

2nd UK Land Forum: Land and corruption

Summary and recommendations

Date: April 13, 2016

Time: 13:00-17:00

Place: Royal Institute of Chartered Surveyors (RICS), London

Background and focus

The event was convened to discuss corruption in the land sector, provide updates on recent activities of Forum members, including DFID, and agree on the future direction of the forum.

The theme of land corruption was chosen because of the magnitude of corruption in land, limitations in the evidence base and clear policy directions in the field, and the window of opportunity to highlight recent research in a forthcoming high-level UK summit on corruption.

While the VGGTs provided new impetus to improving land governance, including land corruption, UK and G7 commitments to improved transparency and the PM's **Anti-Corruption Summit planned for May 2016** present an opportunity to highlight the risks of land corruption and centrality of land to broader governance.

Three recent research initiatives were presented: by **LEGEND-CLST and Streamhouse Ltd, Transparency International** and **ICAR for the "Tainted Lands" project**.¹ These all aim to advance more systematic and fine-grained analysis of land corruption processes, impacts, links amongst them and with wider development and governance issues, and to promote consensus on ways forward in policy and practice. **The Land Registry of England and Wales** presented background on its role in the preparation of the PM's anti-corruption summit and proposals to extend the Registry of Beneficial Ownership to UK overseas territories and to foreign companies owning land and property in the UK and bidding for UK government contracts.

Key points emerging from the evidence and discussions

- There is longstanding recognition of vulnerability of the land sector to corruption; its high incidence and politicisation in land in many jurisdictions; its negative impacts on land users and disproportionate impacts on women, poor people, youth and vulnerable and excluded groups, and constraints imposed on investment. Land corruption is a global phenomenon occurring in both developed and developing countries, albeit at different scales and through different channels.
- The diagnosis of corruption in land is broadly shared across current research initiatives and confirmed by Forum participants' broader experience. Distinctions between petty and grand corruption, political and administrative corruption, rural and urban contexts, and the upstream, midstream and downstream segments of investment chains are useful, but the more comprehensive frameworks for analysis presented need to be further advanced and more empirical research is needed.

¹ ICAR is the International Corporate Accounting Roundtable, an NGO. Tainted Lands is also supported by Global Witness and Oxfam and steering development of a report by Prof. Olivier de Schutter on corruption in land investment.

- While linked, **routine administrative corruption in land** - which can become systematic, organised and political - and **investment-linked ‘grand’ corruption** risking human rights abuse and deprivation of land rights have **different dynamics, requiring specific analysis and action**.
- **Petty corruption in land administration disproportionately affects women and poor people**. It can be addressed through targeted reforms to: reduce discretion in land allocation and improve registration of transactions; resolve legal loopholes and inconsistencies; introduce appropriate digital technologies; improve civil service pay and conditions; and improve transparency in land information and service provision. Efforts to strengthen accountability of government and local leaders are also necessary, which requires raising legal literacy of affected groups and communities.
- **Land investment-linked corruption requires action by both investor and recipient nations**: for recipients, this implies a blend of better legislation, greater transparency on land deals and land administration reform. But this is constrained by limited means and political will and resistance to reforms by rent-seeking officials and political elites – thus requiring investor country and international action.
- **Legislation with extra-territorial remit** such as the US Foreign Corrupt Practices Act, is needed to address land corruption, together with **registries of beneficial company ownership**, and requirements for **disclosure of investment contracts and transactions** through mechanisms like the EITI. For each of these, providing adequate resources to allow for **enforcement** is necessary.
- **Urban and peri-urban areas face high corruption risks** due to increasing population and land pressures, rising land values, lack of capacity and entrenchment of corrupt practices in land administration. In many cases, corrupt and criminal networks involving land officials and professionals exploit the gains from converting customary or public land to private ownership to the detriment of original owners and users.
- The **renewed focus on land titling and systematic land registration creates corruption risks involving local elites** which projects need to recognise and mitigate through proper diagnosis, inclusive design, targeted measures and proper recognition of legitimate land use, access and common, community based and customary rights. However, registration can be a cornerstone of increasing transparency to reduce corruption.
- **Attempts to deliver land-titling schemes with ambitious numerical targets raise corruption risks**; rapid privatisation of public land assets create opportunities for the privileged to accumulate land and extract bribes and rents in different forms. Experience shows that such programmes must allocate enough time and resources to ensure fully participatory and inclusive processes, with well-trained and adequately remunerated personnel, to minimise risks of abuse by staff, government officials and local elites in delivery.
- **Efforts to strengthen legal literacy of citizens, communities and their intermediaries** in civil society and the media are central, but in many countries, public access to information and freedom to report on corruption are limited.
- **The privatisation of land administration and land registration services** is likely to increase corruption risks, and in OECD nations, may undermine moral authority to propose anti-corruption action in developing countries and emerging markets.

Key recommendations

Investor country governments should:

- Support and apply **transnational anti-corruption legislation** (e.g. UK Bribery Act, US FCPA), strong anti-money laundering (AML) laws in financial centres.
- **Stronger engagement by OECD and with non-OECD investor countries** (e.g. China, SE Asian and E European countries) and implement Financial Action Task Force (FATF) guidelines.

- **Update anti-corruption action plans** to include a **clear focus on land and property rights**.
- Adopt **whole government approaches** to investment that promote implementation of **VGGT** and the **Principles for Responsible Investments** in Agriculture and Food Systems.
- Pursue **disclosure of large-scale agricultural investments and beneficial ownership of companies** originating in investor countries and promoted by official aid and subsidy.
- **Condition financial participation in large-scale agricultural investments on implementation of anti-corruption measures**, as part of adherence to the VGGT and application of **appropriate due diligence** for investment projects.

Donor agencies should:

- Provide **financial and technical support to partner countries to strengthen the implementation of anti-corruption and land governance reforms**.
- Introduce **mandatory corruption risk assessments and mitigation measures** sensitive to risks of elite capture for all land administration and land tenure security/titling programmes, and all commercial agriculture and infrastructure investments with land footprints.
- Introduce land governance support and related anti-corruption measures to countries prioritised for agricultural and natural resource investment and **link investment projects with land corruption risks to land governance support**, including increased support for local accountability mechanisms and legal empowerment in relation to agricultural development and land registration or titling programmes.

Private sector companies should: take **whole-business approaches to anti-corruption across operations and supply chains**, linked to integration of measures to ensure responsible land investment and support to land governance. This requires strong leadership to demonstrate compliance with national and international laws and set up whistle-blowing mechanisms to report corruption, most notably in emerging markets, where local subsidiaries, operators and joint venture companies may not adhere to HQ/parent company anti-corruption policies or land governance commitments.

Civil society should: seek to expand existing work to strengthen public awareness, legal empowerment, whistleblowing and reporting and public dialogue, while exploring opportunities for joint and combined action with government and private sector stakeholders to tackle corruption in land.

[Next steps for the land forum, land forum members and LEGEND-CLST](#)

- Promote and engage in further research to map the risk areas and most effective levers and pressure points for action, taking an integrated approach that brings together the multiple dimensions of land corruption.
- Advocate for more systematic attention to land corruption globally in public policy, donor programming and research
- Engage with, and contribute to, discussion arising from the UK PM's planned anti-corruption summit and concerted action against corruption in land administration and land investment.
- Encourage the application of the Registries of Beneficial ownership to British overseas territories and in foreign jurisdictions, and to all G7-assisted and originated land investments, including existing projects.
- Promote and disseminate reports and recommendations from the recent research, using opportunities arising from the PM's summit and anticipated launch of the "Tainted Lands" report in Autumn 2016.

Annex 1: Agenda

Agenda

Time	Theme	Presenter/Chair
13:00	Networking lunch	
13.30	Welcome	James Kavanagh, RICS
13.35	Relevance of the theme for DFID	Iris Krebber, DFID
13.45	Aims and proposed outputs of session; recap from 1 st UK Land Policy Forum; round the table update from Forum participants	Anna Locke, ODI
14:00	<p><u>Panel discussion</u></p> <p>Analysis and evidence on corruption in the land sector:</p> <ul style="list-style-type: none"> - Introduction - Findings from the CLST analytical paper - Transparency International's work - The Tainted Lands: Land, Corruption, and Human Rights' Project <p>Q&A/debate</p>	<p>Moderator: Lorenzo Cotula, IIED</p> <p>Julian Quan, NRI, CLST Team Leader (10 minutes)</p> <p>Sheila Masinde, Transparency International Kenya (10 minutes)</p> <p>Amol Mehra, International Corporate Accountability Roundtable (10 minutes)</p>
14:55	Coffee break	
15:10	<p><u>Panel discussion</u></p> <p>Implications for action:</p> <ul style="list-style-type: none"> - An outline of relevant work by the Land Registry of England and Wales - Discussions on recommendations and the way forward from recent research <p>Q&A/debate / conclusions</p>	<p>Moderator: Lorenzo Cotula, IIED</p> <p>Nicky Heathcote, Land Registry of England and Wales</p> <p>Julian Quan, NRI, CLST Team Leader</p> <p>Sheila Masinde, Transparency International Kenya</p> <p>Amol Mehra, International Corporate Accountability Roundtable</p>
16:10	Discussion of objectives and themes and hosts for future meetings, including recap on poll on themes of interest	Anna Locke and Giles Henley, ODI
16:40	Next steps and future meetings	Anna Locke
16:45	Close	Iris Krebber

Annex 2: Participant List

Name	Affiliation
Amol Mehra	ICAR
Anna Locke	ODI
Benedick Bowie	The Munden Project
Chris Tanner	Mokoro
Clive Baldwin	Human Rights Watch
Eric Gutierrez	Christian Aid
Felicity Buckle	DAI
Geoffrey Payne	Geoffrey Payne and Associates
Giles Henley	ODI
Gillian Mitchell*	DFID
Iris Krebber	DFID
James Kavanagh	RICS
John Kedar	Ordnance Survey International
Julian Oram	Global Witness
Julian Quan	NRI
Kate Farlie	Land Equity International
Lorenzo Cotula	IIED
Ingrida Kerusaukaite	KPMG
Irene Maska	RICS
Matthew Glanville	KPMG
Mathew Boyle	KPMG
Nathan Hill	KPMG
Nicky Heathcote	Land Registry
Ore Kolade	ODI
Paola Tartaro	Thomson Reuters Foundation
Peter Rabley*	Omidyar Network
Philippine Sutz	IIED
Sheila Masinde	Transparency International Kenya
Thierry Ngoga Hoza	Growth Consultants for Change ltd (GCC)
Iain Simpson	Omidyar Network
William Smith	KPMG

*Joined via video-link

Annex 3: Key blogs about the forum

<http://www.rics.org/uk/news/news-insight/comment/land-and-corruption-the-tip-of-the-iceberg/>

<http://news.trust.org/item/20160414154240-q8m7x/>

<http://news.trust.org/item/20160418181141-5ycut/?source=leadCarousel>