

Corruption in Urban Land Administration in Lusaka City: Causes, Forms and Remedies.

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Abstract

Scarcity of land in the city of Lusaka is resulting into increased land prices and various sectors of society are increasingly questioning the extent of transparency and fairness in land administration. This study examines public perceptions of corruption in urban land administration in terms of proneness of land administration processes to corruption, drivers of corruption, and forms of corruption. The study further explores options for reducing corruption in land administration in the city. Data was collected using a questionnaire administered on 265 Lusaka residents. Additional data was also collected from five focus group discussions and five in-depth key informant interviews. Key informants included lawyers, government workers, Zambia Land Alliance, Civic Forum on Housing and lecturers. This study identified 16 stages or process in land administration from making layout maps to title deed issuance. All the processes of land administration were reported to be prone to corruption with varying extents. The processes that were perceived to be most prone were application process, interviews, the plans committee meeting deliberation, full council meeting deliberation, release of names of successful applicants in national media and recommendation of successful applicants to commissioner of lands. The reported drivers of corruption in land administration were greed, poor enforcement of laws, use of discretionary powers, ignorance, favours seeking behaviour, land shortage, poverty, desperation, nepotism, competition, complex procedures and processes, over-bureaucratization and lack of defined timelines for each stage. The study concludes that land administration process is laden with corruptions based on views and experiences of residents and key informant. The study recommends mainstreaming and strengthening of anti-corruption measures at all land administration processes development processes; strengthening of legal and enforcement systems; increase application of information communication technologies to enhance transparency and improve efficiency and effectiveness by using transparent computerised land administration system.

KEY WORDS: Land administration, Corruption, Urban, Perceptions, Lusaka

1.0 Introduction

Land is an asset vital for economic (Ding, 2011), social (UNECE, 2005) and environmental development (Williamson *et al.*, 2010). Thus land as a resource and its administration are critical for sustainable development (Williamson *et al.*, 2010). Land administration is a very broad concept (Grover, 2007) that involves three core dimension i.e. ownership, value and land use (United Nations Economic Commission for Europe, 1996). The benefits of good land administration include guaranteed ownership and security of tenure, developed and monitored land markets, reduced land disputes, protection of state lands; improved urban planning and infrastructure development (UNECE, 2005). In most cities in developing countries, land administration is vulnerable to corruption (Farzana, 2013).

The importance of land in society can be understood in six ways namely economic, environmental, socio-political, historical and cultural terms. The ultimate common concept 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 (FAO, 2002) It is furthermore “the most significant provider of employment opportunities in rural areas and is an increasingly scarce resource in urban areas” (FAO, 2002). Consequently, securing land rights can result in economic growth, and poverty reduction (Cotula *et al.*, 2006). However, urban land administration systems as a major factor in determining land rights for all eligible individuals in any society is problematic in many African cities. There is overwhelming literature on corruption in land administration in a number of countries such as Ethiopia, Benin, Nigeria, Ghana, Vietnam, Italy, Zimbabwe, Uganda, Bosnia and Herzegovina (Asfaw *et al.*, 2014; Vo 2015; Sèdagban 2012; UNODC 2011; Ouma 1991).

Most literature has defined corruption as the abuse of power for personal gain (World Bank 2012; Transparency International 2010). Literature shows that corruption takes many forms and is caused by a number of different factors (Al-Jurf 1999; Shleifer and Vishny 1993; Langseth 2002, UN-HABITAT 2010). In Zambia, most academic peer reviewed literature on land administration relates to gender and the few studies that have looked at corruption have a bias towards customary land and are donor driven (NORAD 2011, Koechlin *et al.*, 2015; FAO 2012; Brown 2012). This study thus seeks to contribute to the knowledge gap by assessing public perceptions of corruption in urban land administration in Lusaka city. The following research questions are addressed in the study:

- i. Which processes of land administration prone to corruption?
- ii. What are the common forms of corruption in land administration in Lusaka?
- iii. What are the major drivers of corruption in urban land administration in Lusaka?

2.0 Literature Review

Enemark *et al.*, (2014) and Williamson *et al.*, (2010) are examples of empirically informed studies of good practice in land administration that are available, but very little analysis is available of the nature, scale, drivers and effects of corrupt land administration practice. Studies from West Africa (Durand Lasserre *et al.*, 2015) show corrupt practice is increasingly frequent in processes of urban land development, owing to scarcity of land, rising demand and land values and the range of different actors and authorities engaged in land development and delivery processes. A number of case studies of poor land governance in which corrupt practices play a role do provide some insights into the specific features of land administration and governance systems with associated drivers of corruption (Kakai

2012). Corruption in land administration is wide spread especially among developing countries (Asfaw *et al.*, 2014; UNOD, 2011). In terms of drivers of corruption, land plays a critical role as a means of patronage (Kakai, 2012; Onoma 2008; Boone 2012). According to Owen *et al.*, (2015) land administration in Zambia shows a clear mismatch between *de facto* and *de jure* systems. German *et al.*, (2013) confirms that leaders have tended to make decisions based on their personal gain, rather than communal interests. Bureaucratic processes create incentives for people to pay for faster service or to simply circumvent the established procedures entirely (Deininger *et al.*, 2010). Bureaucracy and inefficient processes have also motivated abuse, and simply circumvent the established procedures entirely (Deininger *et al.*, 2010). One of the most common forms of corruption is bribery of land officials to facilitate access to information and services (Owen *et al.*, 2015; TI and FAO, 2011). Literature shows that effective and efficient systems to detect bribery and other forms of corruption within land administration processes are largely inexistent in most developing countries (Van der Molen and Tuladhar, 2007).

3.0 Methods

This study adopted a case study approach (Yin, 1984), using Lusaka City as the case. The reason for employing the case study approach is to get an in-depth understanding on the urban land administration system with respect to corruption. The main advantages of using this method is that there is direct contact with respondents during data collection which leads to specific and constructive suggestions, detailed information is obtained and few participants are needed to get richer and detailed data. Data was gathered from 265 Lusaka residents using questionnaire. Key informant interviews were also conducted from the following institutions: Lusaka City Council, Zambia Land Alliance; Lands Tribunal, Civic Forum on Housing, Ministry of Lands and Natural Resources and Legal Counsel. Five focus group discussions were also conducted with a few residents. This data was supplemented by review of documents on the regulations and processes in order to identify the stages in land administration. Thematic and content analysis (Bryman, 2008) was used to analyse the data.

4.0 Results and Discussion

The presentation of results is such that the next subsection identifies stages and associated processes in land administration. It also presents results on how each process is prone to corruption. This is followed by presentation of drivers and forms of corruption in land administration in the city of Lusaka before a subsection on options for addressing the problem.

4.1 Land administration processes and corruption

Results show that there are 16 main stages of land administration process (Table 1). These results suggest that the land administration process is ambiguous. One key informant explained that:

“...this bureaucracy and tedious land acquisition processes means that people with the money can simply pay other people who know the system and are connected to land officers, planners, councillors as well as surveyors and in certain cases just even office clerks and committee clerks to have the processes shortened”(Personal communication, 2017).

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Table 1 Processes and stages of land administration and associated vulnerabilities to corruption

SN	STAGES	ACTORS	PROCESSES	VULNERABILITIES TO CORRUPTION
1	Layout plans made	Local / Provincial Planning Authority	Land is divided into different land uses and a layout map produced is submitted to Surveyor General's office	Top government officials and politicians have details whilst the majority of the ordinary citizens are not aware. Thus at this stage, plans of allocating land to themselves begins
2	Land is numbered	Surveyor General's office	All plot stands are numbered including open spaces.	Other government officers here also have an interest and simply agree with the local authority to be given some parcels of land
3	Land is surveyed	Surveyor General's office	Beacons are put	Sometimes bigger portions of land are left as open spaces which later are allocated in a questionable manner. Also Geo-coordinates are often not indicated on survey diagrams.
4	Land is advertised in national media	Local Authority	Names printed in national newspapers	This information is often accessed first by some people who have some connections to officers involved before it is released to the general public. Sometimes this stage is skipped all together. Above all the information is limited to those with access to public newspapers.
5	Application for plot stands	Land Applicants	The prospective land owner lodges an application for land with the Town Clerk or Council Secretary	The major interest here is to raise money from the sale of plots through the non-refundable application and interview fees. Plot-applicant ratio of 1:3 is not followed.
6	Interview period	Local Authority	The Committee of the Council that deals with land matters interviews applicants and selects suitable candidates.	Usually this process in most cases is done just for formality's sake because in most cases applicants would have already been selected by then.
7	Plans committee meeting	Local Authority	The Plans committee approves the selected names from the interviews	This a highly political process where each civic leader pushes his/her own agenda and lists of names even if they never made applications and sat for interviews. Selection is often not based on the required criteria
8	Full council meeting	Local Authority	Names of approved candidates by the plans committee are adopted by a full council or ordinary council meeting	Usually names go through here unopposed unless the civic leaders are not in agreement.
9	Names of successful applicants are released in national media	Local Authority	The successful/adopted applicant's names from the council meeting are processed for public media.	This is a critical stage because those that may not have access to this list yet they are successful applicants may miss out. In most cases the local authority does not contact all successful applicants and the payment period to secure the offer is often less than the stipulated 90 days.
10	Selected applicants names are recommended to commissioner of lands	Local Authority	Town Clerk/Council Secretary writes a recommendation letter to the Commissioner of Lands and encloses :- (i) Minutes of both the Land Committee and the Ordinary Council meetings. (ii) Annexure A Land application form for stands.	This process takes longer than necessary and it's the reason most people do not have offer letters from the Ministry of Land.
11	Commissioner of lands accepts or reject names	Ministry of lands	The application is processed through hierarchical internal submissions to the commissioner of Lands who approves or rejects the application.	Most recommendations are approved but usually feedback is not given. This forces people to use all possible means to ensure that their files are processed.
12	Offer letters are sent to all selected	Ministry of Lands/ Local Authority	Upon approval an invitation to treat is issued to the applicant.	Invitation to Treaty from Ministry of land is not sent to the applicants but sometimes it comes from the local authority and this is an anomaly.
13	Selected Applicants pay for service charges	Land Applicants	Upon payment of prescribed fees outlines in the invitation to treat, the applicant is issued with a letter of offer.	The list of selected applicants in most cases is distorted by even the junior officer who may simply change names and put names of applicants who did not even apply
14	Application for issuance of land title certificate	Land Applicants	The offeree is then required to submit survey diagrams/sketch plans to the commissioner's office so that a lease can be prepared and eventually certificate of title issued.	Some people may not submit a land survey diagram and most people are not aware of this process and as such may wait in vain for the local authority to apply on their behalf

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15	Publication of all title deeds given	Local Authority	Names printed in national Newspaper	This is usually not done and most respondents admitted to have never seen this in the national media because it takes several months to obtain a title deed
16	Title deed	Ministry of Lands/ Local Authority	Title deeds are collected from Ministry of lands (lands department).	This can take more than a year under normal circumstances forcing people to corrupt acts to quicken the process

Source: Field data, 2017

Most key informants (60 percent) identified the most prone stages to corruption as stages from stage number five to number nine; stages ten to sixteen are perceived to be moderately prone to corruption and the first four stages were said to be the least prone. These variations in the extent of corruption among these stages are due to vulnerabilities associated with respective processes at each stage (Table 1).

Several reasons were given to account for these results. These include bureaucratic procedures, overdependence on the manual system, unclear procedures and lack of defined timelines for each stage, inconsistency in the land administration procedures, political interests and excessive discretionary powers.

Firstly, corruption in the land sector had been fuelled mainly by bureaucratic procedures of acquiring title coupled with centralisation of the administration system. Further, lack of knowledge among land seekers on the actual procedures involved when acquiring land have led to a lot of individuals succumb to corruption in the hope of getting land quicker according to the report of the committee on lands, environment and tourism for the second session of the eleventh national assembly 2013. These results tally with Deininger et al., (2010) who identified that there is a lot of inefficiency and unnecessary bureaucracy which create incentives for people to pay for faster service or to simply circumvent the established procedures entirely. Thus bureaucracy and inefficient processes have also motivated abuse, and simply circumvent the established procedures entirely (Deininger et al., 2010).

Secondly, the current manual system of data storage has proved to be inefficient. Files are often “lost” deliberately. Key informants disclosed that files are in actual sense misplaced to create loopholes for corruption. This is done because all files are kept in one place and so one can easily be told that his or her files is lost and to avoid to start the process all over again, one is forced to bribe the officer so that he/she creates a file for them or finds the lost file. This phenomenon was further supported by another insider key informant that certain files are simply pulled out or hidden by officers in order to lure clients to pay unofficial fees for their files to be retrieved. Generally key informants elaborated that manual system has failed. A key informant further explained that:

despite millions of kwachas been spent for the Zambia Integrated Land Management and Information Systems (ZILMIS) about three years ago, nothing has been implemented for the simple reason that people have not been incentivized and as such you cannot caution a cat without cautioning a mouse. A key informant gave his own experience and said that apart from the land administration processes being prone to corruption, the poor working conditions created a loophole for corruption (key informant 2017).

This result is disputed in some literature such as Mutabihirwa (1995) but other literature also shows that some European countries recorded positive results when working conditions of civil servants were improved so much that the levels of corruption drastically reduced (Svensson, 2005).

Thirdly, the land administration processes have shown that they are not very clear and the stages do not have defined time lines and this makes the process prone to corruption. The lack defined timelines creates loopholes for corruption as many officers work without been

time conscious. Thus a person who may need to obtain title for purposes of obtaining loan from a bank may be left with no option but to simply bribe an officer to quicken the process. This tallies with literature which shows that many applicants resort to bribing land allocation officers to 'push their papers' so that they can be processed faster (Mulolwa, 2002). One key informant who owns a land consulting firm disclosed that it can take more than 3 years to obtain title deed if you are not forceful. This is supported by Ng'ombe, (2005) who states that it takes not less than 3 years to process land title. The key informant further said that there are others who have been able to obtain title within 24 hours. The question is how? Well money speaks in such cases as well as the connections that one has. Seth Asiama *et al.*, (2004) say that there is a lack of adequate information on the land application processes by most people. The focus group discussions also brought this point out strongly and said that many applicants opt to use third parties to help them acquire land occupancy licences for instance.

Fourthly, there are a lot of inconsistencies in land administration such that there is a visible gap between the *de jure* and *de facto*. For instance, it was interesting to learn that there competing ratios which must be ideally used in determining the number of application letters that can be received when land is opened up for lease to the general public. There is need to ensure that ratios are adhered to so that when you have 500 parcels of land, applications must be limited to 1500 application so that each parcel of land is competed for by 3 persons. However, the situation on the ground is that the public is allowed to apply simply because the Local authority is interested in generating income from the application fees. As a result, competing ratios increase, thus creating pressure on the selection process. Resulting in removal of names of many ordinary members, MacInnes (2012) cites that there is growing pressure on land for investment and patronage purposes. It thus means that plots are given to individuals who have connections and thus favouritism and nepotism is what takes the day. Corruption has persisted despite having external institutions such as the ACC and Zambia Police sit on the interview panels. The transparency of the allocation system is vital if corruption is to be curbed. Most (80 percent) of key informants said that land is advertised for formality's sake most times. The case in Foxdale where about 300 plots were created and Ministry of Land even issued offer letters but later the owner of the land sued the ministry. How did this happen? Well simply because records are not available and the survey diagrams do not have the geo-coordinates creating a loophole for double allocations. These cases show inconsistencies in the practices of land administration process.

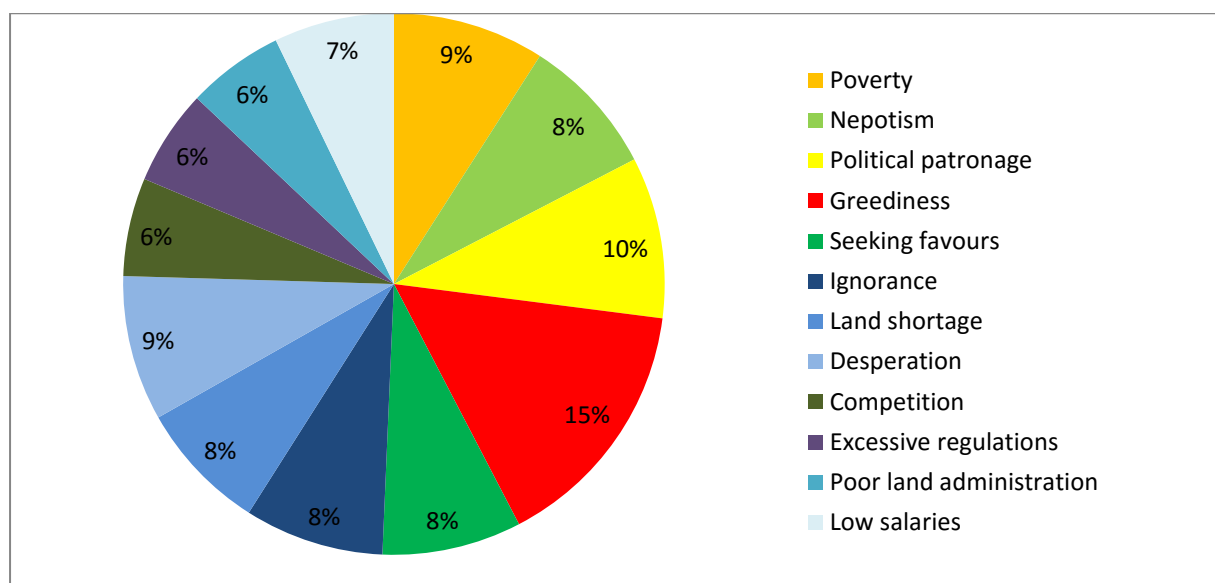
Fifthly, there is a lot of interest from civic leaders to sit in the planning subcommittee of the council so they have access to first-hand information on the areas to be opened up and the associated value. The fact that civic leaders have powers to make decisions during the subcommittee deliberations on who gets land and why, gives them an opportunity to influence decisions and recommend certain names for approval. It was further disclosed in focus group discussion that some civic leaders work in cartels and they collect NRCs of family members, friends, political supporters, and colleagues to use in obtaining parcels of land which they later sell and share the money with NRC owners.

Officer in land administration related positions and departments have high level of discretionary power that they tend to have undue influence on the process of land administration in favour of their private interests and their network of social capital. Some respondents in focus group discussions explained that the officers often simply told them to

wait and when they got tired they were told to pay an unofficial express fee to have their documents processed faster than usual. In other cases they were told to either pay for fuel or provide a vehicle for officers to use so they can be shown their allocated land as the transport is a challenge in most government institutions.

4.2 Drivers of corruption

Respondents were asked to identify the most common drivers of corruption in land administration. Of the total responses, the top three drivers of corruption were greedy followed by political patronage and thirdly poverty and desperation (Figure 1). The results suggest that the level of greediness amongst civic leaders in issues of land administration is very high. The case of Tanzanian presidential commission of inquiry against corruption (1996) shows similar results that there is excessive greediness for wealth accumulation amongst civic leaders.



(Respondents were asked to identify the most common drivers of corruption in land administration).

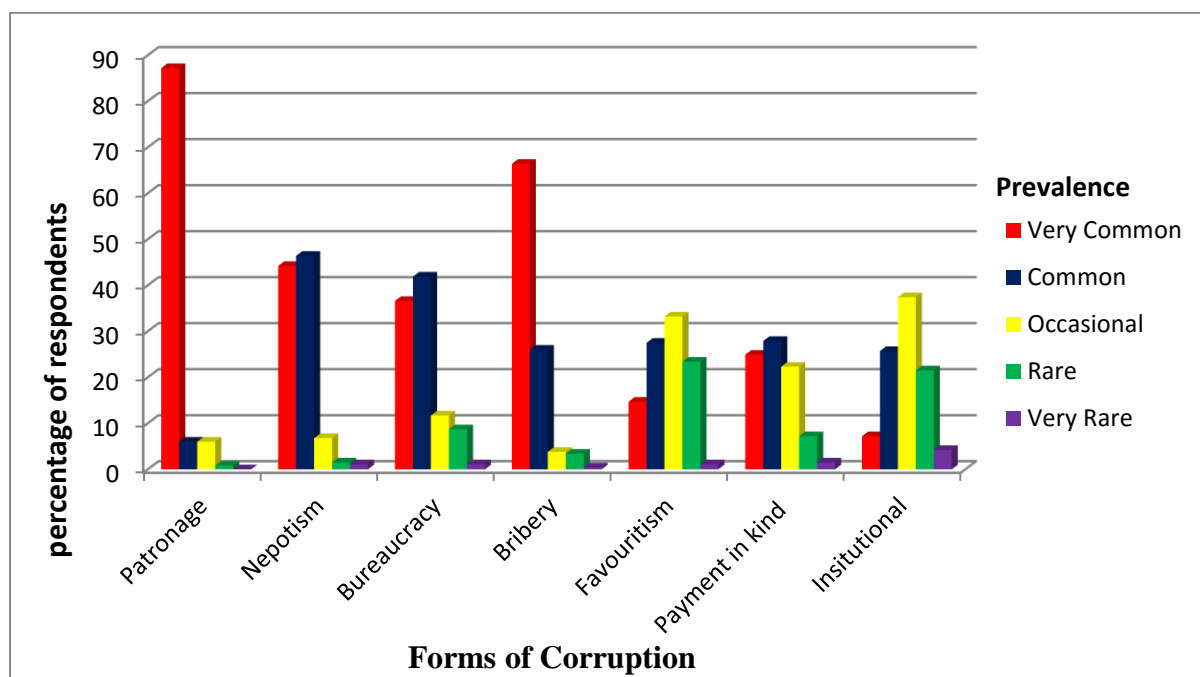
Figure 1 Drivers of Corruption in land administration (Source: Survey data 2017)

Secondary data sources also support this finding. According to the Lusaka times.com, dated January 22, 2011, Local Government Minister Brian Chituwo at one point suspended Lusaka city council to pave way for an audit. This was after Lusaka city council was in some corruption allegations. The council was accused of illegally allocating land to itself without following the law governing the allocation of land. Out of 102 plots, the councillors got 45 plots, 10 plots were given to the Mayor while the deputy Mayor got five plots and members of the public were only allocated 11 plots.

The second top driver of corruption in urban land administration is political patronage. Literature has shown that land plays a critical role as a means of patronage (Kakai, 2012; Onoma 2008; Boone 2012). The use of land as a means for securing votes contributes towards corruption in land administration. Civic forum for housing cited in Bouju (2009) and Kakai (2012) contend that since the commodification of land in 1995, land has become a means of political patronage. Political patronage has also been cited as a cause of illegal land allocation in the city of Lusaka (Chilombo 2016). Often the illegal trade of votes for land appeals to the poor segment of the city that is often desperate for land and accommodation. Civic forum for housing further expressed stressed on the need for civic leaders to formulate land policies that are pro-poor (cited in Bouju, 2009); Kakai, 2012). Participation in politics is increasingly becoming the fastest way to get rich. It was pointed out in focus group discussions that political positions provide opportunities for civic leaders and their networks to acquire large portions of land which they later sale. A discussant further stated that “*Most of these civic leaders keep obtaining land and in some cases exchange that land with cars.*” Nepotism and desperation as well as ignorance also drive the corruption mileage higher and all this is necessitated by the weak land administration legislature and weak enforcement (Transparency International 2013).

4.3 Major forms of corruption

In terms of forms of corruption, the research results show that there are several forms (figure 2).



(Respondents were asked to identifying the common forms of corruption and tick their perceived prevalence)

Figure 2 Perceptions on forms of corruption and their prevalence (Source: Survey data 2017)

The top three common forms of corruption were political patronage, nepotism, and bribery. Majority (87.2 percent) of respondents said political patronage is the most common form because land is now handled by political party cadres who in some cases may even have

strong connections (complex cartel ranging from junior to senior officers at both Ministry of Land and Lusaka City Council in all departments dealing with land administration issues). As a result due to political patronage some people easily get land and titles deeds. Key informants cited a number of areas where political patronage was evident and one such area is garden house residential area. Political party leaders in this area have allocated land to the community members and have built within a short period of time without following all the legal procedures.

The second most common form of corruption is bribery 66.4 percent followed by nepotism/tribalism 44.2 percent. The high perception in the prevalence of bribery is simply due to the lack of systems to detect bribery and corruption with the land administration systems as cited by Van der Molen and Tuladhar (2007). Due to inefficiencies and lack of transparency in land administration system, the use of social capital in form of social networks of friendship and acquaintances is increasingly a viable option to circumvent the ills of formal systems. This accounts for the high prevalence (third most common) of some form of nepotism in land administration.

Some key informant pointed out that directives from superiors were also very common practice and they are obliged to carry out the directive despite violating the legal processes. This is done so as to protect ones job and remain in harmony with the superiors. It was pointed out that some of these directives are associated with some rewards either in monetary form or non-monetary or both. A key informant further explained that

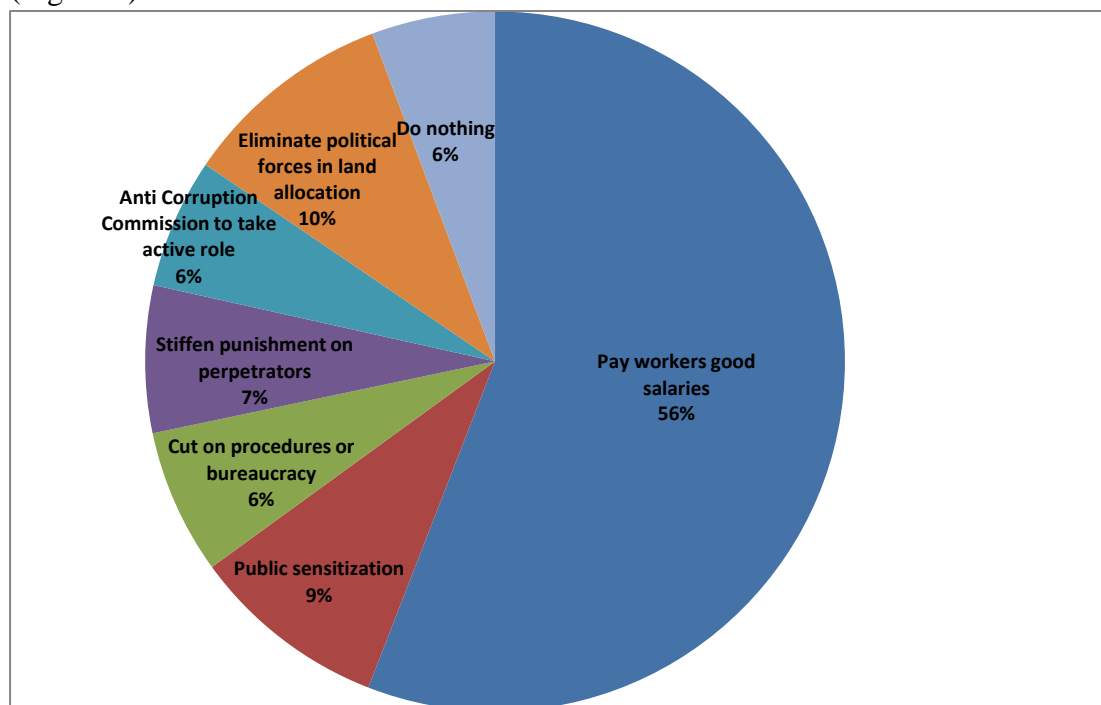
“In the past the only form of exchange was money but nowadays rewards are many including cars and other in-kind rewards (key informant interview).”

Key informants (60 percent) said that vehicles have become the most common form where money and other in-kind rewards are not readily available. These results show that corruption in land administration carries many forms and these forms are also often related.

4.4 Measures to reduce corruption in urban land administration in Lusaka

The top most option for reducing corruption in land administration in Lusaka was improving the conditions of service for the public workers followed by elimination of political interference and sensitization of the public on the correct procedures and ills of corruption

(Figure 3).



(Respondents were asked to identifying the common forms of corruption and tick their perceived prevalence)

Figure 3: Perceptions on remedies for corruption in land administration (Source, Survey data 2017)

Improvement of the poor conditions of service for civil servants has also been reported in other studies as one of the viable options for addressing corruption (Svensson, 2005). Other literature has reported similar results as in figure 3 (Dixon-Gough and Bloch, 2006).

However from key informants, the most prominent option reported was creation of robust rules and laws and enforcing them without any form of interference. Other scholars have argued for increased transparency and decentralisation of land administration services as being very critical in curbing corruption (Deiningner et al., 2011; Oxfam 2011). Most key informants also pointed out that the reduction of bureaucracy should be accompanied by the use of information communication technologies rather than the manual system. The new technologies should enhance transparency and efficiency.

Some informants explained that there was need to put legal systems that prevent political patronage and use of discretionary powers by some civic leadership and public servants. Against this thought was a suggestion to revise the Land Act of 1995 to ensure that the weak members in society are guaranteed access to ownership of land. The need to have a land policy in the country cannot be overemphasised.

5.0 CONCLUSION

This paper concludes that in Lusaka, every stage of the land acquisition process is to some extent vulnerable to corrupt practices. Greediness, political influence and poverty are top three drivers of corruption. The most dominant forms of corruption in the land administration are political patronage, bribery, nepotism as well as bureaucracy. The remedies to curb corruption include, increased transparency by improving working conditions for public workers; the use of information communication technologies; reduced bureaucracy; policy review and strengthening; and enhanced enforcement of laws. Ethical approaches in sensitization of people on corruption are important in addressing issues of greediness.

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