

Policy Brief

The Implementation of Rwanda's Expropriation Law and Outcomes on the Population

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This Policy Brief contains a synthesis of the findings and recommendations drawn from a research project conducted by the Legal Aid Forum on the Implementation of Rwanda's Expropriation Law and its Outcomes on the Population. The research was funded by the USAID-funded LAND Project as a component of a broader research agenda developed in early 2014 through a multi-stakeholder consultative process in Rwanda supported by the LAND Project.

The current Expropriation Law was adopted in 2007, as legislation implementing the 2005 Organic Land Law. The Organic Land Law was replaced in 2013 by an ordinary law regulating land. The 2013 Land Law reaffirms the right to private property ownership that is subject to expropriation in the public interest. The 2007 Expropriation Law created the procedures and regulations by which the government could expropriate private property in the public interest.

Rwanda's ambitious development plans have led to much growth and prosperity in Rwanda, but those plans have often required the expropriation of property from its citizens. Prior to this research, no systematic, comprehensive empirical review had been conducted on the extent of expropriation in Rwanda, the valuation and compensation processes for expropriated properties, and the impacts of expropriation on the expropriated population. In order to estimate a baseline number of households impacted by expropriation, the research team visited all 30 Districts in Rwanda to obtain numbers of expropriated households, and also to identify more detailed numbers and lists of names of expropriated people in the 15 sampled Districts. From this two-stage listing process, the team was able to estimate that 30,050 households have been affected by expropriation since the 2007 Expropriation Law was adopted. This policy brief presents the key findings and recommendations derived from this study.

RESEARCH METHODOLOGY

The research was carried out from October 2014 to July 2015 in the following stages: 1) desk review of relevant prior studies and literature; 2) qualitative data collection and analysis; and 3) quantitative data collection and analysis.

The literature review revealed a number of prior studies and articles related to land reform and land use in Rwanda. However, it also showed a dearth of empirical research on the incidence, procedures, and impacts of expropriation on Rwandan society.

Qualitative data analysis was undertaken on a large scale, focusing on three major categories of respondents: 1) government agencies involved in the expropriation process; 2) local authorities with involvement in facilitating expropriations; and 3) individual households that had experienced expropriation. Interviews with government agencies included respondents from expropriating agencies, coordinating agencies and ministries, and other agencies that may be involved in taking

complaints related to expropriation. Interviews and focus group discussions were carried out with local authorities at the Sector and District levels, primarily in local areas where the household survey was conducted, so as to balance out the perspectives on the experience of expropriation in those areas. Finally, a number of focus group discussions were carried out with individuals who had been expropriated and with civil society/legal aid organizations that serve the population. These discussions provided more in-depth information about individualized experiences of the expropriation project and also ensured the inclusion of some data related to high-profile expropriation projects.

In March and April 2015, the research team carried out a household survey in 15 randomly selected Districts, with probability of selection proportional to size (PPS). All respondents to the survey were individuals representing households that had experienced expropriation under the procedures provided for by the 2007 Expropriation Law. A total of 1,381 respondents were included in the household survey, with their responses representative of the experiences on the national level.

RESEARCH FINDINGS

1. Project characteristics

Determining the profile of expropriation projects is an important first step in understanding the effects of expropriation in Rwanda. Rwanda’s economy is predominantly rural, and as of the last census in 2012, only 17% of households were reported as being located in urban areas. However, expropriation more often affects rural households—almost 70% of expropriated households come from rural areas, and another 18% come from peri-urban areas, with only 12% of expropriations reported in urban areas (Figure 1). In fact, as a proportion of all land lost to expropriations, rural land far outweighs urban land, with rural land and peri-urban land accounting for 97% of all land lost.

Figure 1

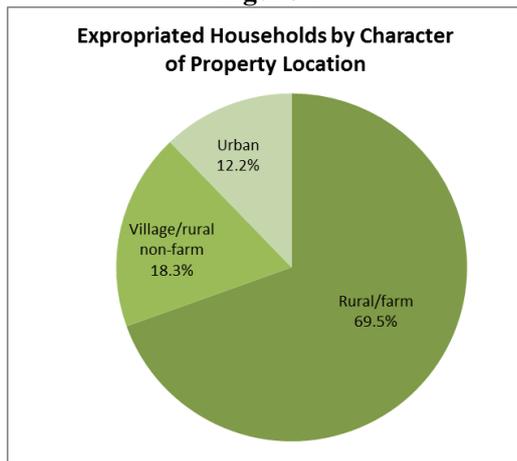
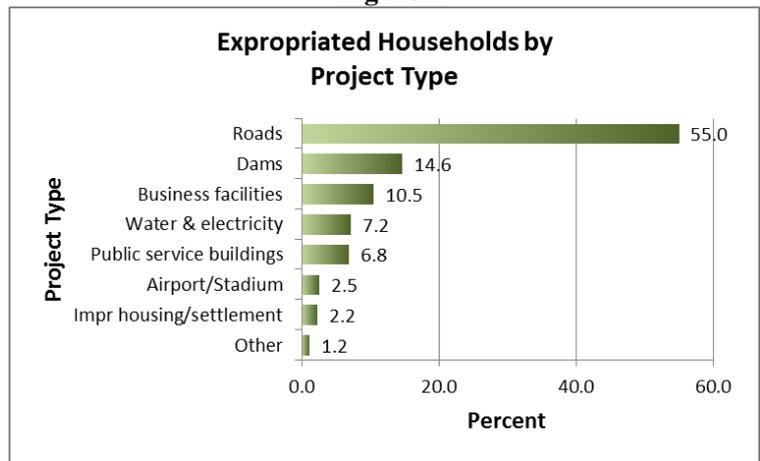


Figure 2



The type of projects that led to expropriation revealed patterns, as well. Road projects accounted for 55% of all expropriations, while water canals and electricity lines accounted for 7.2% of all expropriations (Figure 2). These types of projects also tended to lead to partial expropriations rather than total expropriations. In total, these three types of predominantly partial expropriations represented 65.5% of all expropriations in Rwanda. In fact, only 15% of households were required to relocate due to the expropriation, which reflects the high incidence of partial expropriation, as well as the fact that 54% of expropriations were of lands that were not the location of the primary residence of the expropriated households (e.g., crop land, unimproved rural landholdings).

2. Expropriation procedures

Expropriated households reported that the predominant manner of notification they received of the expropriation was through public meetings (Figure 3). However, almost one-third of expropriated households reported not being notified at all. By project type, over 60% of households expropriated for water canals and electric lines were not notified, while about 27-29% of households expropriated for roads and dam projects reported not being notified (Figure 4). Accordingly, partial expropriations for infrastructure improvements seem to be implemented in many cases without even providing notice to concerned households. The fact that over half of expropriations occur on land which is not the primary place of residence for the expropriated households likely contributes to the issue of not receiving notice, given that most notices are delivered publicly at meetings that are announced and held by the administrative authorities where the land is located.

Figure 3

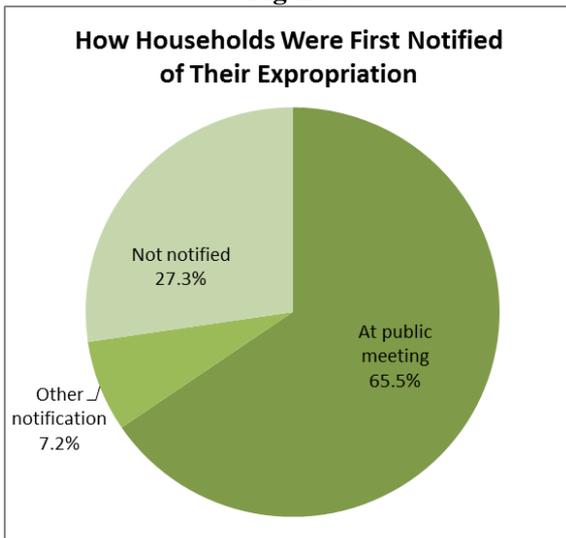
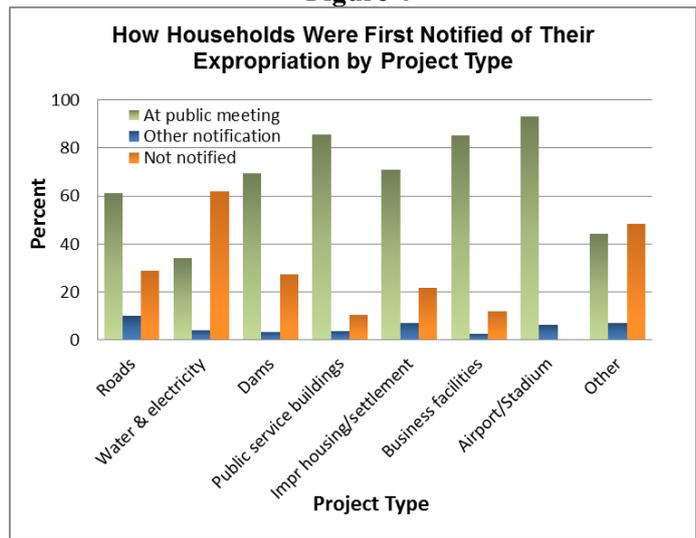


Figure 4



Notice and involvement in the process are also important factors influencing a household's experience and satisfaction with the expropriation process. For example, individuals who were informed about the value of their property in writing were over five times more likely to agree with the valuation, whereas those who were notified verbally or through a meeting or posting at sector offices were less likely to agree with the valuation (Figure 5). Survey data also revealed that over 70% of expropriated individuals who were involved in the valuation process on their property actually supported the final value given to their property, whereas those who were present but ignored during the valuation reported a satisfaction level below 14% (Figure 6).

Figure 5

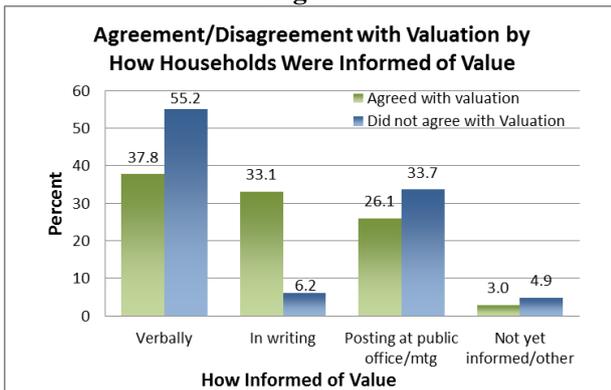
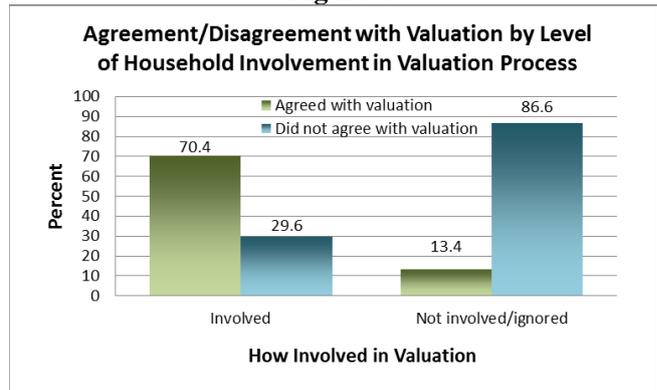


Figure 6



The price paid per square meter for expropriated land would be expected to correlate closely to the character of the land (urban, rural/non-farm, rural). Table 1 (*Annex*) shows that urban lands were valued at an average of approximately 31,000 RWF/M², rural/non-farm land at 11,000 RWF/M², and rural farmland at 2,500 RWF/M². The survey did show unexpected discrepancies in the compensation per square meter of land when looking at the price paid by specific expropriating institutions and types of projects. Among the expropriating institutions, the average price per square meter paid by private investors was over 15,000 RWF/M², the central government paid approximately 12,000 RWF/M², other state agencies paid just under 10,000 RWF/M², and local government authorities paid 4,000 RWF/M² in compensation. The price paid per square meter of property also varied highly based on the type of project carried out, with water canals and electric lines, dams, public service buildings, and airport and stadium projects paying the least. However, when controlling for the character of the land and other variables (Table 2, *Annex*), the price per square meter paid in compensation for water canals/electric lines and dam projects adjusts upward, as does the price paid for land expropriated to erect public service buildings. Furthermore, the relative price paid by private investors, which were assumed to be the best-paying entities, was actually found to be below average when other factors such as character or location of the land are controlled. The central government emerged as the best-paying entity, and other state agencies/parastatals, which paid more than double the price paid by private investors. Local government entities remain as the lowest-paying institutions.

When asked about their agreement with value given to their lands, over 80% of expropriated households reported that it was below market value, which some reported estimating based on comparable sales in their areas, or on previous offers they had received for their lands. However, the data show that only 6% of expropriated households actually appealed or requested counter-valuation of their properties. When asked their reasons for not appealing the value, most people (56.5%) reported that they did not appeal because they believed the appeal would not change the outcome (Figure 7). Another significant segment of dissatisfied households (more than 26%) stated that they had no information about the appeals process or did not know an appeal was even possible. An additional 15.7% of households who did not appeal reported that they could not afford to appeal.

Figure 7

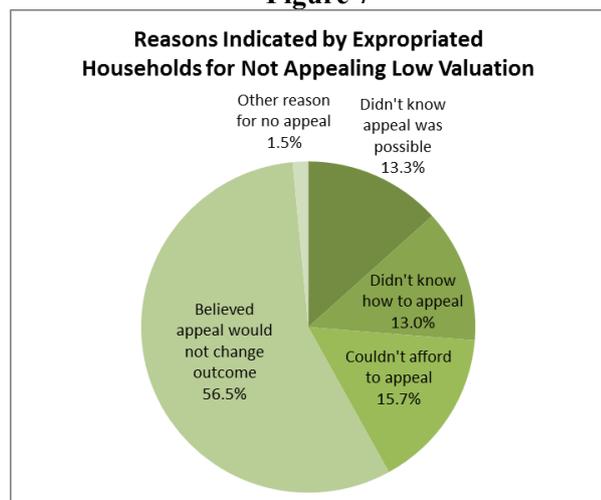
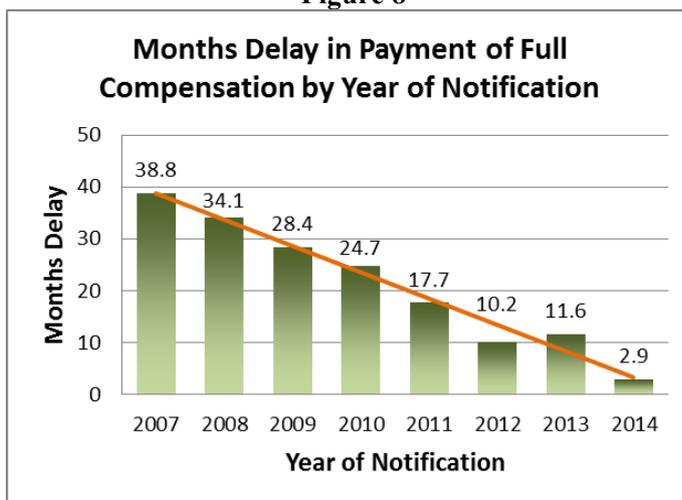


Figure 8



The expropriation law also sets limitations on the length of time an individual may have to wait to receive compensation for expropriated property at 120 days (4 months) from the day of approval of the just compensation. Nonetheless, expropriated households reported delays in receiving compensation ranging from 5 months up to 42 months. However, the average delays have gone down significantly in the past few years (Figure 8). In 2007, the average delay for notified households was 38.8 months, while in 2012 it was 10.2 months, and in 2013 it was 11.6 months. In 2014, the average delay was only 2.9 months, which is within the 4-month time period required by the law.

3. Socio-economic impacts

As expected, all expropriated households lost land. The data also show that many expropriated households lost other types of property, as well (Figure 9). Given the high rate of expropriated property being of rural character, it is unsurprising to find that over 50% of expropriated households also lost annual crops, perennial crops, and trees, and over 30% lost feed for livestock—all productive assets for most rural households. Approximately 21% of households reported losing a residence in the expropriation. This is only slightly higher than the percentage of individuals who had to relocate due to the expropriation, which was reported to be approximately 15% of households.

Figure 9

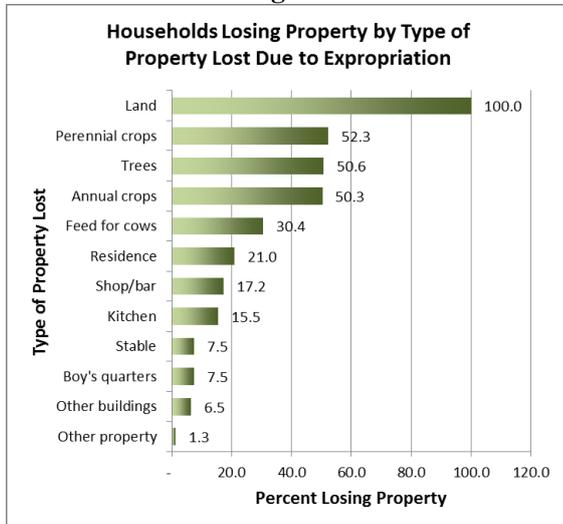
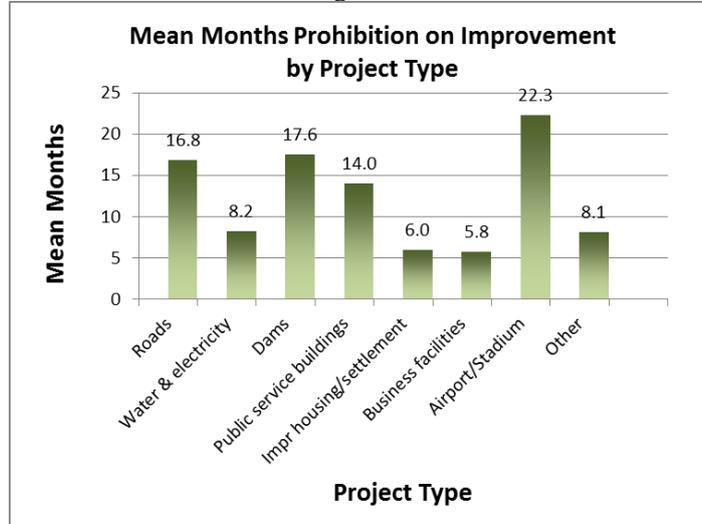


Figure 10



Over 40% of expropriated households reported facing periods of time where they were prohibited from improving their property while the expropriation was pending. While the law does anticipate a period of 4 months between valuation and payment where an individual would not be able to include any new improvements on their lands into the valuation, nonetheless the reported time periods for delay are well beyond the permitted period of 4 months (Figure 10).

When expropriated households were asked about how they spent their compensation, the data show that they overwhelmingly spent it on the acquisition of land or a residence, or investment in improving a current residence, with those items totaling 64.3% of all compensation monies spent by expropriated households (Figure 11). For the shorter-term expenditures made, expropriated households reported putting almost 12% of their compensation into savings, about 5% toward school fees for themselves and/or their children, and an additional 19% toward other current expenditures such as business activities, supporting family members, purchasing household goods, and paying medical bills.

Figure 11

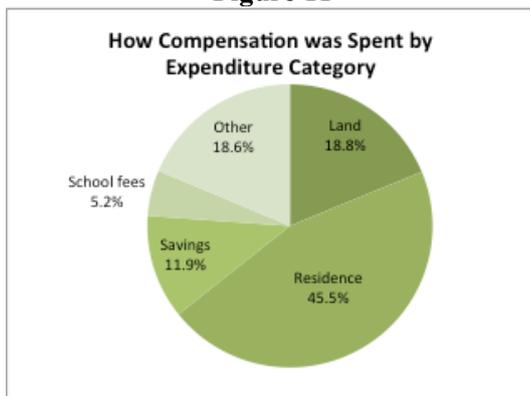


Figure 12

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

Among the 15% of households that relocated due to expropriation, most of them moved to areas similar in character to their previous residences. Figure 12 shows that 70.7% of relocated rural/farm dwellers remained in rural areas, while the remaining 25.1% and 4.2% moved to villages and urban areas respectively. Expropriations in villages and urban areas were more likely to result in a change in residential context. Among village/non-farm dwellers, 32.1% moved to rural locations and 1.9% moved to urban locations. Among urban dwellers, almost half (47.6%) moved to different surroundings: 42.9% to village/non-farm areas and only 4.8% percent to rural areas.

Expropriated households generally reported significant changes in monthly income before and after the expropriation. The average change in monthly income for all expropriated households was a loss of 35,236 RWF per month, or 32% of total monthly income. Both relocated and non-relocated households reported a similar decline in this respect. This is likely due to the fact that those who do relocate, typically move elsewhere within the same Cell, or a nearby Cell in the same Sector (representing 93.4% of relocations), and have common demographic characteristics to the overall population under study. Other reasons for these reports of monthly income losses could partially be due to generalized inflation in the Rwandan economy, and also due to excessive delays reported in the early years of the implementation of the expropriation law, which could actually influence an individual’s perception of negative impacts of the expropriation (and reported monthly income declines). Households with greater income loss tend to receive higher compensation ($r = -0.22$) presumably because higher compensation is a function of longer distance relocation, also a determinant of income loss.

Furthermore, some trends are shown for loss of income by project type (Figure 13). Road projects, and improved housing/settlements correlate to the largest declines in income. Water canal and electric line projects correlate with the least declines. In considering the reasons why income might drop in this manner by project type, the other types of property aside from land that were lost in road projects, even though they typically involve partial expropriation, are shown in Figure 14. Some commonly lost types of property (aside from land) include income-generating activities such as shops and *urubingo*¹, which were lost by about 25% of households expropriated for road projects. Approximately 50% of households expropriated for road projects lost perennial crops, trees, and annual crops, which for many people are also income-generating activities.

Figure 13

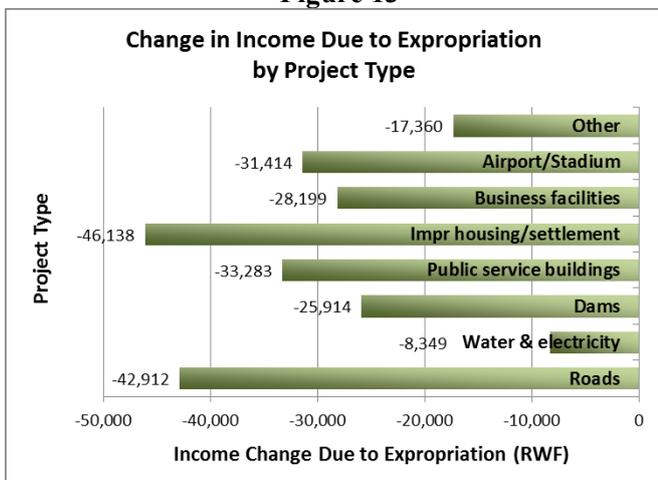
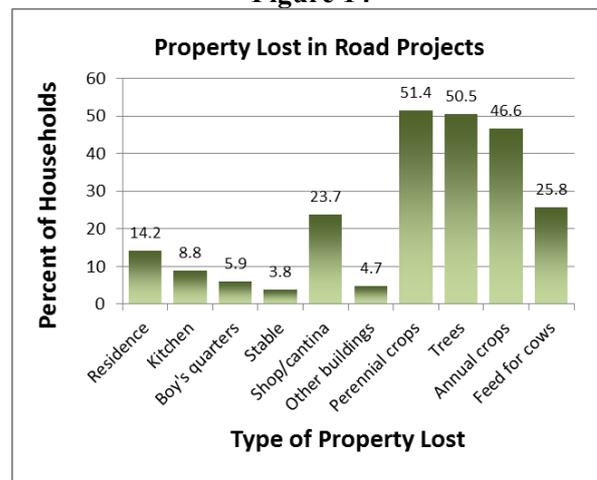


Figure 14



Despite overall reporting of negative impacts at the household level due to expropriation, the vast majority of expropriated households reported support for the project and its stated outcomes. When expropriated households were asked for their views on whether the expropriation project was in the best interests of the community, 87.3% of all households agreed. When considering the reported

¹ *Urubingo* is a type of feed for cows often grown and processed by landowners and sold commercially to livestock owners.

levels of public interest by project type, more than 90% of expropriated households perceive road projects, dams/water projects, and electricity projects to be in the best interests of the community. However, the rate of agreement for public service buildings was considerably lower (43.5%), and an almost equally small share agreed that airports/stadiums (39.7%) and the improvement of housing/creation of settlements (51.7%) were in best interest of the community.

RECOMMENDATIONS

The recommendations relate to six areas: 1) improving planning; 2) improving notice procedures; 3) increasing public participation; 4) mitigating negative impacts on expropriated households; 5) increasing transparency and accountability; and 6) carrying out legal reforms.

1) Improve planning and valuation procedures for expropriation projects

By improving planning in the expropriation process, artificially low valuations, excessive delays, institutional coordination, and hardship on the affected population could be improved. These recommendations are aimed at expropriating institutions, central government, and MINECOFIN.

Recommendation 1: Use independent valuers to produce the valuations of land to be expropriated

Recommendation 2: Enhance independence and activities of IRPV

Recommendation 3: Support IRPV in setting and updating annual land survey/prices

Recommendation 4: Improve feasibility studies on expropriation projects, including an assessment of socio-economic impacts on the affected population

Recommendation 5: Clarify and follow legal/project timelines

Recommendation 6: Improve and streamline the payment procedures

Recommendation 7: Improve coordination and planning by allocating sufficient project budgets before commencing projects

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. This recommendation is directed at central government, expropriating institutions, and local authorities.

Recommendation 8: Provide better, more personalized notice to expropriated households

3) Increase opportunities for public participation in the expropriation process

Public participation was shown to have positive effects on individual experiences with expropriation, including satisfaction with valuation process and 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.

Recommendation 9: Increase consultative nature of land use planning

Recommendation 10: Ensure meaningful consultation with the public at meetings on expropriation

Recommendation 11: Ensure all owners of jointly-held property are involved in every stage of the expropriation process

4) Mitigate negative impacts on expropriated households

Expropriated households reported significant negative impacts on their lives and declines in their household income because of the expropriation, which 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.

Recommendation 12: Provide compensation for relocation expenses where applicable

Recommendation 13: Reduce unnecessary limitations on the prohibition of individuals improving their lands

Recommendation 14: Shift the narrative about expropriation to reflect the predominantly rural nature of the issue

Recommendation 15: Promote alternatives to expropriation

Recommendation 16: Empower local authorities to put the best interests of the population as the foremost goal

5) Improve transparency and accountability in the expropriation process

Transparency and accountability in expropriation are essential for improving accuracy of valuation, adherence to timelines, and also minimizing opportunities for corruption, and will greatly enhance the individual's experience in the process. These recommendations are aimed at local authorities, MINALOC, and the central government.

Recommendation 17: Increase accessibility of appeal/counter-valuation procedures

Recommendation 18: Enhance the capacity of local authorities to participate in the expropriation process

Recommendation 19: Publicize feasibility studies

6) Carry out legal reforms

Specific legal reforms will help to bring the expropriation law and practice into compliance with international standards, and reduce the possibility of poor implementation even where the law itself is well-defined. These recommendations are aimed at Parliament, MINIRENA, and MINIJUST.

Recommendation 20: Repeal Ministerial Orders determining reference land prices

Recommendation 21: Repeal the provision allowing non-payment for small takings (Ministerial Order on Land Lease)

Recommendation 22: Ensure that households affected by road widening under the new law governing roads are compensated for expropriated land

Recommendation 23: Narrow the definition of “public interest” in the Expropriation Law

Recommendation 24: Include a clearer definition of institutional roles and responsibilities and coordination in the expropriation law

**Annex
Table 1**

Land Lost and Compensation by Expropriation Characteristics											
Expropriation Characteristic	Land owned before expropriation		Land lost in expropriation			Compensation for lost property			Compensation per SqM		Nbr of exprop HHs*
	Mean SqM	Sum SqM	Mean SqM	Sum SqM	% SqM	Mean RWF	Sum RWF	% RWF	Mean RWF	Sum RWF	
Principle project type											
Roads	2,290	993,728	852	369,882	60.7	2,681,871	1,155,880,279	47.2	13,550	5,840,020	434
Water & electricity	8,094	458,362	875	49,554	18.1	272,612	15,437,663	0.6	621	33,404	57
Dams	6,371	1,100,889	4,309	744,594	68.7	900,327	155,572,251	6.4	685	117,793	173
Public service buildings	7,063	626,880	6,802	603,643	93.8	3,025,620	267,398,455	10.9	1,585	140,069	89
Impr housing/settlement	3,826	109,627	2,411	69,074	83.3	5,996,503	168,859,583	6.9	12,139	338,080	29
Business facilities	2,327	308,137	2,133	282,509	89.8	4,037,949	534,799,336	21.9	6,820	903,212	132
Airport/Stadium	9,875	235,297	9,020	214,933	93.6	4,662,179	111,087,689	4.5	2,053	48,911	24
Other	5,575	57,625	5,025	51,941	90.1	3,693,276	38,171,962	1.6	1,797	18,575	10
Total	4,106	3,890,544	2,518	2,386,130	68.6	2,593,574	2,447,207,218	100.0	7,919	7,440,064	947
Change in living status due to expropriation											
Relocated to another residence	4,175	801,793	3,949	758,384	91.5	4,704,340	903,434,667	36.9	6,052	1,161,117	192
Still live in residence being expr	4,199	878,039	1,416	296,174	36.7	1,563,401	322,203,864	13.2	8,407	1,715,519	209
Still in resid (resid not on expr land)	4,047	2,210,712	2,437	1,331,572	72.7	2,239,638	1,221,568,687	49.9	8,395	4,563,428	546
Total	4,106	3,890,544	2,518	2,386,130	68.6	2,593,574	2,447,207,218	100.0	7,919	7,440,064	947
Character of Property Location											
Rural/farm	5,347	3,362,435	3,349	2,106,260	67.6	1,713,895	1,076,099,495	44.0	2,467	1,538,936	629
Village/rural non-farm	2,039	405,415	1,072	213,027	68.4	3,215,440	629,840,232	25.7	11,183	2,190,461	199
Urban	1,024	122,694	558	66,844	74.1	6,186,619	741,267,491	30.3	30,969	3,710,667	120
Total	4,106	3,890,544	2,518	2,386,130	68.6	2,593,574	2,447,207,218	100.0	7,919	7,440,064	947
Expropriating entity											
Local gov't	4,644	1,604,486	2,847	983,583	59.4	1,555,898	532,214,630	21.7	3,796	1,297,419	345
Central gov't	4,621	564,301	3,161	386,008	74.7	3,898,253	476,006,985	19.5	11,944	1,458,454	122
State agency/ parastatal	3,626	1,609,141	2,077	921,582	73.0	2,958,818	1,311,684,582	53.6	9,803	4,308,939	444
Private investors/ NGOs	1,836	39,996	1,623	35,361	84.9	4,883,969	106,397,595	4.3	15,981	348,141	22
Other	5,376	69,205	4,487	57,758	77.5	1,621,109	20,868,522	0.9	2,105	27,095	13
Total	4,109	3,887,128	2,520	2,384,292	68.6	2,597,455	2,447,172,315	100.0	7,931	7,440,047	946

*Includes only households that have been fully or partially compensated

Table 2

ANOVA Multiple Classification Analysis (MCA) Estimating Mean RWF/SqM Paid in Compensation Controlling for Selected Factors and Covariates					
<u>Predicted Mean Compensation Paid (RWF/SqM)</u>					
Factors	Unadjusted	Adjusted for Factors	Adjusted for Factors and Covariates^a	N¹	Sig.
Project Type					<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	
Expropriating Entity					<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	
Character of Expropriated Property					<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	

^aCovariates = Property lost in expropriation (Ha)

¹Includes only households that have been fully or partially compensated