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Mitigating Land Corruption through Computerisation of Statutory Land Governance Activities Evidence from DRC, Tanzania and Zambia

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ABSTRACT

This study was on mitigating land corruption through computerisation of land governance activities that include land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling and land development. Using evidence from Lubumbashi (Democratic Republic of the Congo), Dar es Salaam (Tanzania) and Kitwe (Zambia), the study used both primary and secondary data to conclude that despite computerisation of land governance activities in Tanzania and Zambia, corruption still persists. On the other hand, land governance activities in Lubumbashi (Democratic Republic of the Congo) were still paper based and this made the activities highly susceptible to corruption. Causes of corruption identified were low salaries for employees in public land institutions, delay in payment of salaries, lack of monitoring in the services provided, cumbersome procedures, and lack of transparency. In view of these, it is recommended that the respective governments should work on reducing corruption through increasing salaries for employees in land institutions, pay salaries on time, effective monitoring in the services provided, streamlining procedures and ensure transparency.

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1. INTRODUCTION

Statutory land comprises property rights regulated by state policies, laws and institutions such as central and local governments (Mushinge et al., 2018). The precondition to secure property rights are land governance activities that include land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling and land development. These activities have in most African countries, been computerised or run parallel to the paper based system. The computerisation of the systems is thought to have reduced the period it takes for the institutions to offer land services. Further, the computerisation of the land sector is believed to positively impact on doing business in many African countries. For instance, doing business, it is stated, in any country is generally enhanced if most of the services are automated. Migrating the land administration services from the paper based to a computer based system, means that there is a traceable audit trail created to ensure some level of accountability and transparency thereby increasing the possibility to detect corrupt practices.

However, despite the introduction of computer-based system, there is still widespread corruption in the land sector in some African countries (Twinomurinz and Gharthey-Tagoe, 2011). One of the causes of corruption is weak statutory land governance systems. Where statutory land governance is deficient, high levels of corruption often flourish (TI and FAO, 2011). Weak land governance tends to be characterised by inter alia low levels of transparency, accountability and the rule of law (Deininger et al., 2012). Under such a system, land delivery is unequal, tenure is insecure, and natural resources are poorly managed (TI and FAO, 2011). As a result, social stability, investment, broad-based economic growth and sustainable development are undermined (ibid). The foregoing shows that corruption has raised considerable research interest within the land sector and therefore has been investigated both theoretically and empirically from various aspects. However, the prevalence of corruption in each of the land governance activities (that is, land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling and land development) remains unrevealed. Hence, the need to undertake research on mitigating land corruption through computerisation of land governance activities.

2. CORRUPTION AND COMPUTER BASED STATUTORY LAND GOVERNANCE ACTIVITIES

In this paper, corruption means the abuse of entrusted power for private gain (UN-Habitat et al., 2013). Some common forms of corruption include bribery, fraud and favouritism. Bribery means a public officer receiving money or something of value illegally from a client as incentive to offer a service. Fraud is abuse of discretion for private gain while favouritism is abuse of discretion not for self-interest but for the interest of family, friends, political party members and so on (Van der Molen and Tuladhar, 2007). Some of the causes of corruption are economic and social while others have organisational features (Hamir, 1999). According to Hamir (1999):

- Economic causes comprise great inequality of wealth and very low salaries and wages as compared with the standard with living.
- Social causes include lenient punishment and large number of people competing for insufficient natural resources such as land.

- Organisational features that may cause corruption are outdated or inadequate policies and procedures; excessive discretion (discretion is an important lubricant of effective governance, however, too much of it can facilitate corruption); insufficient supervision (if there is inadequate supervision to see that instructions and procedures are being followed properly, even the best policies can be frustrated); and insufficient publicity (ignorance is a fertile ground for corruption and insufficient publicity of an institution's aims and procedures is a major cause of corruption).

Where corruption is present in the land sector, related actions and distorted interests and policies that favour the few (TI and FAO, 2011), drive decision making. Corruption among other things undermines good land governance as well as fairness and social justice, thus, hindering socio-economic development (Brankov and Tanjevic, 2013).

To mitigate land corruption, the majority of African countries have sought to migrate from a paper-based system to fully computerised statutory land governance activities. This implies digitising land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling and land development. United Nations (2004) defines e-government or digital government as the use of information and communication technology (ICT) and its application by the government for the provision of information and basic public services to the people. The mechanisms through which e-government works to reduce corruption are considered straightforward: e-government reduces contact between corrupt officials and increase transparency and accountability (Andersen, 2009; Tembo et al., 2014). Scholars (for example, Lupu and Lazar, 2013; Anderson, 2009; Misuraca, 2007) have observed that there is an implicit hierarchy and sequentiality of objectives on which e-governance applications or systems must focus to reduce corruption. These include, increasing access to information, presenting the information in a manner that leads to transparency of rules and their application in specific decisions, and increasing accountability by building the ability to trace decisions and actions to individual civil servants represent the successive stages in the hierarchy.

According to Hafkin (2009), in order to implement a robust e-government system, the following have to be met: (1) a minimum threshold level of technological infrastructure; (2) near-universal Internet access; (3) human capital (of both designers and users); (4) legal frameworks and enabling environment; (5) political will; (6) integration and redesign of government organisation and processes; and (7) consideration of people issues: public service culture, technophobia, reaching minorities. Evidence (see for example, Hafkin, 2009) indicates that many African countries are far from fulfilling the basic prerequisites 1 to 3 for e-government development. Hence, a failure in one will result in the failure to implement effective e-government.

3. RESEARCH METHODOLOGY

The study was qualitative in nature and comprised of the collection and synthesis of primary and secondary data on land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling, and land development. Primary data was collected from three countries in Central, East and Southern Africa. These countries were Democratic Republic of Congo (DRC), Tanzania and Zambia. The respondents of the study were drawn from Lubumbashi (DRC), Dar es Salaam (Tanzania) and Kitwe (Zambia). Eight (8) experts were interviewed in Lubumbashi; sixteen (16) experts were interviewed in Dar es Salaam while fourteen (14) experts were interviewed in Kitwe as shown in table 1. Fieldwork was conducted between April and June 2019. Semi-structured

interviews were used to collect information from the experts while purposeful sampling was used to select them. These experts (e.g. lands officers, planners and private land surveyors) were known beforehand that they had a role to play in land governance activities. Data on land corruption and computerisation of land governance activities was obtained from various experts in the three countries so as to enhance data validity and reliability.

In terms of secondary data, both published and grey literature was used. Documents considered for the review included but not restricted to peer-reviewed journal articles, books, theses, and technical reports published by international organisations.

	DRC	Tanzania	Zambia
Ministry of Lands	2	3	1
Local Authorities	3	2	2
Private Land Surveyors	1	4	3
Architects	-	2	3
Property Consultants	-	3	3
Utilities Companies	2	2	2
Total	8	16	14

Table 1: Number of people interviewed in each country and institution

4. RESULTS AND DISCUSSION

The study intended to establish whether or not land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling, and land development were prone to corruption. Further, the study intended to establish whether computerisation of land governance activities could reduce corruption. The perceptions of stakeholders on corruption in land governance activities and computerisation of land governance activities in Democratic Republic of Congo, Tanzania and Zambia are explained in the following subsections.

4.1 Democratic Republic of the Congo

4.1.1 Corruption in Land Use Planning

Respondents believed that land use planning process by central and local government officials is marred with corruption. One reason is that most of the public servants, including those in the land sector, have not been receiving salaries for an average period of 2 years. Politically connected people who buy land at low and insignificant cost, end up reselling it to the general public. This drive the most common form of corruption. Findings revealed also that due to corruption in the land sector, there is absence of trust by the public in public officials.

4.1.2 Corruption in Cadastral Surveying

Findings showed that cadastral surveying system is characterised by corruption at all levels which include conducting field survey, preparation of survey and examination of survey. Fraud plays an important role, mainly due to the lack of coordination and monitoring in the services provided. There is a lack of communication to some extent between departments or offices and this increases the likelihood of fraud.

4.1.3 Corruption in Servicing of Land

Findings revealed that there were some indication of corruption in utility companies (Water by Régie de Distribution d'Eau de la République Démocratique du Congo and electricity by Société nationale d'électricité) in Lubumbashi. For a household to receive water and sewer as well as electricity

services, residents need to pay bribes in most cases to the services providers. This systems is paper based, which exacerbates the incidence of corrupt activities.

4.1.4 Corruption in Land Allocation

According to respondents there were allegations of fraud in the land allocation process. Once an area is identified as potential site for residential, commercial or industrial development and after the authorities have signed the paper work, the cadastral department begins selling plots without an official announcement to the public. In addition, politically connected people tend to benefit more from the system of land allocation. Findings revealed that the majority of processes in land allocation are paper based therefore making this land governance activity highly susceptible to corruption.

4.1.5 Corruption in Land Registration and Titling

Respondents reported that land registration and titling was very costly. In fact, the official amount to pay was not very high but the cost to obtain title increases as residents paid bribes. Findings revealed that most corrupt activities are observed on the registration of lease agreement and the preparation of certificate of the title. In addition, because the land registration and titling are not computerised, the same land or plot can be sold to different individuals and holding different title certificates.

4.1.6 Corruption in land development

The research results indicated claims of fraud in land development. For any development taking place, an official authorisation should be granted to person. It is called “autorisation de bâtir” meaning building permission. Some respondents experienced some form of corruption involving the officials from the “minister de l’urbanisation et Habitat”.

4.2 Tanzania

4.2.1 Corruption in Land Use Planning

According to research findings corruption thrives in the land use section of the land sector. Land use plans have to be approved at various office levels and this breeds corruption due to deliberate delays. Respondents also revealed that the system is long and cumbersome and thus is susceptible to corruption. Local authority councillors also middle in land issues and try to influence decisions on land use planning in their respective areas. Respondents stated that according to Tanzanian laws, applicants wishing to develop land (property) still have to submit hard copy paper (layout plans) to the ministry of lands for approval. Once hard copies are approved, applicants can later send digital copies.

One of the systems that currently ensures accountability and transparency are personal registry books, where staff have to sign off any document (layout plans) passing through their desk. The plans registry also registers incoming or outgoing plans. Although this creates a certain level of transparency, it is not entirely vulnerable to corrupt practices either within the institutions or from the public.

4.2.2 Corruption in Cadastral Surveying

Respondents revealed that those bureaucratic procedures regarding the cadastral survey plans approval leads to corrupt tendencies. Some Land Surveyors change the plans while surveying using excuses of the terrain not in conformity with town planning drawings. Respondents reported of cases of changing the sizes of plots in order to get more plots unlawfully. Respondents stated that bribery plays a part in the examination of survey diagrams. Private Land Surveyors need to be paid for work

done, thus they are willing to pay government surveyors for a faster approval process (Interview with Private Land Surveyor, May 2019). The said money paid to the government surveyors is an inducement for them to expedite the process (ibid). Corruption also takes place in preparation of deed plans that are attached to Certificates of Occupancy. Some respondent however stated that due to computerisation the rate of corruption is now marginal. This may be because the deed plans can be produced at a faster speed than before.

Findings revealed that the system is dual in that the private surveyors submit digital copies as well as hard copies of the survey plans for approval. Once approved the plans are digitised and deed plans are produced and attached to certificate of title. Respondents asserted that the more functions are digitised the less the instances of corrupt cases will be reported. Furthermore, the fact that there were digital copies stored on computer system that was accessed by many people, means that public officials try to avoid being engaged in corrupt practices. Moreover, recently there had been an addition to the system, to notify the public once survey plans have been approved via short message services (sms).

4.2.3 Corruption in Servicing of Land

Services such as water, electricity and sewerage are provided by the utility agencies but individual connections were done by plot owners and these had to deal with the agencies on an individual basis thus creating room for corruption. The study revealed that corruption was always present but its form tends to change regularly. For instance, the full cost of installing most services were pre-paid but when actual installation was to be done, costs on labour had to be paid again to hasten the process. The payments to hasten the process were unofficial and could be described as bribes. Parallel system exists as some procedures were computerised and some were paper based. The paper-based system was more susceptible to abuse.

4.2.4 Corruption in Land Allocation

Land allocation was once a thriving area of corrupt tendencies among land administration and central and regional land offices. Decentralisation and the notion that land had value and can be sold to individuals had helped in curbing these corrupt tendencies. Land was advertised for sale and whoever had the ability can buy and get their titles at a faster rate than before. Computerisation of the allocation of land had helped curbing corruption but some respondents were of the opinion that (and newspapers had confirmed) that land officials responsible for allocation of land deliberately created artificial shortages by holding land and later releasing by soliciting bribes at extortionist prices.

4.2.5 Corruption in Land Registration and Titling

The system was partially computerised due to its nature that titles had to be checked and signed to suit legal consideration of titling. Corrupt practices came in due to delays in the whole land titling process. The Ministry of Lands was the office where registration took place but currently there are zonal offices that executed certain specific functions. Plans were afoot to open land registration offices in all regions of Tanzania. One respondent reported that this could greatly cut costs to the land owners but may not guarantee that corruption could disappear. Respondents were unanimous in their fear that as long as the system was controlled by officials through selected access then corruption could always be present. However, other respondents were of the opinion that a faster system produces a large number of products in a shorter period thus title deeds could be obtained faster.

4.2.6 Corruption in Land Development

The study revealed that corruption was widespread, as one has to pay officials to obtain a building permit quickly with minimal delay. The scrutiny of architectural drawings was a long and cumbersome process and had to pass through all the land delivery service sections (land use, environment, fire and utility services) before a final approval was given. Respondents stated that the most corrupt aspect of land management especially was in major cities. Respondents revealed that hands were greased to facilitate a faster scrutiny.

In summary, the back office in the Ministry of Lands was almost automated and integrated amongst the different departments. Hence, the majority of processes at the ministry were interlinked with a traceable audit trail. This ensures that there was accountability and a reduction of corrupt practices. The same processes and functions were being devolved to the regional offices in Tanzania.

4.3 Zambia

4.3.1 Corruption in Land Use Planning

Respondents were asked to rate corruption in land use planning and according to them fraud was regularly part of the land use planning process in municipalities. Although land use planning involved identification of land, establishing the suitability of the use of land, and preparation of layout plans, fraud mostly happened at identification of land. Some politicians (Mayors and Councillors) in connivance with some administrators (for example Town Clerks and Directors), Land Surveyors and Planners could privately identify land, prepare layout plans, survey the land and share and/or sale the land for private gain (Interview with Municipality Employee, June 2019). Research findings revealed that some politicians and administrators were involved in fraud due to lack of integrity. They are selfish and had no regard for the effects their corrupt acts had on others (Hamir, 2009). Some Land Surveyors and Planners on the other hand were involved in fraud because their salaries were low and delayed (employees in municipalities could work without pay for some months).

4.3.2 Corruption in Cadastral Surveying

Findings showed that private Land Surveyors sometimes paid bribes to Ministry of Lands and Natural Resources Officials, for the survey records to be examined and approved quickly. This was due to a backlog of survey records to be examined and approved (Interview with Private Land Surveyor, May 2019). The backlog was caused by the lack of manpower and the centralised nature of the examination and approval offices - offices are located in Lusaka and Ndola Districts only, meaning that all surveys done in 117 districts of Zambia had to be lodged, examined and approved in Lusaka or Ndola (Interview with Private Land Surveyor, June 2019).

4.3.3 Corruption in Servicing of Land

According to research findings, as a result of long queues of properties to be provided with water and sewerage services (by Nkana Water and Sewerage Company Limited) as well as electricity (by Zambia Electricity Supply Corporation), it is almost standard for people to pay money for these services to be connected quickly. The long queues were caused by utility company's inefficiency and ineffectiveness.

4.3.4 Corruption in Land Allocation

The Administrative Circular No.1 of 1985 states that, after the Commissioner of Lands (under the Ministry of Lands and Natural Resources-MLNR) has provided numbers for the proposed parcels of

land and confirmed availability, the Municipalities may advertise the land in the news media or any transparent medium, inviting developers to apply on behalf of MLNR (Government of the Republic of Zambia [GRZ], 1985). On receipt of the applications, the Municipalities will interview and select the most suitable applicants for the parcels of land and make recommendations in writing to the Commissioner of Lands, giving reasons supporting the recommendations (GRZ, 2017). Evaluation sheets were used to rate suitable candidates during interviews. However, an examination of the evaluation sheets showed that there was no clear basis of selecting one candidate over the other even when they all provided the necessary requirements such as bank statement or pay slip (ibid). Therefore, selection of potential developers was susceptible to corruption (fraud, bribery and favouritism). For example, most of the land available at a particular point in time could sometimes be allocated to some politicians (Members of Parliament, Mayors and Councillors), administrators (for example, Town Clerks and Directors) and political cadres (belonging to the ruling party) as well as close associates such as family and friends (Interview with Municipality Employee, April 2019). This marginalises other citizens, as they are unable to access land, going against the objective of equitable access to land by ordinary citizens provided for in the Constitution.

4.3.5 Corruption in Land Registration and Titling

The Lands and Deeds Department (under the Ministry of Lands and Natural Resources) register property rights and issues certificates of title based on approved survey diagrams for the period not exceeding 99 years. However, the process involved long waiting periods that is, beyond several months, or even years (Mushinge, 2017). As a result, people usually had to pay a bribe to register their property rights and obtain certificates of title quickly (Interview with Real Property Consultant, May 2019).

4.3.6 Corruption in Land Development

Respondents were asked to rate corruption in obtaining development permits and according to them, bribery was frequently part of the process of obtaining development permits from municipalities. The officials responsible for granting development permits in municipalities deliberately create artificial delays and hindrances to force the clients to pay money for the architectural drawings to be scrutinised quickly (Interview with an Architect, April 2019). They deliberately delayed in scrutinising the work hence asking for the so called express permission that required payment for one to jump the queue (ibid). In most instances with this express payment, they no longer minded about the quality of drawings submitted (ibid).

4.4 Computerization of Land Governance Activities and Corruption

Findings revealed that all land related services in Lubumbashi (Democratic Republic of Congo) were still based paper system. This made the land sector more vulnerable to corruption. On the other hand, findings from Dar es Salaam (Tanzania) revealed that land related services were delivered through both a computerized system and manual or paper based system. For example, the Ministry of Lands used the Ministry of Lands Information System (MOLIS) and the Surveys Registration System (SRS) that were launched in 2008. Respondents revealed that computerization helped a lot in keeping proper land records and fast processing of data but it was the corruption mentality that needed to change, as manipulation occurred to suit the needs of corrupt officials. Respondents stated that corruption was inherent in individuals, thus the effectiveness of computers highly depended on behavioral change.

In Kitwe (Zambia), research findings showed that all land governance activities had dual systems (some services are paper based while others are computerised) except the processing of

development permits which was still entirely paper based. Despite some services being computerised (use of Geographic Information System in Municipalities, the use of Zambia Integrated Land Management Information System at the Ministry of Lands and Natural Resources, and the use of computers for processing of application for land services by utility companies), corruption was still widespread (Interview with Municipality Employee, April 2019). All respondents were of the view that computerisation might not curb corruption because punishment (if any) was lenient and leaders in key positions were not capable of inspiring and influencing conduct of highest moral standards.

5. CONCLUSION AND RECOMMENDATIONS

Findings from this study showed that despite computerisation of land governance activities in Dar es Salaam (Tanzania) and Kitwe (Zambia), corruption still persists. In Lubumbashi (Democratic Republic of the Congo) all land related services were still paper based therefore making the land sector more susceptible to corruption. Causes of corruption identified were low salaries for employees in public land institutions, delay in payment of salaries, lack of monitoring in the services provided, unclear and burdensome procedures, and the overall lack of transparency.

In view of the foregoing, the study suggests that the respective governments should work on curbing corruption in the land sector through: rewarding public land officials with competitive remuneration; pay salaries on time; effective monitoring in the services provided; streamlining procedures; putting a transparent system of operation; and constant monitoring of corrupt practices and stiffer punishment for erring officials. It should be borne in mind that if the problem of land corruption is not lessened, the challenges of statutory land governance will persist.

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KEYTERMS AND DEFINITIONS

Corruption: the abuse of entrusted power for private gain.

Statutory Land: comprises property rights regulated by state policies, laws and institutions such as central and local governments.

Land Governance Activities: include land use planning, cadastral surveying, servicing of land, land allocation, land registration and titling and land development.