

2021

List of Resources Needed to Rebuild Rwanda

Not Available

require the attention of a judge, make appointments for definite times when the judge will definitely be available.

The chief clerk (or a replacement if he must be absent) will answer requests every day, all day. No long lines will form and citizens requests will be answered promptly, without disturbing all of the personnel of the court.

9. Too many cases are scheduled for hearing on the same day, so that not all the cases scheduled can be heard. This means that cases must be rescheduled and plaintiffs, defendants, and witnesses must return another day, wasting their time as well as the time of judges and clerks.

Solution:

Determine a realistic number of cases that can actually be heard on a day, and schedule only that number of cases for the day. This may mean creating some sort of rating system for the complexity of cases, with the rating to be assigned by the clerk or, if he needs help, by the chief judge so that the time the case will take can be estimated with some accuracy. The objectives should be to hear the case in one day, or in succeeding days if that is necessary, and to set dates-certain for the hearings, so that parties and judges can plan their schedules.

10. Judges take too long to write and edit their opinions, often many months. This delays execution of decisions. This problem is caused for the following reasons:

10a. Judges are given too many opinions to write at once. They may tend to write the easier opinions first, and put off writing harder ones even though the harder ones may be older cases. The Presidents of the Tribunals don't keep track of how long a judge has had an opinion to write, so they don't push judges to produce opinions that have taken too long to write.

Solution:

The President of the Tribunal should give each judge only twenty opinions to write at a time, and keep track of his progress by requiring weekly reports on the cases he has, the date he got them, and the cases whose opinions he has finished that week. Don't give him more opinions to write until he has finished all twenty. If he takes over a week to write an opinion, ask him why, and encourage him to finish his opinions.

The objective should be to get all opinions written within one week of the time they are heard, before the date that the decision is announced.

10b. Judges do not provide time to promptly write their opinions after the hearings. Writing is often put off for months and the judges' cannot remember the cases well. This delay also delays execution of the decisions.

Solution:

Schedule hearings for each judge in only the mornings and leave afternoons free to write opinions in the cases heard in the mornings. (Tribunals that have only one courtroom would schedule hearings for some judges in the afternoons, but leave their mornings free to write opinions.) Require judges to write their opinions within one week of the hearing.

11. Typists type opinions in cases much too slowly, greatly delaying execution of the judgments. The average number of dossiers typed per typist per month in Butare's Tribunal of First Instance is just forty-seven. 4505 decisions in Butare have been written and edited but not typed; and therefore not executed. In Kigali's Tribunal of First Instance each typist typed only twenty-seven dossiers per month in May and June, 1988; that court has a backlog of over 7265 unexecuted decisions, which will take six years to type at the current rate of production.

Solution:

Execute the judgments in handwritten form by making photocopies of the judges' handwritten decisions. For parties who want a typed opinion, give them the handwritten copy and let them get it typed privately at their own expense, and allow them to return to the court to have the typed copy checked by the judge and signed and stamped. For new decisions, provide the judges with pencil carbon paper and get them to make two copies of their handwritten opinion when they are writing it, one copy for the plaintiff and the other for the defendant. This solution will eliminate the backlog of untyped judgments in a very short time.

12. Huissiers take much too long to execute judgments, and chief clerks (greffiers en chef) cannot monitor the huissiers work because huissiers do not make regular reports to the chief clerks of which judgments they have executed and which still need to be executed.

Solution:

Require huissiers to make weekly reports to the chief clerks. In the reports each huissier should list the judgments he has executed that week, and list the judgments still left to execute, with the dates when the decisions were made in each case. Each huissier should be given only a limited number of decisions to execute, chosen by date of judgment (oldest have priority) and by geographical proximity of the defendants in the cases. He should be expected to finish executing those he has been given before he is given more by the chief clerk.

13. Huissiers do not plan their delivery routes efficiently, so that they can deliver assignations and execute judgments all in one geographical area at the same time.

Solution:

Provide each court with a highly detailed map of its region, covered with heavy, clear plastic. Provide the chief clerk with an erasable marking pen that he can use to mark the locations where assignations and executions need to be delivered. Then plan the delivery routes of huissiers so they can efficiently deliver as many as possible on the same trip.

14. Huissiers need more assistance from burgomeisters and other local authorities in delivering notifications (assignations) and executing judgments.

Solution:

The Minister of Justice should write a letter to all prefects asking them to invite the President of the Tribunal of First Instance in their prefecture to the next meeting of the prefectures burgomeisters. The Tribunal President and the Prefect should explain the importance of the burgomeisters assistance to the huissiers, and ask for their help.

Larger problems requiring structural reform or substantial expenditures

15. Tribunals of First Instance are overwhelmed by their backlogs. The Kigali Tribunal has a backlog of 16,000 cases, yet judges only 200 per month, a backlog of over six years without even counting the new cases that add at least 100 to the backlog each month. Gitarama's backlog of 7302 cases is three years long. Kibuye has a backlog of 4641 cases, but decides only 47 per month, a backlog of over eight years. All the other Tribunals of First Instance are in similar desperate condition.

Solution:

Canton Tribunals are in much better condition. They are keeping up with their caseloads and have average backlogs of only four months. Each Canton Tribunal (except one: Kibari near Byumba) has three or more judges, though few have any law school graduates. 505 judges serve on Canton Tribunals, whereas only 114 judges serve on Rwanda's Tribunals of First Instance. (Tribunals of First Instance each have at least one law school graduate.)

Broaden the jurisdiction (competence) of Canton Tribunals to include all new:

Civil and Commercial cases with a value of less than 200,000 Rwandan francs. (Amend the Code of Organization, Chapter II, section 1, 140.);

Traffic cases and accidents of any value;

Criminal cases punishable by imprisonment not exceeding five years or by fines not exceeding 50,000 Rwandan francs. (Amend the Code of Organization, Chapter I, section 1, 101.)

This change in the law will shift a large number of the cases that currently go to the Tribunal of First Instance into the jurisdiction of the Canton Tribunals, which have far more judges and no heavy backlogs. The most serious cases would still be judged by the Tribunals of First Instance. And the decisions of Canton Tribunals could still be appealed to the Courts of First Instance. Most disputes could be settled much more quickly and closer to the litigants' homes by the Canton Tribunals, at less expense to the litigants and to the Rwandan government.

~~Another possible change in the law could make all traffic offenses and accidents be judged by one, rather than three, judges of the Canton Tribunals. This would allow even more cases to be decided more quickly than they currently are.~~

16. Many criminal defendants who are currently released rather than detained fail to appear for trial. They then must be found again by the police, arrested, and brought to trial. Many are never found, and therefore never punished for their crimes.

Solution:

Institute a system of bail (cautions). Persons released will have to put a sum of money in escrow with the court treasury as a guarantee that they will appear for trial. The amount of bail set by the magistrate must not be excessive, and should depend on the seriousness of the crime and the wealth of the defendant. Wealthy defendants should have to put up more money because they can afford more easily to lose it. Poor defendants should have to put up only a reasonable amount to insure that they will appear for trial.

If a defendant fails to appear for trial, he will then forfeit the money he has put up as bail, and he will also be rearrested and tried for his crime. If he does appear for trial, his money would be given back to him.

Bailbondsmen could be licensed to loan bail to defendants who would pay only a portion of the bail to the bailbondsmen as interest. The bailbondsmen would assist police in locating the defendant if he failed to appear for trial, since the bailbondsmen is a kind of insurance agent and has to pay the full amount of the bail if the defendant fails to appear. He thus has an interest in tracking down the defendant to get his money reimbursed.

This system works well in many common law countries, including the United States and India, and it has not been oppressive on the poor, since bailbondsmen make it possible for even poor people to post large amounts of bail without having to actually find other sources of loans.

Failure to appear at trial suspends (tolls) the statute of limitations for the case. The time limit clock only begins running again when the accused is apprehended by police and arrested. This prevents accuseds who evade trial from escaping under the cover of the passage of time.

17. ~~Courts cannot schedule enough hearings to judge all the cases on their dockets because they do not have enough courtrooms to hold several hearings simultaneously.~~

Solution:

Build more courtrooms, especially for the Tribunals of First Instance.

18. The tribunal clerks' offices have run out of file space to store dossiers. They are now stored in bundles on the floor in many courts, making dossiers difficult to find, subjecting them to dirt and decay, and detracting from the appearance and dignity of the offices of the courts.

Solution:

Obtain more file cabinets and install them in the clerks' offices. Wooden shelf or box type file cabinets could be built by prison carpentry workshops. Or the more expensive but better metal drawer file cabinets could be purchased.

19. Court buildings are too small and have too few offices to provide each judge with his own office. This makes the judges work in an atmosphere of noise and confusion, where it is difficult for them to write their opinions.

Solution:

When new court buildings are built, provide enough small offices so that each judge can have his own office, and can work in peace and quiet.

20. Most courts have only one copy of the Rwandan code, but many judges must use that one copy. This makes writing of opinions inefficient and wastes time as judges have to carry the books back and forth.

Solution:

Print another 1000 copies of the Rwandan code and distribute one full set to each judge and each magistrate in Rwanda. 700 are needed immediately. The other 300 will be needed in the next five years.

21. Typists take too long to type dossiers, delaying their transmission to the appeals courts and the execution of judgments. Typists are paid by salary, with no incentive to type more pages per day. Typists often lack adequate typing speeds due to inadequate training.

Solutions:

Pay typists a bonus of a certain number of francs per page ~~typed above fifty pages per week.~~

Test typists for typing speed and send typists with inadequate speed for refresher courses in typing. Send them only one or two at a time, so as not to stop production. In Kigali, this retraining could be done at the Centre Muhima, which offers free, three month courses for government employees.

22. Huissiers do not execute judgments quickly enough, often taking many months to execute them, thus delaying the effectiveness of many civil decisions. There are not enough huissiers to execute all the judgments given to them, and they lack any adequate means of transport.

Solutions:

Hire more huissiers.

Provide the huissiers with bicycles or motorcycles to be kept at the courts and only used on official business during working hours.

III. Courts of Appeal

After a case is decided by the Tribunal of First Instance, it may be appealed to one of Rwanda's four regional Courts of Appeals--in Kigali, Nyabisindu, Ruhengeri, and Cyangugu.

Problems and Proposed Solutions

1. Tribunals of First Instance take much too long to send the dossiers of cases that have been appealed. This is largely a problem of getting the opinions written more quickly and typed more quickly in the Tribunals of First Instance, as already discussed. But the Appeals Court clerks could do a better job of putting pressure on the Tribunals of First Instance to transfer the dossiers. Currently they send a reminder every six months of all cases in which dossiers are needed, and individual case reminders only when parties ask about their cases in the Court of Appeals clerks' offices.

Solution:

Send a list of all case dossiers needed from each Tribunal of First Instance every month. Presidents of the Courts of Appeals and the Tribunals of First Instance should put pressure on their staffs to get the dossiers of cases on appeal written and typed with the highest priority.

2. Courts of Appeals do not hold enough hearings each week to keep up with their caseloads.

Solution:

In every Court of Appeals except Cyangugu, hold at least two hearings every day, either simultaneously where the court has more than one courtroom; or if the court has only one courtroom, hold one in the morning and one in the afternoon. Judges will then have the other half of the day to write opinions. Every Court of Appeals except Cyangugu has seven judges and could have two hearings in groups of three judges each day.

The Ruhengeri Court of Appeals already does this and has, as a result, cut its backlog from 1800 cases in 1982 to only 346 cases in 1988.

3. Files are difficult to locate in some Courts of Appeals because of the multiple numbering systems used for dossiers. Each case is assigned yet another Court of Appeals number when it is transferred to the Court.

Solution:

Use an alphabetical card file of the names of the plaintiffs or accuseds. For each case, list all its dossier numbers since its beginning on its card.

4 Appeals Court judges sometimes take too long to write their opinions.

Solution:

The President of the Court of Appeals should keep a record of what opinions have been assigned to each judge in the court, along with the date of the hearing. If the judge takes more than a month to write the opinion, the President should put pressure on the judge to finish writing it. The President may also wish to ask each judge on his court for a monthly report of the opinions he has finished writing and those he is still working on, with the date when each case was heard.

Larger problems requiring structural reform or substantial expenditures

5. Courts of Appeals lack legal libraries. This makes it impossible for the judges to keep up with new legal developments, and lowers the quality of judges' opinions. It is discouraging for judges, many of whom have spent years in university law schools, to have no resources for continuing education and intellectual growth.

Solution:

Purchase basic reference libraries for each of the four regional Courts of Appeals. Pay for subscriptions to key legal periodicals, such as the Law Journal of the Faculty of Law of the Rwandan National University, key Belgian, French, French Canadian, Ivoirian, and Senegalese law periodicals, publications by the United Nations; and international human rights journals.

Allow all Rwandan judges and magistrates to use the Court of Appeals law library at the library, which would be kept in the office of the President of the Court of Appeals, in new shelves obtained for the library, possibly made in prison workshops. A court clerk (greffier) would be trained by the personnel of the library of the Faculty of Law of the Rwanda National University, and would work part time at keeping the library catalogued and in order, spending the rest of his or her time on regular court clerk duties.

6. Judges lack adequate means of transport to conduct investigations (enquêtes) about the cases on appeal in their large regions.

Solution:

Provide Ministry of Justice vehicles, drivers, and fuel coupons whenever Court of Appeals judges need to travel to conduct investigations.

IV. General Problems in the whole judicial system that need solutions affecting all levels of courts and offices

1. Presidents of Tribunals and Procureurs have no training in court and office administration. Yet they are expected to organize and run large and complex staffs and manage thousands of cases and files every year. The Faculty of Law and the magistrate's course in Murambi do not teach court and office administration as part of their curriculum.

Solutions:

- a. Organize one week retraining (recyclage) seminars for all Presidents of Tribunals and Procureurs in Rwanda on court and office administration.
- b. In the nine month course organized by the Ministry of Justice for new magistrates, taught yearly at the Murambi training center near Gitarama, add classes on judicial administration taught by Mr. Jean Damascène Nkezabo and other experts.
- c. Encourage the Faculty of Law of the Rwanda National University to add a course in its required curriculum on judicial administration. This course could be taught by an expert brought in especially for the course, possibly under the United States Information Service's Academic Specialist Program.

2. The international law of human rights is part of Rwandan national law, because Rwanda is a party to all the major international human rights covenants. Yet Rwandan judges and magistrates have little or no training in this important part of Rwandan law.

Solutions:

a. Conduct retraining seminars on international human rights law for all Rwandan judges and magistrates, perhaps thirty at a time, beginning with the judges of the Court of Cassation, the Council of State, the Military Court of Appeals, and the Court of State Security; followed by the Presidents of the Tribunals of First Instance, the judges of the Courts of Appeals, and the commanders of the Gendarmerie Nationale and the Service des Renseignements (Presidential special police).

b. Add classes on international human rights law to the annual training course for new magistrates in Murambi.

c. Encourage the Faculty of Law of the Rwanda National University to include a course on international humanitarian law in its new revised curriculum, as it is already planning to do.

These courses could be taught by an expert on international human rights law, perhaps a professor supplied by the United States Information Service's Academic Specialist or Fulbright programs.

3. Chief court clerks in all of Rwanda's courts and Procureurs' offices have little or no training in court and office administration. They therefore have little idea how to manage courts and Procureurs' offices efficiently.

Solution:

Conduct one week retraining seminars on judicial administration for chief clerks of all courts and Procureurs offices.

These seminars could be taught by experts in office management, by the Director General of the Administration of Justice, and by the best administrators among Rwanda's judges, such as the President of the Ruhengeri Court of Appeals.

The seminars envisioned in 1, 2, and 3 could be held in already existing facilities owned by the Rwandan government. They include the following conference centers in Kigali, all available in January and February of 1989:

IWACU: the Rwandan center of cooperative education, which has dormitory space, dining and kitchen facilities, and meeting rooms with all modern equipment, run by a permanent staff. IWACU could host up to 60 people at a time, at a cost for room and board of 2250 Rwandan francs per person per day.

ONAPO: The conference center of the National Office for the Population, which also has 58 dormitory rooms, a refectory and kitchen, and well-equipped classrooms, and a permanent staff. ONAPO charges 2200 Rwandan francs per person per day.

Centre National de Pastorale St. Paul: This conference center near the center of Kigali is run by the Catholic Church, but it welcomes conferences of government and other organizations. It has 40 dormitory rooms, a refectory and kitchen, a permanent staff, and many meeting rooms, including an auditorium that will hold 260 persons. It charges 1650 Rwandan francs for room and board per person per day.

Kigali has many advantages as the location for retraining seminars. It is centrally located, is connected well by road to the rest of the country, has an international airport that international experts can come to, and has the most business services because it is the commercial center of Rwanda.

Most importantly, Kigali is where most of Rwanda's management experts in various ministries (including Fonction Publique, Enseignement Superieur, and the Ministry of Justice) live and they would be able to come teach a class at the seminars without having to stay overnight out of Kigali and they would not have to take much time away from their regular jobs.

Another conference center that is already in operation and could take up to sixty persons is the training center at Murambi, near Gitarama, run by the Ministry of Public Functions (Fonction Publique). This center conducts annual training programs for magistrates now, among its long term programs. It also has sixty spaces available for short term (one week) training and retraining seminars. The Murambi center has dormitory rooms, a refectory and kitchen, a permanent staff and adequate classroom space. Murambi charges 1000 Rwandan francs for room and board per person per day.

The seminars and courses taught at the Murambi center are decided by a committee including the Ministers of Fonction Publique and of Formation Professionnelle at an annual meeting in September. To be included in the Center's plan it would be good to make a request to the Murambi Center by September. Short term seminars do not have to be in the annual plan, and are run under the Center's director, but it would be best to plan them well in advance.

The Murambi center is about a one hour drive from Kigali, where many of the judges who teach the magistrates' course live. They are able to drive to Murambi in the morning, teach, and return by early afternoon. The Murambi center also has several unoccupied, furnished houses where teachers staying overnight or for longer periods could live.

Another potential place where seminars and longer training programs could be held sometime in the future is the Ministry of Justice's former training center in Nyabisindu. The center needs substantial renovation. Its dormitories could hold forty-four seminar participants. The classroom is a one kilometer walk from the dormitory and refectory area. The center currently has no dormitory furniture, beds, kitchen equipment, dishes, or classroom furniture. The center would have to be completely re-equipped to be useable for training programs.

An estimate of the equipment needed to re-equip the Nyabisindu Training Center is as follows:

	<u>Rwanda francs</u>	<u>\$ U.S.</u>
Dormitory furnishings:		
44 single beds, stackable as bunk beds	330,300	4177
44 mattresses	217,140	2749
to be built by Nyanza Prison workshop:		
44 armoires		
44 writing (tables)		
44 chairs		
12 ceiling lights	44,400	562
		<u>7488</u>
Dining Hall Equipment:		
200 plates	75,200	952
100 cups	19,300	244
100 spoons	4,000	51
100 forks	4,000	51
100 knives	7,000	89
100 glasses	10,000	127
1 wood stove	80,370	1017
		<u>2531</u>
Office equipment		
1 mimeograph machine	63,468	803
1 photocopier	220,870	2796
100 reams paper	75,000	949
2500 file folders	45,000	570
2500 stencils	62,400	790
1 typewriter (office size)	60,000	760
50 typewriter ribbons	14,250	180
		<u>4052</u>
	with photocopier	<u>6848</u>

Dormitory, Dining hall, Office equipment only: 14071

Classroom furnishings: (may also be built by prison workshop):

44 student desks	584,100	7393
45 classroom chairs	166,500	2108
1 teacher's desk	35,775	453

4. Typists in courts and Procureurs' offices are not adequately trained and type very slowly.

Solution:

Conduct retraining courses of three months each for typists at the Nyabisindu Training Center. To conduct the course a qualified typing instructor would have to be employed full-time by the Ministry of Justice and provided with housing near the training center. In addition, basic course workbooks would need to be provided for each participant, at an estimated cost of 800 Rwandan francs per participant. Cost of providing the necessary typewriters will be as follows:

Typing equipment for classroom use: typing course

44 typewriters	1,540,000
19494	
1056 typewriter ribbons	300960
3810	
500 reams paper	375,000
<u>4747</u>	

28051

5. Requiring victims of crimes to sue criminals in civil trials after the criminal has already been convicted in a criminal trial wastes the courts' time with two trials on much the same facts. It is also costly and time consuming for the victims, who must pay a 2000 Rwandan franc civil case filing fee, and appear in court for a second trial.

Solution:

Amend the Rwandan code to allow the same judges who have judged a criminal case to award restitution and damages to the victims of the crime, without holding another hearing. Do not require crime victims to pay any civil case filing fee.

6. Court buildings and Procureur's offices are dirty, in need of painting. Court furniture is broken. There are not enough tables and chairs in offices. The offices are poorly lit. Floors and files are covered with dirt and dust. This is a discouraging, demoralizing work environment for judges, magistrates, and court and parquet employees.

Solutions:

- a. Provide money to buy paint and wood and carpentry supplies. Get prisoners to paint the courts and Procureurs' offices. Have prisoners in the prison workshops build new furniture for the courts and Procureurs' offices.
- b. Tribunal Presidents and Procureurs should discipline cleaning personnel and get them to adequately clean floors and dust files.

Backlog

Procureur's Offices

<u>Number of Magistrates</u>	<u>Prosecutor's Offices, Iere Instances</u>	<u>Cases under Investigation April 30, 1988</u>	<u>Backlog per Magistrate</u>	<u>Cases transmitted to Courts April, 1988</u>	<u>Cases Transmitted per magistrate</u>
17	Kigali	7,573	445	5,898	347
1	Nyamata	632	632	707	707
1	Rushashi	0	0	255	255
3	Byumba	9	3	1,820	607
2	Gatsibo	28	14	529	265
4	Kibungo	240	60	1,246	312
2	Rwamagana	6	3	793	397
-	Kirehe	-	-	-	-
6	Ruhengeri	42	7	2,702	450
1	Kirambo	13	13	614	614
4	Gisenyi	382	96	2,734	684
2	Kabaya	327	164	804	402
-	Ngororero	-	-	-	-
3	Kibuye	27	9	1,943	648
8	Butare	2,520	315	1,612	202
3	Nyabisindu	1,839	613	982	327
7	Gitarama	1,700	243	1,950	279
1	Nyabikenke	19	19	384	384
3	Gikongoro	6	2	902	301
1	Kaduha	9	9	367	367
1	Munini	264	264	364	364
3	Cyangugu	661	220	741	247
2	Cyesha	12	6	448	224

Backlog

Tribunals of First Instance

<u>Tribunal of First Instance</u>	<u>Cases pending April 30, 1988</u>	<u>Judgments to be executed April 30, 1988</u>	<u>Case judgments April, 1988</u>
Kigali	16,040	7,265	193
Nyamata	538	2,298	85
Rushashi	729	390	18
Byumba	1,103	2,941	70
Gatsibo	752	2,448	102
Kibungo	2,040	9,381	114
Rwamagana	1,441	880	36
Ruhengeri	3,416	1,638	165
Kirambo	144	891	37
Gisenyi	2,309	9,544	178
Kabaya	3,379	1,336	103
Kibuye	4,641	5,756	47
Butare	3,934	5,398	152
Nyabisindu	-?	-	-
Gitarama	7,302	8,015	208
Gikongoro	3,974	4,626	64
Kaduha	1,773	928	14
Cyangugu	1,998	8,440	72
Cyesha	293	316	30
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	55,806	72,491	1,688

$\frac{55,806}{1,688} = 33$ month backlog

Backlog
Canton Tribunals

<u>Number of Cantons</u>	<u>Cantons under First Instances of</u>	<u>Cases outstanding April, 30</u>	<u>Cases judged April, 1988</u>	<u>Cases outstanding average per canton</u>	<u>Months backlog</u>
17	Kigali	1,646	241	97	7
17	Byumba	1,021	284	60	4
11	Kibungo	1,651	182	150	9
16	Ruhengeri	370	328	23	1
12	Gisenyi	471	235	39	2
9	Kibuye	173	120	19	1
20	Butare	1,118	296	56	4
17	Gitarama	1,255	241	74	6
13	Gikongoro	343	205	26	2
11	Cyangugu	395	114	36	3