

Land Corruption Risk Mapping

Developing a handbook on how to identify and tackle corruption risks in land governance

Rainer Tump, Johanna Damböck, Patric Hehemann, Victor Kanyangi Ouna, Oscar Koome Mbabu, Lukas Nagel, Manuel Risch, Anne Wanjiru Mwangi, Fanni Zentai



Seminar für Ländliche Entwicklung | Centre for Rural Development

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Rainer Tump

Team Leader, Sociologist; Email: rainer.tump@yahoo.de

Johanna Damböck

M.A.I.S. Master of Adv. Int. Studies; Email: johanna.damboeck@gmx.net

Patric Hehemann

M.A. Political Science; Email: patric.hehemann@gmail.com

Victor Kanyangi Ouna

B.Sc. Land Administration; Email: davickan@gmail.com

Oscar Koome Mbabu

Bachelor of Laws; Email: oscar.mbabu@strathmore.edu

Lukas Nagel

M.A. Asian Studies; E-Mail: lukasnagel8@gmail.com

Manuel Risch

M.A. International Business & Consulting; Email: manuel.risch@yahoo.de

Anne Wanjiru Mwangi

Bachelor of Laws; Email: anne.wanjiru@strathmore.edu

Fanni Zentai

M.Sc. International Economics; Email: zentaifanni@hotmail.com

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Fanni Zentai

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Preface

For 54 years, the Centre for Rural Development (SLE Seminar für Ländliche Entwicklung), Humboldt-Universität zu Berlin, has trained young professionals in the field of German and international development cooperation.

Three month empirical and applied oriented research projects conducted on behalf of German or international development Agencies form an integrated part of the one-year postgraduate course. In interdisciplinary teams and with the guidance of experienced team leaders, young professionals carry out assignments on innovative futureoriented topics, providing consultant support to the commissioning organisations. Involving a diverse range of actors in the process is of great importance here, i.e. surveys from the household level to decision makers and experts at national level. The outputs of this applied research directly contribute to solving specific development problems.

The studies are mostly linked to rural development themes and have a socioeconomic focus, such as improvement of agricultural livelihoods or regimes for sustainable management of natural resources etc. The host countries are mostly developing or transformation countries, but also fragile states. In the latter, also themes such as disaster prevention, peace building, and relief are under examination. Another focus of the studies lies in the field of method development or development of handbooks or guidelines. Evaluations, impact analysis, or participatory planning are also in this lane.

Throughout the years, SLE has carried out far more than two hundred consulting projects in more than ninety countries, and regularly publishes the results in this series. In 2016, SLE teams completed studies in Kenya, Ethiopia, and in Peru.

The title of the present study is Land Corruption Risk Mapping. The study was commissioned by Transparency International.

The report is also available from SLE upon request or can be downloaded from the SLE website www.sle-berlin.de.

Prof. Dr. Uwe Schmidt
Director of the Albrecht-Daniel-Thaer Institute
Humboldt-Universität zu Berlin

Dr. Susanne Neubert
Director
Centre for Rural Development (SLE)
Humboldt-Universität zu Berlin

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- We sincerely thank Sister Mary Killeen (Principal of St. Catherine Primary School) for providing precious information that gave us guidance for the case study in Nairobi and broadened our perception of the severe consequences of land-grabbing. Furthermore, we deeply thank the ShuleYangu Alliance and Banice Mburu (Society for International Development) for their cooperation.
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- We express our gratitude to the women activists of GROOTS for their great work in defending women's land rights in Kakamega county and especially to Esther Mwaura for her cooperation and support in providing essential inputs for the case study in Kakamega.
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Executive Summary

Background

Corruption impedes development, reduces government efficiency and increases inequality. The cost of corruption is estimated to equal more than 5% of global GDP (US\$ 2.6 trillion) with over US\$ 1 trillion paid in bribes each year (OECD 2014). However, the negative effects of corruption are not just limited to economic factors: They affect human lives and have severe consequences for societies all over the world. The impacts are especially felt by the poorest individuals of society and families with low income, since public resources cannot be used for the promotion of social wellbeing and the poor cannot afford to pay bribes. Consequently, the poorest often do not have access to basic public services, e.g. health care, education and other governmental services (BMZ 2016).

Services related to the administration and governance of land, from here on referred to as land governance, are particularly affected by corruption. More specifically, a survey found that globally one in five people reported that they have paid a bribe for land services (Transparency International 2013).

Land, however, plays a crucial role in many societies around the world and this is often the case in Sub-Saharan Africa. It is important under economic, environmental, sociopolitical, historical, and cultural terms. In rural areas, land is the primary source of income for many people and “the most significant provider of employment” (FAO 2002: 3). In Africa, farming and the use of land is still dominated by small-scale farming and often by women who contribute substantially to the production and distribution of food. Moreover, many individuals and societies, including indigenous communities, appreciate land as a form of cultural heritage and their identity. Thus, land and land rights are of immense importance and corruption in land governance hampers development and is threatening the livelihood of people worldwide. Corruption in land governance can worsen food crises or even be the cause of hunger and poverty.

As a response to this problem, Transparency International (TI) has initiated the Land and Corruption in Africa Project, co-financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). As part of this project, TI has commissioned the Centre for Rural Development (SLE) to design a generic Land Corruption Risk Mapping Instrument that helps to analyse, map, and tackle corruption risks in land governance. Two crucial factors have led to the commissioning of this project: First, information on corruption risks in land governance is not systematically available which makes it difficult to design feasible solutions for tackling these risks. And second, there is a lack of awareness regarding land rights, land governance and land corruption in many countries in Sub-Saharan Africa.

The Land Corruption Risk Mapping Instrument is designed to reduce this information gap and raise awareness for land governance issues. The instrument is developed in a way that it can be applied in any Sub-Saharan African country. It is published as a handbook that gives explanations, guidance and examples.

Conceptual framework: Corruption and corruption risks

There are various definitions of corruption available in the literature. The SLE team used the definition offered by TI which states that “corruption is the abuse of entrusted power for private gain” (TI 2009: 14). The advantage of this definition is that it is very broad and is not limited to state actors, but potentially includes all actors with ‘entrusted power’ such as private actors, e.g. estate agents and investors, and state-like actors, e.g. surveyors and local chiefs.

Corruption risks can be defined as “weaknesses within a system which may present opportunities for corruption to occur” (TI 2011b: 1). This definition has the advantage of being non-normative, i.e. it does not blame individuals for corruption but focus on weaknesses in systems and processes. The SLE team used this non-normative definition because it believes corruption can be tackled best if weaknesses in a system are addressed rather than individuals blamed.

Methodological approach

Taking into account these definitions, the Land Corruption Risk Mapping Instrument seeks to systematically identify and analyse corruption risks within land governance processes and to provide guidance on how to develop counter-measures to tackle the identified corruption risks in these processes. The instrument consists of three phases:

Phase I: The Research Phase presents methods for systematically collecting relevant background information on the specific case and on the national or regional context. In addition, the most important land governance processes are selected. The Research Phase consists of 3 steps.

Phase II: The Land Corruption Risk Mapping Workshop is the core of the instrument. Here, different stakeholders come together to identify and assess corruption risk in land governance processes. The identified corruption risks are mapped and visualized together with participants. The Workshop Phase consists of 4 steps.

Phase III: In the Strategy Development Phase, counter-measures to tackle the identified corruption risks are developed and prioritised, and an action plan is designed to implement these counter-measures. The Strategy Development Phase consists of 2 steps.

The nine steps of the instrument are presented and explained in the ‘Handbook on Land Corruption Risk Mapping’. The present publication is a supplement to the handbook and focuses on the methodological background of the Land Corruption Risk Mapping Instrument, as well as on the results of the initial application of the instrument in Kenya.

With regard to the methodological background of the instrument, three stages can be differentiated: (1) initial development, (2) testing and (3) improvement of the instrument.

Stage 1: The initial development of the instrument was largely based on desk studies and expert interviews conducted in Berlin and Nairobi.

Stage 2: In order to test if the methodology of the instrument worked in practice and to determine how the methodology needed to be improved, the instrument was applied to four case studies in Kenya.

Stage 3: The results of the testing of the instrument served as a basis for the improvement. The research team used an incremental approach, including several feedback loops and improvement phases after each practical application of the instrument.

Application of the handbook in Kenya

The Land Corruption Risk Mapping Instrument was applied and tested by the SLE team in four different case studies in Kenya. They cover four different topics that are of great importance in the context of land corruption in many Sub-Saharan African countries: (1) Urban space land conflicts; (2) Indigenous communities and their role in initial land registration; (3) Inheritance of land and land rights for women; (4) Large scale land acquisitions.

1. Urban space land conflicts in Nairobi

Increasing prices for urban land have led to intensified competition over the use of public land in Nairobi. The St. Catherine School in Nairobi South B is an example that shows how public institutions and private investors fight over high priced urban land. The school is struggling to protect its land and secure the future of the right to education for its pupils against investors who want to use the school land for their purposes. The Land Corruption Risk Mapping Instrument was applied to the case of St. Catherine's school and corruption risks in two relevant land governance processes, namely Change of land category from public to private and Initial land registration, were analysed in detail.

2. Indigenous communities and their role in initial land registration in West Pokot

West Pokot County is home to a number of ethnic minorities which are often referred to as Pokot people. They largely rely on agriculture and live predominantly in rural areas. Therefore, access to land is essential for their livelihoods and income generation. However, the majority of land in West Pokot has never been surveyed and is also not registered. Thus, there are a myriad of problems in relation to registered and unregistered land, change of status and ownership of land, conflicting title deeds/claims, mistrust between communities and the county government, and lack of transparency and participation in land governance processes. Accordingly, the rationale for conducting this particular case study was to analyse corruption risks in the process of Initial land registration – a process that is currently being carried out by the government in West Pokot.

3. Inheritance of land and land rights for women in Kakamega

In Kenya, women and men have formally equal rights and are entitled to inherit land titles from family members. However, it seems to be common practice in Kenya and in many other parts of Sub-Saharan Africa that women, especially in rural areas, are deprived of their rights to inherit land from their relatives by using corrupt practices. The instrument was applied in Kakamega together with a women group network who identified and analysed corruption risks within three processes, namely Succession and inheritance, Sale of land, and Occupation and use of land without formal registration.

4. Large scale land acquisitions in Kwale

This case study deals with the conflicts around Kwale International Sugar Company Ltd (KISCOL), a large sugar company in Kwale county. In 2007, the government of Kenya leased 15,000 acres of land to KISCOL for a period of 99 years. Subsequently, many of the community settlements were destroyed and local people were evicted and banned as "squatters". A resettlement plan that was part of the agreement between KISCOL and the government was not properly implemented, and most families have not received any compensation for the land until today. KISCOL is being accused of using a lot more land for farming sugar cane than they are legally allowed to and that corrupt practices were used. Accordingly, the instrument was tested in Kwale to identify and analyse corruption risks in the processes Lease of land and Compulsory land acquisition.

Recommendations

Based on the experience and insights gained during the development and application of the Land Corruption Risk Mapping Instrument in Kenya, this study proposes recommendations to TI, governmental, as well as non-governmental organisations on how to use the instrument and how to tackle corruption risks in land governance.

Recommendations for Transparency International Secretariat include:

- Distribute the handbook to all TI National Chapters.
- Make the Land Corruption Risk Mapping Handbook accessible in an online version.
- Conduct trainings on the appropriate use of the instrument and handbook for all TI National Chapters.
- Create partnerships with government authorities and non-governmental organisations for the application of the handbook.

Recommendations for governmental institutions and organisations include:

- Digitisation of documents, i.e. records, maps, notices and other information. This will increase transparency for all stakeholders involved.
- New methods of disseminating land notices in addition to publication in the national Gazette. This will increase the accessibility of information.
- Evaluation – and ultimately reduction – of costs incurred by citizens in completing the various land governance processes.
- Harmonisation of competencies between different institutions and ministries. Where competencies overlap, the risk of corruption increases.

Recommendations for non-governmental organisations include:

- Plan and carry out awareness raising campaigns with community members on their land rights, focussing on those land governance processes and corruption risks with the most severe impacts.
- Form partnerships with government officials to ensure that community members are up to date on any notices, changes of laws, or important events and projects occurring in the area with regard to land.

To conclude, the Land Corruption Risk Mapping Instrument has proven its value during its initial application in Kenya. Not only did it help to identify and analyse land corruption risks and to design appropriate counter-measures for tackling these risks, but it also generated positive side-effects due to its participatory and inclusive approach: it helped to foster important discussions with local communities on their rights and responsibilities concerning land, engaged them in the fight against land corruption, and brought together different stakeholders on the ground to form coalitions against land corruption. Considering these encouraging results, it is very desirable that many organisations across Sub-Saharan Africa – and potentially in other regions – take up the instrument, apply it to their local context, and replicate the positive experiences and effects generated in Kenya.

Zusammenfassung

Hintergrund

Korruption behindert Entwicklung, verringert staatliche Effizienz und verschärft soziale Ungleichheit. Schätzungen zufolge übersteigen die Kosten von Korruption jährlich 5% des globalen Bruttoinlandsprodukts (2,6 Billionen US-Dollar), während über eine Billion US-Dollar in Form von Bestechungsgeldern gezahlt werden (OECD 2014). Allerdings sind die Negativeffekte von Korruption nicht auf die Wirtschaft beschränkt: Sie beeinflussen die Lebensgrundlage vieler Menschen und haben weltweit schwere gesellschaftliche Auswirkungen. Die Konsequenzen wirken sich besonders auf die sozial Schwächsten und Ärmsten der betroffenen Gesellschaften aus, da öffentliche Gelder nicht für das soziale Wohl verwendet werden und die sozial Benachteiligten es sich nicht leisten können, Bestechungsgelder zu zahlen. Als Konsequenz bedeutet das, dass die sozial Schwachen oftmals keinen Zugang zu grundlegenden öffentlichen Dienstleistungen wie Gesundheitsvorsorge, Erziehung und anderen staatlichen Leistungen haben (BMZ 2016).

Dienstleistungen und Prozesse, die im Zusammenhang mit der Verwaltung und Bewirtschaftung von Land – von nun an als Landpolitik bezeichnet – stehen, sind oftmals besonders von Korruption betroffen. Laut Studien hat weltweit eine von fünf Personen Schmiergelder für Dienstleistungen im Landsektor gezahlt (Transparency International 2013).

Tatsächlich spielt Land eine wichtige gesellschaftliche Rolle, nicht zuletzt auch in Subsahara Afrika. Land ist unter ökonomischen, ökologischen, soziopolitischen, historischen und kulturellen Gesichtspunkten ein wichtiger Faktor. Besonders in ländlichen Gegenden ist Land die wichtigste Quelle der Einkommenserzeugung und der wichtigste Beschäftigungssektor (FAO 2002). In Afrika, wo Frauen maßgeblich zur Bewirtschaftung und Nahrungsmittelproduktion beitragen, sind Landwirtschaft und Landnutzung weiterhin von kleinbäuerlichen Strukturen geprägt. Außerdem schätzen viele Individuen und Gesellschaften, darunter viele indigene Bevölkerungsgruppen, Land als Teil ihres kulturellen Erbes und damit ihrer Identität. Folglich sind Landrechte von immenser Wichtigkeit – und Landkorruption behindert Entwicklung und bedroht den Lebensunterhalt vieler Menschen weltweit. Korruption im Landsektor kann der primäre Grund für Hunger und Armut sein und Nahrungsmittelkrisen verschlimmern.

Um diesen Problematiken entgegenzuwirken, hat Transparency International (TI) das länderübergreifende Projekt „Land and Corruption in Africa“ initiiert, welches auch mit Mitteln des Bundesministeriums für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) finanziert wird. Im Kontext dieses Projektes hat TI das Seminar für Ländliche Entwicklung (SLE) mit der Entwicklung eines generischen „Land Corruption Risk Mapping Instruments“ beauftragt, das dazu dienen soll, Korruptionsrisiken im Bereich von Landpolitik zu analysieren, aufzuzeichnen und zu bekämpfen. Der Umstand, dass Informationen zu Korruptionsrisiken im Landsektor bisher nicht systematisch verfügbar sind, macht es schwierig, nachhaltige Lösungen zur Bekämpfung dieser Risiken zu entwickeln. Überdies macht in vielen Ländern Subsahara Afrikas ein Mangel an Bewusstsein in Bezug auf Landrecht, Landpolitik und Korruption im Landsektor eine Lösung der Probleme schwierig.

Das „Land Corruption Risk Mapping Instrument“ soll diesen Mangel an Wissen überbrücken, Bewusstsein für Probleme in der Landpolitik schaffen und Lösungen für diese Probleme aufzeigen. Das Instrument kann in jedem Land Subsahara Afrikas angewandt werden und ist so konzipiert, dass es Erklärungen, Anleitungen zur Nutzung und Beispiele aus der Praxis beinhaltet.

Konzeptioneller Rahmen

In der Fachliteratur gibt es vielfältige Definitionen von Korruption. Das SLE Team stützte sich bei der Erarbeitung des Instruments auf die Definition von Transparency International, wonach „Korruption der Missbrauch anvertrauter Macht zum privaten Nutzen oder Vorteil“ ist (TI 2016). Diese Definition eignet sich deshalb besonders gut, weil sie recht weit gefasst und nicht auf staatliche Akteure reduziert ist, sondern auch andere Akteure einbezieht, denen Macht anvertraut wird, wie zum Beispiel privaten Individuen (z. B. Immobilienmakler oder Investoren) sowie Akteure, die öffentliche Aufgaben wahrnehmen (etwa Vermessungstechniker und lokale ‚Chiefs‘).

Korruptionsrisiken können definiert werden als Schwächen in einem System, die Gelegenheit für Korruption bieten (TI 2011b: 1). Dieses Verständnis hat den Vorteil, dass es keinen normativen Anspruch erhebt, also nicht Individuen für Korruption beschuldigt, sondern Schwächen im System und in Prozessen zu ergründen sucht, die Korruption begünstigen. Das SLE-Team hat diese nicht-normative Definition genutzt, da es davon ausgeht, dass Korruption besser mit der Fokussierung auf systemische Schwächen als durch die Beschuldigung einzelner Individuen bekämpft werden kann.

Methodologie

Unter Berücksichtigung dieser Definitionen dient das „Land Corruption Risk Mapping Instrument“ dazu, systematisch Korruptionsrisiken zu identifizieren und zu analysieren, die im Rahmen zentraler Landprozesse auftreten. Zudem zielt das Instrument darauf ab, zielgerichtet Gegenmaßnahmen zur Bekämpfung dieser identifizierten Korruptionsrisiken zu entwickeln. Um dies zu erreichen, besteht das Instrument aus drei Phasen:

Phase I: Die Forschungsphase bietet verschiedene Methoden, um systematisch relevante Hintergrundinformationen zu einem speziellen Fall und dem nationalen bzw. regionalen Kontext zu sammeln. In der Regel wird diese Phase in Form einer Fallstudie durchgeführt. Außerdem werden hier die wichtigsten Landprozesse ausgewählt, die die Basis für die Identifizierung von Korruptionsrisiken in der nächsten Phase darstellen. Die Forschungsphase umfasst drei Schritte.

Phase II: Der „Land Corruption Risk Mapping“ Workshop bildet das Kernstück des Instruments. Hier kommen verschiedene Akteure und Stakeholder zusammen, um gemeinsam Korruptionsrisiken im Landsektor zu identifizieren und zu bewerten. Die entsprechenden Korruptionsrisiken werden aufgezeichnet und gemeinsam mit den TeilnehmerInnen visualisiert. Die Workshop-Phase umfasst vier Schritte.

Phase III: In der letzten Phase geht es um die Entwicklung und Priorisierung von Strategien zur Bekämpfung der identifizierten Korruptionsrisiken. Zudem wird ein realistischer Aktionsplan entwickelt, um die Gegenmaßnahmen umzusetzen. Die Phase der Strategieentwicklung besteht aus zwei Schritten.

Die insgesamt neun Schritte des Instruments werden detailliert im 'Handbook on Land Corruption Risk Mapping' erläutert. Die vorliegende Publikation ist als Ergänzung zum Handbuch zu betrachten und konzentriert sich auf den methodologischen Hintergrund des Instruments sowie auf die Ergebnisse der erstmaligen Anwendung des Instrumentes in Kenia.

In Bezug auf die Methodologie des Instrumentes können drei verschiedene Etappen in der Entstehung des Instruments unterschieden werden: (1) Konzeptentwicklung,

(2) Testphase und (3) Verbesserung des Instruments.

(1.) Die Konzeptentwicklung basierte auf verschiedenen qualitativen Zugängen, darunter Sichtung vorhandener Fachliteratur und ExpertInnen-Interviews in Berlin und Nairobi.

(2.) Um zu testen, ob die auf diese Weise entwickelte Methodologie auch der praktischen Anwendung standhält und die gewünschten Ergebnisse liefert, wurde das Instrument in vier verschiedenen Fallstudien in Kenia angewandt.

(3.) Die Ergebnisse der testweisen Anwendung bildeten die Grundlage für sich daraus ableitende Verbesserungen. Dabei wurde eine inkrementelle Herangehensweise gewählt, die mehrere Feedback-Schleifen und Verbesserungsphasen nach jeder Praxisanwendung des Instrumentes beinhaltet.

Anwendung des Handbuches in Kenia

Das Handbuch wurde vom SLE Team im Rahmen vier verschiedener Fallstudien in Kenia angewandt und getestet. Diese decken vier Schwerpunkte des Themas Landverwaltung und Landnutzung ab, die nicht nur in Kenia, sondern auch in vielen anderen Ländern Subsahara Afrikas von großer Relevanz sind: (1) Städtische Landkonflikte; (2) die Rolle von indigenen Bevölkerungsgruppen bei erstmaliger Registrierung von Land; (3) Vererbung von Land und Landrecht für Frauen; (4) großflächige Aneignung von Land.

1. Städtische Landkonflikte in Nairobi

Steigende Grundstückspreise für Land im urbanen Bereich führen zu einem zunehmenden Wettbewerb um öffentliches Land in Nairobi. Der Fall der St. Catherine-Schule in Nairobi ist ein Paradebeispiel für den Kampf von öffentlichen Institutionen und privaten Investoren um begehrtes Land im urbanen Raum. Die Schule selbst kämpft für den Schutz ihres Landes und das bedrohte Recht auf Bildung seiner SchülerInnen gegen verschiedene Investoren, die das Land für ihre Zwecke nutzen möchten. Bei dieser Fallstudie wurden insbesondere Risiken in zwei relevanten Landprozessen detailliert analysiert, nämlich die Übertragung von Land von öffentlichem in privaten Besitz sowie die Erstregistrierung von Land.

2. Rolle von indigener Bevölkerung bei erstmaliger Registrierung von Land in West Pokot

Der Bundesstaat von West Pokot ist das Zuhause einer Vielzahl von ethnischen Minderheiten, die gemeinhin als „Pokot“ bezeichnet werden. Sie leben weitgehend von Agrarwirtschaft und wohnen überwiegend in ländlichen Gegenden. Das bedeutet, dass der Zugang zu fruchtbarem Land für ihren Lebensunterhalt und ihre Einkommengewinnung von großer Bedeutung ist. Der Großteil der Landflächen in West Pokot wurde – wie in vielen Teilen Kenias und Afrikas – niemals von staatlicher Seite vermessen oder registriert. Daraus ergibt sich eine Vielzahl von Problemen im Zusammenhang mit registriertem und nicht registriertem Land, widerstreitenden Nutzungs- und Besitzansprüchen, mangelndem Vertrauen zwischen lokalen Gemeinden und der Regionalregierung sowie mangelnde Transparenz und Bürgerbeteiligung in der Landverwaltung. Da ein umfassender Prozess der Vermessung und Registrierung von Land in West Pokot vor kurzem von der Regierung begonnen wurde, zielte die Fallstudie darauf ab, mögliche Korruptionsrisiken in diesem Prozess zu identifizieren.

3. Vererbung von Land und Landrecht für Frauen in Kakamega

In Kenia haben Männer wie Frauen formal dieselben Rechte und sind berechtigt, Landbesitz von Familienmitgliedern zu erben. Tatsächlich aber ist es gängige Praxis in Kenia und vielen anderen Ländern in Subsahara Afrika, Frauen dieses Erbrecht mit Hilfe von Korruption zu verwehren – besonders in ländlichen Gebieten. Daher wurde das Instrument in Kakamega gemeinsam mit einem Frauennetzwerk angewandt, um Korruptionsrisiken in drei verschiedenen Landprozessen zu identifizieren, nämlich bei der Vererbung von Land, dem Verkauf von Land und der Nutzung von Land ohne formale Registrierung.

4. Großflächige Aneignung von Land in Kwale

Diese Fallstudie untersuchte die Landkonflikte, die die Kwale International Sugar Company Ltd (KISCOL) umgeben, einem großen Zuckerproduzenten in Kwale. Die Regierung verpachtete 2007 mit einer Laufzeit von 99 Jahren etwa 6.000 Hektar Land an KISCOL, ohne dabei zu berücksichtigen, dass lokale Gemeinden auf diesem Land lebten und dort Subsistenzlandwirtschaft betrieben. Infolge der Verpachtung wurden viele der Dörfer zerstört, die lokale Bevölkerung als „Besetzer“ behandelt und vertrieben. Ein Plan zur Entschädigung und Umsiedlung der lokalen Bevölkerung, Teil des Abkommens zwischen KISCOL und der Regierung, wurde nicht angemessen umgesetzt, sodass die meisten Familien bis heute keine Entschädigung für das verlorene Land bekommen haben. KISCOL wird vorgeworfen, mehr Land zu nutzen als dem Unternehmen ursprünglich zuerkannt wurde und korrupte Praktiken benutzt zu haben. Dementsprechend wurde das Instrument in Kwale verwendet, um Korruptionsrisiken beim Verpachten von Land und bei Zwangsenteignung von Land zu identifizieren.

Empfehlungen

Aufbauend auf den Ergebnissen und Einsichten, die sich durch die Entwicklung und Anwendung des „Land Corruption Risk Mapping Instruments“ in Kenia ergaben, richtet diese Studie konkrete Empfehlungen an Regierungen, Transparency International und Nichtregierungsorganisationen, wie das Instrument benutzt und Korruptionsrisiken in der Landadministration und -verwaltung bekämpft werden können.

Empfehlungen an das Sekretariat von Transparency International:

- Verbreitung des Handbuchs unter allen TI-Chaptern;
- Zugriff auf das Handbuch als Online-Version ermöglichen;
- Angemessene Fortbildungen zur Verwendung des Handbuchs für alle Nationalverbände;
- Schaffung von Partnerschaften mit Regierung und Zivilgesellschaft zur breiten Nutzung des Handbuchs.

Empfehlungen für staatliche Institutionen:

- Digitalisierung von Dokumenten, die für die Verwaltung von Land zentral sind, besonders von Vermessungsdokumenten, Karten, Mitteilungen und anderen Informationen. Das wird die Transparenz für alle involvierten Akteure erhöhen und Möglichkeiten zu Missbrauch und Korruption reduzieren;
- Einführung neuer Methoden zur Bekanntmachung offizieller Informationen in Bezug auf Land zusätzlich zum staatlichen Amtsblatt, um den Zugang zu Informationen, insbesondere für AnalphabetInnen, zu verbessern;
- Evaluierung und letztendlich Reduzierung aller Kosten, die für die Bürger beim Durchlaufen verschiedener Landprozesse anfallen;
- Harmonisierung von Kompetenzen zwischen verschiedenen Institutionen und Ministerien. Korruptionsrisiken nehmen dort zu, wo es unklare bzw. sich überlappende Zuständigkeiten gibt.

Empfehlungen für die Zivilgesellschaft und für nicht-staatliche Organisationen:

- Planung und Umsetzung von Sensibilisierungskampagnen zu Landrechten zugunsten der Lokalbevölkerung mit einem besonderen Fokus auf die Landprozesse und Korruptionsrisiken mit den schwerwiegendsten Folgen;
- Bildung von Partnerschaften mit staatlichen Institutionen, um sicherzustellen, dass die Bevölkerung Zugang zu neuesten Mitteilungen, Gesetzesänderungen, wichtigen Ereignissen und geplanten Projekten in Bezug auf Landpolitik hat.

Das „Land Corruption Risk Mapping Instrument“ hat bei der erstmaligen Anwendung in Kenia seinen Nutzen unter Beweis gestellt. Das Instrument hat es nicht nur ermöglicht, Korruptionsrisiken im Landsektor zu identifizieren und zu analysieren und maßgeschneiderte Gegenmaßnahmen zu entwickeln, sondern hat durch seinen partizipativen und inklusiven Ansatz auch positive Nebeneffekte zu Tage gebracht. So ermöglichte die Anwendung des Instruments die Entstehung von wichtigen Diskussionen unter der Lokalbevölkerung im Kontext ihrer Landrechte und Verantwortlichkeiten in Bezug auf Land, ermutigte sie in ihrem Kampf gegen Korruption im Landsektor und brachte verschiedene lokale Akteure zusammen, um gemeinsam Koalitionen gegen Landkorruption zu bilden. In Anbetracht dieser ermutigenden Ergebnisse bleibt zu wünschen, dass viele Organisationen in Subsahara Afrika – und hoffentlich auch anderen Regionen – das Handbuch nutzen, es ihren lokalen Gegebenheiten anpassen und die positiven Erfahrungen und Effekte, die es in Kenia hervorgebracht hat, wiederholen.

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Abbreviations

BMZ	Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung (Federal Ministry for Economic Cooperation and Development)
CPI	Corruption Perception Index
FAO	Food and Agriculture Organisation of the United Nations
GROOTS	Grassroots Organizations Operating Together in Sisterhood
GSU	General Service Unit
KISCOL	Kwale International Sugar Company Ltd
MoL	Ministry of Lands in Kenya
NGO	Non-governmental organisation
NLC	National Land Commission
NSSF	National Social Security Fund
OECD	Organisation for Economic Co-operation and Development
SLE	Centre for Rural Development (Seminar für Ländliche Entwicklung)
TI	Transparency International
TI-K	Transparency International Kenya
TI-S	Transparency International Secretariat
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
WIN	Water Integrity Network

1 Introduction

Background of the study and problem statement

Corruption is one of the main obstacles to sustainable environmental, political, economic and social development; it impedes growth, reduces government efficiency, increases inequality and perpetuates poverty (OECD 2014).

Estimates show that the cost of corruption equals more than 5% of global GDP (US\$ 2.6 trillion) with over US\$ 1 trillion paid in bribes each year (OECD 2014). According to Transparency International's Global Corruption Report 2009, companies make annual payments of up to forty billion US dollars to politicians and government officials in developing and transition countries alone (TI 2009).

Corruption has a devastating economic effect, particularly in developing countries, which lose billions of dollars every year through corrupt acts (World Bank 2016a). According to an estimate by the World Bank, "[...] each year US\$ 20 to US\$ 40 billion, corresponding to 20% to 40% of official development assistance, is stolen through high-level corruption from public budgets in developing countries and hidden overseas" (OECD 2014).

The consequences of corruption, however, are not only economic. Corruption has also severe consequences for the society as a whole (BMZ 2016). Public resources that could be used for the promotion of social well-being and poverty reduction are embezzled and diverted. The impacts are especially felt by the poor, since they might be completely excluded from basic public services like health care or education if they cannot afford to pay the bribes (BMZ 2016).

Especially land governance is one specific area where the impact of corruption is a strong constraint on growth and development. Around the world, one in five people report that they have paid a bribe for land services recently (TI 2013). Particularly in African countries, land corruption is a huge problem and has a significantly negative impact on the whole population and most prominently on vulnerable groups such as elderly, women, religious and ethnic minorities (World Bank 2016).

Objectives of the study

Responding to this far-reaching problem, Transparency International (TI) – an international Non-Governmental Organisation (NGO) leading the fight against corruption worldwide – has initiated the Land and Corruption in Africa Project co-financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). The overall goal of this project is "to contribute to improved livelihoods of men and women adversely affected by corrupt practices in land administration and land deals, and thereby to enhance security of tenure, as well as to ensure equitable and fair access to land, and ultimately sustainable and inclusive development and growth" (TI 2015).

In this context, TI has commissioned the Centre for Rural Development (SLE) to design a generic Land Corruption Risk Mapping Instrument for application in Sub-Saharan African countries. Crucial factors that have led to the commissioning of this project are 1) the lack of awareness of land corruption, and 2) the fact that information on corruption risks in land governance is not systematically available, which makes it difficult to design feasible solutions for tackling these risks. A generic Land Corruption Risk Mapping Instrument¹ as principal item of a user-friendly handbook can bridge this information gap, raise awareness and facilitate the work of Transparency International and its partners in the Land and Corruption in Africa project, and in more generic terms, the work of engaged civil society organisations, governments, and businesses to prevent and address land corruption in their work and operations.

1. Overall, SLE and TI defined three general objectives for the project:
2. To develop a land corruption risk mapping instrument for Kenya
3. To analyse land-corruption risks in selected sectors / regions in Kenya applying the land corruption risk mapping instrument

To design a generic land corruption risk mapping instrument for application in other countries besides Kenya, and to include four case studies as illustrations

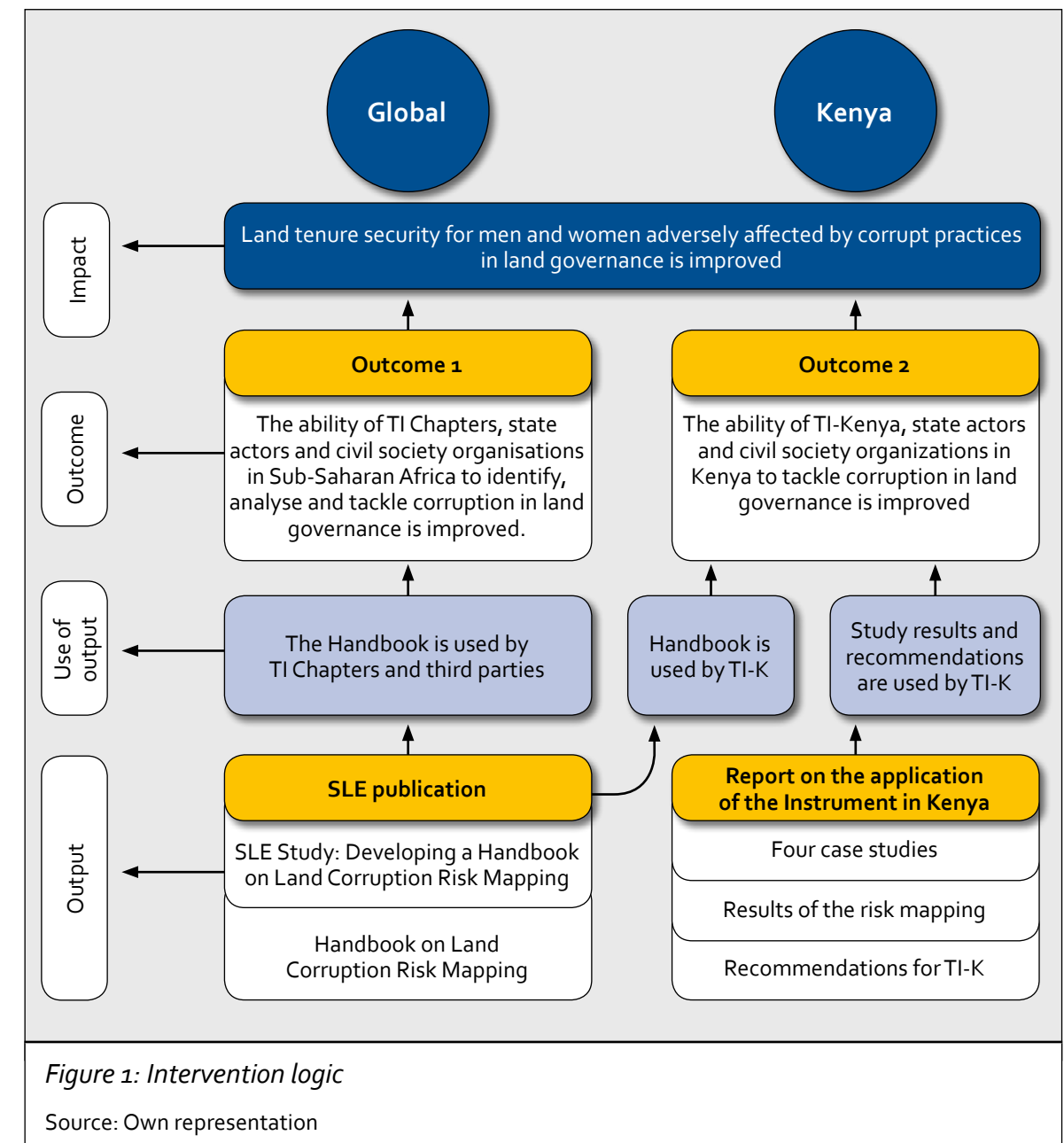
The intervention logic in figure 1 illustrates these objectives and specifies the output, outcome and impact of the project. The chart is divided vertically by levels referring either to the global level or the Kenyan context.

The first output, the SLE Publication, consists of two parts:

- The SLE Study describes the way the research team developed the Handbook on Land Corruption Risk Mapping and contains the results from the four case conducted studies in Kenya.
- The Handbook on Land Corruption Risk Mapping comprises the Land Corruption Risk Mapping Instrument and a user guide for the instrument.

The second output, the report on the application of the instrument in Kenya, contains a detailed analysis of the four Kenyan case studies, including the results of the risk mapping as well as recommendations for TI-Kenya (TI-K) on how to tackle the identified corruption risks. In line with Transparency International's policy to guarantee anonymity and protect informants, absolute discretion was paramount and promised to all the informants during the application of the instrument. Accordingly, the report was only submitted internally to TI-K due to its sensitive content derived from informants being directly affected by corruption in land governance.

¹ During the development of the Handbook on Land Corruption Risk Mapping and the field work in Kenya, the project team used the expression 'tool' instead of 'instrument'. Both terms are widely used for handbooks. It was decided to use the term 'instrument' for the present SLE study and the handbook.



Both outputs will lead to two different outcomes: First, TI-Chapters and other relevant stakeholders (e.g. NGOs, Donor agencies, Academia) in Sub-Saharan Africa use the handbook to identify, analyse, map and tackle corruption in land governance. Second, TI-K and its partners use the instrument and the report results generated to address the identified land corruption issues in Kenya.

Finally, both outcomes contribute to the overall goal which is improved land tenure security for women and men adversely affected by corrupt practices in land governance.

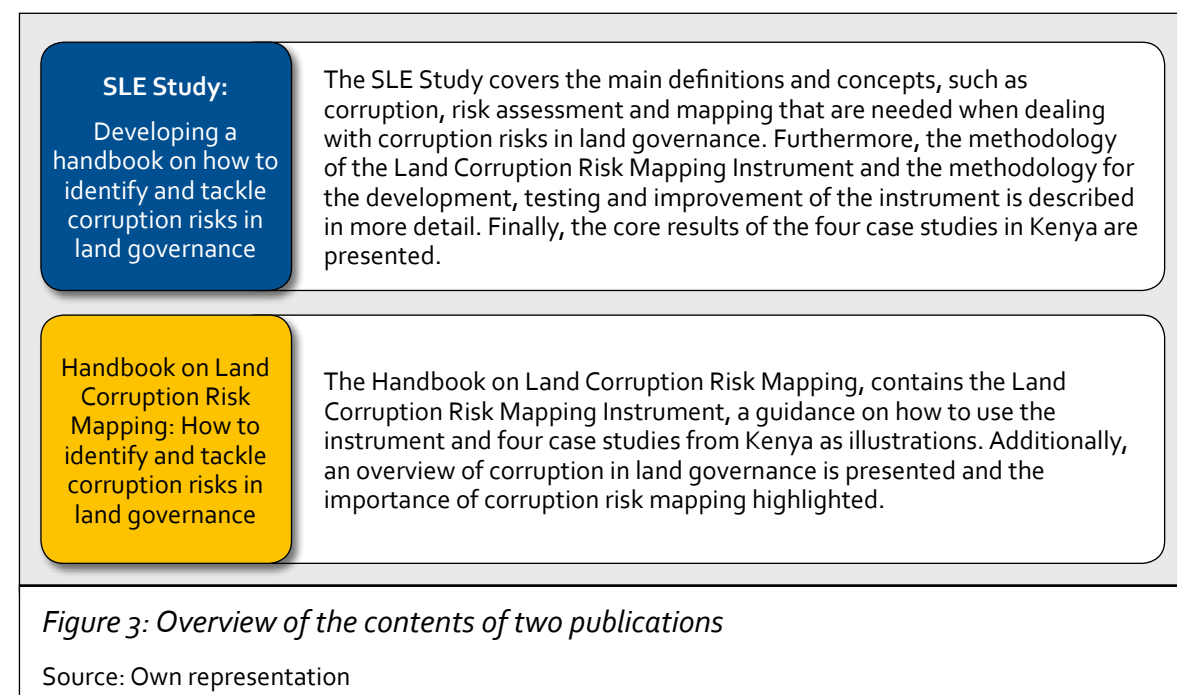
Main parties involved

The main partners involved in the development of the handbook and in the application of the Land Corruption Risk Mapping Instrument in Kenya are shown in Figure 2:



Structure

The project resulted in two publications. An overview of the content of each publication is presented in Figure 3.



2 Conceptual framework

2.1 Understanding corruption and corruption risks

Various definitions of corruption are used in the fields of social anthropology, sociology, political science, law or economics. Accordingly, their wording and meaning differs from field to field and is also changed according to the context. Most of the definitions, however, can be put into two categories: the *political-economic* definitions of corruption which are primarily used in the field of politics and economics (Divjak/Pugh 2008; Karklins 2005; Shabani 2014) and the *sociological* definitions of corruption (Kos 2006; Katkov 2014). Moreover, the various definitions can be distinguished in demand-side and supply-side corruption. The advantages and disadvantages of the different definitions of corruption are explained in more detail below.

2.1.1 Definitions of corruption

The political-economic definition of corruption

The political-economic definitions of corruption see corruption as a specific phenomenon which occurs in political and economic contexts. Many definitions falling under this category therefore focus on only government officials, and can be called government corruption. Government corruption is defined as "the sale by government officials of government property for personal gain" (Shleifer and Vishny 1993: 599). A typical example of government corruption is when government officials demand goods for providing a service, such as issuing land titles or other official documents. These "goods" become "bribes" when these goods "[...] are not demanded for their own sake, but rather enable private agents to pursue economic activity they could not pursue otherwise" (Shleifer and Vishny 1993: 599). This is only possible when government officials have discretion over the provision of the services their job requires them to fulfil.

A similar definition of this category, which has been used regularly, is: "the abuse of public office for private gain" (World Bank 1997: 8). The disadvantage of this definition is that it "[...] implies a firm dichotomy between the public/impersonal and the private/personal spheres and the importance of keeping the two separate" (Harrison 2007: 672). The problem here is that big scandals of enterprises would not be included, which is why Transparency International and others have started using a broader definition: "Corruption is the abuse of entrusted power for private gain (TI 2009: 14)." This definition includes corruption occurring not only in the political context, but also in the economic and business context.

The sociological definition of corruption

Sociological definitions can be described best with the very imprecise, but suitable adjective "broad". Unique for these definitions is that they describe corruption indirectly. As such, corruption can, for example, be described as something that is perceived to be hampering efforts to get things done (Harrison 2007: 672). As such, the definition is similar to poverty, therefore somewhat subjective and difficult to define (Harrison 2007: 672). However, this definition has the advantage of taking a view from the people who are actually affected by corruption as it does not exclude anyone from labelling something as

corruption and something else as not.

Approaches which see corruption not only as something economic, but also as a power relationship that favours someone in front of power holders because of kinship, affection, caste etc. belong into this category. This kind of corruption can also be called “parochial corruption” (Balachandrudu 2006: 811). Parochial corruption occurs when a person feels discriminated because of kinship. An example for this would be if a cousin of a board member gets a promotion instead of another employee who is not related to the board member.

Because of the broadness of these definitions, many situations and incidences identified as corruption within these definitions, are not corruption within the political-economic definition of corruption. For the fields of politics and economics, it would only be corruption when the person who got a promotion has abused his official powers (e.g. if they work for a government) by giving someone a favour, and when this favour then in return is paid back by the promotion.

Demand-side and supply-side corruption

Corruption exists in two directions depending on the side from which the initiative for a corrupt practice comes. As such, there is (TI 2010: 6):

- Demand-side corruption: Private persons, families, communities or companies offer bribes to officials for favourable treatment or permission for an illegal practice.
- Supply-side corruption: Corrupt officials demand favours from clients to execute or accelerate routine tasks such as issuing documents required for legal operations or performing a land survey.

Very similar are the concepts of active corruption (similar to demand-side corruption) and passive corruption (the supply-side corruption). Active corruption is by definition “promising or giving an undue advantage of any kind to a person in order that this person performs an act in the course of his or her business activities”. Passive corruption, on the other hand, is “the soliciting or receiving of an undue advantage of any kind by a person in order that this person performs an act in the course of his or her business activities” (Casuto 2002: 24).

The present study uses the TI definition that “corruption is the abuse of entrusted power for private gain” (TI 2009: 14) as this definition seems to be the most accurate and suitable when dealing with corruption in land governance. Moreover, the TI definition of corruption has a broad scope. The “abuse of entrusted power” refers not only to state-given power but also to private actors and state-like power structures. For example, chiefs are often the representatives of a group of people living in traditional societies in rural areas. Their entrusted power is not state given but traditional. An abuse of the chiefs’ power for “private gain” would be covered by TI’s definition. Another example are surveyors. They act in state-like positions and have an important role when it comes to the separation of land. They have entrusted power by private individuals with little or no state involvement since they act on a private base. However, their possible abuse of power needs to be considered in the definition of corruption and when developing an instrument to analyse land corruption.

With regards to demand-side and supply-side corruption, this study covers both of them in order to make the corruption risk mapping as complete and inclusive as possible.

2.1.2 Forms of corruption

Corruption occurs in many forms and each possesses different risks. The United Nations Convention against Corruption, for example, recognises four main forms of corruption (UNCAC 2003): abuse of functions; bribery of public officials; embezzlement; and trading in influence. More widely, however, the United Nations work with the following forms of corruption (some of them do not fall under UNCAC): bribery; embezzlement, theft and fraud; extortion; abuse of function; favouritism and nepotism (see Figure 4) (United Nations 2004).

- Bribery: “Bribery is the act of conferring a benefit in order improperly to influence an action or decision” (United Nations 2004: 24). It is important to note that as a form of bribe e.g. sexual extortion (“sextortion”) can be expected to which women and girls are more vulnerable than their male counterparts (Goetz 2005). Sexual extortion is widely reported as the “currency of land corruption” in Sub-Saharan Africa and is caused by the coercive power of an authority that exerts pressure on women and young girls to extort sexual favours from them (Transparency International Zimbabwe 2015: 1; UNDP 2012: 13).
- Embezzlement, theft, and fraud: “All these three forms involve stealing by an individual exploiting his or her position of employment. In the case of embezzlement, property is taken by someone to whom it has been entrusted. Fraud involves the use of false or misleading information to induce the owner of property to part with it voluntarily. Theft, as such, is very broad and would not fall under the definition of corruption. Theft is corruption, however, when it is, for example, the theft of property by someone to whom it was entrusted” (United Nations 2004: 26-27).
- Extortion: “This form of corruption relies on coercion to induce cooperation, such as threats of violence or the exposure of sensitive information” (United Nations 2004: 27).
- Abuse of function: “An example for this is when a customs official may have to assess the value of a consignment of goods or decides which of several similar categories should be used to assess duty. Such abuses are often associated with bureaucracies in which there are broad individual discretions and inadequate oversight and accountability structures” (United Nations 2004: 28).
- Favouritism and nepotism: “By definition, favouritism, nepotism and clientelism all involve abuses of discretion, although a number of countries do not criminalise the conduct ... Such abuses usually involve not a direct personal benefit to an official but promote the interests of those linked to the official, be it through family, political party, tribe, or religious group” (United Nations 2004: 28).

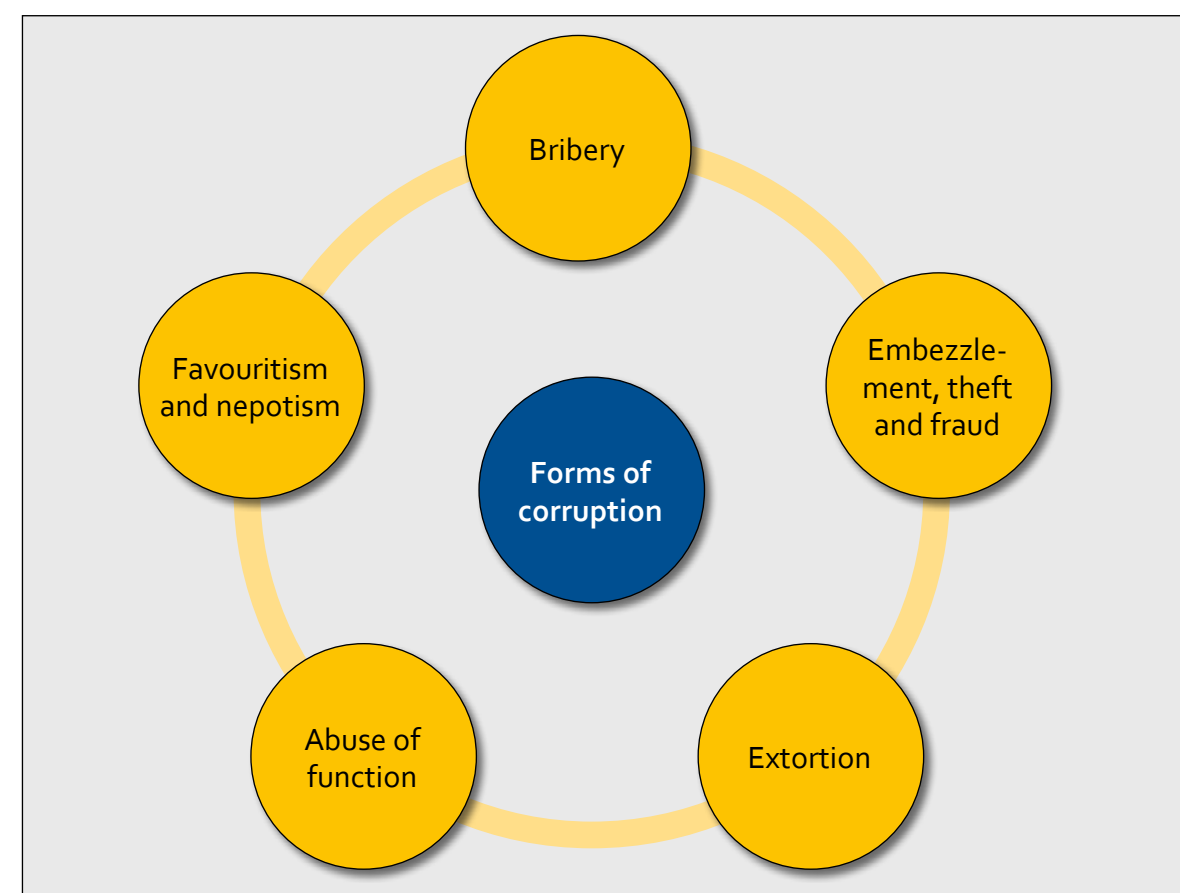


Figure 4: Forms of corruption

Source: Own representation based on United Nations, 2004

Another distinction is made between:

- grand corruption, and
- petty corruption

Grand corruption refers to bigger scandals, such as bribing a high-level official to approve business contracts. Or, from the point of view of the supply-side, grand corruption “consists of acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good” (TI 2016).

Petty corruption “refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in hospitals, schools, police departments and other agencies” (TI 2016). Petty corruption is very often left out as most anti-corruption rhetoric focuses on grand corruption (Harrison 2007: 675). From a qualitative perspective, and not quantitative perspective, however, this petty corruption can make a poor young mother lose hope as she might think that her child’s healthcare is dependent on her ‘hand under the table’ (Harrison 2007: 675).

Grand corruption as well as petty corruption can occur in all forms, therefore as bribery; embezzlement, theft and fraud; extortion; abuse of function; favouritism and nepotism. The distinction between grand and petty is mostly made by the level and severity of the impact a certain act of corruption has.

2.1.3 Corruption risks

Corruption risks can be defined in many different ways, depending on the context. Popular definitions used for defining corruption risks within risk assessment instruments are the following (TI 2011a: 1-2):

- weaknesses within a system which may present opportunities for corruption to occur;
- assessments of institutional vulnerability combined with data on perceptions and/or experience of corruption;
- a factor of the likelihood of corruption multiplied by the impact of corruption;
- a factor of the level of transparency and level of fairness in a process;
- the difference between actual and ideal systems.

Corruption risks can also be either *objective* and therefore non-normative (e.g. weak institutions and regulations) or *subjective* (e.g. tolerance to corruption, personal motivation, weighing up of costs/benefits, past experiences) (TI 2011b: 1-2).

The present study works with the first definition, namely: “weaknesses within a system which may present opportunities for corruption to occur” (TI 2011b: 1). The advantage of this definition is that it takes a non-normative stance towards this sensitive topic of corruption. It is non-normative, because this definition does not say that a specific official is corrupt, or that this practice of bribing was a corrupt act. Instead of blaming certain individuals or group of actors, it aims at exposing weaknesses within a governance system which enables corruption to happen. By exposing these structural corruption risks and making them explicit, this systemic approach has the strength of finding structural solutions for the problem.

2.2 Understanding risk assessment

Risk assessment is a very broad term used in many different disciplines. The aim of risk assessment methods is to create an objective, scientific basis for guiding future decision making. Whereas its general purpose stays the same, the definition and concrete nature of a risk assessment differ from discipline to discipline. The early idea of the first risk assessments which were applied in businesses in the field of technology was to assess with sophisticated technologies what could potentially go wrong and how to make technologies safe (MacLean 1982: 244). Subsequently, a traditional risk register would be developed by identifying items of technical risks and evaluating or estimating the likelihood of the event occurring and the expected impact (Ackermann et al. 2007: 39; Chapman/Ward 1997; Hull 1990; Thompson/Perry 1986).

In political sciences, for example, risk assessment can be described as the scientific component of risk regulation, as opposed to risk management, which is the policy component of risk regulation. Political risk assessment can be divided into four stages: risk identification, dose-response assessment, exposure assessment, and risk characterisation (Pollak 1996: 26). Corruption risk assessment is part of a political assessment and therefore the same methods can be applied, too.

According to Transparency International, an assessment of corruption risks ranges therefore “from identification of corruption (or integrity) and/or institutional weaknesses/gaps as an indicator of risk of further corruption, to an analysis of the impact and estima-

tion of the likelihood of corrupt practices” (TI 2011a: 1-2). Further stages in the assessment might then include prioritisation of risks and guidance on the development of anti-corruption strategies (TI 2011a: 2).²

2.3 Understanding risk mapping

For developing the Land Corruption Risk Mapping Instrument, understanding and defining the concept of risk mapping is crucial. Similar to risk assessment, also risk mapping is used in a wide area of disciplines and can thus be understood quite differently.

In business administration “risk mapping is an instrument used [...] in the identification, control, and management of risk” (Ingram et al. 2004: 1) and is, for example, used in the sector of life insurances. In anthropology, for example, the concept of mapping public perception of risks “[...] provides a data driven basis for defining the locally affected population for a given project, and therefore can be a key element in social impact assessment” (Stoffle et al. 1991: 612-13). One definition that fits many disciplines, provided by the World Bank, is: “risk mapping is a visual method of showing local perceptions of areas or people in a community (such as settlements, infrastructure, and resources) that face different levels and types of risk” (World Bank 2002: 1). According to the World Customs Organization, a risk mapping process is then “[...] part of a systematic, comprehensive methodology to identify, prioritise and quantify risks to gather all relevant data” (World Customs Organization 2015: 7).

All these definitions are only partly applicable to the Land Corruption Risk Mapping Instrument. The reason for this is that the definitions are adapted to a specific field, subject or area in which these definitions are used. The most suitable definitions and explanations of the Land Corruption Risk Mapping Instrument are provided by the World Bank and the World Customs Organization (see above). In line with those two definitions, land corruption risk mapping is a visual method of showing local perceptions of people with regards to land corruption. It is, as such, simplifying the complex issue of corruption in land governance by visually showing relevant land governance processes, their activities, actors and the corruption risks within these processes in a systematic and structured visual manner. The visualisation of the risk mapping process is then a part of a systematic and comprehensive methodology which aims at gathering all relevant data needed for identifying, prioritising and tackling corruption risks in land governance.

² The issue on how to measure and assess corruption (risks) is complex and controversial, with academic considerations concerning methodology and validity of sources at its very heart. Similar to Transparency International’s most popular tool, the ‘Corruption Perception Index’ (CPI), the qualitative manner to measure corruption in this handbook may be criticised for being based on the opinion of anonymous informants. A detailed debate surrounding the advantages and disadvantages of the different ways to measure corruption (risks) can be found on <http://www.transparency.org.uk/measuring-corruption-discussion/> and the specific challenges arising from corruption risk assessment, the importance of the selected stakeholders for the outcome and the respective data collection are discussed on http://gateway.transparency.org/files/uploads/Corruption_Risk_Assessment_Topic_Guide.pdf.

2.4 Understanding the importance of land

The importance of land in society can be understood in economic, environmental, socio-political, historical and cultural terms.

The most popular notion with regards to the importance of land is in economic terms. Land within this definition is the primary source of wealth, social status and power. It is furthermore “the most significant provider of employment opportunities in rural areas and is an increasingly scarce resource in urban areas” (FAO 2002: 3). Consequently, securing land rights results in economic growth, and therefore also poverty reduction (Cotula et al. 2006: 7). Economically, land plays also a significant role as a provider of natural resources such as oil, water, minerals, etc. and is the source of many political conflicts over these resources (Nie 2003: 307).

Also from an environmental point of view, land plays a huge role. Land use has a major influence on the global environment: “...changes to forests, farmlands and waterways are being driven by the need to provide food, fiber, water, and shelter to more than six billion people” (Foley et al. 2005: 1). Especially global croplands, pastures and urban areas have expanded tremendously in recent decades. This, along with increased demand in energy, water and fertiliser consumption, as well as a loss of biodiversity, has a significant impact on the livelihood systems: “Such changes in land use have enabled humans to appropriate an increasing share of the planet’s resources, but they also potentially undermine the capacity of ecosystems to sustain food production, maintain freshwater and forest resources, regulate climate and air quality, and ameliorate infectious diseases” (Foley et al. 2005: 1).

Land – especially in rural areas – is significantly important in defining the identity of a person. Sociologically and politically, it can be observed that there “is a strong correlation in many societies between the decision-making powers that a person enjoys and the quantity and quality of land rights held by that person” (FAO 2002: 3). Land is thus “an important aspect of household, community, and national decision-making powers” (FAO 2002: 3). This is especially relevant in rural areas where social exclusion or inclusion is dependent on a person’s ownership of land. In urban areas, “the right to participate in municipal planning, in community decisions, and sometimes elections, can depend on the status of an individual as a “resident” or “home owner” (FAO 2002: 3).

Land can also be of great historical and cultural importance for a group of people, e.g. in a community. Very often, pieces of land are attached with certain religious meanings and traditions (United Nations 2009: 53). As such, land generates a symbolic meaning which changes over time and defines people’s relation to their environment (Antrop 2005: 21).

3 Methodological approach

As specified in the Terms of Reference, the general objective of the study is to develop and apply a Handbook on Land Corruption Risk Mapping. Therefore, methodological questions are at its very core. More specifically, two different kinds of methodologies are important in the context of the study:

1. Methodology of the Land Corruption Risk Mapping Instrument *itself* and;
2. Methodology for *developing, testing and improving* the Land Corruption Risk Mapping Instrument.

These two methodologies will be explained in more detail in the following sub-chapters.

3.1 Methodology of the Land Corruption Risk Mapping Instrument

As explained in the Introduction, the Land Corruption Risk Mapping Instrument aims to identify and assess corruption risks in land governance, and to identify and design counter-measures for tackling these risks. To achieve this aim, the instrument is generally based on both a process-oriented and a participatory approach, which is reflected in the methodology throughout the instrument.³ Yet, *three phases* of the instrument can be differentiated from one another with regard to the specific methods used, sources of information, and involvement of stakeholders:

- **Phase I – Research:** This phase provides a systematic approach for researching and collecting background information that will serve as a basis for the mapping of corruption risks. The research is mainly based on desk studies and expert interviews, for which the instrument provides detailed instructions and guidelines.
- **Phase II – The Land Corruption Risk Mapping Workshop:** First, the systematically collected information from Phase I is presented to the workshop participants for validation and improvement. Thereafter, the actual mapping of corruption risks within the relevant land governance processes takes place. To take account of the instrument's participatory approach, the risk mapping is done in a participatory multi-stakeholder workshop. The instrument provides a variety of methods that help to conduct the workshop and to gather and systematise the information that is provided by the participants.
- **Phase III – Strategy Development:** In this phase, the focus is on structured group discussions within or among organisations that are active in the fight against corruption. Based on the outcomes of the Land Corruption Risk Mapping Workshop, the instrument provides methods that help the organisation(s) and stakeholders to discuss and develop measures to address the identified risks.

The three phases of the Land Corruption Risk Mapping Instrument are further subdivided into different steps. In total, the instrument consists of *nine steps* that should be applied by the user to carry out a well-informed and comprehensive land corruption risk mapping. The methodology used in each of the nine steps is described in more detail in table 1 below.

³ Since the detailed methodology of the Land Corruption Risk Mapping Instrument is described in the handbook, this chapter only gives a brief overview of the methods.

Step	Methodology
Phase I: Research	
Step 1: Analysis of the case	The users systematically collect information on the case they choose for applying the instrument. To this end, desk studies, expert interviews and field visits are carried out. The collected information can be systematised in different forms such as a time-line or a field map.
Step 2: Analysis of context	The users analyse the historical, legal and institutional context by carrying out desk studies and expert interviews and systematise the collected information.
Step 3: Selection of relevant land governance processes and adaptation of process illustrations	The users conduct desk studies and expert interviews to select the land governance processes relevant to the case at hand. In addition, they adapt the generic illustrations of the processes provided in the handbook to the specific local / national context and analyse which actors are involved. This context-specific information on the land governance processes forms the basis for the risk mapping in Phase II.
Phase II: The Land Corruption Risk Mapping Workshop	
Step 4: Validation of research results	The results of the research phase are presented to and discussed with the workshop participants. To facilitate participation, interactive visualisations are used and the information is validated and updated together with the workshop participants.
Step 5: Identification of potential corruption risks	The workshop participants are familiarised with the details of the selected land governance processes by using the adapted process illustrations. On this basis, specific corruption risks within the land governance processes are identified by the workshop participants and mapped in the illustration.
Step 6: Assessment of identified corruption risks	The workshop participants assess the impact and likelihood of each identified corruption risk using coloured cards, with each colour signifying a different assessment. The assessed risks are then transferred into a Risk Assessment Matrix that allows for a ranking of the risks according to the participants' assessment. ⁴
Step 7: Identification of particularly affected groups	As a last step of the workshop, the participants take a closer look at the most severe corruption risks and determine if there are social groups that are particularly adversely affected by the identified risks. The results are then considered when developing counter-measures in Phase III.

⁴ To take account of the participatory approach, the instrument seeks to include the perspectives of those who are actually affected by corruption. Therefore, the assessment of the identified corruption risks is done in a simplified way as compared to other risk assessment instruments. Thus, the assessment of the impact and likelihood of each corruption risk is not based on numerical scoring, but on the use of coloured cards. Similarly, the resulting assessment of impact and likelihood are not multiplied, but rather transferred into a Risk Assessment Matrix where each risk receives a numerical score according to its assessment.

Phase III: Strategy Development	
Step 8: Prioritisation of intervention areas	Based on the results of the workshop, actors and organisations that are determined to fight land corruption prioritise which of the previously identified corruption risks can and should be tackled first. To this end, structured group discussions within or among these organisations are conducted, using a scorecard for the prioritisation of intervention areas. All relevant stakeholders should be invited to contribute to this prioritisation.
Step 9: Selection of counter-measures & development of action plan	Finally, specific counter-measures are selected during the structured group discussion to tackle the identified corruption risks. In addition, a comprehensive action plan is developed on how to implement and monitor these counter-measures effectively. For the final step, it is important to involve as many stakeholders as possible to foster the implementation of the action plan.
<i>Table 1: Methodology used in the nine steps</i> Source: Own representation	

3.2 Methodology for developing, testing and improving the Land Corruption Risk Mapping Instrument

Development of the instrument

The initial *development* of the Land Corruption Risk Mapping Instrument was largely based on different qualitative methods, namely on desk studies and expert interviews conducted in Berlin and Nairobi. As part of this development process, the project team familiarised itself with the concepts and different approaches of corruption risk assessment and mapping as described in chapter 2. The team further reviewed other corruption risk assessment and risk mapping instruments, e.g. corruption in the forestry sector (TI, 2010), mining sector (Wolfe & Williams 2015), or the water sector (WIN 2011)⁵. Furthermore, the project team consulted experts on risk assessment and instrument development.

As a result of this review and consultation process, the project team chose a *process-oriented approach* for the Land Corruption Risk Mapping Instrument. The underlying assumption is that corruption usually does not happen randomly, but occurs *systematically* in the form of gaps or loopholes in the governance of the processes in the respective sector (World Bank, 2003). Therefore, the main approach that the Land Corruption Risk Mapping Instrument follows is to identify corruption risks *within* crucial land governance processes.

⁵ A comprehensive overview of existing corruption risk assessment and mapping instruments is provided on Transparency International's Website "GATEWAY Corruption Assessment Toolbox" at <http://gateway.transparency.org/>.

In order to use the instrument to identify corruption risks within land governance processes, the research team had to identify the most important land governance processes. To this end, the project team carried out a desk study on internationally renowned reference documents in the area of land governance, such as the FAO's Voluntary Guidelines on the Responsible Governance of Tenure (FAO, 2012), the World Bank's Land Governance Assessment Framework (Deininger, Selod, & Burns 2011), and various resources of the International Federation of Surveyors (Enemark 2010). In order to provide detailed illustrations and descriptions of the key processes in the Land Corruption Risk Mapping Instrument, the team conducted interviews with land governance experts and carried out a workshop with senior lecturers and students from the Department of Land Administration and Information at the Technical University of Kenya.

For the actual mapping of corruption risks within the land governance processes, the project team decided together with the commissioning party Transparency International that the instrument should be based on a *qualitative and participatory approach*. Such an approach allows the perspectives of many stakeholders, notably of those who are affected by land corruption, to be taken into consideration, and thus facilitates a realistic identification of corruption risks as they unfold on the ground. Therefore, the instrument's methodology was designed in a way which allows to map corruption risks during one or several participatory multi-stakeholder Land Corruption Risk Mapping workshops. During such a workshop, active contributions of all participants – no matter whether they are land governance experts or not / highly educated or not – are highly encouraged. To this end, the methods used are based on simple graphical illustrations of land governance processes and corruption risks (for examples, see chapter 4).

Furthermore, to fulfil the aspiration that the Land Corruption Risk Mapping Instrument should not only *identify* and *assess* corruption risks, but also help organisations *to design feasible counter-measures* for tackling these risks, additional methods needed to be added. Finally, the research team opted for a simple scorecard and action plan to avoid too much complexity and keep the instrument useable for different stakeholders.

The result of the instrument development processes described in this sub-chapter was a first complete draft of the Land Corruption Risk Mapping Instrument, which was then tested and improved based on four case studies in Kenya.

Testing and improvement of the instrument

In order to test if the instrument methodology worked in practice and to determine how the methodology needed to be improved, the instrument was applied to four case studies in Kenya, namely:

- Urban space land conflicts in Nairobi;
- Indigenous communities and their role in initial land registration in West Pokot;
- Inheritance of land and land rights for women in Kakamega;
- Large scale land acquisitions in Kwale.

These case studies delivered two kinds of results: On the one hand, *substantial results* were generated, i.e. the Land Corruption Risk Mapping Instrument helped to identify and assess specific corruption risks and to select and design appropriate counter-measures (see chapter 4). On the other hand, *methodological results* with regard to the functionality and applicability of the instrument itself were generated using three instrument testing methods during the application of the Land Corruption Risk Mapping Instrument in the

case studies (see annex 1 for an overview of the instrument testing methods). These instrument testing methods were developed by the research team to ensure a systematic testing and improvement of the instrument's methodology. The development of the instrument testing methods was based on a review of instrument testing documents used in other studies (e.g. Kieck et al., 2016; Beer, 2008; Diekmann, 2011). The following three instrument testing methods were used:

1. *Self-assessment sheets for the research team*

In order to systematically take into account also the experiences of those who applied the instrument in the case studies, standardised self-assessment sheets were filled out by the research team. These self-assessment sheets (see annex 2) allowed the team members to comprehensively and systematically capture the insights they gained during the instrument's application, both regarding its overall methodology and the specific methods used in the individual steps of the instrument. Even though the information captured in the self-assessment sheets is subjective, they were filled out by the research team as thoroughly and honestly as possible in order to allow for a well-founded testing and improvement of the instrument.

2. *Evaluation sheet for workshop participants*

The evaluation sheets (see annex 3) were filled out by the workshop participants at the end of the main Land Corruption Risk Mapping workshop. They were used in order to capture the participants' experience with and opinions on the workshop itself, and the instrument as whole. To ensure that the participants feel free to give negative comments in the evaluation sheets and criticise aspects that they did not agree with, the sheets were, of course, filled out anonymously.

3. *Observation sheet for workshops and group discussions*

The core of the Land Corruption Risk Mapping Instrument is the actual mapping and assessment of corruption risks. Thus, the systematic testing of this part in the workshop is crucial for the functionality of the instrument and each workshop was closely observed by at least one member of the research team who was equipped with a standardised observation sheet (see annex 4). The observation sheet is based on several assessment criteria, i.e. applicability, comprehensibility, completeness, participation, relevance, effectiveness. This allowed the observer to systematically gather information on the participants' behaviour and interaction with the instrument. The observation sheet was also used during the identification and design of feasible counter-measures (Steps 8 & 9 of the instrument).

Taken together, the three testing documents enabled the research team to carry out a systematic and comprehensive testing of the instrument's methodology that served as a basis for its improvement. While the self-assessment sheet and the evaluation sheet captured the research teams' and the participants' opinions and experiences on the Land Corruption Risk Mapping Instrument, the observation sheet provided information on the participants' behaviour and interaction.

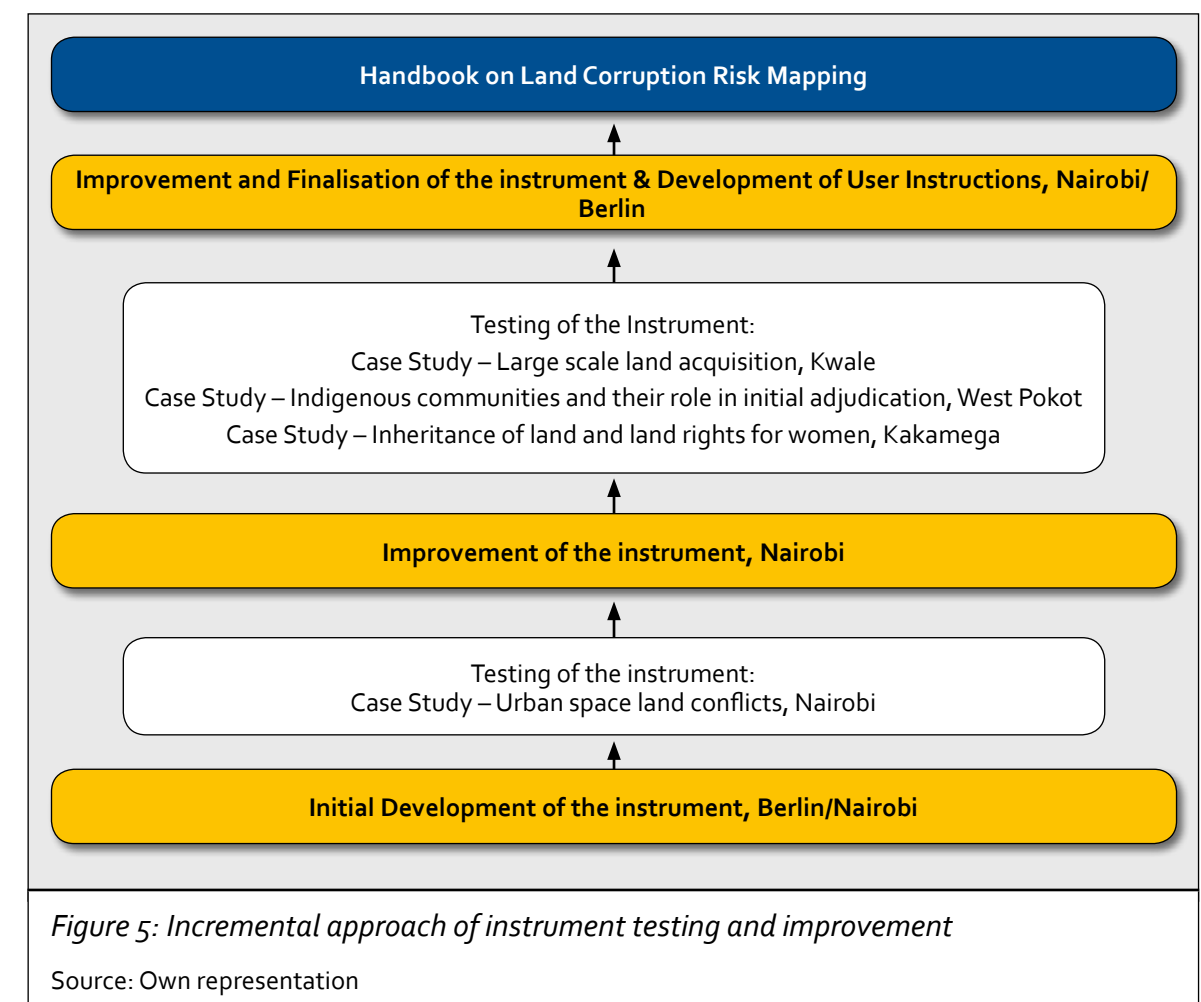
To ensure that the instrument's methodology works in practice, the research team used an incremental approach, including several feedback loops and improvement phases after each practical application of the instrument (see Figure 5).

After the *initial development* of the Land Corruption Risk Mapping Instrument in Berlin and Nairobi, it was tested in a first case study (Urban space land conflicts in Nairobi). From the very first application of the instrument, the aforementioned testing methods were used to optimise the instrument's methodology. Additionally, the discussions on the

instrument as well as the recommendations provided by the workshop participants served as a basis to improve the instrument.

After the first improvement of the instrument, a second application took place simultaneously in three more case studies (Large scale land acquisitions in Kwale; Indigenous communities and their role in initial adjudication in West Pokot; Inheritance of land and land rights for women in Kakamega). Again, the instrument testing methods and the recommendations from the workshop participants were used for a second improvement of the instrument.

In addition, comprehensive user instructions on how to use the instrument were developed. Together, the improved instrument and the user instructions constitute the Handbook on Land Corruption Risk Mapping.



4 Application of the handbook in Kenya

4.1 Kenyan context

Land is one of Kenya's most important resources. The Kenya Land Alliance (2015) states that 90% of Kenyans living in rural areas rely on agriculture as their main livelihood. In addition, the agriculture sector directly contributes to 24% of Kenya's annual Gross Domestic Product. This accounts for 45% of government revenue. The sector is a driver of the industrial sector as it contributes 75% of all raw materials used in Kenya's industries. It is also responsible for 50% percent of foreign income from the export earnings. The agricultural sector is the largest employer in the economy, accounting for 60% of the total employment (Kenya Land Alliance, 2015).

Some problems related to land in Kenya (commonly referred to as the *Land Question*) are partly rooted in colonialism. Before the advent of colonialism, Kenyans had their own means of administration and management of land rights and land resources. The predominant type of land tenure was customary land tenure, which was organised informally. However, decisions on land generally considered the interests of all members of the community. The arrival of the colonial administration brought about changes and disruptions in land management within the communities. One of the drastic changes was the introduction of individual land tenure, which was meant to cater for the interests of the settlers from Britain.

Kenya was not only a colony but also a settler colony. In order to provide land for the settler communities, the colonial administration alienated land from Africans and gave them to the settlers. The communities losing their land were confined to land reserves which were less productive than the highland areas. The clamour for independence in the colonial era was driven by the desire to reclaim the land that had been alienated by the British. It was the hope of many native Africans that, on the departure of the colonial masters and settlers, the land would revert back to them (Kenya Land Alliance, 2015).

Independence in 1963 provided an opportunity to address land issues and to carry out land reforms in order to restore ancestral land. However, the incoming governments failed to tackle this issue – instead, they largely adopted the colonial administration system. The power to allocate land was held solely by the president as he had the authority to sign title deeds and could therefore decide who to allocate the land to. Consequently, the process of land allocation was rife with corruption, as land was given to public officials, cronies and other citizens.

In the 1990's, in a bid to address the myriad land challenges, the successive governments enacted legislation to address land issues in the country. As a result, the numerous legislations led to a near complete breakdown of land administration and management. This is because the laws brought confusion and complexities as some of the laws operated contrary to one another (Manji, 2015).

In 2009, a new National Land Policy was adopted with the aim of simplifying and streamlining the existing land laws and promoting sustainable and efficient land use. This was the first ever comprehensive land policy in Kenya. In 2010, a new constitution was approved through a referendum and promulgated which gave effect to some of the provisions of the National Land Policy. The constitution also devoted a whole chapter, Chapter 6, to addressing land and environmental issues. Also, new land legislation was enacted, which envisaged the harmonisation of all land laws. The new Constitution also recognised

the importance of decentralising power from one main body. It created 47 jurisdictions known as counties (UNEP, 2013).

However, according to Transparency International, land services in many Sub-Saharan African countries were ranked among the worst performing sectors and institutions when it comes to bribery. In their report on Land Corruption (2011), TI averred that corruption in land governance occurs when local officials demand bribes for basic administrative steps, but also when high-level political decisions are unduly influenced, leaving ordinary citizens to pay the price (TI, 2011b).

Table 2 depicts how corruption affects different state operated sectors. According to the East African Bribery Index 2014, land services rank among the highest in terms of corruption in the region (Uganda with an aggregate index of 60% followed by Kenya with 55% in 2014) and are only beaten by police services in 2013 and 2014 (TI, 2014).

Rank	Sector / Institution	2014 Aggregate	Country	2013 Aggregate
1	Police	84.0	Uganda	60.0
2	Police	82.5	Tanzania	72.9
3	Police	73.3	Burundi	64.0
4	Police	68.0	Kenya	60.0
5	Land Services	60.0	Uganda	46.7
6	Land Services	55.0	Kenya	46.7
7	Judiciary	46.7	Kenya	38.3

Table 2: The East African Bribery Index

Source: Own representation based on Transparency International, 2014, p. 2

4.2 Results for Kenya

The following results are based on the information of the four case studies which were conducted in different parts of Kenya. The case studies cover four different topics that are of crucial importance in the context of land corruption in Kenya as well as in other sub-Saharan African countries. To acquire an in-depth understanding of the case, much of the information is collected from reliable sources such as court documents, books, academic articles and expert interviews. However, the outcomes related to the Workshop Phase (Phase II of the Land Corruption Risk Mapping Instrument) such as the identification and assessment of corruption risks are based on the input from a large and diverse group of participants of the multi-stakeholder workshop. The participatory approach allows for verifying the input from the participants and consequently confirm the quality of their information. All the inputs and information were treated with high regard and as one of the main pillars for recommendations to tackle corruption risks.

4.2.1 Urban space land conflicts in Nairobi

Background

In January 2015, yet another case of controversial grabbing of school land in Nairobi filled the headlines of the Kenyan media. Just one week after the infamous case of similar efforts to grab land from Langata Road primary school, where riot police violently tear-gassed protesting parents and pupils, the grabbing of a playground (see the picture below) of St. Catherine primary school in Nairobi stirred questions (Vidija 2015).

It is estimated that approximately 5,000 schools in Kenya have official title deeds of the land they occupy – that means that merely 15% of all schools enjoy formal protection of their school property. The remaining 85% are usually dependent on community goodwill and informal arrangements (Kimeu and Kairu, 2016). When it comes to Nairobi, a 2014 taskforce commissioned to improve the performance of primary schools reported that only 3 out of every 50 schools had a proper title deed, whereas one out of ten on average either had an ongoing dispute related to their land or a complaint on encroachment - the main opponents usually being private developers, religious organisations and/or illegal settlements⁶ (Kimeu and Kairu, 2016).

St. Catherine primary school belongs to the majority of schools without a formal title deed and to the ones being so unlucky to be threatened by land grabbing and corrupt practices because of it. Accordingly, the central land governance process in this case was the change of land category from public to private land⁷: In August 1968, the Government of Kenya allocated 7.65 acres of land for use as playing fields to Mariakani Primary School. However, the Ministry of Lands and Physical Planning converted a portion of this land into a road reserve in 1972. Further parts of the original school area were later given to well-known associates of the President; one for purposes of construction and commercial use of a petrol station (in 1986) and another to the company Hamco Kenya Limited (in 1990). Hamco initiated the forceful eviction of the school with the aid of the then District Officer for Makadara in 1994. The School Headmistress and other staff members were threatened by armed police officers. Hamco then sold the school to the National Social Security Fund (NSSF) in 1995. In 2004, the Ndung'u Commission recommended that areas given for commercial use should be revoked – however, this recommendation was never implemented.

⁶ The complete report is available on <https://www.scribd.com/doc/237192240/NAIROBI-CITY-COUNTY-TASKFORCE-ON-EDUCATION-REPORT#scribd>.

⁷ The process to transform public land into private land usually needs to meet very strict and formal requirements, e.g. it needs to be proved that the respective land is no longer needed for public use. A brief illustration of the process is included below, a more detailed explanation is found in Step 3 of the instrument..



Figure 6: Contested playground of St. Catherine Primary School in Nairobi

Photo: Fanni Zentai

In 2007, Nemka Commercial Agencies, acting as Agents of the Trustees of the NSSF, instituted a law suit against the school and the Board of Governors of St. Catherine's School. In July 2014, upon receipt of a complaint from the Head teacher of St. Catherine's Primary School regarding the proposed construction of a road through the school, a County Executive Committee Member from the Ministry of Education, advised the Coast Bus Company not to have a road constructed through the school. Currently, the case is still awaiting a final court ruling.

In the context of these well-known facts, this case study was selected in order to understand conflicts over land on a public school ground and related corruption risks when public school land is changed to private property. Participants from human rights organisations, the school, public institutions and from the affected community were invited to share their views and information about the case.

Land Governance Processes and local partners

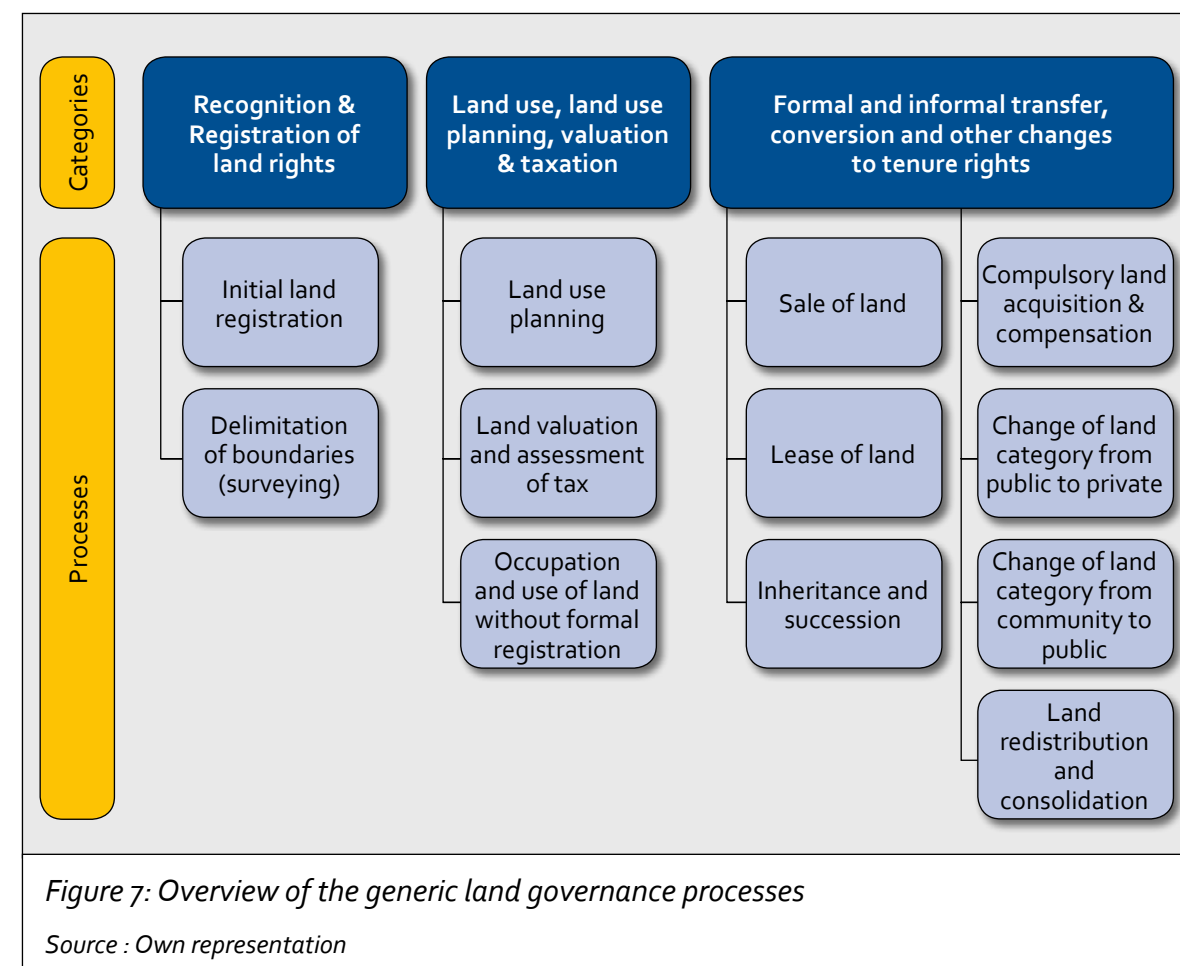
An overview of the most important land governance processes helped to select the processes which were most important for this case and also for the other three case studies. This overview is introduced in Figure 7, dividing the 12 processes into three different categories:

- Recognition & Registration;
- Land Use, Land Use Planning, Valuation & Taxation;
- Formal and Informal Transfer, Conversion and other Changes to Tenure Rights.

Based on the Research Phase, two of those 12 processes were then selected (Step 3 of the instrument) and their detailed content including illustrations, activities and responsible actors explained in a participatory manner in the workshop. This was used as a basis to discuss corruption risks, problems and issues in relation to these processes and the local

situation in general.

Since the school in Nairobi is a public facility and the competing parties are from the private sector, change of land category from public to private land was one of the central land governance processes for the understanding of the case. Additionally, Initial Registration⁸ was identified as a second process, since the school had never owned a formal title deed for its land. The most crucial partners who helped to apply the instrument to identify corruption risks were TI Kenya, ShuleYangu⁹ and some members of the community.



⁸ Land registration is the official recording of legally recognised interests in land" (FIG 2014). For more details, please check the detailed description of the land governance processes in Step 3 of the Land Corruption Risk Mapping Instrument.

⁹ "The ShuleYangu Alliance for the protection of public schools is a nationwide campaign by stakeholders from the government, public and private sector working together to protect public schools against illegal land-grabs, support the government to issue title-deeds to public schools, and support communities to own their schools." (<http://www.shuleyangu.co.ke/>).

Main findings

Similar to the following case studies, the illustration below is a digitisation of the results of the workshop (Steps 4-7) as described in the handbook. Participants of the workshop first discussed the selected land governance processes and then identified corruption risks which might come up during the process. The illustration consists of the following elements:

- The activities of the land governance process are indicated on yellow cards;
- Actors involved in the process are indicated on white cards;
- Identified corruption risks are indicated on the red arrows and point to the activity where the corruption risk is likely to occur.

Small coloured boxes attached close to the corruption risk arrows indicate the likelihood ('L') and impact ('I') of the respective corruption risk based on a participatory assessment by the workshop participants. Starting from green and going to yellow-orange-red, the impact/likelihood of the corruption risk occurring becomes more severe/likely.

Based on the information of the workshop participants it seemed that the involved governmental authorities in charge of the administration of the school property not only failed to fulfil their duty, but were often part of the problem itself and deeply involved in corruption. Official documents were falsified, changed to the school's disadvantage or disappeared completely. Due to the loss of the original deed plan and letter of allotment, the school remains untitled to date.

Figure 8 captures the process of change of land category from public to private and the related corruption risks.

1.) Change of land category from public land to private land

In the change of public land to private land, several governmental checks and balances are supposed to prevent any unjustified transformation of land and avoid corruption. However, it seemed as if public officials often constitute the greatest corruption risks. "Officials are not held accountable", "Pressure on government officials to falsify documents", "False evidence used for investigations" and "Titles and documents are backdated" were among the most severe corruption risks identified. Even members of parliament seemed to be open to corruption and the presentation of false evidence in court suits and the decision based upon false testimony was reported to be both likely and severe.

Especially when it comes to the official investigation of the application to change the status, false evidence and incorrect examinations by the responsible officials seem to happen frequently. As in initial registration, unofficial alterations to the original documents presented a crucial problem. Accordingly, surveyors and planners seemed similarly vulnerable to corruption which renders a transparent process of demarcating land extremely difficult. A lack of information about and access to information about the notifications of the Change of Land from Public to Private caused further problems.

2.) Initial Registration

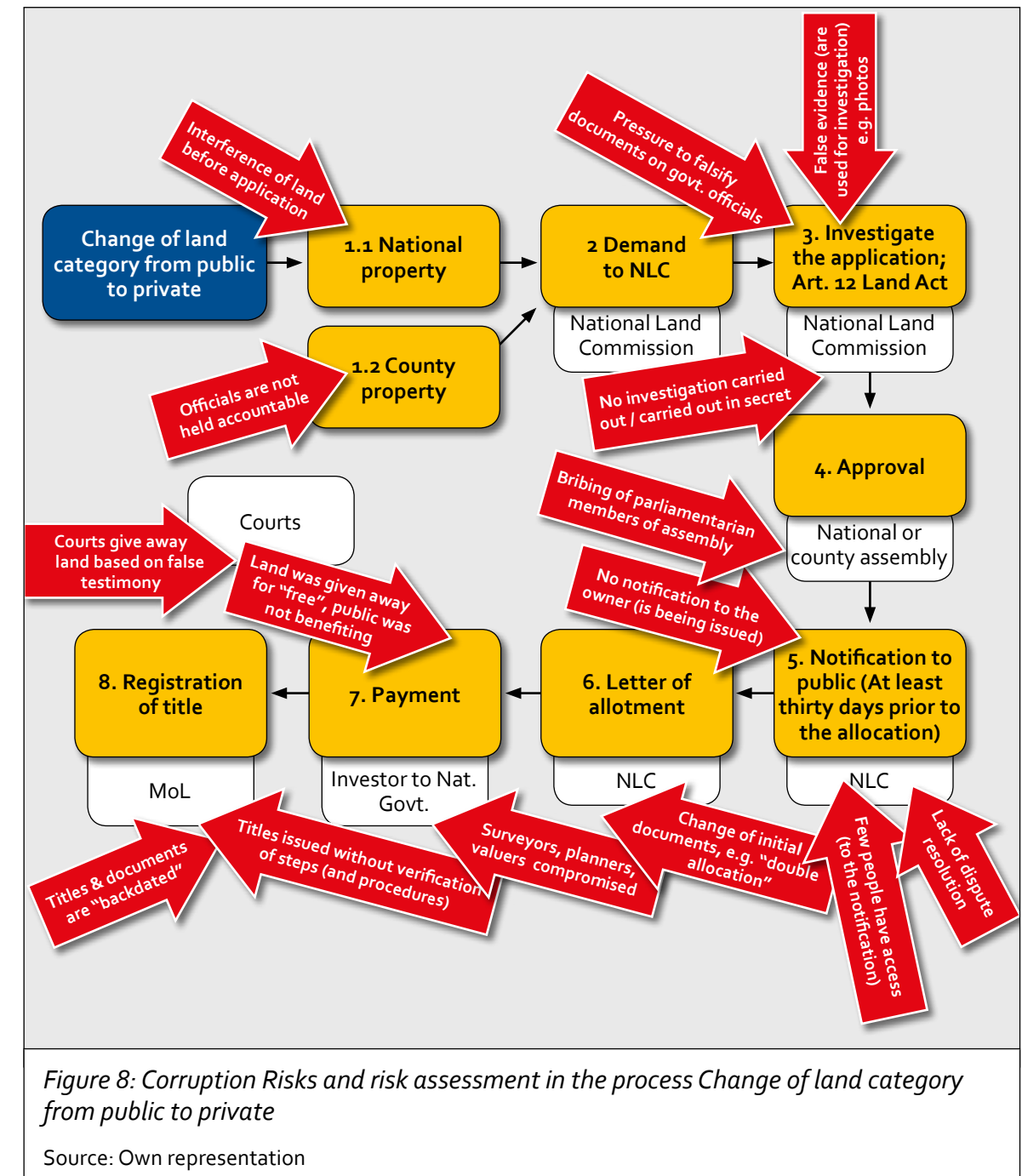
In the process of Initial Registration, disloyal lawyers, police officers and other public administrators were rated as the highest corruption risks according to the impact and likelihood assessment. These actors posed a high corruption risk as they could make irregular changes in survey maps and title deeds. Conflicting interests of involved representatives and officials as guardians of a transparent process on the one hand and individuals with a personal interest in the concerned land was another main problem.

Case-specific recommendations

One of the central problems in this case study was the unaccountability and non-traceable nature of official documents related to the dispute. Maps, title deeds and court documents in paper form may undergo irregular changes or lead to the result that they disappear entirely. Accordingly, measures to prevent this would be:

- Safe storage and systematic digitalisation of such documents, a process that is currently on the agenda of many countries who still archive these kinds of documents in paper form.
- Vetting of all officials included in the process, more checks and balances and more severe punishments for misconduct might positively improve the performance of public officials in land administration.
- Moreover, it needs to be ensured that anyone appointed for an official position in the process is free of any conflicting interests. Background checks, regular replacement of administrative staff and the avoidance of nepotism among the involved parties might help to reduce corruption.
- Public land and school property needs to be properly titled and the responsible staff such as headmasters and teachers be informed on their rights and duties in order to manage the land in the name of public welfare.

Finally, public awareness campaigns against corruption and on land rights could improve the situation. The media could also play a crucial role if they report on cases of corruption related to public land.



4.2.2 Indigenous communities and their role in initial land registration in West Pokot

Background

West Pokot's infamous ethnic clashes due to historical issues surrounding fertile land and resources - with frequent killings of civilians and police officers - and the government's incompetence or even disinterest to solve them have gained wide media coverage (cf. Koskei and Netya 2014). With a very high death rate in some villages, local leaders gloomily refer to the "bullet syndrome" (Muntet 2016).

West Pokot County is located in the Rift Valley region in the West of Kenya. It is home to a number of ethnic minorities, which are often referred to as Pokot people (County Government of West Pokot 2016). The population of West Pokot relies strongly on agriculture and lives predominantly in rural areas. The main source of livelihood is a mixture of pastoralism and small-scale agriculture (ASDSP 2016) which means that the possession of land is extremely important for the livelihoods of local residents. Fertile land in the highlands is scarce and the arid lowlands are difficult to cultivate (see picture below).

The arrival of the colonial powers introduced individualised, formalised and written title deeds, a separation between Kenyans and white (mostly British) settlers, and new land grievances – a combination that is frequently referred to as 'historical injustices'. The fertile highlands were often violently claimed by foreign settlers while the native population had no choice but to move to the arid lowlands – this forced migration frequently created new land conflicts, some of them leading to deadly clashes until today. Land related problems and corruption remain largely unresolved in West Pokot and became even more serious after independence in 1963, when several commissions failed to solve land issues and corrupt administrations abused their powers to grab and allot land to cronies. Large parts of the county do not have any title deed since most of the land is community land: the National Land Commission estimates that approximately only 20% of the region has undergone the process of Initial Land Registration¹⁰.

¹⁰ In the process of initial land registration, jointly owned and administered land by a community is sub-divided so that individual households attain an official title deed indicating the ownership of a clearly demarcated piece of land. For more details, please check the detailed description of the land governance processes in Step 3 of the instrument.



Idle arid community land in the lowlands of West Pokot
Photo: Lukas Nagel



Favoured fertile area in the highlands of West Pokot
Photo: Lukas Nagel

Figure 9: Contrast of different agrarian land types in West Pokot County

The 2010 Constitution of Kenya pushed for devolution in Kenya and led to a devolved system of land governance. Community Land Boards under the supervision of the National Land Commission (NLC) were established to manage community land, which leads to conflicting interests with other actors and state departments which might have an interest in the preservation of the status quo. To complicate things, aggressive investors and powerful individuals are known to abuse the weak governance in the area to get access to land that is originally public or owned by communities. Accordingly, the rationale for conducting this particular case study was, firstly, to take a comparative look at the progress in initial registration in the context of these reforms and competing institutions in West Pokot and if corruption is involved. Secondly, the aim was to give credit to the grievances of indigenous groups in Kenya who are often particularly affected by land corruption.

Processes and local partners

The historical context and high degree of community land made it a logical choice to focus on “Initial Registration” as one of the land governance processes to look for corruption risks. Meetings and interviews with local partners, community members and officials from the County Government helped to identify “Change of land category from public to private land¹¹” as the second crucial process, since individuals and investors often apply for land to be transformed into private property, which is apparently leading to a number of problems and irregularities.

The team was also able to successfully conduct the case study due to support of local partners. Sikom Peace Network established a first contact to the County Government. Officials from the County Land Management Boards associated with the NLC as well as representatives from the local Adjudication and Registration Departments under the supremacy of the Ministry of Lands were every helpful with providing information, fostering links with community members and applying the instrument in order to uncover corruption risks. After the identification, officials and community members worked together in a workshop to assess the likelihood and impact of the risks according to their experience – and how to tackle them.

Main findings

The application of the instrument confirmed the crucial role of historical injustices and their legacy for contemporary land issues. A lack of clear demarcation leaves many people without a title deed, not knowing about land rights and who is responsible for specific tasks. This poses a serious problem, since it often endangers the sole basis of income, livelihood, identity and security for many of the community members. Moreover, it makes them dependent on the whims of the traditional representatives holding the land in trust. To make things worse, the government officials supposedly in charge of protecting their rights and serving the benefit of the Pokot people seem to be part of the problem – often due to corruption.

1.) Initial Registration of Land

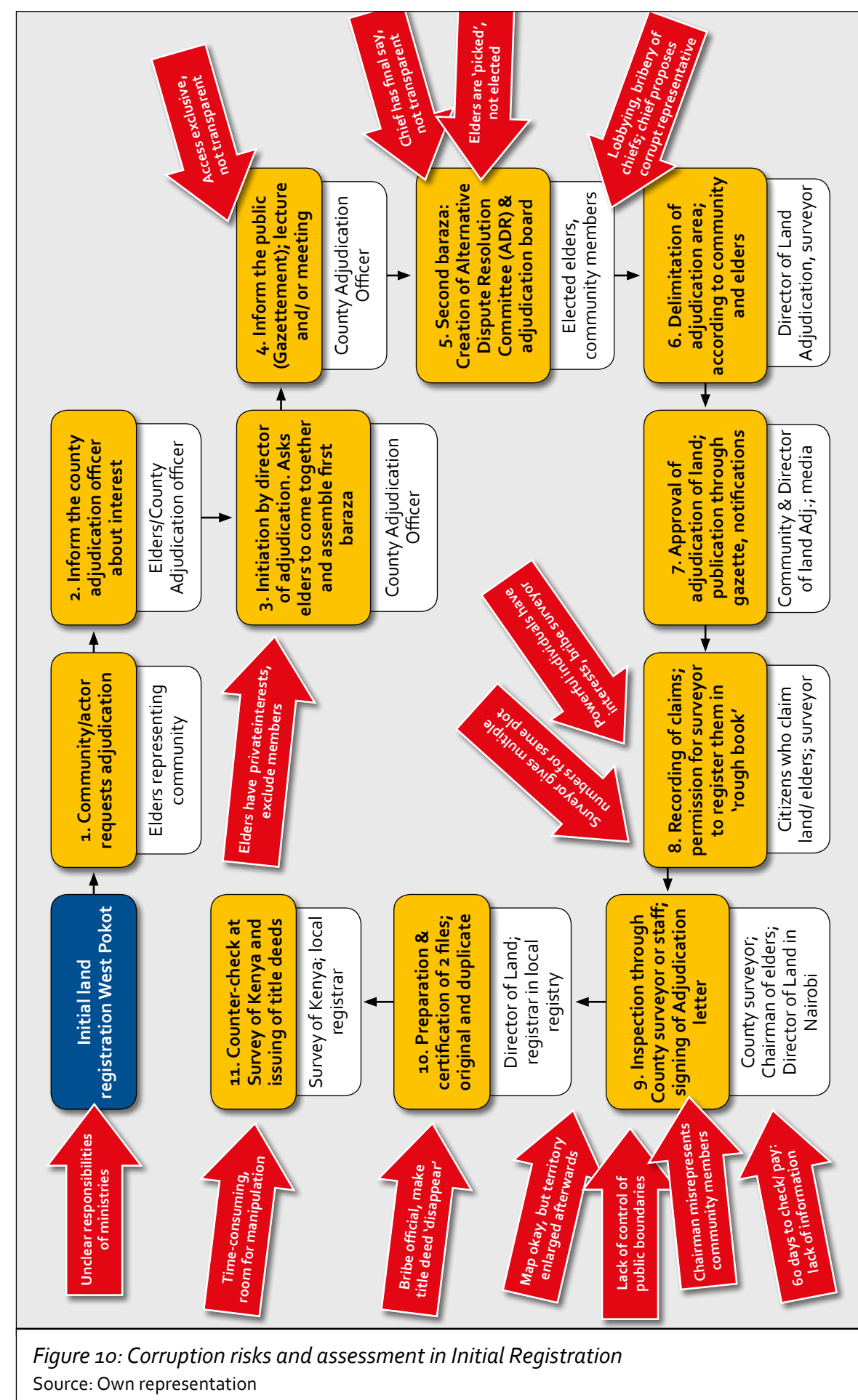
When it comes to Initial Registration, it seems as if a vacuum of awareness, education, information, control and clear administrative responsibilities has led to several crucial corruption risks. First, the conflicting responsibilities between different departments of government bodies and changing legal frameworks perplexes many citizens and invites corruption. Moreover, with the Kenya Gazette often being the sole source of information on new laws, settlements and registration processes, many citizens are unaware of their rights and eventually deceived of their ancestral lands since other

¹¹ The process to transform public land into private land involves several steps and needs to be confirmed by several institutions. A detailed illustration and explanation is found in Step 3 of the instrument.

actors use this chance and grab land by semi-legal and corrupt means. Moreover, elders and chiefs hold crucial positions and are often able to influence the process during crucial activities such as public meetings (‘barazas’). The central role of surveyors for demarcation and mapping of initially registered land makes it explicitly tempting to bribe them in order to make irregular changes, a problem that was frequently reported. Figure 10 shows the process of Initial Registration and the main corruption risks workshop participants identified and discussed in meetings and workshops.

2.) Change of land category from public to private

In the process Change of Public Land to Private, the lack of awareness of the Pokot of their legal rights and duties in land processes was equally influential. This concerned payments and related payment periods – if missed, this opens the door for corruption, manipulation and external actors seizing the land. For many services, locals have to pay bribes to fasten the process or get them done at all. These issues are a general problem, but concern especially the illiterate and marginalised such as pastoralists and women, the latter often still suffering from a strong patriarchy which excludes them from crucial decisions and makes it almost impossible for women to own land. Even where legal practices are formally existent, customary law is usually dominant. This means that it is difficult if not impossible for the average community member to question or oppose a traditional leader, especially if he is backed by powerful external parties such as public officers or influential investors.



To conclude, especially local surveyors have a central role in the land governance processes which reportedly results in them frequently abusing their position to change title deeds (owner, size and position of the land etc.) or ask for bribes in order to fulfil services. Moreover, chiefs and elders who act as the trustees for their communities have extensive powers to influence the registration process, public community meetings and the chosen representatives. Accordingly, the processes suffer from a lack of transparency and accountability of the main actors and government departments. A high illiteracy and general unawareness of land governance processes and related rights and duties is worsened by changing laws. Conflicting interests and the traditional influence of community leaders lead to corruption risks and manipulation in the change from public to private.

Case-specific recommendations

- Members of the Ministry of Lands, the National Land Commission, community members and various civil society organisations agree that the described corruption risks can be prevented by improving awareness and capacity building among the communities about their rights and involving them in the process of democratically electing community representatives.
- Government offices can also assist by streamlining their services and clarifying the roles and responsibilities of their institutions, thus contributing to more transparency.
- The stakeholders also recommended the recognition of Traditional Dispute Resolution Mechanisms as valid methods of resolving land disputes. Clear and accountable regulations need to counter-balance the influential role of gatekeepers such as community elders and land surveyors.
- Moreover, the distribution and accessibility of the Kenya Gazette needs to be improved and specific programmes need to target the groups which are particularly affected by corruption such as the illiterate, pastoralists and women.

4.2.3 Inheritance of land and land rights for women in Kakamega

Background

Despite a sound legal framework allowing women to possess and inherit land, traditional law often prevails in Kenya. The patriarchal structures systematically discriminate women and oppose efforts to change the status quo to the extent that activists of women-led self-empowerment groups in Kakamega reporting on and fighting against corrupt practices in land inheritance received death threats and had to enter witness protection programmes (Meeting with Groots activists, 1.09.2016).

Kakamega is one of the 47 counties in Kenya and located in the country's west. Agriculture plays an essential role, among the most important crops are sugarcane, maize, beans, cassava, finger millet, sweet potatoes, bananas, tomatoes, tea and sorghum. Livestock is another important income source and – just like maize – an important component of the staple food. However, the average land holding size in the county is only 0.57ha and the titling of land property is poor: In 2012, it was estimated that merely 38.6% of the county population held title deeds for their land (County Government of Kenya, 2016).

Individual ownership of land was only introduced during the British colonisation and strengthened men's absolute ownership and control of land. Since the colonial period, women's rights over land were limited and the woman's main role was to produce food for the family. Cultural traditions and practices concerning women's access, use and control of land have worsened this situation as they made it often impossible for women to own land, even though they share equal rights according to the Kenyan constitution.

The new Constitution of 2010 abolished the President's full power over land and the management of public and community land was vested in the National Land Commission. However, there was more improvement regarding land ownership for men than for women. Only 3% of the land is owned by women (CEDAW, 2011), while about 80% of women in Kenya live in rural areas and play a significant role in the agricultural sector as producers and providers of food, thus ensuring food security (GROOTS Kenya, 2012). One of the main reasons for this is that ownership of land is patrilineal which means that fathers share land amongst sons, while excluding daughters – especially in largely traditional counties like Kakamega.

The case study "Inheritance of land and land rights for women in Kakamega" dealt with inheritance, sale of land and informal occupation of land from the perspective of women. It is meant to address the specific issues of women in land governance and how related corrupt practices are undermining their legal rights to possess and inherit land.

Processes and local partners

The case study analysed three land governance processes that were underlying the phenomenon of inheritance of land and land rights for women: "Inheritance/Succession"¹², "Sale of Land"¹³ and "Occupation and use of land without formal registration"¹⁴.

The primary aim was to identify corruption risks within these three land governance processes. For this case study, the SLE team was strongly supported by GROOTS, a grass-roots organisation defending women's rights in Kenya. GROOTS has already cooperated with TI Kenya for several years and has experience in documenting cases of injustice in the disinheritance of women's land rights.

Main findings

1.) Inheritance of land/Succession

The process of Inheritance of land/Succession involved several corruption risks. The process comprises several activities, while starting with the acquisition of the death certificate of the husband. The aim of the whole process is to officially transfer the land to the wife, which includes the confirmation through several administrative institutions. However, there is a great lack of information and awareness about women's land rights and on relevant procedures. Furthermore, the traditional structures make it difficult for women to have equal right to legal procedures and the court system and even when that is achieved, a women's testimony is usually considered as less valid than that of men.

¹² Inheritance is the practice of passing on property titles, debts, rights and obligations upon the death of an individual. More information is provided in Step 3 of the instrument: "Selection of relevant land governance processes and adaptation of process illustrations".

¹³ After an interested buyer and a seller have discussed the value, terms and price of a piece of land, the details are written down in a sale agreement. For a detailed explanation including illustrations, see Step 3 of the Land Corruption Risk Mapping Instrument.

¹⁴ People informally occupying a piece of land do not have the legal property over the land, but are dwelling there for the time being. More information is included in Step 3 of the instrument.

Again, the difficulty to access the Kenya Gazette and the information it contains seems to invite a number of corruption risks: citizens and especially women have little or no access to relevant information on land published in the "Kenya Gazette". The time-consuming process to get the confirmation for a grant as well as corrupt lawyers disappearing with title deeds represent further corruption risks and problems in the process. Throughout the whole process, the fact that bribes are often crucial in order to accelerate certain administrative services or to obtain them at all means that financial barriers are a constant liability for women and can thwart their efforts.

Eventually, even if the title deed and the land are obtained, the size, location or number of owners have often been changed through irregular means and the respective deed becomes worthless. More details on Inheritance of Land and the locally identified corruption risks can be found in Figure 11.

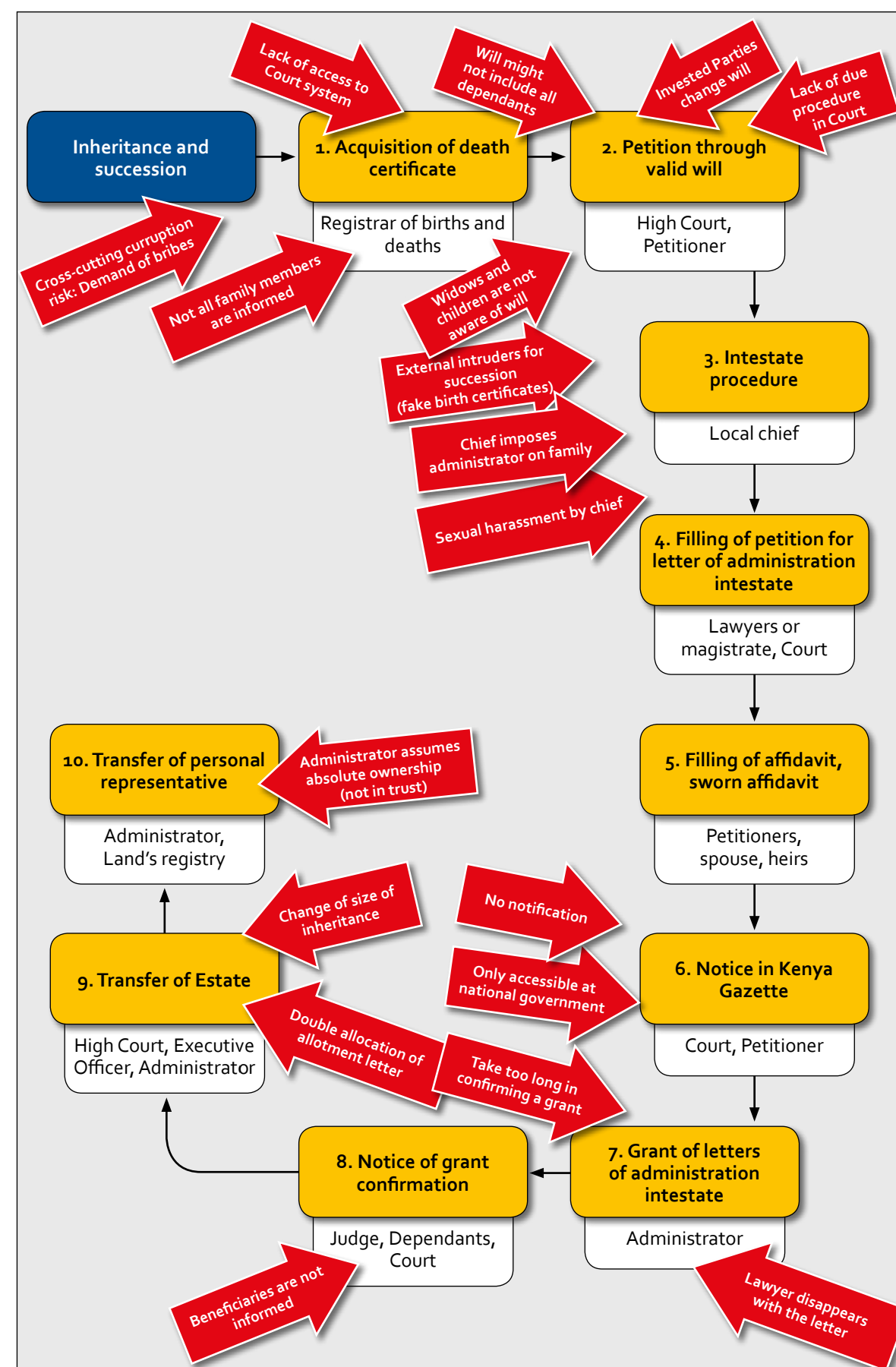


Figure 11: Corruption risks in the process of Inheritance/Succession of Land

Source: Own representation

2.) Sale of Land

Concerning the process "Sale of Land", the cross-cutting issue of corrupt stakeholders and administrative staff asking for bribes in order to agree to fulfil services was similarly critical as in other processes. Board members of central institutions having to decide on the procedure and even the sellers of land themselves apparently frequently ask for bribes in order to attain a more preferred treatment.

One corruption risk, namely "Lack of family involvement" during the negotiation of the concrete terms of the sale agreement seems to indicate that the control through other family members during a transaction can decrease the likelihood of corrupt misconduct or deception. If done by one family member only, the chances of irregular outcomes concerning the property of a whole family are apparently more likely.

It was also often identified as a corruption risk that the surveyors in charge changed the content of the original documents, especially the acreage or value of land.



Figure 12: Workshop in Kakamega - Activists and local stakeholders jointly discussing corrupt practices with regard to inheritance of land by women

Photo: Victor Ouna

3.) Occupation and use of land without formal registration

In the process Informal Occupation and Use of Land, the corruption risks were strongly related to the judicial procedures meant to solve the issues. The corruption risk "Denial of compensation" in the enforcement of a court decision on the case was assessed as very likely and having a major impact. Moreover, it seemed to happen frequently that decisive evidence was 'lost', usually to the disadvantage of the less powerful parties involved. The time it takes to reach a final decision on a case meant that many families had to wait too long and spend too much money to obtain a fair ruling.

Even when it comes to alternative dispute resolution mechanisms (originally meant to find solutions for conflicts during the process), hiding of crucial information and time-consuming procedures were reported as crucial corruption risks by the workshop participants. This resulted in little trust and credibility of these institutions.

In all the three land governance processes, the cross-cutting issue “Demand/payment of bribes” was a serious concern of workshop participants.

Case-specific recommendations

The described outcomes gave the basic foundation for the discussion on how to tackle the identified corruption risks. The members of the research team and of GROOTS agreed that it is fundamental to

- Increase the awareness and sensitisation on women and civic rights in relation to land governance processes and inheritance. Barazas, community meetings and advocacy among women, the whole community and public officials in Kakamega have the potential to tackle corruption and other irregularities which affect women adversely.
- Work on an improved access to information on land governance, the Kenya gazette, inheritance and women’s land rights.
- Improve the supervision of officials and administrators in combination with better incentives to remain loyal and more severe punishments for corrupt behaviour.
- Establish or reinforce independent hotlines and government institutions taking note of reports on irregular procedures and corrupt behaviour in order to tackle them.
- Improve the collection of empirical data on corruption-related issues in land governance. Special attention should be paid to the input of women in order to get a more detailed and gender-sensitive picture.
- Mapping the regions, practices and institutions related to corruption in land governance would further help to identify and tackle corruption.

4.2.4 Large scale land acquisitions in Kwale

Background

Frequent accusations of community members in Kwale against an influential sugar company about forced evictions, destroyed crops and intimidations were so grave and apparent that they even attracted a detailed investigation by the Internal Displacement Monitoring Centre (IDMC) and the Kenya National Commission on Human Rights (Caterina and Klos, 2014).

For this reason, TI Kenya and the research team decided to investigate the case study “Large scale land acquisition in Kwale”. The case is about the Kwale International Sugar Company Ltd (KISCOL), a big sugar producing company, buying and leasing land in the coast region of Kwale County. The case study depicts how a conflict over land arises between a large investor claiming land, the government supporting the investor’s claim, and the local community living on that land.

The current corruption risks, conflicts and unclear land rights in the coast region are closely intertwined with historical disruptions. In 1895, Kenya was formally declared a British Protectorate and in 1902, the British enacted the Crown Land Ordinance which converted all unregistered land into British Crown Land, including the land used and utilised by indigenous communities. This historical injustice went unanswered and the systematic dispossession of indigenous communities within the Kwale region continues to haunt the

region to date as numerous native families could trace their roots to properties owned by the KISCOL sugar company. Parts of the area which is contested by KISCOL today was owned, but then abandoned with great debts in 1988 by Madhvani Group International of India (which originally possessed 45,000 acres). In 2007, KISCOL obtained 15,000 acres on the basis of leasehold for 99 years from the government. However, the agreement between the government and KISCOL was problematic in several regards:

First of all, the area was not properly inspected and existing settlements were either ignored or not reported. According to the land laws in place, land needs first to be inspected for existing settlements before it can be given to investors. Second, in exchange for their land rights, the local communities were promised some form of compensation from the company in form of money for land or non-monetary incentives, eg. the promise to create jobs for the local population. According to some of the local population and lawyers handling cases where KISCOL is involved, compensations for the land were never paid, with some court cases still pending, and promised jobs were never created. In addition, extensive resettlement schemes required the inhabitants of the area to move far away and were implemented with brute force.

Finally, the local communities claim that the police, including members of the elite force ‘General Service Units’ (GSUs) and KISCOL employees, came without prior notice or warning and used violence to force people from their homes as KISCOL tried to gain control over the land it leased from the government.

Processes and local partners

The case study analyses the two underlying land governance processes to the KISCOL case (“Lease of land”¹⁵ and “Compulsory land acquisition and compensation”¹⁶) with the aim of identifying corruption risks within these processes. For this purpose, a workshop was held in the Kwale region and key stakeholders were invited. Notably the TI Advocacy and Legal Advice Centre Mombasa and Msambweni Human Rights Watch were the main supporters and partners of the workshop. Additionally, the County Land Management Board (National Land Commission) and members from the affected community attended the workshop to share their views and information about the case. Representatives of the KISCOL Company were invited to join the workshop but unfortunately did not attend.

¹⁵ A land lease sets out the detailed obligations and rights of the parties involved during the period of the lease. For further details in this Land Governance Process and the following, please check Step 3 of the instrument.

¹⁶ Compulsory Acquisition describes the possibility of the government to acquire private rights in land without the willing consent of its owner or occupant with the justification to do it for the common good, such as development projects or the protection of the environment.



Figure 13: Guarded KISCOL factory area in Kwale

Photo: Manuel Risch

Main findings

The application of the instrument identified many severe corruption risks. Generally, many risks occur because local communities are not properly informed about large scale land transfers in their area. This is reinforced by low levels of education and illiteracy among the local population. As a consequence of this lack of information and lack of education, local communities are unaware of their land rights (e.g. their right to claim compensation) and existing procedures in land administration. Thus, the communities have little influence on large scale land transfers, while political and economic elites use corruption to obtain land titles.

The following illustration outlines the process of Lease of Land, showing which corruption risks the participants of the workshop encountered during the conflict over land. An explanation is enclosed after the illustrations.

1.) Lease of Land

The process of *Lease of Land* included the issue of irregular or exclusive rights for KISCOL in the auctioning for selling or bidding of leases of land. The participants of the workshop suspect a bias of the authorities and even of the courts in the bidding for the lease. The participants believe that KISCOL was the only company offered the lease.

Moreover, KISCOL and involved governmental institutions are accused of not publishing any transparent details on the lease contract, e.g. it was unclear to the people how much land exactly KISCOL was allocated and where exactly that land is. Finally, the company is accused of hardly ever communicating in a direct and reliable manner with the involved communities. The workshop participants asserted that promises were not kept by KISCOL: only very few jobs were created, no benefits for the local community were granted, the workers are often treated badly and there was even sexual harassment of women from the community.

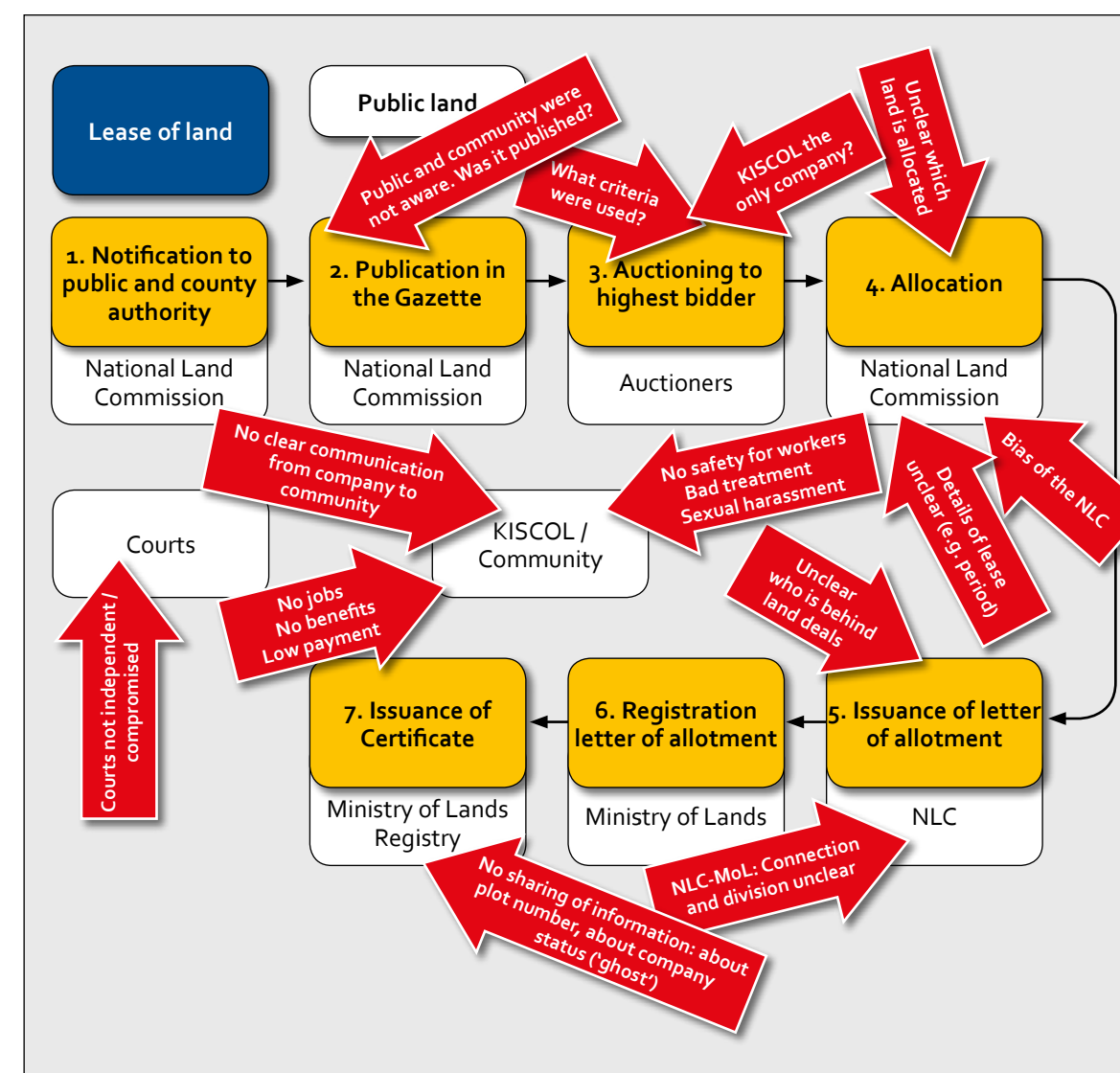


Figure 14: Process of Lease of Land – discussed in the workshop in Kwale

Source: Own representation

2.) *Compulsory Land Acquisition and Compensation*

Within the process of Compulsory Land Acquisition, the participants identified corruption risks related to a lack of control, checks & balances and lack of information. Apparently, the absence of proper control of the government inspector and surveyors leads to irregularities in determining land boundaries. Moreover, concluded agreements between KISCOL and the community were afterwards violated by the company. Key among these agreements was one that defined conditions under which residents of Kwale County would be given priority over other Kenyans with regard to employment. The lack of public information on compensation and notifications of acquisition incapacitated many individuals and allows the company to use loopholes in the legal framework. In addition, public officials with the responsibility of sharing information on land with the community, according to workshop participants, do not fulfil their obligations.

When asked about groups particularly affected by specific corruption risks, the participants emphasised that the whole community is affected. Women cannot access/use water for washing anymore, cannot collect firewood and cannot grow food near the river. Children cannot use the direct route to school; they must walk long distances – or cannot go to school at all. Men were physically harmed during the evictions; it is mentally hard for them because they cannot protect their families nor use the land since KISCOL is occupying it.

Case-specific recommendations

The recommendations presented here were developed together with TI Mombasa and Msambweni Human Rights Watch, two organisations tackling corruption issues in Kwale County. The proposed counter-measures involve:

- Empowering of community members, advocacy, public awareness and education on land rights and processes, e.g. educating the local communities about land rights and participatory workshops explaining land governance processes.
- Involving the communities, e.g. through organisation of sport events that raise awareness about corruption issues.
- Distributing information material about corruption risks in the communities to bridge the lack of access to information.
- Working closely together with the media to broaden communication channels and to focus public attention on corruption and injustices, e.g. producing a radio broadcast dealing with corruption issues and informing the public about their rights regarding land tenure and land governance.

Finally, a recommendation for TI ALAC Mombasa is to take the lead and initiate a mediation process between the parties involved to solve the conflict over land claimed by the sugar company. This means to bring together members from the communities, state actors and from the company KISCOL to find a solution. This is based on the assumption that all parties suffer from the conflict and are interested in a solution of the conflict. The KISCOL company is suffering from an image damage, as well as from long lasting legal disputes with the local community. Local communities on the other hand, suffer from insecure land tenure rights and lack of compensation for their land. In addition, state actors have an interest in ending the conflict since it shows the state in a questionable light and raises further questions about corruption.

Thus, all involved actors should find an agreement that leads to improved land security. TI ALAC Mombasa should become the mediator between the parties and negotiate with them to find a suitable solution.

5 Recommendations

The following section presents the recommendations for TI, governmental and non-governmental organisations (NGOs). While the recommendations for TI relate to the use and improvement of the handbook, the other recommendations refer to the way governmental institutions and NGOs can tackle corruption in land governance effectively.

Recommendations for Transparency International Secretariat (TI-S) and Transparency International Kenya (TI-K)

Being the initiators of the Land and Corruption in Africa Project and as the commissioners of the Land Corruption Risk Mapping Instrument, the research team recommends Transparency International to focus on a wide application and accessibility of the handbook. The following recommendations are drawn from a general analysis of information provided by various stakeholders in the application of the instrument in Kenya:

1. **Disseminate the handbook to all TI National Chapters** to use it in various countries as part of the *Land and Corruption in Africa* project. The chapters may adapt the necessary aspects of the instrument and translate it into the respective local languages.
2. **Make the Land Corruption Risk Mapping Handbook accessible in an online version** on the main website of Transparency International, as well as on the websites of all TI National Chapters. This will improve the accessibility of the handbook and make it available for a wider pool of users.
3. **Conduct training on the appropriate use of the instrument and handbook** in all TI National Chapters where it is to be used to develop accurate and useful results.
4. **Create partnerships with community and non-governmental organisations for the application of the handbook.** These organisations might also require basic training or introduction to the instrument and its purpose. The partnerships might be useful to raise awareness and to promote capacity building sessions with communities to sensitise them to the issue of corruption in land governance.

Recommendations for governmental institutions and organisations

Governmental institutions such as land commissions and ministries play a key role in land governance and in the provision of land related services to citizens. As shown in chapter 4, land related services are prone to corruption. The research team makes the following recommendations to tackle corruption risks and to improve land governance:

1. **Digitalisation of documents**, i.e. records, maps, notices and other information. This will increase transparency for all stakeholders involved. In addition, the risk assessment demonstrated that in many cases files were lost or there was the accusation that documents have been manipulated (e.g. maps or title deeds have been changed). A digitalisation of important documents including clear safety regulations on data back-up, e.g. in the registry, would minimise the risk of manipulation and falsification of documents.
2. **New methods of disseminating land notices** in addition to publication in the national Gazette. Moreover, the Gazette needs to be more accessible, comprehensible and available at public facilities. This will ensure that individuals, espe-

cially from rural communities, have access to important notices.

3. **Evaluation of costs** incurred by citizens in completing the various land governance processes. A reduction of costs will allow persons from less privileged backgrounds to complete processes in due time and without incurring false costs from corrupt officials and land brokers.
4. **Harmonisation of competencies** between the institutions and ministries. Wherever overlaps of competencies or unclear responsibilities occur, the risk of corruption increases. Thus, all land related government institutions should harmonise their competencies, making it clear which institutions interested citizens should approach for different services. This will reduce confusion and minimise resulting opportunities for corruption.

Recommendations for non-governmental, community and faith based organisations

Non-governmental, community and faith-based organisations have the role of representing the community and assisting them to meet part of the basic needs. The research team proposes that:

1. The organisations should **plan and carry out awareness campaigns with community members** on their land rights focussing on those land governance processes and corruption risks with the most severe impacts for the local population.
2. **Liaise with government officials** to ensure that community members are up to date on any notices, change of laws, or important events and projects occurring in the area, e.g. land adjudication.

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Annex

Annex 1: Overview of instrument testing documents

In order to continually improve the Land Corruption Risk Mapping Instrument, instruments are needed that allow for a systematic testing of the instrument, i.e. for a systematic assessment of its strengths and weaknesses. To this end, the following instrument testing methods have been used:

- **Self-assessment sheets for the users** which systematically capture the insights the users gained during the application of the instrument. There are two different kinds of self-assessment sheets: 1) A self-assessment sheet that should be filled out for each step of the instrument separately and 2) a self-assessment sheet that should be filled out for the instrument as a whole.
- **Evaluation sheet for workshop participants** which gives the participants of the Land Corruption Risk Mapping Workshop the opportunity to anonymously share their opinions on the workshop and on the instrument.
- **Observation sheet for workshops and group discussions** which allows the observer to gather information on the participants' behaviour and interaction.

Although each of the instrument testing methods described here captures information that is qualitative and to a certain degree subjective in nature, the combination of the three methods ('triangulation') allows for a comprehensive and reliable assessment of the instrument's strengths and weaknesses, and thus for a systematic improvement of the instrument.

Annex 2: Self-assessment sheets for the users

Aim:

- The self-assessment sheets help to comprehensively capture the experiences and insights the users gained during the application of the instrument. Even though the information captured in the self-assessment sheets is necessarily subjective, it can be very useful for the improvement of the instrument – if the sheets are filled out in a thorough and honest way.
- There are two kinds of self-assessment sheets available:
 - A self-assessment sheet that should be filled out for each step of the instrument separately. This sheet helps the users to capture detailed information that concerns the separate steps.
 - A self-assessment sheet that should be filled out for the instrument as a whole. This sheet helps the users to capture information that concerns the connection between the separate steps, as well as the overall results of the instrument.

Instructions:

- It is advisable to fill out the self-assessment sheet as early as possible after the completion of the step / of the instrument, while the memory and experiences are still fresh. Otherwise, relevant ideas and insights might be lost.
- In order to capture information that actually helps to improve the instrument, it is imperative that the users fill out the self-assessment sheets in a thorough and honest way. Only by admitting to possible shortcomings and challenges that were encountered can the instrument be constructively improved.

Self-assessment sheet for the individual steps

I. General Information

Case Study	
Step:	
Date and time of application:	
Place of application:	
Name of users:	
Method: ☐ Desk Study ☐ Workshop ☐ Focus Group Discussions ☐ Experts ☐ Other	
List of participants / experts (if available, use attendance list)	
Name	Institution / Organisation / Function / ...
1.	
2.	
3.	
4.	
5.	
...	
Comments on external circumstances:	

II. Assessment Questions

1.	What was working well in the application of the step?
2.	What challenges did you encounter and what was not working well in the application of the step? What was the reason that it wasn't working well? How can these challenges be tackled?
3.	Did you follow the proposed plan/instructions? If not: What did you do differently? Why did you change it?
4.	What was missing and should be added? Why?
5.	What was unnecessary and should be removed? Why?
6.	What other suggestions/recommendations do you have for improvement?

Self-assessment sheet for the instrument as a whole

I. General Information

Case Study
Step:
Date and time of application:
Place of application:
Name of users:
Comments on external circumstances:

II. Assessment Questions

1. In how far did the instrument deliver results that are useful and valuable for the user(s)?
2. What were the crucial factors for the success / failure of the application of the instrument?
3. Were the individual steps of the instrument connected in a logical and consistent way? Were there any missing links or redundancies between the steps?
4. What other suggestions/recommendations do you have for improvement?

Annex 3: Evaluation sheet for workshop participants

Aim:

- The evaluation sheets are filled out by the workshop participants at the end of the main land corruption risk mapping workshop. They give the participants the opportunity to – anonymously – voice their opinions on the workshop itself, and on the instrument as a whole. It thus supplements the views of the users as described in the self-assessment sheet with the perspectives of the people on the ground.

Instructions:

- Since workshop participants are usually tired at the end of the workshop, the moderator should politely ask them to fill out the evaluation sheet and should emphasise that the participants’ opinions are valuable and will be taken into account. In addition, the moderator should explicitly encourage the participants to be honest and to provide constructive criticism. In order to give the participants the reassurance that they can indeed criticise aspects of the workshop, it is important for the moderator to stress that the participants can fill out the evaluation sheets anonymously.
- If the workshop is partly or entirely conducted in a different language than English, it is highly advisable to prepare versions of the evaluation sheet that are translated into the language(s) of the workshop. Only by having the evaluation sheets available in the all the languages of the workshop can inclusiveness be facilitated.
- If workshop participants are illiterate, the moderator and the rest of the workshop team should, without generating too much attention, offer to fill out the sheet together with them.

1.	How was the atmosphere in the workshop?
2.	Was the timeframe for the workshop appropriate, or was it too short / too long?
3.	Are the ideas discussed in the workshop useful for identifying (and tackling) corruption risks?
4.	Would you be interested in continuing to work on the identified issues?
5.	What did you particularly like in the workshop?
6.	What were weaknesses or shortcomings in the workshop?
7.	What are your recommendations and suggestions for improving the workshop?
8.	Other Comments

Annex 4: Observation sheet for workshops and group discussions

- Aim:**
- The observation sheet can help the users to capture information on the instrument’s strengths and weaknesses that they might otherwise miss. While the self-assessment sheet and the evaluation sheet capture only the users’ and the participants’ opinions and experiences, the observation sheet makes it possible to gather information on the participants’ behaviour and interaction. Therefore, it is a useful supplement to the self-assessment sheet and evaluation sheet and the information gathered here can be very valuable for the improvement of the instrument.
 - The observation sheet can be used both during the main land corruption risk mapping workshop, and during the application of Steps 8 and 9.
- Instructions:**
- In order for an observer to work properly, it is strongly advised to focus on this task only, and not carry out other tasks at the same time. Only by focusing solely on the task of observing can an observer gain systematic and reliable information that can be used for the improvement of the instrument.
 - While some of the questions provided in the sheet are best answered for each step individually, others concern the workshop as a whole. In order to provide for coherence and to avoid replications, it is therefore advisable for each observer to use one observation sheet for the whole workshop. However, the observation sheet can be used to note down any information that the users find important or relevant – whether it concerns the workshop as a whole, only one individual step, or both.

I. General Information

Case Study
Date and time of workshop:
Place of workshop:
Name of moderator(s):
Name of translator(s):
Name of observer(s):
Comments on external circumstances:

II. Assessment Questions

1. Applicability		
Hypothesis	Indicator	Notes
The participants complete the steps in the projected time-frame	Time-frame as outlined in the cover sheets	
The participants possess the information and knowledge necessary for the application of the instrument	Contributions by the participants	
The provided materials (cards, markers, etc.) are useful	The participants are using the provided materials	
2. Comprehensibility		
Hypothesis	Indicator	Notes
The participants understand the general aim and logic of the instrument	Frequency of questions concerning the general aim and logic of the instrument	
The participants understand what is expected of them in the individual steps	Frequency of questions concerning the instructions for the respective step	
The participants understand the wording used	Frequency of questions concerning specific terms used	
3. Completeness		
Hypothesis	Indicator	Notes
The participants perceive certain aspects as redundant or unnecessary	Comments/questions by participants concerning redundant / unnecessary aspects	
The participants perceive certain aspects as missing	Comments/questions by participants concerning missing aspects	

4. Participation		
Hypothesis	Indicator	Notes
All relevant groups/individuals are attending the workshop	Attendance list	
All participants contribute actively	Number/frequency of statements	
Men and women participate equally	Relation of frequency of statements	
5. Relevance/Acceptance		
Hypothesis	Indicator	Notes
The participants are willing to contribute to the workshop	Comments, body language	
The participants are staying for the whole workshop	Presence of the participants	
6. Effectiveness		
Hypothesis	Indicator	Notes
The workshop delivers the expected results	Specific corruption risks are identified & assessed	
7. Other observations		
Notes		

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