

Reformation of Land Administration in Botswana

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Key words: Reformation, Land administration, Tribal land, Adjudication, Economic development

SUMMARY

In February 2009 the Government of Botswana started a process of land reform with a project called Improvement of Land Administration Procedures, Capacity and Systems (LAPCAS). The project was presented at a previous FIG conference in Marrakech, Morocco 2011 (paper 5233). This paper provides an update of the project; achievements, challenges and opportunities.

The project has progressed with most of the original objectives achieved. The approach taken by the project was to deal with user expectations, legal issues, structural issues and technological issues. There has been considerable goodwill and political support for the project.

Challenges were that of inadequate implementation capacity and the need for a change in mindset. There are opportunities for the economy of the country to be realised by successful implementation of the project, especially for the majority of the people who live in rural areas.

The development (overall) objective for this institutional cooperation project is **“Successful social and economic development of the nation of Botswana based on efficient, effective and transparent land administration.”** In order to achieve this objective, the following project purpose has been agreed: **“Land administration processes and systems are providing the services and information that society needs.”** In order to deliver on this project purpose the project has been divided into seven components.

The project is a five year partner driven cooperation arrangement between the Ministry of Lands and Housing (MLH) and Lantmäteriet, the Swedish Mapping, Cadastre and Land Registration Authority and are now in the beginning of its fifth year. The project is financed by the Government of Botswana through the MLH and the Swedish Government through Sida (the Swedish International Development Cooperation Agency).

Progress of Reformation of Land Administration in Botswana

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1. BRIEF BACKGROUND OF THE COUNTRY

Botswana is a country with a population of approximately two million with a surface area of 586,000 square kilometers. It has a population of two million and practices a multiparty system of democracy. About of two thirds of the country is semi desert. Diamond export is the main source of revenue for the country, followed by tourism and beef export. The majority of the people live in the rural areas in areas called tribal land.

2. CHALLENGES TO LAND GOVERNANCE IN THE COUNTRY

2.1 Land tenure in the country

Any land reform project has to start off with the land tenure in the country and assess its impact on the lives of the citizens and the economy of the country. The reform process has to evaluate the laws and cultures in place, the practices and the reasons for those practices before attempting any reform. It has to be appreciated that while there are some learnings that can be made from other countries, land issues are by and large country specific. It is not always possible to import whole sale solutions from other countries. There are often a lot of cultural and emotional issues at play in any reform process

Botswana has three systems of land tenure; customary or tribal land, freehold and state land. The three land tenures and their history were described in detail in a previous paper but their characteristics are summarised below for completeness;

	Tribal	Freehold	State
User rights	perpetual	perpetual	50 years & 99 years
Transfer or sale	can transfer	Can transfer	transfer remainder of lease
Inheritance	inheritable	inheritable	inherit remainder of lease
Use as collateral	can't use	Can use	use for length of lease

The above indicate characteristics of the various land tenures, with the rest of the differences being operational issues which are easy to address.

2.2 Challenges in land Governance

The main challenge in land governance is that parcels of land in tribal land are not surveyed. There is therefore no information on where these plots or parcels of land are situated, no information on their owners and the land holders cannot use their land as collateral. The effect of these is that land holders in tribal areas do not find it easy to be part of the mainstream of the economy. There were differences to which the various land parcels could be put which

differences were brought about by the land tenure which is a direct result of the laws and practices in place to regulate those practices.

3. APPROACHES TO PROPOSING SOLUTIONS TO IDENTIFIED CHALLENGES

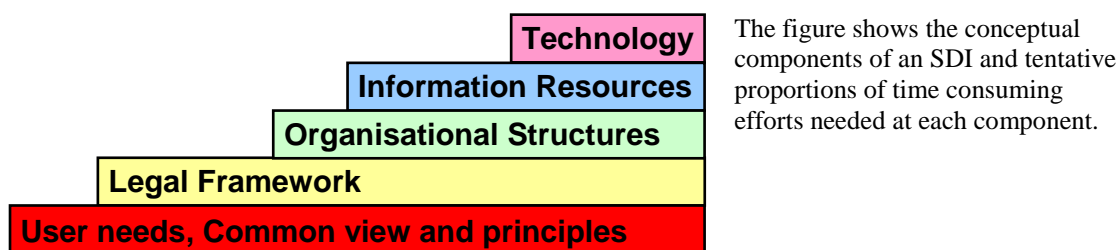
The project started off by finding out what the users of the land wanted (user needs). This was done through several means, which included a workshop of a variety of stake holders. Information on the needs of customers is required so that proposed solutions address problems faced by society.

After identifying the user needs it is necessary to deal with the legal issues required to address the identified challenges. This is not always easy as it often takes long to get consensus on the necessary legal environment required to modernize a land governance system of a country. In the case of the LAPCAS project identifying the legal impediments was relatively straightforward. It was, however, not easy to get agreement or consensus on the required modifications.

Another issue that often hinders good service delivery is organisational structures which countries choose to use in their land governance. Too many organisations can often lead to unnecessary bureaucracy. Modern organisations have to be lean and be adapted to speedily responding to customer needs.

The last issue which at times is taken as the most important is that of technology. Technology by itself cannot solve problems if it is taken in isolation. Technology has to exist within an enabling legal environment and the appropriate organisational set up if it is to have an impact

The chart below illustrates the above, and there are overlaps between the steps.



4. ISSUES THAT WERE ADDRESSED TO IMPROVE LAND GOVERNANCE

The following, discussed in detail below, are some of the issues that the project has sought to address to bring about the desired improvements;

- Unique parcel numbering system
- Location address standard for Botswana
- Land administration processes
- Legal issues
- Organisational structure

- Computerisation of Deeds Registry
- Systematic registration of all land
- Establishment of a Land Hub
- Capacity Building

5. ISSUES THAT HAVE BEEN ADDRESSED

A unique parcel numbering system has been developed to be used across the country. Each land parcel will now have a unique identifier which will mainly be used for land registration purposes. Parcel numbers in state land will largely remain unchanged. The biggest impact will be in tribal land where plots were not surveyed and not numbered.

Botswana has hitherto not had any system of location addresses. Plot numbers or parcel numbers were, where available, used as location addresses by default. A system of location addresses has been developed for the country. Location addresses will greatly facilitate the ease of doing business in Botswana. It will facilitate quick response times by security and emergency services.

Some of the key land delivery processes have been standardised. This makes it possible to have uniform service delivery across most of the country. The following processes have so far been standardised

- Customary land allocation
- Common law land allocation
- Borehole or water point allocation
- Transfers of land rights
- Land surveying
- Disputes resolution
- Acquisition of land rights

The effect of the standardisation of these processes has been predictability in service delivery and quicker response times.

A considerable amount of time was spent dealing with the legal issues. This is not surprising as these are the basis of the land tenure and other processes. Several issues have been proposed but some of the main ones are;

- The use of all land, including tribal land as security for loans. It has hitherto not been possible to use tribal land as security for loans, thereby excluding the owners from the mainstream of the economy
- Compulsory registration of all land

An organisational structure has been proposed for the Ministry of Lands and Housing. The aim of the propose structure is to have efficiencies in the services that the ministry offers. The proposed structure is currently going through approval process. A significant feature of the proposals is a one stop shop for all land related services at the districts. Land administration

structures have generally been along land tenures, with separate structures for each land tenure category.

The process of computerising the Deeds Registry is ongoing. Data capture of deeds documents is ongoing as well as preparatory work to scan all title deeds. This will lead to remote access (such as via internet) of Deeds Registry services. Scanning of old title deeds will mean that they are preserved.

Systematic land adjudication/registration on tribal land is where all plots are surveyed or mapped, ownership details recorded. Previously allocations in the tribal areas were done with no survey or any issuing of certificates or title. This part of the component is meant to address this historical anomaly. Significant progress has been made in this area with a pilot project being done in one village and the first phase of roll out commenced in 2012. It is expected that all the country will be completed in three years. At the end of this exercise there will be complete information on land ownership in the country

The establishment of a land hub is in its early stages. This will be a warehouse of all land related information in the country. It depends on the other components of the project for its success. On a related matter there has been initiatives taken to set up an effective IT organisation within the Ministry of Lands and Housing. IT plays a crucial role in modernisation of land management processes as well as making spatial land related information easily available for the users and the society.

Capacity building has been the most successful part of the project. Some long term courses in land management were established at the University of Botswana. These were done through cooperation with the University of Gävle in Sweden. There were also visits to several countries to benchmark on practices elsewhere and to avoid mistakes which others may have made in their land reform efforts. The country also hosted several countries on benchmarking visits to Botswana. The visits to Botswana were invaluable in that in the process the country also learnt from the visitors during their interactions.

6. OTHER ISSUES AND CHALLENGES

A project of this magnitude is not without its challenges. The challenges encountered in implementing this project include inertia and at times resistance for change. These challenges were dealt with using the normal project management techniques such as change management methodology. There were also some incidences of perceptions of people that the project was meant to repossess their land. Implementation capacity occasioned mainly by inadequate skilled personnel has also led to delays in implementation of some aspects of the project. The institutionalisation of the IT organisation is an especially big challenge.

Donor fatigue is another challenge with implementation of project activities. Botswana is regarded as a middle income country and consequently finds it increasingly difficult to attract donor funding. Sida, the Swedish donor agency, has been the only donor that has assisted the country in times of need.

There has generally been political support for the project. This has ensured that the project has proceeded relatively smoothly. It has also meant that Government has been able to prioritise the project over other equally deserving projects in a time of economic difficulty the country is facing.

7. CONCLUSION

The LAPCAS project presents a good opportunity for the country to modernise its land administration systems. The country will be able to enter the era of geospatially enable societies and be able to do more work for its citizens faster and more efficient and for less cost.

BIOGRAPHICAL NOTES

Mr Bareng MALATSI has been working in the Ministry of Lands and Housing since 1986 in various capacities culminating in his present designation of Director of Surveys and Mapping and the Botswana LAPCAS project manager. He has a Bachelors degree in Land Surveying from the University of Newcastle-upon-Type and a Masters in Land Surveying from University College London. During his career he has worked for various organisations in the Ministry which work has enabled him to have a grasp of land administration issues in the country. He has presented papers in several countries during his career, and has been a member of several committees aimed at enhancing performance in the public service.

Mr Åke FINNSTRÖM has over 30 years experience in working with mapping and land administration projects in developing countries and in countries in transition from command economy to market economy mainly in Eastern and Southern Africa, Central America and the Baltic states. He was Swedesurvey's Area Manager for Africa 1993-1999, Swedesurvey's Marketing Director 2001-2005. During 2005 he joined Lantmäteriet, the Swedish mapping, cadastral and land registration authority as head of its overseas activities and responsible for the framework agreement between Lantmäteriet and Sida, the Swedish International Development Cooperation Agency, in which Sida can utilise the recourses of Lantmäteriet in the Swedish development cooperation. Mr. Finnström joined the LAPCAS project (Improvement of Land Administration Procedures, Capacity and Systems in Botswana) as project manager/team leader when the project started in February 2009 and has since then been resident in Botswana

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