

Abstract

In this paper, we present and discuss the principles, approach and provisions for a country implementation strategy for Fit for Purpose Land Administration in Uganda. The Fit-For-Purpose Land Administration (FFP LA) concept has gained recognition by governments, global professional bodies and international development agencies, as a complementary approach to conventional land administration. FFP LA puts into consideration the cultural, social, economic and political context of a country to build the components of land administration so as to benefit all the members of society. In Uganda, conventional Land administration approaches have only managed to record 500,000 parcels (2%) out of the estimated 23 million parcels country-wide, and this has taken more than 100 years. Yet, more than 80% of the land is held customarily and is characterised by underdevelopment, land conflicts, land grabbing and overlapping land rights. Uganda is therefore in need of faster, flexible and low cost approaches for land administration.

With Support from GLTN - UN Habitat, Uganda developed a country implementation strategy for Fit for Purpose Land Administration. It was developed through a bottoms up approach that utilised a combination of review of the country's land administration context, use of GLTN published guidelines for Fit for Purpose country level implementation, consideration of international best practices and local stakeholder consultations and endorsements. The overall goal of the strategy is to improve the existing complicated, sporadic, bureaucratic and expensive approaches to Land administration that have not delivered the expected impacts on national development at the desired levels. The Strategy will be implemented over a period of 10 years, divided into 4 phases at a cost of US \$ 500 million. An estimated 23 million parcels will be planned, mapped, documented and land administration infrastructure established at sub-county level. The cost of registration of each parcel is estimated at US \$ 10 while the cost of rapid physical planning appraisal and establishing land administration infrastructure across the entire country is estimated at US \$ 11 per parcel.

1 The link between Land Administration and Sustainable Development in Uganda

The key documents that define Uganda's pathways to sustainable development are Vision 2040 and the National Development Plan. Vision 2040 aims at transforming Uganda from a predominantly peasant and low income country to a competitive upper middle income country, while the National Development Plan (II) has a major goal of propelling the country towards middle income status by 2020, through strengthening the country's competitiveness for sustainable wealth creation, employment and inclusive growth.

Uganda is a land locked country with an agriculture economy that accounts for over 23% of the gross domestic product but accounts for 72% of the work-force (CIA World Fact book 2019). The country's population now stands at approximately 45 million people (Worldometers 2019) with a population density of approximately 229 persons per sq Km. Uganda's population growth rate is estimated at 3.5 percent and is the third highest rate of population increase in the world (MAFAP 2013), while the annual urban growth rate of 5.2% is among the highest in the world and is expected to grow from 6.4

million (2014) to 22 million by 2040 (Worldbank Group 2019). These statistics reflect the challenges that Uganda faces in the strive to meet the targets of the global agenda 2030 and Uganda's vision 2040.

On the other hand, Uganda is endowed with fertile land and natural resources which the country has not been able to fully exploit to its advantage. Agricultural land (% of land area) in Uganda was reported at 71.89 % by 2014, according to the World Bank collection of development indicators (World bank group 2019) but is mainly under small-holder farmers engaged in food and industrial crops, forestry, horticulture, fishing and livestock farming.

Both vision 2040 and the National development plan II recognise the constraints that security of tenure presents to the development of the country. Vision 2040 (pg 82) provides for a roll out of systematic land adjudication and titling across the entire country over the Vision period, which is also echoed by NDP II (pg 41). Furthermore, Uganda's Land Policy (2013) highlights a number of problems associated with land in Uganda. These include: historical injustices and colonial legacies, which have resulted in multiple rights and interests over the same piece of land; disposition and loss of ancestral land by some communities; border disputes arising out of tribal, ethnic groupings and trans-state border disputes; and the ineffective dispute resolution mechanisms, which have resulted into illegal evictions. (MoLHUD, 2013, pg iv). In order to enhance the contribution of land to national sustainable development, appropriate measures to improve land administration are required.

2 Status of the Spatial Legal and Institutional Framework for Land Administration in Uganda

Fit for Purpose Land Administration concept has been described in terms of spatial, legal and institutional framework (Enemark, *et al* 2016). The three frameworks broadly cover the key technical areas that land administration system are required to focus on. They directly or indirectly influence the efficiency and functioning of the components of land administration as presented in the Land Management paradigm (see Enemark 2005). In this section, we present the status of Uganda's spatial, legal and institutional framework.

2.1 Status of the Spatial Framework

The key elements of Uganda's spatial framework include cadastral maps, the geodetic infrastructure, survey records, and the topographical base maps. Cadastral maps are generated through cadastral surveys undertaken by private surveyors who are regulated by a statutory body (The Surveyors Registration Board). Currently, there are only 148 registered land surveyors in the country.

Prior to computerisation introduced under the Land Information System project, cadastral maps were compiled at a scale of 1: 2500 for urban areas and 1:5000 - 1:10,000 for rural areas. The maps were later scanned, geo-referenced and digitized to create a digital cadastral database. It is estimated that the cadastral database contains approx. 500,000 parcels across the entire country, which represents approx. 2% of the estimated number of parcels in the country, and this has been achieved within a period of more than 100 years.

The poor quality of cadastral maps, coupled with problems of combining maps of different scales, led to geometrical distortions in the digital cadastral database. The

cadastral database lacks internal consistency which leads to overlaps while plotting parcels. Currently, there is no clear Solution to the problem of geometrical distortions in the cadastral database.

Another big challenge with the current spatial framework is the requirement for very high accuracy standards. These standards prescribed under the Survey regulations require use of sophisticated survey equipment and field procedures. The steps for executing a cadastral survey are summarised in Figure 1 below. These steps do not include processing of the title, which is equally lengthy. On average, it takes between 1 - 6 months for one to process and acquire a land title. The process for titling a one acre plot of land may cost between UGX 5,000,000 (US \$ 1,370) - 10,000,000 (US \$ 2,740) depending on the location and the ability of the client to pay.

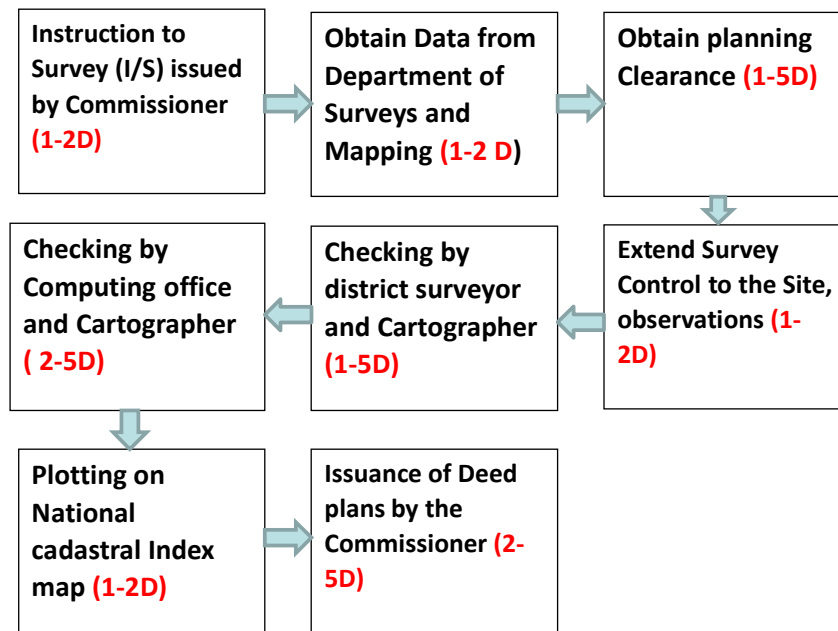


Figure 1: Steps for executing a cadastral survey and time frame in Days (D).

2.2 Legal Framework

The 1995 Constitution of Uganda vests land in the hands of citizens of Uganda and prescribes four tenure systems under which land can be held, namely, Freehold, Mailo, Leasehold and Customary Tenure.

Most of the land administration laws were enacted during colonial times. However after independence, there were minor revisions solely for transferring the authority from the colonial government to the Republic of Uganda. As such, many of the laws which were enacted before the 1995 constitution lack modern provisions such as gender consideration, human rights and freedoms, democracy and good governance. Such laws have not been revised to bring them at par with the 1995 constitution.

A major problem with the legal framework is the existence of Mailo land tenure system which permits existence of overlapping rights for landlords and lawful and bona fide occupants on the same piece of land. It is estimated that more than 70% of Mailo land is occupied by lawful and bona fide tenants whose rights are not documented anywhere.

Furthermore, the legal framework includes complicated procedures for adjudication, measurement, registration and post registration transactions. The legal framework ignores the use of cost effective approaches such as systematic land adjudication and titling which are expected to benefit all land rights holders while keeping costs at a minimum. Indeed the current pilot projects for systematic adjudication and certification have had to use sporadic adjudication laws hence causing inefficiency in the process.

On the other hand, Land Act 1998, which was enacted after the 1995 constitution introduced simplified procedures for registration of customary land to obtain Certificates of Customary ownership (CCO). Previously, customary tenure, which constitutes more than 80% of land in Uganda, was not recognised as a formal tenure system, which rendered customary land rights holders very insecure. For the last 10 years, many civil society organisations have taken advantage of the provision in the Land Act to issue CCOs using FFP LA approach. This has however created possibilities for a lateral confusion as there are currently no formal standards for processing CCOs.

2.3 Institutional Framework

The institutional framework for land administration is complex given that the land sector has so many players at national and local level both in formal and informal sectors. The statutory land administration system is built on the five-tier structure through a decentralized framework following the enactment of the Local Government Act, 1997. Figure 2 shows a decentralized land administration system with the District (LC5) and Sub-County (LC3) levels being part of the Local Government whereas the lower levels are administrative units.

At the National level, the Ministry of Lands Housing and Urban Development coordinates the implementation of the land policy and all matters to do with land management in Uganda. The Ministry performs this role through its directorates, departments, professional bodies and other units.

Apart from the Ministry of Lands Housing and Urban Development, there are other central government ministries that execute certain land administration functions. The Ministry of Justice and Constitutional affairs through the Judicial Service Commission is responsible for Land tribunals which were mandated to deal with land disputes. The land tribunals were established in 2000 as courts of first instance in land matters, but they were phased out in 2004 due to inadequate funding to the judiciary. The Judicial service Commission is also responsible for the Courts of law which handle land cases at various levels. Recent reviews (*see* Rugadya, M. 2009) have indicated that land cases top all other cases under courts of law and other justice centres.

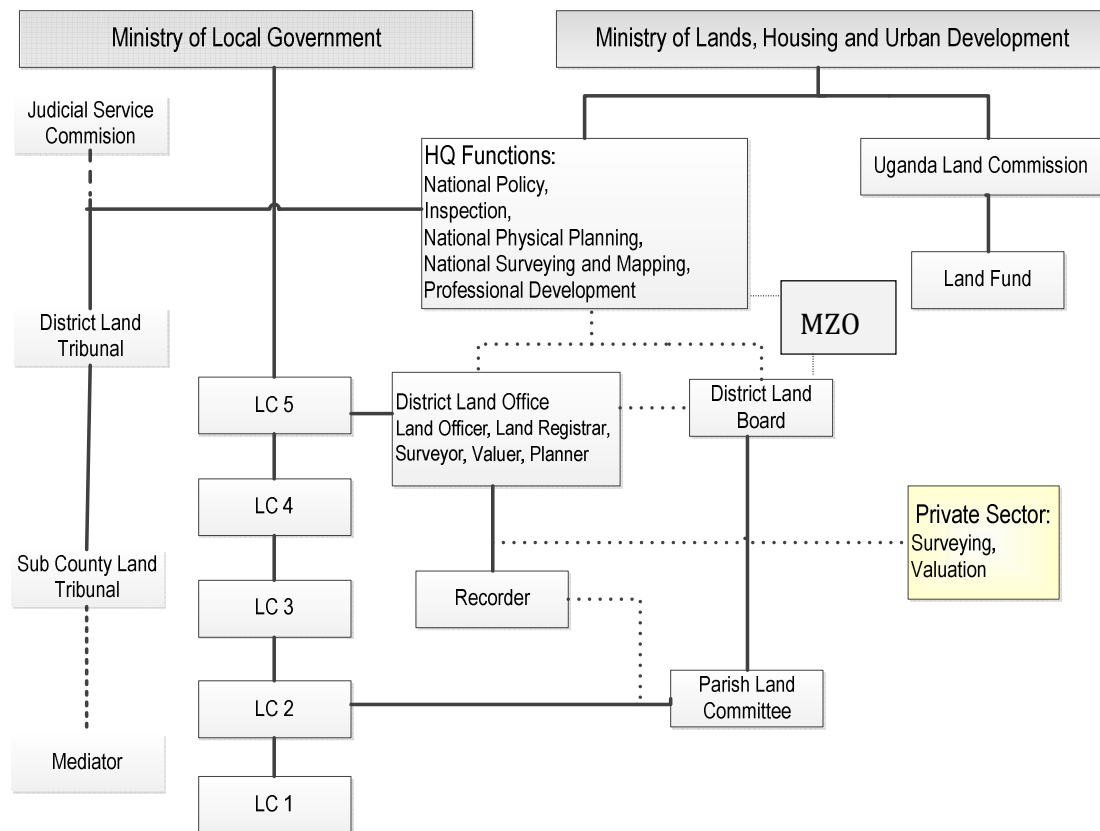


Figure 2: The Original Organogram of Uganda's Land Administration Institutional Framework

The Ministry of Lands Housing and Urban Development, in a bid to bring services nearer to the people introduced Ministry Zonal Offices (MZOs) located in 21 offices across the entire country. The MZOs provide all Ministry Land Administration Services at the local level and therefore minimise the requirement to travel to the Headquarters to obtain those services.

There is a problem of overlaps in mandates among institutions handling land disputes and related matters. This problem is further exacerbated by a general lack of guidance on the hierarchy of the institutional framework for land dispute resolution. Aggrieved parties have resorted to forum shopping without any consideration for hierarchy or mandate. This confusion sometimes leads to scenarios where the same land dispute (case) is handled by two separate institutions concurrently.

The biggest challenge facing the Land Administration institutional framework in Uganda is funding. The Ministry of Lands Housing and Urban Development and the Ministry of Justice & Constitutional Affairs are not adequately funded, and this affects land service delivery. At the Local Government level, most of the land institutions are partially or completely not funded. Land Offices, which are mandated to provide land administration services in the districts are understaffed. Apart from Kampala and Wakiso, there is no land Office in Uganda that is fully staffed; it is not very uncommon to find district land offices with only one officer either a Land Surveyor or a Physical Planner of Land Management Officer attempting to perform the functions of more than 5 officers supposed to constitute the Land Office. Most district land offices lack basic

materials such as stationery, printers and furniture to help in day to day running of the offices.

District Land Boards are in some districts non-existent or do not sit because of lack of facilitation. In some cases, individual applicants provide facilitation for members of district land boards to sit and make decisions. The Area Land Committees and the Recorder at the sub-county are no exception! Sub-counties lack stationery, furniture, office storage space and many are not served with electricity from the main grid. The Area Land Committees in many cases have to wait for applicants to pay their expenses for field inspections and delivery of reports to District Land Board.

The Institutional Framework is also affected by staff capacity problems. Members of land institutions especially the district land boards, recorders and Area Land Committees are appointed and never trained to acquire the knowledge and skills for executing their duties. Many members of lower level land institutions do not have any idea about what they are required to do, how they are expected to do it and the laws and regulations they are supposed to apply. The Ministry in partnership with Development Partners, has in the past attempted to train members of some of the land institutions in a few districts. Such training programmes need to be conducted periodically given that new persons join the land institutions whenever the political leadership at districts change.

The Institutional Framework for Land Administration in Uganda is therefore, in principle, considered to be well structured but suffers from problems of funding, staff capacity and politics at the local government level.

3 Fit for Purpose Land Administration Concept

The FFP LA concept is an alternative approach to conventional land administration that puts into consideration the cultural, social, economic and political context of a country to build the components of land administration so as to benefit all the members of society. Conventional approaches for identification, mapping and recordation of land rights are expensive, require high accuracy and operate within a judicial oriented legal framework. The conventional approaches do not help in achieving the overall purpose of securing tenure rights for all persons regardless of their economic and social status.

The FFP LA approach is defined according to three broad characteristics, namely, Focus on purpose, flexibility and incremental improvement. Focus on the purpose implies that the approach considers the overall outcome of security of tenure for all and this guides what should be done and how it should be done to best fit the purpose. The phrase “As little as possible – as much as necessary” perfectly reflects the FFP LA approach (Enemark, *et al*, 2016). Flexibility implies that rather than stick to standards and bureaucratic legal procedures, the approach should be flexible enough to recognise formal and informal legitimate tenure rights and include them in registers. Incremental improvement implies that the system should begin in a simple way by recording tenure rights using simple and low cost approaches but should be upgraded when need arises. In another words, the cost of upgrade should fit the purpose of upgrade.

.Fit for Purpose Land Administration should be a non-discriminatory approach that leads to social inclusion, increased equity and better recognition of human rights. This approach should help all citizens to attains security of tenure. Enemark, et al (2016) have identified principles for building spatial framework, legal framework and

institutional framework components of land administration as explained in Table 1 below:

Table 1: The Key Principles of the FFP Approach to Land Administration (Enemark, et al 2016 p19)

THE KEY PRINCIPLES OF THE FFP APPROACH		
KEY PRINCIPLES		
Spatial framework	Legal framework	Institutional framework
<ul style="list-style-type: none"> • Visible (physical) boundaries rather than fixed boundaries. • Aerial/satellite imagery rather than field surveys. • Accuracy relates to the purpose rather than technical standards. • Demands for updating and opportunities for upgrading and ongoing improvement. 	<ul style="list-style-type: none"> • A flexible framework designed along administrative rather than judicial lines. • A continuum of tenure rather than just individual ownership. • Flexible recordation rather than only one register. • Ensuring gender equity for land and property rights. 	<ul style="list-style-type: none"> • Good land governance rather than bureaucratic barriers. • Integrated institutional framework rather than sectorial silos. • Flexible ICT approach rather than high-end technology solutions. • Transparent land information with easy and affordable access for all.

4 Approach for developing a National Strategy for Implementation of Fit for Purpose Land Administration

A bottom up approach was adopted for developing the FFP implementation strategy and it involved awareness creation, stakeholder engagement through professional dialogues, SWOT analysis of the current LA system, piloting, context benchmarking and building confidence and consensus among professionals and key stakeholders. These processes led to defining the country context, FFP LA key principles, negotiated and agreed provisions for handling the spatial, legal and institutional frameworks and the costs

The first step towards developing a country strategy for the Implementation of Fit for Purpose land Administration for Uganda was to understand the country context. This was accomplished through review of the spatial, legal, institutional framework as well as the political -social - economic dimensions that would impact on land administration. The authors reviewed various government documents including, policy documents, Strategic plans, land reform project documents and annual reports. More information was obtained through interviews with government officials, civil society organisations with a focus on land matters, professional bodies (surveyors and lawyers), and international development agencies working on land matters.

This was followed by field visits of selected land offices and government projects. Specifically, Mityana District Land Office) which was being prepared to become a Ministry Zonal Office (MZO)), Mbarara Ministry Zonal Office and Kabale Land Office were visited. The authors also visited the project for documenting occupancy rights on mailo land being funded and implemented by GIZ (German Development Agency) in Mityana and Mubende districts. The Project has already documented more than 20,000 parcels using Fit for Purpose Land Administration Techniques. A similar project in

Kabale funded by UN Habitat for processing Certificates of Customary Ownership using Fit for Purpose Land Administration was also visited.

The second step was to understand the International best practice for Fit for Purpose Land Administration. To achieve this, use was made of the document titled "FIT-FOR-PURPOSE LAND ADMINISTRATION GUIDING PRINCIPLES FOR COUNTRY IMPLEMENTATION" published by United Nations Human Settlements Programme UN-Habitat in 2016 to guide countries intending to develop national strategies for implementation of Fit for Purpose Land Administration. The document is available online from https://www.fig.net/news/news_2016/2016_07_gltnguide/fit-for-purpose-land-admin-guiding-principles-for-country-implementation.pdf. The document includes generic considerations for developing country level strategies but these should be reviewed to fit a particular country context.

Experiences of two countries which have in the recent past implemented projects for securing land tenure rights using Fit for Purpose Land Administration were reviewed. This first experience was from Rwanda which implemented a country-wide project and issued Titles for 11 million parcels within a period of less than 4 years at a cost of 6 dollars per parcel. The second experience was from Ethiopia which used Fit for Purpose Land Administration approach to implement land tenure security projects for some parts of the country.

A combination of international experience, local context and GLTN published guidelines for country level implementation were sufficient for the authors to come up with the first draft. The first draft was presented to stakeholders at a National Conference which was attended by stakeholders from Government, Civil Society, NGOs, traditional institutions, the private sector and academia. The stakeholder comments were incorporated in the draft to come up with a final draft which was discussed by the Ministry of Lands Housing and Urban Development top management.

5 Highlights of the Strategy

The overall goal of the strategy was to improve the existing approaches to Land administration which were considered to be complicated, sporadic, bureaucratic, expensive and had therefore not delivered the expected impacts on national development at the desired levels. The purpose of the Fit for Purpose Land Administration Strategy was therefore to prescribe low cost but appropriate approaches and actions for Land Administration that would result in tenure security for all the land rights holders in Uganda. Four specific objective were formulated along the spatial framework, legal framework, institutional framework and costing of the strategy, respectively. In other words, the strategy strived to improve each of the three frameworks at affordable cost to government and land rights holders.

5.1 Guiding Principles for the Strategy

The guiding principles for the strategy were formulated separately for each of the three frameworks. However as previously mentioned, Uganda's legal and institutional framework had already made substantial provisions that would permit the implementation of FFP LA. Most of the effort was therefore directed to setting principles for the spatial framework as shown in Table 2 below.

Table 2: Principles for establishing FFP LA Spatial Framework

Intervention Area	Guiding Principle
Boundaries	visual boundaries shall be used for demarcation of land parcels. Where boundaries are not visible in an aerial image they can be determined by simple surveys or handheld GPS
Adjudication	Adjudication and demarcation shall be undertaken in a systematic manner village per village upon acceptance by the communities
Accuracy	During measurement, attention will be paid to ensuring reasonable accuracy on the adjacency of parcels rather than absolute locations of the parcels
Data Integration	All data shall be captured with reasonable provision for geometrically integrating in the national land information system
Applicability	FFP LA applicable to customary land for the issuance of certificates of customary ownership, occupancies on registered land for the issuance of certificates of occupancy or for facilitating negotiations between landlords and tenants, and for delineation of land held in trust by government for gazettelement or issuance of user permits
Incremental approach	More conventional techniques for surveying and mapping shall be used for example, when the value of land increases through urban development, or when major infrastructure projects are implemented and compensation is to be computed in case of expropriation, or where an urban area expands into rural land
Physical Planning	Rapid physical panning Appraisal (RAPPA) shall be considered during implementation of the strategy although the cost of physical planning shall not be part of the strategy for FFP LA

5.2 Capacity Development for Implementing the Strategy

Capacity development at all levels is a prerequisite for the successful implementation of the FFP LA Strategy. Capacity development should be planned for short term, medium term and long term needs. Capacity development was planned basing on three levels: (i) in an enabling environment, (ii) in organizations and (iii) within individuals (UNDP, 2008). The short term and medium term needs include training of staff to run the various components of Land Administration, provision of logistics through donor funded projects and revision of the laws to provide for FFP LA. The long term needs include re-structuring institutions to create more efficiency, providing sustainable solutions for funding land services and continuous upgrade of FFP spatial frameworks.

Engagement with the Politicians at national and lower levels is necessary to provide the much needed political support. Land is a very sensitive matter which every politician would like to associate with to gain political advantage and this can sometimes work to the disadvantage of land reform projects. It is necessary to engage

political leaders in government and opposition to ensure that FFP LA projects are not politicised to a level of discouraging universal participation by all land owners.

5.3 Costing and Phasing The Strategy

Given the significant costs of implementing a country-wide FFP LA program, the implementation of this strategy is expected to be carried out within a period of 10 years in four phases. Phasing facilitates developing tools, guidelines, procedures and testing them out before rolling out.

The first phase, the pilot phase includes preparatory activities such as drafting technical manuals, guidelines and procedures, selection of technologies, capacity development, revisions of laws and regulations as well as testing them in selected areas in Uganda. It also involves initial sensitisation and negotiation of land rights between landlords and tenants on Mailo land. This phase is expected to take 3 years. A total of 3 million parcels on customary land and 300,000 occupancy rights on mailo are planned to be covered.

Phase II activities commence once the lessons learnt under phase I have been used to improve processes, technologies and approaches. It is therefore expected that more outputs would be realised under phase II which runs for 3 years. This phase is planned to generate 9 million parcels on customary land and 1.4 million occupancy rights on mailo tenure.

Phase III, the second last phase should be used to further improve operations and is expected to take another 3 years. It is expected to generate 7.5 million parcels on customary land and 1 million occupancies on mailo tenure.

Phase IV, which is the final year, will be used to complete activities, reflect on the achievements, build sustainability systems and complete documentation of the processes. It is expected to generate 500,000 parcels on customary land and 300,000 occupancy rights on mailo tenure.

The estimated costs for implementing the Fit for Purpose Land Administration Strategy have been compiled on the basis of the 4 phases of implementation. The costs include investments in infrastructure at sub county level, field work activities, review of laws regulations and manuals, and strengthening of the ministry coordination unit and local government land offices. The total cost is US \$ 500m. This translates to US \$ 10 for registering a parcel and US \$11 for building the infrastructure at sub-county level and Land Information Systems for an effective country-wide land information system.

6 Concluding Remarks

The experience from Uganda demonstrates that a combination of a bottom-up approach, engagement with professionals, confidence building and assurance of participation yields good results in mobilising support for a FFP LA country implementation strategy. It also demonstrates that adoption of FFP approach can significantly reduce the time and cost for achieving universal tenure security across the entire country.

Through this experience we affirm that the GLTN published country implementation guidelines should serve as generic reference guidelines which should be operationalised

in a specific country, after understanding a country's land administration context. Such an understanding may lead to modification of some of the provisions in the guidelines.

In the Uganda experience for example, methods for generating a FFP LA spatial framework were influenced by the nature of vegetation cover in some parts of the country, which may not easily permit identification of visual boundaries. Furthermore the requirement for integrating data in the national Land Information System influenced the techniques to use for generating the spatial framework. On the other hand, the legal framework had already provided for flexible fit for purpose land administration institutions and the strategy only focused on capacity development of the institutions.

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