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# THE IMPLEMENTATION OF RWANDA'S EXPROPRIATION LAW AND OUTCOMES ON THE POPULATION

Final Report

**July 2015**

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# THE IMPLEMENTATION OF RWANDA'S EXPROPRIATION LAW AND ITS OUTCOMES ON THE POPULATION

**Final Report**

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# 1 EXECUTIVE SUMMARY

Rwanda is developing at a remarkably rapid pace, and with that development has come a multitude of corresponding changes to the orientation and use of land throughout the country. In light of these changes, law n°18/2007 of 19/04/2007 relating to expropriation in the public interest was adopted to provide clear procedures for the government to follow in the taking of privately-owned land for other uses deemed to be in the public interest.

This law provides procedures for notice to affected landowners, the determination of public interest, and valuation of land, including how to challenge valuation when a landowner does not agree with the valuation provided, and also provisions for timely payment of compensation and damages if compensation is not paid on time. These are all important principles in line with international standards and best practices for expropriation. The implementation of the law, however, has caused some criticism and concern. This research seeks to address those concerns by carrying out systematic quantitative and qualitative analysis about the implementation of the expropriation law and its outcomes on the population of Rwanda, and in particular expropriated households.

The two major themes of the research are: 1) the implementation of the law from the procedural perspective; and 2) assessing the effects of expropriation law and policy on expropriated households. The procedural rights examined in the research include aspects such as whether the concerned communities were involved in determining the “public interest” nature of the project, and whether expropriated households received sufficiently detailed notice at the proper time to adequately inform them that their properties would be expropriated. Procedural rights also concern whether expropriated individuals were given a fair valuation of their property by impartial valuers, and whether they had an opportunity to challenge aspects of the process they believed violated their rights, as well as whether compensation was provided in the proper time, and to all rights-holders. The assessment of socio-economic impacts of expropriation, the second prong of the research, aims to determine what types of impacts, both positive and negative, expropriation may have had on expropriated individuals’ lives and the communities in which these projects have been implemented. This includes both objective analysis (changes in income, etc.), and subjective analysis (changes in attitudes, perceptions, etc.).

In summary, the data obtained through this study revealed that insufficient and delayed compensation were the most important issues to property owners, government stakeholders, and expropriating institutions, which suggests the possibility for collaborative efforts to decrease delays and improve the integrity of the valuation process. The research also measures the price paid per square meter of expropriated land, revealing expected variations based on the character and location of the land. However, unexpected variations emerged based on the expropriating entity paying the compensation when controlling for the character of the land, project type, and other potentially confounding factors. These arbitrary differences in land values can be addressed by improving the independence of the valuation process and providing improved channels for citizen involvement in the valuation process.

The study also shows that compensation-related issues have a measurable negative impact on expropriated individuals, especially those who lose a large percentage of their property or who must relocate to a distant location due to the expropriation. Delayed compensation was also reported by both expropriated households and government stakeholders to be a particularly difficult issue facing expropriated households. Findings also showed that compensation was often paid beyond the 120 days permitted by the law; however, data also showed that delays in payment have **been decreasing in recent years and are now on average falling within the allotted time limits.**

Other findings from this study call for changes in the way expropriation in Rwanda is understood and discussed. For example, data about the character of expropriated land reveals that, although expropriation was thought to be a primarily urban issue, it actually has a much greater than anticipated impact on rural households. Expanding the narrative on expropriation to include expropriation's effects on rural landowners is likely to lead to more effective policy discussions and potential improvements in the expropriation process, mitigating the negative impacts on expropriated rural households. Quantitative data showed that **many expropriated households actually do well at investing their compensation in long-term assets, or even putting it into savings if they are not required to purchase or construct a new residence based on the expropriation, addressing frequently-stated concerns of government stakeholders that expropriated households would waste their compensation monies.**

While some corruption was reported by expropriated individuals, these reports were more muted and rarely as specific as some prior reports had indicated. The shift to valuation of land by the independent valuers from the Institute of Real Property Valuers of Rwanda (IRPV) should contribute to even further reduction in the incidence of corruption in the expropriation process, but only if these valuers are insulated from expropriating institutions seeking to artificially reduce land and other property values.

The implementation of an amended version of the expropriation law, now pending signature of the President of the Republic, may also address some of the procedural concerns identified by this report. However, the draft version of the amended expropriation law essentially maintains the procedures outlined in the current law, and many institutions concerned in the expropriation process were not consulted in the revision of this law. As such, it is unlikely that the amended version of the law will address all the concerns identified in this report. Accordingly, the recommendations contained herein are likely to be useful in future amendments of the law.

## 2 INTRODUCTION

This report is one in a series of documents based on a study of the Implementation of Rwanda's Expropriation Law and its Outcomes on the Population. The report presents findings from each stage of the study, including a literature review, qualitative research, and extensive quantitative research from a field survey of expropriated households in Rwanda. As described in the Background Information section of the report, all the components of the study have been implemented by the Legal Aid Forum (hereinafter "LAF" or "the research team"), and have been funded by the United States Agency for International Development (USAID) through the LAND Project, with technical assistance from Michigan State University.

### 2.1 Background Information

Initiated in June 2012, the LAND Project seeks to strengthen the resilience of Rwandan citizens, communities and institutions and their ability to adapt to land-related economic, environmental and social change. Building the capacity of Rwandan institutions to produce high quality, evidence-based research on land is a critical part of reaching this goal. Solid, empirical research is fundamental to the identification of needed policy changes in the land sector and also to validate policies and laws that are already contributing to stronger citizen resilience and improved livelihoods.

From February 10-12, 2014, the LAND Project held a multi-stakeholder workshop to identify key, policy-relevant research priorities on land. Drawing from a list of 44 research themes submitted in advance of the workshop, participants collaborated to distill this down to three research priorities that would receive LAND Project support during the 2014-15 research study period:

1. To what extent are land tenure administration systems known, accessible and affordable to all Rwandan citizens? What are some of the primary impacts of land certificates and the land administration system, including access to credit for smallholders?
2. What is the impact of gendered legal rights to land, including on the prevalence and nature of intra- and inter-household disputes? What channels do men and women use to bring disputes and assert their rights? How effective are these?
3. What is the status of processes and procedures for the implementation of the Expropriation Law? What are the key challenges and impacts from the implementation of this law?

Subsequently, the LAND Project sought the views of several Government of Rwanda (GoR) institutions whose mandates intersect with these research priorities to help inform the development of draft technical Terms of Reference for each theme. This was done to ensure that the research was responsive to the information needs of policy makers. On May 13, 2014, the draft Terms of Reference were published in the New Times and igihe.com and also sent directly to many civil society, research and government institutions operating in the land sector in Rwanda as a Request for Comments. LAND Project staff then reviewed the comments

received and used these to inform revisions to the Terms of Reference for each of the research themes.

LAF submitted a bid and was awarded funding to carry out research for Topic 3, relating to the implementation of the expropriation law and the outcomes on the population.

Under the terms of the subcontract with the LAND Project, LAF seeks to generate high quality, evidence-based research on the implementation of Rwanda's Expropriation Law and outcomes on the population. The research is designed to equip decision-makers and civil society with reliable information on which to assess the need for policy adaptation. The award further aims to augment the experience of local organizations in carrying out rigorous research on land-related themes and also to strengthen their capacity to do so through teaming with external research partners that have proven skills in research design, research methods, data analysis, analyzing complex land issues, and effectively communicating research to inform policy. A training on research methods at the beginning of the study period, and also the ongoing assistance of a capacity building expert throughout the process furthered these capacity building aims of the project.

## **2.2 Research Questions and Conceptual Framework of Study**

This study on Rwanda's Expropriation Law and Outcomes on the Population aims to answer the following research questions:

- To what extent has the process used for expropriation complied with the governing legal framework, and specifically the 2007 Law on Expropriation? Are "public interest" principles appropriately applied? To what extent do processes and procedures for expropriation in practice comply with international guidelines and best practice for expropriation?
- Which institutions are legally responsible for implementation of expropriation and what is the practice?
- Has full compensation been awarded prior to actions taken to remove people from their land or otherwise reducing the rights they have to the land? Is relocation support provided? How is property valuation undertaken and the amount and type of compensation determined?
- Where have challenges and shortcomings been identified in implementing expropriation? What are the reasons?
- What have been the outcomes of expropriation on the livelihoods of those expropriated, such as acquisition of new land and housing, access to income-generating opportunities, family and community relations, social capital, tenure security, income, poverty, and other welfare outcomes?
- What alternatives to expropriation exist that support dynamic urban and economic growth while also strengthening tenure security and protecting the livelihoods of the poor and vulnerable?
- What recommendations can be offered to improve implementation of expropriation to ensure it is done in full compliance with the law?

- What recommendations can be offered to improve policy governing expropriation to foster a climate of tenure security among Rwandan citizens, mitigate negative consequences for those expropriated, and ensure that returns on investments substantially outweigh the costs and that they equally benefit the most vulnerable members of society?

The research team also developed a conceptual framework (see “Research Methodology” section below) that reflects the variables identified that influenced the research questions, impacting the qualitative and quantitative research methodology and findings.

## 2.3 Summary of Key Research Tools and Steps

The research was carried out beginning in November 2014, and was comprised of a number of different steps, utilizing a variety of research tools.

First, the research team conducted a literature review to assess and consolidate the existing research on the Rwandan expropriation law and practice, and also the international best practices on expropriation, including standards for valuation and compensation, and awarding damages for disturbances and wrongful acts on the part of the government.

Following completion of the literature review, the research team commenced the work of gathering qualitative data, which consisted of conducting Key Informant Interviews (KIIs) with relevant government stakeholders, local authorities, and civil society organizations. Completed KIIs are listed in Table 1.

**Table 1**

<b>Interviews with Agencies, Organizations and Other Institutions</b>		
<b>No.</b>	<b>Institution</b>	<b>Interview Date</b>
<b>Interviews with state institutions/expropriating entities</b>		
1	Ministry of Natural Resources (MINIRENA)	15/01/2015
2	Ministry of Infrastructure (MININFRA)	18/11/2014
3	Ministry of Local Government (MINALOC)	19/01/2015
4	City of Kigali	15/01/2015
5	Office of the Ombudsman	7/11/2014
6	Rwanda Natural Resources Authority (RNRA)	5/11/2014
7	Rwanda Environmental Management Authority (REMA)	9/01/2015
8	Rwanda Social Security Board (RSSB)	14/01/2015
9	Rwanda Transport Development Authority (RTDA)	16/01/2015
10	Rwanda Housing Authority (RHA)	26/05/2015
11	Rwanda Civil Aviation Authority (RCAA)	28/05/2015
12	Rwanda Development Board (RDB)	21/05/2015
<b>Interviews with professional bodies and research institutions</b>		
13	Institute of Real Property Valuers (IRPV)	14/01/2015
14	Institute of Policy Analysis and Research (IPAR-Rwanda)	10/11/2014

15	Institute of Research for Peace and Dialogue (IRDP)	16/01/2015
16	Rwanda Bar Association (RBA)	16/02/2015
<b>Interviews with civil society organizations (CSOs)</b>		
17	Agency for Cooperation and Research in Development (ACORD-Rwanda)	13/11/2014
18	Conseil de Concertation des Organisations d'Appui aux Initiatives de Base (CCOAI B)	12/01/2015
19	Urugaga Imbaraga	11/11/2014

Furthermore, the research team held a number of Focus Group Discussions (FGDs) with local authorities, civil society organizations, and expropriated households from key areas where large expropriation projects had taken place. The main FGDs conducted by the research team are listed in Table 2 below.

**Table 2**

<b>Focus Group Discussions</b>		
<b>No.</b>	<b>Institution</b>	<b>Interview Date</b>
1	Focus group discussion with expropriated people in Batsinda (expropriated from Lower Kiyovu)	20/01/2015
2	Focus group discussion with expropriated people in Bugesera	21/01/2015
3	Focus group discussion with expropriated people in Rubavu	12/06/2015
4	Focus group discussion with CSOs-LAF members	16/01/2015
5	Focus group/sensitization discussion with officials from Nyaruguru, Nyamagabe, Muhanga, Nyamasheke, Ngororero and Rusizi districts	3/06/2015
6	Focus group/sensitization discussion with officials from Burera, Gakenke and Musanze districts	4/06/2015
7	Focus group/sensitization discussion with officials from Nyarugenge, Kicukiro, Gasabo, Bugesera, Kayonza and Rwamagana districts	5/06/2015

In gathering quantitative data on expropriations, the research team conducted a household survey with a sample from expropriated households in Rwanda. The survey was administered in 15 randomly selected Districts across Rwanda from March 12 to April 4, 2015. In order to balance the perspectives provided about expropriation in each local area, the field team interviewed one Sector Executive Secretary in each of the sampled Districts, for a total of 15 interviews. These interviews are detailed in Table 3.

**Table 3**

<b>Interviews with Sector Level Executive Secretaries</b>		
<b>No.</b>	<b>District</b>	<b>Sector</b>
1	Bugesera	Rilima
2	Kayonza	Mukarange
3	Rwamagana	Kigabiro
4	Gasabo	Kinyinya

5	Kicukiro	Masaka
6	Nyarugenge	Nyarugenge
7	Musanze	Musanze
8	Burera	Rwerere
9	Gakenke	Gakenke
10	Nyamagabe	Kibirizi
11	Muhanga	Mushishiro
12	Nyaruguru	Busanze
13	Ngororero	Nyange
14	Nyamasheke	Gihombo
15	Rusizi	Bugarama

Finally, the team employed statistical and qualitative methods to analyze the data and make recommendations based upon the research findings. The experiences and findings from each of the described research phases have been incorporated into the present report.

## 3 CONTEXT AND LEGAL-INSTITUTIONAL FRAMEWORK

### 3.1 Context of Economic Development and Land Use in Rwanda

#### 3.1.1 Rwanda's Socio-Economic Context

The population of Rwanda, currently estimated at 10,515,973, doubled between 1978 and 2012.<sup>1</sup> This steady and rapid population increase has exerted pressure on land, which is the major source of production and income in the Rwandan economy—household farming is the principal source of income for 74.8% of Rwandans.<sup>2</sup> However, 84% of farming households cultivate less than 0.9 ha of land.<sup>3</sup> Given Rwanda's increasing population and the nature of the economy, land is a precious and essential asset in Rwanda.

An analysis of household headship from the census data shows that, at the national level, 71.2% of households are male-headed and 28.8% of households are female-headed.<sup>4</sup> The preponderance of male-headed households exists in all provinces. The Southern Province has the highest proportion of female-headed households (32.8%), while the City of Kigali has the lowest proportion (22.3%). The highest proportion of female-headed households in urban areas is also observed in the Southern Province (29.3%), while the City of Kigali stands with the lowest (20.8%).<sup>5</sup> The Census also reveals that the proportion of female-headed households remained almost constant between 1978 and 1991. A significant increase of that proportion was observed between 1991 and 2002, largely as a result of the genocide against the Tutsi and its consequences.<sup>6</sup>

Household size is also an interesting variable in relation to household wellbeing, as well as a key determinant of the use of the household property, including land. Furthermore, the size of the household is likely to influence the wellbeing of the household in cases of expropriation. The RGPH indicates that about 9% and 12% of households comprise one and two individuals respectively, while about 51% of households have between three and five residents. However, households with eight individuals make up only about 4% of households, and those with 10 individuals or more are only about 2% of households. The number of households with one and two individuals stands higher in urban areas than in rural areas.<sup>7</sup> Regarding household land tenure status, about 80% of the 2.42 million private households in Rwanda are owned by the householders occupying them, while about 15% are occupied by tenants, and 4% are free lodging.<sup>8</sup> In addition, in urban areas, households occupied by tenants (about 50%) are slightly

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<sup>1</sup> National Institute of Statistics of Rwanda (2012), Rwanda 4th Population and Housing Census-2012, Rwanda Population Main Indicators: Population Projections, 139.

<sup>2</sup> National Institute of Statistics of Rwanda (2010/2011), EICV 3 Thematic Report: Agriculture, 5.

<sup>3</sup> National Institute of Statistics of Rwanda (2012), EICV 3 Thematic Report: Economic Activity.

<sup>4</sup> National Institute of Statistics of Rwanda (2012) Rwanda 4th Population and Housing Census. Thematic Report: Population Size, Structure and Distribution. 14.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> National Institute of Statistics of Rwanda (2012), *EICV 3 Thematic Report. Economic Activity*, 23.

<sup>8</sup> *Id.* at 53.

more common than owner-occupied households (about 45%), while in rural areas the percentage of owner-occupied households (about 87%) is slightly above the national average.<sup>9</sup>

Given the dependence on land in Rwanda, the density of the population—which only continues to increase—and the distribution of the population between urban and rural areas, it is likely that expropriation of land will be practiced for years to come in order to facilitate investment and economic development. However, land expropriation policy not only has the potential to negatively impact expropriated individuals and communities and could also have a broader impact on the tenure security and livelihoods of all land owners in Rwanda.

### 3.1.2 History of Land Use Development in Rwanda

The historical context of land use and development in Rwanda provides necessary background detail for understanding expropriation. Before colonization, the land tenure system in Rwanda was characterized by the collective ownership of land. Families were grouped in lineages, which were in turn grouped into clans, represented by their respective chiefs.<sup>10</sup> These lineages and clans were provided with usufruct rights to land through tenure systems like *ubukonde* (right to cultivate land), *igikingi* (right to graze land), *inkungu* (another aspect of tenure which enabled the local authority to own abandoned or escheated land), or the *isamba* system.<sup>11</sup> However, all of these rights fell under the supreme authority of the *Umwami* (King), who was considered to be the “guarantor of the wellbeing of the whole population.”<sup>12</sup> The King administered these rights through both the chief in charge of land, known as the “*Umutware w’ubutaka*,” and the chief in charge of livestock, known as “*Umutware w’umukenke*.”<sup>13</sup> During the colonial period, the colonial authorities introduced laws to govern the use and titling of land in Rwanda.<sup>14</sup> However, the customary tenure system continued to dominate even after the formal system was introduced.<sup>15</sup>

The formal land tenure regulations introduced during Belgian colonial rule were recognized as binding in the 1962 post-independence constitution,<sup>16</sup> solidifying the principle of inviolability of individual and collective property, with the exception of taking of land for public necessity after payment of just compensation.<sup>17</sup> Although the provisions of the 1962 constitution confirm that land registration and land sales were being formally regulated as early as the 1960s, this policy was not operationalized until 2004, when the post-genocide government started a complete overhaul and reform of the land sector in Rwanda.<sup>18</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> See Fumihiko Saito (2011), *Land Reform in Post-Genocide Rwanda: Connecting Sustainable Livelihoods and Peacebuilding*, 13 JOURNAL OF THE SOCIO-CULTURAL RESEARCH INSTITUTE 219, 224-225 (Ryukoku University: Society and Culture).

<sup>11</sup> *Id.* at 225.

<sup>12</sup> J. Pottier (2006), *Land Reform for Peace? Rwanda’s 2005 Land Law in Context*, 6 JOURNAL OF AGRARIAN CHANGE, 509, 521.

<sup>13</sup> See *id.* at 529, citing National Land Policy, 2004, at 6.

<sup>14</sup> Decree law of 1885 on land use, introduced by Belgian rule.

<sup>15</sup> See generally Pottier (2006), at 512-513.

<sup>16</sup> Constitution of the Republic of Rwanda, Art. 108 (1962).

<sup>17</sup> *Id.* at Art. 23

<sup>18</sup> See National Land Policy, 2004.

The 2004 National Land Policy, the Land Law of 2013 (which replaced the Organic Land Law of 2005), and the 2010 National Land Use Master Plan (NLMP) are the core of the land reform project in Rwanda.<sup>19</sup> As part of these land reforms, the process of land registration commenced in 2008.<sup>20</sup> As required by the law, registration applied to all land in Rwanda, including private land, State land in the private domain, and State land in the public domain.<sup>21</sup> The land registration process aimed at recording all existing rights of private individuals to land and establishing the status of lands and holders of rights to land under Rwandan law. The Land Tenure Regularization (LTR) process in Rwanda has been going forward along with the development of the NLMP. The NLMP was put in place in 2010 to guide management of land in Rwanda towards efficient, effective and equitable use of the country's natural resources.<sup>22</sup> According to the NLMP, Kigali is envisioned to be a regional and continental hub for Africa, with integrated transport and infrastructure that will attract international investment to the region.<sup>23</sup> Furthermore, the NLMP proposes a decentralized growth strategy for Rwanda, recommending growth be focused in multiple district centers, in complement to the Kigali urban hub.

Apart from the Kigali City Master Plan (KCMP) and Master Plans for other regional towns (Rwamagana, Musanze, Muhanga, etc.), the Government of Rwanda has a policy of encouraging grouped settlements known as *imidugudu*<sup>24</sup> in rural areas.<sup>25</sup> *Imidugudu* settlement is considered a solution to rural population pressure and previously poor land management. Although the *imidugudu* program is not included among the acts of public interest under the expropriation law, this system of resettlement involves some form of expropriation that may need to be regulated, especially with regard to the procedure of compensating the landowner(s) on which the *imidugudu* are located. In many cases, these *imidugudu* are built on land owned by the state or local authorities, but private land can also be selected for the *imidugudu* settlements.<sup>26</sup>

The land reform process in a post-conflict context is a challenging prospect for peace-building.<sup>27</sup> **Land reform can actually intensify land-related disputes if not properly managed.**<sup>28</sup> In Rwanda, population pressure, land scarcity and economic development are now increasing the demand

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<sup>19</sup> Among other provisions, the land law introduced land tax and lease fees. See Organic Law N.08/2005 of 14/07/2005 determining the use and management of land in Rwanda (hereinafter "Organic Land Law"), Art. 68, and Law n° 43/2013 of 16/06/2013 governing Land in Rwanda (hereinafter "2013 Land Law"), Art. 43.

<sup>20</sup> See Ministerial Order N. 2/2008 of 01/04/2008 determining the modalities of land registration.

<sup>21</sup> Organic Land Law, Art. 30; 2013 Land Law, Art. 20.

<sup>22</sup> Ministry of Infrastructure, Rwanda National Land Use and Development Master Plan, 2010-2020.

<sup>23</sup> Furthermore, the National Tourism Master Plan (NTMP) positions Kigali as a hub for MICE (Meetings, Incentives, Conferences and Exhibitions) Tourism and businesses in the region.

<sup>24</sup> *Umudugudu* is defined as a mode of planned settlement made of between 100 and 200 houses by site in rural areas. Measurements of the plot(s) reserved for the *umudugudu* range from 10 to 20 hectares (with a possibility of increase), and as far as possible a space provided for various nonagricultural activities, so as to allow the population to make a living. The combination of all these elements constitutes the *umudugudu*. Ministry of Infrastructure, Updated Version of the National Human Settlement Policy in Rwanda, 2009, 13.

<sup>25</sup> *Id.* at 2.

<sup>26</sup> Global IDP (2007), Profile of Internal Displacement: Rwanda, 80, available at <http://www.internal-displacement.org/assets/library/Africa/Rwanda/pdf/Rwanda-July-2005.pdf>.

<sup>27</sup> See Pottier (2006), 532-533.

<sup>28</sup> See National Land Policy (2004), 8-9; Kairaba & Simons (2011), 19.

for and hence the value of land.<sup>29</sup> Some reports indicate that all available land for property investment and development in Rwanda is now occupied, so the government must resort to procedures such as expropriation in order to implement Master Plans.<sup>30</sup> Accordingly, the legal framework provided for expropriation must be analyzed in order to properly localize expropriation within the larger development plans of the country.

### 3.2 Analysis of Legal Framework for Expropriation in Rwanda

Expropriation in Rwanda is a regulated procedure, governed by a series of legal instruments that determine the extent of individual rights to land and the procedures through which they can be lawfully deprived of those rights, and under what conditions. The 2003 Constitution of the Republic of Rwanda recognizes the individual's right to private property ownership, noting that, while "private ownership of land and other rights related to land are granted by the State,"<sup>31</sup> nonetheless "private property, whether individually or collectively owned, is inviolable."<sup>32</sup> International legal instruments also support this right to private property ownership, including the African Charter on Human and Peoples' Rights,<sup>33</sup> and the Universal Declaration of Human Rights.<sup>34</sup> However, the constitution does provide an exception to the inviolability of private property—when "public interest" requires, subject to fair and prior compensation.<sup>35</sup> These constitutional provisions establish the State's right to expropriate private property in accordance with established legal principles defined in specific laws.

As implementing tools of the constitutional structure providing for the State's right to expropriate private property in the public interest, the two most important laws relating to property rights and expropriation in Rwanda are the 2013 Land Law and the 2007 Expropriation Law.<sup>36</sup> An amended expropriation law was also adopted by Parliament during the time period of this study and by the time of the publication of this report, was awaiting the signature of the President. The draft version of this law will be referred to throughout this report where relevant.

The 2013 Land Law confirms the right to private ownership of land, stating that "every person who is in possession of land, acquired either in accordance with custom, or granted by a competent authority, or by purchase, is the recognized proprietor under an emphyteutic lease [. . .]."<sup>37</sup> The law further stipulates that "land is part of the common heritage of all the Rwandan

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<sup>29</sup> G. Payne (2011), *Land Issues in the Rwanda's Post-Conflict law reform*, in LOCAL CASE STUDIES IN AFRICAN LAND LAW (edited by R. Home), 21, available at [http://www.pulp.up.ac.za/pdf/2011\\_16/2011\\_16.pdf](http://www.pulp.up.ac.za/pdf/2011_16/2011_16.pdf).

<sup>31</sup> Constitution of the Republic of Rwanda, as amended to date (2003) (hereinafter "Rwandan Constitution"), Art. 30.

<sup>32</sup> *Id.* at Art. 29, para. 2.

<sup>33</sup> African Charter on Human and Peoples' Rights, June 27, 1981, at Art. 14 ("The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.").

<sup>34</sup> Universal Declaration of Human Rights, Dec. 10, 1948, at Art. 17 ("(1) Everyone has the right to own property alone as well as in association with others; (2) No one shall be arbitrarily deprived of his property.").

<sup>35</sup> *Id.* at Art. 29, para. 3.

<sup>36</sup> Law n° 18/2007 of 19/04/2007 relating to expropriation in the public interest (hereinafter "2007 Expropriation Law").

<sup>37</sup> 2013 Land Law, Art. 5.

people: the ancestors, present and future generations”<sup>38</sup> and that “[. . .] only the State has the supreme power of management of all land situated on the national territory.”<sup>39</sup> The law also determines the methods of allocation, acquisition, transfer, use and management of land in Rwanda.<sup>40</sup> It furthermore establishes the principles applicable to rights recognized over all lands situated in Rwanda and all rights united or incorporated with land, whether naturally or artificially.<sup>41</sup>

The law also protects private ownership rights, stipulating that “the State recognizes the right to freely own land and shall protect the land owner from being dispossessed of the land whether totally or partially, except in case of expropriation due to public interest.”<sup>42</sup> In this regard, the 2007 Expropriation Law defines the permissible acts of public interest<sup>43</sup> giving rise to the State’s right of expropriation:

- roads and railway lines;
- water canals and reservoirs;
- water sewage and treatment plants;
- water dams;
- rainwater canals built alongside roads;
- waste treatment sites;
- electric lines;
- gas, oil, pipelines and tanks;
- communication lines;
- airports and airfields;
- motor car parks, train stations and ports;
- biodiversity, cultural and historical reserved areas;
- acts meant for security and national sovereignty;
- hospitals, health centers, dispensaries and other public health related buildings;
- schools and other related buildings;
- Government administrative buildings and their parastatals, international organizations and embassies;
- public entertainment playgrounds and buildings;
- markets;
- cemeteries;
- genocide memorial sites;
- activities to implement master plans of the organization and management of cities and the national land in general;
- valuable minerals and other natural resources in the public domain;
- basic infrastructure and any other activities aimed at public interest which are not indicated on this list that are approved by an Order of the Minister in charge of

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<sup>38</sup> *Id.* at Art. 3.

<sup>39</sup> *Id.* at Art. 3, para. 2.

<sup>40</sup> *Id.* at Art. 17, 21-22, 27, *et seq.*

<sup>41</sup> *Id.* at Art. 34, *et seq.*

<sup>42</sup> *Id.* at Art. 34, para 2.

<sup>43</sup> An act of public interest is defined as “an act of government, public institution, non-governmental organization, legally accepted associations operating in the country or of an individual, with an aim of a public interest. Law N. 18/2007 of 19/04/2007 relating to expropriation in the public interest (hereinafter “2007 Expropriation Law”), Art. 2(1).

expropriation, at his or her own initiative or upon request by other concerned persons.<sup>44</sup>

In conjunction with this apparently exhaustive list, the law has been criticized for providing an overly broad definition of acts of public interest, allowing for potential abuse and corruption.<sup>45</sup> The breadth and vagueness of the definition of public interest thereby gives the Minister in charge expropriation (the Minister of Natural Resources) the discretion to determine which kinds of development activities are actually in the public interest.<sup>46</sup>

In addition to acts of public interest, the 2007 Expropriation Law also determines the specific procedures for expropriation, including the processes of property valuation and paying of compensation,<sup>47</sup> and identifies the organs competent to approve and carry out expropriation.<sup>48</sup> The law furthermore indicates the rights of expropriated persons and expropriating entities.<sup>49</sup> Other minor legal instruments have also been adopted, such as Ministerial Orders relating to reference land prices,<sup>50</sup> expansion of roads,<sup>51</sup> and land leases,<sup>52</sup> which influence the expropriation process. The 2007 Expropriation Law and these other minor legal instruments are elucidated in full throughout this report.

The standard for valuation and compensation set by international law is that it be “just” or “fair.” This standard was developed primarily to protect alien property owners from being dispossessed of their property in a foreign country without receiving any compensation.<sup>53</sup> The Hull formula, which has become the standard for valuation of expropriated property, requires “prompt, adequate, and effective” compensation.<sup>54</sup> Some States have argued that the Hull formula creates an overly burdensome standard on developing countries in need of the foreign investment, and adopted what came to be known as the “Calvo clause” in Bilateral Investment Treaties (BITs).<sup>55</sup> The Calvo clause aimed to provide no more protection for alien property owners than nationals of the State would enjoy in respect of their property.<sup>56</sup>

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<sup>44</sup> *Id.* at Art. 5.

<sup>45</sup> C. Huggins (2009), *Historical and contemporary land laws and their impact on indigenous peoples' land rights in Rwanda*, 17, available at: <http://www.forestpeoples.org/sites/fpp/files/publication/2010/05/rwandalandrightsstudy09eng.pdf>.

<sup>46</sup> *Id.* at 17-18.

<sup>47</sup> 2007 Expropriation Law, Arts 11-16, 21-28.

<sup>48</sup> *Id.* at Arts 8-10.

<sup>49</sup> *Id.* at Arts 17-20.

<sup>50</sup> The Kigali City Mayor referred to Prime Minister's instructions on expropriation in the KII of 15/01/2015. See also letter dated 18 June 2014 from the Minister of Natural Resources responding to the letter dated 30 May 2014 from the Permanent Secretary of MININFRA seeking advice about the contradictions between the 2007 Expropriation Law and the Ministerial Orders 001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and 002/16.01 of 26/04/2010 determining the reference Land Prices outside the Kigali City.

<sup>51</sup> Law No. 55/2011 of 14/12/2011 governing roads in Rwanda.

<sup>52</sup> Ministerial Order N.001/2008 of 01/04/2008 determining the requirements and procedures for land lease.

<sup>53</sup> See Amir Rafat, *Compensation for Expropriated Property in Recent International Law*, 14 VILLANOVA L. REV. 1, 3 (1969) (citing sources as early as the year 1925 that recognize a duty to compensate expropriated landowners).

<sup>54</sup> NOAH RUBINS, N. STEPHAN KINSELLA (2005), INTERNATIONAL INVESTMENT, POLITICAL RISK AND DISPUTE RESOLUTION: A PRACTITIONER'S GUIDE, 158, citing Pat K. Chew, *Political Risk and U.S. Investments in China: Chimera of Protection and Pre-dictability?*, 34 VA. J. INT'L L. 615, 641 (1994).

<sup>55</sup> RUBINS & KINSELLA (2005), 158-159.

<sup>56</sup> Shain Corey (2012), *But Is It Just? The Inability for Current Adjudicatory Standards to Provide "Just Compensation" for Creeping Expropriations*, 81 FORDHAM L. REV. 973, 990.

A U.N. General Assembly resolution on Permanent Sovereignty over Natural Resources created a moderate standard that affirmed State sovereignty in determining how to compensate all property owners subject to expropriation, determining that:

[E]ach State is entitled to determine the amount of possible compensation and the mode of payment, and that any disputes which might arise should be settled in accordance with the national legislation of each State carrying out such measures.<sup>57</sup>

The various rules and norms arising from international law and international organs essentially establish international best practices advise that: 1) compensation must be paid to both nationals and non-nationals who are expropriated; and 2) States must establish and follow clear and transparent procedures that apply equally to all expropriated individuals. Those procedures should regulate the process of the valuation of land, and also create dispute resolution mechanisms to address complaints over valuation and compensation.

In line with these international standards, the 2007 Expropriation Law clarifies the rights of individuals in the process of expropriation, including the valuation and compensation processes. Any individual who is expropriated under the law is entitled to receive “just compensation” for the property lost. The amount of compensation should be established based on “market prices” of the property.<sup>58</sup> Funding for the compensation and for other related costs must be available before taking any steps in the expropriation process and every project must provide in its budget funds to ensure fair compensation of property, including a full inventory of assets of each person to be expropriated.<sup>59</sup> This and all related legal processes, including reportedly low compensation levels, are discussed more fully in detail in the presentation of research findings later in this report.

International standards also require that expropriations must be carried out in accordance with established national laws and not *ad hoc*, discretionary procedures.<sup>60</sup> For cases where the expropriation is unlawful—or not in accordance with the law—international best practices dictate the payment of reparation to the wrongfully dispossessed landowner, which is “[r]estitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by the restitution in kind or payment in place of it.”<sup>61</sup>

The expropriation laws of other countries are also instructive in applying these standards and determining the adequacy of procedure granted in the Rwandan law. For example, Kenya’s land

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<sup>57</sup>G.A.Res. 3171 (XXVIII), U.N. GAOR, 28th Sess. para. 3, UN doc.A/9030 (XVIII) (1973).

<sup>58</sup> 2007 Expropriation Law, Art 2(2).

<sup>59</sup> 2007 Expropriation Law, Art. 4; RSSB interview, Kigali City interview, MINALOC interview, MININFRA interview, Ombudsman’s Office interview, REMA interview, RTDA interview, interview with Institute of Real Property Valuers of Rwanda, 14/01/2015 (hereinafter “IRPV interview”).

<sup>60</sup> See LAND EXPROPRIATION IN EUROPE, Jan. 2013, 3, available at <http://www.mreza-mira.net/wp-content/uploads/Expropriation-in-Europe-Jan-2013.pdf>.

<sup>61</sup> The Chorzów Factory Case (Germany/Poland), September 13, 1928, Series A, No. 17 (substantive issue) (Permanent Court of International Justice).

law allows only the national or county government to request expropriation.<sup>62</sup> Any land to be acquired through expropriation must be done for acceptable “public purposes” or “in the public interest”<sup>63</sup> and only after “just compensation” has been paid to the owner of the land.<sup>64</sup> The Kenya National Land Commission takes full responsibility for determining all procedural matters related to the acquisition of private land in the public interest, and has wide discretion to determine the procedures and requirements for expropriation through administrative regulations.<sup>65</sup> Rwanda’s law puts more of the required procedures for expropriation within the law rather than regulations, which is a positive aspect of the Rwandan procedure. **However, the limitation of institutions competent to request expropriations in the Kenyan law, and a strong public participation element,<sup>66</sup> may serve to counterbalance for the risk for abuse of discretion in the Kenyan law, and could be instructive for the Rwandan experience, where proper notice and public consultation still seem to be lacking.**

Uganda’s structure for expropriations is similar to Kenya’s, giving broad discretion to the Minister in charge of land to determine whether the expropriation project is in fact being carried out for a public purpose.<sup>67</sup> In Rwanda’s 2007 Expropriation Law, the relevant Land Commission<sup>68</sup> and District/City Council are charged with determining if a project is in the public interest when they evaluate and approve applications for expropriation.<sup>69</sup> The Ugandan law also requires that notice be given to anyone with an interest in the land to be expropriated, although, like the Rwandan law, it is vague regarding what effect should be given to individual comments and concerns raised through public consultations.<sup>70</sup>

In light of this analysis of the Rwandan legal framework, within the context of other regional laws and international standards, an analysis of the institutional framework for expropriations must also be considered, to determine how the law and procedures are carried out in practice.

### **3.3 Analysis of Institutional Framework for Expropriation in Rwanda**

The competent authorities to initiate expropriation proposals according to Article 8 of the 2007 Expropriation Law are:

- The Executive Committee at District level, when development and expropriation activities concern one District;
- The Executive Committee at the level of the City of Kigali when development and expropriation activities concern any one District within the boundaries of the City of Kigali;

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<sup>62</sup> The Land Act, 2012 (Kenya), Sec. 107(1).

<sup>63</sup> *Id.* at Sec. 110(1).

<sup>64</sup> *Id.* at Sec. 111(1).

<sup>65</sup> *See id.* at Sec. 107(2) (regulations for the process of expropriation generally), Sec. 110(2) (regulations for determining compensation).

<sup>66</sup> *See, e.g., id.* at Sec. 112.

<sup>67</sup> The Land Acquisition Act, 1965 (Uganda), Sec. 3.

<sup>68</sup> It should be noted that the 2013 Land Law replaced Land Commissions with the yet-to-established Land Committees.

<sup>69</sup> 2007 Expropriation Law, Arts 9-10, 12.

<sup>70</sup> The Land Acquisition Act, Sec. 5.

- The relevant Ministry in cases where development and expropriation activities concern more than one District, or are at the national level.

While some government institutions are responsible for initiating expropriation projects, other public institutions are responsible for evaluating the application for expropriation, in order to verify that the proposal fulfills the necessary legal requirements. Article 9 of the 2007 Expropriation Law delegates the responsibility to approve applications for expropriation to the following organs:

- The Land Commission at the District level, when development and expropriation activities concern one District;
- The Land Commission at the level of City of Kigali when development and expropriation activities concern any one District within the boundaries of the City of Kigali;
- The Land Commission at national level in cases where development and expropriation activities concern more than one District, or are at the national level.

Within 30 days of the approval of an application for expropriation, the relevant Land Commission should request that the relevant District authorities convene a consultative meeting with the affected population where the expropriation project is to be carried out.<sup>71</sup>

After the approval of the application for expropriation, the following organs are responsible for reviewing the applications and approving the actual expropriation of persons, according to Article 10 of the law:

- The District Council, which acts on district-level projects;
- The Kigali City Council, which acts on projects affecting any one District within the boundaries of the City of Kigali;
- Upon an order of the Minister in charge of land whenever more than one District is involved;
- Upon an order of the Prime Minister for projects at the national level.

According to the breakdown of institutional roles provided by the law, a number of different types of entities that participate in the expropriation process can be categorized. **Expropriating entities** are government entities or quasi-state entities that carry out expropriation projects. They are identified as follows:

- Rwanda Social Security Board (RSSB);
- Rwanda Transportation Development Authority (RTDA);
- Rwanda Housing Authority (RHA);
- Rwanda Energy Group (REG) (formerly known as EWSA);
- Rwanda Civil Aviation Authority (RCAA).

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<sup>71</sup> 2007 Expropriation Law, Article 12.

**Coordinating entities** are government entities that may or may not expropriate directly, but have a role in liaising with expropriating entities, whether through oversight, coordination, or by giving advice. They are primarily the following entities:

- Ministry of Infrastructure (MININFRA);
- Ministry of Natural Resources (MINIRENA);
- Ministry of Local Government (MINALOC);
- Rwanda Environment Management Authority (REMA);
- Rwanda Development Board (RDB);
- Ministry of Finance (MINECOFIN).

**Government entities** are other government organs that are concerned with the expropriation process but do not directly participate in the expropriation of households. They include the following:

- Office of the Ombudsman;
- Rwanda Natural Resources Authority (RNRA);
- Office of the Prime Minister;
- Rwanda Governance Board (RGB);
- Ministry of Justice (MINIJUST).

**Local authorities** are the decentralized authorities that either expropriate directly or liaise with local populations regarding the expropriation process when it affects their areas. They include the following:

- City of Kigali
- Other District or Sector authorities.

## 4 RESEARCH METHODOLOGY

### 4.1 Research Objectives and Conceptual Approach

This study aims to objectively assess the implementation of the expropriation law in Rwanda and to measure the impacts of expropriation upon expropriated individuals and, whenever possible, across the affected communities. The research team's approach was to gather and analyze as much information as possible to provide a realistic assessment of expropriation in Rwanda, focusing on what the law provides in comparison to what actually happens as reported by expropriated individuals and relevant government and CSO representatives. Existing and available statistical data and studies conducted by various institutions have been used to support the analytical work in different aspects of the project, and the research team also contributed to the available data on the topic through its own thorough scientific study design, data collection, and analysis.

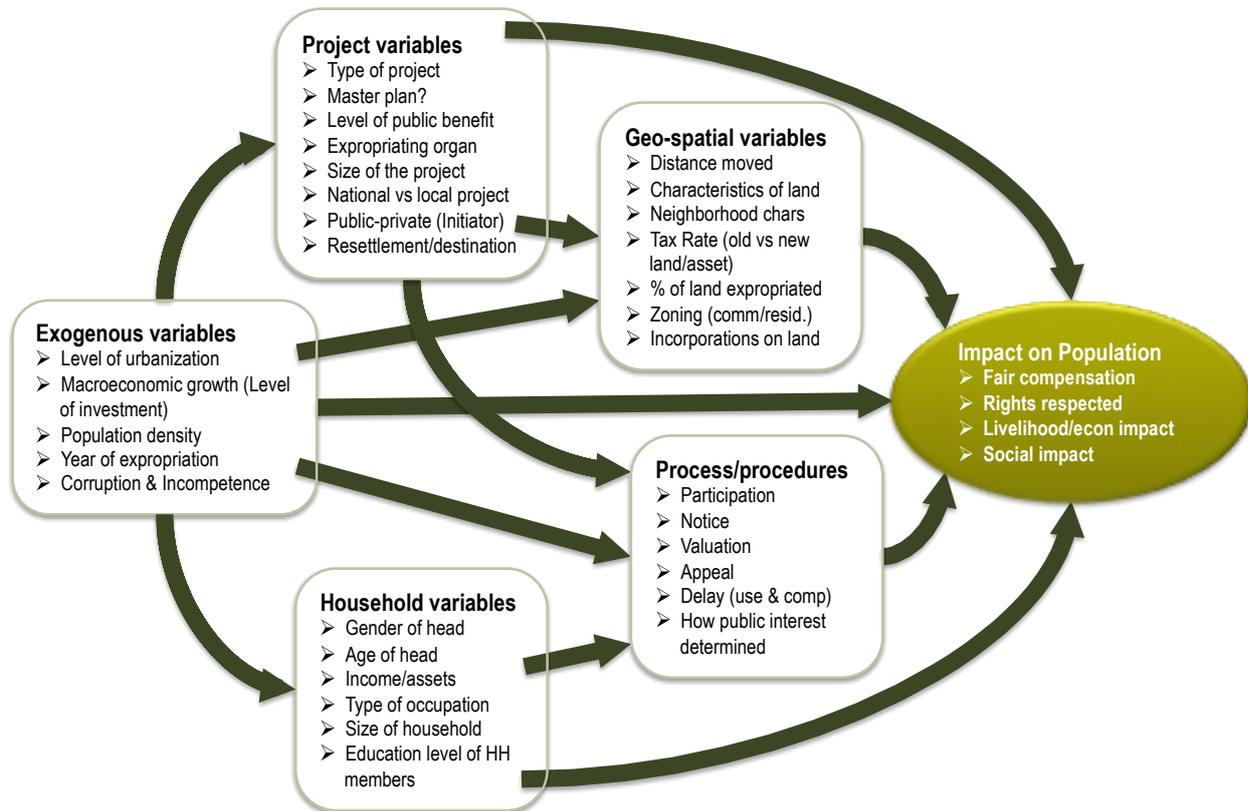
The research team has formulated the following indicators from the original research questions, informed by preliminary findings: 1) whether expropriated individuals have been compensated according to the market value of their property prior to removal from their lands; 2) whether expropriated individuals' other procedural rights have been respected, including whether the affected individuals were involved in "public interest" and valuation determinations; 3) how expropriated individuals' livelihoods have been impacted by the expropriation; and 4) how expropriated individuals have adapted to the potential social and economic disruption caused by expropriation. These indicators are shown as the targets of the conceptual framework in Figure 1 below.

Also shown in the conceptual framework below are the sets of variables believed to account for variation in the four indicators, arranged in terms of their causal proximity to those variables. These variable sets include two proximate groupings: 1) how households were immediately affected by the *process* of expropriation (such as their participation at key stages of the process, notice provided, how valuation was determined, opportunities for appeal, timeliness of compensation, etc.); and 2) how households were affected by *geospatial variables* (including the distance of a move, if required, the physical characteristics of the new/old residence, and the proximity of the new/old neighborhood to service and infrastructure).

The indicators and the proximate variable sets are in turn affected by the characteristics of the expropriation projects. For example, the type of project (road project, commercial development, etc.), the expropriating entity, and the degree of public benefit are some of the project-level characteristics that can affect how far and how many people move (if at all), how much land the expropriated households lose, how much they are compensated, and the process followed in how the households are expropriated. These project and process variables may also be related to characteristics of the households themselves, such as the age, number of children, gender, education and occupation of the head of household, as well as income levels, which while not necessarily affecting a household's chances of being expropriated, do tend to influence a household's experience during the expropriation process.

Figure 1

### Conceptual Framework: Implementation of Rwanda's Expropriation Law and Outcomes on the Population



Finally, exogenous variables, which are believed to be causally antecedent to other variable sets, can potentially affect any or all of the other variable sets. These exogenous variables include level of urbanization in the District, year of expropriation, and other defining characteristics of the broader context of the projects and expropriation process.

In light of the research topic and conceptual framework developed by the research team, the main units of observation for the study have been determined as follows:

- Individuals/households who have experienced expropriation;
- Local leaders (City of Kigali, District, Sector, and Cell) in areas where expropriation has been carried out, who may provide details about how the process is carried out in practice and the level of understanding of the expropriation process among local leaders and the population;
- Officials from the Rwanda Natural Resources Authority (RNRA) and the Ministry of Land and Natural Resources (MINIRENA), as institutions that participate in advising about and approving expropriation projects at the national level;
- Rwanda Environmental Management Authority (REMA), as an institution that is charged with environmental protection, which sometimes leads to expropriation;
- Rwanda Development Board (RDB), as an entity charged with encouraging investment in Rwanda and supporting private sector growth;

- Rwanda Transport Development Agency (RTDA), Rwanda Social Security Board (RSSB), Rwanda Housing Authority (RHA), and Rwanda Energy Group (REG, formerly EWSA), as institutions that are frequently involved in expropriation projects, in order to learn about the procedures they follow when implementing projects and compare to procedural standards used by other institutions and reported by expropriated households;
- Officials from the Ministry of Infrastructure (MININFRA), as the line ministry for RTDA, RHA and REG were also interviewed to provide observations about the expropriation process from the government coordination perspective;
- Institutions involved in oversight and monitoring of government actions and service delivery, such as the Office of the Ombudsman;
- Members of civil society who may be able to provide data about specific cases of expropriation and the law's impacts on the populations they serve.

## 4.2 Methods of Data Collection

### 4.2.1 Qualitative Research

Qualitative research is important in determining institutional practice in carrying out expropriations, and in determining whether these institutions are willing and able to comply with the procedures set forth in the law. This includes the practical requirements for expropriation applications, such as the public interest determination and the giving of notice, the valuation process, and general institutional roles in the expropriation process. Qualitative data also provide context and some evidence of community perceptions about whether the relevant institutions respect procedural requirements in the expropriation law, and some information about how the targeted households are affected by expropriation. Furthermore, qualitative research informs the inquiry as to reasonable alternatives to expropriation, and recommendations for improving implementation of the law. Qualitative research also helped to identify knowledge gaps to be filled by the survey, and subsequently to refine the household survey instruments, to triangulate survey results and enrich the analysis of research findings.

Qualitative research methods included a desk review of secondary sources, Key Informant Interviews (KIIs), and Focus Group Discussions (FGDs). The profiles of respondents to these KIIs and FGDs are detailed above in Table 1, Table 2, and Table 3.

#### 4.2.1.1 Desk Review

During this phase of the research, the research team reviewed various laws, policies, documents, and records in order to obtain information relevant to the research, as well as to identify information gaps for the refinement and improvement of survey instruments (questionnaires, instruction manuals, etc.) to be delivered to expropriated households. Although there are no previous quantitative studies on expropriated households in Rwanda have not yet been carried out, much has been written on general economic development and land use planning in Rwanda. These scholarly and news articles were consulted, along with other available data related to land tenure security.

#### 4.2.1.2 Key Informant Interviews (KIIs)

Key Informant Interviews (KIIs) were conducted with persons and officials knowledgeable about or directly involved in the expropriation process. The research team conducted 19 KIIs with government and CSO stakeholders, and 15 interviews with Sector Executive Secretaries. This method generated substantial qualitative information related to expropriation, such as information about institutional bottlenecks, common mistakes in interpretation of legal obligations, common complaints of individuals being expropriated, common disagreements between local and national authorities, and also frequently reported resource or competence limitations reported by expropriating entities. These interviews also produced information about some “successful” expropriations, and how they were made to be successful.

#### 4.2.1.3 Focus Group Discussions

The research team organized four Focus Group Discussions (FGDs)—three with groups of expropriated individuals and one with a group of legal aid organizations. These FGDs helped the research team refine the questionnaire to be administered to expropriated households, and also generated illustrative case studies.

Three Focus Group/Sensitization Discussions for local officials from the sampled Districts were also organized. Participants included the District Land Bureau officers and legal advisors to the Districts. The purpose of these meetings was both to obtain data and experiences of District-level authorities in the expropriation process, and also to sensitize District authorities to the preliminary findings of the research, engaging them in the process of further policy development in the expropriation process.

### 4.2.2 Quantitative Data: Structured Interviews/Household Survey

Structured interviews based on a household survey were carried out with randomly selected expropriated households in order to collect quantitative data on their experiences with the expropriation process. A questionnaire that allowed, as much as possible, for closed-ended responses was administered at the household level in scientifically sampled Districts and Sectors. The survey results provided necessary information about the expropriation process, assisting the research team in assessing both the short- and long-term impacts of expropriation on the affected population. The content of the questionnaire was divided into the following eight sections:

Section 1. Status and physical characteristics of the expropriation;

Section 2. Socio-demographic characteristics of the expropriated household;

Section 3. Expropriation project characteristics;

Section 4. Expropriation process;

Section 5. Valuation of expropriated property;

Section 6. Compensation for expropriated property;

Section 7. Changes in socio-economic conditions;

## Section 8. Governance issues.

The data obtained through the questionnaire were also critical to cross-check the reports of government actors involved in the expropriation process by providing reports from the expropriated population about compliance with timelines and other procedures required by law.

### 4.2.2.1 Use of mobile technology in data collection

Data collection was done digitally using tablets and survey software. The enumerators were trained in all relevant functions and applications of the tablets, including how to run the questionnaire on the tablet, how to navigate through the questionnaire, how to correct responses, how to save incomplete questionnaires, and how to upload results, whether immediately or later when an internet connection could be obtained. The enumerators were also trained in basic troubleshooting for the tablet and survey technology so that they could mitigate any problems arising in the field. The core research team was also able to supervise and check all data coming from the field in real-time, and assess and correct errors immediately and electronically where possible. Each uploaded survey included an individual numerical tag for each enumerator, so recurring problems were easily corrected in the first days of data collection.

### 4.2.2.2 Enumerator training

The training of enumerators was a 5-day event held in Kigali. All members of the field research team—both enumerators and regional coordinators—were required to attend. The training included an introduction to the overall framework and scope of the study, an explanation of the definition of expropriation according to the law, and also extensive training on the content of the household survey instrument and the technology to be used in administering the household survey.

The introduction to the study was used to orient the participants to the broad conceptual framework of the study and the progress of the research team in carrying out the study. The text of the 2007 Expropriation Law was reviewed with participants in order to illustrate both the definition of expropriation according to the law, and also the reasons provided under the law for the “public interest” purposes that justify expropriation. Participants were also exposed to the research questions and conceptual framework of the study. The participants showed great interest in the content of the study and, given that most of the participants were experienced data collectors and legal professionals, they shared questions and experiences that would assist in the collection of data in the present study.

### 4.2.2.3 Pre-testing questionnaire

The questionnaire was pre-tested over a period of one and a half days in and near Kigali City. Both rural and urban sectors were targeted during the pre-test. Immediately following the pre-test, the enumerators and coordinators re-convened for a debriefing of the pre-test. During this debriefing, the data collectors and coordinators provided input and comments about the questionnaire and the data collection process based on their experience in the field. Some of their input related to adding more response options to certain questions to cover the full breadth

of experiences of expropriated households. Enumerators found that many respondents had not been required to move or had not yet moved from their expropriated land, and their responses helped the research team to identify sections of questionnaire that would not be applicable to such respondents, thereby increasing accuracy and efficiency in data collection.

#### 4.2.3 Locating Respondents for Fieldwork

One of the threshold issues that had to be addressed in this study was locating specific respondents for the household survey. First, a complicated listing process was necessary because the survey was only relevant for those households/individuals who had actually experienced expropriation. While the lists of expropriated individuals are available at the District level, the process of follow-up and obtaining permission to gain access to these lists was resource-intensive and time-consuming. The survey was specifically designed to represent the experiences of expropriated households, so obtaining the lists of expropriated households and then finding those specific individuals was critical to the accuracy of the survey results.

In addition to the difficulty in obtaining the specific lists of names of expropriated individuals for the household survey, the nature of expropriation is that it dispossesses individuals of their lands, which in some cases<sup>72</sup> can cause them to relocate to another destination. Because the research team recognized the importance but also the difficulty of locating specific respondents in ensuring the overall effectiveness of the fieldwork, a regional coordination plan was developed to facilitate fieldwork. This plan involved the grouping of enumerators into 5 regional teams (one per Province/Kigali City), each under a regional coordinator. The regional coordinators focused on the critical task of locating respondents, fixing appointments for interviews, coordinating with local authorities in the area, and resolving technical and logistical issues of the field team.

This method of regional coordination proved effective, and many enumerators were able to exceed the minimum expected number of questionnaires per day as a result. However, in Kigali City, it was anticipated and proven true that it would be difficult to locate respondents because neighbors are not as familiar with each other, and also because many residents of Kigali work during the day outside of their homes. To address this issue, the enumerators and coordinator for the Kigali City region worked during evenings and weekends to ensure they met with all respondents.

**Replacement of respondents.** By nature, expropriation can require the movement of households from their original locations to new, unpredictable locations in other parts of the country. This was anticipated from the beginning of the study, and the procedure for regional coordination in the field work was meant in some way to provide for the possibility to utilize enumerators working in other parts of the country to reach respondents who had relocated to more distant areas. A procedure for incorporating randomly selected replacement households for each area was also devised. In each selected sector, a total of 52 expropriated households were selected randomly. These selected households were assigned an identification number,

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<sup>72</sup> Approximately 15% of expropriations lead to relocation.

starting with 1 and ending with 52. It was decided that the selected households bearing multiples of three (numbers 3, 6, 9, 12, 15, etc.) would comprise replacements. The rest of the households on the list were the core households. Enumerators were provided with instruction about the replacement of missing households appearing on the list and how to draw households from the replacement list.

From the lists of expropriated households obtained at the District and Sector levels, errors were discovered, requiring the use of some replacements. This was noted in Rubavu, Ngororero, Muhanga, Nyamasheke, and Bugesera. One of the possible reasons for requiring a higher number of replacements in these areas included allegations of corruption (where “ghost” properties were included on lists of expropriated households in an attempt to falsely claim compensation). Some projects were also reportedly reassessed after long delays, which removed some households originally indicated for expropriation from the final plans and lists. Another issue commonly reported was individuals who rented or cultivated land owned by another person being erroneously listed as the owner of the land, or listed as an owner of an interest in expropriated property (crops), but not land. Some households that were on the lists provided by Districts or Sectors were found to be residing on or claiming to own marshland, which is considered State land and so is not subject to expropriation.

A large dam project which affected Muhanga, Ngororero, and Nyamagabe Districts was reported by the enumerators as causing a number of long-distance relocations. Because it was difficult to obtain contact information for these households, they were untraceable to the field team. Furthermore, urbanized areas, including the Districts of Kigali City, and also Musanze, Rusizi, and Kayonza, posed similar difficulties in locating respondents who had presumably moved longer distances but had not left any contact information behind.

**In many of the Districts facing these particular, the rate of replacement was up to 30%, which is not unexpected in a survey designed to assess expropriation. Due to the modestly higher substitution rate among long distance movers the impacts of long distance relocation may be slightly underestimated. However, analysis presented later in this report shows that long-distance movers do not differ significantly from short-distance in basic demographic composition (gender, age, household size, etc.) (Table 4**

Comparison of Relocated Households by Proximity of Move and Selected Demographic Characteristics									
Proximity of Move	Percent female head of HH	Mean age of head of HH	Percent married head of HH	Mean nbr of children in HH	Mean nbr of HH members	Percent HH head. educ. secondary and above	Property owned before (Ha)		N
Relocated in same Sector	25.1	47.9	65.5	2.38	5.85	9.20	0.40		195
Relocated to different Sector/Dist/Prov	26.7	49.0	57.1	2.30	5.35	26.70	0.51		15
Total	25.2	48.0	64.9	2.38	5.81	10.50	0.40		209
Sig.*	0.552	0.769	0.933	0.850	0.488	0.057	0.566		

). For example, when those who relocated within the same Sector are compared with those who relocated to a different Sector, District, or Province, they are very nearly the same rate of key demographic characteristics such as civil status, age, female-headed households, and size of

plot. However, the one notable difference is the education level of the head of household is actually much higher for those who moved long distances, which suggests that those who moved long distances were opting to do so, had the socio-economic mobility to do so, and also may have moved for reasons that were not actually caused by the expropriation.

**Table 4**

Comparison of Relocated Households by Proximity of Move and Selected Demographic Characteristics									
Proximity of Move	Percent	Mean age of	Percent	Mean nbr of	Mean nbr of	Percent HH	Property		
	female head of HH	head of HH	married head of HH	children in HH	HH members	head. educ. secondary and above	owned before (Ha)		N
Relocated in same Sector	25.1	47.9	65.5	2.38	5.85	9.20	0.40		195
Relocated to different Sector/Dist/Prov	26.7	49.0	57.1	2.30	5.35	26.70	0.51		15
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Sig.*	0.552	0.769	0.933	0.850	0.488	0.057	0.566		

### 4.3 Sampling Methodology

The complexity and importance of the listing and sampling process summarized above is further detailed in the following section along with an initial look at the sample distribution.

#### 4.3.1 Sampling Frame

The sampling frame is an exhaustive list of all units comprising the study population for the household survey, which is all households expropriated in Rwanda under the 2007 Expropriation Law.<sup>73</sup> Preparatory steps in the sample design began with an exploratory field review of what would be entailed in completing a listing of all expropriated households in the country. The review was conducted in five test Districts—Huye, Muhanga, Gasabo, Bugesera and Rwamagana. Based on discussions with the local authorities in these five test Districts, the research team concluded that the data available on expropriated households at the District level in most Districts would serve as a reasonable basis for the listing and scientific sampling of expropriated households.

The research team then organized field visits to all 30 Districts in Rwanda to work with officials in compiling figures on the number of expropriations conducted in each District since 2007. The exercise was fruitful, and after obtaining a letter of support and cooperation from MINALOC, all Districts provided the number of expropriated households by Sector, and by Cell where possible. These figures on expropriated households by District and Sector constituted the sampling frame for the survey.

<sup>73</sup> The sample included incidental numbers of households for whom the expropriation process technically commenced before 2007, but for whom delays caused many steps in the expropriation process to be carried out under the 2007 law.

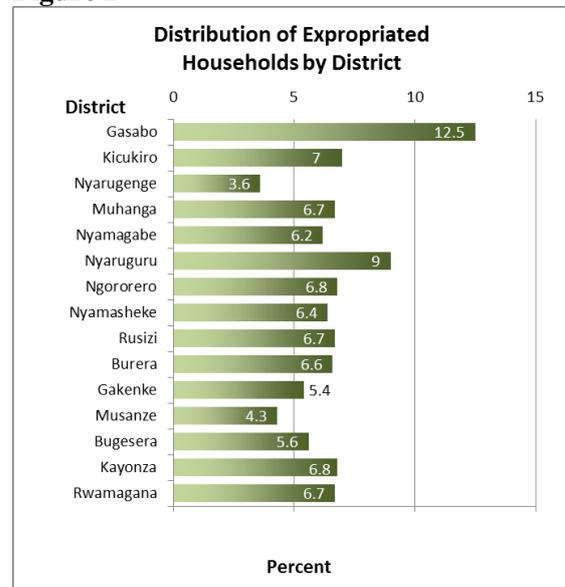
#### 4.3.1.1 Sample size considerations

Rwanda is administratively composed of 4 Provinces and the City of Kigali, which in turn break out into 30 Districts, 416 Sectors and 2,148 Cells. In each Province, 3 Districts were randomly selected for study, with the probability of selection made proportional to the size of the population in the District, amounting to 15 Districts in total. In Kigali City, which is composed of 3 Districts, all 3 Districts were included in the sample. In each of the selected Districts, three Sectors were randomly selected from among all Sectors experiencing expropriation (at least 50 households), so that a total of 45 Sectors across the 15 selected Districts were included in the sample.<sup>74</sup> The sample households were randomly selected from the final lists of expropriated households at the Sector level.

#### 4.3.1.2 Sample size

A sample size of 1,475 households for the survey was calculated using the Bienaime-Chebychev inequality and the law of large numbers.<sup>75</sup> Because of resource constraints, and the realization that many sectors contained few or no expropriated households, the team concluded that a modestly smaller sample size of 1,384 households would be sufficient for estimating all of the main parameters of this study. During the cleaning process it was noted that some households had been interviewed twice as they had been expropriated multiple times and randomly found their way into the sample both times. In those cases data were retained only for the first of the two expropriations. **The final number of households included in the analysis, after eliminating erroneous, duplicate and incomplete data came to 1,381 households.** This is approximately 6% of the estimated number of expropriated households in the 15 sampled

**Figure 2**



<sup>74</sup> Field visits to the selected Districts occurred before the final sampling of Sectors and households for the purpose of determining which Sectors experienced a sufficient level expropriation to warrant inclusion in the sample, enabling the research team to sample exclusively from Sectors actually known to have implemented expropriation projects since 2007.

<sup>75</sup>The minimum sample size is calculated based on the fact that when the sample size is large enough,  $f$  follows the normal law of parameters  $p$  and  $\sigma$ ;  $f \sim N(p, \sqrt{\frac{pq}{n}})$  and, on the other hand, for the normal law,  $t=1.96$  with 95% confidence interval. If we want the observed frequency  $f$  to be located, with a probability  $P=95\%$ , within the interval  $[p-0.01, p+0.01]$ . Knowing  $p$  and  $q=1-p$ , and that

$$\Pr\{|f-p| \leq 0.01\} \geq 0.95, \text{ then } t \sqrt{\frac{pq}{n}} \leq 0.01 \Rightarrow 1.96 \sqrt{\frac{p \cdot x \cdot q}{n}} \leq 0.01.$$

Finally, using the normal distribution and taking  $p=0.04$  and the interval of confidence of 95%, the minimum sample size is 1,475 households.

Districts,<sup>76</sup> which is representative in comparison to other surveys conducted in Rwanda on the national level, which often take a sample size of less than 1% of the total population under study.<sup>77</sup> The distribution of the sampled households by Province and District can be found in Figure 2.

### 4.3.2 Sample Selection Procedures

A multi-stage sample design was used in the selection of expropriated households. The *Primary Sampling Units (PSUs)* in the sample were Districts and the *Secondary Sampling Units (SSUs)* in the sample were Sectors. By drawing a sample of Districts and then Sectors within those districts, we were able to draw a sample of expropriated households, the *Tertiary Sampling Unit*, representative of the entire country.

The research team narrowed the definition of expropriation for purposes of composing the lists of expropriated households only to include those households that had been informed of the pending valuation of their lands, already valuated, or already received compensation. The decision to avoid households that had not reached any of these stages but perhaps had only been notified of expropriation in general was made because qualitative research showed that expropriating entities frequently amended lists and project sizes to remove (or add) households from original lists, and also because those households who had not yet had very much tangible experience in the process of expropriation would not be able to contribute substantially to the findings due to that limited experience.

#### 4.3.2.1 Selection of District (PSU)

In each of the 30 Districts in Rwanda, the research team obtained information on the number of expropriated households. The 15 Districts for study were then selected with Probability Proportion Size (PPS), with the size representing the number of expropriated households in that District.

#### 4.3.2.2 Selection of Sectors (SSU)

In each selected District, three Sectors were randomly selected from among the Sectors where a minimum level of expropriations had occurred, comprising a total of 45 Sectors across the country for the survey. Because some Sectors did not have the minimum required number of expropriations (50) determined by the research team for resource-efficient sample selection, in those cases groups of Sectors with a combined total of at least 50 affected households were created to take the place of a single Sector so as not to compromise the scientific integrity of the sample.

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<sup>76</sup> See **Error! Reference source not found.** *infra*, indicating that the total population of expropriated households in the 15 sampled Districts is approximately 22,314.

<sup>77</sup> E.g., Household Living Conditions Survey, Agriculture Surveys, Demographic and Health Surveys.

#### 4.3.2.3 Selection of households (TSU)

In selected Sectors, the research team was able to obtain detailed lists of names of expropriated individuals for purposes of selecting households. The research team also incorporated households expropriated by independent entities that perform expropriations, such as the City of Kigali, RTDA, RSSB, and REG (ex-EWSA), which also provided lists to the research team. The probability of selection of a household in each of the selected Sectors was proportional to the number of households experiencing expropriation.

## 5 RESEARCH FINDINGS

This section of the report presents the research findings, integrating the data from the household survey, KIIs, and FGDs. It is organized into subsections addressing the major elements of the conceptual framework of the research. The three broad subsections are: 1) a profile of expropriation in Rwanda; 2) an analysis of procedural concerns; and 3) an analysis of socio-economic impacts. The topics discussed in the profile of expropriation include baseline data on expropriations in Rwanda and characteristics of expropriation projects. The section on procedure includes an analysis of the research findings in the areas of planning and coordination, the public interest determination, notice and public participation, and valuation and compensation. The concluding section on socio-economic impacts analyzes the impacts of expropriation on acquisition of new land and housing, access to income-generating opportunities, family and community relations, social capital, tenure security, income, poverty, and other related outcomes.

Because the household survey is drawn from a scientific national sample frame, we are able to apply sampling weights to the 1,381 surveyed households to estimate parameters of the national population. Thus the survey findings presented in this report are representative of the national level. Because many surveyed households were still in the process of expropriation<sup>78</sup> at the time of the survey, some of the analyses only relate to already compensated households, which are 967 in number, weighted at 947. Another sub-group of households targeted in some of the analyses is comprised of all households that have had their residences relocated as a result of the expropriation, which is 231 households, weighted at 209 after adjusting for their probabilities of selection. Filters have been created in the dataset so that these important subgroups can be isolated for targeted analysis as needed by turning the filters on or off. Table 5 shows the number of sampled households and the corresponding numbers of households in these categories using these standardized sample weights.

**Table 5**

<b>Number of Weighted and Unweighted Expropriated Households by Subpopulation Category</b>		
<b>Subpopulation Category</b>	<b>Unweighted N</b>	<b>Standardized Weighted N</b>
All expropriated households	1,381	1,381
Fully or partially compensated households	967	947
Relocated households	231	209

Different tables and graphs in this report will use these weighted total numbers of observations, referred in the tables as “N”, to more accurately represent the experience of all expropriated households of varying characteristics at the national level.

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<sup>78</sup> The issue of delays in the process of expropriation and receiving compensation are discussed in detail in Section 5.2 below.

By taking into account the first round of listing done at the District level, and the second round of listing whereby lists of names of expropriated individuals were actually obtained, a total number of expropriated households in the 15 selected Districts was calculated at 22,314.

## 5.1 Profile of Expropriations

### 5.1.1 Profile of Respondents

Expropriated households generally followed the distribution of gender and age among the overall population of Rwanda, with 72% of expropriated households headed by men, and 28% headed by women.<sup>79</sup> Most households were headed by individuals between 36 and 65 years of age, and proportionally, more female-headed households fall into higher age categories (Figure 3).

The size of expropriated households is as follows: small households (1-4 persons) and medium-sized households (5-6 persons), each representing just under one-third of expropriated households, respectively. Households of seven or more persons represent closer to 40% of expropriated households. National averages reveal that small households are 55% of the population, and medium-sized are 27%, while large are just 18%. This divergence is due to the fact that property owners (and thus those that can be expropriated) in Rwanda tend to be older and with larger households than the general population. Many younger households with fewer children have not yet reached the stage in the life cycle where they can purchase or inherit land of their own.

Figure 3

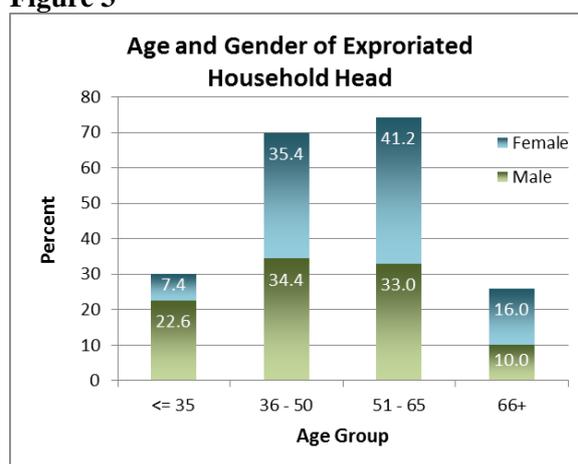


Table 6

Household Characteristics by Household Size				
Household Size	Percent	Mean Number of HH Members	Mean Dependency Ratio	N
1 - 4	30.2	3.11	0.67	417
5 - 6	31.7	5.44	1.10	437
7+	38.1	8.66	0.97	527
Total	100.0	5.97	0.93	1,381

The mean dependency ratio (a calculation of the average number of wage earners supporting non-wage earners) is significantly lower for the small households, at 0.67, while it is very close

<sup>79</sup> The Census revealed that 71% of Rwandan households are headed by men, while female head of households represent 29%. National Institute of Statistics of Rwanda (NISR), Ministry of Finance and Economic Planning (MINECOFIN) [Rwanda], 2012. *Rwanda Fourth Population and Housing Census*. Final Results: Publication tables.

to 1 to 1 for both medium-sized and large expropriated households, as shown in Table 6

Household Characteristics by Household Size				
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5 - 6	31.7	5.44	1.10	437
7+	38.1	8.66	0.97	527
Total	100.0	5.97	0.93	1,381

. In short, larger households tend to have more dependents relative to the working aged adults than to smaller households.

Table 7

Characteristics of Heads of Expropriated Households		
Characteristics of Head	%	N
<b>Civil Status</b>		
Married	64.3	889
Single	6.2	86
Divorced/separated	1.3	18
Widowed	22.4	310
Informal union	5.8	79
Total	100.0	1,381
<b>Education Level</b>		
Primary incomplete	49.7	687
Primary complete	38.0	525
Secondary/technical	7.9	109
University and above	4.3	60
Total	100.0	1,381
<b>Occupation</b>		
Agriculture	69.6	962
Unskilled labor	3.5	48
Skilled labor	6.3	87
Commerce/trader	7.9	109
Civil servant	5.1	71
Other	0.8	12
Unemployed	6.7	93
Total	100.0	1,381

An analysis of household headship for expropriated households (Table 7)

Characteristics of Heads of Expropriated Households		
Characteristics of Head	%	N
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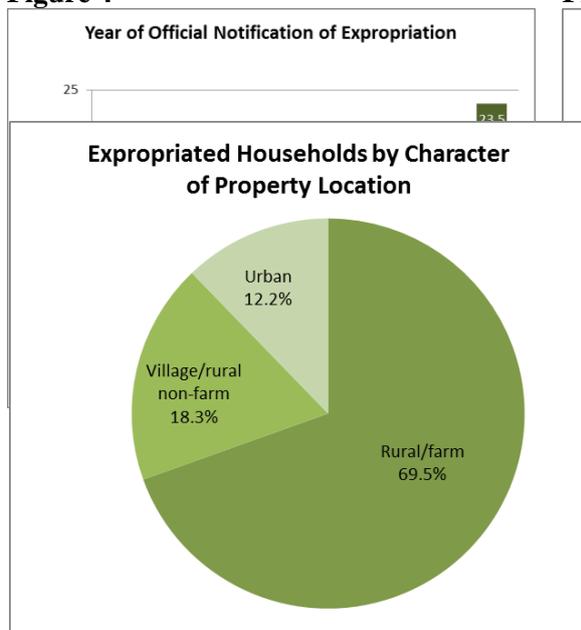
) reveals that 64% of the heads of household are married. A large portion of expropriated households, 22%, report being headed by widows. The analysis of the level of education of the head of household for expropriated households generally follows levels of education reported nationally. Almost exactly half of expropriated households are headed by an individual who has not completed primary-level education. Another 38% of expropriated households are headed by an individual who has completed no higher level of education than primary school. Nearly 70% of expropriated households are headed by an individual whose primary source of income is

farming. Another 8% of expropriated households are headed by individuals who make their living through other generalized commercial activities. Skilled and unskilled laborers make up about 10% of expropriated household heads, and civil servants head about 5% of expropriated households.

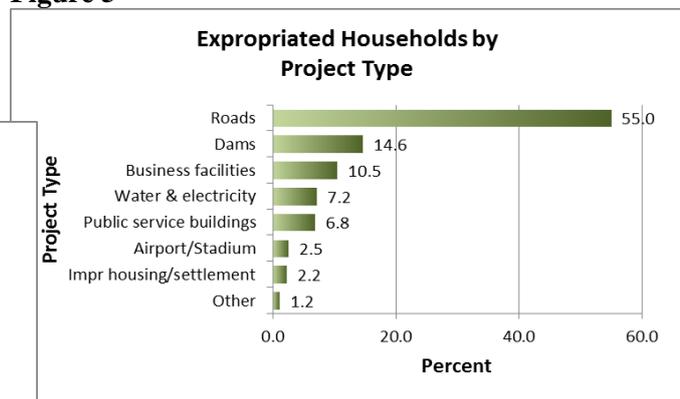
### 5.1.2 Project Characteristics

Since the adoption of the Expropriation Law in 2007, expropriations have been generally on the rise. In fact, 60.5% of all expropriations carried out since 2007 have occurred since 2012, as shown in Figure 4. Given Rwanda’s continued focus on achieving ambitious development goals, and continually high ratings for fighting corruption in government, regional and international investors are drawn to Rwanda, likely fueling the increase.

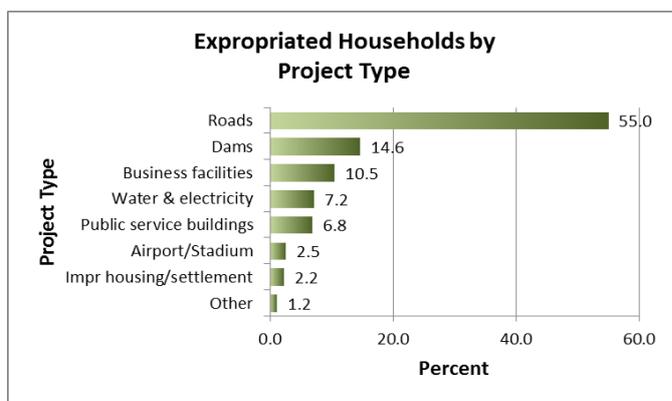
**Figure 4**



**Figure 5**



**Expropriation projects also show trends by type. As revealed in Figure 5**



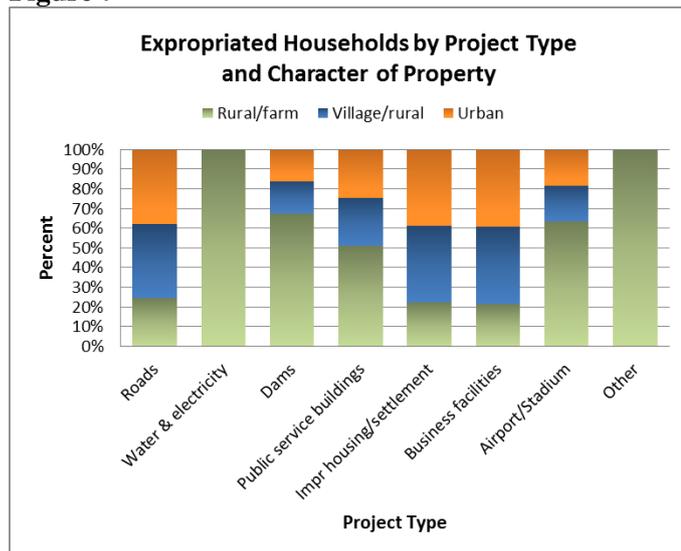
, the overwhelmingly predominant type of project carried out through expropriation is road improvement projects, affecting 55% of all expropriated households. Dam projects are the

second largest category, affecting 14.6% of expropriated households. Expropriations for commercial facilities make up 10.5% of expropriations, water and electricity infrastructure make up 7.2% together, and public service buildings constitute 6.8% of expropriations. Airport and stadium projects made up only 2.5% of all expropriations, when calculated together, and improved housing/settlements<sup>80</sup> comprised 2.2% of all expropriations. In the category of other, a number of infrequently reported project types were grouped, including the building of residences for police and construction of multi-purpose commercial centers.

**Prior studies have shown that expropriation mainly affects urban and peri-urban areas as opposed to rural areas, and that projects implemented in rural areas are different in nature to**

**those implemented in urban and peri-urban areas.<sup>81</sup> It has been reported that, in rural areas, projects mainly relate to road construction to connect local neighborhoods, installation of power lines (electric poles), and some agriculture projects, whereas in urban and peri-urban areas, expropriation projects mainly relate to private and public property development and general urban development.<sup>82</sup> According to data obtained in the household survey, however, the number of households affected by expropriation is much higher in rural**

**Figure 7**



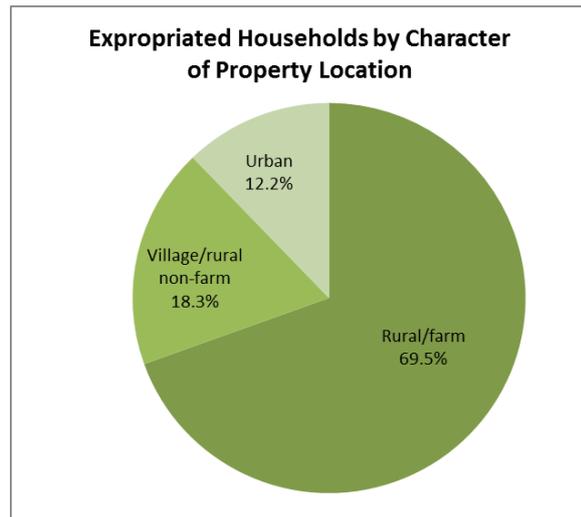
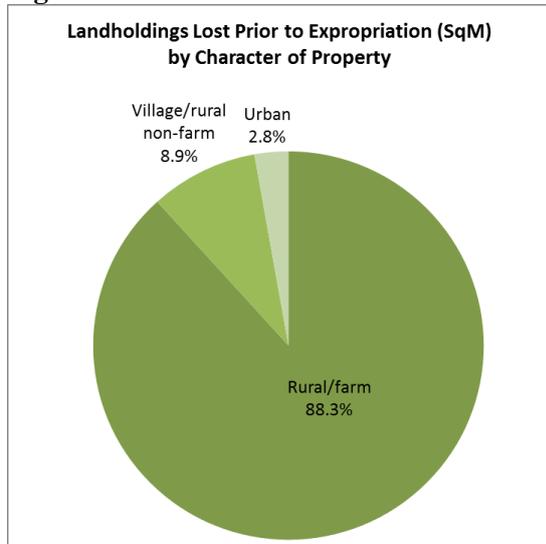
<sup>80</sup> These housing settlements are commonly known as *imidugudu*. However, under the actual *imidugudu* scheme, property taken for establishing these settlements is usually not considered as expropriation, and households losing land to the *imidugudu* may be given replacement land outside the village center for farming. A similar rationale is applied to newly-declared protected areas. Accordingly, households affected by these activities were not included in the lists of expropriated households provided by District and Sector officials and these procedures were not intended to follow the expropriation procedures set out by law.

<sup>81</sup> Kairaba & Simons (2011), 27.

<sup>82</sup> ACORD-Rwanda, 2014, *Etude de Base sur les Conflits Agricoles et Fonciers et l'Incidence des Reformes Foncieres sur ces Conflits dans les Districts de Musanze, Bugesera, Kamonyi et Ngororero*, 12.

areas than urban areas—almost 70% of expropriated households come from rural areas (Figure 6

**Figure 8**



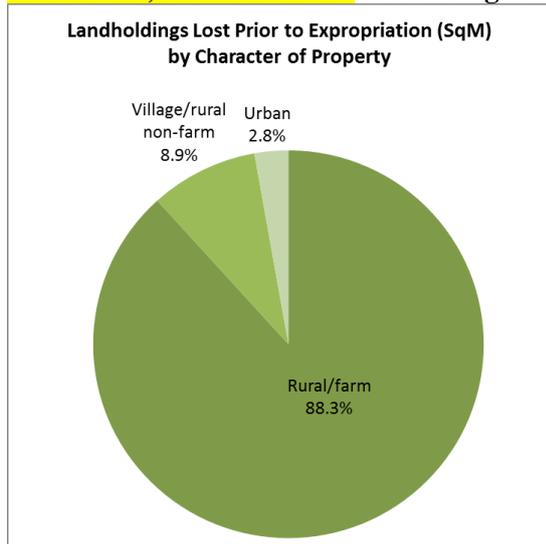
). While land is predominantly rural in Rwanda,<sup>83</sup> this overwhelming emphasis on expropriation in rural areas was not reported in previous studies.

When project type is compared to the character of expropriated property, the predominantly rural character of expropriated land is again evident, as shown in Figure 7. Among the property expropriated for road creation and improvement, 58% is expropriated from rural areas. 23% of land expropriated for roads is from peri-urban or village in character, and 19% is urban in character. Electricity and water projects were almost all carried out in rural areas, which is logical given Rwanda’s stated development plans and the need for those infrastructure services in previously un-served rural areas. Other project type trends follow as expected, with projects requiring large amounts of land, such as dams, new public service buildings, and airports and stadiums happening predominantly in rural areas. Business facilities and improved planned housing areas are among the more common types of projects that occur in urban and peri-urban areas.

**Households in rural settings, villages and urban areas are similar in the share of land they lose due to expropriation (approximately 65-75% of their total land, for households from all three**

<sup>83</sup> Approximately 17% of households in Rwanda are urban. NISR, Fourth Population and Housing Census, Rwanda, 2012. Thematic Report: Population Size, Structure, and Distribution, at p.11.

groups). However, as a proportion of all land lost to expropriations, rural land far outweighs urban land, with rural land accounting for 88.3% of all land lost (Figure 8



). This is due to the large number of rural households in Rwanda and the fact that holdings in rural areas, which are primarily agricultural, than they are in urban areas.

Consequently, the average loss of actual land in square meters is 3,349m<sup>2</sup> in rural areas, compared to 1,072m<sup>2</sup> in peri-urban or village settings, and 558m<sup>2</sup> in urban areas, where

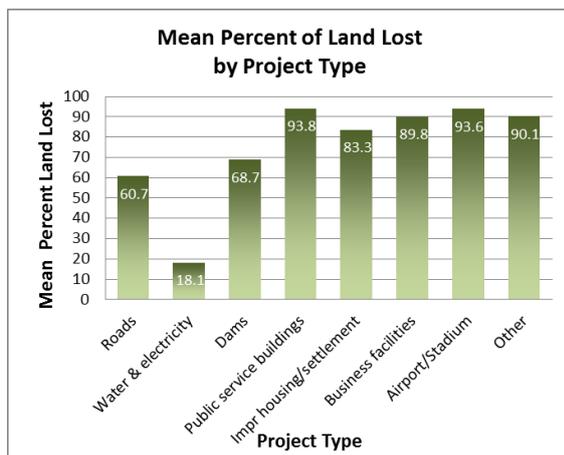
**Table 8**

Character of Expropriated Land	Household Land Lost in Expropriation			Na*
	Mean (SqM)	Sum (SqM)	Sum SqM (%)	
Rural/farm	3,349	2,106,260	88.3%	629
Village/rural non-farm	1,072	213,027	8.9%	199
Urban	558	66,844	2.8%	120
Total	2,518	2,386,130	100.0%	947

\*Sig < 0.001 \*Includes only households that have been fully or partially compensated

properties are used mainly for residential and commercial purposes (Table 8).

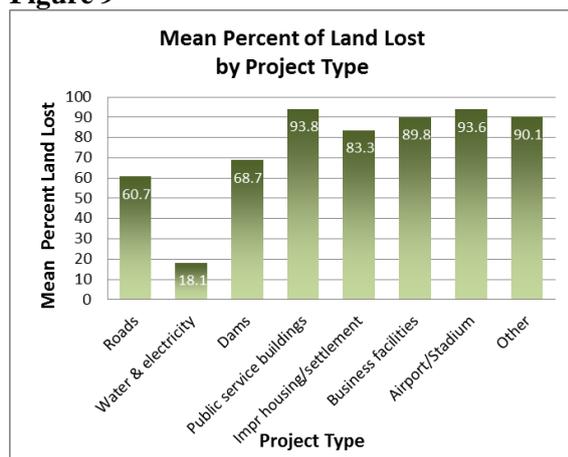
The mean percentage of land lost by project type is shown in Figure 9



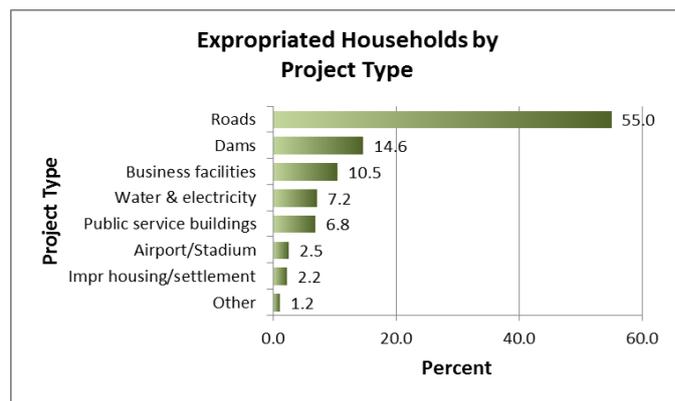
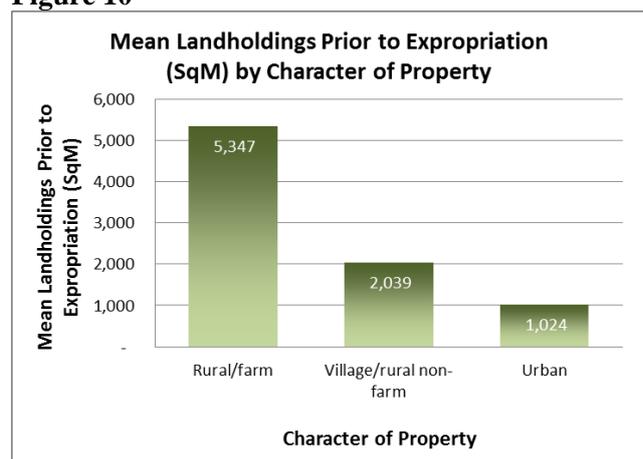
, where the data show that many types of projects can cause total or near-total expropriation. However, water and electricity projects are the least likely to cause total expropriation. While road projects require total expropriation about one-third of the time, bringing the mean percentage of land lost up above 60%, most road projects actually required expropriation of less than 50% of holdings on average.

**In fact, road projects and water/electricity projects together, which have a greater tendency to result in partial expropriation, actually accounted for most of the expropriations in Rwanda. Roads accounted for 55% of all expropriations, and water/electricity projects accounted for 7% of all expropriations (see Figure 5**

**Figure 9**



**Figure 10**



above). In total, these two types of predominantly partial expropriation projects represented 62% of all expropriations in Rwanda.

The average amount of land a household loses due to expropriation is 2,518m<sup>2</sup>, but the mean loss of land is considerably smaller at 1,406m<sup>2</sup>, reflecting much lower average expropriations in village (2,039m<sup>2</sup>) and urban (1,024m<sup>2</sup>) areas as compared to rural areas (5,347m<sup>2</sup>) (Figure 10). This is consistent with the results reported earlier on the amounts of land lost to expropriation in these different settings.

Despite the perception that expropriation is a largely urban phenomenon, these data show that the expropriation is a predominantly rural experience, given the large number of rural households expropriated and the large amount of rural land lost to expropriation. Not only is most of the total land lost rural land, but also as a proportion, expropriated households tend to be located in rural areas. At the district level, we find that expropriations are proportionally greater in districts where the population is proportionally more rural. This results in a modest negative District level correlation between the degree of urbanization and the rates of expropriation ( $r = -.149$ ). Urban districts such as Gasabo, Kicukiro and Nyarugenge, for example, have an average expropriation rate of 0.77%, compared to the District average of 1.17%.

Actual residential relocation due to expropriation is not a frequent phenomenon, and only affected 15.1% of expropriated households.<sup>84</sup> Another 30.9% of expropriated households still reside on their expropriated lands, reflecting the predominance of partial expropriations for road and infrastructure projects, as noted above. The remaining 53.9% of expropriated households are actually expropriated from lands that were not the location of the household's residence, so also are not required to relocate (Table 9). Among the small percentage of households that did relocate, 44.4% of them remained in the same village/*umudugudu* as the expropriated property, and 35.8% moved to a different *umudugudu* in the same Cell. 13.2% moved to a different Cell in the same Sector, and altogether, only 6.6% of relocated households moved to a different Sector, District, or Province.<sup>85</sup>

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<sup>84</sup> While this number may be a low estimate due to logistical challenges of finding relocated households, the research team does not believe the estimate is far off from the reality. See discussion 4.2.3 *supra*, explaining the analysis of characteristics of relocated households, as well as the low incidence of total expropriation.

<sup>85</sup> See *supra* Table 4, showing the similarity of characteristics in short-distance movers, and the likelihood that long-distance moves were influenced by other factors in addition to the expropriation (higher education levels, higher income levels, etc).

**3. Though most households that must relocate due to expropriation move to areas similar in character to their previous residences, others, particularly those who have moved to rural areas from villages or cities, find themselves in unfamiliar surroundings as a result of expropriation. A common allegation heard is that rural farmers are forced into cities by expropriation, losing their livelihood and plunging them deeper into poverty. However, according to the data, 70.7% of relocated rural/farm dwellers remained in rural areas, while the remaining 25.1% and 4.2%**

**Table 9**

<b>Changes in Residential Status and Destination Due to Expropriation</b>			
<b>Change in Residence</b>	<b>Percent of HHs</b>	<b>Mean Distance Moved (Km)*</b>	<b>N</b>
<b>Residential Status</b>			
Relocated to another resid	15.1	-	209
Still live in residence being expr	30.9	-	427
Still in resid (resid not on expr land)	53.9	2.9	745
Total	100.0		1,381
<b>Residential Destination †</b>			
Did not change residence	84.8	-	1,172
Moved elsewhere in same Village	6.7	0.9	93
Moved to diff Village in same Cell	5.4	1.4	75
Moved to diff Cell in same Sector	2.0	4.3	27
Moved to diff Sector in same District	0.6	6.5	9
Moved to diff District in same Province	0.2	28.0	3
Moved to diff Province in Rwanda	0.2	61.3	3
Total	100.0	2.9	1,381

\*Among households that relocated

†Differences in means significant at p < .001

moved to villages and urban areas respectively. Expropriations in villages and urban areas were more likely to result in a significant change in residential context. Among village/rural non-farm dwellers, 32.1% moved to rural locations and 1.9% moved to urban locations; among urban dwellers, almost half (57.6%) shifted to different surroundings—only 4.8% percent to rural areas but 42.9% to village/rural non-farm areas (Table 10

<b>Comparison of Expropriated and Current Property Location for Households Relocated Due to Expropriation</b>					
<b>Character of Expropriated Property</b>	<b>Character of Current Property</b>			<b>Total (%)</b>	<b>N*</b>
	<b>Rural/farm (%)</b>	<b>Village/ rural non-farm (%)</b>	<b>Urban (%)</b>		
Rural/farm	70.7	25.1	4.2	100.0	167
Village/rural non-farm	32.1	66.0	1.9	100.0	53
Urban	4.8	42.9	52.4	100.0	21
Total	56.4	35.7	7.9	100.0	241

$\chi^2=86.744; p < 0.001$

\*Includes only households that have relocated

).

**Table 10**

Comparison of Expropriated and Current Property Location for Households Relocated Due to Expropriation					
Character of Expropriated Property	Character of Current Property			Total (%)	N*
	Rural/farm (%)	Village/ rural non-farm (%)	Urban (%)		
Rural/farm	70.7	25.1	4.2	100.0	167
Village/rural non-farm	32.1	66.0	1.9	100.0	53
Urban	4.8	42.9	52.4	100.0	21
Total	56.4	35.7	7.9	100.0	241

$\chi^2=86.744$ ;  $p < 0.001$

\*Includes only households that have relocated

Formerly urban and village/non-farm households likely relocate to less urbanized locations because their compensation is not sufficient to purchase new properties and residences in the higher cost urban areas, obliging them to resettle farther out where land is more affordable.

While expropriation does follow some patterns, such as the largely rural focus of expropriation, expropriation has effects on the expropriated households in different ways. Some of the impacts can be disproportionate depending on the socio-economic status of the household, as will be discussed in Section 0 below. However, the rate of relocation due to expropriation is overall quite low, which seems to be due to the types of projects carried out through expropriation. The characteristics of projects show a predominance of infrastructure projects like roads and water/electricity improvements, often resulting in only partial expropriations, with some large and notable airport and dam projects that often require a full expropriation and relocation.

## 5.2 Expropriation Procedures

Research has shown that land registration, titling and ensuring the right to private ownership of land has increased the security of land-related investments attendant to Rwanda's economic growth strategies. However, this increased growth and investment can also require expropriation.<sup>86</sup> Through its economic development plans, the Government of Rwanda has already committed to encourage and promote private investment.<sup>87</sup> Previous reports have shown that most of the expropriation projects that have been planned or already implemented are in fact related to property development and investment.<sup>88</sup> Although the benefits of land use planning and economic development are not disputed, and many Rwandans do support the government's development strategy and efforts to improve Kigali and other parts of the country

<sup>86</sup> A. Durand-Lasserve & G. Payne (2006), *Evaluating Impacts of Urban Land Titling: Results and Implications: Preliminary Findings*, 5, 10, available at

<http://siteresources.worldbank.org/RPDLPROGRAM/Resources/459596-1161903702549/S7-Durand.pdf> .

<sup>87</sup> Government of Rwanda (2013), *Economic Development and Poverty Reduction Strategy (EDPRS 2)*, 28.

<sup>88</sup> Kairaba & Simons (2011), 27.

through expropriation, some common complaints about levels of compensation and excessive delays suggest that improvements in the process may be needed.<sup>89</sup>

The 2007 Expropriation Law provides a specific procedure for the expropriation of private land in the public interest. This procedure has been instituted to protect the rights of individuals being expropriated as well as the community to be served by the project. However, to realize these goals of proper protection of the community, the government's strict adherence to the procedural requirements of the law, and an inquiry into whether those procedures are clear enough and accompanied by sufficient safeguards to protect individual landowners' rights, must be examined.<sup>90</sup>

### 5.2.1 Planning and Coordination

As Rwanda develops and urbanizes at an increasing rate, concerns over planning and coordination of development efforts, and expropriation in particular, have been raised by many respondents in this study. 5 Delays in the payment of compensation, a frequently cited problem by both government respondents and expropriated individuals, were actually attributed by many respondents to the issue of poor planning and lack of adequate consideration of the budgetary implications of expropriation projects.<sup>91</sup> While the 2007 Expropriation Law does not directly address the issue of planning and coordination, a letter from the Prime Minister to all relevant government agencies relating to expropriation gives advice on this issue, including the requirement that government agencies allocate sufficient funds for compensation before carrying out an expropriation.<sup>92</sup>

Some respondents also raised concerns that local populations were not being properly sensitized to the expropriation process, causing unnecessary anxiety and even economic and emotional harm to the residents.<sup>93</sup> Expropriating entities pointed to the obligation of local authorities to sensitize populations to expropriation, and to facilitate the payment of compensation.<sup>94</sup> However, when asked whether institutional coordination was a problem in the expropriation process, MINALOC noted that local authorities are not succeeding in this role of liaising with the local populations on expropriation. Some respondents called for the creation of a national coordinating body over expropriation to address this problem of coordination and

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<sup>89</sup> Payne (2011), 37. See also Ministerial Order no. 001/16.00 of 23/11/2009 determining the Reference Land Prices in the City of Kigali; Kairaba & Simons (2011), 27; Stephen Rwembeho, *Kayonza Residents Await Compensation Six Years On*, THE NEW TIMES (Oct. 31, 2014), available at <http://www.newtimes.co.rw/section/article/2014-10-31/182547>; Editorial, *Expropriations should be carried out in a timely manner*, THE NEW TIMES, available at <http://www.newtimes.co.rw/section/article/2015-05-06/188530/>, (June 06, 2015); Eugene Kwibuka, *Government earmarks RWF 16 billion to meet expropriation costs*, THE NEW TIMES, (Nov. 5, 2014), available at <http://www.newtimes.co.rw/section/article/2014-11-05/182721>.

<sup>90</sup> Payne (2011), 37.

<sup>91</sup> Interview with Rwanda Transportation Development Authority, 16/01/2015 (hereinafter "RTDA Interview"), interview with Ministry of Local Government, 19/01/2015 (hereinafter "MINALOC interview"), Musanze District officials FGD, Focus Group Discussion with Rubavu residents, 12/06/2015 ("hereinafter, "Rubavu FGD").

<sup>92</sup> RTDA interview.

<sup>93</sup> CSO FGD.

<sup>94</sup> Interview with Rwanda Social Security Board, 16/01/2015 (hereinafter "RSSB interview"), interview with REMA official, 09/01/2015 ("REMA official interview").

communication.<sup>95</sup> Along these lines, MINALOC has recently dedicated a unit within the Ministry to respond to issues arising from expropriation. MINALOC has called this a first step, believing that a national coordinating body is also needed.<sup>96</sup>

In submitting the application for expropriation, most expropriating agencies interviewed reported completing some kind of feasibility study or business plan to accompany the application. The reported contents of such studies included primarily environmental impact assessments and budget projections for the proposed project. Social implications of the expropriation projects were reportedly included in some of these studies, but not universally. MININFRA reported that it relies heavily on the recommendations of technical experts to determine the sites for expropriation projects, without providing much consultation with the population or other Ministry officials.<sup>97</sup> Most respondents did not suggest any process for investigating or recommending alternative sites for expropriation projects, or minimizing negative impacts on the population. Overall, the contents of these reports do not appear to be standardized or mandated by law.

A majority of respondents to unstructured interviews also cited the Master Plans as overarching planning documents intended to promote good land use planning, reduce successive expropriations, and facilitate the broader development of the country. However, the reliance on Master Plans as a justification for expropriations causes both CSOs and government entities alike to have concerns about the misuse of such plans. Kigali City reported that some land has already been and should continue to be expropriated in order to proactively facilitate investment, even when a specific investor has not yet requested the expropriation, creating the potential for further distortion of land values and expropriations without a strong legal basis.<sup>98</sup> Former Kiyovu residents reported being told they were being expropriated to implement the Kigali City Master Plan, but were given no further information about the implementation of the Master Plan with respect to their property or rights, except that the removal of “slums,” as their homes were classified, would be undertaken.<sup>99</sup> Furthermore, CSOs, government entities, and local authorities cited a pervasive problem of some local authorities illegally altering Master Plans in order to further their own interests.<sup>100</sup> Although respondents did not cite specific examples of how Master Plans were changed, many did cite the need for a national coordinating body to oversee the strict implementation of Master Plans (especially district and town Master Plans).

These issues of coordination and planning necessitate efforts to better guide expropriated households and communities through the expropriation and resettlement process. Without these

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<sup>95</sup> Interview with official from Ministry of Natural Resources, 15/01/2015 (hereinafter “MINIRENA interview”), MINALOC interview.

<sup>96</sup> MINALOC interview.

<sup>97</sup> Interview with Ministry of Infrastructure, 18/01/2015 (hereinafter, “MININFRA interview”).

<sup>98</sup> Interview with City of Kigali, 15/01/2015 (hereinafter “Kigali City interview”).

<sup>99</sup> Batsinda Focus Group Discussion, 20/01/2015 (hereinafter “Batsinda FGD”).

<sup>100</sup> Interview with *Conseil de Concertation des Organisations d’Appui aux Initiatives de Base*, 12/01/2015 (hereinafter “CCOAIB interview”), interview with the Institute of Policy Analysis and Research of Rwanda, 10/11/2014 (hereinafter “IPAR interview”), Civil Society Organization Focus Group Discussion, 16/01/15 (hereinafter “CSO FGD”), MINIRENA interview, REMA interview.

efforts, as a MINIRENA official noted, “expropriation will be an endless cycle.”<sup>101</sup> Accordingly, the City of Kigali has reported making concerted efforts to counsel expropriated individuals through the process of expropriation and compensation in order to help them plan to spend their compensation funds wisely and acquire appropriate replacement land, even encouraging group resettlement if it is a feasible option.<sup>102</sup> Although the option of facilitated resettlement through compensation in the form of replacement land is provided for in the law, many entities claim either not to be competent to carry out resettlements or not to have the funds available for resettlements, and expropriated households tend to prefer receiving the cash instead.<sup>103</sup>

Institutional roles and intervention points in the expropriation process also appear to be ambiguous both to agencies involved in the expropriation process and to expropriated individuals. Expropriated individuals face distress and confusion when multiple government entities intervene, and even end up at odds, during the expropriation process. For example, Bugesera residents explained that their own local authorities at the Cell level were receiving information about the expropriation process at the same public meetings organized to inform the broader population, which meant these authorities were not able to counsel residents through the expropriation process because they were not well-informed about it themselves.<sup>104</sup> Former Kiyovu residents, who were expropriated prior to the passage of the 2007 Expropriation Law, reported distress and alarm at the variety of coordination issues, including the surprise bulldozing of some of their homes while they were attending a public meeting organized for the alleged purpose of discussing the expropriation.<sup>105</sup>

These findings suggest a broader “institutional disconnect” and lack of clarity regarding each institution’s role in the expropriation process. As evidence of this institutional disconnect, many institutions integral to the expropriation process were not actually consulted in the development of the amendments to the expropriation law. The Office of the Ombudsman, for example, has been taking complaints related to expropriations since before the 2007 law even came into force, and reported recommending various interventions and improvements to the process repeatedly over the past 10 years, such as improved communication with the affected populations and relocation support where applicable, but nonetheless was not consulted in the drafting of the amended law.<sup>106</sup> MININFRA coordinates most infrastructure projects, which are the dominant type of project leading to expropriation, but was also not consulted.<sup>107</sup> MINIRENA, the sponsoring institution of the amended law, reported only consulting IRPV, RTDA, and REMA in the revision process.<sup>108</sup>

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<sup>101</sup> MINIRENA interview.

<sup>102</sup> Kigali City interview.

<sup>103</sup> RSSB interview, Kigali City interview, Focus Group Discussion with Bugesera Residents, 20/01/2015 (hereinafter “Bugesera FGD”), Focus Group Discussion with Batsinda Residents, 20/01/2015 (hereinafter, “Batsinda FGD”).

<sup>104</sup> Bugesera FGD.

<sup>105</sup> Batsinda FGD.

<sup>106</sup> Interview with Office of the Ombudsman, 07/11/14 (hereinafter “Ombudsman’s Office interview”).

<sup>107</sup> MININFRA interview.

<sup>108</sup> MINIRENA interview.

## 5.2.2 Public Interest Determination

The determination of the public interest value of a project is a threshold issues affecting the nature of expropriation projects to be implemented. However, the process of determining the “public interest” nature of an expropriation project can be opaque and compromise the integrity of land use planning overall.<sup>109</sup> The definition of “public interest” in the 2007 Expropriation Law is broad and includes activities related to the implementation of Master Plans for urban development as well as national land management in general. In practice, this broad definition of public interest, which does not expressly exclude activities carried out by individuals for profit, has reportedly led to questionable application of the concept of public interest in some projects.<sup>110</sup>

International law and best practices firmly establish the requirement that expropriations be limited to those cases where they are implemented for “reasons of public utility,” or a legitimate public purpose.<sup>111</sup> International law does not specify the types of projects that are in the public interest, but grants states broad discretion to determine whether a project is in the public interest and what the permissible public purpose of expropriation projects may be.<sup>112</sup> For example, when reviewing decisions about expropriation by Member States, the European Court of Human Rights defers to the independent judgment of the State on the determination of public interest unless the State’s decision is “manifestly without reasonable foundation.”<sup>113</sup> However, the determination of what is actually in the public interest may be easier to discuss in theory than to apply in practice.<sup>114</sup>

The 2007 Expropriation Law generally followed these international standards by setting forth a list of “public interest” reasons for expropriation. However, vagueness in the actual application of those stated purposes complicates the public interest determination. Common “public interest” reasons for expropriation projects conveyed to the respondents in this study included the implementation of Master Plans, projects to build roads, and projects to install electric lines.<sup>115</sup> However, the vagueness in implementation of Master Plans, and the catch-all provision in the article defining the acts of public interest means that it is practically impossible to challenge a public interest determination in an expropriation project in Rwanda.<sup>116</sup>

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<sup>109</sup> Land is owned on long-term lease of up to 99 years. See 2013 Land Law, Art. 5 and 17.

<sup>110</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, 31 January 2013. See also A. Ilberg (2008), *Beyond Paper Policies: Planning Practice in Kigali*, 3.

<sup>111</sup> U.N.G.A. XVII on Permanent Sovereignty over Natural Resources, 1194<sup>th</sup> Plenary Meeting, 14 Dec. 1962, Art. 4.

<sup>112</sup> LAND EXPROPRIATION IN EUROPE (2013), 2.

<sup>113</sup> *James & Others v. United Kingdom*, 98 Eur. Ct. H.R. para. 46 (1986), available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57507>.

<sup>114</sup> Hans-Hermann Hoppe, *Fallacies of the Public Goods Theory and the Production of Security*, 9 J. LIBERTARIAN STUDIES 27, 30 (1989).

<sup>115</sup> See Figure 5, detailing the justifications provided to households for the reasons for their expropriations.

<sup>116</sup> 2007 Expropriation Law, Art. 5(23) (acts of public interest includes “basic infrastructure and any other activities aimed at public interest which are not indicated on this list that are approved by an Order of the Minister in charge of expropriation, at [his] own initiative or upon request by other concerned persons.”).

8 CSOs also widely reported concerns that the public interest nature of some expropriation projects was questionable, and may be influenced by corrupt personal interests.<sup>117</sup> MINIRENA reported that some local authorities are not clear about the meaning of public interest and either make mistakes in interpreting this provision, or, as mentioned above, exploit vagueness in the law and act to promote their own personal interests.<sup>118</sup> While only 18% of expropriated households reported hearing of any corruption during the expropriation process, these concerns are nonetheless quite fundamental to the implementation of the expropriation law.

As part of this inquiry into the public interest determination for expropriation projects, the issue of whether expropriation for private investment purposes is actually a “public” benefit was frequently raised. 8 In this regard, some reports have indicated that government authorities have expropriated people under the cover of “public interest” when in fact the project was designed to advance private/investor interests.<sup>119</sup> One CSO posed the following question in a focus group discussion: “If an expropriation done by a private investor can be referred to as a public interest, then what is a private interest?”<sup>120</sup> Because of these perceptions of abuse of the public interest determination in the expropriation process, CSOs overwhelmingly support a revision of the “acts of public interest” mentioned in the law in order to exclude private interests that are linked with investment.<sup>121</sup> The pending draft of the amended expropriation law does not appear to address these concerns and seems to provide for private investors to continue to rely on government intervention in carrying out their development plans.<sup>122</sup> However, private investment is a category of land use contemplated in Master Plans, and implementing Master Plans is one of the permissible public interest purposes for expropriation under the law.<sup>123</sup> Without further clarification in law or regulation, this issue of public/private interest is likely to remain an issue in expropriations going forward.

CSOs also noted that because Master Plans were not developed through popular consultative processes, those expropriation projects that rely on the implementation of a Master Plan as the public interest justification have essentially been determined with no public consultation.<sup>124</sup> In general, CSOs expressed a concern that the degree of public interest in a given project, whether it is for implementing a Master Plan or any other permitted activity, is rarely opened for discussion. One Bugesera resident asked, “Can the Mayor say that you're going to be expropriated and then you challenge him?”<sup>125</sup> This gap in understanding of the importance of the public interest determination at local levels could be due to local authorities not being aware of the legal requirements for public interest determinations, not being well-acquainted with the overall national development plans, or even intentionally or unintentionally intimidating residents through their presence at consultative meetings. Taking all those factors into account, CSOs and focus group participants agreed that it is rare for communities to engage in any

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<sup>117</sup> CCOAIB interview, CSO FGD.

<sup>118</sup> MINALOC interview, MININFRA interview.

<sup>119</sup> ACORD-Rwanda (2014), 54.

<sup>120</sup> CSO FGD.

<sup>121</sup> CSO FGD.

<sup>122</sup> Draft Law relating to expropriation in the public interest (hereinafter “Draft Expropriation Law”), Art. 6.

<sup>123</sup> 2007 Expropriation Law, Art. 5(21).

<sup>124</sup> CSO FGD.

<sup>125</sup> Bugesera FGD.

meaningful discussion about the nature of the public interest or potential alternatives to the project.<sup>126</sup>

Gaps in the communication to the population of overall planning goals are also noted. At the household level, Table 11 shows that 41.7% of respondents did not know whether the

**Table 11**

Household Knowledge of Whether Expropriation Project Was in the Imihingo or Master Plan	
Characteristic	%
<b>Was project in imihigo?</b>	
Yes	42.0
No	16.3
Don't know	41.7
Total	100.0
<b>Was project in Master Plan?</b>	
Yes	25.6
No	14.3
Don't know	60.1
Total	100.0
N	1,381

expropriation projects implemented in their areas were incorporated into the local performance contracts (*imihigo*). An even larger percentage, just over 60% of respondents, did not know whether the expropriation projects being implemented in their areas were part of the applicable Master Plans. In cases of national projects, this may be explained by the fact that the central government or other national state agencies/parastatals are implementing projects that are part of national development plans, not contemplated by District Development Plans (DDPs), from which *imihigo* are derived. To the contrary, such investments of national importance are supposed to be mentioned in DDPs, so the challenge seems to be in how both District plans, *imihigo*, and Master Plans are communicated to the population.

When expropriated households were asked for their views on whether the expropriation project was in the best interests of the community, 18.2% of households who relocated to another residence did not agree that the expropriation project was in best interest of community (Table 12). This is approximately double the rate of disagreement for those who were only partially expropriated from their residential land and not required to relocate to another residence. This disagreement may be a balance of what those households expected from the project originally and what they actually experienced after expropriation and relocation. In spite of the higher disagreement rate by relocated households, 87.2% of all households agreed that the expropriation project was in best interest of the community.

When considering the reported public interest by project type, road projects, dams/water projects, business facilities, and electricity projects are perceived by more than 85% of expropriated households to be in the best interests of the community. For public service buildings, on the other hand, the rate of agreement is considerably lower (43.6%), and an almost equally small share agree that airports/stadiums (41.2%) and the improvement of housing/creation of settlements (51.6%) are in best interest of the community. Given that roads and water/electricity projects are least likely to result in total expropriation and relocation, and would seem to provide immediate and individualized benefits to affected communities, this pattern of findings is not surprising.

The identity of the project initiator also causes varying levels of perception of community benefit among expropriated households. Among projects initiated by the central government

<sup>126</sup> Bugesera FGD, Batsinda FGD.

**Table 12**

Household Opinions on Whether the Expropriation Project Was in the Best Interest of the Community by Characteristics of the Project						
Project Characteristics	Was the Project in Best Interest of the Community?			Total %	N	X <sup>2</sup> Sig
	Yes %	No %	Don't Know %			
<b>Change in living status</b>						0.005
Relocated to another resid	79.9	18.2	1.9	100.0	209	
Still live in residence being expr	90.7	8.6	0.7	100.0	428	
Still in resid (resid not on expr land)	87.2	11.7	1.1	100.0	744	
<b>Total</b>	<b>87.2</b>	<b>11.7</b>	<b>1.1</b>	<b>100.0</b>	<b>1,381</b>	
<b>Principal Project Type</b>						<0.001
Roads	95.4	4.3	0.3	100.0	760	
Water & electricity	97.0	3.0	0.0	100.0	99	
Dams	85.6	13.9	0.5	100.0	202	
Public service buildings	43.6	51.1	5.3	100.0	94	
Impr housing/settlement	51.6	41.9	6.5	100.0	31	
Business facilities	93.1	6.2	0.7	100.0	145	
Airport/Stadium	41.2	55.9	2.9	100.0	34	
Other	40.0	46.7	13.3	100.0	15	
<b>Total</b>	<b>87.4</b>	<b>11.6</b>	<b>1.0</b>	<b>100.0</b>	<b>1,380</b>	
<b>Project Initiator</b>						<0.001
Local government	82.2	16.4	1.4	100.0	506	
Central government	88.5	9.7	1.8	100.0	165	
State agencies/parastatals	92.7	7.0	0.3	100.0	659	
Private investors/NGOs	74.1	25.9	0.0	100.0	27	
Other	50.0	37.5	12.5	100.0	24	
<b>Total</b>	<b>87.3</b>	<b>11.7</b>	<b>1.1</b>	<b>100.0</b>	<b>1,381</b>	

and state agencies/parastatals, 88.5% to 92.7% of respondents reported these projects to be in the best interests of the community. These bodies tend to run larger scale or national projects, and the compensation paid is on average higher in comparison to projects implemented by local government authorities. A slightly lower 82.2% of households expropriated by local government authorities agree that the projects initiated by local government are in best interests of the community. Only 74.1% of households agree that projects initiated by private investors/NGOs are in best interests of the community.

This reveals a nuanced understanding among expropriated individuals about the meaning of “public benefit” or “best interests of the community”: although private investors are reported to pay the most per square meter of land expropriated,<sup>127</sup> those individuals expropriated by private investors seemed to be able to see beyond their personal experience in the expropriation when judging the overall public benefit of the project. However, as revealed in a multivariate analysis later in the report, this apparent agreement with “private investor” projects may be more a function of where (rural vs. urban) and what types of projects private investors tend to

<sup>127</sup> See discussion at 4.a.1) *infra*.

implement, and not, as popularly believed, because private investors do a better job of following procedures or paying higher compensation rates.<sup>128</sup>

### 5.2.3 Notice and Public Participation

Notification is an important part of the expropriation process, whereby the households to be expropriated are informed about the expropriation project, as well as the steps in the process and the timeline for the project. As article 12 of the 2007 Expropriation Law states:

The relevant Land Commission, after receiving the request for expropriation, shall examine the basis of that proposal. In case it approves the basis of the project proposal, the relevant Land Commission shall request, in writing, the District Authorities concerned to convene a consultative meeting of the population where the land is located, at least within a period of thirty (30) days after the receipt of the application for expropriation, and indicating the date, time and the venue where the meeting is to be held. The Land Commission shall take a decision within a period of at least fifteen (15) days after the consultative meeting with population.<sup>129</sup>

<sup>128</sup> See *infra* Table 15

ANOVA Multiple Classification Analysis (MCA) Estimating Mean RWF/SqM Paid in Compensation Controlling for Selected Factors and Covariates					
Predicted Mean Compensation Paid (RWF/SqM)					
Factors	Unadjusted	Adjusted for Factors	Adjusted for Factors and Covariates <sup>a</sup>	N <sup>1</sup>	Sig.
<b>Project Type</b>					<0.001
Roads	13,583	10,072	9,733	430	
Water & electricity	621	4,744	4,292	54	
Dams	685	3,185	3,505	172	
Public service buildings	1,585	8,502	9,438	88	
Impr housing/settlement	12,303	7,834	7,992	27	
Business facilities	6,820	9,054	8,982	132	
Airport/Stadium	2,053	1,785	3,145	24	
Other	1,797	9,573	10,072	10	
<b>Expropriating Entity</b>					<0.001
Local government	3,796	3,997	3,998	342	
Central government	11,944	13,420	13,517	122	
State agencies/parastatals	9,803	9,610	9,608	440	
Private investors/NGOs	15,981	6,303	5,906	22	
Other	2,105	5,754	5,557	13	
<b>Character of Expropriated Property</b>					<0.001
Rural/farm	2,471	3,329	3,417	623	
Village/rural non-farm	11,183	9,787	9,611	196	
Urban	31,065	28,883	28,713	119	

<sup>a</sup>Covariates = Property lost in expropriation (Ha)

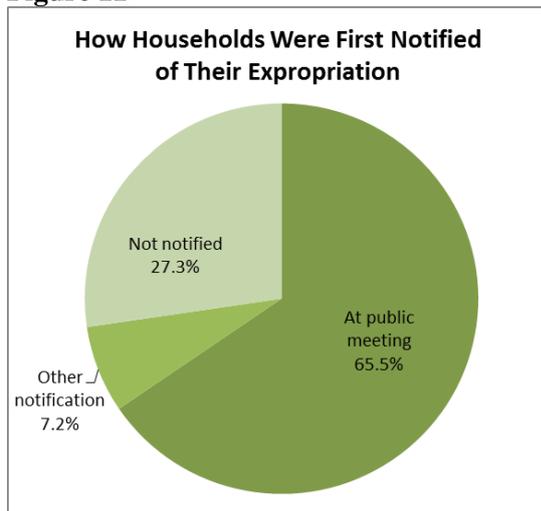
<sup>1</sup>Includes only households that have been fully or partially compensated

<sup>129</sup> 2007 Expropriation Law, Art. 12.

The procedure set forth by the law guarantees that the concerned population shall be informed about the process of expropriation. However, it also shows the role of the concerned population in giving views and opinions about the project, whereby they will participate in a “consultative meeting” about the project. The law also directs the Land Commission to render a final decision on the application after that meeting, suggesting that the views expressed at the meeting should be incorporated into that final decision.<sup>130</sup> International best practices also support robust transparency and accountability in the expropriation process, which are furthered through public participation and open public debates.<sup>131</sup>

In practice, officials reported that, before carrying out expropriation, the District authorities convene a meeting to inform the concerned population about the project.<sup>132</sup> During this meeting, the population is informed about the project in general and the timeframe for its completion, and the individuals whose land will likely be expropriated are put on notice. 66.5% of

**Figure 11**



expropriated individuals also report that the predominant manner of notification about expropriation projects is through public meetings, as depicted in Figure 11. While personal, written notification to individuals to be expropriated is most likely to comply with international standards of due process of law, the Rwandan practice of group or public notification is probably sufficient under the circumstances given the general practices of citizen involvement and government communications with citizens in the highly decentralized Rwandan administrative structure.<sup>133</sup> Furthermore, it appears that the District Administrative Council is meant to take on the role of representing the views of the

population throughout the process of application and implementation of expropriation projects, providing for streamlined and accessible channels of citizen feedback and participation.<sup>134</sup>

<sup>130</sup> The amended version of the law delegates the public interest determination to the newly-created “Committees” in charge of supervision of expropriation projects. Draft Expropriation Law, Art. 12.

<sup>131</sup> Ward Anseeuw, Liz Alden Wily, Lorenzo Cotula, and Michael Taylor (2012), *Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project*, INTERNATIONAL LAND COALITION, 65.

<sup>132</sup> FGD held in Kigali with District Officials from Gasabo, Nyarugenge, Kicukiro, Rwamagana and Kayonza Districts on 05 June 2015 at Hill Top Hotel (hereinafter “Kigali District Officials FGD”); FGD held in Musanze with District Officials from Musanze, Burera and Gakenke Districts on 04 June 2015 at Centre d’Accueil Notre Dame de Fatima (hereinafter “Musanze District Officials FGD”); FGD held in Huye with District Officials from Nyamagabe, Nyamasheke, Rusizi, Ngororero and Nyaruguru Districts on 03 June 2015 at 4 Steps Hotel (hereinafter “Huye District Officials FGD”).

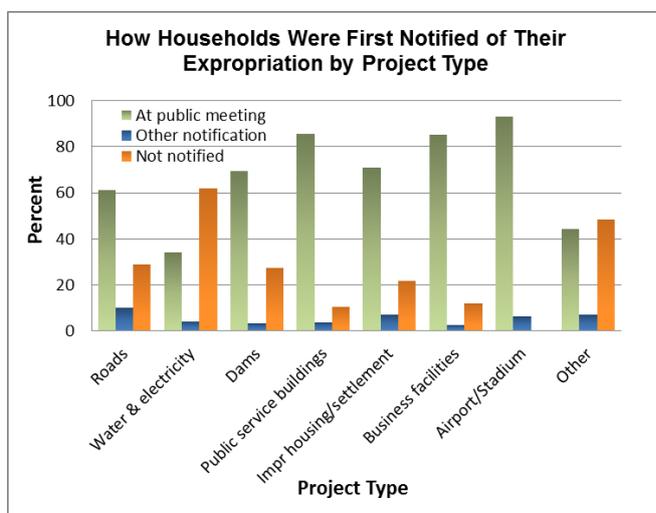
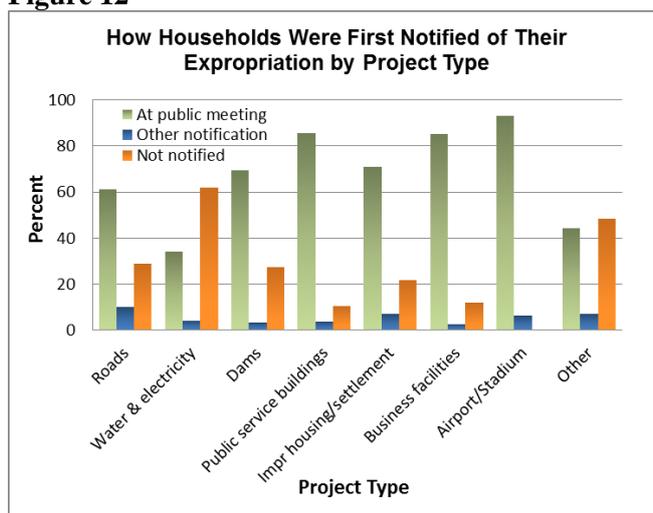
<sup>133</sup> See, e.g., United Nations Conference on Trade and Development (2012), *Expropriation: UNCTAD Series on Issues in International Investment Agreements II*, 40.

<sup>134</sup> Huye District Officials FGD.

Notification through meetings is a valid form of notification under the 2007 Expropriation Law.<sup>135</sup> **9 However, almost one-third of expropriated households reported not being notified at all, contrary to the legal requirement of notification.**<sup>136</sup>

**Over 60% of households expropriated for water & electricity projects report that they were not notified about the expropriation project affecting their lands, and about 27-29% of individuals expropriated for roads and dam projects reported not being notified as well (Figure 12**

**Figure 12**



<sup>135</sup> 2007 Expropriation Law, Art. 17.

<sup>136</sup> 2007 Expropriation Law, Art. 16 (“Subsequent to declaration of the final decision, relating to expropriation, the relevant Land Commission shall publish and post an actual list of beneficiaries and of the activities carried out on land at the District, Sector and Cell level where the land is located to enable the concerned population to be informed”).

). For some of these projects, concerned households reported that they were essentially notified when they saw construction teams with large machinery on their properties building the roads or installing the electric lines, without being given any other prior notification. CSOs also reported that many individuals were not given notice of planned expropriations affecting their lands.<sup>137</sup>

**Table 13**

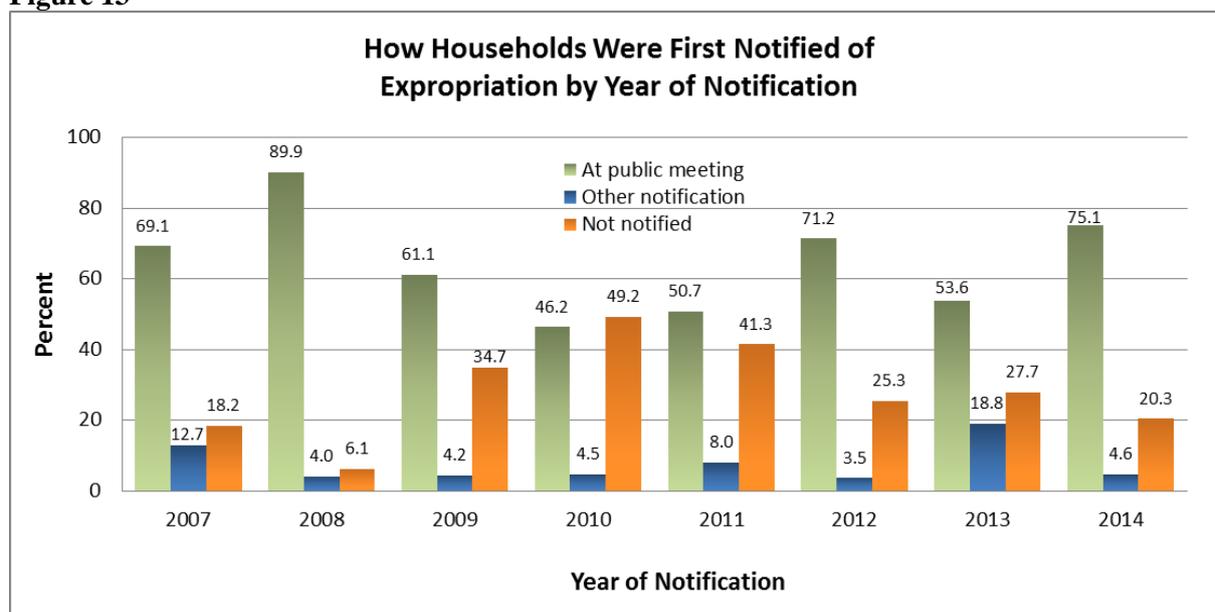
Amount of Land Lost by How Households Were First Notified of Their Expropriation				
	SqM Lost Mean <sup>a</sup>	SqM Lost Sum <sup>a</sup>	% Land Lost Mean <sup>a</sup>	N
At public meeting	3,134	2,030,766	74.4	648
Other notification	1,480	83,326	71.8	56
Not notified	1,119	272,039	52.4	243
Total	2,518	2,386,130	68.6	947

<sup>a</sup>Sig < 0.001

Furthermore, as the percentage of land expropriated goes up, the likelihood of receiving some form of notification rises dramatically (Table 13).

This correlation between lack of notice and smaller percentage of land lost may in some cases reflect an interpretation of a Ministerial Order that purports to exempt small takings of less than 5% of a parcel from compensation.<sup>138</sup> Accordingly, because local authorities have not been informed about the legal effect of this Order in relation to the Expropriation Law, they may

**Figure 13**



implement such small-scale expropriation projects for infrastructure without notifying concerned individuals of the conversion of their property.<sup>139</sup> According to the Rwandan hierarchy of laws, Such an Order also has dubious legal effect given the subsequent adoption of

<sup>137</sup> CSO FGD.

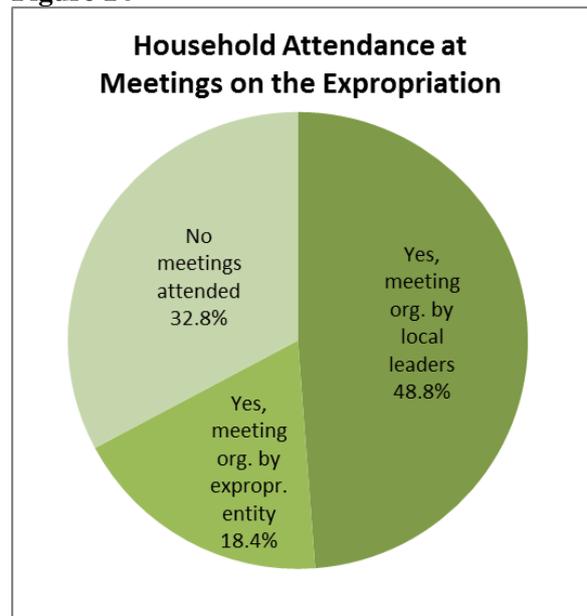
<sup>138</sup> Ministerial Order N.001/2008 of 01/04/2008 determining the requirements and procedures for land lease (hereinafter “Order on Land Leases”), Art. 15.

<sup>139</sup> See discussion at n.232 *infra*.

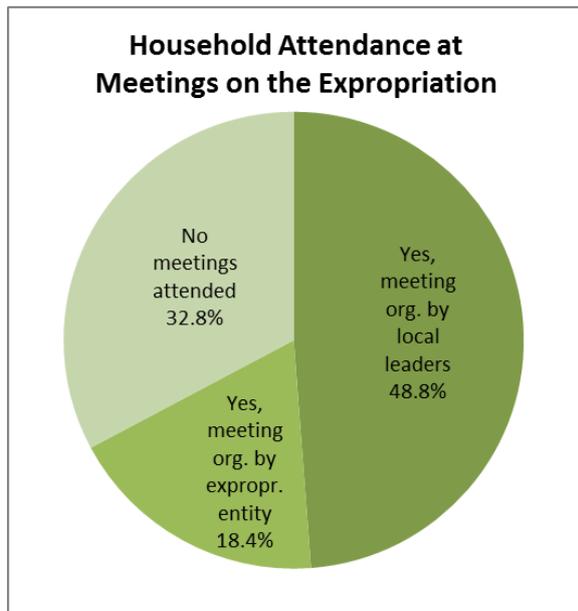
the new 2013 Land Law, whereas a law always supersedes an Order in legal effect. Furthermore, a tenuous substantive connection, at best, exists between “Land Leases” and the uncompensated taking of up to 5% of an individual’s land, which seems to be more like expropriation than land leasing.

Historic data about the manner of notification has shown some improvement since the beginning of the implementation of the Expropriation Law, as shown in Figure 13. For the first years after the adoption of the 2007 Law, the number of individuals reporting not being notified about expropriation of their property was high—34.7% in 2009, 49.2% in 2010, and 41.3% in 2011. Those numbers improved in the following three years, remaining near or below 25% from 2012-2014, which is possibly due to the increasing profile of expropriation overall, the increased competence of local authorities, and more realistic budgetary allocations for the completion of expropriation projects. Overall this appears to be a positive development.

**Figure 14**



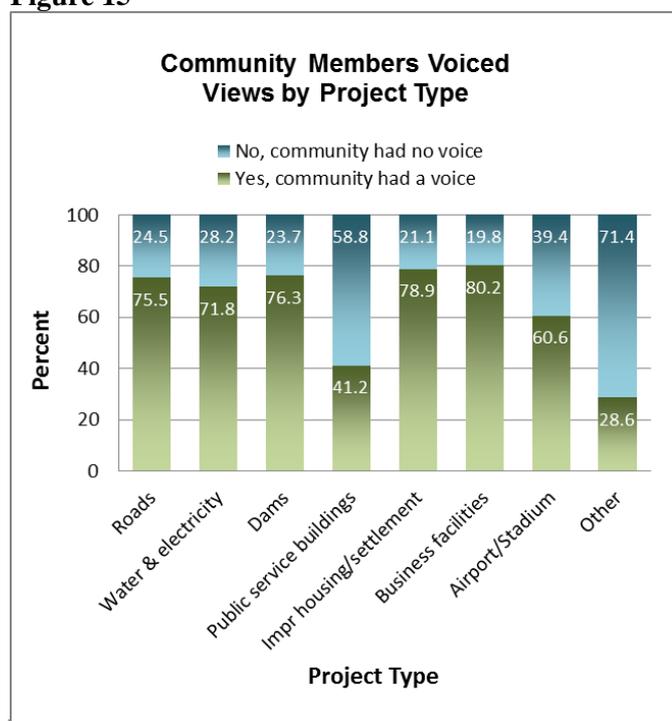
**Expropriated individuals are also likely to attend meetings held regarding the expropriations. About two-thirds of expropriated households attend a meeting organized either by the local authorities or the staff of the expropriating entity, as shown in Figure 14**



Improving notice and participation procedures is also likely to have positive impacts on the experience of expropriated households throughout the expropriation process. Among the two-thirds of expropriated households that attended meetings, about 72% of them report that they believe community members were able to adequately voice their views at the meetings. Projects to expropriate individuals for the construction of public service buildings are well below that average, with only 41.2% of meeting attendees reporting that community members are able to voice their views about the project (Figure 15). The airport/stadium projects are also notably lower, with closer to 60% of respondents noting that the community is able to voice its views at the meetings.

Another indicator that notice and participation affects satisfaction with the project is how individuals are notified of the value of their lands. After properties to be expropriated are valued, the concerned landowners are notified of the value of their lands, at which time they are able to verify that all their properties have been valued, are given notice of how to pursue appeal or correct the valuation in case of any irregularities or disagreements, and are then asked to complete a valuation report/form.<sup>140</sup> However, expropriated individuals frequently report being informed of the value of their properties through another public meeting or through publication of lists at the Sector or Cell offices.<sup>141</sup> This stage of notifying landowners of the valuation on their lands, however, can also be a source of anxiety for the affected households and reveals the measurable value of personal expropriation notice, well beyond any generalized transparency arguments. A number of expropriated individuals seem to perceive the practice of public notification of valuation through a meeting as an *ad hoc* procedure, and expropriated individuals who are informed about the value of their property in writing are five times more likely than not to agree with the valuation given to their property, whereas among those who are notified verbally

Figure 15

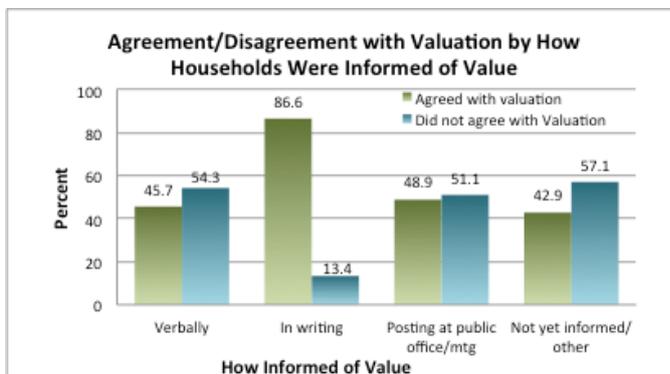
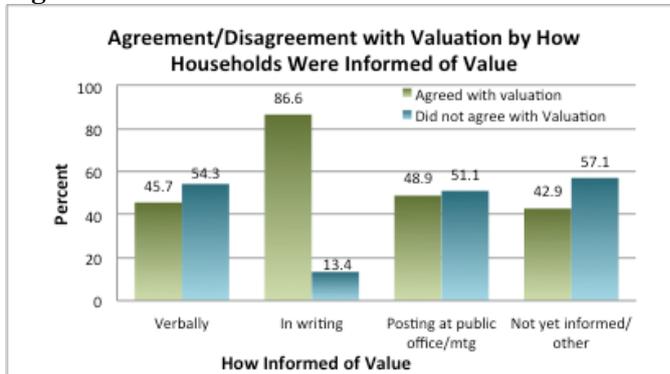


<sup>140</sup> 2007 Expropriation Law, Art. 21-26; Musanze District Officials FGD, Huye District Officials FGD.

<sup>141</sup> Huye District Officials FGD.

or through a meeting or posting at sector offices, households are more likely to disagree with the valuation than agree (Figure 16)

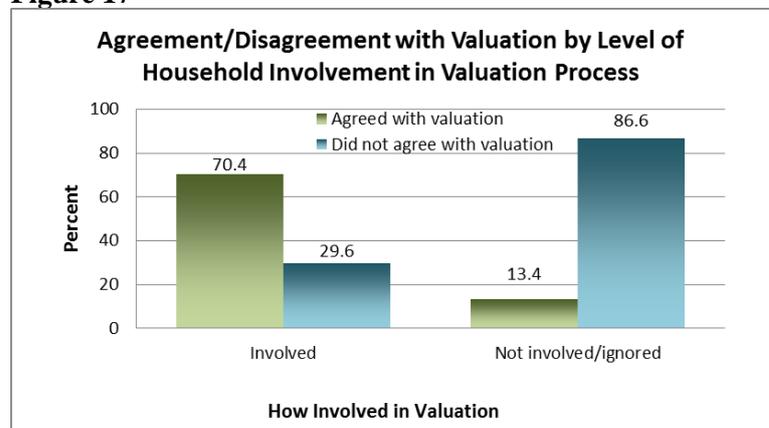
Figure 16



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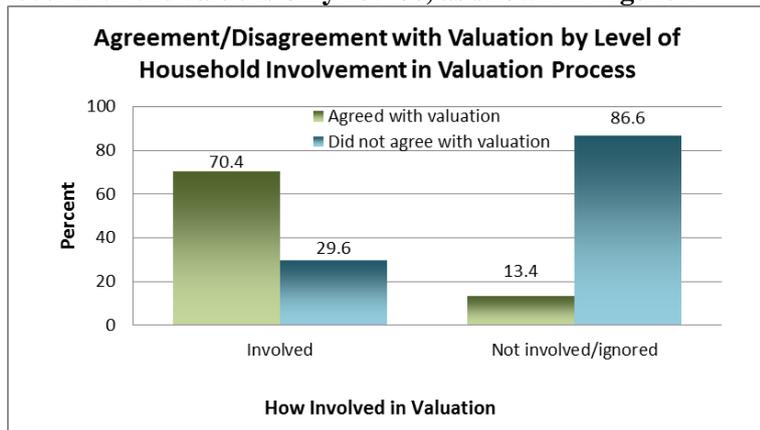
The actual benefit of public participation in the expropriation process is supported by the research as well. According to the Office of the Ombudsman, enhanced public participation is the single most important improvement that needs to be made to the expropriation process.<sup>142</sup> Survey data also reveal that over 70% of expropriated individuals who were involved in the valuation process on their property actually support the final value given to their property,

Figure 17



<sup>142</sup> Ombudsman's Office Interview.

whereas for those who report being present but ignored during the valuation, their satisfaction level with the value is only 13.4%, as shown in Figure 17



. This is strong evidence that enhanced public participation in the expropriation process overall leads to increased satisfaction and support from the population.

Although public notification and participation is critical to minimizing negative experiences of the concerned households, this minimum level of participation has not yet been realized. A representative from IBUKA noted that, “No room is provided to discuss alternatives to expropriation or discuss relocation options in these meetings.”<sup>143</sup> This sentiment was echoed by most other CSO respondents as well. District officials also seem to agree that the involvement of the population in the expropriation process is still lacking.<sup>144</sup> Meetings convened by local leaders typically do not include the possibility of openly discussing the projects. One expropriated individual from Kiyovu noted that communications with local leaders did not include the possibility of discussing alternatives to the project, and that these community meetings “were more for information giving than dialogue.”<sup>145</sup> However, it was noted by some officials that the local population has had a chance to propose the location of some public interests activities such as hospitals and schools in a few discrete cases.<sup>146</sup>

<sup>143</sup> CSO FGD.

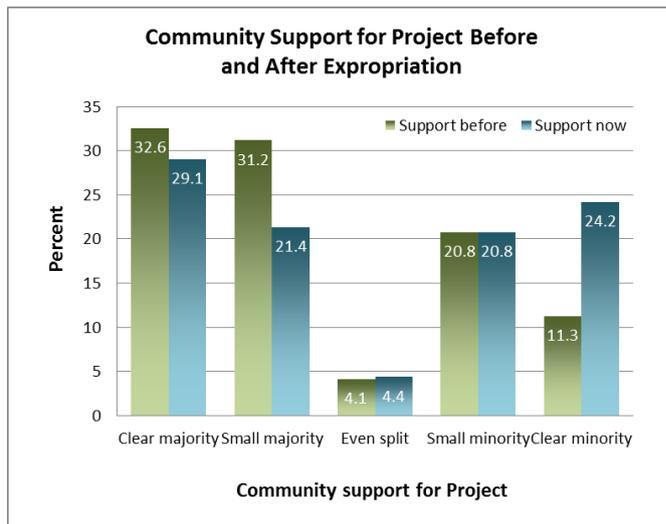
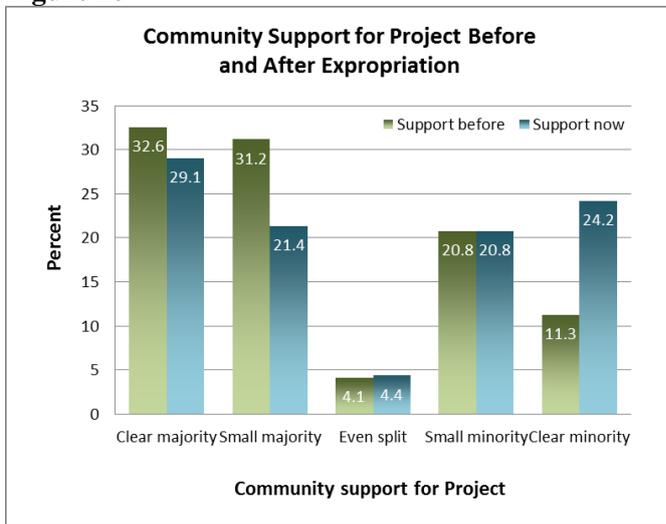
<sup>144</sup> Kigali District Officials FGD. Musanze District Officials FGD. Huye District Officials FGD.

<sup>145</sup> Batsinda FGD, Rubavu FGD; Kigali District Officials FGD.

<sup>146</sup> Kigali District Officials FGD. Musanze District Officials FGD.

**9 Many respondents commented that the lack of notice and participation in the process leads to the population’s resistance to expropriation overall, and also to speculation about expropriation being used to seek private, unlawful gains.<sup>147</sup> Close to 70% of expropriated individuals who attend public meetings about the expropriation note some level of community support for the projects at public meetings that were held prior to the expropriation (Figure 18**

**Figure 18**



). It seems that the reasons for this high level of support are mainly the promises made during the informational meetings on the purported benefits of the project to the concerned community.<sup>148</sup> However, after the project is implemented, support notably wanes, with only about 50% of expropriated people reporting that they observed community support for the project after implementation. Some of the reasons for that decrease in support appear to be the

<sup>147</sup> RTDA interview, Kigali City interview, MINALOC interview, RSSB interview, MININFRA interview, Interview with *Urugaga Imbaraga*, 11/11/2014 (hereinafter “*Urugaga Imbaraga* interview”).

<sup>148</sup> Kigali District Officials FGD, Musanze District Officials FGD, Huye District Officials FGD.

promises made but not kept, the direct versus indirect benefits of the projects, the unmet personal expectations of some of the expropriated people about the upcoming project (e.g., employment), the value assessed to the property being expropriated in comparison to the market price, the delay in receiving compensation, and the prohibition of improvement on the land being expropriated during excessive delays.<sup>149</sup>

However, it seems that meeting attendance does not influence an individual's personal perceptions of the community benefit or public interest of the expropriation project. In fact, among those who did not attend meetings, very little difference is noted in the percentage of support (from 86.2% for those who did attend meetings, to 89.4% for those who did not). While two-thirds of expropriated households are actually attending meetings on the expropriation, these meetings are apparently not serving the appropriate purpose of sensitizing the population to the important aspects of the project. This could be a result of limited consultative opportunities or lack of information provided to the local authorities to actually convey to the affected population.

Although involvement of the public throughout the expropriation process is cited by many government entities and CSOs as one of the fundamental ways to improve the implementation of the expropriation law, a fact which is also supported by the household survey data, it remains unclear to expropriating entities when, where, how, and why to involve the public in the expropriation process. 9 Expropriating entities commonly report little interaction with the concerned communities overall, even stating that expropriating entities have no responsibility to notify the concerned population, but should rather rely on local authorities to do so.<sup>150</sup> While District officials do view this as their role in liaising with the population, without the presence of a representative of the expropriating entity, key information will likely be missing from the meeting agenda, potentially leading to more confusion and anxiety on the part of the individuals to be expropriated.<sup>151</sup>

## 5.2.4 Valuation and Compensation

### 5.2.4.1 Valuation Process and Procedures

Every institution carrying out any project at any level through expropriation is obligated to allocate funds for the valuation of assets of the persons to be expropriated, as well as for the compensation of the individual's losses of property.<sup>152</sup> The properties to be valued for compensation due to expropriation are land and activities carried out on the land, including the growing of crops or trees, the presence of residences or other buildings, and any other activities aimed at the efficient use of the land, such as commercial business operations.<sup>153</sup> The value of the land and the activities thereon shall be calculated considering their size, nature and location, and considering the prevailing market prices.<sup>154</sup> To determine market price, the District Staff in

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<sup>149</sup> *Id.*

<sup>150</sup> RSSB interview, RTDA interview.

<sup>151</sup> Kigali District Officials FGD, Musanze District Officials FGD, Huye District Officials FGD.

<sup>152</sup> 2007 Expropriation Law, Art. 3-4.

<sup>153</sup> 2007 Expropriation Law, Art. 21.

<sup>154</sup> 2007 Expropriation Law, Art. 2.

charge of expropriation (or the independent valuers in areas and projects that have already adopted the practice of using independent valuers) shall calculate the price to be paid by making an average of comparable sales.<sup>155</sup>

From around 2009, the process of valuing property to be expropriated was for local authorities to apply reference land prices set by Ministerial Orders to determine market prices.<sup>156</sup> These reference land prices were set to control for distortion in Rwanda's land market, which could have resulted in overly favorable bargaining power for landowners.<sup>157</sup> However, the reliance on the reference land prices appears to have resulted in some windfalls to expropriating entities, to the detriment of Rwandan landowners, because the reference land prices were created for use by non-professional valuers, and were fixed indefinitely and could not be increased with increases in market prices.<sup>158</sup>

Many government respondents from expropriating and coordinating entities reported that the **influence of reference land prices was diminishing**. Although the Ministerial Orders setting these reference prices had not officially been repealed, most expropriating entities referred to the practice of hiring a professional valuer from the newly-created Institute of Real Property Valuers of Rwanda (IRPV) through an open bidding process to value expropriated property according to market prices.<sup>159</sup> Although the IRPV was not in existence at the time the 2007 Law was written, the practice of using independent valuers has been incorporated into the amended version of the expropriation law.<sup>160</sup>

Expropriated households were asked to comment on the process of valuation of their lands. When asked how they were notified about the valuation process, 59.4% of respondents report being notified verbally, either personally or through a public meeting. 9% of respondents are notified in writing, and only 3.3% of respondents report not yet being notified. However, 28.3% of respondents report never being officially notified about the valuation process to take place on their lands, and only realized valuation was underway only when they noticed valuation officials on their properties ( Table 14). Verbal/meeting notification was most common for airport and stadium projects, where 82.9% of expropriated households were notified verbally or at a public meeting. Dams, public service building projects, and improved housing projects were also predominantly notified verbally or at public meetings (65-75%), at well above the average rate of such verbal notice. Road projects had the highest incidence of written notification, at 12.5%. 62.6% of households expropriated for water and electricity projects reported not being notified of the process of valuation until they found officials or construction workers on their properties without prior notice; 44.1% of households expropriated for business facilities, 31.3%

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<sup>155</sup> Musanze District Officials FGD, Huye District Officials FGD.

<sup>156</sup> Ministerial Order No. 001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and Ministerial Order No.002/16.01 of 26/04/2010 determining the reference Land Prices Outside the Kigali City; *See also* MININFRA interview, interview with Rwanda Natural Resources Authority, 05/11/2014 (hereinafter, "RNRA interview"), Kigali City interview, IRPV interview, MINIRENA interview, REMA interview.

<sup>157</sup> RNRA interview.

<sup>158</sup> CCOAIB interview, REMA interview.

<sup>159</sup> RSSB interview, MININFRA interview, MINIRENA interview, RTDA interview, IRPV interview, Kigali City interview.

<sup>160</sup> Draft Expropriation Law, Art. 23.

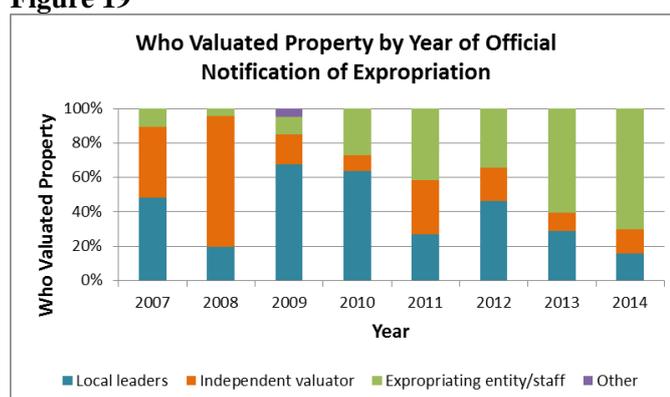
of households expropriated for improved housing settlements, 25.3% of households expropriated for roads, and 23.4% of households expropriated for public service buildings reported the same.

**Table 14**

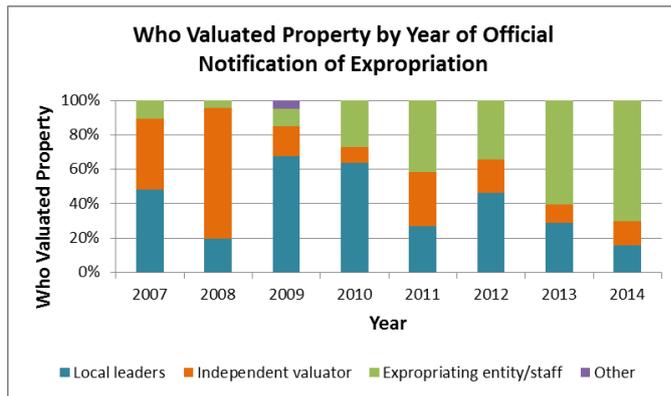
How Households Were Informed of Valuation Process by Project Type						
Project Type	Verbal notification	Written notification	Not yet informed	Started work on land w/o notice	Total %	N <sup>a</sup>
Roads	58.6	12.5	3.7	25.3	100.0	760
Water & electricity	35.4	0.0	2.0	62.6	100.0	99
Dams	71.4	7.9	2.0	18.7	100.0	203
Public service building	73.4	0.0	3.2	23.4	100.0	94
Impr housing/settleme	65.6	3.1	0.0	31.3	100.0	32
Business facilities	48.3	7.6	0.0	44.1	100.0	145
Airport/Stadium	82.9	2.9	8.6	5.7	100.0	35
Other	50.0	0.0	37.5	12.5	100.0	16
Total	59.4	9.0	3.3	28.3	100.0	1,384

<sup>a</sup> $\chi^2 = 195.711$ , Sig < 0.001

**Figure 19**



Those expropriated households notified up to the year 2010 overwhelmingly noted that the valuation was commonly carried out by local authorities (Figure 19)



). From 2011 to the present, approximately one-third of valuations were performed by the local authorities, and an increase in the proportion of valuations carried out by staff of the expropriating entities was noted. A large number of households originally notified of the expropriation of their lands in 2007 and 2008 did report their properties being valued by independent valuers, which seems to be linked to a few large projects notified in those years, but for which valuation was delayed or duplicated to include independent valuers at a later time. Although a major shift to valuation performed by independent valuers was not actually reported by expropriated households, it is possible that expropriated households may have mistakenly believed that independent valuers were from the expropriating entity, or that because the independent valuer and the staff of the expropriating entity came to the expropriated land together. This assumption is also supported by allegations of the independent valuers that they receive significant pressures from expropriating entities to keep values artificially low.

In valuing land based on market prices, the IRPV reports that its valuers value land by comparing approximately five recent sales in the nearby geographic area, and then use an average of those sales to set a market land price per square meter. IRPV valuers also set standard values for construction materials used in houses and other buildings, and factor in depreciation and any income resulting from the property in order to value improvements on the land. However, with regard to valuing construction materials, most districts reported that they use prices issued by the Ministry of Infrastructure (MININFRA).<sup>161</sup> Valuers are also able to use comparable sales to value certain income-generating assets on land, such as trees or crops. Public entities that engage in or oversee the process of expropriation corroborated many of these valuation procedures as reported by the IRPV.<sup>162</sup>

<sup>161</sup> FGDs held in Kigali with District Officials from Gasabo, Nyarugenge, Kicukiro, Rwamagana and Kayonza Districts on 05 June 2015 at Hill Top Hotel. FGDs held in Musanze with District Officials from Musanze, Burera and Gakenke Districts on 04 June 2015 at *Centre d'Accueil Notre Dame de Fatima*. FGDs held in Huye with District Officials from Nyamagabe, Nyamasheke, Rusizi, Ngororero and Nyaruguru Districts on 03 June 2015 at 4 Steps Hotel.

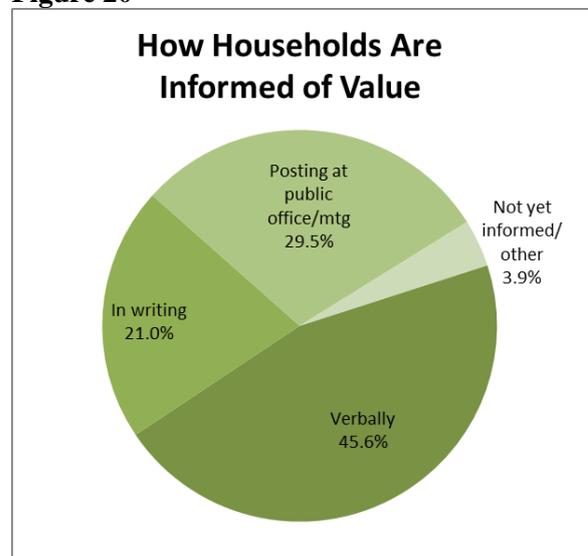
<sup>162</sup> MINALOC interview, MININFRA interview, MINIRENA interview, RTDA interview.

While many government entities do recognize some problems with the valuation process as it has been carried out under the 2007 Expropriation Law, many pointed to the creation of the IRPV as the main solution to valuation-related complaints. Despite the pending shift to using IRPV valuers, CSOs and expropriated individuals did not express optimism that the valuation process would improve with this change. Some Bugesera residents reported negative experiences with valuations performed by independent valuers, including contradictions in prices used by valuers from the same company.<sup>163</sup> Furthermore, IRPV cited pressure exerted on independent valuers from some expropriating entities which seems to have led some valuers to match the prices with the wishes of the expropriating entity instead of basing the values on the actual market prices as a way of saving threatened contracts and appeasing the expropriator for future contracts. Nonetheless, many of the respondents from government entities cited the shift to property valuation based on market prices as determined by the IRPV as a critical positive step toward improving the fairness of the valuation exercise in expropriation projects.<sup>164</sup>

When asked about how they were informed of the value given to their lands, almost half of expropriated households (44.6%) report being notified of the value verbally. 20.6% report being notified in writing, and 28.9% report being notified through a public posting at Sector or Cell offices (Figure 20).

Discussions with district officials also revealed inconsistencies in the use of independent valuers, especially with regard to District-initiated expropriation projects: some Districts have opted to use independent valuers, while other Districts are still using District staff (District land and/or infrastructure officers or District agronomist officers) to do valuation. Some Districts set their own land prices through the District Advisory Council, which are used in the valuation process.<sup>165</sup> **10 In these Districts, even when professional valuers are hired, they**

**Figure 20**



**are required to base their valuations on these locally-set prices. Some Districts use independent valuers on large projects and District staff on small projects (those involving a few individuals or households to be expropriated, using a relatively small budget).<sup>166</sup>**

The process of engaging independent valuers to assess property values is still a relatively new and *ad hoc* procedure in Rwanda, and the laws on the IRPV and the reference land prices are pending harmonization with the new draft version of the expropriation law, still awaiting

<sup>163</sup> Bugesera FGD.

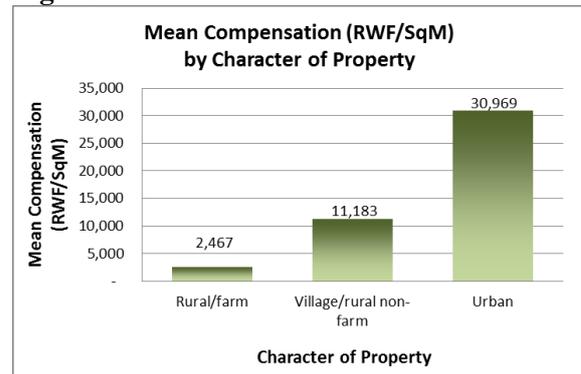
<sup>164</sup> Kigali City interview, IRPV interview, MININFRA interview, REMA IRDP interview.

<sup>165</sup> FGD held in Kigali with District Officials from Gasabo, Nyarugenge, Kicukiro, Rwamagana and Kayonza Districts on 05 June 2015 at Hill Top Hotel.

<sup>166</sup> FGD held in Huye with District Officials from Nyamagabe, Nyamasheke, Rusizi, Ngororero and Nyaruguru Districts on 03 June 2015 at Four Steps Hotel.

publication.<sup>167</sup> Given that the amended expropriation law is not yet adopted, and that the current law does not formally incorporate independent valuers, the effects of using independent valuers cannot yet be comprehensively measured. However, at least in Kigali City, the Mayor noted a decline in the number of complaints over valuation of land from the time the practice of using independent valuers commenced.<sup>168</sup> This seems corroborated by data obtained in the household survey where expropriated individuals reported greater satisfaction with the outcome of valuation when they are given a written report of the valuation.

**Figure 21**



While incorporation of the IRPV in the process of valuation should address many valuation-related concerns, the continued reliance on reference land prices and prices set by District Advisory Councils may be problematic. Reference land prices can be an important tool to fight against official corruption and external pressure on valuers, but may also be effected at the expense of expropriated households, who face severe hardships when their property is valued too low. The new reference land prices are meant to be set by the IRPV and updated at least yearly to ensure continuous alignment with the market prices of land.<sup>169</sup> No respondents commented on how these new reference land prices would avoid any of the problems associated with the use of reference land prices under the former regulatory regime. IRPV also noted serious budgetary and institutional constraints that may prevent it from developing the reference market land prices in a timely and accurate way.

#### 5.2.4.1.1 Accuracy of values and satisfaction of the population with valuation

Among all respondents to semi-structured interviews, open-ended survey questions, and focus group discussions, valuation was the single most commonly discussed topic. When expropriated households were asked a simple open-ended question about whether any changes were needed to the expropriation process, over one-third of their responses related to the fairness in the process of valuation of land. Among respondents from the expropriating entities and government agencies whose role is to receive complaints about the expropriation process, complaints about unfair valuation are the most commonly cited type of complaint.<sup>170</sup> 11 The reasons given by the respondents for the high number of complaints relating to valuation of land range from a general resistance of the population to expropriation, to valuation prices (especially

<sup>167</sup> Kigali City interview. See also letter dated 18<sup>th</sup> June 2014 of the Minister of Natural Resources responding to the letter dated 30<sup>th</sup> May 2014 of the Permanent Secretary/MININFRA seeking advice about the contradictions between the 2007 expropriation law and the Ministerial Orders (001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and 002/16.01 of 26/04/2010 determining the reference Land Prices Outside Kigali City).

<sup>168</sup> Kigali City interview.

<sup>169</sup> Draft Expropriation Law, Art. 23.

<sup>170</sup> MININFRA interview, MINIRENA interview, RSSB interview, RTDA interview, IRPV interview, interview with Agency for Cooperation and Research in Development, 13/11/2014 (hereinafter “ACORD interview”), CCOAIB interview, IRDP interview, Interview with RCAA, 28/05/2015 (hereinafter “RCAA interview”), MINALOC interview, Ombudsman’s Office interview.

for land) that hardly allow the expropriated individual/household to purchase similar land at the same price, to omission of some of the individuals' properties/assets in the valuation process, to incompetence or mistakes committed by property valuers, to corruption by local authorities, expropriating entities, valuers, or investors, or a combination of some or all of these complaints.

Given the historic adherence to reference land prices, the data on the price per square meter paid for expropriated land might be expected to correlate closely to the character of the land (urban, rural/non-farm, rural). Based on reports of expropriated households, shown in Figure 21, urban lands are valued at approximately 31,000 RWF per square meter, rural/non-farm land at 11,000 RWF per square meter, and rural farmland at 2,500 RWF per square meter.

While these variations in price make sense given real estate market dynamics, the survey data also show unexpected discrepancies in the price per square meter of land when considering the expropriating institution and the type of project.

Among the expropriating institutions, the mean price per square meter paid by private investors is over 16,000 RWF, while the central government pays approximately 12,000 RWF per square meter, and other state agencies pay just under 10,000 RWF per square meter (Figure 22

Figure 23

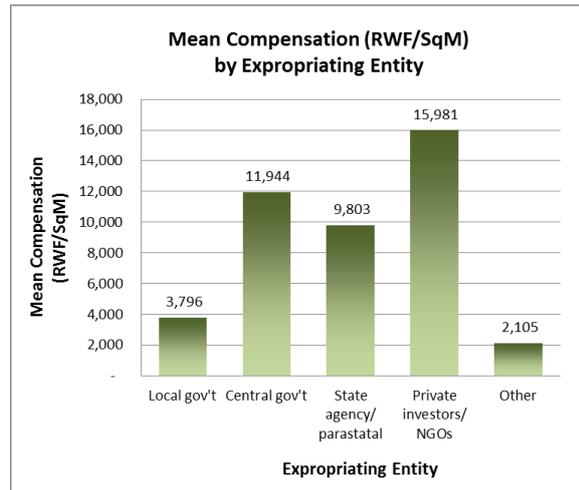
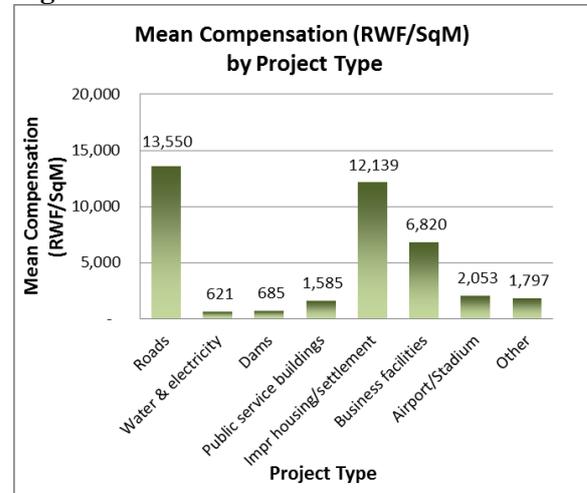
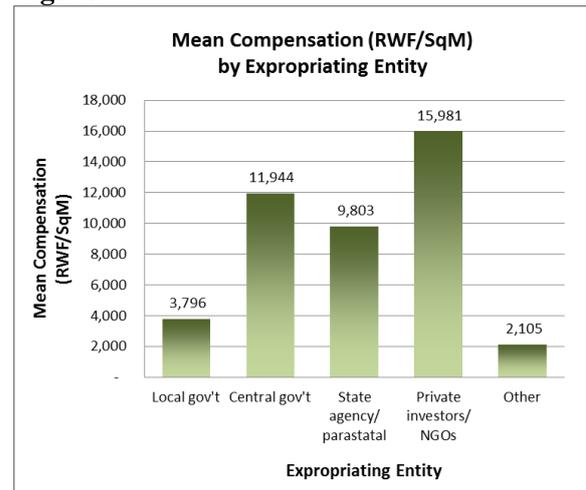


Figure 22



). Local government authorities pay less than 4,000 RWF per square meter, most likely due to continued reliance on the locally-set reference land prices and lack of sufficient budgets to carry out costly projects.<sup>171</sup> Compensation per square meter is similarly associated with urban/rural character of the land, which will be discussed amongst other variables in an analysis of variance (ANOVA) later in this section.

<sup>171</sup> Musanze District Officials FGD.

The value per square meter of property also varies considerably based on the type of project carried out. The value is highest for roads and improved housing/settlements (Figure 23). Road projects are implemented by central governments, while improved housing/settlement project are implemented by state agencies/parastatals and private investors/NGOs, so these effects seem to be correlated. Road projects, for example, tend to pay about six times more per square meter than do the airport and stadium projects. Projects to improve housing or create housing settlements pay almost as highly as roads, but projects for public service buildings pay about eight times less.

However, when these factors are run through a multivariate analysis of variance (ANOVA) model to determine the actual effects of factors and covariates on the value of the land per square meter, the character of the land can be controlled for, given the assumption that the location or character of the land—rural/urban—is likely to have a large influence on the price per square meter.

**Table 15**

<b>ANOVA Multiple Classification Analysis (MCA) Estimating Mean RWF/SqM Paid in Compensation Controlling for Selected Factors and Covariates</b>					
<b>Predicted Mean Compensation Paid (RWF/SqM)</b>					
<b>Factors</b>	<b>Unadjusted</b>	<b>Adjusted for</b>		<b>N<sup>1</sup></b>	<b>Sig.</b>
		<b>Factors</b>	<b>Covariates<sup>a</sup></b>		
<b>Project Type</b>					<0.001
Roads	13,583	10,072	9,733	430	
Water & electricity	621	4,744	4,292	54	
Dams	685	3,185	3,505	172	
Public service buildings	1,585	8,502	9,438	88	
Impr housing/settlement	12,303	7,834	7,992	27	
Business facilities	6,820	9,054	8,982	132	
Airport/Stadium	2,053	1,785	3,145	24	
Other	1,797	9,573	10,072	10	
<b>Expropriating Entity</b>					<0.001
Local government	3,796	3,997	3,998	342	
Central government	11,944	13,420	13,517	122	
State agencies/parastatals	9,803	9,610	9,608	440	
Private investors/NGOs	15,981	6,303	5,906	22	
Other	2,105	5,754	5,557	13	
<b>Character of Expropriated Property</b>					<0.001
Rural/farm	2,471	3,329	3,417	623	
Village/rural non-farm	11,183	9,787	9,611	196	
Urban	31,065	28,883	28,713	119	

<sup>a</sup>Covariates = Property lost in expropriation (Ha)

<sup>1</sup>Includes only households that have been fully or partially compensated

**presents three columns of means for RWF paid per square meter to expropriated households in Rwanda. The first column presents the unadjusted means for each of the three factors in the equation (project type, expropriating entity and character of the property). These are the simple means discussed above, showing the prices when other factors or covariates are not controlled for.**

The second column presents the estimated means controlling for the other factors in the model, but not the covariates. The one covariate tested here is the amount of property lost in the expropriation. As shown in Table 15

<b>ANOVA Multiple Classification Analysis (MCA) Estimating Mean RWF/SqM Paid in Compensation Controlling for Selected Factors and Covariates</b>					
<b>Predicted Mean Compensation Paid (RWF/SqM)</b>					
<b>Factors</b>	<b>Unadjusted</b>	<b>Adjusted for Factors</b>	<b>Adjusted for Factors and Covariates<sup>a</sup></b>	<b>N<sup>1</sup></b>	<b>Sig.</b>
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<sup>a</sup>Covariates = Property lost in expropriation (Ha)

<sup>1</sup>Includes only households that have been fully or partially compensated

, the amount of property lost, specifically when it is a small percentage of the expropriated household's total holdings, appears to be correlated with lack of notice, and even lack of compensation in some cases. The third column in the table shows the value paid per square meter of land by each category of project, expropriating entity, and the character of property, after adjusting for any covariates in the model. As noted in the table footnote, the model includes the amount of land lost (in hectares) to control for the possibility that smaller expropriations are compensated at a lower rate than larger holdings as some households had reported only nominal compensation, or none at all for small amounts of land use for the installation of electrical lines.

In examining how the means change as factors and covariates are taken into account, this table shows first of all the considerable interaction and interdependence among the three factors. When controlling for factors, especially the character (or location) of the expropriated property, the price paid per square meter for water and electricity projects and dam projects rises substantially from around 600-700 RWF/M<sup>2</sup> to the 3,500-4,500 RWF range, as does the price paid for land expropriated to erect public service buildings, which rises from 1,585 to 9,438 RWF/M<sup>2</sup>. Nonetheless, the price per square meter paid for dam projects and airport and stadium

projects remains quite low, relative to other projects, even when controlling for character of land (likely predominantly rural for these types of projects), expropriating entity and size of the expropriation.

Another interesting aspect of this model is that it shows the change in relative price paid by private investors when controlling for factors and covariates. Based on initial interviews, the assumption had been that private investors were the best-paying expropriating entities, and the first column with no controlling for other variables supports this assumption. However, a significant drop in the relative price paid by private investors is observed once controlling for the rural-urban character of property, which is likely due to the high concentration of private investment projects in urban areas. In fact, the central government emerges as the best-paying entity, and other state agencies/parastatals pay about 50% more than private investors on average when the effects of other factors and covariates are held constant. All else equal, local government entities remain among the lowest-paying institutions.

**Table 15**

<b>ANOVA Multiple Classification Analysis (MCA) Estimating Mean RWF/SqM Paid in Compensation Controlling for Selected Factors and Covariates</b>					
<b>Predicted Mean Compensation Paid (RWF/SqM)</b>					
<b>Factors</b>	<b>Unadjusted</b>	<b>Adjusted for Factors</b>	<b>Adjusted for Factors and Covariates<sup>a</sup></b>	<b>N<sup>1</sup></b>	<b>Sig.</b>
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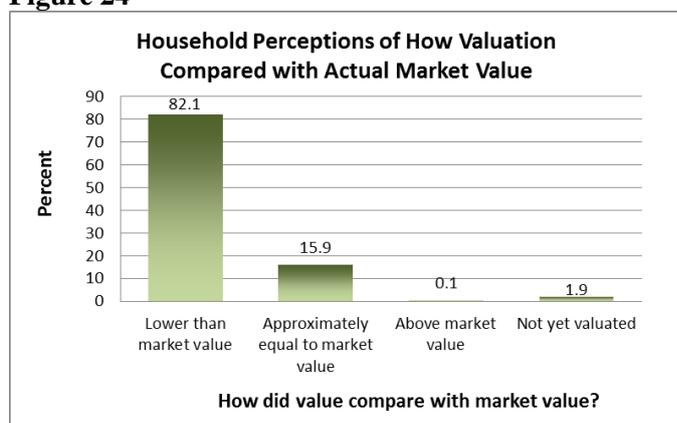
<sup>a</sup>Covariates = Property lost in expropriation (Ha)

<sup>1</sup>Includes only households that have been fully or partially compensated

11 From the perspective of expropriated households, over 80% report the valuation of their property as lower than what they assumed the market value of their properties to be. Only 0.1% of expropriated people report that their property was valued above market value (Figure 24). District officials explain these discrepancies by citing their obligation to apply reference land prices, which was more likely to render valuation at below market price.<sup>172</sup>

The District officials who participated in FGDs seemed aware that compensation for expropriated property was frequently below the market value. They identified a number of reasons, including lack of a sufficient budgets for their projects. This may have caused a

**Figure 24**



tendency to simply align the value of property to the available budget. Also, some of the projects are not planned in the Districts' five year plans, and sometimes projects come from the central government with extreme urgency and require expropriations in order to carry them out. Another factor that explains low valuation is the rushed implementation of Master Plans in cities and towns, many of which are tied to the District performance contracts. In short, with

limited budgets but high pressure to develop blighted, wasted, or even semi-developed land, and to achieve District goals and *imihigo*, the rights of expropriated people are vulnerable to being violated.

11 In addition to the fact that over 80% of expropriated households report valuation of their property is below market value, the survey data show that only 6% of expropriated households actually appeal or request counter-valuation of their properties. CSOs frequently noted that expropriated individuals who would like to seek a counter-valuation of their properties need government assistance because the cost is prohibitive,<sup>173</sup> and some expropriated individuals indicate that the cost of a counter-valuation is roughly the same price at which their entire plots are valued.<sup>174</sup> Some residents of Bugesera also noted that they did not know about the appeal process and were never informed of their right to challenge the valuation through appeal or counter-valuation; some claim they were forced to sign valuation reports on their properties, whether or not they agreed with the process or the value.<sup>175</sup>

IRPV has reported that in its procedure, a contested valuation usually results first in a re-valuation of the property by the same valuer. If no mistakes or discrepancies are reported between the initial report and the re-valuation, the IRPV recommends that the individual seek a

<sup>172</sup> Huye District Officials FGD.

<sup>173</sup> CSO FGD.

<sup>174</sup> Bugesera FGD, Batsinda FGD.

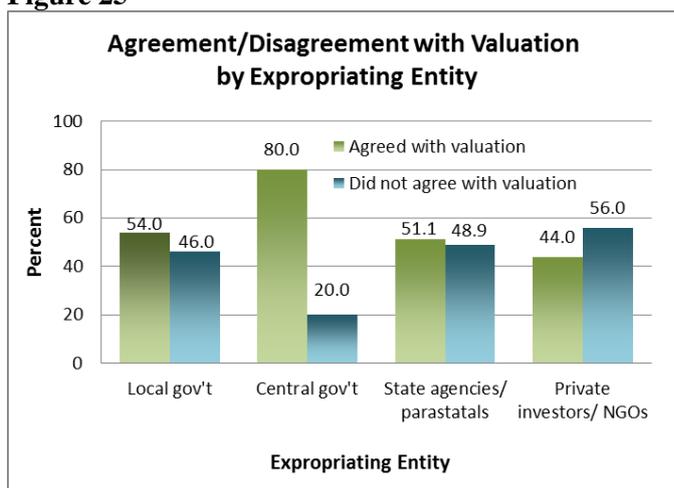
<sup>175</sup> Bugesera FGD.

counter-valuation by a different valuer.<sup>176</sup> An appeal is the last step if none of these intermediate steps can resolve the dispute over the value of the property. Local authorities also report trying to mediate disputes when the expropriated individual does not approve of the valuation but cannot afford a counter-valuation.<sup>177</sup>

Most government entities and expropriating entities explained that valuation, especially now that it is seen to be the responsibility of the independent valuers, is a process outside of their own control. These government and expropriating entities do, however, note their own obligation to cross-check the values submitted by valuers by looking for errors or discrepancies in the valuation reports.<sup>178</sup> Expropriating entities expect local authorities to take the lead role in mediating disputes between valuers and landowners over the value of land, and at most they will recommend that expropriated individuals seek a counter-valuation (*contre-expertise*) of the property if they are unhappy with the value provided.<sup>179</sup> MININFRA, however, cited a concern that counter-valuation would lead to delays, suggesting perhaps that it would discourage individuals from using the process.<sup>180</sup>

Some CSOs reported mixed experiences among their members and clients between expropriations done by private investors and those done by government entities. Haguruka even reported clients exclaiming “*Vive l’expropriation!*” after being expropriated and compensated by a private investor, and reported receiving generally positive reports from individuals expropriated by investors.<sup>181</sup> This was also inversely echoed by expropriated people in Batsinda, who compared their situation with that of the people expropriated in Rugando, where the Convention Center is currently under construction.<sup>182</sup> In comparison with those individuals

**Figure 25**



expropriated by an investor in Rugando, the expropriated people in Batsinda complained that the former were expropriated at good (market) price, while they had the misfortune of being expropriated at a low price by the government. A majority of CSOs interviewed also recommended that investors be required to negotiate compensation prices directly with the individuals being expropriated.<sup>183</sup> An official from REMA, speaking in his

<sup>176</sup>Bugesera FGD, Batsinda FGD (broadly indicating that expropriated individuals believed counter-valuation was fruitless or prohibitively expensive).

<sup>177</sup> Kigali District Officials FGD, Huye District Officials FGD.

<sup>178</sup> RTDA interview, MINALOC interview, RSSB interview, RCAA interview, interview with Rwanda Housing Authority, 26/05/2015 (hereinafter “RHA interview”).

<sup>179</sup> Kigali City interview, MINIRENA interview, RSSB interview.

<sup>180</sup> MININFRA interview.

<sup>181</sup> CSO FGD.

<sup>182</sup>Bugesera FGD, Batsinda FGD.

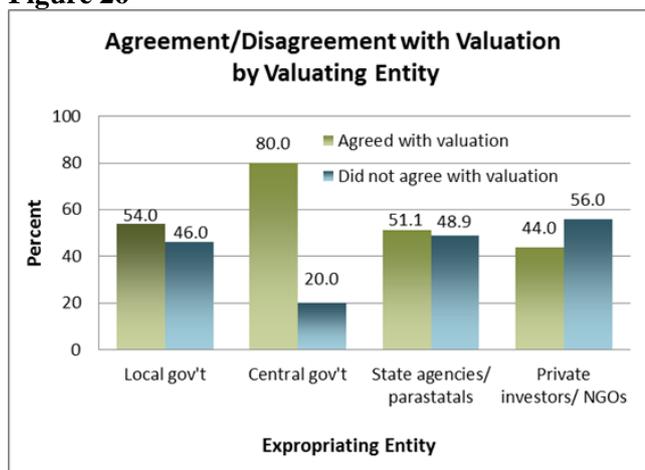
<sup>183</sup> See CSO FGD.

personal capacity, likewise supported this proposed approach.<sup>184</sup>

Despite anecdotal reports of high satisfaction with projects carried out by private investors, and reportedly high values of land expropriated by private investors, the relative values paid by private investors were not actually high comparing to other projects, as noted from the analysis of variance above. Among households expropriated by private investors, approximately 56% disagree with the valuation given. In fact, on average 44.8% of households disagree with the valuation of the property, and when viewed by institution (Figure 25), the data actually show that private investors garner the highest rate of dissatisfaction with property values. Local government agencies and state agencies/parastatals receive slightly more agreement than disagreement, and central government projects receive 80% agreement with valuations, by far the highest agreement rate of any expropriating entity.

These reports of agreement by expropriating entity show unexpected dissatisfaction with private investor values, compared with the qualitative reports of expropriated people and CSOs who tout the process when private investors are involved. This may be due to unreasonably high expectations of expropriated people when they become aware that a private investor is expropriating their property, and also because expropriated people may try to hold out intentionally to raise the price when a private investor is expropriating, as opposed to a government entity, when such tactics may actually be more likely to be successful. Furthermore, although almost all households believe their property is valued below market value, the rates of agreement/disagreement with the valuation are likely more a reflection whether households essentially accepted to go along with the process, sign the valuation report, and not appeal or counter-valuate the property, rather than repeating the question of whether they believed the value was above or below market rates.

**Figure 26**



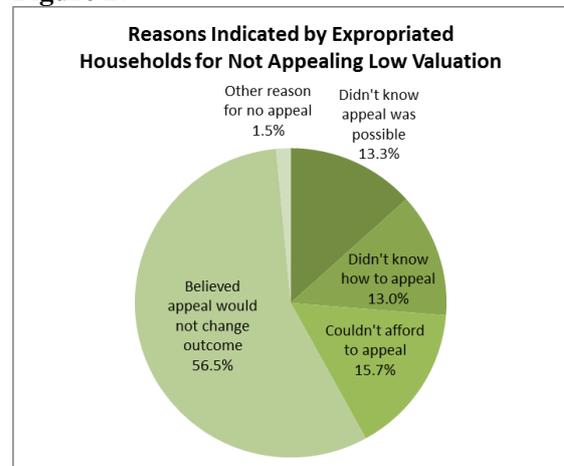
In line with the notion of the fairness of the process and the household's willingness to accept the valuation, household agreement/disagreement with valuation is also assessed based on the household's perception of the entity conducting the valuation (**Error! Reference source not found.**). At 66.1%, local leaders are actually the most likely group to achieve agreement with their valuations. They are followed by independent valuers, who show slightly more agreement than disagreement with their valuations. By contrast, when the valuation is conducted by an individual perceived to be one of the staff members of the expropriating entity (or possibly an independent valuer accompanied by a staff member of the expropriating entity), the result is the least acceptable to the affected households. This may be caused by the perceived level of trust that expropriated individuals have with these various institutions—local leaders whom they

<sup>184</sup> REMA interview.

know well and tend to trust, or independent valuers who are unknown to them and are possibly accompanied by staff of the expropriating entities, whom people may perceive to have a motive to keep the value low.

When expropriated individuals who reported dissatisfaction with the valuation are asked for their reasons for not appealing the value, most people (57%) report that they do not appeal because they believe the appeal will not change the outcome (Figure 27). Another significant segment of dissatisfied households (over 20%) state that they have no information about the appeals process or do not know an appeal is even possible. An additional 15.7% of households who do not appeal unsatisfactory valuations report that they cannot afford to appeal. The experience of District officials seems to corroborate expropriated individuals' claims of being unaware of the appeals process because many District officials reported that they did not actually receive many complaints related to expropriation at all.<sup>185</sup>

**Figure 27**



When analyzing the factors influencing whether a household appeals or not, among the small fraction who do appeal, only 10.2% are female-headed households, whereas women head 27.2% of expropriated households represented in the survey. Furthermore, although only 15% of households are required to relocate as a result of expropriation, relocated households represent 22.4% of all households that appeal (see Table 16).

#### 5.2.4.1.2 Possible corruption concerns

Respondents to semi-structured interviews identified **serious weaknesses in valuation procedures, primarily due to a lack of (or an excess of) oversight in the valuation process, and also due to poor coordination in valuing property,** causing resistance and additional complaints from expropriated individuals.<sup>186</sup> In particular, they identify the relationship between local authorities, valuers, and the population as a point of vulnerability for potential corruption and abuse of power. However, it is not entirely clear how these dynamics actually influence the process: some CSOs accuse local authorities of over- or under-valuing properties for private gain, and MINALOC and RSSB note the possibility of local authorities conspiring with property owners to inflate property values with the objective of retaining the additional funds for themselves.

<sup>185</sup> Musanze District Officials FGD.

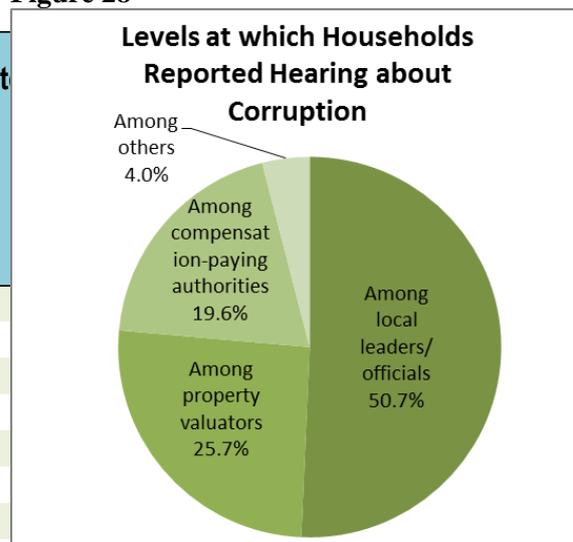
<sup>186</sup> See MININFRA interview, MINIRENA interview, RSSB interview, RTDA interview, IRPV interview, ACORD interview, CCOAIB interview, IRDP interview.

From the perspective of expropriated households, about 20% report hearing of corruption in the process, primarily from local leaders, and also from property valuers (Figure 28). One possible explanation for this is that valuations carried out

**Table 16**

Appeal of Valuation by Selected Characteristics		Appealed or counter-valuated %	
<b>Gender of Head of HH</b>			
Male		89.8	
Female		10.2	
Total		100.0	
<b>Age Group</b>			
1 <= 35		32.7	
2 36 - 50		26.5	
3 51 - 65		38.8	36.4
4 66+		2.0	11.3
Total		100.0	100.0
<b>Education of head of HH</b> 0.205			
Primary incomplete		40.8	51.8
Primary complete		51.0	38.9
Secondary/technical		2.0	5.6
University and above		6.1	3.7
Total		100.0	100.0
<b>Residential relocation</b> 0.434			
HH did not relocate residence		77.6	79.5
HH relocated residence		22.4	20.5
Total		100.0	100.0
<b>N (compensated HHs)</b>		<b>49</b>	<b>736</b>

**Figure 28**



\*Includes only households that have been fully or partially compensated

by District officials may not be impartial given that these local authorities are aware of and responsible for keeping the projects on budget, but lack the authority to address and correct valuation and compensation concerns as they arise.<sup>187</sup>

The story of one resident of Rusizi District highlights the potential pitfalls in the valuation process and the possibility for continued uncertainty unless the IRPV's authority and legal basis for valuing land is clarified. This Rusizi resident requested a loan from a bank, using real property as collateral. In January 2014, the bank sent a certified property valuer registered with the IRPV to value the property, which was a commercial building. The certified valuer assessed the building at a total value of 28.8m RWF. Based on the market value that was given on the property, the applicant was given a loan in the amount of 30.0m RWF.

<sup>187</sup> Huye District Officials FGD.

In May 2014, this same commercial building was identified as a property to be expropriated due to road construction. Just five months after the initial independent valuation, the independent valuers determining values for the road construction project gave this same property a value of 12m RWF, a more than 50% reduction over the previously assessed value. When the land owner attempted to appeal the valuation based on the evidence of the previous valuation prepared by an independent and certified valuer, he was threatened by the local authorities that if he continued to pursue appeal, he would receive even less than the 12m RWF offered to him. The land owner subsequently accepted the 12m RWF, but now struggles to pay back the bank loan with the minimal proceeds provided in the expropriation.

**11 Valuation of property in Rwanda is admittedly complicated by the fact that the Rwandan real estate market is comparatively one of the smallest in the world. This makes determination of fair market value difficult in many cases. Furthermore, the profession of property valuation is relatively young in Rwanda, and was only legally created in 2010.**<sup>188</sup> Given the fact that the Government of Rwanda will undoubtedly be the IRPV's largest client, such an ongoing economic relationship complicated by regulatory constraints does cause concern over whether individuals will be able to obtain "fair market value" appraisals of their land when they are being expropriated.

The IRPV has lamented the influence of some expropriating entities on the professional and technical work of valuers, reporting that expropriating entities sometimes put pressure on valuers to drive prices down and have even terminated contracts with valuers based on dissatisfaction with their reported valuations.<sup>189</sup> Furthermore, IRPV reported that some expropriating entities still expect valuations to align with the reference land prices rather than with current market prices, which is both unrealistic and incorrect. Because reference land prices were mainly intended for use by local authorities valuating land on an *ad hoc* basis, the continued use of the outdated reference land prices can create incentives to engage in corruption, whereby local authorities valuing land with little oversight or experience can misstate land prices or plot dimensions for their own benefit, or extort landowners or investors.<sup>190</sup> A clear determination of exactly which institutions should have which roles in the process of determining fair market value of property must be swiftly settled in order to mitigate the frequency of such disputes in the future.

Regarding the potential for over-valuation, the Rwanda Social Security Board (RSSB) expressed a concern that property owners may lie about their assets in order to inflate the value of the property.<sup>191</sup> MININFRA is similarly concerned that valuers and local authorities are occasionally over-valuing property or reporting incorrect boundaries on land for private gain. Some local leaders and valuers reportedly go to the extent of falsifying and valuing ghost properties/assets; some local leaders have even been taken to court for such irregularities.<sup>192</sup>

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<sup>188</sup> Law N. 17/2010 of 12/05/2010 establishing and organizing the real property valuation profession in Rwanda.

<sup>189</sup> IRPV interview.

<sup>190</sup> Urugaga Imbaraga interview, MININFRA interview, CCOAIB interview, RSSB interview.

<sup>191</sup> Also corroborated by MININFRA interview and CSO FGD.

<sup>192</sup> MININFRA interview.

This was reflected in the qualitative data, wherein among expropriated households that reported hearing of corruption, 76.4% were directed toward local leaders and valuers.

#### 5.2.4.2 Compensation

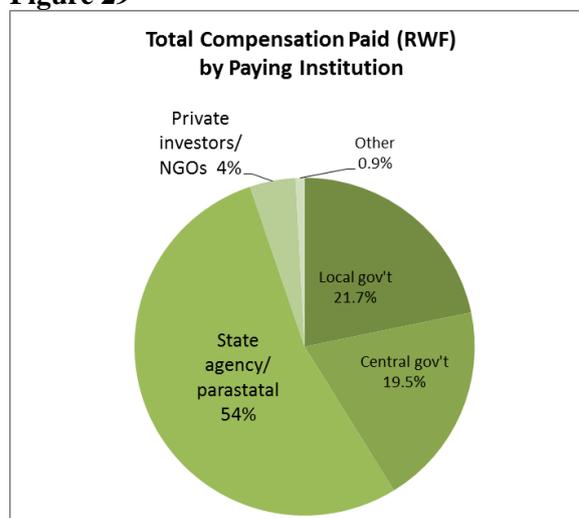
Compensation as approved by the Land Commission is required to be paid to the expropriated household within 120 days of the date of approval of the valuation.<sup>193</sup> If the compensation is not paid within 120 days, the expropriation may be invalidated, unless the expropriating entity and the individual make a private agreement to settle the matter.<sup>194</sup> Respecting this 120-day period can be a challenge for local authorities, who are frequently unable to follow the required timeline, particularly when projects commence without first allocating the necessary budget for compensation.<sup>195</sup> Nonetheless, expropriated individuals are typically not aware of their right to void the expropriation upon the end of the 120-day period, and the authorities do not take the initiative to invalidate the expropriation on these grounds.<sup>196</sup>

Of all compensation monies paid out for expropriations, state agencies/parastatals pay 54% of that total, local government entities pay 21.7%, and the central government pays 19.5% (Figure 29). Expropriations carried out by private investors account for 4% of the total compensation paid out for all expropriations nationwide.

##### 5.2.4.2.1 Delays in compensation

In addition to being the second most frequently mentioned topic in semi-structured interviews and Focus Group Discussions (after valuation), compensation is also frequently mentioned by respondents in response to an open-ended question in the household survey,<sup>197</sup> and one-third of the recommendations for changes to the expropriation process relate to the payment of compensation. The major concern with compensation in expropriation projects, expressed by all respondents, is the delay in payment of compensation once valuation has been completed. When asked about various benefits and drawbacks in the expropriation process, respondents rank “quick compensation” as the first on a list of promises made (but not kept) by expropriating entities. A frequently-cited reason given by government and CSO respondents for the delay in paying compensation is poor planning and insufficient allocation of funds at the planning stage. According to government respondents,

Figure 29



<sup>193</sup> 2007 Expropriation Law, Art. 24.

<sup>194</sup> *Id.*

<sup>195</sup> Kigali District Officials FGD, Huye District Officials FGD.

<sup>196</sup> Kigali District Officials FGD, Huye District Officials FGD.

<sup>197</sup> The open-ended question posed was phrased as follows: “Considering the many topics we have covered in this survey, are there particular changes you would like to see in the expropriation process, in particular changes that could potentially benefit households affected by expropriation?”

poor planning generally refers to the notion that adequate funds for compensation are not secured by the expropriating entity ahead of time, or the budgeting process for the project does not properly estimate the actual costs of the project, such as increasing market prices and any improvements on land to be expropriated.<sup>198</sup> Furthermore, as long as the expropriated individual is still waiting for payment, he or she has right to cultivate and harvest crops on his or her land,<sup>199</sup> but when projects are delayed excessively, the expropriated population suffers and unnecessarily loses the chance to cultivate crops due to a common interpretation of the expropriation law prohibiting households to be expropriated from planting crops after the notification of the expropriation.<sup>200</sup>

Quantitative data show that expropriated households report delays in receiving compensation ranging from 5 months up to 42 months ( Table 17).<sup>201</sup> The average delay for households fully compensated at the time the survey was performed was 16 months. Variation in delays can also be noted by project type and the institution paying the compensation: expropriated households report an average delay of 14 months when the projects are carried out by local government entities, 16-month delays from other state agencies, and 24-month delays from the central government. Projects carried out by private investors have an average delay of just 5 months. Notably, the delay for those households receiving only part of the compensation they are owed from the central government is an average delay of 42 months.

When delays are analyzed by character of land, project type, and expropriating entities, and then controlled by factors and covariates, patterns emerge. The first column in the above table shows the unadjusted months of delay by project type, expropriating entity, and character of the land. At first glance, it appears that private investors pay quickly relative to all other expropriating entities. The second column shows the delays when controlling for the other factors shown in the table, which lowers the delays for public service buildings, but doubles delays for private investors. When adjusted for factors and the covariate of property lost in the expropriation (as explained in Table 17 above), most delay periods move close to the average, although state agencies/parastatals show lower wait times when compared with other expropriating entities, and public service buildings, housing settlements, business facilities, and airport/stadium projects are notably lower than other project types. The permissible delay of 4 months is not met by any entity or project type<sup>202</sup> for any character of land.

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<sup>198</sup> RSSB interview, IRPV interview, Kigali City interview, MINALOC interview, MININFRA interview, Ombudsman's Office interview, REMA interview, RTDA interview.

<sup>199</sup> 2007 Expropriation Law, Art. 24.

<sup>200</sup> Huye District Officials FGD.

<sup>201</sup> Some individuals in Bugesera still on their lands awaiting compensation did report that their neighbors who had vacated their lands in order to receive replacement land were still awaiting the construction of their new houses. However, no significant reports of eviction prior to compensation were observed.

<sup>202</sup> Projects falling into the "other" category did meet the 4-month limit.

**Table 17**

<b>ANOVA Multiple Classification Analysis (MCA) Estimating Mean Months Delay in Compensation Controlling for Selected Factors and Covariates</b>					
<b>Factors</b>	<b>Estimated Months Delay in Compensation</b>			<b>N*</b>	<b>Sig.</b>
	<b>Unadjusted</b>	<b>Adjusted for</b>			
		<b>Factors</b>	<b>Covariates<sup>a</sup></b>		
<b>Project Type</b>					<0.001
Roads	16.1	16.9	17.4	6,520	
Water & electricity	14.0	14.0	14.6	910	
Dams	29.1	29.3	28.8	2,668	
Public service buildings	11.8	8.0	6.6	1,405	
Impr housing/settlement	6.3	6.1	5.9	449	
Business facilities	5.9	6.6	6.8	2,114	
Airport/Stadium	13.5	10.0	8.4	350	
Other	8.3	4.3	3.5	164	
<b>Expropriating Entity</b>					<0.001
Local government	16.0	19.0	19.0	5,426	
Central government	20.8	18.4	18.3	1,917	
State agencies/parastatals	15.0	12.8	12.8	6,677	
Private investors/NGOs	7.7	15.9	16.4	352	
Other	15.6	19.3	19.5	208	
<b>Character of Expropriated Property</b>					<0.01
Rural/farm	18.2	17.6	17.5	9,609	
Village/rural non-farm	12.6	13.1	13.3	3,111	
Urban	10.5	12.3	12.6	1,860	

<sup>a</sup>Covariates = Property lost in expropriation (Ha)

\*Includes only households that have been fully or partially compensated

It is unclear why such broad variation in delays still exists between different types of projects or characters of land, especially given that most expropriating institutions seem to be within a narrower range of delays (between 12 and 19 months). Firstly, this suggests that certain types of projects have been made a priority, such as public service buildings, housing settlements, and business facilities. Second, the data suggest that all institutions are able to more easily avoid delays in urban areas than in rural areas, either because they prioritize urban projects, or because title documentation and other administrative details like bank accounts are more streamlined and accessible in urban areas.

Although CSO respondents and the Office of the Ombudsman noted these delays as a major problem and source of complaints about the expropriation process, some other public entities noted that this problem is no longer as pervasive as it once was, particularly now that the government has announced a policy to undertake expropriation only when funds are allocated in advance.<sup>203</sup> Local authorities echoed these concerns and observations.<sup>204</sup> Among government agency respondents, only one confessed that it suffered from budgetary planning problems that

<sup>203</sup> RSSB interview, Kigali City interview, MININFRA interview. It should be noted that this policy of allocating funds ahead of time is not specifically provided for in the text of the law, but is probably the most reasonable interpretation of the law, and was simply not being followed before this additional government pronouncement.

<sup>204</sup> Musanze District Officials FGD, Huye District Officials FGD.

led to delays in the payment of compensation, apparently due to overly-ambitious development planning in urban centers.<sup>205</sup> In fact, since 2007, the average delays have decreased substantially (Figure 30).

However, part of this decline may be explained by the fact that some of the most recent expropriations have not yet been compensated at all, and so they are not reporting having been compensated (and accordingly their precise number of months of delay cannot be noted). In fact, more recent expropriations are less likely to have been fully compensated as shown in Figure 31

Figure 30

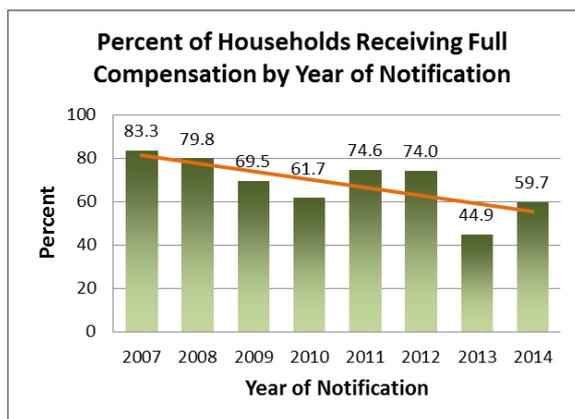
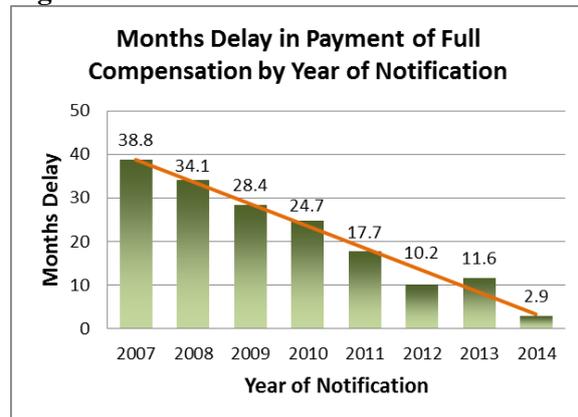
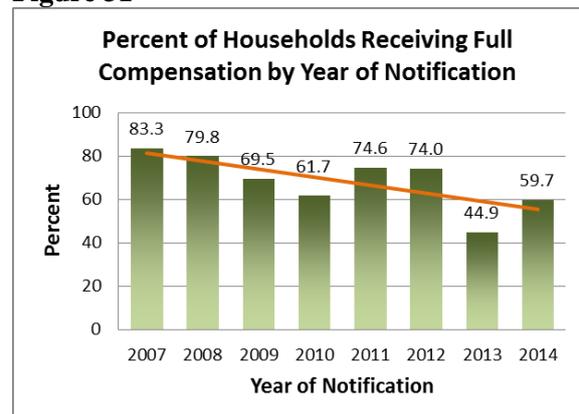


Figure 31



Although the likelihood of receiving full compensation has gone down on average, this alone is unlikely to account for the precipitous drop in delays since 2007, as noted in Figure 30. For example the average delay in 2014 was only 2.9 months, which is calculated with 59.7% of households notified and expropriated in 2014 already having received full compensation. Similarly, for households notified in 2011 and 2012, almost 75% of households have already been paid. This suggests a significant reduction in delays and general improvements in the process of delivering payments. In fact, the average delay of 2.9 months recorded for fully compensated households in 2014 is within the 120-month time period required by the law.

<sup>205</sup> Kigali City interview.

Some expropriating entities cited errors in the lists of expropriated individuals provided to them by local authorities as a major challenge to delivering compensation on time and to the right persons. Specifically, they identified errors with identity card numbers, bank account details, and names of expropriated individuals, all of which could reasonably cause delays in the delivery of compensation.<sup>206</sup> In some cases, difficulties in locating the real owner of a rural land parcel was also cited as a reason for delayed compensation.<sup>207</sup> Local authorities reported that expropriating institutions did not always provide detailed and accurate information to the population about all the requirements to be provided for the payment of compensation, which also caused delays and errors in the payment of compensation.<sup>208</sup> Furthermore, RTDA cited a largely underreported issue of wives being excluded by husbands as co-owners of the property and accordingly not receiving any share of the compensation. RTDA identified this as the second most common complaint it receives in regards to the expropriation projects it carries out, after complaints about unfair valuation.<sup>209</sup> This allegation that spouses are often left out of the process of valuation and compensation is also supported by the survey data, which show that only 21.7% of the time do expropriated households report that both the head of household and the spouse receive the compensation (Table 18).

**Table 18**

Recipient of Compensation Payment		
Recipient of payment	%	N
Head of household	73.8	698
Spouse	2.9	28
Both (head and spouse)	21.7	205
Other	1.6	15
Total	100.0	946

\*Includes only households that have been fully or partially compensated

5 Other explanations for these delays in payment have been offered by expropriating institutions as well, including the bureaucratic procedures of payment whereby the payment process has to go through more than three institutions before reaching the recipient's account.<sup>210</sup> Government institutions/agencies report a problem of unpublished and often changing requirements from the Ministry of Finance (MINECOFIN), the paying institution for government projects, regarding what information is needed for individuals on these lists to be paid.<sup>211</sup> Expropriating institutions cited this as a bottleneck in the process as they have to go back and forth between the local areas and MINECOFIN, revising the lists and the information contained on the lists, hence delaying the payment of compensation. They also report that MINECOFIN may send lists back multiple times over small errors in a few names, without paying any individuals on the list until all of these errors are corrected, which greatly delays the payment of compensation. Other state agencies report inexplicable delays and lack of transparent processes that appear to be causing arbitrary delays for some projects and institutions, whereby MINECOFIN continues to promise to pay expropriated people from some projects "soon," without giving an actual timeline.<sup>212</sup> Given the fact that all institutional budgets have been approved and are overseen by

<sup>206</sup> RSSB interview, RCAA interview, RHA interview.

<sup>207</sup> RTDA interview.

<sup>208</sup> Kigali District Officials FGD.

<sup>209</sup> RTDA interview.

<sup>210</sup> Kigali City interview, MINALOC interview.

<sup>211</sup> RCAA interview.

<sup>212</sup> RHA interview.

MINECOFIN, this suggests less of a planning problem on the part of the expropriating institution and perhaps a coordination problem on the side of MINECOFIN.<sup>213</sup>

Expropriating entities cited major concerns with the delays in the expropriation process which may lead to individuals improving their properties in order to inflate the property value.<sup>214</sup> Expropriating entities also accuse **local authorities of illegally granting construction permits based on bribes paid by those individuals facing expropriation.** However, local authorities reported halting construction only once the initial inventory of lands was done, warning residents that improvements made after that time would not be compensated, in compliance with the law.<sup>215</sup> CCOAIB even reported receiving complaints from landowners who were denied permits to improve their properties once expropriations were announced but before valuation was carried out. Some government entities also report that expropriated individuals should be made aware of their right to improve their properties if compensation is delayed by more than 120 days.<sup>216</sup> However, more than 40% of expropriated households report being prohibited from working on or improving their land before receiving compensation, even when it was delayed more than the 120 days provided for in the law.

The Office of the Ombudsman has also received many complaints related to delays in the process after expropriation was announced, or after the valuation exercise was carried out. The office has accordingly been recommending re-valuation of lands for cases where serious delays have occurred, such as the Bugesera project. Furthermore, the Ombudsman's Office recommends imposing fines against entities that fail to compensate on time or those who abandon the expropriation project after making the population wait for an extended period of time without being allowed to make any improvements to their properties. This is in fact provided for in some sense in the 2007 Expropriation Law, which requires the payment of 5% interest on any outstanding balances owed by expropriating entities to expropriated households.<sup>217</sup>

For example, the Ministry of Infrastructure through the Rwanda Civil Aviation Authority (RCAA) has been working to extend the aerodrome in Rubavu District. The application for expropriation for this project was originally filed in 2008. The affected residents are from parts of Rubavu and Gisenyi Sectors.<sup>218</sup> In 2008, people living in the identified area were informed that they were going to be expropriated and were prevented from making any significant improvements on their properties from that time. In particular, this prohibition affected their ability to improve the housing structures on their lands, and they were denied construction permits from the local authorities whenever they requested them.

The properties of these residents were valued on different occasions: the first valuation was conducted in 2008-2009, when residents were promised they would receive their compensation

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<sup>213</sup> Unfortunately, MINECOFIN failed to respond to multiple requests for interviews so the Ministry's perspective on this issue could not be fully represented here.

<sup>214</sup> RSSB interview, RTDA interview, MININFRA interview, Rubavu FGD.

<sup>215</sup> Rubavu FGD.

<sup>216</sup> MINIRENA interview, REMA interview.

<sup>217</sup> 2007 Expropriation Law, Art. 28.

<sup>218</sup> Rubavu FGD.

within three months. Another valuation exercise was carried out from October 2013 to January 2014. However, no payments have yet been made pursuant to either valuation exercise. During the 2013-2014 valuation exercise, the affected households had been assured that compensation would be paid by February 2014. Nevertheless, no expropriated individuals from this project had yet signed a valuation report at the time of the focus group discussion. **Indeed, none of them is even informed of the value to be given to their properties, and reportedly none has received any update about the timeline for payment.**

Despite being prohibited from making any improvements on their property for the past seven years, some of the affected residents were told during the valuation exercise of 2013-2014 that their properties would not actually be part of the area that would be expropriated. Also, due to the long wait times, some property owners were compelled to make necessary renovations to their homes, and a few even reported facing arrest and temporary detention as a result of their actions to improve their properties. Many have also faced denials of needed bank loans due to the pending but uncertain expropriation plans for the area, and also were not permitted to sell their properties. Furthermore, the residents could not easily rent out their houses because potential renters believed that the owners could be subject to eviction at any time once compensation was finally paid. Incomplete infrastructure upgrades in the area have also led some individuals to create their own make-shift connections to the electrical grid. Furthermore, although land owners who were going to be expropriated had been exonerated from paying property taxes since the expropriation was announced in 2008, they have recently been told they are liable for payment of arrears for back taxes since the notification of the expropriation. Some landowners whose properties were originally designated as inside the project boundaries have at other times been told that their properties will not be affected by the expropriation, and they remain in limbo.

Bugesera **5 residents have also been facing extreme delays and social problems as they await compensation for the expropriation of their lands required to carry out the new international airport project. Due to the delays in receiving compensation or carrying out resettlement, and the prohibition from improving their current homes while the expropriation is pending, residents reported being homeless, hungry, and under constant threat of theft and violent crime in this increasingly abandoned area.**<sup>219</sup> **The local school has already been demolished, so most children of residents remaining in the area have had to quit attending school.** They also reported problems accessing healthcare and markets, accessing transportation, being separated from family members who have already moved, and being estranged from friends and family who have lent them money while they await compensation for their property. They also regularly incur bank charges on the accounts the government required them to open nearly three years ago to receive their compensation, a cost they claim is likely to eclipse the minimal compensation they expect to be awarded.

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<sup>219</sup> Bugesera FGD.

The plight of Bugesera residents has been reported in the media, especially with regard to delays in the payment of compensation and the extremely low valuation of land.<sup>220</sup> This delay was even acknowledged by the Prime Minister while appearing before the Parliament in November 2014.<sup>221</sup> Such delays result in many problems for the estimated 4,300 households affected by the Bugesera project, including insecurity while the expropriation process is carried out in a piecemeal fashion. Households are also affected by being unable to purchase comparable replacement property because inflation has continued to drive up property costs since the property being expropriated was valued.<sup>222</sup>

#### 5.2.4.2.2 Alternatives and resettlement

As an alternative to cash compensation, resettlement to comparable lands is also provided for as one of the forms of just compensation contemplated by the 2007 Expropriation Law.<sup>223</sup> International law does refer to resettlement in the context of returning land to country nationals after being dispossessed of lands by foreigners,<sup>224</sup> or for former refugees returning to their country of origin.<sup>225</sup> While not directly related to the case of expropriation of nationals for economic development purposes, this does mean that international law provides for resettlement policies in appropriate cases.

Resettlement in lieu of cash compensation was favored by many government respondents, due to a number of perceived problems associated with payment of cash compensation and alleged reckless spending by expropriated households. Government entities and CSOs reported a persistent problem of expropriated individuals spending their compensation funds before investing in replacement housing as well as the problem of expropriated individuals re-creating slum housing in their new areas.<sup>226</sup> One MINALOC official noted, “If you leave these people with little money, they are not going to easily get other land or be able to build another house, but instead will eat the money and become a burden to the government.” Both Kigali City and MINIRENA reported that individuals commonly request cash compensation rather than resettlement, but both institutions would favor better resettlement options and programs. Although expropriating entities express a preference for resettlement over cash compensation, the Mayor of Kigali City noted that lack of available habitable land (only 15%) remaining within the city posed a serious challenge to a large-scale policy of resettlement over cash compensation, at least within Kigali City.<sup>227</sup> Despite reported delays in receiving compensation, expropriated

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<sup>220</sup> Editorial, *Expropriations should be carried out in a timely manner*, THE NEW TIMES, May 6, 2015, available at <http://www.newtimes.co.rw/section/article/2015-05-06/188530>.

<sup>221</sup> E. Kwibuka, *Government earmarks Rwf 16 billion to meet expropriation costs*, THE NEW TIMES, Nov. 5, 2014, available at <http://www.newtimes.co.rw/section/article/2014-11-05/182721/>.

<sup>222</sup> Bugesera FGD.

<sup>223</sup> 2007 Expropriation Law, Art. 23.

<sup>224</sup> G.A.Res. 3201 (S-VI), U.N. GAOR, Sixth Special Sess., agenda item 7 para. 6, UN doc. A/RES/3201 (S-VI) (1974).

<sup>225</sup> UN Principles for Housing and Property Restitution for Refugees and IDPs (2005) (“Pinheiro Principles”); Desan Iyer, *Is the Determination of Compensation a Pre-Requisite for the Constitutional Validity of Expropriation? Haffajee NO and Others v Ethekwini Municipality and Others*, SPECULUM JURIS 2012(2), 66-67; the Expropriated Properties Act, 1983 (Uganda).

<sup>226</sup> Kigali City interview, MININFRA interview, MINALOC interview, RTDA interview, CCOAIB interview.

<sup>227</sup> Kigali City interview.

individuals themselves favor cash compensation over resettlement, citing major problems facing resettled individuals in Batsinda and those still awaiting resettlement from Bugesera.<sup>228</sup>

### 5.3 Socio-economic Impacts of Expropriation

The effectiveness of the 2007 Expropriation Law cannot be judged merely by an analysis of its procedural requirements. All laws, especially those with a direct impact on individuals, should be regularly studied and evaluated for their success in achieving their stated policy objectives, while at the same time minimizing negative impacts on the populations these laws are meant to serve. For this reason, a common feature of laws affecting rights to land is a prerequisite of completing an impact study for the proposed project, including environmental, economic, social, and perhaps other effects. Although some expropriating entities and government institutions reported carrying out environmental impact assessments prior to expropriation projects, MINALOC reported that there was “no thorough study done before or during the implementation of the project on the impact it has on individual livelihoods.” One MINALOC official also noted that “some institutions think about the project, its implementation, and what it will take to achieve it, but fail to remember that there will be people to expropriate where the project is implemented.”

#### 5.3.1 Effect on Property Ownership

As expected, all expropriated households lost land in their expropriations. However, the data reveal that many expropriated households lose other types of property as well. Given the high rate of expropriated property being of rural character in Rwanda, it is unsurprising to find that over 50% of expropriated households also lose annual and perennial crops and trees, and over 30% lose feed for livestock—all productive assets for most rural households (

Figure 32

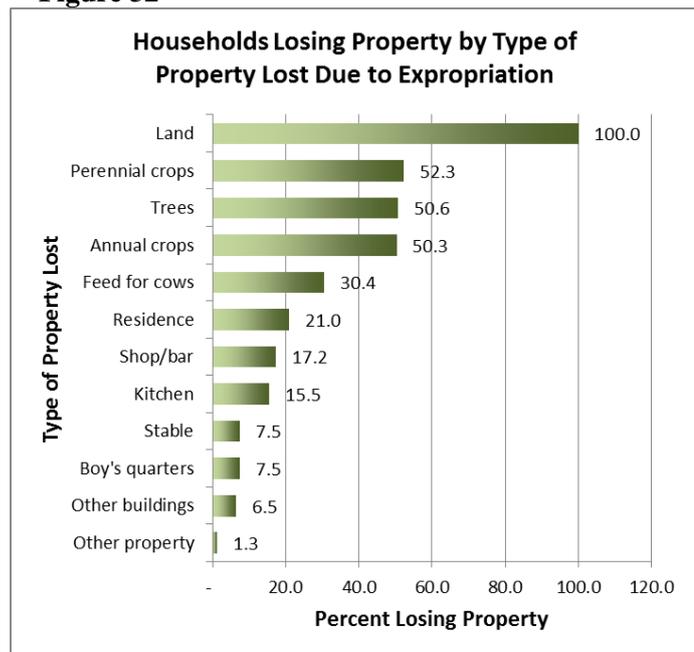
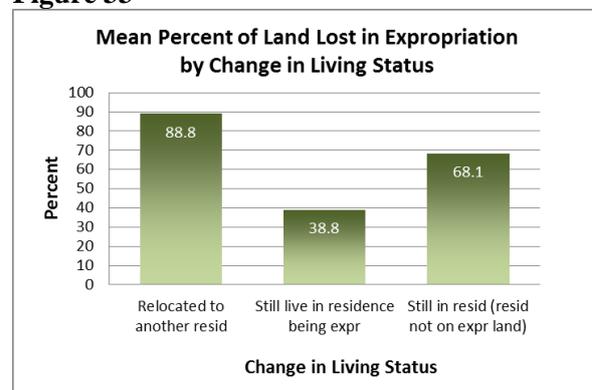


Figure 32). Approximately 21% of households report losing their residences in the

Figure 33



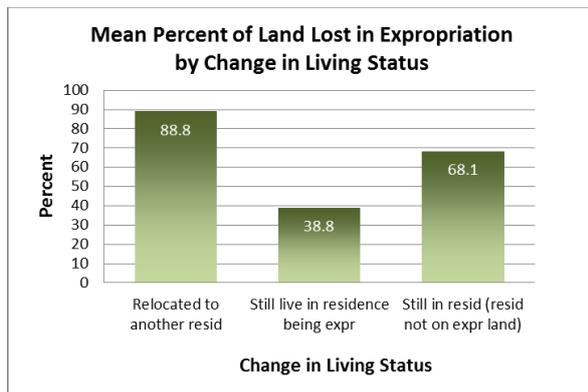
<sup>228</sup> Batsinda FGD.

**Table 19**

<b>Households' Views on the Benefits of the Expropriation Project for the Community</b>		
<b>Response</b>	<b>%</b>	<b>N</b>
<i>Do you believe project is in best interest of community?</i>		
Yes	87.3	1,205
No	11.7	161
Don't know	1.1	15
Total	100.0	1,381
<i>Does community believe project is in their best interest?</i>		
Yes	79.7	1,101
No	11.9	165
Don't know	8.4	116
Total	100.0	1,381

expropriation, which is only slightly higher than the percentage of individuals who relocate due to the expropriation, which is reported to be approximately 15% of expropriated households.

**While only a minority of households were required to relocate due to expropriation, approximately 50% of expropriated households lost over two-thirds of their land (Figure 33**

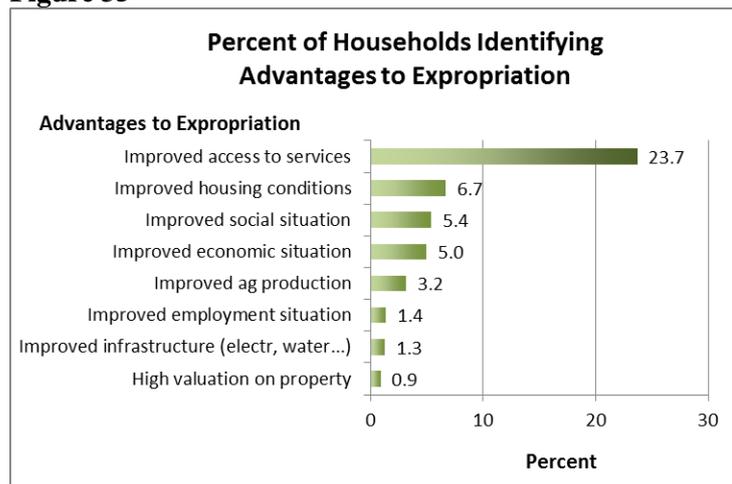


). The reason that this large property loss did not cause relocation seems to be because a large proportion (approximately 70%) of these households experiencing a total expropriation of their land did not actually reside on the plot of land being expropriated. Among households that actually relocated due to the expropriation, 80% of those relocating households lost almost all of their land, so the chances of having to relocate the household residence are closely tied to the amount of land lost.

### 5.3.2 Individual Support for Expropriation Projects

Despite overall reporting of negative impacts at the household level due to expropriation, expropriated households generally show support for the project and its stated outcomes. Table 19 reports that 87.3% of expropriated households believe that the projects requiring land expropriation are in the best interest of the community and 79.7% state that the community in general believes the projects are in their best interest.

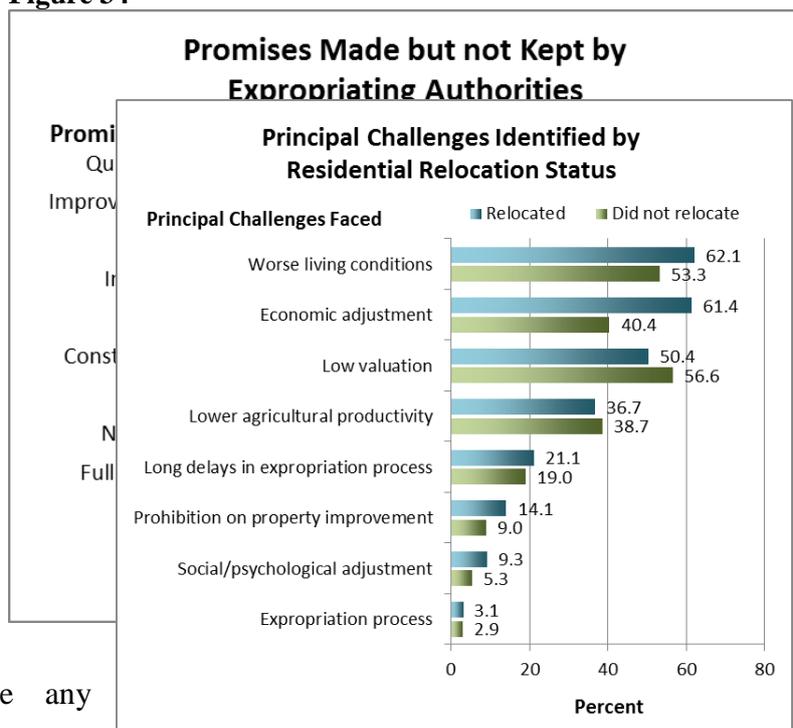
**Figure 35**



Infrastructure development and improved public planning undertaken through expropriation has led to noted satisfaction among some expropriated individuals.<sup>229</sup> The general sentiment among expropriated individuals is one of clear support for national development plans and economic progress, even if it comes through expropriation.

When asked to identify any promises made but not kept by expropriating entities or local authorities, half of the respondents identify the timeliness of compensation as a promise made and not kept (Figure 34). Complaints related to overall development goals furthered by the project, such as job creation and improved infrastructure and housing, rank much lower. Over 20% of expropriated households note that they were promised increased access to water and electricity, but by the time of the survey, had not yet realized those benefits from the project.

**Figure 34**



Expropriated households were also asked to identify principal advantages of the expropriation project from a set of pre-coded responses (see Figure 35). While households do not overwhelmingly cite any particular advantages (most responses were less than 10% positive), the

<sup>229</sup> Bugesera FGD, Batsinda FGD.

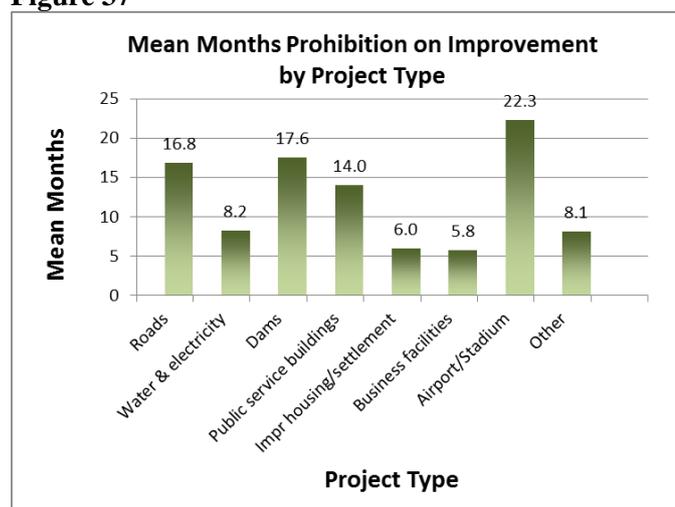
largest reported positive advantage to the project is increased access to services, reported by about 24% of households that do not relocate, and 17% of households that do relocate. While other advantages are reported at nearly the same level by relocated and non-relocated households, relocated households report double the rate of improved housing conditions—although still less than 15% of relocated households report this improvement at all. Relocated households also report an improved economic situation at a slightly higher rate, although again the overall reporting of advantages by either group was less than 8% positive. In general, expropriated households are hard pressed to find many advantages to the experience and the changes they must endure.

When asked a similar question about challenges faced due to the expropriation, all households, whether relocated or not, find low valuations to be a challenge, as well as worsening living conditions and lower agricultural production (Figure 36). As to be expected, relocated households report significantly greater challenges in adjusting economically to the expropriation. This is not contradicted by the above point, where slightly more relocated households reported an economic advantage after the move because of the low scale of reported advantages—only 7.6% of relocated households overall report an improved economic situation as advantage resulting from the expropriation.

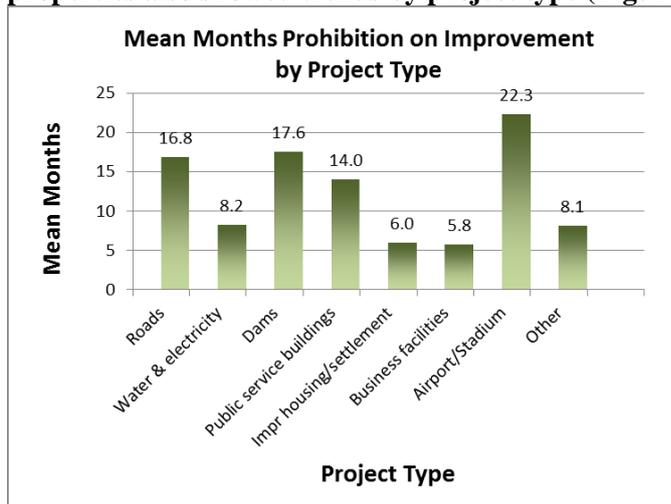
### 5.3.3 Effects of delays

In addition to the straightforward financial implications of delayed compensation and delays in the expropriation process, expropriated households often face prohibitions on their right to improve their property when the expropriation is pending. While the 2007 law purports to prohibit improvements made to the property in order to prevent individuals from inflating the compensation owed, it only provides for the prohibition from the period of initial inventory of the land and improvements thereon, up until compensation is received, and the household relocates, if applicable. This prohibition has been interpreted to include prohibition against planting long-term crops as well as making

Figure 37



simple repairs to the residence. Household reports of delays in being permitted to improve properties also showed trends by project type (Figure 37



).

Given that the mean monthly income of expropriated households was just 110,000 RWF, and the median monthly income only 50,000 RWF, these delays in improving property, planting, and cultivating can cause serious ramifications to the livelihoods of these households.

### 5.3.4 Effects of Inadequate Compensation

In focus group discussions and interviews, both government entities and CSOs cited concerns about individuals not being able to acquire new land and homes with their compensation from the expropriation. CSOs tended to attribute this to the compensation being too low, and indeed over 80% of expropriated individuals report their property valuations to be below market value. Many expropriated individuals from Bugesera reported that two valuation exercises were carried out on their lands—the first valuation in August 2012, and the second valuation in April 2013. While revaluing properties after such a long delay is reasonable given the likely increase in property values over time, the result of the second valuation was reportedly the *reduction* of the market price of each plot of land by approximately half. One individual stated, “During the first exercise I had signed for [a value of] 5,400,000 RWF, but the second valuation reduced this to 2,500,000 RWF. Even if there was a change in market prices, how can something reduce from 5.4 million to 2.5 million in just 7 months?” Bugesera residents also reported that many of their neighbors who opted for resettlement are now homeless because the replacement homes have not yet been built, although they have already been expropriated from their Bugesera properties. Most of those still awaiting cash compensation expect to receive less than 100,000 RWF for an average plot (20x30), while comparable land in Nyamata is being sold for a minimum of 400,000 RWF.

Some CSOs identified cases of non-compensation and inadequate compensation, especially in cases of partial expropriations undertaken for infrastructure development. ACORD reported that it had also received multiple cases, particularly of partial expropriation for infrastructure

development, such as roads and electric poles, that were not compensated at all.<sup>230</sup> This could be due in part to unresolved policies about the prohibition against subdividing small parcels of land, as found in the 2013 Land Law.<sup>231</sup> Local authorities also signaled a significant issue linked to Article 15 of the Ministerial Order on Land Leases, which seems to exempt government entities from paying for expropriation of land so long as it is less than 5% of the total plot. The article reads: “As a custodian of land rights, the State reserves the right to resume up to five percent (5%) of the land leased for public purposes without payment of any compensation for the land retaken.”<sup>232</sup> This article has been used by government expropriating entities, especially the district authorities, in expropriation projects, and most particularly in road projects, to expropriate lands without paying compensation at all.<sup>233</sup> While the intent behind this provision is apparently to try to provide the government with some flexibility in realizing its ambitious economic development goals, and only deny compensation to individuals for *de minimis* losses, the result proves to be quite serious for many of those individuals.

For example, local authorities in Musanze reported the case of a primary school teacher who had taken a bank loan to buy a plot of land where he could construct a house for his family.<sup>234</sup> Before construction began, a road was planned and built through the middle of his plot. Not only did he not get compensated for the loss of this portion of his land (presumably under this *de minimis* 5% provision found in the Order on Land Leases), but he also could not subsequently get permission to build a house on one of the remaining sides of his plot due to the small size of each independent half. This man is now struggling to pay back the bank loan given that he has completely lost productive use of his land. ACORD also reported a specific case where an individual was partially expropriated for a road project that went about halfway through the family’s existing house on the property. Although the entire house had to be demolished to carry out the road project, the family was only compensated for the half of the house that overlapped with the road—an amount that was not enough to enable them to pay back the loan they had taken out to build the house originally.<sup>235</sup> This family is reportedly now without adequate funds to purchase replacement housing, nor can they afford to rebuild on what remains of their plot of land.

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<sup>230</sup> Other CSOs in the focus group discussion noted as well that some land is taken without compensation for installing electric poles, water pipes, and the *imidugudu*/shelter program.

<sup>231</sup> 2013 Land Law, Art. 30 (“It is prohibited to subdivide plots of land reserved for agriculture and animal resources if the result of such subdivision leads to parcels of land of less than a hectare in size for each of them.”).

<sup>232</sup> Order on Land Leases, Art. 15.

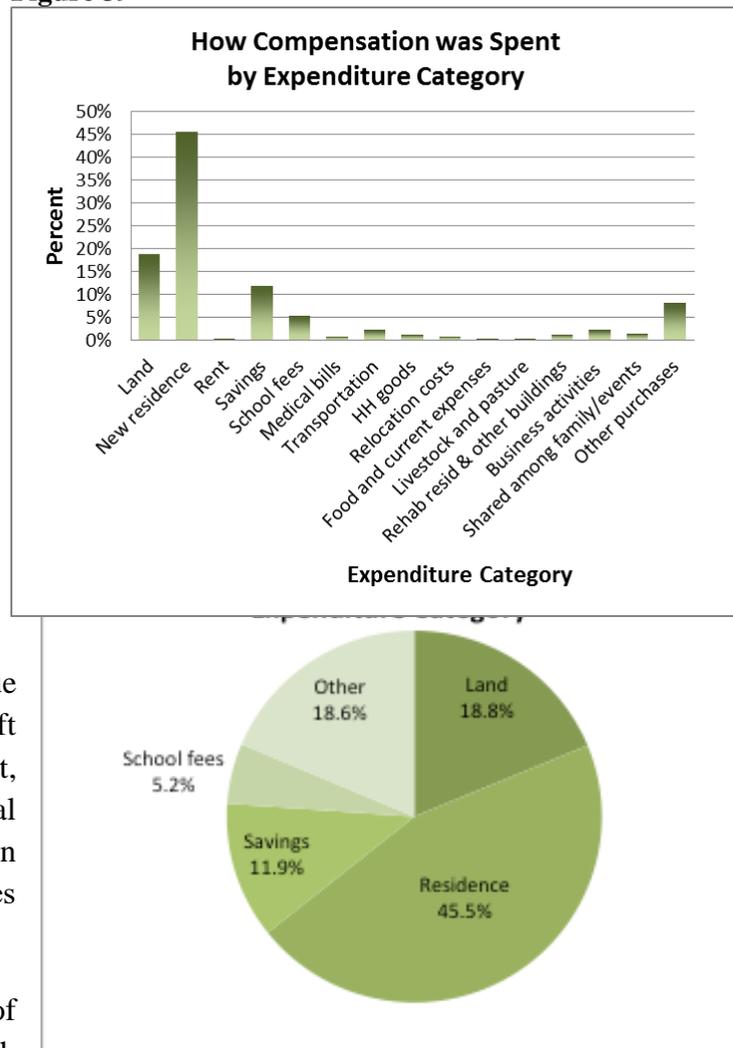
<sup>233</sup> Musanze District Officials FGD.

<sup>234</sup> Musanze District Officials FGD.

<sup>235</sup> District officials, specifically during the Kigali District Officials FGD, acknowledged that this problem occurred in previous projects but added that it is no longer happening saying that in such cases people are now fully compensated.

Moreover, while many government entities recognized a need to assist expropriated individuals with the costs of relocation, they also noted the lack of a legal requirement to do so, and Kigali City officials even stated that providing such funds to expropriated individuals would be an embezzlement of public funds because it is not provided for in the law. RSSB noted that covering the costs of relocation should be the responsibility of the government, not the investor, and RTDA recommended that District authorities lead the population in developing and carrying out the resettlement of households. This issue has been addressed in the draft expropriation law to some extent, which would provide for an additional payment of 5% of the compensation value to be given for “disturbances due to relocation.”<sup>236</sup>

Figure 39



When considering the option of resettlement in lieu of cash compensation, some officials praised the Kiyovu/Batsinda project as an example of successful resettlement. However, some residents had a different view. Many of them found that the two-room homes provided in Batsinda were too small for their families. **Others found their economic opportunities diminished after being moved from the city center to the outskirts of the city.** One woman reported:

I was a widow at the time of the expropriation. I used to clean the roads in the City of Kigali and lived on income earned from this job. I earned RWF 18,000 per month. As a result of expropriation, we relocated here to Batsinda. I don't walk to the city because it is such a long distance. I lost my job and got poorer. Until now, I have not been able to pay back the money I borrowed from my friend in order to afford the cost of my move from Kiyovu to Batsinda.

Other residents echoed these concerns: “We were in Kiyovu, an area almost downtown. We never needed to pay transport to go to church, to the market, to the hospital, or to school. We simply used to walk as it was very close to our place. There is no way to compare [Kiyovu to

<sup>236</sup> Draft Expropriation Law, Art. 29.

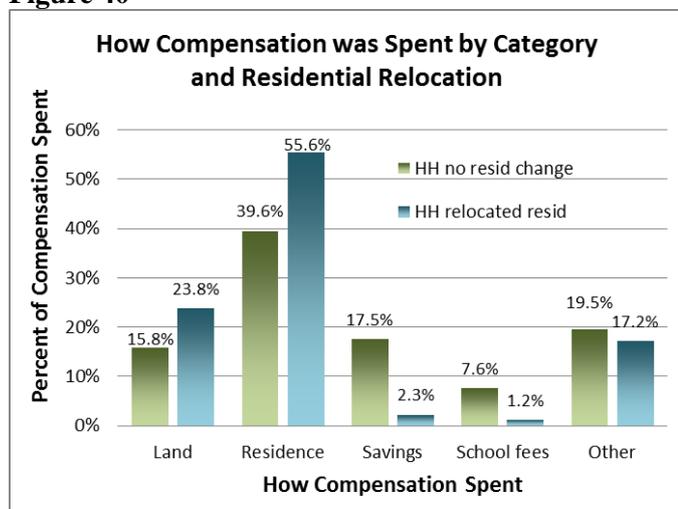
Batsinda].” While it must be noted that this particular expropriation project was carried out before the adoption of the 2007 Expropriation Law, it was often cited as a model for successful expropriation by public institutions using resettlement rather than cash compensation.

### 5.3.5 How Cash Compensation is Spent

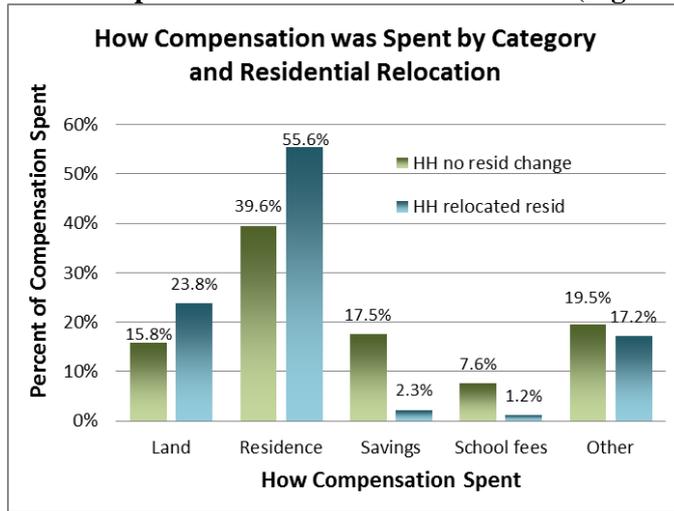
When expropriated households were asked about how they spent their compensation, as noted above, the data show that they overwhelmingly spend compensation on the acquisition of land or a new residence, with those two items totaling 64.3% of all compensation monies spent by expropriated households (Figure 38).

In an expanded view of the short-term expenditures made, expropriated households reported putting 12% of their compensation into savings (Figure 39). About 5% of compensation goes toward school fees for themselves and/or their children, and an additional 19% goes toward other current expenditures such as business activities, sharing with family members, purchasing households goods, and paying medical bills. While the danger of mismanagement of compensation monies does exist, expropriated individuals who have been compensated appear to invest a large portion of their compensation monies into long-term assets, such as land or a residence.

**Figure 40**



Some expected variation was seen in how relocated households spend their compensation monies when compared to non-relocated households (Figure 40



). Relocated households do in fact spend more of their compensation monies on long-term assets, putting 55.6% of their share of the total compensation toward a residence and 23.8% toward land. Another 17.5% of compensation paid to households that did not relocate is reportedly put into savings for those households.

In considering which factors most strongly influence households' decisions about how to spend their compensation, the regression model shown Table 20 confirms that households that lose a larger share of their land are in fact more likely to spend their compensation on assets such as land and a residence ( $\beta = .267$ ).<sup>237</sup> However, households headed by more aged individuals are slightly less likely to put their compensation monies toward long-term assets as compared with consumable goods and services ( $\beta = -.068$ ). This may be a reflection of the elderly, in their retirement, not requiring land and other productive assets as they do in their younger years.

<sup>237</sup> *Beta* is the standardized correlation coefficient, measuring the independent effect of each of the variables, while controlling for the other variables. Where significant effects are noted, beta is marked by \* or \*\* for even more significant effect.

**Table 20**

OLS Regression Model <sup>1</sup> : Expropriation Cash Compensation Expenditures; Estimated by Household and Geospatial Characteristics						
Predictor	Percent of compensation spent on assets/investments			Percent of compensation spent on consumable goods/services		Beta
	Household Monthly Income (RWF) Before and After Expropriation					
Distance	Residence Relocation?					-0.020
	Share of					
Gender	No		Yes	Total	Sig.	0.001
	(Mean RWF)	(Mean RWF)	(Mean RWF)			
Age of H	Monthly Income Measure					0.019
HH size	FRW Monthly income before expropriation	111,635	101,180	110,049	0.579	-0.020
Educational	FRW Monthly income after expropriation	76,217	66,965	74,813	0.609	-0.072 *
Agriculture	Difference in Income After - Before	-35,418	-34,215	-35,236	0.869	-0.012
Monthly	N	1,172	209	1,381		-0.098
(Constant)		0.384	0.084	0.633	0.082	

\*Significant at <.05    \*\*Significant at <.01

<sup>1</sup>Includes only households that have been fully or partially compensated (N=967).

Local authorities and other national government stakeholders expressed fears that expropriated households were not spending their compensation monies wisely. Some local authorities reported that they do in fact provide some financial planning assistance and follow up with expropriated households in order to guide them through the financial challenges of the expropriation process. However, data showing how households invest their compensation monies and the fact that so few expropriations lead to relocation suggest that the concerns over individuals squandering their compensation are probably exaggerated.

**5.3.6 Effects on Income**

15 Expropriated households generally report significant changes in monthly income before and after the expropriation. Those who do not relocate experience a 32% drop in their income after the expropriation, and those who do relocate experienced a similar 34% drop in income ( ).

Overall, the average change in monthly income for all expropriated households is a loss of 35,236 RWF per month.

**Table 22**

Household Monthly Income (RWF) by Extent of Relocation			
Extent of Relocation	Difference in Income After - Before (Mean RWF) <sup>a</sup>		N <sup>*</sup>
	Relocated in same Sector	-25,837	
Relocated to different Sector/Dist/Prov	-146,489	15	
Total	-34,215	209	

\*Includes only households that have relocated

<sup>a</sup>Sig. < 0.001

While it may seem surprising that relocation does not have a significantly greater negative impact on the change in an expropriated household’s income, this is likely due to the fact that the relocation is usually within the same Village/Cell, or a nearby Cell in the same Sector

(representing 93.4% of all relocations).<sup>238</sup> In fact, 15 households that relocated due to the expropriation but stayed within the same sector had a less than average decline in monthly income (only 25,837 RWF lower), whereas those who moved to a different Sector, District, or Province tripled the negative impact on monthly income (showing a 146,489 RWF monthly decline), as shown by Table 22. Furthermore, income level before the expropriation and after

Table 23

OLS Regression Model <sup>1</sup> : Income Change Due to Expropriation by Household and Geospatial Characteristics			
Predictor Variable	B	S.E.	Beta
Distance moved from expropriated residence (Km)	-4107.915	814.57	-0.157 **
Land lost due to expropriation (Ha)	7404.952	6920.052	0.034
Share of land lost due to expropriation (%)	-473.986	96.581	-0.158 **
Gender of HH head	7347.236	8287.813	0.029
Age of HH head	-428.845	262.419	-0.053
HH size (number of members)	-7671.698	1329.015	-0.186 **
Education level of HH head	-3973.83	2092.256	-0.067
Agriculture occupation of HH head	-167.674	8270.7	-0.001
Monthly Income (in 000s)	58.303	12.851	0.142 **
(Constant)	53455.919	21812.234	

\*Significant at <.05 \*\*Significant at <.01

<sup>1</sup>Includes only households that have been fully or partially compensated (N=967)

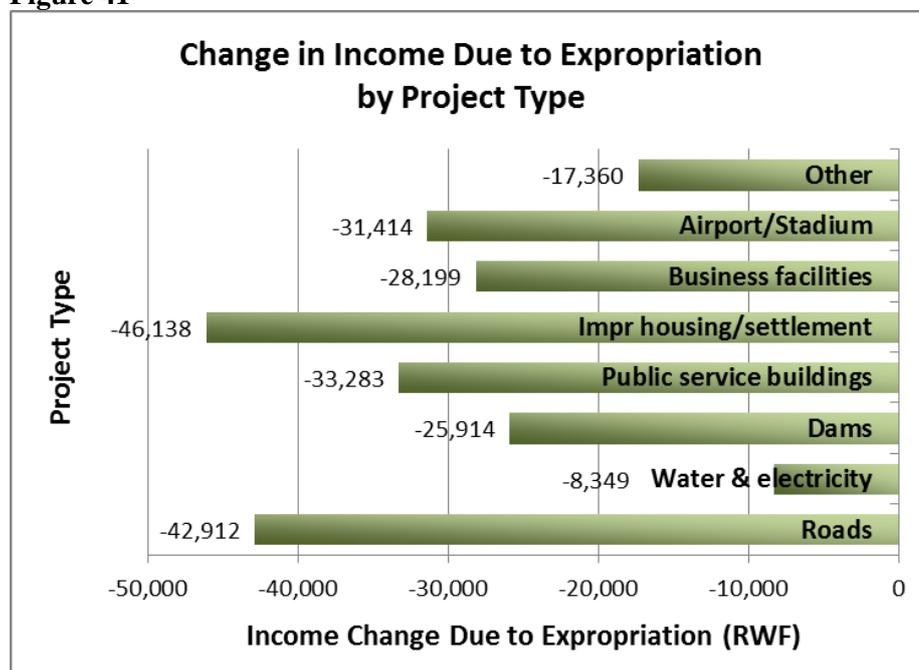
the expropriation was self-reported for the purposes of this study, so the research team exercised caution in relying too heavily on this data for purposes of making other conclusions.

When income changes are estimated by an OLS regression model to show the independent effects of key factors influencing income reduction (**Error! Reference source not found.**), the distance moved from the original residence whether households relocated ( $beta = -.157$ ), and the percentage of land that was lost ( $beta = -.158$ ) are among the more significant effects. Also, as household size goes up, income is more likely to be negatively affected. Furthermore, households with higher monthly incomes generally are less likely to suffer a loss of income due to expropriation. While this seems to suggest that farming households that rely on their land for their monthly income would see their monthly income negatively affected, only a weak and statistically insignificant correlation is shown for expropriated households that derive their income principally from. This is likely due to the fact that, although much of the total expropriated land is rural land, most expropriated households do not actually have to relocate due to the expropriation, either because the expropriation is only partial, or because they do not actually reside on their expropriated land.

<sup>238</sup> See discussion *supra* at Table 8.

This regression model also shows that the actual distance moved, if the household relocated, does have an impact on household income once other variables are controlled. The distance moved more accurately predicts the change in income than relocation alone does due to the

**Figure 41**



findings cited above regarding how far relocated households tend to move from their original properties. The percentage of land lost also predicts the negative change in income, correlating with chances of relocating (but not necessarily how far), as shown in Table 24

The type of project also correlates with lost income.

**Table 24**

Change in Income Due to Expropriation by Land Lost Category			
Land Lost	Lost income		N*
	Mean <sup>a</sup>	Sum <sup>a</sup>	
<= 25%	-12,031	-2,498,190	208
26 - 75%	-31,966	-6,795,666	213
>75%	-54,092	-28,492,361	527
Total	-39,902	-37,786,218	947

\*Includes only households that have been fully or partially compensated

<sup>a</sup>Differences sig < 0.001

While water and electricity projects, causing the least percentage of land lost, correlate with the lowest levels of income loss, road projects, which tend to cause partial expropriations, also correlate with large income losses (Figure 41).

In considering the reasons for this significant and notable drop in income for road projects in particular, some explanations are evidence when the types of property lost by

households expropriated for road projects are examined more carefully (Figure 42). For example, these households report high levels of lost shops (23.7%), feed for cows/*urubingo* (25.8%), annual crops (46.6%), trees (50.5%), and perennial crops (51.4%), all of which tend to be income-producing activities for rural households.

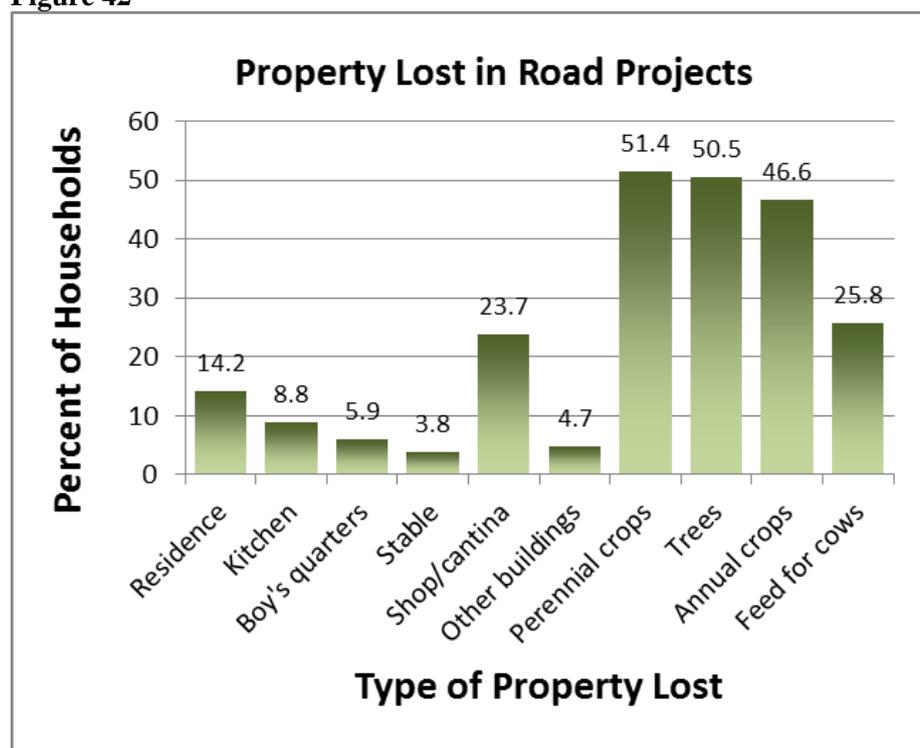
### 5.3.7 Mean Impact Calculation

Table 25

Statement about Impact of Expropriation	Gender of head of household		Household relocation			N <sup>1</sup>	
	Male	Female	Total	No reloc.	Yes reloc.		Total
	% Agree	% Agree	% Agree	% Agree	% Agree		% Agree
1 Your household income is lower now	76.2	79.3	77.1	78.2	72.5	77.1 *	947
2 Expropriation caused greater hardship for your family than others	59.8	64.7	61.2	59.4	68.1	61.2	947
3 The expropriation is justified because of the community benefits	58.7	52.3	57.0 **	59.8	46.0	57.0 **	947
4 Your opinion of local gov't is lower now	49.1	55.8	50.9	49.1	58.2	50.9 *	947
5 You go hungry more often now	43.9	56.4	47.3 **	45.3	55.4	47.3 *	947
6 Good results have accrued to household because of expr	27.2	17.5	24.6	24.9	23.2	24.6	947
7 Expropriation process worked out better than you expected	17.1	14.0	16.3	17.2	12.8	16.3	947
8 Your household is better off now	13.0	8.8	11.9	10.2	18.5	11.9 *	947
9 You acquired more assets after expropriation	12.1	10.1	11.5	10.6	15.3	11.5	947
10 Your household members are closer now	9.1	12.2	9.9	10.0	9.7	9.9	947

\*X<sup>2</sup> significant at p<.05 \*\*X<sup>2</sup> significant at p<.01 <sup>1</sup>Includes only households that have been fully or partially compensated

Figure 42



Households were presented with a series of statements and asked to respond about whether they were better off, worse off, or the same in those areas due to the expropriation. A summary of responses to these statements are listed in Table 25, with a breakdown of responses by gender of household head and whether the household relocated.

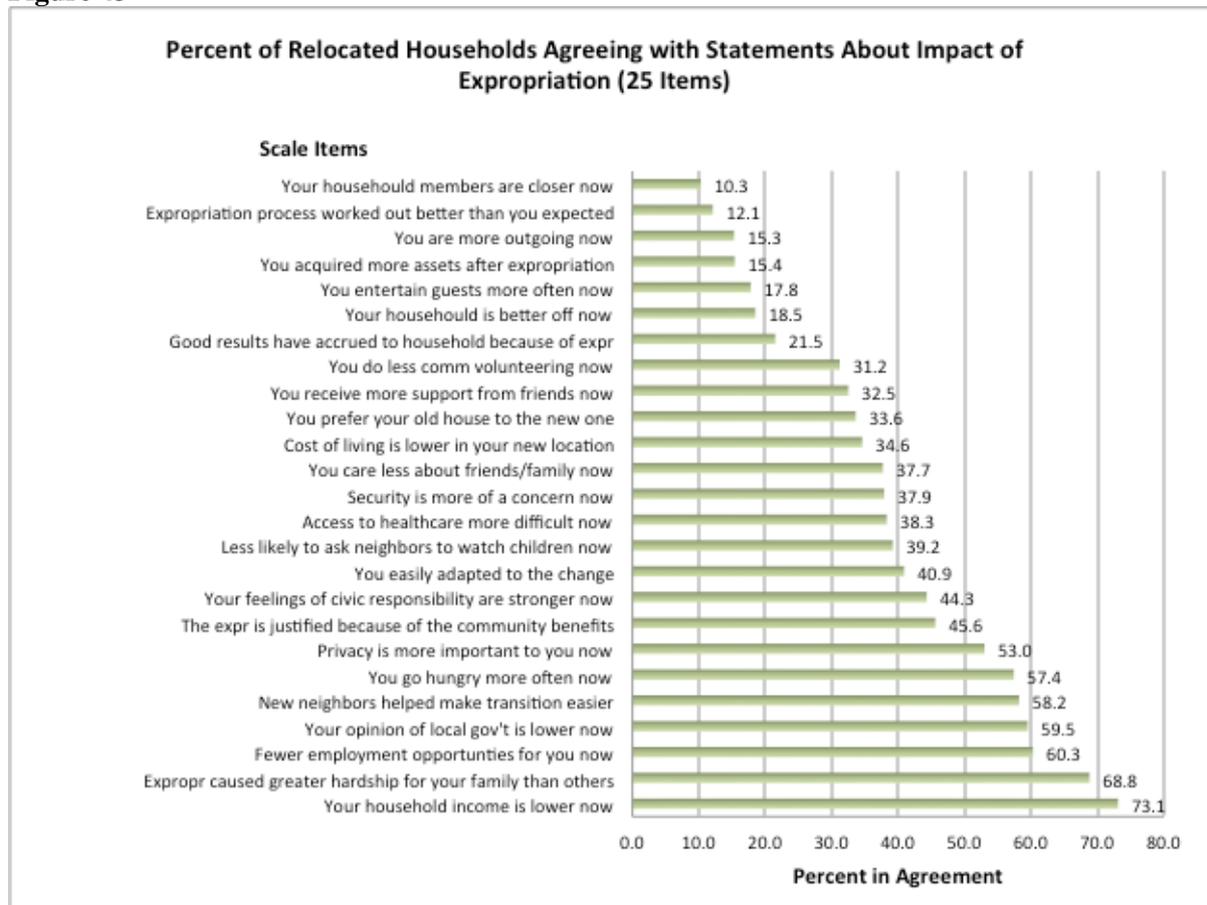
Certain statements and factors stand out in their ability to differentiate between households that relocated and those that did not relocate as a result of the expropriation. While relocated households noted above average negative views of local government authorities following the expropriation, they also agree more frequently that their households are better off following the expropriation, and acquired more assets following the expropriation. It must be noted, however, that only 15-18% of relocated respondents agree with those positive statements. Relocated households are also much less likely than non-relocated households to note a community benefit as a justification for the expropriation project.

Furthermore, because of the additional experiences and challenges that relocated households endure because of the relocation, they were presented in the survey with 15 additional statements—for a total of 25 statements—about the impact of the expropriation on their livelihood. These statements and the frequency of responses are listed in **Error! Reference source not found..**

For modeling purposes the responses to these impact statements are used to develop two “composite summated impact scales,” one with the initial 10 items for all households that had been fully or partially expropriated and the other using all 25 items but only for the subset of households that had relocated. The scales vary from -1.0 to +1.0, with 0.0 being neutral in the overall impact of the expropriation.

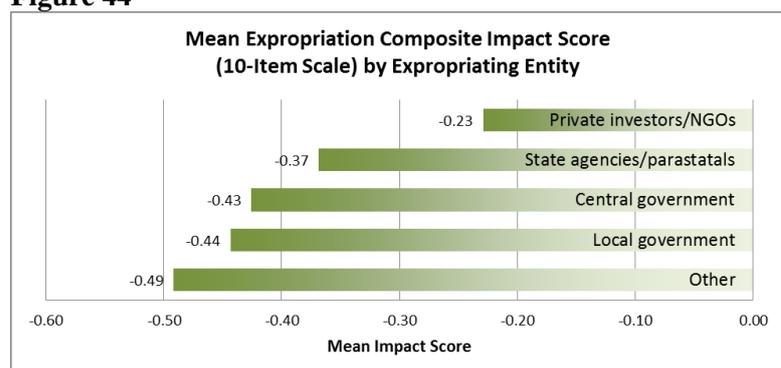
The measurement of impact is shown for all households that had been partially or fully compensated, which is the indication used in this study for a household essentially having gone

Figure 43



far enough in the expropriation process to provide measurable experiences. Among these

Figure 44



**Table 26**

Mean Expropriation Composite Impact Score (10 Item) by Selected Household Characteristics			
	Mean Impact Score	N*	Sig
<b>Total Population</b>	-0.40	943	
<b>Gender of Head</b>			0.002
Male	-0.38	686	
Female	-0.47	257	
<b>Age of Head</b>			0.071
<= 35	-0.37	167	
36 - 50	-0.37	327	
51 - 65	-0.42	344	
66+	-0.49	105	
<b>HH Size</b>			0.016
1-4	-0.45	297	
5-6	-0.41	283	
7+	-0.36	363	
<b>Education of Head</b>			<0.001
Primary incomplete	-0.47	464	
Primary complete	-0.36	374	
Secondary/technical	-0.23	63	
University and above	-0.24	42	
<b>Occupation of Head</b>			<0.001
Agriculture	-0.45	654	
Unskilled labor	-0.45	31	
Skilled labor	-0.35	63	
Commerce/trader	-0.32	80	
Civil servant	-0.03	49	
Other	-0.43	8	
Unemployed	-0.36	59	

\*Includes only households that have been fully or partially compensated

partially and fully compensated households, the mean score on the impact scale was calculated at -0.40 (Table 26

Mean Expropriation Composite Impact Score (10 Item) by Selected Household Characteristics			
	Mean Impact Score	N*	Sig
<b>Total Population</b>	-0.40	943	
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Other	-0.43	8	
Unemployed	-0.36	59	

\*Includes only households that have been fully or partially compensated

). This means that overall, compensated households reported fairly significant negative impacts on their lives due to the expropriation. Furthermore, certain groups reported worse negative impacts than others. Among the more negatively impacted groups are: female-headed households (reporting -0.47), households headed by individuals above 50 and even more significant negative impacts reported by households headed by individuals over 65, smaller households with presumably fewer wage earners, households headed by less educated individuals, and also farmers and unskilled laborers (reporting -0.45 or worse). Scores grow increasingly negative with the increasing age of the head of household, with the highest scores registering among the 66+ age group. Relocated households also reported a -0.45 impact.

While households expropriated by private investors did not believe the projects were in the best interests of the community at the same rate as households expropriated by government

agencies,<sup>239</sup> the households expropriated by private investors did report negative impacts to their households at a level less than 50% of the mean negative impact reported by households expropriated by any other institution (Figure 44).

In estimating the independent effects of key study variables on the mean impact score in a regression model (Table 27), the results show that household size is not a strong factor influencing the household's reported negative impact due to the expropriation. However, the increasing distance the household moved does exert a predictably negative impact among the subset of households that did relocate as a result of the expropriation ( $\beta=-0.137$ ). The data also show that, as a household loses a larger percentage of its landholdings, it tends to report greater negative impacts. Similarly, as the age of the head of household rises, there is a direct and statistically significant negative impact reported for both compensated households (10 item) and relocated households (25 item). Negative effects also accrue to female-headed relocated households, households with low levels of education, and households with their primary employment in agriculture, although less significantly so than the effects of percent of land lost and age of the head of household. Finally estimates of monthly income prove to be significantly correlated such that higher income households, regardless of whether they relocated, reported significantly less negative impacts caused by the expropriation.

16 Another dimension used for measuring the impact of expropriations at the household level is the relative cost of goods and services to the expropriated households. Overall, households that relocated reported a greater increase in the cost of goods and services than households that did not relocate (Table 28).<sup>240</sup> For example, transport, water access, and electricity access all became less affordable for those who relocated. Households that relocated to urban/peri-urban settlements may have seen costs rise due mainly to the higher costs of living generally associated with more densely populated areas, whereas those relocating to rural areas may have seen costs rise due to lack of access to infrastructure and services in unimproved areas.

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<sup>239</sup> See *supra* at Table 12, showing that households expropriated by private investors were significantly less likely to report the project was in the best interests of the community than those expropriated by other entities.

<sup>240</sup> A slight variation in the sample sizes relative to each question reflects that certain livelihood/impact statements were only posed to relocated households. In this table, the question about the change in school fees due to the expropriation was posed to all compensated households, regardless of relocation status, because qualitative data had shown that some individuals who did not relocate found schools had been shut down or expropriated in their current neighborhoods, which may affect the costs of finding adequate and nearby schooling for the child.

Through a regression model considering a variety of predictor variables influencing the cost of goods and services to expropriated households that have been fully or partially compensated, the most significant determinants of higher costs after the expropriation were the increased distance moved from the expropriated residence, as well as increased costs for households depending on agriculture as their main source of income (Table 29Error! Reference source

**Table 27**

OLS Regression Model <sup>1</sup> : Composite Impact of Expropriation by Selected Household and Geospatial Characteristics						
Predictor Variable	All Compensated Households <sup>1</sup> (10 item scale)			Relocated Households <sup>2</sup> (25 item scale)		
	B	S.E.	Beta	B	S.E.	Beta
Distance moved from expropriated residence (Km)	-0.006	0.003	-0.060	-0.006	0.003	-0.137 *
Land lost due to expropriation (Ha)	-0.013	0.027	-0.016	0.077	0.034	0.148 *
Share of land lost due to expropriation (%)	-0.003	0.000	-0.217 **	0.000	0.001	-0.016
Gender of HH head	-0.052	0.033	-0.052	-0.179	0.063	-0.216 **
Age of HH head	-0.003	0.001	-0.100 **	-0.004	0.002	-0.152 *
HH size (number of members)	0.008	0.005	0.050	0.001	0.009	0.011
Education level of HH head	0.021	0.008	0.091 *	0.002	0.014	0.012
Agriculture occupation of HH head	-0.090	0.033	-0.095 **	0.002	0.055	0.002
Monthly Income (in 000s)	0.000	0.000	0.078 *	0.001	0.000	0.279 **
(Constant)	-0.034	0.086		0.130	0.158	

<sup>1</sup>Includes only households that have been fully/partially compensated (N=967) <sup>2</sup>Includes only households that have been relocated and fully/partially compensated (N=231)

\*Significant at <.05 \*\*Significant at <.01

**not found.**) The higher costs experienced, when combined with the finding that expropriation tends to result in a lower monthly income for the expropriated household, presents a broad picture of the hardships faced by expropriated households, and particularly by those who must relocate.

**Table 28**

<b>Percent of Households Reporting Higher Costs for Selected Goods and Services Since Expropriation by Residence Relocation Status</b>				
<b>Goods and Services</b>	<b>Relocated residence?</b>			<b>N</b>
	<b>No</b>	<b>Yes</b>	<b>Total</b>	
	<b>%</b>	<b>%</b>	<b>%</b>	
School fees	36.4	47.7	38.7 *	946
Health care	38.2	38.2	38.2	625
Transportation	18.8	37.3	24.5 **	625
Entertainment	8.1	19.6	11.6 **	625
Water	11.7	23.2	15.2 **	625
Electricity	7.2	13.1	9.0 *	624
Taxes	12.0	14.8	12.9	625
Food	42.0	45.9	43.2	625
Household goods	23.4	25.6	24.1	624
Clothing	23.0	21.4	22.5	624
Household appliances	8.6	13.3	10.0 *	625

\*Significant at <.05    \*\*Significant at <.01

<sup>1</sup>Includes only households that have been fully or partially compensated

**Table 29**

<b>OLS Regression Model<sup>1</sup>: Change in Overall Cost of Selected Goods &amp; Services (Composite Indicator) Due to Expropriation by Household and Geospatial Characteristics</b>			
<b>Predictor Variable</b>	<b>B</b>	<b>S.E.</b>	<b>Beta</b>
Distance moved from expropriated residence (Km)	0.005	0.002	0.092 *
Land lost due to expropriation (Ha)	0.028	0.020	0.058
Share of land lost due to expropriation (%)	0.000	0.000	-0.064
Gender of HH head	-0.013	0.027	-0.021
Age of HH head	0.000	0.001	0.012
HH size (number of members)	0.006	0.004	0.060
Education level of HH head	0.001	0.006	0.007
Agriculture occupation of HH head	0.058	0.027	0.096 *
Monthly Income (in 000s)	0.000	0.000	-0.015
(Constant)	0.119	0.069	

\*Significant at <.05    \*\*Significant at <.01

<sup>1</sup>Includes only households that have been fully or partially compensated (N=967).

## 6 CONCLUSIONS AND RECOMMENDATIONS

The research team has developed a series of recommendations based on the analysis of the findings in the context of international best practices and the recommendations of all respondents, from expropriated households to government stakeholders to interested members of civil society. These recommendations will address the issues in particular of **low valuation, delayed compensation, and increased transparency**, along with a few general recommendations. A discussion of alternatives to expropriation is also included in this section.

It should be noted that the 2007 Expropriation Law was pending amendment during the period of this study, but had not yet come into force. The recommendations made in the forthcoming section will make reference to the draft version of the law where applicable in order to ensure that the recommendations are relevant when the draft law is adopted. However, the draft version of the law as reviewed by the research team showed relatively minor changes from the main procedures included in the current law.

### 6.1 Improve Planning and Valuation Procedures for Expropriation Projects

Much of the data point to a pervasive problem of improper planning, causing artificially low valuations, excessive delays in payment, **institutional coordination issues, and undue hardship on the affected population**. By improving planning in the expropriation process, many of these issues would be addressed and individual experiences in the expropriation process would be improved.

This set of recommendations is aimed primarily at expropriating institutions and other government agencies, including the central government, and MINECOFIN.

#### 6.1.1 Use independent valuers to produce valuations of land to be expropriated

In order to be accurate, consistent, and fair, **valuation of lands to be expropriated must be performed by the independent valuers of the IRPV**. Expropriating entities at all levels can support the use of independent valuers by involving valuers at the planning stages to obtain accurate estimates of land prices, and also by insisting on the use of independent valuers to value all property targeted for expropriation. Valuation of property must also be recognized as independent and professional, and based on market prices of land. Reducing pressure on the IRPV valuers to change values could also be achieved through enhanced planning, so that expropriating entities are aware at the outset of a project what the cost of the project is likely to be. The amended expropriation law would address this issue to some degree by solidifying the role of the IRPV as the only body competent to value property in Rwanda.<sup>241</sup>

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<sup>241</sup> Draft Expropriation Law, Art. 23 *et seq.*

### **6.1.2 Enhance independence and activities of the IRPV**

In order to rely on the IRPV as an independent institution responsible for providing fair land prices based on market value, the institution itself must be supported. This includes professional training and capacity building for the valuers themselves, the establishment and enforcement of a code of conduct for members. It also includes a commitment from other government agencies to respect the independence of the institution, and to segregate the independent valuers from the expropriating entities during the expropriation process to avoid undue influence of expropriating entities upon the valuers. Furthermore, **the IRPV must be given the necessary financial and logistical support to carry out its duty to survey and value all lands in Rwanda on a yearly basis.**

### **6.1.3 Support IRPV in setting and updating annual land survey/prices**

The IRPV has in its mandate to set and update land prices annually. At the time this report was written, the IRPV had not yet been able to carry out even its first annual land survey in this regard. In its early years, the IRPV must be supported by government in order to carry out its required activities and have the chance to develop its credibility as it grows as an institution.

### **6.1.4 Improve feasibility studies on expropriation projects, including an assessment of socio-economic impacts on the affected population**

Improving the process of conducting feasibility and impact studies for expropriation projects should allow for enhanced time and budget allocations for projects so that the precise project timelines can be clarified and shared at the outset of the process. Enhanced planning and feasibility studies will aid expropriating institutions in precisely identifying projects, areas, and households to be expropriated, and also in planning for actual project budgets and valuation at the proper time, so that delays in compensation will not become a recurrent issue. Feasibility studies should also include environmental, water rights, and livelihood impact assessments, and appropriate evaluation of alternatives to proposed expropriation projects and sites.<sup>242</sup>

Article 11 of the draft law imposes a requirement upon expropriating institutions to produce “a study indicating consequences on living conditions of persons to be expropriated,” which should address some of these concerns if the process is properly respected and overseen. Accordingly, additional guidelines or regulations should be adopted to specifically define the contents required in these studies, and the consequences of failing to adequately carry out the study, or because of adverse findings. These studies will be an important resource for monitoring and evaluation of the new law going forward, to ensure that expropriating entities adequately consider the needs and impacts on a given community and its expropriated individuals. These studies should also be made public by being carried out prior to consultative meetings and presented at the meetings, allowing for review by the public, and community advocates, and CSOs.

### **6.1.5 Clarify and follow project timelines**

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<sup>242</sup> Anseeuw, Wily, Cotula, & Taylor (2012), 8.

Excessive delays in expropriation processes, which tend to cause hardships for households to be expropriated, can also be addressed through proper planning. **When a household's rights are violated in the expropriation process through excessive delays or other procedural irregularities, the household should be able to seek damages.** Both the draft law and the current law provide for the payment by the expropriating entity of 5% of the fair compensation agreed to the expropriated person as damages for not respecting the 120 days' time limit for payment of compensation, or for retracting a planned expropriation. The law should be amended so that the amount of damages is also dependent on the length of the delay, and not only the value of the property. The central government should support the use of this provision through awareness raising and legal aid provision. If this provision is actually used, **expropriating entities should have better incentives to plan properly and avoid excessive delays.**

Moreover, the **procedures regarding payments must be clarified** by MINECOFIN to address some of the delay issues. MINECOFIN should produce guidelines detailing all of the requirements that a person appearing on the payment list must fulfill in order to be paid. This would allow expropriating entities to compile and present all of these requirements in advance in the beginning, and send a complete list to MINECOFIN, to avoid unnecessary delays. Another **method of avoiding unnecessary and bureaucratic delays in payment would be to decentralize payment of funds for expropriation cases that are still in dispute**, whereby MINECOFIN can transfer lump sums to the Districts supervising the expropriations or to the bank accounts of the relevant Sectors where the disputed land/properties are located. In turn, Districts or Sectors can transfer funds to expropriated people once disputes are resolved, and pending litigation on the land is decided, and any errors in the name or account details of the recipients are corrected.

#### **6.1.6 Improve and streamline the payment procedures**

Some of the delays in payments reported by expropriated households seem to be caused by errors in forms and databases used to initiate payments, as reported by expropriating entities. However, these errors are sometimes due to lack of understanding in the expropriating entity about the format in which MINECOFIN would require the information. In order to minimize these unnecessary delays, MINECOFIN should develop formal, written guidelines which local authorities and other expropriating entities may use to ensure more timely payments to expropriated individuals. Also, where possible, **payments to expropriated individuals could be decentralized to the Districts in order to allow payments to most households while resolving small errors related to other recipients, thereby delaying fewer households due to small errors in the lists.**

#### **6.1.7 Improve coordination and planning by allocating sufficient project budgets before commencing projects**

A common explanation for delays and problematic expropriations was the failure of expropriating entities to allocate sufficient budgets ahead of time in order to fully fund the project. Many government respondents noted that a government policy has been announced

whereby expropriating entities would be required to allocate those funds in advance. Institutions should be required by law to follow this mandate.

## **6.2 Improve the notice procedures**

Giving expropriated households adequate notice of the prospective expropriation affecting their lands is one of the fundamental legal principles of expropriation internationally and nationally.

These recommendations are mainly directed toward central government, all expropriating institutions, and in particular local authorities, who are often charged with giving notice to the concerned populations.

### **6.2.1 Provide better, more personalized notice to expropriated households**

Given the high correlation between an individual's satisfaction with the expropriation process and the type of notification received, improving communication with the expropriated household throughout the expropriation process will greatly enhance expropriated individuals' experiences with the expropriation process. Because multiple points of notification and community consultation are already built into the expropriation process, improving the effectiveness of these points of contact will be an important and straightforward way to improve the process. At a minimum, the Expropriation Law should be amended to align with the notice requirements in the Kenyan and Ugandan laws, requiring public notice through posting in the concerned area, and personalized notice whenever possible.<sup>243</sup> Ideally, the law will confirm an individual's right to be invited to the community consultation process while the project is under consideration, consulted to inform a final decision by the Land Committee, and then be given a formal, written notification of expropriation (in addition to a public posting of lists of households to be expropriated) once the households to be expropriated are determined, and finally a written, formal notice as well as posting of the value determined for the household's expropriated property.

## **6.3 Increase Opportunities for Public Participation in the Expropriation Process**

Public participation in various forms was shown to have exceedingly positive effects on an individual's experience in the expropriation process, including through indicators such as satisfaction with valuation process and also belief in the public interest aspect of the project.

This set of recommendations is primarily aimed at policy-making officials in the land use and land development sector, and also of interest to central government and local authorities.

### **6.3.1 Increase consultative nature of land use planning**

The process of Master Planning and other high level land planning activities often have direct impacts on the population, including through which properties will be expropriated, but citizens

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<sup>243</sup> See The Land Act (Kenya), 2012, Art. 107(5); Land Acquisition Act (Uganda), 1965, Art. 5.

are rarely sensitized to the broader goals of these land development policies and plans. Conducting regular public meetings, or “open days,” on land planning as it affects a particular local area would provide the local populations in those areas with an opportunity to understand and discuss the land use plans affecting their areas, and provide some feedback to relevant officials. Allowing citizens to participate in and better understand the larger goals of land use planning will not only improve their experiences in expropriation, if they are ever expropriated, but it will also improve the implementation of Master Plans and other land use plans by making those processes consultative and public.

### **6.3.2 Ensure meaningful consultation with the public at meetings on expropriation**

Public meetings on expropriations should be used as a forum for hearing from affected citizens, providing space for consultation, and also explaining how a particular project fits into larger land use and land development goals. In order to properly involve citizens and actually use these required public meetings as an opportunity for public participations, a representative of the expropriating entity, or an official with enough knowledge about the expropriation project to respond to and consider citizen concerns must be present.

Some improvements in the obligation to carry out public consultations prior to expropriation have been incorporated into the draft law, requiring that “the Committee in charge of supervision of projects of expropriation in the public interest shall consider the relevance of the project within at least thirty (30) days after receiving the request for expropriation and shall conduct a consultative meeting with the population living where the land is located.”<sup>244</sup> Given that the law requires consultation with the entire community, and not just the individuals to be expropriated, this will hopefully be interpreted to incorporate a higher standard of public consultation in the expropriation process. This provision could be further improved by requiring the feasibility study to be made publicly available at least 15 days before the consultative meeting occurs so that interested citizens and CSOs have a change to review it and prepare comments.

### **6.3.3 Ensure all owners of jointly held property are involved in every stage of the expropriation process**

One issue with expropriation reported by government respondents and households alike was **an issue of some owners of jointly-held property, primarily wives, being excluded from the expropriation process, and specifically the valuation process**. Article 18 of the law does require that a married owner of land to be expropriated must disclose the existence of his or her spouse. Article 40 of the draft law provides even more specific protections for joint owners of property to be involved in valuation and compensation procedures, so great care must be taken to properly enforce this Article once the new law is adopted.

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<sup>244</sup> Draft Expropriation Law, Art. 12.

## 6.4 Mitigate Negative Impacts on Expropriated Households

Expropriated households on average reported fairly significant negative impacts on their lives because of the expropriation, with resettled households and female-headed households reporting even more negative impacts. Expropriated households also reported notable declines in their household monthly income after the expropriation. Some specific aspects of these negative impacts can and should be mitigated by institutions involved in the expropriation process.

These recommendations apply primarily to expropriating entities, and also central government and local authorities to some extent.

### 6.4.1 Provide compensation for relocation expenses where applicable

Compensation in the form of assistance with relocation expenses should be available to households required to relocate because of the expropriation. In fact, the definition of “fair compensation” in Article 2 of the draft expropriation law has been updated to include compensation for any disturbance or losses due to relocation. Article 29 of the draft law mandates that this relocation compensation shall be equivalent to 5% of the total value of the property expropriated. Given that the poor are the most adversely affected by relocation, and that their property values would not be high, this compensation should be increased to include an additional flat rate for relocation to cover some of the costs of moving items and visiting other areas to find new property.

### 6.4.2 Reduce unnecessary limitations on individuals being prohibited from improving their lands

The expropriation law provides for some limitations on valuation of improvements on the property or cultivation of certain types of crops when those activities are carried out after the expropriation process has already commenced. This limitation starts from the time of valuation of the land,<sup>245</sup> and presumably terminates 120 days after the valuation, at which time an expropriation that has not yet been fully compensated actually becomes invalid according to the law.<sup>246</sup> Timelines must be clarified in the draft law, which for example only provides government with a time limit for approving the valuation, and does not actually provide a time limit for performing the valuation, which could result in excessive delays. Furthermore, individuals should only be prohibited from receiving compensation for improvements made within 120 days after valuation. **They should be permitted to cultivate or improve land at their own risk during that period, and if the expropriation is reinstated, their property should be re-valued and they should be compensated for the improvements made during and after the 120-day period as well.**

Article 18 of the draft law stipulates that “After the publication of the decision for expropriation in the public interest and the list of holders of rights registered on land titles and activities developed on land, the land owner has no right to carry out any permanent activities on the land.

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<sup>245</sup> 2007 Expropriation Law, Art. 17.

<sup>246</sup> *Id.* at Art. 24.

In case he/she does, those activities are not considered during expropriation.” It appears that a loophole could be found between these two articles, whereby an individual will be prohibited from making improvements on his or her property from the moment the expropriation decision is announced (and current practice shows that sometimes this period is extended even back to the moment the expropriation application is announced and prior to any decision). This would then become an excessive and unlawful time period if valuation were at all delayed. Given that the provisions of the law are sufficiently protective of individual rights, but implementation has proven haphazard, supervision of the expropriation process must be specifically allocated to a department within MINIRENA or an independent institution.

#### **6.4.3 Shift the narrative about expropriation to reflect its predominantly rural nature**

Although expropriation has been viewed as an urban problem, and undoubtedly has affected a large number of city dwellers, the data reveal that expropriation in Rwanda primarily affects rural landowners.<sup>247</sup> Shifting the dialogue about expropriation from the notion of pushing urban dwellers into surrounding rural areas, and **instead discussing the impacts on rural landowners and farmers will be an important starting point to begin to better understand and address the true impacts of expropriation on the population.**<sup>248</sup> For example, expropriations carried out in urban areas are more likely to use independent valuers, whereas local authorities in rural areas report still conducting valuations themselves by using outdated reference land prices. By concretely repealing outdated reference land prices and fully supporting the authority of the IRPV to value property subject to expropriation, MINIRENA, the Prime Minister’s Office, and the Parliament can better support all landowners, and especially rural landowners, who face expropriation.

#### **6.4.4 Promote alternatives to expropriation**

A number of innovative alternatives to expropriation have already been tested in various cases in Rwanda. These alternatives should be further explored and implemented wherever possible to mitigate the negative impacts of expropriation on expropriated households.

1. Coordinated rebuilding/improvement of low-cost or slum housing, allowing former landowners to buy into the new housing at reduced rates, or with preferential loan terms;
2. Allocation of additional land for low-cost housing in urban areas, and increased focus on *imidugudu* development in rural areas to provide alternative housing settlement sites in order to create available affordable housing alternatives;
3. Allow residents in areas being converted to business use or improved housing to take a business interest in the new development, e.g., allowing them to be owners in multi-family/apartment units, providing them with shares/equity in businesses established on the land, and providing them stalls in markets being established;

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<sup>247</sup> Approximately 70% of all expropriations were of rural households, and over 80% of land lost was rural in character. *See supra* Part 5.1.

<sup>248</sup> Anseeuw, Wily, Cotula, & Taylor (2012), 7.

4. Strict implementation of Master Plans through enhanced citizen participation in the land use planning process, and improved oversight to minimize the possibility of corruption or preferential treatment in the implementation process;
5. Provide land owners a chance to come into compliance with Master Plans through converting the use of their land into the required use, rather than immediately opting to expropriate them;<sup>249</sup>
6. Increase accessibility of entrepreneurship training and access to small business loans or micro-loans for individuals at risk of expropriation, in order to avoid expropriation altogether or improve their chances of success if expropriated and relocated.

#### **6.4.5 Empower local authorities to put the best interests of the population as the foremost goal**

Local authorities are the key actors in the expropriation process who interface with the population. Currently, they have conflicted roles in both advocating on behalf of the population and at the same time efficiently carrying out expropriation projects, sometimes without sufficient budgets. **Local authorities must be freed from their role to implement valuation, especially when a project is being supervised by local authorities.** Expropriating entities must take a more central role in meeting with the population to explain the project and take comments, rather than relying on local authorities to do so, which can create a *de facto* alliance between local authorities and expropriating entities from the perspective of the population.

### **6.5 Improve Transparency and Accountability in the Expropriation Process**

Transparency and accountability in the process of expropriation are essential for improving accuracy of valuation, adherence to timelines, and also minimizing opportunities for corruption. Furthermore, transparency and accountability are cornerstones of fairness in all government processes, and an increased commitment to these principles will greatly improve both adherence to the legal requirements of expropriation, and also the individual's experience in the expropriation process.

These recommendations are particularly aimed toward local authorities, MINALOC as the Ministry responsible for local authorities, and the central government.

#### **6.5.1 Increase accessibility of appeal/counter-valuation procedures**

An expropriated landowner has a legal right to order a counter-valuation of his or her property if he or she does not agree with the value. **Expropriated individuals must be better informed of their right to a counter-valuation,** must come to trust that the process of counter-valuation will be respected, and must be provided with some financial assistance if the counter-valuation is

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<sup>249</sup> For example, some landowners near a tea plantation in the Western Province were provided the opportunity to convert their lands to tea growing areas and sell their tea to the plantation, allowing them to remain on their lands and also participate in a thriving business.

too costly for certain individuals. While it is probably not reasonable to provide every expropriated household with dedicated funds for counter-valuation, the central government could provide a small fund for at least one representative household in an expropriation project to order a counter-valuation. If the counter-valuation shows the value of that representative plot to be different, then the same proportional adjustment could be made to the other households seeking counter-valuation as well.

### **6.5.2 Enhance the capacity of local authorities to participate in the expropriation process**

Local authorities are the main liaison for the community in the expropriation process, providing support, information, channels of communication with expropriating entities, and advice about technical issues such as valuation. However, local authorities reported at times acting as valuation officers, and have also been reported overwhelmingly as the source of potential corruption in the expropriation process. Local authorities must be better equipped to carry out the expropriation process according to the law, be more responsive to citizen questions and concerns, and adopt practices that enhance transparency in the process rather than compromise it. Specific, targeted training of local leaders on the new expropriation law will be one way to start the process of improving local leader performance in the expropriation process. However, improvements in planning and valuation, such as removing the local leaders from the valuation process altogether by enhancing the capacity of the IRPV, and enforcing the law requiring expropriating entities to carry out feasibility studies and properly allocate project funds ahead of time will also allow local authorities to take their proper role in supporting communities going through expropriation.

Furthermore, for both expropriations carried out by other entities and by the local leaders themselves, local leaders have strong pressures to focus on the timeliness and economic efficiency of projects rather than taking additional time to consult with and advocate on behalf of their communities. The indicators of performance for Districts must be further developed to include a better measurement of District officials' responsiveness to the community, in particular during expropriations. For example, measurements such as holding a number of public meetings about the project, or personally visiting the homes of individuals to be expropriated could better reflect local leader performance in expropriation than measuring the speed by which projects are carried out.

### **6.5.3 Publicize feasibility studies**

Feasibility studies conducted by expropriating entities should be made public. This publicity requirement would further the overarching goals of transparency and accountability in the expropriation process, while also encouraging expropriating entities to increase the quality and depth of such reports. It would also allow expropriated people and advocacy organizations to monitor actions of expropriating entities to protect environmental and social vulnerabilities identified in the projects.

## 6.6 Carry out legal reforms

Further, specific legal reforms will help to bring the expropriation law and practice into compliance with international standards, and will also reduce the possibility of poor implementation even where the law itself is adequately well-defined.

These recommendations are particularly aimed toward Parliament, MINIRENA, and MINIJUST.

### 6.6.1 Repeal Ministerial Orders determining Reference Land Prices

The Ministerial Orders determining reference land prices within and outside of Kigali City are universally agreed to be too low, obsolete, and resulting in unfair valuation of lands.<sup>250</sup> Accordingly, the practice of using professional, independent valuers has been slowly implemented, and is going to be an obligation under the amended version of the Expropriation Law. However, in order to solidify this new process of professional, independent valuation of lands subject to expropriation, these obsolete reference land prices must be repealed. The new land values determined by the IRPV can be published annually, or even quarterly, as a regulation or order of the Minister of natural resources.

### 6.6.2 Repeal the provision allowing non-payment for small takings (Ministerial Order on Land Leases)

Article 15 of the 2008 Ministerial Order on Land Leases purports to make 5% of all private landholdings subject to uncompensated expropriation.<sup>251</sup> This type of deprivation of private property rights, which would otherwise violate the terms of the Constitution (allowing taking of private land only for fair compensation and in the public interest), and the expropriation law (requiring market value compensation for all expropriated land) should be adopted through a legislative act rather than an order of a minister. Article 15 of the Order should be repealed, and the entire Order must be reviewed and harmonized with the 2013 Land Law and the amended expropriation law, once it is adopted.

### 6.6.3 Ensure that households affected by road widening under the new law governing roads are compensated for expropriated land

The law on roads requiring the widening of roads results in the uncompensated taking of land in order to expand those roads not meeting the legal requirements.<sup>252</sup> The government must support compensation of any and all takings, and provide direction on the implementation of the road widening process, instructing local authorities in particular in the required process of notification, consultation, valuation, and compensation required for all expropriations, including those done for road widening.

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<sup>250</sup> Ministerial Orders 001/16.00 of 23/11/2009 determining the reference Land Prices in the City of Kigali, and 002/16.01 of 26/04/2010 determining the reference Land Prices outside the Kigali City.

<sup>251</sup> Ministerial Order N.001/2008 of 01/04/2008 determining the requirements and procedures for land lease, especially Art. 15.

<sup>252</sup> Law No. 55/2011 of 14/12/2011 governing roads in Rwanda.

#### **6.6.4 Narrow the definition of “public interest” in the Expropriation Law**

The definition of “public interest” in the Expropriation Law is unreasonably broad.<sup>253</sup> Despite the fact that the list appears exhaustive, including so many examples of public interest activities is one of the reasons that the provision becomes overbroad. Parliament must consider carefully how to narrow the list of permissible public interest activities in order to better protect the rights of households subject to expropriation. For example, removing from the list any activities related to private interests, or creating an exception from the list for activities that could be income-generating, could help to narrow the permissible activities justifying expropriation. Furthermore, the law should require that consultations with the public on planned expropriations should specifically include a discussion of the public interest nature of the project, allowing the population to give feedback to the expropriating entities and supervisory bodies on the potential that the project will actually be in the public interest if implemented as planned.

#### **6.6.5 Include a clearer definition of institutional roles and responsibilities and coordination in the expropriation law**

The expropriation law must clearly define the institutional roles and responsibilities mentioned in these recommendations so that they are enforceable. The law must also designate a clear supervisory process for compliance with the law, whether through a coordinating body within MINIRENA, or by an independent institution. Furthermore, regulations or instructions of the Minister should be developed to provide additional guidance on all steps of the expropriation process, including feasibility studies, consultations, valuation, payment of compensation, damages, and ethics and transparency concerns.

### **6.7 Final Conclusion**

The implementation of a policy of expropriation is necessary in Rwanda for the promotion of modern developments that will have positive impacts on Rwanda’s citizens. In general, Rwandans support the government’s development plans and are often supportive of expropriation projects that affect their own lands. However, many expropriated households report being negatively impacted by low valuation of their properties and delayed compensation payments. In Rwanda’s predominantly rural economy, these types of delays can cause extreme hardship on vulnerable groups such as subsistence farmers and female-headed households. Urban dwellers likewise report problematic application of the procedural requirements of the expropriation law. Improved planning and coordination to ensure that expropriation projects are not commenced without proper allocation of funds or preparation for construction or related work will lessen the negative impacts of expropriation on affected households and individuals. Moreover, an increased effort to involve citizens, and in particular expropriated households, at every stage in the process is likely to garner more support for expropriations, and also individual satisfaction with the process overall.

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<sup>253</sup> 2007 Expropriation Law, Art. 5; Draft Expropriation Law, Art. 5.



## ANNEXES

**Annex 1. Tables, Figures and Maps**

**Annex 2. Descriptive Statistics**

**Annex 3. Household Survey Instrument**

**Annex 4. Policy Brief**