



Addressing corruption in the tenure of land, fisheries and forests

Tackling corruption

Text-only version



This course is funded by the European Union through the EU-FAO
Improved Global Governance for Hunger Reduction Programme



© FAO, 2014

In this lesson

LEARNING OBJECTIVES..... 2

INTRODUCTION..... 2

THE UNITED NATIONS CONVENTION AGAINST CORRUPTION..... 3

ASSESSING CORRUPTION..... 5

REFORMING LAWS..... 8

TACKLING CORRUPTION IN THE MANAGEMENT OF LAND, FISHERIES AND FOREST 13

IMPROVING PLANNING AND DECISION-MAKING PROCESSES..... 17

REFORMING THE CIVIL SERVICE..... 22

ROLE OF ACTORS..... 27

SUMMARY..... 31

LEARNING OBJECTIVES

At the end of the lesson, you will be able to:

- **identify existing tools and initiatives** for tackling corruption in the tenure sector,
- **describe the importance of people's involvement** in planning and decision making processes,
- **identify ways of integrating anti-corruption elements in civil service reform and**
- **explain the role of different actors** in tackling corruption.

INTRODUCTION

The road to a corruption-free world remains long. However, there are **impressive signs of progress.** **Many tools and measures** for assessing and tackling corruption in the tenure of land, fisheries and forests are **now available.**

This lesson will review:

- **available tools and instruments** that can be used to identify and assess corruption, as well as
- **possible reforms and measures** aimed at preventing and fighting it in the tenure sector.

The **notion of corruption has changed from being 'unmentionable' to becoming one of the keywords used to describe the obstacles for sustainable development.**

Weak governance, lack of transparency and accountability, and corruption are **now perceived as a global public bad.**

The **Voluntary Guidelines on the Responsible Governance of Tenure make explicit reference to combating corruption** as a way of implementing responsible governance of tenure of land, fisheries and forests. Therefore this lesson will often refer to specific principles in the Voluntary Guidelines.



What do the Voluntary Guidelines say about corruption?

The guiding principles of responsible tenure governance clearly say that **states should “endeavour to prevent corruption in all its forms, at all levels and in all settings”**.

All the “governance principles of the implementation” of the Voluntary guidelines are essential to addressing and tackling corruption. Those principles are mainstreamed throughout the various sections of the Voluntary Guidelines.

THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

A breakthrough in identifying and fighting corruption at a global scale was achieved by the approval of the **United Nations Convention against Corruption (UNCAC)** through the UN General Assembly in **October 2003**.

The Convention **entered into force on 14 December 2005**.

UNCAC is the most important universal anti-corruption convention. **The majority of countries have agreed to cooperate and support each other on all aspects of preventing, investigating and prosecuting corruption.**



Think about your country, has it signed the Convention?

► **Check the UNCAC signature and ratification status on the UN Office on Drugs and Crime (UNODC) Web site.**

Objectives of UNCAC

The purposes of this Convention are to:

- promote and strengthen **measures to prevent and combat corruption** more efficiently and effectively;
- promote, facilitate and support **international cooperation and technical assistance** in the prevention of and fight against corruption, including in asset recovery;
- promote integrity, accountability and proper management of **public affairs and public property**.

The UNCAC requires the establishment of **anti-corruption agencies** in two specific areas:

- preventative anti-corruption bodies, and
- Those specialized in combating corruption through law enforcement.

Proactive **cooperation** between sector authorities on land, fisheries or forest and anti-corruption agencies is still the exception and should be made much more operational.

Many countries have established some type of **Anti-corruption Authority (ACA)** as a key element in their effort to fight corruption. A platform (www.acauthorities.org) has been created for ACAs to share their experiences.

Strengthening cooperation between sector authorities and anti-corruption agencies

Cooperation could be made more operational through actions such as:

- tailored **surveys**;
- **training** of government staff in legal and operational anti-corruption measures and tools;
- **investigation of cases** of corruption in the tenure of land, fisheries and forest;
- fostering **public sector reform**; or
- developing **codes of conduct** for the respective services.

If a country already has established agencies or has initiated actions to combat corruption it should be explored how corruption associated with land, fisheries and forests could be incorporated into the **broader national initiative**.

It is important to emphasize that if anti-corruption agencies are to cooperate effectively with sector authorities they need to have the required **legal mandate, competencies, independence and institutional capacities**.



For more information, please consult the UNDP *Practitioner's Guide to Capacity Assessment of Anti-Corruption Agencies*



Think about your country...

If your country has adopted the Convention:

- ▶ What is the **assigned anti-corruption authority**?
- ▶ Has an anti-corruption strategy and **action plan** been **developed** and is it being implemented?
- ▶ Have **studies** been made **relating** to or involving **your land, fisheries or forest sectors**?

ASSESSING CORRUPTION

Identifying and assessing corruption is the first step in fighting it.

There are several **serious efforts being made** to assess the level of weak governance and corruption **across countries**. These **assessments** are **mainly based on perceptions indexes from surveys** in which people are asked to describe the extent of corruption in their countries.

FOR EXAMPLE...

Transparency International's (TI's) **Global Corruption Barometer (GCB)** presents the **main findings of a public opinion survey that explores the general public's views of corruption**, as well as experiences of bribery around the world.

The GCB **assesses the extent to which key institutions and public services are perceived to be corrupt** and measures citizens' views on government efforts to fight corruption.

Available general corruption measurement tools include:

- ① Global Corruption Barometer
- ② Corruption Perceptions Index
- ③ Afrobarometer
- ④ Worldwide Governance Indicators
- ⑤ Transformation Index
- ⑥ General guides

📌 Global Corruption Barometer

The **Global Corruption Barometer** (GCB) is a worldwide **public opinion survey** on views and experiences of corruption. It is designed by TI and is carried out by its chapters and those specialized service providers they commission.

As a poll of the general public, **it provides an indicator of how corruption is viewed and experienced at the national level and how efforts to curb corruption around the world are judged on the ground.**



For more information, please refer to the *International GCB and TI*

📌 Corruption Perceptions Index

The Transparency International (TI) **Corruption Perceptions Index** (CPI) is a **composite index using data sources from independent institutions** specializing in governance and business climate analysis.

The CPI **measures the level of perceived corruption in the public and political sectors** in countries based on surveys and expert assessments of corruption.



For more information, please refer to *CPI and TI*

📌 Afrobarometer

The **Afrobarometer** is **built using primary sources; data is collected through face-to-face interviews** by trained interviewers in the language of the respondent's choice.

The Afrobarometer **measures citizens' perceptions of the social, political and economic atmosphere of Africa.**



For more information, please refer to the *Afrobarometer*

📌 World Wide Governance Indicators

The Worldwide Governance Indicators (WGI) by the World Bank are a research dataset summarizing views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents.

The six dimensions assessed by WGI are:

- voice and accountability,
- political stability and absence of violence,
- government effectiveness
- regulatory quality,
- rule of law,
- control of corruption



For more information, please refer to the *WGI, World Bank*

📌 Transformation Index

The **Transformation Index** examines and assesses whether and how developing and transformation countries manage social change toward democracy and a market economy (including property rights). Guided by a **standardized codebook developed by the Bertelsmann Foundation**, country experts for each of the 128 participating countries assess the extent to which a total of 17 criteria have been met and then assign scores.

The Transformation Index publishes two rankings, the Status Index and the Management Index.



For more information, please refer to the Transformation Index and Bertelsmann Foundation

📌 General Guides

General guides on measuring corruption include, for example:

- ***A Users' Guide to measuring corruption***, developed by the United Nations Development Programme (UNDP); and
- ***Expert answers - How-to guide for corruption assessment tools*** developed by U4

Perception-based measures serve a useful purpose in producing globally comparisons and contributing to global advocacy. In addition to general corruption measurement tools, **other tools** can be used to assess corruption **in the tenure of natural resources**, such as:

- ① Framework for assessing and monitoring forest governance, Programme on Forests (PROFOR), FAO
- ② Land Governance Assessment Framework (LGAF), World Bank

- ③ The governance of tenure technical guide, *Improving governance of forest tenure*, FAO, IIED

📌 Framework for assessing and monitoring forest governance

The framework facilitates description, diagnosis, monitoring, assessment and reporting on the state of governance in a country's forest sector.

Out of the 130 indicators of this framework, around 20 are directly linked to the topic of corruption and forest tenure.



For more information, please refer to: *Assessing and Monitoring Forest Governance - A users guide t a diagnostic tool*, PROFOR (2012)

📌 Land Governance Assessment Framework

The LGAF is a diagnostic tool to assess the status of land governance at country level in a participatory process.

It focuses on five key thematic areas that have been identified as major areas for policy intervention in the land sector. All key areas are confronted with corrupt practices, which will be identified and discussed in the process.



For more information, please visit the LGAF Web site

📌 The governance of tenure technical guide, *Improving governance of forest tenure*

The guide provides a wide spectrum of tools particularly useful:

- in the monitoring and evaluation process,
- to gain access to information,
- to ensure accountability and transparency in the forestry sector (but can be used also in other sectors)



For more information, please refer to the FAO/ IIED technical Guide: *Improving Governance of Forest Tenure*

REFORMING LAWS

Assessments and measurements during the last decade have contributed enormously to the quality of the debate on governance and corruption at global and at local levels.

Major **topics in the law reform agenda** relevant for tackling corruption in the tenure of land, fisheries and forest would concern the following issues:

- Policies and laws
- Public lands, fisheries and forests
- Customary tenure
- Informal tenure
- Organizational frameworks
- Recording of rights
- Expropriation
- Regulated spatial planning

📌 **Policies and laws**

Corruption can flourish when policies and laws are ambiguous, complex, inconsistent and contradictory, have gaps and are outdated.

Many policies and laws do not explicitly recognize or deal with corruption.

Example: land law in Rwanda

Land Law Rwanda, Article 84 on infringements as a punishable penal offence.

Without prejudice to tougher penalties in the criminal law, the following shall be punishable:

- a land registrar who shall violate rules relating to keeping land registers and issuing land titles;
- a land title secretary who knowingly issues land titles contrary to laid-down procedures;
- any person who, knowingly, shall use a land title that was stolen, fraudulently altered or containing errors;
- any person who damages or alters a land title;
- any witness who knowingly gives false testimony;
- whosoever knowingly presents to the registrar of land, identification papers and fake capacities of parties in a bid to constitute a land title.



Refer to: Voluntary Guidelines – 5.8

“States and other parties should regularly review and monitor policy, legal and organizational frameworks to maintain their effectiveness. Implementing agencies and judicial authorities should engage with civil society, user representatives and the broader public to improve services and endeavour to prevent corruption through transparent processes and decision-making. Information about changes and their anticipated impacts should be clearly stated and widely publicized in applicable languages.”

➤ **Public lands, fisheries and forests**

Countries often have **poor records of the lands, fisheries and forests** that are **publicly owned** or controlled.

Political and government officials may be able to take advantage of the weak administration and illegally enrich themselves by allocating public land, fisheries and forests to themselves or others.



Refer to: Voluntary Guidelines – 8.9

“States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages. Where possible, States should ensure that newly allocated tenure rights are recorded with other tenure rights in a single recording system, or are linked by a common framework. States and non-state actors should further endeavour to prevent corruption in the allocation of tenure rights.”

➤ **Customary Tenure**

Where customary tenure institutions have eroded, corrupt community leaders are able to appropriate parts of the natural resources of their communities for their own use or to sell them to people who are not community members.



Refer to: Voluntary Guidelines – 9.12

“States and non-state actors should endeavour to prevent corruption in relation to tenure systems of indigenous peoples and other communities with customary tenure systems, by consultation and participation, and by empowering communities.”

➤ Informal Tenure

Informal tenure rights **often emerge in the context of large-scale migrations.**

As these tenure rights are not protected by law, the people who hold them may be required to pay bribes in order to continue to live where they are and to obtain services.



Refer to: Voluntary Guidelines – 10.5

“States should endeavour to prevent corruption, particularly through increasing transparency, holding decision-makers accountable, and ensuring that impartial decisions are delivered promptly.”

➤ Organizational frameworks

Unclear, uncoordinated and fragmented responsibilities between agencies enable corrupt officials to take advantage of opportunities for their own benefit. The situation is aggravated when organizations are under-resourced, and there is poor motivation, low pay and inadequate training of staff.



Refer to: Voluntary Guidelines – 6.9

“States and non-state actors should endeavour to prevent corruption with regard to tenure rights. States should do so particularly through consultation and participation, rule of law, transparency and accountability. States should adopt and enforce anti-corruption measures including applying checks and balances, limiting the arbitrary use of power, addressing conflicts of interest and adopting clear rules and regulations. States should provide for the administrative and/or judicial review of decisions of implementing agencies. Staff working on the administration of tenure should be held accountable for their actions. They should be provided with the means of conducting their duties effectively. They should be protected against interference in their duties

and from retaliation for reporting acts of corruption.”

📌 Recording of rights

Recording systems provide an official recognition of tenure rights.

Officials can be bribed to record illegal transactions in order to give those transactions an undeserved legitimacy.



Refer to: Voluntary Guidelines – 17.5

“States should ensure that information on tenure rights is easily available to all, subject to privacy restrictions. Such restrictions should not unnecessarily prevent public scrutiny to identify corrupt and illegal transactions.

States and non-state actors should further endeavour to prevent corruption in the recording of tenure rights by widely publicizing processes, requirements, fees and any exemptions, and deadlines for responses to service requests [...].”

📌 Expropriation

Through expropriation, governments can **acquire private land, fisheries and forests in order to use them for public purposes.**

This power of expropriation is abused when officials use it to benefit themselves or others, for example by paying compensation that is too low or too high.



Refer to: Voluntary Guidelines – 16.6

“All parties should endeavour to prevent corruption, particularly through use of objectively assessed values, transparent and decentralized processes and services, and a right to appeal.”

📌 Regulated spatial planning

The official, **regulated use of land typically affects the value of the land.** When the regulated use is changed from one category to another, such as from agricultural to commercial use, the value of the land can increase significantly.

Corrupt officials can take advantage of weak planning systems by taking bribes to make improper changes to regulated uses.



Refer to: Voluntary Guidelines – 20.4

“States should ensure that there is wide public participation in the development of planning proposals and the review of draft spatial plans to ensure that priorities and interests of communities, including indigenous peoples and food-producing communities, are reflected.

Where necessary, communities should be provided with support during the planning process. Implementing agencies should disclose how public input from participation was reflected in the final spatial plans.

States should endeavour to prevent corruption by establishing safeguards against improper use of spatial planning powers, particularly regarding changes to regulated use.

Implementing agencies should report on results of compliance monitoring.”

TACKLING CORRUPTION IN THE MANAGEMENT OF LAND, FISHERIES AND FOREST

Let us look at some examples of anti-corruption measures in the management of land, fisheries and forest.

EXAMPLE: public resource management

Two big **problems** in public resource management are...

- government in ignoring local tenure rights on public natural resources. ...the misuse of power of central
- ...the **illicit or illegal privatization** of public resources in favour of politicians and other powerful people.

Possible **anti-corruption measures** for these problems (in the same order) are:

➔ **Recourse and complaints mechanisms**

➔ **Recording systems**



Recourse and complaints mechanisms

Recourse and complaints mechanisms are crucial to address corruption in the management of public natural resources.

General principle 4 of the Voluntary Guidelines says that states should “provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights”.

For example, ensuring that an independent, effective and accessible recourse and complaints mechanism is available to the public, including to indigenous peoples and other forest-dependent communities is an essential part of managing corruption risk in REDD+.

Recording systems

Often, there is no complete registration and inventory of state land holdings, their location, size or value, creating an enabling environment for **irregular or illegal transfer of state resources into private hands**.

Many countries have recognized that accurate, comprehensive and up-to-date **records of public lands and associated rights** are **fundamental to efficient management of land, fisheries and forest**.

Records of public land inventories and registration systems include: classification of state lands, descriptions of assets and their boundaries, as well as associated rights.



Refer to: Voluntary Guidelines – 8.6

“States should develop and publicize policies covering the use and control of land, fisheries and forests that are retained by the public sector and should strive to develop policies that promote equitable distribution of benefits from State-owned land, fisheries and forests.

Policies should take into account the tenure rights of others and anyone who could be affected should be included in the consultation process consistent with the principles of consultation and participation of these Guidelines. The administration of, and transactions concerning these resources should be undertaken in an effective, transparent and accountable manner in fulfilment of public policies.

Voluntary Guidelines – 8.9

“States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages. Where possible, States should ensure that newly allocated tenure rights are recorded with other tenure rights in a single

recording system, or are linked by a common framework. States and non-state actors should further endeavor to prevent corruption in the allocation of tenure rights.”

EXAMPLE: large-scale land acquisition

- Investments in the land sector usually bring sizable amounts of capital with them as well as elevated corruption risks. **Large-scale land acquisition** for **agricultural investments** have **significant negative risks** on food security, the environment, human rights and governance.
- The **allocation of land** for such investments is frequently done **in secret** and **without** the **knowledge** or consent **of communities affected**, who are consequently not informed or consulted about potential impacts and are unable to hold governments or investors to account.
- A **transformation** is **required** from the current practice, **in which affected communities and civil society have to convince companies and the government to operate transparently**, to a practice of the **state being responsible for automatically disclosing all information** and adopting a rule-based negotiation and implementation process.

Refer to: Voluntary Guidelines – 12.3

“All forms of transactions in tenure rights as a result of investments in land, fisheries and forests should be done transparently in line with relevant national sectoral policies and be consistent with the objectives of social and economic growth and sustainable human development focusing on smallholders.”



Voluntary Guidelines – 12.5

“States should, with appropriate consultation and participation, provide transparent rules on the scale, scope and nature of allowable transactions in tenure rights and should define what constitutes large-scale transactions in tenure rights in their national context. “

Voluntary Guidelines – 12.14

“States and affected parties should contribute to the effective monitoring of the

implementation and impacts of agreements involving large-scale transactions in tenure rights, including acquisitions and partnership agreements. States should take corrective action where necessary to enforce agreements and protect tenure and other rights and provide mechanisms whereby aggrieved parties can request such action.”

Example: REDD +

REDD+ **faces** huge challenges, as powerful political and economic interests favour continued **deforestation and degradation**.

Countering corruption risks in the forest and land sectors will not end all risks in REDD+. **Risks in the design of the REDD+ strategies**, where powerful actors seek to ‘capture’ policies related to land use or benefit distribution through corrupt means, as well as **risks in the management** of central REDD+ funds **will need to be tackled early on during the readiness phase**.

REDD+ can be supported by corruption-preventive action through information, education and the effective involvement of civil society groups.

Examples of UN REDD programme activities addressing corruption are:

- ➔ Corruption risk assessments
- ➔ Multistakeholder governance assessment



Corruption risk assessments

The **UN REDD programme** is supporting REDD+ countries (e.g., the Philippines, Bangladesh, Nepal, Peru and Bhutan) to conduct **corruption risk assessment** and determine the main types and the scale of corruption risks (including the actors) posed by REDD+.

This not only gives a picture of the overall governance conditions in the country, including the forestry sector, but should also identify the extent to which corruption is a driver of deforestation.

The findings of these assessments inform the design of **corruption risk mitigation plans**.

Multistakeholder governance assessments

The programme has also supported the conduct of “multistakeholder country-led REDD governance assessments”, undertaken by a **partnership between government and civil society** to help point to particular institutions or institutional arrangements as the **cause of governance and corruption challenges** and to provide the basis for evidence-led reform.

For instance, the **Indonesia Participatory Governance Assessment** has corruption as a cross-cutting issue, and data currently collected examine the existence and effectiveness of regulations, practices and actors that could prevent specific corruption risks in REDD+.

Example: small-scale fisheries in the Asia-Pacific tropics

Re-establishing property rights over coastal fishery resources is the most urgent need of the hour to ensure a secure future for small-scale fishing communities in the Asia-Pacific tropics.

In many countries in this region, **small-scale fishing communities have asserted their claims**. The response to these moves from the state and other stakeholders in the fishery industry are mixed. Happily, there is a **growing recognition** and greater appreciation **of the close interaction between rights to a resource and its successful management and governance**.

West Aceh fishers organization

The fishery of Aceh is **dominated by customary practices**.

The political and social **isolation of Aceh** from the mainstream of Indonesian society is one of the most important reasons for the strong continuance of custom.

The head of the customary institution in the fishery is called the „Panglima Laot“ (Sea Commander). Each Panglima Laot controls a territory called a „lhok“. The lhok is a socio-ecological spatial unit composed of sea and coastal land. Most lhoks also encompass one of the numerous rivers in Aceh which flows into the sea from the hills and highlands of the central parts of the province.

The Hukom Adat Laot (the customary law of the sea) contains norms and rules regarding access to and allocation of coastal resources. It also deals with the important issue of conflict resolution over these resources. The rules are **not written down**. They are **passed down from generation to generation by word of mouth and praxis**. So its propagation and effective continuance depends on the nature and quality of the Panglima Laot. They are the repositories of the knowledge system and hold the concomitant socio-cultural authority.



For more information, please refer to : J. Kurien, *West Aceh Fishers Co-management Organisation - Prospects and Dilemmas of Newly Created Hybrid Organisations*

IMPROVING PLANNING AND DECISION-MAKING PROCESSES

Increasing people's access to **information**, facilitating their **participation** in planning and decision making processes and their access to **justice**, are practical means of preventing corruption.

The following are examples of increasing access to **information**:

- **Regulations on disclosure policies and on the simplification of administrative procedures**
- **Regulations to implement an Access to Information Act**

Regulations on disclosure policies and on the simplification of administrative procedures

In Viet Nam, the government has issued a number of regulations on **disclosure policies** and on the **simplification of administrative procedures** with a view to enhancing public access to information, reducing red tape and preventing corruption in public administration.

Among others, these policies and procedures are:

- the Anti-Corruption Law 2005;
- the IT Law 2006;
- the Ordinance on Grassroots Democracy 2007; and
- Project 30.

Land administration regulations intersect well with these aforementioned policies. The Land Law, later elaborated by Decree 84 (2007) and Decree 69 (2009), requires a certain level of transparency in land management.



For more information, please refer to *Survey report on information disclosure of land management regulations Viet Nam (World Bank, 2010)*

Access to Information Act

On 3 June 2011, the Government of Uganda put regulations in place to implement an Access to Information Act (ATIA) that had been passed by parliament nearly six years earlier.

The ATIA grants every citizen the right to access information “in the possession of the state” or any other state agency except when the release of information affects state sovereignty or interferes with privacy rights.



For more information, please visit www.allafrica.com

Citizen mobilization and participation are indispensable for the prevention of corruption, because citizens, acting in coordination, can more effectively challenge governments and corporations.

The organic growth of citizens’ involvement can be nurtured through **shared learning and cross-national solidarity, and the dissemination of positive examples** that serve as an inspiration for others. It can also open new coalitions, networks and fronts for action.

Example: Free Prior and Informed Consent (FPIC)

FPIC has emerged as an international human rights standard that derives from the collective **rights of indigenous peoples** to self-determination and to their lands, territories and other properties.

The UN-REDD programme recently launched the UN-REDD programme guidelines on FPIC and the associated Legal Companion, which outlines related existing international law and emerging state practice affirming that indigenous peoples have the right to **effective participation in the decisions, policies and initiatives** that affect them, and that FPIC is a legal norm that imposes duties and obligations on states.



For more information, please refer to the UN-REDD Programme and the FAO technical guide



Refer to: Voluntary Guidelines – Principle of implementation n.6

“Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.”

Social media and a growing repertoire of information and communication technologies are expanding the ability of citizens and local communities to organize and mobilize, to monitor, track and hold to account.

There are a **growing number of examples** where new technologies such as **mobile phones, GPS, digital cameras and the Internet** have been **used for anti-corruption work**.

Example: The Land Matrix

The Land Matrix is an online public database that permits all users to contribute to and improve data on land deals, and for this data to be visualized. Therefore it enhances public participation .



For more information, please visit the Land Matrix database

One more example of technology support for citizen engagement is **Indonesia's digital map**. It is a **regularly updated digital map of concessions** underlying implementation of a moratorium on new licenses, which **enables the public to review and make suggestions for areas in need of protection**.

New technologies can also provide effective channels to **report fraud and corruption** and **facilitate the making of complaints**.

This can be done through setting up corruption hotlines and/or SMS-based mechanisms.

Examples:

A Web site for whistleblowers in India

The "ipaidabribe" Web site **invites people to share their experiences of bribery**, including what a bribe was for, where it took place and how much money was involved.

The site gives Indians a chance to **report corrupt acts anonymously** and sheds light on the impact of corruption on everyday life.



For more information, please visit the Web site www.ipaidabribe.com

An open-source platform for reporting corruption in Georgia

TI's national chapter in Georgia has recently experimented with such approaches by launching an open-source platform, called "Fix my street".

The platform could be tailored to other corruption reporting issues such as corruption in land, forest and fisheries tenure.

Of particular importance is to accompany **mobile phone interventions with awareness-raising and marketing campaigns explaining how to use the service** (e.g. why use the service, who is running it and a step-by-step guide on how to participate/send SMSs).



For more information, please visit the open-source platform "Fix my street"

Ensuring access to justice is another important means of combating corruption.

This access may include **legal advice, legal aid in courts**, especially for the poor, empowering citizens, identifying corruption hotspots, and providing legal advice and support to witnesses and victims of corruption.

For example...

...**TI's Advocacy and Legal Advice Centres (ALACs)** provide **free and confidential legal advice** to witnesses and victims of corruption. Offering a simple, credible and viable mechanism for citizens to pursue their corruption-related complaints, ALACs empower citizens in the fight against corruption.

...There are also numerous **country-based civil society organizations (CSOs)** facilitating access to justice, such as **Human and Land Right Defender Cambodia (ADHOC)**.

Refer to: Voluntary Guidelines – general principle n.4

State should “provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.”



Voluntary Guidelines – extract from 21.1

“States should provide access through impartial and competent judicial and administrative bodies to timely, affordable and effective means of resolving disputes over tenure rights, including alternative means of resolving such disputes, and should provide effective remedies and a right to appeal.

Voluntary Guidelines – extract from 21.6

In providing dispute resolution mechanisms, States should strive to provide legal assistance to vulnerable and marginalized persons to ensure safe access for all to justice without discrimination.”

REFORMING THE CIVIL SERVICE

Reforming the civil service can be instrumental for preventing and reducing corruption.

Reform should include helping **build integrity to curb corruption and thereby improve service delivery**.

Such an approach requires the government, the private sector and the public to work in partnership to define, maintain and promote **performance standards** that include:

- decency,
- transparency,
- accountability,
- ethical practice,
- timeliness,
- cost coverage,
- quality of general service delivery.

Examples of service standards for a land registry

Service standards for a land registry might include:

- the **fee** payable by a member of the public for a service;
- the minimum percentage of registrations to be **free of error**;
- the maximum time permitted to process a **registration**;
- the proportion of **queries** to be processed within a specified time;
- the percentage of **complaints** to be resolved within a specified time.



For more information, please refer to: FAO Land Tenure Study 9:
Good governance in land tenure and administration

Standards have little value if they are not **monitored**. Land agencies and their customers should know whether the standards are being met.

Monitoring will produce effects such as the **improvement of accountability and reductions in losses** due to corruption.

Compliance with standards can be monitored in different ways; for example, **through:**

- **independent auditing**

↳ which can be established to provide transparency in accounting.

The work of auditors is supported by standards that determine how accounts are to be presented and how auditors are to perform their task.

- **customer surveys**

↳ Customer surveys can be used to assess the customers' experience of the service.

They can include such fields as:

- the time taken for customers to be served,
- the number of visits that the customers had to make in order to complete the transaction,
- their satisfaction,
- the cost both in terms of the official fees and informal payments they were charged to receive the service.

Information technology and communications (ITC) has the potential to improve the governance of land administration by increasing efficiency, consistency, accountability, transparency and accessibility.

Computerization of tenure records reduce opportunities for corruption in two ways:

- **The records may be viewed by more than one person.** They can no longer be the 'personal' property of corrupt officials.
↳ This prevents such officials from **enforcing informal payments** in order to access the files for legitimate transactions.

- **Automatic audit trails can track** who accessed what **information**, who did what to which files and what information was modified or deleted.
 - ➔ This auditing eliminates the widespread ability to change data that usually exists when records are on paper.
 - ➔ It may also help to prevent the **destruction of records** by those who want to undermine the ownership rights of others.

Example: An open source computerized cadastre and registration system

Through the **Solutions for Open Land Administration (SOLA) project**, FAO has implemented an open source computerized cadastre and registration system which is **both affordable and sustainable in developing countries**.

The open source software produced by the project is **based on international good practice for service delivery**, responsible governance of tenure (including transparency of process and transparency of tenure details), robust data management and the need for enterprise scale software.



For more information, please visit the SOLA Website

Public records can be made available to all via the Internet. Even open land registers may help to reduce corruption and state capture by enabling the media and citizens to check on the personal interests of politicians and officials.

The Voluntary Guidelines address the need to develop capacities: to the extent that resources permit, states should ensure that competent bodies responsible for land, fisheries and forests have the required human, technical and financial capacity.



Refer to: Voluntary Guidelines – 6.1

“To the extent that resources permit, States should ensure that implementing agencies and judicial authorities have the human, physical, financial and other forms of capacity to implement policies and laws in a timely, effective and gender-sensitive manner. Staff at all organizational levels should receive continuous training, and be recruited with due regard

to ensuring gender and social equality.”

Where responsibilities for tenure governance are delegated, the recipients should receive training and other support so they can perform those responsibilities.

Examples of training initiatives:

- **Training Programme: Tools to Support Transparency in Land Administration**
- **U4 Online course: Understanding Corruption**
- **U4 publication on anti-corruption**

Anti-corruption elements can and should be supported by **more general standards of ethics and conduct to promote high standards of public services** for land, fisheries and forest, good relations between public officials and the public, **as well as productivity, motivation and morale.**

Such standards can **promote a culture of professionalism within the public service**...introducing specific rules:

↪ Officials responsible for **administering public resources and revenues** (contracting, allocation of land or forest concessions, licensing of fisheries agreements, REDD+ revenues) may be subject to specific rules intended to maximize the public benefit from expenditures, minimize waste and inefficiency, and combat corruption.

At the same time, they foster the expectation of high standards among the general population through education and awareness-raising:

↪ Education and awareness-raising that foster law-abiding conduct and reduce public tolerance for corruption are also central to reducing what is, effectively, a breeding ground for corruption.

A **code of conduct establishes clearly what is expected of a specific public official or group of officials**, thus helping to instill fundamental standards of behaviour that curb corruption.

It should form the basis for employee training, thus ensuring that all public officials know the standards by which they should perform their official duties.

The **standards should include:**

- standards of competence (relevant laws, procedures),
- service-orientation,
- performance criteria and assessment procedures,
- impartiality,
- non-discrimination,
- independence,
- honesty and integrity,
- diligence,
- propriety of personal conduct,
- transparency,
- accountability,
- responsible use of organizational resources and
- appropriate conduct towards the public.



Refer to: Voluntary Guidelines – 6.7

States should encourage implementing agencies and judicial authorities to foster a culture based on service and ethical behaviour. Agencies and judicial authorities should seek regular feedback, such as through surveys and focus groups, to raise standards and improve delivery of services, to meet expectations, and to satisfy new needs. They should publish performance standards and report regularly on results. Users should have means of addressing complaints either within the implementing agency, such as by administrative review, or externally, such as by an independent review or through an ombudsman.”

Voluntary Guidelines – 6.8

“Relevant professional associations for services related to tenure should develop, publicize and monitor the implementation of high levels of ethical behaviour. Public and private

sector parties should adhere to applicable ethical standards, and be subject to disciplinary action in case of violations. Where such associations do not exist, States should ensure an environment conducive to their establishment.”

Corruption flourishes in a culture of inertia, secrecy and silence.

A key **challenge** in preventing and fighting corruption is to **detect and expose bribery, fraud, theft of public funds and other acts of wrongdoing**.

One of the most direct methods of shining the light on corruption is **whistleblowing**.

Unfortunately, **whistleblowers commonly face retaliation** in the form of harassment, firing and blacklisting, and their disclosures are often ignored. **People are often aware of misconduct but are frightened to report it.**

To overcome these limitations, a clear and simple **framework should be established that encourages legitimate reporting of corruption** and other malfeasance, and protects such whistleblowers from victimization or retaliation.

Example: TI's activities to protect whistleblowers

To help protect whistleblowers, TI is engaged in a **wide range of advocacy, public awareness and research activities in all regions of the world.**



For more information, please refer to the OECD guiding principles for encouraging and protecting whistleblowers and the dedicated section on the TI Web site



Refer to: Voluntary Guidelines – extract from 6.9

“Staff working on the administration of tenure should be held accountable for their actions. They should be provided with the means of conducting their duties effectively. They should be protected against interference in their duties and from retaliation for reporting acts of corruption.”

ROLE OF ACTORS

Although governments are most responsible for fighting corruption, **most of the mentioned anti-corruption measures and activities require commitment by a variety of actors, including CSOs, media and the private sector.**

These are their respective responsibilities:

- Media
 - ✎ Exposing corruption to the public and raising general awareness of its detrimental effect upon society.
- Private sector
 - ✎ Assessing actual and potential impacts of their activities on human rights and legitimate tenure rights.
- Civil society organizations
 - ✎ Monitoring public services and contributing to the implementation of anti-corruption instruments.

Civil society organizations can be very instrumental in advocating for anti-corruption reforms.

They have a **key role to play in fighting corruption**, from monitoring public services, denouncing bribery and raising awareness, to contributing to the implementation of international anti-corruption instruments such as the UNCAC.

Here are a few examples of civil society initiatives at local level:

Examples:

Centro Peruano de Estudios Sociales (CEPES)

The centre is working to assess and raise awareness of the main drivers of land reconcentration and anti-corruption actions in the present period: land markets, privatization of cooperatives, concessions for extractive industries, investments in biofuels and tourism.

CEPES is developing a **monitoring system** based on normative, institutional, census, subjective and other indicators, including normative indicators relating to the protection of land rights within international agreements, and constitutions and national laws.



For more information, please visit the Web site www.observatoriotierras.info

National Land Rights Forum Nepal (NLRF)

The Forum is able to generate information on the land rights situation through its organizational structures at the district and community levels.

As a key element of participation in the movement, community-level groups conduct participatory analyses of land ownership structures and power relations in their communities and use this to inform their own strategic planning.

The NLRF is supported by the Community Self-Reliance Centre.



For more information, please visit the Web site www.csrcnepal.org

Kenya Land Alliance

It has monitored the mismanagement of public lands and produced the *Land data survey report on internal displacements 2009*. Educating people on their land rights is an initial step to ensure access to justice.



For more information, please visit the Web site www.kenyalandalliance.or.ke



Refer to: Voluntary Guidelines – 3.2

“States and other parties should regularly review and monitor policy, legal and organizational frameworks to maintain their effectiveness.

Implementing agencies and judicial authorities should engage with civil society, user representatives and the broader public to improve services and endeavour to prevent corruption through transparent processes and decision-making.

Information about changes and their anticipated impacts should be clearly stated and widely publicized in applicable languages.”

The **private sector** has a **critical role** to play in the fight against corruption. The principles described in this course should help business enterprises playing their part.

➡ **Business enterprise** have a responsibility to **respect human rights** and should identify and assess any actual and potential impacts on human rights and legitimate tenure rights in which they may be involved.

➡ **Investors in natural resources** have the responsibility to respect national law and legislation and the rule of law in line with the general principles for non-state actors as contained in the VGGT.

Refer to: Voluntary Guidelines – 5.8

“Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights. Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others.

They should include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights. Business enterprises should provide for and cooperate in non-judicial mechanisms to provide remedy, including effective operational-level grievance mechanisms, where appropriate, where they have caused or contributed to adverse impacts on human rights and legitimate tenure rights.

Business enterprises should identify and assess any actual or potential impacts on human rights and legitimate tenure rights in which they may be involved. States, in accordance with their international obligations, should provide access to effective judicial remedies for negative impacts on human rights and legitimate tenure rights by business enterprises.

Where transnational corporations are involved, their home States have roles to play in assisting both those corporations and host States to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights. States should take additional steps to protect against abuses of human rights and legitimate tenure rights by business enterprises that are owned or controlled by the State, or that receive substantial support and service from State agencies.”



And, finally, let's look at the exciting example, that demonstrates **what individuals can achieve**:

Example The story of of Joyce Nangobi from Uganda

In 2003, Joyce Nangobi started with three other women the **Slum Women's Initiative for Development (SWID)**, a collective of local women affected by the lack of land rights. Thirty women were later mobilized to join their efforts, and **nearly ten years on, they have grown to over 500 members.**

It **started as a necessity** as at that time, Joyce Nangobi was about to lose her home. **Families were illegally being evicted from their homes**, and with **many women** widowed or with their husbands away working in urban areas, they **were left to fend for themselves and their children...**

...Women were not aware of their rights, and didn't know that they could stop authorities from evicting them.

SWID now holds paralegal training on land ownership and property rights.

Women are educated on what they're entitled to, and warned about paying money to government officials who promise title deeds and then never follow through.

SUMMARY

- There are impressive **signs of progress** in fighting corruption in general and in tackling corruption in the tenure of land, fisheries and forest.
- The implementation of the **UN convention against corruption** offers an enabling infrastructure through legislation, establishing and supporting anti-corruption agencies in the majority of countries.
- Access to **information**, access to public **participation** and access to **justice** are practical means of ensuring that decisions by governments consider sustainable development concerns and the interests of the poor.
- Reforming the **civil service** by promoting performance standards, as well as standards of ethics and conduct, is also needed to address corruption there.
- Although **governments** have the primary responsibility to tackle corruption, it is particularly important that **civil society** and the **private sector** also actively participate in this effort.

