



The nature of corruption in the land sector

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It is difficult to obtain an accurate picture of the extent of corruption in any sector because of its hidden nature. However, available data shows that it is possible to get an idea of some trends and areas most affected by land corruption in particular. A survey of 69 countries done in 2009 by the global coalition against corruption called Transparency International (TI) found that the judiciary, police and government bodies which oversee the land sector were the most plagued by service-level bribery.

Land is a valuable asset in most developing countries, accounting for 30-50% of the national wealth; hence the land sector is particularly susceptible to corruption (Kunte et al, 1998). The value of land tends to create opportunities for corruption on the part of those with legal authority to administer this valuable resource.

Land corruption takes many forms and occurs in both rural and urban areas. Regarding rural land corruption, the literature points to large-scale land deals and land administrative services as scenarios prone to corruption. High-profile land grabs and illegal state land capture are being exposed across a number of African nations with abundant natural resources, while petty corruption is embedded in many public institutions (Burns et al, 2010).

There has been a growing demand from multinational entities (including national and international investors) over the last decade or two, to acquire rural land deemed suitable for cultivation, extractive activities, timber concessions and infrastructure projects. Data provided by Land Matrix reveals that between 2000 and 2017 an estimate of 1 347 transnational deals have been concluded, covering more than 49 million hectares of land, with the majority of documented deals in Africa (41.3%), followed by South-East Asia.

Land corruption in urban areas manifests mainly in two scenarios; urban land markets and urban development. With regard to urban land markets, land corruption in the cities takes place in the context of rapid urbanisation, the increase in demand and value of land, loose or weak laws and poor urban land governance. The high demand for urban land consistently exceeds the supply and the consequent rise in price not only presents great opportunities for public revenue, but also private enrichment.

Corruption in urban development involves bribing politicians to obtain development projects, the manipulation of land registries by developers to evict people, and subsidising housing to patronage political supporters, among other practices (Zúñiga, 2018).

Much of the land corruption which takes place in the rural and urban land settings as discussed above cannot be addressed without understanding the underlying origin and causes. Land corruption is prevalent at the following key stages and levels: policy-making, legal and administrative processes. Land corruption at the policy-making stage of land governance takes the form of political or grand corruption and state capture. Grand corruption takes place at the higher levels of the political system.

Political corruption can be expressed in favouring investors that have financially contributed to a political party or campaign. The state can be captured by individuals, families, groups and even commercial companies who influence public policy to satisfy their private interests. The capture of the judicial system by political elites influences the courts scrutiny and ruling on land deals involving the ruling elites (TI, 2018). Corruption in policy-making can be conducted through bribing judges to make

preferential decisions concerning land deals or disputes, irrespective of evidence (TI, 2011). It also involves influencing the police to intimidate those with complaints about corrupt land governance.

Land corruption in the legal system usually happens in societies where statutory and customary law and rights coexist. In these cases, corruption tends to occur in the legal gaps created by the disconnection between the two legal systems. This includes the lack of recognition of customary laws that protects indigenous rights over their community land by the judiciary, which increases the opportunities for abuse and for corruption regarding that land (TI, 2018). In addition, the complexity of some legal systems (including regulations), can also facilitate illegal conduct and corrupt activities.

With regard to land administration processes globally, corruption is often a common practice in everyday land administrative services. Some of the areas vulnerable to corruption in land administration are: demarcation and titling of land, identification of the land according to state categories, planning and zoning, land valuation, land sales and leasing, enforcement of land rights and compensation. for instance, with regard to the "identification of the land according to state categories".

Governments hold a powerful tool in being able to define land as "unused", "underutilised", "vacant" or of "public interest". When land is used sporadically for activities that support livelihoods for communities, such as obtaining bush food, collecting firewood and even grazing, it is often officially considered as "unused" (Zúñiga, 2018). The category of unused is often employed to facilitate elite capture for personal gain. Authorities might also recognise land as "underutilised" when it is being used regularly but the community does not have a title recognised by the government. In addition, there is no consensus about the definitions of "public interest" and this situation is sometimes used by authorities to their own selfish interests. In actual fact, the word "public" indicates that expropriation should never involve solely private or commercial interests (TI, 2018).

There are many drivers of land corruption and among these are: weak land administration systems, limited legislation, weak institutions, lack of transparency, lack of effective oversight institutions, and reduced social participation. In order to counteract land corruption, improving land governance is a necessary first step and needs to be applied at the policy, legal and administrative levels with the aim of making them more transparent, efficient and participatory.

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