

Good Governance in Land Tenure and Land Administration

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The concept of bad governance and corruption has changed from being 'unmentionable' in development assistance to be one of the key issues of global governance.

It is now recognised as a key challenge in the global fight against poverty.

There is a shift from global awareness to sector specific assessment (Land Sector, Education, Post-Conflict, Fragile and Failed States a.o.)

Governance problems in the land sector are common in all countries

- In advanced countries land rights are secure, institutions strong and officials are generally held accountable, but there are strong connections between wealth and power and influential lobbies
- In developing countries there is often a lack of clarity about land rights, legal inconsistency, weak law enforcement, obsolete institutions and limited access by the poor

Governance

The exercise of political, economic and administrative authority in the management of a country's affairs at all levels.

Good Governance

Favorable political framework

1. Voice and Accountability,
2. Political Stability
3. Government Effectiveness,
4. Regulatory Quality,
5. Rule of Law,
6. Control of Corruption

Bad governance in the land sector reflect the range of problems seen throughout society

- Petty corruption (Bribery)
- Fraud
- Extortion and embezzlement
- Weak rule of law and law enforcement
- Impunity practices
- Misuse of power and state capture
- Human right violation

Five examples to illustrate the range

(1) Forced evictions, global cross section survey 2002 (COHRE) www.cohre.org

Region	Persons (millions)
Africa	4,1
The Americas	0,7
Asia	1,8
Europe	0,2
<i>Total evicted</i>	<i>6,7 in 60 countries</i>

Forced evictions occur as a result of:

- Development projects (Dams,
- Ethnic discrimination
- Urban re-development
- Reclaiming state land
- Conflict over land rights

(2) Women's insecure land rights
Violation of Human rights
 (Human right watch, www.hrw.org))

- Millions of women around the world suffer abuses of their equal rights to own, inherit, manage and dispose their land
- Gender responsive laws are important, but changing social norms is even more so
- The staggering number of HIV/AIDS affected (especially in Africa) is resulting in millions more women becoming widows at a younger age, often being excluded from inheriting the husbands land and evicted from their land and shelter

(3) Grand corruption in managing state land

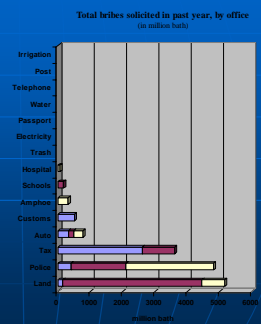
- Political interference in the allocation and acquisition of public land
- Vested interest of powerful people lead to strong resistance for better governance (land grabbing, illicit land swaps and eviction)
- Lack of policy (Land and Fiscal Policy)
- Lack of information about where is what
- Fragmented institutional arrangements
- Central level interests over-ride local resource rights

(4) Tsunami Relief Operations
 (ADB/OECD anti-corruption initiative)

- Disasters exacerbate existing disparities in wealth and power and increases the likelihood of corruption
- The effected poor have lost their land and housing within the newly established 200 meter no-construction zone (Sri Lanka)
- Exemption to the rule are made all over for tourist hotels and other capital intensive projects and powerful clans.

(5) Corruption in Land Administration for example Thailand (WBI diagnostic survey)

- The total amount of bribes is highest at the land offices - 5.1 billion baht.
- Land Dept., Police and Tax account for 88 percent of the total amount of 15.4 billion solicited in bribes in 2004



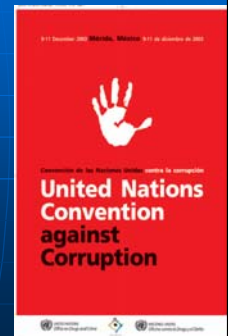
Consequences of weak governance and corruption

- Consequences:
- For Economic development
 - For the poor
 - For the environment
 - For the democracy and political system
 - For international development cooperation

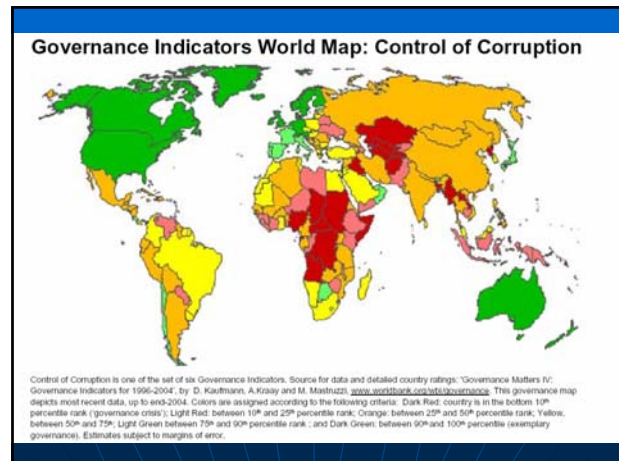


It is a challenge to measure governance and corruption that is both vague and concealed

- WBI** Governance indicators
- TI**: Corruption perception index (CPI)
- BTI**: The Bertelsmann Transformation index
- UNDP**: The governance indicator
- OECD/EU** Metagora project



Governance Indicators: Voice & Accountability (VA), Political Stability (PS), Government Effectiveness (GE), Quality (RQ), Rule of Law (RL), Control of Corruption (CC) - CO						
Percentile Ranks, 2004	VA	PS	GE	RQ	RL	CC
LIBYA	3	47	25	6	31	17
LITHUANIA	77	75	74	86	67	69
LUXEMBOURG	96	100	96	100	100	97
LIECHTENSTEIN	92	94	92	96	89	92
MACAO	50	88	82	92	92	92
MACEDONIA	47	15	51	45	42	39
MADAGASCAR	49	48	39	56	45	53
MALAWI	33	36	29	29	45	24
MALAYSIA	37	59	81	66	65	65
MALDIVES	20	72	67	52	37	61
MALI	56	90	45	43	43	38
MALTA	92	96	84	90	87	88
MARSHALL ISLANDS	86	68	37	29	50	23
MARTINIQUE	68	96	78	76	83	75
MAURITANIA	16	54	62	53	32	58
SAN MARINO	89					
SAO TOME AND PRINCIPE	65					
SAUDI ARABIA	6					
SENEGAL	51					
SERBIA AND MONTENEGRO	50					
SEYCHELLES	45					
SIERRA LEONE	33					
SINGAPORE	44					
SLOVAK REPUBLIC	83					
SLOVENIA	84					
SOLOMON ISLANDS	50					
SOMALIA	6					
SOUTH AFRICA	72					
SPAIN	88					
SRI LANKA	41					



The big picture and the driving forces	
<i>Global Governance Context: (5+5)</i>	<i>Land Governance Facing the challenge:</i>
1. The Millennium Dev. Goals MDG	1. FAO GG land initiative
2. UN Sustainable Dev. Goals CSD	2. UN- Habitat secure tenure campaign and GLTN
3. UN Convention against corruption	3. WB and Bilateral Org. responding to MDG in the land sector
4. OECD-DAC declaration on aid effectiveness	4. NGOs (ILC, IIED, OXFAM) secure tenure and access to land
5. Public Sector Reform or NPM	5. FIG work plan review in Munich ??

- Reviewing the Perception of Land Administrators (and FIG)*
- Land Administrators generally discuss bribery (grease money) and fraud
 - But underestimate the impact of political corruption and state capture in managing state property assets, land acquisition and allocation, corrupted rural-urban land conversion, human right violations by forced evictions, discrimination of women's land rights and common property rights

- Searching for pattern and country clusters
- To understand the syndromes of weak governance we have to understand the underlying problems and identify country clusters broad enough to preserve important communalities (away from tool box)*
- Influence markets
 - Elite cartels
 - Oligarchs and clans
 - Kleptocracies (state capture)
 - Conflict and post-conflict countries

- Applying good governance in the land sector *the way forward*
- Building awareness at all levels
 - Developing cluster based LA and LM models (research, diagnostic surveys)
 - Expanding land policy and fiscal policy
 - Enhancing the service function of land administration institutions (inclusive) and linking with land management functions
 - Being involved in rule-based rural-urban land conversion (blowing the whistle)
 - Building an accountability chain for managing public property

7. Caring for common property rights and partial interest (bundle of rights)
8. Developing coherent regulatory framework, ADR and effective law enforcement
9. Providing access to land-related information and protect whistleblowers
10. Joining forces beyond the land sector (link with anti-corruption agency, auditor general, public sector reform, specific HRD)
11. Strengthening the role of civil society (client survey) and profess. assoc.
12. Clarifying and regulating the role of the private sector and PPP
13. Improving international cooperation, commitment and aid effectiveness

Learning faster from good practices: General knowledge

- The UNDOC anti-corruption toolkit
- WB-doing business report (registering property)
- The Utstein group anti-corruption training (in-country or internet-based)
- The TI anti-corruption handbook and tool box
- UN-Habitat best-practices toolbox
- Joint donor action "Partnership for Governance Indonesia"

Learning faster from good practices:

- Right to information act (Karnataka) and special TI tool 2006
- WB / FAO publication on GG in Land Administration
- Report card and client surveys (India, Armenia, Albania)
- Front office approach
- Recovery of state land (Land law Cam)
- Model code of conduct
- Rules for declaration of assets and conflict of interest
- Legal aid for the poor (Cambodia)
- UN-Habitat secure urban tenure, GLTN)

Conclusion

- The design and implementation of good governance strategies in the land sector is a politically sensitive issue with powerful interests standing to lose out in the process
- Applying a good governance strategy could eventually be established as conditionality espec. in fragile states
- The tools needed for applying Good Governance and securing land tenure are much more than the technical services of Land Administration

Good Governance in Land Tenure and Land Administration

The four pillars:

Awareness
Strategy
Capacity
Connectivity

Thank You