

Corruption in land administration: Roles for donors to minimise the problem



Photo: Kevin Dooley

Land issues have been rising up the agenda of policy makers due to rapid urbanisation and high food prices. Yet, land administration is one of the most corrupt government activities. How should international donors respond? The first priority is to support domestic governments in improving land administration and anti-corruption processes in general. In addition, donors should undertake explicit analysis of the political economy of land, reduce the impact of their own projects on land administration corruption, help increase transparency and exploit international connections.



Corruption in land administration

Corruption in land administration is a major problem in many developing countries. In terms of small-scale petty corruption, a recent international survey found that over one in five people reported having paid a bribe when dealing with land services, placing land as the third most corrupt sector (Transparency International: 2010-2011). At the

same time, large-scale grand corruption is a part of a number of international land deals. Indeed, recent cross-country evidence shows such agreements occur more frequently in countries with poorer land governance (Arezki et al: 2011).

The impacts of land administration corruption can be severe:

- Non-consensual land transfer, potentially leading to a loss of livelihood for dispossessed families;
- Resentment stemming from corrupt land transfers leading to conflict and violence;¹
- Reduced confidence in the enforcement of existing land rights, which in turn may increase risk, reduce investment and engagement with formal land registration systems;²
- Inefficient land ownership, with land owned by those most able to undertake corrupt acts, rather than those with the best potential to use it;³

- Reduced desire among elites for land reform and the implementation of a well-functioning system of land governance. If elites can acquire land corruptly, they will feel less the need for a well-functioning land-market. Reforming the governance of land is also often tied up with reforming the allocation of land, and hence a greater amount of land accumulated unjustly will lead to greater fears of future reallocations.

International donors have an important role to play in addressing corruption in land administration, both through supporting national governments and working through alternative channels. International donors finance a number of land administration interventions where corruption is a concern, as well as a number of other projects that are likely to interact with corruption in land administration. This latter category includes infrastructure programmes that increase the value of land and interventions in the sectors of urban housing, forestry, agricultural development, and in elections and post-conflict situations. Land corruption may also be a consequence of trying to rebuild a post-conflict country, a context where international donors often play a particularly central role. In Cambodia, for example, investigations by the UN High Commissioner for Human Rights show that many state

land concessions have been awarded corruptly rather than to the refugees they were supposedly aimed at (Arial et al: 2011).

Roles for international donors

The main responsibility for reducing corruption in land administration rests in the hands of domestic governments. International donors' first priority should therefore be to support these efforts. Doing so will involve supporting both general anti-corruption efforts in the country and specific measures to improve land governance. This can be through supporting land titling, the use of IT systems, mapping, and the establishment of conflict resolution mechanisms. In doing so, both donors and governments can refer to international tools and guidelines on land administration that have been created by international organisations (see box). The priorities within this list will depend on the country context and where there is an opening for donor support. In this sense, donors should not approach the improvement of land administration as an opportunity to put in place best practice, but rather through the lens of considering where openings for change exist.

In addition to supporting domestic governments, there are also areas where international donors may have a comparative advantage, or where there may be value in working parallel to the government. This is particularly likely when key parts of a national government are compromised by their own involvement in land corruption. We can identify four key areas of comparative advantage: Explicitly considering the political economy of land, mitigating negative impacts of donor projects on corruption, increasing information and transparency, and exploiting international connections.

Explicit consideration of the political economy of land

International donors will be most effective in addressing land corruption when they have a good understanding of the political economy of land in the country. This involves a broad analysis of the stakeholders involved, including which members of the elite own which parts of land, which actors may be benefiting from various kinds of corruption, and which would potentially benefit from any reforms.

An immediate reason to carry out such an analysis is that it is likely to help in addressing corruption in the short term. Knowing which parts of the government will be sympathetic to addressing land corruption is useful in pursuing justice. For example, in a recent high-profile case in Egypt, an individual campaigner overturned a large corrupt land deal by taking the relevant information to the courts.⁴ In this case, civil servants that leaked information and judges that were willing to rule against senior politicians were part of the successful overturning of the corrupt deal. In a different case in Pakistan, a small land owner succeeded in overturning the grabbing of his land (allegedly by a local politician) with the assistance of the local chapter of Transparency International (TI)⁵. Here, according to TI, the presence of an NGO with international links helped raise the stakes and prompted the 'land grabber' into returning it. It appears that corrupt parts

INTERNATIONAL TOOLS AND GUIDELINES ON LAND ADMINISTRATION

The FAO "Voluntary Guidelines on the Responsible Governance of Tenure"

These guidelines provide a set of declarations which countries should take into account when considering land administration. One of these guidelines is that "states and non-state actors should endeavour to prevent corruption with regard to tenure rights", and the document lists several ways in which states can act to reduce corruption, including addressing conflicts of interest and allowing for judicial review.

See: www.fao.org/nr/tenure

The Land Governance Assessment Framework

The LGAF aims to provide a diagnostic review of land governance at the country level. This can help donors and governments to identify priorities and learn from other countries that have solved governance problems.

See: <http://go.worldbank.org/4ROUS8GZGO>

The Global Land Tool Network Land Tools

The Global Land Tool Network, facilitated by UN Habitat, provides details on various land tools, as well as on cross-cutting issues including land governance. The network provides details of land projects in several countries and other resources.

See: www.gltn.net/index.php/land-tools

of the local government stopped their activities when the issue reached a higher level, presumably because they couldn't count on support at higher levels of government. In both cases it was crucial to work with one part of government in helping address corruption in another.

A further reason for building up a good political economy analysis is that, as previously described, one of the major problems caused by land grabbing is that it dulls the incentives of elites to undertake land reform and improve land governance. There is therefore an important role for civil society and international donors to push forward this agenda. Analysis will also help donors and domestic actors understand what compromises can be made. It may be, for example, that promoting land reform could solidify corruptly obtained claims of the existing regime. International organisations need to be realistic – ultimately, it might be that economic forces are sufficiently strong that people will be dispossessed of their land in one way or another, and focus should be on setting up a system that allows for adequate compensation, rather than trying to ensure the non-corruption of an existing system that formally prevents such an exchange. There may also be a conflict between pushing for the types of reform that would be optimal, and encouraging the enforcement of a set of policies that improves upon the existing situation.

Mitigating negative impacts of donor projects on land corruption

Understanding the political economy of land is not only useful in promoting land reform, but also for other donor projects that are indirectly related to land corruption. Corruption will be a direct by-product of projects supported by donors, such as the liberalisation of the land market, urban development and refugee resettlement.⁶ Indeed, any action that changes implicit land values will change incentives when it comes to engaging in corrupt land transfers.

Once donors understand the potential impact of any project on land administration projects, it may then be possible to design ways to reduce the potential negative effect. Political economy analysis can, thus, help to move land corruption from being a sector-specific issue to being integrated with donors' other projects in a country. For example, donor support for the building of a new road might be bundled with land surveying of the land next to the road, in order to reduce the potential for any expropriation that might result from the increase in land value.

Increasing information and transparency

Transparency and information provision are important for addressing land administration corruption. The land sector has two advantages in this regard when compared to some other parts of the economy. First, the use of land is generally visible on the ground – it cannot be made to 'disappear' in the same way as medicines or textbooks. Second, the losers from corrupt land deals are typically not just a large group of taxpayers or voters, such as in the case of corruption in government procurement or the embezzlement of national budgets. Instead, the victims

of land corruption are frequently a specific set of people who live on or lay claim to the land in question. These two properties mean that the transmission of information from local people on the ground to anti-corruption actors is particularly useful in addressing corruption in the sector, both in providing data on land use as well as telling the stories of those dispossessed. Of course, transparency on its own is unlikely to be effective against corruption.⁷ It is therefore important to ensure information processes are integrated within the accountability mechanisms that exist within a country.

International donors can play a key role in supporting the information gathering, data generation and dissemination process. In some instances, this can relate to official government channels. For example, in Vietnam donors have helped compile a report investigating whether local governments are providing information to citizens, including information which they are obliged to publish legally (Anh et al: 2010). This can help push governments to do as they say, and provide NGOs with information on what is out there. Donors should, of course, be aware that NGOs may be part of a complex political economy with interests intersecting elites, or may be severely constrained in terms of their possibilities to act.

International donors can also support information transmission through the media. If the local media are weak and dependent on either the government or wealthy private interests, outside actors can help support any remaining independent outlets. Support may, among other aspects, include pushing for media policy reform, funding international investigative journalism centres, or donors being more open about their own practices.⁸ Media outlets can be a place for whistleblowers to report and could provide protection to those who reveal corruption when that is a risky activity. In cases where there is little independent media, similar initiatives may be aimed towards online sources or international media. The international press can be interested in stories on land corruption if told in the right way, and donors may be able to facilitate these stories by linking organizations with international NGOs and journalists.

Finally, there are also instances when it is useful for donors to facilitate the transmission of information from the central level to local citizens. Donors, for example, can fund awareness campaigns to ensure citizens are informed of changes in their land rights.⁹ When there are discussions over large-scale land deals, the intergovernmental Committee on World Food Security's High Level Panel of Experts has stressed the importance for all actors to be informed (Geary: 2012). This enables a more symmetric level of bargaining powers in negotiation, and increases the probability of local citizens receiving the compensation they are entitled to.

Exploiting international connections

In addition to supporting domestic actors and processes, donors can also make use of their international links. They have a comparative advantage in investigating large-scale international deals, particularly if these deals involve international companies. Indeed, it may be possible to create an international framework to ensure land obtained by international companies is acquired in a clean



U4 is a web-based resource centre for development practitioners who wish to effectively address corruption challenges in their work. The centre is operated by the Chr. Michelsen Institute – an independent centre for research on international development and policy – and is funded by AusAID (Australia), BTC (Belgium), CIDA (Canada), DFID (UK), GIZ (Germany), Norad (Norway), Sida (Sweden) and The Ministry for Foreign Affairs of Finland. All views expressed in this brief are those of the author(s), and do not necessarily reflect the opinions of the U4 Partner Agencies or CMI/U4. (Copyright 2013 - CMI/U4)

manner. This might be done in a similar way, for example, to the Extractive Industries Transparencies Initiative or the provisions relating to natural resources in the United States' Dodd-Frank Act.¹⁰ Furthermore, firms based in countries that have ratified the OECD Anti-Bribery Convention may be prosecuted for corrupt acts abroad.

Donors also have influence on international land deals by offering to provide support for the deals. This can include providing part of the financing, or offering political risk insurance through organisations such as the Multilateral Investment Guarantee Agency.¹¹ If such support is accepted, the donor can place some conditionality that reduces the probability of corruption. For instance, a recent report on international land transfers by Oxfam notes that donors can in this way encourage transparency or a postponement of the deal until institutions have the capacity to ensure its effective implementation (Geary: 2012).

Finally, donors can take advantage of their international nature to share information on successes and failures in addressing land sector corruption across countries. One problem with information on corruption is that frequently it is not shared publicly (Rose-Ackerman: 2011). Countries, firms or donors may not want to admit to the presence of corruption, and hence even success stories are not publicised. Increasing sophistication of domestic debates in aid-giving countries may mean that it is optimal for such information to be made public. Additionally, platforms should be created to encourage the sharing of experiences. This includes in-country exchanges among those working on land across organisations and international exchanges within donor organisations. Furthermore, within a particular donor agency, there should be close coordination between those working on land issues and those working on governance and anti-corruption more generally.

References

Anh, N., N. Nhat, T. Thuy, K. Prickett, P. Van. 2010. Survey Report on Information Disclosure of Land Management Regulations, Development and Policies Research Centre: Hanoi. Available at: <http://siteresources.worldbank.org/INTVIETNAM/Resources/LandTransparencyReportEng.pdf>

Arezki, R., K. Deininger and H. Selod. 2011. What Drives the Global Land Rush? IMF Working Paper 11/251. International Monetary Fund: Washington D.C.

Arial, A., C. Fagan and W. Zimmerman. 2011. Corruption in the Land Sector, Transparency International Working Paper 4/2011. Transparency International: Berlin.

Geary, K. 2012. Our Land, Our Lives: Time Out on the Global Land Rush, Oxfam GB, Oxford.

Rose-Ackermann, S. 2011. Anti-Corruption Policy: Can International Actors Play a Constructive Role? Yale Law and Economics Research Paper No. 440. Yale Law School: New Haven (CT).

Transparency International. 2010-2011. Global Corruption Barometer. Transparency International: Berlin. Available at: <http://gcb.transparency.org/gcb201011>

Notes

1. See, for example, the Malawian cases described in Chinsinga, B. and L. Wren-Lewis. (forthcoming). "Land and Corruption in Malawi" in Corruption, Grabbing and Development: Real World Challenges, edited by Søreide, T. and A. Williams, Edward Elgar Publishing. Cheltenham and Northampton (MA).

2. Philip Oldenburg suggests, for instance, that there was reluctance among farmers in India to engage with land consolidation originally due to fear of corruption. See: Oldenburg, P. "Middlemen in third-world corruption: implications of an Indian case." World Politics 39.4 (1987): 508-535.

3. See, for example, the discussion of land transfers in Brown, T. Contestation, confusion and corruption: Market-based land reform in Zambia. Chapter 3 (2005): 79-105.

4. See: www.bloomberg.com/news/2011-05-18/land-deal-turned-one-egyptian-into-a-corruption-buster.html

5. See: www.transparency.org/news/story/mafia_land_grab

6. See, for example, the description of corruption induced by donor-supported resettlement allowances in Chinsinga, B. 2011. "The politics of land reforms in Malawi: The case of the Community Based Rural Land Development Programme (CBRLDP)", Journal of International Development 23 (3): 380–393.

7. See, for instance, Lindsted, C. and D. Naurin. 2010. "Transparency is not Enough: Making Transparency Effective in Reducing Corruption". International Political Science Review. 31: 301-322. Or Kolstad, I. and A. Wiig. 2009. "Is Transparency the Key to Reducing Corruption in Resource-Rich Countries?", World Development, 37(3): 521–532.

8. For more on how international organisations can help the media, see Wrong, M. (forthcoming) "How international actors can help the media in developing countries play a stronger role in combating corruption" in Anti-Corruption Policy: Can International Actors Play a Constructive Role?, edited by Susan Rose-Ackerman, Carolina Academic Press: Durham (NC).

9. See, for example, the awareness campaign funded by the European Union as part of the ECOSORN project in Cambodia: <http://ewmi.org/Pubs/ProjectBrochures/EWMICambodiaECOSORN.pdf>

10. For more information on the Extractive Industries Transparency Initiative, see: www.eiti.org. Details of the relevant part of the Dodd-Frank Act can be found at: www.brookings.edu/research/opinions/2012/08/28-sec-transparency-kaufmann

11. The Multilateral Investment Guarantee Agency is the part of the World Bank Group that encourages investment in developing countries. See: www.miga.org