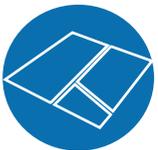




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**Land Expropriation and
Administrative Justice**

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An Overview of the Practice of Administrative Justice in Land Expropriation

Land expropriation (the seizure of property for purposes in the public interest) has been a relatively contentious area of administrative decision-making over the past several years, but despite a number of important substantive reforms, including a new expropriation law in 2015, a number of procedural challenges remain, including many legally required processes that still need to be adopted via ministerial regulation, or are not implemented as intended. In some cases, simply better planning and advance communication with local authorities and the public would yield significant improvements.

This section of the report provides a general description of the practice of administrative justice related to land expropriation. It was informed by the SRAJ Project's Phase I Legal and Policy Framework Analysis, as well as the Phase II field research, which included in-depth interviews with citizens and government officials, group discussions conducted with citizens and public officials, respectively, in each of four districts (Gasabo, Bugesera, Rubavu, and Gicumbi), and cross-district group discussions with land officers from the above four districts and the two pilot districts (Kicukiro and Kamonyi) in which the survey instruments and interview guides were tested. Their views, against the backdrop of the operative legal framework, provide a multi-dimensional view of the current administrative process governing land expropriation. Following this section, we provide an overview of findings regarding the operation of the administrative process in practice, based on surveys administered to citizens with experience in that process. The report concludes with a summary of findings and policy recommendations.



Expropriation in the public interest

An act based on the power of government to seize a person's property for a purpose in the public interest after payment of fair compensation. The purpose can encompass anything from infrastructure (esp. roads) to master plans facilitating a variety of public works supportive of long-range urban planning and priority economic development. Insofar as the law does not give an exhaustive list of activities deemed to be in the public interest (see Article 5 of Law n° 32/2015 of 11/06/2015 relating to expropriation in the public interest - hereinafter referred to as "Expropriation law"), it is within the power of local committees of expropriation to determine/confirm the public interest nature of the proposed project. In reaching its decision, such committees are required to conduct a consultative meeting with the population living where the land is located to discuss the relevance of the expropriation project. However, the ministerial regulation establishing these committees has not yet been adopted, so that it is up to District Executive Committees to decide whether or how to conduct such consultations.

The process of land expropriation in practice

The administrative process is relatively uniform across the analyzed districts. However, the process differs when the project involving the expropriation of land is initiated by central authorities at the national level rather than by local authorities at the district level, as described below.

For projects initiated at the district level, the land expropriation law is used by district officials as the

basic procedural guide, following the steps according to Table 1. The process starts with identification of the site to be expropriated. There should then be a round of consultation with land owners, which may be conducted by the District Executive Committee¹ -- usually in the form of some kind of public meeting -- before the district takes a decision to expropriate the land. The District Council has the role of examining

¹ Article 11 of the Law on Expropriation states that the committee in charge of monitoring projects of expropriation in the public interest (referred to as a committee in charge of supervision under article 8 of that law) has to assess the relevance of the project within thirty (30) days after receiving the request for expropriation and conduct a consultative meeting with the affected population on the matter. As these committees have yet to be established by the Order of the Prime Minister, responsibility for the consultation falls to the district Executive Committee.

different projects of the district that may involve expropriation and are the ones to give the go-ahead on a project or stop it if necessary.²

Subsequently, a separate meeting may be held to explain how citizens' land and appurtenant property will be listed, valued, and compensated.

After consultative meeting with the citizens, the Executive Committee submits in writing its decision to the District Council, which approves the expropriation in public interest as provided by article 15 of the Expropriation Law. This decision can be challenged in court within 30 days.

Once the decision on expropriation is made and the relevant land identified, (the specific decision to include a particular property on the expropriation list can be challenged in court within 15 days), the land is valued.³ The owner of the land to be expropriated then has to provide the land title that shows ownership, his identity card, and his signature in order to accept the valuation. He must also provide his or her bank account number. The money is then supposed to be transferred.

Land owners who disagree with the valuation decision of the officials can make an appeal to the district government within 10 days, including via the use of a counter-valuation.⁴ If the complaint is accepted, the valuer goes back to verify the proposed compensation. The land to be expropriated can then be re-evaluated, usually by the district valuer. However, the complainant can instead hire a private certified valuer to carry out counter-valuation.⁴ If the district government rejects the complaint/counter-valuation, the citizen can still appeal this decision to the court, within 15 days. However, the above process is sometimes not honored in practice. At the same time, compensation was reported by many citizens interviewed in the field research to be delayed, often up to six months or more. Moreover, in practice, many citizens indicated that the short time frames for counter-valuation efforts to be undertaken are unrealistic and put citizens at a real disadvantage—especially since it can be costly to retain the services of an independent valuer and may take the citizen quite some time to find the money to pay for such services.



Procedure for application, assessment and approval of expropriation projects.

The application, assessment and approval for expropriation projects is supposed to follow this procedure:

Initial application: This is received by the Executive Committee at the district level (unless multiple districts within the City of Kigali are involved, in which case the Executive Committee for the City is the recipient, or the relevant Ministry, if multiple districts elsewhere are involved).

Consideration of the relevance of the project proposal for expropriation in the public interest: The Committee in charge of monitoring projects of expropriation in the public interest has to assess the relevance of the project within thirty (30) days after receiving the request for expropriation and is supposed to conduct a consultative meeting with the population concerning the relevance of the project of expropriation in the public interest (this is otherwise done by the District Executive Committee since the aforementioned committees still do not exist by law).

Decision on the relevance of a project of expropriation in public interest: When the Committee finds that the project is worthy of preliminary approval, it submits its decision in writing to the District Council (or the Kigali City Council or relevant Ministry, as the case may be) within 15 days after the consultative meeting with the concerned population.

Approval of expropriation in the public interest: On the basis of the decision of the Committee in charge of supervising projects for expropriation in the public interest (the Executive Committee currently), the next step is approval by one of the aforementioned competent organs within 15 days. The decision of approval must be announced on at least one of the radio stations with a wide audience in Rwanda and in at least one newspaper with a wide readership in order for the relevant parties to be informed thereof. Further, the list of landowners to be expropriated should be posted in a publicly accessible place at the office of the City of Kigali, the District, the Sector and the cell where the land is located (as the case may be) within 15 days of the approval of the expropriation.

² It also takes the role of providing advice and finding solutions to large-scale complaints that may arise from land expropriation, together with other relevant officials in the district. These are generally situations where the Mayor and Vice-Mayors may not otherwise find solutions or provide useful guidance to individuals or small groups of complainants.

³ Article 23(2) of expropriation law indicates that "the valuation of land and property incorporated thereon shall be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda".

⁴ Article 34 of the Law on Expropriation provides for the right to counter-valuation.



Valuation and counter valuation of land and property: prescribed process

The valuation of land and property incorporated thereon must be conducted by valuers certified by the Institute of Real Property Valuers in Rwanda. It must be conducted in the presence of the owner of the land and property incorporated thereon, or his or her lawful representatives, as well as in the presence of representatives of local administrative entities. The valuation must be completed within a period of 30 days. Where necessary, this period can be extended up to a maximum of 15 additional days, upon request by the government applicant for the expropriation, after approval by the designated organ. Within 15 days after the submission of the valuation report, the expropriator shall decide on the report prepared by valuers and publish it for information of the concerned persons.

Any person contesting the assessed value, may, at his/her own expense, engage the services of a different valuer or valuation firm recognized by the Institute of Real Property Valuers in Rwanda to carry out a counter-assessment. The counter-assessment and accompanying report must be generated within ten (10) days from the application for counter valuation. The expropriating entity must then take a decision thereon within five working days after the counter-valuation is received. When the counter-valuation report is accepted by the expropriator, it replaces the initial valuation report. When it is not accepted by the expropriator, the person to be expropriated who is not satisfied with that decision can challenge the matter in the competent court (in the case of district governments, the appropriate Intermediate Court). The appeal, however, will not suspend the expropriation process while it is pending.

If an expropriation is initiated and carried out by central authorities, the process is somewhat different, and unless the properties in question are in one or two discrete districts, the central government may not end up involving district authorities in carrying out the procedure. As a result, consultations with district officials, or with the land owners whose properties are targeted, may not be held, which is arguably not in compliance with the law. However, in many cases, district officials do collaborate with central government

officials, and are in charge of handling complaints—even where a wide range of central government officials may be involved in finding solutions to large-scale projects with significant opposition.⁵ In cases where master plans are involved, it was reported in the field research that some private investors with an interest in eventual development of the land in question may support district officials by providing legal advisors to develop creative solutions to potential landowner objections.

Key prescribed stages of the land expropriation process - district level

1. Application and identification of the site (site selection)
2. Consultation meeting with land owners
3. Decision of the District Council on the expropriation
4. Publication of the expropriation decision and the list of persons to be expropriated
5. Land valuation (under supervision of the district)
6. Approval and publication of valuation report regarding the properties to be expropriated
7. The fair compensation report is given to the land owners for signature
8. After the signature, the land owners submit documents allowing the compensation
9. After compensation, the land owners are given 90 days to move off the property and relocate

⁵ For example, interviews in the field research revealed the fact that in Gasabo District a group of members of the Parliament helped to find a solution with a group of property owner complainants, while in another case, the Ministry of Local Government intervened to help district officials find a solution with a large number of complainants.

The complaints process in practice

Although the law as set forth above prescribes certain activities to occur according to various time frames, in practice deviations may occur or decisions may be taken that are objected to by citizens. The field research conducted in four districts – both the surveys and interviews conducted with those who had pursued complaints in the past several years, as well as with public officials at the district level -- surfaced considerable detail about how various expropriation complaints may arise, and how they are dealt with in practice.

To initiate any complaint related to land expropriation, most citizens are directed to go to the so-called One Stop Shop Center in the District, which is responsible for handling land and other commercial matters.⁶ However, some citizens may instead choose to go to the Mayor's office or lower-level authorities such as village leaders (Umudugudu), or to cell (Akagari) and/or sector (Umurenge) leaders. Often this is done sequentially, starting with a lower authority and ending up with district authorities where the decisions are taken as a legal matter and where appropriate expertise resides. However, approaching lower-level local leaders first can be helpful from the standpoint of access and having such leaders provide guidance and advocacy, not to mention problem-solving that may obviate the need for the complaint altogether.

Citizen complaints brought to the One Stop Center can often be addressed rapidly in open meetings. People can present their complaints in open space before Center workers, who can sometimes provide solutions immediately. At a minimum, citizens can be given advice on expropriation procedures. Citizens who are not satisfied with key decisions regarding the decision to expropriate, inclusion of property on the expropriation list, and valuation/compensation amounts are directed to lawyers and/or private professional land valuers, where they can seek additional assistance. Notably, however, these workers are not professionally trained in mediation, which might otherwise afford some opportunities for resolution of problems without recourse to other individuals at the district level, or to institutions like the courts or the Ombudsman's office.

Complaints can, and often are, also entertained by Mayors, who may meet citizens during the office hours they regularly keep for citizen interactions. Although a Mayor is not specifically legally empowered to render decisions, he or she can provide possible solutions or guidance to complainants. For example, in cases involving land valuation disputes, a Mayor may suggest that a citizen asks for a counter valuation or where a valuation might seem low, request the district land valuer to make another attempt to value the property, possibly taking other factors about the property into consideration.

Most complaints do in fact arise when complainants are dissatisfied with their property valuation. In these cases, One Stop Center workers usually encourage citizens to seek a private professional valuer, in order to make a counter valuation. However, as the above example indicates, sometimes a second valuation may be conducted by the district on its own initiative, particularly if someone points out the extent to which potentially significant information was not considered the first time. In cases where a counter-valuation is made, the private valuer and the district valuer compare their respective valuations and deliberate in order to try to find common ground. If agreement is not possible, the citizen can appeal the district valuation to court.

Other types of complaints may concern the decision to expropriate land in the first place (which may be appealed directly to court) or the inclusion of specific properties in the proposed project (which can be appealed to the district government). These complaints may in turn be predicated on the government's failure to hold consultations with affected property owners and the community about whether the proposed seizure of land truly is in the public interest or could be done in a less intrusive or expansive manner at the contemplated site. Some interviews conducted in the districts seemed to suggest that if proper consultations were held, many expropriation-related complaints or citizen frustration could be avoided; in that case, the process might be better understood, citizen concerns could be received early in the process, and certain

⁶ The ones directly responsible are those in the directorate of the One Stop Centers, which includes the Director, the lawyer of the Center (Land lawyer) and the Land Valuer. As discussed briefly below, certain other officials may get involved in certain aspects of the process, such as the Mayor, one or both Vice-Mayors (especially the Vice-Mayor responsible for economic and social affairs), the District Legal Advisor, and the Executive Secretary of the District. Those in charge of security may also be involved in the process.

Cooperation/interactions between different government officials in practice

There are two important levels of cooperation among government officials involved in expropriation cases: (i) Cooperation between central and district authorities (including interactions with private investors); and (ii) cooperation among different officials within a district. Some of the details of these interactions were discussed during individual interviews or group discussions with district officials and to a lesser extent, with citizens who had been subject to expropriation.

- i. In the first case, the central government is inextricably involved in expropriations of any kind insofar as it is responsible for making funds available for expropriation projects, including funds for compensation. However, in some cases, central agencies implement their own projects (those with national significance or involving unique features that affect multiple districts) without consultation with districts. In many such cases, they simply sidestep district officials and go directly to the sector level where expropriations may need to occur in order to meet with citizens and sector officials (in which case, many procedures of the Expropriation Law may not be properly followed). In our field research, we learned that sometimes district officials are only made aware of the central government's plans in this regard when citizens come to complaint to them. This raises obvious issues of communication and coordination that could otherwise be obviated if central authorities were sharing their plans in advance and inclusive in implementing these projects.

It was also learned through the field research that districts share considerable information about planned expropriation processes with central government officials and with private investors (esp. where fulfillment of master plans is involved). They do so on a rather frequent and continuous basis through various correspondence so as to inform central authorities of the status of a project and any associated challenges.

Private investors willing to invest in the district, for their part, also engage in correspondence with both district and central authorities about the projects they want to implement and how this can fulfill certain plans that are in the public interest (e.g., details about the site, type of project, aim of the project, project duration). The districts assess

such projects and their impact on the development of the district, checking their conformity with the district master plan. If a district agrees that such projects are in line with the development objectives in the master plans, they typically give a go-ahead. In cases where the project is in contradiction with the master plan, it is rejected.

In rural areas, it was learned that investors may often come and negotiate only verbally with district officials, providing details of their project verbally, and then requesting permission to implement their project. District officials have been known to give a go-ahead for some of these projects without any significant written documentation of the process or the reasoning behind the decision. This can be very problematic for local government accountability.

- ii. Cooperation among district officials is inherent in the expropriation process, as described to some extent in the previous sub-sections. For example, the Land Lawyer and District Legal Advisor typically interact to a significant degree on legal issues surrounding the expropriation process and complaints handling. The One Stop Center Director, the Land Valuation Officer, and the District official designated to coordinate the expropriation project interact often, including at times when consultations are held. The Mayor, meanwhile, is often on the front lines in handling expropriation complaints, even if he or she has no official or legally prescribed role to do so. The Mayor can seek to find individual or group solutions to problems by consulting the Legal Advisor or the Land Lawyer, or can facilitate the directing of complainants to the staff of the One Stop Center.

While officials from the One Stop Center offices are supported by other officials, it was learned that they can also sometimes be involved in activities not at all related to land or business regulation. For example, staff of One Stop Centers have frequently worked on priority projects having to do with the sensitization of citizens concerning sexual harassment against women and young girls or educating the district population about health insurance.

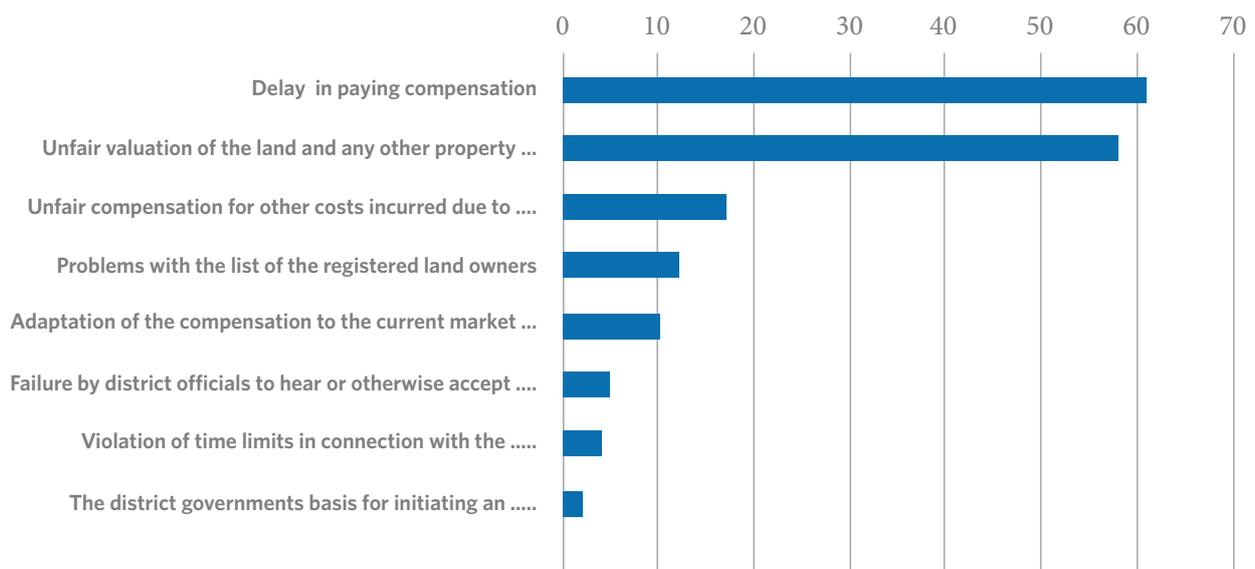
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Land Expropriation Dispute Resolution: Quantitative Data on Administrative Justice in Practice

The field research conducted by the SRAJ project encompassed not only interviews with several dozens of citizens and public officials in four districts, but a survey sample of 111 citizen respondents⁷ in each of the four sampled districts (Gasabo, Bugesera, Rubavu, and Gicumbi), who were selected based on their having been subjected to an expropriation within the past four years. Group discussions were also conducted with citizens and public officials, respectively, and a cross-district group discussion was held with land officials from the above four districts as well as the two pilot districts (Kicukiro and Kamonyi). The predominant characteristics of the citizens in the sample were as follows: Married (79.3%), older than age 55 (37.8%), men (57.7%), possessing at least a primary education diploma (76.5%), involved in farming activities (71.2%), belonging to the second Ubudehe category (44.1%), and with an income averaging less than 30,000 Rwf per year (45%). Persons living with a disability constituted 12.6% of the respondents.

For the most part, the complainants surveyed were mostly those who were expropriated due to projects involving future power plants, roads, or an airport. Insofar as a high proportion of these individuals were farmers, as noted above, they were likely prompted to file a formal complaint because they risked losing not only a place to live, but land critical to their subsistence. Figure 1 shows that of the various reasons the respondents had for registering formal complaints about expropriation, the vast majority addressed problems with delays in the payment of compensation (61%) or with allegedly unfair valuation (60%). Very few respondents, by contrast, registered a complaint about the government's basis for initiating an expropriation, indicating that most concerns revolved around payment and the fairness of the compensation process, not about expropriation as such or whether the seizure of land was legitimately in the public interest.

Figure 1: Reasons for complaining (# of cases)⁸



⁷ Note that the sample is not representative of the national population of complainants in land expropriation; as such the results cannot be generalized outside the respondents' population in the four subject districts.

⁸ IPAR's calculation.

The expropriation process

In terms of self-reported levels of understanding of the expropriation process, 68.4% of complainants indicated that they were not aware of their rights in expropriation process.⁹ When we disaggregate these respondents by certain characteristics, we find that men are slightly more aware of their rights in expropriation process (10 percentage points higher than in the case of women). We also note that awareness of rights seems to decrease with age; it is highest for people in their mid-twenties (41.7%) and lowest for people over 55 years of age (26.2%).

The main sources of basic information relied upon by respondents regarding the expropriation process were – in order of importance – communications with District officials such as the District Land Officer (44%), radio or TV (28%), lawyers (7%) and local leaders (5%). While consultations conducted by government officials were generally deemed helpful (77% of respondents found it somewhat helpful or very helpful), 2 out of 3 individuals affected by an expropriation were not consulted by district government before the latter took a decision to expropriate (i.e., 65.8% were not consulted on expropriation plans) and 64% were not consulted on how the expropriation was to be implemented).

Similarly, even following the decision to expropriate, 64% of citizens were not notified about the decision (indeed, 93% of the citizens who were not consulted on expropriation plans did not receive notification after the decision was taken). Conversely, when citizens were consulted about the decision to expropriate, they almost always reported being notified following the decision. For the 36% of citizens who were notified in some manner, 75% were informed through some kind of public meeting or forum and 25% by other verbal communication. In 25% of the cases, the notification was received one month before the relevant property was listed for expropriation. Otherwise it was received at least 3 or 6 months before such listing took place (respectively 28% and 48%).

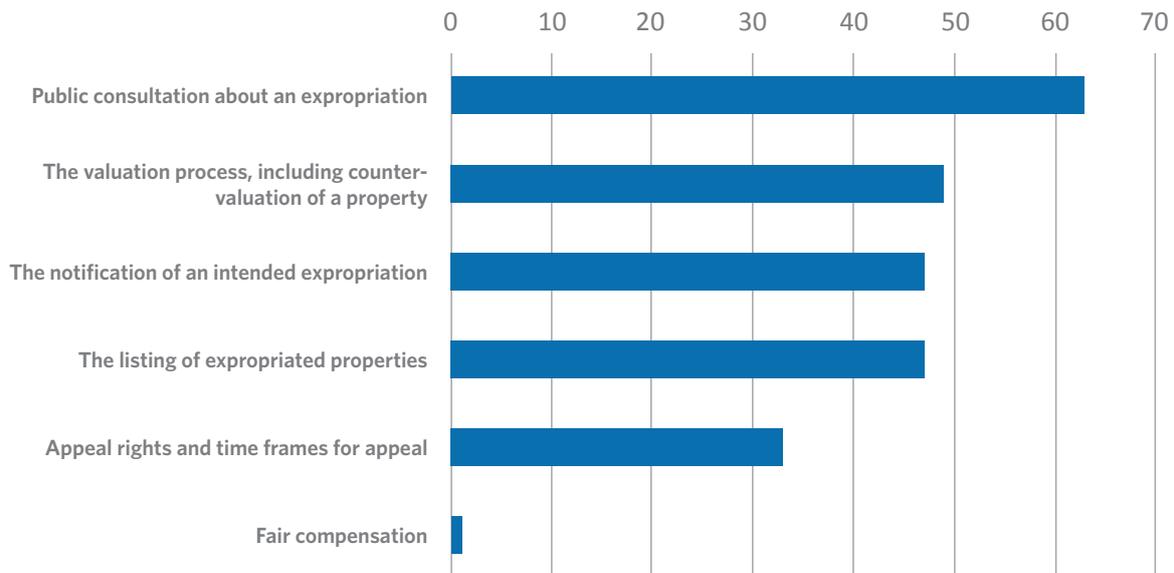
Only 10% of the complainants were given an opportunity to negotiate with a developer on the value of the land and/or any property incorporated thereon (in cases where consultations of this kind were not otherwise conducted by district officials), and only 55% of surveyed citizens were informed about the outcome of the property valuation process. If and when they were informed, respondents mentioned that they received the information in writing (52%), through a public meeting/forum (18%), or by other verbal means (22%).

Sixty-four percent (64%) of the respondents were dissatisfied with the outcome of the property valuation.¹⁰ Ten percent (10%) pursued a counter-valuation through an independent property valuer, and of these individuals, 64% of the counter- assessment reports were considered, which resulted in some increase above the valuation.

When respondents were asked about what kinds of information they would have liked to receive more of (see Figure 2), the largest proportions cited information about public consultations (53%), the valuation process (including the right to counter-valuation of a property) (42%), the basis for the listing of expropriated properties (40%), being notified about the intended expropriation (40%), and information on appeal rights and timeframes for appeal (28%).

⁹ 45.9% are “not well informed at all” while 22.5% are “not very well informed”.

¹⁰ Very dissatisfied:21.6%; Somewhat dissatisfied:42.3%; Neutral:18.9%; Somewhat satisfied:14.1%; Very satisfied:2.7%.

Figure 2: Domain of information needed (in % of respondents)¹¹

The complaint process

As mentioned above, the main reasons cited by citizens in lodging complaints about expropriation were delays in the payment of compensation (61%) or problems with allegedly unfair valuation (60%). In bringing the initial complaint, a large proportion of citizens appealed to the One Stop Center in the District where the property is located (59%), which is to be expected given the expertise and responsibility of that unit for all matters related to land. Fewer respondents appealed to another authority within the district (19%) or to local leaders (11%).¹² In general, complainants reported that they chose the institution they filed their initial complaints with because they felt the institution would handle their dispute efficiently (63.2%). Despite this desire for efficient processing of their complaints, however, nearly half of the respondents had not received any response (49%) as of the time they were interviewed, and of those who did receive a response, 53% received it within 3 months.

As a procedural matter, respondents reported that they had generally unhelpful interactions with those to whom they brought their initial complaints. Slightly more than half of all respondents were not provided with any verbal or written information about how the complaint/appeal process operated (51%), and nearly two-thirds of respondents said they were not given an opportunity to make their views known and offer any evidence supporting their case (62.3%). Two-third of respondents (66%) said that they were not consulted by district government before a decision to expropriate was taken, and 64% of citizens said they were not consulted about the manner in which an expropriation would be implemented. Moreover, in the vast majority of cases, survey respondents indicated that district officials provided no explanation of the listing of properties to be expropriated (88%) or of the valuation process (90%).

At the conclusion of the process, a very large proportion of respondents (nearly four out of five complainants) were not provided with a written decision (79.2%), and an even larger number of respondents were not provided an explanation with reasons for the decision in question (87%). A still larger proportion of survey respondents

¹¹ IPAR's calculation.

¹² It is notably that respondents older than 55 and women are relatively less likely to file complaints (respectively 38% and 34% of their group). Similarly respondents who had either never gone to school or only had a primary education are less likely to file complaints (respectively 46% and 35% of their group).

¹³ The presence of the attorney (vs. no attorney) interestingly lowered the perceived helpfulness of information provided (22.2% vs. 38.2% helpful); while it was also associated with a lower level of perceived courtesy (44.4% vs 67.6% courteous) and a lower perception of the perceived attentiveness of officials listening to the citizens' explanation of their case (44.4% vs 64.7% attentive).

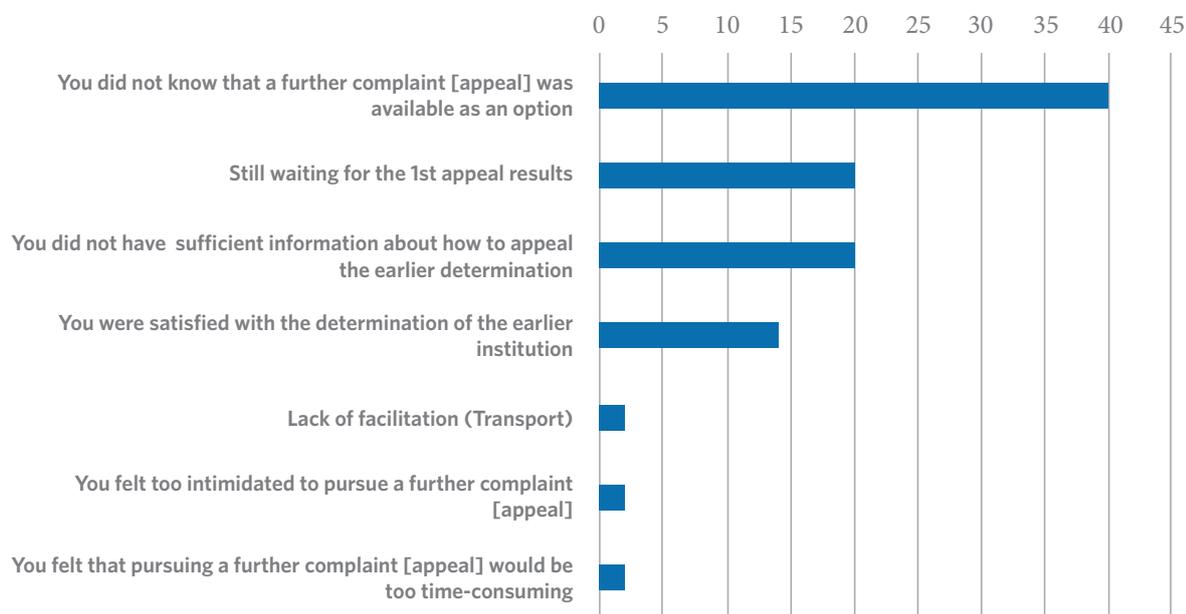
were not provided with information about how and where to further appeal their cases (89.6%). It is important to note that fully 88.3% of respondents reported that they were not represented by an attorney.¹³

Respondents were additionally asked a number of questions about the extent to which those to whom they brought their initial complaints (as noted above, nearly 60% of these officials were associated with the One Stop Centers) provided helpful information of various kinds. Well over half of respondents (61%) said that they did not receive helpful information from these institutions/officials, while 39% said the information was helpful in some way.¹⁴ Interestingly, of the different individuals or institutions to which respondents said they brought their initial complaints, only Mayors were reported have provided very helpful information (60%). As for respondents’ perception of the courtesy and attentiveness to their cases shown them by these individuals or institutions, here too Mayors received higher marks (100% and 80%, respectively) than officials working in the One Stop Centers (62% and 60%, respectively). Local leaders at village and cell levels were slightly better perceived (63% for both courtesy and attentiveness).

Of those who formally registered an initial complaint, 28% of survey respondents decided to pursue a further appeal. Of those who did so, 43% went to a higher authority within the central government—presumably MININFRA if, as is likely, some form of infrastructure is involved. One-third of all respondents (33%) went to the One-Stop Center, among whom 57% had registered a formal complaint with this unit the first time.

Of the 72% of respondents who did not pursue a further (second instance) appeal, 14% said they were satisfied with the determination made by district authorities initially, while 38% said they did not pursue an appeal because they lacked sufficient information about how to do so. Fully 60% of the respondents who did not pursue an appeal did not even know that a further appeal was available to them (see the various reasons provided by respondents in Figure 3 below). In terms of turnaround time, 22% of respondents received a response about their initial complaint within two weeks, while 26% of respondents received a response between 1 to 3 months. Twenty-two percent (22%) did not receive any response.

Figure 3: Reasons for not pursuing an appeal following a decision on an initial expropriation complaint

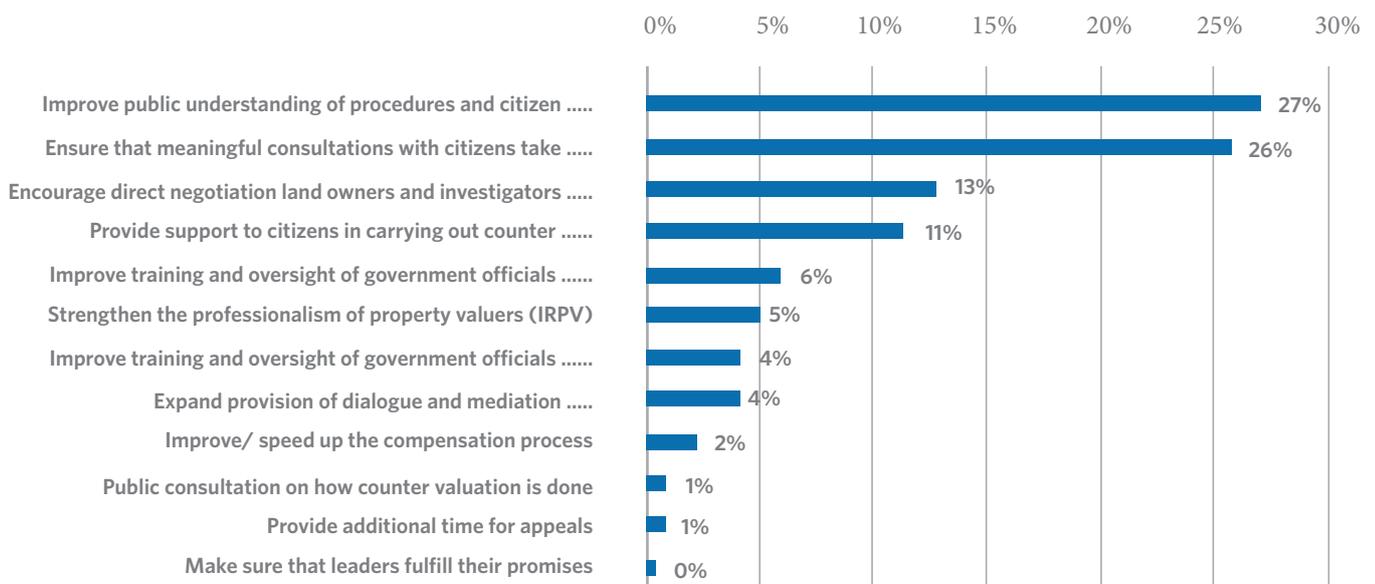


¹⁴The presence of the attorney (vs. no attorney) lowers the helpfulness of information provided (22.2% vs. 38.2% helpful), it lowers the courtesy (44.4% vs 67.6% courteous) and the attentiveness (44.4% vs 64.7% attentive).

For those who pursued a further (second instance) appeal (as noted above, many went to MININFRA or, in the case of those who may have initially approached another part of district government, to the One Stop Centers), 52.4% of respondents felt that institutions they appealed to provided them with helpful information related to their case, were generally courteous (73.1%) and also generally attentive in listening to respondents' explanation of their cases (71.4%). For the most part, the reported level of helpfulness from land office personnel within the One Stop Centers in providing information about the expropriation process was reasonably high (86%), while that provided by a higher authority within the central government was quite low (33%).¹⁵ Furthermore, even at this second stage appeal, respondents encountered numerous procedural shortcomings and obstacles. For example, 52% of respondents lodging such second instance appeals were not provided with a verbal or written information about how the complaint/appeal process operated. Only about half said they were given an opportunity to make their views known and to offer any evidence supporting their case verbally or in writing (52%). At the conclusion of the process, fully 74% of respondents were not provided with a written decision, and 78% were not provided a decision accompanied by an explanation with reasons therefor. However, 87% of respondents who pursued a second instance appeal did receive information about how and where to further appeal their cases. During this second instance appeal, 87% of respondents did not have a lawyer to help their present their case.

While only 11% of the respondents who initially registered an expropriation-related complaint pursued a third-instance appeal, those who did went variously to a higher authority within the central government, to the One Stop Center in the district in question, or even to the office of the President.¹⁶ Given the ready availability of judicial appeal channels for a number of different purposes (valuation challenges, challenges to the decision to expropriate, etc.), only one appeal was reported to have been filed in court.

Figure 4: Recommendations to SRAJ



At the end of the survey, respondents were asked to identify the single most important recommendation they would make in order to improve administrative justice in land expropriation disputes. A number of procedural recommendations topped the list, with improving public understanding of procedures and citizen rights in the expropriation process receiving the most votes (27%), and ensuring that meaningful consultations with citizens take place with regard to an announced expropriation coming in second (26%). The third- and fourth most cited recommendations concerned the encouragement of direct negotiation between landowners and investors (where the government chooses not to engage in, or facilitate such negotiations) (13%); and the provision of support to citizens in carrying out counter-valuations (11%).

¹⁵ Land Bureau (frequency:31) and Central government (frequency:9): Very helpful (respectively 23.8% and 22.2%); Helpful (respectively 28.6% and 11.1%), Unhelpful (respectively).

¹⁶ The number of cases reported to have been filed in these institutions were, however, only 1 or 2 each.

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Lessons learned and Recommendations

A number of important findings emerged from the survey data collected in the four districts, as well as from the qualitative information gathered from citizen and public official interviews and group discussions, not to mention the validation workshop conducted with administrative justice stakeholders following the field research. These findings in turn informed a number of recommendations below, some of which flow directly from the stated preferences and priorities of survey respondents, and which demand accelerated attention from Rwandan government authorities.

Improving planning, coordination and communication in expropriation projects involving central agencies:

There is no clear policy on coordination between district governments and central government agencies on expropriation projects. This issue arose several times in interviews with relevant district officials. Some expropriation projects initiated by the central government are conducted without involving the district; the district only learns about the expropriation when the citizens raise complaints. This can lead to real challenges in ensuring that consultation takes place, addressing valuation and compensation modalities, and rendering decisions in a timely manner, as citizens may have already been expropriated when they first complain in the district. Since complaints are almost always received and handled by district officials, there should be advance planning, coordination and a clear channel of communication established between responsible central government authorities and district officials. In particular, affected districts should be informed by letter and email of any expropriation project approved by central authorities. This requirement should be enshrined in a Prime Minister's regulation, and/or through appropriate intra-ministerial directives from MININFRA and/or MINALOC.

Adopting and implementing the Prime Minister's order determining the organization, operational responsibilities, and composition of the committees in charge of supervision of expropriation projects in the public interest: AAs attested to by numerous public officials and citizens, the failure to establish the Committees in Charge of Supervision of Projects of Expropriation constitutes a critical gap in the institutional framework for expropriation at the district level, leading to additional planning and coordination problems. The yet-to-be established Committees are supposed to act as the main interface between the population being expropriated and the expropriating entity, handling crucial issues of public notification,

consultation, and informed decision-making as to the expropriation project under consideration. In the absence of these committees, the relevant District Executive Committees have had to assume these responsibilities, for which they sometimes lack sufficient technical knowledge, and which places them in a potential conflict of interest (since they are the ultimate initiators of the expropriation). Only the more specialized and formally neutral committees envisioned by the Prime Minister's order can devote the time and effort to adequately protect citizen rights in the expropriation process.

Improving consultation of citizens in the expropriation process:

As already noted, expropriation projects often take place without prior notification of, or consultation with, the public, particularly when central government agencies are the initiators. Sixty-six percent of citizens responding to the survey said they were not consulted by district government before a decision to expropriate was taken, and 64% of citizens said they were not consulted about the manner in which an expropriation would be implemented — which is not surprising given that respondents reported that their greatest need for information is related to public consultation (53%).

According to several individuals interviewed, this leaves citizens without an adequate opportunity to offer their views on whether a project is indeed in the public interest (and how it can be conducted in as a non-disruptive manner as possible), and without adequate time to begin plans and communications about the valuation of their property. Indeed, the second most commonly recommended improvement to the land expropriation process cited by those taking the survey - 26% of all respondents - was "ensuring that meaningful consultations with citizens take place with regard to an announced expropriation."

Improving record keeping and documentation:

Field research indicated that expropriation files are usually not properly kept. There is no electronic filing (except in a few urban districts) and files in hard copies are often misplaced or even stolen. There is also a need for staff to better maintain all land related archives. Improving record keeping by creating an electronic filing system and using it systematically would greatly benefit overall management of the expropriation process and citizens who seek various administrative files in the complaint process.

Assisting citizens to challenge valuations: While it is reported that the law clearly guides how can a complainant can ask for a counter valuation, and how to compare the outcome of the two valuations, survey results indicate that citizens not only face significant difficulties in challenging expropriations (due often to the failure of local authorities to properly notify citizens of an impending expropriation activity), but also in obtaining what they perceive as fair compensation for their property.¹⁷ Indeed, the field research indicated that 45% of survey respondents received no notification of the valuation of their property by the government whatsoever, and that 64% of respondents were dissatisfied with the proposed valuation once they learned about it.

While challenging a valuation is possible, it faces obstacles. First, citizens may not be aware of their rights to a counter-valuation. Second, obtaining a counter-valuation by a private property valuer may be expensive for many citizens— something confirmed by the field research, where the expense of a counter-valuation was deemed prohibitive for many citizens, especially complainants belonging to the first and second Ubudehe categories. For example, only 9.9% of respondents were able to pursue a counter-valuation, and 68% of these individuals were unaware that they had a right to such counter-valuation (22% said that obtaining a counter-valuation was too expensive). Of

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Group Discussion, 2019

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those who were able to pursue a counter-valuation, 63.6% were able to have the independent private valuer’s report taken into consideration.

Under these circumstances, the government should ensure that citizens are notified about their right to an independent valuation. It should also consider some mechanism by which poorer citizens (e.g., those in Ubudehe categories 1 and 2) can obtain an independent valuation at an

affordable price. At the same time, the government should also increase the period

allocated for counter-valuations: the existing period of 10 days is far too short for the citizens (never mind poorer citizens) to seek legal advice and access money to carry out an effective counter-valuation. This reform should be prioritized in future near-term amendments to the Law on Expropriation.

Ensuring timely and fair payment of compensation:

As noted above, the survey indicated that the main reasons for expropriation-related complaints were delays in paying compensation and unfair valuation. The districts and concerned central agencies should accordingly improve budget planning in order to ensure sufficient funds for timely payment of compensation. Specifically, no expropriation activity should commence until the budget is transferred to the district in question. Meanwhile, the right to a counter-valuation should be a central part of consultations and communication with the public in any district in the future.

Strengthening public awareness: Most citizens are not aware of basic expropriation procedures and associated rights; indeed, 68% of the citizens interviewed reported that they were not well informed about the process. In fact, the most commonly recommended improvement cited by survey respondents (27% of citizens) was “improving public understanding of procedures and citizen rights in the expropriation process.”¹⁸ Logically there should be expanded public education efforts through various media such as radio and TV, as well as sensitization activities through public meetings/

¹⁷ Note that in Gasabo district, the property to be expropriated is valued twice. This avoids errors and reduces the number of complaints. A cost benefit analysis of this practice would help assessing its efficiency.

¹⁸ It’s important to note that the vast majority of citizens (83.3%) who responded to the survey did not have legal representation when bringing their complaints to the district one-stop shop offices.

forums such as Umuganda. This need for a variety of communications channels was confirmed by the field research, which showed that the main sources of information for citizens on rights and processes related to expropriation included district land officers (44%), and radio or TV (28%). Indeed, fully 75% of citizens said that if they had been consulted, it was done through a public meeting or forum, and 77% of respondents said they found it useful to consult with district officials.

Strengthening the capacity and training of district officials (especially staff of one stop centers): Based on the above challenges, and given their ground-level responsibilities related to expropriation (including complaints handling), district One-Stop Center officials should receive additional training complementary to the trainings currently offered by Land Center (Rwanda Land Management and Use Authority) and by the Rwanda Housing Authority and resources to carry out their work and communicate effectively with citizens. This includes paying proper attention to procedural requirements and individual rights in the expropriation process; however, in an overwhelming number of cases, survey respondents indicated that district officials provided no explanation of the listing of properties to be expropriated (88%) or of the valuation process (90%). Moreover, just over half of all complainants were not provided with either verbal or written information as to how the complaints process operated, and

nearly two-thirds of citizens surveyed indicated they did not have an opportunity to present their views or offer evidence in support of their case (62.3%). Notably, nearly 4 out of 5 (79.2%) of citizens were not provided with a written decision on their expropriation complaint (including valuation decisions), and a very high percentage (87%) of citizens indicated that the decision was not accompanied by an explanation with reasons. An even higher percentage of respondents -- 89.6% -- were likewise not given any information about how and where to appeal. Based on these findings, district officials must be given detailed training on how to communicate with citizens and provide basic procedural information (including through role play and simulation exercises), while being subjected to more stringent job performance criteria and workplace oversight.¹⁹ Moreover, district land managers should also be given GIS software and an adequate transport budget to meet with citizens on expropriation matters and more effectively discharge their duties.

Creating a forum for one stop center managers: In a focus group discussion the need to create a forum for all district one stop center personnel emerged. This is a forum where they could meet at least once a year to discuss common challenges and ways of addressing them most effectively. This would also help generate practical recommendations that could be forwarded to policy-makers to help improve the quality of their work.

¹⁹ One approach might be to insist that as part of their performance plan and evaluation, officials keep hard and soft copies of their written decisions on file, and that those decisions be scrutinized and documented by superiors regarding evidence of distribution to the citizen (via a signature) and inclusion of reasons for the decision and information about where to appeal if the citizen is not satisfied with the result.



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