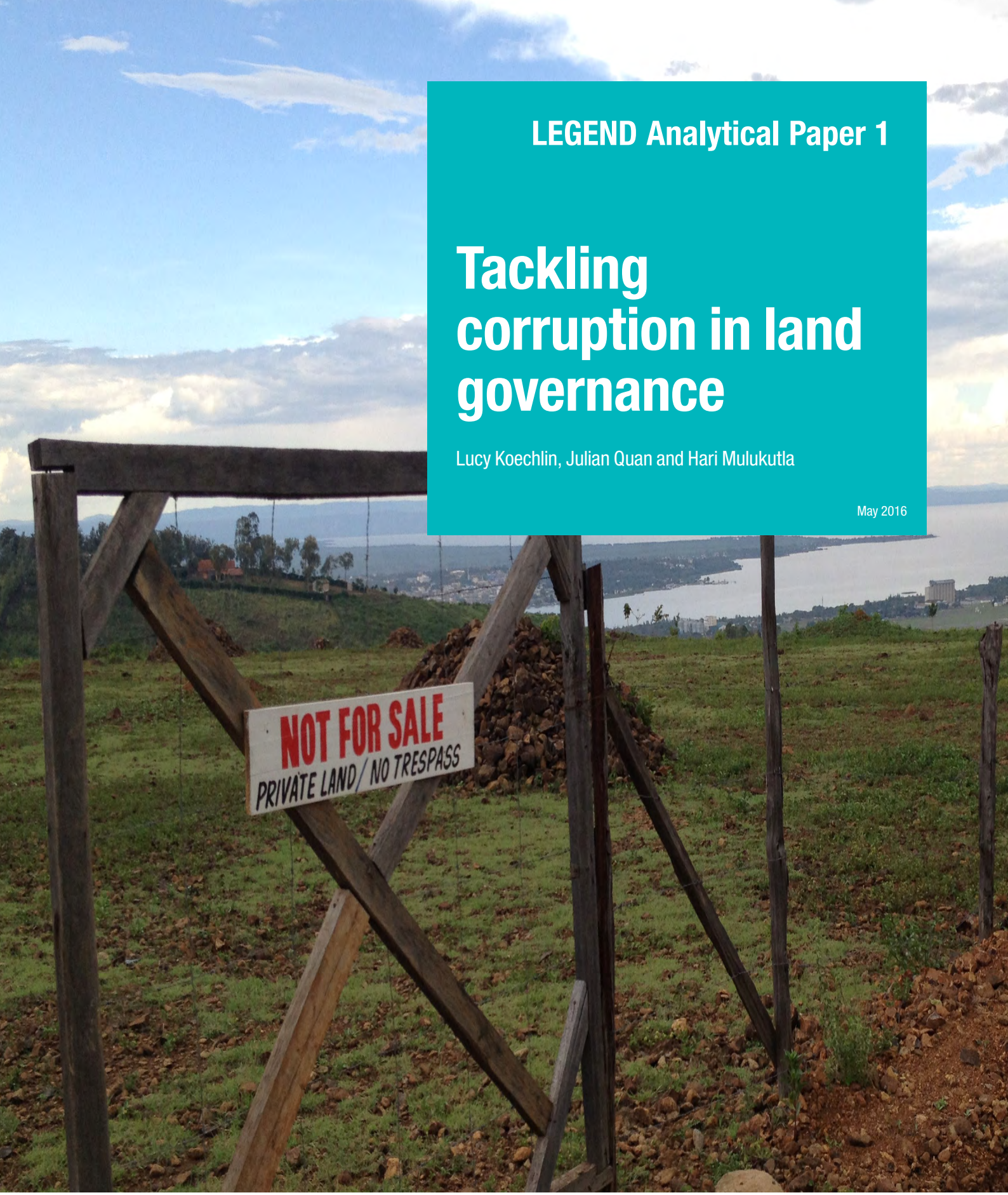


LEGEND Analytical Paper 1

Tackling corruption in land governance

Lucy Koechlin, Julian Quan and Hari Mulukutla

May 2016

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Citation:
Koechlin, L., Quan, J., and Mulukutla, H. (2016) Tackling corruption in land governance. A LEGEND Analytical paper

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Acknowledgements

The authors would like to thank Kenneth Levy, Esq. of Stream House for his legal analysis and Amanda Trepel of Stream House for her research assistance. Comments by Iris Krebber (DFID), Lorenzo Cotula (IIED) and Anna Locke (ODI) who managed and oversaw the development and production of the paper, and Ben Bowie (TMP Systems) have greatly contributed to strengthening the paper.
Lorenzo Cotula and Anna Locke managed and oversaw the commissioning, and editing of the paper. Ore Kolade at ODI coordinated the production process. Copy editing was done by Roo Griffiths.

List of acronyms

AfDB	African Development Bank
AML	Anti-money Laundering
CFS	Committee on World Food Security
CFS-RAI	CFS Principles for Responsible Investment in Agriculture and Food System
CLS	Customary Land Secretariat
CLST	Core Land Support Team
DFID	Department for International Development
DOJ	Department of Justice
EITI	Extractive Industries Transparency Initiative
FAO	Food and Agriculture Organisation of the UN
FATF	Financial Action Task Force
FCPA	Foreign Corrupt Practices Act
FDI	Foreign Direct Investment
FPIC	Free, Prior and Informed Consent
GIS	Geographic Information System
GRAIN	Genetic Resources Action International
GRI	Global Reporting Initiative
ICAR	International Corporate Accountability Roundtable
ICT	Information and Communication Technology
LEGEND	Land: Enhancing Governance for Economic Development
LGAF	Land Governance Assessment Framework
LIS	Land Information System
LTI	Land Transparency Initiative
NGO	Non-governmental Organisation
OASL	Office of the Administrator of Stool Lands
OECD	Organisation for Economic Co-operation and Development
OSINT	Open Source Intelligence Tools
PEPs	Politically Exposed Persons
SDGs	Sustainable Development Goals
SEC	Securities and Exchange Commission
SFO	Serious Fraud Office
TI	Transparency International
U4	Anti-Corruption Resource Centre
UK	United Kingdom
UN	United Nations
UNCAC	UN Convention Against Corruption
UN-Habitat	UN Human Settlements Programme
US	United States
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

Executive summary

Topic and rationale

In recent years, corruption in land governance has come under greater scrutiny, not least as a result of increased commercial value of agricultural and peri-urban land in developing countries and concerns that corruption may play a role in facilitating large-scale land acquisition by investors. Corruption is associated with unresponsive, unaccountable and frequently ineffective land governance, as recognised in the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT). However, there is very little systematic analysis of the relationship between drivers, actors and types of corruption in different aspects of land governance.

This paper seeks to analyse causes, types and effects of corruption in land governance and provide evidence-based recommendations to address corruption, with a particular focus on Sub-Saharan Africa. The findings draw on a literature review of land governance and corruption within national land administration systems and in processes of land and agribusiness investment at the international and national levels, and on selected interviews with experts, activists and researchers of land governance.

Political economy analysis of corruption in land governance

Corruption flags the abuse of power, be it a simple bribe, grand kickback schemes, systematic rent-seeking behaviour or complex political patronage and patron–client relationships. Our premise is that corruption affects the rules, processes and decisions framing land. The analytical framework draws on political economy analysis enabling a deeper understanding of power relations, in particular the distribution of power and wealth between actors and the underlying dynamics sustaining these relations.

Corruption in land governance at a national level

International surveys such as the Global Corruption Barometer and the East African Bribery Index have shown that institutions responsible for land management are among the most corrupt, with only the police and the judiciary found to be more corrupt. Our findings corroborate that land governance at a national and local level is highly corruption-prone. Not only do ordinary land users face additional costs in bribes and informal payments in obtaining rights to land and access to land services, but also wider issues of political patronage and impunity throughout society compound land governance.

In particular, the following systemic enablers of corruption were identified: prevalence of discretionary power within land administration; the role of parallel institutions for land management, including overlapping formal and customary institutions and the partial or non-recognition in law of established customary rights; and extensive state powers and non-transparent procedures for the allocation and privatisation of public land.

Corruption has been shown to be extensive in processes of delivery and development of urban land for commercial and residential purposes (illustrated in a variety of West African cities); in processes of land acquisition from and utilisation of land revenues by customary authorities (illustrated by the case of Ghana); and in the capture of land titling programmes by national and local elites (illustrated by the case of Kenya).

The analysis of selected Land Governance Assessment Framework (LGAF) country reports confirms these findings on the prevalence of particular types and the governance contexts of corruption while also showing that patterns of corruption in the land sector are highly country-specific.

The main actors in petty and administrative corruption in securing land access, land rights and outcomes of planning and land allocation decisions are public officials and in some cases customary leaders, often operating in collusion with land professionals, and commercial developers. Politicians and high-ranking public officials are key actors in cases of grand, systematic and political corruption. Although social values and 'practical norms' play a role in framing corruption, the prime incentive for corruption in land governance at a national level is profit and personal gain through the extraction of bribes and access to profits from land sales and development in administrative and petty corruption. An additional incentive is the use of land as an asset for patronage to consolidate political power and influence in cases of political corruption.

Corruption in land governance at the transnational level

The paper explores different actors, incentives and types of corruption along the investment chain of agribusiness. Although allegations of corruption are extremely sensitive and hard to prove, the principal conclusion is that

corruption is most evident at the 'midstream' level of the investment chain, associated with deal-making in the formation of in-country partnerships, joint ventures, land acquisition and project planning and installation by local subsidiaries, concession holders and project managers. This is supported by investment finance originating higher up the chain, with weak governance in host countries as a prime enabler of corrupt practice.

Of particular concern is the risk of corruption associated with larger-scale investments, agricultural development corridors and their supply chains, whereby investors including national and local elites can override the rights and interests of less powerful land users. Key corruption risks are impunity of political elites in securing favourable land allocations, leading to elite capture of international land deals, associated kickbacks and profits from commercial land development, and the use of land for political patronage at the midstream level. In addition, unclear legislative and regulatory frameworks around large-scale agricultural investment open up much room for discretion and abuse by public officials and powerful individuals at national and local levels. At an upstream level, the opaque structures of both national and international companies and lack of transparency surrounding financing and contractual details of investment projects constitute systemic corruption risks. Lack of transparency in investment chains and company ownership structures, and, at the midstream level, in land allocation for investment purposes also renders the systematic identification of involved actors and specific types of corruption problematic.

Assessment of anti-corruption initiatives

A wide range of initiatives and reforms address corruption at all levels of land governance. Nationally, vested interests within land administration at all levels of the hierarchy make it difficult to reform systems from the inside. Anti-corruption measures are most effective when other contextual factors support them and when they are integrated into a broader package of institutional reforms, for instance public financial management reforms and changes to the incentive and reward structure in public service. The literature suggests pragmatic approaches work best that combine appropriate legislative reforms to ensure recognition of land rights through improved land information systems; simplified procedures that reduce discretionary powers and take advantage of new technologies; moratoria on land allocation processes shown to be corrupt; and targeted action against perpetrators.

In relation to large-scale land acquisitions, the most important anti-corruption measures include, at a transnational level, both soft and hard law addressing acts of corruption committed by companies, such as the Foreign Corrupt Practices Act (FCPA) and the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention. At a national level, they include the establishment of anti-corruption institutions and legislative reforms. However, the implementation and enforcement of these initiatives lack teeth. In practice, they need to be combined with efforts to increase transparency in the planning of land investments and with focused efforts to improve land governance in regions and locations targeted for land investment and commercial agricultural development.

The main causes of land-related corruption identified in the paper are lack of political will at a host country level, linked to vested interests in land development and control of land for the purposes of patronage, and the power imbalance between actors profiting from corruption and those suffering its effects. Introduction of systems for greater transparency and accountability from the outside in the absence of political will and acceptance is likely to be problematic. Effective anti-corruption reforms are thus likely to be dependent on political dynamics and may need to bide their time until appropriate political moments.

The principal implications of this assessment for action to curb corruption in land governance are:

- a need for joint and complementary action by stakeholders at national level and internationally to overcome corruption in land administration and land investment
- a need to strengthen the management of both domestic and foreign land investment, supported by better, more transparent land information at the national level, and by international action
- application by the existing global consensus on principles of good land governance and fit-for-purpose land administration systems, which include all legitimate rights, make information publically available and are accountable to their users, in ways that integrate anti-corruption measures in order to mitigate the costs that routine imposes on citizens, in particular on the weak, the vulnerable and people in poverty
- a need for closer attention to home country policies and donor programming in investor countries: to establish coherent, whole-of-government approaches to address corruption; and to ensure consistency and coordination in development assistance between the promotion of land-based investment in agriculture and other sectors, and effective support to land governance and land administration on the ground where investment occurs

Main recommendations

The main recommendations for the principal stakeholder groups (national governments in developing and land investment host countries, the private sector, investor country governments, donor and multilateral agencies, and civil society) are set out below.

National governments should:

- Support and implement legal reforms to ensure recognition of multiple forms of tenure, including customary rights, to promote more inclusive formalisation of rights and delivery of land services and mitigate corruption in the allocation, conversion and development of customary land.
- Prioritise and implement land administration reform, supported by analysis and mitigation of procedural weaknesses, corruption risks and vulnerability to elite capture.
- Introduce preventive measures aiming to limit the discretionary powers of central and local government administrations with regard to land transfers and allocations, prioritising 1) completeness and transparency of the cadastre and 2) community participation and accountability.
- Strengthen training in land administration on governance and transparency dimensions, with emphasis on public service, fairness and probity, including knowledge of national and international best practice (the VGGT and the Principles on Responsible Investment in Agriculture and Food Systems).
- Introduce effective asset and income declaration systems for officials, including specification of the process for valuation and verification of landholdings by officials.
- Introduce public disclosure of governmental approval process for land-based investments and associated land transactions.
- In addition, there are actions parliamentarians and civil society can take at country level to promote the application of these and other measures, as detailed in the final section of the main paper.

The private sector should:

- Implement best practice and comprehensive corporate anti-corruption policies at all operational levels throughout the investment chain. These should include clear follow-up mechanisms and be supported by process improvement initiatives to address corruption.
- Ensure compliance with national and international anti-corruption legislation, including commitment to long-term institutional change in countries with weak governance, for instance by actively engaging with relevant ministries or chambers of commerce.
- Develop clear rules and standards of engagement at national and local level for large-scale international agricultural investment, guided by the VGGT and the Principles for Responsible Investment, where appropriate engaging with *peers* to develop international implementation guidelines; with *host governments* to develop clear standards of engagement informed by the VGGT; and with *civil society* and *communities* to develop clear standards, guided by free, prior and informed consent, to reduce the scope and risk of corruption.
- Develop monitoring tools for corruption throughout an investment's lifecycle.
- Participate in voluntary reporting of land rights footprints and impacts of agri-investments and supply chains in conformity with UN Global Compact principles, utilising Global Reporting Initiative (GRI) reporting mechanisms and relevant GRI standards and indicators on land tenure currently under development.
- Demonstrate clear leadership on zero tolerance of corruption and improve reporting on land corruption among associates, peers and supply chain actors, using mechanisms such as commodity roundtables and in-country business associations.

In addition, there are various actions private sector stakeholders, including technology and land consultancy firms, geospatial data providers and the open data community more broadly, can take to support development and delivery of good systems of land administration that can help combat corruption.

Investor country governments should:

- Ensure the establishment of coherent and up-to-date whole-of-government approaches to addressing corruption, including land corruption in foreign jurisdictions.
- Strengthen and support the enforcement of the OECD Convention both in OECD countries, by implementing and enforcing anti-bribery legislation, and in non-OECD countries, by continuing to support engagement with China, India, Indonesia, Malaysia and Thailand.
- Support legislative measures that address transnational corruption (e.g. UK Bribery Act, FCPA).
- Support strong anti-money laundering laws in the financial centres, such as the US Bank Secrecy Act and the Financial Action Task Force (FATF) guidelines, which call for enhanced monitoring by the global financial system when conducting business with politically exposed persons.
- Continue to promote and build coalitions to implement the VGGT and the Principles for Responsible Investment.
- Introduce government requirements for disclosure of large-scale agricultural investments originating in investor countries and promoted by official aid, guided by the VGGT and the Principles for Responsible Investment.
- Condition financial participation in large-scale agricultural investments on implementation of anti-corruption measures, including financial reporting.

Donors and multilateral agencies should:

- Provide technical and financial support to partner countries to strengthen land governance through legal reforms to ensure recognition of multiple forms of tenure, to promote more inclusive formalisation of rights and delivery of land services and to support reforms to land administration.
- Introduce mandatory corruption risk assessments and mitigation measures that are sensitive to elite capture for all land administration and titling support programmes.
- Introduce land governance support and related anti-corruption measures into areas prioritised for agricultural development and land investment, and link land governance support directly to other projects that tend to promote corruption in land administration to mitigate negative impacts.
- Develop appropriate methodologies for corruption risk assessment and identification of mitigating measures and make this assessment mandatory for all land administration or land titling and registration support programmes, and for all development programmes that involve the acquisition of land (e.g. for infrastructure development or investment purposes).
- Exercise caution in programming any support for agricultural and infrastructure investment or for land titling and registration programmes in weak and corruption-prone land governance environments.
- Support the Global Donor Working Group on Land to engage with home governments on full VGGT application, including extraterritorial investments, supported by engagement on international rules, open contracts and policy coherence, striving for whole-of-government approaches at home and abroad.
- Prioritise renewing efforts around land transparency by linking a G7 and corporate land transparency and reporting initiative to existing corporate reporting mechanisms, for example through extension of the Extractive Industries Transparency Initiative to land, and by utilising GRI sustainability reporting, which is due to incorporate land.
- Support further research on relationships between corruption in land, investment, economic growth and development, and the development of methodologies for data generation and country-level context-specific and comparative analysis of land governance and corruption, such as the LGAF scorecards and country reports, for application in the LGAF and other analytical tools.
- Use the Sustainable Development Goals, in particular Goal 16, as a frame of reference to mainstream anti-corruption programming in land governance, and operationalise them in conjunction with sector-specific frameworks such as the VGGT and the Principles for Responsible Investment.

Civil society organisations should:

- Conduct systematic training and advocacy for citizens, local non-governmental organisations and grassroots organisations on how to activate pressure points, in particular on existing legal framework; on the scope and content of and stakeholders in international best practices, in particular the VGGT; and on commitments of the government at national and international level to achieve greater transparency and accountability.
- Run public awareness campaigns on how to identify potential corruption, conflicts of interest and vehicles for reporting.
- Set up and run own reporting hotlines, guided by the Do No Harm principle, to increase transparency on corrupt practices in land administration.
- Collaborate regionally and internationally to foster knowledge exchange on international best practice on land governance and anti-corruption, and lobby for and monitor implementation of the VGGT.
- Sensitise citizens in the North and South on the causes and effects of corruption in land governance, in particular in large-scale agricultural investments, and support constructive processes of addressing these problems, using the VGGT and the Principles for Responsible Investment as a frame of reference.
- Support and engage in multi-stakeholder processes between the private sector, the public sector (in the North and South) and civil society to support transparency in transnational large-scale agricultural investment projects.
- Support international media coverage of corrupt deals to foster national and international accountability processes.
- Sensitise governments and citizens in the North and South on the linkages of addressing corruption in land governance with the Sustainable Development Goals, in particular Goal 16 and its sub-goals.

Media, technology and mapping initiatives across sectors

The digital open-data community as a whole, including for-profit developers and technology firms, non-profit social enterprise and civil society organisations and private and public investors and funding organisations, can also take specific anti-corruption actions.

- Foster enhanced use of media, social media and Open Source Intelligence Tools to support the distribution and gathering of information about land deals and increasing public involvement at all stages of the transactions.
- Support mapping initiatives such as Google Earth, the Land Matrix and others that can harvest corruption-sensitive data on land deals to be made public and to input into systems and applications.
- Support innovative uses of technology like mobile money that can bypass lower-level officials, reducing opportunity for bribery. Other processes, such as application for and issuance of land documents or putting property records online, may be automated using online/mobile hardware and software.

1. Introduction

1.1. Topic and rationale

In recent years, corruption in land governance has come under greater scrutiny, not least as a result of the increased commercial value of agricultural and peri-urban land in developing countries. Corruption is associated with unresponsive, unaccountable and frequently ineffective land governance[1], affecting control over land and access to the sector's institutions. As the latest Global Corruption Barometer states:

> *'Around the world, one in five people report that they had paid a bribe for land services. The high percentage of bribery in the land sector creates a substantial informal cost for those trying to register or transfer land. It can make land services inaccessible to people not able to afford these illegal payments. By creating a disincentive to register property transactions, the informality of land tenure increases, people are left with little or no protection under the law, making them vulnerable to evictions and other abuses' (TI, 2013: 11).*

In Africa, this percentage is even higher: every second person has paid a bribe to secure or access land administration services, with land services the third most corrupt sector after the police and the judiciary (TI Kenya, 2015, Annex 1).

These are worrying findings, especially as land is a key asset for which the state controls the means of allocating and distributing rights. The rise in large-scale agricultural investments in developing countries and criticisms of 'land-grabbing' – that is, allegations of human rights abuses and illicit enrichment around large-scale land acquisitions – are added sources of concern with regard to drivers, patterns and types of corruption in land governance.

The importance of improved land governance is increasingly been recognised on an international level. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (FAO and CFS, 2012), referred to here as VGGT, constitute the most important global guiding framework on land governance. The VGGT are a set of internationally negotiated soft law principles on the governance of tenure of land, fisheries and forests, which UN member states have adopted through the UN Committee on World Food Security (CFS). They emphasise the importance of clearly publicised land policies and transparency in land information to help prevent illegality and corruption in land markets and the administration of land taxes. They also uphold internationally recognised principles of consultation with land users, including holders of customary rights and indigenous people, in cases of lands development, investment and private allocation of public lands.[2]

Box 1: Corruption and the guiding principles of responsible tenure governance

The VGGT emphasise throughout the importance of related principles such as rule of law, transparency and accountability for responsible tenure. However, corruption is addressed explicitly only once. Under General Principles (§3A), §3.1.5 recognises that states should '[p]revent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels, and in all settings' (FAO and CFS, 2012: 4).

1 The Food and Agriculture Organization (FAO) defines land governance as 'the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed' (Palmer, 2009: 9). A further definition, highlighting the significance of power relations, speaks of land governance as 'processes, institutions, laws, practices and structures of power involving a diverse range of public and private actors' (Hirsch and Scurrah, 2015: 1). The World Bank defines governance as 'the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services' (p.67).

2 See FAO and CFS (2012). For the connection between land rights and the SDGs, see http://unsdsn.org/news/2015/09/22/measuring-land-rights-for-a-sustainable-future/

The 2015 G7 summit leaders' declaration reaffirmed commitments to responsible agricultural investments aligned with the VGGT and the CFS Principles on Responsible Investment in Agriculture and Food Systems (CFS RAI) (see Box 10 in Section 5.3.1), including their statements on the importance of transparency and accountability and the avoidance of corruption. They also committed to improving monitoring and accountability both at country level and in relation to G7 nations' own performance and supported investments.[3] The UK Department for International Development (DFID) has focused historically on the importance of secure land and property rights in poverty reduction. More recently, DFID has considered the scope for a Land Transparency Initiative (LTI) along the lines of the Extractive Industries Transparency Initiative (EITI), and the 2013 G8 summit resolved to support greater transparency in land transactions (G8 Communiqué, 2013: para 44).[4]

1.2. Focus, methods and limitations

This paper seeks to analyse causes, types and effects of corruption in land governance, and to provide evidence-based recommendations to address corruption in land governance. For analytical clarity and more targeted recommendations, it will distinguish between corruption in national land governance on the one hand and corruption risks in large-scale agricultural investments on the other. Where the findings support it, we profile the inter-linkages between the two dimensions.

The methods the analysis builds on are, first, a literature review of land governance and agribusiness and, second, assessments of relevant anti-corruption frameworks, which are, third, supported by interviews and conversations with experts.[5] Although corruption is assumed to be a core feature of weak land governance and 'land grabs', there is very little literature systematically analysing corruption in land governance. Without the possibility of collecting primary data, the findings are heavily reliant on existing data and analyses on land governance or corruption in general. To mitigate the potential bias this may entail, we have triangulated data sources as far as possible by drawing on scholarly articles, reports by international organisations and international non-governmental organisations (NGOs) and indices, scorecards and qualitative country reports, as well as interviews with experts.

A further limitation relates to the geographical focus. This paper focuses mainly on African countries to allow for a deeper, rather than broader, analysis of corruption in land governance, while making reference to relevant cases and experience elsewhere. The selection is based on the expertise of the authors, which lies principally in Eastern, Western and Southern Africa. In addition, the in-depth, contextual analysis of specific issues allows for richer assessments and targeted recommendations. However, this does not imply corruption is more significant in Africa's land governance than in other regions or countries.

1.3. Structure of the paper

The paper is structured in following way:

- Section 2 sets out the conceptual framework and methodology. It also provides key definitions of corruption and links them to key literature on corruption in land governance.
- Section 3 focuses on the national level, analysing patterns and risks of corruption in national land governance and administration.
- Section 4 explores patterns and risks of corruption in large-scale agricultural investments.
- Section 5 assesses established anti-corruption initiatives and land governance reforms as well as lessons learned in relation to the findings of Sections 2–4.
- Section 6 details policy recommendations and action points for specific actors (home country governments, host country governments, civil society, business, donors and multilateral agencies).

3 Annex to the Leaders Declaration, G7 Summit, Schloss Elmau, Germany, 7–8 June 2015. The declaration also stated that the G7 would strive to promote the conformance of private investments under the New Alliance for Food Security and Nutrition with the Voluntary Guidelines and CFS RAI, and that 'the responsible governance of tenure of land is crucial for socially equitable agricultural development and for attracting investment. We will therefore continue our support of partner countries in their implementation of the VGGT, continue with the existing G7 Land Partnerships and seek to add new ones where appropriate.'

4 In 2015, DFID adopted a strategic objective to 'support peace and security, drive out corruption, and support open societies and transparent and accountable institutions', which involves promotion of better functioning, more transparent and accountable land administration and investment support services in addition to ensuring support to commercial agriculture and mobilisation of private finance for the purpose is linked to adequate safeguards of land rights and the creation of new opportunities for rural populations (guidance notes for DFID 2015 Bilateral Aid Review).

5 This included discussions with Transparency International (TI), DAI, members of the Land: Enhancing Governance for Economic Developmen (LEGEND) Core Land Support Team (CLST), Dr Alain Durrand Lasserve of the French land tenure committee, Global Witness, the International Corporate Accountability Roundtable (ICAR) and participants in the recent Tainted Lands assessment of corruption in large-scale land acquisition.

2. Definitions and conceptual framework

2.1. Defining corruption

Corruption is understood broadly as the 'use of entrusted power for private gain'.[6] Corruption flags the abuse of power, be it a simple bribe, grand kick-back schemes, systematic rent-seeking behaviour or complex political patronage and patron–client relationships. Conventionally, '*petty*' corruption – that is, low, often routine, payments to low-ranking officials (e.g. small bribes to the traffic police) – is distinguished from '*grand*' corruption, describing large financial and economic opportunities higher up the political echelon (such as kick-backs in large public procurement contracts). *Administrative corruption* is frequently on the petty side, involving 'speed money' or 'facilitation payments' for official transactions such as licensing, permits or registration.

Political corruption means beneficiaries are in a position to make or influence government decisions. Frequently, this involves senior officials, ministers or even heads of state. However, and especially with the spread of devolution and decentralisation, it can also involve senior officials in local governments.[7] Sometimes, this type of corruption by political and economic elites is called *elite capture*. *State capture* is a specific form of political corruption, defined as the efforts of firms to shape the laws, policies and regulations of the state to their own advantage by providing illicit private gains to public officials (Hellman and Kaufmann, 2001). *Rent-seeking* is a particular form of corruption, representing incomes that are above normal that would otherwise have been earned, thus creating incentives to create and maintain these rents. These activities can range from bribery and coercion to perfectly legal activities such as lobbying (see Khan, 2000).

These distinctions are helpful to break down particular levels, types and actors of corruption and possibly their incentive structure. However, in many cases, it is very difficult to neatly separate different forms and causes of corruption. For example, political corruption may undermine the justice system and thus lead to greater administrative corruption (Chabal and Daloz, 1999; Rose-Ackermann, 1999; Robinson, 1998). Other examples linking political and grand corruption to petty corruption include cases where a percentage of the petty corruption percolates *up* the system to aliment senior positions or political parties (Moody-Stuart, 1998). These interrelationships require analytical attention.

2.2. Background literature on the relationship between corruption and land governance

Surprisingly, there is very little literature explicitly addressing corruption in land governance. One of the few systematic overviews of corruption in land governance can be found in a Working Paper published by Transparency International (TI) and the Food and Agriculture Organization (FAO) in 2011. This demonstrates not only that corruption tends to be higher in low-income countries but also that people with lower incomes suffer more and thus disproportionately from corruption, arguing corruption in land governance is a serious developmental impediment. Key correlations between corruption, governance, land and development are tested with data from the Corruption Perceptions Index and the Global Corruption Barometer. The statistically significant results include:

- a strong positive correlation between petty and grand corruption in land

6 This is currently the most widely used definition of corruption, coined by TI (see http://www.transparency.org/what-is-corruption/). Recognising changing patterns of authority and power, it consciously incorporates not just corrupt practices of officials in the public sector but also those in international NGOs and the private sector.

7 For a discussion of definitions of corruption see Johnston (1996), Menocal Rocha and Taxell (2015) or Robinson (1998).

- a very strong positive correlation between corruption in land and overall perceptions of corruption in the public sector
- a strong negative correlation between corruption in land and income per capita
- a negative correlation between corruption in land and human development for both petty and grand corruption
- a negative correlation between corruption in land and crop yield of cereals
- a strong negative correlation between corruption in land and foreign direct investment (FDI), for both petty and grand corruption.[8]

A further argument emerging from the literature regards the state's dominant role in land management and allocation, which facilitates elite capture and 'land grabbing',[9] especially in contexts where property rights are weak. A recent study on three African countries argues that, 'growing pressures on land for investment and patronage purposes have created incentives for political corruption, posing a challenge to safeguarding tenure and livelihoods of local communities' (Owen et al., 2015: 1). Powerful individuals, groups and companies manipulate state power and authority, employing strategies ranging from petty to grand corruption to secure their control over profitable investments in land (Boone, 2009; Global Witness, 2012; MacInnes, 2015; Owen et al., 2015).

In sum, the evidence from the key literature points first to the negative impact corruption in land governance has on overall development. Second, it outlines the significance of power relations shaping the dynamics of corruption in land governance. To understand why and in what way corruption affects developmental outcomes, a more fine-grained understanding of power relations is needed. The following section outlines an analytical approach that captures the dimension and levels of power and politics in land governance.

Box 2: The unclear role of income on levels and correlations of corruption

TI and FAO (2011) conclude there 'are clear, strong, and negative relationships between perceived higher levels of corruption in land and lower growth, investment, development and agricultural output. However, the strong force exerted by income in these equations suggest that further analysis would be useful to better understand the nature of these relationships and additional factors (such as

2.3. Conceptual framework: A political economy analysis

This paper understands land governance as shaping and being shaped by power relations that underpin institutions and relationships between actors. The conceptual framework of draws on a political economy analysis. A succinct definition is provided by the Organisation for Economic Co-operation and Development (OECD): 'Political economy analysis is concerned with the interaction of political and economic processes in a society: the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time' (quoted in DFID, 2009: 1). Drawing on political economy analysis, power relations and the distribution of wealth between actors can be understood as key factors in determining dynamics and outcomes of land governance processes (DFID, 2009; Hudson and Leftwich, 2014).[10]

The relevance of political economy analysis is also borne out by the focus on corruption in land governance. As our introductory remarks indicated, this report is based on the hypothesis that a 'variety of economic, political, administrative, social and cultural factors enable and foster corruption' (Menocal Rocha and Taxell, 2015: 14). In turn, corruption is embedded in political and social relations informing formal institutions and procedures.[11] Corruption thus constitutes a significant factor shaping the dynamics of land governance.

For the purposes of this paper, this translates into a multidimensional political economy analysis that is concerned with four dimensions:

1. the *actors* involved in or affected by corruption and land governance, and the *interests* and *incentives* that inform their agency.
2. the role *formal* institutions (e.g. laws, ministries, etc.) and *informal* social, political and cultural norms play in shaping social interaction and political and economic competition

8 However, according to the Working Paper, the last three correlations work mainly through the income variable (see TI and FAO, 2011, Annex, p.5).

9 Based on the Tirana Declaration, large-scale commercial land investments qualify as land grabs if they involve violation of human rights; are not based on free, prior and informed consent (FPIC) of the affected land users; are not based on a through assessment; are in disregard of social, economic and environmental impacts; are not based on transparent and comprehensive contracts; and/or are not based on effective, planning, independent oversight and meaningful participation (Global Witness, 2012: 10; see also http://www.landcoalition.org/sites/default/files/documents/resources/tiranadeclaration.pdf)

10 See also the definitions of land governance in footnote 1, above.

11 See, for instance, Bayart et al. (2009), Chabal (2009), Chabal and Daloz (1999), Jain (2001 a and b), Koechlin (2013), Mamdani (1996) or Rose-Ackermann (1978, 1999). See also Section 3.

3. the impact of *values, ideas* and socio-cultural *practices* on actors and institutions, including political ideologies, religion or tradition
4. the role of *assets* that actors use and accumulate in furthering their interests and underpinning their agency, ranging from economic assets to social and political capital (DFID, 2009; Harris, 2013; Hudson and Leftwich, 2014).

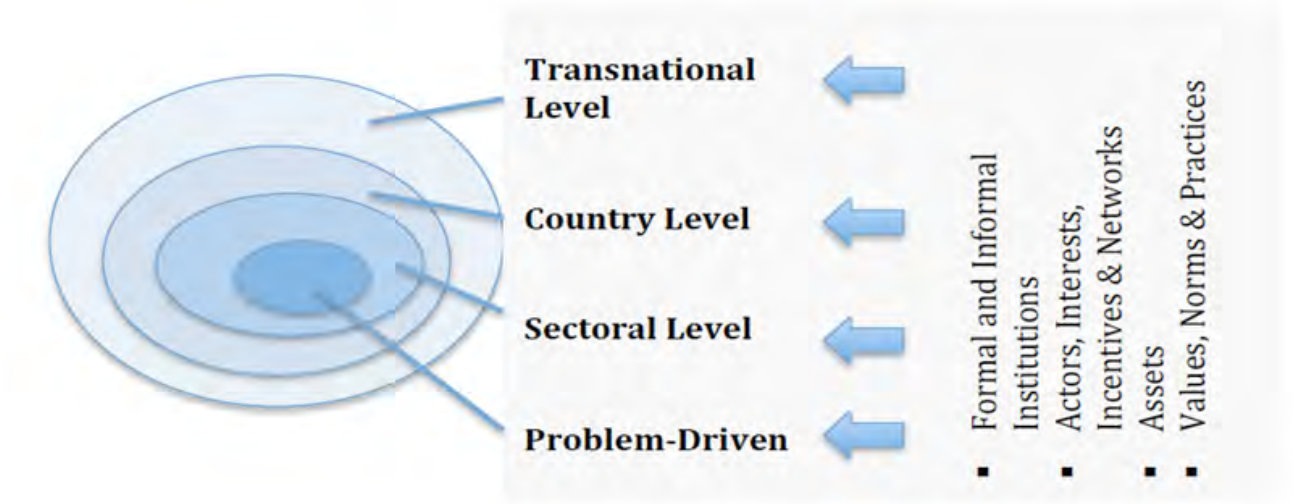
This approach seeks to capture the intersecting and competing interests and behaviour of multiple actors in the state, civil society and the private sector that shape and determine the institutional arrangements for land governance, and the causes, patterns and effects of corruption. Although the four analytical dimensions are interdependent, their disaggregation opens up explanatory spaces. Institutions provide constraints but also opportunities in determining rules of land access and management and in structuring distribution of land; actors make decisions within this institutional landscape, their decisions in turn shaped by their interests, incentives and networks they can draw on and the deployment of assets such as financial resources, information and social and political connections among competing actors in negotiating access to land and secure rights. Lastly, values, norms and practices are key to understanding affective, habitual and cultural dimensions that economic or political factors do not capture.

In practice, it is very challenging to separate the interdependencies between these dimensions neatly. However, Figure 1 depicts the different levels and dimensions pertinent to a political economy analysis of corruption in land governance. It is important to bear in mind that these are ideal-typical distinctions that serve to reduce complexity by focusing the analytical lens on key levels and dimensions of land governance.

The four dimensions illustrated here represent the different levels at which land governance takes place. As a result of globalisation, these levels are increasingly permeable and interconnected, but their analytical distinction remains important to identify specific actors, institutions, assets and norms shaping corruption:

- The *transnational level* encompasses actors, dynamics and institutional frameworks that transcend national boundaries, for example multinational companies. For the purposes of this paper, it includes the international level – that is, actors, norms and institutions of more than one nation, such as multilateral organisations. These are discussed in Section 4, on international agribusiness investments.
- The *country level* captures the broader political economy environment on a national level, including the legislative and regulatory framework and political regimes. This is explored in Section 3, on corruption in national land administration and governance, and in Section 4, in considering 'midstream'-level corruption in land investment chains.
- The *sectoral level* focuses on specific institutions and actors in land governance and their interrelationships. These are addressed in Section 3, on corruption in land administration systems
- Lastly, a political economy analysis opens up the possibility of closing in on a particular *problem*.

Figure 1: Levels and dimensions of political economy analysis



Source: Authors, drawing on DFID (2009: 8) and Hudson and Leftwich (2014: Chapter 7).

This problem-driven approach brings a specific issue into sharper relief within specific levels or, where appropriate, across all levels (DFID, 2009; Harris, 2013), for example the specific forms of corruption prevalent in land governance and land investment, discussed in Sections 3 and 4.

For the purposes of this paper, Figure 1 is used as a heuristic tool for contextual understanding of the enablers and dynamics of corruption in land governance and agribusiness investments, to guide and focus the literature review of corruption rather than providing a rigorous analytical framework. Given the limited space of the report on the one hand and its broad scope on the other, this heuristic analysis allows for a more contextual analysis of corruption in land governance.

3. Corruption in national land governance and administration systems

3.1. The literature on corruption in land administration

Although a number of empirically informed studies are now available of good practice in land administration (e.g. Enemark et al., 2014; Williamson et al., 2010), very little analysis is available of the nature, scale, drivers and effects of corrupt land administration practice. A number of case studies of poor land governance in which corrupt practices play a role do, however, provide some insights into the specific features of land administration and governance systems and related patterns and drivers of corruption.

One of the most common forms in which corruption occurs is in bribery of land officials to facilitate access to information and services or favourable outcomes of administrative decisions in land valuation, development planning, resolution of disputes or formal allocation of land rights (Owen et al., 2015; TI and FAO, 2011). This occurs as a result of the high level of discretionary power and authority and access to rent-seeking opportunities that land officials have as a result of the complexity and lack of clarity of land administration procedures. These are often ill suited to the needs of most land users in developing countries, and frequently entail the abuse of discretion for personal gain, combined with nepotism or favouritism, involving family members or political or business associates. Systems to detect bribery and corruption within land registration and valuation offices are largely inexistent (van der Molen and Tuladhar, 2007).

In addition to the acceptance of bribes, corruption can take the form of fraud and alteration of land records and forgery of land documents, multiple allocations of the same plots of land and gaining kickbacks from business relationships or other benefits from parties with interests in acquiring, disposing of and developing land with whom land officials collude (Kakai, 2012; Obala and Mattingley, 2014).

Studies from West Africa (Durand Lasserve, 2015; Durand Lasserve et al., 2015) show corrupt practice is increasingly frequent in processes of urban land development, owing to scarcity of land, rising demand and land values and the range of different actors and authorities engaged in land development and delivery processes. Urban land administration and development involve parallel and intersecting institutions and processes for accessing and securing rights to land, including both customary and a variety of formal authorities, such as land registries and survey, valuation and planning departments. All of these may be required to approve land transfers and development plans at different stages. The resulting complexity of administrative procedures confers considerable discretion on officials, who are able to exert control over land allocations and development schemes. Significant opportunities for profit exist for public officials in exploiting the price margin between unregistered customary or public land and formally registered urban plots with planning approvals and building permits.

In addition to gaining from bribes to secure administrative transactions, officials may also collaborate and collude with developers, surveyors, planners and lawyers. These problems are particularly acute in circumstances of rapid urban development in which demand for residential and commercial land exceeds supply, leading to greater competition, rising land values and increased incentives for corrupt practice in the conversion and delivery of customary and public land for development. As land is converted for formally registered residential or commercial uses, those who lose out, in terms of additional costs and loss of land rights, are ordinary land applicants and land users and often the original owners or occupants of the land, (UN-Habitat, 2014). Poor land claimants and urban migrants are generally priced out of the resulting formal land markets, leading to reliance on informal rental markets and the expansion and increasing density of informal settlements. Although recognised in recent land literature, problems of corruption in urban land delivery and development have received little attention in the established literature on urbanisation, urban planning and land use management.

Box 3: Chiefs and corruption in Ghana

Ghana's constitution vests all customary lands, 80% of the national land area in the respective customary owners, variously 'stools' or 'skins' – the institutions of chieftaincy in forest and semi-arid areas, respectively – and landholding family lineages. However land transactions have become increasingly monetised as a result of growing scarcity and increasing values, and the equity of customary tenure systems is now highly questionable, as control over economic benefits is increasingly concentrated in the hands of chiefs (Ubink, 2008; Ubink and Quan, 2008).

Research has demonstrated that chiefs have rapidly converted farmland over which indigenous community members have usufructuary customary rights into residential land, allocated to outsiders through customary leases, leading to loss of land rights, displacement and increased costs for ordinary land users (Ubink, 2008). The processes whereby land is allocated are generally not transparent or documented in any way, and land allocations may be made without consultation of the original occupants or landholding families. In many cases, a customary tribute known as the institution of 'drinks money', originally used for purchase of alcohol for pouring libations to the gods, has become subject to manipulation and inflation to the level of a market price for purchase of a land lease (Kassanga and Kotey, 2001).

For commercial or residential development of land so acquired, leases must be registered with the land commission, whose concurrence with the customary transaction must be obtained together with necessary planning, subdivision and building permits. Land users and developers face similar hurdles and costs as a result of corruption (Antwi and Adams, 2003) as described for other West African countries by Durand Lasserve (2015) and others. Rentals subsequently become payable, collected by the Office of the Administrator of Stool Lands (OASL) a specialist agency created for distribution of land, forest and mineral revenues derived from customary land among traditional authorities and the relevant local government authorities and OASL itself. There is no transparency in this process, accounts are not published and, although land revenues are intended for investment by chiefs and local authorities for public and community purposes, the use of sums received lacks mechanisms for accountability. Money often fails to percolate downwards from the paramount chieftaincy that receives it from OASL. Unlike land rentals, drinks money is not subject to any form of scrutiny or control by OASL or any other authority (Ubink and Quan, 2008). There have been numerous cases of multiple sales of the same plots of land, either by the same chief or by different chiefs competing for control of the area in question, leading to multiple, unresolved, land disputes and imposing a brake on economic, business and residential development and creating a major backlog in the courts.

This setting also has repercussions for large-scale agricultural investment: 'There is need for comprehensive and clear guidelines and standards for investors to follow in large-scale land acquisitions as often land deals with transnationals are conducted with chiefs as representatives of their communities but who only seek personal gains in the process of deals negotiation. This often leads to displacement of families from their lands and thereby sources of livelihoods' (LGAF country report Ghana, 2013: 30).[12] In other words, chiefs have acquired direct interests in land development schemes. Rising interest in agribusiness investment has reportedly fed the growth of corrupt practice among chiefs in rural areas and competition among different chiefs, layers of customary authority and family heads for control of the sums paid by investors for the right to develop land concessions (Amanor, personal communication, 2015), in addition to the commodification of smallholder rights in land (Amanor, 2010).

Attempts to regularise the allocation and management of customary land have been made through the introduction of customary land secretariats (CLS) in Ghana, to compile inventories of existing customary rights and transfers, standardise leasehold agreements and facilitate the formal registration of leases by the Lands Commission and collection of rents by OASL. The mandate of these hybrid quasi-formal bodies does not extend to receipt of or accounting for drinks money paid to traditional chiefs, and the CLS programme has lacked sustained political, financial and technical support as a key component of Ghana's land administration system (see Quan et al., 2008).

In many African contexts, these issues are exacerbated by the non-recognition or partial and incomplete incorporation of customary rights to land by formal land governance systems. This enables state officials to bypass or ignore the rights of established customary landowners and users in deciding how to develop or allocate land (Peters, 2009). As identified by TI (Owen et al., 2015; TI and FAO, 2011) and various Land Governance Assessment Framework (LGAF) country reports (see Section 3.2), the nature of the tenure regime is a principal enabling factor promoting corruption.

In Africa, the colonial state granted chiefs powers over land as part of strategies to maintain indirect rule, which some cases has overridden established customary practices in which land was managed primarily by lineage and family heads. Under population and economic pressure, chiefs have become vulnerable to bribery and manipulation, able to use their authority

12 All references are to full country reports. All reports can be found online under http://go.worldbank.org/25DH0FX6M0 (last accessed 2 February 2016).

to demand payment or allocate land for commercial development schemes from which they can also benefit. Bouju (2009) observes in relation to Burkina Faso and Mali that the commodification of customary land can be seen as a form of corruption because there is a social transaction illegitimate in customary terms, whereby representatives of the customary community negotiate their exclusive land management customary prerogatives against personal economic benefits. These practices have become established in urban areas, with high demand for residential and commercial land, but also occur in rural areas, particularly those subject to small- or large-scale agribusiness investment and the allocation of natural resource concessions, where the chiefs must be consulted. In Ghana, as a result of post-colonial settlements, chiefs' powers over land have become particularly entrenched and susceptible to abuse (see Box 3).

The prerogatives of the state, encapsulated in the notion of 'eminent domain', are a fundamental constitutional tenet in many jurisdictions. In this, ultimate powers over land, independently of its tenure or ownership status, are vested in the state or in the president, often reinforced by specific powers of compulsory purchase in the public interest – but in practice frequently applied to enable private gain. The use of powers of eminent domain may relate directly to declared public purpose, for example the provision of essential infrastructure. However, unless its appropriate use is clearly and narrowly defined in national law, eminent domain may be widely invoked to justify discretionary actions by officials in land allocation, transfers and planning. Such discretionary official powers over land are most widely exercised where the state itself acts as a landowner and maintains large stocks of public land. Corruption in the disposal of public land can become systematic as a result of deliberate policies to promote its private allocation for purposes of commercial, industrial or agricultural development, or to implement large-scale land titling programmes, involving collusion between land administrators, land applicants, (frequently local elites and business people), and a range of intermediaries in the development process (Boone, 2014; Brown, 2005; Lund and Boone, 2013). Corrupt practices have become prevalent where new powers are granted to local government to promote urban development or land titling, even where central government seeks to maintain the public interest.

The role of land as a means of patronage in the consolidation of political power can foster situations in which land titling and administration systems become captured by chains of corruption (Kakai, 2012) developing among elite business and official networks, encouraged from the top down, as illustrated by the case of Kenya (see Box 4). Although Kenya has now established a new constitutional settlement for land and embarked on remodelling land legislation and institutions to curb corruption, the problems are deeply rooted in the national political economy. This case indicates how powerful groups can instrumentalise institutions intended to strengthen property rights and economic development, ultimately leading to disempowerment of ordinary people, the undermining of markets and heightened political tensions (Kimeu et al., 2015; Manji, 2011, 2015; Onoma, 2011; Southall, 2005).

3.2. Corruption and the Land Governance Assessment Framework

A key problem for the evidence-based assessment of corruption in land governance is that hardly any primary data are available for a systematic, comparative analysis of corruption in land governance. The most important

Box 4: Illegal public land allocation in Kenya

In Kenya, most corruption and fraudulent practices occurred in the processes for allocation of public land, triggering ethnic and political conflict. The estimate was that some 200,000 illegal titles were created between 1962 and 2002 – close to 98% of these between 1986 and 2002. All categories of public land and trust land, were affected, the latter held by local councils on behalf of communities occupying and using them customarily. Illegal allocations were done on the orders of the president, other senior public officials and well-connected politicians or businessmen; despite the involvement of extensive networks, it is clear the problems started at the top (Government of Kenya, 2004; Southall, 2005). Prior to constitutional changes in 2010, authority was centralised in the land commissioner, a direct appointee of the president, often used to sanction highly irregular dispositions of land (Government of Kenya, 2004; Kimeu et al., 2015). Beneficiaries of grabbed land included ministers, senior civil servants, politicians, politically connected businessmen and even churches and mosques, plus local government officials and councillors (Government of Kenya, 2004).

Illegal transactions were hugely facilitated by the extensive complicity of professionals – lawyers, surveyors, valuers, physical planners, engineers, architects, land registrars, estate agents and bankers, all of whom also benefited (Southall, 2005). On acquiring titles, most grabbers would very quickly sell the land to state corporations at hugely inflated values. State corporations that lost their land to grabbers for free were then pressured to buy other lands at inflated prices.

methodology for assessing land governance within and across countries is that developed by the World Bank. This provides a comprehensive diagnostic tool that covers five main areas for policy intervention: Legal and institutional framework; Land use planning, management and taxation; Management of public land; Public provision of land information; and Dispute resolution and conflict management. However, there are some methodological caveats. Although the LGAF panels, indicators and scorecards are common across countries, they rely heavily on information and opinions provided by experts, which invariably contain a degree of subjectivity in the frequency as well as the terminology with which corruption is identified in relation to the different modules and indicators. In particular, how LGAF expert panels identify corruption and the terms they use to describe it vary from country to country. As a result, the LGAF data do not permit rigorous comparison between the different countries assessed, although the scorecards do permit insights into the quality of specific dimensions of land governance across countries (see Annex 2).

That said, the qualitative data contained can be made fertile for a country-specific analysis of corruption in different areas of land governance. Although the LGAF does not use control of corruption as a stand-alone dimension,[13] its country reports elaborate actors, practices and risks of corruption when and as they relate to the five dimensions of land governance. Identifying the specific contexts in which they occur can provide a relatively fine-grained picture for particular countries. Thus, understanding the methodological limitations of the reports themselves, but seeking to explore the analytical potential of the qualitative data with regard to corruption in land governance, an exploratory text analysis was run, seeking to identify 1) different types of corruption and 2) the dimensions and contexts of land governance and administration in which they occur. The methodology of this text analysis and hence also the findings are highly exploratory and tentative.[14] However, as Box 5, as well as the visualisation of the findings in Annex 5, indicates, the tentative data illustrate how specific patterns, practices and contexts of corruption in land governance can be extracted from the country reports.

What can be seen immediately is that types of corruption and the dimensions of land governance in which they occur differ significantly from country to country. Nevertheless, some common themes and convergent patterns emerge. Bribery, informal fees and payments extracted from land service users appear overwhelmingly as the most common form of corruption. This occurs as a result of significant discretionary powers, a general lack of transparency and the prevalence of complex and cumbersome administrative procedures involving multiple steps and multiple agencies. These are most notable in the registration and allocation of land rights, in the approval of land use plans and the issue of building permits and in the provision of land information. Corruption affects urban land particularly, as land administration and the need for formal registrations of rights and approvals of plans are concentrated in urban areas. Rent-seeking and fraud by land officials involved in the acquisition and disposal of public land for residential and commercial development through organised schemes also entails payment of bribes and kickbacks to private surveyors and lawyers and others. Discretionary powers can be used to re-designate customary land as public land to enable it to be developed at a price premium. Moreover, in cases where customary authorities operate as landowners, they may also be directly involved in the corrupt allocation of customary land. Public or customary land users whose land is expropriated frequently receive no compensation, and the LGAF reports frequently cite corruption risks in relation to land acquisitions, including in land valuations, which determine the levels at which official land prices and liabilities to taxation are set.

With a more developed and robust methodology for the analysis of corruption within the LGAF process, the identification and prioritisation of anti-corruption interventions in land governance could be put on a firmer evidence base, which would also allow for comparisons across countries and regions.

3.3. Conclusions: Actors, institutions, assets and practices of corruption

The literature and data on land governance confirm the importance of a number of patterns underpinning corruption, in particular:

- the prevalence of discretionary power within land administration (including associated problems of fraudulent access to land, falsification of documents and rent-seeking by/bribery of officials and privileged access of elites to land titling schemes)
- the role of parallel institutions for land management, including clashes of customary and formal systems of authority (and, in this context, historically incomplete policies, institutions, legislation and land records) as a breeding ground for corruption and malpractice at multiple levels

13 Unlike, for instance, the World Governance Indicators, which use Control of Corruption as one of six dimensions of governance (see http://info.worldbank.org/governance/wgi/index.aspx#home, last accessed 6 February 2015).

14 See Annexes 3 and 4 for details on the methodology and the visualisation of further findings.

- corruption in the allocation and privatisation of public land, which emerges as a principal nexus for discretionary decision-making and political interference

The increasing political and economic value of land has become one of the drivers of corruption and political patronage over the past decade, and the cases discussed above demonstrate how multiple actors are involved in corruption within the land sector. Corruption affects other government bodies involved in decision-making over land at central, municipal and local levels, not just land administration services *per se*. These include those responsible for spatial planning, surveying, revenue collection, the judiciary and allied sectors such as housing, agriculture, forests and mining, as well as land professionals, traders, investors, housing developers, banks, the legal profession and customary authorities (Durand Lasserve, 2015; Manji, 2012; Owen et al., 2015). Ordinary people at community and household levels become enmeshed in corruption, obliged to use their own limited assets and networks of influence to gain access to land or land services. Women are particularly vulnerable, given social, legal and bureaucratic discrimination, and suffer extortion and harassment, including sexual harassment. Many women can access services or decision-making processes only through male family members or authority figures (Ncube et al., 2015).

Box 5: Types and contexts of corruption in selected LGAF country reports

The 2011 LGAF Nigeria country report makes 34 references to informal fees and non-receipted payments to land officials, with a further 18 similar references to simple 'corruption', two references to exorbitant or excessive fees and one to rent-seeking. Informal fee payments were required in relation to land registration processes but also for enforcement of land rights, obtaining planning consents and access to land information. There are nine references to abuse by public officials and eight to illegal staff behaviour. Problems are particularly acute in urban areas, where formal land registration and building permits are required for residential developments but opaque and complex procedures create scope for rent-seeking and informal payments are required to facilitate processing of documents. Officials are involved in acquisition and onward leasing of public land or issue of certificates to occupy public land for exorbitant fees and prices. Land officials also fail to disclose public land information in order to protect their interests in these schemes. Informal fees must also be paid to lawyers, surveyors, planners and others involved in these land development processes. There are additional problems of delayed or non-payment of compensation in cases of land expropriation that occurs frequently in urban areas. Although there are some mechanisms in place to curb illegal actions by land officials, these were found not to be applied in practice.

The LGAF Malawi 2012 country report makes 33 references to bribery and corruption in provision of access to land services, four to the misuse of public land, three to lack of transparency and 15 to lack of compliance with the law. Bribery and corruption are cited most frequently in relation to the development and registration of urban land (seven instances) and land valuation and taxation (three instances) and also in dispute resolution and public land management (one instance). Restrictions on plot sizes and plot transfers in urban areas create opportunities for corruption, and informal payments are required for applicants to overcome planning controls, and to speed up the issue of building permits. The abuse of authority by public officials is most frequently cited in relation to the allocation of public lands: officials are involved in non-transparent administrative processes for disposal of public land through which they collect bribes, but may also dispose of land below market prices, reducing government revenue flows. The report makes nine references to lack of transparency in land management, particularly in relation to transactions involving public land. There are also problems of fake documentation of land transactions by people seeking documentation to enable land developments or sales. Although customary authorities in rural areas were found to be largely effective in land allocation and management, there are no effective systems for formal oversight of fraudulent disposals of customary land by chiefs, which is a growing problem. Unauthorised transfers of public land subject to common use in rural areas also take place, but customary land users subject to expropriation generally receive no compensation related to the value of the land, and are unaware of their entitlements in this respect.

The LGAF Gambia 2013 country report cites corruption as a limitation in 53 instances. Most frequently, these involve informal fee payments to officials (16 references), with 13 references to simple 'corruption'. There are 12 references to 'abuse', 11 to non-compliance with the law, one to land-grabbing and one to illegal behaviour by officials. Demands for discretionary fee payments are cited as occurring most frequently in relation to land registration, at multiple stages of a complex process, and in relation to the leasing of rural land, but also in the non-collection of tax revenues, land valuations and the enforcement of property rights. Following land registration, bribery and informal fee payments are cited most frequently in relation to illegal logging practices. A second principal area of concern is the discretionary application of rules in settling compensation payments in cases of expropriation and loss of land rights. Abuse of official authority is cited in relation to the designation of state land and the non-recognition of customary rights, the management of public land and the provision of land information, generally by senior land officials.

Land has become a key asset of power and patronage, and land corruption can be well organised in the corridors of power. Informal practices, reciprocal favours and obligations among corrupt networks emerge as the governing norms of land institutions subvert their public institutional purpose. Failure to supply land services to customary or informal rights-holders reflects the vested interests of officials in extracting bribes from the better-off and maintaining exclusive systems and inequitable laws and policies no longer fit for purpose (Durand Lasserve, 2015; TI and FAO, 2011; UN-Habitat, 2014).

Based on the evidence, a strong case can be made that corruption is a highly significant factor in shaping land governance at all levels. However, the political economy analysis profiles the following systemic features acting as enablers or drivers of all types of corruption:

1. Clientelistic networks and political corruption: In the case of most African countries, politics on all levels are heavily shaped by patronage and 'big-manism'. One widely documented effect is the political instrumentalisation of both formal and informal institutions and the quest for more control over lucrative assets that serve to support the network's individual and collective power base.
2. A changing incentive structure owing to the rapid increase in land as a financial asset for individuals and companies: Not only have new, profit-oriented actors emerged, such as international companies and brokers, but even local actors, such as customary chiefs or young men in rural and peri-urban areas, are seeking financial gain from their traditional control over land.
3. The rapid change in institutional and policy frameworks relating to land governance frequently complicates (rather than simplifies) a landscape already characterised by legal pluralism and multiple practices. In particular, lack of coherent and comprehensive procedures and enforcement mechanisms down to the local level, in addition to lack of experience and knowledge among both public officials and citizens of these changing policies, opens up significant room for abuse. They also strengthen the power of state authorities and of customary authorities, which does not necessarily lead to a reduction of corruption but rather to an increase in discretion and subsequent exclusion of marginalised citizens and members of the community, in particular women.

To sum up, corruption in land governance can be a functional process, be it in terms of 'practical' governance (Olivier de Sardan, 2015) or as a coercive device structuring access to and control over land. The case studies demonstrate that, even where state-of-the-art formal institutions exist, they lie within the wider dynamics of power relations. Power shapes and is framed by institutions, and institutions can also both strengthen and 'tame' it. It constrains what agents can do, but they can also generate, use and mobilise it to shape and change both institutions and the structures of power (Hudson and Leftwich, 2014). In other words, institutions are never isolated from their social environment, and both individuals and collective actors will seek to use and thus shape them as resourcefully as possible. Corruption is a prime resource for all actors concerned. In many cases, this resource has become itself an institutionalised 'culture of corruption'. Even when incentives and the institutional structure change, actors may not respond in a uniform manner. Indeed, in many cases, actors will continue to mobilise a range of practices, frequently privileging corruption from the experience that it works to gain control over and retain assets or to access services and other resources.

4. Corruption and large-scale agricultural investment

4.1. Introduction

In the past decade, large-scale agricultural investments in the Global South have increased significantly. Driving this heightened investment activity are changing international investment patterns, fuelled on the one hand by new commercial incentives such as rising commodity prices and on the other by changes and adaptations in national investment policies designed to stimulate agricultural productivity and economic growth. As a result, rural land in developing countries and so-called 'frontier markets' have become a very attractive asset for international investors of all kinds. This changing environment brings new actors as well as new relationships to the fore, in particular between investors, international companies, host country governments and local communities (Arezki et al., 2015; Borras et al., 2011; Cotula, 2012; Cotula et al., 2009; Peluso and Lund, 2011).

One useful way to conceptualise the different levels and identify specific actors and their interrelationships of large-scale agricultural investments is their positioning within the investment chain, a concept that focuses on the 'flow and distribution of money up and down the chain' (Cotula and Blackmore, 2014: 9). This is particularly relevant for a political economy analysis of corruption in relation to land investment, as it distinguishes relevant levels of agricultural investment and associated actors.

The *upstream* level includes parent companies, investors and lenders. The *midstream* level is the core of the chain, with the company managing the project at the centre, associated with a range of actors and financial flows. Here, multiple stakeholders interact, from government agencies in the host country to contractors and, in some cases, local communities, in financial flows, exchanges and arrangements involved in securing the necessary contracts and land concessions. The *downstream* level refers to local suppliers, processors, transporters and buyers (i.e. wholesalers, transporters and retailers) and lastly everyday consumers of the product. On each level, specific incentives of the different actors can be discerned. Relationships change according to the negotiations between and decisions taken, which in turn are framed by the relevant assets (e.g. capital, land), institutional structure (e.g. national laws in host and home countries) and power relations (e.g. between political elites and local communities). The practices and patterns of corruption are specific to each level, and interventions need to be tailored accordingly.

The following sections discuss corruption risks pertaining to the nature of contract negotiations and the governance framework of host countries (Section 4.2). Section 4.3 looks at some difficulties regarding the identification of specific practices of corruption and legal evidence and Section 4.4 presents some conclusions, analysing corruption risks along the investment chain, with a focus on the upstream and midstream level.

4.2. Corruption, land governance and large-scale agricultural investment

Discussions of the relationship between agribusiness investment and corruption seem to attract two contradictory assumptions. On the one hand, it is widely assumed such projects generate numerous macro or microeconomic benefits, such as improving employment, food security or revenue in the host country, and are therefore entirely rational in the public interest and no more prone to corruption than other economic activities. On the other hand, they may be seen as always and inherently tainted with corruption, lack of transparency, exclusion and frequently human rights abuses, as encapsulated in the term 'land-grabbing'. From our assessment of the available literature and data, there is insufficient evidence to support either of these assumptions, and the realities are likely to be highly context-dependent. Practices deemed 'corrupt', including the prevalence of bribery and rent-seeking and the seizing of opportunities for private gain, may well be side-effects of weak institutions; low levels of human capital; low staff remuneration; the absence of legitimate business opportunities for personal gain; high levels of discretionary

power; and inadequate or contradictory regulatory, legislative and policy frameworks. In other words, it is very difficult to distinguish between corruption risks at the investment project level and those at the sector and national level, as they are heavily interdependent.

This assessment identifies four principal underlying factors shaping corruption risks in large-scale agricultural investment projects:

1. Lack of transparency
2. Weak governance in host countries
3. Lack of accountability and low legal literacy
4. Impunity

4.2.1 Lack of transparency

Perhaps the greatest corruption risk is the widespread lack of publically available information on the details of contracts. The '[l]ack of transparency and of checks and balances in contract negotiations creates a breeding ground for corruption and deals that do not maximise the public interest' (Cotula et al., 2009: 7). This makes it very difficult for citizens to assess both harmful and beneficial impacts, undermining democratic accountability on a national and international level and preventing people from scrutinising government decisions on large-scale agricultural investments (Anseeuw et al., 2013; Blackmore et al., 2015; Global Witness, 2012; MacInnes, 2015; Oxfam, 2012). From the perspective of international NGOs, the critique extends to the funding policies of multilateral banks such as the European Investment Bank and the World Bank (ActionAid, 2014: 20–3; see also Oram, 2012).

4.2.2 Weak governance in host countries

There is robust evidence to support the claim that high frequency of large-scale land deal-making is concentrated in countries with weak governance, although the evidence also suggests high levels of corruption can tend to dissuade FDI generally (TI and FAO, 2011). Also, the successful development of land concessions and effective returns to investments may be associated with stronger governance arrangements (Arezki et al., 2015; Bujko et al., 2016). A study by Oxfam (2013) on the relationship between governance and land deals finds that, of the 56 countries where large-scale land deals were agreed between 2000 and 2011, 78% scored below average on four key governance indicators used by the World Bank: accountability to citizens, rule of law, quality of private sector regulation and control of corruption. It also found the average score across these four governance indicators in countries where large land deals were present was 30% lower than in countries where they were not (see Oram, 2014). As Deininger and Byerlee (2011) state, 'the risks associated with such investments are immense. Case studies confirm that in many cases public institutions were unable to cope with the surge of demand […], and that legal provisions were unclear and not well-disseminated or known by rights holders' (p.244). [15]

The LGAF scorecards corroborate the problem of weak institutional frameworks for the regulation of large-scale land acquisition in host countries, as Table 1 shows.

Out of the 16 indicators, no African country achieves more than three As (Senegal three, Democratic Republic of Congo two, Madagascar one, South Africa one) and there are no more than four Bs (Madagascar four, Senegal three, Ghana two, Nigeria one). The vast majority of scores are Cs and Ds – even in middle-income countries such as South Africa.

Table 1: LGAF Scoring for Large-Scale Land Acquisition

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD	SEN	BRA	GEO	PHL
Completeness of Registry Information													
Mapping of registry records	D	A	B	D	B	C	D	A	D	B	A B	C	D
Relevant private encumbrances	A	C	A	C	A	B	A	A	D	A	A	A	A
Relevant public restrictions	A	D	C	D	A	C	C	C	D	A	A	A	A
Searchability of the registry	D	A D	C	C	A	B	A	A	A	C	A	A	A
Accessibility of registry records	A	B	A	A	B	A	B	A	C	A	A	A	A
Timely response to requests	C	A D	B	C	B	D	C	A	D	B	B	A	A
Reliability of Registry Records													
Registry focus on client satisfaction	D	D	B	D	B	D	D	C	D	D	B	A	B
Cadastral/registry info up-to-date	C	D	B	C	C	C	D	A	D	B	D	D	C D
Cost Effectiveness, Accessibility, and Sustainability													
Cost for registering a property transfer	B	D	C	D	D	B	D	C	D	D	A	A	D
Financial sustainability of registry	A	A	D	B	D	D	D	A	C	A	A	A	A
Capital investment in the system to record rights	C	D	C	C	D	D	D	A	C	B	D	A	A B
Transparency													
Schedule of fees for services is public	A	B	C	B	B	A	C	A	D	A	A	A	A
Informal payments discouraged	D	D	D	C	D	B	B	A	D	D	A	A	B

Source: Deininger et al. (2014: 86).

15 However, Deininger and Byerlee (2011) also discusse the opportunities of such investment projects. For a critical discussion of opportunities and problems, see de Schutter (2011).

Academic surveys have sought to provide a more rigorous analysis of this relationship. A recent study focuses on the correlation between level of corruption control and size of agricultural investment (rather than FDI generally; Bujko et al., 2016). Analysing a large dataset from the Land Matrix Database and the World Governance Indicators, the statistical evidence robustly backs claims that weak governance environments and low levels of corruption control attract larger land deals (Bujko et al., 2016).

Another study goes a step further in its assessment. Arezki et al. (2015) conclude that, whereas agribusiness investor interest was indeed higher in countries with weak governance frameworks, this may be a period-specific snapshot that does not do justice to the changing incentive structure driving investors' behaviour currently and in future.

> *'[The] evidence implies that better land governance, increased transparency, and a more consistent global and national effort at monitoring could be conducive to attracting capable investors in a number of ways, particularly by (i) improving the ability to identify responsible and qualified investors ex ante and to effectively negotiate with them to maximize local benefits by integrating existing producers into value chains; (ii) ensuring that land occupied by non-viable ventures can be transferred to more efficient producers quickly; (iii) allowing responsible investors to distinguish themselves to reduce risk and, ideally, their cost of capital; and (iv) providing a basis for learning from experience to develop successful business models.'*

In view of the falling prices of commodities, governments seeking to attract large-scale agricultural investment projects are now facing a more competitive environment, and the quality of overall as well as land governance may well be gaining increased weight as a key risk assessment criterion for investors and a competitive factor for governments.

4.2.3. Lack of accountability and 'legal illiteracy'

Another problem associated with weak governance is the limited ability of land users to demand and enforce accountability. Exploring the processes through which large-scale land transfers affect customary rights in four African countries, German et al. (2013) state that:

> *'[The] most obvious concern was the widespread absence of downward accountability of those with the legal authority to make decisions over customary or village land. More often than not, customary authorities were found to make decision based on opportunities for personal gain rather than collective interests. The limited ability of customary land users to question the authority of local and customary leaders, whether due to custom, intimidation, coercion by outside actors, or legal illiteracy, was also paramount' (p.15)*

Lack of accountability and legal literacy on a local level are exacerbated by, first, lack of recognition and respect for existing rights and, second, uneven public provision of land information on a national level. The LGAF scoring for 10 African countries provides evidence that both dimensions fall short in African countries (Deininger et al., 2014; for the tables see Annex 2).

4.2.4 Impunity

Weak legal frameworks and unaccountable processes framing large-scale land deals, coupled with strong incentives for rent-seeking behaviour by elites (German et al., 2013), make the justice system susceptible to manipulation. As Box 6 illustrates, large-scale investments can be linked to subversion, distortion or abuse of the rule of law and enforcement agencies (Crabtree-Condor and Casey, 2012; Global Witness, 2012; MacInnes, 2015). Although corruption is not the sole cause or characteristic of such land grabs that may be linked to human rights abuses, it acts as a powerful medium for increasing power imbalances and 'violent exclusions' (MacInnes, 2015: 14).

Box 6: Land-grabbing, limited state capacity and impunity in Pakistan

'Limited state capacity to enforce laws, little local awareness of land rights, and tenure systems that are often used selectively for private gain, all create a perceived impunity for "land grabbers". Pakistan's land governance institutional framework is geared towards agricultural development and revenue collection. Its weakness in safeguarding rights is a result of a revenue-based rather than rights-based approach. Within institutions, low technical capacity and lack of accurate data for adequate forecasting and baselines means there is limited accountability and transparency' (Crabtree-Condor and Casey, 2012: 52).

4.3. Evidence of corruption in agribusiness

The fact that corruption poses a problem for multinational enterprises is confirmed in a recent survey on International Business Attitudes to Corruption. Nearly half of respondents said 'facilitation payments' were essential or significant in keeping their business going (Control Risk, 2015: 37),[16] in spite of widespread corporate anti-bribery policies (see Box 7).

16 Only 3% of the companies surveyed identified themselves as being in agriculture and agribusiness. In the survey, they are subsumed under other sectors (see Control Risk 2015: 42). However, sectors that are listed include oil, gas and minerals and construction/real estate, both of which are highly significant for land governance and corruption in low-income countries.

Box 7: International Business Attitudes to Corruption Survey 2014/15

Control Risks, a global risk consulting firm, conducted a survey with 638 companies operating across the world on their attitudes to corruption. The results are highly insightful. Although an impressive 84.9% of companies surveyed say they have an anti-bribery policy in place (Control Risk, 2015: 22), in practice the findings 'point to a **disconnect** between what head offices believe about the adequacy and effectiveness of their anti-corruption programme and what actually happens in the higher risk markets – this is the 'remote office' problem. [...] These days many companies are good at talking about principles. Not all of them are able to demonstrate that they put principles into practice' (ibid.: 8–9; emphasis added).

Another interesting insight regards corporate dealings with seemingly entrenched corruption, for example in specific government departments. The survey comes to the conclusion that, even in these cases, 'it is usually possible for companies to secure the services that they require without paying bribes, but it requires a much higher degree of management determination, and a willingness to accept 'wasted' time and higher costs. Long term changes require institutional reform, and this should be seen as a **legitimate target for company lobbying**, for example through chambers of commerce' (ibid.: 40; emphasis added). For more detailed findings on corruption risks of international business, see Annex 5.

However, in spite of the frequency of facilitation payments, as well as the corruption risks identified in host countries and the high media attention that 'land-grabbing' enjoys, there is a notable lack of evidence that corruption is more prevalent in large-scale agricultural investment projects than in other international business operations. For instance, the 2014 OECD Foreign Bribery Report (2014a: 21–2) found 59% of foreign bribery cases occurred in four sectors: extractives, construction, transportation and storage and information and communication. The 'agriculture, forestry and fishing sector accounted for only 4%. The authors also undertook a media search to identify cases of alleged corruption, in particular those involving charges in large-scale agricultural investment projects. The search came up with only a handful of cases, with very few rendering clear-cut evidence of types and practices of corruption. This lack of evidence does not necessarily mean no corruption is involved in such investment projects. Other factors outlined above, such as non-transparent contractual arrangements, legal illiteracy of communities and political pressure on the justice system, may account for the lack of clearly identifiable cases (see Section 5.3.2 for further elaborations of this point).

Beyond the scant hard evidence of corruption in land investments, review of the literature suggests further aspects merit attention. Corruption may be just one factor within a more messy and complex politico-economic setting. In countries with weak land governance and uneven property rights, issues such as food security, livelihoods and social identity are at stake when land transactions are abused, which explains why large-scale agricultural investments frequently trigger social conflict (Lund, 2013; Nolte, 2013; Richards, 2013). For instance, Ethiopia recently abandoned its plans to expand the capital city in the wake of violently repressed protests over a government land appropriation for private investors in a traditional farming area (see Davison, 2016). Accusations of corruption were but one factor fuelling the protests. Similar examples of abound (Hall et al., 2015b), illustrating that the political will of host countries to commit to better land governance and accountability practices plays an important role in creating a more inclusive and less volatile political environment.

Large-scale agricultural projects are in jeopardy if local citizens resist them when they perceive them to have negative social and environmental impacts, and especially if they see them as tainted with corruption. Not only does this pose a financial risk to agribusiness, but also it tarnishes company reputations and creates reputational risk for land investment as a whole, and for governments wishing to utilise it to promote growth and development.

4.4. Conclusions: Corruption risks along the investment chain

A large number of corruption risks can be identified along the investment chain, although the literature review indicates the evidence may be somewhat skewed: whereas there is much literature documenting the 'demand side' of corruption – that is, the bribes and favours public officials in the host country demand – there is to date little hard evidence underscoring the 'supply side' of corruption – the bribes and favours the company grants to public officials and other individuals.[17]

Table 2 seeks to identify the actors and specific corruption risks at each level of the investment chain.[18] We highlight the midstream level as the one most subject to corruption risks related to in-country land governance. In the third column, bold font is used to indicate those corruption risks that in our judgement would benefit from further research to identify the weak points that are

17 This finding may have more to do with the weaknesses of existing anti-corruption legislation and regulatory frameworks. We turn to the strengths and weaknesses of national and international anti-corruption efforts in the next section.

18 The levels identified along the investment chain do not correspond directly to the sectoral, national and international levels of analysis in Figure 1. However, taken together, they are useful to identify different actors, incentives, assets and relationships that frame corruption risks.

most amenable to corruption in the investment chain, which concerted national and international action against corruption in land acquisition could address.

To conclude, recent large-scale land aquisitions for agribusiness have been concentrated in countries with a high risk of corruption. It is not clear, however, to what extent the agribusiness land sector poses corruption risks that are greater or different in kind to those in other types of attractive business opportunities in specific countries and regions. If the patterns of corruption are found to be similar across sectors and chains of actors, initiatives to improve governance and the rule of law generally in host countries will benefit the agribusiness sector. Where the problem is specific to this sector, a more targeted approach is warranted. This would apply, for instance, at an upstream level to the lack of transparency and publicly available information on formal contractual agreements between companies and host governments. At a midstream level, it would apply to the amount of discretion and lack of clear standards governing the interactions between companies and local (frequently customary) authorities.

Key corruption risks identified are impunity of political elites in securing favourable land allocations, leading to elite capture of international land deals, associated kickbacks and profits from commercial land development and the use of land for political patronage. Of particular concern is the risk of corruption at the midstream level, associated with larger-scale investments, agricultural development corridors and their supply chains. Here, small- to medium-scale investors, including national and local elites and those with political connections, are able to exploit rent-seeking behaviour by land officials and weak land governance arrangements to secure land allocations and override the rights and interests of less powerful land users. Moreover, these risks can easily cascade into downstream corruption, involving local suppliers, smallholders, company agents, communities and officials. This undermines legitimate business relationships and exacerbates land conflict generally. At this point, however, effective tools and more comprehensive research to help monitor and evaluate corruption risks along the investment chain are lacking, leading to a notable absence of data.

The following section assesses existing anti-corruption policies and frameworks in light of these findings and those discussed in Section 3.

Table 2: Corruption Risks along the Investment Chain

Investment chain level	Actors/relationships	Corruption risks
Upstream	investors high net worth individuals commercial banks pension funds mutual funds life insurance firms sovereign wealth funds development finance institutions lenders asset management firms	opaque structuring of corporate entities lack of beneficial ownership information potential for facilitation and other undisclosed payments/ownership interests lack of transparency and publicly available information on formal and informal contracts
Midstream	company host government (unofficial and official relationships with government officials, politically exposed persons (PEPs) and agents) trade associations and employees enterprise affiliates, brokers and agents customary and community leaders	political corruption collusion of public officials with investor and operator companies to secure direct payments or other favours for their benefit in exchange for land- and profit-related concessions conflict of interest 'facilitation payments' to and via brokers and agents bribery of local officials and customary leaders
Down-stream	contractors/suppliers buyers	lack of transparency of contractual relationships between company and contractors and suppliers (including outgrowers and contract farmers) and local community landholders kickbacks in subcontracting conflicts of interest by government officials involved in private business

Source: Authors.

5. Assessment of relevant land governance reforms and anti-corruption interventions

5.1. Introduction

This section considers the relevance and effectiveness of approaches to mitigating corruption in land governance. The following sections outline selected measures and assess them with regard to their effectiveness in targeting corruption in land governance. We pay particular attention to the findings of the political economy analysis and their implications.

5.2. National governance level in host countries

5.2.1 Legislative and policy approaches

The political economy analysis underlines some critical points for effective and sustainable anti-corruption and governance reforms. In particular, vested interests within land administrations at all levels of the hierarchy make it difficult to reform land administration from inside. Where corruption is systemic and politicised, all attempts to reform from within the system are likely to fail, and alternative approaches that are at least partly independent of government are likely to be needed. Reforms are dependent on political dynamics and may need to bide their time until appropriate political moments. They also may need longer-term approaches to legislative and institutional change, so individuals and collective actors can adapt to, understand, internalise and mobilise them.

This underscores the importance of political will, which is absolutely central to real reform. Introduction of systems for greater transparency and accountability from the outside in the absence of political will and acceptance is likely to be problematic. However, under certain conditions, it may be feasible to promote a race to the top or to impose conditionalities and sanctions in favour of these. This may form part of longer-term strategies to promote reform in corrupt states (von Furstenberg, 2001).

Generally speaking, anti-corruption measures are most effective when other contextual factors support them and when they are integrated into a broader package of institutional reforms. For instance, public financial management reforms are effective in reducing corruption. In the right circumstances, supreme audit institutions, social accountability mechanisms and organised civil society can be effective (Menocal Rocha and Taxell, 2015). Such measures are aimed at the national level, but help reduce the scope of corruption, increase accountability

Box 8: Reasons for not reporting cases of bribery

One interesting insight emerging from the data in the East African Bribery Index relates to the rationale of citizens' responses to demands of bribery. The first telling finding is that most citizens do not report such cases. Second, and very interestingly, the reasons differ significantly from country to country. As the report states, 'about 90% of the respondents that encountered a bribery incident did not report or make a complaint to any authority or person. In Kenya, most of the respondents said they did not know where to report while in Tanzania most felt that no action would be taken to resolve their complaint. In Burundi and Uganda, most individuals that did not report attributed this to the fact that they were beneficiaries of the bribery transaction. In Rwanda, most were afraid of self-incrimination' (TI Kenya, 2015: xi).

and prevent the systemic capture of state institutions in converting and developing customary and public land for private commercial use.

Key to governance and anti-corruption reforms across sectors is the strengthening of the rule of law and legal framework. This includes ensuring the coherence and comprehensiveness of anti-corruption laws, securing the independence of law enforcement and investigation bodies from political influence and empowering accountability bodies (such as parliamentary committees or law commissions). However, evidence across the literature shows rule of law and accountability mechanisms on a local and national level are not only uneven but also frequently undermined by political corruption, abuse of power by chiefs and local officials and lack of information accessible to communities and citizens (see Owen et al., 2015).

5.2.2 Reform and capacity-building in land administration

Seeking to establish simpler, more transparent, systems for land registration and management of land transactions has been a dominant approach for donors. Such measures include, among other things, safeguards against corrupt practice, sometimes combined with attention to legislative and policy reforms to make land administration systems more inclusive (Wren Lewis, 2012). However, simply providing technical assistance, building capacity and introducing new systems, standards and procedures has been widely demonstrated to be ineffective. In particular, strengthening audits and supervisory controls on land administration have proved lacking for a number of reasons (Durand Lasserve, 2015):

- Corruption leaves little administrative or accounting trace.
- Staff in government land administration agencies manifest opposition to control measures, sometimes at a very high level.
- Sanctions against illicit practices and corruption are not really dissuasive given the profit they generate.

Simplification of tenure formalisation and delivery of real property rights have been regularly attempted over the past two decades, with very poor results. As the previous sections demonstrate, this owes partly to poor institutional frameworks, but is mainly because actors' incentive structure privileges both petty and grand corruption over more law-abiding practices. This is compounded by increasingly unequal control over assets and subsequent widening political and economic power inequalities.

There have been successful interventions from which lessons can be learnt. In various West African countries, land administration support programmes have employed preventive measures to limit the decisional power of central and local government officials with regard to land transfers and allocations. These have focused on strengthening two critical dimensions: the completeness and transparency of the cadastre; and community participation and accountability (Durand Lasserve, 2015, Owen et al., 2015).

With this in mind, pragmatic engagement using specific, targeted measures that address problems resulting from local political economy dynamics is required to allow administrative reforms to succeed and to overcome the resistance of established land institutions. In Mali, this involved:

- a moratorium suspending land development projects and the allocation and transfer of public land and the conversion of peri-urban rural land for urban development and
- clamping down on the legality of land allocation, conversion and transfers, resulting in the indictment and prosecution of several officials; a detailed control of titled land allocation is currently being undertaken in the archives of the Directorate of the Sate Domains and Cadastre

This approach requires an in-depth understanding of the procedures, mechanisms, financial circuits, institutions and stakeholders and incentives, especially in relation to the operation of land delivery systems and markets; interaction between formal and informal markets; and coexistence of delivery channels and price systems. Durand Lasserve (2015) recommends attention focus on a limited number of key steps and institutions, rather than any attempt to impose comprehensive reforms from the outside.

At a pragmatic level, DFID's own donor-assisted land tenure security and land administration reform programmes report consistent lessons. The construction of systems that incorporate all legitimate tenure rights, provide safe and secure management of land records and assist land transactions in line with approved legal regulations is fundamental. DAI, a major land consulting firm working in Cape Verde, Ethiopia, Mozambique, Rwanda, Tanzania and elsewhere, reports that, in its experience, a number of types of measures are important in reducing opportunities for corrupt behaviours (Richard Baldwin, personal communication, 19 February 2016):

- Validation and agreement of land rights at the community level: This involves agreement of clear procedures in advance, sufficient well-trained staff extensive outreach, maximum publicity, involvement of local community-based organisations and provision for community-based advice surgeries and dispute resolution mechanisms. Where existing systems do not provide clear *documented* evidence of existing land rights, and this situation is maintained with the support of political or social elites and land officials, and especially if public land assets are effectively being privatised, there are risks of corruption in obtaining land titles or certificates. Therefore, the organisation of transparent and accountable processes that document or regularise unregistered land rights is a necessary first step.
- Automation of land record systems to provide secure management: This involves the introduction of digital

record systems with off-site back-up that are more difficult to falsify or destroy; standardised definitions of parcels, properties and tenure rights and business processes; and automated capture and storage of information, with adequate levels of security (authorised users and clear audit trails to track transactions and changes) and with additional automated systems specifically designed to prevent fraud, for example by integrating and linking parcel maps, land rights registers and sales value/transaction information and freezing land records during pending transactions to prevent premature alteration abuse. Support to the development of such systems must also include arrangements for their regular maintenance and updating to ensure they can be sustainably managed once donor support ends. The next section explores the broader potential of new technology to assist in curbing corruption.

- In addition, privatisation of public assets is a one-off activity that requires special legal, organisation and institutional support, closely monitored by government, as demonstrated by the wealth of literature on the large-scale privatisation processes in Eastern Europe in the 1990s. In an urban context, the link between land values and permissible uses means the former can rise uncontrollably as a result of failures to regulate land use, leading to vicious cycles of escalating value, corrupt transactions and social exclusion, as described by Durand Lasserve for Mali (2015),). Establishing effective planning and permit systems reduces corruption opportunities, although planning systems are themselves not corruption-free: transparency and accountability in planning and land administration reform need to be pursued hand-in-hand.

5.2.3 Technology-based innovations in land administration

Appropriately designed technology-based innovations have potentially important roles to play in this context. According to Bertot et al (2010), information and communication technologies (ICTs) can reduce corruption by promoting good governance, strengthening reform-oriented initiatives, reducing potential for corrupt behaviours, enhancing relationships between government employees and citizens, allowing for citizen tracking of activities and monitoring and controlling behaviours of government employees (Shim and Eom, 2008). To successfully reduce corruption, however, ICT-enabled initiatives generally must move from increasing access to information to ensuring rules are transparent and applied, while also building abilities to track the decisions and actions of government employees (Bhatnagar, 2003).

A key approach is to exploit the capacity of geographic and land information system (GIS and LIS) software to make land and cadastral information publically available online to increase transparency. In India, putting rural property records online greatly increased the speed at which they could be accessed and updated, simultaneously removing previously rampant opportunities for local officials to accept bribes (Bhatnagar, 2003). The electronic land record system in Karnataka is estimated to have saved 7 million farmers 1.32 million working days in waiting time and Rs. 806 million in bribes to local officials in its first several years. Prior to its introduction, the average land transfer required Rs. 100 in bribes; the electronic system requires only a one-off fee payment of Rs. 2 (World Bank, 2004).

Other ICT-based approaches proposed to assist in curbing land corruption include:

- the potential of mobile phones to enable crowdsourcing and democratisation of land information and administration systems (McLaren, 2010) and
- the use of technology-based solutions to prevent fraud, multiple land allocations and rent-seeking, in particular the scope to secure land registries based on open sourced information through the use of 'block chain technology', which underpins the use of virtual currencies such as Bitcoin (Memoris, 2015: 59–60)

In addition, use of *social media also has some potential in terms of anti-corruption, which may be applicable* to land, for example in providing access to open-sourced data on land rights and use and offering land users the opportunity to challenge corrupt official decisions. According to Bertot et al. (2010), social media has four major potential strengths: collaboration, participation, empowerment and timeliness. Collaborative and participatory in nature and defined by social interaction, it enables users to connect with each other and to form communities to socialise, share information or achieve a common goal. An example is the Twitter hashtag common in Sub-Saharan Africa, #*whatwouldmagufulido*, modelling the Tanzanian president as a new breed of African leader (Kalyegira, 2015; Meyer, 2016).

Despite the potential of ICT to reduce corruption in land administration, in the absence of political will to apply it to reduce complexity and discretion and to improve transparency in land administration, it does not promise rapid solutions in its own right. It thus needs to be applied as part of a broader strategy.

5.3. Large-scale agricultural investments and agribusiness

5.3.1 Legal mechanisms in upstream jurisdictions and liability risks of investors

The concern of this section is the degree to which investors and parents risk liability in other stages for the acts of those under them. The risks, safeguards and known examples of corruption in agribusiness land deals mean high-level investors, institutional and corporate, are

increasingly subject to disclosure requirements, sanctions and reputational risks sufficient to discourage active or acquiescent participation in bribery schemes and to encourage adequate steps to ensure affiliates, partners and agents avoid corrupt acts.

The most important international legal and regulatory frameworks include the *US Foreign Corrupt Practices Act (FCPA)*. This covers 'issuers': US and foreign companies that sell securities on the US exchanges and are registered with the Securities and Exchange Commission (SEC). In addition to its anti-bribery provisions, the FCPA imposes accurate books and records filing obligations on issuers and requires them to maintain effective internal controls throughout their corporate operations, including joint ventures. In bribery cases, the SEC alleges violations of the 'books and records' and 'internal accounting controls' provisions and typically settles with the defendant company. An SEC settlement can include fines, injunctive relief, compliance plans and disgorgement of ill-gotten gains as a result of illegal activities. The point is that enforcement can police corruption across levels in the chain of actors. The settlement process minimises the need for hard proof of in-country corruption and can prompt other organisations to take action (see Box 9). The Department of Justice (DOJ) also brings FCPA cases, including criminal prosecutions. The FCPA cases receive worldwide attention and can have serious financial and reputational repercussions for offending companies in other jurisdictions as well.

The anti-bribery provisions of the FCPA also cover all domestic persons, whether or not issuers, and whether or not the acts were committed in the US. They also cover foreign individuals and entities for acts committed in the US, including via communications in interstate commerce. The FCPA makes illegal corrupt payments to 'foreign officials', who include 'officers or employees of a department, agency, or instrumentality of a foreign government'. The US government has advocated successfully for an expansive reach of these provisions in recent years. Potentially significant for large-scale agricultural investments projects is that compelling legal arguments have been made for classifying aboriginal or tribal leaders as foreign officials under the FCPA.[19]

The *UK Bribery Act of 2010*, which took force on 1 July 2011, also imposes criminal liability for bribery across the chain of actors. The 'failure to prevent bribery' provision of Section 7 makes 'commercial organisations' responsible for bribing 'foreign public officials' by 'associated persons'. Commercial organisations are corporations and partnerships organised under UK law, whether or not doing business in the UK, and foreign concerns that do business in the UK. Associated persons are essentially those performing a service for the organisation, such as subsidiaries, employees and agents. Foreign public official is broadly defined, essentially anyone performing a public function in the country. Payments to foreign officials that are allowed under the laws of the country are not

Box 9: An illustrative, non-land-related, example of a successful international anti-corruption case

Tokyo-based, Hitachi Ltd. created a South African subsidiary in 2005 to pursue contracts to build two power plants worth $6.5 billion, and sold 25% of the subsidiary to a local company it knew was a front for the African National Congress, agreeing to pay the company a 'success' fee if the subsidiary was awarded the contract 'substantially as a result' of the company's efforts. The agreement also provided for profit-sharing with the company. The subsidiary won the contract and paid the company $1 million as a success fee and approximately $5 million as a 'dividend'. The subsidiary inaccurately recorded these amounts on its books as 'consulting fees' and 'dividends declared', rather than as influence payments to a political party, which reports were consolidated with Hitachi's financial statements and filed with the SEC. Following an investigation in which the SEC was assisted by the DOJ Fraud Section, the Federal Bureau of Investigation, the Integrity and Anti-Corruption Department of the African Development Bank (AfDB) and the South African Financial Services Board, the SEC brought a FCPA case against Hitachi in the US District Court, alleging violations of the books and records and internal accounting controls requirements. The basis for jurisdiction was Hitachi's registration with the SEC for US depositary shares, which were listed and traded on the New York Stock Exchange. The FCPA covers payments to 1) any foreign official; 2) any foreign political party or official thereof; 3) any candidate for foreign political office; or 4) any person, while knowing that all or a portion of the payment will be offered, given or promised to an individual falling within one of these three categories, in this case knowingly to a political party via a front company. Hitachi and the SEC settled the case with court approval in November 2015. Hitachi agreed to pay a $19 million penalty and to be enjoined from future violations without admitting to the allegations.

On 4 December 2015, AfDB announced it had reached an agreement with Hitachi that debars the company from participating in AfDB projects for 12 months with release conditioned on the company implementing AfDB integrity guidelines.

19 See under http://jtl.columbia.edu/wpcontent/uploads/sites/4/2015/12/Foster_54-CJTL-59.pdf. In addition, the OECD Working Group on Bribery in its Phase 3 review of US implementation of the Anti-Bribery Convention commended US efforts to combat transnational bribery and cited best practices. The review played a part in the publication by the DOJ and the SEC of an extensive FCPA resource guide. The DOJ website publishes the FCPA in 50 languages and offers an opinion procedure.

considered bribery. It is a defence for the organisation to prove it had in place adequate procedures designed to prevent associated persons from undertaking such conduct.

Although these provisions will be judicially interpreted as more cases are brought under the law, they are generally straightforward and inclusive. In November 2015, the Serious Fraud Office (SFO) concluded its first Section 7 case against a financial services organisation, resulting in a deferred prosecution agreement, fines and restitution and compliance measures. In addition to paving the way for other Section 7 actions, this case is instructive in that it involved a complex corporate structure and set of actors. Significant, too, is the SFO's close cooperation in the investigation with the DOJ and the SEC and the SEC's separate consent decree with the defendant, relying on US securities laws where the jurisdictional requirements of the FCPA were not present.

The OECD Anti Bribery Convention 'is the only legally binding instrument globally to focus primarily on the supply of bribes to foreign public officials in international business transactions'. It rests 'on the engagement with major economic players to create a fair, level playing field. In 2013, its Working Group adopted an updated global relations strategy which identifies not only countries for potential accession to the Convention; but also, countries with which working relations would be mutually beneficial' (OECD, 2014b: 8, 28). The Working Group Annual Report (2014b) describes its engagement efforts and implementation reviews for its 41 parties.

The Working Group collects and publishes enforcement data by country, although not at a level of detail showing whether any actions were against players in large land deals. However, the convention has been criticised for being toothless, as the political will in home countries for its enforcement is seen to be lacking.[20] What merits attention, though, is that the convention does provide some interesting inroads into engaging with powerful non-OECD countries, such as China, India, Indonesia, Malaysia and Thailand, as part of its global relations strategy. How far these prove effective in mainstreaming and enforcing anti-bribery principles remains to be seen.

The UN Convention Against Corruption (UNCAC) addresses preventive measures, criminalisation and law enforcement, international cooperation and the recovery of stolen assets, thus providing a comprehensive framework to address the causes and effects of corruption at all levels.[21] The Convention of State Parties monitors implementation in member countries. UNCAC also stipulates anti-bribery measures. A key problem with implementation of the preventive measures and law enforcement is lack of political will and the political corruption undermining reforms in countries with weak governance frameworks (Hechler et al., 2011).

Further initiatives include the 2013/14 *G20 Anti-Corruption Plan* which calls on G20 governments to continue efforts to combat bribery, including establishing the liability of legal persons and engaging with the OECD Convention (see Box 10). The *EITI* adopted in December 2015 a requirement for its 49 members to report beneficial ownership of companies doing business in the extractive industries. Civil society and the media are already calling for compliance in their respective countries (Tax Justice Network, 2016).[22]

Box 10: Principles for Responsible Investment in Agriculture and Food Systems

Under the guidance of the CFS, these 10 principles were adopted in October 2014 after an inclusive consultation and intergovernmental negotiation period. They address three areas: human rights and social protection, natural resources and good governance. Principle 9 calls to 'Incorporate inclusive and transparent governance structures, processes, and grievance mechanisms', specifying that 'Responsible investment in agriculture and food systems should abide by national legislation and public policies, and incorporate inclusive and transparent governance structures, processes, decision-making, and grievance mechanisms, accessible to all, through: i) Respecting the rule and application of law, free of corruption' (CFS, 2014: 10 [para 29]).*

*Note: *For a critical assessment of the Principles, see http://www.benelexblog.law.ed.ac.uk/2015/05/21/principles-on-responsible-investment-in-agriculture-and-food-systems-a-very-critical-analysis/ (last accessed 12 February 2016).*

20 For data on the enforcement of the convention, see http://www.oecd.org/corruption/ dataonenforcementoftheanti-briberyconvention.htm; for the challenges of its enforcement, see http://www.transparency.org/whatwedo/activity/strengthening_enforcement_of_the_oecd_ anti_bribery_convention (both last accessed 12 February 2016).

21 For the convention, and details on its implementation and monitoring, see https://www.unodc.org/unodc/en/treaties/CAC/

22 See also http://m.myjoyonline.com/marticles/business/new-extractive-industries-transparency-initiative-requirement-will-ghana-comply (last accessed 12 February 2016).

5.3.2 Enforcement of anti-corruption legislation in agribusiness

Very little enforcement activity could be found in the agribusiness and land sector by the US, the UK and other OECD member countries that is directed at the upstream investor and corporate interests over which they have jurisdiction. If significant corruption can be laid at the feet of upstream actors in large land deals, the lack of publicly disclosed investigations and enforcement actions is surprising. While transnational land deals may be intricate and tracking the activities of all of the players difficult, the end result, the transfer and occupation of large tracts of land, is more tangible and visible than many kinds of projects in other sectors. This makes the appearance of corruption more pronounced. Any near-term adverse effects on local populations may spur protest, whistleblowing and calls for inquiry, more so than in cases where the harm is not so obvious or is attenuated.

Furthermore, there is every reason to believe US, UK and OECD governments charged with enforcing anti-bribery and corporate accountability laws would treat well-founded allegations of corruption in large land deals the same as claims of illicit payments to foreign officials for concessions in the sale or purchase of other products and services. While it is true that limited investigative and enforcement resources may be directed to certain problem areas, a review of recent actions suggests enforcement activities are comprehensive where the offence is serious and the case sound. Legislative measures, too, can target egregious harms, as with the disclosure and due diligence requirements for conflict minerals of the 2010 Dodd-Frank Act. There is no indication that this or other initiatives have diverted resources from land corruption investigations. Nor is there cause to address corruption in transnational agribusiness deals by special legislative or other means on the part of the financial centres, as these transactions are relatively few in the scheme of things and apparently are no more susceptible to corruption than other kinds.

5.4. Conclusions

Political economy analysis of land governance and administration at national level shows the importance of incentives of actors in driving corruption, especially in a context of weak formal institutions. Manipulation and use of multiple norms for land allocation and management to accumulate wealth and power appears to be of great significance for land governance as a whole. This is one key reason institutional reforms addressing corruption have not had more success. In particular, informal social and institutional practices and legal inconsistencies in land administration and investment planning can easily override the principles of land law and public service delivery. However, there is incremental evidence that stronger, more coherently organised and formally recognised institutions at a local and national level, coupled with new knowledge networks, can empower citizens to fight against corruption affecting their access to and control over land.

On an international level, a number of both soft and hard laws to increase transparency and combat corruption are emerging, though these have not yet shown great effect in improving the transparency and accountability of large-scale land acquisitions. At a transnational level, this has to do with limited enforcement levels across sectors. More specifically, however, for agribusiness this may owe in part to the speed at which the 'land rush' took place, at a time when many host countries had in place neither the appropriate investment policy nor further accountability mechanisms. Such investments were frequently used as shortcuts to lucrative income and profits by national elites as well as local officials and leaders. The incentives of agribusiness are profit-based, and the mixture of expecting large profit margins and an incoherent regulatory and institutional framework to guide investments is highly corruption-prone. At the same time, the risks of 'being caught' are very low, as those who profit will not disclose the corrupt activity and those who lose out do not have the means or power to combat it (see also Box 8).

These interrelationships between specific institutions and practices of land governance and drivers of corruption need to be disaggregated and assessed in more detail, generally and in any specific country case, to usefully inform policies and programming. We believe, however, much can be done to reduce risks of corruption in land governance surrounding agricultural investments by establishing much more direct linkages within home country government policies and in donor programming, between support for economic development (in agriculture and other sectors) and credit subsidies for private investment, on the one hand, and stronger tenure security and better land administration on the other. This is particularly the case in corruption-prone states, agricultural development corridors and rapidly expanding cities that are subjects of investment. It is also the case at global and regional levels, in analysing the land governance implications of sector policies and in lending and extending dialogue across home and recipient governments, with the private sector, land professional organisations and civil society, on strengthening transparency and accountability in land and related sectors.

This conclusion is supported by recent work commissioned by the Global Donor Working Group on Land, which examined how governments can better align support to land governance with other development, commercial and policy objectives for public procurement, trade, finance, minerals development and environment (Wehrmann, 2015). Although this work did not focus specifically on corruption, many of the recommendations are relevant in tackling it and reducing its risks, and are directly in line with our own. These include mandatory regulations on land governance for official development assistance; linking land governance support to compliance

of home-based investors and other actors; developing national action plans on business and human rights and joint strategies with the private sector; promoting stronger corporate reporting; implementing international agreements and regulatory arrangements; and developing stronger safeguards, grievance mechanisms and ombudsmanship mechanisms.

Our own recommendations for stakeholders to address corruption in land are in line with these conclusions and our recommendations, set out in Section 6. They concern action that can be pursued both jointly and separately by the main stakeholder groups, and for donor policy and programming. The latter include action against corruption generally within developing countries and emerging markets, and action targeted specifically at national land governance systems and land investment processes. Annex 6 presents a more detailed typology and overview of areas of land governance, corruption risks and potential mitigation strategies.

6. Recommendations

6.1. National governments

Here, we set out desirable measures for national governments to address corruption in land administration and the management of investment. These could be packaged and tailored in individual country contexts to inform strategic approaches, enabling governments to take relevant action that civil society, private sector, donors and multilateral agencies can support.

6.1.1 General actions

1. Implement UNCAC to strengthen horizontal and vertical accountability mechanisms and legislative anti-corruption framework across all sectors.
2. Introduce effective asset and income declaration systems for officials, including specification of the valuation and verification of landholdings process by officials.
3. Hold training for anti-corruption agencies in screening and following up on reports of corruption.

6.1.2 Land-specific actions

1. Support and implement legal reforms to ensure recognition of multiple forms of tenure, including customary rights, to promote more inclusive formalisation of rights and delivery of land services and mitigate corruption in the allocation, conversion and development of customary land.
2. Prioritise and implement land administration reform, supported by analysis and mitigation of procedural weaknesses, corruption risks and vulnerability to elite capture.
3. Introduce preventive measures to limit the discretional power of central and local government administrations with regard to land transfers and allocations, prioritising a) completeness and transparency of the cadastre and b) community participation and accountability.
4. Prioritise the support of legal reforms to ensure recognition of multiple forms of tenure including customary rights, to promote more inclusive formalisation of rights and delivery of land services and to mitigate corruption in the allocation, conversion and development of customary land.
5. Respect the principle of free, prior and informed consent (FPIC) in relation to changes in the established land rights of indigenous peoples, or at the minimum, and in all cases, free, prior and informed consultation, to ensure clear principles guiding transparency and disclosure at a community level in any transactions involving large-scale land deals and expropriations, including where expropriation may be justified for public purpose.
6. Strengthen training in land administration on governance and transparency dimensions, with an emphasis on public service, fairness and probity, including knowledge of national and international best practice (VGGT and the CFS RAI).
7. Introduce a more performance-oriented culture and system of remuneration into land administration to provide alternative incentives to rent-seeking based on users' willingness to pay for services and transactions; also introduce institutional and individual responsibilities and requirements for compensation in the event of mistakes, such as inaccurate, overlapping or multiple land allocations.
8. Introduce public disclosure of governmental approval process for agribusiness land transactions.
9. Introduce appropriate ICT-based approaches to increase transparency and accountability, including independent, secure, credible and effective whistleblowing hotlines.
10. Support helplines, complaints and grievance mechanisms, such as ombudspersons and legal advice centres.
11. Strengthen the monitoring of progress of land administration, including corruption indicators.
12. Support legal empowerment programmes at community level, as an essential complement to work within the land administration system, including the capacity for monitoring and reporting.
13. Support processes and institutions integrating community leaders and communities into transparent land management systems at a local level.

In addition, there are actions parliamentarians and civil society can take at national level to promote the application of these measures (see Sections 6.3 and 6.5).

6.2. Private sector

Here, we set out desirable actions the private sector and specifically agribusiness investors can take. In addition, private sector stakeholders supporting the development and delivery of good systems of land administration can take various actions to combat corruption (see Section 6.6).

6.2.1 General actions

1. Demonstrate clear leadership on a zero tolerance to corruption.
2. Implement best practice and mainstream encompassing corporate anti-corruption policies at all operational levels throughout the investment chain. These should include clear follow-up mechanisms and be supported by process improvement initiatives to address corruption.
3. Ensure compliance with national and international anti-corruption legislation, including commitment to long-term institutional change in countries with weak governance, for instance by actively engaging with chambers of commerce.
4. Set up an internal, secure whistleblowing mechanism that enjoys commitment at CEO level, falls under the responsibility of senior management, is clearly communicated throughout the company and provides safeguards against retaliation.

6.2.2 Land-specific actions

1. Participate in voluntary reporting of land rights footprints and impacts of agri-investments and supply chains in conformity with UN Global Compact principles, utilising Global Reporting Initiative (GRI) reporting mechanisms and relevant GRI standards and indicators on land tenure currently under development.
2. Develop clear rules and standards of engagement at national and local level for large-scale international agricultural investment, guided by the VGGT and the CFS RAI, where appropriate engaging with *peers* to develop international implementation guidelines; with *host governments* to develop clear standards of engagement informed by the VGGT; and with *civil society* and *communities* to develop clear standards of consent, guided by FPIC, to reduce the scope and risk of corruption.
3. Mainstream environment, social and governance assessments and follow-up procedures throughout the investment chain.
4. Ensure internal whistleblowing mechanisms against corruption are specifically applied by on-the-ground company operators to land rights and governance questions, and such mechanisms are available to members of affected communities and local land users.
5. Develop monitoring tools for corruption throughout an investment lifecycle.
6. Improve reporting on land corruption among associates, peers and supply chain actors, utilising mechanisms such as commodity roundtables and in-country business associations.

6.3. Investor countries

6.3.1 General actions by governments

1. Ensure the establishment of coherent and up-to-date whole-of-government approaches to addressing corruption, including land corruption in foreign jurisdictions.
2. Strengthen and support the enforcement of the OECD Convention both in OECD countries, by implementing and enforcing anti-bribery legislation, and in non-OECD countries, by continuing to support engagement with China, India, Indonesia, Malaysia and Thailand.
3. Support legislative measures that address transnational corruption (e.g. the UK Bribery Act, the FCPA).
4. Support strong anti-money laundering (AML) laws in the financial centres, such as the US Bank Secrecy Act or Financial Action Task Force (FATF) guidelines, that call for enhanced monitoring by the global financial system when conducting business with PEPs.

6.3.2 Land-specific actions by governments

1. Continue to promote and build coalitions to implement the VGGT and CFS RAI.
2. Introduce government requirements for the disclosure of large-scale agricultural investments originating in investor countries and promoted by official aid, guided by the VGGT and the CFS RAI.
3. Condition financial participation in large-scale agricultural investments on implementation of anti-corruption measures, including financial reporting.

6.3.3 Actions at parliamentary level

In addition, national parliaments and parliamentarians can take actions to support coherent whole-of-government approaches to address corruption in land. It should be noted that these recommendations also apply to parliaments of countries hosting land-based investments and countries suffering routine corruption in land governance.

1. Engage more actively in holding governments to account in the implementation and enforcement of anti-bribery legislation.
2. Propose and debate measures to ensure transparency of large-scale agricultural investments and strengthen land governance process recognition and documentation of all existing land rights surrounding large-scale investments.
3. Propose measures for implementing the VGGT and monitoring adherence of different sectors of government to the guidelines in practice.

6.4. Donors and multilateral agencies

Here we set out recommendations donor agencies can take. These form critical elements of whole-of-government approaches by investor countries to address land corruption in developing countries, and specifically to ensure donor programming and action designed to promote land investment and encourage private sector growth does not also inadvertently promote or enable corruption in land.

1. Provide financial and technical support to partner countries to strengthen the implementation of anti-corruption and land governance reforms listed under Section 6.1, prioritising support for legal reforms to ensure recognition of multiple forms of tenure, including customary rights, to promote more inclusive formalisation of rights and delivery of land services and mitigate corruption in the allocation, conversion and development of customary land.
2. Introduce mandatory corruption risk assessments and mitigation measures that are sensitive to elite capture in all land administration and land titling support programmes.
3. Introduce land governance support and related anti-corruption measures into areas prioritised for agricultural development and land investment, and link land governance support directly to other projects that tend to promote corruption in land administration to mitigate negative impacts. This includes:
   a. Make disclosure of land areas targeted for investment and land rights and land concessions acquired by private companies and the relevant investment contracts mandatory for all projects implemented or provided with credit subsidy under official development assistance. .
   b. Give grants to partnership initiatives between the private sector, government and civil society, possibly linked to agricultural development and investment subsidy programmes to enable countries to document, visualise and communicate publically the land rights and land use context; countries to support and undertake land rights assessments and proper stakeholder consultation; and local/regional/national government to strengthen land information systems and public accountability through stakeholder roundtables. .
   c. Specifically, DFID and like-minded donors consider tying a land governance advisory and support facility directly to investment support and subsidy programmes, so companies/countries/stakeholders involved can get dedicated advice and assistance.
4. Exercise caution in programming any support for agricultural and infrastructure investment or for land titling and registration programmes in weak and corruption-prone land governance environments (requiring prior political economy assessment to identify risks of elite capture, as well as concentration in the short term on relevant legal and institutional reforms and support to civil society to promote accountability and legal empowerment).
5. Support the Global Donor Working Group on Land to engage with home governments towards full VGGT implementation, including extraterritorial investments, including engagement on international rules, open contracts and policy coherence in striving for whole-of-government approaches at home and abroad.
6. Place the highest priority on renewing efforts around land transparency by linking a G7 and corporate land transparency and reporting initiative to existing corporate reporting mechanisms, for example through extension of the EITI to land and by utilising GRI sustainability reporting, which is due to incorporate land.
7. Consider introducing mandatory land governance components in infrastructure and agribusiness investments that carry land corruption risks.
8. Increase support for local accountability mechanisms and legal empowerment both around land titling and registration support programmes and in relation to large-scale agricultural projects.
9. Support the development of methodologies for data generation and country-level context-specific and comparative analysis of land governance and corruption.
10. Specifically, seek to strengthen the analytics for land-related corruption in the LGAF and other land-related assessment and analytical tools.
11. Support further research on the relationship between corruption in land, investment, economic growth and development and the roles income and inequality play.
12. Generally, use the Sustainable Development Goals (SDGs), in particular Goal 16, as a frame of reference to mainstream anti-corruption programming in land governance, and operationalise them in conjunction with sector-specific frameworks such as the VGGT and the CFS RAI.

6.5. Civil society

Here, we set out recommendations for civil society at national level in developing and investment-host countries and for supporting actions civil society can take internationally.

6.5.1 National civil society actions:

1. Conduct systematic raining and advocacy for citizens, local NGOs and grassroots organisations on how to activate pressure points, in particular increased understanding of existing legal framework; scope, content and stakeholders of international best

practices, in particular the VGGT; and commitments of the government at national and international level to achieve greater transparency and accountability.
2. Run public awareness campaigns on how to identify potential corruption, conflicts of interest and vehicles for reporting.
3. Set up and run own reporting hotlines, guided by the Do No Harm principle, to increase transparency on corrupt practices in land administration.
4. Collaborate with regional and international civil society organisations to lobby for and monitor implementation of the VGGT.

6.5.2 International civil society actions

1. Collaborate with national civil society organisations to foster knowledge exchange on international best practice on land governance and anti-corruption, in particular on the VGGT.
2. Sensitise citizens in the North and South on the causes and effects of corruption in land governance, in particular in large-scale agricultural investments, and support constructive processes of addressing these problems, using the VGGT and the CFS RAI as a frame of reference.
3. Support and engage in multi-stakeholder processes between the private sector, the public sector (in the North and South) and civil society to support transparency in transnational large-scale agricultural investment projects.
4. Support international media coverage of corrupt deals to foster national and international accountability processes.
5. Sensitise governments and citizens in the North and South on the linkages of addressing corruption in land governance with the SDGs, in particular Goal 16 and its sub-goals.

6.6. Media, technology and mapping initiatives across sectors

Finally, as noted under the recommendations for the private sector (Section 6.2), we summarise actions that can be taken specifically by the digital open data community as a whole, including for profit developers and technology firms, non-profit social enterprise and civil society organisations and private and public investors and funding organisations.

1. Foster enhanced use of media, social media and Open Source Intelligence Tools (OSINT) to support the distribution and gathering of information about land deals and increasing public involvement at all stages of the transactions.
2. Support mapping initiatives such as Google Earth, the Land Matrix Database and others that can harvest corruption-sensitive data on land deals to be made public and to be input into systems and applications.
3. Support innovative uses of technology like mobile money that can bypass lower-level officials, reducing the opportunity for bribery. Other processes, such as applications for and issuance of land documents or putting property records online, may be automated using online/mobile hardware and software.
4. Introduce social media platforms to disseminate more positive examples of successful anti-corruption interventions and actions.

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Annex 1: East African Bribery Index 2012–2014

Data generated from East African Bribery Index shows that bribery in dealing with Land Services consistently features within the top ten ranks, with a slightly increasing trend.

Table 3: East African Bribery Index 2012-2014

#	2012	Country	2013	Country	2014	Country
1	Police	Uganda	Police	Tanzania	Police	Uganda
2	Police	Tanzania	Police	Kenya	Police	Tanzania
3	Police	Kenya	Police	Burundi	Police	Burundi
4	Land services	Kenya	Police	Uganda	Police	Kenya
5	Judiciary	Burundi	Police	Rwanda	Land services	Uganda
6	Police	Burundi	Others	Rwanda	Land services	Kenya
7	Judiciary	Tanzania	Land services	Burundi	Judiciary	Kenya
8	Judiciary	Uganda	Judiciary	Burundi	Police	Rwanda
9	Police	Rwanda	Land services	Kenya	Land services	Burundi
10	Land services	Burundi	Land services	Uganda	Judiciary	Tanzania

Source: Authors, based on TI Kenya (2015).

Annex 2: Corruption and the LGAF scorecards

Klaus Deininger and his fellow authors present key findings of LGAF results. They do not focus on corruption, but on the correlation between land governance and agricultural performance (Deininger et al., 2014). Their findings are highly interesting, displaying validated rankings for each indicator in 10 African countries and three non-African countries (to provide a broader, cross-regional perspective). The tables show there are pertinent differences between individual countries, corroborating the premise that history, institutional framework and political economy of each country matters. But the tables also flag evident corruption risks. The following tables pertain to the LGAF scoring for recognition and respect for existing land rights (Table 4) and to the LGAF scoring for public provision of land information (Table 5).

Table 4: LGAF scoring for recognition and for existing rights, 10 African and 3 non-African countries

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD	SEN	BRA	GEO	PHL
Recognition of a continuum of rights													
Land tenure rights recognition (rural)		A	A	A	B	C	A	B	C	A	A	A	A
Land tenure rights recognition (urban)	A	A B	A	C	C	A	A	B	D	C	B	A	B
Rural group rights recognition	C	C	A	B	C	C	C	B	B	A	C	D	A
Urban group rights recognition in informal areas	B	C	B	D	C	B	C	C	C	C	C		A
Opportunities for tenure individualization	D	C	B	A	C	A	C	C	C	B	D	D	B
Enforcement of Rights													
Mapping/registration of communal land	D	D	D	D	D	D	D	D	D	D	B	D	B
Registration of individual rural land	D	D	D	D	D	D	D	A	D	D	A	A	D
Registration of individual urban land	D	A D	D		C	A	D	A	C	D		A	C
Formal recognition of women's right		D	D	C	C	A	D	A	D	D	A	C	C
Condominium regime	A	C	C	A	C	D	B	A	D	A	A C	C	A
Compensation due to land use changes	D	C	C	C	C	B	B	B	D	B	D	D	B
Mechanisms for recognition of rights													
Non-documentary evidence to recognize rights	B	A	C	C	B	B	C	C	D	C	C	B	B
Recognition of long-term possession	B	D	C	A	B	A	D	C	A	D	A	A	A
Formal fees for 1st time registration low		D	C	D	B	B	D	D	C	D	C	A	A B D
No high informal fees for 1st time registration		D	D	D	B	A	C	B	D	A	A	A	B C
Formalizing housing is feasible & affordable	C	C	C	D	D	A	C	C	C	B	C	A	C
Clear process for formal recognition of possession	D	B	C	B	B	D	C		B		C	B	A
Restrictions on Rights													
Restrictions on urban land use, ownership and transferability	B	A D	B	B	B	C	B	B	C	B	A	C	B
Restrictions on rural land use, ownership and transferability	B	A	B	B	B	D	B	B	D	B	B	A	A
Clarity of Institutional Mandates													
Clear separation of institutional roles	B	C	B	C	C	C	B		D		C	A	C
Institutional overlap	C	C	C	B	C	D	C		D		C	A	C
Administrative overlap	C	C	B	B	B	A	B		D		C	B	B
Information sharing among institutions	B	D	B	D	C	D	B		D		D	B	B
Equity and Nondiscrimination in the Decision-Making Process													
Clear land policy developed in a participatory manner		D	B	C	B	D	C	C	C		C	C	A
Meaningful incorporation of equity goals		D	C	B	C	A	C	C	C		C	C	C
Cost of implementing policy is estimated, matched, resourced		D	C	B	C	D	D	C	D		C	B	C
Regular public reports on progress in policy implementation		D	C	B D	D	D	D	C	D		C	B	A

Source: Deininger et al. (2014:81)

Table 5: LGAF scoring for public provision of land information, 10 African and 3 non-African countries

	DRC	GMB	GHA	MDG	MWI	MRT	NGA	ZAF	SSD	SEN	BRA	GEO	PHL
Completeness of Registry Information													
Mapping of registry records	D	A	B	D	B	C	D	A	D	B	A B	C	D
Relevant private encumbrances	A	C	A	C	A	B	A	A	D	A	A	A	A
Relevant public restrictions	A	D	C	D	A	C	C	C	D	A	A	A	A
Searchability of the registry	D	A D	C	C	A	B	A	A	A	C	A	A	A
Accessibility of registry records	A	B	A	A	B	A	B	A	C	A	A	A	A
Timely response to requests	C	A D	B	C	B	D	C	A	D	B	B	A	A
Reliability of Registry Records													
Registry focus on client satisfaction	D	D	B	D	B	D	D	C	D	D	B	A	B
Cadastral/registry info up-to-date	C	D	B	C	C	C	D	A	D	B	D	D	C D
Cost Effectiveness, Accessibility, and Sustainability													
Cost for registering a property transfer	B	D	C	D	D	B	D	C	D	D	A	A	D
Financial sustainability of registry	A	A	D	B	D	D	D	A	C	A	A	A	A
Capital investment in the system to record rights	C	D	C	C	D	D	D	A	C	B	D	A	A B
Transparency													
Schedule of fees for services is public	A	B	C	B	B	A	C	A	D	A	A	A	A
Informal payments discouraged	D	D	D	C	D	B	B	A	D	D	A	A	B

Source: Deininger et al. (2014:83)

Annex 3: Explanatory notes on the text analysis methodology

Although the methodology of the LGAF country reports has evolved and been modified over time, affecting their comparability, they provide the most comprehensive assessments on land governance that have been conducted across so many countries. The LGAF country reports provide a wealth of qualitative data on perceptions and practices of corruption in land governance.

In this paper, we have sought to probe how useful the data are to profile practices and patterns of corruption in specific land governance areas. The content analysis is to be understood as an exploratory undertaking within the resource constraints of this mandate. Its prime objective is to explore the potential analytical significance of the LGAF country reports, illuminating avenues of future, more thorough, analyses for future research. It does not claim to be comprehensive, rigorously systematic or significant in its findings.

Content analysis consists mainly of breaking down text into pertinent units of information for their subsequent categorisation and interpretation. The structure of the LGAF reports provides one matrix of analysis, denoting thematic areas across the country reports (note the disclaimer regarding the modified methodology of the reports). However, for the purposes of this analysis, the missing unit of information is the category 'corruption'. To harvest this information and make it fruitful for subsequent analysis following steps were undertaken.

1. Definitions of key terms

Understanding the LGAF reports are written by different authors in different contexts with possible linguistic differences, key terms were chosen very broadly to capture as wide a spectrum as possible. The search terms below denote or imply corruption and corruption risks as frequently used in land governance in a first cursory reading of the reports. This list was enhanced with key terms stemming from anti-corruption discourse. The terms were modified for each report to accommodate potential synonymous terms (i.e. not transparent instead of transparency) and outlier terms (i.e. nepotism, informal staff loans, discretionary payment, etc.):

- corrupt/corruption/anti-corruption
- land grab
- bribe/bribing
- fraud/fraudulent
- rent-seeking/rent-seekers
- laundering
- informal fees/informal payments/informal institutions
- illegal staff behaviour
- misconduct
- compliance/non- compliance
- transparency
- power
- authority
- abuse
- exploitation
- deals (self-interested deals)
- expropriation
- collusion
- personal gain

This key term search was conducted in all English full or country reports in Africa.

2. Frequency and context of key terms

Once relevant keywords were located, total hits per term were tracked and we pinpointed their locations according to page number, section and subsection(s). The hits found that were particularly substantive within the scope of corruption in the land governance sector were contextualised even further by quoting the context in which they appeared.

3. Visualisation

For the sole purposes of illustrating potential uses of the analysis, one of many possible correlations was selected for translation into a graph. To construct the graph visually linking frequency, type and area of corruption, data were compiled from selected full country or final country reports of Sub-Saharan countries (Gambia, Ghana, Malawi, Nigeria). The information presented in the graphs reflects the number of hits for some of the selected terms and their corresponding section/subsection. Owing to formatting restrictions, include index tables beneath each of the graphs were as a key for interpreting the section/subsection values. The tables are designed to reflect only the illustrations of the graphs and not the total findings for the four countries (see Annex 4).

4. Interpretation

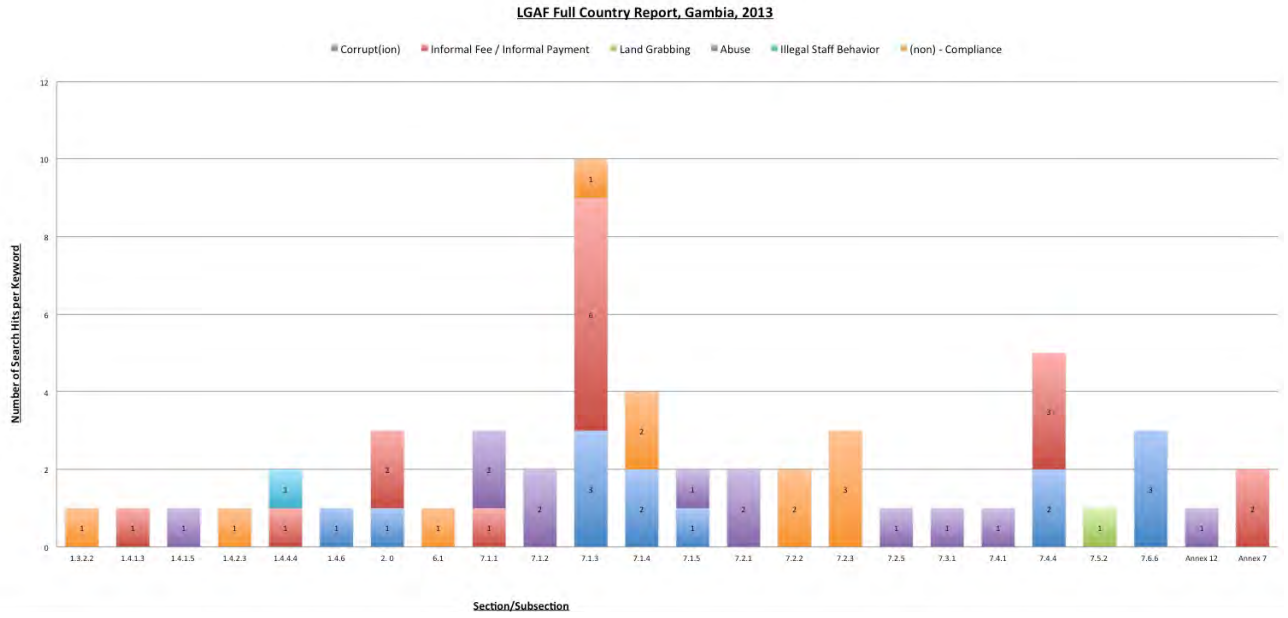
Given the exploratory nature of the analysis, interpretation at this stage can be only highly tentative. Preliminary findings indicate that, although the same types of corruption can be found across countries, their causes and the areas in which they occur differ widely between countries. Findings also show corruption is usually seen in conjunction with wider governance weaknesses.

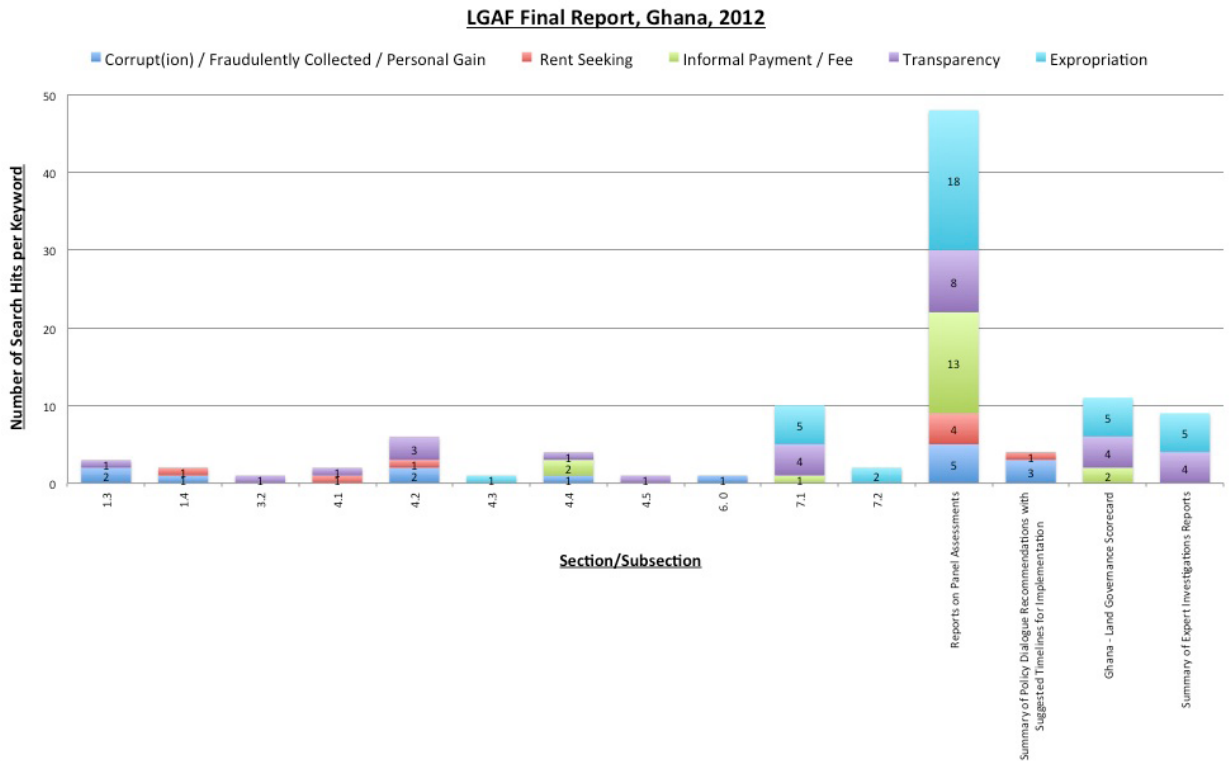
Methodological disclaimer:

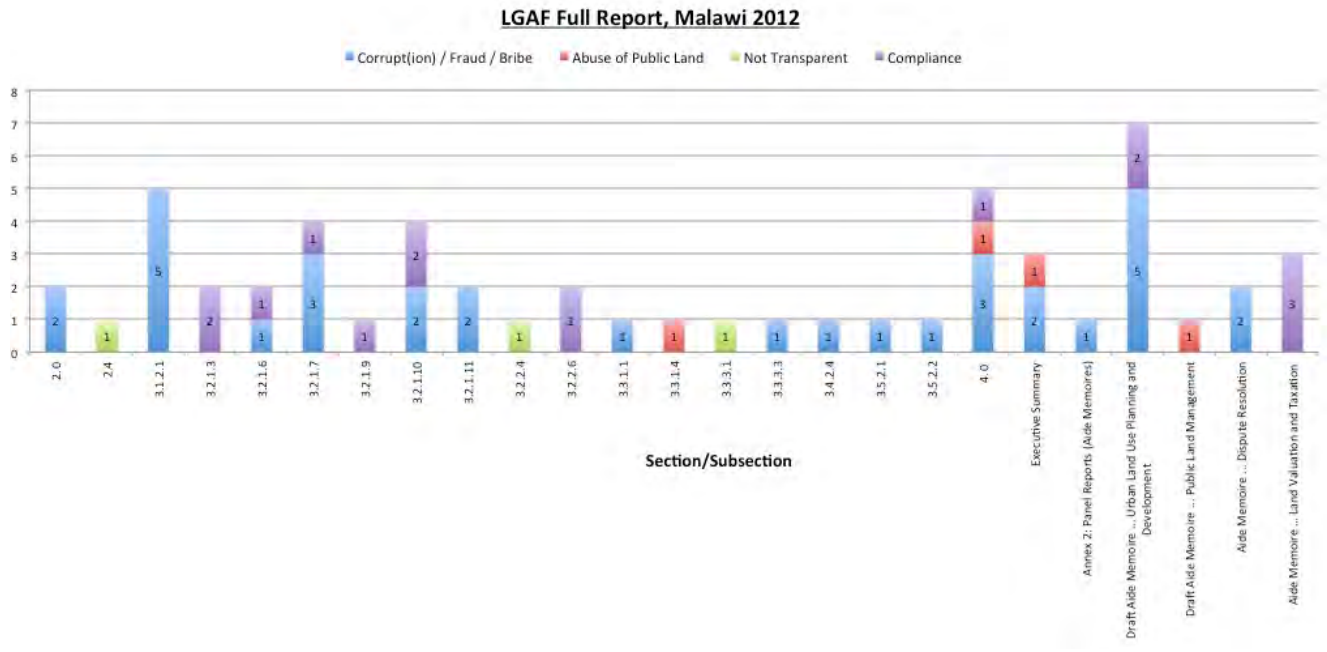
The methodology requires substantial modification to capture specific meanings and correlations of the individual terms more robustly. For instance, the term 'transparency' can potentially be used to describe effective and positive procedures, thus not denoting a corruption risk. Here, the contexts within which each term is used provide valuable clues to further coding and categorisation of terms, which could not be taken further in this paper.

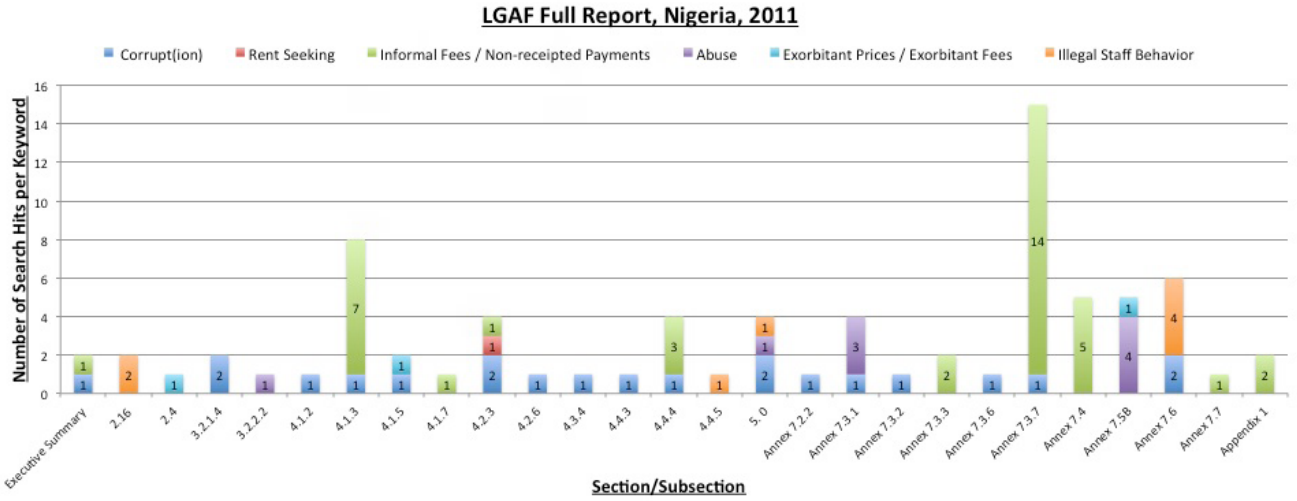
Annex 4: Visualisation of tentative findings from text analysis of selected LGAF country reports

The visualisations seek to relate the frequency with which key terms denoting corruption and corruption risks were mentioned and to link them to the thematic areas and subsections of the report in which they appeared. Although the methodology is far from mature, the visualisations illuminate the potential for utilising the LGAF country reports to contextualise types and patterns of corruption in land governance within and across countries. Methodological disclaimers can be found in Annex 3.







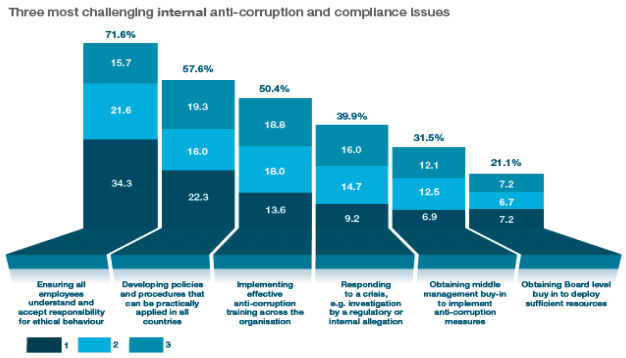


Source: Authors (drawing on LGAF country reports).

Annex 5: Corruption risks in international business

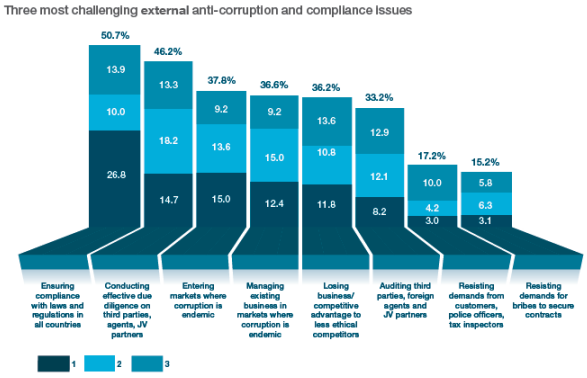
An international survey by Control Risk on business attitudes to corruption sheds light on the corporate perspectives on bribery. Tables 6–10 show some key corporate challenges:

Table 6: Three most challenging internal anti-corruption and compliance issues



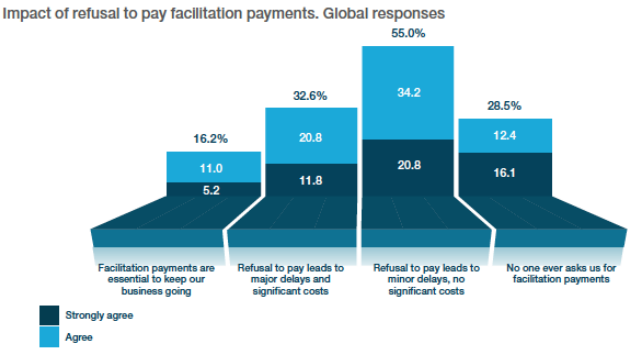
Source: Control risk (2015, 31).

Table 7: Three most challenging external anti-corruption and compliance issues



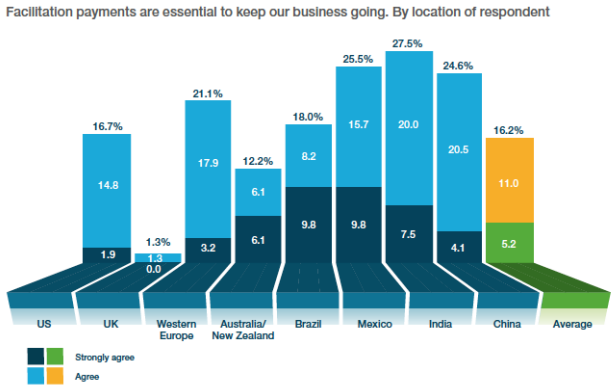
Source: Control risk (2015, 32).

Table 8: Impact of refusal to pay facilitation payments – global responses



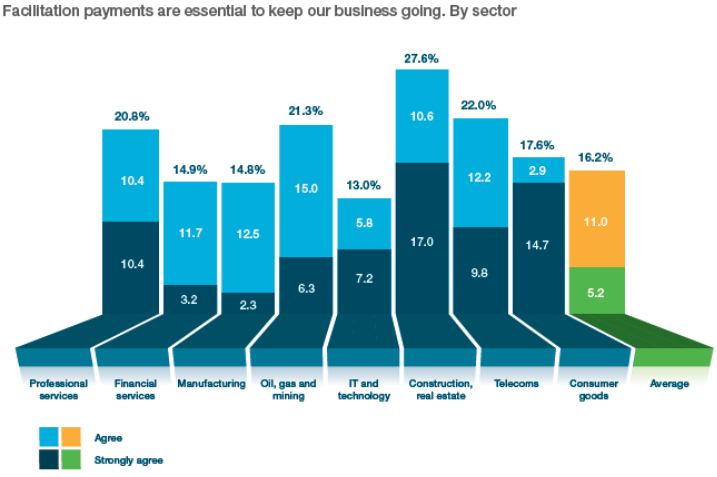
Source: Control risk (2015, 37).

Table 9: Facilitation payments are essential to keep our business going – by location of respondent



Source: Control risk (2015, 37).

Table 10: Facilitation payments are essential to keep our business going – by sector



Source: Control risk (2015, 38).

Annex 6: Risks, forms and drivers of corruption in land governance

This table seeks to pinpoint areas, risks factors and forms of corruption and to link them with political economy drivers and potential mitigation strategies. It is based on a table developed by TI and FAO (2011, 7), which is further developed by incorporating additional dimensions (political economy drivers and potential mitigation strategies) as well as some further areas and risk factors emerging from the findings in this report.

Table 11: Risks, forms and drivers of corruption in land governance

Area	Risk factors	Forms	Political economy drivers	Potential mitigation strategies
Land administration	- Inadequate land laws and procedures - Excessive or unpublished fees for land services - Lack of recognition of land uses and rights - Underdeveloped and non-transparent land registration systems - Absence of up-to-date and accurate land records - Existence of multiple land management authorities - Monopolisation of services, e.g. surveying by public officials - Irregular practices in the collection of land taxes - Limited accessibility of services - Lack of effective compliant, grievance and oversight mechanisms - Absence of a code of conduct - Willingness to pay of better-off users to access land services	- Bribery of and rent-seeking by land administration officials in provision of land information, services and documentation -Bribery of judicial authorities - Favouritism and nepotism by land in decision-making by land administration officials - Elite capture and preferential access to land titling schemes - Manipulation and interference of land records, land adjudication and dispute resolution in favour of influential people and investors - Manipulation of land valuation to secure higher prices and/or reduce compensation payable - Fraud and production of false land claim documentation, certificates and titles - Embezzlement of public finance for land administration and land revenues by public officials and politicians - Use of public institutions as a platform for private practice (e.g. by surveyors and planners) - Manipulation in public procurement of land administration services by officials and politicians to win private contracts	- Historical bias of land administration systems and formally recognised tenure systems towards the better-off and business and urban users - Maintenance of colonial principles and practice in design and management of post-colonial institutions - Under-resourcing of land administration in developing countries - Social and economic inequality and exclusion; illiteracy and asymmetric access to information - Vested interests of politicians, land officials and land professionals in the maintenance of discretionary authority opaque systems, and traditional manual technologies	- Design of fit-for-purpose land administration systems for land registration, tenure regularisation and titling; rationalisation and integration of multiple land authorities - Prioritisation of the land sector in public service reform and anti-corruption campaigns - Development of new appropriate standards for land administration and performance-based incentives - Computerisation of land records with electronic checks and balances and fail-safes in land records, land valuation and land revenue management (e.g. block chain technologies or open and crowdsourced land data) - Training of new generations of land professionals - Public information and legal empowerment - Wider action to combat social and economic inequalities - Grievance and complaint procedures; legal remedies for poor performance

Table 11: Risks, forms and drivers of corruption in land governance (cont'd)

Area	Risk factors	Forms	Political economy drivers	Potential mitigation strategies
Customary land tenure	- Lack of legal recognition and delineation of customary land; -Traditional practices of payments and ritual/ symbolic exchanges -Entrenchment of power over land in the hands of traditional leaders as a result of colonial policies and post-colonial settlements - Opaque systems, absence of outside control and lack of clarity in allocation of land - Commodification of customary land and speculation on land sales - Land administration and planning procedures inappropriate to full range of tenure types - Official bias against land service delivery to the poor and in customary areas - Rural–urban migration and population growth increasing demand for urban residential land	- Abuse of power by chiefs - Accumulation of control over land revenues by chiefs and influential people - Multiple allocations of the same plots customary authorities land - Conversion of customary and rural land for urban development as a means of revenue generation: rent-seeking by officials as gatekeepers for conversion and exploitation of price premia and differentials between customary/titled land in land disposals by chiefs and influential people - Reluctance of officials to provide land services to the customary sector, owing to limited willingness to pay - National institutions and business interests override local land rights	- Place of rural elites, customary authorities and land owning families in post-colonial constitutional and political settlements - Inadequate incorporation an failures of integration of customary principles and values within modern state institutions; vested interest of customary authorities in politics and business - Rising land values in peri-urban and high value agricultural areas under customary control - Land as one of the only sources of accumulation available to households and business people in rural areas - Interests of national institutions and business people override those of customary landholders and users in national legislation - Asymmetries/ inequalities in access to information, legal awareness, resources and social influence between officials/ traditional leaders/ business people and customary land users	- Legal reform for recognition of customary forms of tenure - Legal instruments applicable to customary land, e.g. leasehold contract instruments, revenue-sharing agreements; legal incorporation of community groups - Service standards for land administration and land use planning arrangements in customary areas - Training and accountability mechanisms for customary authorities and community leaders - Legal awareness and empowerment of community groups for land management - Training of paralegals and land para-professionals at community level
Management of state-owned land	- Lack of inventory, delineation and management of state land - Irregularity of land prices for disposal and acquisition - Unclear institutional responsibilities and decision mechanisms - Absence or lack of clarity of regulations for leasing land or exercising eminent domain - Lack of effective compliant, grievance and oversight mechanisms	- Collusion with and bribery of government officials by private interests to obtain public land at a fraction of market value - Manipulation of compulsory land acquisition and compensation processes by government officials and investors - Inadequate legal framework for conversion of customary to public to private land - Irregular conversion of property and land classification status by government officials	- Doctrine of eminent domain/ absolute authority over land vested in state/president - Centralisation of authority over public land - Discretionary authority of public officials over land at multiple levels	Much of the above applies, as adapted to urban development contexts - Development and disclosure of proper inventories and mapping of public and state-owned land - Constitutional restrictions on the exercise of eminent domain by the state vis-à-vis established public, private and customary interests in land - Decentralisation of state powers over land, e.g. removing direct presidential nomination control of commissioners for land
Land use planning, conversion and investments	- Lack of transparency of planning processes and land allocation procedures - Opaque, slow and bureaucratic processes for issuing building development permits - Unclear land use and property rights - Lack of effective frameworks and capacity for land use planning - Lack of mechanisms for participation and accountability in land use planning - Lack of effective complaint, grievance, independent oversight and enforcement mechanisms - Lack of an independent media	- Capture of rents and profits originating from land conversion and re-zoning by government officials and investors - Abuse of government officials' discretionary power to propose real estate and land developments that increase the value of their personal property - Acquisition of land through state capture and/or by investors and developers having received insider information from government officials - Bribery of government officials by investors and/or developers	- Absence of investment in land use planning capacity - Vested interests of national elites in urban development projects - Vested interest of rural community leaders in land development	(Much of the above applies, as adapted to urban development contexts) - Development of appropriate land use planning services - Stakeholder and community-based accountability mechanisms for land use planning

Table 11: Risks, forms and drivers of corruption in land governance (cont'd)

Area	Risk factors	Forms	Political economy drivers	Potential mitigation strategies
Large-scale land acquisition/ disposal for investment purposes	- Inadequate legal and policy frameworks for screening, management and monitoring of investment projects - Lack of coordination between investment agencies and land administration authorities - Centralisation of powers over investment projects and large-scale land allocations - Absent or incomplete land records in areas targeted for investment - Failure to incorporate principles of FPIC in national legislation and policy - Lack of disclosure and transparency in relation to investment projects - Vested interests of politicians and officials in land investment projects	- Bribery and manipulation of community leaders - Payments of bribes and kickbacks to officials involved in approving land allocations - Circumvention of agreed and legally binding consultation procedures - Political interference in land acquisition and allocation	- Influence of global international business interests over national development policies - Encouragement and promotion of private sector investment in development policy - Vested interests of politicians in investment projects - Lack of accountability and responsiveness towards citizens - Inadequate policy and regulatory framework for large-scale agricultural investments in host countries	- International investment contract law - Enforcement of international law - Compliance with international best practices (VGGT) - Disclosure of investment plans and practice by companies and donor countries - Enforcement of relevant national laws (e.g. on community consultation and consent) - Better coordination between relevant authorities - Accountability and transparency mechanisms - Incorporate measures to ensure disclosure and transparency and support to land governance in donor programmes for investment support and credit subsidies especially in corruption-vulnerable frontier markets

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