

**POLICY RESEARCH ON THE PROCESS OF THE  
EXECUTION OF COURT JUDGEMENTS FOR A  
SOUND RULE OF LAW IN RWANDA**

**BY TRANSPARENCY RWANDA**

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## *1 .Historical background*

Although Rwanda has made progress in the judicial sector since 2003 reforms, including training of lawyers and judges and establishing new laws, aiming at having an independent, effective and efficient judicial system, there is an increase of complaints of citizens related to non executed or wrongly executed judgments and refusal of providing a writ of judgment to the judgment creditor by the personnel in charge.

The physical intervention in enforcement is always undertaken by authorized government officers. The law no 13/2004 of 17/5/2004 relating to the code of criminal procedure in its article 209 modified and complemented by the organic law no 20/2006 of 22/04/2006 specifies the officers authorized by the Minister of Justice to execute the judgments and the same law in its article 210 also specifies the officers authorized to supervise the execution of judgment<sup>1</sup>.

Unfortunately, the officers mentioned in the law who are supposed to implement these provisions often do not do it as they should and this undermines democracy, the rule of law and the respects of human rights and deters social justice.

The sources from Supreme Court show that in 2010<sup>2</sup>, among 45 240 verdicts rendered by both high court of republic, high court of commerce, intermediate courts and lower courts, 19% were appealed and 81% were closed and supposed to be enforced. These judgments labeled as closed should be subject to execution of judgments.

The data from ALAC<sup>3</sup> project operating under Transparency Rwanda confirms that the main issues arising from the complaints it receives are related to judicial matters, mainly concerning the execution of court judgments.

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<sup>1</sup> Execution of judgments is conducted by the following :  
Carrier bailiffs Prison director Government officials , and local government authorities empowered to do so by the Minister in charge of justice

<sup>2</sup> Source from supreme court report “table of verdicts rendered, appealed and closed in 2010”

<sup>3</sup> Advocacy and Legal Advice Centre, which receives complaints from citizens, provides them with free legal advice and advocates for their cases.

In a meeting held after six months of operation<sup>4</sup>, ALAC staff for the first time raised that matter to the participants; the representative from the Ministry of Justice acknowledged the existence of the problem and assured that this issue is also their concern.

To get more in-depth information on the extent of the problem, TR also visited the Supreme Court and the inspection department of the Ministry of Justice to discuss the issue. Such institutions recognized that they receive many complaints among which are those related to the execution of court judgments but unfortunately they don't keep any records.

However on the other side, in the Performance Contract Meetings (IMIHIGO), Mayors always report around 90% of execution of court judgments but again there isn't any defined process at the level of MINALOC or MINIJUST to crosscheck the reports of the Mayors on that issue. Though the discussions held with the newly elected KAYONZA District Mayor on 24/March/2011 confirmed that a number of cell executive secretaries are being prosecuted upon wrong or non execution of judgments brought to them by citizens .

In order to get a better understanding of the citizens' concerns as far as the enforcement of court judgments is concerned, data from official sources need to be complemented by the establishment of a direct contact with citizens. This can be achieved through a well-managed research and targeted discussions with both the general public, Government officials. This will allow the Government of Rwanda and other stakeholders to better understand the issue, but will also enable Transparency Rwanda to better focus and fine-tune its interventions including advocacy activities.

## *2. Objectives*

The overall objective of the Project is to improve the execution of court judgments in Rwanda by gathering sufficient information on the state of executions of judgments, identifying problems and suggesting concrete solutions.

Specifically, the project aims at:

- Identify reasons behind the failure or delays in judgment execution in Rwanda

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<sup>4</sup>Meeting held 19/11/2009, at Sports View Hotel

- Identify the link between the non-execution of judgment and corruption practices
- Examine obstacles encountered by local leaders in the process of judgment execution
- Propose strategies for proper and timely judgment execution.

### *3. Research questions*

Based on the above-mentioned specific objectives, the following research questions have been formulated:

- Is it the result of lack of knowledge of the officers in charge of execution and supervision of judgments?
- Is it the result of corrupt practices on both sides (execution and supervision officers, judges and judgment debtor)?
- Is it the result of the ignorance of judgment creditors in the process of enforcing the judgment?
- Is it the result of lack of technical knowledge of judges (who issue an impossible court order to the judgment debtor?)

### *4. Methodology*

**Research Design:** This study is only based on a qualitative approach as a quantitative technique (a survey) would require resources which exceed the budget. This approach provided detailed information on how citizens appreciate the service delivery in terms of judgments execution. It also captured personal experiences on the problems in the executions of judgments through testimonies.

**Research instruments:** The research instruments are made of qualitative tools such as interviews and focus group discussions (FGD) as well as radio call in. The geographical scope of the study is therefore the whole country and the timeframe is the last 6 months.

**Focus groups:** Two groups were chosen for each category (the group of service providers and that of service seekers) and per site (district). The interviewees were separated in order to

confront both groups' points of views which can be either contradictory or complementary. The group discussions were made up of 8 people of different sex and age, all of them being between 18 and 65 years old. In each district site, groups were chosen taking into account the age brackets, sex, participants' areas of residence (urban or rural areas), social characteristics and education level. A total of 20 FGD were held countrywide, meaning 2 per District (in the 10 selected Districts).

**Interviews:** On the basis of the focus groups, resource people (with a specific knowledge of the issue) were identified for individual interviews. The interview checklist was used to collect relevant information on the issue of judgment execution. Testimonies on the problem are of a paramount importance as they provide evidence on individual cases for different categories of people and different areas. The interviews targeted both service seekers and service providers including senior officials of the judiciary system. The number of interviews was not determined in advance as this was based on the principle of saturation or redundancy in the responses. The interviews and focus group discussions tried to assess the problems identified by the ALAC project<sup>5</sup> in the execution of judgment namely:

- Denial to execute the judgment by the personnel in charge
- Wrong execution of the judgment (deviation of the judgment)
- Denial to officially authorize the execution of the judgment
- Denial of providing a copy of the judgment by the personnel in charge

**Radio talk shows:** For the purpose of triangulation of information, radio talk shows were necessary to reach out a good number of people and gather more information on the issue. A two hour talk show was organized and broadcast on 3 popular local radios where citizens reported their complaints and shared their experience on the issue of execution of judgments in Rwanda. These are Radio 10, Amazing Grace and Huye Radio.

**Target Population:** As mentioned earlier, 2 FGDs were organized per site in 10 districts of Rwanda. The site of the district was selected purposively as follows:

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<sup>5</sup> Summary of cases registered in ALAC data base is presented in the annex

Table1: District selected in the study

S/N	Provinces	District
1	West	Rubavu
		Nyabihu
2	North	Musanze
		Burera
3	South	Huye
		Nyamagabe
4	East	Kayonza
		Rwamagana
5	Kigali city	Gasabo
		Kicukiro

The first group of service providers was composed of the following categories of people:

- Executive Secretary of the Cell (4), one per Cell in 4 Cells
- Executive Secretary of the Sector (2), one per Sector in 2 Sectors
- The official in charge of civil status in the Sector(2), one per Sector in 2 Sectors

With regard to the service seekers side, only citizens who experienced a case of judgment were included in the study. This selection was guided by the ALAC project data base.

Validity and reliability of the research instruments:

The validity of the research instruments was ensured by the fact that, as the research is completely qualitative, the findings will not be extrapolated at the district, province or country level. As the sample size is purposely not representative of the total population, these findings will be only used as an evidence-based tool to advocate for systemic change in judgment execution issues.

With regard to the reliability of the research instruments, a meeting aimed at providing background information on issues related to judgment execution was organized with the FGD

members before the beginning of each FGD. A similar session was organized on the occasion of the radio talk show to allow citizens to be informed on their rights related to judgment execution and help them ask or report their problems adequately.

In order to ensure and monitor the quality of data collection and data analysis, a multidisciplinary team of experts from TR staff and the consultants was put in place to enable complementary exchanges in the research activities.

### Data gathering and analysis

After data collection, the information gathered from the research instruments (interviews, FGD, radio talk show, audio data) was entered using appropriate qualitative data analysis, and the content analysis has been used.



### 3. RESEARCH FINDINGS

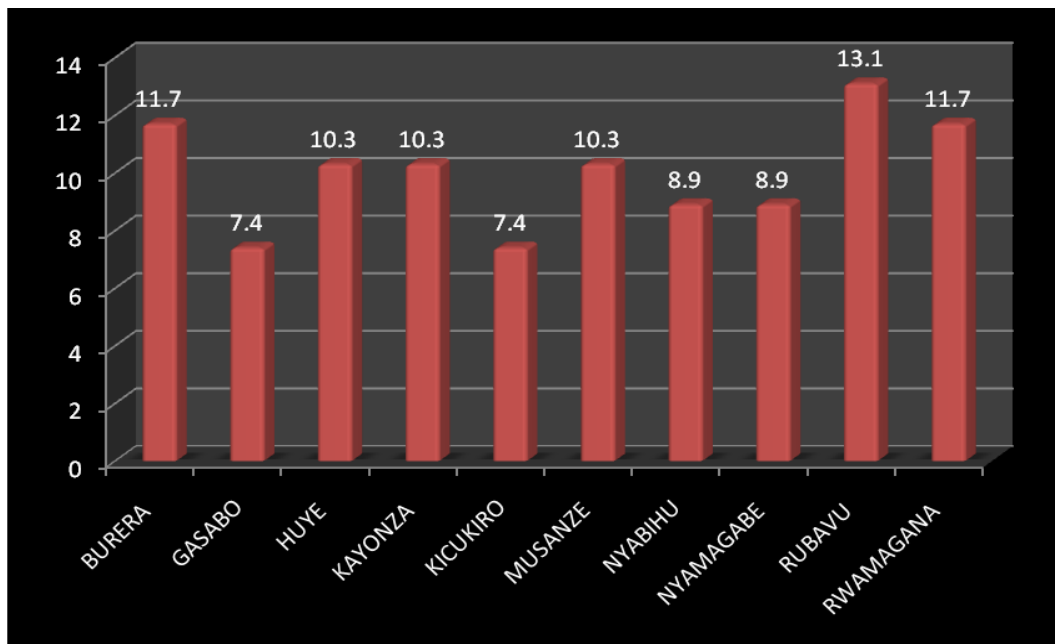
Before starting the actual analysis of interviewees' perceptions on execution of judgment, it is important to first present the variables selected in the framework of the present study. These are:

- Time length of cases in court.
- Time for executing the case at the cell level.
- Conformity of the court resolutions with judgment execution.
- Challenges in judgment execution
- Corruption in the execution of judgment
- Issuing court judgment to the winning party.

#### 3.1. Demographics

Before presenting the key findings of the study it is important to provide some socio-demographic characteristics of respondents. First of all, the number of interviewees per District, which is shown in the figure below. .

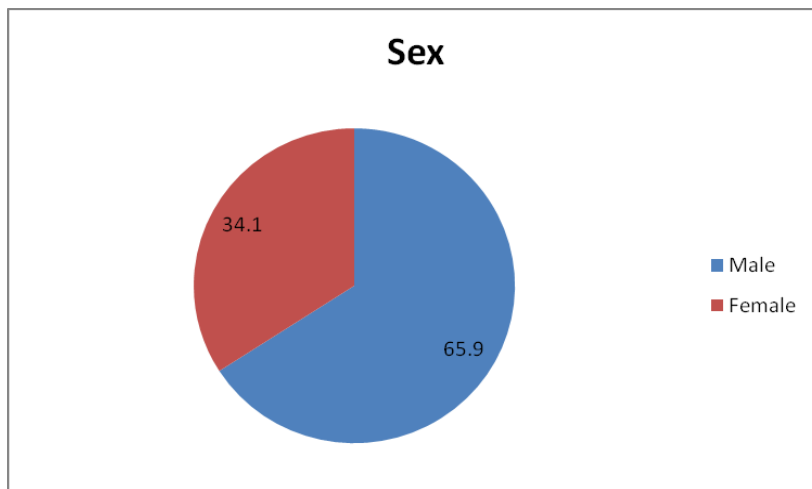
Fig. 1: Proportion of citizens interviewed per district



This figure shows that respondents were evenly distributed across the selected Districts, ranging from 7.4% in Gasabo and Kicukiro to 13.1% in Rubavu. This fairly equal distribution confirms and strengthens the national character of the research.

Turning now to the sex of the interviewees, the graph below shows that almost two thirds were male while 34.1% were female.

Fig.2: Sex of citizens interviewed

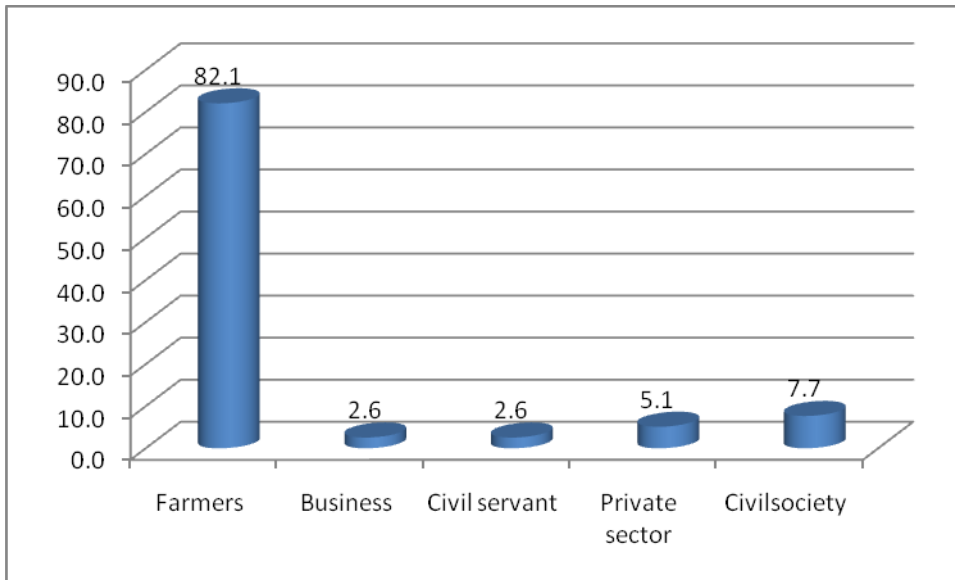


This imbalance in the sex of respondents is not surprising, as it is in line with other studies carried out by TR, and is probably a consequence of the fact that more men than women are involved in the execution of judgments and in general in judicial cases, be it as officials or as parties.

- Employment status of citizens interviewed

Looking now at the occupation of the citizens interviewed, the figure below shows that the overwhelming majority (82.1%) are farmers.

Fig.3: Employment status of citizens interviewed

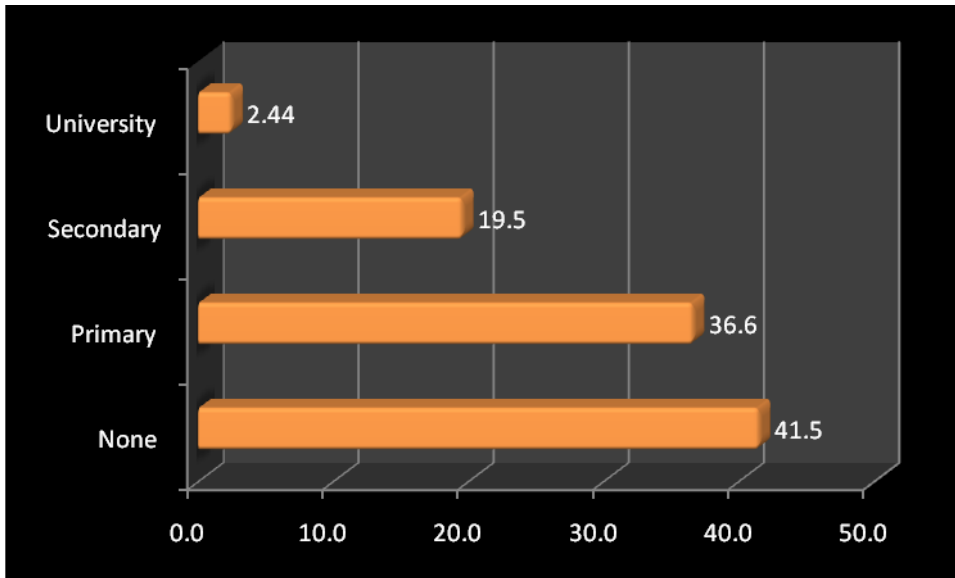


Once again this result is in line with previous TR studies and is reflective of Rwanda’s population which is largely rural. It is also an indication that the research did not specifically focus on urban areas. However the non negligible percentage of respondents employed in civil society and in the private sector, and of course of civil servants, ensure a broad range of points of view.

- Educational level of citizens interviewed

Turning now to the level of education, the figure below indicates that most respondents did not have any, followed by those with primary level. A significant 19.5% boast secondary education while only 2.44% hold a university degree.

Fig4: Educational level of citizens interviewed

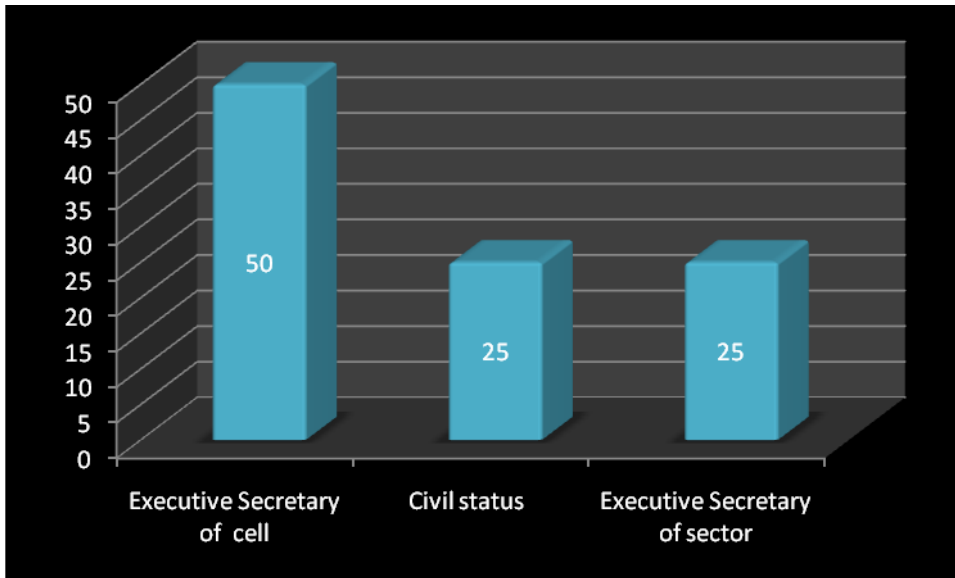


The overall analysis of the socio-demographic characteristics of respondents reveal that most of them work as farmers and have primary education or no formal education at all, thus they are likely to live in rural areas and have relatively limited income. This has obviously an impact on the opinions registered during the data collection and thus on the findings of the research. However, as stated in the introduction, the qualitative approach used for the study means that the opinions of other categories of citizens, including those living in urban areas, those with higher education and those employed in civil society and the private sector, have also been given a significant relevance.

- Category of local leaders interviewed

Finally it is interesting to analyse which categories of local leaders and officials have been interviewed as illustrated in the figure 5 below...

Fig.5: Category of local leaders interviewed



The above figure shows that half of them were executive secretary of the Cells, while a quarter were civil status officials and the remaining 25% were executive secretary at District level. This is a consequence on the one hand of the much higher number of Cells compared to Districts, and on the other hand of the key role played in the issue of execution of judgment by the local officials in charge of civil status

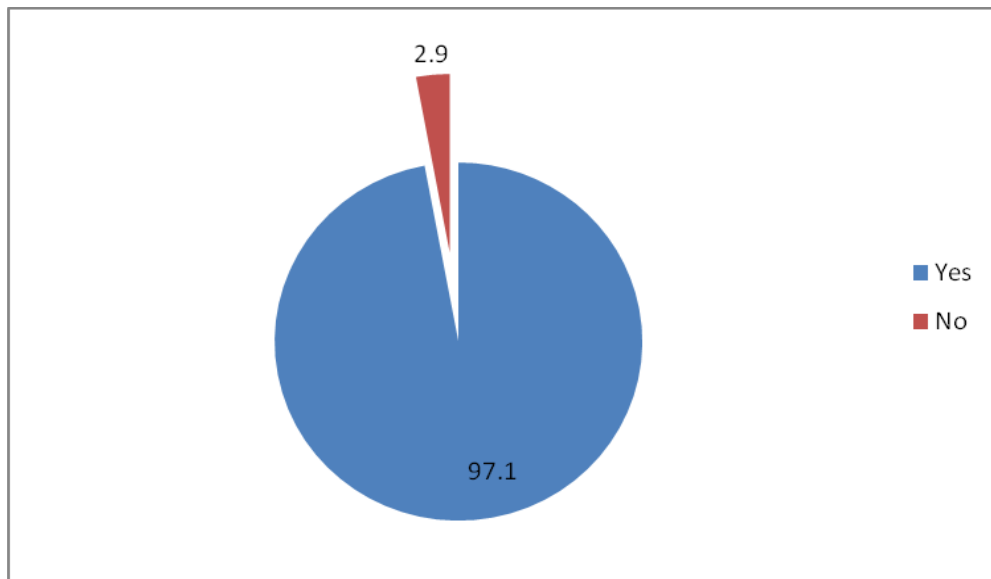
## 3.2. KEY FINDINGS OF THE RESEARCH

### 3.2.1. Time length of cases in court

In almost all FGDs, citizens reported that the time length for judgment executions in the mediation committees ranges on average between one week and one month. However, in ordinary courts, the period which cases spend in court ranges from six months to one year. In some special circumstances, it may be as long as four years. The law requires that any judgement should be executed within thirty (30) days following the date of its ruling. This grace period of thirty days (30) allows any interested party to the case who is not happy with the decision to take an action for appeal or review of the case. The difference of the time lag in mediation committees as compared to ordinary courts is based on the fact that there are many levels of appeal in ordinary courts as compared to the mediation committees. Indeed, mediation committees only have only one level of appeal whereas ordinary courts have three levels of appeal from the lowest court to the Supreme Court.

### 3.2.2. Existence of the problem ( no-execution of judgment) as reported by local leaders

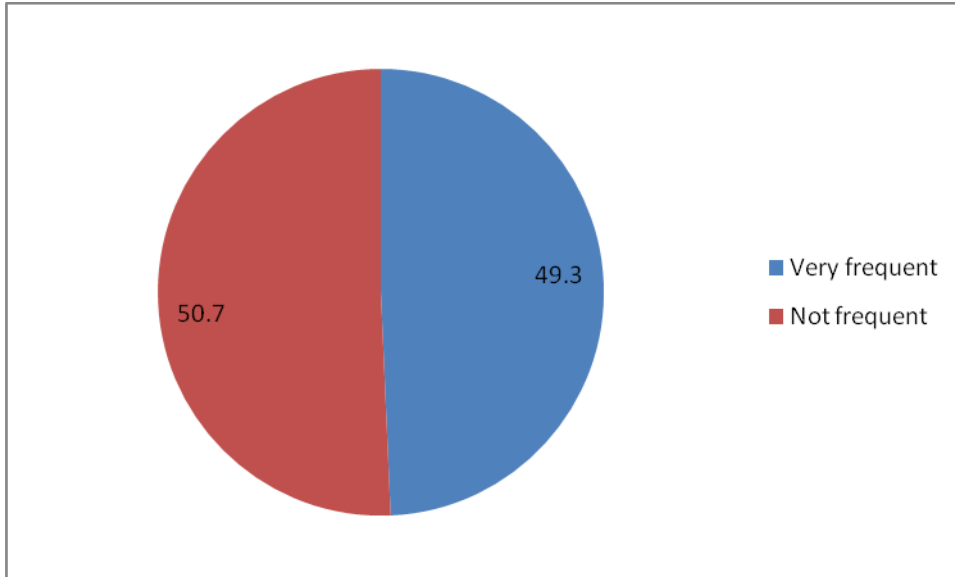
After examining the socio-demographic characteristics of respondents, it is now time to look at the core issue of this report, that is the main findings generated by the research. First of all, local leaders were asked whether the problem on non-execution of judgment exists; the results are presented below.



The graph could not be any clearer: almost all local leaders, that is 97.1%, acknowledged that the problem does exist, thus confirming the relevance of this research and, more broadly, the urgent need for serious actions to be taken in order to address such big challenge.

### 3.2.3 Magnitude of the problem (those who say the problem is very frequent) as reported by local leaders

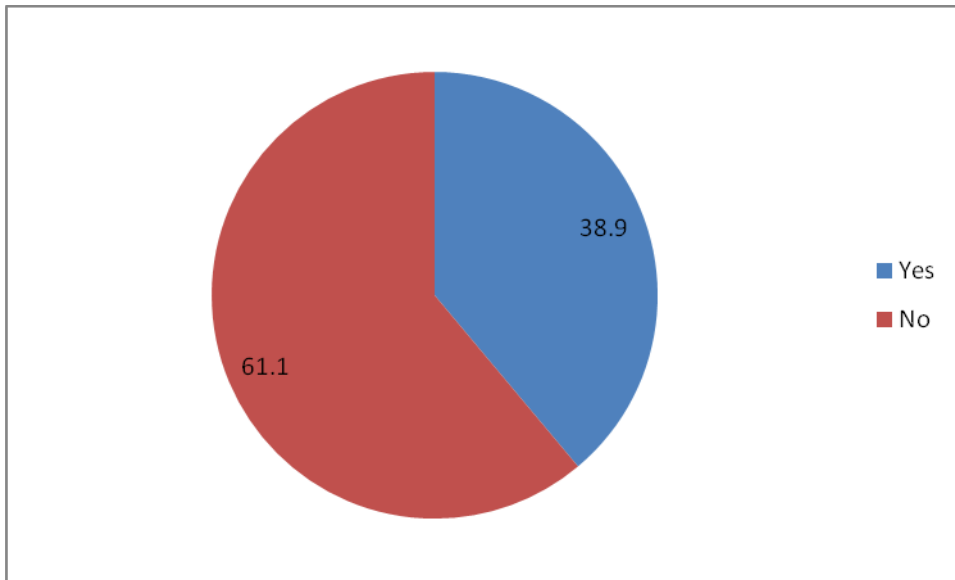
Consequently, the same representatives of local authorities were asked whether the problem is frequent or not, as shown below.



The figure indicates that our respondents were evenly split between 50.7% who think that the problem is not frequent and 49.3% who consider that it is very frequent. Though this result is slightly less negative than the previous one, the overall picture emerging from the analysis of the two graphs indeed confirms the scale of the challenge.

The execution is done in conformity with the judgment

A key issue when looking at the subject of this study is of course the link between the execution and the judgment, as the former needs to scrupulously follow the indication of the latter. That is why the research asked whether the execution is carried out in conformity with the judgment: the results are displayed in the following figure.:

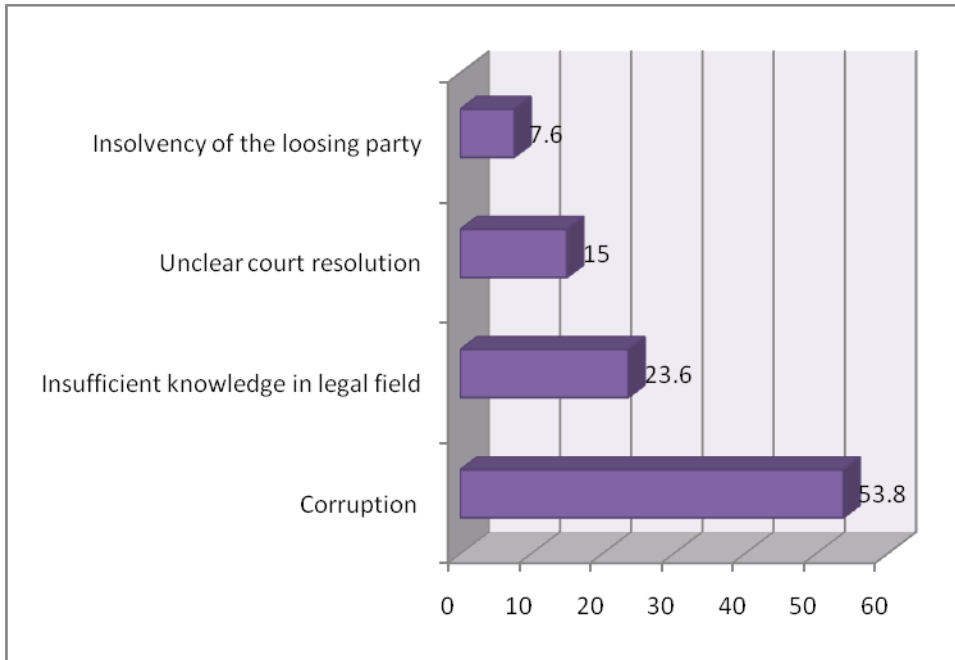


According to 61.1% of interviewees, executions are not necessarily implemented in conformity with the related judgments, whereas 38.9% believe they are. This is another clear indication of the existence of a problem, because if a sentence is not correctly or not entirely executed, then justice is undermined and the winning party cannot fully enjoy the right he or she is entitled to.

#### Reasons of not complying with the judgement execution)

Given the results presented in the figure above and the high percentage of respondents who said that executions do not strictly follow the judgments, it is crucial to further investigate the reasons behind this situation. These are outlined below.



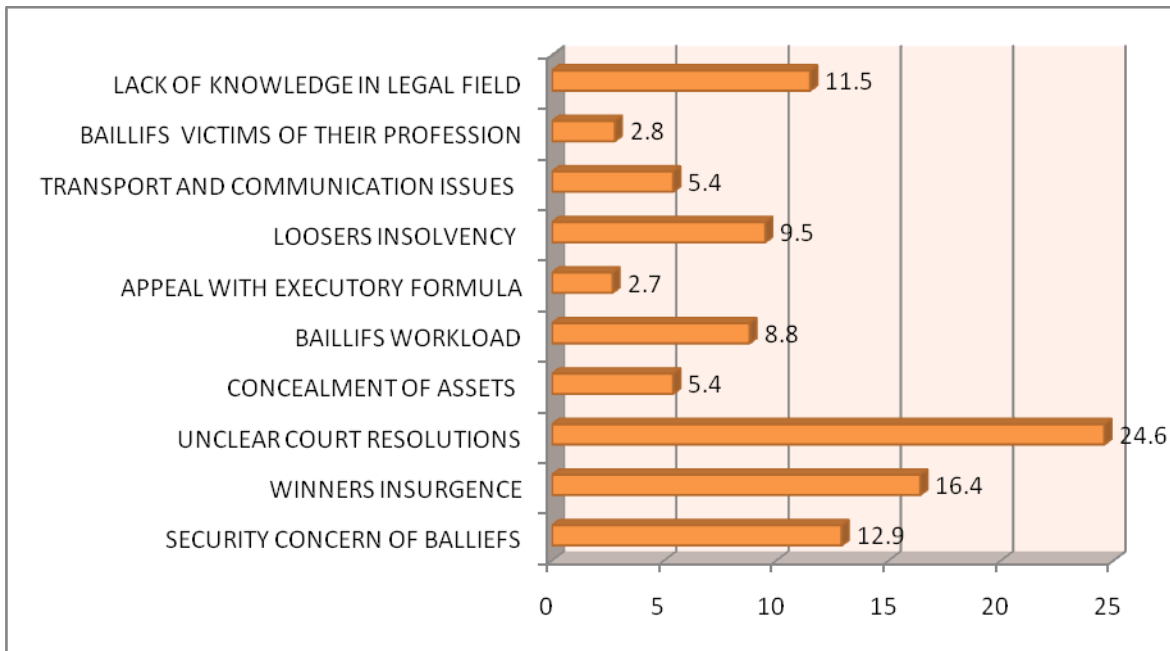


Corruption-related issues are largely the main reason behind executions which are not in conformity with the judgment, as indicated by more than half of respondents (53.8%). Another major reason is insufficient knowledge in legal field of bailiffs (23.6%), followed by unclear court judgement ( 15%) and insolvency of the losing party (7.6%).

With regard to corruption issues, respondents argued that the non conformity of the court resolution with the execution is partly due to the fact that in this case the bailiff has a relationship with the losing party which influences the decision taken by the bailiff in favour of his/her relative.

#### Challenges faced by local leaders (bailiffs) while executing judgment

The picture so far is not too rosy as the research has identified a number of serious issues, from the existence of the problem to its scale and to the main reasons behind them. However it would be simplistic to just point the finger at the local leaders. A more constructive approach is to identify the challenges that such local officials are facing, in order to then propose ways to address their difficulties and thus improve the overall execution of judgments. This is presented in the next figure below.



The biggest challenge faced by local leaders is clearly that court resolutions are not clear, as indicated by nearly 25% of respondents, which makes it difficult to unambiguously decide how to execute them. Other main problems include the insurgence of the winners (16.4%), security concerns of bailiffs (12.9%), lack of knowledge in legal affairs (11.5%), insolvency of the loser (9.5%) and the heavy workload of bailiffs (8.8%). This long list gives a clear indication of the many difficulties and constraints that local authorities are confronted with. Based on these results, the areas which require most attention and improvements have to do with the clarity of sentences, attitude and assets of the parties involved in the judgment, the activity of bailiffs, lack of capacity and their personal security while executing judgement on field.

#### Issuing court judgment to the winning party.

During FGD with citizens in some selected Districts, a number of issues were raised in line with issuing court judgment to the winning party. According to the respondents, the winning party receives the copy of the judgment in a week's time; whereas a few of them said it can even take a period of one to two months. In a normal situation, a judgment is supposed to be issued within thirty days, however in some cases the deadline expires and the court is still not ready to issue a copy of the judgment to the parties. In practice, judges will sometimes

read the decision of the case when the actual copy of the judgment is not ready to be issued. This situation is very inconvenient because the losing party cannot present his/her appeal without court judgment and the winning party cannot seek for the executory formula which allows him/her to execute the judgment.

## Conclusion

The overall objective of this six months project was to improve the execution of court judgments in Rwanda by gathering sufficient information on the state of executions of judgments, identifying problems and suggesting concrete solutions. Many questions related to court judgment execution issues were to get answered through the study. More specifically, the research aimed at providing citizens' views on the prevalent reasons of non execution of court resolutions by mandated agents from various institutions, especially local authorities. On the methodology aspect, this study was only based on a qualitative approach. This approach provided detailed information on how citizens appreciate the service delivery in terms of judgments execution through focus groups discussion, interview with agents mandated to execute court resolutions as well as radio calls in from citizens. The interviews targeted both service seekers and service providers including senior officials of the judiciary system.

Key variables were ranging from the time cases take into court, the conformity of the court resolution with judgment execution, corrupt practices as suspected reasons of delay or denial, etc. Among others, corruption-related issues are largely the main reason behind executions which are not in conformity with the judgment, as indicated by more than half of respondents (53.8%).

Time length for judgment executions varies from mediators committees to the ordinary courts. It takes between one week and one month for a judgment to be executed while this duration is between six and more than one year period of time for a sentenced case to be entirely executed. In the spirit of the law, any judgement should be executed within thirty (30) days following the date of its ruling to allow anyone having interest in the trial to appeal or to claim for its review.

Local leaders, from their experience, acknowledge that issues relating to court judgement prevail as viewed by 97.1%. Their opinions on the frequency of the problem, were evenly split between 50.7% who think that the problem is not frequent and 49.3% who consider that it is very frequent. Thus confirming the relevance of this research and, more broadly, the urgent need for serious actions to be taken in order to address such big challenge.

Court judgements are not executed in conformity with court decisions as viewed by higher percentage of respondents. This also is an added argument that the problem prevails.

The study went further highlighting some challenges of the process of executing court judgment and the greater one as revealed by the research was that, according to respondents most court resolutions are not clear in such way that implementers are easily able to understand them.

## Recommendations

From the research findings, the following recommendations have been formulated:

- The Government through the Ministry of Justice and the Ministry of Local Government should develop capacity building programs aiming at providing more knowledge in legal field to bailiffs;
- To set up mechanisms of ensuring security to all bailiffs particularly when implementing the court resolutions on field;
- District authorities should be able to provide transport means to bailiffs when proceeding to judgements execution instead of charging transport fees to parties;
- To build confidence and self esteem towards bailiffs using administrative measures as a solution to mitigate the risk of being prosecuted in case of misinterpretation of court resolutions and other mistakes during their work;
- Increase the number of professional bailiffs.

- Judges should strive to proceed on collecting all facts from field where contested assets are located in order to make the judgment more realistic and facilitate the execution

## ANNEX

### REGISTERED CASES BY TR/ALAC BETWEEN 17 APRIL UP TO 09/SEPTEMBER /2011

N°	DISTICT	NUMBER OF NON EXECUTED JUDGEMENTS PER DISTRICT	CASE DESCRIPTION
1	GASABO	9	<p>A. ORTPN rejected the court judgments and paid his final benefits to the winning party</p> <p>B.. Executive Secretary refused to execute seven cases</p> <p>C.. Loser party refused to hand over property</p>
2	KICUKIRO	7	<p>A. Local leader refusing to execute six cases.</p> <p>B. One case MINADEF refused to execute</p>
3	NYARUGENGE	6	<p>A. Executive secretary refused refusing to execute trial</p> <p>B. Wrong execution of a case by executive of cell</p>
4	RWAMAGANA	3	<p>A. Local authorities refused to execute three cases</p>
5	KAYONZA	1	<p>A. Executive secretary of cell refused to execute</p>
6	NGOMA	1	<p>A. Public Usher refused to execute</p>
7	GATSIBO	1	<p>A. Executive Secretary of cell refused to execute</p>
8	NYABIHU	1	<p>A. Executive Secretary of cell refused to execute</p>
9	BUGESERA	2	<p>A. Losing party refused to comply with the law as requested by bailiffs</p> <p>B. Local leader refused to execute</p>
10	KAMONYI	2	<p>A. Executive secretary refused to execute two cases</p>

<b>11</b>	<b>MUHANGA</b>	1	A. District authority refused to execute one case
<b>12</b>	<b>RUHANGO</b>	3	A Executive secretary . B. Wrong execution of the trial
<b>13</b>	<b>NYANZA</b>	1	A. Individual refused to hand over the property ,accept the execution
<b>14</b>	<b>NYAMAGABE</b>	1	A. Executive secretary refused to execute
<b>15</b>	<b>RUBAVU</b>	4	A . Local leader refused to execute four cases
	<b>TOTAL</b>	<b>43</b>	