

Long WORKSHOP REPORT FORM

Number and title of workshop: WS 2.1. Finding Common Ground. Tackling corruption in land and natural resources tenure.

Coordinators: Mr. Mika-Petteri Törhönen and Ms. Anni Arial

Date and time: Wednesday 10 November 2010, 17.30-19.30

Moderator: Mr. Mika-Petteri Törhönen, FAO

Rapporteur: Ms. Anni Arial, FAO

Panellists (Name, institution, title)

Mr Bastiaan Philip Reydon, Professor, Universidade Estadual de Campinas, Brazil

Mr Keliang Zhu, Staff Attorney and China Programme Director, Rural Development Institute, USA

Ms Vilma Daugaliene, Acting Director of Rural Development Department, Ministry of Agriculture of the Republic of Lithuania

Mr Odame Larbi, Chief Executive Officer, Ghana Land Commission

Summary

The workshop *Finding common ground: tackling corruption in land and natural resources tenure* brought together panellists with administration, academic and civil society background from Latin America, Asia, Europe and Africa. The panellists identified main trends and challenges of corruption and proposed strategies to enhance governance of tenure. The discussions took place in the framework of the on-going initiative on *Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*.

Land administration rates among the most corrupted public institutions across the world. The Global Corruption Barometer 2009 found that approximately 15 percent of the people who contacted land authorities in the previous 12 months reported paying a bribe. The prevalence of corrupt practices in land administration is due to bureaucratic procedures, lack of incentives for efficient services and weakly managed land information systems enabling fraud and manipulation. Complex policy, legal and institutional frameworks also provide a perfect environment for corruption and unofficial practices. Lack of clear strategies, regulations and monitoring mechanisms increase insecurity of tenure having severe impacts on the most vulnerable groups. These groups risk to become even more marginalized due to huge demand on land and natural resources created by investments in agriculture and forestry. Major power imbalances characterise the negotiations for investments and contracts are often signed in secrecy with little input from local communities.

Solutions to overcome corruption include revision of policy and legal frameworks. Existing rules and regulations should be enforced and their implementation monitored. Institutional changes are equally important to combat corruption underlying at all levels of land and natural resources administration. In order to have viable, neutral and transparent institutions, capacities and resources should be strengthened, standards for official decision making developed and transactions made public. A modern and accessible land administration comprising viable cadastre and registration systems can also create a basis for corruption free land dealings, ease monitoring of actions and encourage coordination between actors. But above all, corruption is a question of ethics, incentives and behaviour. Inclusive and participatory approaches taking place at local level can contribute to a more sound management of resources and ensure an efficient monitoring of activities by citizens, civil society and media.

Summary of presentations

Bastiaan Reydon

Professor, Universidade Estadual de Campinas, Brazil

Most Brazilian rural and urban problems are due to lack of land governance. These problems can be characterized by:

- Idle land grabbing and its registration by private notaries.
- Legal and illegal urbanization of rural land, many times on conservation areas.
- Deforestation with no authorization.
- Conflicts over landownership.

The institutional settings for land governance in most Latin America countries were established for territorial occupation and for the development of agriculture on idle land. There has been several attempts to change the institutional settings towards more transparent Land Governance Systems that would make land trading clearer and less vulnerable to corruption and land grabbing. The following points illustrate examples of the processes:

- Three thousand property titles have been cancelled in the cadastre managed by INCRA (Instituto Nacional de Colonização e Reforma Agrária). The properties occupied 93.6 million hectares (around 11 percent of the country's farming land). Amazonian Justice intervened in several notaries at least in 17 municipalities and cancelled the property titles corresponding to 48.5 million hectares.
- 165.000 square km have been deforested between 2000 and 2005. Most of the deforestation took place in the Amazon.
- About 13 percent of the 24 million Brazilian houses are illegal.
- About 837 conflicts over rural land (with 19 deaths and 561.926 people involved) occurred only in 2007.

Land governance could be improved through:

- Development of a community based clarification and adjudication processes for private, government and communal land use and rights. Modern technology could be used.
- Establishment of agreements between institutions responsible for land governance. Create an enabling environment for cooperation.
- Involvement of a variety of stakeholders in the development of adequate Land Governance Systems.
- Creation of an effective institutional setting for land governance.

Zhu Keliang

Staff Attorney and China Programme Director, Rural Development Institute, USA

China's forest administration suffers from a series of institutional flaws and is the greatest source of corruption and poor governance in the country. Illegal logging, corruption, and official misbehavior are pervasive.

Despite the efforts of multiple oversight bodies and the creation of new regulations, the logging quota system has failed to a large extent as the actual amount of logging exceeds the legal limit by more than 66 percent. Forestry officials are able to “sell” one m³ of timber quota for up to 20 USD which is approximately one quarter of the real market value.

The causes of the problem are multiple and there are failures in law and in implementation:

- Transparency is low and local forestry bureaus resist the idea of public disclosure.
- Public participation is weak and average forest farmers are not included in the decision-making process.
- There is no scrutiny on quota allocation and no clearly-defined standards to regulate decision making.
- The prosecution agency lacks independence and only a small number of cases result in successful verdicts against corruptive officials.

A couple of preliminary recommendations could be made to improve the governance of forests:

- Improvement of transparency is the first priority. There is a need for public scrutiny in forest administration to promote overall good governance.
- The current annual forest management plans should be decentralized to allow villages, not counties, to formulate their forest management and quota allocation plans in order to be closer and more responsive to local interests.
- There should be more coherent and clear criteria to guide how official discretion is exercised. This is one of the prerequisites for greater accountability.
- The current forestry prosecutorial force should be reformed so that greater independence can lead to more effective law enforcement.

Vilma Daugaliene

Acting Director of Rural Development Department, Ministry of Agriculture of the Republic of Lithuania

Governance of land and other natural resources is well established in many European countries. However, new challenges and demands have appeared that the land and natural resource sectors should take into account. International instruments (rules of common action of the EU, MDGs), requirements of the global economy as well as increased demand for transparency, accountability and participation of local stakeholders call for a common action towards improved governance.

Land tenure and administration in Europe are influenced by a variety of frameworks and processes including:

- Policy frameworks
- Legal frameworks
- Organisational frameworks
- Human resources development
- University education and academic research
- Financial management.

The management of land and other natural resources should be addressed within these frameworks and the rights and responsibilities of actors clearly defined. There is a need to harmonise different interests and protect the access of women and vulnerable groups to land and other natural resources. Fair and democratic procedures for land reallocation should be established to carry out land privatisation and consolidation and to develop land markets and banking activities.

Transparency, public participation and professional ethics and standards are key elements to prevent corruption. Transparency can be improved through open access to information and e-governance. Improved quality of land administration services could also reduce corrupt practices.

In order to fulfil the above mentioned objectives, it is important to have in place professional, well harmonised and suitable institutional settings that could be further developed under the framework of the Voluntary Guidelines. These guidelines should be linked to international and regional initiatives.

Odame Larbi
Chief Executive Officer, Ghana Land Commission

Poor management, lack of transparency, absence of accountability and poor benefit sharing have resulted in widespread corruption in land and natural resources sectors in Africa. Weakly governed structures have not regulated the exploitation of natural resources, thus providing opportunities for corruption.

In many African countries, State has a sovereignty over all. State agencies have enormous decision-making powers which have become subject of abuse. Large tracts of land have been acquired by individuals, denying communities and individuals their access to land and livelihoods.

Another persisting problem is the weakness of policy and legal frameworks. Policies are often based on colonial legacies and laws are outdated being incapable of dealing with current challenges of land administration. Political leadership tend to take the advantage of lacunas in the law through corrupt practices.

Many of the land management institutions are weak, complex and deeply engaged in political patronage. Institutional weakness is reflected in non-transparent, long, bureaucratic procedures as well as in delays in service delivery. Customary institutions are not absolved from corruption.

Efficient technologically-driven land administration infrastructure is largely absent. Many processes are handled in manual environments, making tracking for efficiency difficult. Opportunities for manipulation of data exist and create avenues for corruption. Low salary levels of public sector increases the recurrence of corrupt practices and affects effective service delivery.

Measures to deal with corruption should include the following:

- Implementation of the African Land Policy Initiative.
- The Voluntary Guidelines could assist governments to deal with governance issues, strengthen institutions and create a platform for peer review and exchange of experiences.
- Policies and laws should be reviewed to provide a participatory framework for land and natural resource tenure.
- Institutions should be strengthened and protected from political interference and frequent contact with the public e.g. by developing front office-back office practices.
- Procedures should be streamlined and guidelines provided to enhance governance, transparency and accountability.
- Investments in land administration infrastructure and the use of technology for service delivery should be promoted.

Main Outputs

The workshop stressed the importance to continue to raise awareness in the international arena on corruption problems that prevail in the tenure and administration of land and other natural resources. Corruption in the sector cannot be tackled without strong institutional, policy and legal frameworks that set up clear rules and regulations. There is also a need for capacity building in all levels of land administration so that services can be delivered in efficient and transparent way.

International and regional initiatives can set examples of best practices and provide guidance on governance of tenure to government administration, customary owners, civil society and private sector. It is important to establish a dialogue between these stakeholders and develop anti-corruption measures through interactive, participative and inclusive processes. Initiatives such as the *Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources* and the *African Land Policy Initiative* play a key role in this matter. They will eventually propose international and regional norms and guidelines to allow citizens to judge whether proposed actions constitute acceptable practices. Civil society is in a central position to observe and monitor land and natural resources management practices.

Recommendations, Follow-up Actions (200 words narrative form)

Follow-up of the development of the *Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources*. Participate in the process through E-consultation in the Spring 2011. See <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

Highlights

Make corruption expensive!

If corruption could be measured, it could be eliminated.