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**Transparency Rwanda**<sub>,asbl</sub>

**KIGALI CITY :  
A STUDY ON TRANSPARANCY AND INTEGRITY IN  
CADASTRE AND URBAN PLANNING UNITS**

**REPORT SUMMARY**

**Kigali, AUGUST 2009**



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## II. INTRODUCTION

### *BACKGROUND AND RATIONALE OF THE STUDY*

The 2007 activity report of the Ombudsman indicates the level of corruption and the frequency of people's claims in different units of the local government. This report points out the unit in charge of cadastre and housing, after the administration and employment, as the second domain with the biggest number of claims from the population. The reports and the classification of the office of the Ombudsman are based on the nature and the number of complaints registered by the population during a given period of the year which is a pertinent indicator albeit summary.

During a meeting of the City Council in 2002, the then mayor and chairperson of the council, Théoneste MUTSINDASHYAKA said, «90 % of the problems that Kigali City faces stem from the cadastre unit because there has never been proper planning and the data are simple not available». <sup>1</sup> The chairperson of the technical and economic committee, HAGUMA Apollinaire went further condemning «the mess which has characterized Kigali city in land management».<sup>2</sup>

In November 2008, the lower chamber of the parliament has also called out the Minister of Local Government, Social Affaires and Good Governance for a series of questions of which the most important ones were «corruption issues related to granting plots at the level of local authority, mostly in Kigali City; «the case of giving the same plot to more than one person by the local government, with valid legal documents; and lastly, «the case of many residents of Kigali City districts who have been asking for their land titles for more two years and still do not receive them.»<sup>3</sup>

In the framework of its mission of fighting against corruption and promoting good governance, Transparency Rwanda wanted to dig deeper to find out the present state of affairs regarding transparency and integrity in the units in charge of urban planning and cadastre in Kigali City, a very sensitive topic which causes a lot of public concern and whose importance is even recognized the local government authorities themselves.

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<sup>1</sup> Umujyi wa Kigali, inyandiko-mvugo y'ibanama n'ibanama idasanzwe yo kuwa 11 kamena 2002.

<sup>2</sup> Ibidem.

<sup>3</sup> Parlement, chambre des députés, compte-rendu de la séance d'interpellation du ministre de l'administration locale, des affaires sociales et de la bonne gouvernance, Kigali, novembre 2008.



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## *Research Objectives*

The present study has three objectives. The first objective is to explore and to discuss the deficiencies and malpractices in policies, procedures, and the actual delivery of services related to cadastre and urban planning. The second objective is to present the government policy and more specifically the one of urban administration in this domain, highlighting the best practices and pointing out the approaches likely to enhance transparency and integrity. The third objective is to assess the strengths and weaknesses of the responses given by city administration to the challenges related to cadastre and urban planning in order to be able to come up with strategies and recommendations which are pertinent for greater transparency and integrity.

The following research questions are going to shed some more light on the objectives and the outcome expected from this study: What are the views of the residents of Kigali City and what do they say with regard to the main issues related to cadastre and urban planning, such as issues with regard to the way plots are granted, issues related to construction, problems related to Kigali city planning and development master plan; expropriation issues, as well as cases of related corruption and malpractices? What do they know about the legal framework and the regulations governing these domains and what has their role in developing them? What are the strengths and weaknesses of the responses of the city administration in this domain and what are the strategies for greater transparency and integrity? What is the timeline used in studying these different issues?

Answers to these questions embody the indicators which enable to assess and validate the output of this study. However, it is first of all worth defining the key concepts and making them operational. According to different sources and definitions, **transparency** will be understood as the state of being transparent, i.e. obvious, clear, simple, and that no one is trying to hide from the public opinion. **Integrity** stands for the state not yielding to corruption or refusing to being decayed by any vice. In the context of service to the public, integrity refers to values and practices which enable the users to keep their confidence in that institution. Urban planning is at the same time an art, a science and a technique of rational management of cities and rural areas. It is a set of measures taken to guide and control the distribution and use of the land. Cadastre is a set of documents which enable to determine the land owners of a given entity. It is also the administrative unit in charge of those documents.



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The issues related to granting plots of land, therefore, fall under the cadastre unit, whereas issues related to construction, urban planning and management and master plan, expropriation, etc. fall under the urban planning unit. Transparency in the context of these issues will be measured at the level of *information and knowledge* of the population about the laws, regulations and procedures governing these domains. It will also be measured by assessing the level of participation of the population in developing and adopting those rules and regulations, as well as the relevance and clarity of this framework of laws, rules and regulations and procedures to the public interest and welfare of the population. As for *Integrity*, it is to be measured by evaluating *respect and compliance* of the administration with these laws, regulations and procedures; by assessing *the occurrence of corruption cases* in the practices of the administration as well *political will* of the administration revisit its laws and practices in order to reach greater transparency and integrity.

## *Methodology*

The two main schools or traditions of methodology in social sciences, i.e. quantitative and qualitative research have been used in this study leaning more on the latter due the nature of the topic. We have also employed two main approaches in terms of research: survey and case study. Three research techniques have been used in data collection, namely, document analysis, interviews and questionnaires.

The document analysis was applied on rare materials which exist, such as some administrative reports, some historical background of Kigali city urban planning and development as well as related laws and regulations. The field work through interviews has, at the same time, permitted to gather detailed and precious information, and to carry out case studies which provide far-reaching and sometimes poignant illustration of the position of the urban administration with regard to the requirements of transparency and integrity in the domain of urban planning and cadastre.

The interviews were given to a total of 23 respondents including local government authorities (Kigali City Council, its three districts and two sectors in each district); individuals having had interactions with the cadastre, construction and land management who have unique testimonies to give; experts in urban planning and media practitioners as well as Civil Society Organizations usually involved in land and urban development issues.



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Whereas the above techniques are mostly related to qualitative research, a quantitative survey was also conducted. It used a sample of 50 people, mostly residents of six sectors selected out of the thirty-five that make up the three districts of Kigali City. In each district, one urban sector and one rural sector were selected. This *purposeful sampling* method seemed to be widely representative of the reference population which is estimated between 4500 and 5000 and consisting of people with still pending files related to cadastre and construction or having been experienced expropriation during the period of the study, i.e. from the end of 2006 when the new districts were created to the end of our investigation in December 2008.<sup>4</sup>

This study is divided into four chapters. The first chapter gives the background of Kigali City and the evolution of its urban planning and development in order to a good foundation for the context. The second chapter discusses the findings of the field study, mainly the views of the population with regard to transparency and integrity of the city administration in the domain of concern for the current study. Chapter three presents the policies of the administration concerning these issues. Chapter Four attempts to evaluate transparency and integrity of the administration by comparing its responses in chapter three to the challenges pointed out by the population in chapter Two. A brief conclusion with recommendations wraps up the study.

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<sup>4</sup> Selon les sources administratives, le bureau foncier de Nyarugenge a enregistré 3000 dossiers sur cette période, celui de Gasabo 800 et celui de Kicukiro 500. Le total des personnes expropriées dans toute la ville de Kigali sur la même période est d'environ 700.

## II. HISTORICAL BACKGROUND OF KIGALI AND ITS URBANISATION

Unlike many other African capital cities, Kigali has not been created by the colonization. Some of its neighborhoods have royal residences since the 16<sup>th</sup> Century. Between 1907 and 1916, Kigali became the headquarter of the German imperial residence. At that time Rwanda was part of German Western Africa (Deutsch - Ostafrika).

In 1907, the area of Kigali was 8 hectares, with 357 inhabitants,<sup>5</sup> and in 1916, the city to expanded to more than 10 hectares, with 2000 inhabitants.<sup>6</sup>

The German colonization legacy is weak in terms of infrastructures, but it gave a milestone for the beginning of urban development. The populations and the buildings in agglomeration had already taken place and trade among people from different origins was already taking place in the new urban site, albeit at a small scale. After the defeat of the Germans during the 1<sup>st</sup> World War, the Belgians replaced them in Rwanda. Kigali was occupying a marginal position on the hierarchy of Belgian Colonial capitals.

At the arrival of Belgians in 1916, the urban area of Kigali was reduced to the north-western slope of Nyarugenge hill. The city appear to be comprised of the administrative town square of Muhima, the mission of the White Fathers Bwahirimba (the current Sainte-famille), the market and the shops on the northern north-western crescent of the hill, residential neighborhoods for the blacks, one close to the fort . the current museum of natural history, Kandt . House and to the north west of the market; and another to the south-west of the market on the western slope of Nyarugenge, and lastly the residential neighborhood on the plateau.<sup>7</sup>

The contribution of the belgians will consist in adding a few residences to the ten houses in the residential neighborhood of white people on the plateau, transferring the police officers barracks from Muhima to the current Kigali barracks (Camp Kigali), locating the Swahili population in the current Biryogo neighborhood, founding the Belgian camp (Camp Belge) within about 250 m from the plateau on the Eastern slope, constructing the first buildings of the hospital for black people . the current Kigali Teaching University (CHU Kigali)- which was finished in 1929.

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<sup>5</sup> Mairie de la ville de Kigali, *Kigali 100, special magazine*, p. 5

<sup>6</sup> Léon Mugabe, Evolution historique de la ville de Kigali des origines à 1994, mémoire de licence en lettres et sciences humaines, Kigali Institute of Education, Kigali, janvier 2004, p. 50.

<sup>7</sup> Ndangamira, E., Kigali : Ville et capitale coloniale 1907 ó 1962, les aléas historiques d'une urbanisation, mémoire, UNR, Ruhengeri, 1986, p. 83, cité par Léon Mugabe, op. cit. p. 61.

At the end of the decade 1920 - 1930, the Main prison commonly called '1930', the year of its inauguration.

Other achievements of the Belgian colonization include: the creation of the Kiyovu (by 'abakire' for the rich), the area for 'astridiens' close to 'RUBANGURA House', ten houses next to where used to be the lodge of King Rudahigwa which was inaugurated in 1935, the transfer of the business district from Muhima to the plateau in 1944, the development of a residential area for the white people on the plateau where houses were built on a plot of a quarter of a hectare. Besides, three roads were constructed on this same plateau: a central boulevard and two lateral streets.

*By the end of the colonisation in 1962, Kigali was not like a true capital yet. The city was on Nyarugenge hill and a part of Nyamirambo only. Electricity lighting was certainly there since 1915, and water distribution began in the 50s.<sup>8</sup> An aircraft landing strip was already in place at the current Kigali International Airport where the first aircraft landed in 1934.<sup>9</sup> The roads Kigali-Nyanza - Usumbura; Kigali - Bukoba and Kigali - Gisaka were already there. However, the increase of the population is especially slow in Kigali. It is estimated at 5000 people in 1962 on area of 250 ha.<sup>10</sup>*

After the independence, Kigali grew very quickly. From 1962 to 1975, the city expanded to be 700 hectares with the addition of Gikondo, Kimihurura and Kacyiru. The population is about 60,000 inhabitants in 1973.<sup>11</sup> From 1975 to 1990 the city area has now reached 42 km<sup>2</sup> including Nyakabanda, Kimisagara and the northern slope of Mount Nyarurama.<sup>12</sup> The population is 232,780 inhabitants in 1991.<sup>13</sup> From 1990 to 1994, the city area was up to 177 km<sup>2</sup> with the integration of Remera, Kicukiro, Kagarama, Gisozi, Kagugu, Gatsata and Gihogwe.<sup>14</sup> In 2001 and 2006, the area was respectively 314 and 730 Km<sup>2</sup> and the population was 605,000 and 1,000,000 inhabitants.<sup>15</sup>

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<sup>8</sup> Léon Mugabe, op. cit., p. 64

<sup>9</sup> Ndangamira E., op.cit., p. 208.

<sup>10</sup> La lente croissance de la population urbaine sous l'administration coloniale belge est principalement due à des mesures contraignantes pour l'accès des indigènes à la ville. L'ordonnance n° 2/78 du 16 août 1951 reprenant celle n° 42/16 du 26 février 1948 établissait les prix d'achat et de location des parcelles dans les cités indigènes, de même que des plans de construction et des matériaux qui n'étaient pas à la portée de tous.

<sup>11</sup> République Rwandaise, Préfecture de Kigali, monographie de la préfecture de Kigali, Kigali, 1990, p.13.

<sup>12</sup> Commune Urbaine de Nyarugenge (C.U.N), Monographie de la Commune urbaine de Nyarugenge, Kigali, 1989.

<sup>13</sup> Résultats du recensement général de la population et de l'habitat du 15 août 1991, cités par le Service National de Recensement, Enquête sociodémographique de 1996, Kigali, 1998, p.7.

<sup>14</sup> République Rwandaise, Préfecture de Kigali, monographie..., op.cit. p.20.

<sup>15</sup> Mairie de la ville de Kigali, Kigali 100, op.cit., p.5.

From 1962 to 2008, the growth of Kigali was to follow a series of city development plans of which the most important ones include « the 1964 development plan of Kigali City », « the 1970 development plan of Kigali City », « the 1982 Master Plan of Kigali City » and the « City of Kigali Master Plan 2001 » and « Kigali Conceptual Master Plan 2008 ». These different plans are in the category of urban development master plans which « define the objectives and the priorities of urban area development required by economic, social and environmental needs and those related to transportation ». <sup>16</sup> Les schémas directeurs sont indicatifs et tracent les grandes lignes. L'autre catégorie de plans d'aménagement est constituée de Plans d'Occupation du Sol (P.O.S) ou Plans Particuliers d'Aménagement (PPA) qui « déterminent l'affectation détaillée d'une partie de la ville ou d'une zone faisant partie de la ville. The master plans indicate and give the main guidelines. The other category of city development plans are related to land use plans or urban development plans for specific projects which determine the detailed management of a particular area of the city<sup>17</sup>.

Administratively the city has also gone through different steps of development. From 1963 to 1975, Kigali is located in Kiyovu commune created by the law of April 15, 1963 on the organization of the territory of the Rwandan Republic and the one of November 23, 1963 on the organization and the administration of communes.<sup>18</sup>

Kiyovu commune was made up of two entities, i.e. Nyarugenge and Butamwa; and it was lead by a Belgian from its creation to its disappearance in 1975, the Count of Bolchegrave d'Atena nicknamed RUGARAVE or RUGORO. Between 1975 and 1990, Kigali moved under the administration of urban commune of Nyarugenge created by the decree-law no 15/75 of April 7, 1975 on the creation of urban communes of Nyarugenge and Ngoma and the communes of Butamwa and Huye which have respectively been cut off from them. The urban commune was replaced, in its turn, by Kigali City Prefecture created in 1990.

At its inception, Kigali City Prefecture consisted of three communes: Kacyiru, Kicukiro and Nyarugenge. The law no 47/12/2000 changed the Kigali City Prefecture to Kigali City and the names prefecture and communes were respectively replaced by province and district. Then, Kigali administratively became Kigali City Council by the law no 07/2001 of January 19, 2001 and it was divided into eight districts: Nyarugenge, Nyamirambo, Gisozi, Kacyiru, Kanombe, Kicukiro, Gikondo and Butamwa.

<sup>16</sup> République du Rwanda, Ministère des Infrastructures, Révision des normes d'urbanisme et de construction, Kigali, septembre 2006.

<sup>17</sup> Ibid.

<sup>18</sup> Léon Mugabe, op. cit, p 83.

The law of January 2006 on the new structuring of decentralized entities reduced the number of Kigali City districts to three, i.e. Nyarugenge, Kicukiro and Gasabo.

The main achievements in the post-independence era in terms of infrastructures are limited to few government buildings and residences on Nyarugenge hill, Kacyiru and Kimihurura;<sup>19</sup>; asphaltting the roads Nyarugenge . Gikondo . Kicukiro . Airport - Downtown-Kimihurura ; Kigali . Rusumo and Kigali. Gatuna. Other modern infrastructures build at that time include, Amahoro National Stadium, King Fayçal Hospital, Milles Collines, Diplomates, Kiyovu, and Umubano (the current Novotel) Hotels; as well the head offices of financial and bank institutions such as BCR, BK, BACAR (the current FINABANK), BRD, UBPR, SONARWA and SORAS.<sup>20</sup>

The Tutsi genocide in 1994 claimed many lives, but observers believe that the destruction of infrastructure in the Kigali City was not very significant. However, the needs for housing and urban infrastructure have increased sharply following the exponential increase in population.<sup>21</sup> At the same time as responses dictated by the urgency were being given to these challenges, the city authorities have tried to project a vision of a planned development of Kigali.

The post-genocide achievements involve both the rehabilitation of old infrastructure and in construction of new ones. The latter category includes the network of urban roads which has greatly expanded, with paved roads or roads paved with stones covering a total length of 211.9 km, as well as dirt roads with a length of 889 Km.<sup>22</sup> The city has extended to new hills such as Kimironko, Nyarutarama, Kagugu, Gisozi, Gaculiro and Kibagabaga with the construction of houses of medium and high standing.

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<sup>29</sup>BCR (Banque Commerciale du Rwanda), BK (Banque de Kigali), BACAR (Banque Continentale Africaine au Rwanda), BRD (Banque Rwandaise de Développement), UBPR (Union des Banques Populaires du Rwanda), SONARWA (Société Nationale d'Assurance au Rwanda), SORAS (Société rwandaise d'assurance).

<sup>30</sup>Léon Mugabe, op. cit. p 83.

<sup>31</sup>Il y a eu, entre autres raisons à cette augmentation, le retour massif des anciens réfugiés (1959, à 1973) et celui, progressif, des exilés de 1994.

<sup>22</sup>Mairie de Kigali, direction des infrastructures.

These new buildings that are being erected even in the older neighborhoods are the work of individuals and property developers who have already started using sites which used to be considered as rural areas such as Kinyinya, Rusororo, Masaka and elsewhere. In addition to many private buildings, it is worth mentioning new state-of-the-art infrastructures which have completely changed the image of the city, such as Serena Hotel on the site of the former Hôtel des Diplomates, or the new administrative quarter in Kimihurura where has been built the Ministry of Defense, the headquarters of the Rwanda Revenue Authority, or the new Ministry of Foreign Affairs building still in progress.

It is, therefore, in this new context that our study focuses on Kigali City. Its geographical expansion, high population growth and new development requirements create new constraints and new needs. It is the quality of the responses of the urban administration in terms of transparency and integrity that the following chapters intend to examine, but first, it is worth looking into what Kigali residents think.

## **AUTOPSY OF CADASTRE AND URBAN PLANNING IN KIGALI**

It should be remembered that the present study focuses on the period that goes from the creation of new districts to December 2008, although in the case study, files registered earlier but still pending have also caught our attention. Aspects of the cadastre and urban planning that have an immediate impact on the population are related to the granting of plots, house building permits, expropriation and urban development master plan. Before undertaking the study, the dominant bias was that the granting of plots and construction permits were the most sensitive issues relating to transparency and integrity. However, soon afterwards the investigation and interviews revealed that the related services had been suspended in all the three districts of Kigali City since a few months before. Consequently, the consequences of this suspension, the problems related to expropriation, and the concerns brought about by the new master plan were the biggest concerns of the respondents.

This chapter is structured in two parts: the results of the investigation and case study. The first part throws light on the level of knowledge and participation of the citizens with regard to the legal and regulatory framework governing land registration and urban planning. It also presents the perceptions of the same citizens concerning the new master plan, the expropriation and the consequences of the suspension of services of awarding plots and permits for construction activities. It finally explores the impact of corruption in these sectors as perceived by Kigali residents. The case study looks into aspects specifically related to cadastre, construction activities, expropriation and resettlement.



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These cases illustrate both the lack of transparency and corruption and will deal respectively with the allocation of a plot to more than one individual, the demolition of a house built with the required authorizing papers; troubles experienced by people who have been expropriated and resettled by Kigali City Council, and finally, the prohibition of Euphorbia in the construction of fences.

## **Discussion of the Findings**

This part discusses mainly statistical data concerning the study. These findings primarily come from the informants' answers to five main questions. The first question is about the policies, laws and regulations governing the cadastre and urban planning; the citizens demonstrate what they know and what they think about this framework and their level of participation in its development. The second relates to the expropriation; its related problems, its advantages and its various consequences. The third deals with Kigali City conceptual master plan and urban planning in particular. The fourth one focuses on policies governing land registration and construction, and the last question is about the issue of corruption in the areas of planning and cadastre.

While reading the results of this survey, the reader should bear in mind our introductory remarks in which it was said the methodology will be more qualitative in its approach. Rather than asking questions with a bias of preconceived answers, we chose an inductive approach that offers open-ended questions to gather as much information as possible and in the most spontaneous manner. This explains the importance we give to individual testimonies considered very relevant and that we repeat verbatim in this text as much as possible. The reader should not be misled by the apparently low frequency of certain responses compared to the high rate of "no opinion". The result would certainly have been different if preconceived answers had been suggested in the questionnaire. But never mind! A spontaneous testimony which is repeated in three sectors from three different districts gives far better information about a social phenomenon than a mass of statistical "impersonal" cases. This is a methodological choice that the researcher assumes, without denying the importance of quantitative approach in social sciences research.

### **Level of knowledge and involvement of citizens regarding the policies governing the cadastre and urban planning**

As a reminder, this level of knowledge and involvement has been retained as an indicator of transparency.

In general, the population of Kigali appears to be more or less well informed about policies and legislation governing urban planning and cadastre. 60% of informants reflect this general knowledge. But only 16% said that there is involvement of the population in developing those policies, whereas 32% said that there was no participation; and 52% did not give their opinion. The organic law on land tenure in Rwanda, the law on expropriation and the urban planning conceptual master plan of 2008 seem to be the most familiar, even though a number of reservations were expressed with regard to the latter. People are totally oblivious concerning the existence of instructions (amabwiriza) from the city council, but the respondents refer to these instructions indirectly or unconsciously evoking for example the prohibition of certain building materials such as adobe bricks (rukarakara).

### **A master plan that raises concerns**

The clarity and relevance of legal and regulatory framework for public interest and welfare of citizens is another indicator of transparency adopted in this study and the master plan is part of the regulatory framework for urban planning. In the perception of respondents, it is subject of a nearly universal consensus, but there is resignation as far as its relevance to the public interest is concerned. But it does not seem to explain that much relevance, and clarity especially for the welfare of the population. Although the conceptual master plan is hailed as a development tool, as it is feared, wrongly or rightly, for its potential to drive from the city all social strata with low income.

Thus, 36% of the respondents feel that it is a development tool whereas 64 % do not give a specific opinion. While 66% said that they have no opinion, 34% think it has the effect of driving the poor out of the city. And 26% (against 74% without specific notice) find it regrettable that it creates uncertainty in the population that ignores the use reserved to its residence area and therefore cannot do anything.

One of the respondent summed up the dilemma: «What we blame the policy and land legislation is that it works in favor of the national interest rather than the individual whereas it claims that the land belongs to the latter»<sup>23</sup>

« What we expect from it, said another respondent talking about the Master Plan is housing improvement, development and well-being. The disadvantage is that we are to move to allow them to develop this city without knowing where we are really going.

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<sup>23</sup> Entretien du 17/11/2008 à Nyakabanda

We wish to have, on this master plan, a place for those who are not very rich, because we too want to remain visible in town»<sup>24</sup> For this farmer of Mageragere in Nyarugenge district, it is imperative that the Kigali City Conceptual Master Plan integrates all social categories. "We think that it will provide us with basic infrastructure, because we do not have it here with us. The concern is that this master plan may come to force us to move, whereas I would not be happy to be obliged to leave this place I live in. My hope is to see the means of everyone taken into account, so that everyone can have a place in this master plan. »<sup>25</sup>

### Expropriations Greeted Grudgingly

Large scale Expropriations have been conducted on several sites in Kigali city and those which generated the most controversy are those in Ubumwe cell (Kiyovu cy'abakene) in Nyarugenge district, and Gaculiro in Gasabo district. But expropriations taking place in Kigali are much more numerous, and all generate the same controversy, even though they are not widely published by the media and public opinion. The most dominant feeling among the population at the time of the survey is that of anger. 44% of respondents express openly that expropriation is a source of discontent, against 16% who think it has advantages. People strongly opposed the arbitrariness of these practices where any negotiation is excluded, and they had to undergo expropriation grudgingly. They complain about the undervaluation of assets (50%), uncertainty about the new relocation (50%), and sometimes brutal conditions of expropriation which is closer to deportation. Cases of corruption are also reported (20% of respondents). These indications are doubts about the clarity and relevance of expropriation for the welfare of people who are concerned directly. This puts into question the very transparency and integrity of the administration.

A resident of the Kicukiro district who was expropriated from Mulindi said: «We are very unhappy about the expropriation, because the government imposes on us by telling us to move: whether we like it or not. When conducting the asset valuation, they do as they please and they surprise you by saying: «Here is the total amount». When you procrastinate a bit, they tell you they will return with a bulldozer to demolish your house and you have nothing to say. In short, it simply means that the one who is expropriated does not have any right to speak. The population complained about it, but at the same time we thought: «I accept I will go, if I do not, I'll go anyway»<sup>26</sup>

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<sup>24</sup> Entretien du 18/11/2008 à Nyabugogo

<sup>25</sup> Entretien du 20/11/2008 à Mataba.

<sup>26</sup> Entretien du 13/11/2008 à Gasabo.

## A suspension of construction activities resented

Since the adoption of the Kigali City Conceptual Master Plan was adopted by the city Council and the Government in 2008, the activities of house construction were suspended in all districts of the city, with few exceptions, pending detailed plans for land subdivision. Building permits are not issued-except on the few sites with already divided plots, and permissions for house repair have become sources of abuse and corruption. Driven by the need, some residents of Kigali take these permissions for house repairs as an excuse to change the construction plans, while others completely ignore the procedures and build illegally. In this situation, the grassroots authorities (coordinators villages [imidugudu] and cells [utugali]; the "Local Defense Forces"<sup>27</sup> » and the sector agronomist) are singled out as major actors and beneficiaries of corruption. This seriously undermines the integrity of the administration. The prohibition of house construction activities and untimely demolitions also pose a serious harm to many citizens, as the legality of these measures is questionable. This undermines the transparency from the perspective of clarity and relevance of certain policies and practices for the benefit of people. Thus 48% of respondents felt that the suspension of construction activities is a source of discontent, and 32% think it is a source of corruption.

*A cell coordinator in Gasabo District gave this testimony. "It is forbidden to build, but the repair permissions are granted by the district based on the forms signed from the grassroots authorities. People complain that they are denied their right and that the government does not quickly implement the program intended to show them where they can build. People decide to build by force and deal with authorities, and, thus, one is forced to demolish their buildings. In this context, they hate the authorities, accusing them of doing nothing for them, and this draws us in enmity with our constituents. Acts of corruption are also manifest in that order. Members of Local Defense Forces demand bribes in order to protect those who are building, and we realize it only when the house is almost completed. And when we find ourselves in a situation of having to resort to house demolition, that's where the citizen hates authority."<sup>28</sup>*

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<sup>27</sup> Agents de sécurité de proximité (basés sur le bas niveau de l'échelon administratif: « Umudugudu »)

<sup>28</sup> Entretien du 7/11/2008 à Gasabo.

## Case Study

The first section of this chapter was devoted to discussion of the findings of the survey, reflecting the general views of citizens on crucial issues, with mixed data: qualitative and quantitative.

In this section, our attention is drawn on extensive testimonies regarding specific situations but always relating to land registration, expropriation and housing.

The four cases presented refer respectively to the problem of relocation to Batsinda, expropriated people in Ubumwe cell (Kiyovu cy'abakene) in Nyarugenge district, the allocation of the same plot to two individuals in Kicukiro district; the destruction of a house at Gishushu (Gasabo district) and whose owner was perfectly in order in relation to cadastral requirements and finally, the prohibition of Euphorbia fences.

These stories are certainly representative of many other similar, and the situations they describe are recurrent. They have the uniqueness of exhibiting lack of coherence, contradictions and lack of inconsistencies of an administration whose decisions often poorly motivated or influenced by corruption, cause harm to citizens. This poses a serious problem of transparency and integrity.

## Issues related to the reintegration of expropriated people from Kiyovu

The person who gave us this testimony did not want his name to be quoted. Here is his story: "Batsinda is one of the neighborhoods of Nyakabungo village (umudugudu), Kagugu cell, Kinyinya sector, Gasabo district in Kigali city. It was planned to build 1,000 houses in which people expropriated from other parts of the Kigali City would be resettled. The first phase was concluded and it consists of 250 houses of which 120 were attributed to persons displaced from Ubumwe cell (Kiyovu cy'abakene) and Muhima sector in the district of Nyarugenge. All these houses were built through a partnership between the city of Kigali, Social Security Fund of Rwanda (SSFR) and the Housing Bank of Rwanda (HBR). Each of these houses has a value of 3,500,000 RWF. It was planned that prior to being given the house, one pays Frw 350,000 and thereafter, requests a loan from the Housing Bank to be repaid each month according what each one can afford. But this is not what happened. Because as soon as we arrived in these houses, we were asked to pay all the money that we had been paid in the expropriation compensation, and if that amount did not reach RWF 3,500,000, one was required to raise the difference in form of loan from the Housing Bank in order pay the total amount. In case you had already received the compensation you were asked to return the money. And for those who had not yet been paid up to then, they have received nothing.

They are told that they will be given the balance after the 3,500,000 RWF will be been deducted..."

### **Assigning the same plot to two different people in Kicukiro district**

The following testimony was given by Cyimeza Jonathan. His family had obtained a plot of land for construction at random draw in Kicukiro when the district was launching an innovative subdivision program, the first of its kind in the city of Kigali at the time. His misadventure betrays both corruption and incoherence of a certain administration. "In 2004 I requested for a lot in the Niboye area. At that time, it was done by random drawing. Before the draw, we paid Rwf 20,000 which was used for road construction. Then, I paid Rwf 200,000 because my plot was in a bad location. Whoever drew lots and received a plot in a good location paid 260,000 RWF. After the draw and the payment of the 200,000 Frw, I asked for the necessary permissions to build. At the time we are give a cadastral sheet, a plot lease contract and a building permit. I then started to build. The former owners of the plot (the natives [ba gakondo]) acted immediately by concealment and resold the plot. Yet grassroots authorities knew it was mine because I got it from the draw. Moreover, these former owners had previously received the price of the plot at the district level.

When I found out what was taking place, I went to complain to the sector office and the head of the sector told me that these people came to ask him to sign the sales contract and he refused, saying that the plot had already an owner. I then asked him to go with me to the site so he can say that in the presence of the residents, so I can quietly pursue the construction. I went with this person to the site, and he said before everybody that the plot was mine. When I came back to continue building, the former owners who had sold my plot have started throwing stones at me, and, aided by grassroots authorities, they even chased away the workers who had come to work for me. I went back to the sector office to report that they prevented me from building and they even threw stones at me. When I arrived, I realized that they had also corrupted the sector head, just as they did for the grassroots authorities when they resold the plot. This person talked to me with a bad tone, and he sent me away and told me to go to the district office that gave me building authorization papers. When I arrived at the district, I noticed that the sector head had already talked to them, but, I still explained my problem that I had obtained land in the Sahara by draw; I paid Rwf 200.0000 and that the district had given me permission to build. After explaining all this, they told me to leave, promising they would solve the problem. Seeing that they continued to treat me without regard (Kundindagiza), I complained to the police.



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The Police said they were not involved in plots, and they referred me to the district. .... I then sought a lawyer to defend my cause. The lawyer wrote to the District Council, and the latter said he would give me another lot in return located at Masaka, and then take back the first one. I understood they were wasting my time and they caused me great harm, because I had already deposited rubble and sand. Moreover, they had subsequently granted to the person who bought my land, permission to build. This means that we were both owners of the parcel, each with documents in order, and even an equal right to build.

Afterwards they handed me a letter from the District Council stating they would give me a plot in Masaka, because again, they were in the process to define and allocate plots to all those who had experienced the same problem as me in the district of Kicukiro. When I got this letter, I accepted the offer by refusing to continue the standoff with authorities (nanga gukomeza gusakuza n'ubuyobozi) because I had complained to all authorities, whether at the city of Kigali, or even the at the ministry of infrastructure, without any of them managing to solve my problem. My problem had caused so much noise that journalists went ask the Executive Secretary of Niboye, Mrs. Joyce, who testified that it was me who owned the plot since I was the one who had drawn. You understand that corruption was introduced. I see a lot of corruption in the district of Kicukiro, at the level of land plots distribution services. ... .. The woman who bought the lot where I build paid Frw 3,000,000, but the amount that appears in the documents is 1,500,000 RWF. The person who bought it has not built either, because the authorities that she had distributed bribes advised him to sell it. It was sold to a military last year (2007) to 7.000 .000 Frw. They tried every means to extort this plot from me. %o

### **Demolition in Gasabo district, a house built with the permissions of the cadastre**

The house belonged to Gabriel Bizimungu, an officer of RDF (Rwanda Defense Forces). It was intended for commercial use and he had taken out a bank loan for this. His case also reveals the arbitrariness of an administration where we may suspect incompetence and corruption, but it also demonstrates the inability of civic institutions (namely the Office of the Ombudsman) and the courts to respect the law. Here is his story preceded by a question of our investigation.



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**Question:** We learned that you were building a house Gishushu in the cell Nyarutarama, Remera sector, and that thereafter it was demolished. Can you explain in detail how it happened?

**Answer:** "Long ago, in 1988, I obtained the plot of the KVM. They set the boundaries and they later gave me the contract I signed in 2000. In 2001, I requested permission to build a gas station, and they have given me this year. The Ministry of Commerce who gave such permission in partnership with the KVM. What I can mention at this stage is that when you set the boundaries of the parcel, the road paved Nyarutarama was not yet built. This road was built in 2002 and this time I had already erected a fence of brick around my plot, and there was inside a small tavern that operated in the meantime, with bungalows, a stock and a bar .... Later, I asked to build a regular house music (the piece that I had obtained was intended for commercial use). In 2004, I knew I was studying abroad and it was then that I began to seek renewal of the lease of the parcel so that changing its destination, namely to renounce gas station for the benefit of a regular house music.

Until this point, I never had any trouble with the authorities. After requesting the renewal of the contract they gave me. They signed in July 2007. I brought my requests in the city of Kigali, and that's where I paid. But because of decentralization, the case was transferred to the district (Gasabo) and that is where the renewed contract was signed. They presented me with any other document, if not renewing the contract. Shortly after, they also gave me permission to build a home business. I returned home in August 2007 and started to ask a bank loan to the CSS (Credit and Saving Scheme). They gave me in October 2007, and I immediately started to build. This is the 08 January 2008 that I saw a letter from the mayor of Kigali forbidding building and asking me to bring my documents cadastre offices of mayor. It said that I had to first stop building before measures are taken in connection with my plot, and that I bring over all the documents of the parcel service inspection of City Kigali. I took the papers and I showed them, and I have left them few. They told me to wait. Since that day I stopped building, and waited, but without understanding why. They simply told me that my parcel had problems.

... Two weeks later, the MVK prevented me from building - it was the 21 / 1/2008-, the mayor of Kigali city wrote to the mayor of the District of Gasabo, ordering him to immediately demolish my house on the grounds that permits were granted me whereas my parcel was in the center of the road. She even said the day of execution. She said not to exceed 28 / 01/2008 without having made the decision in implementation and required him to report it. Kigali city has not reserved a copy. Only the sector Remera who allowed me access to this correspondence, long after the ultimatum date 28/01/2008.



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This decision has put everyone into confusion, since it was not at all clear. There is no offense of which I am blamed for it can cause the destruction of my house. Gasabo district has not implemented the decision immediately. Myself, I immediately started to beg, to write and explain, because most believed that I did not have the permissions of the cadastre. Unfortunately, I received no response. I then wrote to the Ombudsman. I waited the answer and I have not had. However he wrote asking them to temporarily suspend the demolition decision and give first explanations of the evidence on which they rely to order the demolition. They despised the correspondence with and did not respond. It was on 27/03/2008.

In May 2008, when I realized they had not responded to the Ombudsman, I had the idea to complain to a court. We appeared on 17/05/2008 and the decision was made on 20/08/2008. The court ordered that the decision of the Mayor of Kigali is canceled. After that, exactly on 30/06/2008, Gasabo district asked police station Remera oversee the process of demolition of my house, but based on the letter from the mayor of the city of Kigali in January . It is clear that they had decided to overrule the court decision. The letter was written on 30/06/2008 stating that the demolition would take place on 02/07/2008. That day also, the demolition has not occurred. I could not know the reasons. They were finally demolished the house on 05/08/2008, to my knowledge. It is the watchman who called me, saying they were being demolished. In the meantime, I was once called the District of Gasabo and they told me to go get ready for the possibility of being expropriated but not explain why. I tried to ask them why, but they did not respond. I expected them to call me again, but they did not. Even Kirabo, the Mayor called me once and she told me that my house was actually located in the center of the road. I also told him how I had obtained permission. She said they had decided that it is destroyed, but after having expropriated. (I had been invited to a meeting of the Security Council of the City). It was agreed that even the interest that the bank will be calculated on my credit are paid by the municipality. That day when we were discussing this, there was a man named Rukabo from the Land Office District Gasabo who had also been summoned.

When Gasabo district wrote ordering the demolition, I again lodged a complaint requesting that the proceedings concern the reasons they advance to destroy my house. I did not understand why my house could be destroyed, and I felt a strong sense of injustice. When I met the mayor, had already complained. When the summons arrived, I think that is what has angered. They are so eager to destroy the house is no longer there at the time of trial. They destroyed the house on 05/08/2008 while the trial was scheduled on 14/08/2008. They requested an adjournment to 09/09/2008, then to 19/09/2008, then to 20/10/2008, and finally to 17/11/2008. At this time we last appeared on questions of form and admissibility. The court had rejected any form of objection and we started the trial on the merits.

Sentencing is scheduled for January 2009. My hope is that the services of land management, urban planning, housing and expropriation are totally separate from the Authority for the governance of the population, and they are entrusted to an independent institution and including experts in urban planning and law, no matter if among them there should be foreign. Under these conditions, the corruption problems that are obvious that our administration is losing its credibility in the eyes of the population can be significantly reduced. And citizens could again restore confidence in their administration."

### **The prohibition of fences of Euphorbia (imiyenzi).**

This case is a typical illustration of the inconsistency of the city administration about the relevance of some of its policies, its processes of decision making and the absence of any statutory or regulatory reference in the implementation. This poses a real problem of transparency and integrity.

The decision fell to June-July 2008 and followed the no less controversial pieces of prohibiting glass bottles and son on the barbed wire fences.

When asked about the reasons to forbid specific Euphorbia (imiyenzi) among many other shrubs and foliage, the authorities in Kigali City Council making the decision does not provide convincing explanations. "The Euphorbia (imiyenzi), we did not appreciated. We did not qualify as suitable materials in the city of Kigali. They're used in some circles as Gikongoro and elsewhere, but here in town, we did not just appreciated. "This is the response we could collect from an official of the municipality.

Answering the same question just after slaughter his euphorbia fence, a resident of Kicukiro and made us share his feeling. "I think the ban Imiyenzi is motivated by the fact that they are the only typical Rwandan among foliage. And for this reason, the authorities believed they were less appropriate to the beauty of the city. They want to plant more "modern" as the bougainvillea and others. "

The point is both ironic and sarcastic, and seems to correspond to the arbitrariness of the decision. Especially a head of planning at the Kigali City Council told us that we still awaiting the development of a blueprint for green space in the city (Greening Master Plan).

The fury against the euphoria seems not well explained. And the context of the decision of banning them seems more puzzling. At a meeting of all heads of villages (imidugudu) in the city of Kigali with Ms. Aisa Kirabo, the mayor, Gisozi at the main campus of the ULK (Université Libre de Kigali), a coordinator of umudugudu in Kicukiro suggested that the city prohibits Euphoria fences stating that in his constituency, this was done. To this head of umudugudu, it was an innovation (agashya) to add on the performance Contracts, performance contracts that different administrative levels is set as the action plan. In explanation, he said that "criminals usually hide behind fences Euphoria to commit wrongdoing."

At the end of the meeting, the mayor communicated to the participants resolved to prohibit fences Euphoria throughout the city of Kigali.

## **V. THE POLICY OF THE ADMINISTRATION REGARDING THE CADASTRE AND PLANNING.**

The testimony and survey results of the previous chapter can establish that significant challenges arise as to the expropriation, to various disputes in the housing sector and the prohibition of construction related to the implementation implement the master plan development and planning of the city of Kigali. As presented by respondents, these challenges are likely to jeopardize the transparency and integrity of the administration. This chapter attempts to understand the administration's policies in relation to cadastral and urban planning. We will review the key initiatives and an outline of legal and regulatory capture the vision of urban administration and government in general in these areas. These initiatives are reflected mainly in the institutional changes, the revision of policies and legal and regulatory instruments, and more specifically, developing a new blueprint for development and planning. Such exploration is essential to compare this vision of government perceptions of citizens. In approaching this chapter, the reader will understand that the political administration to innovate its laws and practices among the indicators that we selected for transparency and integrity. The search for these innovative features will also shape our presentation.

### **Institutional changes and policy revisions:**

For years, the services of the cadastre of the city of Kigali statement of the Ministry of Agriculture who also manages land within its remit. Later they were placed in the Ministry of Public Works has continually changed names and now called Ministry of Infrastructure (MININFRA). With the inception of the decentralization policy, they are passed to the administration of former PVK and since 2006 they are the districts of the city of Kigali.



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In terms of urban governance and its districts also an effort to differentiation and specialization took place from 2007, when it was split into two former departments including both infrastructure and cadastre. Officials from the mayor of Kigali to explain this subject than when the two services were combined under one direction, all attention was directed to the cadastre because of stress and many disputes that were clean, the infrastructure sector being neglected despite its importance in the development of the city.

This development seems sensible, although observers note that some land registry services should be decentralized to sectors with a technically qualified staff and completely separate from the agricultural sectors in which these tasks are still being performed. Others bemoan the current fragmentation of responsibilities of the cadastre and urban land between offices dependent on the district administration, land boards and the registrar of land titles. They thus argue for a more unified and more technically competent to manage the cadastral and related issues such as expropriation. Still others think that planning and development of cities do not have their rightful place in policy documents and design guidance for national development, this resulting in an inadequate and insufficient allocation of budgets. They argue the case for creating a structure to oversee the design and implementation of planning instruments, and to regulate planning and development of cities.

The Ministry of Infrastructure (MININFRA) has developed a policy of urban planning and housing and a draft law on town planning code and building in Rwanda. Discussed in Cabinet last December, the policy document waiting to be adopted lists a series of objectives namely: to control and guide the process of urbanization of the country meet the needs of the urban population as a whole in terms of access to land and services, and prevent the formation of new districts precarious access to housing through a planned and organized process leading property development specifically for groups with low and middle incomes, improve living conditions of people living in informal settlements exist, including creating jobs, encouraging the private sector in the development of real estate development, and finally, strengthen institutional and financial capacity at central and decentralized levels for local communities. The policy document also proposes the establishment of a national structure responsible for regulation of urban development, his name: "The Rwanda Urban Development Bureau. "

The bill code of Planning and Building Rwanda introduced innovations such as: "the establishment of a financing structure of urban development, stating the fundamental rules considered in planning and construction; determining patterns of land acquisition for the development and establishment of land reserves, and the establishment and expansion of consultative structures in urban planning and construction from national-level to the grassroots level.+"

### **The revision of legal and regulatory instruments**

The most important reforms in this aspect materialize from 2005 with the publication of the Organic Law No. 08/2005 of 14/07/2005 on tenure in Rwanda. Its main innovation appears in Article 5 which stipulates that "any person or entity who owns the land, acquired either by custom or under a duly granted by the competent authorities, either by purchase, is recognized owner, bound by a financial lease in accordance with the provisions of this organic law. "Article 87 of the Organic Law also stipulates that" the State has the duty to find land to those who have been deprived of their right to land ownership. He said that "Sharing practiced real estate since the year one thousand nine hundred ninety-four (1994) is recognized by this Organic Act. The beneficiaries of this division are considered in law as other landowners who acquired their property according to custom. "

Many laws subsequent to the organic law have already been published, making the legal and institutional framework for land management much clearer and more operational. But it is above the law No. 18/2007 of 19.04.2007 concerning expropriation for public utility which will retain the greatest attention. It states in Article 3 that "the State alone is entitled to expropriate for public purposes. She adds that "expropriation under this Act is held solely for public purposes and with just and prior compensation. "The sections 8 to 10 state agencies authorized to" determine the plans to expropriate "those empowered to" determine whether these projects meet the conditions "and lastly those empowered to" take the expropriation decision. "Section 5 provides a complete list of 23 activities considered" public works ".

Besides these laws briefly presented, which provide an interesting framework for land management, there are also sensible regulations clarify the application of laws in detail, especially as regards the cadastre. The most relevant of these is certainly the Education Council of the City of Kigali No. 01 / 08 from 14/12/2008 for construction and housing in the city of Kigali. Consisting of 44 articles, this instruction replaces n ° 01/06 of 21.07.2006 sets out the various permissions cadastre, the corresponding documents and administrative bodies responsible for the award.



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It also defines in detail the elements required for granting such permits, prohibitions and penalties provided for in the field of construction, as the deadline for the grant of each type of authorization from the Land Registry. Some items indicate the sites where it is building permits, building materials, building permits and the time of grant.

The authorities in Kigali are also about to develop what they call "the Charter of the Customer (Customer Charter) on the granting of plots and land management in the city of Kigali." The working document the charter still under discussion among the authorities to adopt it shows that innovations and useful additions will be made to the previous Instructions, even if it is not yet clear whether the two will coexist if the Charter will replace Education or at least it will inspire his amendment. If the current working document is adopted, the "customer charter" will give a full list of approvals and documents including the Land Registry issued by the district land offices and those issued by the registrar of land titles. It will then service users of the cadastre entire list of what is required and the appropriate forms to constitute the application file of any authorization or document of cadastre. Elle will also list sites that had a plan subdivision before the process of elaboration and adoption of the new master plan for development and planning of the city of Kigali, the construction sites which may receive a measure of adjustment.

The charter will specify the rules finally on time limits for granting permissions cadastre. The current document retains the same time that the instruction mentioned above for building permits, occupancy, repair or alter a building. But in case of delays, the penalties are imposed on the Land Office and not the agent in charge of the case. The document also provides 5 to 7 days - depending on the nature of the permit-additional period during which the regulatory authority concerned shall respond in writing to the applicant. It also delays the granting of permits for other services of the cadastre absent of Education, namely the register sheet, the title and license transfer or transfer of land assets.

### **The new master plan for development and planning of the city of Kigali (the Kigali Conceptual Master Plan-KCMP-).**

Produced on behalf of MININFRA led by a U.S. consulting firm, OZ Architecture between June 2006 and late 2007, the new master plan for Kigali (Kigali Conceptual Master Plan) is a voluminous document of 132 pages not including the introduction and a series of numerous annexes. The first three chapters are devoted to general, namely the description of the process of developing this concept, the physical environment, economic and institutional as well as the opportunities and constraints. The blueprint itself is presented in the fourth chapter (pp. 61-108), and the fifth and final chapter is devoted to the strategy and recommendations for its implementation.



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The new blueprint is presented as having the ultimate "sustainable urban development in the city of Kigali through a balance between ecology, equity and economy. It aims to "protect the natural environment by applying best practices to minimize environmental degradation, pollution and waste production. It seeks to promote equitable solutions that protect the interests of everyone, including marginalized populations. "It tends to support economic development opportunities for all with urban development and infrastructure appropriate" and that economic growth will facilitate the development of Rwanda in general. "

The authors of this blueprint also list a series of principles that have guided their work. The first is "a holistic approach to development" which includes several elements inclusive in planning ads to be more efficient and more economical. "The second is an approach that respects" the land and the environment "in Planning. "The third principle is to focus on" local solutions ". The fourth principle is to give importance to "solutions for labor intensive. The fifth principle is "Participatory Planning and Capacity Development" to Rwandans that eventually they can take ownership of the process of decision making in the Planning and Urban Development. "The sixth principle is to offer" equitable solutions for housing, transportation and infrastructure. The seventh principle is "preserving, protecting and enhancing the natural environment." The eighth principle is "the maximization of renewable energy sources and the transportation efficiency and mobility. "The ninth principle is" to attract local and foreign capital and private investment. "The tenth and final principle is to ensure" the implementation "of KCMP and subsequent plans.

The authors conclude KCMP on some very interesting on its implementation, and should address them. They state that this is a document of "general vision and direction for the growth of the city, a flexible instrument and not static, and can make changes unpredictable." "In the short term, master plan should not already be considered a law. Many details, such as the size of plots or plans for specific sites must be addressed later in the development plans of districts or peri-urban areas. Only then they will become law in the comprehensive management plan (Comprehensive Plan). "

"It is important to emphasize that this plan focuses on equity in the attention to be brought to a wide variety of needs for urban development. More importantly, it should not be seen as a justification of forced expropriations. The Urban Planning is expected to be an inclusive, not an arbitrary mechanism that serves only certain interests. ... it should continue to be based on participatory practices that take into account the best interests of all citizens. In particular, it should develop political and legal strategies that establish transparent and fair conditions under which the expropriation was justified and that this process must be followed. "



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... The final plan will be to prepare development plans of districts and mechanisms of implementation. ... Once the final plan (Comprehensive Master Plan) established it should be regarded as a policy document closes. But it will have value as citizens and administration of the city of Kigali are willing to give him. The team planning ads and those responsible for regulation must be trained to be competent, fair and impartial in its application. They should be well paid and treated as respected professionals, and corruption involving the planning or implementation of urban development should not be tolerated. "

The authors suggest that KCMP formal revision of the blueprint can be done every five years. If we discussed the general principles contained in the new master plan for development and planning of the city of Kigali, because we deem relevant insofar as they shed light not only on the spirit of this new important planning tool, but also a number of issues raised during this study.

## **VI. EVALUATION OF TRANSPARENCY AND INTEGRITY IN SERVICES PLANNING AND THE CADASTRE IN THE CITY OF KIGALI.**

### **Reminder of the main challenges**

The second chapter of this study was presented, through testimony and other survey results, a series of challenges related to the cadastre and urban planning in the city of Kigali. We recall briefly the issues relating to the implementation of the blueprint for development and planning of the city of Kigali to the expropriation of the quality of cadastral services and housing, including suspension and pure simple allocation of some permits, prohibition of certain building materials in the allocation of a plot to more than one individual, the prohibition of building or demolition of houses whose owners have All materials used; the destruction of buildings called "irregular" and finally to acts of corruption or violation of the law and procedures that sometimes accompany the acts of the administration. While the previous chapter sheds light on a number of government initiatives to respond in general to the challenges of urban planning and land registration, it is now important to compare each of these challenges to government responses and the 'urban administration to measure the strengths and weaknesses in terms of transparency and integrity. Strengths and weaknesses of management responses.

### **i Problems related to the implementation of the blueprint for development and planning of the city of Kigali.**

Two feelings dominate over this issue within the population. The first is a lack of sufficient information about this blueprint, and therefore a sense of uncertainty about the different uses it provides for various specific locations in the city for land management. And this does not concern the average citizen in our investigation, we were able to report that even many administration officials sectors, cells and villages (imidugudu) does not understand much of what "Kigali Conceptual Master Plan".

The second is the feeling of fear. The fear that average citizens and low income are excluded from the city of Kigali. The results of investigation in the previous chapter are talking about this (26% and 34% respectively of opinions).

Although 36% of respondents said that this blueprint is a tool for development, the evidence reveals that it is usually expressed in a tone culturally conformist, and often resigned.

Compared to the first sense, the response of Administration is not yet satisfactory. It still lacks sufficient awareness and explanations about the blueprint for development and planning of the city of Kigali.

Moreover, its implementation in its conceptual state poses another problem. Its authors say, as we saw in the previous chapter, that "in the short term, the blueprint should not already be considered a law. Many details, such as the size of plots or plans for specific sites must be addressed later in the development plans of districts or peri-urban areas. Only then they will become law in the comprehensive management plan (Comprehensive Plan). "

But city authorities seem to have ignored this important point the authors, and began well in advance the implementation of the "Kigali Conceptual Master Plan" despite his condition even basic "policy document".

But this is precisely the source of confusion and uncertainty for residents of Kigali. Only "special development plans" should clarify the precise use of various locations in the city, what can be a "conceptual master plan". Or, is information on the latter that was most widely distributed (48% of respondents have ever heard), before the development of specific plans are available. This had the effect of creating more panic. Expropriation of large scale have also been undertaken on behalf of 'conceptual master plan' and not 'comprehensive master plan', including specific plans for development more explicit about land use. It also merits the same regulatory framework clearly chaotic that the decision to prohibit residents of Kigali building was taken.

This series of practices and decisions indicates first a lot of confusion and inconsistency regarding the communication and implementation of policies. If the clarity and relevance of legal and regulatory framework for public interest and welfare of citizens is an indicator of transparency, we can thus observe a severe sprain to her. Decisions of expropriation and suspension of construction activities also appear in some respects as completely illegal acts, since they were taken in the context of a "master plan (which) should not already be considered law. "Respect for and compliance with government laws, regulations and procedures have been used as indicators of integrity, it appears that the latter has also been seriously breached.

The second dominant sentiment, which also notes the lack of transparency - as a "clarity and relevance of legal and regulatory framework for public interest and well-being of citizens, are part of the response of the master plan itself .

The authors take enough care about the social equity and the interests of the poor as these extracts show the previous chapter. "... It is important that the process of planning to make the advocacy of marginal populations to ensure that their voices are taken into account." "It is important to emphasize that this plan focuses on equity in the attention to be brought to a wide variety of needs for urban development. More importantly, it should not be seen as a justification of forced expropriations. The Urban Planning is expected to be an inclusive, not an arbitrary mechanism that serves only certain interests. ... it should continue to be based on participatory practices that take into account the best interests of all citizens. In particular, it should develop political and legal strategies that establish transparent and fair conditions under which the expropriation was justified and that this process must be followed. "

Questions remain at the implementation and practice of urban administration whose main concern seems to be to upgrade to high speed Kigali, the social dimension of the process appear very marginal. At this level, continuous monitoring of various pressure groups, with periodic evaluations of specialized organizations of civil society is strongly recommended.

#### **ı Problems related to the expropriation:**

Expropriation has presented five major problems according to the opinion and testimony of residents of Kigali: the arbitrariness of the city administration that sometimes expropriated without negotiation and without due process, the undervaluation of assets due to uncertainty about the new destination and resettlement; inconsiderate time before paying compensation and finally the brutal evictions without notice. All these problems relate to both the lack of transparency (policy relevance for the welfare of citizens) and integrity (consistency in the administration of its laws, regulations and procedures).

The management response to these challenges lies partly in the Law No. 18/2007 of 19.04.2007 concerning expropriation for public utility that establishes principles and procedures clearly and fairly as show some of his extensive excerpts presented in the previous chapter. The law stipulates inter alia that the expropriation is made solely for public purposes and with just and prior compensation (Art. 3, 23 and 5) defines the procedure including the presentation of a dossier of application for expropriation (s.11) and consultative meetings with the public (s.12 and 13), and sets deadlines for payment of compensation (4 months) and removal (3 months) in sections 16 and 24 and even penalties (s.28), as well as mechanisms of action (s.19, 20 and 26).



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Problems remain once more in the practices of the administration and to a lesser extent, in disregard of the law by the population. The expropriation widely debated and controversial in public opinion are certainly those cells Gaculiro (Gasabo district) and Ubumwe (District Nyarugenge). The latter case was the more pathetic because the administration of the Kigali City Council has had to forced eviction and destruction of homes of 67 residents who had refused the compensation price. The total population affected by the expropriation was 376 people. It became clear today that the action of the town hall was completely illegal. Even if "work on the implementation of urban master plans and national planning in general" are given in Section 21 of Article 5 of the Expropriation Act the number of work deemed utilities; serious reservations required. If we interpret correctly the authors KCMP in the passage quoted above.

Expropriation residents Gaculiro again by the Social Security Fund of Rwanda has long attracted the same controversy surrounding the valuation of assets of persons to be expropriated. But this crisis has had a more peaceful outcome through the development, in May 2008, a 54-page document showing in detail the price of land per square meter depending on the location of the parcel in the city of Kigali; the price of building materials, crop prices per square meter and the description of the methodology used to set those prices. This initiative of land commissions of the three districts of Kigali city deserves to be commended. They toured the market to collect data, then they have determined carefully all factors constituting a patrimony to expropriate with corresponding prices. This is an example of professionalism and thoroughness that is not very common in the practices of these jurisdictions deemed more expeditious.

So with this tool, disputes about the expropriation of Gaculiro could eventually lead to a compromise. These rates were applied from July 2008 and they have contributed not only to resolve disputes involving Gaculiro, but also that of the cell Ubumwe about 57 people who had refused from the beginning the value of their proposed expropriation and 10 others who had initially accepted this value but had changed her mind later. A progress report of the mayor of Kigali reported the final resolution of this issue by stating that the last 67 people have been paid and have "moved" (barishyuwe barimurwa), and that this activity has cost 1 billion thirty-four million , seven hundred and ninety thousand six hundred and fifty Rwandan francs (1.34.790.650 RWF).



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## **i Problems related to the provision of cadastral services and housing:**

Slowness in the allocation of land registry documents, the suspension of certain permits for the construction of houses, allocation of the same parcel for more than one individual, the untimely demolition of houses and the prohibition of certain materials construction are the main challenges in this area. They are also equally the lack of transparency that integrity. The direction of the board of the city of Kigali on the construction and housing, as well as the "Customer's Charter" to come out in the last chapter in part to address the issue of slowness. These documents establish because of delays in granting permits, as well as penalties for noncompliance. But there are still organizational problems such as lack of trained personnel and lack of archival records of the cadastre which may cast doubt on the applicability of these provisions. The sanctions are also clearly defined and users of government services have no means to ensure they are applied. But from the outset, the presence of "commission" to the services of the cadastre is already a scandal. They show that the slow these services is an inseparable and they are an indication of potential corrupt practices.

The suspension of authorizations for the construction of houses under the pretext of the new master plan for development and planning of the city of Kigali deprives many citizens access to a vital need is for housing and a entitled to an economic activity of their choice. Specific plans of development of all sectors of Kigali districts should be developed quickly to resolve this impasse. Work of communication to any resident of Kigali should also be undertaken to explain clearly that there are challenges in this field to present the opportunities available for construction, including sites previously off or have specific plans development; listen to their grievances and find compromises that take into account their concerns. The demolition of illegally built houses are related to this problem. But they are an unfortunate response to a massive illegality, itself driven by an administrative ban extremely prejudicial to the interest of many citizens. The prohibition of certain building materials also needs to be brought into public debate. It seems to register false cons national policy planning and housing and even the blueprint which all recommend the use of technology and local materials and respect the Rwandan culture. The future law on urban planning and code construction in Rwanda should meet all these challenges.



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The allocation of a plot even more of an individual and other irregularities in the land register show a very weak and ineffective urban land management. Presidential Decree No. 08/01 of May 20, 1997 on transfer of powers to the Prefecture of Kigali City had reduced the functions related to the cadastre of the Department of Public Works to the city administration. This has in turn transferred to the three districts in 2006, but records of cadastral records have not been formally. The district governments are sometimes forced to go see the mayor of Kigali to any request for new parcel or other records which are not found traces. The official estimates of the mayor argued the number of 21,000 records of the cadastre managed by the KVM until 2006. The annual report of 2007 activities of the mayor of Kigali says that 13,000 of them were already captured and electronically archived regularly.

Initiatives had yet been tried before to put some order into the cadastre including Kenyan society GEOMAP. His contract worth more than 5 million dollars has caused controversy about the transparency of awarding the contract for the second phase and the quality of services. The arrangement was that Geomap hired its own expense to do the job and would be paid on a proportion to be agreed on all charges related to the cadastre. The City Council has agreed to pay Geomap after February 2008 before breaking the contract unilaterally. Some sources indicate that the mayor evaluation report - that we could not get time trial that his performance did not reach 10% of his contractual mandate. The result will likely be settled by the courts.

**¡ A cross-cutting issue: corruption and contempt for the law and procedures.**

Corruption is another indicator of lack of integrity, is especially noted in the evaluation process of expropriation of assets (20% of respondents) as well as illegal construction (32%). In the first case, it involves officials of district administration, private contractors involved in the evaluation and course for expropriated lands. In the second case, it is much more the business of responsible bodies such as basic Imidugudu leaders, coordinators cells (utugali) officers of the Local Defense Forces (LDF); people who build and agronomists sectors in some cases. The management responses are generally adequate since the culprits are in most cases prosecuted and punished. During our investigation, we have been informed of cases of prosecution of officers of the District of Gasabo accused of corruption relating to the expropriation of similar cases involving also the private sector Mageragere Nyarugenge district, and most recently, administrative sanctions and lawsuits against officers of the district Kicukiro involved in cases of illegal construction. Some interviewees, however, continue to point an accusing finger at some administration officials deemed corrupt, but who remain long unpunished and their positions.



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Another type of corruption strongly suspected but more difficult to involve more senior officers of district administration and the city of Kigali and is practiced in the following areas: provision of cadastral and building permits; allocation of same plot for more than one person, prohibition of construction or demolition order, pure and simple buildings whose owners have all the documents of land registry regularly assigned by the administration and finally, irregular procurement and possible perception of commissions on large contracts in the field of cadastre and urban planning. The other practice also complained to the district administration and the city of Kigali is the intentional violation of laws and procedures. The case of demolition of the house Bizimungu Gabriel Gishushu by the district and houses Gasabo cell Ubumwe by the mayor of Kigali illustrate a regrettable practice of the government to resort to the strategy of *fait accompli* against their own citizens and in defiance of judicial and administrative procedures provided by law. Besides that such a practice is detrimental to the public and reflects a culture worthy of an administration that respects itself, it also causes huge financial losses of these administrations and taxpayers indirectly-for loss trials.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Rwandan government and city authorities in Kigali have the vision and determination to make the capital a true modern metropolis.

To do this, they bring the necessary resources. The Mayor of Kigali, Ms. Aisa Kirabo Kaci said last December in a radio and television, they did call the offices of the most famous study in the world to achieve this goal.

Year after year, major changes are realized and demonstrated a real strength in fulfilling this vision, dynamism recognized and welcomed by many observers, especially foreign. Moreover, 06 October 2008, the city of Kigali has been in Luanda in Angola the United Nations Award, the "Habitat Scroll of Honor Award" for many innovations in building a model, modern city symbolized a zero tolerance for plastics, a system of waste collection improved and a considerable reduction in crime. "

The inhabitants of Kigali generally support the vision of a modern city and a city that honors their country (36% of respondents against 64 without specific notice). Notwithstanding, they are also concerned about disastrous social consequences that such growth could result if the urban planner does not favor an integrated approach. The new city might well be prohibited its own citizens who are the majority of low and moderate income.

Some unfortunate signs have reinforced this fear, with controversial expropriation; bans generalized to build decent housing when rent prices rise dizzily; of violent and massive destruction of houses called "illegally built", without forgetting the prohibition of certain local construction materials cheaper and culturally valued.

In order that the development of the city of Kigali are achieved while respecting the interests and well-being of its residents, in accordance with the rules transparency and integrity, here are some recommendations:

#### **Rwandan government:**

1. Rapidly adopt the policy and to refine and complement the legal instruments and regulations governing the planning and construction in Rwanda
2. Harmonize the institutional level, the functions relating to planning and cadastre currently dispersed among several institutions (land offices, land commissions, REMA, MINAGRI ,...),
3. Defining a legal mechanism or regulation mandating the development rate of expropriation and updated every three months.

At the City Council of the City of Kigali and its component districts:

1. View more people in the design, development and implementation of policies relating to planning and land registration, and give greater importance to "local solutions", especially regarding building materials cheaper, locally available and culturally valued.
2. Stop the implementation of a blueprint unfinished (conceptual master plan), since it has not yet a recognized legal status-so-binding, and it is detrimental to the public (building ban, expropriation, .),
3. Availing faster the specific plans of development of all sectors, and thus hasten the adoption and implementation of a comprehensive blueprint and legal (comprehensive master plan)
4. Provide alternatives to residents wishing to build homes, raising the sooner the impasse of the almost universal prohibition of building,



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5. Focus on alternative housing and rehabilitation for those expropriated, rather than cash as compensation only,

6. Prohibit "forwarders" in the cadastral services while eliminating the long delays in providing services,

7. Making a point of honor to respect the laws and procedures especially in the litigation who oppose their government to citizens.

### **Organizations of civil society and media**

1. Ensure continuous monitoring of the implementation of policies of the cadastre and urban planning, and conduct periodic evaluations of these policies.