LAND OWNERSHIP AND TENURE

Introduction

Land is one of the main sources of wealth in most countries. How it is governed significantly impacts land usage, environmental sustainability, and human development. As a major source of wealth, land transactions are both targets of corruption and destinations for ill-gotten gains. This report focuses on how land can be a target of corruption and a destination of ill-gotten gains.

This analysis is part of the Broken Links: Open Data to Advance Accountability and Combat Corruption report, which offers an overview of data frameworks and data availability in OGP countries across eight policy topics using data from the Global Data Barometer.

Key Takeaways

Availability	More than half of OGP countries publish data on land tenure in any form.
High-Value Information	Roughly half of OGP countries publish information about types of land tenure, but only one-third include information about the beneficiaries of land tenure and their rights.
Usability	Only one-third of countries make land tenure data available for free, and less than one-quarter publish machine-readable data.

57%
of OGP countries have data available online

Officials at the Uganda Land Commission (ULC) have been accused of asking for bribes in order to pay out compensation for land. Geoffrey Mugisa, one of the registered proprietors and claimants of the Shs10.6 billion supplementary budget allocated to facilitate the land owners who sold their land to the government through the Uganda Land Commission (ULC) said in order to process his payments, officials from ULC asked him for a bribe. This section outlines the benefits of publishing land ownership data including the mitigation of losses related to crime and corruption. Photo by Scott Thompson, World Resources Institute.

Open Government Partnership

Opening up land data is a necessary first step in ensuring that ownership is documented and meets national goals. Land policy and land management are prone to acts of corruption. Certain actions make it a high-risk area, where individuals or organizations may attempt to bend government practice to benefit themselves or private interests. This may take place in a few key ways:

- **Expropriation:** In many countries, public and communal lands may be transferred (International Land Coalition, 2011) into private hands through unfair, informal, biased, or corrupt practices (WRI, 2008). Poorer families with customary or informal tenure may find themselves to be "trespassing" or "renting" land they have used for decades. Public or otherwise protected lands may transfer hands without public record (PADDD, n.d.).

- **Land acquisition and concession fraud:** Well-connected elites may find governments acquiring their land for well above the market rates or outside of standardized practices, whether through processes of eminent domain or more standard acquisition processes. (See this recent article from *The Sydney Morning Herald* for an ongoing case in Australia [Ferguson, O'Sullivan, & Gillett, 2020].) Conversely, concessions such as mining permits may not follow standard procedures, and rights to use public land may be granted secretly, illegally, or in ways that contravene the public interest.

- **Regulatory confusion:** In addition, where land is held in multiple repositories, companies may take advantage of overlapping claims of land tenure. In areas of the world such as Indonesia, legal ambiguity has created opportunities for illegal forestry where claims and tenure are unclear. Corruption may consist, in part, in maintaining or taking advantage of this confusion. (See GIZ 2021, p. 17, for a full review of cases [GIZ, 2021].)

As a frequent means through which crime and corruption can occur, lack of land ownership or tenure transparency has serious negative consequences:

- **Driving up land prices:** Recent reports, such as *Combatting Money Laundering in BC Real Estate*, by the Canadian "Cullen Commission" found that real estate in British Columbia, Canada, had become such a problem that it was driving up home prices (Maloney, Somerville, & Unger, 2019). Consequently, the Commission recommended an expanded beneficial ownership register for land, among other measures.

- **Aiding autocrats:** With the invasion of Ukraine, it has become obvious just how much money from Eastern Europe has been concealed in the UK real estate market (Moore, 2022). Lack of transparency and the ability to investigate financial crimes has created a destructive pattern.

- **Abetting crime:** Money laundering is the second step, usually occurring after other crimes or "predicate offenses." Real estate purchases are used to clean dirty money and finance further criminal operations. The United States has been subject to major investigative reporting (McGoey, 2021) on the use of real estate to launder drug money, half of which involved politically exposed persons (see *Asset Disclosure* in this report).

Open data in land tenure usually takes place in the form of public land registers or public cadastres. Ideally such data covers the type of land ownership, the actual owners of that land (legal *and* natural), information about transactions involving land, and geospatial information about land parcels. This information empowers citizens to gain more insight into land claimed by the government, companies, and other actors and enables people to claim their rights to their land.

Policy Justification

The benefits of publishing land ownership data extend beyond the more immediate mitigation of losses related to crime and corruption. Reformers may also realize a number of inclusive, long-term human and economic gains as well, including:

- **Open data ensures companies pay their fair share for concessions and licenses.** Open access to information about land use agreements such as concessions and licenses allows citizens, civil society, and government to monitor company activity and ensure that companies are operating legally and paying appropriate fees and taxes. Additionally, oversight mechanisms that allow affected communities and their advocates to monitor major land and other intensive activities can help these communities retain funds by enforcing revenue-sharing agreements. By requiring information about the owners and users of land to be public, countries can create a network of accountable businesses and eliminate unnecessary losses.

- **Open land data enables corruption detection.** A lack of transparent land tenure data can allow companies and other individuals to control and benefit economically without repercussions. For example, in several European Union countries, including Hungary, Bulgaria, and the Czech Republic, politicians sold heavily subsidized farmland to allies through opaque processes that have resulted in local farmers losing access to their land and livelihoods (Gebrekidan, Novak, & Apuzzo, 2019). Open land tenure data (Pierce et al., 2018) provides the first step for affected communities and governments to hold actors accountable (Land Portal, 2019) for decisions about land use and related violations.

- **Countries can retain revenue through fair and transparent transactions.** Land grabs by big companies, governments, and individuals can harm community development and result in conflict. When transactions, including acts of eminent domain (the purchase by the state of private land for public use) and degazettement (the privatization of public lands), are transparent and subject to proper oversight mechanisms, countries can ensure that entities purchasing land pay a fair price or that the government fairly remunerates landowners and users for the seizure of non-state-owned lands.

- **Countries can stimulate investment and prosperity through land ownership and tenure transparency and enforcement.** There is strong evidence that doing so results in people, especially women, making improvements to their property and being able to seek employment outside of the house (Landesa, 2015). Studies show that when governments allow communities to access information and participate in decision-making processes about natural resources, those resources can become a source of significant economic benefit (Rights and resources, 2015). Of course, transparency does not function without adequate means of registering and enforcing land titles and contracts.

- **Land rights are essential to the realization of human rights.** Respect for land rights enables housing and food security, sustainable livelihoods, and social and economic growth (FAO, 2022). The documentation and protection of land rights prevent rights violations—including, for example, discrimination based on gender or arbitrary eviction (FAO, 2022).

- **Formal and public documentation of land ownership and tenure can help communities protect their rights.** Transparent land tenure documentation and data allows communities to prove their legal rights to others, especially companies and other powerful actors who may otherwise disregard them (WRI, 2017).

Key Terms

- **Land tenure:** Tenure includes all types of legal relations to land that could be described as land ownership and land use rights.
- **Land ownership:** An entity "owns" land if their tenure is unlimited in duration; they have a legal right to exclude outsiders from using their resources (within limits); and they are entitled to due process and compensation in the face of potential extinguishment by the state of some or all of their rights.
- **Land use rights:** A land use right is distinct and separate from land ownership. A land use right is a property right enjoyed by private parties or communities. It is enforceable. However, compared with ownership, user rights are considered more limited.
- **Cadastre:** According to the International Federation of Surveyors, a cadastre is a parcel-based and up-to-date land information system containing a record of interests in land (e.g., rights, restrictions, and responsibilities) (Cete & Yomralioglu, 2004).
- **Land register:** A land register contains up-to-date records of land ownership, tenure, and use. Some countries use land registers in tandem with cadastres, which cover geospatial information, while others unify all information, including cadastral information, in a register.

What Does "Land Data" Mean in this Report?

This module covers findings from the Global Data Barometer (GDB) on the publication of land tenure data in OGP countries. It includes information on the availability of the following types of data related to land tenure:

- Legal owners and natural persons with ownership
- State, communal, and open access lands
- Urban and rural tenure
- Land concessions and/or leases
- Land transactions and sale values
- Geospatial references
- Information on sex/gender, indigenous communities, and marginalized populations
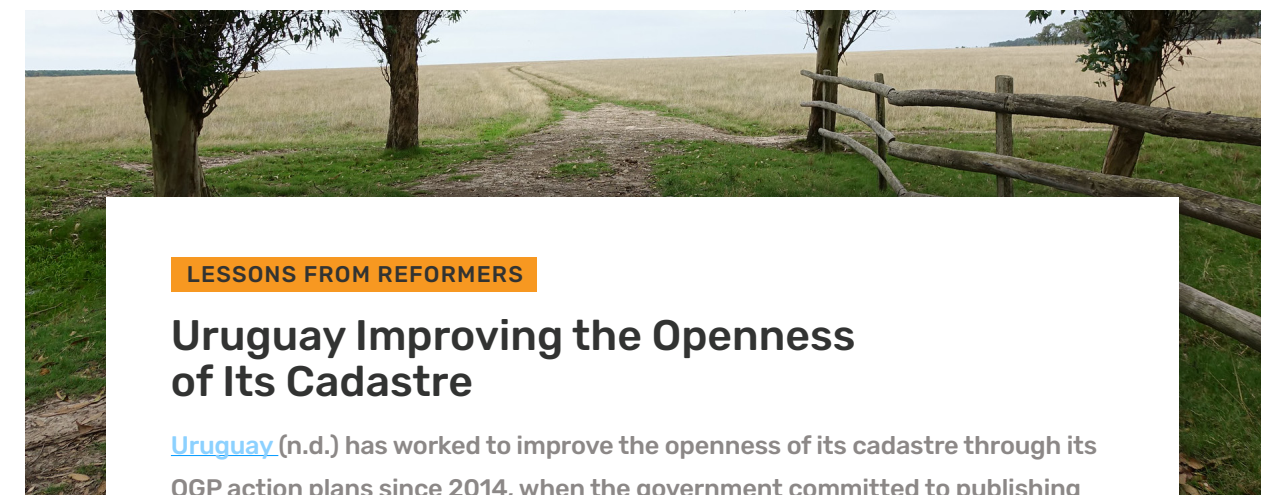
State of Progress Through OGP

Many OGP members have made commitments related to land rights and spatial planning. Since OGP's founding, 53 OGP members have made a total of 125 commitments related to land ownership or tenure, management, and spatial planning. Of these, more than three-quarters (97 commitments) deal with improving access to information, and roughly one-third (42 commitments) involve publishing land-related open data.

Few commitments focus on the publication of land ownership or tenure data. Land and spatial planning commitments tend to focus on two main topics: environmental conservation and governance of the extractive industries. However, relatively few commitments deal with land use or ownership, and of those, only a few commitments focus on making information about land ownership, tenure, and use publicly available. The commitments that do deal with transparency of land data focus on more immediate, pressing reforms, including the creation of regularly updated cadastres and public registers for tracking land use.

Commitments in this area have received promising evaluations. According to data from the Independent Reporting Mechanism (IRM), commitments on land management and spatial planning generally perform better than commitments in other areas. Nearly six in ten commitments in this area have high potential for impact, compared to roughly half of commitments in other areas. Likewise, more than one-third of land management and spatial planning commitments led to significant improvements to governance once implemented. These findings suggest that OGP can be an especially useful platform for implementing land transparency reforms.

Uruguay Improving the Openness of Its Cadastre

Uruguay (n.d.) has worked to improve the openness of its cadastre through its OGP action plans since 2014, when the government committed to publishing cadastral information in an open format and created a mechanism to receive feedback and suggestions from citizens. More recently, Uruguay's 2018 commitment focused on further improving citizen engagement with the cadastre. The commitment created a new online portal for citizen consultation on their data needs, potential changes to the existing cadastral catalog, and implementation of ongoing changes (Ministerio de Economía y Finanzas, n.d.). Based on the feedback it received through the portal, the National Cadastre Directorate published two new datasets in open format in December 2019. These datasets included information on modifications to recently registered properties and information on the historical value of land taxes.

Uruguay's commitment contributes to transparency, and allows users to have access to all available land registry information. Photo by Mitch Weisburgh.

Key Findings from the Global Data Barometer

About GDB Data

The Global Data Barometer (GDB) is a global expert survey drawing on primary and secondary data that assesses data availability, governance, capability, and use around the world to help shape data infrastructures that limit risks and harms. Together with regional hubs and thematic partners, GDB researchers collected data on 109 countries, including 67 of the 77 OGP participating countries. The GDB captures data developments between May 1, 2019, and May 1, 2021, and includes 39 primary questions and over 500 sub-questions.

Some Land Ownership and Tenure Data is Available, But Gaps Remain

Land data is available in a small majority of countries. Just over half of OGP countries publish at least some online data about land ownership or tenure and the purposes for which land is used (see Figure 1). This suggests that many countries can still improve in the general publication of this data.

In general, data about how land is used is more complete than data about types of tenure and tenure-holders. In 80 percent of OGP countries, data on the purposes of land use covers the majority of a country's land area. However, land ownership and tenure data covers the majority of a country's land area in only about half of OGP countries (see Figure 1). While land use data is an important matter of policy, for this report, land data is more relevant.

FIGURE 1. Half of OGP countries publish land tenure data online

This figure shows the percentage of OGP countries that publish land tenure data online compared to the global average. The GDB assessed 109 countries, 67 of which are OGP members.

Land Tenure Data is Available Online

Percentage of Countries

■ OGP Countries   ■ Global Average
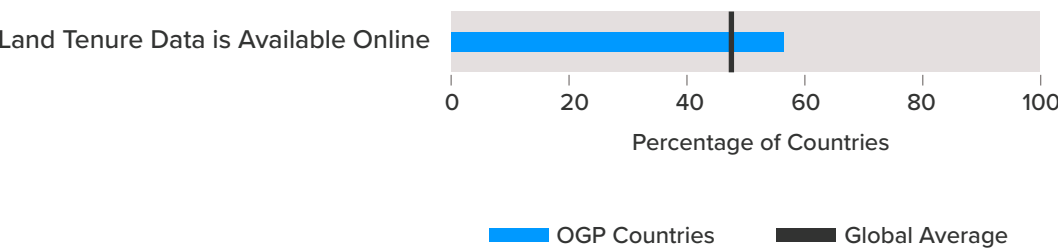
Note: This analysis only considers data that is available as a result of government action. See the About Broken Links section of the full report for more details.

Roughly half of OGP countries include the type of tenure in their land data records. In a small majority of OGP countries, data covers state-owned land. Slightly less than half of OGP countries include information about communal and open access land in their data (Figure 2). This data is important because it documents citizens' right to access to certain pieces of land. In the case of communal land, this data creates formal documentation of indigenous land and reservations. Data on open access land documents land that anyone can access, including national parks.

In about half of OGP countries, data includes features and boundaries of land parcels. Fifty percent of countries link land ownership records to geospatial information (see Figure 2). In disputes of land tenure, this information can be used to clarify the boundaries of land parcels and link these parcels to the entities that hold tenure over them. A similar number of OGP countries publish data for both urban and rural land.

FIGURE 2. High-value information on types of land tenure is available in some countries

This figure shows the percentage of OGP countries that publish key elements of land tenure data. The sample includes only the 38 OGP countries that publish land tenure data online.
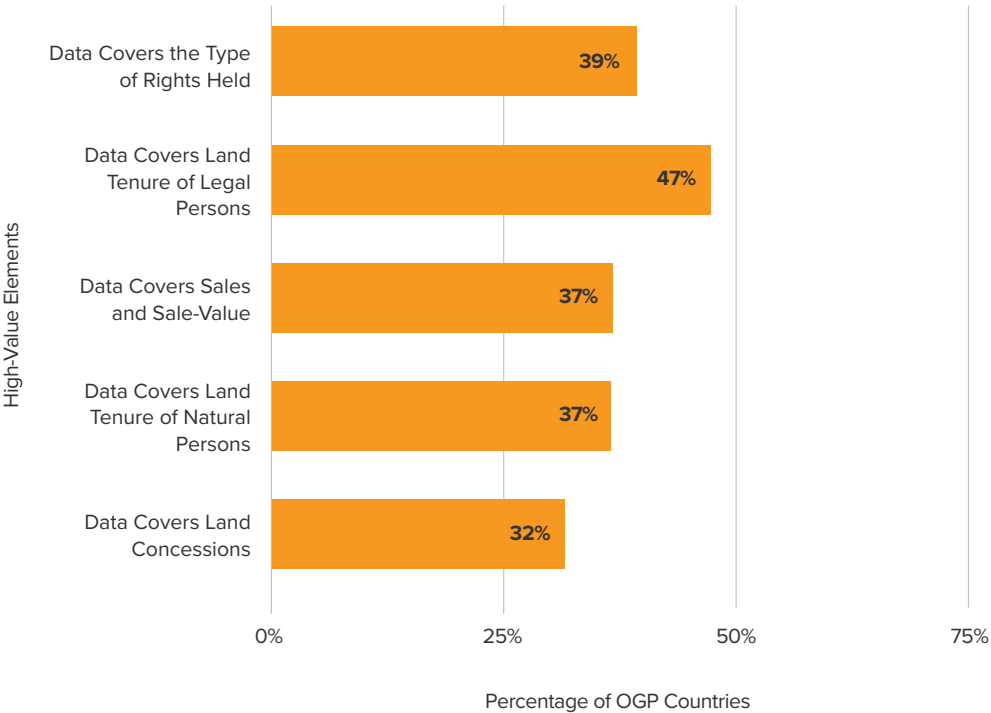

Percentage of OGP Countries
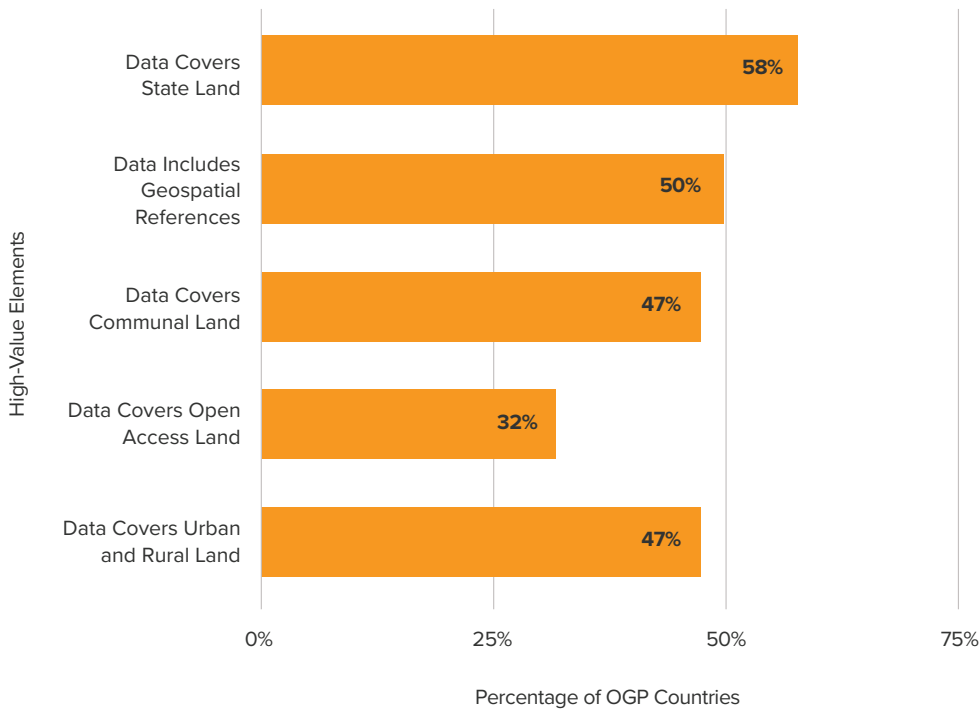
Note: For this analysis, countries with "partial" disclosure are considered cases of "no" disclosure. See the About Broken Links section of the full report for details.

Information on the entities that hold land tenure is scarce. Land data covers information about beneficiaries of land ownership or tenure in only a few OGP countries. This applies to both information about companies' and other legal vehicles' land ownership or tenure ("Legal Persons" in Figure 3) and information about the *individuals* who benefit from ownership, either directly or through their companies ("Natural Persons" in Figure 3). Information about transactions involving land, including sales and sale values, is similarly uncommon. Even fewer countries include information about land concessions or leases in their data. This is concerning because it can allow corrupt actors to hide wealth and enable tax evasion and money laundering.

This figure shows the percentage of OGP countries that publish key elements of land tenure data. The sample includes only the 38 OGP countries that publish land tenure data online.

Note: For this analysis, countries with "partial" disclosure are considered cases of "no" disclosure. See the About Broken Links section of the full report for details.

Most Land Data is Not User-Friendly

Most land data is not user-friendly. While land ownership and tenure data is available in most OGP countries, few countries publish the data in a machine-readable format, make it available for bulk download, or update it regularly. Without these essential elements, it is unlikely that the public can use the data for monitoring and accountability purposes.

FIGURE 4. **Land tenure data lacks usability**
This figure shows the percentage of OGP countries whose land tenure datasets meet open data criteria. The sample includes only the 38 OGP countries that publish land tenure data online.
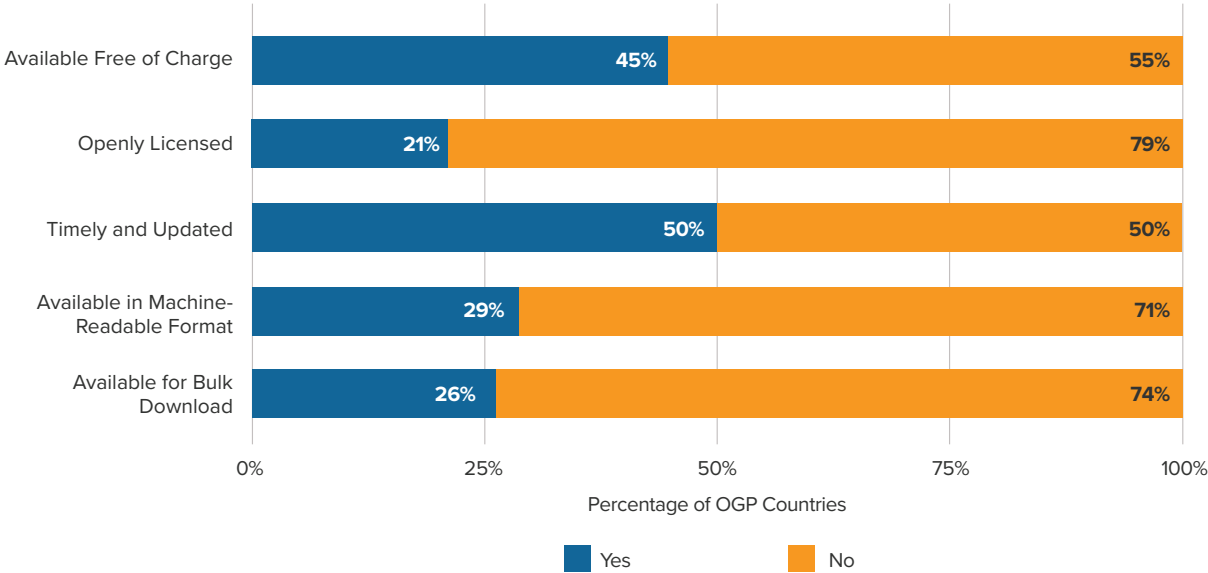
Note: For this analysis, countries with "partial" disclosure are considered cases of "no" disclosure. See the About Broken Links section of the full report for details.

Maturity Model for Future Actions

Below is a set of steps, from foundational to advanced, that members across the spectrum of policy implementation can take to improve the collection and disclosure of high-quality land data. Open data alone, however, is not enough (see the *Beyond Open Data* section for a discussion of other steps that must complement data collection and disclosure).

- **Create a land register.** In countries that currently lack any type of register, governments can begin by recording information for one or a few regions and expand their efforts as they increase their capacity. This may be managed by the land ministry, ministry of agriculture, ministry of finance, or other government agency.

- **Consider data privacy concerns.** Nonpersonal data should be made open for public scrutiny. Nevertheless, the majority of land data is personal data, and privacy should be protected. Other data could be either anonymized, aggregated, or published in ways that do not affect privacy.

- **Add geospatial data to the register.** Geospatial data, including cadastral information about land parcels and parcel boundaries, may be collected or documented separately from land tenure, or not at all. In cases where this information does not exist, governments should begin documenting geospatial information for land parcels. In countries that already have cadastres, governments can work to merge these records with the tenure information documented in the register.

- **Include information on land tenure, use, value, and development.** Data should include the type of land tenure (whether communal, public, or private) and names of the individuals or companies that have tenure over particular land parcels. In cases where the legal owner of land is a company, the data should also include information about the beneficial owners of the land. In addition, the data

should include information about the purpose for which the land is used, whether residential, industrial, commercial, or agricultural. Finally, the data should include information about the value of the land and the processes and institutions involved in developing land.

- **Document and publish information on all transactions.** This includes information on the sale of particular parcels of land.

- **Ensure that land records are complete and updated regularly.** Incomplete or outdated records prevent citizens and civil society members from using the data to monitor land use or identify breaches of integrity. Data should be checked for inaccuracies before publication and regularly after the data is made available.

- **Provide land register data in open and machine-readable formats.** Governments can make land data more accessible to citizens by publishing this information digitally in open data format. Ensure data is usable and available to the public at no cost. For governments that are new to managing land data, this may require investing in technical capacity and skill-building for staff who are unfamiliar with these processes.

- **Make land data interoperable with other datasets.** Make the land register interoperable with other related datasets, including the beneficial ownership of companies, public procurement information, and public officials' asset disclosures (see *Good To Know: Common Identifiers to Link Up Anti-Corruption Data*).

- **Verify that data does not reproduce biases.** Collect and publish data on the land tenure of indigenous peoples, women, and other marginalized or vulnerable groups. Ensure that historically vulnerable groups have equal access to land registration and documentation processes by eliminating cultural or technical barriers (Open Data Charter, n.d.). When digitizing historical records, consider that they may exclude women who were not included on land titles due to the laws at the time.

Common Identifiers to Link Up Anti-Corruption Data

Data is more likely to advance accountability when it can be combined with other data. In addition to the high-value elements of each dataset, certain elements should be shared across datasets through the employment of "common identifiers." These may be stored in a third dataset, reducing the need for data cleaning and validation.

Combining land ownership data with asset disclosure, beneficial ownership, and procurement data is particularly important. When designing or improving a particular dataset, decision makers should ensure that datasets rely on common identifiers as much as possible and require validation of those common identifiers in the entry of information.

Key anti-corruption and land datasets share common identifiers that facilitate mapping flows across the data ecosystem in just **3%** of OGP countries. This limits the degree to which oversight bodies, auditors, and watchdog organizations can evaluate conflicts of interest, identify bad actors, and flag potential cases of fraud or corruption.

Beyond Open Data

The just management of land to reduce corruption and poverty will require a robust ecosystem of tools, policy frameworks, and committed actors. Open data represents an important part of this ecosystem but will be most effective when used in tandem with other reforms.

- **Legal and policy adaptations:** In the case of open land data, this includes developing policy and legal frameworks mandating the collection, maintenance, and transparency of land tenure data. Where there is currently no transparency around ownership, in particular, policy will need to establish a requirement to collect and publish data on land ownership and tenure, including by natural and legal persons.

  Even more fundamentally, governments should ensure that policy and legal frameworks recognize and legitimize all people's land tenure rights, including customary land tenure. Laws should also acknowledge and protect the land rights of women, members of indigenous communities, and other vulnerable groups.

- **Transparent and accessible institutions:** In many countries, processes to formally document land tenure are inaccessible to some individuals and communities due to complicated legal and technical requirements and challenges. For example, in Chile, indigenous communities are not eligible for procedures to formalize their land tenure unless they possess specific historical documents (Notess et al., 2017). Where possible, governments should work to simplify the process of formalizing land tenure to ensure that all people's land rights are respected (Notess et al., 2017).

- **Open land transactions:** Changes in land use policy or change in ownership from public to private (or vice versa) is prone to exclusivity and corruption. For example, in Hungary, the Orban Administration did not inform the public of the sale of large swaths of public land to wealthy political allies until after the transactions had occurred (Gebrekidan, Novak, & Apuzzo, 2019). As a result, many local farmers lost access to their farmland seemingly overnight and with no recourse. Governments should give advance notice to communities affected by land sales and concessions and create transparent bidding processes for the sale of state-owned land.

- **Participation and consultation:** Open data is only useful if it accurately represents reality. Often, rural, indigenous, and other communities' land tenure may be left out of land-related data collection and decision-making processes due to a variety of cultural, linguistic, and technical barriers. Governments can address these issues by proactively inviting citizens, especially those from under-represented communities, to participate in land management. This may include efforts to consult or collaborate with citizens in the following areas:

  o Land surveying and mapping

  o Use of community land and resources

  o The environmental impact of land use and relevant mitigation strategies

Several countries have succeeded in incorporating public participation in land management through OGP—most notably, Liberia (OGP, 2020).

- **Accountability and dispute resolution:**

  Overlapping claims to tenure over certain land can lead to violent conflict. While the reforms described in this section can help to reduce the likelihood of such overlaps, governments should ensure that effective, fair, and accessible mechanisms exist to resolve such disputes peacefully when they do arise.

  Relatedly, governments should implement effective oversight and accountability systems to ensure that citizens and communities have access to redress in cases where they believe their land rights have been violated. Such systems should include internal controls as well as mechanisms through which citizens can lodge complaints and appeals with relevant authorities. Governments should respond to all complaints and strive to do so in a timely manner.

LESSONS FROM REFORMERS

Increasing Access to Land Rights Information in Liberia

In Liberia, land use issues are often highly contentious. For many years, Liberia had no constitutional or other legally mandated land rights. In practice, this meant that citizens had no means to assert their rights to use or occupy land they had called home for generations. In the 1990s and early 2000s, this led to and later exacerbated the country's civil wars, as insurgent groups fought to gain control of otherwise undocumented land and resources, destroying and often killing whole communities (OGP, 2017). Even after the war, the public lacked access to information about land management issues and processes, including ownership rights and concessions.

Liberia has improved the openness of land management through commitments in recent OGP action plans. In 2017, the country committed to making land information and data publicly available, including land deeds and data on land ownership (Liberia, n.d.). The creation of this register was an important first step toward land transparency that has paved the way for further progress by both civil society organizations and the government. For example, in 2021, the Liberia Land Authority (LLA) worked with CADASTA and other partners (Dodoo, 2021) to launch the Community Land Intervention Monitoring and Management Tool, which tracks the recognition of communal lands through a publicly available portal (CADASTA Foundation, n.d.).

In addition to increased transparency, the LLA created new regulations for surveying land to reduce the inaccuracy of records. Finally, the LLA and the Ministry of Justice collaborated to create an alternative land dispute resolution mechanism to ensure that land disputes are resolved peacefully and fairly.

Andrew G. Temeh, Deputy Minister of Administration at the Ministry of Information, works on a reform to improve land rights in Liberia. Photo by OGP.

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Land Ownership and Tenure is part of the **Broken Links: Open Data to Advance Accountability and Combat Corruption** report that can be found here: https://www.opengovpartnership.org/broken-links/