

Reformation of Land Administration in Botswana

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

SUMMARY

The Government of Botswana has identified an improved Land Administration system as a prerequisite for economic development that has the potential to unlock the potential of the country to diversify its economy from over reliance on its major export earner; diamonds. The country has three systems of land tenure, with varying levels of perceived advantages and disadvantages. The Government has looked at the challenges the country is facing, things that have worked for the country in the past, opportunities currently available (e.g. technology and cooperating partners), and after some soul searching and looking around for development partners (technical and donor support) has come up with a partner driven cooperation project called LAPCAS (Improvement of Land Administration Procedures, Capacity and Systems in Botswana).

Changes in the land administration of the country have hitherto been on an incremental basis, with small changes to address the prevailing needs at the various times. LAPCAS is an attempt at taking a holistic look at land management issues in the country.

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. The project is financed by the Government of Botswana through the MLH and the Swedish Government through Sida (the Swedish International Development Cooperation Agency (Sida)).

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. It is expected that the project purpose will be attained by delivery in each of the seven components.

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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 is a former British protectorate and practices a multiparty system of democracy. The country has since independence in 1966 held regular elections. Diamond export is the main source of revenue for the country, followed by tourism and beef export

2. LAND TENURE AND LAND ADMINISTRATION BEFORE INDEPENDENCE

2.1 Land tenure before the protectorate years

Before one attempts to explain the reform process in land administration, it is necessary to briefly give a historical background that informs the prevailing land tenure and land management practices. Prior to the country being granted the protectorate status in 1885, all land in the country was owned by the various tribes in the country, with the Chief or *Kgosi* as the overall custodian of the land. In other words the Chiefs of the various tribes held the land in trust for the tribe. The Chiefs in turn would cede administration of portions of the land to sub Chiefs or *Dikgosana* who in turn would further cede the administration and management of their portions to ward heads.

Each family was allocated exclusive land for residential purposes and arable use. Grazing land was used on a communal basis. When a family no longer required land allocated to it, the land reverted back to the tribe. Land was primarily for allocation to a member of the tribe, and occasionally to people from other tribes.

This basically is the customary type of land tenure as was prevailing before the protectorate years. The land administration revolved around the Chief who was also responsible for development issues within the tribe, for adjudicating disputes such as inheritance issues and basically for holding the tribe together. Thus the Chief was a figure of unity around whom tribal issues revolved.

It is critical to note that the Chief was the custodian and not the owner of the land, and that upon issue or alienation of the land nothing was issued in the form of a certificate or lease or title deed and there was certainly no land surveying of the land parcels being allocated. This knowledge resided in the minds of the people at the time of allocation.

2.2 Land Tenure During the Protectorate Years

During the period from 1885 to 1966, the protectorate years, the management of the land by

the Chiefs continued, more or less under the same conditions as before. However, some changes in the land tenure were introduced by the colonial Government under Her Majesty the Queen. These changes included carving out certain pieces of customary land and turning them into freehold land and crown lands. Customary land, under the management of the Chiefs was now called native reserves. Freehold land was for allocation to settlers mainly for agricultural (cattle ranching) use and crown lands were reserved for development of the towns which were now coming up in the country. Thus during the protectorate years the following land tenures were in place in the country:

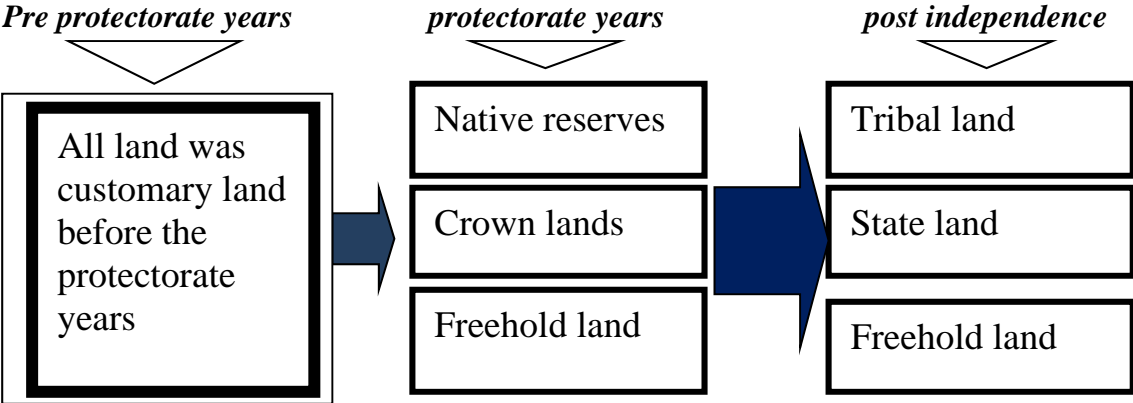
- Freehold land
- Crown lands
- Native reserves

2.3 Land Tenure in the country

After independence in 1966 the land tenure prevailing just before independence in 1966 was retained, with some modifications in the nomenclature. Native reserves were now called tribal land, crown land was now called state land and freehold land remained freehold. Currently the distribution of the land is as follows; tribal land 70%, state land 25% and freehold land 5%. These figures changed over time with more land acquired from freehold to augment both tribal and state land.

A Major development after independence was the transfer of the customary land management functions from the Chiefs or *Dikgosi* to the Land Boards. Land Boards are a creation of statutes set up as autonomous bodies to manage tribal land for benefit of citizens.

The diagram below shows the changes in the land tenures during the years:



3. CHALLENGES FACING LAND ADMINISTRATION IN THE COUNTRY

With economic development, population increase and concomitant pressures on land, the country has been responding to the challenges with small incremental steps, mainly to address

challenges of the time. It has turned out that at times the country was only addressing the symptoms, and not the underlying problems.

Enumeration of the problems or challenges is the easy part. Coming up with solutions to deal with the identified problems is the difficult part.

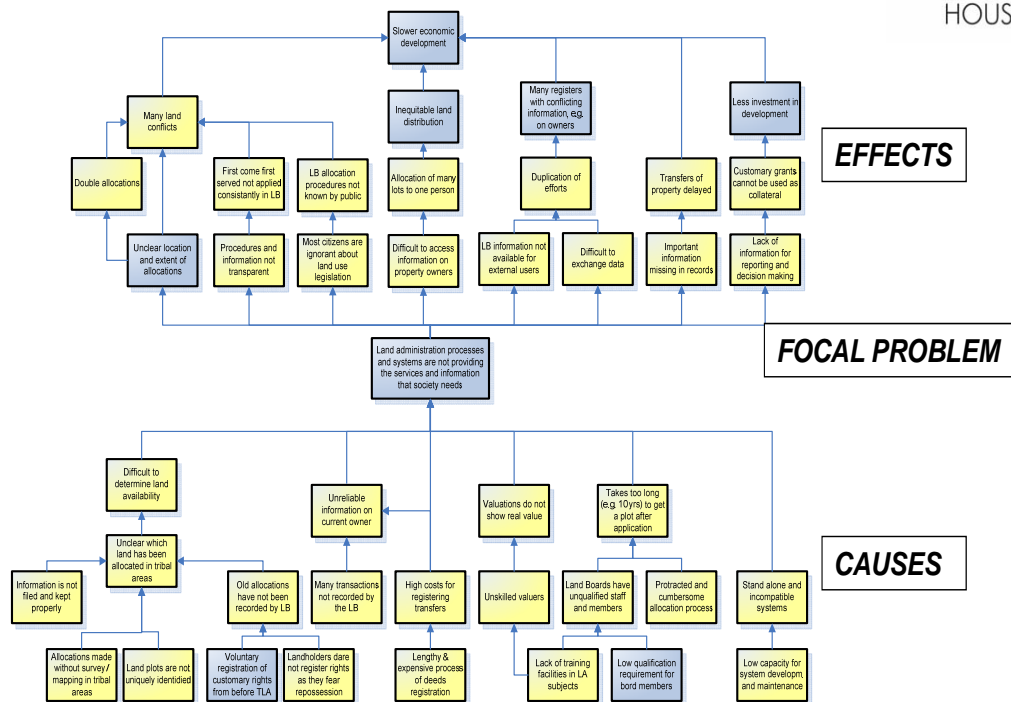
One of the most serious problems in land administration in Botswana is inadequate skills in the various fields required to run an effective and efficient land administration system. This has in turn led to inadequate record keeping which in turn leads to slow service delivery as a lot of time is spent trying to retrieve records or information on land.

Other direct and indirect challenges are the propensity of people to allocate themselves land, called squatting, the unavailability of a standard for generating geo referenced information in the country all the way to somewhat unclear role clarity among the various organisations involved in land administration.

At a stakeholders workshop held in May 2008, a problem tree was developed, which showed the various causes of the problems, a focal problem and the effects of the problems as in the figure below:



PROBLEM TREE- LAND ADMINISTRATION IN BOTSWANA



NB: Yellow boxes-problems identified by seminar participants, May 2008, Gaborone. Blue boxes- problems identified by MLH departments, May 2008

The focal problem was identified as:

Land administration processes and systems are not providing information and services that society needs

The project thus set out to address the identified causes and hence focal problem.

4. WHAT HAS WORKED FOR THE COUNTRY IN THE PAST

In coming up with proposals for improvements one must not lose sight of what has worked for the country in the past, or the strengths of the country’s land administration systems. Worthy of note is the apparent peace and tranquility in the country, coupled with a long tradition of democracy. The general population is not given to uprising to solve their

problems. There is in fact a Setswana saying that “*ntwa kgolo keya a molomo*” which roughly means it’s better to talk than to fight. Land issues being sensitive as they are, this provides a good basis in which to come up with reforms. Free access to land is also an attribute that should be retained to the extent possible. This has effectively meant that there is no landless class in Botswana. Every citizen, regardless of race, gender or status in society can apply for land anywhere in the country where it is available.

Whilst coming up with improvements, one should also take account of cultural practices of the country concerned, as culture and land management practices of a country are closely related. This does not, however, mean that cultural values that are no longer relevant should be retained, as land is a finite resource, which has to be utilised by an ever increasing population and its diverse aspirations.

5. AVAILABLE OPPORTUNITIES

The available opportunities were considered in coming up with the LAPCAS project. The most relevant of these is the availability of new technology and cooperating partners. New technologies such as Satellite Navigation Systems, Geographic Information Systems, and Remote Sensing etc come in handy and allow one to undertake tasks much more cost effectively than was the case in the past. It is not necessary to reinvent the wheel in a project of this nature.

More critically, the country had a willing partner in the form of Lantmäteriet (the Swedish Mapping, Cadastral and Land Registration Authority) as well as Sida (the Swedish International Development Cooperation Agency). After a series of negotiations Lantmäteriet agreed to provide the technical assistance whilst Sida agreed to provide part of the funding required for the project to take off. The country is indebted to this assistance.

6. LAPCAS PROJECT

All the above culminated in the project called LAPCAS (Improvement of Land Administration Procedures, Capacity and Systems in Botswana).

The project is a five year partner driven cooperation arrangement between Ministry of Lands and Housing (MLH) and Lantmäteriet. The project is financed by the Government of Botswana through MLH and the Swedish Government through Sida.

The development (overall) objective for this institutional cooperation project is a “***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. It is expected that the project purpose will be attained by delivery in each of the seven components. The focus of the work will be on getting MLH staff to develop an efficient land administration, based on:

- simplified procedures,
- correct information on land parcels and land rights, and
- robust and interoperable information systems that can be maintained and supported in a sustainable way.

Capacity building in all areas of land administration will be a major part of the project. This five year project and has been divided into seven components as follows;

1. National systems for unique referencing of land parcels and location addresses,
2. Improvement of land administration processes,
3. Deeds Register computerisation,
4. Systematic adjudication on tribal land,
5. Development of IT procedures and organization,
6. Exchange and dissemination of land administration data, and
7. Training and study trips.

6.1 Project activities and Progress to date

The following is an outline of the agreed project objectives and progress to date.

Component 1. National System for Unique referencing of Land Parcels and Location Addresses

About 70% of land in Botswana is customary land. The land parcels or plots do not have plot numbers. In the townships there is no system of street addresses, and plot numbers are by default used as location addresses.

The aim of *Component 1* is a developed and implemented standardized system for numbering of all land parcels (plots) across all land tenures, including parcels for customary land and all plots not currently surveyed. Methods for re-numbering existing parcels for which local, not standardized systems were used, will also be developed and tested.

Addresses for buildings and apartments are useful for many location purposes and especially useful in situations where land was developed without survey. A proposal for a national standard will be developed, discussed with various stakeholders and tested in an urban area and a tribal land area.

The impact on the economy is expected to be quicker response times for security and emergency services, parcel delivery, transport networks. In short the country should become more economically competitive. Allocation of plot numbers to all plots should also form a good basis for a comprehensive land holding data base.

Unique referencing of Land Parcels

The current plot numbering is fraught with problems and is not consistent across plots types. In farm areas or ranches and in plots that traditionally do not fall in established settlements, a system of reference to degree squares is in place. The following are illustrations;

- A farm could be referred to as “farm No. 18-NO in the Bamangwato Tribal Territory”
- A portion or a subdivided farm could be referred to as “Portion 4 of Farm No. 18-NO in the Bamangwato Tribal Territory”
- A portion of a subdivided farm could be referred to as “Portion 1 of Portion 4 of Farm No. 18-NO in the Bamangwato Tribal Territory” and so on and so forth.
- A plot in the outskirts of a village could be referred to as “Tribal Grant No. 19-MP”

This clearly has its challenges.

A proposal on a standardised way of referencing plots is now in place. The proposal seeks to divide the whole country into cadastral areas, more or less based around established settlements, and provide unique Plot IDs for all plots or parcels of land. All land, including roads and passages, which have hitherto been referred to as remainders of lots, will now be uniquely referenced. Numbering of farms and areas which have been falling outside established settlements will also fall within the standard. The following is the proposed standard for the Plot ID:

Administrative district	Cadastral area	Plot number

Location addresses

In the townships street names are available, but these are not commonly used. This could be for a variety of reasons such as the associated use of plot numbers which tend to be very long and the absence of proper signage at street junctions. In the villages there is a total absence of street names, with people relying totally on wards or *dikgotla* and land mark features. A proposal on street naming combined with individual house numbering and use of wards as a basis for addresses in rural areas was presented to a stakeholder workshop in February 2011 and was widely received. Comments from the workshop are now being incorporated in a revised proposal.

Component 2. Improvement of land administration processes

A lot of the processes in land administration no longer serve the needs of contemporary society. They take a long time and some of the requirements are unnecessary. Some of the processes may have served the country well in the past, but are clearly in need of revision.

The aim of *Component 2* is to map current processes, manual as well as digital processes and propose legal and organisational changes that are found necessary for the improvement of land administration in Botswana.

At the end the current mandate of the various land institutions will be evaluated, and mergers proposed where necessary leading to overall streamlined and efficient processes. It should at

the end be possible to do more work with the same resources being made available to the Ministry of Lands and Housing. Further, opportunities for revenue through for example taxes would be investigated. This component could have far reaching consequences and the Government has, to its credit, indicated its willingness to implement the proposed changes.

A strategy document has now been produced which is being consulted upon. The document has identified great disparity in the cost of providing similar service across similar organisations. It calls, among other things, for having to the extent possible a uniform set of processes in handling land issues across the country and for a review of the structure of the ministry.

A far reaching proposal has been to have all land in the country, irrespective of tenure, capable of being used as collateral for a loan. This will normalise a disparity where only freehold land and state land can be used as collateral in loan applications. The project management is of the view that this will unlock the enormous potential that lies in tribal land, and vastly improve economic position of the people concerned to access credit. Lending credence to this belief is the fact that in some developing countries, such as Sweden, approximately 80% of all loans are based on real property as security. In this respect the Ministry is intending to undertake a research study in this regard.

Another proposal is to reassess the structure of the Ministry of Lands and Housing, to make it more responsive to clients needs. Successful organisations are changing to meet the needs of the times (the only constant in organisations is change). This was borne out the realisation that a lot of land delivery times is spent, or wasted, in between organisations. Another proposal is to harmonise the various land laws in the country, possibly merge them into one land act. Further, some of the activities in the land delivery process can in fact be run along commercial lines, relieving the Government of the burden of funding them. A more detailed study is being proposed to determine the best structure of the Ministry.

Component 3. Deeds Register computerisation

The Botswana Deeds Registry records are still in manual form. With increase in volumes of records retrieval and access to these records is becoming increasingly difficult.

The aim of *Component 3* is that Deeds Registry and its processes and information will be computerised. The Deeds Registry holds some of the most important information in society, the information on rights in land, which is of interest to many external as well as internal information users.

The ultimate aim is to have all land in the country registered, and to also have the information at the Deeds Registry accessible, possibly on line, to all authorised users, possibly for a fee. This would improve access to credit by all citizens, irrespective of land tenure.

A study on the Deeds registry has been completed, and work is ongoing to scan the Deeds Registry records. This will be a precursor to an eventual computerisation of the Deeds Registry.

Component 4. Systematic adjudication of rights in tribal land

Traditionally, land in the tribal areas was allocated without any records, neither of the land holder nor of the plot itself. This means that a lot of people are in “legitimate” occupation of land without any information by the authorities or Land Boards.

The aim of *Component 4* is that a process for systematic adjudication, i.e. for systematic clarification of the tenure and land ownership situation, will be developed and implemented for tribal land. The aim is to develop the process within the legal bounds of current laws. Existing rights will be investigated, mapped and adjudicated to persons with sufficient evidence of rights. In the process current land conflicts will be resolved. All rights will be recorded on maps and in registers (or in databases), and the Land Board staff will learn to maintain the information.

At the end the land authorities would have information available on all land holdings in the country, including land allocated in the old days where no records were issued.

Some of the work has been piloted at a village called Matebele and work is ongoing at a second pilot site at a village called Ramotswa. The process involves publicity in the area concerned, surveying and mapping of plots, receipt of claims and verification at the offices of the Land Boards. New certificates with unique plot references (see Component 1) and specified boundaries will be issued for all adjudicated plots.

A basic requisite in a good land information system is that all plots should have unique identifiers (Plot numbers), area, location and a plot owner. At the end of the systematic adjudication, all plots or land parcels will now have these attributes or information, which is currently not available. This will hopefully convince the financial institutions to consider these plots to be used as collateral for loans in the same way as for plots on freehold and state land.

One big challenge so far identified is that of claimants not coming forward to claim their land. People who are in occupation appear not worried about lack of certificates for the plots or land they occupy. A preliminary investigation is ongoing to identify possibilities of compulsory registration of all land.

A major finding has been that the land records at the various Land Boards have to be sorted and referenced in a systematic order. This is crucial not only for systematic adjudication but for all daily work at these offices.

Component 5. Development of IT procedures and organization

Botswana has the same basic need for competence in the IT sector as any other country that has chosen to use IT for improving government work processes and registers. The environment, the chosen software and the concept for development, maintenance and operation set the demands. A wide variety of professionals are required to ensure smooth IT-processes, e.g. developers, business analysts, database administrators, testers/quality

assurance specialists, system and network administrators, help desk and support staff. However, requisite staff is limited, compounded by organisational arrangements.

The aim of *Component 5* is to specify the demands on IT competence and together with affected departments propose a suitable organisation for IT-activities within the Ministry, for managing current and future computer systems. Options to develop in-house competence or out-source part or all of the IT-sector will be investigated and evaluated.

The result of this component would be to have an IT unit that serves and supports the business requirements of the Ministry and the country. The aim is to have an IT unit that is optimally deployed and well resourced in terms of capacity as well as IT systems that work all the time, consistently and reliably.

A draft IT strategy document is available which calls for among others the establishment of an IT department within the Ministry. This department or unit would coordinate software procurement, virus managements, system integrations, system upgrades, maintenance and ensure that established ministry systems are running on a 24/7 basis.

Component 6. Exchange and dissemination of information (NSDI)

The aim of *Component 6* is to establish information exchange and dissemination of information (sometimes called spatial data infrastructure) to internal and external users. Such a national spatial data infrastructure (NSDI) is of major importance for well-functioning land administration systems. The current arrangements need a lot of improving, if only for cost savings among others.

For provision of information to external users of land administration information, e.g. banks, tourism organisations and other ministries, a National SDI (NSDI) will be developed. This activity will involve a large number of stakeholders outside of the MLH. A common dissemination system for already developed systems is envisaged. All interested parties, such as Department of Surveys and Mapping (DSM), Department of Lands (DoL), Deeds Registry and Land Boards, will be the sources of data stored. External users will have access to information as subscribers in various forms.

The scope of information in the dissemination system will be structured depending on the demands on the content. It can be all information from the original sources, or it can be extracts of information.

This component will draw from the United Nations guidelines on National Spatial Data Infrastructure. It will define data exchange policies and reduce the duplication of effort that is prevalent in the country.

Work on this component has been held in abeyance in order to progress component 5, which is viewed as a necessity for the NSDI.

Component 7. Training and study trips

Component 7 deals with capacity building needs that are common for all components. Co-operation has been developed with the University of Botswana, other training institutions in the country and in the region and with the University of Gävle in Sweden.

Capacity building is the corner stone of a good and functioning land administration system. It will also ensure that proposals made by the project will in fact be sustainable.

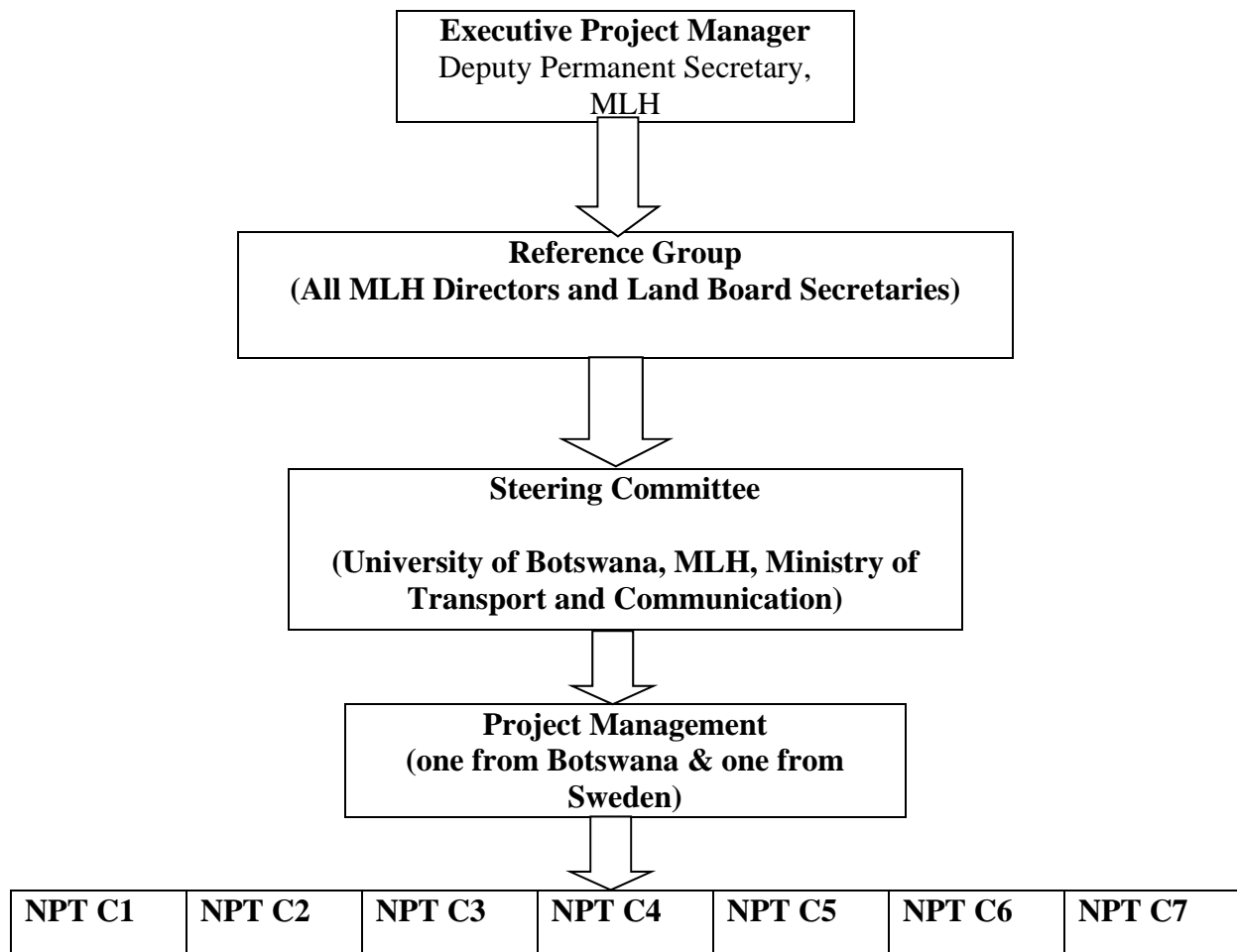
Study tours to other countries with well functioning land administration will contribute to a common vision among managers and staff. Tailor-made short courses will be developed to cater for the needs of staff, as well as for other staff in the Ministry.

There have been a lot of achievements in this component. Several short term courses were run, with the assistance of Lantmäteriet, the University of Botswana and the University of Gävle. The short term training needs target areas of specific needs as identified by the MLH. Beneficiaries of the training have been staff within the Ministry and the University of Botswana.

Long term courses in Land management viz certificate, diploma and degree courses have now been established. In time the University of Botswana is expected to become a centre of excellence in these fields.

6.2 Project organisation

A comprehensive project organisation of some 50 members of mainly MLH staff has been put in place. The purpose of this huge project organisation is to secure local ownership of the project through close involvement of many local staff across the entire Ministry at all the stages of the project cycle. It is also crucial to draw on the experiences of the various professionals currently working in MLH and other organisations. The Land Administration problems in Botswana cannot be solved without full commitment and support from MLH and its various land administration organisations. The project organisation is as follows;



Each national project team (NPT) consists of 4-6 local officers and one of the three Swedish long term experts.

6.3 Project Management Issues

It is gratifying that the project is receiving support from the highest levels of the Government of Botswana and that the various role players and other stake holders have shown great enthusiasm with the project and its expected outcomes. If this support continues, as it should, the successful implementation of the project will have a truly home grown outcome that will, by virtue of true local ownership, be highly sustainable. For now the project is taking shape and could be safely said to be on track.

The project is constantly noting other Government initiatives that could have a bearing on LAPCAS, and making the necessary modifications. Some of the other Government initiatives include Government wide e-Gov project, review of the land policy, and revision of the Tribal Land Act etc.

A memorandum of understanding (MoU) has been signed between the University of

Botswana, the University of Gävle, MLH and Lantmäteriet. It is through this MoU that the University of Botswana has speedily established aforementioned courses and the University of Gävle has provided visiting lectures to its sister institution. In addition, the project funds and facilitates further training of some of the staff of University of Botswana.

7. 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, inadequate commitment from some quarters and the generally weak ICT infrastructure in the country.

The project is continually dealing with the identified challenges. Change management workshops are being continually undertaken. The project managers undertake regular visits to all stakeholders to update on project progress and challenges.

8. CONCLUSION

The LAPCAS project presents a unique opportunity for the country to deal with its land management challenges once and for all. The project is well on course to deliver land administration services that truly deliver the needs of contemporary society, and that contributes to the economic development of the nation of Botswana.

The proposals are being undertaken in a partnership driven cooperation where the solutions are coming from the citizens, with Lantmäteriet only providing technical assistance. Land management issues being country specific, this will ensure that the solutions proposed are truly home grown and implementable. The country has taken this step of reforming its land administration before the total collapse of the current system.

BIOGRAPHICAL NOTES

Mr **BC 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 is now resident in Botswana.

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