

Bahir Dar University

Institute of Land Administration

Title: Public-Private Partnership in Land Administration: A pathway for minimising corruption in land sector to individual land acquirers

Author: TURIMUBUMWE Prosper (PhD Student in Land Policy and Governance)

August, 2019

ABSTRACT

The concept of Private-Public Partnership was used to provide infrastructure in developed countries for long time where government was unable to undertake these projects alone. Then, the arrangement was applied by other countries due to its effectiveness and efficiency in terms of success. For that, this paper tried to explore how PPP also is efficient and effective in minimising corruption cases in land administration provided that this sector is considered to be among corrupted sectors in many developing countries. A mixed research approach has been used to collect primary and secondary data. Project implemented in PPP arrangement has been the unit of analysis for this study. The findings are based on desk review and key informants' information selected purposively. The study revealed that PPP is an arrangement that minimises corruption cases in land administration where information dissemination to all parties involved in the project is effective; during land acquisition, no compensation implicated, but parties shared the surveyed and serviced plots in proportion of 40% for cooperative which provided technique, financial, administrative services, and 60% for landowners. In addition to that, land allocation is guided by market system whereas titles are provided within one month by cooperatives for more than 50 applicants. All corruption gaps that may be used by land officers and others are filled. However, there is a need to investigate the motivation behind the land officers to assist cooperatives to get titles within one month whereas individuals may take 6 months.

Key words: Corruption, Land Administration, Public-Private-Partnership, Land acquirers, cooperatives

1. Introduction and back ground information

The use of Public-Private-Partnership (PPP) arrangements to meet a wide variety of public needs dates back to centuries in developed countries like United States of America. Different infrastructures and public buildings have been constructed under this arrangement since the government could not afford to build each and everything alone. The concept of PPP is a cooperative arrangement between two or more public and private sectors, typically of a long-term nature in handling issues that one side could not afford. The PPP describes a range of possible relationships among public and private entities in the context of infrastructure and other service provision (Asian Development Bank, 2010; & UNSCAP, 2011). This is the practice that has been assessed and found effective in most of infrastructure provision. Private companies have technical, financial and human resources that governments some times are not having. It is the same for land administration. The government in developing countries found unable to handle the issue land administration especially in urban areas to provide surveyed and serviced plots due to rapid urbanisation.

Burnes and Dalrymple (2008) state that the rapid urbanisation that is observed in developing countries is the results of poor land administration that made governments to fail in supplying surveyed and serviced plots of land for all demands. Therefore, the involvement of private companies to provide surveyed and serviced land in partnership with the government was the only alternative to address the issue. Rajack (2009) has a standing point that this partnership came to respond to the failure of existing public systems to provide required land for housing and other economic activities in urban areas. The system that is pointed finger is the land administration that was poorly performing because it was not supported by government due to negligence or left to laymen. This happens whereas this sector needs qualified people who are equipped with tools and new technologies.

UNECE (1996) cited in UN-GGIM (2015) defines land administration as “processes of determining, recording and disseminating information about the tenure, value and use of land when implementing land management policies”. In addition to that, land administration system is a basic foundation for the spatial enablement of a society that includes land registration, cadastral surveying and mapping, fiscal, legal and multi-purpose cadastres and land information systems. Suffice to say that land administration plays key role in urbanisation process by providing planned, surveyed and serviced land for municipalities and local authorities in urban areas.

Guttenberg (1984) and Platt (2014) recognise land as one of the key constituents of life on Planet Earth. It was highlighted that land provides all fundamental needs of human being such as food, clothes and shelter. In addition, land is considered as a capital asset and an essential source of wealth. It was emphasised on that land facilitates and motivates the flow of economic or other benefits from owning it over the foreseeable future for individuals, groups and organisations systems through generating income and taxes collection. In the same perspective, McAuslan (1987) had advised researchers and practitioners in land to view land in multidimensional way (economy, social, political, and development). Land harnesses social relations between people and society, economic relations between persons and persons. Summing up the assertions from Platt and McAuslan, we can conclude that land

has all elements that every human needs to possess and own so that he can survive for today and tomorrow. Land being marketed as a product or “commodity”, it is also among the factors of production such as labour and capital.

Kenjiro (1961) and Baird (2011) add that land is regarded as fundamental and basic for wealth gathering. Thus, it is now apparent that accessing it needs competition and strategies of any kind. Transparency International (2009 quoted in TI 2014, p.5) on Ethiopia, discloses that due to land which is among constitutional issues which prohibits the sale of land as right for Ethiopians, there is a probability of having a situation of state capture, to mean “a situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation’s policies, legal environment and economy to benefit their own private interests on land”. This is one of the strategies or hidden competition used even though land is for every Ethiopian which manifest in shadow of corruption or a kind of illicit wealth gathering.

According to report from the East African Bribery Index (2010-2014), the corruption in land sector for East African countries community Burundi has contributed between 8-13% on overall national share bribery; Kenya had 18%; Rwanda recorded 12%; Tanzania had 8%; and Uganda recorded 20%. This shows that corruption in land sector is rampant in East African countries. In the case of Ethiopia, TI (2014) states that corruption is obvious at national level in many sectors and has even permeated in land sector where petty and grand corruption practices are observed. The causes of corruption in land administration for Ethiopia is lack of clear policies, weak institutions, lack of transparency, and limited public participation, and capacity challenges; whereas for East African Community Countries causes are “large public demand for services, non-computerization of key processes and general public ignorance on processes and requirements” TI (2014, p. 24). It was argued that complicating processes and providing incomplete or unclear land information by land officers or local leaders is the main sources of corruption environment (TI, 2014). From these, we can solely say that the causes are different and even the effects may somehow differ. But, whatever the causes and effects, all countries are challenged by corruption practices in land sector which in one way or another affects other sectors that are linked to the urban development.

Jaitner, Caldeira, & Koynova (2017) point out that land officers are involved in asking corruption in nature or in kind. It was highlighted that there is a probability even for woman to be asked for sex rather than money which can cause sexual extortion. Transparency International & FAO (2011) reveal that corruption such as small bribe is informally paid by individuals for acquiring land information, registering property, changing or forging titles, processing cadastral surveys, generating favourable land use plans, transferring titles, paying property taxes, and securing property right to lease government lands. Frankly speaking, corruption has been settled in the mind and habit of land officers in some East African countries as means of income generating strategy and being operationalised in many forms and ways. Van der Molen and Tuladhar (2014, p.1) state that corruption may be manifested in the form of “abuse of discretion for personal gain, for others against payment, for family or party members” where the extension and the real way it is performed may be

not well shown since it is done in hidden way. For all countries, receiver and giver of corruption are conscientious that it is illegal and crime practice. Corrupted people in land sector are aware that they may negatively impact the economy of the nation, the social welfare and even environment.

Transparency International and FAO (2011) argue that high-level corruption is manifested where land reforms, land transactions, and government-led land projects are undertaken. Political elites and high rank officers in land and other departments use their power and manipulate existing rules and regulations in their favour for enriching illicitly through land speculation and grabbing. Land acquisition and expropriation processes mostly welcome corruption by land valuers and other land officers involved in the processes. Tatjana and Nataša, (2013) are in standpoint that corruption is the major cause of poverty in many countries and cause of food insecurity since some plots of land may remain idle. This is where corruption in land has been practiced at high level especially by pretender and predator investors. Also, corruption in land sector may lead to environmental problems and natural resource degradation such as land and other related natural resources. Amundsen (1999, pp. 2-6) has distinguished many levels of corruption and their consequences where he is in view that there is political and bureaucratic corruption, private and collective corruption as well as redistributive and extractive corruption. All these undermine good government, fundamentally distort public policy, lead to the misallocation of resources, harm the private sector development and particularly negatively affect the poor". This is to show how the corruption is a malpractice that does not immune any person and sector in a country. Many countries mentioned above have tried to have institutions to combat against corruption, but they have recorded failure. However, no country has tried to use partnership in land administration service and evaluate how it may be effective in addressing corruption practice in land sector.

However, the literatures show that Viet Nam is one of the best practice cases where Government-private Partnership arrangement has been a remedy to the corruptive situation that was in land sector. The findings show that it was effective to avoid grand and petty corruption practice in many projects. On other hand, the arrangement failed where land officers were having shares in companies partnered for land administration (National Economics University and United Nations Development Programme, 2017). This is one of the evidence that shows the importance of the PPP in land administration to address corruption practice in land sector. Therefore, it is in that optic that this paper looks to explore how Public-Private Partnership in land administration minimises the corruption practice in land sector for individual land acquirers in Burundi. To broadly address the above major objective, two research questions are answered: (i) how PPP arrangement in land administration was done in Burundi; at what extend the PPP minimised corruption in land administration during implementation.

2. Methodology

A mixed research approach is applied for this paper with a case study research design where Burundi is my case study area specifically in Bujumbura City. Land administration project implemented under PPP arrangement is the unit of analysis where different processes and

susceptible corruption environments are investigated. Secondary data were gathered through desk review of different published papers and books on land administration and corruption themes and PPP projects; whereas primary data were collected by using checklist question administered to key informants in land administration sector, cooperatives' managers and selected individual land acquirers. A sample size of 20 key informants was used and participants in all categories were selected purposively. Limitation of this paper is on data triangulation and lack of adequate quantitative data as planned due to time and cost constraint. However, the findings represent the real situation of corruption on individual land acquirer in Burundi.

3. Findings

3.1 Land administration before PPP arrangements

As it was and or it is in most African countries, land services are not easily accessed. Land Offices are geographically located in three regions of the country and charges are not affordable for the majority of service seekers. For the case of Burundi, Kohlhagen (2011, p. 4) states that:

...registration procedure in Burundi is not only complicated, long and expensive; it is also disconnected from social reality. Land registration offices (*services des titres fonciers*) only exist in three cities – the capital Bujumbura, Gitega and Ngozi. Before submitting their demand to one of these offices, applicants have to hire a geodetic surveyor from Bujumbura, report the precise land limits to the national cadastral services and demarcate the land boundaries with stones made of imported concrete... In addition, for most of them, the price they would have to pay for the concrete is already higher than the market price of their land plots, not to mention the cost of the surveyor and the taxes for cadastral services.

This is the situation that existed before the involvement of private actors to shorten the processes and simplify some costs that applicants were incurring. Therefore, due to these challenges that many land seekers faced, private actors came to intervention under the umbrella of cooperatives in land administration and worked together with the government on administrative part whereas these cooperatives are providing technical, financial and management part. These cooperatives negotiate with landholders and agree on shares after all activities required on land are complete (40% of plots for cooperatives and 60% for landholders if the site is fair and 45% against 55% if otherwise). The government allows any cooperative that fulfil the technical, financial and managerial requirements to be granted a permission to involve in land administration. Then, these cooperative starts to involve in the processes of land administration directly or indirectly but making sure that they do not go astray with national policies and other legal frameworks that are related to land and urban planning requirements. The cooperatives have to observe and use Master Plans and other existing planning tools used in Burundi where there exist. The challenge is where there is no Master Plan or planning tools. These cooperatives do not prepare Master Plan but they deal

only with land subdivision and allocation without any guideline which in long run may provoke a haphazard urban development.

3.2 Information dissemination

Before initiating any project, the cooperative managerial board consults landholders and agree on some terms and sign a contract. According to the information collected from one of the cooperative manager, she said that *'before the project is initiated, the landholders are explained the purpose of the project, the overall objective, specific objectives and the profit that each land holder will gain from the project. The process to be undertaken are informed and explained. Participants are identified and everyone is aware about the project. She added that they use participatory approach and land holders became shareholders in the project. Every landholder has right to withdraw from the project; that is why we need the free consent of each land holder'*. Negotiations are taken between cooperative and landholders until consensus is reached on. Then land is consolidated and surveying activities start. Also, clients who will buy the land are informed about ongoing project and can prepare themselves for purchasing the land whereas for the government projects, the information was kept secret to the public, and disclosed to few people.

3.3 Land acquisition arrangement

As mentioned in previous discussion, land acquisition does not follow any legal framework. It is done through negotiations between landholders and cooperatives. The compensation issues are not present given that land holders and cooperatives agree on how they will share the surveyed and serviced plots after all technical and administrative procedures are completed. Cooperatives do all required procedures and activities to their own cost. At the end, the cooperatives will have 40% of the surveyed and serviced land; whereas landholders will remain with 60% of the plots which he/she can sell at the market price. Here, the practice of corruption is minimised if not eradicated since the landholders will not have any contact face to face with any land officer. It has to be noted that corruption in land may manifest during land acquisition or expropriation by the government at the land valuation processes by land valuers from the municipalities.

3.4 Land allocation

In government-led projects, land allocation was subjective to nepotism and corruption due to information asymmetry and political interference. Also, the price was too low since it was considered for public land. For example, according to data from the Land Office in Bujumbura, 400 sqm obtained through expropriation by compensating the landholder 6000000, was sold on 5 million in 2012 whereas in informal settlement, the same plot in nearby neighbourhood was between 12-15 million Burundi Franc (BIF). On another hand, a plot of 300 sqm is sold on 18 million BIF during the PPP arrangement. Also, plots are sold by the owner at his/her time and to a market price. There was a gain of 30 times to the landholders. Also, land seekers are all free to access any land according to financial capacity. Results show that the percentage of people who accessed to surveyed and serviced increased to 25 percent in 2016, 30 percent in 2017. To access these plots, there was no intermediary

persons (broker) needed to liaise with the seller. Therefore, the environment of corruption is degraded and discouraged since everyone has same chance to access to land through market price.

3.5 Processes in title application

The cooperatives that are involved in land administration are composed by various technicians of different education background and profession. Among them, there are Architects and urban planners who are aware about processes for title application. Therefore, after surveying and servicing the plots, the cooperatives assist the buyer in applying for titles. Because these people know requirement, rules and regulations for land title or certificate application, concerned offices, required documents, needed charges, and other bureaucratic procedures; the period to get titles is shortened and may takes one months to have titles for more than 50 plots whereas it was take 6 months for one plot. According to landowner consulted, he disclosed that *the cost to be incurred was lowered at 40% when he compares to cost his neighbour incurred when he followed the process himself*. He detailed that this 40% is counted even to money that was used for transport and 'easements' given to land officers to get information on processes and pushing files from one office to another.

4. Discussion and conclusion

This paper was centred on answering two main questions that are (i) how PPP arrangement in land administration was done in Burundi; (ii) at what extend the PPP minimised corruption in land administration during implementation.

This paper has tried to document on situation before the involvement of private actors in land administration and found that situation was not only complicated, long and expensive; but it was disconnected from social reality. For social reality, the meaning is that the charges by land officers and the price of land were not correlated and somehow unreasonable and unbearable by the services seekers. Land services were not affordable and were not even cost effective. Cost for accessing the land was higher than the value of the property to be secured. Land administration processes were obscure and opaque dominated by nepotism, and corruption.

When PPP arrangement came, land information at all stages and stakeholders was provided. This made land officers not to use the gap of information asymmetry to ask for corruption to land service applicants. Transparency International and FAO (2011) were in view that hiding information to public was one of the strategies used by land officers so that they can make applicants to come to them and ask for assistance which they gave condition of giving something. The land acquisition was done in transparent and participative way in such way there was no lamentation and complains from land owners. Land owners considered a Cost Benefit Analysis before accepting the offer from the cooperatives to give their land. Land now has contributed at over 90% to landholders to uplift from low income earners up to medium high income earners than it was before when the government was the sole land administrator. For them land became a source of wealth as considered by Kenjiro and Baird

(2011) and land as fundamental asset for landowners as recognised by Platt (2014) and Guttenberg (1984).

In addition to that, land seekers (buyers) have been able to communicate immediately with landholders (sellers) which abolished the intermediary people in accessing surveyed and serviced land. This minimised the corruption to buyers as it was observed in government-led projects. Land allocation has been among one stage where all types of corruption were observed from petty to grand corruption, political, bureaucratic, private, collective, redistributive and extractive corruption as mentioned by Amundsen (1999, pp. 2-6). Getting land in PPP arrangement was not complicated or manipulated by anyone, only land market system regulated the accessibility. The nepotism and political interference was no longer observed and there was equal chance to all who have financial capacity to access land in planned areas.

Finally, the process of title application for the plots was undertaken by private actors (cooperative officers) who knew the processes, offices and other required documents. The results show that time was shorten up to 1 month for 50 plots whereas for individual may take 6 months for 1 plot. Van der Molen and Tuladhar (2014, p1), Jaitner, Caldeira, & Koynova (2017) and TI (2014) pointed out that this process was long and make applicant be forced to pay corruption so that he/she can be served on time. Also, the money that should be incurred by individuals has been lowered at 40% since no easement money was paid *for push the file* from different offices.

The paper concludes that the PPP is effective and efficient if well applied in land administration and minimise the corruption cases to individual land acquirers. During PPP, processes are clear and information is provided to landowners and land seekers. All stakeholders who are involved in land administration are all informed about what is going on and get prepared accordingly. No gap left by processes that may encourage land officers to ask for illicit money from land service seeker. It is time and cost saving. It provides win-win situation to landholders, lander seeker and cooperatives. This arrangement is recommended to be applied and initiated in other provinces of the country and the EAC region where it is not in place. Also, it has to be included in land policy and other legal framework so that it can be applied within supported legal institutions. However, this paper closes the discussion in doubtful situation on corruption practice that may occur between cooperatives officers and the land officers given that, services in these offices are provided in less time to cooperatives and more time to individuals. Therefore, further research to reveal the motivation behind faster assistance given by land officers to cooperatives is needed.

References

- Amundsen I. (1999) *Political Corruption: An Introduction to the Issues*, Chr. Michelsen Institute, Bergen, Norway
- Asian Development Bank (2010) *Public-Private- Partnership Handbook*, Mandaluyong City, Philippines. Also available on www.adb.org
- Baird I. G (2011) *Turning Land into Capital, Turning People into Labour: Primitive Accumulation and the Arrival of Large-Scale Economic Land Concessions in the Lao People's Democratic Republic*. University of Wisconsin-Madison, *Journal of Marxism and Interdisciplinary Inquiry* Vol. 5, No. 1, Pp. 10-26
- Burns T. and Dalrymple K. (2008) *Conceptual Framework for Governance in Land Administration*. FIG: Working Week–Integrating generations. Stockholm, Sweden.
- Government of Burundi (2011) *Loi N°1/13 Du 9 Aout 2011 Portant Révision du Code Foncier du Burundi*
- Guttenberg A. (1984) *The elements of land policy — Toward a comprehensive classification*, *Ekistics*, Vol. 51, No. 304, pp. 13-18
- Jaitner A., Caldeira R., & Koynova S.(2017) *Transparency International - Land Corruption in Africa Finding Evidence, Triggering Change: World Bank Conference on land and poverty” the World Bank - Washington DC.*
- Kenjiro, A (1961) *Labor, Capital and Land in Economic Growth*. Hitotsubashi Journal of Economics, Vol. 2, No. 1, pp. 26-41
- Kohlhagen D. (2011) *Land reform in Burundi: Waiting for change after twenty years of fruitless debate*, unpublished
- McAuslan P. (1987) *Land Policy: A Framework for Analysis and Action'*, *Journal of African Law*, Vol. 31, No. 1/2 (Spring, 1987), pp. 185-206.
- National Economics University and United Nations Development Programme (2017) *A Sectorial Study of Transparency and Corruption in Land Acquisition*. A Joint Policy Research Paper on Governance and Participation commissioned by Asia-Pacific Institute of Management (the National Economics University) and the United Nations Development Programme (UNDP) in Viet Nam. Ha Noi, Viet Nam
- Platt R. H. (2014) *Land Use and Society: Geography, Law, and Public Policy*, Third Edition (Island Press), Ch. 1, pp. 13-19.
- Rajack R. (2009) *Does Public Ownership and Management of Land Matter for Land Market Outcomes?* In: S. Lall, M. Freire, B. Yuen, and J. Hulen., eds. 2009. *Urban Land Markets: Improving Land Management for Successful Urbanization*. Springer: USA.Ch.12

Tatjana P. B & Nataša, T. (2013) *Corruption in the Land Sector, Economics of Agriculture*,
Transparency International (2014) *Overview of corruption in land administration:4U*
Experts Answer: Ethiopia
Transparency International (TI) & Food and Agriculture Organisation (2011) *Corruption in*
the Land Sector. Working paper #04/2011
Transparency International (2015) *The East Africa Bribery Index Trends Analysis (2010-*
2014), Kenya
UNESCAP (2011). *A Guidebook on Public-Private Partnership in Infrastructure*, Bangkok
UN-GGIM (2015) *The Application of Geospatial Information – Land Administration and*
Management
Van der Molen P. & Tuladhar A. (2014) *Corruption and Land Administration*, The
Netherlands