



**CURRENT CHALLENGES IN THE JUDICIARY
MANAGEMENT FUNCTIONAL
FRAMEWORKS: WAY FORWARD
(RWANDAN PERSPECTIVE)**

**Presented by Justice
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PRESENTATION OUTLINE

- Introduction
- Rwanda Experience in judiciary management:
 - **Service delivery** (Achievements, Challenges, Way forward)
 - **Timely delivery of justice** (IDEM)
 - **Quality of Judgments** (IDEM)
- Conclusion



INTRODUCTION

- The judiciary of Rwanda has come very far and has been making great strides towards a modern efficient judicial system that can deliver **timely** and **quality justice** to the population of Rwanda.



INTRODUCTION (CONT'D)

- **Vision** and **Mission** of the Rwandan Judiciary to guide its aspirations (see the Strategic plan for the period 2013-2018) :
- **Vision:** *"An independent judicial system delivering timely and quality justice."*



INTRODUCTION (CONT'D)

- Mission: "*To dispense justice with equity and integrity, contributing to the strengthening of rule of law, and respect of fundamental liberties and human rights.*"



INTRODUCTION (CONT'D)

- **Core Values** which guide the leadership, management and all services of the judiciary:
 - **Impartiality**
 - **Integrity**
 - **Independency**
 - **Timeliness**
 - **Excellence**
 - **Professionalism**



INTRODUCTION (CONT'D)

- **Current structure of the judiciary:**
 - **Ordinary courts:** Supreme Court, High Court with 5 chambers in different parts of the country; 12 Intermediate Courts; and 60 Primary Courts.
 - **Specialized courts:** Commercial High Court based in Kigali; 3 Commercial Courts.



INTRODUCTION (CONT'D)

- In this presentation, the Judiciary Management Functional Frameworks will be assessed based on the following perspectives:
 - **Service delivery**
 - **Timely delivery of justice**
 - **Quality of judgments**



INTRODUCTION (CONT'D)

- In the past 12 years (since the 2004 reform which laid a foundation for delivery of fair and timely justice) the judiciary of Rwanda continues to make progress in the delivery of quality and timely justice.
- Annual reports indicate that the implementation of strategies adopted in the past years produced significant results in terms of enhancement of **service delivery** to court users, and improving the **quality of judgments**.



INTRODUCTION (CONT'D)

- For each of the mentioned above, I will discuss **achievements, challenges, and the way forward.**



SERVICE DELIVERY (CONT'D)

- 2015-2016 annual report on court activities indicates that in general, people get a response for a service requested in **one day**, making it unnecessary to return for a follow up of the requested service.
- This has been realized due largely to the **use of technology** in delivering many of the services online.



SERVICE DELIVERY

Achievements

- The Judiciary has put in place a monitoring mechanism to follow up service delivery in courts with regard to the **time spent by beneficiaries waiting for a response** or **the number of days they come to courts for one request.**



SERVICE DELIVERY (CONT'D)

- This has led to a significant **decrease in the number of people who come to courts especially those coming to file cases.**
- Case filing was previously the main reason for which people went to courts; today it only counts for **2.4%.**



SERVICE DELIVERY (CONT'D)

- The number of people who filed cases online in 2015/2016 was **73%** as compared to 61.2% in the previous year.
- From early Jan 2016 to date, the Judiciary is gradually migrating to the new electronic system called **IECMS** (*Integrated electronic case management system*) that is expected to further decrease the number of the reasons for which people come to courts.



SERVICE DELIVERY (CONT'D)

- IECMS integrates 5 institutions of the justice sector in Rwanda (Judiciary, Ministry of Justice, National Public Prosecution Authority, Criminal Investigation Department and the Rwanda Correctional Services.
- It has been used in the courts within the Capital City/Kigali and in all Commercial Courts since January 2016. From September 19th the system was rolled out in **27 more** courts around the country.



SERVICE DELIVERY (CONT'D)

- In addition to case filing, IECMS helps parties to **exchange documents** between themselves and to communicate with courts' help desk registrars;
- It **eases communication** and **file transfers** between courts, and it **allows follow up and monitoring** of the whole process of handling cases and to **generate real time court reports.**



SERVICE DELIVERY (CONT'D)

- Innovations to enhance service delivery through use of technology has allowed the Rwandan Judiciary to win a **golden award** in Africa by **AAPAM** (African Association for Public Administration and Management) in a competition that took place in Zambia in February 2016 on innovation and enhancement of services to the public (**Innovative Management Award**).



SERVICE DELIVERY (CONT'D)

Challenges:

- Regarding service delivery, the key challenge that hinders the performance of the Judiciary is the ***lack of internet connectivity*** in most of the primary courts; only 27/60 primary courts have full connectivity. This hinders the use of the current rolled out system (IECMs) hence a challenge to improving service delivery.
- Some litigants /lawyers who are still **resisting to changes or not familiar with ICT**



SERVICE DELIVERY (CONT'D)

Way forward:

- The Judiciary will do all it can to get all Primary Courts connected to internet soon. It has the full support of the Rwandan Government. In his speech at the occasion of the launch of the judicial year 2016-2017, his Excellency the President of the Republic stated that IECMS should be implemented at all cost.
- Continue sensitizing litigants/lawyers on the advantages of using the system.



TIMELY DELIVERY OF JUSTICE

Achievements

- Justice delayed is justice denied
- Fighting against case backlog has been at the center of the Rwandan Judiciary priorities since the judicial reforms of 2004.
- Various strategies were adopted, and continuously adjusted through enactment of new laws, Chief Justice's regulations and mechanisms of monitoring their implementation.



TIMELY DELIVERY OF JUSTICE (CONT'D)

- **Those strategies include:**
 - **Introduction of a single judge bench** in all courts except in the Supreme Court since 2004;
 - **Establishment of Commercial courts** to deal exclusively with commercial litigations since 2006;



TIMELY DELIVERY OF JUSTICE (CONT'D)

- Establishment, in 2011, of an **International Criminal Chamber** in the High court to deal exclusively with cases related to the genocide against Tutsi transferred to Rwanda from ICTR and other countries and other international cases;
- Court registrars have been given competence to decide on case admissibility;



TIMELY DELIVERY OF JUSTICE (CONT'D)

- **Transfer of some competences** from the higher courts(Supreme Court and High Court) to lower courts (Primary and Intermediate Courts;
- **The number of Supreme Court judges has increased**, as one of the courts with a very huge number of case backlog;



TIMELY DELIVERY OF JUSTICE (CONT'D)

- Introduction of **pre-trial conference** in civil, labor and administrative case where a Court Registrar sorts out issues that are likely to delay the proceedings;
- **Court registrars have been given competence to mediate the parties** who are willing, at pretrial conference.

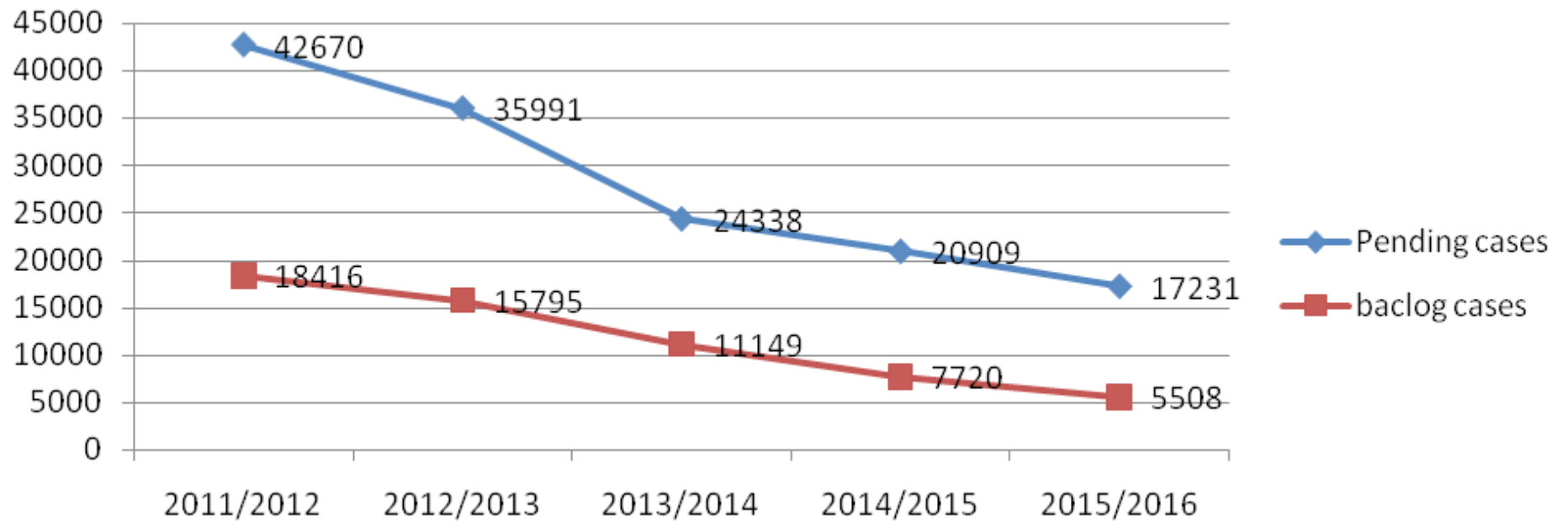


TIMELY DELIVERY OF JUSTICE (CONT'D)

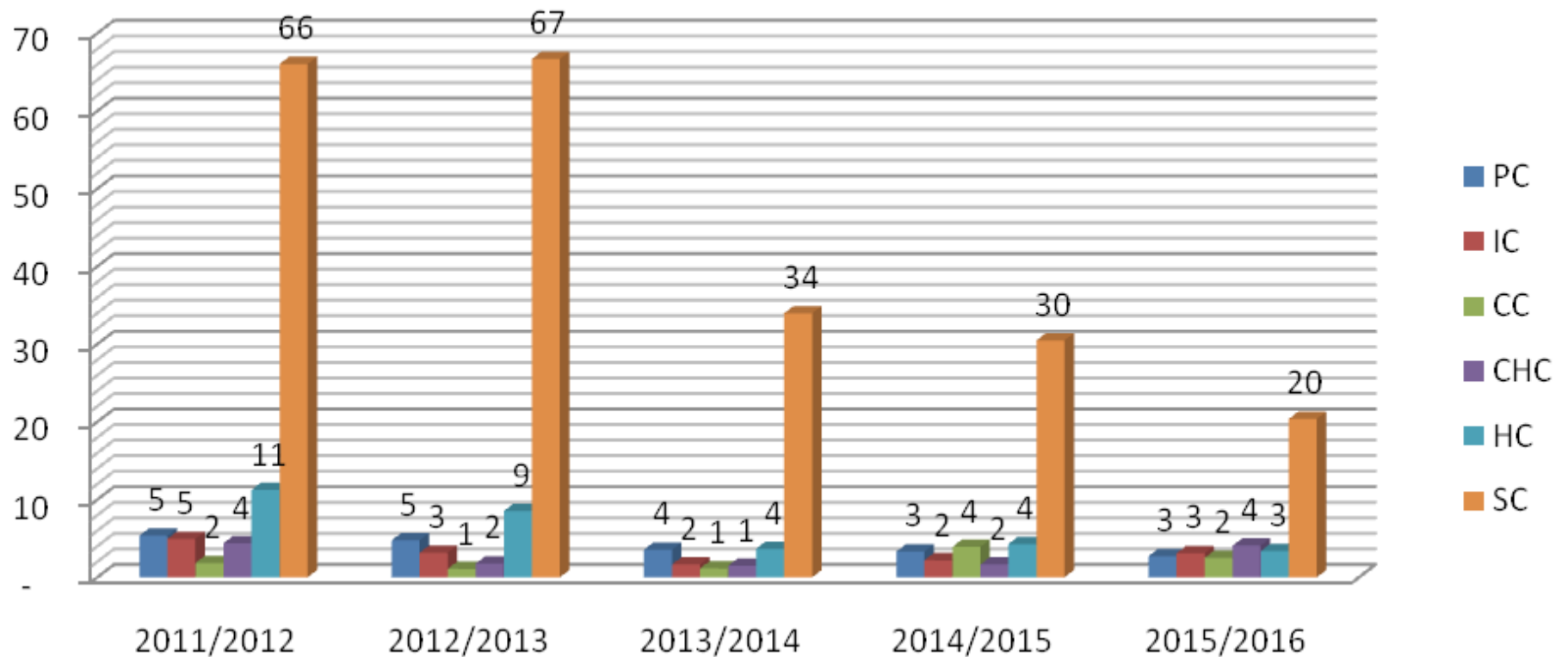
- In the past years the backlog of cases decreased significantly and so did the average time taken for a case awaiting trial as illustrated in the next slides.



THE TREND OF CASE BACKLOG FROM 2011/2012 TO 2015/2016



TIME (IN MONTHS) IT TAKES FOR A NEW CASE TO START BEING HEARD AT COURT LEVEL



TIMELY DELIVERY OF JUSTICE (CONT'D)

- In the Supreme Court, the time it takes for a new case to start being heard dropped from 66 months (5.5 years) in 2011/2012 to 20 months (1.5 year) in late 2015/2016 whereas, in primary courts, this time dropped from 5 months in 2011/2012 to three months in 2015/2016.
- In 2016, in all courts, the total of :
 - **Filed cases: 50.102**
 - **Adjudicated cases: 60.494**
 - **Pending cases: 17.321**



TIMELY DELIVERY OF JUSTICE (CONT'D)

Challenges

- The Judiciary of Rwanda has not yet attained its target of adjudicating every filed case within **six months** in all courts as provided for by the law.
- As illustrated in the slides above, the time it takes for a new case to start being heard is still too long in the Supreme Court and some Primary Courts, especially those whose territorial jurisdiction covers the Capital City/Kigali (**20 months (1.5 year) in the SC**)



TIMELY DELIVERY OF JUSTICE (CONT'D)

Possible solutions

- Reforming courts organizational structure to redistribute jurisdiction;
- Adopting laws that establish alternative disputes resolution mechanisms prior to case filing in court;
- Revising procedural laws to accommodate changes in the use of Alternative Dispute Resolution mechanisms;
- Establishing special procedures for small claims to speed up their proceedings.



TIMELY DELIVERY OF JUSTICE (CONT'D)

- Establishment of the **Court of Appeal** to adjudicate some of the cases under the current jurisdiction of the Supreme Court.



ENHANCING QUALITY JUDGMENTS

- Working towards attaining timely case judgment must go hand in hand with enhancing their **quality**.
- In this regard, judgments are regularly analyzed to identify areas requiring improvement and strategies are adopted to fix the gaps.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- Such strategies include:
 - Building the capacity of judges and registrars to enhance their competencies focusing on specific areas of weakness (through trainings);
 - Preparing regulations, bench books and other guidelines for reference in deciding on cases;
 - Preparation and publication of law reports to enhance judgment predictability and harmonization of jurisprudence;



ENHANCING QUALITY JUDGMENTS (CONT'D)

- Organization of peer review mechanisms that bring judicial staff together in monthly meetings to discuss legal issues in judgments rendered, share knowledge and good practices but also enhance transparency in justice delivery;
- Fighting corruption and upholding ethical behavior of judges and other court personnel.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- These strategies have produced significant results:
 - The level of **divergence** in court decisions on similar facts and the same legal issues kept on decreasing. Hence, in 2015/2016 cases **altered** on appeal were 10.77% as compared to 14% in the previous year 2014/2015;



ENHANCING QUALITY JUDGMENTS (CONT'D)

- The confidence and trust people have towards Rwandan courts also increased : a study conducted by Rwanda Governance Board, in its report, Citizen Report Card; 2015 indicated that people have confidence in courts to the level of 88.2%.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- International reports also have confirmed that, such as World Economic Forum, Global competitiveness Index, 2015-2016 which indicates that the Rwandan Judiciary is ranked 26th among 140 countries assessed worldwide; the **2nd place in Africa** after South Africa and the **1st place in East Africa** regarding independence.(see Global competitiveness report 2015-2016,pg 309).



ENHANCING QUALITY JUDGMENTS (CONT'D)

Challenges:

- **Lack of sufficient specialized courts/judges**
 - So far in Rwanda we have very few specialized courts/chambers: commercial courts, international and transbordering crimes chamber, chamber for minors, chamber for labor and administrative cases;
 - Judges appointed to those chambers are not really specialized in the matters they handle (not enough special trainings).



ENHANCING QUALITY JUDGMENTS (CONT'D)

- **The culture of using the doctrine of precedent is not very much developed in the Rwandan legal system.**
 - The modern Rwandan Legal System largely originates from the Civil Law Tradition, where judges apply mostly the positive law than the decided case law.
 - Many judges in Rwanda were educated in that tradition.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- With the recent law reforms, some elements derived from the Common Law Tradition have been introduced into the Rwandan Legal System, including **the use of the doctrine of precedent.**
- With Section 47 of the Supreme Court Act 2012, the decisions of the Supreme Court became binding on judges in the lower courts as a matter of law (Last paragraph of Section 47 reads: "***Judgments and decisions of the Supreme Court shall be binding on all other courts of the country***").



ENHANCING QUALITY JUDGMENTS (CONT'D)

- This fundamental change has come while on the one hand Supreme Court Judges are not sufficiently trained in constructing and laying down precedents for other judges to follow.
- On the other hand, judges from lower courts (who are bound by decisions of the Supreme Court) are not sufficiently trained in how to read and analyse case reports to extract the ratio decidendi and to apply the precedent to new sets of facts.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- This also applies even to parties councils. They need guidance as to their respective roles in citing and using precedents in court.



ENHANCING QUALITY JUDGMENTS (CONT'D)

Way forward:

- Create more specialized chambers (chamber for family and minor cases , corruption and related cases , for example);
- Training of judges in those specialized chambers;
- Training of Judges/Counsel in the use and application of the doctrine of precedents and their respective role in citing and using precedents in courts.



ENHANCING QUALITY JUDGMENTS (CONT'D)

- Need to have a strong and well organized law reporting system which allows access to reports for Judges/Counsel.



CONCLUSION

- The Rwanda Judiciary has achieved a lot despite some challenges as mentioned above.
- However, in collaboration with the concerned institutions, measures to redress these challenges and other needs of the Judiciary for better performance will continue to be sought as we move forward.
- I have no doubt we will also learn a lot from this Conference, as sharing experience in our respective jurisdiction will allow us to learn more from our colleagues and improve our system.



THANK YOU

