

■ TRAINING PACKAGE: TOOLKIT ■



TOOLS TO SUPPORT TRANSPARENCY IN LAND ADMINISTRATION

SECURING LAND AND PROPERTY RIGHTS FOR ALL



ITC an Associated Institution of the



GLTN
GLOBAL LAND TOOL NETWORK

TOOLS TO SUPPORT TRANSPARENCY IN LAND ADMINISTRATION

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TOOLS TO SUPPORT TRANSPARENCY IN LAND ADMINISTRATION



'Tools to Support Transparency in Land Administration' is an important training manual with relevance and application for many in the land sector and beyond. Global trends reflect an increased desire by ordinary citizens for greater democracy and accountability in the governance structures, policies and resources that

affect their everyday lives. Land is a globally recognized primary resource and has vital economic, cultural, environmental and social dimensions. Land administration represents an important public service and is a key public administrative institution in most countries. The land sector must therefore be part of global trends towards fairness and openness and strive, often against many odds, to develop sound and transparent administrative systems.

This training package 'Tools to Support Transparency in Land Administration' will strengthen the capacity of those working in the land sector to deliver robust and efficient land administration services. Importantly, the package provides practical information and practice-based tools to support and strengthen transparency in land administration in three ways: First, the training kit provides users with vital background information to enhance their knowledge on the impacts of corruption, the benefits of transparency and its relationship to the land sector. Second a range

of flexible tools to facilitate and strengthen transparency and accountability are outlined. Third, a series of globally sourced, 'real life' case studies are included to help inform participants about corruption challenges in the land sector and encourage ideas for change. There are also a number of 'good practice' case studies that demonstrate how innovative approaches and tools can substantially improve transparency in land administration and promote good service delivery to citizens.

This Training Package, intended for government officials and state actors at large, thus provides many useful concepts, principles and tools for improving and strengthening local, regional and country level land administration systems. It is hoped that the practical nature of this training package will contribute to strong and equitable land administration systems in many countries and contexts and ultimately result in 'win-win' outcomes for all land sector stakeholders.

A handwritten signature in black ink, appearing to read 'Joan Clos', written in a cursive style.

Dr. Joan Clos,
Under-Secretary-General of the United Nations,
Executive Director UN-Habitat.

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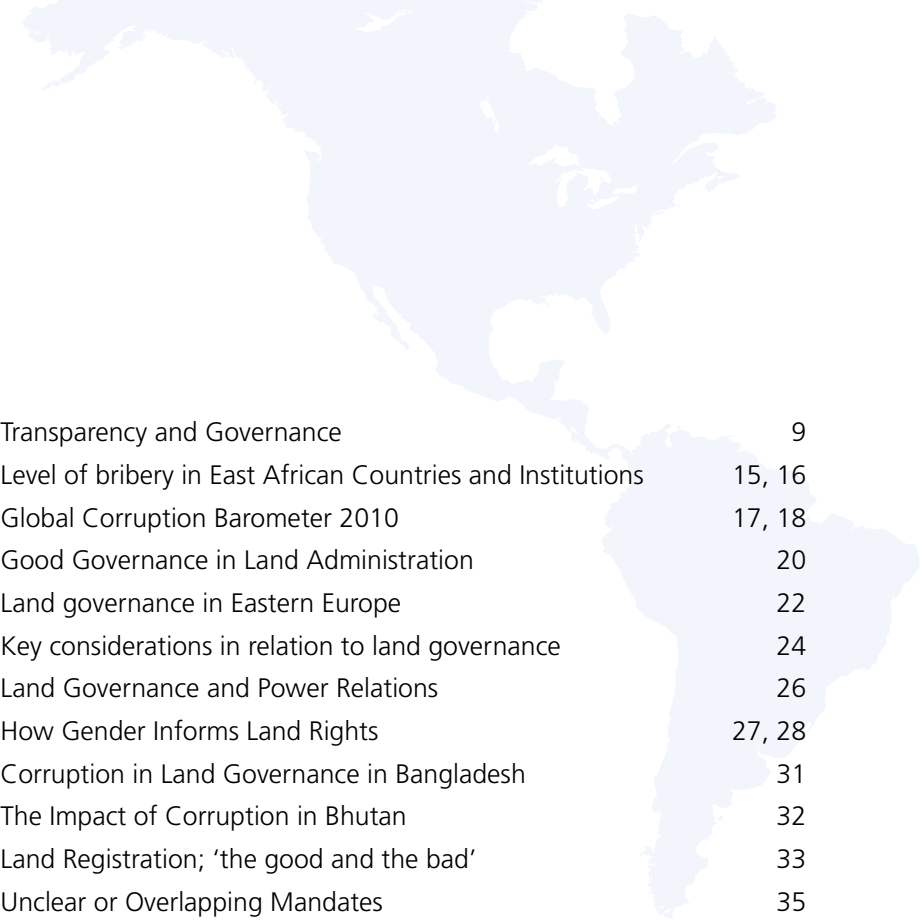


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ACRONYMS AND ABBREVIATIONS



ACC	Anti-Corruption Commission
ADB	Asian Development Bank
ADBI	Asian Development Bank Institute
ADC	Asociación por los Derechos Civiles
ARU	Ardhi University
CBO	Community Based Organization
CRC	Citizens Report Card
CPI	Corruption Perception Index
CSO	Civil Society Organizations
CWG	Citizen Working Group
DXF	Data Exchange Format
EGM	Expert Group Meeting
ENDA	Environmental Development Action in the Third World
EU	European Union
FIG	Fédération Internationale des Géomètres (International Federation of Land Surveyors)
FAO	Food and Agriculture Organization of the United Nations
GDP	Gross Domestic Product
GIS	Geographic Information System

GLTN	Global Land Tool Network
GML	Geography Markup Language
GTI	Global Transparency Initiatives
IFC	International Finance Corporation
ITC	Faculty of Geo-Information Science and Earth Observation, University of Twente
ISO	International Organization for Standardization
KNUST	Kwame Nkrumah University of Science and Technology
LA	Land Administration
LADM	Land Administration Domain Model
LATA	Land Administration Transparency Assessment
LATS	Land Administration Transparency Survey
LEI	Land Equity International
LGA	Local Government Authorities
LIS	Land Information System
MDG	Millennium Development Goals
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development

ACRONYMS AND ABBREVIATIONS

OGC	Open Geospatial Consortium
PBGIS	Parcel-Based Geo-Information System
PoN	Polytechnic of Namibia
STDM	Social Tenure Domain Model
TCBB	Training and Capacity Building Branch, Nairobi
TI	Transparency International
TIB	Transparency International Bangladesh
UML	Unified Modelling Language
UN	United Nations
UNDP	United Nations Development Program
UN-ECE	United Nations Economic Commission for Europe
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UN-Habitat	United Nations Human Settlements Program
UNODC	United Nations Office on Drugs and Crime
UN-OHCHR	United Nations Office of the High Commissioner for Human Rights
UNU	United Nations University
USAID	United States Aid for International Development

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Tools to Support Transparency in Land Administration is one of the two outputs of the training program called 'Transparency in Land Administration.' A Trainers' Guide accompanies this publication in which training delivery methods and facilitation notes are set out along with a number of case studies.

The principal partners which came together to design and implement the training program and this publication are the Global Land Tool Network (GLTN) – an international land network hosted by UN-Habitat, ex-Training and Capacity Building Branch (TCBB) of UN-Habitat and the Faculty of Geo-information Science and Earth Observation (ITC) of the University of Twente (UT).

The publication is the result of a concerted effort of a team of experts involved in implementing the Transparency in Land Administration training. It reflects their knowledge and experience acquired in the course of running two expert group meetings, six successive training sessions in Sub-Sahara Africa, South and South East Asia. The team involved in designing and implementing the training included: Jane Gold (formerly Polytechnic of Namibia [PoN]), Seth Asiamah (Kwame Nkrumah University of Science and Technology [KNUST], Ghana), Wilbard Kombe (Ardhi University [ARU], Tanzania), Solomon Haile and (GLTN/ UN-Habitat), Arbind Tuladhar and Chris Paresi (ITC). These experts have written and rewritten various sections of the Toolkit and the Trainers' Guide.

Melissa Permezel, Solomon Haile and Chris Paresi coordinated the authors' contributions and also guided the editing of or edited the contributions.

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ABOUT THE TOOLKIT

1. THE TOOLKIT

The Training Package on Tools to Support Transparency in Land Administration consists of two publications: The Training Toolkit and the Trainers' Guide. The Toolkit has been developed from reviews of publications on land governance and land administration, corruption and transparency, land information, ethics and integrity and on institutional land reforms. It also builds on the knowledge and experience gained in implementing training courses on transparency in land administration in Sub-Saharan Africa, South and South East Asia. The design and implementation of the training course included developing substantive content and country specific 'real life' case studies.

2. TRANSPARENCY IN LAND ADMINISTRATION AND THE TOOLS

Transparency is a critical component of a functioning land administration particularly in view of the scarcity of clear and credible information on land laws and policies, land availability, land prices and transactions. When land administration is opaque, it is difficult to know who is responsible for what, steps, time and costs required to process transactions, means

and routes of appeal in the event decisions are unfavourable. At the same time, when administrative systems are not transparent, land officials in 'gate keeping' positions find it easier to engage in all kinds of corrupt practices.

Against the backdrop of poor dissemination of public information, the danger that corruption poses is therefore very real and the consequences significant, especially to vulnerable individuals and groups who often bear the brunt of the corruption. Difficult access to land, insecurity of tenure due to underhand dealings that extinguish land rights, the sale of public land at 'throwaway prices', evictions that are undertaken to make way for vested interests and outright land grabbing are some of the common outcomes of a corrupt land administration system.

Transparency, however, can be a powerful tool to reduce the impact of corruption and improve the fairness of land administration systems. When in place, transparency obliges land administrators for example, to operate 'openly, understandably and predictably.' Via policies, laws, regulations, charters, codes, rules, structures, functions, and by making processes and procedures 'open, understandable and predictable', transparency provides a fundamental

Transparency, however, can be a powerful tool to reduce the impact of corruption and improve the fairness of land administration systems. When in place, transparency obliges land administrators for example, to operate 'openly, understandably and predictably.' Via policies, laws, regulations, charters, codes, rules, structures, functions, and by making processes and procedures 'open, understandable and predictable', transparency provides a fundamental template for efficient and effective service provision from which a broad cross section of clients and service providers derive both benefit and satisfaction.

template for efficient and effective service provision from which a broad cross section of clients and service providers derive both benefit and satisfaction.

In the context of a public service that relies on tax payers' resources, there is a human rights dimension

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to transparency in land administration which entails adherence to such fundamental principles as people's right to receive information and to participate in decisions affecting their lives. Transparency can therefore encourage civic engagement and accountability by rendering the public decision making arena more 'knowable', accessible and thus fairer. This in turn strengthens confidence in governments and public agencies, and has positive impact on factors such as growth and economic development through equitable and fair access to land, increased tenure security, efficient use of land and in substantial reductions in the cost of doing business for example. Though many of the general governance principles have a role to play in strengthening land administration systems, increased transparency alone, can dramatically improve the way land administration services are provided.

The overall objective of the Transparency in Land Administration training is to therefore 'sensitise' 'up-stream change agents' about land administration, develop their capacity to address issues of corruption and to enhance transparency in the land sector¹.

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The Toolkit and the Trainers' guide provide content and methodology respectively. The training is most suited for those in middle and senior level land related management positions. Put another way, the publications are meant for adults with some experience in the land sector. Both publications however, can also be used as resources in academic

programs on land administration, land management or related disciplines and as references for researchers grappling with land corruption and transparency issues. A number of tools on transparency have been published in recent years (UN-Habitat and Transparency International, 2004), (M. Sohail & S. Cavill, 2007) but none have focused specifically on land administration. This training package thus hopes to fill a gap in capacity development in the land administration sector.

The framework covered in this Toolkit addresses issues of land governance, with transparency as the key entry and focal point. The Toolkit also covers the effects of good and weak governance in land administration and the importance of understanding the social and political context in which land administration systems operate. A range of specific tools are introduced as a means to assess and improve transparency in land administration. Depending on the strength of land institutions, individual tools can be used but it is recommended that a combination of tools be utilised in order that more robust and sustainable results are produced.

¹ "Up-stream change agents" are top civil servants in relevant government ministries, local government executives, civil society leaders (including religious leaders and chiefs of customary tenure, where applicable), media workers, leaders of professional organizations (private sector) and academics.

ABOUT THE TOOLKIT

3. WHO SHOULD USE THE TOOLKIT?

Every effort has been made to make the Toolkit and Trainer's Guide as generic as possible with a view to making both resources suitable to as many countries and contexts as possible. It is hoped that the generic nature of the documents will provide the necessary flexibility in course delivery methods while at the same time, providing sufficient substantive content to be shared with training participants. It is also hoped that the structure of the training and notes provided, make it possible for the training to be delivered without necessarily involving 'professional' facilitators' coming from the institutions that have implemented the training in various regions of Asia and Africa.

The Toolkit has been developed primarily for adult training. Typically, the potential target group of the training are officials working in land agencies and others somehow involved in land related decision making. Therefore, government officials, professionals in private practice, leaders and staff of civil society organizations including the community based sector, can benefit and gain something from this training package. The Toolkit can also be used as a resource for teaching in academic education programs in

land administration, land management or related disciplines. Finally, the Toolkit and the accompanying publication (Trainer's Guide) can inform research in transparency and governance in land administration.

4. HOW TO USE THE TOOLKIT?

Trainers and trainees alike ought to use the toolkit as a basic reference and selectively. The importance of selective use of the material cannot be overstated. Information that is conveyed through training should reflect the context in which it takes place as well as meet local needs and expectations. For example, in a country where Anti-corruption agency is up and running, it will not be useful to introduce the training as a tool. It would rather be more useful to take the discussion a 'notch higher' and look for examples into the efficacy of the tools and methods that this agency might employ for example.

THE TOOLKIT IS DIVIDED INTO SIX MAIN CHAPTERS:

CHAPTER 1 presents a context, concepts and framework for Land Governance. It discusses the concepts of governance and land governance and introduces the concept of transparency. The chapter also outlines some of the effects of weak and good Land Governance on land administration.

CHAPTER 2 presents an Assessment Framework that can be used to ascertain the status of an organization in terms of transparency. The framework features both quantitative and qualitative tools that can generate diagnostic data on the state of service provision in general and the degree of transparency in particular. The chapter specifically explores key topics such as assessment approaches, benchmarking, formal surveys and citizen report cards, corruption checklists for example.

CHAPTER 3 presents different tools to support Transparency in Land Administration: Access to Information and Public Participation (including public education); Professional Ethics and Integrity; and, Organizational and Institutional Reform.

CHAPTER 4 outlines the role of Ethics and Integrity in enhancing transparent land administration including discussions on the importance of a code of ethics, ethics training, disclosure and reporting (the role of a whistleblower and their protection and how to facilitate disclosure).

CHAPTER 5 discusses the role of Organizational and Institutional Reforms, in particular, the benefits of clear organizational relationships, institutional mandates,

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internal review mechanisms and the role of the independent auditor for example.

CHAPTER 6 provides an overall conclusion to the training package and restates the key themes and important tools that support transparency and thus robust land administration systems.

In Chapters 2, 3, 4 and 5, the specific tools are presented in terms of their purpose (how they support Transparency in Land Administration), how they work. Where relevant and possible, an example of the tool is given in text boxes throughout these chapters. It is recommended that the users (both facilitators/course leaders and participants) read through the Toolkit, to better understand the concepts and principles involved, how and why corruption occurs in the land sector and the effects on Land Governance. By doing so, users will be able to grasp what the particular problem/situation is and then review the Tools, identifying which one (or group of Tools) can be used as possible entry points to address the specific problem/situation within their context and thus mitigate undesirable consequences.

The Toolkit comes with two sets of case studies. The first set of short case studies (from Asia and Africa) are designed as 'ice breakers' – that is, to open discussion on issues of corruption. These short case studies aim to highlight particular transparency and corruption dilemmas/scenarios that occur in the land sector worldwide. The second set of case studies are long case studies for problem based learning which aim to provide a platform for discussion on the tools to promote transparency. There are of two types of case studies in this second set. The first type (mainly from Asia and Africa) are designed to highlight issues of transparency and corruption for participants to then decide which tools might help resolve the land challenges raised in each story. The second type of case studies (called 'reform' case studies from all over the world) showcase 'real life' examples of positive changes or 'reforms' that have been made in land administration in various countries and what tools were used. These case studies are again designed for participants to learn and reflect on the tools used and as a starting point for further discussion on appraising the approaches taken or what possible alternative tools could have been used.

The Toolkit also comes with a 'Trainers Guide' which aims to assist trainers in the delivery of the training package. The trainer's guide provides practical notes and 'tips' on how to run each session including suggested methods, timing and how to engage participants in discussion for example. A set of power point presentations applicable to each training session are also included as an optional presentation and learning aid for facilitators should they wish to use them.

5. OVERVIEW OF THE TRAINING SESSIONS

The training is divided into 10 sessions. The sessions deal with the themes listed in the table on page 5. The sessions involve a mixture of learning and interaction as well as reflection and discussion. The specific topics covered in each session are detailed in the table below.

ABOUT THE TOOLKIT

SESSION	TOPICS COVERED
Session 01	Governance, Land Administration, Good and Weak Governance, Transparency and Corruption
Session 02	Case Studies I – ‘Ice Breaker’ Case Studies
Session 03	Understanding and Assessing Transparency in Land Administration
Session 04	Access to Information and Public Participation
Session 05	Professional Ethics and Integrity
Session 06	Institutional and Organizational Reforms
Session 07	Reflection on Tools Presented via a Practitioner (such as an Anti-Corruption Agency)
Session 08	Case Studies II – Problem based Learning Studies focussing on the Tools to promote Transparency
Session 09	Case Studies III – Reform Case Studies (global) analysing Tools used to undertake Reforms
Session 10	Action Planning

6. EXPECTED OUTCOMES OF THE TRAINING

By the end of the training, it is expected that the participants will be able to:

- 1) Understand, identify and explain land governance concepts and principles involved in promoting transparency in land administration.
- 2) Understand and identify the factors that lead to corruption and those that promote transparency.
- 3) Understand the range of specific tools available to promote transparency in the land sector and specifically in land administration.
- 4) Have made contact with others to build and/or increase their support network as well as develop a ‘community of practice’ around transparency in land administration.

7. REFERENCES

UN-Habitat and Transparency International (2004). Tools to Support Transparency in Local Governance; UN-Habitat Governance Toolkit Series, March 2004.

Sohail M. and Cavill S (2007). Partnering to Combat Corruption in Infrastructure Services, A Toolkit; Water, Engineering and Development Centre, Loughborough University.

LAND GOVERNANCE
CONCEPTS AND PRINCIPLES

1.1 OVERVIEW

Land remains a highly complex and contentious issue, involving economic, social, political, cultural and often religious systems. There is also a strong link between land, power and poverty. UN-Habitat argues that ‘fundamentally, land governance is about power and the political economy of land. The power structure of society is reflected in the rules of land tenure (i.e. who does and can own what land), at the same time, the quality of governance can affect the distribution of power in society (poor governance usually equates to only a few holding real power)’.

Land remains a highly complex and contentious issue, involving economic, social, political, cultural and often religious systems. There is also a strong link between land, power and poverty.

The importance of land has been clearly spelled out in Article 75 of the United Nations Habitat Agenda

where it is stated that the ‘legal access to land is a strategic prerequisite for the provision of adequate shelter for all and the development of sustainable human settlements affecting both urban and rural areas. The failure to adopt, appropriate rural and urban land policies and land management practices at all levels of government remains a primary cause of inequity and poverty (UN-Habitat, 2003).²

Land is also critical to achieving the Millennium Development Goals (MDGs). The following MDG’s specifically refer to land:

MDG1: Eradicating poverty and hunger: secure land rights and greater equity in land access provide a secure foundation for livelihoods, economic opportunities, and in rural areas, for household food production.

MDG3: Gender equality and the empowerment of women: in September 2005 the UN Summit resolved to promote gender equality by guaranteeing women’s right to own property, ensuring their security of tenure and equal access to productive resources including land.

MDG 7: Environmental Sustainability: includes a target to improve the lives of 100 million slum dwellers, (including through secure land rights)³. This target was prioritized, amongst other important commitments, in the UN 2005 World Summit⁴.

MDG 8: Development partnerships: secure land rights now have a significant place in development partnerships in many countries.

In addition, improved land tenure and access to land is considered to contribute indirectly to other MDG goals. Protection of land rights can often be linked to people’s capacity to have a ‘formal identity’. Not having one affects their access to services such as education (MDG2) and health (MDG5). Further, being able to secure legal property rights can ensure that women’s rights, for example, are not undermined because of HIV/AIDS (MDG6).

Within the context of UN-Habitat’s work, land is an essential dimension for sustainable urbanization, particularly the processes related to Land Administration. In the urban context, key issues

² P.1. UN-Habitat (2009). Towards Improved Land Governance. Land Tenure Working Paper 11.

³ UN-Habitat; <http://www.unhabitat.org/categories.asp?catid=312>

⁴ UN; <http://www.un.org/summit2005/>

⁵ GLTN; <http://www.gltn.net/>



An overview of Mathare slum in Nairobi, Kenya.
Photo © UN-Habitat.

include the exposure to forced evictions, unrecognized rights and the difficulty to exercise them (increasing the degree of marginalization of the poor and vulnerable people from decision-making processes), and obstacles in using property as a source of income or collateral to access formal credit. The Global Land Tool Network (GLTN), facilitated by UN-Habitat, was established to specifically promote the development of innovative land tools that are multidisciplinary and multi-stakeholder by nature with a view to ensuring secure access to land especially by the poor and marginalized groups such as women.

Governance principles, particularly those related to transparency, provide a useful framework for looking specifically at the issues of Land Governance and corruption in land administration. As stated previously,

Governance principles, particularly those related to transparency, provide a useful framework for looking specifically at the issues of Land Governance and corruption in land administration.

Transparency can be defined as a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably⁶

the risk of corruption and the resulting inequalities are very real in land allocation and management when land administration processes and institutions are opaque. Vulnerable individuals and groups often bear the brunt of the corruption outcomes including: difficult access to land assets; ignorance of land policies, legal frameworks, land transactions and prices and; misallocation of land rights, land grabbing and evictions.

⁶ Transparency International Frequently Asked Questions about Corruption (http://www.transparency.org/news_room/faq/corruption_faq)

BOX 1: TRANSPARENCY AND GOVERNANCE

Since the early 1990s, the issue of transparency has assumed prominence in improving Governance, primarily through the increased attention given to increasing citizen participation, enhancing civil society engagement in the public arena, fostering closer accountability, as well as in combating corruption.

Transparency has been recognised as a means of ensuring an informed citizenry and for pursuing a collective vision. It exposes the public space thus allowing every stakeholder to remain aware of achievements and setbacks of the government. It motivates collective engagement and builds community identity by enabling every member to identify with processes, results and outcomes. Indeed, through transparency the boundaries of responsibility and action are rendered visible thus easily determining the locus of accountability. In addition, transparency limits corruption, which tends to thrive in closed systems that are ridden with ambiguity and discretionary behaviour. Transparency is thus a central pillar of good governance.

In the past decade and a half, the focus of transparency, both as an aspect of improving governance and in combating corruption, has been at the national level, mainly associated with the global trend of democratisation, pluralism and improved corporate governance. Lately, however, there is a shift towards enhancing transparency at the local level. It is being increasingly recognised that building transparency is important for addressing some of the major challenges to sustainable development at both the national and local levels.

Source: UN-Habitat and Transparency International (2004), Tools to Support Transparency in Local Governance.

Transparency can be defined as a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes. It is the duty of civil servants, managers and trustees to act visibly, predictably and understandably. Various governance principles related to transparency therefore appear highly relevant to address many of these land administration challenges.

Box 1 on the left outlines the link between transparency and governance.

This chapter discusses Land Governance as a starting point for understanding Transparency in Land Administration. Specifically, the chapter is divided into the following sections:

SECTION 1.1 - the concepts and principles of Governance and Good Governance.

SECTION 1.2 - the concepts and principles of Land Governance and of Land Administration.

SECTION 1.3 - the effects of weak and benefits of Good Land Governance.

1.2 GOVERNANCE

1.2.1 WHAT IS GOVERNANCE

There are a range of definitions surrounding the concept and practice of 'governance' but all have the common theme of linking governance with 'institutional rule'. However, governance is also something larger than this.

Governance is 'the exercise of political, economic and administrative authority in the management of a country's affairs at all levels. Governance is a neutral concept comprising the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences'. Governance is also about the process of decision-making, as well as the implementation of the decisions taken. It must therefore focus on both the formal and informal actors and structures involved in decision-making and how to implement the decisions made.

As the above explanation suggests, 'government' must only be considered as one of the many actors

'Governance is 'the exercise of political, economic and administrative authority in the management of a country's affairs at all levels. Governance is a neutral concept comprising the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences''⁷

in the 'governance arena'. Other actors involved in governance vary depending on the level of government that is under discussion. In the land sector for example, other actors in the land governance arena might include land lords, associations of peasant farmers, cooperatives, traditional chiefs, NGOs/CBOs, research institutes, religious leaders, finance institutions, political parties, media and international donors. Ordinary citizens must also play a key role in decision-making or influence decision-making processes that affect the 'governance' of land.

1.2.2 WHAT IS 'GOOD' GOVERNANCE?

There is no unique and complete definition of 'good governance'. Rather, there are a list of qualities and expectations that surround the notion of 'good' governance. A number of examples are outlined below.

The United Nations Department for Economic and Social Affairs report on civic participation and pro-poor budgeting talks about governance in the context of a society and a decision-making process that involves three main actors: the government, the market and the civil society. The more balanced this equation is, the better is the quality of the governance. Usually, 'good governance' is defined to include attributes of 'responsiveness, inclusiveness, participation, integrity, accountability and fairness' (Graham, et al, 2003).

⁷ p.1 UN-Habitat – GLTN/FAO (2009). Towards Improved Land Governance.

Viewing it from a 'human rights' perspective, the 2000 Millennium Declaration stipulates the following 'key principles' of good governance:

- Full protection and promotion of civil, political, economic, social and cultural rights for all;
- Practices of democracy and respect for human rights, including minority rights;
- Inclusive political processes, allowing genuine Participation by all citizens; in all our countries; and
- Freedom of the media to perform their essential role and the right of the public to have access to information.

Hence, 'good governance' is 'democracy plus'. This 'plus' is an ever-evolving concept that underscores among others, the elements of (equity), inclusiveness, participation and transparency⁸.

The above descriptions of governance suggest that the term is used with great flexibility. Depending on the context, 'Good Governance' can therefore encompass all or some of the following:

- Full respect of human rights and the rule of law;
- Effective participation and multi-actor partnerships;
- Political pluralism;
- Transparent and accountable processes and institutions;
- Efficient and effective public sector;
- Access to knowledge, information and education;
- Empowerment of people and general equity;
- Sustainability, and
- Attitudes and values that strengthen accountability of all involved in the governance process.

There is, however, a strong consensus that good governance also relates to the institutional processes that are needed to achieve development goals. Good governance is therefore the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights in a manner essentially free of abuse and corruption, and with due regard for the rule of law (UN-OHCHR, 2007).

1.2.2.1 CORRUPTION AND GOVERNANCE

Perhaps the most damaging outcome of poor and weak governance is corruption. Transparency International has chosen a clear and focused definition of corruption⁹: It is defined as 'the misuse of entrusted power for private gain'. Corruption flourishes when transparency is absent. Obscure, non-transparent decision making processes create favourable conditions for corruption. The absence of transparent and prescribed regulations can give substantial discretionary power to officials as it creates an opaque environment with few 'checks and balances'.

Transparency International further differentiates between 'according to rule' corruption and 'against the rule' corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute 'according to the rule' corruption. Against the rule corruption is a bribe paid to obtain services the bribe receiver is prohibited from providing.

⁸ p.5 Civic participation and pro poor budgeting UNDESA (2005).

⁹ Transparency International; Frequently Asked Questions; http://www.transparency.org/news_room/faq/corruption_faq

‘ *Corruption flourishes when transparency is absent.*

The above discussion is very much related to the following mathematical formulation that was first developed by Kittlegard and modified by Moore which attempts to capture the ‘mathematics’ of corruption¹⁰.

The formula is:

$$C = (M+D-A)/E$$

According to this formula, corruption (C) equals the effect of monopoly power (M) plus discretion of officials (D) minus accountability (A) divided by ethical ambience (E) (i.e. ethical behaviour). The aim of the formula is to suggest that where officials have a monopoly power over a good or service, unlimited

discretion in deciding who gets that good or service or how much they get, and there is no accountability whereby others can see what that person is deciding, corruption is bound to flourish. The ‘E’ in the formula, referring to ‘ethical behaviour’ or ‘E’, was added later by Moore (1998) as it was considered important to capture how ‘ethical community relations’ can have a significant impact on reducing or tempering corruption.

Figure 1 on page 13 provides a graphic illustration of worldwide corruption. The darker the colour, the more corrupt the country is perceived to be. The graphic comes from Transparency International’s 2010 Corruption Perception Index report. It should be noted that the report is based on measurements from perceived levels of public sector corruption in 178 countries around the world, not on archived corruption cases. The figure suggests that a significant proportion of the world’s corruption is perceived to occur in developing countries.

¹⁰ Klitgaard, Robert, Ronald MacLean-Abaroa, H. Lindsey Parris (1996) A Practical Approach to Dealing with Municipal Malfeasance. UMP Working Paper Series No. 7, UN-Habitat, Nairobi. And Moor, Jay (1998) On Good Behaviour: Corruption and Ethics, in “Habitat Debate”, Vol. 4, No. 4, UN-Habitat, Nairobi, p. 24.

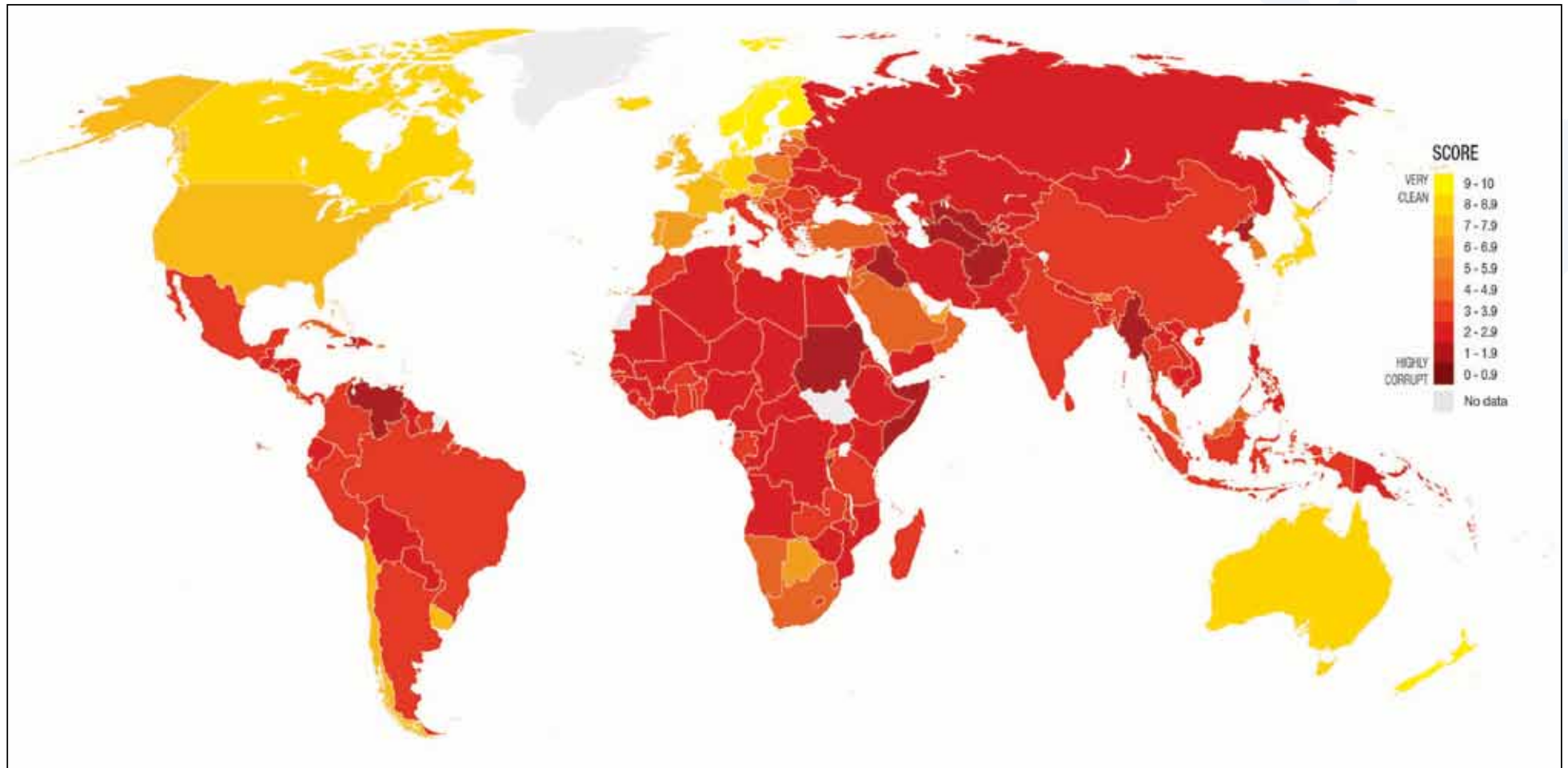


Figure 1: Corruption perception index (Transparency international, 2010)



Photo © JN-Habitat

Box 2 below reflects another level of broad based corruption in East Africa also compiled by Transparency International. The Box outlines the level of bribery prevalent in key countries and government institutions.

BOX 2: LEVEL OF BRIBERY IN EAST AFRICAN COUNTRIES AND INSTITUTIONS

Bribery prevalence measures the likelihood that an individual will be required to pay a bribe to access services at the national level. It is a summation of all bribery demands reported in a country as a proportion of all reported interactions Institutional Ranking across East Africa.

Country Rank Country Bribery Prevalence

RANK IN BRIBERY PREVALENCE	2010	Rank	2011	Rank
Country 1	37,9%	1	36,7%	1
Country 2	33,9%	2	33,0%	2
Country 3	31,6%	4	28,6%	4
Country 4	28,8%	3	31,9%	3
Country 5	5,1 %	5	6,6%	5

Bribery in specific institutions and sectors

The table below presents a combination of the separate aggregate scores for the institutions across the five countries. The scores have been normalised to reflect different sample sizes. The listing does not include institutions from Rwanda whose aggregate index could not be formulated due to limited bribery reports. The index scores range from 1 to 100 with a higher score indicating adverse ranking. In terms of national ranking, institutions in Uganda have registered a marked deterioration relative to the 2010 index. Only two institutions in the country were ranked among the top ten in 2010 compared to four in 2011.

BOX 2: continued

Kenya has relatively improved.

In 2010, four institutions were ranked among the top ten compared to only one in 2011. Once again the police and the revenue authorities across the region have dominated the top positions. These two together with the judiciary in the four countries occupy eight of the ten most adverse rankings.

INSTITUTIONS	Country 1	Country 2	Country 3	Country 4	Country 5
Ministry of Lands/Lands department	60.5**	55.0	37.8	46.9	-
City Council	-	-	-	48.7*	-
Judiciary	50.8	59.1	57.1	37.1	-
Government Administration/ Public service	37.1	44.1	28.1	-	-
Police	5,1 %	5	6,6%	5	-
Banks	19.3	7.9	5.6	3.5	-
Local Authorities	35.4	54.1	36.9	28.6	-
Other ministries	45.2	41.7	18.9	22.8	-
Other Government Institutions	25.0	35.9	29.1	-	-
Provincial Administration	25.3	-	18.4	28.8	-

* Nairobi City Council, Kenya

** No Ministry of Lands data but Ministry of Education Burundi scored 60.5

Source: Transparency International (2011). The East Africa Bribery Index 2011.

Box 3 below demonstrates the depth and breadth of global corruption highlighting its universal nature, the perceived prevalence of corruption in police and judiciary, the perceived ineffectiveness of governments to deal with governments and the general willingness of ordinary people to help fight corruption.

BOX 3: GLOBAL CORRUPTION BAROMETER 2010

The 2010 Transparency International Barometer shows that levels of corruption have increased in the past three years but the report also shows that while corruption continues, there are more people globally who are willing to 'fight it'. Slightly more than half of the respondents considered that corruption has increased; where as for three out of 10, levels have remained unchanged in the past three years. Women were more likely than men to perceive an increase in corruption levels over the past three years, (60 per cent v. 52 per cent). There are regional differences. While more than two-thirds of respondents in the European Union and North America saw an increase in corruption over the last three years, this figure dropped to less than half in Asia Pacific and the 'Newly Independent States'. Even in these two regions, however, about three times as many respondents report an increase than report a decrease in corruption. In sum, the report shows that:

- **Almost six out of 10 report that corruption levels in their country have increased over time**
- **The biggest increase is perceived by respondents in North America and the European Union.**

Political parties are identified as the most corrupt institution around the world

- Eight out of 10 judge political parties as corrupt or extremely corrupt, followed by the civil service, the judiciary, parliaments and the police.
- Over time, public opinion about political parties has deteriorated, while opinions of the judiciary have improved.

Experience of petty bribery is widespread and has remained unchanged as compared to 2006

- The police are identified as the most frequent recipient of bribes in the past 12 months. The police also show the biggest increase in bribery incidents over time.
- In eight out of nine services assessed, people in lower income brackets are more likely to pay bribes than people in higher income brackets.
- The reason most often given for paying a bribe is 'to avoid a problem with the authorities'.

BOX 3: CONTINUED**Government action to fight corruption is often seen as ineffective**

- Across the world, one in two considers their government's actions to be ineffective to stop corruption.
- While global views have not changed over time, opinions about government efforts have deteriorated in Asia Pacific, Latin America and Sub-Saharan Africa, but improved in the 'Newly Independent States' and North America.

There is little trust in formal institutions to fight corruption

- One in four worldwide does not trust any particular institution 'most of all' to fight corruption.
- Nearly one in four trusts the media or government the most to stop corruption.

There is significant belief that the public has a role to stop corruption – and willingness for action in reporting on corruption when it occurs

- Seven out of 10 respondents think ordinary people can make a difference in the fight against corruption, while half could imagine themselves getting involved.

- People are willing to report corruption to the authorities: seven out of 10 respondents reported they would denounce an incident. This willingness to report a case of corruption is more pronounced in the Americas and the European Union.

Source: Transparency International (TI), 2010 Global Corruption Barometer. At: http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

GLOBAL
CORRUPTION
BAROMETER

The Food and Agricultural Organization (2007) recognises two classes of corruption:

- 1) **State capture:** corruption on a grand scale that illegally or inappropriately transfers economic resources from the state to private interests. Land Administration can be used to serve the interests of those in control, for example, by:
 - The illegal transfer of state lands and common lands into private possession of those in control or their allies;
 - The implementation of redistribution policies and laws in ways that favour those who have captured the state;
 - The manipulation of the banking system to provide cheap credit on loans backed by inadequate security;
 - Favourable property tax assessments or exemptions from payment;
 - Favourable decisions to change land use that cannot be justified on objective grounds;
 - Unjust compensation for those whose land is expropriated.

- 2) **Administrative corruption:** is about the abuse of office by individual officials who use their power for self-enrichment rather than to execute the tasks for which they are appointed. Fraud is a common feature of administrative corruption (FAO, 2007).

Corruption easily applies to land and land administration systems, as the administration and management of land belongs to the domain of government authority. Formal decisions are necessary, for example, to register a property, to grant a mortgage, to impose or lift restrictions and to allocate a certain land use, all of which implies discretionary powers of the public sector (V.d. Molen P. and Tuladhar A. 2006).

1.3 LAND GOVERNANCE AND TRANSPARENCY IN LAND ADMINISTRATION

1.3.1 WHAT IS LAND GOVERNANCE?

The principles of governance outlined above, have direct relevance to land governance and administration. Like the notion of 'governance', the concept of 'land governance' reflects a number of principles associated specifically with governance but also the land sector. Land Equity International (LEI, 2008) has developed eight objectives to describe 'Good Governance' in Land Administration (see Box 4). The objectives are based on experience with projects in the land sector and have been refined during discussions with a broad cross-section of stakeholders and participants in the land sector. They form a framework on which to measure Governance in Land Administration across and within countries.

BOX 4: GOOD GOVERNANCE IN LAND ADMINISTRATION

Good governance in land administration occurs where:

- Land policy is in line with principles of fairness and equity.
- A variety of accepted and socially legitimate rights that are legally recognized and can be recorded.
- Land management and associated instruments (zoning and development control plans, conservation plans, etc.) are justified by externalities and undertaken in an efficient, transparent manner.
- Land administration institutions have clear mandates and operate transparently, cost-effectively and sustainably.
- Information provided by the land administration system is reliable, sufficient, and accessible at reasonable cost.
- Management, acquisition and disposal of public land follows clear procedures and is applied transparently.
- Property valuation serves public and market needs and property taxation is clear and efficient in support of policy.
- Judicial and non-judicial institutions are accessible with clear mandates and resolve disputes fairly and expeditiously.

Source: Land Equity International (2008). *Governance in Land Administration*.

Good governance of land tenure, then, can 'ensure that rights in land and natural resource are recognised and protected' and in doing so, can help reduce hunger and poverty, promotes social and economic development and contributes to more sustainable urbanization. Good governance can contribute to the achievement of a variety of development objectives, including the achievement of the Millennium Development Goals (MDGs) as stated above¹¹. At the same time, it is recognised that improving land governance is not easy and requires significant political will, institutional reform and a commitment to building both the capacity of a range of key stakeholders such as civil servants as well as improving structures and systems.

¹¹ p.4 UN-Habitat and FAO (2009). *Towards Improved Land Governance*.

Land Governance is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled.

The Food and Agricultural Organization (2007) and UN-Habitat define Land Governance as the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled¹². Some of the key elements of governance in relation to land are:

- A focus on decision-making, implementation and conflict resolution;
- An emphasis on both process and outcomes;
- A need to understand both institutions (rules) and organizations (entities) and the broader social and political context in which the land system operates;

- Recognition of statutory as well as customary informal/extra-legal institutions and organizations, and
- Analysis of stakeholders, interests, incentives constraints.

Global Land Tool Network suggests that there are an important set of 'governance' questions that need to be asked when considering vulnerable individuals and groups' have access to land.

One key question is related to understanding the 'power relations' inherent in land (discussed in more detail below) thus suggesting that land governance must have a clear 'rights-based' framework of governance principles. If systems are not pro poor and sensitive to people's different opportunities to own, access land etc, the challenge about how to create change such that the most vulnerable have security and opportunity in the land sector will arguably remain unaddressed (UN-Habitat and ITC, 2007).



Baseco, Manila, Philippines. Photo © UN-Habitat.

¹² UN-Habitat slides series; Good Land Governance Policy Paper;
<http://siteresources.worldbank.org/INTARD/Resources/335807-1194987153844/ UNHABITATFricska.ppt>

Box 5 below provides an example which underlines the important link between 'governance' and 'land governance' in relation to Eastern Europe.

BOX 5: LAND GOVERNANCE IN EASTERN EUROPE

Land governance does not only depend on land institutions. It also depends on the general governance situation. In times of transition, governance generally suffers as it does in post-war situations. Institutional economics teaches us that during institutional change the distribution of property rights remains unclear and unregulated for a certain period of time. It takes some years until all institutions (laws, by-laws, agencies, organizations etc.) are in place again. Experience shows that it takes on average at least ten years to more or less re-establish all relevant institutions. It takes even longer for all institutions to function according to the new rules. Hence, it is more than evident that (land) governance in Eastern Europe can still be improved in some fields.

Source: p.19. Wehrmann, B (2010). Governance and Land Tenure in Eastern Europe and Commonwealth of Independent States (CIS). FAO Land Tenure Working Paper 16. At <http://www.fao.org/docrep/012/al378e/al378e00.pdf> Accessed on 8/11/2011.

In order to understand land governance, another important factor that must be considered is the range of social tenure relations and the corresponding formal and informal tools used to recognize them. In many developing countries, land tenure and property rights can have formal, customary, or religious origins. They can also include various types of informal tenure. These different tenure types often co-exist and may conflict where different people claim rights to the same land under the different systems thus affecting land governance. The range of possible forms of tenure can be considered as a continuum (see Figure 2). Each continuum provides different sets of rights and degrees of security and enforcement. Across the continuum, different tenure systems may operate (EGM report, unpublished, UN-Habitat and ITC 2007). Figure 2 on page 23 presents a pictorial view of the continuum of land rights.



A woman helps reconstruct houses in Nias, Indonesia
Photo © UN-Habitat.

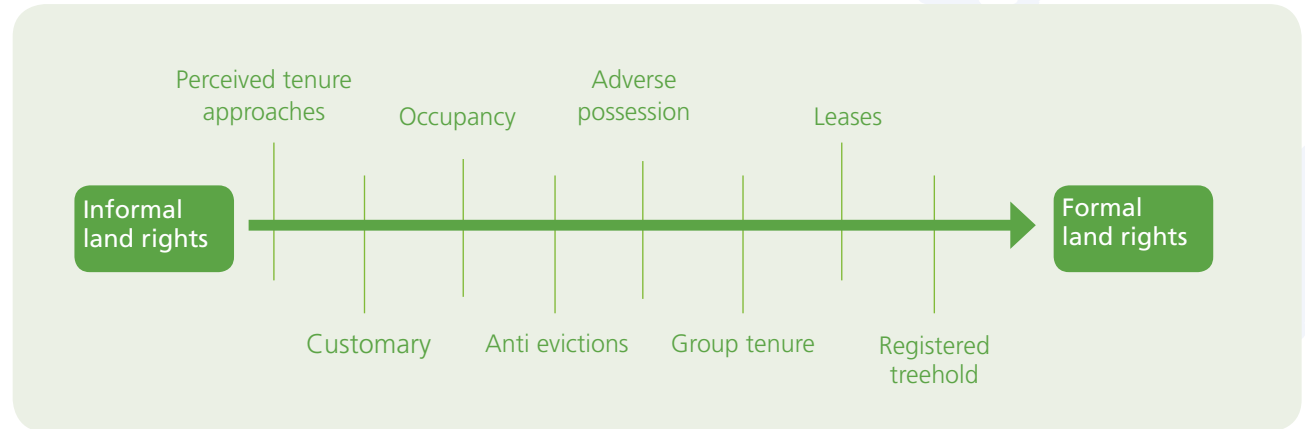


Figure 2: UN-Habitat/GLTN (2008) Secure Land Rights for All.

The Global Land Tool Network also suggests that the following issues must be considered when thinking through 'governance' in relation to land:

- Government/national leadership is crucial, as is empowerment and capacity building at various levels in society.
- Changing policy or laws is not enough to resolve conflicting interests. Rather, these must be undertaken in conjunction with changing discriminatory, corrupt and inefficient practices across all land institutions. Implementation and enforcement are as important.
- Only sustained, long-term interventions can resolve land problems and deliver secure land rights for all.
- Gender considerations should be front and centre in land processes.
- Vulnerable groups (e.g., indigenous peoples, children and the elderly) must be handled as specific groups of concern.
- The interests of multiple stakeholders in land and multiple visions of land development must be reconciled.
- Outside agencies and development partners must coordinate strategies to engage in and support national processes.

Box 6 below outlines in more detail, the importance of these considerations in relation to land governance.

BOX 6: KEY CONSIDERATIONS IN RELATION TO LAND GOVERNANCE

- Access to land and natural resources should be equitable. Given the importance of land for a wide range of economic, social and environmental objectives, no group within society should be legally or politically excluded from being able to access to land or related natural resources.
- Security of tenure should be provided to all members of society. Good governance ensures the legal recognition and protection of a range of land rights, including customary and traditional rights as well as intermediate forms of tenure. Evictions should be avoided wherever possible; where absolutely necessary, they should be carried out according to national law and international standards related to due process and fair and just compensation.
- Specific measures should be taken to ensure access to land for, and the security of land and property rights of, women. A gender perspective on land and property rights should be incorporated at all stages of reform analysis, design, implementation and analysis. Data regarding access to land and security of tenure should be gender disaggregated.
- Decision-making regarding land and natural resources should be transparent, with processes open to all members of society. Good governance places all decisions on land upon respect for fundamental human rights and ensures that all relevant stakeholders are enabled to effectively participate, particularly women and vulnerable groups.
- The rule of law should be applied to all. Good governance requires that no one stands above the law, and that politicians, officials, land professionals and others actors are accountable for their actions. It ensures that rules and procedures are clear, consistent, well understood and applied in a transparent manner. It requires that conflicts are managed effectively and efficiently, including through traditional institutions and through alternative dispute resolution methods.
- Land administration should be decentralized based on the principle of subsidiarity, i.e. taken at the lowest appropriate level and based on accountability. Where appropriate, it should build on traditional and informal practices consistent with other governance principles. Inclusive processes are required to ensure the equitable distribution of benefits from land and related natural resources.
- Effective, affordable and efficient land administration should be provided to all members of society. Services should be responsive to the needs of citizens. Costs of acquiring services should be affordable, and procedures should be clear and simple. Technical solutions should be based on available capacity and appropriate technology.

Source: GLTN/UN-Habitat and FAO (2009). *Towards Improved Land Governance*.

1.3.2 UNDERSTANDING POWER RELATIONS AND THE SOCIAL/POLITICAL CONTEXT OF LAND SYSTEMS

As mentioned at the beginning of this chapter, 'land governance is (fundamentally) about power and the political economy of land'¹³. When trying to understand land governance and what might be done to improve transparency in land administration systems, it is therefore important that some form of analysis is undertaken to understand the context in which the land sector operates. That is, to understand the broader political, economic, social, cultural and religious contexts in which a land system exists - whether at the level of a country or large geographical area or at the unit of a local community. Every person, community, tribe and country is made up and defined by a set of intersecting relations and dimensions that affect people and communities - who they are, what they are, what they can do (i.e. the opportunities they have) and how they are often viewed by others. These relations are often referred to as 'relations of power' and precisely so because they have a significant effect on how individuals and groups experience society and live their everyday life and therefore their relationship with land.

When trying to understand land governance and what might be done to improve transparency in land administration systems, it is therefore important that some form of analysis is undertaken to understand the context in which the land sector operates. That is, to understand the broader political, economic, social, cultural and religious contexts in which a land system exists - whether at the level of a country or large geographical area or at the unit of a local community.

Relations of power include both formal relations, between the state and the citizen and information structures for example. They also include informal relations such as how a dominant religious code views women or how migrants in a country from different race and ethnicity are viewed. Both these types of relations and relationships have a significant impact on access and rights to land and in understanding who suffers through corruption and poor land administration systems. Such relations also have a

direct impact on the sorts of tools that might be used to build transparency and capacity within the land sector. Analysing the intersection and inter relationships between the social, political, cultural and religious dimensions can therefore give valuable insights into what good or weak land governance practices exist, what specific inequalities exist in the system affecting who, what efforts to improve transparency are currently successful and what

Analysing the intersection and inter relationships between the social, political, cultural and religious dimensions can therefore give valuable insights into what good or weak land governance practices exist, what specific inequalities exist in the system affecting who, what efforts to improve transparency are currently successful and what strategies can be put in place to support vulnerable groups and individuals and strengthen the fairness and effectiveness of land administration systems.

¹³ p.1. UN-Habitat and FAO (2009). Towards Improved Land Governance.

strategies can be put in place to support vulnerable groups and individuals and strengthen the fairness and effectiveness of land administration systems.

UN-Habitat's specific land governance work conducted by the Global Land Tool Network in collaboration with the Food and Agricultural Organization, emphasises the importance of understanding land governance in relation to power and the political economy of land. Box 7 on the right outlines the components of land governance capturing this dynamic of power.

The Global Land Tool Network suggests that understanding this 'political economy perspective' of land raises an important set of questions in relation to land such as:

- Who benefits from current land system and who does it serve?
- Who makes and influences the rules about land and why?
- What (and whose) interests are being served? Who is excluded and why?
- Who drives any reform processes? How are the benefits distributed and to who?

BOX 7: LAND GOVERNANCE AND POWER RELATIONS

Land governance, by extension, concerns the rules, processes and structures through which decisions are made about the use of and control over land, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed. It encompasses statutory, customary and religious institutions. It includes state structures such as land agencies, courts and ministries responsible for land, as well as non-statutory actors such as traditional bodies and informal agents. It covers both the legal and policy framework for land as well as traditional and informal practices that enjoy social legitimacy. Fundamentally, land governance is about power and the political economy of land. The power structure of society is reflected in the rules of land tenure; at the same time, the quality of governance can affect the distribution of power in society.

Source - p.1 UN-Habitat – GLTN/FAO (2009). Towards Improved Land Governance.

Further, it is noted that there are a number of key areas – social, economic and political relations and institutions - that must be analysed to provide important insights and tools to support land policy reform, which in turn, can strengthen the quality of land governance. The key areas are:

- The socio-economic context of land;
- The land tenure system and its characteristics;
- Land Markets;
- The institutions involved in land or those that affect its day to day operations;
- Issue and reform content; and
- Land stakeholders, their interests and relationships¹⁴.

¹⁴ Adapted from UN-Habitat and FAO (2009). Towards Improved Land Governance.

Both UN-Habitat and the World Bank (2005) recognize that land administration programs should consider gender, ethnic and cultural variations that influence norms and practices regarding land rights. These include access rights across different ethnic groups, inheritance practices in patrilineal and matrilineal societies, and marriage practices. In addition, customary norms and practices tend to change as populations move from rural to urban areas. These 'different norms and practices will influence who are considered legitimate landed property holders, and they may conflict with formal legal norms'¹⁵.

Box 8 outlines a series of questions that might be asked when seeking to understand what rights women have in relation to land in a particular context.

BOX 8: HOW GENDER INFORMS LAND RIGHTS

Compared to men, women often face discrimination in formal, informal and customary systems of land tenure. Women's ownership of land varies from region to region but is estimated to be less than 2% worldwide. Bringing poor women into the urban economy remains a big challenge and one source of their low status and economic vulnerability is their limited access to land and property rights.

Providing equal property rights to women as compared to men, is first and foremost a right in itself. In addition, providing secure land rights for women often makes economic sense and is critical in fighting poverty. When women control land assets, there is a rise in women's cash incomes, spending on food, children's health and education and household welfare in general.

It is therefore important to be aware of gender issues and gender stereotypes which relate to

land and affect women's access and rights to land. The Global Land Tool Network has developed a 'gender evaluation criteria' based on a series of key themes to assess women's access and rights to land for a range of contexts. The criteria have also been developed to assess whether tools to promote general land rights are also sensitive to gender so that those in the land profession can be better informed and equipped to effectively engage and address the needs of both women and men.

The gender evaluation tool is based on 6 key criteria outlined below: Participation – equal participation by women and men alongside gender responsive governance.

Capacity building – empowerment of both men and women to use, access and benefit from any tools used in relation to land.

¹⁵ Executive Summary xi, The World Bank (2005). Gender Issues and Best Practices in Land Administration Projects: a synthesis report. At http://siteresources.worldbank.org/INTARD/Resources/Gender_land_fulltxt.pdf Accessed on 8/11/2011

BOX 8: continued

Legal and institutional considerations – how the legal rights are protected and promoted
Social and cultural impacts – reducing the prejudices and practices that effectively discriminate against women’s right to land security of tenure and land rights.

Economic impact – how women’s access to economic independence and resources are supported and promoted by utilising a land tool.

Scale and sustainability impact – how effective a land tool is in bringing about long term change to not only women but a broader set of beneficiaries.

Source: Adapted from the GLTN (2011). Designing and Evaluating Land Tools with a Gender Perspective: a training package for land professionals.

1.3.3 LAND ADMINISTRATION AND TRANSPARENCY**1.3.3.1 WHAT IS LAND ADMINISTRATION?**

This section focuses on the mechanics of land administration and how they relate to transparency. In essence, land administration reflects the practical outcomes of land governance. Land administration can be defined as the ‘processes of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies’ (UN-Habitat/GLTN 2011)¹⁶.

Land administration can be defined as the ‘processes of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies’.

Another useful but broad definition of land administration defines it as the way in which the rules of land tenure are applied and made operational. Land administration, whether formal or informal, thus comprises of an extensive range of systems and processes to administer including:

- **Land rights:** the allocation of rights in land; the delimitation of boundaries of parcels for which the rights are allocated; the transfer from one party to another through sale, lease, loan, gift or inheritance; and the adjudication of doubts and disputes regarding rights and parcel boundaries.
- **Land-use regulation:** land-use planning and enforcement and the adjudication of land use conflicts.
- **Land valuation and taxation:** the gathering of revenues through forms of land valuation and taxation, and the adjudication of land valuation and taxation disputes¹⁷. Ensuring that land administration is part of the various facets of land governance and is clearly identified. For example, the Global Land Tool Network (2008) argues that the core business of land administration and management provides two necessary conditions for tenure security 1) robust, commonly accessible forms of tenure for which rights can be easily documented and 2) land dispute mechanisms regardless of the (quasi) legal system¹⁸.

¹⁶ UN-Habitat/GLTN (2011). Monitoring Security of land tenure in cities. UNON Publishing, Nairobi citing UNECE. (1996). Land Administration Guidelines. Geneva: United Nations Economic Commission for Europe.

¹⁷ (FAO, Corporate document repository, Land Tenure and Rural development. At <http://www.fao.org/DOCREP/005/Y4307E/y4307e05.htm>.

¹⁸ UN-Habitat/GLTN (2008). Secure land rights for all. UNON, Nairobi.

Furthermore, alongside the legal framework, land administration systems are the main instrument of land policy administration.

They include organizations and procedures for the survey, demarcation and mapping of land, recording of land rights and transactions, provision of documentary evidence of land rights, as well as resolution of land disputes and competing claims. Land administration systems are generally managed by specialist formal land institutions established by government. The responsibilities for land allocation, documentation and the management of rights however, can be devolved to local, community or customary bodies, and some services may even be delivered by the private sector¹⁹.

In order to bring about good land governance and administrative practice, however, land administration must follow similar principles to those mentioned above under governance. That is, land administration systems must, for example, be transparent, operate on principles of fairness and equity, must include accountability and monitoring processes and must engage with and reflect the needs of the public.

On the other hand, if good governance is not practiced in land administration, the consequences are an inefficient, unfair and ultimately unworkable system which tends to impact most on the poor and vulnerable. Some of the effects of weak governance in land administration are discussed below.

1.3.3.2 THE EFFECTS OF WEAK GOVERNANCE IN LAND ADMINISTRATION

As suggested above, transparency in land administration is essential in land administration because of the important effect it has in ensuring an effective, efficient, user friendly and accountable administrative system. The opposite of a transparent system is one where the quality of administration is poor, the outcomes for stakeholders unsatisfactory and unfair and where corruption is rife.

While good land governance promotes equitable access to land ensures security of tenure, weak land governance undermines the tenets of a robust land administrations system. Significantly, weak governance undermines vulnerable individuals and groups by threatening the land rights of the poor

Weak governance undermines vulnerable individuals and groups by threatening the land rights of the poor and the vulnerable. Weak land governance may also mean that land is not used appropriately to create wealth for the broader benefit of society and to manage the environment in a sustainable manner, in which case, everyone in the community and indeed, broader society loses.

and the vulnerable. Weak land governance may also mean that land is not used appropriately to create wealth for the broader benefit of society and to manage the environment in a sustainable manner, in which case, everyone in the community and indeed, broader society loses. Inefficient and ineffective land administration resulting from weak governance can therefore be a huge constraint on development and on the eradication of poverty.

¹⁹ P.31. UN-Habitat/GLTN (2008) *ibid*.

How does weak governance come about then?

Weak governance tends to flourish where the law is complex, inconsistent or obsolete and where there is poor leadership and little effort to develop individual and institutional capacities. For example, fragmented institutional arrangements, ambiguous laws and weak judiciary aggravate the situation. Land administration may also suffer from a lack of transparency and accountability as a result of confusing regulatory frameworks and complex administrative processes. In this context, the land administration environment lacks the necessary robust, ethical frameworks and instruments making the system vulnerable to corrupt practices. People who work in the field of land administration might therefore engage in corrupt practices (FAO, 2007).

The consequences of weak land governance are far-reaching and many. The Food and Agricultural Organization (2007) summarises the impacts from weak land governance as the following:

- **Poverty and social exclusion:** weak governance affects the poor and vulnerable groups in

particular. The poor are generally not able to pay for legal protection to defend their rights to land. They may not even know their rights or how to defend them because of illiteracy or marginalization caused by other factors.

Weak Governance may promote inequality between genders, as poor women tend to be less literate and have fewer resources.

- **Constraints on economic development:** weak governance and corruption restrict development, increase risks and thus reduce incentives for investment, saving and entrepreneurship.
- **Environmental degradation:** poor management of state land, including national parks and water reserves due to abuse and degradation.
- **Reduced public revenue:** people may evade taxes by making informal payments to get lower tax assessments. Valuations of properties for tax purposes may be deliberately understated to lower the tax burden. Forged sales values reduce taxes on property transfers.
- **Tenure insecurity:** weak governance reduces security of tenure.
- **Land disputes:** weak governance leads to disputes in relation to land providing opportunities for the powerful to claim the land of others. Sometimes even the state becomes a negative actor in these circumstances.
- **Negative social behaviour:** corrupt behaviour has a broad corrosive effect on the general society's ethics and norms of social behaviour (community, government, public and private sectors). The norms and values of a society become adjusted to the notion that corruption is 'normal' and even 'necessary' - that the only way to gain and improve one's living standard or work position is to perhaps pay someone to help you.
- **Abuse of compulsory purchase:** Large infrastructure projects (e.g. roads, railways, pipelines) may require land from many landowners. Weak Governance may prevent people from receiving fair or prompt compensation.

BOX 9: CORRUPTION IN LAND GOVERNANCE IN BANGLADESH**Individual Corruption**

According to the Transparency International Bangladesh National Household Survey 2007, more than half of the households that had dealings with land administration experienced corruption. Bribes were paid for allotment of land as well as registration of land and land tax. According to the Asia Human Rights Commission 2008, there are examples of the police forcefully harassing people to give up their land in order to assist land grabbers.

Business Corruption

Property rights are legally safeguarded, but problems remain in practice, especially in the rural areas. Claiming property rights can be difficult due to corruption. Solicitation of bribes is widespread in the buying, selling and surveying of land. According to World Bank & International Finance Corporation (IFC) in Doing Business 2009, registering property requires a company to go through an average of 8 administrative procedures which take

an average of 245 days and cost 10% of the property value. According to the Transparency International Bangladesh National Household Survey 2007 on Corruption in Bangladesh 2008:

Of all household respondents who were involved with the land administration, 53% reported having had to pay bribes, of which the average is BDT 4,409.

In connection with allotment of land the average size of a bribe amounts to BDT 5,680. In connection with registration, the average size of a bribe amounts to BDT 4,237.

In connection with having a land survey conducted, the average size of a bribe was BDT 3,857.

In connection with selling and buying of land, the average size of a bribe is BDT 1,857.

In connection with assessment of land tax, the average size of a bribe was BDT 1,170.

Registries of property are inadequate and unreliable. Parties avoid registering various

land and property-related issues because of the high stamp duties and other charges. Land surveyors typically solicit the bribes directly.

Political Corruption

According to the Transparency International Global Corruption Report 2008, it is not uncommon that powerful and influential people can easily get a court injunction on illegally squatted land. Business people and government officials - especially officials from the Capital Development Authorities - have been known to collude to illegally obtain protected land and use it for construction purposes. These land plots are on lake shores and river banks, thereby threatening the environment, water supply and drainage in the cities etc.

Source: Adapted from Business Anti-Corruption Portal; <http://www.business-anti-corruption.com/en/country-profiles/south-asia/bangladesh/corruption-levels/land-administration/> Accessed on 9/11/2011

The Business Anti-corruption Portal²⁰ develops corruption country profiles based on research by Transparency International, international finance institutions (like International Finance Corporation (IFC) and from other relevant sources. All data are based on public sources and are available free of charge. Boxes 9 and 10 highlight a number of examples of land corruption in different countries.

Perhaps one of the biggest factors affecting transparency in the land sector is the over complexity of organizations and institutions. Complex systems are almost always problematic and often characterise organizations where land administration systems are weak or dysfunctional. In the land sector, weak and dysfunctional organizations are often due to a range of key issues and it is important to understand their nature and how they impede transparency. Outlined below are some examples of poor land administration practice that result in complex and opaque land administration.

BOX 10: THE IMPACT OF CORRUPTION IN BHUTAN

Business corruption: Some regions are experiencing increasing levels of corruption and scams in relation to land transactions, organised around networks including land owners, public officials and court officials. The price of land is inflated and 'profits' shared among members of the networks. Some of the people responsible for these scams have received prison sentences, according to several 2007 news articles by Kuensel Online.

Political Corruption: The Royal Audit Authority's Annual Audit Report 2009 reveals the total unresolved irregularities involving fraud, corruption, embezzlement and mismanagement in the National Land Commission amounted to BTN 1.036 million in 2009 alone.

Frequency: The World Bank & IFC: Doing Business 2011:- A company must go through

5 administrative steps over 64 days to register property. Furthermore it is free to register property in Bhutan. Anti-Corruption Commission: Case Details Year 2007: - 2 out of the 16 corruption cases reported to the ACC in 2007 concerned land administration. Anti-Corruption Commission: Corruption Perception Survey 2007: - 4% of the Bhutanese surveyed report that bribery in the form of cash is involved in the land transaction services.

Source: Business Anti-Corruption Portal. (2011). Bhutan Country Profile. At <http://www.business-anti-corruption.com/en/country-profiles/south-asia/bhutan/corruption-levels/land-administration/> Accessed on 9/11/2011.

²⁰ Business Anti-Corruption Portal;
http://www.business-anti-corruption.com/fileadmin/user_upload/pdf/Fact_Sheet.pdf

1.3.3.3 EXAMPLES OF POOR LAND ADMINISTRATION PRACTICE

Outlined below are some of the 'typical' examples of problems and issues that characterize weak land administration systems including:

- Poorly designed or implemented legislation:**
 The impact of poor legal frameworks and legislation has a dramatic effect on land administration because it has a ripple effect down the administrative line. It essentially translates into a cumbersome, blocked and corrupt system. An example of how the systems across countries compare is highlighted in Box 11.

The box outlines a World Bank Report highlighting some of the administrative processes involved in land administration and how they impact on the basic business of registering land.

Table 1 highlights the impacts of cumbersome procedures in terms of the time and paperwork involved to register property in different parts of the world. In some areas, the number of procedures are high (i.e. Latin America and the Caribbean) and in

other areas of the world, the days to register a property are high (East Asia and the Pacific) while the percentage cost of registering a property compared to the property value is low (Eastern Europe and Central Asia).

BOX 11: LAND REGISTRATION; 'THE GOOD AND THE BAD'

The World Bank Doing Business Report for 2009 gives some indication of the good and bad practices in the registration of land. Africa is not faring very well. Some of the data are presented below; registration of land. Africa is not faring very well. Some of the data are presented below;

a. Number of procedures in land registration

Norway	1	Swaziland	11
Sweden	1	Eritrea	12
Bahrain	2	Ethiopia	13
Georgia	2	Liberia	13
Netherlands	2	Uganda	13
Thailand	2	Algeria	14
Oman	2	Nigeria	14

b. Number of days it takes to register a Document

New Zealand	2	Togo	295
Thailand	2	Rwanda	315
Sweden	2	Angola	334
Georgia	3	The Gambia	371

Source: http://www.doingbusiness.org/documents/fullreport/2009/Registering_Property.pdf

Table 1: Summary data on registering property around the world

REGIONS	PROCEDURES	DAYS TO REGISTER PROPERTY	COST AS % OF THE PROPERTY VALUE
East Asia and the Pacific	5	81	4.1
Eastern Europe and Central Asia	6	33	2.8
Latin America and Caribbean	66	5.9	
Middle East and North Africa	6	34	5.8
OECD High Income	5	31	4.4
	6	103	7.3
Sub Saharan Africa	6	65	9.4

Source: World Bank the Cost of Doing Business Survey (2012). Summary Date on Registering Properties.
At [http://www.doingbusiness.org/data/exploretopics/registering property](http://www.doingbusiness.org/data/exploretopics/registering%20property)

- **Unclear or overlapping/duplicated mandates:** agencies in the land sector tend to have overlapping mandates which confuses the public who are then never sure which agency should carry out a particular activity. Sometimes the confusion is due to deficiencies in the laws under which organizations are established. Mandates are

not clearly defined and there is often a multiplicity of laws which inadvertently creates overlapping mandates. In some cases, organizations try to 'expand' their given mandates to include other areas they deem 'attractive' (i.e. there might be more funding attached to a particular issue which interests departmental heads).

As a result, a number of organizations end up dealing with the one issue, which is confusing to the general public. Each one claims to be the 'right' organization to manage that particular issue and tries to protect its 'turf'.



Residential housing in Cuba, Cuba. Photo © UN-Habitat.

Box 12 below outlines an example of the impact of 'overlapping mandates' in relation to many countries around the world.

BOX 12: UNCLEAR OR OVERLAPPING MANDATES

A UNCHS report on Zambia has suggested that there is significant confusion in government land departments. Tasks are uncoordinated due to overlapping mandates and roles unclear. A key aspect of any reform must be the creation of well-defined mandates and lines of responsibility among institutions involved in implementing and administering land and housing programmes.

Source: Land Tenure Housing rights and Gender in Zambia, UNCHS, 2005, p. 43

A United Nations Report on Angola in 2003 says that the government's efforts to finalise the second draft of its controversial land bill have been a slow process because of the institutional setup. There are a range of ministries involved in land issues who appear to have overlapping mandates. Furthermore, most lack the institutional capacity to effectively make lines of responsibility clearer so that the Bill can be passed through parliament.

Source: IRIN: Angola: Special Report on Land Rights: UN Office for the Coordination of Humanitarian Affairs, 2003

- **Complex organizational structures and Institutions:** in many countries, the structures developed to manage land issues are often not complex, cumbersome and reflect a lack of sound administrative structures to deal effectively with information. These weaknesses, together with a culture of poor ethical conduct, result in self

serving systems and practices. In some cases the physical location of the various institutions and agencies dealing in land may be far away from each other. The disparate nature of the departments combined with an unethical bureaucratic culture, creates conditions for corruption.

As the public follow a single transaction and move from one location to the other, with its attendant expense in time and money, the arrangement also affords officials the opportunity to 'offer' to speed things up for people for a payment. On the other hand, in some countries, land transactions can only be conducted in the capital city or in the provincial capitals at a central location. Even though some cases could be dealt with in the locality where the land situated, more often than not, people are forced to go to the capital or the provincial city.

The effect of this centralized process also creates vulnerabilities in the system. As people from all parts of the country and provinces converge on the capital to transact their land business, pressure is created at the office and a backlog of work emerges creating the opportunity for corrupt officials to exploit the situation to their benefit.

Figure 3 on page 36 shows the situation of land departments in Ghana and highlights the complex nature of the structure from the general public's viewpoint. Until December of 2009, the land administration system in Ghana was divided among six independent agencies within three Ministries and often the person legalising the land documents had

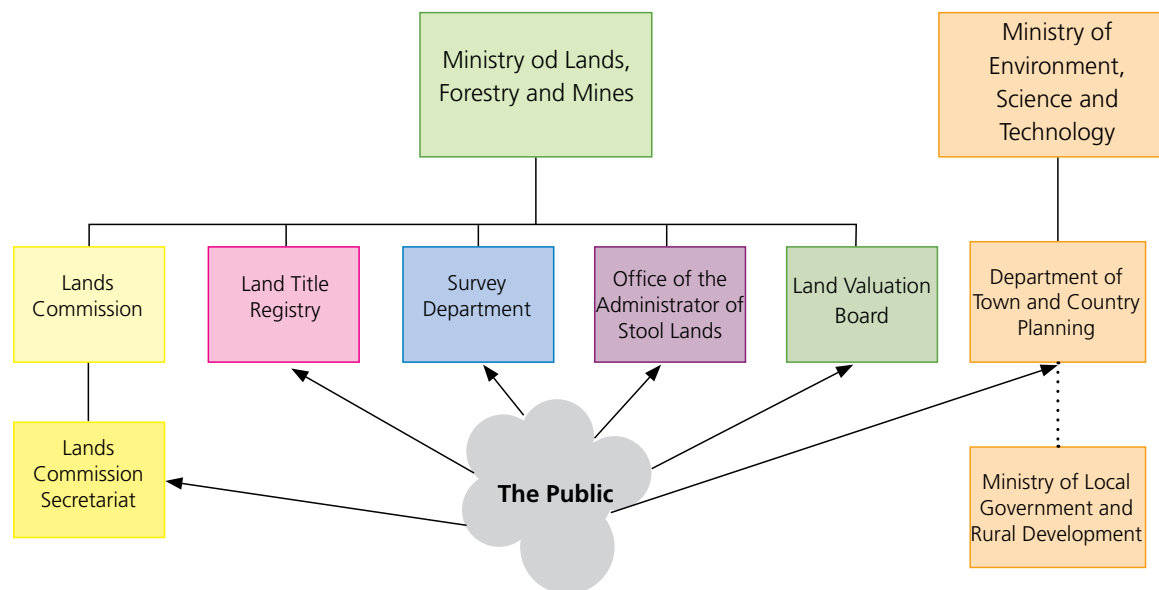


Figure 3: Ghana's Land Administration Project (LAP)

Source: Dr. Isaac Bonus KARIKARI, Ghana's Land Administration Project (LAP) and Land Information Systems (LIS) Implementation: The Issues FIG Article of the month, Feb, 2006. At <http://www.fig.net.sedb/statistics.htm>

to deal with all of organizations. The diagram shows six independent agencies, three ministries, five under the Ministry of Lands, Forestry and Mines; Ministry of Environment supervises Town and Country Planning at National/Policy level, Ministry of Local Government at Local/Implementation level.

Box 13 on the right describes the current capacity of the land administration in Kenya according the Non-government organization 'Africa Women and Child'.

BOX 13: THE IMPACT OF POOR LAND ADMINISTRATION SYSTEMS IN KENYA

The current arrangements of land rights delivery in Kenya based on demarcation, surveying, titling and registration are inappropriate and unable to supply adequate serviced land with security of tenure to the required scale and at an affordable cost. Furthermore the land allocation process is haphazard, expensive, too lengthy, and cumbersome, littered with bureaucratic red tape and time consuming and cannot afford the majority of the Kenyans access to land. This unsatisfactory land rights delivery system is caused by land speculation, unprofessional practices by allocation personnel, corruption, political interference, excess powers of those mandated to manage land, and the organization of the land registries, particularly retrieval of necessary information which is an important component in the operation of land market.

Source: Olima, W, University of Nairobi for African Women and Child Feature Service website report on Expert Analysis on Land Administration and Land Rights in Kenya. Accessed on 4/11/2001 at <http://www.awcfs.org/new/programmes/media-a-gender-justice/36-land-reform/264-land-administration-and-land-rights-delivery-in-kenya?showall=1>

- **Incorrect or inadequate information (flows):** in many countries, a major cause of organizational failure in the land sector is due to the poor infrastructure for information dissemination. Often, the general public does not know the correct procedures to be followed in particular situations because the organization has not made any effort to explain its procedures to the public. The effect is that corrupt officials take advantage of the information gaps to exploit the ignorance of their public. Compounding the situation is that even within the organization itself, some units may not know of changes that have taken place in administrative procedures or processes. Many land departments and subsequently staff, do not have the required tools or capacity to improve the flow of information.
- **Inappropriate administrative procedures:** the administrative structures and procedures developed for land transactions may not only be complex, but they may also be inappropriate and in effect, not serve the interests of the public (though they very often serve the purposes of the organizations concerned). Sometimes within the same organization, similar activities may be performed

by more than one official and customers often find themselves filling out the same form for different people.

- **Inadequate civil service capacity:** the lack of staff and their institutional capacity also engenders poor performance and corruption in land administration. Land offices are often understaffed and combined with poor administrative systems; staff are therefore overwhelmed with work. This scenario gives rise to some staff 'picking and choosing' the clients they serve – usually those with the ability to make extra payments beyond the official ones. Inadequate staff also means that the public may be inclined to believe that they must 'show gratitude' to those officers who grant them the 'favour' of their services. Inadequate human capacity could also be expressed in terms of the quality of the staff operating in the organizations. Many developing countries for example, often lack staff with the requisite qualifications in land administration and management (partly because those that get the jobs are often not the most qualified but have relatives already in the organization). Limited staff capacity therefore

compounds the deficiencies of the organizations as the staff can barely interpret the laws and apply the regulations with understanding and thoroughness. Box 14 below highlights the limited range of Training centres in Africa specializing specifically in land.

BOX 14: LAND PROFESSIONAL'S TRAINING FACILITIES IN AFRICA

Data on the number of trained land professionals in Africa is hard to come by but the International Federation of Surveyors (FIG) the international umbrella body for land professionals lists only 13 countries in Africa which have institutions of learning training land professionals. These are:

Botswana	Burkina Faso
Egypt	Ethiopia
Ghana	Kenya
Malawi	Morocco
Nigeria	Nigeria
South Africa	Tanzania
Zambia	Zimbabwe

Source: International Federation of Surveyors at <http://www.fig.net.sedb/statistics.htm>. 2010

1.3.4 BENEFITS OF GOOD LAND GOVERNANCE

Both literature and research make clear that good governance has a profound effect on setting the tone of positive behaviour, promoting good government and thus a productive land administration system. It affects both formal codes and processes and also informal norms and domestic life. Good governance can help:

Good governance has a profound effect on setting the tone of positive behaviour, promoting good government and thus a productive land administration system.

- Provide the fundamental framework for achieving a fair and just land administration system to manage land and thus improve overall social and economic justice across a society in general (FAO, 2007).
- Ensure that access for all is enshrined in law and policies and in everyday life through public service charters and clear complaints mechanisms.
- Recognise people's differences and protects the rights of those most vulnerable (especially women, the elderly and indigenous groups for example).
- Create a broader culture of respect, honesty and trust which means people tend to be more tolerant and law abiding with benefits to a broad range of stakeholders.
- Support efforts to increase land professionals capacity, especially those working in government. Good governance requires that staff are able to do their jobs. That is, they are knowledgeable, honest, efficient and have the right tools and resources to undertake their work.
- Support efforts for land administrative departments and offices to be properly equipped with the right tools and resources. Good governance requires that in order to provide a fair and efficient system, the right land information management tools and technologies are utilised. The results are that work capacity is improved and increased but also transparency for other key stakeholders improved.

Good governance in the land sector is therefore vital for fair and effective land administration systems to operate.

In sum then, good governance in the land sector is therefore vital for fair and effective land administration systems to operate as it leads to:

- Better protection of the poor from illegitimate evictions;
- Just resolution of land disputes;
- Bringing the rule of law within the reach of the poor;
- Reduction of bribery and fraud;
- More equitable access to land;
- Providing incentives for investment;
- The state benefiting from land revenues;
- Creating incentives for land owners to use their land in a suitable manner;
- Requiring that land offices and departments have the right tools and resources to manage information and deliver appropriate services; and
- Requiring that those working in land departments and offices are properly trained and have the right tools and resources (and ongoing training) to undertake their work.

The benefits from good Land Governance are presented in Table 2 below.

Table 2: The Benefits of Good Governance in Land Administration

FOR ECONOMIC GROWTH AND JOB OPPORTUNITIES	Good governance in land registration and state land management increases land tenure security, reduces conflicts, decreases transaction costs and therefore provides incentives for private sector investment.
FOR THE POOR	Good governance in land administration favours inclusiveness: it brings the rule of law within the reach of the poor. Transparent state land management, as well as equal, cheap and fast access to land registration services, legal aid and a diversity of options providing tenure security all improve poor peoples' access to land, protect them from illegitimate evictions and improve their status and position within society.
FOR THE ENVIRONMENT	Tenure security resulting from good governance creates a long-term perspective, and therefore an incentive for landowners to use their land in a sustainable manner. Transparent state land management, combined with people's participation, helps protect the environment, because there will be fewer illegal transfers of state land in environmentally sensitive areas.
FOR THE PUBLIC MANAGEMENT SECTOR	Weak governance and corruption in land administration lead to a high percentage of land transactions being done informally; Good governance can bring land transfers back into the formal market. This will allow the state to benefit from land taxation and to better prepare and enforce land use plans. Good Governance also protects state assets from illegal exploitation and sale.
FOR CONFLICT PREVENTION AND RESOLUTION	Through good governance in land administration, conflicts over property rights that are due to bribery and fraud can be avoided. Free from corruption, courts can deliver just resolutions of land disputes.
FOR INDIVIDUAL CITIZENS AND SOCIETY AS A WHOLE	Because good governance increases tenure security and reduces land conflicts, citizens feel more secure. Citizens are more likely to adopt good behaviours and gain more confidence in each other, the state and institutions if good governance is practised. It is fundamental to sustaining social and political stability.

Source: (Zakout W., Wehrmann B., Törhönen M-P.; 2006)

²¹ Transparency International; Frequently Asked Questions; http://www.transparency.org/news_room/faq/corruption_fa

1.3.5 LAND ADMINISTRATION AND TRANSPARENCY

As discussed above, transparency is about acting openly, understandably and predictably. It refers to the openness, consistency and accountability of administrative systems. It is the principle that allows those affected by administrative decisions and business transactions to know the basic facts

Transparency is about acting openly, understandably and predictably. It refers to the openness, consistency and accountability of administrative systems.

and figures as well as what specific mechanisms and processes have taken place that account for any outcomes. The literature on transparency argues that if facts and figures are to be known, processes and procedures are to be clarified, civil servants, managers and community trustees need to act visibly, predictably and understandably.²¹ Transparency then can be summarised as containing and representing the following key elements:

- Having a culture of sharing information and acting in an open manner;

If facts and figures are to be known and processes accountable, it is the duty of civil servants, managers and trustees to act visibly, predictably and understandably.

- Understanding that it is an essential element of an ethical process (fair process); and
- Fundamental in representing basic rights, that is, people's right to receive information and to participate in decisions affecting their lives.

Transparency is a key instrument that must therefore be in place to ensure an accountable and fair land administrative system. Further, if land administration systems and offices are run in a 'transparent manner', many of the issues arising from weak land governance can be managed and more importantly, prevented.

Transparency is not just about governmental action alone however. It cuts across all segments of society including, the private sector and civil society. The same principle applies in the land sector. Introducing or having transparency as an aspect of 'good land governance' therefore needs changes at all levels of government, society and sectors dealing with land. It requires a new mindset and strong resolve to do things differently across all sectors.

Further, it should be noted that there is not one 'template' to bring about transparency in land administration. Rather, there are a range of generic tools that can be used to improve both specific and system wide challenges. The extent to which these tools would be effective in addressing challenges very much depends on the way they are domesticated to make them fit local realities.

Transparency is not just about governmental action alone however. It cuts across all segments of society including, the private sector and civil society.

1.3.6 WHAT SHOULD BE MADE TRANSPARENT IN LAND ADMINISTRATION SYSTEMS?

Once the desire or the commitment to make land administration better through transparency is established, the next item on the agenda is to figure as to what should be made transparent? The following list provides examples of the items that must be transparent to ensure an open and functional land administration system.

- **Policy, laws, acts, regulations, charters, codes, rules:** should be publicly available; statutory instruments that govern Land Administration should be comprehensible.
- **Structural transparency:** organizational set-ups, tiers of decision making, etc. Ministries organizations, organizational units (e.g., departments, sections). Reference: Adpated from 1) Vitosha Research / Coalition (2000). Measuring and Monitoring Levels of Corruption in Bulgaria and South East Europe 2) Extractive Industry Transparency Initiative Various Writings
- **Functional transparency:** within organizations, it is vital to ask a series of questions such as: Who specifically does what and why? How are those tasks connected and integrated so that duplication is minimised? Where are the points of decision making and importantly, accountability Who is responsible for technical matters such as who processes applications? Such questions are vitally important as they enable better administrative processes are developed for efficient administration and also so that customers know who is responsible for decision making, service provision; and thus where their individual needs (and potential complaints) can be genuinely addressed.

- **Processes and procedures:** process steps that need to be taken, time required to complete processes, documents required, means of access including routes of appeal for example.
- **Facilities and offices:** locations of service provision and the manner in which they are accessed ;periodic tours and ‘open house’ opportunities to customers should be held periodically to facilitate familiarity with and openness of the service.
- **Data/information:** providing understandable and accessible information presented in a way that can reach a wide range of stakeholders (so recognising the range of ways stakeholders need and understand information considering literacy, access to technology for example), ensuring that data/operating information that is collected is systematically and effectively processed, and acted upon (land rights allocated, converted, leased, titled; value of land; use of land; tax rates, etc). Using modern technology to manage the data and information coming into the land office/department.

An example of how curbing corruption might be improved via good governance and improved administrative systems is given in Box 15.

BOX 15: MEASURES TO CURB CORRUPTION IN LAND GOVERNANCE (KOSOVO)

Kosovo has a range of challenges facing its land administration system. According to Transparency International, Kosovo might consider the following options:

- **Reform the cadastre system** – improve the system, ensure all key stakeholders have access to it (which could be assisted by an e-cadastre system).
- **Reform the adjudication system** – improve relationships and processes between local, national and international stakeholders police, local courts, European Union Missions, ensure decisions are reached and cases not left hanging, utilise European Union to monitor racial and ethnic discrimination in the system.
- **Reform the property tax system** – Centralise the current decentralised system and make the national government responsible for formal property tax collection procedures for municipalities.
- **Support the work of NGO’s in assisting Internally Displaced Person’s** – ensure safety and security for NGO’s and enable their input into land administration reforms.

Source: U4 Expert Answer: Transparency International and Anti-Corruption Resource Centre (2008). Corruption in Land Administration and Land Management in Kosovo. At <http://www.u4.no/helpdesk/helpdesk/query.cfm?id=175> Accessed 9/11/2011.

1.4 SUMMARY

This chapter has defined a range of important concepts and presented a number of principles in relation to land administration in a bid to create a common understanding and improve communication in subsequent chapters. The topics and themes have included governance, land governance, transparency, land administration, principles of good land governance and the attributes of weak and good land governance. Understanding these concepts and principles is vital to getting the most out of the transparency tools to be introduced in the ensuing chapters.

Good land governance is related directly to the economic, social, cultural and religious structures in a country and community.

The chapter also highlighted the importance of understanding a country/community context in order to grapple with transparency issues in land administration. Good land governance is related

directly to the economic, social, cultural and religious structures in a country and community. In particular, the chapter underscored the significance of understanding the formal and informal social, economic and political relations defining tenure systems and who has access to land and why.

Transparency should be the key 'modus operandi' for effective and fair land administration.

Perhaps the key feature of the chapter's discussion was the pivotal role transparency plays. Transparency provides both an ethical blueprint for a robust land administration system as well as a practical guide to the functional operations for an effective land administration system. In other words, transparency should be the key 'modus operandi' for effective and fair land administration. It encourages civic engagement and stakeholders' accountability by rendering the decision making arena more accessible and accountable. Transparency also strengthens confidence in government and public agencies, leading to building an effective land system and

ultimately trust in Land Governance. Finally, transparency provides a solid framework for ensuring that land departments have the right resources and employ the right staff to undertake the necessary work (i.e staff that are trained and qualified).

The chapter thus makes clear that if good governance principles are upheld, transparent practices such as those set out in the following chapters, have a greater chance of being promoted and of becoming integral to all land administration systems. The corollary is that if the principles and practices of transparency are not understood or followed, land administration systems remain weak, ineffective and very corrupt.

Subsequent chapters deepen the discussion on good land governance and transparency by introducing specific tools to promote transparency grouped under four themes:

- Tools to Assess Transparency in Land Administration;
- Tools to improve Access to Information & Public Participation;
- Tools to improve Professional Ethics and Integrity;
- Tools to promote Organizational and Institutional Reforms;

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ASSESSING TRANSPARENCY IN LAND ADMINISTRATION

2.1 OVERVIEW

Land administration plays a 'gate keeping' role to a resource in which the public has collectively a significant stake. Land administration is also a public service that attracts individuals who wish to be served as customers. The dual role of both helping manage a contested resource while at the same time, providing effective service is an important but often complex one - and is even more reason why sound and fair administrative practices and assessment tools must be in place.

Land administration plays a 'gate keeping' role to a resource in which the public has collectively a significant stake.

The objective of this chapter is to provide an assessment framework that can be adapted to 'measure' the depth and breadth of corruption in an agency/department and therefore, ultimately guide strategies and steps to promote transparency in land administration. The framework features both quantitative and qualitative tools that can generate diagnostic data on the state of service provision in

general and the degree of transparency in particular. The framework also considers the core functions of land administration, land corruption and assessment information indicators that can all be used to inform a successful assessment process. The chapter will specifically explore the following key topics:

- Assessment approaches for a sound land administration system including how indicators can be used;
- Benchmarking, formal surveys and citizen report cards;
- Vulnerability assessments and corruption checklists;
- Rapid Anti-corruption assessments; and
- Assessment challenges.

2.2 PURPOSE OF AN ASSESSMENT

As the Transparency International 2010 Perceptions Index graphic in the previous chapter suggested, one of the distinguishing characteristics of corruption is that it occurs, in varying degrees, in all countries regardless of the level of socio-economic development. One of the purposes of an assessment in any sector and at any level including land administration is therefore not to determine whether

The purpose of an assessment process is to determine the extent and nature of corruption including whether it is systemic or episodic; where it occurs, how and why; what forms it takes ... The dual role of both helping manage a contested resource while at the same time, providing effective service is an important but often complex one - and is even more reason why sound and fair administrative practices and assessment tools must be in place.

or not corruption exists. It can probably be assumed that it does - to some degree. Rather, the purpose of an assessment process is to determine the extent and nature of corruption including whether it is systemic or episodic; where it occurs, how and why; what forms it takes, i.e., whether it is petty or grand; and its cost implications. Further, the aim of a corruption assessment is also to determine whether or not anti-corruption strategies, programs and institutions are in place and functioning and then what new or additional strategies might be required.

So how do you prepare for an assessment?

Assessment is about getting information that can be used to design corrective and preventive measures to tackle corruption and enhance transparency. Transparency assessment in land administration can only be effective, however, to the extent that the core functions of land administration are understood and indicators that help gauge the efficacy of service provision in the sector are identified and put to use.

In order to undertake a worthwhile assessment process, it is important to understand the core functions of land administration system and the range of relevant stakeholders involved.

2.2.1 ASSESSMENT SCOPE: CORE FUNCTIONS OF LAND ADMINISTRATION

In order to undertake a worthwhile assessment process, it is important to understand the core functions of land administration system and the range of relevant stakeholders involved. The core functions of an land administration system can broadly be grouped into five functions:

- **Legal (registry) function:** definition of rights (who has what rights); rules and procedures for adjudication, registration, re-registration for example.
- **Cadastral function:** who has what rights to land are the ones who get spatial expression (i.e., where) in terms of the location. This is often realized through surveying.
- **Dispute resolution function:** administrative hearing and rulings often accomplished in quasi-legal capacity and are often subject to appeals in formal judicial organs.

- **Regulatory function:** oversight of certain activities (e.g., land use or land development control) and professional services (such as surveying, conveyancing and valuation).
- **Fiscal function:** direct and indirect activities aimed at generating and collecting revenue.

Box 16 provides details of the core functions as practiced in land agencies. Depending on the organizational arrangement that countries chose to manage land affairs, they may house these functions in a single organization or spread them across several organizations. Wherever they are, the kinds of activities on which assessment needs to focus on, are detailed below.

²² Though transparency is an issue in customary and informal systems as well, the emphasis here is.

BOX 16: CORE FUNCTIONS OF LAND ADMINISTRATION

1. Register rights and interests in land.
2. Register deeds (legal documents which actually or potential confer rights).
3. Prepare and issue title deeds/title certificates/lease certificates to those eligible; replace the same in case of loss, destruction for example:
4. Conduct valuation to calculate stamp duty, lease/auction land on behalf of government, sale of public land, purchase leasehold interests, value assets, facilitate compulsory acquisition and prepare valuation rolls for local authorities (to help them collect property tax).
5. Allocate public land (to landless poor farmers, to upgrade informal settlements, for community use, etc) and issue letters of allotment.
6. Facilitate public search of land and deeds record.
7. Facilitate conveyance of registered land rights and other land transaction (sale, inheritance, lease/rental partitions/subdivisions, exchanges, consolidations/amalgamation).
8. Prepare land-use policy and land-use development plan.
9. Prepare development (physical) plans; vet development plans to ensure compliance with planning standards (e.g., building plans with drawings prepared by qualified architects) and issue compliance certificates; monitor compliance with approved development plans, publish public notices for approved development plans.
10. Generate and collect revenue (e.g., land and / property taxes; registration, document search, transfer, land rent, surveying and fees).
11. Keep, maintain and update land and deeds records.
12. Provide and guarantee security and protection for those with rights and interests in land.
13. Initiate, amend, etc existing laws and policies to improve service delivery.
14. Register and supervise performance of land professionals: conveyancers, valuers, land surveyors, estate agents, notaries, physical planners for example.
15. Facilitate rights and interests of sectional properties (e.g. within high-rise buildings).
16. Facilitate conversion of customary land to other forms of tenure through demarcation, survey and registration.
17. Provide and guarantee security and protection for those with rights and interests in land.
18. Manage lesser and lessee relationships (extension of leases, payments of land rents, change of users for example)
19. Resolve in a quasi-judicial capacity boundary and land disputes arising from registration, valuations and land rents.
20. Undertake surveys to provide and maintain plans for property boundaries in accordance with land registration and compile /cadastral or registry index maps
21. Approve title surveys by private sector and other external parties.
22. Survey of administrative boundaries, communal lands (grazing areas, forests, etc) and other public utility land (e.g., parks).
23. Prepare plans for publicly allocated land to cater for the needs of the poor either in informal settlements or rural resettlement schemes.
24. Prepare and enforce standards of surveys for both the private and public sectors.

Source: Compilation based on review of activities of land offices (Solomon Haile)

2.2.2 ASSESSMENT SCOPE: ACTORS AND INTERESTS

There are many actors in the land sector with diverse interests that need to be considered in any assessment process. The diagram below provides a simplified

framework which portrays the major actors and institutions involved in the land sector²³. Core land actors are depicted at the centre of this diagram. These actors directly handle land issues on a regular basis either as service providers and customers, or

as legislators, dispute mediators, planners, etc. On either side of the core actors, government and the general public are shown as actors who have a stake in land matters either as collective interest holders or guardians of specific interests.



Figure 4: Actors in land sector (Solomon Haile)

²³ Institutions are the humanly devised constraints that structure human interactions. They are made up of formal constraints (rules, laws, and constitutions), informal constraints (norms of behavior, conventions and self-imposed codes of conduct) and their enforcement characteristics.

Within this fabric of interests and actors, an assessment exercise needs to, depending on the objective, direct its focus to the core actors and their interests. It is the actions (or inactions) of these actors that give rise to opaque land administration and corruption and thus must be captured, where possible, in an assessment process in order for positive change to take place.

Within the fabric of interests, actors and institutions involved in the land sector, there are a range of formal and informal 'rules' governing and affecting land matters.

It should be noted that within the fabric of interests, actors and institutions involved in the land sector,

there are a range of formal and informal 'rules' governing and affecting land matters. In essence, these 'rules' come from two different directions – land policies, formal/ informal laws and practices, customs, etc and other laws and policies (e.g., environmental policy, water law, etc) - as shown at the upper and bottom ends of the diagram respectively. Land institutions may develop a range of policies, laws as well as have diverse customs that they follow. All these factors intersect and have a direct bearing on the transparency of land administration. As such, it is these relationships that an effective assessment needs to consider and capture to inform a process of change.

2.2.3 ASSESSMENT SCOPE: LEVELS OF INQUIRY AND ANALYSIS

An assessment can be undertaken at a range of levels depending on its objectives and a other factors that affect its scope, design and implementation. Chief among these are the resources available to undertake assessment and the kind of change agenda that the assessment aims to achieve. An assessment may target ministry wide land activities (which can in a centralised land administration set-up mean a country

wide inquiry) or focus on land related services of a local authority. All possible levels at which assessment exercises can be considered are shown in the diagram (Figure 5). Clearly, assessment gets more complex as one goes up the administrative tier and also begins to take on more than one government agency. Multi-sectoral assessment, be it national or local level, is, however, inevitable as land functions, in many countries, are spread over several ministries/agencies.

Identifying procedures and systems that breed corruption in land institutions is not necessarily difficult but may be 'political' and thus contentious because of the individuals or sectors that might be implicated. An assessment process must therefore consider how to collect potentially sensitive information in a thoughtful but justifiable manner. Given the sometimes difficult dynamics of investigating corruption, then, it is very important for an assessment exercise to identify and use 'recognised'

2.3 ROLE OF INDICATORS

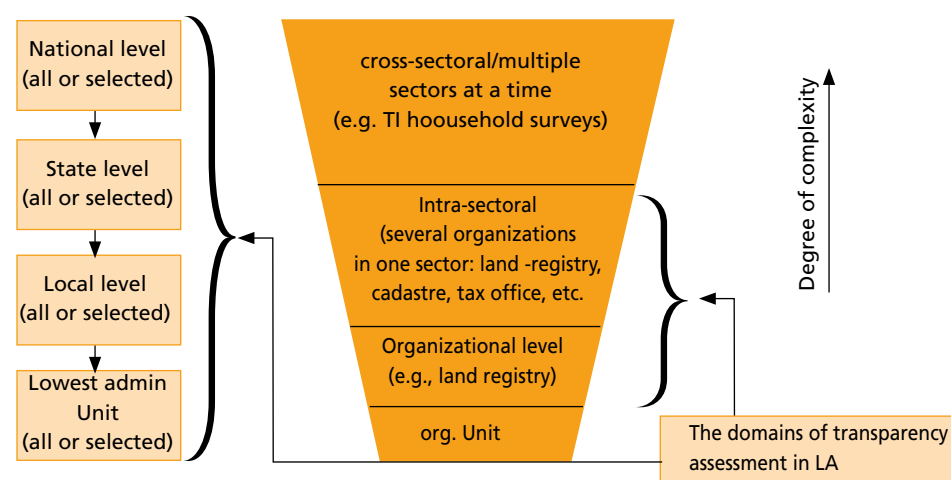


Figure 5: Levels of assessment (Solomon Haile)

indicators that can be methodologically justified (so are used widely in corruption assessment research for example).

Indicators can be very helpful in this respect. In particular, indicators help to 'depersonalise' the recording and assessment system and process. A good reading and understanding of indicators can direct the focus of assessment to geographic and service 'hot spots' for example, rather than at individuals. In doing so, interventions can be developed that will deliver the necessary changes and improvements to transparency without being linked to a specific individual or group for example (whereby no change will occur because of the resistance and discrediting of the assessment process that might occur).

Good reading and understanding of indicators can direct the focus of assessment to geographic and service 'hot spots' for example, rather than at individuals. In doing so, interventions can be developed that will deliver the necessary changes and improvements to transparency without being linked to a specific individual or group.

Indicators that may be considered in assessing land corruption can be classified into three categories:

- Indicators that directly point to land corruption (sector specific indicators);
- Indicators that provide a sense and feel of problem areas or 'hotspots' (vulnerability indicators); and
- Indicators that point to the kind of information that can be sought and generated (generic indicators).

A careful observer can, without undertaking any assessment, look around and recognise a number of indicators that point to palpable land corruption.

Sector specific indicators refer to those indicators that relate specifically to corrupt practices occurring in the land sector. A careful observer can, without undertaking any assessment, look around and recognise a number of indicators that point to palpable land corruption. Examples include:

- **Multiple titles:** these can only arise from multiple allocations or multiple sales facilitated by people in 'gate keeping' positions.

- **Conspicuous and recurrent land grabbing:** this only happens where impunity is the norm and accountability is missing.
- **Frequent land use changes and land use permits that defy both logic and technical/planning merits:** these scenarios can only be explained by inefficiency in the bureaucracy and rampant corruption.
- **Sale of public land at 'throwaway' prices:** are suspicious and are invariably accompanied by some form of 'kickback'.

In places where there is a vibrant free press, these issues are routinely reported and information will readily come to those who pay attention. In many countries however, this type of reporting does not occur or if it does, the system of governance is weak and the 'scandal' is not responded to. Ideally, these types of corruption incidents are recognised and formally reported via the public media.

Vulnerability indicators are other forms of measurement that signal 'loopholes' or a fundamental weakness in a land administration system. These indicators represent the broad identification of actual or potential problem areas. They can be indicators of

corruption, but they might also be manifestations of a dysfunctional land administration process/office/system. In any case, these indicators help identify additional 'hot spots' and thereby sharpen the focus of the assessment.

Finally, generic information indicators refer to those indicators that can be employed in any sector to assess transparency/corruption. They denote the type of information that can be gathered. To be exact, they help identify the type of questions that an assessment exercise may ask the general public (as in opinion polls) or customers of services (as in customer satisfaction surveys). As such, the utility of these indicators is not limited to land, hence, the term generic.

Box 17 on the right exhibits two types of such indicators which are most commonly used in governance and corruption measurement exercises.

BOX 17: GENERIC ASSESSMENT INFORMATION INDICATORS

Experience based indicators: these capture actual levels of victimization.

- 1) **Corrupt practices: personal involvement gauged using questions measuring the incidence of transfers made to expedite service or break the law;**
- 2) **Perception based indicators: inform assessment that relies on perceptions about corruption in society.**
- 3) **Tolerance of corrupt practices: questions that probe whether specific practices (bribe, conflict of interest, trading in influence, etc.) are acceptable for certain officials or in certain contexts**
- 4) **Perceived spread of corruption: questions about perceived levels of corruption and its 'effectiveness' in getting things done.**
- 5) **Expectations: questions about the ability and resolve of government to deal with corruption.**

Source: Vitosha Research / Coalition 2000, Measuring and Monitoring Levels of Corruption in Bulgaria and South East Europe.

Benchmarking is achieved by gathering similar sorts of information/data across a particular period and comparing the outcomes over time and against other similar organizations

In the context of an institutional analysis, indicators are used to probe whether or not anti-corruption strategies, programs, etc are in place and being practiced. Measurement tools known as Municipal Assessment Checklists and Rapid Anti-Corruption Assessment are based on a checklist approach to gauging levels of corruption ²⁴.

2.4 BENCHMARKING AND INSTITUTIONAL ASSESSMENT TOOLS

Benchmarking is often referred to as the continuous process of measuring products, services and practices against the 'toughest competitor' or those companies/organizations that are recognized as industry leaders (David T. Kearns, CEO Xerox Corp). Camp (1989) defines benchmarking as the search for industry best practices that will lead to superior performance ²⁵.

²⁴ For more information on this, refer to Tools to Support Transparency in Local Governance, UN-Habitat and Transparency International, 2004.

²⁵ Adapted from p.4. Chimhamhiwa, Dorman (2007). Benchmarking for Regional Best Practice -Comparative Evaluation of Land Administration Systems in Namibia, South Africa and Zimbabwe. FIG working paper at: http://fig.net/pub/fig2006/papers/ts60/ts60_04_chimhamhiwa_0836.pdf

Benchmarking is therefore considered an effective way of measuring change over time and ranking departments/institutions/programs according to particular criteria or against a particular industry leader. Benchmarking is achieved by gathering similar sorts of information/data across a particular period and comparing the outcomes over time and against other similar organizations for example. Its strength lies first, in the changes it reveals across time, where those changes might have occurred and why and second, in the comparative analysis that can be made if for example, a number of organizations/bodies/programs or departments are compared and thus how better performance can be achieved.

The anti-corruption toolkit developed by UNODC (2004) identifies two types of benchmarking assessment tools to help tackle corruption: The first tool aims to measure the nature and extent of corruption. It therefore produces baseline information. The second tool focuses on assessment of institutions in order to determine the degree to which institutions are affected by corruption and to set subsequent priorities (UNODC, 2004).

Both tools employ similar data capture instruments including desk reviews, surveys, focus groups, case studies and field observation among others. The important consideration in a benchmarking exercise is that similar data is collected over the same period of time so that comparisons can be legitimately undertaken. In relation to land administration, Steudler and Williamson (2002) suggest the following benefits in benchmarking land administration systems:

- Facilitating cross-country comparisons in land administration performance;
- Providing a basis for comparisons over time;
- Demonstrating strengths and weaknesses of land administration systems;
- Justifying why a country should improve its land administration system and identify areas/priorities for reform;
- Helping to draw links to other issues and sectors (financial, governance, environmental, social for example.);
- Justifying an investment to improve, and
- Monitoring improvement²⁶.

2.5 FORMAL SURVEYS

Assessment exercises based on formal surveys take many different names (urban corruption surveys, integrity surveys, service delivery surveys, etc). Except for its thematic focus (which are public services like municipal services, utilities, etc), an urban corruption survey is essentially a formal survey. Similarly, Land Administration Transparency Survey /Assessment (LATS/LATA) can be considered using formal survey methods, but targeting services and activities of land administration.

2.5.1 HOW DO FORMAL SURVEYS' WORK?

Formal surveys are by and large, opinion surveys and appear to be the most commonly used measurement tools. Formal surveys usually target sample households²⁷ to solicit perceptions and experiences about the efficacy of public services which, in the context of this toolkit, would be agencies involved in land related service provision. Perceptions and experience are gathered through structured or semi-structured questionnaires. These are then

²⁶ Steudler, D and Williamson, I (2002). A Framework for Benchmarking in land administration. FIG XX11 International Congress, Washington DC, April 2002.

²⁷ Other groups like businesses, civil society, public service, etc can, through combined approaches, also be the object of formal surveys as is the case in Governance and Anti-corruption Diagnostic Surveys of the World Bank Institute (WBI) which are often done partnering with national governments and aiming at informing national anti-corruption action plans.

aggregated and analyzed using typical statistical tools and methodologies.

Formal surveys generate primary data. Many assessments, however, require information beyond primary data. This often comes from analyses of relevant documents which may include government and civil society reports, newspaper articles, research publications, case studies, etc. A number of surveys captured in 'Mapping of Corruption and Governance Tools in Sub-Sahara Africa' show that combining survey data with information from secondary sources is a valid approach and produces a rich source of useful and verifiable information. Transparency International 'national chapters' routinely conduct household surveys in different countries. A typical example of these surveys is set out in Box 18. Some defining attributes of surveys that can be gleaned from the box are:

- Undertaking the survey regularly is vital to track changes overtime;
- Having a credible and knowledgeable lead agency: a civil society organization (for example, Transparency International Bangladesh);

BOX 18: CORRUPTION IN BANGLADESH: A HOUSEHOLD SURVEY (APRIL 2005 RESULTS)

Background: 3rd nation-wide household survey conducted by TIB. The earlier surveys were conducted in 1997 and 2002.

Highlights: The estimated annual burden on households in Bangladesh because of corruption in 9 selected sectors is Taka 6,796 crore. Incidence of corruption is highest in land administration, police and lower judiciary.

Objectives of the survey: assessing the nature and extent of corruption in public and private service delivery institutions; determining how and where corruption takes place; and assessing the cost of corruption.

Sectors covered: 9 sectors: Education, Health, Land Administration, Police, Judiciary, Electricity, Taxation, Local Government and Pension.

Methodology: Sample size: 3000 households (70% rural, 30% urban); Sampling technique: Multi-stage random sampling; Area: 55 districts; Period of data collection: 10 September to 24 October, 2004.

Interviewers: 30; Data processing: MS Access; Data analysis: SPSS.

Key Socio-economic characteristics of the respondents: Sex ratio: 67.3% Male, 32.7% Female; Monthly average income: 2560 Taka; Professional distribution: farmers, labour, business, service holder and housewives; Religion: 87.7% Muslim, 11.2% Hindu and 1.1% Christian and Buddhist.

CORRUPTION IN LAND ADMINISTRATION

97% households who bought land had to pay an average amount of 3764 taka as bribes for land registration.

88% households who (sought) mutation of their land ownership had to pay 2047 taka as bribes on an average.

85% households who collected land related documents had to pay an average amount of 961 taka as bribes.

83% households had to pay Taka 2370 taka on an average as bribes for land survey.

40% households who received Khas land had to pay Taka 9575 on an average as bribes.

BOX 18 continued

CORRUPTION IN LOWER JUDICIARY

66% plaintiff had to pay 6135 taka on an average as bribes.

64.58% accused had to pay an average amount of 7728 taka as bribes.

CORRUPTION IN THE BANKS

Public bank loans force households to wait around 108 while private banks average waiting time was 30 days.

58% household who took loan had to pay an average amount of 1975 taka as bribes.

61% households taking loans from public banks payed bribes while only 15% did for private banks.

CORRUPTION IN TAXATION

49% households who paid income tax had to pay bribes at the rate of 7487 taka.

14% households who paid transport tax had to pay 3166 taka on an average as bribes.

9% households who paid holding tax had to pay an average amount of 1538 taka as bribes.

CORRUPTION IN LOCAL GOVERNMENT

26% households who needed shalish (mediation) by elected local government reps had to pay bribes.

3% households who were enrolled for relief had to pay bribes.

39% households who received relief complained that they were given less than the allocated amount.

Cost of Corruption - bribes paid by households for 25 services received in the 9 sectors covered by the survey:

The estimated annual cost (burden) of receiving 25 categories of services from the selected 9 sectors is Taka

6,796 core. It has also been estimated that an average Bangladeshi paid Taka 485 taka per year as bribes.

Source: Transparency International Bangladesh (TIB), 2005, Corruption in Bangladesh: A Household Survey.

Recommendations

- Genuine political will of the Government and the political leaders at all levels to curb corruption.
- Set up of an Anti-corruption Commission (ACC). Enable it to function independently and effectively.
- Set up a separate judicial bench for conducting cases of corruption.
- Abolish the Official Secrets Act 1923 to ensure transparency and free flow of information.
- Appoint a sector-wise Ombudsmen as per Article 77 of the Constitution.
- Undertake effective policy reforms and institutional infrastructure to make the public service, law enforcing agencies and judiciary independent and free from political influence.
- Improve the awareness and participation of the citizens at large to strengthen a social movement against corruption nationally as well as local levels.
- Enable the media – both print and electronic – to function freely and independently to raise awareness and garner support against corruption.
- Incorporate good governance issues in the school curriculum to sensitize the future generation.

- Having a mandate to undertake the survey: affiliation with Transparency International which is an international NGO spearheading this type of effort at global level;
- Being clear with your assessment target: multi-sectoral putting nine public services under scrutiny;
- Picking the best methods within your resource context: typical survey and statistical instruments (multi-stage random sampling; Microsoft Access; SPSS);
- Presenting the findings in a clear manner: for example, outlining what public services are most seriously affected by corruption identified (in this case, for example, it is very clear where to start anti-corruption efforts); cost of corruption ascertained;
- Making a set of practical and achievable recommendations: ensuring that you propose changes and a strategic road map forward that involves, in the main, actions that are likely to bring changes, even if small at the start. Such recommendations might start from strengthening current initiatives to suggesting new reforms. Box 19 outlines the important points of developing and undertaking surveys.

Box 20 on page 59 outlines an example of a formal household survey conducted in Bangladesh. The survey tries to measure the burden born by households as a result of corruption. Note the range

of survey methods used including random household surveys, in-depth interviews and SPSS software analysis.

BOX 19: NOTES ON THE MECHANICS OF SURVEYS

- **Assessment can only take the form of a sample.**
- **Assessment cannot and shouldn't target entire populations or all customers accessing a particular land service.**
- **Rather, a sampling approach should be adopted that should be of reasonable size and well distributed, etc.**
- **Assessment may gather either quantitative or qualitative data or both. But, results are often expressed in quantitative terms (%).**
- **Both qualitative and quantitative data gathering can take traditional format (face-to-face contact with respondents or mail interview) or can be web-based.**
- **Assessment data often comes from primary sources, but document analysis – secondary sources can complement primary sources of information.**
- **Assessment team or investigators have to be trained, knowledgeable and neutral.**
- **Key informants need to be knowledgeable and if possible involved. Some assessment tools (e.g., CRC survey) can target only clients for example of land administration services.**

Source: Compiled by Solomon Haile.

2.6 CITIZEN REPORT CARD (CRC)

A citizen report card can be used as an accountability and benchmarking tool as well as a means to reveal hidden costs like bribes (ADB and ADBI, 2007). The power of a citizen report card is its utilisation of key stakeholders and the general public to undertake an assessment. In doing so, a diversity of views is more likely to be gathered as well as views that are relatively independent and less likely to be influenced by others.

The business equivalent is a customer satisfaction survey. Citizen report card is also regarded as a proxy indicator for competition. Service providers 'below par rating' are regarded as non-competitive. It should be noted, however, that citizen report cards are not opinion polls and therefore information derived from perceptions is, in this context, considered of little value (though citizen report cards do require information based on personal experience). In the case of land administration for example, only clients who have interacted with its various service providers over a given period are eligible to provide information.

When a citizen report card is used to uncover hidden costs, it brings out the nature and extent of corruption and its impact in terms of costs to the society as well as costs to the individual. In doing so, it clearly establishes the link to transparency. For example, citizen report cards have since been used as civic engagement tools to bring about better governance (e.g., Bangladesh and Ukraine, Swarnim, W. et al, 2004). In Africa, citizen report cards have been used in Tanzania, Kenya, Ethiopia for example, to gauge performance of public agencies in service delivery. In Sierra Leone, the performance of nineteen local authorities has been assessed using a citizen report card process (TI, 2007).

It is important to note that citizen report cards are not one-off efforts. They must be periodically undertaken to gauge improvements over time. Citizen report cards have a strong scientific component in regard to survey methodology and an element of 'art' with regard to using results for advocacy and reform. Though citizen report cards are often used by civil society, government agencies have also used them to diagnose the efficacy of service delivery.

Finally and importantly, the use of citizen report card's as an assessment tool requires democratic and open society where citizens are empowered and there is a vibrant civil society that engages authorities and demands reforms. Likewise, technical competence to execute surveys and advocacy activities that lead to improvements in service provision are among the prerequisites to successfully carry out an effective citizen report card.

2.6.1 HOW DO CITIZEN REPORT CARD'S WORK?

One of the essential elements in order to undertake a successful citizen report card process is to get a committed and resourced lead agency that knows the environment where an assessment may take place, can secure stakeholders trust and thus their participation. A substantive questionnaire must be designed. For example, in a land administration context, the questionnaire might be used to inquire about users' experience on the quality, efficiency and adequacy of a land administration service by targeting for example, local authorities, the land registry, and

the survey department and even some community stakeholders. Qualitative users' responses can then be aggregated to create a 'score card' that rates the performance of the three agencies (mentioned here for the purpose of illustration).

The findings are often quantitative measures of overall satisfaction and perceived levels of corruption (i.e. % of clients who paid bribes in respect to a particular service). The results are reported to stakeholders, officials and the general public and followed up to promote reforms. According to the World Bank, a citizen report card initiative is a process that goes beyond the execution of a survey. It is part 'science' – the technical aspect of running an efficient and credible survey – and part 'art' – the challenge of mobilizing an advocacy strategy that can foster debate and generate results as Figure 6 summarises.

A more detailed description of the key steps and activities required to implement citizen report cards, are given in Box 20 on page 60.

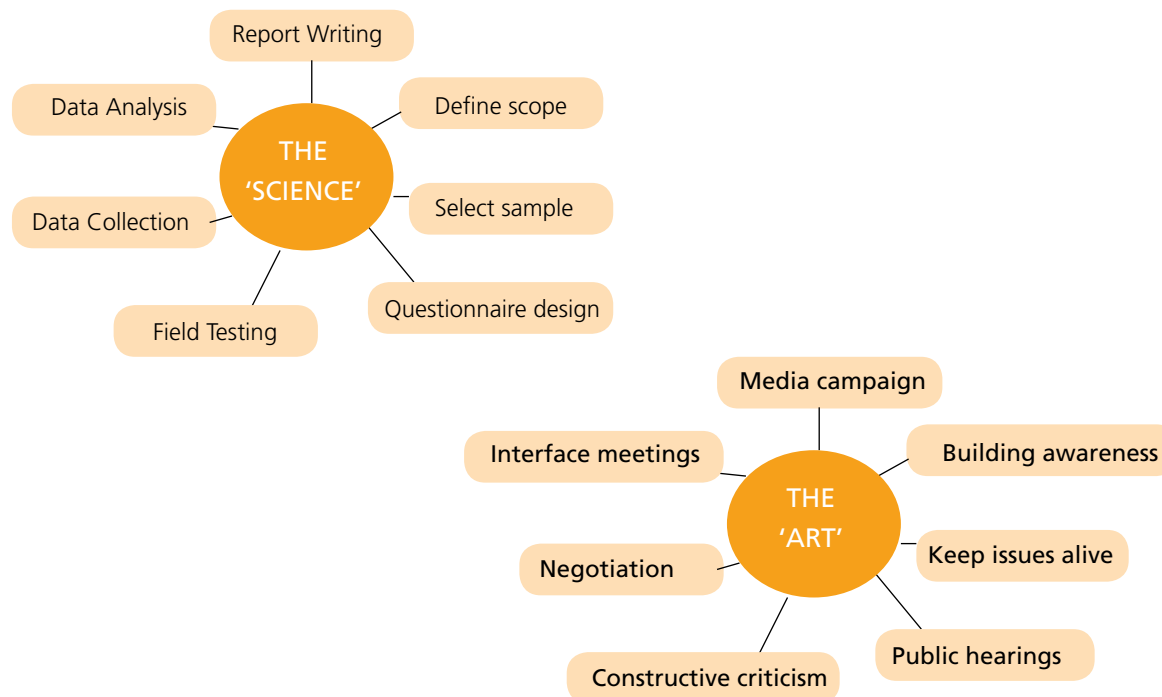


Figure 6: The Art and Science of Citizen Report Cards

Source: World Bank (2004). Social Development Notes No.91 – Citizen Report Card Surveys: a note on concepts and methodology, February. At <http://siteresources.worldbank.org/INTPCENG/1143380-1116506267488/20511066/reportcardnote.pdf>

BOX 20: KEY STAGES IN THE CRC PROCESS: A BIRD'S EYE VIEW OF THE METHODOLOGY

Stage 1: Assessment of Local Conditions

Objective: Evaluate local conditions to determine if suitable to implement a CRC and assess the skills and motivations of the proposed lead institution(s).

Expertise: Knowledge of local (city/ town/ district/ village, land issues) conditions; skills/motivations of the lead institution(s).

Output: Decision on whether to conduct Citizen Report Card and identification of a lead institution.

Stage 2: Pre-survey Groundwork

Objective: Identify the scope of the CRC including financial considerations, make preliminary implementation plans, design the questionnaire and complete the sampling design.

Expertise: Knowledge of budgeting and fund raising, of public service provision, of social science survey methodology.

Output: Statement of purpose of CRC, project budget and funding, work plan (key goals, deadlines, staffing/ outsourcing decisions), survey instrument and sampling design.

Stage 3: Conducting the Survey

Objective: Carry out an accurate survey to satisfy objectives of the CRC.

Expertise: (some of this can be outsourced) - Fieldwork management and coordination, training of investigators, interviewing and probing of respondents.

Output: Completed and quality-checked questionnaires/ survey schedules.

Stage 4: Post Survey Analysis

Objective: Determine key findings on availability, usage, satisfaction, etc.

Expertise: Data entry, analysis and interpretation and writing an analytical report.

Output: Database on service quality (from citizen feedback), analysis tables (basic frequencies, cross tabulations, etc.) and main CRC Report.

Stage 5: Dissemination of Findings

Objective: Disseminate findings to key stakeholders.

Expertise: Ability to effectively communicate (orally and in writing) with press, citizens and public service providers.

Output: (can vary) - Press conference and releases, Newspaper, TV coverage, presentation to service providers, written reports/ posters targeted for various audiences.

Stage 6: Improving Services

Objective: Use CRC findings to bring about improvements in service delivery.

Expertise: Ability to work with Community Service Organizations, media and service providers; skilled in imagining, designing and implementing improvements in service delivery.

Output (can vary) - Exchanging of best practices: workshops among service providers, awareness/dialogue campaigns: open houses, public forums, piloting of new reform.

Source: Asia Development Bank (ADB) and Asia Development Bank Institute (ADBI), 2007, Improving Local Governance and Service Delivery: Citizen Report Card Learning Tool Kit.



Photo © UN-Habitat/ Julius Mwelu

2.7 VULNERABILITY ASSESSMENT

A land orientated 'vulnerability assessment' can focus on the following: 1) whether or not the general operational environment enables corruption to occur; and 2) whether or not a particular activity (e.g., subdivision, land lease, registration of transfers, property tax payment, and official registry searches) is prone to corruption (i.e. is a 'hot spot' for corruption) (UN-Habitat, 2004).

The value of this type of inquiry is in its identification of 'vulnerable areas' or 'loopholes' within the organization. Specifically, it can show authorities areas where they need to intervene with a view to 'closing' loopholes and improve service delivery. Box 21 outlines which specific areas (activities or systems) might be vulnerable to corruption. It is a useful checklist of those areas that need particular attention in a vulnerability assessment process.

BOX 21: SYSTEMS AND ACTIVITIES PRONE TO CORRUPTION AND THUS ARE 'SOFT' INDICATORS OF CORRUPT PRACTICE

- **Administrative land allocation:** is inherently prone to arbitrary assignment of land rights and vulnerable to corruption.
- **Highly centralized systems:** are susceptible to graft: the farther the decision making point (i.e., the higher the level of centralization in LA), the higher the probability for transactions to become opaque due to lack of local accountability.
- **Traditional and customary land systems:** increasing competition for and limited supply of land is causing rising conversions of customary tenure and customary institutions often lack the means to deal with sophisticated urban and foreign investors and end up caught in corrupt practices.
- **Arbitrary Valuation approaches:** Due to the absence of, or defective national valuation guidelines/standards in many countries, and the nature of the profession (partially an art), under-valuations and overvaluations are not uncommon. Values are thus inflated or underestimated in direct proportion to the amount of kickback made available.
- **Monopoly in the financial sector:** (such as credit markets) breeds malpractice that is likely to manifest itself in a preferential supply of land finance leading to land/property market distortion.
- **High service fees:** encourage informality and semi-informality in carrying out land transactions.
- **High tax rates on land transfers:** leads to informal transfers and payments.
- **High land value:** can give encourage land grabbing (prime locations in urban and peri-urban areas, rural land suited for high value commodity production, etc).
- **Spontaneous evictions:** are usually undertaken to make way for vested interests.

BOX 21: continued

- Increasing incidences of informal/unregistered land transfers: highlight efforts to evade transfer tax.
- Increasing incidences of land conflicts: can highlight malpractices in land administration.
- Courts congested with land cases: congestion and lack of prompt justice breed corruption as people make informal transfers to jump queues. 'Buying influence' with money becomes the norm and this encourages lawlessness.
- Complex and lengthy procedures in land offices: overspread functions, complicated structures, long procedures, over-regulation encourages both overworked, under skilled and under resourced staff as well as key stakeholders (i.e. the general public) to engage in corrupt practices.
- Ambiguity in land rights laws: inconsistency between different land laws and regulations and the multiplicity of land laws permit variable interpretations and selective applications of statutes.
- Huge inequalities in land access: significant disparities between which groups of people can access and claim formal rights to land causes corruption and increases land disputes.
- Poorly monitored and implemented land use plans and controls: sanction illegal changes in land use often at a price (rezoning) which makes it difficult to detect and penalize offenders as all stakeholders often involved.
- Ambiguous land use plans: plans which provide scope for variable 'interpretation', often benefiting those at gate keeping positions, open the way for corruption.
- Absence of publicly available information: reduce the likelihood of accountability and transparency.
- Weak information management systems: encourages corruption as this tends misguide rather than inform decisions and enables information to be poorly managed, lost or found (at a price).

Source: Compiled by Solomon Haile.



2.7.1 HOW DOES A VULNERABILITY ASSESSMENT WORK?

Typically, operationalising a vulnerability assessment involves framing a series of questions from which the structures and processes of land agencies can be analysed. An analysis of the responses usually provides clear insights into the areas of vulnerability as well as indicates which remedies/actions might reduce the risk of corruption in the future. Identifying vulnerabilities can be assisted by prior knowledge of the current systems' weaknesses. These provide clues and suggest 'hotspot' areas (procedures and practices) that are likely to breed corruption and which should be targeted for reforms. It is important to note that a successful vulnerability assessment is quite intensive in terms of labour and time as it requires field visits, discussions, analysis and time for strategic planning as a result of the assessment. Box 22 below outlines a vulnerability assessment process undertaken in Zambia, the scope of research undertaken to achieve the assessment and the interesting range of material that was gathered.

BOX 22: LAND CORRUPTION UNCOVERED VIA COMBINED MEASUREMENTS TOOLS (ZAMBIA)

There is little reliable quantitative data on how land-ownership in the Zambia has changed since land market reforms were introduced. There are also few systematic assessments of the impact of the land reform at a local level. To gain an understanding of land administration at the central level and to place the Land Act in its historical and political context, an assessment process was undertaken that began in the capital city with interviews of government officials, current and former politicians, academics, land lawyers, surveyors, members of the donor community and civil society activists.

These interviews, along with primary and secondary sources such as contemporary and archival newspaper articles, case studies compiled by the country's Land Alliance and other civil society organizations, and published and unpublished field studies, highlighted a number of 'hot spots' where conflicts over the conversion of customary land to leasehold tenure were particularly virulent. Field trips were made to seven of these 'hot spots' to gather specific case studies and to gain an understanding of the specific social, political and economic context in which contestation over land was taking place. At each field site, structured and semi-structured interviews were undertaken with district-level officials, chiefs, headmen, local and outside investors, those embroiled in land disputes, small holders of titled land and customary rights holders. These interviews were supported by direct observation and participatory research methods. Below are a few key findings:

- Chief Sasako Kubanja (name changed) granted a long-resident safari guide ten hectares along the Rib River (name changed). Shortly afterwards the safari guide sold the land for \$70,000.

In another case, an investor was able to acquire even more land from the chief. Once he had the title, the investor returned to his home town where he sold the title for \$200,000. In both cases, the chief was led to believe that these particular individuals were investing for the long term and thought that he was granting them the use, but not the ownership, of these lands.

- When making any request to a chief, villagers and outsiders are expected to offer an honorarium – often a bag of sugar, maize meal, or a small amount of cash. In some cases involving requests for land conversions, however, this courtesy has mutated to the extent that recent ‘facilitation’ payments to secure a chief’s letter of approval have included new palaces, vehicles, or cash. Several chiefs in the south, for instance, have acquired new four-wheel drive vehicles from investors in the past few years. In another example, the palace of one of the chief’s wives on the outskirts of the capital is currently being rebuilt; courtesy of one of the new investors in her area.
- Lack of capacity coupled with hierarchical decision-making (e.g. all leases must be approved by the central government) has created bottlenecks and backlogs. In 1998, the backlog of land applications was estimated to be 30,000 – a figure that the land sector officials concur has not declined in the years since. This backlog of applications has created a strong incentive for applicants to look for informal ways to expedite the registration process and jump the queue.

Source: Taylor, B (no date). Contestation, confusion and corruption: Market-based land reform in Zambia. Oxfam. At http://www.oxfam.org.uk/resources/learning/landrights/downloads/market_based_land_reform_zambia.pdf

2.8 RAPID ANTI-CORRUPTION ASSESSMENT

Rapid anti-corruption assessments are essentially a checklist based tool recently developed for use by USAID missions worldwide. The tool has been tested in many countries around the world and results obtained have been used to make cross country comparisons. The premise behind this tool is the realization that an objective assessment of corruption is difficult. The approach thus opts for ‘rapid’ or less lengthy and potentially contentious assessment process by using a checklist to see if adequate formal structures and processes are in place that help reduce the incidence and possibility of corruption. The assessment might review anti-corruption laws, institutions, and programs that are in place and how these are working. The goal is then to design and implement programs that could mitigate corruption.

It is felt that this style of approach is quicker, potentially less threatening and one that is ‘future-oriented’. Similar to vulnerability assessments however, undertaking the checklist process requires a knowledgeable respondent (s) who is/are well-

acquainted with the legal and policy regimes both at relevant organizations and macro (country) levels. Implementation has demonstrated that relying on a single informant can prove difficult. In such a situation, information gathering exercises have tended to rely on a group of informants rather than an individual.

The United Nations Office on Drug and Crime employs a similar tool called 'Assessment of Institutional Capabilities and Responses to Corruption' which has been mentioned at the beginning of this section. The Rapid Anti-Corruption Assessment tool is very much similar to vulnerability assessment except that it takes a more comprehensive scan of the anti-corruption legal and the policy environment.

2.8.1 HOW DOES AN ANTI-CORRUPTION ASSESSMENT WORK?

The checklist has five major areas in which anti-corruption institutions and actors are clustered. The legal environment is for instance one such cluster and brings into its fold a list of relevant anti-corruption

instruments like criminal code, conflict of interest code, freedom of information act, sunshine law, asset disclosure law, whistle blower protection law for example. Under each one of these, questions that probe the enactment and enforcement and/or implementation status of the instruments are framed and posed to expert informants. The questions solicit 'yes' or 'no' answers or a subjective rating on an arbitrary scale that may range from 1 to 4 (1 denotes a complete lack of understanding while 4 indicates full understanding) or from a scale expressed as 'not understood' to 'well-understood'. A score is then calculated for each major area that ranges between 1 and 5. The scores of the 5 major areas are averaged to provide a country score which resembles the CPI of Transparency International. The tool can possibly be simplified to meet requirements at the sector level and employed to check if institutions needed to combat land corruption, for example, are in place and being enforced.

The tool's strength is its capacity to be simple and cheap and relatively time efficient. As long as an appropriate checklist is in place, an expert informant

can provide all the information the assessment requires. The drawback of this tool is that it does not generate 'baseline information' on the nature and extent of corruption nor is the information cross checked via qualitative research (such as via interviews and field site visits as in a vulnerability assessment). The approach is also vulnerable to 'subjective' results as some questions can trigger different answers from different respondents. Form 1 on the right outlines a rapid assessment checklist for detecting corruption and Table 3 on page 67 highlights the outcomes from anti-corruption surveys conducted in Africa at various times, outlining the methods used.

PART 1: LEGAL ENVIRONMENT

- Criminal code
- Conflict of interest
- Public hiring / appointments
- Freedom of information
- Sunshine laws
- Asset disclosure
- Codes of conduct
- Whistleblower protection
- International conventions

EXAMPLE OF QUESTIONS FROM THE QUESTIONNAIRE: BULLET POINTS 1 AND 2

1. CRIMINAL CODE

- A. Does the criminal code explicitly define corruption as illegal? Yes No
- B. Does it specify actions considered to be corrupt? Yes No
- C. Does it indicate punishments for corruption? Yes No

2. CONFLICT OF INTEREST

- A. Is there a national law that defines conflicts of interest for public officials? Yes No
- B. Do government agencies have clear conflict of interest policies? Yes No
- C. If yes, are the policies widely understood by officials working in the agencies? 1 2 3 4
Not understood Well understood

PART 2: ENFORCEMENT AND PROSECUTION

- Enforcement
- Judiciary
- Money laundering
- Asset recovery
- Witness protection
- Police

PART 3: GOVERNMENT OVERSIGHT INSTITUTIONS

- Anti-Corruption agency
- Ombudsman (public complaints unit)
- National strategy
- Parliament
- Municipal/regional level
- Corruption in public services

3. CORRUPTION IN PUBLIC SERVICES

- A. Are there functional mechanisms within the government to monitor the performance of public service agencies (health, education land administration, etc)
- B. Do civil society groups monitor the performance of public services?
- C. Do citizens have recourse in cases where service delivery fails?

PART 4: BUDGET AND PUBLIC EXPENDITURE PROCESS

- Financial management system
- Audits
- Parliamentary oversight o budget
- Procurement

PART 5: CIVIL SOCIETY, MEDIA, AND BUSINESS

- Civil society
- Media
- Corruption surveys
- Public awareness campaigns
- Business
- International dimensions

4. CORRUPTION SURVEYS

- A. Have public opinion surveys of corruption been carried out within the last 3 years? Yes No
- B. If yes, have they succeeded in elevating the issue of corruption in national debates? 1 2 3 4
Not at all significantly

Form 1: Rapid Anti-Corruption Assessment Checklist – An Example

Source: Management Systems International, 2007, A Rapid Anti-corruption assessment Technique for USAID/Africa-Developing a Practical Checklist for USAID Missions in Africa.

Table 3: MATRIX OF CORRUPTION AND GOVERNANCE MEASUREMENT TOOLS: SOME EXAMPLE FROM SUB-SAHARA AFRICA

COUNTRY	YEAR	TITLE	TOOL	SOURCE	PRO-POOR AND GENDER ASPECTS
Burundi	2007	Action Citoyenne de la Promotion des Droits des Consommateurs par la Lutte contre la [...]	Public experience and opinion survey	ABUCO	The tool would allow drawing Analysis based on gender and poverty.
Cameroon	2005	“Voice of the People” Survey	Urban household survey	GII	The survey covers poverty related aspects.
Ghana	2006	Judiciary corruption monitoring exercise	Survey of key stakeholders in the judicial system and observations of actual court proceedings	GII	The survey covers poverty related aspects
Kenya	2006	Governance, Justice, Law and Order Sector (GJLOS) Reform Programme	National Integrated Household Baseline Survey Report Nationwide household survey	Steadman Group with various others	The survey covers poverty- and gender related aspects.
Kenya	2006	Nairobi Water and Sewerage, Company Limited	Pilot survey on Corruption in water Services delivery	TI Kenya	
Kenya	2001 -2007	Kenya Bribery Index	Index on the extent of bribery	TI, KAS, Steadman Research Company	
Kenya	2007	Citizens’ Report Card on Urban Water, Sanitation and Solid Waste Services in Kenya	NETWAS, ICAD, Kisumu Consortium, Nairobi City Consortium, Mombassa City Consortium, Research International		The survey covers poverty- and gender related aspects.
Madagascar	2006	WBI Country Governance and Anti-Corruption (GAC) Diagnostics Tools	National surveys of Households, public Officials and Enterprises	National research teams or subcontracted local survey	The survey covers poverty- and gender related aspects
Mali	2001/2/5	Afrobarometer	Public opinion Survey	IDASA, CDD, MSU and national research partners	The survey covers poverty related aspects.
Nigeria	2006	CIET Country Social Audits and National Integrity Surveys	Social audit	CIET International	
Nigeria	2005, 2007	Nigeria Corruption Index	Public experience and hard data survey	IAP	
Sierra Leone	2006	A Citizen Report Card on the 19 Local Councils	Nationwide household survey/ Participatory service delivery assessment	National Accountability Group	The survey covers gender related aspects.
Togo	2006	CIVICUS Civil Society Index (CSI)	Index assessing the state of civil society	CIVICUS in cooperation with Plan-Togo and FONGTO	The survey covers poverty- and gender related aspects.
Uganda	2007	Assessment Study on Corruption at Northern Corridor Transit Points	Experience and Opinion Survey	Steadman Group	The survey covers poverty related aspects.

Source: Transparency International, 2007, Mapping of Corruption and Governance Measurement Tools in sub-Saharan Africa.

2.9 ASSESSMENT CHALLENGES

Any assessment process will face one or a series of challenges. Choosing the right sort of tool is important but might involve a trial period or pilot study to ensure it's the 'most appropriate one'. Assessments can also be difficult because people are resistant to the whole process. This is partly because the final outcomes of an assessment process usually result in some form of change. Change is often difficult at both the individual and institutional level. When issues of corruption and transparency are being assessed, the challenges may be more intense as people's reputations and the 'benefits' they receive from being corrupt or inefficient, are at stake. They might be therefore even more reluctant to do things differently. Below is a list of potential challenges faced in an assessment process:

- **The 'inefficiency' factor:** corruption can be disguised as 'just inefficiency'. For example, isolated instances of multiple titles can be attributed to an inefficient workforce and dysfunctional land systems. When multiple titles are the norm rather than the exception (become frequent and appear to be systemic), however, it can usually be concluded that corruption is occurring.
- **The 'fear' factor:** despite pledges of confidentiality and anonymous collection of data and disclosure of results, individuals can be reluctant to get involved in assessment exercises and provide information. Some might fear reprisals from being honest and 'revealing' information while others engaged in corrupt behaviours might fear exposure.
- **The 'cover-up' factor:** corruption does not leave a paper trail and information is often missing in records. Officials may also be reluctant to provide information resulting in an overall 'cover-up' that adversely affects corruption or integrity audits and assessments.
- **The 'evidence' factor:** due to a failure to distinguish assessment from investigation done by law enforcement agencies, there is sometimes a tendency to overvalue evidence and dismiss results coming out of assessment exercises. On other hand, vested interests often belittle (with often good reason) the value assessment on the grounds of 'evidence'. It should be remembered, however, that assessment is not about evidence of the type that courts rely on. It is about evidence that can inform policy and public action.

Choosing the right sort of tool is important but might involve a trial period or pilot study to ensure it is the 'most appropriate one'.

Box 23 on the next page outlines some useful assessment 'do's' and 'don'ts' that will assist in ensure the outcomes of the assessment, including any possible changes, go as smoothly as possible.

- **Reporting and acting on the findings:** Another vital part of any assessment process – but also one that can be difficult - must be to report on the findings and outcomes. Information must be analysed carefully and provided to all stakeholders in a clear and concise manner. Outcomes must be presented in number of ways and stakeholders must be able to provide feedback on the outcomes, in a confidential manner if necessary. Care must be taken when making recommendations however so that any suggestions 'match the mood or context' where the assessment is taking place. In some instances, dramatic and bold recommendations can be suggested, but in other situations, small but important steps must be suggested so as not to lose support for or halt the move towards greater transparency.

BOX 23: ASSESSMENT DO'S AND DON'TS

- Focus on institutional weaknesses (not on individuals): ensure that the assessment always looks at issues/procedures/practices at the organizational level and does not initially at least, focus on individuals. Communicate early and clearly that individuals are not the focus of the assessment but rather institutional issues.
- Don't 'overstep the assessment mark'! That is, do not encroach on the turf of law enforcement and clearly communicate this objective.
- Secure senior (political) support and clearance: in some jurisdictions, going around and asking people about sensitive matters like corruption can be tricky and only result in resistance if key players have not been informed or approved of the process. Where possible secure assessment mandate and legitimacy from senior stakeholders and those who might be directly affected.
- Engage assessment professionals who hold a 'watchdog status': this allows making inquiries about corruption easier, more neutral and credible (e.g., civil society with this mandate routinely do citizens report cards/satisfaction surveys).
- Set up an internal oversight authority: this can accord the process significant legitimacy to undertake the assessment, while at the same time, probably limits public use of the results.
- Gain a research mandate: they make it easier to justify the assessment process unless there are areas that are off-limits' to researchers.
- Ensure confidentiality and anonymity and professionalism: carry out the assessment in a non-threatening and highly professional manner as corruption is a very sensitive topic. People need to feel confident in the process, feel a rapport with those undertaking the process and have trust in their integrity to carry it out in the best possible manner. Remember that many people will not feel comfortable discussing corruption.
- Provide practical and achievable recommendations: make sure that a forward focussed strategic road map' is outlined that provides clear steps as to how the assessment will be used to inform and guide strategic planning or future directions of the organization/department.
- Discuss and inform key stakeholders of outcomes and strategic recommendations: so that all participants and interested/relevant parties are informed of assessment process and outcomes.

Source: Compiled by Solomon Haile.

Box 24 summarises the key items that must be considered in reporting on the findings of an assessment.

2.10 SUMMARY

This chapter covered the key tools to use in relation to assessing transparency and corruption in land administration. Specifically, the chapter looked at tools such as rapid assessment tools, citizen report cards, surveys and other tools such as benchmarking.

The importance of understanding the assessment context, using the right tool, keeping the process impersonal but detailed, asking key questions and providing informed feedback in a range of ways.

BOX 24: REPORTING AND USING ASSESSMENT FINDINGS**Recognise various target groups**

- The general public
- Technical audience
- Senior management
- Other government officials

Tailor outputs to various target groups

- Technical report (detailed findings, statistical details, etc) for technical audience
- Assessment briefs (for officials, the general public and media)

Provide information in a range of formats and forums

- Debriefing through stakeholders' workshop
- Town hall meetings
- Media

Provide formal and informal opportunities for feedback

- Written feedback/email
- Informal group or one on one meetings
- Suggestion/feedback box

Suggest achievable recommendations

- Provide a set of recommendations that reflect the context of the assessment and organization's readiness for change
- Test recommendations first with a number of key stakeholders
- Ensure follow up and review of recommendations (and state this in the report)

Source: Compiled by Solomon Haile.

A key theme in all these assessment options was the importance of understanding the assessment context, using the right tool, keeping the process impersonal but detailed, asking key questions and providing informed feedback in a range of ways.

Further, the chapter made clear that any assessment process might be difficult given that corruption is a highly sensitive issue, particularly for those who could feel exposed or vulnerable. The imperative in assessing transparency in land administration is essentially anchored in the need for evidence-based engagement so that appropriate and strategic recommendations can be proposed that ultimately bring about improved transparency in an land administration system. Making the assessment focus on the 'system' or 'administrative procedures' rather than individuals is therefore vital to facilitating a smoother and possible more 'accepted' assessment process.

The following chapter will explore other specific tools that promote access to information and public participation which help strengthen transparency in land administration systems.

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TOOLS TO IMPROVE ACCESS TO INFORMATION AND PUBLIC PARTICIPATION

3.1 OVERVIEW

Transparency is widely recognised as a core principle of good governance. Transparency - acting openly, understandably and predictably is impossible without making information freely available, engaging the public and ensuring that they are also informed and educated about their rights and responsibilities.

The provision of relevant, understandable and reliable information is particularly important in land administration because land is a highly valued resource and often the source of conflict and corruption.

The provision of relevant, understandable and reliable information is particularly important in land administration because land is a highly valued resource and often the source of conflict and corruption. Access to land information has therefore gained recognition as a prerequisite to informed stakeholder participation and as a tool to enhance accountability (GIT, 2006). If public participation is to occur and transparent land administration systems improved, relevant and accurate land information must be made available in an open and timely manner.

How the information is accessed, presented and to whom, are key questions when selecting tools to improve access to information.

How the information is accessed, presented and to whom, are key questions when selecting tools to improve access to information. Language and literacy issues as well as local/contextual social relations must all be considered. In some cultures and contexts, for example, it is usually men who traditionally attend public meetings, not women. In many instances, however, women also have a right and need for the same information. Many indigenous communities around the world do not speak other languages and yet, information about land is often not translated into their local dialect. How information is therefore constructed and presented is critical if it is to reach the right people.

This chapter introduces two sets of tools to promote transparency in land administration. The first section presents tools which can promote transparency by improving access to information including:

- Legislation: the right to information, 'the right to know';
- Information technology: computerisation, automation, LIS/GIS);
- Internet and World Wide Web (WWW) based information management;
- Electronic and print media (radio, newspapers and TV);
- Custom made information (targeted and specific information campaigns); and
- Emerging mediums – social media (Facebook, Twitter, YouTube).

The second section focuses on tools that promote public participation and thereby transparency including:

- Overview on the goals of public participation in the land sector;
- Direct citizen engagement;
- Engagement through Grassroots Organizations/ CBO's/Citizen Action groups;
- Engagement via other non-state actors (NGO's, professional bodies, private sector);
- Emerging mediums – social media (Facebook, Twitter, YouTube); and
- Public education.

3.2 TOOLS TO IMPROVE ACCESS TO INFORMATION

3.2.1 UNPACKING 'LAND INFORMATION'

What constitutes land information? At the strategic level, land information includes policies and laws governing land information is held and managed. At a more substantive level, it comprises attribute information, spatial and temporal information about land objects, land/property rights and the people who hold those rights. The following list attempts to capture some of the key elements of land information:

- **Attribute information:** may refer either to personal information about the legal subject(s) or the rights they hold e.g. name, date of birth, address, personal/corporate identity number, group membership, marital/corporate status, description of rights for example.
- **Spatial information:** refers to geographical information about land objects e.g. area (size), boundary coordinates, elevation, land use/cover.

- **Temporal information:** may include information about the duration of rights in land, seasonal changes in permitted land use, and spatial changes over time for example.

Land information may be produced in the form of paper or digital maps, databases, digital models (e.g. digital terrain models), written documents (e.g. certificates of ownership, lease, occupation, etc), images (e.g. satellite images, aerial photographs). The provision of land information is usually the

responsibility of the land management/administration organizations. Apart from the use of land information for decision making at the policy and/or management level, land information is also used in routine land administration activities e.g. dispute resolution and land transfers. Figure 7 below outlines the various elements of land information.

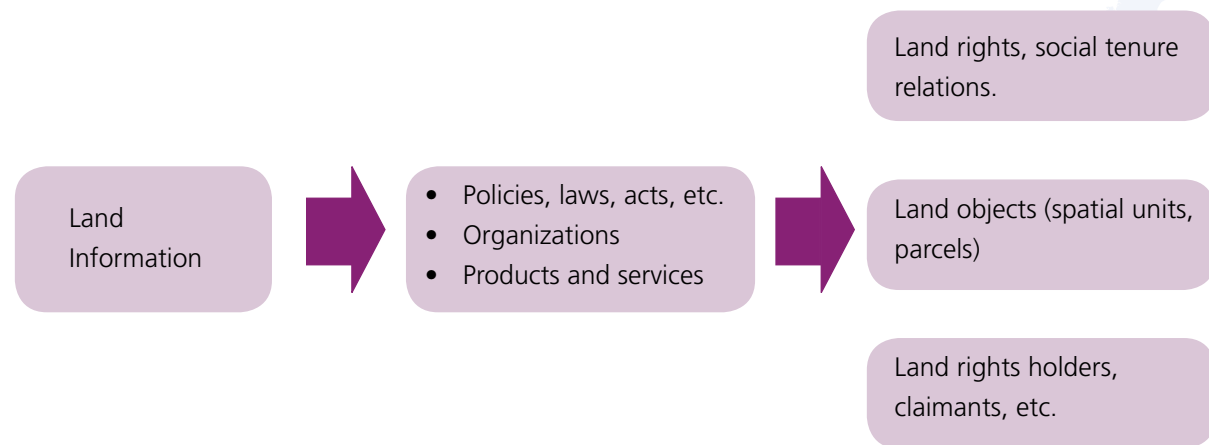


Figure 7: The various elements of Land Information

SOURCE: Arbind Tuladhar.

3.2.2 WHY DO PEOPLE NEED LAND INFORMATION AND HOW DO THEY GET IT?

Freedom of information (also called the 'right to know'), is a fundamental human right. Ideally, freedom of information includes the right to receive information held by public authorities as well as the obligation of such entities to make information available. Information has a direct impact on people's everyday lives and governance capacities at all levels. It is a powerful tool which enables all citizens to be actively involved in the development process as it informs them about their rights and responsibilities and the laws and procedures that affect them. Lack of information can be an obstruction to participation, and make systems vulnerable to corruption (e.g. in the case of allocation of land plots in hazardous areas or losing traditional lands through misunderstanding or blatant land grabbing). It is therefore a paramount responsibility of governments to provide information to all groups about land issues (ADC, 2007) and recognize and uphold citizens' right to information. Finally, it is imperative to note that the right to information is not just a one way affair. Public authorities do have a duty to provide information but

they also have the right to acquire information from other authorities and the general public.

An analysis of the context within which the information is available or not, and how it is accessed or distributed, is therefore vital in strengthening land administration systems. Consideration must be given to how factors like gender, religion, ethnicity customary laws, literacy levels etc affect access to land information.

It is also important to understand, however, that not everyone has equal access to information and thus there is a 'power dimension' involved in its provision and management. For example, those that hold certain types of information can become 'engaged' or very powerful and those that do not have information can suffer and be disadvantaged. Freedom of information in relation to land is, therefore, particularly important as a mechanism to reduce land access and ownership inequalities that emanate from lack of or having useful information. It is particularly useful for vulnerable groups like the poor, women and minorities

who often suffer most in terms of land rights. An analysis of the context within which the information is available or not, and how it is accessed or distributed, is therefore vital in strengthening land administration systems. Consideration must be given to how factors like gender, religion, ethnicity customary laws, literacy levels etc affect access to land information.

There are various mechanisms for providing land information to citizens and stakeholders (such as those engaged in the real estate or construction industry for example), ranging from formal and traditional tools (community meetings, brochures, newspapers) to the utilisation of computers and technology. An important starting point is to understand the broad principles of managing land information, in particular, the role of legislation and laws and how they can strengthen land administration systems.

3.2.3 LEGISLATION: THE RIGHT TO INFORMATION ACT

Information (both in digital and analogue forms) is now a primary product of most organizations (to be disseminated to stakeholders) as well as an input (a raw material) with which an organization

undertakes its business. In the context of information dissemination and external use, there is therefore a need to define formal and specific rules and regulations that provide a comprehensive legal framework so information can be shared and managed.

LAND INFORMATION REQUIRES FORMAL AND LEGAL ATTENTION FOR TWO REASONS:

- To provide a legal/political framework that formally enshrines land information rights and responsibilities into law and thus provides the foundation for policy development.
- To provide the necessary legal attention to enact those laws through practical rules and regulations that can deal with issues such as copyright/ intellectual property rights, liability, privacy, data protection, access and commercialisation (Masser and Burrough 1998).

Outlined below are various principles that must underpin land administration systems in terms of formally managing these types of Information and must be part of a right to information act:

- **Maximum disclosure and limited scope of exemption:** refers to the obligation by all stakeholders involved in the land sector, to publish information about policies, planning and any key decisions that affect the general public and their relation to land. As part of a 'maximum disclosure' approach, organizations should also provide information about their own activities and information of public interest. Further, there should be a detailed list of any legitimate aims which may justify 'non-disclosure'. This list, however, should include only interests which constitute strong grounds for refusing to disclose documents and should be limited to matters such as law enforcement, privacy, national security, commercial and other confidentiality, public or individual safety, and the effectiveness and integrity of government decision-making processes. Exceptions should be narrowly drawn so as to avoid including material which does not harm the public's right to know (legitimate interest). Restrictions whose aim is to protect governments from embarrassment or the exposure of wrongdoing can never be justified ²⁸.
- **Protecting personal information/privacy:** A key part of information legislation is the responsibility of governments to provide information and make access fair and effective but also receive and obtain information so as to ensure land records, title deeds etc are up to date to run an effective land administration system. The general public is therefore required to provide key personal information in order that the system is correct and up to date. At the same time, legal structures must be in place to manage and use that information so that transparency is maximized and potential for corruption minimized. Both individual information provided to a lands department and held within a land administration system need to be properly managed and protected. Under privacy law, individuals have the right to know what personal data are held about them in a land information system and how it will be used. The definition of personal data and addresses that belong to individuals, and their use, must be clearly declared at the time that data is collected. The use of data must be registered and the individual must be informed about how the information will be used (Dale and McLaughlin, 1999). Likewise, land information products such as paper maps

²⁸ p5 and 6. Article 19 (1999). The Public's Right to Know. Principles on Freedom of Information Legislation. United Kingdom. At <http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>

and plans or digital databases are often used by courts in various countries to resolve land disputes and thus need to be protected by law. Strict and transparent procedures also need to be in place that regulates how both personal information and that held in data bases and documents are accessed and utilised. In this context, access to land information is very much related to questions such as 'who may access it?' Furthermore, data needs to be protected physically from disasters such as fire, earthquake and theft (Henssen 1995). Archiving the complete and original databases in a separate and secure place is a pre-requisite in the development of land information systems.

- **Awareness of and implementation of Copyright laws in Land information:** Copyright laws aim to protect information and ensure it reaches the right person or institution, or that content is acknowledged to the right person. Copyright law also allows implementing organizations to protect their investment. Under such legislation, copying means certain restrictions on reproducing work (Dale and McLaughlin, 1999). Many countries have copyright laws. The gathering and dissemination of land information is subject

to copyright laws. This is one of the principles that must be adhered while trying to improve access to information and transparency.

- **Promotion of open government:** refers to the importance of promoting and prioritising a culture of 'openness' in government fostered by a strong and dedicated leadership, systematic training of all staff, an openness of legislation and a clear explanation of specific proposed planning decisions and changes that affect the general public for example.
- **Clear procedures and processes:** clear procedures must be in place to make it effective for both officials and the general public to access information. Information must also be handled promptly and effectively and in a transparent manner. If problems emerge (delays in information provision for example), clear procedures for handling complaints must be in place.
- **Limited or no cost for information:** information should be available in principle at no cost i.e. cost should not be the factor that decides on whether or not the public have access to information. In

some contexts, a 'two-tier' cost system is used involving 'flat fees' for a request and 'graduated fees' for others depending on the actual cost of retrieving and providing the information. In some instances, it is suggested that any fees should be waived altogether or significantly reduced for public interest or personal requests and higher fees levied on commercial requests as a means of subsidising public interest²⁹. The cost of production and distribution must also be considered, however, when considering the cost effectiveness of making information available. In cases where information needs to be given to a significant number of people or cover a broad geographical area, 'how much will it cost to do so' is a practical and important question that must be factored into the overall cost scenario, particularly when budgets are limited. Different countries have different policies and the debate as to which cost structure is 'right', is on-going. The key principal is that information should be available and accessible with minimal or no cost.

²⁹ p. 9. Ibid.

3.2.4 INFORMATION AND COMMUNICATION TECHNOLOGY

Information technology (IT) including geo-information technology is changing the way information is collected, analysed, stored and disseminated. In land administration, information technology has been improving access to information in many different ways:

- The conversion of paper into digital records, i.e., what is referred to as computerization;
- Automation of various routines in land offices (e.g., document tracking systems);
- Increasing adoption and use of specialized information systems popularly known as geographic or land information;
- Increasing use of the World Wide Web and mobile technology including email and social media (such as YouTube, Facebook).

These technologies have enabled improved transaction processing and quick service delivery. They have facilitated rapid access to information. They have boosted to process and store a complex array of information. So long as users are trained and systems

are well managed and maintained, information technology has:

- **Improved the flow of land information:** for example, information technology has enabled information to be communicated more easily between stakeholders, supporting individuals and communities to rapidly and transparently undertake land related business. When a land information system is interlinked with other system servers, relevant information can be made available to relevant stakeholders through the internet or an intranet service for example at any time needed. The benefits are that central and even regional information can be accessed at the local level and vice versa providing the necessary infrastructure is in place and training provided to officials and end users. If this is the case, local offices at the village/ suburb level for example, can extract information easily, when required, and in a timely fashion.
- **Enhanced efficiency, transparency and reduced corruption opportunities:** for example, where the processes and procedures adopted in land administration are computerised and a file tracking system is developed, the recording of information

is improved and maintaining records is easier. Furthermore, administrative officers dealing with particular cases that are within the computerised system cannot 'hold' onto files. Instead, the tracking system records what cases are currently being investigated and if there is a substantial delay, warning messages are sent through the system. It is therefore more difficult for staff to engage in corrupt behaviours such as expecting payment from a customer in order to expedite a case as the computer system regularizes the management process.

- **Increased public engagement with, and confidence in, land administration systems:** Information technology has improved information technology systems can often see public engagement increase as people are more likely to offer information about themselves, including the relevant documents governments require to improve land data bases for example (Tuladhar, 2004). In effect then, by utilising information technology, all key stakeholders – the general public, relevant and associated professional bodies and governments, are suitably empowered and informed creating a 'win-win' scenario for all involved.

Box 25 on the right captures some of the computer based reforms undertaken in the land sector in Macedonia to make registering a property faster and more efficient. The box also shows how other gains have also been made by utilising information technology.

It is important to note, however, that the capacity of a computer system and information management approach, depends heavily on easy access to and training in the relevant equipment. Another important consideration is how ordinary people can make use of the technology. Who can access a computer in the local suburban or slum setting and are they trained to do so? There are still significant numbers of people who do not have the skills, knowledge, time or physical access to this type of technology and this must be considered in any information dissemination process. Furthermore, the quality and type of information inserted into a computer system or program is an important consideration. If the information is does not 'fit' or 'meet' the expectations or objectives, it is not any more effective than manual information.

BOX 25: IMPROVING PROPERTY REGISTRATION IN MACEDONIA

A series of changes at the real estate cadastre in Skopje have made registering property faster and easier in Macedonia. A 2008 law streamlined procedures and set time limits. The number of property cases awaiting registration in Skopje shrank from 15,035 in 2005 to 2,082 in May 2011. The average time to process applications fell from 60 days in 2004 to 5 in 2011. All fees were cut by 50% in 2007 as part of the regulatory guillotine project and by another 10–72% in January 2010. These accomplishments won the cadastre an award of excellence from the World Bank in June 2010. The cadastre has introduced performance standards to motivate staff to work more efficiently. Staff exceeding the average can receive a salary increase of up to 25%. The cadastre has also worked to improve its public image, by holding 'open days', opening 'hotlines' to answer questions and meeting with citizens in the municipalities of Skopje. A customer asked about his recent experience reported having to wait in line outside the cadastre for 4 hours in the summer heat—but considered that a huge improvement over a few years ago, when transferring property took several months. The most recent efforts to increase efficiency and effectiveness include launching an electronic cadastre and front desk in 2010. The 'e-cadastre' is aimed at improving management of the workload and providing real-time dissemination and exchange of data. The 'e-front desk' supported by the Netherlands, includes electronic conveyance, recording and processing of applications. Among other things, it allows notaries to check information on encumbrances and the status of applications.

Source: p.30. World Bank the Cost of Doing Business Report (2012). Macedonia: Major Changes Spurred on by Regional Integration. At <http://www.doingbusiness.org/reports/global-reports/~media/FPDKM/Doing%20Business/Documents/Reforms/Case-Studies/2011/DB12-Case-Studies-FYR-Macedonia.pdf>

Outlined below are a number of computer based land information systems that demonstrate how information technology is in an effective medium through which information can be accessed and disseminated to the public in a (mostly) transparent and effective manner.

3.2.4.1 LAND INFORMATION SYSTEMS

A Land Information System (LIS) consists of human and technical resources which, together with appropriate organizing procedures, are applied to collect, store, retrieve, disseminate and use land related information. An appropriate land information system serves as a tool for decision making regarding legal, administrative and economic purposes and it is very important in the context of planning and development of land resources (United Nations 1996). As mentioned above, the effectiveness of such a system depends, however, upon how it has been designed to serve the user and the level at which civil servants and ordinary citizens are knowledgeable about the system.

In order to facilitate easy understanding of the information, the system should consist of highly

The most important consideration in implementing a land information system is that it must enable the most vulnerable groups to have easy access to all kinds of services and information delivery required for land management (and therefore that these groups are provided with training).

interactive visualization capabilities. In doing so, a range of people from different contexts and backgrounds can make use of the information. Furthermore, it assists with training making it more accessible to different learning styles and groups (civil servants, customer help support for example) and ensuring that those trained, can effectively assist others. The most important consideration in implementing a land information system is that it must enable the most vulnerable groups to have easy access to all kinds of services and information delivery required for land management (and therefore that these groups are provided with training).

A land information system normally contains local databases (or registers) in digital form that relates to

spatial and non-spatial (or descriptive) components. In order to determine the contents of databases, users/ stakeholders are consulted and their requirements analysed in terms of service required and technical and financial resources available. Initially, the system may be simple with a minimum of services and data. Overtime, it can then be upgraded. Indeed, as governments develop better policies and means of undertaking land transactions - and thus change the levels of documentation required, an incremental approach is the preferred method of developing a land information system. The system can then adapt with broader policy and practical administrative developments. As an example, a spatial component may contain the following information. Spatial units of outer boundaries – these can range from a point in an ‘informal settlement’ to a parcel in an ‘up market’ neighbourhood. When scientific representation of spatial units using geographic coordinates is not feasible, land offices employ other locally defined methods such as descriptive references to neighbouring parcels (e.g. Ethiopia).

In normal circumstances, local land information systems are tied to a central LIS system via the internet

or intranets for the continuous flow of information and for the dissemination of land information to relevant stakeholders. The formal linkage between local and central systems offers legitimacy of data maintained at the local level and enables, through standards, local databases to become more transparent, affordable and accountable.

3.2.4.2 THE SOCIAL TENURE DOMAIN MODEL (STDM)

The Social Tenure Domain Model (STDM) facilitates recording of all forms of land rights, all types of rights holders and all kinds land and property objects/spatial units regardless of the level of formality. Furthermore, the STDM also allows various forms of spatial units for land and building objects to be spatially represented in real life forms via polygon and 3D geometries and digital high resolution satellite images. The integration of different land types and holdings with a 'life like' visual component means that land information becomes more understandable to all users bringing confidence in the quality and authenticity of the information. Importantly, all land uses and users (from residents living in 'up market' suburbs to informal slum squatters) are equally represented. Box 26 on page 83 outlines the key dimensions of the STDM.



Educating women about composting: an example of a simple information sharing approach.
Photo © UN-Habitat.

BOX 26: SOCIAL TENURE DOMAIN MODEL: FACILITATING ACCESS TO LAND INFORMATION

Introduction: The Social Tenure Domain Model (STDM) describes the relationships between people and land in unconventional and pro poor manner in that it tackles land ownership issues that were previously not recognised (i.e informal settlement dwellers, squatters) and attempts to include them in a formal land administration system. STDM supports the recognition, development and maintenance of records in areas where regular or formal registration of land rights has not applied. Specifically, STDM focuses on land and property rights, which in other systems, are considered neither registered nor registerable. It also tries to integrate 'overlapping claims', and manage key questions in relation to those claims such as 'who', 'where' and 'what' right. In other words, the emphasis is on social tenure relationships as embedded in the continuum of land rights concept promoted by the Global Land Tool Network and UN-Habitat.

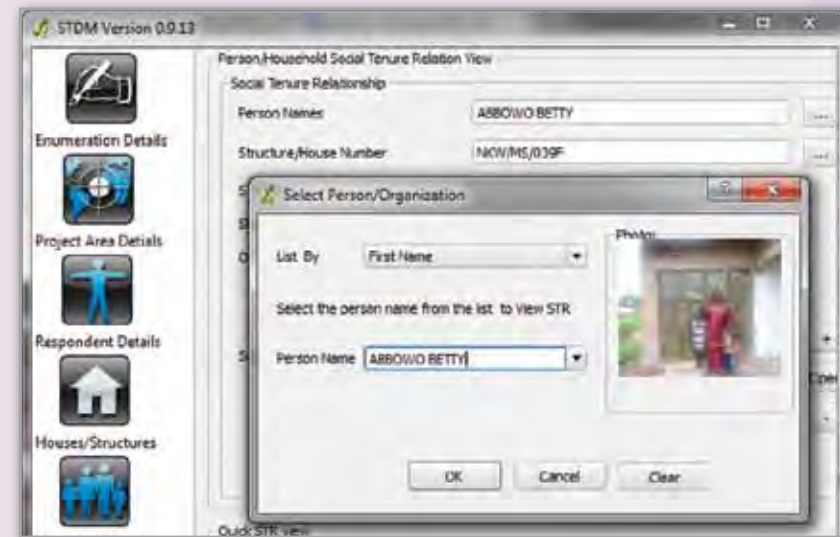
In order to recognise the continuum of land rights, the STDM accommodates a range of spatial units. Similarly, it records all types of right holders ('who', e.g., individuals, couples, groups with defined and non-defined membership, government department).

In regard to evidence, STDM handles the impreciseness and possible ambiguities that may arise in the description of land rights (for example, no papers and traditional ownership based on oral history). The integration of diverse data such as satellite image, parcel data on land, land rights and personal information including individual photograph and fingerprint, helps

capture a more complete picture of land use and can therefore provide a more complete assessment of land rights. In a nutshell, the STDM addresses information related components of land administration in an innovative and inclusive way to facilitate better access to land information for all.

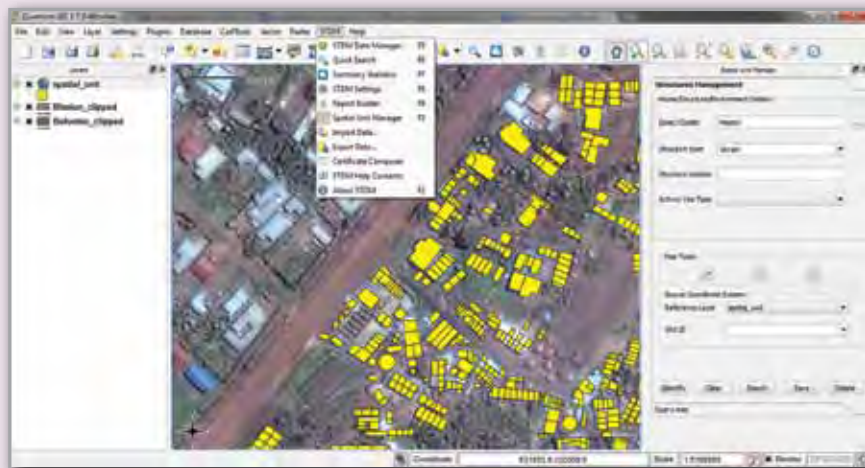
Description: The STDM of land administration draws upon data coming from diverse sources which is based on local needs and capabilities for both spatial and administrative (non-spatial) data including individual photographs and fingerprints of the rightful holders.

a) Personal Information with photograph and fingerprints



BOX 26: continued

b) Parcel boundaries and attributes overlaid on high resolution satellite image



Some observations: Since people can read the images easily, parcel boundaries can also be identified on the satellite images easily in most cases. For example small paths used to access land can be identified. Almost without exception, local people can easily recognize the area and building where they are living and using the land. In doing so, it is also easy to gain agreement on the location of the boundaries of the land in use. The only exception is when the Satellite image is not good and affected by weather conditions during the date of observation from the satellite for example.

Source: Haile, Solomon and Lemmen, Christiaan (2009). The Social Tenure Domain Model – a pro poor land rights recording system. UN-Habitat and Institute for Geo-Information Science and Earth Observation.

3.2.5 COMPUTER BASED 'ONE STOP SHOP'

Land information - data on land rights, use and value - are often managed by many agencies each having distinct (sometimes overlapping) mandates. In such situations, stakeholders or users such as individuals, notaries, real-estate brokers, surveyors, planners, municipalities and others face tremendous challenges in getting data or datasets and integrating them into a single consistent dataset (say using available GIS software for example).

The computer based 'One-Stop-Service' is a popular concept as users themselves, via a computer, can get the required information and service easily at one place. The one stop shop system acts like a 'front office' and can provide specialized assistance related to instant land registration, rates payment, filing property tax, making various payments. It reduces delay in services delivery with increased transparency and decreased institutional complexity (UN-Habitat and TI, 2004).

Outlined in Box 27 and Figures 8 and 9 is an example of a successful land information system called 'Bhoomi'. The system brings together new and appropriate technology (user friendly) to streamline the process of providing and obtaining land records that assists both civil servants and ordinary citizens seeking information.

BOX 27: THE BHOOMI ONE STOP SHOP MODEL

Description: In Karnataka State (India) alone, there are 17 million land records documents covering 30,000 villages and 20 million farmers. Land records include ownership, tenancy, cultivation, irrigation, trees, crops and soil details. These records are required to obtain loans from financial institutions. Manually written land records are not acceptable by financial institutions for loans. In many instances, farmer's have difficulty obtaining land records from the village accountant (or patwari) despite waiting for a long time. Very often, the issuance of land record depends upon the availability, mood and interest of the village accountant. Additionally, individuals are often asked for extra money and 'lost' land records often take forever to be reproduced. The entire process results in monopolistic management, with the village accountant at the helm of affairs. To combat the problems, the Bhoomi online system was developed using technology with automated workflow to handle transaction on the land data. Mutations take place with the 'real data' synchronised into the fieldwork of the revenue officials facilitating the scanning of field mutation documents. The system uses the fingerprint (bio-metrics) technology to ensure foolproof authentication and is written using the local language (i.e. Kannada) for easy use by citizens and the officials.

System Architecture – Component 1: Bhoomi Online Mutation System has three components (see Figure 8). The first component is the back office where the revenue officials carry out the updating activities. The back office contains a computer centre with a server, printer and scanner with Uninterruptible Power Supply (UPS) to ensure the system operates all day.

Source: Bhoomi Online Mutation System Architecture (Bhatnagar-Chawla, (2005).

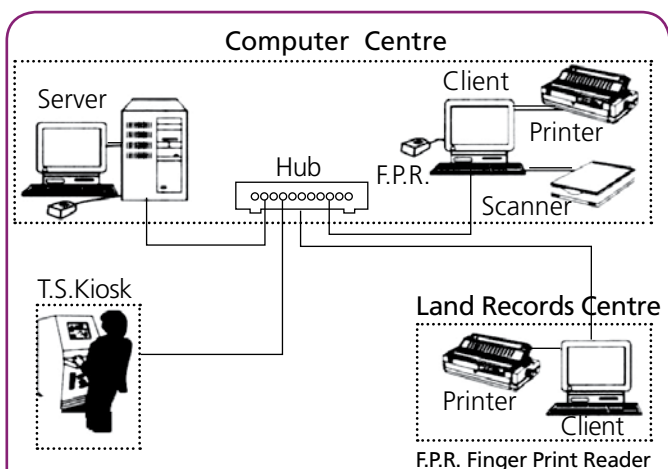


Figure 8: Bhoomi Online Mutation System Architecture (Bhatnagar-Chawla, 2005)



Figure 9: Farmers engaged in mutation of land records at Kiosk (Bhatnagar-Chawla, 2005)

BOX 27: continued

System Architecture – Component 2: The second component of Bhoomi is the front office. It contains a land records centre at the local office equipped with a client computer, printer and UPS operated by the village accountant. The front office is the ‘public interface’ of the Bhoomi system where customers can obtain the signed land records documents on demand or submit an application for the mutation of her/his land.

System Architecture – Component 3: The third component is the touch screen computer at the Kiosk located at the local (or block) office. The kiosk is easily operated by a person (e.g. farmer) having little knowledge of computers as it is developed using the Keep It Simple (KIS) concept and assisted by the touch screen technology. The farmer can use the Kiosk system to see documents as well as the status of the mutation process without the intervention of revenue officials or the farmer having to chase various officials for information (see Figure 8).

Cost: The cost of setting up the system for each local office is estimated to be around US\$20,000 including the supply of the system, initial data entry, site preparation, training, etc. A major portion of the money invested goes to the initial data entry and then ongoing maintenance of the data.

Results: The most important result is that farmers get a low cost, quick and independent (if all correct papers etc are in the system) access to hundreds of the land ownership certificates in a day. A farmer pays only US\$ 0.25 for each document in demand. It is noteworthy that 330,000 certificates were distributed to the public in the first 3-12 months in the whole state of Karnataka using this service

(Bhatnagar and Chawla, 2005).

It should be noted that Bhoomi is not a 'fail safe' system and this style of computerization alone, might not curb corruption. De (2006) reports on officials in 'Bhoomi' asking bribes to correct mistakes, which they introduced in the databass themselves. The overall potential of Bhoomi, however, is that for a relatively reasonable amount of investment (cost and time), a system is in place that can significantly improve both ordinary people and civil servants experience of recording, managing and accessing vital land information. Bhoomi provides civil servants

Bhoomi provides civil servants with a mechanism to effectively record and manage records and therefore the capacity to serve the public in an efficient and effective manner. The system really promotes both good management and sound customer service. For the ordinary citizen seeking information, Bhoomi provides a low cost, effective and secure way of getting the information.

with a mechanism to effectively record and manage records and therefore the capacity to serve the public in an efficient and effective manner. The system really promotes both good management and sound customer service. For the ordinary citizen seeking information, Bhoomi provides a low cost, effective and secure way of getting the information. Citizens are therefore equipped quickly with the information they need to make a success out of their land as their energies can be given to personal efforts and not administrative issues.

3.2.6 ELECTRONIC AND PRINT MEDIA

Media (electronic and print media) are another and in fact, a traditional and most commonly used tool that improves access to information, usually for the purposes of 'mass communication'. Land sector stakeholders can utilise the media as a means through which important public information like adjudication in a particular community is disseminated. Furthermore, the media can be employed to inform the public of key land issues and developments including the exposure of opaque

Land sector stakeholders can utilise the media as a means through which important public information like adjudication in a particular community is disseminated.

systems and corrupt practices. All these actions help the public get informed as well as support attempts to rectify wrong doings where and when they occur. In particular, the media, if operated in an independent, open professional and free manner, can help land stakeholders to 'know what they really need to know' about land management policies and practices.

There are a number of mechanisms by which access to information can be improved through the media including:

- **Print Media:** this is the most common way of providing information. Printed information is disseminated in the form of maps, brochures, booklets, newsletters, reports, etc and where appropriate, via newspapers. The availability of

printed information can be enhanced by printing it in various languages, especially local dialects and ensuring distribution at important public places such as local kiosks or market places or by using posters or media like the internet. Information at the local government level, available in a land registry office or department, can also enable people to know their rights and responsibilities and how a land policy might affect them. Newspapers can be used to advertise significant changes to land use or planning laws in one page spreads or inserts, for example. It should be noted, however, that the success of printed material is dependent on organizational freedom. Not all authorities are keen for information to be made available in this manner. Cost is also a factor. Printed material can be costly when distributed to large numbers of people. Literacy levels must also be considered when using print media as a way of informing the public, particularly those from lower socio-economic backgrounds who might not be able to adequately read and write. Box 28 highlights the role of newspapers as vehicles for announcing changes to planning laws and regulations.

BOX 28: ADVERTISING CHANGES TO LAND LAWS VIA THE NEWSPAPER

Notice issued on new land use change law TNN Oct 27, 2010, 07.11am IST JAIPUR, India:

Rajasthan's urban development and housing on Tuesday issued a notification governing land use changes across all local bodies in the state. The new law of 2010 will regulate all kinds of land use change from residential to commercial and vice versa. The Jaipur Development Authority and other such local authorities will be able to regulate land use changes as per the government plan from time to time. As per the new law, municipal committees can now approve land use changes up to 3,000 sq m instead of 2,000 sqm earlier. For the Nagar Parishad the limit has been kept at 4,000 sqm while development authorities could approve up to 5,000 sqm.

Source: The Times of India, Jaipur. Accessed online at: http://articles.timesofindia.indiatimes.com/2010-10-27/jaipur/28255148_1_land-use-change-commercial-land-local-bodies

- **Electronic Media:** audio (radio) and visual (television) media are often the best methods for information dissemination because of the significant numbers of people they can reach and because people do not need to be literate to access these mediums. Providing the media freedom of press and that these broadcasting media are a reasonably cheap, they are a very effective means of reaching a large audience. Both mediums provide opportunities through advertising and specific programs for example, to effectively increase citizen's awareness and thus knowledge on land related matters, providing there is access to these types of media.

3.2.7 TARGETED PUBLIC INFORMATION CAMPAIGNS

Targeted public information campaigns are often associated with major land projects and programs. Systematic land adjudication programs for example entail such campaigns often carrying a specific message and targeting a specific community.

Large scale public information campaigns are a useful tool to reach and sensitize large populations regarding general public matters at local level.

Large scale public information campaigns are a useful tool to reach and sensitize large populations regarding general public matters at local level. Utilising a vast range of media including radio, printed posters at land registry or local government for example, and a campaign approach can be very useful to inform the public about specific issues, changes in the law or inform a local population about a land planning

When undertaking such campaigns, it is important to keep the message clear and presented in a variety of forms,

issue. Such campaigns also provide an opportunity to moderate expectations but also to generate feedback on a particular issue.

When undertaking such campaigns, it is important to keep the message clear and presented in a variety of forms, (radio, pictures and comics are very useful as they do not rely on written literacy alone). As mentioned previously, how information is distributed is important if the goal is to reach a large section of the population of a city for example. Furthermore, the engagement of a broad range of potential stakeholders and organizations in the campaign to assist in promoting the campaign message is also effective (NGO's, CBO's, local supermarkets for example).

Box 29 on the next page highlights an information campaign run in Kenya to promote land reform and decentralisation.



Workshop in Peru Pueblo Posible. Photo © UN-Habitat.

BOX 29: INFORMING CITIZENS OF CHANGES TO LAND POLICY

G10 Coalition on Land Reform and Decentralization: Ardhi - kwa manufaa na ustawi, Kenya

Land remains a focal point of Kenya's history and has for years dictated the pulse of the nationhood and still continues to take a pivotal role in the country's social, economic, political and legal relations. The National Accord and Reconciliation Act recognize land as a source of conflict and calls on the political class to make fundamental changes in land ownership and tenure through constitutional reforms.

The G10, a coalition of civil society organizations namely; The Caucus for Women's Leadership, Wildaf, FIDA Kenya, CREAM and African Woman and Child Feature Service (AWC), is implementing a project on land reforms and decentralization whose main objective is to create awareness around the National Land Policy as well as the constitutional provisions on land that speak to issues around marginalized groups such as women's rights to inheritance and ownership.

The project seeks to also advocate for decentralization of decisions around land matters to the district and grassroots levels so as to enable women and the citizenry in general participate more effectively in making decisions that have direct bearing on their lives and livelihoods.

The project also proposes lobbying and advocacy for decentralization of authority at the national, district and grassroots level to enable women and citizenry in general participate more effectively in making decisions. The objective for African woman and Child Feature Service as the media partner is to use the media as an entry point for creating change and influencing attitudes in regard to land reform and decentralization through public awareness and therefore creating an avenue for engagement at local and national level that have a direct bearing on their lives and livelihoods.

Source: Africa Women and Child Feature Service.

At: <http://www.awcfs.org/new/projects/g10-land-reform-decentralization-project> accessed on 12/11/2011.



3.2.8 PUBLIC MEETINGS/TOWN HALL MEETINGS/ HEARINGS

Large scale open and group specific public meetings are important tools for information exchange. If managed well and the exchange is free and fair, such forums are an excellent way of informing the public about an issue or a reform as well as getting direct feedback. Gender and cultural relations must also be considered at these meetings and indeed, in some communities, it maybe better to organise separate meetings for women and men for example.

Large scale open and group specific public meetings are important tools for information exchange.

The facilitator must also be prepared to seek detailed answers to questions posed by participants. If the questions are not answered in a robust manner, the meetings can be ineffective and people left disappointed and disillusioned (Arnstein 1969).

In situations where government officials are willing and ready to operate transparently, they may

be proactive in initiating Town Hall Meetings by inviting residents, civil society organizations, Non-Governmental Organizations (NGOs) and other stakeholders, to scrutinise their planning proposals and provide inputs. The outcomes of these meetings are particularly effective if citizens are informed prior to the meeting about proposed plans or changes via sign boards in local government offices, health centres and shopping centres/malls.

Town Hall Meetings may therefore be an instrument for two way communications between stakeholders and those proposing a change, in this case, local communities and citizens and a local government. Town Hall meetings not only help promote transparency in decision making on matters pertaining to land administration, but also offer opportunities for the local and central government bureaucrats to work with and tap into the expertise of informed citizens. At the same time, Town Hall Meetings also offer opportunities to the public to map out their expectations and concerns to public officials and those involved in a development for example. One of the preconditions for effective Town Hall Meetings however, is ensuring that they are well organised and facilitated by a professional to ensure order

Town Hall meetings not only help promote transparency in decision making on matters pertaining to land administration, but also offer opportunities for the local and central government bureaucrats to work with and tap into the expertise of informed citizens. At the same time, Town Hall Meetings also offer opportunities to the public to map out their expectations and concerns to public officials and those involved in a development for example.

and the opportunity for a variety of opinions to be aired. Above all, establishing an atmosphere and environment which says 'we want to hear your views and are going to listen' is vital. The preparedness and commitment by local and central government bureaucrats to listen and accept a range of views from non-councils officials including their potential critics, is vital to the success of these meetings. Box 30 on the next page highlights the role Town Hall meetings played in a chapter of Sierra Leone's land reform process.

BOX 30: THE ROLE OF TOWN HALL MEETINGS IN SIERRA LEONE LAND REFORMS

As Sierra Leone continues to rebuild after a decade-long civil war, the issue of land reform has emerged as a topic with particular political sensitivity because it cuts across both ethnic and party lines. Moving land reform forward would have positive implications for natural resource management, agricultural production, and addressing the challenges of rapid urbanization in the country. To explore this topic, NDI (the National Democratic Institute) worked with Sierra Leone's Parliament to organize seven town hall meetings in December and January that were attended by nearly 1,500 people. The meetings were held in locations that represented a range of land reform needs (Bo, Freetown, Kailahun, Kambia, Kono, Moyamba, and Port Loko) and brought together representatives of the executive branch, parliament and civil society. Discussions focused on land ownership protection, the judicial process for land dispute resolution, updating colonial era land laws, effective natural resource management, utilizing arable land, aiding business development and other topics. Participants were particularly interested in the issue of unequal access to land for women and youth and illegal possession of land. For example, in many slums, people are squatting on land they do not own, or worse, land that has been sold to multiple people, resulting in a multitude of court cases and occasional violence. Citizens and lawmakers also discussed government weaknesses, such as lack of staff, the absence of trained surveyors, conflict between statutory and customary land rights, and the lack of enforcement of judicial rulings surrounding land disputes.

Source: The National Democratic Institute at <http://www.ndi.ndidevel.com/node/15155>
12/11/2011.



THE ROLE OF TOWN HALL MEETINGS IN SIERRA LEONE LAND REFORMS

3.2.8.1 EMERGING TOOLS (SOCIAL MEDIA)

There are other electronic media tools that are becoming important in terms of enabling citizens to access information. Tools such as 'Facebook' and 'Twitter' and 'YouTube' accessed on the world wide web (www) are fast becoming mechanisms through which people, especially young people, gain information. Facebook and Twitter are being used very effectively by some in the land sector in countries to promote issue based campaigns and by people to discuss and indeed mobilise support for social movements.

Tools such as 'Facebook' and 'Twitter' and 'YouTube' accessed on the world wide web (www) are fast becoming mechanisms through which people, especially young people, gain information.

There are a range of Facebook sites that relate to land issues including corruption. The International Land Organization, for example, has a 'land portal' where

the public can post 'wall comments' about land issues of interest from around the world. The Site says: 'The Land Portal is facilitated by the International Land Coalition (ILC) on behalf of over 40 organizations working on land governance' (at Land Portal <http://www.facebook.com/landportal#!/landportal>). A range of high profile Non-Government Organizations that focus on land issues also use Facebook to reach a broad range of the public through Facebook. These include Oxfam, Red De la Observatorios de la Tierra etc, Fundacion Tierra. Box 31 on the next page outlines the Facebook site 'KenyaLandsRegistry', a 'private sector initiative' that has set up a facebook site purportedly to assist the general public in checking and verifying property title deeds.

3.3 PUBLIC PARTICIPATION

3.3.1 OVERVIEW

Public participation is a crucial tool to improve transparency and bring about good governance in land administration. Public participation in land administration must involve those individuals and

Public participation in land administration must involve those individuals and groups who are affected by public decisions as well as the institutions involved in all parts of the land administration process. An important part of a public participation process is determining what tools to use to engage the broader public.

groups who are affected by public decisions as well as the institutions involved in all parts of the land administration process. An important part of a public participation process is determining what tools to use to engage the broader public. The section proposes tools that are meant to promote public participation with a view to enhancing transparency and curbing land corruption.

What do we mean by public participation? The International Association for Public Participation defines public participation as 'any process that involves the public in problem-solving or decision-making and that uses public input to make better decisions'.

BOX 31: KENYALANDREGISTRY.COM

This website is not only useful to property owners for publicising their ownership of land. Prospective property buyers can also use it for free to find out if there are other people (e.g. creditors, dispossessed family members, squatters) who have placed a claim on a particular property as well as the contact details of the persons claiming to be the owners. KenyaLandRegistry.com (“KLR”) is NOT a government service. This is a free, private sector initiative seeking to reduce fraud in the property market. KLR has the following aims:

- 1) To protect land owners by helping publicise land ownership to deter fraudsters from selling land using falsified documents (e.g. Fake titles, fake id cards). Any unsuspecting buyer trying to buy land can quickly find the right contact details here and get in touch with the owner directly.
- 2) To protect land buyers. Before buying land you can check on KLR and get the contact details of the person claiming to be the owner. KLR acts as an additional due diligence step to help you get the contact details of the people claiming to be the owners of the land. KLR cannot replace an official land title search at the ministry of

lands. KLR is however useful in the event that a fake titles or a fake id is being used, and other events in which an official search at the ministry of lands might not help.

- 3) Helps people with title documents to the same land contact each other, meet and resolve the problem. Many people in Kenya have title documents to the same property and only learn about it much later. By searching KLR using your land reference number, you can get the contact details of other people who, unknowingly or otherwise, have the same title documents as you.

KenyaLandRegistry has received hundreds of property and user registrations this December thanks to your recommending it to your friends. By going through the questions and answers placed on our Facebook wall, you will be able to learn a great deal about the benefits property owners and property buyers derive from your participation in helping us build this free database of property ownership in Kenya.

Source: <http://www.facebook.com/pages/KenyaLandRegistrycom/183002708459311> on 09/12/2011

²⁹ p. 9. Ibid.

In this context, stakeholders are defined as any individual, group of individuals, organizations, or political entity with a stake in the outcome of a decision³⁰.

Public/community participation as the process by which individuals, families, or communities assume responsibility for their own welfare and develop a capacity to contribute to their own and the community's development.

In some literature, the concept of 'responsible participation' is developed in relation to public participation. The World Bank (1994) defines participation as 'a process through which stakeholders influence and share control over development initiatives, decisions and resources which affect them. UN-Habitat/GLTN (2009) refers to participation from a grassroots perspective defining it as 'a planned process whereby local groups are clarifying and expressing

their own needs and objectives and taking collective action to meet them'³¹. According to this definition the public are 'active participants' in a process and 'have a role beyond simply giving their views but should participate in developing and implementing tools'³². Similarly, Mathor (2008) uses Oakley and Marsden (1987) to define public/community participation as the process by which individuals, families, or communities assume responsibility for their own welfare and develop a capacity to contribute to their own and the community's development.

These descriptions suggest that participation by the public is a two way process where the public are not just passive recipients of information but active in the

Participation by the public is a two way process where the public are not just passive recipients of information but active in the process and decision making.

process and decision making.³³ They also highlight the role of capacity development so citizens are knowledgeable and thus able to participate actively.

Public participation promotes accountability and transparency in land administration decision-making thus reducing the loopholes that facilitate corruption.

Why is public participation important in land administration? Public participation enables communities to have a direct influence not only on the quality and quantity of land services provided, but also empowers them to be in position to understand the performance, or lack of it, of public land officials. Public participation promotes accountability and transparency in land administration decision-making thus reducing the loopholes that facilitate corruption. It thus helps achieve good land governance outcomes.

³⁰ See IAP2 <http://www.iap2.org/displaycommon.cfm?an=1&subarticlenbr=8>

³¹ p.7. UN-Habitat/GLTN (2009). Not about us without us. Working with grassroots organizations in the land field. UN-Habitat. Nairobi

³² p.7 Ibid.

³³ (From Mathor (2008) Effective Community Participation in Coastal Development. Lyceumbooks, Chicago chapter publication found at: http://lyceumbooks.com/pdf/Effective_Community_Participation_Chapter_02.pdf)

Good land governance is only effective, however, if it is a 'two way' approach - that is, both from the top down (i.e. policies, laws, procedures) as well as from the 'bottom up' i.e. with input from ordinary people and stakeholders as active participants. Box 32 on the right underlines how access to information and knowledge can be obtained in different ways and can empower local communities as well as inform those in decision making roles such as local officials. The box highlights the role of a 'community mapping' process in Recife, Brazil as a source of building information around land rights. The box also highlights how some tools also help officials get the necessary information they require to bring about improved living conditions and land rights to slum dwellers.

BOX 32: USING COMMUNITY MAPPING TO INFORM AND ENGENDER CHANGE

Using Community Mapping to inform and engender change

To better understand their communities and their situations, grassroots women's groups engage in Community Mapping, identifying insecure tenure, the reasons for it and its effects. 'Espaço Feminista', based in Recife, Pernambuco in Northeastern Brazil conducted a training workshop for 30 grassroots women from the 'landless and rights to housing' social movements. The organization then did a community mapping exercise of Santo Amaro, one of the largest urban slums in Brazil. The grassroots women designed research tools and conducted and analyzed their data. Through the mapping, a lot of information came to light. It was realized that women's lack of land and housing ownership was seriously constraining their livelihood opportunities. They took the research results to their local municipalities and using the 'Local to Local Dialogue' process, were able to develop the knowledge base of the local authorities, public administrators and researchers about the importance of land ownership and housing for women. As a result, the local women built alliances and partnerships, strengthening their capacity to advocate successfully at the local and state level.

Source: Huairou Commission – Land and Housing at <http://www.huairou.org/grassroots-solutions>

What are the key considerations in a public participation process? In any public participation process concerning such a critical resource as land, a range of important questions must be asked and consideration given to the 'power relations' around public participation. Not all people have equal capacity to take part in public participation processes. It is therefore important to consider who is involved in the process and why. Do participants cover a broad cross section of the community or are the participants from a particular part of the community or with a specific agenda? Is the community represented at a meeting just by the men in the circle or are there other voices in that community that need to be heard? What mechanisms were used to engage people? What information have they been given?

Consideration thus needs to be given to issues of gender, ethnicity and literacy. Factors such as the timing of the event and where it is held also need to be considered because they affect which groups of the 'public' might attend the meeting. Sometimes groups will be easy to identify as an important 'public' in a participation process. For instance, community members may be involved if they congregate as an action group because they have common issues of

concern that cut across various social groups and are very vocal in voicing their concerns. Sometimes, however, individuals and groups need to be engaged who are more difficult to access. For example, if women are affected by a slum upgrading process, they need to be accessed in a culturally appropriate manner (i.e. an all women meeting facilitated by a woman) and at a time during the day where they might have less domestic responsibilities. Whatever the issue or context is, tools to promote public participation ought to focus on putting in place effective mechanisms for facilitating and promoting interaction between the various actors or parties involved in land administration. Outlined below is a list of specific approaches/tools that can be used to engage the public.

3.4 TOOLS TO IMPROVE TRANSPARENCY THROUGH PUBLIC PARTICIPATION

3.4.1 DIRECT CITIZEN ENGAGEMENT

Direct citizen engagement refers to both access to and the dissemination of information to citizens in a targeted and intimate manner. That is, a process whereby the affected or the involved citizens/groups

Direct citizen engagement refers to both access to and the dissemination of information to citizens in a targeted and intimate manner.

have the opportunity to participate actively in decision making, including the prioritization of services. This method can result in valuable information about citizen's preferences which can then inform planning and policy decisions. Local governments can convene a focus group discussion with a range of local community members for example, both individual citizens or those representing different interest groups and age cohorts (youth and senior citizens for example) or a local multicultural group. From such a meeting, a working group could be formed to advise the government on a particular planning development for example, or proposed change in land use policy. Other larger types of direct engagement processes can also be undertaken to reach a larger and sometimes broader group of the public such as town hall meetings mentioned above for example.

Similarly, grassroots 'assemblies' can also play a role in bringing together large groups of people, particularly

in local settings, and gaining their feedback on specific issues or enabling them to be part of a change process. Box 33 on the right highlights the role of 'women's assemblies in enabling women to participate in land reform processes that affect them.

3.4.2 GRASS ROOTS /COMMUNITY-BASED ORGANIZATIONS, CITIZEN ACTION GROUPS,

Citizen Action Groups (CAG's) are issue specific groups comprising of a multi-disciplinary team of local community members who are committed, willing and ready to volunteer time and resources to deliberate upon and explore solutions to pertinent land administration questions or problems and accordingly advise their respective local or central government officials on a way forward. Although such groups may work with government officials, they are normally independent from the Local Government Authority (LGA). They can be involved in a variety of tasks and activities including examining and deliberating upon issues considered sensitive which may relate to say opaque decision-making processes or practices in the local government area, or that concern specific issues e.g. impact on the community from a particular land development proposal.

BOX 33: THE ROLE OF GRASSROOTS ASSEMBLIES (LATIN AMERICA)

Grassroots Assemblies are grassroots women led community meetings that bring to light their needs and concerns around land. In Peru, 'Mujeres Unidas Para un Pueblo Mejor' and 'Estrategia' conducted Grassroots Assemblies to bring women together to share their concerns about eviction, lack of household decision making and other housing and land related concerns distinctive to women. Assemblies offered women the space to share these concerns and needs, and collectively think of innovative strategies to address them. Other forms of participatory mapping carried out by 'GROOTS Peru', a coalition of grassroots women's groups including 'Conamovdi' (a network of women's popular kitchens), 'La Central de Bancos Comunes del Augustino y Santa Anita' (a network of communal banks), 'Red de Mujeres de Lima Este', 'Mujeres Unidas para un Pueblo Mejor' and 'Servicios Educativos del Augustino' (SEA) also helped to identify risks and vulnerabilities in communities around Lima. For example, in one community, women spoke of how the paths leading to the community, situated on a hillside, are impassable in the rainy season and are prone to flooding.

Source: Huairou Commission. Land and Housing. Tools – Grassroots Solutions at <http://www.huairou.org/grassroots-solutions>

In the same vein, following a complaint from land occupiers who are adversely affected by a local government's decision to change the land use of an area and have not been consulted, a Citizen Action Group might become involved in a mediating role. The

group would then seek an audience with municipal officials including urban planners and municipal leaders to find how (procedures and decision making processes) the area's land use category was changed without abiding by the statutory provisions.

If the group feels that a decision was made without adhering to the democratic procedures and to the regulations pertaining to land use change, the group may advise the municipal authority to review its decision. They may also take a step further to lodge a formal complaint with the minister responsible for land and urban development so as to bring the anomaly to his/her attention or lobby local politicians. Citizen Action Groups may also work with local bureaucrats in devising mechanisms to enhance efficiency in service delivery e.g. supply of land for housing for low income persons or collection of property tax in informal settlement by developing strategies to engage local leaders.

As such, grassroots organizations and citizen action groups are well placed to make independent contributions. It is important, however, to analyse the participants of the group in terms of how representative they are of a local community and to suggest means of diversifying their constituents if it is deemed that other people/individuals should be involved. For example, sometimes, such groups are dominated by the most vocal and outspoken in a community but such individuals might not be representative of or understand the views of all

members or the local community. The groups' diversity then, must be considered along the lines of gender, age, employment status, type of household, location of household if relevant etc. It is also important that during consultation efforts with the group, a range of views are actively sought and not just one view from one person in the group.

Advocacy groups also play a distinctive role in assisting in public participation efforts. Civil Society Watchdog groups for example, are essentially activist groups whose major function is the dissemination of information and creation of public awareness about government policy decision and activities. Lobby groups are those usually made up of the general public but who have organised themselves around a specific issue and want to ensure that issue is understood and accepted as part of any change process or development.

Civil Society Watchdog Groups do not normally work directly with the government officials or entities such as local governments, but they may attend and participate in various local debates including Town Hall Meetings. Since public interests lie at the centre of their engagement and roles, they often discharge their

functions as an 'oversight institution'. Subsequently, they may speak out for or against the public policy or action in land administration.

In cases where public interests, especially those that concern the poor are threatened, they may press for reforms. For instance if the public is not well versed with the procedures, and regulations that relate to the processing and registration of land titles, issuance residential licenses or rationale for informal property owners to pay property tax and land rent fees, Civil Society Watchdog Groups may take up the challenge by organizing public education campaigns on the matter. They may also play an important role in translating laws and regulations on land administrations so as to make them user-friendly, as well as educate people about their rights to be involved in municipal governance matters.

Box 34 on the next page outlines the role a women's Non-Government Organization has played in Kenya, in helping women secure land rights.

BOX 34: GROOTS KENYA, AN NGO FOR WOMEN'S RIGHTS TO PROPERTY AND DECISION MAKING

Groots Kenya is a networking women's self-help group and community organization. It was established to enhance women's visibility in development and decision-making forums that directly impacts on them and their communities. The group tries to empower women by sharing ideas and experiences and exploring avenues to directly participate in decision-making in planning an implementation of matters that concern and affect them.

A key programme area of Groots Kenya is its 'Women and property and Women leadership and governance'. This program aims to increase the awareness on issues that concern property and inheritance of women and girls. One of the most notable achievements of Groots Kenya is the formation of Community "Watchdog Group" to monitor and guard against property stripping of widows and orphans in communities.

Source: Groots Kenya at <http://www.groots.org/members/kenya.htm>

Community based organizations are normally grass-root institutions which derive their legitimacy and mandate from roles entrusted to them by their members. Their effectiveness may depend on the quality of leadership, the level of local input and participation at the grassroots level and the degree to which the organization can operate in a non-political/politised manner. Depending on the local context, the composition and roles of community

Community based organizations can also play an important role advocating for the rights of local communities. They can help compile formal community responses to particular issues. In this way, they can be a conduit for important local feedback and views.

based organizations may vary. In some situations, community based organizations' composition and leadership may include highly skilled and informed persons such as retired public officials. In other cases, the background of community based organization leaders' may be poor particularly in terms of education of their leadership and this can sometimes affect the manner in which the organization operates.

Community based organizations can also play an important role advocating for the rights of local communities. They can help compile formal community responses to particular issues. In this way, they can be a conduit for important local feedback and views. A community based organization may organize and represent collective position of a local community against decisions by public officials or bureaucrats that has contravened democratic rights or violated laws of the land. For example, in a situation where decisions have been taken by local municipal officials to declare land held by a peri-urban village community a 'planning area', without affording the landowners an opportunity to participate in the processes that led to the declaration of a planning area. Box 35 outlines the activism of informal self-organized community groups in

BOX 35: THE ROLE OF COMMUNITY BASED ORGANIZATIONS IN FIGHTING FOR LAND RIGHTS**Mokaya Payam Leaders Reject 600,000Ha Land Lease**

JUBA, 14th August 2011 Mokaya Sub-County, one of the largest Payams in Lainya County of Central Equatoria State has rejected a controversial lease of 600,000 hectares of land by claimers to a United States business company. Traditional and senior government leaders of the Payam including the County authorities have launched a demonstration, a joint protest rejecting the lease of the land to the American investors. A committee comprising of the Payam Parliamentarians in the CES Legislative Assembly, Payam Chiefs, and senior government officials at the State level and government of South Sudan have decided to visit authorities in Juba, accusing Nile Trading Company of mal practice and also to portray their rejection of the lease of the land as a community.

The Spokesperson of the traditional leaders of Mokaya Payam who spoke to Gurtong on Friday in an official statement in Juba said that, the committee that met with the State Governor and the President of the Republic of South Sudan, and have shown their position as affirmed by the State and GOSS authorities that the fate of the land depends on their will. 'This land lease was done in the absence of the community. It has taken three years since its deal started in 2008 for the Community to learn' the spokesperson said. 'Influential natives of Mukaya Payam who claimed to be the community representatives of the people of Mukaya carried out the deal'. 'We have rejected the project but have left the door open'. He explained that, the American Company wanted to use the land for

49 years of investment with a possibility of increasing the period to 100 years. The spokesperson confirmed that one of the terms of the agreement between the claimers and the company is also giving the Trading Company the right of exploiting the resources in the land. A government engineer, magistrate and Paramount Chief were the three influencers alleged to have leased the land to the American Company. The MP representing Mukaya Payam, Lainya County at the CES Legislative Assembly said the lease of the land was illegal and it was not in a transparent way. 'I was even born in that land! I was not consulted as the Payam legislative representative at the State assembly. I was very much disappointed as the approach used was very wrong ...it was not done in a transparent manner'. The MP said that the investors should use transparency in acquiring land as they deal with authorities both at the grass root and top-government.

Mokaya Payam with an estimated population of over 30,000, is one of the largest Payams in Lainya County with three Bomas; Biri, Lorega and Dimu one and Dimu two sub-bomas. The land deal has never got support from majority of the County leaders. An elder of the GOSS Council of States Parliament and a Member too expressed dissatisfaction about the land deal. 'This issue has to be addressed according to your-(Mukaya Payam people) will. You are the government and you have powers'.

Source: Waakhe Simon Wudu Reported in South Sudan daily paper 'Gurtong', 15th August 2011

It is also important to remember that interest and lobby groups also tend to have their own specific interests that they want a development process to consider. The welfare of those outside the group might not be therefore be considered, especially if other groups' interests clash with those of the lobby groups. For example, the lobby group might represent a group of local businessmen whose interest is in convincing the Local authorities that the proposed shopping mall will be an outright success and must go ahead, despite the fact that hundreds of families might be displaced. The agenda of groups participating as part of the important range of public voices, must therefore be considered and each groups' claims and issues carefully considered in terms of how they impact on others.

It is also important to remember that interest and lobby groups also tend to have their own specific interests that they want a development process to consider. The welfare of those outside the group might not be therefore be considered, especially if other groups' interests clash with those of the lobby groups.

3.4.3 PROFESSIONAL ASSOCIATIONS AND THE PRIVATE SECTOR

Non-Government Organizations: Apart from Civil Society Watchdog Groups, Non-Government Organizations and are other important groups which play a role in advocacy and fight against corruption in land administration. Non-Government Organizations play a slightly different role to that of Civil Society Watchdog Organizations. Many Non-Government Organizations are undertaking service provision and support and have clients from a broader range of the community. Many are also engaged in lobbying government on specific issues. Because of their program and activity in local communities, and the range of people they interact with, Non-Government Organizations can play an important role in addressing issues pertaining to corrupt practices and neglect of citizen rights in land matters such as promotion of gender equality and equity in access to land. Many often provide specific advocacy and legal services to disadvantaged groups and individuals.

Like Watchdog Organizations, campaigning against practices which impede access to information held by public (land) officials is also an area of interest

for Non-Government Organizations. In this respect, Non-Government Organizations can operate across a number of levels and issues and play a multi-functional role in advocacy and public awareness creation as well as whistle blowing. The role of Non-Government Organizations as 'whistle blowers' can be particularly critical in cases where there has been abuse of public office or disregard of public interests in land administration matters. In such situations, these organizations can sometimes spearhead the establishment of an independent investigation by anti-corruption bureau or other independent institutions. Non-Government Organizations can therefore help play a role in organising genuine community participation events because local people often trust them more than local authorities. Box 36 on the next page highlights the coordinating and advocacy role that Women's Land Link Africa has played in facilitating public participation across Africa.

Professional associations: Land related Professional associations such as the Valuers and Real Estate Managers Association, the Town Planners Institute or the Land Surveyors Association, can play important roles in promoting transparency in land administration and fighting corruption. In fact, one of the major roles

of these associations is to enforce ethical performance among their members.

Like Watchdog Organizations and Non-Government Organizations, Professional Associations also play an important role as a 'pressure' group to impress upon both central and local governments to review practices and regulations. Professional Associations often consist of a variety of individuals from private practice, the government and civil society. In this respect, they also act as 'watchdogs' by pointing out malpractices and deficiencies in the land administration matters. This could be for instance, in cases where public officials such as municipal planners may have prepared land use plans and processed approval of the same without displaying the plan proposals for public examination and reaction as required by the laws. Professional Associations could also alert the central and local government about provision in the policy or regulations which are frustrating efforts to enhance good governance and transparency. Such provisions may include the over centralization of decision making powers on land matters to central government official or excessive bureaucracy in processing planning consents or building permits at the local government level.

BOX 36: THE ROLE OF NGO'S IN FACILITATING PUBLIC PARTICIPATION

Since 2004, Women's Land Link Africa (WLLA) members and partners have worked together to successfully, improve women's access to, control over and ownership of land and housing in Africa. As a direct result of WLLA members' advocacy and organizing efforts, hundreds of women have gained access an ownership of land and housing through reversed evictions and disinheritance, registered marriage and death certificates, and obtained individual, joint and communal land titles. More than fifty community watchdog groups have formed to oppose and eliminate the eviction of widows and orphans from their land, over eight hundred plots of land have been acquired by women and grassroots women leaders have exchanged practices in over twenty peer learning exchanges and African regional Land Academies. The network has grown from four organizations in three countries to twenty-two organizations in thirteen countries. The initiative has build upon the strength of the major partners it brings together: Centre on Housing Rights and Evictions (COHRE), Swedish International Development Cooperation Agency (SIDA), Cordaid and the grassroots women's organization affiliated with GROOTS International, COHRE and Cordaid. For six years the grassroots women leaders of WLLA have carried out a range of activities in their local communities and in coordination at the regional level:

- Mapping women's access to and ownership of land
- Entering into new partnerships with local officials and like-minded organizations
- Exchanging community designed strategies and best practices
- Creating community safety nets: trained community paralegals and watchdog groups.
- Publishing popular tools manuals to promote the use of community mapping and peer learning exchanges as avenues of intervention for claiming, gaining, and maintaining land and housing.

BOX 36. continued

Through the WLLA network, member groups strengthen their current efforts and innovations that are making concrete improvements in the lives of women. Ongoing work is enhanced, information is disseminated to and through the groups, and knowledge sharing is facilitated through the network. In WLLA, the Huairou Commission develops a direct link from the grassroots to regional and global arenas and policy mechanism that are too often out of reach for local women's organizations.

Source: Huairou Commission at <http://www.huairou.org/land-housing/womens-land-link-africa-wlla>



Manzese Sav Office Tanzania. Photo © UN-Habitat /Suzi Mutter.

Finally, like some Non-Government Organizations, Professional Associations may also be active players and partners of local government areas in educating the general public through awareness creation and swift information dissemination on various land administration matters. They may also organize public forums to facilitate joint meetings (formal and

informal) between public officials and beneficiaries of services provided by local government areas and central government. Box 37 outlines the role that the International Federation of Surveyors plays in trying to continue improve and strengthen the 'good governance' practices amongst its members.

Private Sector: Private Sector Organizations involved in land issues such as private surveying practices and law firms specialising in conveyancing as well as land valuation businesses can also play a key role in facilitating public participation. Many of these organizations and groups have a unique and specific membership made up of professionals and business people that are less likely to be found in other community based organizations. In a public participation context, they therefore offer a different perspective on issues and have significant influence because of their often well-educated and financially secure membership base.

3.4.4 EMERGING PUBLIC PARTICIPATION MEDIUMS

As mentioned previously, there are a number of web based technologies that are fast changing the way the general public can participate and express their opinion on issues and changes that directly affect them.

As can be seen in the recent Arab uprisings of 2011, many people participated in the process through mediums such as 'Facebook', 'Twitter' and 'Youtube'. Land issues are also being discussed globally by the public via these mediums.

BOX 37: ABOUT THE INTERNATIONAL FEDERATION OF SURVEYORS (FIG)

FIG is the premier international organization representing the interests of surveyors worldwide (over 120 countries) and covers the whole range of professional fields within the global surveying community. It provides an international forum for discussion and development aiming to promote professional practice and standards and ensuring that the disciplines of surveying and all who practise them, meet the needs of the markets and communities that they serve.

To achieve its aims, FIG works to enhance the global standing of the surveying profession through both education and practice, increasing political relations both at national and international level, help eradicate poverty, promote democratisation, and facilitate economic, social and environmental sustainability.

FIG's activities are governed by a work plan, which is regularly reviewed against a longer-term strategic plan. The current work plan, titled 'Engaging the Challenge: Enhancing the Relevance', which guides the Council and Commissions activities, focuses on the surveyor's response to social, economic, technological and environmental change. FIG recognises the particular needs of capacity building in developing countries to meet the challenges of fighting poverty and developing a basis for a sustainable future. FIG also recognises that markets for surveyors' services are constantly changing. The plan accordingly lays emphasis on strengthening professional institutions; promoting professional development; and encouraging surveyors to acquire new skills and techniques so that they may be properly equipped to meet the needs of society and the environment.

Source: <http://www.fig.net/general/profile.htm>

For example, there is a popular land blog called 'Nourishing the Planet' run by the World Watch Institute which has regular blogs on land issues. If one 'googles' <http://blogs.worldwatch.org/nourishingtheplanet/> for example, a whole range of articles about land issues from around the world can be accessed and people's comments on the issues sourced.

Box 38 on the right outlines the role that Twitter and YouTube played in the recent 'Arab Spring' uprisings. Incidentally, this article is sourced from a 'blog' – also highlighting the new ways in which the public gain access to information and become participants in issues that affect them.

3.4.5 PUBLIC EDUCATION

Why is public education important? Public education ensures that the general public is provided with the opportunity to learn about the information (policies, laws, planning rules and regulations etc) in relation to land, which affects their everyday lives. In doing so, public education helps local communities to better understand their roles and obligations as well as those of the public officials involved in land administration.

BOX 38: THE ROLE OF BLOGS IN ENGAGING THE PUBLIC

Twitter, Facebook and YouTube's role in Arab Spring (Middle East uprisings) (UPDATED 11/28/11).
Posted on January 26, 2011 by socialcapital | 4 Comments

The "Arab Spring" in Tunisia, Egypt and elsewhere in the Mid-East heavily relied on the Internet, social media and technologies like Twitter, TwitPic, Facebook and YouTube in the early stages to accelerate the social protest. There is less evidence that social media played as strong a role in places like Yemen (where Internet penetration is low or Libya where the government cracked down on the Internet more effectively). In Syria, where the "Arab Fall" is still underway, the role of social media has been more limited because of fears that the government is monitoring online behaviour. [That said, the Free Syrian Army (Arabic actual site) is threatening civil war in Syria and claims to represent 10,000 defected soldiers operating in small bands across Syria; FSA has posted a YouTube video and claimed responsibility on Facebook for the 11/16/11 assault on the Air Force Intelligence building]. In Egypt, the government unsuccessfully attempted to squelch new organizing technologies by largely shutting down the Internet and cellphones, but the dissension genie was already out of the bottle, and the revolution successful ousted Mubarak and Egyptians are voting meaningfully for the first time ever today. The social media works hand-in-hand with the ability to actually mobilize citizens — mere befriending of a movement on Facebook or Twitter is never enough — the challenge is to put boots on the street, as protesters in Tunisia or Egypt know only too well.

Source: Social Capital Blog at: <http://socialcapital.wordpress.com/2011/01/26/twitter-facebook-and-youtubes-role-in-tunisia-uprising/>

In turn, this places them in a more empowered position to seek accountability from public officials and so transparency is more likely to become an integral part of land administration.

Public education ensures that the general public is provided with the opportunity to learn about the information (policies, laws, planning rules and regulations etc) in relation to land, which affects their everyday lives.

One of the long standing issues in land administration, particularly in developing countries, is the lack of information flow between government and land related offices and the public they are meant to serve. Many ordinary citizens have extremely limited knowledge and access to information about their rights and entitlements, what the laws allow and prohibit and where they can access the right information for their land issue. Further, very little effort is made to actively educate the public about their rights and responsibilities, their entitlements and where exactly they can go for help and what they might need.

From a land administration perspective, education must therefore include for example, issues related to land use planning; land surveying, land delivery and land registration and titling aspects. It must also include training to access relevant computer systems for example, so tools like the Bhoomi system in India can be effectively engaged with. Public education must also consider improving the understanding of land occupiers and land seekers about the basics of land administration. Land administration then, must not just be viewed as just improving systems, processes and procedures, it must be coupled with a broader commitment to build and develop the capacity of the general public so that all key stakeholders are truly informed and engaged. A number of key issues must be considered in a public education program:

- **Target groups:** Who are the target groups? Are there any special characteristics of individuals/communities within the target group that must be considered in providing the right information and ensuring that there is access to the information? Issues like literacy levels, poverty, gender, age and other cultural and religious factors impact on people's capacity to obtain information.

Education must therefore include for example, issues related to land use planning; land surveying, land delivery and land registration and titling aspects. It must also include training to access relevant computer systems.

- **Leadership:** Has consideration been given to leadership structures and to engaging community/local leaders to help promote the education process (both as participants and as facilitators/supporters?). These include senior people/local elders and even local organizations working in the community.
- **Information dissemination plan:** Has a strategy been developed to disseminate the information? If people have further questions, where do they come? Who do they contact? How do they know who to contact?
- **How information is presented:** Is the information available via a number of formats and across a number of mediums such as leaflets,



Asentamiento Humano. Photo © Jose Carlos Mariategui.

brochures, on the internet, in popular local meeting places such as markets, supermarkets, health centres, bus stops?

- **Budget:** What budget is provided for information dissemination and how can cost effective measures be implemented? Can word of mouth be utilised so key 'locals' are trained to tell others? Can information be disseminated in ways that utilise already existing meeting structures?

According to Bruce (2009), any public education tools that are utilised should:

- Be implemented in stages and with follow up and through both policy and implementation stages. 'One off' programs are often less successful;
- Create and inform the demand for reforms – so if people are more knowledgeable, they understand the system better and can see where improvements should be made;
- Both create and moderate expectations – if people are informed, they expect certain services but they also might understand the complexity of situations and the limitations;
- Be reassuring, anticipating and correcting distortions – people can understand the checks and balances in place and have greater 'trust' in the system;
- Inform beneficiaries on how to access benefits while at the same time enforce rights – people understand what they can rightfully claim but also are highly conscious of what is fair and just; and
- Keep implementers on track - those reforming the program should be held accountable.

Outlined below are various approaches and tools to implement public education programmes. Tools can be deployed simultaneously but they must be carefully selected and designed to suit local conditions and above all, meet the needs of the key stakeholders.

The media is one of the most effective tools for public education especially on matters that concern the general public such as poor or inadequate delivery of basic services or corrupt decision-making practices.

3.4.5.1 MEDIA

As highlighted in other tools in this chapter, the media is one of the most effective tools for public education especially on matters that concern the general public such as poor or inadequate delivery of basic services or corrupt decision-making practices. The types of media that can be used to inform the public include the following:

- Television advertisements (usually from the relevant Ministry or Government department, news items/ special feature clips in the news or specific broadcast program on land issues);
- Newspaper feature /advertisement;
- Radio advertisements and radio program on land issues;

- Information on the internet about land issues via government websites; and
- Information leaflets in local government offices, relevant meeting places in local communities or at the village level (kiosks for example, local temple or mosque).

If operating in a free and fair manner, the media can:

- **Play a stewardship role:** as a lead institution in educating and disseminating information, informing the general public about public policy decisions or trends in terms of mismanagement in the public sector. The media has often played an active role in disclosing behavioural inconsistencies among public officials involved in land matters. Through investigative journalism it can raise alarms and expose weaknesses in the public land management which often involve public officials exploiting vulnerable individuals and groups.
- **Play a partnership role in information dissemination:** the media can undertake a number of key roles including partnering with

the government to prepare and execute public education campaigns on general or specific issues. For instance, advertising the processes and procedures for filing complaints about misconduct or mistreatment of people by public officials in the land sector. The media can also disseminate information including clarifications on technical matters on land administration or changes in the law that the general public may not be well conversant with but needs to know.

As mentioned above, it should be remembered that success of the media depends on the freedom of press and on people's capacity to access it. This is an important precondition because in some countries, newspaper articles highlighting a corrupt practice, especially if it involves the government or an official, has often led to reduced media freedom of expression including harassment of journalists and editors as well as banning of newspapers. In this respect mechanisms for safeguarding the freedom of the press are necessary conditions so that the public gets true, authentic and balanced information in a swift manner. At the same time, sensational media reporting can

Success of the media depends on the freedom of press and on people's capacity to access it... mechanisms for safeguarding the freedom of the press are necessary conditions so that the public gets true, authentic and balanced information in a swift manner.

also be particularly harmful if it is used to detract public attention from reporting on corruption and other issues of national interest. Finally, it is also important to note that often the most vulnerable groups and individuals might have very limited access to what is considered 'mainstream' media (internet, television or radio) and could miss out on any media educative campaign due to literacy issues or lack of internet literacy and access, underscoring the importance of utilising a range of education tools in any information dissemination process. Box 39 on the next page provides one example of how Television was used in Ghana to educate people about land administration.

3.4.5.2 PRINTED VISUAL COMMUNICATION MATERIALS

Printed materials such as posters, billboards, leaflets/ brochures etc. can be widely used to reach local communities and other stakeholders in general. With advancements in information technology, 'soft copies' of the same can also be circulated on line so as to reach a wider audience and or solicit feedback (although this method can be costly). Visual communication materials can be useful promoting public education in land administration matters because they can be readily accessible by individuals especially if they are prepared in a manner that is user-friendly; especially in terms of language, graphic illustrations, etc. Comics and picture stories depicting issues in the land sector, can be very effective in communicating with the general public, particularly in those segments of the population where literacy might be an issue. An important consideration in utilising this form of communication is ensuring that the information is in places that reach everyday people. Placing this material in local markets, kiosks, community and health centres for example, is important. The cost of printed material is also a consideration that must be factored into public education campaigns.

BOX 39: THE ROLE OF TELEVISION IN EDUCATING THE PUBLIC

The International Land Systems (ILS), Inc. recently participated in the recording of two television programs designed to educate the Ghanaian public on land administration and procedures for formalizing land rights. The programs also sought to make citizens aware of interventions in the land sector undertaken by the Millennium Development Authority (MiDA) which is funded by the United States Millennium Challenge Corporation (MCC). The broadcasts are currently airing nationwide via Ghana Television (GTV), on the popular television talk show 'Mmaa Nkomo'. Regarding the importance of the broadcast for the Ghanaian people, ILS Project Manager said, 'From this program more than a million potential television viewers will learn about some of the benefits to securing their property rights, as well as the steps to do so. This broadcast will be of great assistance in disseminating information in the MiDA targeted districts as well as nationwide in an effort to help improve overall understanding of land rights'. The project works to enhance the public's awareness and knowledge of land rights, land laws and land title registration. In addition, the project seeks to provide a forum for discussion and dissemination of all findings from the MiDA's land activities. An important part of the assignment's Information Dissemination component is to outline key policy issues that rise out of stakeholder engagements and then feed them into policy discussions at the national level.

Source: International Land Systems February newsletter 31/10/2011 at <http://www.landsystems.com/news/february-2011/ghana-public-education-on-land-rights-broadcast-televised-nationwide.aspx>

Figure 10 below shows a graphic used to encourage citizens to write a will and document land assets. WAT is a non-government and non-profit making local organization which is responsible for supporting low income households to access decent housing and improved security and tenure rights.



Figure 10: Campaign power on the importance of writing a will.
Source: WAT Human Settlements Trust (2009).

3.4.5.3 CIVIL SERVANT EDUCATION PROGRAMS

An important component of a sound public education process in building an effective land administration

system must be the concurrent and regular training and education of civil servants in customer service related land administration. This is particularly important for those whose day to day jobs are interacting with the general public and addressing their land related questions and queries. Training in current land related laws, policies and procedures, in good customer service provision, how to handle complaints etc, are all part of creating good governance in land administration. An informed and approachable land civil service also empowers and enables the general public to be informed. The two groups are therefore interconnected in terms of achieving education outcomes, good governance and transparency. Creating a culture of good customer service is often the first step, particularly when it has not necessarily been a feature of past administrative systems or styles of operating. Creating a good customer service culture is, however, dependant on adherence to broader good governance principles and particularly good leadership. Effective civil servant education programs are more likely to be valued and occur when:

- There is good leadership and commitment by both the government and senior bureaucrats to creating

a customer service related culture that involves all departments and staff. Policies, procedures and practices are designed with the end user in mind i.e. the broader public.

- A range of tools are put in place to ensure civil servants are customer service orientated such as Customer service charters, help desks, phone lines, internet pages etc are developed and maintained to serve the wider public.
- There is a clear commitment to and accessible procedures in place, to follow up cases and complaints and consequences should this not occur.
- Regular training is held to ensure civil servants are skilled in serving and responding to the general public.
- Priority is given to employing staff with experience of or capacity for customer service.

Box 40 on the next page underlines the importance of building the capacity of government land administration workers so that they can successfully serve the general public. The case study refers to a capacity building project undertaken in the Solomon Islands support by AUSAID.

The case study also highlights the gains that can be made by capacity building but also the need for on-going training so new systems become integral to the overall management and operations.

BOX 40: THE BENEFITS OF IMPROVING THE CAPACITY OF STAFF WORKING IN THE LAND SECTOR

Strengthening land administration in Solomon Islands was an AusAID-funded project recently completed after more than seven years. It improved systems, processes but perhaps most importantly, staff capacity in the Department of Lands and Survey and in doing so, enabled the public to gain better access to land information. The implementation strategy of this project allowed for flexibility, which meant it could respond to opportunities such as the development of a geographic information system, the initiation of pilot activities in informal settlements and the recording of details of land held under customary ownership. This Solomon Islands project provides some key lessons for future land administration activities in the Pacific. One of the key lessons was that assistance to build the capacity of an agency needs to have a flexible design and to take into account both the constraints imposed by and any changes in the local context (p.308).

The project sought to build the capacity of managers and supervisors by:

- developing an organizational structure to reflect the department's functions;
- introducing a corporate plan and budget-based work plans as management tools;

- establishing procedures to recruit senior and middle managers;
- designing and delivering a significant staff training program; and
- preparing standard operating procedures.

The process encountered a number of challenges. For example, the activities demanded a lot of the department's resources. Increasing staff capacity at management and supervisory levels to cope with the workload was not given enough priority and resources. So the systems established are somewhat fragile and require ongoing support.

On the other hand, there were substantial benefits that resulted from the process. The interaction of project advisers and the staff had a major positive impact on staff competence, self-confidence and morale. A high proportion of the project's effort went into developing the technical skills of staff to a high level. Training was delivered mainly through on-the-job support from technical advisers hired by the project. Postgraduate distance education programs in spatial mapping and business management were successful despite being demanding on the staff. All advisers were required to develop operational manuals for the upgraded systems, and those manuals are a comprehensive source of information on how to maintain the systems (p313).

Source: Larden, D and Sullivan, M (2008). Strengthening Land Administration in the Solomon Islands. Making Land Work- Volume 2 Case Studies.

3.5 SUMMARY

This chapter has highlighted the tools to improve access to information and public participation.

The section on tools to improve access to land information highlighted the importance of:

- The provision of relevant, accessible and timely information as critical to good governance for both the general public and for land departments if an effective system is to operate;
- Ongoing awareness and analysis of who is receiving information and who might need it;
- Presenting information in a number of ways and via a number of mediums to reflect people's differing literacy and language skills;
- Utilising information dissemination approaches that are aware of people's gender, poverty levels, disabilities and other issues that might prohibit them accessing information, access to technology;

- The role television, radio, written information, oral methods (meetings) and the internet in improving access to information providing the media operate in a free and fair manner;
- The role of Land Information System (LIS), the Social Tenure Domain Model and Computer technology as tools for both users and civil servants to better record important land information; and
- The role of web based mediums to facilitate access to information such as Facebook, Twitter and YouTube.

The section on tools to improve public participation highlighted the importance of:

- Monitoring 'who' is participating in public participation efforts as some individuals and groups are vulnerable in terms of being recognised as having legitimate rights to participate or are almost invisible because of their gender, level of poverty or disability for example;

- Considering the social, cultural, literacy, ethnicity and other dimensions that define individuals and groups and affect their capacity to take part in engagement efforts;

- Including those in positions of influence (leaders) in promoting public participation and education processes;

- Building the capacity of civil servants is vital for public education to be successful;

- Utilising the media and web based mediums to facilitate public education, especially internet applications such as Facebook, Twitter and YouTube; and

- Utilising public, private and community sector groups to improve participation.

The next section explores the relationship to good land governance and professional ethics and integrity.

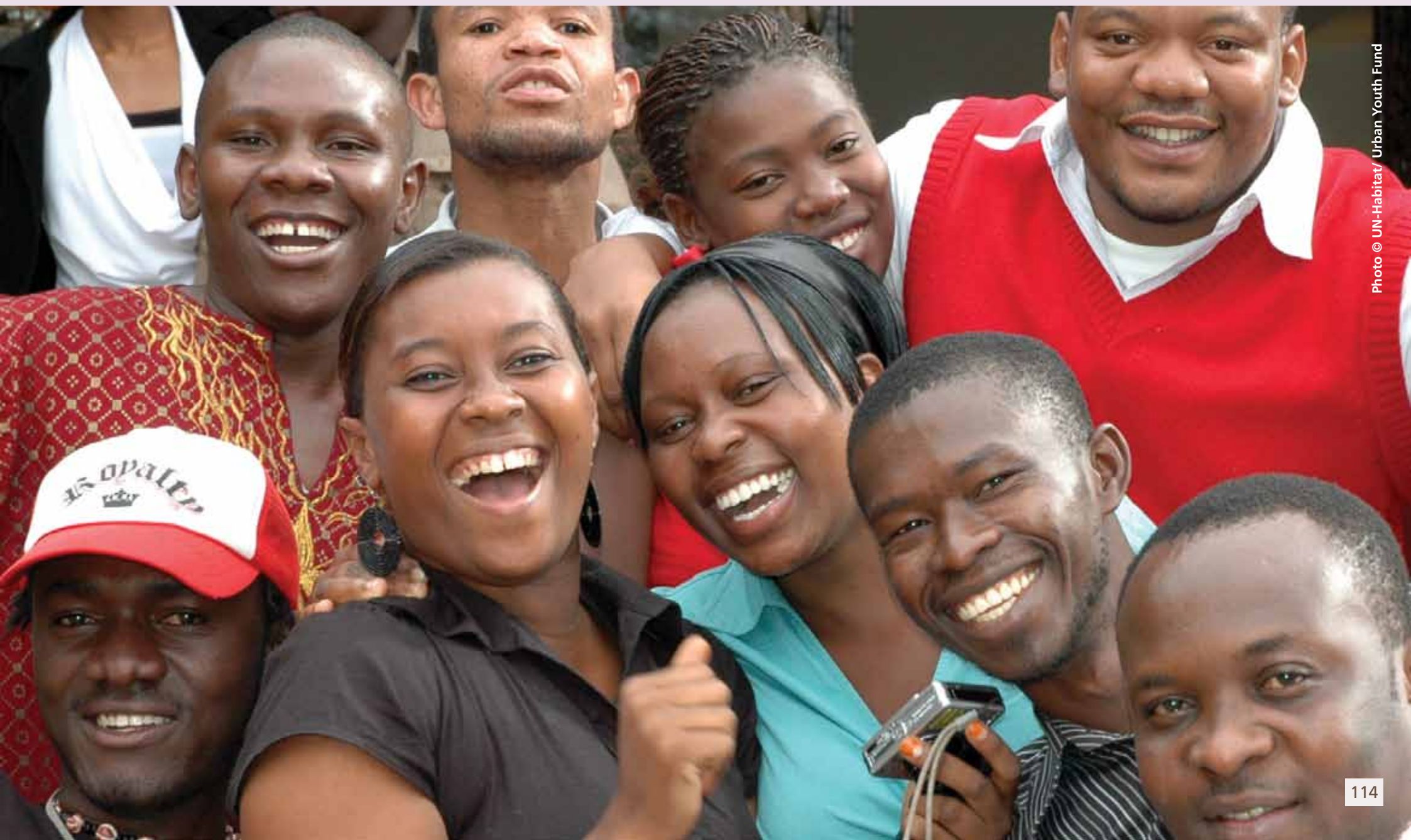


Photo © UN-Habitat/ Urban Youth Fund

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04

PROFESSIONAL ETHICS AND INTEGRITY

4.1 OVERVIEW

This chapter looks into the role of individuals and the manner they discharge their duties as integral elements of an organization which provides service to the public. The sum total of these individual values and behavior form are a part of an organizational culture. Culture in this context refers to the values, aspirations and behaviours that underpin how a land organization operates.

Culture in this context refers to the values, aspirations and behaviours that underpin how a land organization operates. Low morale and unethical behaviour for example, can destroy an organization in a remarkably short period of time and thus render it completely useless to the general public. On the other hand, ethical behaviour and a culture of integrity can result in effective and fair administration systems and excellent customer service.

Low morale and unethical behaviour for example, can destroy an organization in a remarkably short period

People's behaviour in an organization, or their 'ethics' and 'code of conduct' include both passive and active components which demonstrate the values, attitudes and beliefs that define the essence of the organization.

of time and thus render it completely useless to the general public. On the other hand, ethical behaviour and a culture of integrity can result in effective and fair administration systems and excellent customer service.

People's behaviour in an organization, or their 'ethics' and 'code of conduct' include both passive and active components which demonstrate the values, attitudes and beliefs that define the essence of the organization. The World Ethics Forum urges for increasing recognition of, and emphasis on, ethical leadership and public integrity (UNU, 2006; in van der Molen et al, 2006). Similarly, the OECD suggests that public service should be seen as a 'public trust', for which sound public service ethics are a prerequisite and must therefore be given the attention they deserve (OECD, 2000). Understanding the role of

ethics and integrity in a functioning land agency and the tools that engender a strong moral culture is therefore critical to promoting transparency in land administration and in striving for good governance practices.

The main objectives of this chapter are to:

- Consider the meaning of professional ethics and integrity in the context of land administration tools to improve transparency and gain a common understanding of the key terms, and
- Explore a range of tools that can build public trust and confidence in land administration including:
 - Conflict of interest laws;
 - Codes of conduct or professional ethics;
 - Ethics training, and
 - Ethics and dispute resolution disclosure and reporting (including whistle blower and whistle blower protection).

4.2 WHAT ARE ETHICS AND INTEGRITY?

What do we mean by ethics and integrity? 'Ethics' are the moral principles that govern a person or group's behaviour. They are the standards which

E *Ethics are the standards that guide our conduct and help us when we face decisions that involve moral choices.*

guide the behaviour and actions of personnel in public institutions and which may be referred to as moral laws³⁴. More specifically, ethics are the standards that guide our conduct and help us when we face decisions that involve moral choices. While ethics do reflect personal and professional standards, it is 'values' that give meaning to the term ethics and it is values that define what we view as 'right'. Thus, ethics and values are connected and are very normative in nature. They indicate how one should behave in a given situation or under a particular set of circumstances³⁵.

'Integrity' is the quality of being honest and having strong moral principles. In public administration, integrity refers to 'honesty' or 'trustworthiness' in the discharge of official duties, serving as an antithesis to

'corruption' or 'the abuse of office'. The literature on ethics and integrity in public administration suggests that integrity is a fundamental organizational quality because it is the basis upon which factors such as transparency and accountability rest.

E *Integrity refers to 'honesty' or 'trustworthiness' in the discharge of official duties, serving as an antithesis to 'corruption' or 'the abuse of office'.*

Without integrity, transparency, accountability and thus good governance cannot exist. The concepts of moral codes of behaviour and integrity have all been linked with transparency and accountability by UN member countries, both collectively and individually, as part of the founding principles of public administration. In organizational terms, the United Nations suggests that the following terms are critical when understanding integrity in an organizational setting.

- **Ethical Environment:** Having clear standards and norms that help employees distinguish right from wrong, appropriate from inappropriate behaviour.
- **Organizational Culture:** The collection of beliefs, expectations, and values shared by the organization's members and transmitted from one generation of employees to another³⁶.

The United Nations Department for Economic and Social Affairs (2005) program suggests that the following key support structures need to be in place in order that organizational integrity can operate:

- A high-level commitment is required at the political level, to take on serious cases of misconduct and corruption.
- Coordination must be carried out by a central and/or independent agency in order to effectively lead all government agencies.
- Overall management reforms, the involvement of civil society, and clear guidance for public officials are also required³⁷.

³⁴ p.11, UNPAN. United Nations Economic and Social Council – committee of experts on public administration. Fifth session, New York, March 27-31, 2006

³⁵ Ibid

³⁶ p.72 United Nations organizational integrity survey (2004). Deloitte Consulting. Found at http://whistleblower.org/storage/documents/UN_Integrity_Survey.pdf

³⁷ p.21. UNDESA, (2005). Towards Participatory and Transparent Governance: Reinventing Government Publication based on 6th Global Forum on Reinventing Government: Towards Participatory and Transparent Governance 26-27 May 2005, Seoul, Republic of Korea

At: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan026997.pdf>

Who then, demonstrates or champions ethics and integrity in an organization? Some examples include someone who:

- Demonstrates by actions, the values of the organization;
- Acts without consideration of personal gain;
- Resists undue pressure in decision making or implementation;
- Does not abuse power or authority;
- Stands by decisions that are in the organizations interest even if they are unpopular; and
- Takes prompt action in cases of unprofessional or unethical behaviour.

There are a range of tools that organizations can use to develop strong levels of integrity and good ethical behaviour. These are outlined below.

4.3 TOOLS FOR PROMOTING ETHICS AND INTEGRITY

Tools help promote integrity in everyday actions and thus develop a stronger land administration system. UN-Habitat has developed a range of tools to promote

ethics and integrity. The key principles of those tools are summarised here:

- Developing and enforcing conflict of interest laws;
- Developing and operationalising codes of conduct or professional ethics;
- Ethics training;
- Ethics and Dispute resolution; and
- Disclosure and reporting (including the role of the whistle blower and whistle blower protection).

Each of these approaches is described below.

Conflict of interest laws are enforceable rules outlining what individuals should 'disclose' when holding a particular position (especially in a public service role).

4.3.1 CONFLICT OF INTEREST LAWS

Conflict of interest laws are enforceable rules outlining what individuals should 'disclose' when holding a particular position (especially in a public service

role). That is, if they hold any assets that might be a potential 'conflict of interest', are on any Boards or run a company which might be seen as undermining or conflicting with their capacity to undertake their current role. Conflict of interest laws therefore legally guide good ethical behaviour as they formally and informally encourage individuals to be open and transparent about their actions and activities.

In their document 'Managing Conflict of Interest in the Public Service' (2005), the OECD defines conflict of interest as: 'a conflict between the public duties and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities' (p.2). UN-Habitat defines a conflict of interest as indicative of a situation where 'a private interest may influence a public decision' (UN-Habitat Urban Governance Toolkit series 2004). The challenge for regulation in the public and political sphere is therefore to prevent conflicts of interest that lead to corruption. Conflict of Interest Laws then, are laws and regulations designed to prevent and punish conflicts of interest. These laws may contain provisions related to financial or asset disclosure, exploitation

of one's official position and privileges, regulation of campaign practices, etc. Box 44 below outlines some examples of conflicts of interest.

Why then, do we need to have laws for conflict of interest? Some of the reasons include:

- Ensuring transparency and ethical conduct by employers and officials through removing the temptation and opportunity to engage in corruption.
- Establishing transparent frameworks for government officials with respect to decision-making processes especially, financial decisions.
- Promoting disclosure of private, personal and political interests.
- Protecting officials from undue suspicion.
- Instilling public trust and citizen confidence in land administration.
- Constructing parameters by which those seeking business from or access to the land administration offices are subject to certain ethical standards as well.
- Creation of mechanisms to sanction and/or reprimand violators of such laws.

“*Declarations of interests may be seen as the single most important component of a framework for tackling conflicts of interest.*”

Declarations of interests may be seen as the single most important component of a framework for tackling conflicts of interest. They are a fundamental instrument of transparency, and provide an incentive for officials to put their affairs in order. They also serve as a necessary condition for other components of a regulatory framework to work – in particular, the exclusion from decision-making and detection of conflict of interest situations. Article 8.5 of the United Nations Convention Against Corruption obliges parties to the Convention to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials (Reed, 2008).

It is important to note, however, that the law is only as effective as the penalty provisions and enforcement. The literature on corruption suggests that there is only one way of tackling the issue of conflict of interest and that is to prevent certain conflicts of interest by legislating and vigorously enforcing. Regulations should therefore be designed not only to impose obligations on public officials, but also to help them resist improper approaches, and more generally to contribute to the development of a public service culture of integrity.

“*There is only one way of tackling the issue of conflict of interest and that is to prevent certain conflicts of interest by legislating and vigorously enforcing.*”

In brief then, the objectives of conflict of interest laws include the following:

- To establish a set of behavioural codes and a culture (code of ethics) that serves as a moral framework for the organization;

- To prevent conflict of interest situations arising, to the extent that this is possible and practical;
- To establish rules that address conflict of interest situations where they do arise; and
- To provide guidance to public officials and enable them to protect themselves more easily.

Codes of ethics help set the tone for the organizational culture and make broad and strong statements about what is acceptable and what is not within organizations.

4.3.2 CODES OF CONDUCT AND PROFESSIONAL ETHICS

Codes of ethics help set the tone for the organizational culture and make broad and strong statements about what is acceptable and what is not within organizations. The core purpose of most professional codes of conduct is to:

- Provide a framework for employees that outlines their rights and responsibilities but also the company's expectations in terms of the behaviour; and
- Make clear how the company wants or expects staff to interact with its clients and stakeholders. This relationship is often referred to as a professionals 'duty of care' and responsibility to their clients. Employees should not, for example, exploit their relationship for their personal advantage to the detriment of their clients (or the company).

According to Gilman (2005), codes of ethics:

- Increase the probability that people will behave in certain ways. They do this by focusing on the character of their actions and by focusing on sanctions for violations.
- Focus public servants on actions that result in doing the right things for the right reasons. Ethical behaviour should become a habit and effective codes allow both bureaucrats and elected officials to test their actions against expected standards.
- Provide a strong 'prima facie' reason to act in a certain way. Codes of ethics do not take away one's own moral autonomy or absolve the public servant from the obligation to reason.
- Provide a professional statement of values. That is, it expresses the public service's commitments to a specific set of moral standards³⁸.

Codes of Conduct, also known as 'Professional Ethics', are usually produced by professional organizations, either in the government or private sector. Originally, these frameworks were developed in the private sector corporate governance area and are reflected in institutions such as the institute of land surveyors or town and regional planners. They are increasingly applied to the public sector and other institutions that work in land administration, including NGO's for example. There are a number of 'codes' that can be created that help promote ethical behaviour including:

- Municipal codes of ethics provide ethical guidelines for municipal officials and employees, as well as being critical for restoring public trust in local government.

³⁸ p.8 and 9. Gilman (2005)

- Codes of ethics are also used for NGOs, professional associations and the media.
- Codes of ethics always contain basic principles of professional conduct.

Box 41 on the right highlights the importance of codes of ethics in the fight against corruption according to the United Nations.

One of the biggest difficulties in acting with integrity in an organization is feeling alone to stand against what might be a culture of non-ethical behaviour. It is often very difficult to be seen to be acting 'differently' to colleagues and peers, especially senior figures and those persons in authority.

To function effectively, specific codes of conduct need to be developed that outline the expectations and boundaries of good behaviour and are applied to all employees, including senior management. A common civil service approach is to make the code of conduct a part of an official's contractual obligation; this allows disciplinary proceedings including dismissal to be applied as sanctions, while at the same time making the code easier to adapt. Perhaps the most important aspect of a code of ethics and a code of conduct is,

BOX 41: THE UN CONVENTION AGAINST CORRUPTION: PUBLIC SERVICE CODE

In 2003 the U.N. Convention Against Corruption included a public service code as an essential element in corruption prevention. Corruption can be prosecuted after the fact, but, first and foremost, it requires prevention. An entire chapter of the Convention is dedicated to prevention, with measures directed at both the public and private sectors. These include model preventive policies, such as the establishment of anti-corruption bodies, and enhanced transparency in the financing of election campaigns and political parties. States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency, and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as the judiciary and public procurement. Those, who use public services, must expect a high standard of conduct from their public servants.

Source: p.5. Gilman, Stuart (2005). Ethics codes and codes of conduct as tools for promoting an ethical and professional public service: Comparative Successes and Lessons. Prepared for the PREM, the World Bank Washington, DC. At: <http://www.oecd.org/dataoecd/17/33/35521418.pdf>. Accessed on 13/11/2011

however, that they are 'owned' and 'internalised' by those who are subject to them. That is, those who are affected by the codes, need to believe and relate to these morals and rules.

On the next page in Box 42 is an example of a code of ethics from the Hong Kong Land Institute. Note the range of behavioural expectations outlined as well as an expectation that members will treat other people's private information in a certain way.

BOX 42: CODE OF ETHICS FROM HONG KONG LAND ADMINISTRATION

1. This Code is meant to ensure the professional competence and integrity of all members in providing their services to the client or the general public.
2. Members should devote their utmost effort to become competent by qualification and experience to perform services which they are appointed to take. Furthermore, they have to constantly update and upgrade themselves in new developments, law and technologies to cope with the changing demand, practice and procedures, and Government policies.
3. Members have a duty to contribute towards the improvement of professional standards and the training of their staff as well as any other people interested in the profession through career development, lectures or running courses, etc.
4. Members shall endeavour to co-operate with other professionals, disciplines and individuals so as to achieve optimum results in respect of their tasks and assignments.
5. Members should not take part in any business, malpractice or any act of misbehavior which may cause an adverse effect on or damage to the public image and reputation of the Institute.
6. Members should not get involved in any suspected or known illegal dealings especially in connection with their profession or duties. They have the obligation to uphold justice in land administration and in providing their professional services.
7. In the event of any controversies occurred between members of the Institute, they should be settled either between themselves or by the respective Committees of the Council, or the full Council of the Institute without involving any non-member third party, outside bodies or the public media to safeguard the professional reputation of the Institute.
8. Members should not publicly criticize their fellow members of the Institute without the explicit consent given and in a manner approved by the Chairman in Council Meeting.
9. No member shall injure falsely or maliciously, directly or indirectly, the reputation, prospects or business of other members.
10. Any member charged under the prevailing laws of the Hong Kong Special Administrative Region (HKSAR) in connection with his/her professional activities or duties whether or not involving the Institute shall report the occurrence forthwith to the Institute.

BOX 42: continued

11. Members must disclose to their employers or clients any personal or conflicting interest involved in the course of performing their duties or assignment. This also covers any benefit gained from a third party even not in breach of their professional responsibilities. If they are acting for their company, then any conflicting interest with other client(s) shall be disclosed to the client.

12. Members must protect the privacy of any data provided by or belonging to their clients for the sake of professional integrity as well as compliance with the relevant legislation of the HKSAR.

Source: Hong Kong Institute of Land Administration at hkila.org.hk/career/codes.htm Accessed on 14/11/2011.

When setting up codes of conduct and ethics, there are five useful steps to follow:

- **Creation:** The process of producing a code of ethics must in itself, be an exercise in ethics. There needs to be a fully consultative process involving all stakeholders from the conception of the idea to the final approval and implementation.
- **Implementation:** Clear language and explanations of the code need to be available to the stakeholders. Support from an accessible central point, such as the relevant ministry of lands, or legal organization must be made known.
- **Dissemination:** Everyone must know and understand the expectations of the code. The codes should be written in clear, everyday language, including local dialects if relevant. The inclusion of photographs, illustrations and simple tables are useful to aid the interpretation of the themes of the code.
- **Identifying gaps and loopholes:** Codes of ethics are usually a work in progress because institutions change and social and cultural norms alter. Codes

therefore need to be regularly and periodically reviewed to ensure that they reflect the norms and principles of the company/department for example, and reflect public expectations and current norms.

- **Open interpretation of code:** All information, especially the decisions on topical or controversial cases, pertaining to the code must be shared widely.

Box 43 on the next page outlines an example of a code of conduct from the Urban Land Institute.



Consultation in the Field, Nepal Photo © UN-Habitat.

BOX 43: CODE OF ETHICS, URBAN LAND INSTITUTE**About The Urban Land Institute**

There are around 30,000 members of the Urban Land Institute from the U.S. and around the world who are community builders, the people who develop and redevelop neighborhoods, business districts and communities across the U.S. and around the world.

Urban Land Institute Code of Ethics**1. Respect for the Land**

I know that each parcel of land is a precious, distinct, and irreplaceable portion of this distinct and irreplaceable planet. I will treat it with the respect that it deserves, recognizing that I will be judged by the integrity and permanence of my developments, which will survive my lifetime.

2. Respect for the Profession

ULI—the Urban Land Institute has pioneered many of the practices and techniques that have become the standards in the land use and development profession. I will support the profession's continuing efforts to create a wider understanding of sound land use and development principles and practices and to disseminate knowledge thereof through its research and educational programs. I will observe the highest standards of professional conduct and will seek continually to maintain and improve my professional skills and competence.

3. Respect for the Consumer

Recognizing that a good reputation is a possession and beyond price and that the quality of my product will determine the quality of my reputation, I will strive at all times to ensure the professional quality of my enterprise.

4. Respect for the Public

I will endeavor at all times to enhance public understanding of the development process, to preserve the public's confidence and trust in my profession, and to protect the public welfare.

5. Respect for Equality of Opportunity

I will support the private enterprise system that can provide the widest latitude of equality for opportunity, creativity, and innovation.

6. Respect for Others in the Land Use and Development Profession

I will treat others in my profession fairly and honestly. I will share with them my knowledge and experience, recognizing that both the people and the land will benefit from the dissemination of that knowledge.

7. Respect for the Larger Environment

In attempting to provide adequate staging for decent environments in which people will live, work, and play, I will be ever vigilant toward preserving the quality of the larger environment—the air, the water, and the land.

BOX 43: continued

8. Respect for the Future

Recognizing that change is inevitable, I will pursue excellence with an open mind, challenged by the need to provide housing and facilities for employment, distribution, relaxation, and enjoyment.

9. Respect for Future Generations

Recognizing that younger generations will be more affected by what we do than by what we say, I will do my utmost to set a good example and will participate wholeheartedly in the development community's efforts to inform and encourage future generations of land use and development professionals.

10. Respect for Personal Integrity

I will employ the highest ethical principles and will observe the highest standards of integrity, proficiency, and honesty in my professional and personal dealings. I will remain free of compromising influences or loyalties and will exercise due diligence in ensuring that my performance is at all times creatively, competently, and responsibly managed.

Source: ULI website: <http://www.uli.org/LearnAboutULI/WhoWeAre/CodeofEthics.aspx> accessed on 13/11/2011



Corruption free zone. Photo © UN-Habitat/ Solomon Haile.

In order to successfully make ethics and ethical behaviour a top priority in an organization, it is vital to evaluate and reinforce ethical behaviour on an ongoing basis.

4.3.3 ETHICS TRAINING

In order to successfully make ethics and ethical behaviour a top priority in an organization, it is vital to evaluate and reinforce ethical behaviour on an ongoing basis. Training in ethics requires regular follow up to ensure codes are being enforced and that all employees are supported in their endeavours to adopt the code. Just as is important, however, is that senior managers are seen to lead by example and 'walk the talk'. The enthusiasm and commitment to embrace ethics is quickly quelled if senior management are seen to flout and disrespect the rules set. As the cartoon in Figure 11 suggests, old habits will continue if there are not clear efforts to train staff and give them the required support.



Figure 11: Campaign power on the importance of writing a will
Source: Christian Science Monitor, 17 June 2009.

In sum then, training in ethics is important so that:

- Employees know about ethics rules and regulations of their workplace and gain confidence and trust in the processes if they see it's a priority and effort is being directed at training (so it's not just a one off training session and then employees are left to 'fend for themselves');
- The capacity to maintain open processes is supported and established as codes and practices are reinforced; and
- The principles of transparency and accountability within organizations are reinforced.

As mentioned earlier, one of the biggest challenges in ethics and integrity practice is how both organizations and individuals working within them, take action when they discover something is wrong or someone has seriously breached one of the codes. Ethics training is therefore an important means whereby staff develop the skills for dealing with the challenges of saying 'No' to bribery, spotting and responding appropriately to conflicts of interest and treating subordinates with respect for example, training can provide an avenue for a detailed discussion on how employers might respond to a conflict of interest across a number of mock scenarios. Such 'role playing'

“ Ethics training is therefore an important means whereby staff develop the skills for dealing with the challenges of saying ‘No’ to bribery, spotting and responding appropriately to conflicts of interest and treating subordinates with respect for example, training can provide an avenue for a detailed discussion on how employers might respond to a conflict of interest across a number of mock scenarios.

helps staff to improve their management of ethical behaviour breaches but can also provide insights for the organization into those points of greatest difficulty for staff. One way to start formulating an ethics training program or process could be to:

- Begin a process of holding workshops in the organization outlining the types of behaviour you want and do not want in the organization or department and discussing how you want the public to view the organization/department (with the support of senior management).

- Discuss what some of the challenges and impediments to undertaking a training program might be so everyone is aware of what issues might arise and how they might be overcome.
- Create a statement of values and a code of ethics for the organization, government land department and involve employees at every level in the process.
- Discuss what other local, state or national laws and regulations might have to be considered as part of your discussion.
- Set up a formal training process. Get a good facilitator and involve all managers (including the CEO) in the training to show that everyone is required for the process.
- Some employees may need special training due to certain jobs, such as land registration, expose them to more ethical lapses. Give them any additional information that they might require.
- Agree when further training should take place so a regular cycle of input and feedback is created.

4.3.4 DISCLOSURE, REPORTING AND THE ROLE OF WHISTLEBLOWERS

One of the most difficult issues in relation to codes of ethics and conduct in departments and organizations is what to do when someone ‘breaks the rules’?

How are such situations managed, especially if it’s a close colleague or a senior person in a company/ organization? What are the grey areas in the code such that some might say ‘well, it wasn’t so bad ...so we won’t do anything (or can’t do anything)’?

“ One of the most difficult issues in relation to codes of ethics and conduct in departments and organizations is what to do when someone ‘breaks the rules’?

There are often deep seated historical social, cultural and religious mores that can prevent or make it seem difficult for individuals’ and organizations to manage situations when there is a clear breach of the code of conduct. Furthermore, companies/organizations/ departments do not necessarily have clear and trusted procedures and practices in place to successfully manage a conflict resolution process or a break of ethical codes of conduct. Transparency International’s 2010 report on Whistleblowing looked at the issue across ten European countries. The report underlines the importance of understanding the historical and social context of a country (and thus organization)

in regard to disclosing wrongdoing. The report says 'cultural and political factors can pose an important obstacle to effective reporting and protection of those reporting wrongdoing (whistleblower protection). Across the ten European Union countries, most of which are located in Central and Eastern Europe and carry the legacy of the former Eastern bloc's secret police networks, there are negative connotations surrounding whistleblowers'.

In relation to reporting wrong doing (whistleblowing), Box 44 on the next page highlights the importance of understanding the social, political and cultural context of the people and place where governance and transparency issues are being assessed:

It is therefore vital that disclosure and reporting of wrongdoing are understood as a 'two sided coin'. That is, one the one hand, it is important to understand the context in which corruption for example, occurs and therefore, in what ways and by what means the general public can be encouraged to assist in the fight against corruption via disclosure. On the other hand and in light of this information, it is important that the right formal and institutional tools are put in place to support those who want to report a breach in the code, such as reporting.

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The United Nations Office on Drugs and Crime 'Corruption Toolkit' (2001) suggests that there are a number of important general practices and procedures that must be put in place in order that codes of conduct are enforced and importantly, employees and those affected by the code can confidently and safely disclose wrongdoing. These include:

- Providing education about corruption;
- Providing genuine opportunities to report corruption;
- Providing security against retribution, and
- Utilising independent and credible investigators as well as providing adequate training.

For employees in a company, the report also points out the need to:

- Establish, disseminate, discuss and enforce a Code of Conduct for public servants;
- Establish and disseminate, discuss and enforce a Citizen Charter;
- Establish an independent and credible complaints mechanism where the public and other parts of the criminal justice system can file complaints;
- Establish a Disciplinary Mechanism with the capability to investigate complaints and enforce disciplinary action when necessary;
- Conduct an independent comprehensive assessment of the government's levels, cost, coverage and quality of service delivery, including the perceived trust level between the public service and the public;

BOX 44: WHISTLEBLOWING: THE IMPORTANCE OF UNDERSTANDING THE COUNTRY CONTEXT

'In many of the countries studied, there is a general disconnect between government actions and rhetoric when it comes to combating abuses, including those related to corruption. Many citizens report that their government is not doing enough to respond to the problem. Survey work completed in 2009 reports that fewer than one in 10 respondents in Bulgaria, the Czech Republic, Hungary and Lithuania consider their government's anti-corruption efforts to be effective.¹⁴ In Ireland, corruption is estimated to cost the government as much as 3 billion each year in lost revenue and foreign investment. Although whistleblowing is highly recognised as an effective detector of fraud and misconduct, related legislation has been seemingly 'disincentivised' by the government' (p.8)

Across the 10 EU countries, the term 'whistleblower' is associated with being an informant (e.g. in the Czech Republic, Ireland, Romania and Slovakia), a traitor or spy (Bulgaria, Italy) and/or a snitch (Estonia, Hungary, Latvia and Lithuania). In many of the countries assessed, these negative perceptions of whistleblowing are the result of years of authoritarian regimes and the existence of secret police networks. During Soviet times, individuals provided the authorities with information, often secretly, on neighbours, co-workers and family members (p.8). In other cases, such as Ireland and Italy, there seems to be a general mistrust of public authorities and an emphasis

on not speaking out against your neighbour or colleague. In countries with small populations – such as Estonia, Latvia and Lithuania – the close-knit nature of communities can pose a significant challenge for whistleblowing mechanisms, particularly in terms of encouraging disclosures and assuring the confidentiality of whistleblowers who come forward. (p.9)

This context creates a sizeable obstacle to the pursuit of a more comprehensive legal framework of protection. In Estonia, for example, putting forward legislation is seen as impossible unless a more positive cultural shift takes place towards the idea of whistleblowers protecting citizens' safety in a variety of areas, from corruption to public health. Yet negative connotations around whistleblowing are not limited to countries with an authoritarian past." (p.9)

Source: Transparency International (2009). *Alternative to Silence: Whistleblower Protection in 10 European countries*. Report can be found at: http://www.transparency.org/global_priorities/other_thematic_issues/towards_greater_protection_of_whistleblowers

- Simplify the procedures of complaining;
- Raise public awareness where and how to complain (e.g. by campaigns telling to public what telephone number to call), and
- Introduce a computerized complaints system allowing the institutions to record and analyse all complaints and monitor actions taken to deal with the complaints³⁹.

Finally, it is important to recognise that not all victims of unethical behaviour work in organizations or are indeed equipped or likely to take part in formal reporting processes. Groups such as slum dwellers, the urban poor, and marginalised disabled groups for example, need reporting and disclosure processes designed to meet their needs and more often, that operate on 'their turf'. The UN Toolkit Supporting Transparency in Local governance also suggests an approach to facilitate disclosure and reporting in vulnerable communities who might not have a formal workplace but are nonetheless, vulnerable and often victims of unethical behaviour, especially of corruption practices. The toolkit outlines the 'Participatory Corruption Appraisal' (PCA) process which aims to assist individuals and groups in vulnerable contexts

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who might need additional support to report wrongdoing:

- Understand the harmful effects of corruption on the lives of poor people;
- Communicate such information widely to policymakers and the general public;
- Help the communities in which the Participatory Corruption Appraisal took place, and
- Plan and act to reduce corruption (p.43).

What role can whistleblowers play in reporting wrongdoing? Whistleblowers are individuals, usually

employees of an organization, who make a principled public interest disclosure of wrongdoing. Transparency International defines whistleblowing as 'the act of exposing fraud, waste, abuse or other misbehaviour in a company or organization'⁴⁰.

Whistleblowers are individuals, usually employees of an organization, who make a principled public interest disclosure of wrongdoing, often, that operate on 'their turf'.

People who report wrongdoing are considered an essential tool for strengthening accountability and reducing corruption in the public and private sectors (Anti-Corruption Resource Centre, 2008). Public organizations in land administration should all encourage their staff to report unethical behaviour as part of their legal and professional duty. At the same time, the protection of those who do (whistleblowers) from retaliation or reprisal is key achieving desired outcomes. Box 45 on the next page outlines the experience of one whistleblower who uncovered that one of America's biggest oil companies were embellishing funds.

³⁹ p.201. United Nations Office for Drugs and Crime (2002). Anti-Corruption Toolkit at <http://www.unodc.org/pdf/crime/toolkit/f5.pdf>.

⁴⁰ Transparency International (2007) at http://www.transparency.org/news_room/in_focus/2007/whistleblowers

Public organizations in land administration should all encourage their staff to report unethical behaviour as part of their legal and professional duty. At the same time, the protection of those who do (whistleblowers) from retaliation or reprisal is key achieving desired outcomes.

Transparency International has a site on its website called 'Space for Transparency'. Here, individuals can raise awareness of issues and cases in their country in relation to the fight against corruption. Box 46 on page 136 outlines the work of a legal centre in Morocco and its struggle to address corruption. It highlights the role independent public institutions can play in protecting individuals but also reporting on public corruption.

How do you protect those who provide potentially damaging information? Do you know where to go if you need to 'blow the whistle'? Each organization and country needs a 'safe' and 'trusted' place for mal-practices to be reported. Anonymity and

BOX 45: THE IMPACT OF WHISTLEBLOWERS: THE ENRON CASE

Sherron Watkins was vice-president of corporate development at the US energy company Enron. In August 2001, she sent a memo to Enron chairman Kenneth Lay warning him about accounting practices in the company; stating that she was 'nervous that we will implode in a wave of accounting scandals'. Her concerns were that Enron was using off-the-books partnerships to hide hundreds of millions of dollars in losses in an effort to inflate its profits. Lay's response was to instigate a limited investigation by Enron's lawyers, which found that there was no major problem. Watkins has stated that Enron's chief financial officer Andrew Fastow (who headed several of the partnerships) sought her dismissal after hearing about her warnings. Watkins also raised her concerns with people at Andersen, Enron's auditors. In October 2001, Watkins sent a memo to Lay urging him to 'come clean' about the hidden losses and tell regulators. Events took over and in November Enron admitted it had overstated its profits dating back to 1997 by \$600 million. In December, Enron filed for bankruptcy, its value having fallen by over \$1 billion. Enron employees found themselves redundant, with pensions (which had been invested in Enron stock) worth a fraction of their original value. Investigations by regulators, prosecutors and Congress into Enron's activities are currently ongoing. Sherron Watkins remained a vice-president at Enron until November 2002, when she resigned to become a corporate governance consultant. One American congressman has said that Watkins was 'a loyal company employee, who sought valiantly and sadly, in vain, to get the people in charge to face the facts and make the hard choices needed to save the company'. Her efforts were also recognised when she was named Time Person of the Year 2002 along with fellow whistleblowers Coleen Rowley and Cynthia Cooper.

Source: from the website 'Public Concern at Work' <http://www.pcaw.co.uk/aboutus/whistleblowers.htm> cited in Transparency International (2010). *Alternative to Silence: whistleblower protection in 10 European Countries*.

confidentiality as well as clear procedures about how an investigation will be conducted, must be provided. Organizations also involved in fighting graft need to make available mechanisms for concerned citizens to report corruption⁴¹

Each organization and country needs a 'safe' and 'trusted' place for mal-practices to be reported. Anonymity and confidentiality as well as clear procedures about how an investigation will be conducted, must be provided.

A range of tools and formal processes are available. For those wishing to report information, these tools can include such institutional developments such as an 'Anti-corruption Commission' or an 'Integrity Centre', 'Hotlines', 'Feedback boxes' etc are all options. A hotline, for example, is a means for enabling the public to lodge formal complaints on land administration issues. Complaints can be made via several forms, including phone (voice or text), mail or email.

Education about reporting wrongdoing is also a key tool. Whistleblower protection provides a shield, not a sword' and 'the focus must be on the disclosure itself and not on the whistleblower'. Slogans such as these go a long way towards reassuring citizens need reassurance of their anonymity, as well as that the information provided will be investigated. (Whitton, 2000). A platform for genuine complaints and observations needs to be made widely available and can be achieved through employee training, leaflets and posters in the workplace and information distributed to clients, or even as part of an advertisement in a popular daily newspaper. TV and radio can also be used to assist and inform the public about where to report corruption. Perhaps what is most important here is that the agencies that receive information from whistle blowers must also have clear procedures for following up on the complaints and communication back to the public. Further, that any complaints process is clearly supported by the organization or department where the complaint was lodged. By doing this, the 'bone fides' of the reporting service are demonstrated to be sincere.

Transparency International suggests that there are a number of specific steps and frameworks that can be developed to start to build organizations and a country's capacity to support employees disclosing wrongdoing. They make the following recommendations:

- **Raise awareness:** Given the negative connotations surrounding the reporting of wrongdoing and whistleblowing, combined with the lack of 'political will', there is a need to raise awareness about the importance of reporting wrongdoing and the critical role whistleblowers can play in detecting wrongdoing.
- **Develop key laws and procedures:** The ideal scenario is for a single, comprehensive legal framework for reporting and for protecting those who are reporting (whistleblower protection). The framework should include the private and public sectors. It should have clear and effective reporting and follow-up procedures that ensure independent review and appeal mechanisms, as well as adequate compensation for reprisals suffered

⁴¹ The book 'Good Governance in Land Administration: Principles and Good Practices' (FAO, 2009) was used extensively here.

by the whistleblower. Any existing provisions or regional laws should be utilised to give strength to local policies. Such mechanisms are an effective means of detecting fraud, corruption and gross mismanagement inside an organization and pave the way for whistleblowers to report internally.

- **Encourage strong leadership:** Employer leadership is required to establish efficient internal reporting channels and follow-up mechanisms as well as to champion the importance of ethics and integrity and disclosure and reporting. Leaders must be seen to 'walk the talk' and inspire confidence and trust that the organization is truly dedicated to stamping out corruption and supporting those who report wrongdoing.
- **Enlist the support of independent body:** An independent public body can help support internal efforts to improve systems for reporting wrongdoing. Such a body can review current procedures, ensure systematic data collection regarding the number of cases, follow-up and the reporting of results. Their presence can give a clear message of the organization's and leaders commitment to supporting reporting.

BOX 46: SUPPORTING WHISTLEBLOWING IN MOROCCO

Since January 2009, Transparency International's chapter in Morocco is providing legal advice to citizens. The Centre's mission is to receive complaints brought forward by citizens, study their cases, and provide them support through legal assistance to be able to denounce acts of corruption. The Centre received 536 complaints during 2010 and followed up on 299 cases. The complaints were related to the solicitation of bribes to access a particular service, the disregard and lack of transparency of administrative procedures by the authorities, malfunctions of the judicial system, and the lack of transparency in the private sector. The Centre has been successful in, for example, supporting a citizen who was negated a permit to run a car wash by the Municipal Council. Through the advice of the Centre, the citizen was able to appeal at a higher level, the Administrative Court, who reversed the decision. In another case, the courts have seized the case of corrupt activity at a wholesale market after a merchant denounced it. Given its importance, the Centre is committed to monitor the process and propose actions as necessary.

While actions have been undertaken with key governmental and public institutions to follow up on issues raised by citizens through the Centre, its effectiveness depends both on the ability to promote a culture of denunciation among the citizens, as well on the willingness of different administrations and public institutions to support its work in responding to requests that they forward. As such, the major constraints facing the Centre today are linked primarily to the lack of response from the authorities regarding complaints made to them. There is therefore a risk that the Centre may lose credibility when it fails to support the plaintiffs in their actions, especially as citizens face great difficulties in following official procedures within the judicial system and often fear retaliation by the authorities against whom they have raised a complaint after receiving legal advice. This shows that the problem of protecting witnesses and whistleblowers of corrupt acts is acute. At the same time, legislative intervention remains essential.

Source: Providing Legal advice on corruption cases in Morocco. From Transparency International's website 'Space for Transparency' at <http://blog.transparency.org/2010/07/26/providing-legal-advice-on-corruption-cases-in-morocco/> dated 3/11/2011.

It would also provide a starting point for evidence-based monitoring and review of reporting and whistleblowing approaches⁴².

One of the keys to protecting a whistleblower is a combination of strong organizational ethics and codes of behaviour as well as specific and sound processes and practices fully supported by management. The official focus must be on the disclosure itself, and not on the person reporting.

For those receiving the report, there are also issues to consider and tools to use to ensure the person

and the report are genuine. One of the keys to protecting a whistleblower is a combination of strong organizational ethics and codes of behaviour as well as specific and sound processes and practices fully supported by management. The official focus must be on the disclosure itself, and not on the person reporting (the whistleblower). For the scheme to succeed, the organization must recognise the 'principled disclosure of wrongdoing' as an act of loyalty to the organization and to the public interest, rather than as an act of personal disloyalty. While wanting to encourage whistle blowing, however, careful distinctions also need to be drawn to identify and protect the following categories of person:

- Disclosers who are genuine in their belief about a claim of wrongdoing, but prove to be ill-informed.

- Disclosers who are genuine in their belief but not necessarily motivated by 'public interest' considerations.
- Disclosures of claims which ultimately prove to be without foundation or which ultimately cannot be proved.

What has already been done? Many countries worldwide have already set up reporting mechanisms and whistle blowing protection approaches. The extent of protection and effectiveness varies from place to place, but what is important is that whistleblower protection is regarded as an essential tool in instilling ethical conduct and promoting integrity in the transparency of land administration. Box 47 on the right outlines an example of whistleblower protection mechanisms from Lebanon.

⁴² (adapted from Transparency International (2010). Alternative to Silence: Whistleblower protection in 10 European countries).

BOX 47: HOTLINE FOR ANONYMOUS COMPLAINTS, LEBANON

Post-war reconstruction phases with large influxes of aid funds, major procurement projects and public administration in disarray offer plenty of opportunities for bribing, bid-rigging and diverting resources. Without whistleblower protection legislation in place, willingness to report corruption cases is low. TI's national chapter in Lebanon has taken action. The Lebanese Transparency Association now offers an anonymous complaint channel for citizens to speak out against corruption. A telephone hotline and an online comments box were established to collect complaints from Lebanese citizens affected by the misallocation of reconstruction resources. All collected information remains anonymous. This complaint mechanism will be supported by a group of volunteers. Collected information will be analysed by TI Lebanon and used as a basis for its campaign for transparency and integrity in resource allocation.

Source: Transparency International Focus on Whistleblowers on website at http://www.transparency.org/news_room/in_focus/2007/whistleblowers accessed 13/12/2011.



Good practice in the use of public space: a street without cars, Montevideo, Uruguay.
Photo © UN-Habitat/ Solomon Haile.

4.4 SUMMARY

This chapter has highlighted the fundamental role that ethics and integrity play in securing the necessary 'good governance' framework that must underpin land administration systems. Ethics and integrity set the 'moral tone' and the 'cultural fundamentals' upon which transparent land administration systems must operate.

The chapter identified the following key issues in relation to choosing the right tools to instil good organizational behaviours and processes in relation to ethics and integrity:

- Understand the historical, social and cultural context of a country/region/community as they influence people's understanding of ethics, principles and norms of good and bad behaviour.
- Develop clear universally accepted and collective concepts of ethics and integrity so everyone understands clearly what behaviours are permitted or unacceptable.
- Communicate those inclusive ethical principles in ways that reach all key stakeholders (so considers issues like literacy, computer access, gender issues for example).
- Train employees about a range of ethics related themes: ethics (to build shared values), the benefits of codes and mandates and how they improve employer performance and effective service outcomes, the negative impact of corruption and the benefits of reporting wrongdoing (understanding the role and benefits of whistleblowing). Senior management must be part of this organizational training.
- Make sure that the correct organizational process and procedures are in place to safeguard those who report wrongdoing and ensure due process is followed by all potential parties involved.

The next chapter focuses on tools to promote organizational and institutional reforms which promote transparency.

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05

ORGANIZATIONAL AND INSTITUTIONAL REFORMS

ORGANIZATIONAL AND INSTITUTIONAL REFORMS

5.1 OVERVIEW

Land sector organizations and institutions are often complex because of the many legal instruments required, the range of policies and departments that cover 'land issues' and the multiple layers within which they operate – i.e. across government, the private sector, community and civil society. There are also a myriad of acts and other subsidiary legislation, not to mention numerous regulations and administrative instructions that these organizations have to negotiate. While most regulations are aimed at ensuring secure access to land, the level of administrative procedures and bureaucracy is often large. In many parts of the world, in addition to the formal laws and policies, there are also numerous traditional and 'customary' rules and dictates that the organizations in land administration must contend with – and they are not uniform among all the ethnic groups that might be found within the same country - or even regions within the country.

Whatever the reasons for the development of these complex institutions, the effects on the public are the same. The general public is often confused by the maze of laws, structures and policies that they have

Land sector organizations and institutions are often complex because of the many legal instruments required, the range of policies and departments that cover 'land issues' and the multiple layers within which they operate – i.e. across government, the private sector, community and civil society.

to wade through to be able to deal with the land institutions in any meaningful manner. Furthermore, the complex and often overwhelming nature of the institutions (both for the bureaucrats and the public), has and continues to be a recipe that enables corruption to flourish. As officials attempt to guide their customers through the complex system, and, are not really well paid themselves, they see opportunities to extort money and other 'favours'. Savvy customers also learn, mostly from previous bad experience, that in order to have their issues resolved quickly and favourably, 'money and other favours' can be offered to officials. The results are chaotic in terms of the land administration system as processes and codes of ethics are abandoned. More significant is the impact

on, the vulnerable and poor who struggle to offer the necessary 'incentives' and who ultimately end up suffering in these situations. Reforming organizations and institutions dealing with land matters can however, bring about significant improvements.

This chapter looks at the potential practical institutional and organizational improvements (tools) that can be made to promote transparency in land sector organizations. The tools covered in this section are aimed at improving organizational mandates and institutions, as well as developing capacity with a view to improving service delivery and enhancing customer satisfaction.

To provide an overview of the potential benefits of reforms, Table 4 highlights the positive impact organizational reforms can make in a sector. The table below outlines a series of 'global good land administration' reforms in relation to registering property, undertaken by countries from around the world.

Table 4: Who made registering a Property Easier and what did they do?

FEATURE	COUNTRIES	HIGHLIGHTS
Reduced taxes or fees	Angola; Central African Republic; FYR Macedonia; São Tomé and Príncipe; South Africa	Cost reduction: up to 8% of the property value. FYR Macedonia reduced notary fees by 20%. Angola reduced transfer fees by 8% of the property value, the Central African Republic by 7.5%, South Africa by 2.7% and São Tomé and Príncipe by 2%.
Combined or reduced procedures	Belarus; Costa Rica; Latvia; Russian Federation; Slovenia	Average procedures cut: 1. Belarus abolished the requirement for municipal approval of property transfers for most commercial buildings in Minsk. Costa Rica made property related information and certification for transfers available online. Latvia allowed electronic access to municipal tax information on property, eliminating the requirement to obtain this information in paper format. Russia lifted the requirement to obtain cadastral passports on land to transfer property.
Computerized procedures	Belgium; Czech Republic; Slovenia; Swaziland; Vanuatu	Average time saved: 1 month. Belgium implemented its 'e-notariat' system, giving notaries online access to the cadastre and land registry. The Czech Republic introduced "Data Mailbox," a secure electronic communication system between the cadastre, notaries and the court. Slovenia introduced e-filing, allowing notaries to lodge the land registry proposal electronically. Swaziland computerized its process at the land registry. Vanuatu achieved the biggest time savings (90 days), by computerizing its land registry.
Introduced effective time limits	Albania; Belgium; Cape Verde; FYR Macedonia	Average time saved: 20 days. Belgium set an effective time limit of 30 days at municipalities processing zoning certificate requests, so saving 15 days. Cape Verde introduced time limits for both the land registry and notaries and saved the most time: 42 days. Albania and FYR Macedonia established time limits for registration of property transfers, and while full compliance has not yet been achieved, have reduced the time by 9 days and 10 days, respectively.
Increased administrative efficiency	Czech Republic; Solomon Islands; Swaziland; Uganda	Time saved: up to 7 months. The Czech Republic reduced the time needed by the land registry to register a property transfer by rationalizing the processing of registration applications. The Solomon Islands cut 210 days from the time to register property by separating the land registry from the business and movable property registries. Uganda cut 29 days from the time by establishing performance standards and recruiting more officials.
Increased administrative efficiency	Czech Republic; Solomon Islands; Swaziland; Uganda	Time saved: up to 7 months. The Czech Republic reduced the time needed by the land registry to register a property transfer by rationalizing the processing of registration applications. The Solomon Islands cut 210 days from the time to register property by separating the land registry from the business and movable property registries. Uganda cut 29 days from the time by establishing performance standards and recruiting more officials.

Source: p.3. World Bank the Cost of Doing Business Survey (2012). Registering Property.

At http://www.doingbusiness.org/reports/global-reports/~/_media/FPDKM/Doing%20Business/Documents/Annual-Reports/English/DB12-Chapters/Registering-Property.pdf

5.2 CLEAR VISION AND MISSION STATEMENTS ANCHORED IN ROBUST LEGISLATION

Every organization has a mandate which is the 'raison d'être' for its existence. In the formal state sector of land administration, such mandates are often to be found in the Acts of Parliament or statutes establishing the organizations. The Act of Parliament is usually accompanied by a Memorandum to the Act which details the reasons for the legislation. The legislative provisions attempt to state the purposes for which the organization has been established and what key responsibilities it is expected to perform. These statements are often general and the details are negotiated in the course of implementing the mandate. In some countries, the mandates are usually further expanded in the Legislative Instruments passed subsequent to the parent Acts. The Legislative Instrument often provides further clarification of how the mandate can be achieved and the rules and procedures that organizations must follow in carrying out its functions.

Some institutions carry these further in formulating their own Mission Statements. These are often

“ *A clear and unambiguous legal framework must therefore be put in place to provide a platform for the public to expect that services are delivered as per the mandate.*

simple statements that encapsulate organizational commitment vis-à-vis its given mandate. While Mission Statements are not binding or legally enforceable, they nevertheless give staff and the public a sense of an organization's aspirations and direction. There are also Vision Statements which reinforce the mission in regard to where an organization would like to go in order to fulfil its mandate. Vision statements act as a subset to the Mission Statements, breaking it down into verifiable statements which give more detailed expression of their declared mandates. Box 48 outlines an example of a vision and mission statement.

As stated previously, within the legal framework, the mission and vision statements alone, cannot ensure transparency. A clear and unambiguous legal framework must therefore be put in place to provide a platform for the public to expect that services are delivered as per the mandate. A typical example of

BOX 48: MISSION AND VISION STATEMENT, MINISTRY OF LANDS, KENYA

Mission Statement: To facilitate improvement of livelihood of Kenyans through efficient administration, equitable access, secure tenure and sustainable management of the land resource.

Vision Statement: Excellence in Land Management for sustainable Development of Kenya.

Source: Ministry of Lands website, Republic of Kenya at <http://www.lands.go.ke/> accessed on 7/11/2011.

how the legal framework is binding is where the law is specific on the circumstances under which a planning authority will grant planning permission for development projects within its area of authority. Where the authority fails to grant the permission, an aggrieved person can insist on the authority carrying out its functions by appealing to the Minister or by going to court to compel the authority to perform the particular function.

Where the legal provisions are unclear and open to several interpretations, however, agencies may take

advantage of this and renege on their responsibilities in delivering the required service. In such situations, the public is disadvantaged in seeking redress as the poor legal platform will provide the agencies with the tools to defend themselves. Clarifying the legal framework must therefore ensure that there are no loopholes that stand in the way of service delivery.

Customer Service Charters usually have the characteristic of putting officers 'on their toes' ensuring that they deliver on the promises of their organizations.

5.3 CUSTOMER SERVICE (OR CITIZENS') CHARTERS

Very often, service delivery requires additional tools that reflect that spirit of the law and a customer charter is one such tool. Many public sector organizations have embarked on designing and publicising 'customer service charters' which serve as a 'social contract' with their constituents. Wherever they are practiced, Customer Service Charters usually have

the characteristic of putting officers 'on their toes' ensuring that they deliver on the promises of their organizations.

The charters essentially outline a list of goals and aspirations of the organizations including what they will do, who they will serve and what to do if there is an issue in regard to the organization. Charters give an indication of the nature of the services offered and the periods within which such services may be provided. This makes it possible to ensure that, in cases of delay in obtaining a particular service within the stipulated time, the public can complain to the designated authority. Customer Service Charters must be well publicised and displayed prominently within the premises of the organization concerned. The language used in the Charter must be simple and unambiguous. It must be devoid of technical terms which the general public may not easily understand.

The Customer Service Charter must also clearly state verifiable and measurable targets which the organization promises to deliver. These take the form of products and services which the public must expect from the organization and the charter must show how and when these would be delivered so the public have

a form of recourse should the services not be delivered as promised.

The Charter must therefore always provide a complaint procedure which aggrieved members of the public must follow to seek redress. It is important that the organizations internalise such complaint procedures to ensure speedy resolution of complaints arising, within their own structures. There is no point in the public having to seek redress in the law courts or in the offices of the Ombudsman and thereby waste precious time. The public must have confidence that an organization is able to resolve conflicts speedily and at no extra cost to the complainants.

Box 49 on the right outlines an example of a service charter from a Lands Department in Zambia outlining how the department will respond to land allocation applications as well as what it expects from the general public when dealing with the Department.

BOX 49: CUSTOMER SERVICE CHARTER ZAMBIA (LAND ALLOCATION)

SERVICE - LAND ALLOCATION	STANDARD
Assign Property Number	Assigned in 9 working days
Acknowledge Receipt of Application	Acknowledged within 1 hour of submission
Response to Application	Respond in 5 working days
Issue Offer Letter	Issue 30 working days after approval of application
Prepare Lease	Prepared in 10 days, after acceptance of offer, submission of survey diagrams or sketch plans
Issue Primary Title Deed	Issued 7 days after joint signature of lease by the customer and the Commissioner
Issue Secondary Title Deed	Issued in 14 days
Issue State Consent	Issued in 3 days
Resolve Disputes (If Required)	Disputed cases will be resolved in 84 working days of receipt of complete and accurate documents

EXPECTATIONS OF CUSTOMERS

To enable the Ministry of Lands to meet its standards, we encourage all customers to take notice of and comply with the following:

- Answer truly and completely any questions asked of you either on any application form or verbally by any authorized employee;
- Do not offer any money, gratuity, food/drink, lodging, favor, gift or other advantage to any Ministry of Lands employee in return for a public service or to obtain speedier attention;
- Provide any document, data or supporting evidence necessary to process any transaction or request;
- Acquaint yourself with applicable laws, regulations and general requirements through the different publications and information sources of the Ministry of Lands;
- Adhere to procedures set and duly published by the Ministry of Lands with respect to requested services and products;
- Do not attempt to by-pass procedures by using external, political or other privileged influences;
- Initiate all transactions and requests for service at the designated Customer Service Centre since only referred customers will be served at the back office;
- Recognize that the Ministry of Lands is attempting to work toward standards of timeliness and efficiency; Therefore, please be precise with your request for service and complete your transaction as quickly as possible so as not to unnecessarily delay other customers.
- Treat with courtesy and respect all Ministry of Lands staff serving you;
- Quote your property number, transaction number, or other assigned case reference number, when applicable, when you contact us or provide documents for review and processing;
- Understand that our staff are bound by privacy and confidentiality standards and, therefore, require your written authorization in order to release information to anyone claiming to be acting on your behalf.
- Feel free to share with us your feedback about the Ministry of Land's services and standards.

Source: The Ministry of Lands, Energy and Water Development At:

http://www.ministryoflands.gov.zm/index.php?option=com_content&view=article&id=68&Itemid=91 Accessed on 25/04/2012.

5.4 INTERNAL AND EXTERNAL COORDINATION

To ensure transparency, it is important to develop a clear understanding and formal links between, and roles played by, the different units within organization entrusted with the management of land. The development of formal guidelines and protocols can be useful in facilitating formal links between external

The development of formal guidelines and protocols can be useful in facilitating formal links between external agencies and indeed, internal departments. Clear lines of responsibility and management must be developed to clarify which department manages what and who within each section or department is 'in charge'. Staff also need training on the organizational structure so that internally, there is clarity across the organization as to what each section is undertaking and who are the key personnel within each section or department.

The handbook will also show who is responsible in each respective units and what part they play in achieving the organization's / processes ultimate goals.

agencies and indeed, internal departments. Clear lines of responsibility and management must be developed to clarify which department manages what and who within each section or department is 'in charge'. Staff also need training on the organizational structure so that internally, there is clarity across the organization as to what each section is undertaking and who are the key personnel within each section or department. This is particularly important if restructuring has occurred and significant changes made to how everyday work is undertaken. In doing so, external and internal communication is improved. Staff are able to act with more clarity and effectiveness and the general public know that there is clarity and accountability.

Published in a user friendly handbook, an organizational structure must show how the various units relate to each other in executing the organization's mandate or in undertaking a

specific process (such as registering a piece of land for example). The handbook will also show who is responsible in each respective units and what part they play in achieving the organization's / processes ultimate goals. The information published in such handbooks is mainly for internal purposes and is not necessarily available to the general public although a version of it can also assist the public in understanding the key departments and agencies concerned with their land issue for example and who might be the key people to contact.

It is also important to have clear rules regarding relationships with other (external) organizations whose activities have an influence on the organization's work.

It is also important to have clear rules regarding relationships with other (external) organizations whose activities have an influence on the organization's work. Such organizations may include other government departments (such as the town and country planning authorities), local government authorities, private sector operators (e.g. corporate bodies involved

in land surveying, town planning and real estate, large land user organizations such as pension fund institutions, etc), traditional authorities, Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs), etc. A number of professional bodies operate in the land sector; these include the Institution of Surveyors, Institution of Planners, Institution of Engineers, Institution of Architects, etc. Their activities have a significant influence on land management both as collaborators and as end-users and to ensure transparency, it is important for public sector land agencies to clearly show how these relate to their work. In the cases of such external organizations, both formal and informal codes of relating are important and can be developed by a 'memorandum of understanding (MOU's) for example.

Box 50 outlines the benefits of good inter-organizational relationships between different land sector institutions. The case study from Paraguay highlights the benefits of private/public sector partnerships, in this case, between a local government and the building industry.

BOX 50: CROSS SECTORIAL TIES IMPROVING BUSINESS IN THE BUILDING INDUSTRY

In the Paraguayan city of Asunción 2 years ago, builders complained about long delays in the issuance of building permits. Municipal authorities blamed the builders, saying that they submitted applications without the proper documentation and then could not be reached when follow-up was needed. Who was right? Neither. The problem arose with a group of 'expeditors' who were taking advantage of the fact that the documentation requirements for permit applications were not publicly available. The expeditors, claiming that the municipality's process for issuing permits was extremely slow, had offered builders their services to speed it up. In reality, they submitted incomplete information, including incorrect contact information. Then they told the builders that the municipality was reviewing the documents and blamed delays on public officials. Creating the illusion of a complex process was in their interest, to justify their fees. In 2009 the municipality of Asunción, with help from the national government, started a public-private dialogue on the issue. After a constructive exchange, the municipality made the list of documents and other requirements publicly available. It also created a checklist to show whether the documentation presented for a building permit application was correct and complete. If not, the application would receive a big, clear 'incomplete' stamp. Builders were thus able to see immediately whether expeditors had submitted all the correct information. The changes went further. The building authority created an office to guide builders on how to apply for a construction permit. The aim was to make the expeditors ultimately unnecessary in the permit process and the efforts seem to have paid off. Delays at the municipality were reduced by almost 2 months in the past year.

Source: p.1. World Bank the Cost of Doing Business Surveys (2012). Dealing with Construction Permits. At http://www.doingbusiness.org/reports/global-reports/~/_media/FPDKM/Doing%20Business/Documents/Annual-Reports/English/DB12-Chapters/Dealing-with-construction-permits.pdf

5.5 IMPROVING ORGANIZATIONAL STRUCTURES, PROCESSES AND FLOWS OF INFORMATION

The structure of an organization often has a tremendous influence on how transparent its activities will be. The simpler the structure (i.e. the leaner and flatter), the more transparent it is likely to be and more effectively it can deliver services to the general public. In a practical sense, the structure of an organization has a tremendous influence on the processes and procedures that the organization adopts in its work and thus how the public interact with it and benefit from its services. If the organizational structure is itself considered cumbersome or complicated, it is highly likely that its internal processes are too, both for internal staff and external stakeholders. Information flows might also be complicated in cumbersome structures.

In order to make structures clear, processes and procedures may be presented in a flow chart which shows the flow of activities and how these are related to each other. Such charts make it easy to follow-up on particular cases at any point in time. They also give the public some confidence in the way the

The structure of an organization has a tremendous influence on the processes and procedures that the organization adopts in its work and thus how the public interact with it and benefit from its services.

organization operates as they can trace their cases through the organization. Figure 12 below outlines an example of a streamlined work flow.

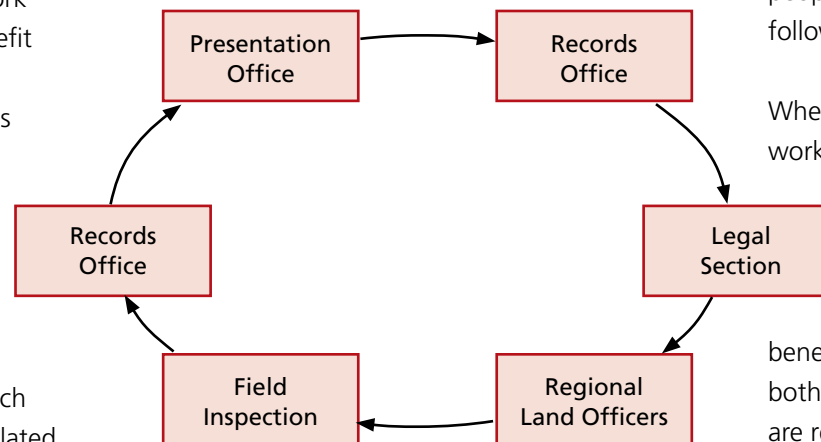


Figure 12: Flow Chart for the Processing of Leasehold Documents; Lands Commission, Ghana.

Charts like the above may relate to the path a document follows from the moment it is received in the organization till the time the required transactions are completed. While the public may not be able to follow a document across the organization, knowledge of the required processes will give them an indication as to the procedures involved and how long each one of these takes. For a chart to be meaningful to the public it is important that it is simple and easily understood, is a true reflection of what in fact occurs within an organization and is made available so that people can understand the path a document will follow.

Where formal state agencies in land management work together with informal structures and organizations, such as traditional authorities, the way inter-agency collaboration is defined and practiced greatly determine the efficiency both service providers. The public also benefits from greater efficiency and transparency if both formal and customary systems and institutions are reformed concurrently. While the processes and procedures adopted in the traditional institutions are often well-known, it is important that they are written down to guide the public. Further, that any public

documents outline the specific payments that the public can expect to incur for a particular transaction, if there is a cost involved.

“ *Computer technology has the capacity to transform an organization and improve its efficiency and effectiveness.*

5.6 COMPUTERIZATION

As mentioned in other parts of this document, computer technology has the capacity to transform an organization and improve its efficiency and effectiveness. It is often therefore a very important element of organizational and institutional reform. Significant amounts of information can be recorded effectively, records better kept and shared amongst agencies and users, information more freely available (providing both officials and users have access to and are trained in the technologies) and files stored safely and securely if the right support structures and procedures are in place. Furthermore, computer technology helps facilitate other progressive organizational improvements such as the one stop shop concept discussed below. Computerisation helps

facilitate the availability of information in the one spot and ensure that a wide variety of organizational information is available to both officials and users.

5.7 ONE STOP SHOP

By nature, land organizations tend to be complex and the processes and procedures that must necessarily be followed in land management transactions often confuse the public who find them onerous and time consuming. The experience of delay and confusion is often exacerbated when agencies are physically located in different areas of a city for example, and the public have to travel from one location to another (especially when distances are involved) to complete their transactions. As suggested earlier, this type of administratively layered and physically dispersed system can often lend itself to corruption as staff and administrative officers exact ‘extra payments’ from the public in order that their needs are addressed.

One tool found to help solve this problem is the ‘one stop’ shop. In the one stop shop, the majority of administrative functions associated with, say transferring a land title, can be undertaken in the one physical location. If ‘behind the scenes’,

“ *By nature, land organizations tend to be complex and the processes and procedures that must necessarily be followed in land management transactions often confuse the public who find them onerous and time consuming.*

the administrative staff need to liaise with other departments for example, they are the ones doing the running around, not the public –who are only concerned with when their application might be processed. In the one stop shop concept then, the public essentially has only two dealings with the land administration system – when they present their documents to the staff member and when they call to collect their completed documents. According to the UN-Habitat’s Tools to Support Transparency in Local governance, the one stop shop:

- Increases access to the services offered by the city, and
- Maximises the use of local government resources through the ‘one stop’ approach.



The benefits of the one stop shop are many for both the administrative staff in the office and the external stakeholders (i.e. the general public). They include:

- **Providing a streamlined service:** staff are aware of and can follow up on all necessary papers and procedures.
- **Saving the customer time:** For example, where the agencies offices are far removed from the Central Business District (CBD), they decide to locate the reception and collection desks in centre of the City. When people come to the city to shop or do other things for example, they can also call at the offices to present or collect their documents.
- **Coordinating functions across place and time to deliver in one place:** in a one stop shop, all the units of the organization do not need to be located in one place; the activities of all the disparate units are however, coordinated to ensure they produce the product required by the client by the appointed date.
- **Improves capacity of administrative officers:** If there are improved systems, a central collection

point, expectations of deadlines to be met, etc, then the administrative tasks are also improved for those serving at the front desk and indeed, probably for those in the various support offices. The one stop shop can therefore result in a 'win-win' scenario.

Box 51 below outlines the benefits of the one stop shop in Belarus.

In determining the output date or the time when the transaction is completed, it is important for the organization to conduct its own internal management audit to be sure of the period needed to complete the various transactions - a short period should be added to this to take care of unexpected delays, etc. The essential element of the one stop shop is to ensure that when the customer arrives to take a document, it is ready for collection.

BOX 51: THE BENEFITS OF THE ONE STOP SHOP IN BELARUS

In the early 1990s, as a fast-growing, newly-independent economy, Belarus knew that it needed to create a more favourable business climate in order to attract both domestic and foreign investment and sustain economic growth. Aware of its shortcomings, the Belarusian government set out to implement systemic reforms to develop small and medium-sized businesses, attract foreign investment and simplify procedures the public sector. The ultimate goal, as stated by the then President, was to make Belarus a competitive player in the international arena by 2010. One of the reforms envisaged was the overhaul of the nation's onerous property registration system with a 'one-stop shop'. The purpose of a one-stop shop is to ensure faster registration and cut unnecessary administrative procedures by centralizing the registration process within one agency. Reforms started in the late 1990s and gradually made Belarus' property registration system one of the most efficient and sophisticated in the world. When finally completed in 2007, the World Bank and International Finance Corporation's annual Doing Business report acknowledged this by ranking Belarus 14th in the world on the ease of registering property.

Source: Cemile Hacibeyoglu Doing Business reform case study (2009). A World Class one stop shop: the story of property reform in Belarus. World Bank Doing Business Survey.

Figure 13 below provides a pictorial representation of the one stop shop concept where the customer is the central point (the unique identifier) who comes to the

one stop shop (represented by the person at the desk) and the various land departments are thus feeding into the system.

5.8 THE HELP DESK

To ensure transparency, service providers in the land sector do not need to wait until their customers complain about a particular issue before taking action. According to UN-Habitat's Tools to Support Transparency in Local governance, a 'front desk' or 'help desk' can make all the difference. In many instances, the public have queries or complain because of they lack the right or timely information. One of the tools to improve customer information, service and improve the capacity of an organization to understand its stakeholders is to develop and run a successful 'Help (or Information) Desk' on its premises. The front desk for local government, for example, can provide:

- Better information flow to the general public.
- Increased access to decision makers and the decision making process.
- Efficient and equitable provision of public services.

The desk should not be viewed as a public relations 'gimmick'; it should be manned by competent and trained professionals who can answer the

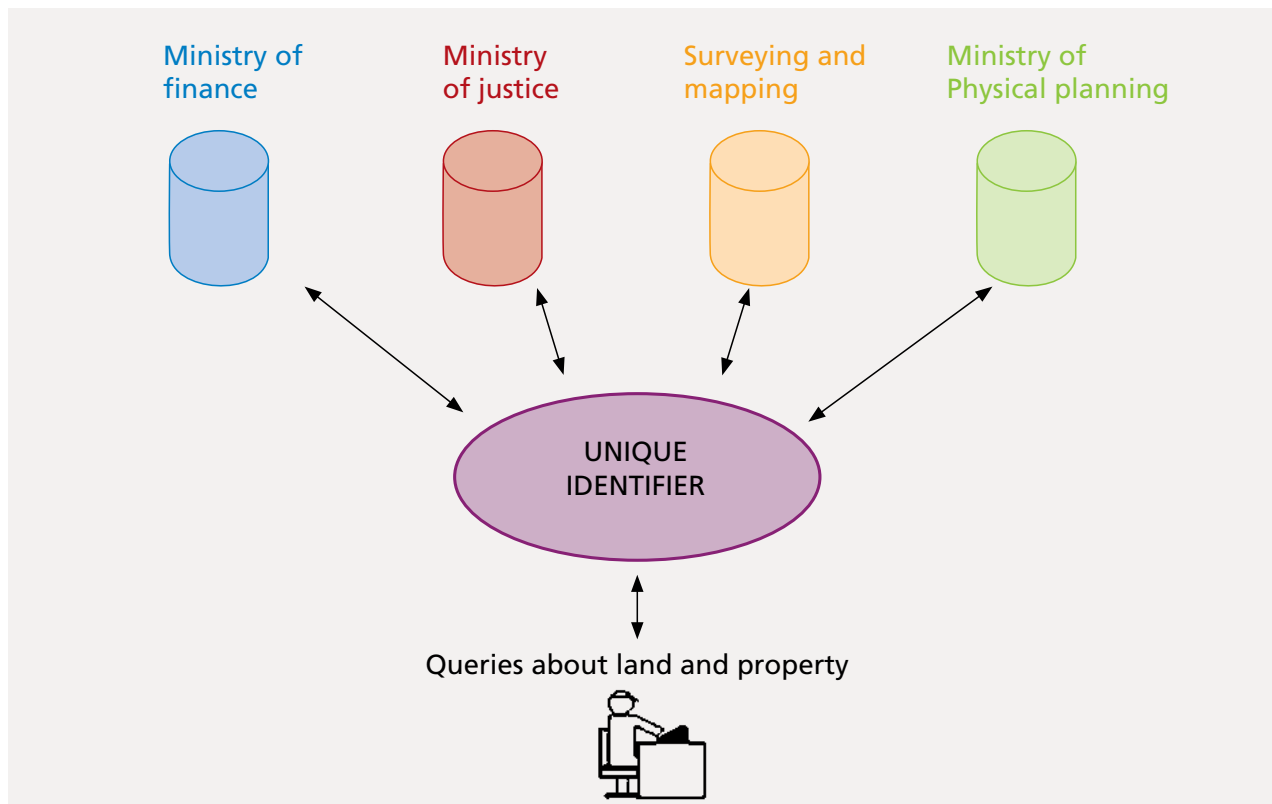


Figure 13: Ghana's Land Administration Project (LAP)

Source: Arbind Tuladhar, Land Governance: Building Trust. Training Programme on Transparency in Land Administration: Access to Information and Public Participation, ITC, the Netherlands, 2008.

One of the tools to improve customer information, service and improve the capacity of an organization to understand its stakeholders is to develop and run a successful 'Help (or Information) Desk' on its premises.

most intricate questions the public may have and provide information that the public needs about the organization or a service. In doing so, the organization also begins to find out more about the public and rather than random administrative individuals dealing with public enquiries, specific trained staff are able to manage most questions and queries. This can often save other staff time in terms of managing additional external issues on top of busy workloads.

While the help/front desk may not be able to answer queries about specific cases – e.g. a person's document which has already been presented - it should be able to give sufficient information to allay the concerns of the public, and more specifically, ascertain where the required information, might be found in the shortest possible time. Furthermore, the help desk can become a 'hub' where other important

community information can also be distributed that again, performs the dual role of informing the public while at the same time, saving the organization staff time and money in other areas as basic information is provided.

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5.9 PERFORMANCE REVIEW MECHANISM

A popular African proverb says that 'if the person cutting the path cannot tell when the path is crooked; he needs someone standing behind him to prompt him about where to go'. This proverb can also be useful when thinking about how to improve organizations and institutions in land administration. It is important for land agencies to establish

Implementing review mechanisms are thus vital preventative actions and can 'catch the issue' before it becomes a real problem. This proactive approach is very different from responding only if and when the public has lodged complaints and the organization must investigate.

performance review mechanisms to monitor the operations of the various units of the organization so they can identify what works and what does not.

Audits of administrative, management and financial operations are thus another useful tool for improving the transparency of land operations. While it is common practice to have a central office at the national/federal level to monitor the effectiveness and efficiency of governmental programmes, it is often very important to use the services of a recognised and reputable independent auditor to undertake a thorough study of all operations to ascertain where the strengths and weaknesses of the organization lies. A certified independent auditor will bring a certain level of independence and insight to an organization

that cannot be obtained internally. Such a person can also undertake an honest appraisal and identification of any areas where a system's transparency can be improved before problems arise.

Thus, to the external stakeholder, a government department or lands department works perfectly because improvement and corrective measures are taken in time and the client has not been affected. This will create public confidence in the organization and improve how the system works for the administrative officers as well. Implementing review mechanisms are thus vital preventative actions



Land Training workshop. Photo © UN-Habitat/Solomon Haile

and can 'catch the issue' before it becomes a real problem. This proactive approach is very different from responding only if and when the public has lodged complaints and the organization must investigate. In this case the organization is taking a reactive and not a proactive stance.

The United Nations Local Governance Toolkit (2004) provides a guide to what the purpose of an independent auditor might be. It says that the overall purpose of an audit function is to provide for verification of records, processes or functions in a sufficiently independent manner from the institution or subject being audited in order to add its value and improve its operations. Specifically, its objectives are to:

- Independently identify information which is essential to develop an overall picture of the institution/local authority.
- Identify any weaknesses or administrative flows which otherwise would not be identified due to unwillingness or inability by insiders of the institutions.



Land Training workshop feedback.
Photo © UN-Habitat/Solomon Haile

- Identify strengths and weaknesses of the administrative structures in order to inform decisions on overall strengthening of the institution.
- Provide baselines on which reforms can be assessed.
- Provide the government (other governing bodies) and general public with credible information that result in public faith or trust of the institution and/or pressure for any reforms to address problems identified⁴³.

A key question is therefore where and how could such an independent body or mechanism become

⁴³ Adapted from p. 134 UN-Habitat Urban Governance Toolkit series (2004)

part of their organization? The organization could utilise external independent bodies, such as NGOs and CBOs, the Ombudsman or an Anti-Corruption Bureau, to undertake periodic reviews of activities and offer advice on opportunities for improvement (e.g., surveys mentioned under assessment). Box 52 below provides

a light hearted yet informative view of the role of an Ombudsman in many organizations, especially government. An Ombudsman or an Ombudsman office is often seen as the external watch dog of government in many countries where genuine complaints can be lodged and effectively dealt with.

BOX 52: OMBUDSMAN

An Ombudsman defined as:

- A person who acts as a trusted intermediary between an organization and some internal or external constituency while representing the broad scope of constituent interests. (Wikipedia)
- A person who investigates complaints and mediates fair settlements, especially between aggrieved parties such as consumers or students and an institution or organization.
- A government official, especially in Scandinavian countries, who investigates citizens' complaints against the government or its functionaries. (TheFreeDictionary)

Different countries may have different names for the Office of the Ombudsman. In Ghana it is called the Commission on Human Rights and Administrative Justice while in Uganda it is referred to as the Inspector-General of Government (IGG), and in Tanzania, the Commission for Human Rights and Good Government.

5.10 ANTI-CORRUPTION LEGAL FRAMEWORKS AND AGENCIES

In many countries, independent anti-corruption agencies have provided a useful innovation to single out and target corruption in a manner that prevents its re-occurrence as well as assists in the speedy recovery of public assets if necessary. In some countries, however, these agencies have become another layer of bureaucracy and lost their effectiveness. Such agencies work best when enabling policies and legislations are

Anti-corruption laws for example, work to deter corrupt actions, prosecute corruptors and resurrect a sense of justice which has become a rare commodity in endemically corrupt countries.

in place. Reports from those countries trying to fight corruption highlight how difficult it can be to make long term and fundamental changes when both legal and policy frameworks are absent or weak. Box 53 highlights the struggle that Kenya is having in terms of fighting corruption because the country, it is argued, lacks strong institutional frameworks.

BOX 53: THE IMPACT OF NO POLICY OR LEGAL CORRUPTION FRAMEWORK

Despite the enormous gains made in the fight against corruption in Kenya, there have been numerous challenges, mostly at the policy, legal and institutional levels. Notable among these challenges is the lack of a national anti-corruption policy to guide the fight against corruption and economic crime. In addition, the anti-corruption legislative framework remains weak in various aspects, particularly the lack of power by the Commission prosecute persons for crimes falling within its ambit. Many constitutional references filed by persons charged with corruption and those against whom the Commission has instituted civil suits continue to delay the finalization of cases pending in court. Although public officers are obliged to declare their wealth, the Commission is unable to access the wealth declarations particularly those of key public officials.

Source: Kenya Anti-Corruption Commission Country Report On The Fight Against Corruption Presented To Eaaaca Annual General Meeting In October 2009 http://www.eaaaca.org/docs/EAAACA_COUNTRY%20REPORT%20ON%20THE%20FIGHT%20AGAINST%20CORRUPTION%20IN%20KENYA_KACC_3rd%20AGM.pdf

Both the World Bank and Transparency International propose developing 'anti-corruption frameworks' like legislation and policy tools. Anti-corruption laws for example, work to deter corrupt actions, prosecute corruptors and resurrect a sense of justice which has become a rare commodity in endemically corrupt countries. In developing anti corruption legislation however, it is advised that:

- The laws should match the enforcement capacity of the country's institutions. Since the level of integrity and capacity will be rather low in most countries where corruption is rampant, a law should be easy to understand and unequivocal in its applicability, and that
- The laws are easy to understand and apply but could come at the cost of reduced flexibility.

Examples include a ban on hiring of relatives or friends regardless of qualification; a ban on receiving any gift in excess of a small set value or a mandatory declaration of assets. It is also important to note that other legislation must be put in place to support efforts to improve transparency including freedom of information laws, a whistle-blower protection law,

conflict of interest laws, public procurement laws, party financing laws and anti-money laundering

regulations. Box 54 below highlights the economic and financial crimes commission in Nigeria.

BOX 54: THE ROLE OF THE ECONOMICS AND FINANCIAL CRIMES COMMISSION

The preponderance of economic and financial crimes have severe negative consequences in Nigeria including decreased foreign investments in the country and a tainting of Nigeria's national image. The menace of these crimes and the recognition of their magnitude and gravity of the situation led to the establishment of the EFCC. The legal instrument backing the EFCC is the 'Establishment Act' of 2002 and the Commission has high level support from the Presidency, the Legislature and key security and law enforcement agencies in Nigeria.

The most common way of accepting cases through the EFCC is through a petition written by an individual or organization. The petition will be evaluated and if it falls within the purview of the Commission's mandate, it will be accepted for investigation and possibly prosecution. Petitions that don't fall within the Commission's mandate are forwarded to the relevant agency, be it the Nigeria Police Force, the Securities and Exchange Commission, Independent Corrupt Practices or other related offences Commission, Central Bank of Nigeria etc. members of the public can also send complaints electronically to the Commission's email address. The Commission has had complaints and also investigated cases where fraudsters impersonated the EFCC in order to defraud them. The public should be aware that the EFCC does not receive money to collect petitions and does not charge fees from victims to investigate their cases.

Source: Economic and Financial Crimes Commission, Nigeria at <http://www.efccnigeria.org/jm15/index.php/about-efcc> accessed on 20/12/2011.

5.11 DECENTRALIZED LAND ADMINISTRATION

Another tool for reforming land organizations and thereby ensuring transparency in land administration is to decentralise the system of land administration and management. Where it is properly designed and executed, decentralisation improves accountability and enhances service delivery.

Authority must be transferred to lower levels of government (de-concentration and decentralization) representing the idea of 'vertical subsidiarity', while transfers to non-governmental institutions (user groups or private firms) represents a 'horizontal dimension' of subsidiarity.

The most important principle in terms of decentralisation as a form of organizational reform, is that of 'subsidiarity'. That is, ensuring that decision making is devolved to the lowest appropriate level. In order to do this, authority must be transferred to

lower levels of government (de-concentration and decentralization) representing the idea of 'vertical subsidiarity', while transfers to non-governmental institutions (user groups or private firms) represents a 'horizontal dimension' of subsidiarity (Meinzen-Dick, Ruth et al 2008).

Decentralisation can be an effective tool to curb corrupt behaviour and improving transparency outcomes. In some instances, where organizations are centralised, the propensity for the officers to be corrupt is high. The sheer numbers of people visiting the offices of the institution not only detracts the officers from working but also creates a degree of tension and stress. The number of files an officer has to deal with becomes quite high and the result is that work on files and cases is carried out in a selective manner, often by who 'pays the most' and not who was next in line.

A well-managed and monitored decentralisation (often in tandem with a well thought through capacity development program), can help ensure that the system of administration is diffused to the

A well-managed and monitored decentralisation (often in tandem with a well thought through capacity development program), can help ensure that the system of administration is diffused to the lowest level and land transactions can be carried out at those levels without involving officers at the centre or the headquarters.

lowest level and land transactions can be carried out at those levels without involving officers at the centre or the headquarters. For example, where land management functions are devolved to district and provincial capitals, transactions ought to commence and terminate at those levels without having to be brought to the nation's capital to be completed. That way, the workload across the system would be more 'even' and the problem of overloaded staff in one office unable to cope with the incoming requests, is better managed.

Of course, such a system is only effective if there is first, good leadership that is committed to transparent

governance, and second, if effective systems are in place for administrative staff to get the right information required and third, if there is an effective monitoring or review system in place to regularly check on the progress of cases from the customer or stakeholder perspective, i.e. to measure the outcomes of the department or organization.

5.12 CAPACITY DEVELOPMENT

'Capacity' is defined as 'the ability of individuals, organizations and societies to perform functions, solve problems, and set and achieve goals. As the next step, 'capacity development' is therefore understood as the process whereby people (individuals), organizations

Capacity' is defined as 'the ability of individuals, organizations and societies to perform functions, solve problems, and set and achieve goals.

and society as a whole, strengthen, create, adapt and maintain capacity over time⁴⁴. UNDP defines 'capacity

⁴⁴Adapted from p.12. OECD (2006). The challenge of capacity development: working towards good practice.

development' (CD) as 'the sustainable creation, utilization, and retention of that capacity, in order to reduce poverty, enhance self reliance and improve people's lives'. In relation to land administration, then organizational capacity development refers to process whereby a department or ministry for example, is able to create, strengthen and maintain the necessary systems to undertake their work effectively and transparently.

Capacity development encapsulates many of the afore-mentioned specific organizational and institutional reforms. The scope of capacity development ranges from enhancing group skills and motivating individuals to deliver - to enabling organizations (and indeed societies) to improve service delivery and thus make systems more transparent.

The interventions that can be considered under capacity development include a comprehensive capacity assessment tool in order to provide more targeted responses to assist organizations. By employing tools like business process mapping, it is possible to critically look into organizations (e.g.,

lands ministries, local government organizations) and identify ineffectual and overlapping practices. After an assessment of the state of human resources (development as well as management), a variety of development initiatives (training, coaching, study visits, training plans), technical advisory support on human resources management (on the use of non-fiscal incentives, basic performance management through staff assessments, etc) can be designed and implemented.

'Institutional strengthening' which refers to the process of constantly developing individual and organizational capacities so that they can adjust to their environment.

Greenway (2009) offers a useful description of organizational capacity development suggesting it relates to the enhancement of organizational structures and responsibilities, and the interaction with other entities, stakeholders, and clients, to meet

the agreed remits. This requires adequate, suitable resourcing (in staffing and cash terms); a clear and appropriate organizational focus (to meet the agreed remit of the organization); and suitable mechanisms to turn the focus into delivery in practice (these mechanisms including organizational structures, definition of individual roles, and instructions for completing the various activities)⁴⁵. Another term often referred to as important in organizational capacity development is the idea of 'institutional strengthening' which refers to the process of constantly developing individual and organizational capacities so that they can adjust to their environment.

The literature on capacity development suggests that there are three different types of capacities that need to be considered in capacity development initiatives: individual, organizational and systemic capacities. There are three levels at which capacity development must operate:

- At the systemic level or across the 'enabling environment' (bigger picture system) such as at the policy level in which individuals and organizations

⁴⁵ p.5. Greenway, Iain (2009). Building the Institutional and Organizational Capacity Development for Land Administration. FIG – World Bank Conference. Land Governance in Support of the Millennium Development Goals – Responding to New Challenges Washington D.C., USA, 9-10 March 2009

operate and the formal and informal relationships of institutions for example.

- At the organizational level focusing on the overall organizational performance and functioning capabilities, as well as the ability of an organization to adapt to change, encompassing all components and people within the organization.
- At the individual level which refers to the process of changing attitudes and behaviours of each person as well as promoting information exchange, ownership and responsibility.

Considering these three levels across which change must occur, then, organizational capacity development must consider - not just skills and knowledge - but the 'bigger picture' processes such as governance. Two other factors are also important when considering organizational capacity development. First, that capacity development should be seen as a 'process' and not a 'one off' event or action as capacity takes time to develop and learn. Organizational policies and programs as well as training must therefore be updated and reviewed regularly. Second, that capacity

building must be undertaken in a manner that is participatory and engaging of all key stakeholders from highest to lowest levels.

There are a range of tools that can be utilised to develop organizational capacity including:

- **Developing clearly defined and understood missions and mandates:** via visioning exercises and workshops, charter development, or even legislative changes.
- **Assessing the organizational culture, structure and competencies:** via tools like a SWOT analyses (strength, weakness, opportunities and threats analysis). Trained facilitators are often helpful to guide and lead these processes.
- **Undertaking robust assessment and planning processes:** such as planning, quality management, monitoring and evaluation to ensure that the proper systems are in place for human resources management, audit and evaluation functions. Again, trained facilitators are often helpful to guide and lead these processes.

- **Employing qualified staff and training staff:** ensuring there are sufficiently skilled and appropriately deployed human resources to both train staff but also update and motivate them.
- **Ensuring sufficient financial resources:** are formally allocated for capacity development.
- **Developing appropriate information systems:** to effectively distribute and manage information (cataloguing and archiving functions) as well as acquiring the technical and infrastructure resources to perform information management (e.g. software).
- **Creating a culture of information sharing:** and promoting the free access to information is a longer-term task which requires leadership.
- Ensuring the right physical conditions are in place:
 - buildings, offices, vehicles, computers, as well as their effective allocation and management.

Box 55 on the right outlines the conditions that favour capacity development according to the OECD.

BOX 55: THE CONDITIONS THAT FAVOUR CAPACITY DEVELOPMENT

- Strong demand-side pressures for improvements are exerted from outside (from clients, political leaders, etc.).
- Top management provides visible leadership for change, promotes a clear sense of mission, encourages participation, establishes explicit expectations about performance, and rewards well-performing staff (recognition, pay, and promotions based on merit).
- Change management is approached in an integrated manner.
- A critical mass of staff members, including front-line staff, are ultimately involved.
- Organizational innovations are tried, tested and adapted.
- Quick wins that deepen commitment for change become visible early in the process.
- Top management and change agents manage the change process strategically and proactively, including both internal and external aspects of the process (communication, sequencing, timing, feedback loops, celebration of victories, and recognition of problems).

Source: p.18 OECD (2006). The challenge of capacity development: working towards good practice.



Receiving title deed, India. Photo © UN-Habitat.

5.13 SUMMARY

This chapter has shown that organizational and institutional reform lies at the heart of transparency in land administration. The chapter stressed that sound organizations and institutions result in clear benefits to the general public, specific land stakeholders and indeed to the organizations themselves. When organizational structures are simple and easily understood; when efficient systems are in place that staff are well trained in, when the general public can navigate the various structures created to manage land matters and the system is well understood by them; corruption will be reduced, service delivery will be efficient and effective and the general public will have confidence in the system.

The importance of making clear and simple aspects like organizational structures and who is responsible for what areas in land administration.

A key message from this chapter was the importance of making clear and simple aspects like organizational structures and who is responsible for what areas in land administration. Outlining lines of responsibility and accountability are important to improve efficiency, transparency and outcomes. Regularly reviewing and monitoring any changes are also vital whether via a review mechanism.

Staff working in the land sector themselves benefit and institutional capacity is also enhanced when good land governance practices are realised through robust reforms and capacity development measures. The benefits are therefore reciprocal and not just one way.

In highlighting these various issues and tools, the chapter also made clear that staff working in the land sector themselves benefit and institutional capacity is also enhanced when good land governance practices are realised through robust reforms and capacity development measures. The benefits are therefore reciprocal and not just one way.

The final chapter provides an overall summary of the key themes covered in this 'strengthening transparency' global land tool training package.

5.14 REFERENCES

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Children enjoying water from the borehole, Nepal. Photo © UN-Habitat.

CONCLUSION

CONCLUSION – ENHANCING TRANSPARENCY IN LAND ADMINISTRATION

To improve transparency in land administration systems, this toolkit has highlighted the following overarching issues as 'critical' for land related organizations and those working in the land sector:

- The importance of having 'good governance principles' underpinning all land administration systems in order to promote transparency and ensure a fair and just land sector.
- The critical role transparency plays in guiding good governance approaches within the land sector and in promoting fair and efficient land administration.
- The negative impact that weak governance and corruption has on the land sector, particularly for the poor and vulnerable individuals and groups in society
- The significance of understanding the local/ community/regional and national context and the 'relations of power' in order to understand the

issues operating in the land sector, the corruption hot spots and what tools that might be best adopted to promote transparency.

- The role of leadership in showing commitment to and support for transparency in land administration.

The toolkit outlined various tools that can effectively support and promote transparency in land administration systems. In utilising and implementing these tools, the training package highlighted a number of key issues that are relevant to all the tools mentioned:

- The importance of choosing and using the right tool/tools for the right context/issue.
- Understanding how social, political, cultural and religious factors affect people's access to and capacity to utilise and benefit from certain tools.
- Understanding how literacy, geographical location (where people live in a city, i.e. is there widespread access to and knowledge of IT options such as the

internet?), gender and disability affect people's capacity to implement and utilise tools.

- The power of technology in accessing a wide range of people's views and in getting them to participate in some form or another. In particular, the role of social networking sites like YouTube, Twitter and Facebook.
- The role of leadership in ensuring the tools are able to be effective and actually assist in bringing about change.
- The importance of linking tools and any processes within and across organizations, departments and making the appropriate connections across key stakeholders to maximise the results (so everyone is informed and aware, and if possible, supportive of any review or change process).
- The importance of having robust legal frameworks and clear procedural systems that underpin all land administrative systems to ensure that the tools are most effective in promoting transparent land administration systems.

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- The importance of choosing and using the right tool/tools for the right context/issue.
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- Understanding how literacy, geographical location (where people live in a city, i.e. is there widespread access to and knowledge of IT options such as the internet?), gender and disability affect people's capacity to implement and utilise tools.

- The power of technology in accessing a wide range of people's views and in getting them to participate in some form or another. In particular, the role of social networking sites like YouTube, Twitter and Facebook.
- The role of leadership in ensuring the tools are able to be effective and actually assist in bringing about change.
- The importance of linking tools and any processes within and across organizations, departments and making the appropriate connections across key stakeholders to maximise the results (so everyone is informed and aware, and if possible, supportive of any review or change process).
- The importance of having robust legal frameworks and clear procedural systems that underpin all land administrative systems to ensure that the tools are most effective in promoting transparent land administration systems.

SESSION 01

GOVERNANCE, LAND ADMINISTRATION,
GOOD AND WEAK GOVERNANCE,
TRANSPARENCY AND CORRUPTION

SESSION 01: PRESENTATIONS

1

Tools to Support Transparency in Land Administration

Session1 Land Governance and Transparency

3

Objectives

- To introduce the concept of Governance and its relation to Land
- To highlight key elements of Transparency in Land Administration
- To review the effects of good & bad practices in Land Governance / Administration

5

Land Administration

- UN/ECE Land Administration Guidelines, 1996
 - The processes of recording and disseminating information about [rights], value and use of land and its associated resources.
 - Processes include the determination (adjudication) of rights and other attributes of the land, the survey and description of these, their detailed documentation and the provision of relevant information in support of land markets.

2

Anti-corruption Quiz

When it comes to taking action about corruption in land administration, I'm of the opinion that:	1 Strongly Disagree	2 Disagree	3 Agree	4 Strongly Agree
1. Corruption is everywhere - It's endemic. So what's the big deal?				
2. Corruption is part of human nature. It's always existed. So, there is little we can do about it.				
3. Corruption is culturally determined. What's seen as corruption by some might not be seen that way by others. Better not to get involved.				
4. Getting rid of corruption in land administration would require a wholesale shift in attitudes and values. Nobody has the time and energy to face these challenges.				
5. Corruption isn't that harmful. It's just the way the political and economic systems operate.				
6. There's nothing that land administrators can do when corruption becomes so engrained that it is the accepted way of doing business.				
7. Worrying about corruption in land administration would be a waste of time-given everything else we need to do.				
8. Corruption in our land administration doesn't exist—at least to the extent that we should worry about it.				
9. The costs of curing and preventing corruption in land administration would far out-weigh the benefits.				
10. Any effort to cure and prevent corruption in our land administration system could hurt a lot of innocent people—so it's better to ignore it.				

ADD YOUR TOTAL SCORES FOR EACH COLUMN

4

Opening questions

- What and why? Land governance and transparency in land administration.
- What are the principles of good governance in land administration?
- How does transparency help to realize good governance in land administration?

6

Land Administration

UN/ECE Land Administration Guidelines, 1996

SESSION 01: GOVERNANCE, LAND ADMINISTRATION, GOOD AND WEAK GOVERNANCE, TRANSPARENCY AND CORRUPTION


Land Governance 7

- The process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled.
- Key elements:
 - Emphasis on both process and outcomes
 - Focus on decision-making, implementation and conflict resolution
 - Need to understand both institutions (rules) and organizations (entities)
 - Recognize statutory as well as customary informal/extra-legal institutions and organizations
 - Need to understand the relations of power inherent in land
 - Analyze stakeholders, interests, incentives & constraints

Source: UN-Habitat/GLTN

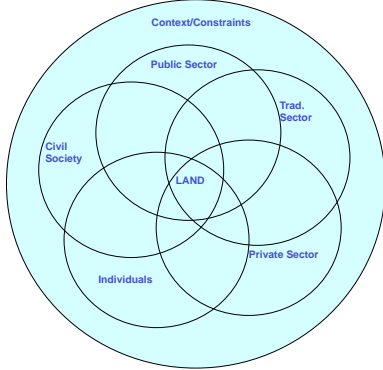
Land Governance 9

Strong link between land and poverty



- Relations of power can disadvantage vulnerable individuals and groups
- Inappropriate land policies and management = inequity and poverty
 - Land administration is therefore a critical element in the development agenda

Actors and interests in land 11



Context: history, politics, economy, etc Constraints: policy, law, tradition, etc

Note that actors have their own as well as common interests; exclusive land rights don't exist; hence the concept of triple R (RRR).

Land Governance 8

Land Governance is about:

- Relations of power that define access to land
- The policies, processes and institutions by which land, property and natural resources are managed.
- Formal institutional processes and customs (statutory, customary, religious)
- Informal arrangements (familial, social and cultural)
- Decisions on access to land; land rights; land use; and land development.
- Determining and implementing sustainable land policies

Source: GLTN & FIG


Land Governance 10

Governance principles as a framework for Land governance



- Ideal: transparency is critical to good land administration
- Risks: corruption in land allocation/management
- Opportunities: civic engagement, stakeholders' accountability, confidence in governments, development of sound laws and policies

Whose rights should be recognised? 12



SESSION 01: PRESENTATIONS

Principles for Good (Land) Governance 13

1. Transparency
 - Acting visibly (processes open for all to see)
 - Acting understandably & predictably (according to the law, policies and procedures)
2. Accountability
 - Culture of honesty (zero tolerance to impunity)
3. Civic Engagement/Participation
 - Dialogue and consensus building approach
 - Facilitating active participation of all groups

Principles for Good (Land) Governance 15

7. Security
 - Security of tenure for all
 - Eminent domain: prompt and adequate compensation
 - No forced evictions / negotiated process
8. Sustainability
 - Land use balances social, economic, cultural and environmental needs
 - Land administration systems that are affordable, accessible, maintained and updated over time
9. Subsidiarity
 - Decentralization of decision-making and management

Transparency 17

Transparency is:

- 1) sharing info & acting in an open manner;
- 2) an essential element of an ethical process (fair process);
- 3) a manifestation of such basic rights as people's right to receive information and to participate in decisions affecting their lives



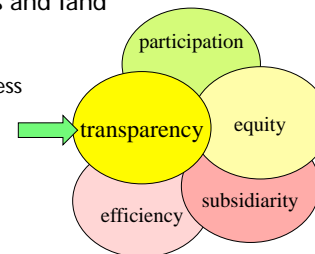
Principles for Good (Land) Governance 14

4. Effectiveness and Efficiency
 - Simplified rules and procedures
 - Service orientation
5. Rule of Law
 - Respect for legal pluralism
 - Development of rights based policies & practices
 - Laws, rules and procedures consistently and impartially enforced
 - Traditional and alternative dispute resolution included
6. Equity
 - Pro-poor, Inclusive: gender, inter-generational, ethnic, etc

Land Governance and Transparency 16

Governance principles and land

- Equity
- Subsidiarity
- Efficiency/effectiveness
- Participation
- Accountability
- Security
- Sustainability
- Rule of law



Transparency is the key entry point

Elements of transparency (what should be made transparent?) 18

- Policy, laws, regulations, charters, codes, rules, etc should be publicly available; Statutory instruments that govern LA should be comprehensible including legal literacy
- Structural transparency: organizational set-up and structure, tiers of decision making
- Functional transparency: info brochures and directories that help figure out who does what? Who is responsible for what? Who processes applications? Who makes decisions? are vitally important

SESSION 01: GOVERNANCE, LAND ADMINISTRATION, GOOD AND WEAK GOVERNANCE, TRANSPARENCY AND CORRUPTION

Elements of transparency (what should be made transparent?) 19

- Processes and procedures: provide info leaflets, checklists, guides, forms, etc that specify the steps, time required to complete processes, means of access including routes of appeal, etc
- Facilities and offices: should be customer focussed, open to the public; periodic tours and open houses should be held periodically
- Data / information
 - Clear and accessible input data/operating information collected, processed, and acted upon (land rights allocated, converted, leased, titled; value of land; use of land; tax rates, etc)
 - Clear laws and procedures in relation to how data is stored, used (for what purposes) and managed

Good Governance vs Corruption (a global view) 21



Land Administration and corruption 23

Forms of corruption

- Bribery, fraud, favouritism
- Land grabbing, land kickbacks, false land titles

Broad classes of corruption

- State Capture/Grand/Political corruption
- Petty/bureaucratic/administrative corruption

Corruption 20

- Corruption is the misuse of entrusted power for private gain. $C = (M+D-A)/E$ where *C* stands for corruption, *M* for monopoly power, *D* for discretion by officials, *A* for accountability and *E* for Ethical ambience
- Corruption thrives when and where transparency is missing
- Corruption thrives when individuals and organisations have a weak ethical framework
- Opaque/obscure decision making creates favourable conditions for corruption to flourish

For strategically placed officials, opacity can be an advantage. The absence of prescribed regulations hands too much discretionary power to officials and those in gate keeping positions

What is land administration? 22

- Land rights: the allocation of rights in land;
- Land-use regulation: land-use planning and enforcement and the adjudication of land use conflicts.
- Land valuation and taxation: the gathering of revenues through forms of land valuation and taxation
- Ensuring that land administration is part of the various facets of land governance and is clearly identified. the core business of land administration and management provides two necessary conditions for tenure security:
- Robust, commonly accessible forms of tenure for which rights can be easily documented.
- Land dispute mechanisms regardless of the (quasi) legal system.

Effects of weak/benefits of good land governance 24

Weak governance leads to	Good governance leads to
1. Insecurity of tenure	1. Protects poor from evictions
2. Land conflicts	2. Guides a framework for the just resolution of land disputes
3. Social and political instability	3. Brings rule of law within the reach of the poor
4. Erosion of ethics and standards of behavior	4. Reduces fraud and bribery
5. Inequitable land distribution	5. Facilitates equitable access to land
6. Reduced private sector investment	6. Provides incentives for investment
7. Limited local revenues	7. Allows the state to benefit from land taxation
8. Unsustainable natural resources management	8. Creates incentives for sustainable land use
9. Long term poverty and inequity	9. Promotes a culture of justice, rights and integrity
	10. Justifies training for LA staff and resources for LA office

SESSION 01: PRESENTATIONS

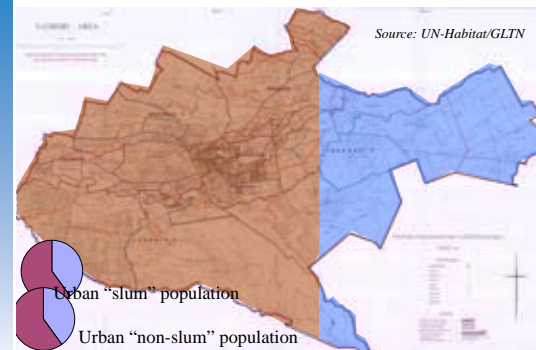
Examples of poor Land Administration practices

25

- Bribes to access different land services
- Illegal transfers of public / state land to private interests often for less than its worth
- Multiple registrations of land
- Planning/building permits issued for informal payments, not on technical merit
- Fraudulent valuations of land to lower land taxes, inflate compensations, etc
- Poor administrative systems (records, procedures etc)
- Discriminatory treatment of vulnerable individuals and groups (women, ethnic minorities, indigenous, etc)

Effects weak land governance: unfair access

27



29

Effects of Weak Land Governance: Urban Slums

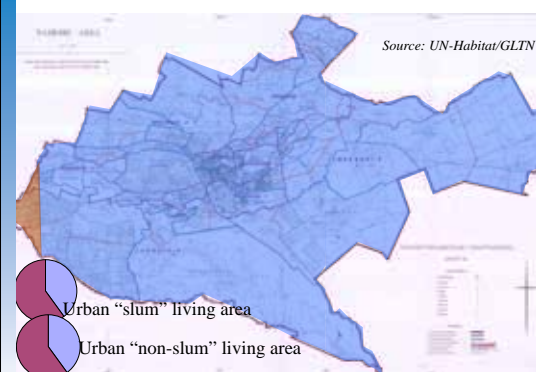
26

Kibera, Nairobi



Effects weak land governance: unfair access

28



Good practices in Land Administration

30

- Culture of open and fair administration (organisational mandates)
- Setting service standards
- Web-based land information system
- State land inventory
- Community boundary mapping
- Good customer service
- Well organized front offices
- Client surveys and hotlines
- Sound complaints systems



SESSION 01: GOVERNANCE, LAND ADMINISTRATION, GOOD AND WEAK GOVERNANCE, TRANSPARENCY AND CORRUPTION

Success Criteria for Change Processes

31

- Triggering events, wake-up calls and urgent surgery
- Leadership and will to change
- Coalition-building: team of likeminded actors
- Ground rules: agree on codes of conduct and principles of operation
- Research, analysis and planning
- Mobilizing resources: devote time, material and human resources
- Implementation through field testing to verify hypotheses
- Evaluating impact and on-going prevention



Capacity Development programme

33

- Promote and encourage change
- Gather a good team to lead a program
- Develop knowledge and skills + stimulate thinking on actions
- Target group: upstream change agents
- Regional
- Three-day curriculum
- Case Studies and action planning
- More tools in next session!



Capacity Development agenda

32

- Will to make change
- Develop land administration skills to strengthen transparency
- Seek partner support
- UN-HABITAT and ITC + Regional Partners joint venture to enhance capacity for *Transparency in Land Administration*, in GLTN framework



Questions for discussion

34

- What and why: land governance and transparency in land administration?
- What are the principles of good governance in land administration?
- Why are relations of power important to understand?
- How does transparency help to realize good governance in land administration?
- What is the status of 'governance in my organisation'?





Man in office. Photo © UN-Habitat/ Solomon Haile.

SESSION 02.

CASE STUDIES I – 'ICE BREAKER'

CASE STUDIES

SESSION 02: PRESENTATIONS

1

Tools to Support Transparency in Land Administration

Session 2 Guidance to group discussion of 'Ice Breaker' Case Studies



3

Group work questions

- Who was most affected and why? What made them vulnerable?
- What are the core ethical issues (issues of non-transparency/issues of corruption) captured in the case study? What are the consequences of the issues involved?
- Which of the concepts and the tools that you have been introduced to will help you to analyse and understand the situation better; make interventions and improve the situations? Who should be responsible for those interventions?
- How do you think the core ethical issues identified earlier may be corrected? Who should take responsibility for the issue and for the change?
- Have you encountered/heard of similar cases in your country, city, etc? What remedies have been employed/considered to ameliorate the situation?

5

Presentation of Group work analysis

- Presentation by each group for ten minutes
- Presentation should include
 - Situation analysis/problem description
 - Key ethical issues/dilemmas and consequences
 - Power relations inherent in case and consequence in relation to access to land
 - Remaining or long term challenges?

2

Purpose of the Session

- To enable participants open up and discuss the land corruption issues and dilemmas captured in a range of case studies by looking at the technical and social dimensions of land administration
- To illustrate the complex nature and the ethical dimensions of decision making around land
- To reflect on challenges faced in country/work contexts

4

Group work

- Form four groups (one case study each)
- Mixed backgrounds and professions/disciplines
- Answer the Group work questions
- Document your group work so that you can report back in next session (10 minutes)

SESSION 03.

UNDERSTANDING AND
ASSESSING TRANSPARENCY
IN LAND ADMINISTRATION

SESSION 03: PRESENTATIONS

1


Tools to Support
Transparency in Land Administration

Session3
Assessing Transparency in Land
Administration



3

Opening questions



If we have the ability to send a satellite to the moon, why is it so difficult to send all corrupt officials to prison?

Wu Mingifa, a farmer from Xichang, China. The country launched its lunar probe on October 24. Time Magazine, 25 October 2007

Is corruption more difficult than rocket science? Is it difficult to assess and address?

5

Transparency / corruption in perspective an overview of land corruption

- 47 - 75% of the total value of assets in most countries is in land and attached buildings
- Land offices are among the most corrupt in most countries - Among the 69 countries surveyed in TI's 2009 study, more than one out of ten people reported paying a bribe to a land authority
- 34% of people around the world consider corruption in the land sector to be a serious problem
- Nearly four out of every five people in developing countries said that corruption in land administration is a serious problem

Central America

- A recent study in Mexico shows that illegal payments to land authorities ranked amongst the top 10 services plagued by bribery in the country
- Land is being illegally cleared in Columbia to make way for the planting of bio-fuels because it is a very lucrative cash crop. Many of the land illegally obtained was set aside for the resettlement of marginalised communities

2

Objectives

- To share facts & findings about land corruption with a view to determine land administration (LA) vulnerabilities and thereby direct the focus of a transparency assessment
- To introduce tools that can be used to develop an assessment framework tackle corruption and improve transparency in land administration (LA)

4

Presentation outline

- Setting the stage: an overview of land corruption
- Transparency assessment in land administration
 - Key design / pre-assessment considerations
 - Determining assessment scope and approach
 - The assessment
 - Examples of tools to use
 - Reporting and using assessment results
- Conclusions

6

Transparency/corruption in perspective some additional facts?

Africa

- Kenya: police; local authority; immigration; judiciary; commissioner of lands;
- Zambia sacked its lands minister in 2003 'the most corrupt of those in the administration';
 - The average bribe paid (service delivery survey - Tanzania): 13 919 TSH for Police; 28 769 TSH for Judiciary; 14 437 TSH for Revenue; 107 395 TSH for Lands Services.
 - Compensation after compulsory acquisition in Addis Ababa (Ethiopia) - 50000 ETB with bribe; 120000 ETB without bribe.

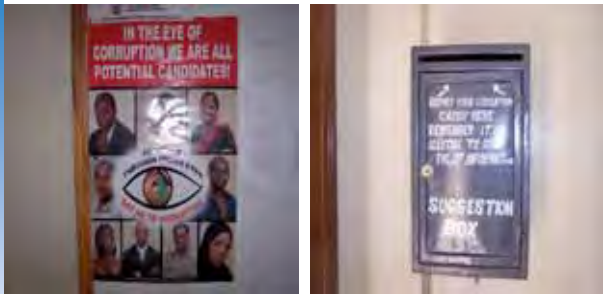
Asia

- South Asia (India, Sri Lanka, Bangladesh, Nepal): police, judiciary, land administration
- Corruption experience in land offices - findings of a survey : Pakistan (100% of respondents); Sri Lanka (98%), Bangladesh (73%); India (47%), and Nepal (17%)

SESSION 03: UNDERSTANDING AND ASSESSING TRANSPARENCY IN LAND ADMINISTRATION

Corruption = a two way street (don't be bystander!)

7



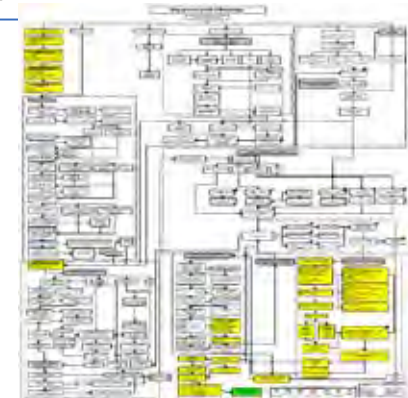
Before assessment: Know what to look for for generic indicators

9

- Experience based indicators: actual levels and experiences of wrong doing
 - Corrupt practices: personal involvement gauged using questions measuring the incidence of transfers made to expedite service or break the law
 - Corruption pressure: pressure experienced personally gauged using questions measuring the incidence of officials directly asking / "hinting" at an informal transfer (gift, favor, money)
- Perception based indicators: perceptions about corruption in society
 - Tolerance of corrupt practices: questions that probe whether specific practices (bribe, conflict of interest, trading in influence, etc.) are considered as 'acceptable' for certain officials
 - Perceived spread of corruption: questions about perceived levels of corruption and its 'effectiveness' in getting things done
 - Expectations relating to the ability and resolve of government: how well equipped are we/they to deal with corruption?
 - System (vulnerability) indicators: probe whether or not transparency strategies, programs, etc are in place, are being practiced and are effective

Complex Procedures

11



Before assessment: know core functions of Land Administration & the actors

8

- Legal / land registry: definition of rights; rules and procedures for adjudication, registration, etc.
- Cadastre: who owns what and where (size, location, use, etc)
- Dispute resolution: informal mediation; administrative tribunal; ordinary civil courts; specialized land tribunals.
- Regulatory: registration and oversight of land professionals: conveyancers, valuers, land surveyors, estate agents, notaries, physical planners, etc
- Fiscal: land and / property taxation

Before the assessment : know what to look for - land corruption and vulnerability indicators

10

- Access to land and allocation of land rights
- Tenure based on administrative allocation provides significant discretionary power
- Imbalance and inequalities in land access lead to land grabbing
- Frequency of multiple titles
- Land law
 - Ambiguity of definition and inadequacy of rights
 - Inconsistency between different land laws and regulations
 - Overregulation (Philippines 160 requirements and 41 permits; SA 42 Steps and 110 actions)
- Land use planning
 - Absence of publicly available information (land use plans are secret)
 - Poorly monitored and implemented land use plans and controls
 - sanction illegal changes in land use (rezoning)
 - difficulty to detect or reluctance to penalize offenders
 - Ambiguous land use plans: providing scope for variable 'interpretation'

Before the assessment: know what to look for - land corruption and vulnerability indicators

12

- Land finance
 - Monopoly in the financial sector (credit markets)
 - High tax rates on land transfers - leads to informal transfers and payments
- Land information
 - Incomplete and out dated data
 - Weak information management
 - Same information required by different departments on same issue
- Land dispute resolution
 - Proportion of land disputes in courts (courts congested by land cases - lawlessness);
 - Lingering court cases: how long do court cases take?
- Land Administration culture and structure
 - Weak customer service culture and clear procedures
 - The farther the decision making point (centralized LA), the higher the probability for transactions to become opaque due to lack of local accountability.

SESSION 03: PRESENTATIONS

Before the assessment: know what to look for - land corruption and vulnerability indicators **13**

- Land valuation
 - Inherently subjective practice - undervaluation and overvaluation
 - No or defective national valuation guidelines / standards (e.g., observed prices; auction results)
 - High value of land (urban and peri-urban; export commodity production areas) attracts corruption
- Land registration
 - The longer it takes, the more the no. of steps / actions needed to complete transaction, the higher the probability for corruption (Mutation 160 requirements and 41 permits)
 - Complex systems (e.g., rights, transfers registration processes and procedures)
 - Unclear administrative responsibility - who does what at which department?
 - High service fees: encourage informality and semi-informality in doing business

Scope and approach: DOs and DON'Ts **15**

- Focus on institutional weaknesses (not on individuals) and clearly communicate this objective
- Don't overstep the assessment mark / don't encroach the turf of law enforcement and clearly communicate this objective
- Secure political/senior management support and clearance
- Where possible secure assessment mandate and process legitimacy (e.g., NGOs routinely do citizens report cards / satisfaction surveys)
 - Watchdog status
 - Internal oversight
 - Research
- Ensure confidentiality and anonymity and ensure process of assessment are well advertised and understood
- Make assessment impartial and non-threatening

Scope and approach: data types and sources **17**

- Type of inquiry
 - Quantitative research / quantitative data
 - sample surveys using structured questionnaires
 - Information on levels of corruption, experiences and public perceptions
 - Qualitative research / qualitative data
 - semi-structured questionnaire to focus groups, key informants, etc.
 - desk / web research
 - Case studies
- Relevance of primary / secondary data
- Primary data: reasonable sample size, well distributed samples, etc

Scope and approach: object of assessment **14**

- Recognise that corruption is pervasive and exists everywhere in different/varying degrees:
 - There is no institution that is totally free from corruption
 - Corruption has common characteristics worldwide - poor ethics and integrity behaviour, weak governance systems. These issues occur in all countries regardless of the level of social and economic development.
- Determine the extent and level corruption (including whether it is systemic or episodic); where it occurs and how; why; what forms it takes; whether it is petty or grand; its cost implications
- Gather baseline information - to act as a benchmark for improvement and change
- Determine whether or not transparency strategies, programs and institutions are in place, functioning and effective

Scope and approach: DOs and DON'Ts **16**

- Understand the nature of indicators and tailor assessment accordingly
 - Corruption experience (objective)
 - Corruption perceptions (anecdotal/subjective)
- Determine institutional coverage: one institution/department or several?
- Determine geographic coverage: regional? Countrywide? Local (to capture the different tiers of government)
- Key issues to remember in planning assessment scope
 - 'Supported'
 - 'Doable' (considering logistics and sensitivities) and
 - 'Representative'
- Be clear about 'where to from here' and what will be done with the information gathered

Assembling the assessment team **18**

Selection of investigators

- Knowledgeable;
- trusted/respected (neutral / no conflict of interests / no vested interest (e.g., researchers, civil society, academia, etc))

Key informants selection

- A random range of staff to give sense of neutrality and range
- Ensure a proportion are knowledgeable, involved and trusted

SESSION 03: UNDERSTANDING AND ASSESSING TRANSPARENCY IN LAND ADMINISTRATION

Assessment challenges

19

- The inefficiency factor: corruption can be disguised as inefficiency
- The fear factor : reluctance to give information, intimidation by those who might have 'something to lose' in an assessment process
- The cover-up factor : corruption doesn't leave a paper trail; information 'scarce' in official records (hence why focussing on victims' (actual and potential) experience and perceptions is important)
- The evidence factor : failure to distinguish assessment from investigation, the tendency to 'overvalue' formal evidence / undervalue people's informal feedback

A sample of issues covered in formal surveys

21

Issues	Description
Frequency of interaction	How many visits per year? When was the first and the last visit?...
Purpose of interaction	To pay property taxes? To register transfer, subdivisions? ...
Bribery incidence (perception and expectation)	Heard of the need for informal payments? How serious is this need?
Bribery transaction (actual experience)	Questions soliciting views on actual requests for informal payments and payments made
Corruption trend (perception and expectation)	Questions soliciting views on state of corruption (past, present and the future)

Tools: vulnerability assessment

23

- Frame a series of questions to be answered looking at LA's structure and processes
- Analyse responses and identify areas of vulnerability
- Propose remedies that would reduce the risk of corruption/ promote transparency
- Typical questions headers:
 - Is the general LA environment permissive of corruption?
 - Which do specific activities carry the inherent risk of corruption and why/how? E.g., gate keeping position / discretionary power over land rights allocation; size of land transfer fees, etc
 - Are existing safeguards and controls adequate to prevent corruption/promote transparency?
 - What specific actions could be taken?

Tools: formal surveys

20

- Take many different names (corruption surveys, integrity surveys, urban corruption surveys, etc)
- The usual format is household survey (other clusters of interest: businesses, civil society, public service, etc)
- Quantitative sample surveys or qualitative interviews (e.g., with focus groups or one on one)
- Typical statistical methods (e.g., sample surveys) and data processing tools are used (e.g., Access, SPSS)
- Typical finding: e.g., % of people who fell victim to different corrupt practices are reported
- Land administration transparency survey: handy name for surveys that we might want to undertake following this training

Tools: vulnerability assessment

22

- Areas of focus
 - Whether or not the general LA control environment is conducive to corruption
 - Whether a particular activity is prone to corruption (e.g., mutation, land rental/sale registration, property tax payment)
 - Whether the existing controls are in place and effective
- Value added
 - Identification of areas exposed (sections, departments)
 - Show authorities and reformers areas of intervention (to reduce vulnerability, enhance transparency and integrity)
- Links to transparency
 - identification of loopholes
 - Identification of tools to address issues/plan for 'way forward'

Tools: rapid anti-corruption assessment

24

- What: a checklist based tool recently developed for use within USAID
- Premise: objective assessment of corruption is difficult
- Alternative: better to check if adequate anti-corruption / transparency laws and institutions are in place and these are working.
- Approach: analysing existing practices and protocols is less threatening and future oriented
- UNODCC employs a similar tool
 - 'Assessment of institutional capabilities and responses to corruption'
 - an additional tool that is supplementing surveys

SESSION 03: PRESENTATIONS

Tools: report cards

25

- The business equivalent is customer satisfaction surveys
- Users perceptions on the quality, efficiency and adequacy of LA services are gauged
- Qualitative users' opinions are aggregated to create a 'score card' that rates the performance of LA
- Findings
 - Quantitative measures of overall satisfaction and perceived level of corruption (% of satisfied / dissatisfied users in respect to service)
- CRCs are a 'proxy indicator' of competition
- Purpose
 - Soliciting opinions through a survey of land users (other service recipients) to rate different dimensions of service
 - To use results to improve service
 - To know why service provision is not good

Reporting and using findings

27

- Various target groups
 - The general public
 - Technical audience
 - Officialdom
- Various outputs
 - Technical report (detailed findings, statistical details, etc)
 - Assessment briefs
 - Information used to inform strategic plans
- Various forms of communication
 - Debriefing
 - Stakeholders' workshop
 - Town hall public meetings
 - Media

Conclusion

29



There is enough (land) to satisfy every man's need, but not every man's greed. (Confucius)

Tools: report cards

26

- Link to Transparency
 - Gauges citizens' satisfaction
 - Exposes service provision loopholes
 - Guides service provision improvements
- Requirements
 - Understanding the context
 - Technical competence to execute the survey
 - Media and advocacy campaign
- Steps
 - Identification of the scope, purpose and the actors
 - Questionnaire design
 - Sampling (determine sample size, distribution, etc)
 - Execute the survey
 - Data analysis
 - Findings dissemination
 - Institutionalization - putting it in practice (where appropriate)

Conclusion

28

- Governance literature powerfully subscribes to Lord Kelvin's observation: "If it cannot be measured, it cannot be improved" (so if we can try and measure transparency, then we know where it can be improved and strengthened)
- Ample empirical evidence showing possibilities for measurement and successes in improving the state of corruption/transparency
- Carefully designed and executed transparency assessment can help arrest corruption in LA which is a source of many recurrent and violent conflicts
- The objectivity of the measurement and the value added thereof depends on factors internal and external to the assessment
- The imperative to assess transparency in LA is also anchored in
 - The need for evidence-based interventions
 - The need to rationally use a strategic but limited resources
 - The need to instill justice and openness into LA systems

Review these questions now?

30



If we have the ability to send a satellite to the moon, why is it so difficult to send all corrupt officials to prison?

Is corruption more difficult than rocket science? Is it difficult to assess and address?

SESSION 04.

ACCESS TO INFORMATION AND PUBLIC PARTICIPATION

SESSION 04: PRESENTATIONS

1


Tools to Support
Transparency in Land Administration

Session4
Access to Information and Public Participation



3

Presentation Outline

- Access to land information: why and how
- Land information Systems
- Flow of information and privacy
- Public participation and education

5


Opening Questions

- Who needs land information?
- Who needs to provide/give land information?
- Why is access to land information so important?
- In which ways can land information be disseminated to the public?
- How can people's privacy be protected?
- How does the right information get to the right people? Consideration of literacy, gender etc
- Why is public participation and education important in bringing transparency in Land Administration?
- How can vulnerable groups and individuals be included in public participation and education efforts?
- How can processes be socially and culturally inclusive?

2

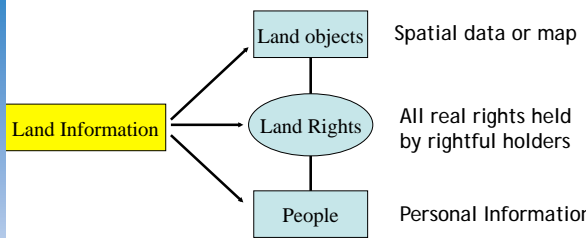
Objectives

- Discuss how access to land information and public participation are critical to improve transparency in land administration
- Highlight a range of tools which can promote access to land information and public participation



4

What is Land Information?



```

    graph LR
      LI[Land Information] --- LO[Land objects]
      LI --- LR((Land Rights))
      LI --- PE[People]
      LO --- SDMS[Spatial data or map]
      LR --- ARH[All real rights held by rightful holders]
      PE --- PI[Personal Information]
  
```

6

Access to Information

- Public have a right to know how Public institutions' manage public affairs and funds
- Public authorities can and must make the conduct of public affairs transparent:
 - Providing information at their own initiative or upon request
 - Involving the public through hearings, open meetings and campaigns
 - Involving the public in policy formulation, and implementation through participation in relevant committees, boards etc
 - Having clear statements of policies and procedures around information (so robust management systems)
- Remember: freedom of Information is a human right

SESSION 04: ACCESS TO INFORMATION AND PUBLIC PARTICIPATION

Some Principles

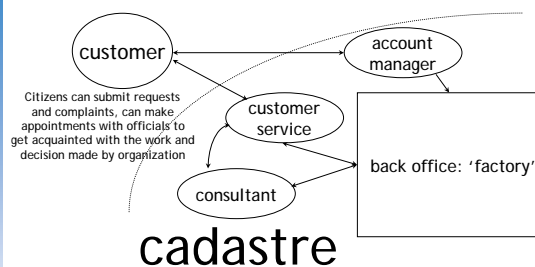
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- Maximum disclosure: strong presumption in favour of access to information
- Obligation to publish: organizations should provide information about their own activities and information of public interest
- Promotion of open government: culture of openness by strong and dedicated leadership, systematic training, legislation
- Limited scope of exception: few items should remain undisclosed and should be clearly defined in legislation
- Information must be handled promptly and effectively
- Costs: information should be available in principle, at no cost (cost should not hinder access to information)
- Open/public processes: to give testimony of transparent government

Front office and back office

9

Feeling of openness and welcome for public



Example from AGIS, Nigeria

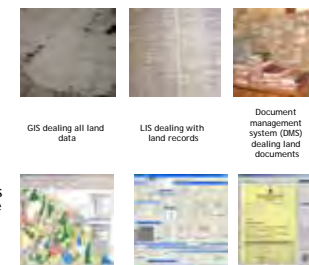
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• In 2003, the Federal government of Nigeria issued a presidential order to computerise the cadastral activities of the Ministry of the Federal Capital Territory (MFCT) and the Federal Capital Development Authority (FCDA) of Nigeria

• The Geographic Information Systems (AGIS) of Abuja was established

• The aim was to solve the problems of 'inefficiency' and 'abuses' in the provision of statutory rights of occupancy

• AGIS consists of three sub-systems (GIS, LIS and DMS) planned to be financed by the market (payment by demand-side stakeholders)



(Adewale Akingbade, 2008)

Land Information System

8

Modern technologies such as LIS supported by the Internet, provide effective tools to increase accessibility and availability of information



Build and Testing a LIS

Accessing Land Information via Internet

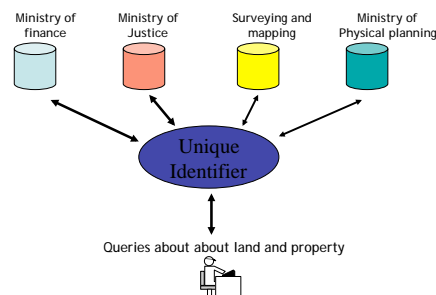
LIS is a system that captures, processes, stores, analyzes and disseminates Land Information.



Wireless/mobile accessing Land Information via Internet

One-stop shop

10



Example from AGIS Nigeria: findings

12

• For access to information, LIS seems promising

• 12 counters in the new headquarter of AGIS for serving clients

• Recent survey indicates that LIS may reduce corrupt malpractices

• Question remains: how LIS can support women to access credit to fulfil their needs?



(Adewale Akingbade, 2008)

SESSION 04: PRESENTATIONS

Example from India (Bhoomi)

13

- Online delivery of Municipality services in Vijayawada, India for:
 - Building permit, birth and death certificates
 - Collection of property, water and sewerage taxes
- Five Kioks:
 - with easy to operate touch screen computers
 - located close to citizens
- Some findings
 - Corruption has reduced
 - Convenient Access to services
 - Improves the finances of municipal government



Flow of information and privacy

15

Privacy:

- The use of data must be registered and individuals must be informed about how the information will be used
 - Personal information (incl. addresses) of citizens and their use must be declared at the time of data collection
- For example:
- Data Protection Directive of the EU: member states are required to bring their national legislation in line with this directive

Flow of information and privacy

14

Legislation facilitates distribution and use of land information

Access to information laws

- Citizens given right of access to government documents

Copyright/intelligent right - to protect individual investment

- Moral rights
- Economic or exploitation rights

Data protection

- Data needs to be protected from disasters such as fire, earthquake and theft

Public participation and education

16

•Public participation

- From sharing information to active involvement
- Public meetings: impart information + get public's views
- Citizen councils/community watchdog groups to enhance openness, accountability and transparency



Public hearing/training

•Public education

- Public education campaigns; CBO's
- What information one can access? How to access? Who can access (and who can't)



- Key issue: ensuring all individuals and groups engaged

SESSION 04: ACCESS TO INFORMATION AND PUBLIC PARTICIPATION



The Media

17

Media plays a very important role:

- Unique role to inform the public
- Must operate in a free and fair manner
- Needs training to ensure it operates professionally & ethically
- Must be aware that not all have access

Questions for discussion

19

- Who needs land information?
- Why is access to land information so important?
- In which ways can land information be disseminated to the public?
- How can privacy be protected?
- Why is public participation and education important in bringing transparency in Land Administration?
- How can public participation and education processes be socially and culturally inclusive?
- How can vulnerable/marginalised groups and individuals be included in public participation and education processes?

Adjudication and the role of media

18

- Adjudication: to determine what rights exist and who is the rightful holder?
- Media plays key role in informing the public?
 - Public campaign about what the adjudication is, what rights citizens have in the process and what benefits they get
 - Announcing date of adjudication and informing on what role citizens have to play
 - Detailed examination of documents in front of the rightful claimants and a detailed survey
 - Registering and publishing preliminary results
 - Allowing time for complaints and dealing immediately
 - Final issue of titles (certificate of rights) to the owners (rightful holders)

SESSION 05.
PROFESSIONAL ETHICS
AND INTEGRITY

SESSION 05: PROFESSIONAL ETHICS AND INTEGRITY

1

Tools to Support
Transparency in Land Administration

Session 5
Professional Ethics and Integrity



3

Opening questions

- What do we mean by professional ethics and integrity?
- How does ethics and integrity affect land administration?
- What are interventions that can be used to promote professional ethics and integrity?
- What is the purpose of having conflict of interest laws in the land sector?
- What are codes of professional ethics or “codes of conduct”?
- How can we encourage officials and citizens to blow the whistle and report wrongdoing?
- Why do we need ethics training?

5

Defining terms...

Integrity (from the Latin ‘integra’ = wholeness)
“The quality of being honest and having strong moral principles”

Ethics (from the Latin “ethicus” = choice of the good)
“The moral principles that govern a person or group’s behaviour”

“Ethics is integrity in action”

Objectives

2

- To gain a common understanding on professional ethics and integrity in the context of Land Administration
- To reinforce ethical behaviors/attitudes
- To explore interventions that can promote ethics in Land Administration and thus public trust and confidence
- To review examples of good and bad practices

Who demonstrates ethics and integrity?

4

Someone who, for example...

- Demonstrate the values of the organization
- Acts without consideration of personal gain
- Resists undue pressure in decision-making
- Does not abuse power and authority
- Stands by decisions that are in the organizations interest even if they are unpopular
- Takes prompt action in cases of unprofessional or unethical behavior

How does a breakdown in ethics and integrity affect land administration?

6

For example:

- A decreased sense of obligation by citizens to pay taxes, to apply for proper titles or building permits, or stick to zoning regulations
- With the lack of transparency and effective mechanisms for sanctions, land grabbing and/or illegal transfers of land by corrupt officials, for political elites, for their own benefit

Interventions that can be used

7

- Conflict of interest law
- Codes of professional ethics/codes of conduct
- Robust reporting mechanisms (Whistleblower protection)
- Ethics training

What is the purpose of having conflict of interest laws in the land sector?

9

- To ensure transparency and ethical conduct by employers and officials through removing the temptation and opportunity to engage in corruption
- To establish transparent frameworks for government officials with respect to decision-making processes especially, financial decisions
- To promote disclosure of private, personal and political interests
- To protect officials from any undue suspicions and instill public trust and citizen confidence in land administration
- To construct parameters by which those seeking business from or access to the land administration offices are subject to certain ethical standards as well
- To create mechanisms to sanction and/or reprimand violators of such laws

1. Conflict of interest laws

8

To avoid corruption that may erupt due to a conflict of interest in which private interest may influence a public decision, legal frameworks can be established so that officials have to disclose such private interest beforehand and not act in such cases

These laws should include provisions related to financial or asset disclosure; exploitation of one's official positions; and open meeting requirements

But the laws are only as effective as the penalty provisions and enforcement!

2. Codes of professional ethics & 'codes of conduct'

10

- Municipal codes of ethics not only provide ethical guidelines for municipal officials and employees, they are critical for restoring public trust in government
- Codes of ethics also used for NGOs, professional associations and the media
- Codes of ethics must contain basic principles of professional conduct

SESSION 05: PROFESSIONAL ETHICS AND INTEGRITY

Steps in setting up codes of ethics

11

Creation: The process of producing a code of ethics must in itself be an exercise in ethics

Implementation: What entity has the authority to interpret and enforce the code?

Dissemination: Everyone must know and understand the rules

Identifying gaps and loopholes: Codes of ethics are usually a work in progress. Continuing review

Open interpretation of code: share information on decisions

3. Disclosure, Reporting and Whistleblower protection

13

Do you know where to go if you need to 'blow the whistle' and report wrongdoing?



Codes of professional ethics & 'codes of conduct'

12

- A number of codes of professional ethics have been produced by professional organizations that work in land administration
- Originates in corporate governance in private sector but can be applied to public sector
- Professionals owe a duty of care to their clients and should not exploit their relationship for their personal advantage to the detriment of their clients
- Personal duty: A land administrator should not be a silent witness, a willing partner or a facilitator of, for example, grand corruption where the state is captured by a powerful group

Disclosure, Reporting and Whistleblower protection

14

- How can we encourage officials, employers and upset citizens to blow the whistle (incentives)?
- Are there taboos about 'denouncing' fellow citizens?
- How can we avoid retaliation for those who blow the whistle? (Anonymous complaints, anti-corruption commissions, telephone hotlines?)
- What has already been done?

SESSION 05: PRESENTATIONS

4. Ethics training

15

- To educate employees about ethics rules and regulations
- To establish capacity to maintain open processes
- To reinforce principles of transparency and accountability within organizations



What each one of us can do

17

- Renew our personal commitment to act with professional integrity
- Use the ethical decision making model
- Stay alert to barriers to good ethical decision making
- Seek help to resolve ethical dilemmas
- Discuss ethics with colleagues
- Support those who act ethically
- Stay informed and find out where you can turn to

Questions for discussion

19

- What do we mean by professional ethics and integrity?
- How does ethics and integrity affect land administration?
- What are interventions that can be used to promote professional ethics and integrity?
- What is the purpose of having conflict of interest laws in the land sector?
- What are codes of professional ethics or “codes of conduct”?
- How can we encourage officials and citizens to blow the whistle?
- Why do we need ethics training?

5. Ethics and dispute resolution

16

- Non corrupted grievance redress systems
- Mediating between professionals and clients
- Provide info about rules and rights
- Promote local values and integrity
- Gender dimensions
- Specify roles of professional bodies in dispute resolution
- Institutionalise involvement of professional bodies/ regulating in dispute resolution

Group work

18

You are a young land administration officer.

From what you know, Mrs. Uma has been waiting for her land title for many years, because you have seen her come to complain in the office many times.

Mr. Kumar, your immediate boss, is in charge of Mrs. Uma's case. It seems like Mr. Kumar is being threatened by his senior boss to make some land available to his senior boss' relatives, and to use Mrs. Uma's land for this.

You have been working for Mr. Kumar for five years and he is a lovely, supportive boss, and you have always trusted him. You came across what had happened to Mrs. Uma's case when you see her file in the office, and overhear a phone call by Mr. Kumar.

You have a small baby and need your job desperately.

What do you do?

SESSION 06.

INSTITUTIONAL AND ORGANIZATIONAL REFORMS

SESSION 06: PRESENTATIONS

1

Tools to Support
Transparency in Land Administration


Session 6
Institutional and Organizational Reforms




3

Opening questions

- How can organizations be more effective in providing products and services in a transparent manner?
- How can organizations make their processes simple, transparent and effective?
- What does capacity development? in mean for organizations?



5




Courtesy UN-Habitat

2

Objectives

- Review how to reform institutions and organizations to make them more transparent and effective
- Highlight reform tools: organization's mandates, processes and information flow and capacity development? in land administration



4

Land Governance

Failures due to:

- Poorly designed or implemented legislation
- Unclear or overlapping/duplicated mandates
- Complex institutional/organizational structures
- Inappropriate administrative procedures
- Incorrect or inadequate information (flows)
- Inadequate civil service capacity and poor customer service culture

Institutional Reforms:

- Streamlining and simplification of administrative procedures
- Promotion of participation and accountability
- Promotion of customer service focus

6

Organization's mandates/charters (with robust legal framework)

Clear/published mandates and charters

- Mandate: organisation's purpose/key responsibilities
- Customer Service Charter: commitments to customers used standards; what if things go wrong?

Clear/published intra/inter-organization's relationships

- Government (central-local) - Private sector - NGOs and CBOs - Professional Organizations – Media - Citizens
- Respective roles/responsibilities in Land Governance

Verifiable/measurable targets

- Clear benchmarks on what and how products and services will be delivered

SESSION 06: INSTITUTIONAL AND ORGANIZATIONAL REFORMS


Organizational processes (1) 7

Organization's structure

- Formal - Informal organization
- Functional - Matrix - Network (virtual)
- Co-ordination

Simplify/clarify and standardize administrative processes and information flows

- Describe - Analyze - Visualize
- Computerize - Internet (e-government)
- Records management



Organizational processes (2) 9

Front office/Helpdesk

- First office encountered by public/help-desk (where to go? how to obtain info? advice on problems)
- Better access to info/services + effective/equitable service provision

One stop shop

- Provision of several services from one place
- Reduces opportunities for delay and corruption
- Technological and institutional complexity

Complaint's (Ombudsman's) office/system

- Independent examination of complaints on maladministration
- Testimony of importance of transparency and accountability for the organization

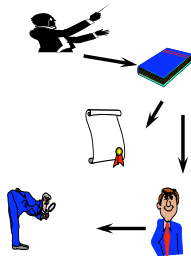
Management control systems 11

(Quality) Management System

- (Quality) Policy (& Leadership)
- (Quality) System
- (Quality) Assurance and Control

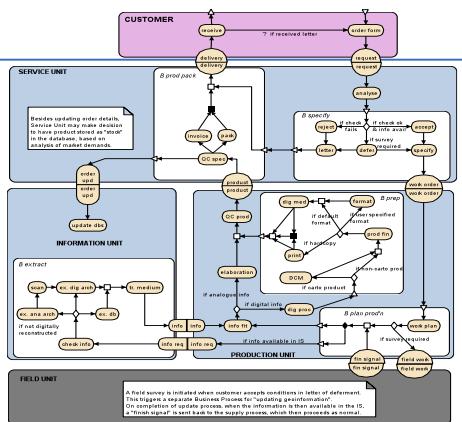
Internal/external independent audit function + Oversight Committee

- Audits/oversees operations/activities
- Makes processes and finances transparent + provides credible information



Independent anti-corruption/transparency agencies

8



CUSTOMER


SERVICE UNIT

INFORMATION UNIT

PRODUCTION UNIT

FIELD UNIT

Front office/Helpdesk 10



Capacity Development (1) 12

Organization's development:

- Mandate, structure, processes and resources

Citizen's/Civil Society empowerment



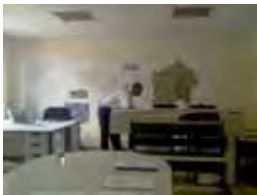
Role of academia, professional organizations & the media

Capacity Development (2)

13

What does it mean for an organization?

- Strengthens the knowledge, abilities, skills and behaviour of individuals
- Improves institutional structures and processes
- Improves organisational capacity to efficiently and sustainably meet its mission and objectives



More transparency?

Questions for discussion

14

- How can organisations make their processes simple, transparent and effective?
- How can they provide good and effective customer service?
- How can organisations be more effective in providing products and services in a transparent manner?
- What does capacity development mean for organisations?



SESSION 07.

REFLECTION ON TOOLS PRESENTED
VIA A PRACTITIONER (SUCH AS AN
ANTI-CORRUPTION AGENCY)

SESSION 07: PRESENTATIONS

1

Tools to Support
Transparency in Land Administration

Session 7
Presentation by a Practitioner



2

Purpose of the Session

- To gain first hand insights into the experience of someone working in the field of transparency building/corruption prevention.
- To explore which tools are used by the Practitioner's agency or organisation to promote transparency and understand the challenges and successes associated with the tools and the work of his/her agency/organisation.
- To discuss the key lessons learnt from the Practitioner's experience.

3

Questions to consider

- What has this organisation or agency done to improve transparency
- What are the challenges but also opportunities for change?
- Who has been responsible for making the necessary changes and ensuring they take place (monitoring?)?
- Where has the leadership come from? How have staff been motivated?
- What key tools have been used?
- What are some of the key lessons learnt?

SESSION 08.

CASE STUDIES II – PROBLEM BASED
LEARNING CASE STUDIES FOCUSING ON
THE TOOLS TO PROMOTE TRANSPARENCY

SESSION 08: PRESENTATIONS

1

Tools to Support Transparency in Land Administration

Session 8
Guidance to group discussion
of Case Studies
(focus on problem based learning and
analyzing the use of tools)



Objectives of the Session

3

- Use four case studies out of the compilation, to illustrate the 5 substantive areas that have been covered in Sessions 1 - 6
- Integrate what you have learned in Session 1 - 6 and apply these insights to the case studies
- Work together to identify:
 - substantive issues and ethical dimensions
 - possible entry points and tools that can be used to address the problem situation and mitigate undesirable consequences

Group work

5

- Form four groups (one case study each)
- Mixed backgrounds and professions/disciplines
- Answer the Group work questions
- Document your group work so that you can report back in next session (10 minutes)

Purpose of the Session

2

- To analyze issues and dilemmas and captured in a range of case studies (highlight key dimensions, power relations at play etc)
- Explore which tool/set of tools might be effective to improve the situation and overall transparency of the land administration system/s involved

Group work questions

4

- Who was most affected and why? What made them vulnerable?
- What are the core ethical issues (issues of non-transparency/issues of corruption) captured in the case study? What are the consequences of the issues involved?
- Which of the concepts and the tools that you have been introduced to will help you to analyse and understand the situation better; make interventions and improve the situations? Who should be responsible for those interventions? (Identify key issues and then possible reform/change tools and potential benefits of the tool)

Presentation of Group work analysis

6

- Presentation by each group for ten minutes
- Presentation should include
 - Situation analysis/problem description
 - Intervention strategy. What tools you felt were best used to improve the situation and who is responsible for its implementation?
 - How will your intervention strategy lead to a more equitable land administration system?
 - What are some of the remaining or long term challenges to ensure continued transparency?

SESSION 09.

GUIDANCE TO GROUP DISCUSSION OF –
GLOBAL REFORM CASE STUDIES
(TOOL ANALYSIS)

SESSION 09: PRESENTATIONS

1

Tools to Support Transparency in Land Administration

Session 9 Guidance to group discussion of - Global Reform Case Studies (Tool Analysis)



3

Objectives of the Session

- Use case studies out of the Global Reform compilation, to illustrate the tools covered in the training package and what other tools could have been used or reforms undertaken
- Work together to identify:
 - Key reforms undertaken/tools utilised
 - Assess how effective they were and what other tools could have been used
 - Discuss how you could use them in your context

5

Group work

- Form four groups (one case study each)
- Mixed backgrounds and professions/disciplines
- Answer the Group work questions
- Document your group work so that you can report back in next session (10 minutes)

2

Purpose of the Session

- In groups, to discuss the tools used in a range of case studies to promote transparency
- Discuss what other tools might have been used
- Use case studies as a 'trigger' and 'inspiration' for what might be done in your own context/work place

4

Group work questions

- What were the important challenges the country faced in reforming its land sector?
- What were the key reforms undertaken and main tools used?
- How effective were these tools and why?
- What was the most interesting or innovative aspect of this case study?
- What other tools might have been used?
- Could you apply any of the tools or reform processes to your context and place of work? What might be some of the possibilities and challenges?

6

Presentation of Group work analysis

- Presentation by each group for ten minutes
- Presentation should include
 - Situation analysis/problem description
 - Intervention strategy.
 - What tools you felt were best used to improve the situation (how they improved the LA system)
 - What other tools might have been used?
 - Who is responsible for its implementation?
 - What are some of the remaining or long term challenges to promoting transparency?

SESSION 10.

ACTION PLANNING

SESSION 10: PRESENTATIONS

1

Tools to Support
Transparency in Land Administration

Session 10
Guidance on Personal and Group
Action Plans



3

Two approaches

- Individuals will formulate action plans - what they can do on their own, what support they might need
- Groups - as a team from the one country - will formulate country action plans

All participants will discuss the pros and cons of each others approach to maximize their potential

5

Group action plans - possible approaches/actions

- Transform your group into a formal body like a 'country and land governance team'
- Seek official support for your endeavors from relevant officials and government ministers to build interest and formal backing
- Produce 'State of the country' reports and submit to the Minister of Lands/concerned minister or seek publication in a local paper
- Design a project, seek funding, run seminars/workshop or assessment research at national levels

2

Objectives of the action plans

- To 'Spread the Word' - to get the message of the training to more people who need it (multiplier effect)
- To make the most of the training. How to maximize the impact of what has been learnt and with the skills acquired (sensitization; knowledge and skills)
- To develop a list of key personal actions to ensure learning continued
- To help facilitate a community of practice

4

What you can do as individuals

- Take to heart what you have learnt .. Put it into practice
- Keep in regular contact with other workshop participants - form a community of practice
- Begin to form a group of supporters of change in your workplace so you aren't alone in your endeavors
- Run a seminar/workshop at your workplace (to co-workers or at a professional association meeting)
- Write an article on your local paper (on transparency in land administration) or in a professional journal
- Get a local radio/TV to do an interview or documentary linking information acquired here with local issues in your community
- Sensitization workshop to professionals to which you belong (e.g. Institution of surveyors; Journalists' association)
- Academics : run classes on transparency in land administration, land corruption; incorporate the same to the curriculum of your department; initiate research / assessment and produce reports on

6

Critical success factors

- Build a network of like minded professionals - group support is best - community of practice
- Get a motivated person who is good at networking and leading people on a new initiative
- Begin to see where and who you can get support from
- Get a 'Political champion' that would extend support when needed
- Develop a realistic strategy for improvements and change so you can start on a practical and positive note
- Do things that keep people motivated (plan an event)
- Do things to keep yourself motivated!

SESSION 10: ACTION PLANNING



Opportunities - create them

7

- Access funding/grants - most donors are willing to fund well planned activities aimed at curing/preventing corruption
- Build your local/country wide network and link with fellow professionals from your country, from your region, outside the region (ITC, GLTN/UN-HABITAT)
- Utilize the GLTN training toolkit and trainers' guide and share with others
- Build and utilize knowledge partners- there are many international actors working on the same subject (Transparency International, World Bank Governance Team, Mo Ibrahim Index of African Governance, etc)

Challenges - one step at a time

8

- Feeling overwhelmed - undertake achievable activities, take one step at a time. Link in with your community of practice/supports
- 'Vested interests' - people who benefit from land corruption don't want anything done to address land corruption - build a supportive network, seek senior level backing
- No time - change takes time and requires time. Get support in your workplace, delegate
- Commitment - it's too hard, too much for me? No it's not. Individuals can make a difference but can't do it all alone. Utilize your networks

ABOUT GLTN

THE GLOBAL LAND TOOL NETWORK

The main objective of the Global Land Tool Network (GLTN) is to contribute to poverty alleviation and the Millennium Development Goals through land reform, improved land management and security of tenure.

The Network has developed a global land partnership. Its members include international civil society organizations, grassroots, multi-lateral and bi-lateral organizations, international research and training institutions, and professional bodies. It aims to take a more holistic approach to land issues and improve global land coordination in various ways. These include the establishment of a continuum of land rights, rather than a narrow focus on individual land titling, the improvement and development of pro-poor land management, as well as land tenure tools. The new approach also entails unblocking existing initiatives, helping strengthen existing land networks, assisting in the development of affordable gendered land tools useful to poverty stricken communities, and spreading knowledge on how to improve security of tenure.

The GLTN partners, in their quest to attain the goals of poverty alleviation, better land management and security of tenure through land reform, have identified and agreed on 18 key land tools to deal with poverty and land issues at the country level across all regions. The Network partners argue that the existing lack of these tools, as well as land governance problems, are the main cause of failed implementation at scale of land policies world wide.

The GLTN is a demand driven network where many individuals and groups have come together to address this global problem. For further information, and registration, visit the GLTN web site at www.glttn.net.

ABOUT THIS PUBLICATION

This publication forms a part of a two volume training package on Tools to Improve Transparency in Land Administration. The training package comprises a Training Toolkit and a Trainers' Guide. The first provides content and the latter training methods. The publication is a product of a series of training workshops implemented across Sub-Sahara Africa, South and South East Asia. Under the leadership of the GLTN/UN-Habitat, the training brought together six universities from the global South and one from Europe. Much of the content compiled in the publication was produced by highly experienced experts drawn from these universities. The content was used, critiqued and revised in the course of implementing the training. Practitioners from each region were also identified to write region specific case studies that facilitated problem based learning and contextualized the training. A consultant conducted additional research to find and incorporate content and case studies which enhanced the global flavor of the content. The publication pulls together all these resources and provides generic content, case studies and indicative methodological guidance that allow designing and implementing country or specific training without or with very minimal support of experts from the GLTN/UN-Habitat and ITC of the University of Twente.

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