



Corrupt Practice in Land Administration: Analysis of the Impacts towards Development's Prospects

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Abstract

Land is never merely a resource or a way to make ends meet; it is a significant source of financial resources, a link to one's identity, and a social authority that fundamentally supports the conduct of humans, much of which is susceptible to corruption. Numerous land-related disputes escalate, and a range of effects are noted; however, the land itself is frequently not the only source of these effects; poor management practices also contribute to the issue.

Objectives

This paper aims to analyse the impact of corruption in land administration; and assess the maladministration practice of public officials as recognised as sole heavy prone to corruption.

Findings

Findings show that issues like land disposition/ allocation, Land valuation, land titling/identification, and land Planning use and investment (to mention a few) have major impacts on society since there is much room for corrupt practices to flourish. So, it is concluded that land and corruption are guises in fiction, requiring both individuals and public officials' willingness to fight against them.

Methodology

This article adopts qualitative and quantitative methods to review the existing literature to generate data, explore the bases of corruption in land administration, and analyse the impacts of corrupt practices.

Keywords: - Land, Land Administration, Corruption, Land Corruption, Maladministration practice.

I. INTRODUCTION

The United Nations Economic Commission for Europe coined the term "land administration" in 1993, along with its guiding principles, and it refers to a broad range of government systems and procedures that must be followed for operational purposes, whether they are official or unofficial. Various meanings have been presented to define land administration, and officially 1993 the United Nations Economic Commission for Europe (UNCEC) defines land administration as *the process of determining, recording and disseminating information about the ownership, value, and use of land and its associated resources*. Similarly to that, the UNECE guidelines further provide that, *the processes include the determination (sometimes called adjudication') of land rights and other attributes, surveying and describing these, their detailed documentation, and the provision of relevant information for supporting land markets (FAO, (n.d.))*. The UNCEC guideline emphasizes that its goal is to ensure that all the facilities required for the successful execution of processes including legislative structures, criteria, land data systems, institutional structures, and the management and distribution of applications and technologies is in place. Furthermore, (Williamson & Steudler,2002) define land administration as 'the processes of determining, recording and disseminating information about the tenure, value and use of land when implementing land management policies.(Ashaye, 2010) also says that *land administration is considered to include land registration, cadastral surveying and mapping, fiscal, legal and multi-purpose cadastres and land information systems*. Land administration, Contrarily, land administration is recognized as a means of generating revenue from the land through sales, leasing, and taxes in addition to resolving conflicts over land ownership and use.

Although the UNECEC created some guidelines on how to handle land administration; those guidelines are nonbinding and are not infinite reform in land administration.

II. AN OVERVIEW OF LAND: DEFINITION OF LAND TENURE, TYPES, AND CATEGORIES

2.1 Definition of Land Tenure

The position that people and organizations have over land and land-based assets, including pastures, water, minerals, and trees, is known as land tenure. It is additionally referred to as a system that grants interested parties different land rights. Secured land can serve as a foundation for economic development and a motivation for investing, but uncertain title to property may end up in disputes, insecurity, and the disappearance of those most in need, including women, people of Indigenous descent, and the poor. When land is properly protected, it becomes a magnet for investment and a driver of revenue generation. Conversely, when it is not, societal conflicts are more likely to flare up. "To hold" is the French verb from which the English word "tenure" of land is derived. The ownership and possession of land by an individual is governed by the common law system. Who has the right, and for how long, to use a piece of land is defined by its tenure. In Tanzania, land is possessed by the president, who serves as a trustee for all citizens. An individual may legally possess land for a duration of 33, 66, or 99 years via a government-issued Right of Occupancy

2.2. Categories for Land Tenure

Land tenure can be classified into three distinct types: general, village, and reserved. To better serve the public, the President can rezone village land as either general or reserved. "General land" refers to any piece of property that fails to meet the requirements to be classified as reserved or village land, as well as any village land that is unoccupied or underutilized, falls under this category. There are a few ways to get land in Tanzania: buying it, inheriting it, grabbing it, or having it allotted to you by the government. Though the land has three categories of tenure, it retains only two forms and these are granted the right of occupancy (Section 2, Land Act) and customary right of occupancy (Section 2, Village Land Act) Both rights (Granted

Right of Occupancy and Deemed Right of Occupancy) are secured by certificates of occupancy governed by the land statutes.

III. UNDERSTANDING OF CORRUPTIONS, FORMS, AND ACTS OF CORRUPT

3.1. Corruption

The term "corruption" has taken on various meanings from scholars in various fields. Instead of defining corruption, the acts are merely described by several of the instruments. Many writers have written about corruption and offered their own unique interpretations of the term, which leads to a wide range of possible meanings. According to many investigations, Corruption is a huge issue in developing countries like Tanzania, making it difficult to provide social services effectively. For instance, the (SADC Protocol against Corruption, 2000) defines corruption as *any act that includes bribery or any other behaviours about a person entrusted with responsibilities in the public and private sectors that violates their duties and is aimed at obtaining undue advantages of any kind for themselves or others.* (Art. 1, SADC Protocol against Corruption, 2000) Meanwhile, the AU Convention on Prevention and Combating Corruption (Art. 3, AU Convention on Prevention and Combating Corruption, 2003) defines corruption as *the acts and practices, including related offences prescribed therein.* The World Bank Control of Corruption Index, Transparency International, and the Corruption Perception Index are just a few of the organizations that have been vocal about the negative impact corruption has on development and have promised to enact policies to combat corruption more effectively and limit the likelihood of individuals benefiting financially from corrupt practices. The World Bank Report of 2008. (Bolongaita, 2010) states that *corruption is the single greatest obstacle to economic and social development.*

Corruption, according to Transparency International (TI), is a major problem in the modern world since [I] *it undermines good governance, fundamentally distorts public policy, leads to the misallocation of funds, harms private sector development and particularly hurts the poor.* Corruption is defined in a similar way in the Oxford English Dictionary as *dishonest or illegal behaviour, especially involving people in authority, typically involving bribery.* A number of writers from the social sciences, law, and the humanities have provided distinct definitions of corruption; these include Hussein, Kibwana, Riara, Klitgaard et al., and Klitgaard itself. Alternatively, it has been noted by others that the term corruption is frequently oversimplified and used solely to characterize the function of anti-graft authorities. The concept of a narrow definition always makes it easier to do illegal things. (Vorster, 2013) further states, "corruption is a ubiquitous phenomenon intensified by the worldwide expansion of trade, the existence of global crime syndicates, the expansion of international aid to underdeveloped countries, the internet, and governments with weak prosecuting systems" . asserts that *'corruption in various forms has been with humankind from the earliest times. In the present time, corruption is rampant and occurs in multiple manifestations.* The biggest problem, according to reports, is corruption, which impedes the world's economic and social development and undermines development by destroying and weakening the institutions to fight against corruption (Reviro, 2004)

(Shabbir & Anwar, 2007) emphasise that *in support of the above, the holy books including (The Quran, 2:11, 2:27, 2:30, 2:205, 5:32, 2:188) and (The Bible, Matthew 26:14-16; Mark 14:10-11) provide some scriptures to address and prohibit human beings from indulging in bribery.*

Additionally, (Masabo & Maina, 2009) contend that *the Holy Bible has many references to corruption. It attributes corruption to a deceitful lust for corrupting things on this earth like gold and silver.* Masabo and Maina further state that *according to the Bible, corruption blinds the eyes of the wise and twists the words of the righteous;* and Ryan emphasises that *corruption exists as long as there are entities in power and money to encourage, and it is categorised by extensive bribery (Ryan, 2000)*

3.2. Forms of Corruption

Forms of corruption are normally identified from the acts people perform and always lean by various names such as 'petty corruption' and 'grand corruption', 'passive corruption' and 'active corruption', and 'passive bribery' and 'active bribery'.

These forms deliberate the action of an official who directly or indirectly through an intermediary request or receives advantages of any kind whatsoever for himself or a third party or accepts the promise of such advantages, except that performance is not that of an official but of anyone whosoever (Art. 2, EU Convention on the Fight against Corruption, 1997) However, it is remarkable that each form seems to present nearly the same meaning. Considering the fact that there are a great number of other types of corruption that have been mentioned, it is likely that public and private officials who engage in grand and petty corruption do so with the intention of enriching themselves in an illegal manner. Due to the fact that they are the most prevalent types of corruption, this article will concentrate on the two most well-known types of corruption: grand and petty

The avarice of the already wealthy, both locally and globally, is a major motivating factor in grand corruption, which is characterized by massive deals involving high-ranking public officials and multinational trading or investment firms. Corruption at the highest tiers of political structures occurs when state and local officials are given the authority to legislate on behalf of the public, only to use it to further solidify their own power, prestige, and fortune. According to Rose-Ackerman, widespread disillusionment with the government, the system of statute, and economic stability results from grand corruption, which affects even the highest echelons of government. (Doig & Theobald, 2000) stated that grand corruption was often motivated by greed; it dealt with highly placed individuals who exploited their position to extract large bribes from representatives of transnational corporations, arms dealers, drug barons and the like, who appropriated significant payoffs from contract scams, or who simply transferred huge amounts of money within banks.

Petty corruption is another form of corruption that refers to uncertain sums of money and has also been called 'low level' and/or 'street level' corruption. This kind of corruption points out that people's participation is more or less daily and come across public management services such as hospitals, schools, local licensing authorities or police or taxing authorities, among others. 'Speed' or 'grease' money means a form of corruption where lower-level officials seek and receive small amounts of money in exchange for expediting a legitimate process. These officials are junior officials who are ostensibly serving the public.

With this form of corruption, it is understood that public officials undertake dishonest transactions with officials to obtain services of one kind or another. Corruption of this kind is often found in the supply of assistance, which are supposed to be freely available to the public. People who live in societies where the average salary is extremely minimal are far more inclined to engage in various forms of petty corruption as a means of sustaining themselves. The perception of petty corruption as a transaction in which multiple individuals can fulfil each of their duties has persisted. On the one hand, one can justify corrupt practices by citing more pragmatic prevailing norms, like 'everyone is doing it' or 'it is needed to survive,' while simultaneously condemning corruption in relation to official rules and ideal conceptions of public management.

3.3. Acts of Corruption

Numerous national and international instruments establish offences that call for the criminalisation of acts of corruption concerning public officials, officials of a foreign state and individuals. This list is one of the tools that can be used to demonstrate that corruption does in fact exist. The African Union Convention.(Art. 4, African Union Convention against Corruption, 2001) states that *the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she can exert any improper influence over the decisionmaking of any person performing (sic) functions in the public or private sector in consideration thereof, whether the undue advantages is for himself or herself or anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the supposed influence leads to the intended result.* Further, the SADC Protocol (Art. 3, Southern African Development Community Protocol against Corruption, 2000) stipulate that *any public officer or a person who is willing to solicit for himself or herself to offer or grant a promise to assist either directly or indirectly any goods or monetary value in terms of a gift with a promise in exchange for any act during office tenure and that conduct is for the benefit of either that person or another person or entity is guilty of an offence.*

Further to that, the ECOWAS (Art. 6, Economic Community of West African States Protocol on the Fight against Corruption, 2001) highlights that *any person who either directly or indirectly through a third party receives any object of pecuniary value such as a gift, offer, promise or advantage of any nature whether for himself, herself or another person, in exchange for an act or an omission in the discharge of his, her or their duties.*

Furthermore, the United Nations Convention against Corruption (Art. 15, United Nations Convention against Corruption, 1977) provides that *the solicitation or acceptance by a public official, directly or indirectly, of undue advantage, for the official himself or herself for another person or entity, so that the official acts or refrains from acting in the exercise of her his official duties.*

Each piece of evidence demonstrates that there is a subset of the population that is willing to break the law in this manner, so it makes sense to criminalize these acts. Each of the previously mentioned bits of legislation were put into place with the intention of making individuals make payments for their unethical conduct.

IV. LAND CORRUPTION AND PRACTICE

In both the acquisition and management procedures, corrupt practices can manifest as land corruption. Offering bribery to register property, change land titles, gather details, process cartographic surveys, and establish acceptable land utilization plans are all examples of corruption in land administration. The 2011 TI report found a significant relationship between a country's land sector corruption and its total public sector corruption. The paper further provides that *small-scale to high-level bribery and fraud are examples of the types of corrupt practices that can be found in the land industry. In general, bribery in this sector can be described as extensive and lacking efficient methods of control.*

Furthermore, the TI report emphasises that *the corruption that occurs in land administration can take the form of small bribes that need to be paid to register property, change or forge titles, acquire land information, process cadastral surveys,*

and generate favourable land use plans. Those who are unable to pay the bribes are thus left out. Because bribery discourages compliance with land laws, it leaves these laws vulnerable to abuse. Some of the nations with the worst land services include Burundi, Tanzania, Kenya, and Uganda. A few instances of land administration maladministration that greatly aid in the spread of corruption are provided below.

4.1 Land Urbanization

Land urbanization is still going on, and there's a lot of competition for land, which makes land administration hard. The United Nations Population Estimates and Statistics Agency predicts that by 2050, There will be over 9 billion people on the planet, up from 7 billion in 2012. Nearly 75% of this population will call cities home. In the same vein, (UN-Habitat, 2018) stipulates that *as rapid urbanization around the world continues to be a global concern, with over 60 per cent of the world's population expected to live in cities by 2030 and nearly 70 per cent by 2050*. Corruption in land management poses a threat as the demand for and value of land resources rise, which in turn creates opportunities for enrichment. Manipulators in urban areas evict residents and seize their land. For instance, (The Global Corruption Barometer, 2013) stated that *in five people who had contact with land administration services reported having paid a bribe to land services*. Likewise, in (The East African Bribery Index, 2015) repeatedly showed that bribery is rife in the land services sector in East Africa (Zinnbauer, 2015) Similarly, (Chiweshe, 2021) says that *urban land provides spaces for understanding the intersection of politics, money and corruption in post-colonial Africa*. During the process where individuals seek to own land, people give bribes to public officials to speed up processes, collusion between parties to drive prices down and officers deliberately extorting bribes by obstructing a deal's completion (Zuniga, 2018). Similarly, the PCCB report (Prevention of Corruption Bureau Research and Control, 2005) stipulates that *the survey and mapping sector has two areas of corruption; the land survey process and approval of survey plans. Corruption emerges due to a lack of transparent service charge mechanisms*. The PCCB report further stipulates that *survey officials demand payment for services they offer while all such dues are paid in full when one processes the letter of offer*.

4.2 Land Titling / Identification

The most crucial aspect of land management is land identification and titling, which specifies the location, ownership, and boundary. The United Nations recognized Land as having a pivotal position in human history in 1976. A great deal of other progress, including increased agricultural output and urbanization, can be traced back to it. Identification is a fundamental and essential part of land identification and titling as a science because it contains information that is useful for many things. Duplicate allocation, owner identification delays, and procurements made during the certificate of occupation procedures are the main causes of corrupt practices. It has been discovered that, despite following the proper distribution procedures, land officers frequently assign the same plot to several people for the benefit of themselves. It has come to light that certain land officials intentionally prolong the process in order to collect bribes in exchange for the issuance of permission for transferring particular titles of occupancy, so anyone hoping to get their title certificate should be prepared to pay a bribe. Because land officials do not have clear-cut criteria to deny or grant the necessary consent, the permission for disposing phase is also believed to be a situation wherein bribery happens.

4.3 Land Disposition and Valuation:

It is possible to bribe these two potent tools of coercion. The procedure has demonstrated that there exist numerous problems with valuation, including heuristics, corruption, variations, and erroneous results. Valuers' misconduct which can include negligence, professional dishonesty, incompetence, or unethical behavior is frequently blamed for these issues. Since the accountable party may opt to under-or overvalue the property, corruption is thought to have an enormous adverse effect on land disposition and valuation, as indicated by the aforementioned evaluation process problem. occupational field. Bribery can occur during price negotiations, to have the process expedited, or to prevent officials from obstructing the deal. When powerful politicians or public officials have a personal investment in one step of the process, corruption is more likely to occur. Also, the PCCB Report found that this is a common practice for valuers to mistakenly assign a parcel of land as the subject property when in fact it is not.

4.4 Land Use Planning and Investment

There has been a recent uptick in consumer demand for ground as a result of population growth. A lack of surveyed plots, encouraged unchecked development, and illogical land use, especially in urban areas, are all results of planning's inaction in the face of rising demand and intense competition for available land. Town planners are corrupt because they have a stranglehold on the planning process, which includes approving schemes, asking for planning consent, and determining whether a building can change uses. Opportunities for illicit enrichment presented by land acquisitions are a typical catalyst for corruption. Enhanced corruption risks and large sums of money are common side effects of investing in the industry. Investments have the potential to corruptly pay off local officials and powerful people in order to purchase property for construction projects, lease property, or buy property outright. The development and use of land is also typically easy to control. Because decision-makers must strike a balance between the competing interests of different stakeholders, including landowners, by limiting their rights to use and their discretion to build, the process exposes people to corruption. According to the 2005 PCCB report, the public is pressured to pay officials with undocumented funds in order to expedite the tedious and slow approval process of urban detailed plans.

According to the UN report, corruption is increasing in the biofuel sector, which is not surprising considering that many countries with weak leadership are desirable destinations for this type of investment.

V. THE IMPACTS OF CORRUPT ACTIVITIES IN LAND ADMINISTRATION

Corruption in land administration increases levels of poverty and hunger because it reduces access to land (Zuniga, 2018) It has been noted that the impact of corruption is especially significant in developing countries (Sachs, 2017;Palmer, Friccka, & Wehrmann, 2009;De Schutter, 2016) UN-Habitat points out that *the fear of eviction may prevent people from operating to their maximum potential or investing in their neighbourhoods, in turn, reduces the revenue from taxes and services charges, and the uncertainty associated with insecure tenure may hinder external investments and the improvement of services such as water and sanitation (UN-Habitat, 2004).*(Knight, 2022) insists that *corruption can be used to overcome obstacles to acquiring land, including circumventing community consent, environmental or social safeguards, or regulations related to the use of land.* Furthermore, there is evidence to suggest that *land corruption harms the environment, driving land grabbing and misallocation of land which can lead to deforestation, degradation, and land conversion, among other impacts. Land corruption erodes the effectiveness and credibility of efforts to address the climate crisis.*

Bribery is another way in which land corruption affects poverty. People are more vulnerable to bribery and, therefore, more likely to pay bribes. This vulnerability to bribery can increase poverty in two ways: i) the payment of bribes can account for a considerable proportion of a poor household's income; and ii) The unethical practices of land services may deter poor people from managing their land, endangering their prospects for land entitlement and means of subsistence.

Because it encourages investment in land and extractive activities, land corruption has both positive and negative indirect effects on economic inequality. According to World Bank study findings, enormous scale acquiring of land for farming operations can boost nations in many ways, including by adding jobs, increasing wages and local savings, drawing in new residents, providing possibilities for local small businesses, and improving the system.

Corruption in land administration makes it harder for women to own land, which impacts how they use and control the land they do own. As a result, women are less able to have a say in land use decisions and lose out on the financial prospects that accompany term stability, both of which exacerbate gender disparity. Unauthorized conversion of customary land to commercial land occurs in many African countries as a result of corrupt practices surrounding large-scale land-based investments. Due to the male-dominated decision-making process surrounding the possession of land, women face increased vulnerability when they do not own any property of their own.

Also, a lot of wars break out because of corrupt land administration. The acceptance of fraudulent titles by the land registration office leads to the allocation of identical land parcels, which is a form of conflict that corruption facilitates. Political and social unrest often stems from the "grabbing" of property.

VI. CONCLUSION

Weak land administration systems, limited legislation, weak institutions, lack of transparency, lack of effective oversight institutions and reduced social participation are among the drivers of corruption in land administration. To improve land governance, the government has to ensure that the issue of corruption is well addressed.

Organize a land management system is a key condition to prevent corruption. Good practices in the reform of land management are to simplify the administrative system, reduce steps and prevent opportunities for corruption. Increase transparency is key to preventing corruption and to hold authorities and institutions to account. It should be present to help minimise ambiguities and misinterpretations. Transparency is achieved by full public disclosure of documents around investment deals and land title certificates. It should be promoted by allowing public access to land administration documents, such as maps, land and urban plans, and to the findings of accountability institutions (Wheatland, 2016).

Ensuring accountability in land administration would improve service delivery and ensure the integrity of government actions. One way to increase accountability is by including strong and effective oversight institutions, such as parliamentary committees, anti-corruption commissions and law enforcement bodies (Transparency International & FAO, 2011) Along with top-down accountability, social responsibility is commonly praised for its role in fighting corruption.

Citizens' participation in land governability improves the compliance of those actors with the policy.(Deininger, Selod, & Burns, 2012) says that *land sectors will gain legitimacy if the policy is backed by political and social consensus rather than being perceived as captured by interest groups.* On the other hand,(Zakout et al., n.d.) says that *the affected population should be involved in the identification of land parcels and their demarcation.* Similarly, in 1989 the International Labour Organization C169 Indigenous and Tribal Peoples Convention– for the countries ratified that, *for indigenous peoples to have fair consultation and participation, some measures must be considered: guarantee equal bargaining power free from threats and manipulation, and to provide all the information, with enough time for the community to study it, and in a language understood by the community.*

The improvement of human resources management should establish certain conditions and systems that can reduce the potential for corruption in government, ultimately demanding or receiving a bribe is an individual decision. Some measures can be implemented to discourage corrupt activity. The first is to help government employees make challenging choices by creating and sharing institutional guidelines and staffing procedures. To motivate land administrators to act ethically, the guideline should contain both incentives and penalties.

When it comes to public administration, education is a powerful tool for promoting integrity because it lowers society's tolerance for corruption and helps to prevent it. Last but not least, a meritocratic system of hiring could help shift institutional culture far from corruptive personal interests and toward the public good.

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