

2019 Conference on Land Policy in Africa  
“Winning the fight against Corruption in the Land Sector”  
UNECA – Land Policy Initiative  
Abidjan, 4-8 November 2019.

**Addressing corruption in Land Administration.  
the Experience of West African Cities**

Alain Durand-Lasserve  
National Centre of Scientific Research – France  
Associate Researcher  
LAM / UMR 1515 - CNRS - Sciences Po Bordeaux  
Laboratoire « Les Afriques dans le Monde »  
[a.durand-lasserve@wanadoo.fr](mailto:a.durand-lasserve@wanadoo.fr)

*Proposed draft 25/07/2019*

## **KEY WORDS**

Corruption, land administration, land tenure, land values, West African cities,

## **INTRODUCTION**

Over the last two decades, many attempts have been made to limit corruption in land administration in West African cities. At best, they have achieved limited results. More often than not, they have proved impossible to implement sustainably. This paper covers corruption practices in land administration processes<sup>1</sup>. It covers the transfer and allocation of land rights and development rights by government institutions as well as tenure upgrading practices. It takes place especially when non-urban land is converted into urban land.

Corruption in the land sector covers a wide range of situations and practices and involves a diversity of stakeholders with asymmetric access to resources, information and power. It refers specifically to "illicit transactions involving public authorities .... It is related to the behaviour of political elites, government official, land and housing developers and statutory and customary land holders. It concerns mainly the purchase of land for housing. It is tightly related to the dynamics of the land market. Land corruption is well organized in the corridors of power at the local, medium and central levels. One could speak of a "chain of land corruption" (Kakai, 2012). This chain ranges from petty corruption involving some staff in land administrations hoping to obtain or extort money from households who apply for a titled land, to corruption involving land and housing development companies, lending institutions, investors and the courts that try land disputes.

The first part of the paper describes the legal, economic and cultural context in which land administrations operate. The second part identifies the various protagonists involved in corruption to varying degrees are then presented. The third part proposes a typology of situations in which corruption can occur. The fourth part examines some of the main consequences of corruption in land administration. Different options to fight against corruption in the land sector are presented in the last part, which suggest also some guidelines to address corruption in land administration.

## **1. LEGAL, ECONOMIC AND CULTURAL BACKGROUND**

### **1.1. Specificities of land and tenure regimes and administration in Western African countries**

Tenure regimes in the sub-region are characterized by the legal pluralism, i.e. the co-existence of multiple legal systems and rights, especially customary rights, with

---

<sup>1</sup> Land administration describes the processes: (i) of determining, recording and disseminating information about the tenure, value and use of land when implementing land management policies (Land Equity, 2006); (ii) of gathering of revenues from the land through sales, leasing and taxation, and the resolving of conflicts concerning the ownership and use of land. (Dale and McLaughlin, 1999); (iii) of transferring rights in land from one party to another through sale, lease, loan, gift and inheritance; (iv) the regulating of land and property development.

“positive” or “modern” law. The legal and administrative framework of land management remains to a large extent a legacy of the colonial period. Post-independence national governments have inherited and codified the land prerogatives of the colonial power with some adaptations to their respective situations through various national acts and Land Codes (Ouedraogo 2011). Similar basic principles apply to most countries in the sub-region: (i) the state remains the eminent owner of the national land, which can be allocated only after it has been registered under its name (*immatriculation*);<sup>2</sup> (ii) the state allocates land using a Torrens system—the “top-down” administrative creation of private land ownership following the “purging” of customary land rights<sup>3</sup>—and then establishes a “civil register” of land in the form of the *livre foncier* (Comby et al. 2007; Ouedraogo 2011), where land ownership titles (*titres fonciers*) and their transactions are centrally registered; (iii) use rights<sup>4</sup> and their transfers are recorded in registers usually kept at local levels.

The conjunction of these shared characteristics has major consequences on access to land and security of tenure, especially in urban and peri-urban areas and the rural hinterland of cities where pressure of demand is resulting in rapid increases in land values<sup>5</sup>.

Land is originally supplied either by the state (or by local authorities), public and para-public land development agencies, customary landholders, or private individual landowners and land development companies. Its price is closely related to the legality of its transferability, which in turn depends on its tenure status and on the issuance and registration of a land title: the price of land bought on the informal market, or from a customary landholder attested by a private sale agreement, can increase by 5 to 10 times, when a land ownership title (*titre foncier*) has been issued and that land can be sold on the formal market by notarial deed.

The fact that the same government administrations can both allocate land at a preferential administrative price and upgrade its tenure status, therefore greatly increasing its price on the land market, opens the door to massive frauds and corruption within land administrations.

Experts agree that this system is a failure. Especially, all countries of the sub-region proved unable to deliver and register land titles at scale. The existing registration system cannot be instituted everywhere and can hardly be updated. A century after it was introduced, less than 5 percent of all land is reported as registered<sup>6</sup> in sub-Saharan

---

<sup>2</sup> This general principle is being eroded along with the decline of the state monopoly on land and does not apply in some countries of the sub-region, such as Benin.

<sup>3</sup> Procedure by which the state cancels a community’s customary rights to their land. This administrative practice allows the state to take ownership of customary land. It is legally justified by the presumption of state ownership of all land within its territory for which a title has not been issued.

<sup>4</sup> Use right holders can develop and build the land. Use rights can, in principle, be converted into ownership rights after its holder has fulfilled a series of conditions, passed through complex regularization procedures, and paid taxes and fees. A use right is evidenced by a title usually qualified as “precarious.” They are referred to by various names depending on the country: *concession rurale*, *concession urbaine ou rurale à usage d’habitation*, *permis d’occuper*, *permis d’habiter*, *lettre d’attribution*.

<sup>5</sup> Sub-Saharan Africa has not completed its demographic transition. Its 900 million inhabitants in 2013 are likely to have become more than 1.1 billion in 2020 and 2 billion by 2050, one fifth of the global population. In 2013, 40% of the population was urbanized; that proportion will rise to more than half by 2030, and will approach 60% in 2050.

<sup>6</sup> Registration procedures concern only ownership titles..

Africa—this figure includes state-owned land.<sup>7</sup> Its coexistence with customary rights and precarious titles gives rise to competing land markets with different levels of legitimacy, legality, tenure security and prices. The urban poor are extremely vulnerable in this context.

**Other factors intervene in corruption:**

(i) Centralisation of land administration remains a key feature in the sub-region. Decentralisation of land management responsibilities, which were expected to ensure better transparency and accountability, resulted frequently in a shift – rather than in a decline – of corruption in land administration.

(ii) The lack of updated land information systems (LIS) in urban and peri-urban areas is an obstacle to transparency in land management and administration. The objectives of LIS are usually to produce geo-referenced land information for fiscal purposes and for assessing ownership rights. Those who cannot provide proof of the legality of their occupation are then excluded from the property census. Most occupants of informal settlements (50% to 80% of the urban population in West African cities) are then de facto excluded.

The limited processing capacities of land administrations at national and local level are resulting in a scarcity of titled land: for example, in Togo, Gabon, Benin, Senegal, Ivory Coast, and Burkina Faso, until very recently only 5 to 10 land ownership titles (*titres fonciers*) can be issued at national level per working day.

The close relationship between the legal and tenure status of land, and land prices is confirmed by a series of observations made by the author in West African cities over the last 20 years. It has a major impact on corruption in land administrations, which have full control over land allocations and conversion and over tenure upgrading processes (Durand-Lasserve, 2011).

**1.2. Cultural and social context of corruption in land administration in sub-Saharan Western African cities**

In urban and peri-urban environments, the demand for land is driven not only by housing needs but also by the role played by land as an inflation-proof saving/investment sector in countries which have neither saving schemes accessible to low and medium income households, nor a social protection system. Landholders who can benefit from tenure upgrading are the main beneficiaries.

It works as follows: (i) purchase land on the informal or customary land markets; (ii) obtain authentication of the sale agreement by local authorities; (iii) obtain an administrative permit to occupy or develop the land from government administrations in charge of State Domains, and (iv) get the administrative permit changed into a land title (*Titre foncier*).

**2. INSTITUTIONS AND STAKEHOLDERS EXPOSED TO – OR INVOLVED IN – CORRUPTION PRACTICES IN LAND ADMINISTRATION**

---

<sup>7</sup> In Mali, according to the 2009 census, 8.5 percent of households (with no distinction made between urban and rural households) said they owned their land with an ownership title (*titres fonciers*). In Benin, according to the 2002 census, the percentage was 1.9 percent.

## **The challenge of diversity**

A wide range of stakeholders, with different motivations and goals, are potentially exposed to – or involved in – corruption practices in land management and administration at various stages of the land delivery process (land tenure upgrading processes and land use conversion (from rural land to urban land suitable for housing)).

Five categories of institutions and stakeholders must be taken into account.

### **2.1. Land administrations**

#### **Central government institutions responsible for land administrations**

The administrations in charge of land affairs, State domains and land registry have considerable power. While responsibility for the allocation and transfer of land has often been shifted to local authorities, formalization of land tenure and ultimately the issuance of "definitive and unquestionable" land titles and their registration have a major impact on the security of land tenure for beneficiaries, on land transferability and consequently on the market value of the land. They remain an exclusive prerogative of central government land administrations. This is all the more important since decisions made by these administrations

#### **Central government representatives at sub-regional levels (*préfets* and *sous-préfets*)**

Decisions to transfer land from the private domain of the state (through regularisation of informal land occupation, land allocation and land sale), or to deliver ownership rights/land titles must be approved by central government representatives (*préfets*, *sous-préfets* and *gouverneurs* in Francophone West African cities). Vested interest are such that decisions are often marred by numerous administrative irregularities and abuse of power. It can also happen that government representatives refuse to see their prerogatives reduced and continue to operate under procedures that are no longer authorized by the state, thus causing future land conflicts<sup>8</sup>.

#### **Local authorities: communes and municipalities**

Especially when land of the private domain of the state has been transferred to local authorities, municipal governments have a critical role. Their land responsibilities cover the following areas:

- They can create land reserves for municipal housing projects or relocation of displaced, expropriated or evicted households, frequently to the detriment of customary landholders.
- They can allocate and sell land from their private domain and usually have some latitude in fixing the transfer price.
- They can undertake land subdivision or resettlement projects.
- Under certain conditions, they are authorized to undertake land tenure regularization projects in informal settlements and to deliver administrative permits to occupy.

---

<sup>8</sup> This can be seen in the peri-urban areas of Bamako, where the *Préfet* of the *Kati Cercle* continued to deliver occupancy permits (*Permis d'occuper*, *Lettre d'attribution*) until 2009, even though they had been abolished and replaced by another type of precarious title in 2002 (the *Concession urbaine d'habitation*) that now only mayors can deliver.

This precarious, conditional and revocable occupancy permits delivered by local authorities can be converted, at a later stage, into formal and secure property rights. All institutions that have a role in land allocation, land transfer, land conversion and tenure regularisation are tending to play an autonomous game, to try and retain their responsibilities in order to benefit from corruption circuits. Such a situation is illustrated by land practices in the urban commune of Abomey-Calavi, in Benin or in some communes of Bamako District (Durand-Lasserre et al. 2015)

### **Conflicts about control of land administration between central government institutions and local authorities**

They are related with decentralisation policies that have been gradually implemented in Western African countries since the late 1980's. However, resistance from central governments to fully transferring land responsibilities at local level is found in all countries.

The reasons for these conflicting situations must be found in the considerable financial profits and access to political power that control over urban and peri-urban land can ensure.

### **Conflicts and rivalries within central government institutions and administrations to keep/ensure control over the allocation and sale of public land**

It involves the highest level of decision-making in governments, especially when land transfer or allocation requires approval from Ministers in charge of land administrations, the Cabinet, the Prime Minister or the President. Conflicts are made difficult to overcome, especially when land management and administration responsibilities are divided among several institutions<sup>9</sup>.

## **2.2. Other institutions and professionals exposed to corruption practices in the land sector**

They include:

- Regional and urban planning authorities have a crucial role in land use conversion, approval of land development schemes and other urban projects.
- Government mapping and surveying institutions are always involved at some point in the land delivery process: issuance of cadastral maps, validation of surveys made by private surveyors.
- The judiciary and courts are deeply involved in the settlement of land conflicts. 70% to 80% of disputes brought before the courts in the sub-region are land-related:

### **Professionals**

---

<sup>9</sup> For example, in Mali, land administration is under the responsibility of the National Directorate of Domains and Land Registry (*Direction Nationale des Domaines et du Cadastre*), which is under the supervision of the Ministry of the State Domains and Property and Land Affairs (*Ministère des Domaines, des Affaires Foncières et du Patrimoine*). Usually, these directorates are under the direct supervision of the *Direction Générale des Impôts*, Ministries of Finances: in Ivory Coast: *Direction des Domaines, de la Conservation Foncière, de l'Enregistrement et du Timbre*; in Benin or in Senegal: *Direction Générale des Impôts et des Domaines*; in Burkina Faso: *Direction des Affaires Domaniales et Foncières*; in Togo: *Direction des Affaires Domaniales et Cadastres* ... Land registry can also be put under the direct authority of the President of the Republic, as in Senegal during the Abdoulaye Wade presidency (2000 – 2012).

- Private land surveyors' intervention is required by law in any land survey prior to the registration of customary land under the name of the state, land subdivision and tenure regularisation.
- Private planners are involved in land subdivision and development (*lotissement*). Their intervention is essential for having changes of land use approved, especially for land subdivision and housing development projects. Given the sums involved, planners are vulnerable to corruption<sup>10</sup>
- Land-valuers are in a position to overestimate the value of the land, in order to obtain loans from banks, or to underestimate it in order to reduce the cost of compensation in case of expropriation. (Durand-Lasserve et al. 2005).

### **2.3 Customary institutions and landholders**

In all cities of the sub-region, customary landholders are the main providers of land for housing, either directly as they can respond to the demand of the low-incomes, or after their land patrimony has been integrated into public and private land delivery channels, following expropriation (*purge*), evictions or market transactions.

An increasing number of West African countries are now formally recognizing customary rights (Burkina Faso, Mali, Niger, Chad, Ghana, Togo, Benin,...) (Rocheude et al., 2010) but their effective recognition in administrative practices remains an exception<sup>11</sup>. In all stages of conversion of land use, there are many opportunities for institutions or individuals to rely on corruption to access to customary land.

### **2.4. Public, para-public agencies and professionals involved in corruption in land administration**

#### **Land and housing development agencies**

They receive land from the private domain of the state or from local authorities. Originally, this land belonged to customary communities. It is developed, subdivided, serviced, and sold as residential plots.

#### **Housing cooperatives**

They can obtain land from central or local governments that will be shared amongst cooperative members after development and subdivision.

Private land and housing development companies and cooperatives are at the interface of public land allocation and land markets. As they have access to land at a price that is below market price they are vulnerable to corruption practices at various stages of the development process

#### **Brokers and intermediaries in informal land markets**

They are playing a major role in land delivery and land markets, at the interface of formal and informal / customary land markets.. They frequently operate in collusion with local authorities to sell plots.

---

<sup>10</sup> E.g. in Mali in 2013-2014, some planners were involved in the massive and sometimes fraudulent conversions of rural concessions into ownership titles in the *Cercle* de Kati, all justified by technical issues.

<sup>11</sup> E.g. in Mali the Land Code of 2000 recognizes customary rights but implementation decrees have not yet been adopted.

## **2.5. Households and individuals**

In order to obtain land plots at the occasion of public land development, or tenure upgrading or resettlement projects, households rely frequently on corruption practices can have a faster access to land plots. With extra-payments to land administrations or local authorities, they can more easily get one or more plots, benefit from faster procedures to improve its tenure status. The urban elites, who have monetary assets available or have a preferential access to land administrations rely frequently on corruption in order to speed up land delivery and registration procedures. Households who do not have formal rights on the land they occupy are also vulnerable to corruption as they are victims of eviction when that land is sold out or allocated to land developers or cooperatives.

The diversity of institutions and stakeholders involved makes it difficult to keep control over whole land delivery process

## **3. TYPOLOGY OF DIFFERENT OF SITUATIONS GIVING RISE TO CORRUPTION IN LAND ADMINISTRATION**

In all countries of the sub-region, various incentives and encouragements are paid as "out billing" to officials of land administrations, at all stages of procedures, in addition to the official processing and delivery costs. The amount of bribes that are paid to land administrations is indeed not codified but all stakeholders know, within a certain range, what they will have to pay for a given service. It depends on their social and economic status and on the nature of the services, the expected profits that will derive from the requested service.

Bribery is dissimulated under a wide range of words that justify or minimize it: incentives, encouragements, gifts, rewards, overtime work, printing cost of application forms, etc. Corruption occurs massively in connection with the registration of customary land and transactions related, the sale or allocation of land when subdivisions, and regularization - resettlement projects.

Similar observations have been made in Benin, Togo and in Mali, with slightly different procedures but comparable ratio between payments certified by receipts and "payments without receipts".

### **3.1. Registration of customary land; subdivisions; allocation and sale of land by the state or local governments.**

#### **Registration and transactions on customary land without the consent of customary communities**

Resistance on the part of land administration - including planning authorities - to deliver ownership titles to customary landholders must be related to their vested interests in land transactions: urban-based buyers are more likely to pay for the conversion of customary land into titled land than customary landholders.

The issue of corruption in land administrations is frequently raised when land under customary tenure regime is purchased by investors and property developers who, with the support of land administrations, obtain ownership titles (*titres fonciers*) in their name for this land. Over the years 2012-2018, the press in Mali reported many such cases, generating frequently conflicts between customary community concerned, elected officials and central government administrations.



### **Land subdivisions (*lotissements*) and allocation of plots**

Most common cases of corruption can be observed at the occasion of land plots allocation. With reference to Mali and Burkina Faso, Bouju (2009) emphasizes the role of patron-client relationships involving different land administrations in the allocation of plots by the mayors. "As the number of land plots is not known, the final choice of beneficiaries was made by the city on the basis of redistribution to the benefit of local clientele of leading notables and municipal policy makers associated with the subdivision process. Each plot allottee could then redistribute to their "clients", to "those who helped". First served were the authorities who had issued the authorization to subdivide (i.e. the members of the land subdivision committee), surveying and mapping communal services, public works, etc. In West African countries, the "urban land capital" has become their main source of resources, which feeds and sustains exchange sphere of local political patronage

### **Preferential allocation of land plots in resettlements schemes.**

Relocation of displaced households is giving mayors and central government authorities an opportunity to launch land development projects, where plots are transferred at a price which is below market price. Observations made in Bamako in 2013 and 2018 show that the number of plots allocated far exceeds that of households eligible for resettlements, and most plots are allocated or sold to households who were not entitled and whose incomes were higher than those originally targeted.

### **Subdivision and sale of land in the public domain of the state or of local authorities.**

Land administrations support massive or rampant grabbing of customary land and land of the private domain of the state or of local governments for the benefit of their agents. Unduly appropriated land is sold on the private land market at a later stage. This practice is commonly observed in Mali, Togo, Benin

### **Land administrations collusion with unscrupulous surveyors and intermediaries**

Land subdivision plans and maps done by land surveyors do not always correspond to the reality on the ground. Apart from their remuneration in kind (20% of the plots in the land surveyed) surveyors frequently manage to subdivide the land into a larger number of plots on which they will claim ownership. This practice can be observed in all countries of the sub-region. It poses serious problems with regard to boundaries and identification of land rights holders (Ordre des Notaires du Mali, 2014).

## **3.2 . Registration of land transactions and changes in land tenure status**

Tenure regularization procedures, delivery of land titles and registration of land transactions may involve up to 30 steps, and up to 10 institutions (see annexes 1 and 2). This situations creates many fraud and opportunities.

### **Land transfers and transactions**

Payment "without receipt", in addition to the legal payment, is frequently necessary for authenticating a land sale agreement, or obtaining the authorization to sell a plot with a precarious title. It is also necessary for obtaining a certificate of development

(*attestation de mise en valeur*), which is required by government land administrations to convert a precarious title into a long-term use right or a transferable ownership title.

### **Land tenure upgrading**

Buyers of customary land who want to obtain an ownership title on that land often pay land administrations without receipt. To obtain a precarious title on that land, it is necessary to present a development project which must be approved by government land administrations. Expected profits from the delivery of development rights may be very high.

### **Production of false backdated property titles or evidence**

In all countries of the sub-region, the circulation of forged ownership titles is creating a series of inextricable conflicts, as an ownership title is “definitive and unquestionable”. Tribunals are permanently confronted with this problem, which is denounced by notaries and other professionals. This situation is a major concern for banks and lending institutions.

The president of the Professional Association of Banks and Financial Institutions of Mali estimated in 2010 that the titre foncier is no longer a security in the banking system, as many ownership titles are a contentious subject.

Notaries in Mali identify a series of problems related to forged *titres fonciers*: multiple delivery of ownership titles; overlapping of land parcels with different *titres fonciers*; non-registered land takes by governments; land plots without *titres fonciers*, and fictitious *titres fonciers* without land... The diversity of administrations involved in the land title delivery process makes it difficult to keep control of the situation. (Ordre des Notaires du Mali, 2014).

## **4. MAIN CONSEQUENCES OF CORRUPTION IN LAND ADMINISTRATION**

### **4.1. On access to land for the poor**

Corruption makes access to land more difficult for those who have few resources, little access to information and no preferential access to administration. Corruption may be an obstacle to tenure formalisation and resettlement projects. Illegal practices can prevent households occupying land to have their rights on it recognized, and compromise tenure regularisation and resettlement projects.

Corruption maintains patron-client relationships that reinforce inequalities and impede social mobility for those who have no networks.

### **4.2. On the economy of the country**

Corruption reduces tax revenues and weakened the investment capacities of governments. It maintains a climate of tenure insecurity that discourages investment by households to improve their home and any other investments.

It favours land speculation, which generates much higher profits than productive investment in economic activities, thus hindering or compromising the diversification of the economy.

It contributes to land price increases in metropolitan regions in both urban and rural areas and reduces land supply and affordability.

### **4.3. On social cohesion**

- Mobilisation of land administrations to respond to the demand from investors and from high and middle-income households is detrimental to the low-income households who cannot compete.
- Customary landholders whose property rights are rarely fully recognized can be deprived of a part of their land. Social cohesion can then be threatened because some community members may sell land without the consent of other members.
- Even in countries where customary rights are recognized, government authorities are reluctant to extend this recognition to peri-urban areas and to the rural hinterland of cities characterized by market pressures and high land values and land markets dominated by the urban elites.
- Uncertainties about the legal recognition of customary tenure encourage illicit practices in land transactions (recorded locally but rarely registered at central level), thus fuelling and perpetuating corruption in land administrations.
- Corruption maintains people's mistrust in government institutions. It can lead to major conflicts to access to land, within peri-urban rural communities, within communities living in informal settlements, between these communities and local and central government authorities.

### **4.4. On the functioning of land administration**

Corruption is a self-feeding process and an overheating process. Corruption impacts on land values and affordability, thus creating a scarcity of land with secure tenure, which in turn encourages corruption in land administration.

This cycle is reinforced by the limited processing capacity of the land administrations that deliver land titles, by the coexistence of statutory and customary tenure systems. The predominance of tenure informality in urban and peri-urban areas is perpetuating corruption practices to which they are tightly related.

Opposition by land administrations to reform by government authorities, such as the simplification of registration procedures of property rights, can be observed in all countries of the sub-region during the last decades.

### **4.5. On accelerated spatial expansion of cities**

Corruption in the land sector, insufficient supply of affordable land for housing by the formal public and private sectors, combined with demographic pressure on cities, are contributing to the development of highly profitable unregulated land markets in the periphery of sub-Saharan African cities. It induces rapid spatial expansion of low-density peri-urban areas in all cities of the region<sup>12</sup>. This situation compromises the design and implementation of planning measures to keep urban sprawling under control. This situation is aggravated by the lack of public land reserves in the periphery of cities: during the last four decades, they have been massively privatized or occupied informally in a context of weak urban governance and widespread corruption in the land sector.

## **5. CAN CORRUPTION IN LAND ADMINISTRATION BE OVERCOME?**

---

<sup>12</sup> Note that sub-Saharan African cities will have to accommodate about 570 millions additional people in the next 30 years

### **5.1. To date, much emphasis has been put on repressive responses**

Control on land administration, especially on the Directorates of State Domains and Cadastre, through investigations and audits has achieved limited results. Reasons are many.

- Corruption leaves little administrative or accounting traces, which makes it difficult to administrative sanctions or prosecution judiciaries.
- Staffs in government land administrations manifest opposition to control measures, which can be up to the strike (e.g. long-standing strike of the employees of the Directorate of State Domains and Cadastre in Mali in late 2014 and early 2015).
- Firm opposition to the measure of control and fight against fraud by land policy makers, sometimes at a very high administrative or political levels, are frequently observed. Officers in land administration are in a strong position as they can often compromise government officials and politicians who have benefitted in the past of preferential access to land.
- The sanctions against illicit practices and corruption are not really dissuasive given the profit they generate: a return on investment up to 500 percent, which cannot be compared with the return of any Investments in another sector of activity.
- Judicial institutions are on the frontline (70 to 80 percent of cases brought before the courts are land conflicts) and courts are themselves highly vulnerable to corruption.

### **5.2. Responses based on the reform of land administration framework and procedures.**

#### **Simplification of procedures and land titling attempts**

The social and economic risks of corruption in the land sector has been repeatedly pointed out since more than three decades. However, attempts made to simplify land administration organisation and procedures in order to limit corruption practices in land administration in Western African have achieved to date very limited results (from Senegal in the late 1990's to Benin between 2006 and 2012, or Mali in 2014-2016, or UEMOA in 2018).

#### **Limiting the decisional power of central government land administrations**

Preventive measures aiming to limit the decisional power of central and local governments administrations with regard to land transfers and allocations have been adopted in most countries of the region. For example, in Mali, allocation or transfer of land above a certain superficies require prior approval by the central government institutions. However, such measures have a limited impact, given administrative practices and the diversity of procedures that allow most stakeholders involved in land transfers to circumvent laws and regulations.

### **5.3. Difficulties encountered in attempts to overcome corruption in land administration**

Vested interest within land administrations at all levels of the hierarchy makes it difficult to reform land administration from inside.

The main objective to keep control of corruption in the land sector would be to put an end to:

- Existing procedures of registration on land rights
- Dual land markets with different levels of security of tenure and corresponding market value of the land
- Discretionary capacity given to land administration to upgrade and formalize tenure, thus increasing by 5 to 10 the market value of the land

### **Resistance to reform in land administration.**

Over the last three decades, the most common means to overcome corruption in land administration have been : (i) to set up land information systems; (ii) to design and implement land tenure upgrading projects; to allocate more secure property rights to people living in informal settlements, without any rights or with only precarious use rights. These measures have achieved limited results, mainly because efforts made by key land administrations (Directorate of Domains et Cadastre) to implement land administration procedures that would call into question and threaten their monopoly regarding tenure formalisation, land transfers and registration of land rights.

### **Financial circuits around corruption practices in LA**

- The mass of undeclared cash incomes generated by informal activities and illegal trafficking contributes to increasing corruption. There are few quantifiable information and no data, but only estimates.
- The fact that there is no average market price for real estate in the region, combined with the extensive use of large amounts of cash payments, makes it difficult to identify the people involved in money-laundering operations and the way they work in this sector. "It should be noted that investments in the sector can benefit not only law-abiding individuals and companies but also offenders who may abuse the system. The opportunities that the sector provides for concealing the true origin of funds and the real identity of the owner of the property concerned, which are the key elements in the money-laundering process, make this an attractive sector for offenders wanting to use it improperly" (Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent en Afrique de l'Ouest- GIABA, 2010).

## **5.4. Some guidelines to address corruption in land administration**

### **Improving knowledge**

The objectives are:

- To have a precise understanding about how land corruption in land administrations works requires a precise analysis of procedures, mechanisms, financial circuits, institutions and stakeholder involved.

Given the diversity of institutions and stakeholders involved, attention must focus on a limited number of key steps and institutions

- To understand how land delivery systems and subsequent land markets work in urban and peri-urban areas. Particular attention must be given to interactions between formal and informal land market as well as the coexistence of different land delivery channels and prices systems, which are the main drivers of corruption in land administration. This pleads for a systemic approach of land delivery and access to land processes that encompasses formal and informal practices, processes and types of tenure (Durand-Lasserre et al. 2015)

### **Define and prioritize strategy objectives**

The stated objective to “eradicate corruption” is fully justified but it must be seen as a long-term goal. In the short and medium-terms the objective is to limit the expansion of corruption practices and to minimize its impact on access to land, price of land and speculative strategy.

Measure and policies to keep control on corruption in land administration must also target some key economic actors and professionals who might benefit and perpetuate corruption in land: some real estate developers, land-owners, professionals – especially land surveyors – brokers and intermediaries in land transactions

### **CONCLUSION**

The fight against corruption in the land sector is inseparable from long-term structural reforms of land administrations, particularly in the system of land allocation / land sales and transaction, tenure formalisation and registration procedures.

In a long-term perspective, the structural causes of corruption in land administration – not only their consequences – must be addressed. They can be seen as the result of the conjunction of the five main factors: (i) presumption of eminent domain rights; (ii) state intervention in land allocation and tenure upgrading and the delivery of land titles; (iii) diversity of land tenure and land prices; (iv) ownership rights as defined in national Land codes; (v) liberalisation of land markets. Considered separately, none of these factors can explain the high level of corruption in land administration. Their conjunction and interaction is a powerful driver of corruption.

The majority of urban households that can access land only through informal land market depend on land administrations to have their occupation tolerated and their tenure rights protected, recognized or regularized.

Only land administrations are in a position to convert informal tenure into formal tenure, to convert rural land into urban land suitable for housing, to allocate and sale state-owned land, thus making land a transferrable asset, to decide the conditions of the allocation and sale of public lands that they must allow, to issue the documents necessary for land transactions and ultimately to changes in the tenure status of the land, which immediately translates into a significant increase in the value of the land on the market.

No institution responsible of land administration, in any country worldwide, could keep control over staff members and officials whose individual discretionary administrative decisions involves considerable amount of money.

## REFERENCES

- Banque mondiale. L'Afrique subsaharienne. De la crise à une croissance durable. Etude de prospective à long terme. 1989
- Banque mondiale. L'avenir de l'Afrique et comment la Banque mondiale entend y contribuer. (2011)
- Bouju, J. (2009). La malédiction, l'honneur et la spéculation. Principes historiques de la propriété foncière en Afrique de l'Ouest. In Bulletin de l'Association Euro-Africaine pour l'Anthropologie du Changement Social et du Développement – APAD – N° 29-30, 2009 pp. 71-91.
- Djiré, M. (2013) “La ruée sur les terres péri-urbaines -un sujet supplémentaire d'inquiétude pour la gouvernance foncière au Mali”, paper prepared for the the Annual World Bank Conference on Land and Poverty, Washington DC.
- Durand-Lasserve, A. Tenure Security and Exclusion Processes in Peri-urban areas and Rural Hinterlands of West African Cities. In: Governing Access to Essential Resources, (Katharina Pistor and Olivier de Schutter, Eds). Columbia University Press, December 2015. pp 156-185.
- Durand-Lasserve, A. et Selod, H. “The Formalisation of Urban Land Tenure in Developing Countries” (2009). In “Urban Land Markets. Improving land Management for Successful Urbanization ”, Lall, Freire, Yuen, Rajack, Helluin (Eds) Springer and the World Bank, 2009. P 101-132
- Durand-Lasserve, A. et Le Roy, E. La situation foncière en Afrique à l'horizon 2050. Agence Française de Développement, African Development Bank. Africa Vision 2050. AFD, Collection « À Savoir », Janvier 2012.
- Durand-Lasserve, A. Tenure Security and Exclusion Processes in Peri-urban areas and Rural Hinterlands of West African Cities. In: Governing Access to Essential Resources, (Katharina Pistor and Olivier de Schutter, Eds). Columbia University Press, December 2015. pp 156-185.
- Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent en Afrique de l'Ouest (GIABA) (2010). Typologies du blanchiment d'argent par le biais du secteur immobilier en Afrique de l'Ouest. Rapport final.
- Groupe intergouvernemental d'action contre le blanchiment d'Argent en Afrique de l'ouest (GIABA), (2010). Rapport de typologies : blanchiment des produits du trafic de stupéfiants en Afrique de l'ouest. Décembre 2010.
- Kakai, S.H.F (2012). La corruption foncière dans la dynamique de l'action foncière au Bénin. Version revue et aménagée du Working paper n°12 intitulé « *Government and land corruption in Benin* » (non publié sous aucune presse), The Land Deal Politics Initiative » (LDPI), septembre 2012
- Kanga, Jean. Développement de la promotion immobilière dans l'agglomération d'Abidjan : désengagement de l'État et privatisation de la production de l'espace urbain. Thèse de Doctorat en aménagement de l'espace et urbanisme. Université de Bordeaux Montaigne. 2016.
- Ordre des Notaires du Mali (2014). Contribution du notariat à la mission d'expertise foncière préalable à la mise en place au Mali d'un système d'information foncière de type cadastre. Rapport de synthèse.
- Rochegude, A. and Plançon, C. (2010). Décentralisation, acteurs locaux et foncier en Afrique. Mise en perspective juridique des textes sur la décentralisation et le foncier. Comité Technique Foncier et Développement. Agence Française de Développement, Ministère des Affaires étrangères, France.

- UEMOA. Rapport sur la promotion du marché foncier urbain au sein de l'espace UEMOA. Rapport final. Agence Africaine d'Aménagement et d'urbanisme. Novembre 2016.