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*Land: Enhancing Governance
for Economic Development*

Tackling land corruption in developing countries

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Key messages

- Corruption is rife in land institutions in developing countries. Many poor and vulnerable groups routinely face losing their homes and businesses at the hands of powerful local elites.

- Recent rises in land values and large-scale acquisitions in developing countries have put land corruption in the spotlight and intensified public calls for action.

- Discretionary powers of officials and routine corruption in land administration impedes access to land-related services including, documentation of land rights, and information affecting people's opportunities to access land.

- Land titling programmes are vulnerable to capture by local elites and in urban and peri-urban areas where land values are rising corrupt land development schemes involving local officials, land professionals and traditional leaders are common.

- The powers of political elites and lack of transparency in land administration creates serious corruption risks in land acquisition for agribusiness investment.

- Corruption in large-scale land deals is difficult to prove due to lack of disclosure, and arguably, political impunity of some parties to some deals; routine corruption in land administration systems is difficult to root out, due to vested interests within them.

- Application of international anti-corruption legislation needs to be supported by action to strengthen land governance under globally agreed principles, of the Voluntary Guidelines to the Governance of Tenure.

- Investor and donor nations have the opportunity to adopt coherent whole government approaches by requiring mandatory corruption risk assessments and accompanying land governance support actions for land acquisitions, agricultural investments, and land titling programmes in which they are engaged.

- Governments can introduce requirements for disclosure of beneficial ownership by all companies acquiring property rights in land and those in receipt of public support, subsidised credit for investment purposes.

- The private and corporate sectors can lead by example to eradicate corruption across their operations and supply chains, and take steps to enable reporting on land rights impacts of company operations and land acquisitions as part of broader sustainability reporting.

- New technologies can assist in eliminating scope for corrupt practices strengthening administrative safeguards and promoting transparency of land transactions and established land rights.

What is land corruption?

Land corruption ranges from petty bribes to government kickbacks and political patronage. Research has found that frequently public officials grant access to land or land-related services in exchange for bribes and favours.[1] Commercial land developers seeking amenable planning decisions may collude with officials and community leaders. Local elites seeking to attract foreign investment may also exert undue influence over decisions relating to land titles or new developments at the expense of poor communities with rightful claims to the land.[2]

This briefing explores the causes of land corruption and sets out positive actions businesses, governments, funders and civil society can take to reduce the risk of corruption and safeguard vulnerable communities.

The enablers of land corruption

Poor political leadership at the national level, combined with vested local interests and disempowered communities create the ideal conditions for corruption to thrive. Enabling factors include a lack of transparency; political impunity; discretionary powers among public officials; poor legal recognition of customary rights; and extensive state powers over the use of public land. Unclear laws and legal frameworks, including uncertainties and overlaps in the definition of land rights, including overlapping roles of formal and customary authorities, creates space for abuses of power, and may increase the number of actors that need to be paid off. These factors can affect land transactions of all kinds including large-scale land deals.

In large-scale agri-investments, corruption risks are greatest at the stage where deals are brokered and partnerships formed. Where corruption becomes systematic and large-scale, politicians and high-ranking public officials use land assets and concessions as means of patronage to consolidate power and influence. On the investor side, opaque company ownership structures and a lack of transparency in accounting and contracting create corruption risks.

Policy-led solutions to corruption

Parachuting anti-corruption measures into a country often proves ineffective, as success depends on political will. Affecting meaningful change therefore entails waiting for the right political moment. New measures are most affective when introduced as part of a broader package of reforms, such as changes to public financial management. Combining legislative reforms with new technology, information systems, and procedures that limit discretionary powers and improve recognition of land rights can help to combat corruption.

National laws which have international application such as the US Foreign Corrupt Practices Act, the UK Anti-bribery Act and the OECD anti-bribery convention law can help minimise the risk of corruption in large-scale land acquisitions. Countries can collaborate to minimise this type of land corruption under the UN Convention Against Corruption, agreed in 2000. Best practice principles, such as the Voluntary Guidelines on the Governance of Tenure (VGGT), and the Principles for Responsible Investments in Agriculture and Food Systems, referred to as RAI principles, can also help guide land acquisition and disposal processes, by ensuring that people whose land rights may be affected by land investments are properly consulted and compensated for any losses of land rights that result. Various anti-corruption organisations are working to support legal reforms and increase transparency in investment planning and land allocation.

Recommendations for governments

- Reform legislation to recognise multiple forms of tenure, such as customary rights, and make land services more inclusive.
- Conduct community consultations and assess land administration procedures to develop reforms that enhance transparency of land registries and reduce corruption risks, such as limiting the discretionary powers of officials to prevent elite capture.
- Educate public administrators on ethics, transparency and fairness in land administration using national and international best practice.
- Make government approvals of land investments and transactions available to the public.
- Introduce systems for public officials to declare assets and income, specifying valuation and verification processes for land holdings.
- Suspend land development deals and types of transactions demonstrated to be corrupt, and take action targeted against the perpetrators and to reform the relevant procedures.

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1   See Transparency International (2013) *Global corruption barometer 2013*; and Transparency International (2015) *Land and corruption in Africa*.

2   For references and further information on these points and the issues discussed in this briefing, see the full paper on which it is based: *Tackling Corruption in Land Governance*, by Lucy Koechlin, Julian Quan and Hari Mulukutla, first published by LEGEND in May 2016; available at: https://landportal.info/library/resources/legend-analytical-paper-1/tackling-corruption-land-governance

Recommendations for businesses

- Demonstrate compliance with anti-corruption legislation and follow international rules and standards for large-scale agricultural investments.
- Commit to eliminating corruption throughout business operations and report on measures taken to safeguard corruption in agri-investments and the land rights footprints that these have.
- Develop comprehensive corporate policies to combat corruption throughout supply and investment chains, ensuring monitoring and follow-up action.
- Invest in anti-corruption approaches and technologies, such as open mapping initiatives for greater transparency on land deals and transactions, and mobile payment systems for land services to bypass low-level officials and reduce corruption risks.
- Show leadership by supporting long-term institutional change in countries with weak governance and by championing anti-corruption in industry forums.

Recommendations for investor countries

- Build coalitions to implement VGGT and RAI principles, demonstrating leadership by disclosing large-scale overseas agri-investments that originate at home.
- Make taking part in large-scale agri-investments conditional upon applying anti-corruption measures, including financial reporting.
- Introduce money laundering laws in financial centres, such as the U.S. Bank Secrecy Act, and monitor business conducted by Politically Exposed Persons.
- Enforce anti-bribery legislation in OECD countries, such as the UK Bribery Act and the US Foreign Corrupt Practices Act, and promote anti-corruption laws in foreign jurisdictions.

Recommendations for donors and multilateral agencies

- Provide technical and financial support to partner countries to strengthen land governance and support legal reforms.
- Make corruption and elite capture risk assessments and mitigation measures mandatory for all land administration/titling programmes and projects involving land acquisition.
- Identify corruption-prone governance environments, exercising extreme caution when programming support in priority agricultural development areas.
- Create links between land transparency and reporting initiatives, such as extending the Extractive Industries Transparency Initiative to land, or applying Global Reporting Initiative tools and standards to land.
- Fund research on the links between land corruption and investment, economic growth, development, and governance, generating country-level data to enable comparative analysis.
- Use SDG 16 on Peace, Justice and Strong Institutions to frame anti-corruption programming in land governance, in conjunction with VGGT and RAI principles.

Recommendations for civil society organisations

- Run awareness and advocacy campaigns and conduct training for citizens and grassroots organisations on land corruption and best practice solutions.
- Monitor and report on government and private sector commitments to transparency and accountability in domestic and foreign investments and in land governance.
- Set up reporting hotlines to tackle corrupt practices in land administration.
- Promote anti-corruption laws and public and private action to combat corruption, ensuring public scrutiny of urban land development processes, land titling programmes, and large-scale agri-investments through the media.
- Collaborate regionally and internationally to exchange knowledge on international best practice on land governance and anti-corruption.

For a PDF version of this briefing and main paper, please visit
https://landportal.info/ and search 'tackling corruption in land
governance'.

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