		Sinanyuzwe namba	Sinanyuzwe	Nanyuzwe biringaniye	Naranyuzwe	Naranyuzwe cyane
1	Kudasubika iburanisha ry'imanza	1	2	3	4	5
2	Kubahiriza ibihe biteganywa n'amategeko (ubutabera bwihuse)	1	2	3	4	5
3	Ubutabera buzira ruswa	1	2	3	4	5
4	Kutabogama kw'abacamanza mu buryo bafata ababuranyi bombi mu gihe cy'iburana	1	2	3	4	5
5	Kutabogama kw'abacamanza mumikirize y'urubanza	1	2	3	4	5
6	Ubwigenge bw'abacamanza	1	2	3	4	5
7	Umwanzuro w'urukiko	1	2	3	4	5
8	Ikiguzi cy'ubutabera (amafaranga yose urubanza rwagutwaye	1	2	3	4	5

Q6. Ese wigeze uhura n'ikibazo cya ruswa?		
Yego	01	*Jya kukibazo cya Q7*
Oya	02	*Jya kukibazo cya Q12*

Q7. Niba ari yego iyo ruswa yari iyubuhe bwoko?	
Amafaranga (vuga umubare)	1
Icyenewabo	2
Itonesha	3
ikimenyane	4
Indonke	5

Ruswa ishingiye ku gitsina	6
Ikindi (Kivuge)	7

Q8. Ese waba waratanze cyangwa waremeye iyo ruswa (amafaranga cyangwa ubundi bwoko)

Yego	1	
Oya	2	*Jya kukibazo cya Q10*
Q.9.Watanze ruswa ingana n'amafranga angahe ?		……

Q10. A. Ese waba warabonye icyo wifuzaga nyuma yo kwanga gutanga ruswa?

Yego	1
Oya	2

Q10.B. Ese umaze gutanga ruswa waba warabonye serivisi wifuzaga

Yego ……...1

Oya ……**2**

Q11. Waba warareze uwakwatse ruswa?

Yego	1	*Jya kuri Q11.1*
Oya	2	*Jya kuri Q11.2*

Q11.1 Niba ari yego waregeye nde /ikirego kijyanye na ruswa ?

Perezida w'Urukiko	1
Polisi	2
Inama Nkuru y'Ubucamanza	3
Ubugenzuzi bukuru bw'inkiko	4
Ubushinjacyaha	5
Transparency International Rwanda	6
Inzego z'itangazamakuru	7
Urwego rw'Umuvunyi	8
Abayobozi b'inzego z'ibanze	9
Izindi (zivuge)	10

Q11.2 Niba utarareze abakwatse ruswa ni izihe mpamvu zabiguteye muri izi zikurikira? ?

Ubwoba bw'inkurikizi	1
Kutamenya aho kuregera	2
Kubona ko ntacyo byatanga	3
Gutinya gusiragira hirya no hino	4
Iyindi(yivuge)	5

Q12. Ese nk'umuntu wagannye inkiko ubona ikibazo gikomeye wahuye nacyo ari ikihe?	
Kutubahiza ibihe biteganywa n'amategeko	1
Kutarangiza imanza umuntu yatsindiye	2
Kubogama kw'abacamanza	3
Kutigenga kw'abacamanza	4
Ruswa	5
Ubwunganizi mu mategeko	6
Amafaranga menshi urubanza rutwara	7
Igihe kirekire urubanza rutwara	8
Isubikwa ry'imanza rya hato na hato	9
Kutakira ikirego	10
Incarubanza zidasobanutse	11

Q13. Niba warahuye n'ikibazo cyo kutubahiriza igihe mu nkiko, nihehe ubona inkiko zitubahiriza igihe giteganijwe?	
Igihe kiri hagati yo kwakira ikirego n'itariki urubanza rwaburanishijwe bwa mbere .	1
Igihe kiri hagati yo kwakira ikirego n'igihe cyo guca urubanza	2
Igihe kiri hagati yo kwakira ikirego n'igihe cyo guha ababuranyi kopi y'urubanza	3
Igihe kiri hagati yo kwakira ikirego n'igihe cyo kubona kasha mpuruza	4

Q14. Ese utekerezako impamvu inkiko zitubahiriza igihe giteganijwe n'amategeko yaba ari iyihe?	
Ubunebwe bw'abacamanza n'abanditsi b'inkiko	1
Kugira imanza nyinshi zitaraburanwa (ibirarane n'ibirego bishya)	2
Umubare muke w'abacamanza n'abanditsi b'inkiko	3
Kutishimira umushahara kw'abacamanza n'abanditsi b'inkiko	4

Q15. Muri rusange unyuzwe ute n'uko inkiko waburaniyemo zitanga ubutabera nyabwo kandi ku gihe? Tanga amanota kuva kuri 1 kugeza kuri 5 bityo ugaragaze uko ubona inkiko zaba zuzuza inshingano zazo	
Ubunyangamugayo bw'abacamanza	
Gutanga ubutabera mugihe giteganijwe n'amategeko	
Kutabogama kw'abacamanza	
Kwigenga kw'abacamanza	
Incarubanza zifite ireme	

Kutagira ibikoresho by'akazi bihagije	5	Abacamanza bafite ubumenyi buhagije mubya'amategeko	
Ikindi (kivuge)	6		

16. Kuva ikirego cyawe ukigejeje murukiko cyaburanishijwe bwambere mugihe kingana gute ?

Q16.1 Urukiko rw'ibanze	
Hagati y'ukwezi 1-6	1
Hagati y'amezi 7-12	2
Hagati y'umwaka 1-2	3
Hejuru y'imyaka 2	4

Q16.2 Urukiko rw'ubujurire	
Hagati y'ukwezi 1-6	1
Hagati y'amezi 7-12	2
Hagati y'umwaka 1-2	3
Hejuru y'imyaka 2	4

Q16.3 Urukiko rukuru	
Hagati y'ukwezi 1-6	1
Hagati y'amezi 7-12	2
Hagati y'umwaka 1-2	3
Hejuru y'imyaka 2	4

Q16.4 Urukiko rw'ikirenga	
Hagati y'ukwezi 1-6	1
Hagati y'amezi 7-12	2
Hagati y'umwaka 1-2	3
Hejuru y'imyaka 2	4

17. Ese ubona hakorwa iki kugirango imikorere y'inkiko itume tugera ku ubutabera bw'umwuga, buhamye kandi buzi icyo umuryango nyarwanda ubutezeho?

1……
……
……..

18. Kubwawe ubona amafaranga atangwa ku igarama munkiko yagira ingaruka mukutagera ku ubutabera kuruhe rugero:

1	Runini cyane
2	Runini

2…… …… …… **3.** …… …… …….	3	Rurariganiye
	4	Ruto
	5	Ruto cyane

19. Wowe ubwawe amafaranga y' igarama yaba yaratumye utabona ubutabera wifuza mumezi 12 ashize

1. Yego

2. Oya

20. Niba ari yego nukuruhe rwego rw'urukiko murizi zikurikira:

1. Urwibanze **2**. Urwisumbuye **3**. Urukiko rukuru **4.** Urukiko rw'ikirenga

Murakoze

Transparency International Rwanda
P.O. Box 6252 Kigali, Rwanda
Tel. +250(0)788309583
Toll free: 2641 (to report cases of corruption)
E-mail: info@tirwanda.org
Website: www.tirwanda.org