

Land Portal's Issue Page from 2016

### *Teaser*

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### **Introduction**

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Corruption in land governance is commonly defined as the abuse of entrusted power for private gain while carrying out the functions of land administration and land management. When land investors target countries with weak governance, the risk of corruption is high [1][2]. Likewise, corruption is more likely to occur when local elites are able to manipulate their country's land governance systems for their own benefit [3]. Whether it's an opaque deal between private investors and local authorities, citizens having to pay bribes during land administration processes, unaccountable urban planning, or customary laws that deny women their land rights, land corruption hits poor and marginalised men and women hardest [4][5][6].

Around the world, one in five people report that they have paid a bribe for land services in recent years; in Africa, almost every second client of land administration services has been affected [7]. In addition to this, millions of men and women bear the brunt of political and grand corruption in relation to land: when they are not involved in decision-making on land deals, their land is grabbed, or expropriated, and/or they are inadequately compensated for their land.

For men and women, limited access to information, limited participation in decision-making, complex laws and procedures regulating land ownership, and insufficient access to justice are some of the driving forces behind land corruption, while the insufficient capacity of local land offices and traditional institutions makes it more difficult for officials to support good governance practices. Limited anti-corruption oversight by independent bodies and a perceived lack of consequences for abusing power in land management and administration processes also enable a climate of corruption.

At the individual and community level, the effects of land corruption include insecure tenure, food insecurity, a barrier to socio-economic development, an increased risk of conflict, and a threat to traditional ways of life [8]. In many countries, the continued presence of land corruption

exacts a toll on national economies and stands in the way of achieving many of the Sustainable Development Goals.

[Gendered Land Corruption and the Sustainable Development Goals](#) from Transparency International's Land Programme recognises the clear links between the issues of land governance, women's rights, corruption and provides policymakers, practitioners and stakeholders engaged in land governance with clear recommendations that will enable them to address corruption and gender inequality in relation to land issues as specific steps towards achieving the SDGs.

## Guidance on Land Corruption

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Transparency International's (TI) [Land Corruption Topic Guide](#) presents an overview of land corruption in rural and urban areas.

In its first part, it looks at the social costs of corruption in land governance and pays attention to the forms that corruption takes at different levels of land governance such as policy making, legal processes and administrative processes.

The second part presents different ways in which land corruption is being counteracted. To illustrate how those anti-corruption approaches are being implemented, it includes successful experiences from all around the world with concrete ideas to fight land corruption. In its third part, this topic guide compiles a list of resources to learn more about the topic, including background studies, standards and guidelines, data sets and a list of main stakeholders and actors working on the issue from different perspectives; as well as handbooks and tool-kits with practical suggestions to implement in the field.

LEGEND's analytical paper on [Tackling Corruption in Land Governance](#) seeks to analyse causes, types, and effects of corruption in land governance and provide evidence-based recommendations to address corruption, with a particular focus on Sub-Saharan Africa. The findings draw on a literature review of land governance and corruption within national land administration systems and in processes of land and agribusiness investment at the international and national levels, and on selected interviews with experts, activists, and researchers of land governance.

Land corruption remains under-reported by the mainstream media and poorly understood by citizens as a result. Raising awareness of land corruption within the media, and supporting them to investigate and report cases, is an essential step towards building understanding and resilience among affected people and communities around the world. In response, Transparency International produced [Investigating Land and Corruption in Africa](#) - a training manual for facilitators, lecturers and teachers to train and support journalists to investigate and report stories of land corruption. Numerous innovative approaches to tackling land corruption,

implemented by organisations across Africa, are explored in-depth during the '[Creative Responses to Corruption in the Land Sector](#)' webinar, hosted by the GPSA Knowledge Platform.

## Impact of land corruption on gender dynamics

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Women are particularly susceptible to land corruption. Despite treaty commitments in [The Convention on the Elimination of all Forms of Discrimination Against Women \(CEDAW\)](#) and constitutional guarantees of gender equality, women's land and property rights are often not respected, as a result of patriarchal customary norms and other factors. Women face discrimination in land registration processes and are frequently excluded from decisions relating to communal land. Such discriminatory gender norms make women particularly vulnerable to certain forms of corruption when they engage with land administration officials. Intersecting factors such as tribal affiliation or ethnicity, religion, class/income level and location can also exacerbate problems such as discriminatory gender norms and corrupt practices related to women's access to land. [Women, Land and Corruption: Resources for Practitioners and Policy-Makers](#) from Transparency International presents specifically gendered evidence on how women are affected by land corruption differently from men, followed by responses tailored to women's needs to address gender-based inequalities over land.

Sexual extortion — whereby the bribe is a sexual favour — is a form of corruption to which women and girls are particularly vulnerable, though it does also affect men and boys. Women and girls in situations of heightened dependency or vulnerability are particularly at risk, for instance, non-documented female migrants, prison inmates, students in boarding schools, slum dwellers, and anyone in desperate need of services a corrupt person can provide. For more information about the use of 'sextortion' as a form of land corruption, [see this article](#) from Transparency International, which includes a [powerful short video](#) from the IACC Young Journalists, and [watch the recording](#) of the 'Sextortion and Land Governance - What is it and how can it be tackled?' webinar hosted by the Land Portal.

The Huairou Commission [9], a global coalition of grassroots women's organisations, has found that women face multiple demands for bribes from police and local officials who control access to land and to public services such as housing, water, sanitation and electricity. Women and girls living in poverty are particularly vulnerable to sexual extortion, as they may be unable to pay cash bribes. Marital status (in particular, if a woman is single, widowed or divorced) and other aspects of a woman's identity that might entail discrimination exacerbate their vulnerability. In Zimbabwe, a recent Transparency International study has confirmed that the risk of sexual extortion is particularly high among single women and widows, who may be asked to trade sex against access to a small plot of land. The linkages between gender, land, and corruption remain under-explored and poorly understood. There is a need for more research into the different ways corruption impacts women and men in relation to land use and land tenure. To find out more about Transparency International's work on land corruption, click [here](#).

Corruption in local land administration hampers women's access to land titles. Marginalised women who live in poverty are often unaware of land registration processes, neither can they influence them to their advantage. They may be pressured to pay bribes, face sexual harassment and sexual extortion in land administration processes, or be forced to give up their rights altogether. In view of the different situations women and men are facing, any work on land governance must be gender sensitive – it should (i) take into account the different conditions women and men are facing and (ii) contribute to overcoming inequalities

TI's guide [Gender-responsive work on land and corruption](#) is intended for all researchers and activists who wish to ensure their work on land corruption responds to the needs and interests of both men and women. It presents basic concepts and tools (i) to better understand the ways in which men and women experience corruption differently due to their different roles in society, and (ii) to plan and implement advocacy and services that work for everyone – men and women alike. It explains how research on land and corruption can be designed to avoid a distorted view that would ignore women's experiences of land corruption, how advocacy can be planned and implemented to benefit women and men without discrimination. Finally, it presents a checklist for planning and monitoring activities on land and corruption in non-discriminatory, gender-sensitive ways. Additional tools and references are included in the annexes.

## **Mapping Land Corruption Risks**

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Land grabbing, corrupt practices and illegal land transactions diminish the earning ability and identity of small-scale producers, agricultural laborers, indigenous communities and landless rural and urban poor. Moreover, young people, women and indigenous peoples are among those most affected by land corruption. Mapping land corruption risks using simple, comprehensive and participatory instruments helps to analyse and tackle the risks. Corruption in land governance is a significant problem in many countries, particularly in Sub-Saharan Africa. It leads to insecure tenure rights, and thus contributes to non-sustainable use of land, food insecurity, inequality, violent conflicts, and the breakdown of livelihood systems. Curbing Corruption provides a [thorough review of the land sector](#) in developing countries together with reform examples from both developed and developing countries. To design effective counter-measures against corruption in land governance, it is important to gain an accurate understanding of the weak spots in the respective land governance system. Therefore, the "[Handbook on Land Corruption Risk Mapping](#)" – commissioned by Transparency International and developed by the Centre for Rural Development (SLE) – helps NGOs, governmental institutions, and other actors in Sub-Saharan Africa to systematically identify and assess corruption risks in land governance and to develop effective counter-measures. The handbook is divided into three phases: I) Research on the historical, legal, and institutional context of the respective land governance system; II) Conduction of a participatory multi-stakeholder workshop to identify and assess corruption risks in key land governance processes; III) Development of strategies to tackle the identified corruption risks. The handbook is illustrated with examples from case studies in Kenya.

In many countries, unidentified private individuals and legal entities obtain significant economic benefits from land. This lack of transparency can make it harder for affected communities and governments to hold them accountable for land use decision-making and any sort of violation they commit. It can also leave investors open to risk if they do not know who is truly behind a company they are doing business with. Building on a methodology used to investigate beneficial ownership of legal entities for the purposes of fighting tax evasion, money laundering and corruption, [Towards Transparency in Land Ownership](#) from Transparency International proposes a research framework for assessing a country's regulation of beneficial ownership in large-scale land holdings. Research, analysis, findings and recommendations from a [desk-based study in Sierra Leone](#) and a [field study in Scotland](#) are also available.

## **Corruption and urban land management**

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With the rapid growth of cities around the world, demand for urban land – as well as its associated value – is on the rise. This, together with unaccountable land management and urban planning can lead to the diversion of public funds into private pockets, and deprive the urban poor of secure tenure and shelter. Given the potential for bad urban governance to fuel kleptocratic practices, exacerbate inequalities, and further damage the livelihoods of billions of urban poor, more attention needs to be paid to cities and to urban land in particular. The challenges of urban land governance are not only driven by the sheer value of this very political resource, but also because urban land can be used as an investment vehicle to launder proceeds from illicit exploitation, corruption and tax evasion associated with other natural resource sectors.

Urban planners can unlock the potential of sustainable urban development – and contribute to safer cities – if they have the right [tools to identify and address corruption risks](#) in the areas they work in. Recognising this, Transparency International developed a [course module](#) for urban planners in sub-Saharan Africa to equip them with the latest knowledge, tactics and networks to tackle corruption in urban planning processes.

## **Intersection of corruption, legal frameworks, and land reform**

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Land reform and land-related legal frameworks create the structures for guaranteeing land rights and corruption-free access to, use of, and control over land by men and women. It is vital that these frameworks make provision for access to information, whistleblower mechanisms and protection, as well as reporting and redress mechanisms.

Many citizens who bear the brunt of land corruption find it difficult to access and understand information on land rights and procedures because of complicated legal frameworks, authorities' lack of capacity to disseminate information effectively, illiteracy, and the sometimes deliberate act of excluding some groups in society from decision-making over land. An example of this is when traditional leaders fail to consult their communities during negotiations with companies interested in using community land for land-based investments. Competition for land together with an information deficit create ideal circumstances for corruption to take place. When access

to information is not fair and equitable, vulnerable citizens are pushed further to the margins of society.

Inefficient and shadowy processes, unclear government policy, burgeoning reparation costs and corruption have critically [slowed the pace of land reform in South Africa](#) and led to widespread frustration among would-be beneficiaries. The Mala Mala land claim deal from 2013 is one example where tax-payers money was used to return land to its rightful inhabitants. Until today, the Mala Mala community deals with poverty and unemployment while an elite family manages the local game reserve and enjoys the benefits of the shady deal.

The International Land Coalition's [Commitment 8](#) seeks to ensure transparency and accountability, through unhindered and timely public access to all information that may contribute to informed public debate and decision-making on land issues. ILC's [Database of Good Practices](#) provides concrete examples and guidance to Coalition members and partners on how to achieve this commitment.

### **Land corruption in relation to investments**

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When reliable information on land tenure rights and the proper land investment procedures are lacking, the private sector is more likely to [engage in corrupt practices](#). This undermines incentives for business integrity, corporate social accountability, fair public-private-partnerships, and alternative business models.

Clear and reliable information on land tenure rights and legal procedures needs to be readily available to investors in land-based enterprises; enabling them to establish risk-minimal, accountable, fair and sustainable business operations. This goes a long way towards guaranteeing a country's economic development and prosperity of its people. Clear guidelines for contract negotiations, corporate reporting and disclosure of information on deals, revenue and taxation need to be seen as the cornerstones of sustainable, accountable, and long-term profitable business.

### **Source**

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## References

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- [1] See [Corruption Perception Index](#), 2016.
- [2] See "[Poor Governance, Good Business](#)", OXFAM Media Briefing, 7 February 2013.
- [3] See e.g. "[Land Rights and the Rush to Land](#)", International Land Coalition, 2012.
- [4] See Oxpeckers: Investigative Environmental Journalism at: <http://oxpeckers.org/category/investigations/mala-mala-files/>.
- [5] See "[Rana Plaza One Year On: What Has Changed?](#)", Transparency International, 2014.
- [6] See "[Fighting Land Corruption in Sub-Saharan Africa: Widows Tell Their Story](#)", Transparency International, 2017.
- [7] See TI's [Global Corruption Barometer](#) 2013.
- [8] A quarter of the cases reported to TI Kenya's ALAC in Mombasa, for example, relate to land. In 2012, the ALAC supported indigenous communities living along the southern coastline, whose land had been taken over by investors with ties to local decision makers. [Following an appeal to Kenya's Ethics and Anti-Corruption Commission](#), the license was revoked. In late 2013, TI Madagascar worked with community radios to raise awareness of women on their land rights and received a high number of reports on corruption in land administration from the target group. Women and indigenous communities in Africa often depend heavily on land as a resource. As they have a strong socio-cultural relationship to land, they are especially affected and discriminated against by non-transparent land governance and the lack of opportunities for participation in the citizen-state interface. See "[Promises, Power, and Poverty](#)", 170 OXFAM Briefing Paper, April 2013.
- [9] See Huairou Commission website at: [www.huairou.org](http://www.huairou.org).