

Performance Audit Report on the Implementation of the Bimsaviya Programme – 2012



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Performance and Environmental Audit Unit
8th Installment – Part IV



Auditor General's Department



1. Executive Summary

In terms of the provisions in the State Lands Ordinance promulgated after Ceylon ceded to the British Empire in the year 1815, all the lands, the ownership of which could not be established with documentary evidence had been confiscated by the State. In view of the absence of any reasonable solution to the land problems of the country from the different Ordinances and Acts brought into force since then and the deficiencies in the land registration procedure (title deeds system) prevailing in Sri Lanka at present, the Bimsaviya Programme was introduced as a solution to the problem under the Title Registration Act, No. 21 of 1998. Initially it was implemented under the World Bank Aid as a Pilot Project from the year 2002 to the year 2006. Thereafter, it is being implemented from the year 2007 with local funds and is expected for completion by the year 2021.

The objective of the audit is the evaluation of the economy, efficiency and effectiveness of the methodology adopted for the transformation of Land Registration System of Sri Lanka to the Title Registration System. It was observed that a large number of problems of the Programme had arisen and that the success of the Programme can be achieved by rectifying them.

After the implementation of the Programme as a Pilot Project during the years 2002 to 2006 with the participation of a number of Government institutions spending a sum of Rs.618,496,335 under the World Bank Aid, the Programme implemented with local funds from the year 2007 expected to issue 450,000 Title Certificates during the years 2007 to 2011 by spending a sum of Rs.1,956,083,802. Nevertheless, 398,350 blocks of land had been surveyed and only 48,890 Title Certificates had been prepared. Out of the total number of Title Certificates prepared, about 50 per cent had not been issued to the relevant landowners. Weaknesses in the implementation of the Programme and the inadequacy of the awareness of the Programme among the general public had affected this position.

Out of the expenditure incurred on the Programme during the period from the year 2008 to the year 2011, the expenditure on the payment of incentives to the staff amounted to 40 per cent and in addition included expenditure incurred on matters not related to the objectives of the Programme. The expenditure incurred had been much more in comparison with the number of blocks of lands surveyed and the number of Title Certificates issued thereunder and as such the level of performance had not been satisfactory. The Department of Surveyor General, the Department of Land Settlement and the Department of Registrar General had participated in the Bimsaviya Programme individually. Even though the Departments maintained databases of the information on the progress the systems had not been linked. The progress of collecting information

conducive to an effective land management, computerization of information to enable exchange of information among other institutions as well as the progress achieved by the Land Data Bank through that process had not been satisfactory, despite the elapse of 10 years from the inception of the Programme.

Even though different courses of action had been taken from the year 2003 to the year 2012 for the minimization of the legal problems, obstacles and hindrances in the Land Title Registration Act, No. 21 of 1998 and for their amendment, those problems had not been settled.

Even though the Government expenditure should have been subject to supervision of the General Treasury, according to the observations made in this report on the provisions made for the Programme and the matters revealed in the audit queries issued, a satisfactory status of expenditure management is not indicated.

According to the reply to the Draft Report, it is stated that the Ministry of Lands and Land Development will take action to formalize the co-ordination among the institutions, to increase the performance level of the officers, to create a sound awareness of the Programme among the general public, effect expenditure control and to implement the Act, by amending the shortcomings already identified. Therefore, it is expected that it will be possible to improve the effectiveness of this Programme through those courses of action.

2. Introduction

2:1 Background of the Bimsaviya Programme

2:1:1 Land Registration in the Past

According to the State Lands Ordinance No. 12 of 1840 promulgated by the British Rulers after the entire Ceylon was ceded to the British Empire in the year 1815, all lands for which private ownership could not be established by documentary evidence had been proclaimed as confiscated, thus depriving the ownerships of several lakhs of acres to the Ceylonese.

In order to appease the objections raised in this connection, the Waste Lands Ordinance No. 01 of 1897 was promulgated for deciding on the State and private lands. The Land Settlement Ordinance No. 20 of 1931 was promulgated for the minimization of the deficiencies arising from the earlier process and for the preparation of Village Maps after the publication of Orders on the Settlement of State and Private Lands. The Department of Land Settlement was established for the implementation of this Ordinance.

Subsequently, the recommendations of the Reports of most of the Land Commissions of the then Governments in the years 1935, 1955 and 1987 had to be taken into considerations. In addition, statistics revealed that about 62 per cent of the homicides in the country had been caused due to land disputes. Taking into consideration the large number of social problems created by land cases and land disputes and the youth unrest and revolts in Sri Lanka subsequently (1980s decade), the Registration of Title Act, No. 21 of 1998 relevant to Bimsaviya Programme was enacted.

2:1:2 Matters Leading to Bimsaviya Concept

The registration of lands in Ceylon through the registration of title deeds had commenced under the Registration of Documents Ordinance No. 8 of 1863. Even though the registration of title deeds was not compulsory under that Ordinance informal arrangements had been made for registration.

This system of land registration is based on a document and does not involve the registration of the land or its title. Similarly, the Title Deeds Registration System is not geared to certify the extent of the land described in the title deed and its boundaries actually existing on the earth. Similarly, even several deeds for the same land could be registered under this system. Even if the first deed furnished to the Land Registry is a fake deed it is preferred over others due to being registered first. It appears that the unsettled disputes relating to lands in Ceylon have come down from the past due to these deficiencies.

Taking into account the above matters, the Registration of Title Act, No. 21 of 1998 was enacted for the registration of the absolute title to the land with the Government guarantee with a bordered map (plan) depicting the situation, boundaries and extent of the land, showing the title and nature of title under a special identification number for the consolidation of the title to a land replacing the registration of documents system.

2:1:3 Implementation of the Bimsaviya Programme

The Ministry of Lands and Land Development and the Ministry of Public Administration and Home Affairs are connected with the implementation of the Programme. This Programme is implemented with the assistance of the Department of Land Settlement and the Department of Surveyor General under the Ministry of Land and Land Development and the Department of Registrar General under the Ministry of Public Administration and Home Affairs. The legal provisions for the Programme are made in the Registration of Title Act, No. 21 of 1998.

Accordingly this Programme is implemented under 02 Ministries with the collaboration of 03 Departments.

This Programme was implemented as a Pilot Project under the World Bank Aid from the year 2002 to the year 2006 in the Balangoda, Divulapitiya, Udapalatha, Thambuttegama and Homagama Divisional Secretariat Divisions.

Thereafter, from the year 2007, the implementation of the Project under local funds had been expanded to 13 Divisional Secretariat Divisions of Tissamaharama, Lunugamvehera, Siyambalanduwa, Ridimaliyadda, Weligampola, Mirigama, Moratuwa, Udunuwara, Ridigama, Medirigiriya, Kantale, Talawa and Rajanganaya.

2:2 Authority for Audit

The audit was carried out under my direction in pursuance of provisions in Article 154 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

2:3 Purposes of Audit and Selection of the Bimsaviya Programme

The Government has identified that Sri Lanka as a country with more than 50 per cent of its labour force engaged in agricultural industry and holding a very significant percentage of its National income and foreign exchange through agricultural products and as such

the land resources is a vital factor and that there should be a system of registration for the proper registration of lands which as such significance.

The Bimsaviya Concept had been introduced for the achievement of objectives such as to create economic development of the country, increasing the productivity through the settlement of land disputes in the Island, creating social co-ordination and co-existence through minimizing the frequent land disputes arising among the general public and the establishment of land Data Bank incorporating all the information all the land in the Island in that Bank. The General Treasury allocates large sums of money annually as provisions for the Programme.

The objectives of the performance audit are the examination of the economy, efficiency and effectiveness of the Bimsaviya Programme implemented by the Government at a huge cost as well as the examination of the extent of changes made to the land registration methodology through that process and the extent of progress of the land data incorporated in the Data Bank.

2:4 Scope of Audit

- (a) The field inspections of the audit were limited to the Divisional Secretariat Divisions of Homagama and Moratuwa in the Western Province due to the limited time and human resources available for the audit. A full examination of the role of the Department of Land Commissioner was not-carried out in view of the non-issue of title certificates on State Lands despite the registration of titles and in view of the fact that most of the problems had arisen in connection with private lands.
- (b) The recommendations and conclusions relating to the effectiveness of the programme were made based on the observations and findings of the performance Audit.

2:5 Objectives of Audit

The objectives of the audit were as follows.

- (a) Evaluation of the economy, effectiveness and efficiency of the transformation of the title deed registration in Sri Lanka to a system of title registration system.
- (b) Evaluation of the methodology for the grant of Title Certificates for blocks of land in the selected areas.

- (c) Evaluation of the economy in the use of Government funds for the grant of Title Certificates to the Public and Private Sectors.
- (d) Evaluation of the establishment and improvement of the Land Database useful for a successful land management.
- (e) Evaluation of the progress of the amendments proposed for the minimization of the obstruction and hindrances in the Act, in operation at present for the grant of Title Certificates.

3. Detailed Audit Findings, Recommendations and Response of Institution

The audit findings disclosed in detail and the related recommendations and the comments of the institution are given below.

3:1 Utilisation of Funds

The Bimsaviya Programme had been implemented under the World Bank Aid from the year 2002 to the year 2006 as the Land Titling and Related Services Project. The expenditure incurred on the Project during that period amounted to Rs.618,496,335. Thereafter this Programme is being implemented from the year 2007 with local funds and, four Government institutions are mainly involved in the implementation of the Programme. The expenditure incurred from local funds for the implementation of the Programme from the year 2007 to the year 2011 amounted to Rs.1,956,083,802. Details appear below.

3:1:1 Provision made and Utilizations

The provisions for funds needed had been made under Programme 2 Project 3 of the Appropriation Head of the Ministry of Lands and Land Development. In this connection the funds had been allocated annually without carrying out an adequate evaluation of the overall progress of the Programme. Out of the provisions made annually, the savings during the years 2008, 2009 and 2011 represented 15 per cent, 37 per cent, and 52 per cent respectively. Acceptable reasons for such savings had not been adduced and as such it was observed that the expenditure had not been accurately forecasted. Details appear below.

<u>Particulars</u>	<u>2008</u> Rs.	<u>2009</u> Rs.	<u>2010</u> Rs.	<u>2011</u> Rs.
Estimated Provisions	500,000,000	500,000,000	350,000,000	1,000,000,000
Utilizations	425,377,720	312,721,386	340,758,510	480,713,451
Savings	74,622,280	187,278,614	9,241,490	519,286,549
Savings as a Percentage of the Provision	15	37	3	52
Number of Titles Registered	3,450	5,242	14,501	25,697

3:1:2 Cost of Title Certificates

The expenditure incurred from the year 2007 to the year 2011 under the Bimsaviya Programme by the Government Institutions amounted to Rs.1,956,083,802 and the number of Title Certificates prepared amounted to 54,875. Accordingly the unit cost per Title Certificate amounted to Rs. 35,646. The expenditure incurred in the year 2011 as compared with the year 2007 had increased and the number of certificates issued had also increased, thus reducing the unit cost per certificate. It was observed in audit that the substantial increase in the certificates prepared in the years 2010 and 2011 had been due to the finalization of the Title Certificates for the lands surveyed in the preceding years for which certificates had not been prepared. Other matters with a bearing on the decrease of costs of certificates in the year 2011 were not revealed. As such the possibility of further reduction of cost per Title Certificate through improving the efficiency of the overall process was observed.

3:1:3 Special Recurrent Expenditure incurred on Bimsaviya Programme

The institutions connected with the Bimsaviya Programme had spent sums totaling Rs.106.8 million in the years from 2009 to 2011 on recurrent expenditure such as maintenance of buildings, maintenance of machinery and travelling expenses which cannot be identified as contributing directly to the Programme.

In addition, it was observed at test checks that the expenditure on the maintenance of building amounting to Rs.16.4 million and expenditure on repair and insurance of motor vehicles amounting to Rs.2.7 million which should have been met from in Heads of Expenditure of the Department of Surveyor General and the Ministry of Lands and Land Development had been met from the provisions of the Bimsaviya Programme.

3:1:4 Expenditure incurred on Motor Vehicles and Machinery for the Bimsaviya Programme

The following matters were observed in connection with the expenditure incurred on motor vehicles and machinery and equipment for the Programme by the Ministry of Lands and Land Development and the three relevant Departments.

- (a) In inventorying of the Survey Equipment including goods purchased for Rs. 12.128 million by the Department of Surveyor General under the Bimsaviya Programme, those had not been recorded in the register to facilitate the identification of the number handed over to the Regional Offices of the Bimsaviya Programme and the balance with the Department of Surveyor General. Similarly, the equipment distributed under the Bimsaviya Programme had not been marked for identification as an asset of the Bimsaviya Programme. As such the goods handed over by the Head Office and the goods handed over under the Bimsaviya Programme could not be separately identified.

- (b) Out of the 40 motor vehicles transferred to the Department of Surveyor General, 10 motor vehicles had been assigned to Divisions of the Department of Surveyor General in which the Bimsaviya Programme was not implemented at that time. Out of the 16 motor vehicles transferred to the Ministry of Lands and Land Development, 06 motor vehicles had been allocated to the officers of the private staff of the Minister. As such, the use of those motor vehicles for the purposes of the Bimsaviya Programme was not established.

Implication

- (i) Even though there was no significant progress in the year 2010 as compared with the expenditure of the year 2009, it is observed that the Budget Estimate for the year 2011 had been increased by almost three times the estimate for the year 2010. Even though a Corporate Plan and an Action Plan had been prepared for the Bimsaviya Programme, it was observed that action according to the Plans had not been taken. Despite the saving of a larger amount out of the money allocated, the annual allocations of money had been further increased.
- (ii) It was observed that attention had not been paid to carry out a State level publicity programme to ensure the success of the Programme or for the co-ordination of the offices of the three Department established at the regional level or for the protection of the files of those offices or for the supply of equipment required and for the formulation of methodologies.
- (iii) Instead of utilizing the motor vehicles and the equipment obtained from the annual provisions made for this Programme by the institutions connected with the Programme, those had been used for the other requirements of the officers and by persons extraneous to the Project.

Recommendation

- (i) In increasing the allocations made for the Programme from the Annual Budget Estimates, the progress of the Programme according to the Corporate Plan and the Action Plan should be reviewed by the Officers responsible. In addition, the expenditure should be controlled through proper control system with a view to minimizing the unit cost of Title Certificates.
- (ii) A proper inventory control system should be introduced for the identification of the resources of the Bimsaviya Programme as well as the optimum utilization for the purposes of the Programme. The transfer of the assets of the Programme to those who do not contribute directly to in Programme should be reviewed and instead of incurring expenditure on items such as maintenance, expenditure should be managed by identifying the primary expenditure with a view to enhancing the progress of the Programme.

Response of the Institution

Reference Paragraph 3.1.1

Even though money was allocated for the achievement of the planned targets savings had resulted from the non-receipt of the expected human resources and the physical resources due to reasons beyond control and it had not been possible to made payments for work done and services rendered due to the non-receipt of adequate imprests from the Treasury.

Reference Paragraph 3.1.2

It is difficult to grant the Title Certificates for the lands in a selected area within a specified period due to different reasons. As the information on lands is collected and computerized during the course of the Bimsaviya Programme leading to a Database on Lands that will be useful for the State institutions and the Offices. Even though a higher cost from the expenditure on the Programme during the initial stages was incurred, it will be a low cost in the future.

Reference Paragraph 3.1.4(a)

“The resources obtained for the Programme have not been deployed for use by the Officers extraneous to the Programme. All persons utilizing the resources of the Programme are officers connected to the Programme directly or indirectly”.

Reference Paragraph 3.1.4(b)

The motor vehicles purchased under the Bimsaviya Programme have been properly allocated and have been deployed for the purposes of the Programme without causing any hindrance to the implementation of the Programme.

Reference Paragraph (a) of Indications

Action is being taken in accordance with the plans prepared for the Bimsaviya Programme. The progress is reviewed at the discussions held on the Programme and if any amendments are identified, those are attended to on time.

Reference Paragraph (b) of Indications

The need for an extensive publicity system has been identified and a Publicity Programme prepared is being implemented. The preliminary works on the establishment of the Regional Offices close to each other and the review and computerization of the information of the Land Registry Offices have been commenced.

3:2 Special Incentive Scheme introduced for the Programme

An Incentive Scheme for the various grades of officers of the Programme is in operation for the efficient and effective implementation of the Programme. The effectiveness of the Programme as compared with the Incentive Scheme was evaluated.

The following observations are made in connection with the payment of incentives to the officers serving in the Department of Surveyor General in terms of the Circulars No. EST/8/ALLOW/04/0033 dated 22 March 2010 of the Ministry of Public Administration and Home Affairs.

- (a) The minimum number of land parcels to be surveyed per month had been determined in the year 1998 when the Theodolite was used for surveying and the Survey Unit was chains. Even though the performance of surveys done with such equipment had been at a minimum level, the GPS and the Total Station Systems which can survey a larger number of lands in a shorter time are being used at present for the Bimsaviya Programme. But attention had not been paid for the increase of the minimum number of land parcels that should be surveyed per month.
- (b) According to a test check, the circular has made it possible for the Survey Officers of the Department of Survey General attached to the Bimsaviya Programme to be paid incentives ranging from Rs.748,000 to Rs.1,156,000 per quarter. Even though the surveyors had surveyed a larger number of land parcels by utilizing the modern technological survey equipment in a shorter period it had been possible to issue the Title Certificates only for 46 per cent out of that. Out of the 448,521 land parcels surveyed up to the end of the year 2011, the Title Certificates had been registered only for 208,883 land parcels. As such it was observed that the Incentive Scheme had not directly made an impact on the overall performance relating to the issue of Title Certificates.
- (c) According to the Incentive Circulars, the number of land parcels surveyed had been made the base without considering the square area of a land parcel.

Accordingly the surveyors in the Siyambalanduwa area received a lower incentive as the number of land parcels are less though larger in extent whereas the officers who did the surreys in areas like Moratuwa where land parcels with lesser number of hectares had been paid higher amounts as incentives. A significant region-wise anomaly existed in the payment of incentives as the number of land parcels and the extents had not been considered together.

- (d) The incentive allowances paid over a period of 04 years to the officers of the Department of Surveyor General, Department of Land Settlement and the Department of Registrar General in charge of the operations of the Bimsaviya Programme for the preparation of Title Certificates amounted to Rs.394,004,777. The total incentives payable for the year 2011 has not been included in the above amount. Even without that amount, the incentive cost on the preparation of a Title Certificate amounted to Rs.8,059.
- (e) Out of the total incentives paid, the total amount spent on the officers of the Department of Surveyor General amounted to 60 per cent. Even though the incentives paid to the Officers of the Department of Surveyor General are based on the numbers of land parcels surveyed as described above, the incentives paid to the officers of the Department of Land Settlement are based on the number of files prepared. In addition, the incentives paid to the officers of the Department of Registrar General are based on the number of Title Certificate prepared. As such the Incentive Scheme had not been implemented in a manner to ensure equality and motivating all groups of officers.
- (f) It was revealed at a test check that, the title of 25 owners of land in the Katubedda Grama Niladhari Division in the Moratuwa Divisional Secretariat Division had been declared in terms of Section 14 of the Registration of Title Act, No. 21 of 1998 by publication in the Gazette No. 1607/17 of 17 August 2010. Thirty access roads belonging to the State in the area had been included in the notification. Even though the preparation of files by the Department of Land Settlement and the issue of Title Certificates by the Department of Registrar General had not been done in connection with the said 30 access roads, there was the possibility of considering the State lands and the access roads as a unit and obtaining incentives.

Implication

- (i) As the Incentive Scheme implemented for the Department of Surveyor General, the Department of Land Settlement and the Department of Registrar General which mainly contribute to the issue of Title Certificates is not implemented in a manner to ensure the achievement of the final objective of the Bimsaviya Programme, the efficiency of this Programme is at a minimum level.
- (ii) A significant variance exists in the incentives earned by different groups of employees.
- (iii) Incurring heavy cost on incentives without corresponding impact on the improvement of performance of the Programme.

Recommendations

- (i) The monthly target of a land parcels set for the Department of Surveyor General should be increased by taking into consideration the modern equipment used in the survey of land parcels.
- (ii) Consider both the number and extent of the land parcels surveyed.
- (iii) Pay attention to the region in determining the minimum number of land parcels.
- (iv) Timely evaluation of the targets and progress of the Programme.

Response of the Institution

Reference Paragraph 3.2(a)

The monthly target of a Government Surveyor for the Bimsaviya surveys had been increased from 30 land parcels to 40 land parcels. Bimsaviya surveys require additional time than that required for other surveys. It was also identified that the GPS technology cannot be used in the survey of the boundaries of lands in areas with tree cover.

Reference Paragraph 3.2(b)

The Certificates for lands surveyed cannot be issued in the initial stages due to reasons such as, the third party decisions on the ownership of lands (Divisional Secretary, Courts) Vhihara Dewalagam lands, lands for which title cannot be established, lands for which claims are not made, lands with folio problems and the owner being abroad. The titles are generally registered for every decision published by the Department of Land Settlement. If payments are to be made on the basis of the Title Certificates registered, it would not be possible for the Department of Surveyor General to pay incentives for all of the land parcels surveyed.

Reference Paragraph 3.2(c)

The average work progress of a surveyor which includes the incentives in areas of cadastral maps other than the areas of authority of the Municipal Councils and Urban Councils with small land parcels is about 60 to 80 land parcels per month. The area of authority of the Moratuwa Municipal Council only has been selected for the test check reported. If a study is carried out by utilizing different regions after the preparation of the cadastral maps, the recommendations in the report would change. Nevertheless, “proposals have been made for the payment of incentives in the year 2013 based on the number of land parcels surveyed and the extent of the lands”. Accordingly the region-wise anomalies would not recur.

Reference Paragraph 3.2(e)

Incentives are paid to the officers of the Department of Surveyor General based on the number of land parcels surveyed, for the officers of the Department of Land Settlement based on the number of determinations published in the Gazette and to the officers of the Department of Registrar General based on number of land parcels registered.

Reference Paragraph 3.2(f)

Even though Title Certificates are not issued for State lands and access roads, the titles of the State for such lands are also registered. Even though incentives were paid earlier per each land parcel in the past, it is proposed to consider 20 such land parcels as one land parcel for payment of incentives from the year 2013. A new Incentive Scheme rectifying all the weaknesses identified in the current scheme has been proposed for the year 2013 and that would improve the performance of the Programme.

3:3 Progress of the Bimsaviya Programme

3:3:1 Matters observed in relation to the Targets for each Period of the Bimsaviya Programme and the Progress Achieved

The following graph shows the number of land parcels surveyed, the number published in the Gazette and the land parcels registered.

No. of Land Parcels

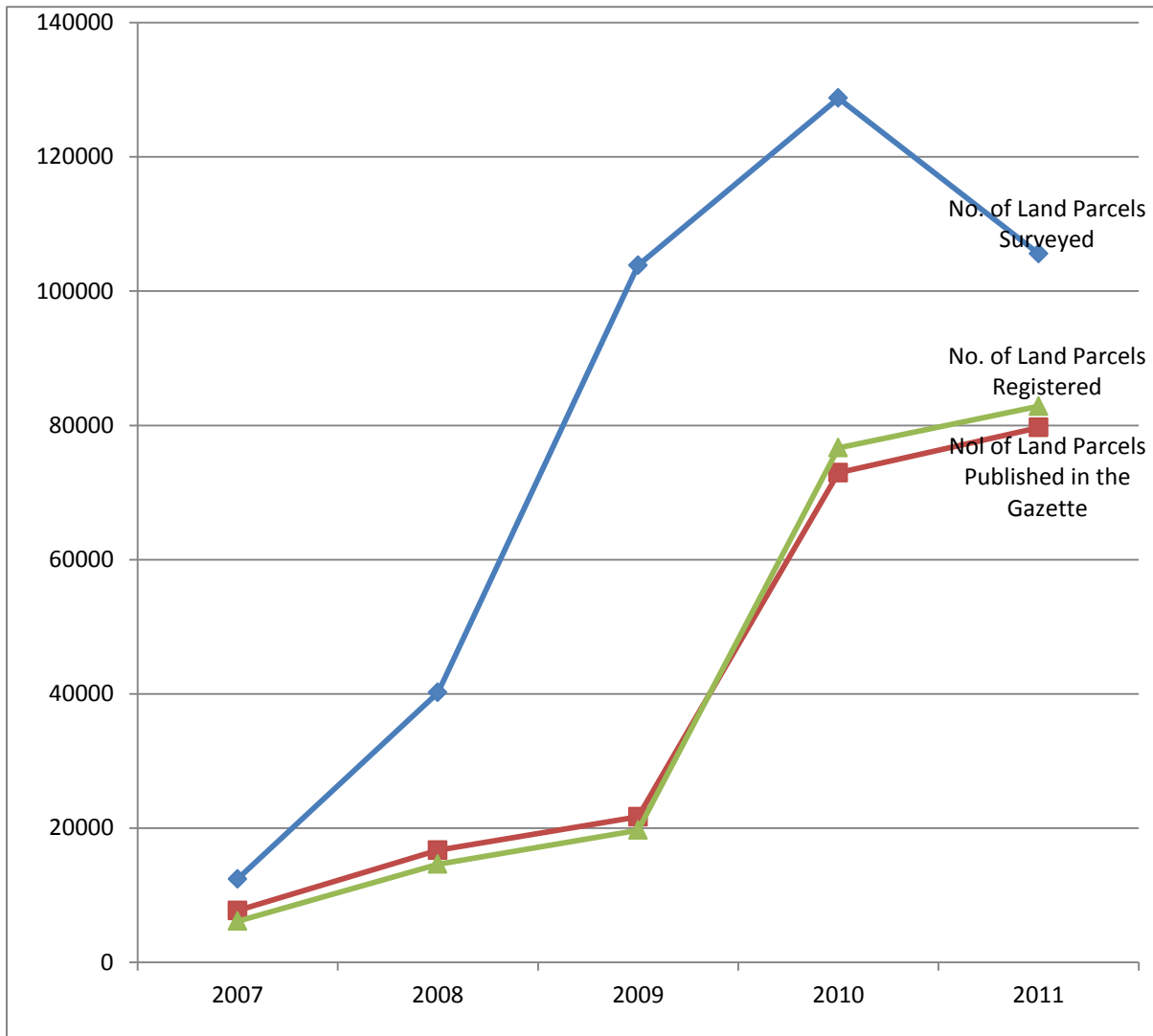


Diagram : Progress of the Bimsaviya Programme

Source : Bimsaviya Co-ordinating Office of the Ministry of Lands and Land Development

The following observations are made on the above data.

- (a) The number of land parcels published in the Gazette and registered as compared with the number of land parcels surveyed during the years 2007 to 2010 revealed a large gap. This was observed as a gap created by the rapid improvement of the progress of surveys only as pointed out in the audit observations in paragraph 3.2 of this report.

This gap had reduced in the year 2011. It was observed that in consideration of the efficiency the publication in the Gazette and registration of certificates, the non-improvement of surveys did not have an adverse impact on the progress of the Programme.

- (b) Even though the number of land parcels in the schedules published in the Gazette by the Department of Land Settlement and the number of Title Certificates registered by the Department of Registrar General had improved from the year 2009, such improvement was observed due to the Title Certificates not finalized in the preceding years being finalized subsequently.

3:3:2 The Expected Targets of the Bimsaviya Programme and the Progress achieved

The details of the expected targets of the institutions contributing to the Programme from the year 2008 to the year 2011 and the progress achieved are given below.

	<u>2008</u>			<u>2009</u>			<u>2010</u>			<u>2011</u>		
	Target Number of Parcels	Progress Number of Parcels	Percentage	Target Number of Parcels	Progress Number of Parcels	Percentage	Target Number of Parcels	Progress Number of Parcels	Percentage	Target Number of Parcels	Progress Number of Parcels	Percentage
Department of Surveyor General	118,200	40,194	34	132,000	103,839	78	130,000	83,002	64	265,680	83,190	31
Department of Land Settlement	106,380	15,701	15	75,000	21,693	29	100,000	72,946	73	212,544	79,678	37
Department of Registrar General	106,380	3,450	3	75,000	5,242	7	100,000	14,501	14	212,544	83,190	39

Even at the level of the Regional Offices, the progress achieved had been at a much lesser level than the targeted level.

A review of the progress of the Regional Offices at Balangoda, Divulapitiya and Thambuttegama revealed that those offices had been established in the year 2002 and the work of the Programme had been done in each Division over a long period up to the year 2012. As such it was observed that the efficiency remains at a very low level.

In view of this situation, the Secretary to the Ministry of Lands and Land Development had, by his letter No. 5/1/1/1 of 14 October 2010, informed the Commissioner of Title Settlement and the Surveyor General the need for the completion of those works immediately.

Similarly, about 95 per cent of the surveys of the Regional Offices at Balangoda, Ridigama, Talawa, Moratuwa, Homagama, Tambuttegama, Tissamaharama, Lunugamvehera and Medirigiriya had been completed. According to the minutes of the Steering Committee held on 07 December 2011 it had been decided to complete the above work by 31 December 2011. Nevertheless, the above offices had not been closed down even by the end of the last quarter of the year 2012.

3:3:3 Failure to take action according to Plans

The areas to be selected for the implementation of the Programme during the years 2007 to 2021 had been included in the Corporate Plan of the Bimsaviya Programme. Nevertheless, a reconciliation of the selected areas and the areas actually surveyed revealed that areas different from the areas planned for implementation under the Programme had been selected for implementation.

3:3:4 Findings on the land Parcels Surveyed by the Department of Surveyor General

- (a) According to the functions to be performed by the officers of the Department of Surveyor General included in the Corporate Plan of the Bimsaviya Programme for the years 2007 to 2021 each officer should complete the survey of 50 land parcels per month. Nevertheless, the audit of surveys done during the 05 preceding years revealed that surveys less than the target had been done in 03 years while surveys exceeding the target had been done in 02 years.
- (b) Differences of 13,030 land parcels were observed between the number of land parcels to be surveyed by the Surveyor Officers according to the Action Plan for the year 2011 prepared by the Department of Surveyor General and the Action Plan prepared by the Bimsaviya Programme.

Implication

The expected results could not be achieved as the planned targets had not been achieved.

Recommendations

- (i) Take action for minimization of variances by taking into consideration the practical aspects in determining the targets.
- (ii) Subsequent reviews of the targets not achieved.
- (iii) Consider the criteria for achieving the targets in the computation of incentives earned.
- (iv) Maintain a minimum number of offices in the regions where the work is nearing completion.

Response of the Institution

Reference Paragraph 3.3.2

Even though decisions were taken for closing down the Regional Offices, the old offices used to provide facilities to the Bimsaviya Programmes commenced in the adjoining Divisions of Divisional Secretaries until the establishment of new offices. Such Regional Offices could be closed down after the establishment of the proposed District Offices.

Reference Paragraph 3.3.3

Certain Divisions scheduled for the implementation of the Programme had to be stopped while certain Divisions not included in the Programme had to be included in the Programme due to different reasons. That was not an impediment to the completion of overall targets or delays in the implementation.

Reference Paragraph 3.3.4

Even though the plans for the Bimsaviya Programme up to the year 2021 were prepared on the number of Surveyors expected for deployment, the Department of Surveyor General prepares the annual targets based on the actual number of Surveyors that can be deployed in each year. As such it was not possible to achieve the targets due to the unavailability of the number of officers required. Reduced progress had been due to reasons such as the delay in obtaining approval for the Incentive Scheme, decrease of efforts and enthusiasm of the Registered Licensed Surveyors delays in payment for work done, lack of enthusiasm of the general public and deployment of Surveyors on other work.

3:4 Working of the Programme and Institutional Co-ordination

3:4:1 Unsatisfactory Co-ordination among Institutions

Investigations are conducted by the Department of Land Settlement after the handover of the software with the cadastral maps by the Department of Surveyor General. Thereafter, the parties to whom Title Certificates can be granted are published in the Gazette. Nevertheless, the particulars of Title Certificates issued in accordance with the information supplied to the Department of Registrar General had not been maintained by the Department of Land Settlement.

Even the Department of Registrar General had not paid attention for the maintenance of information on the extent of the lands surveyed in each Division and whether the title deeds system is in operation for the lands other than for which the Title Certificates have been issued for the purposes of future planning of the Programme.

Implication

The Bimsaviya Office of the Ministry of Lands and land Development which co-ordinates these institutions under such circumstances had not maintained the updated information on the progress of the Programme or the prevailing status. As the particulars relating to the overall progress of the Programme and the expenditure incurred had not been maintained. As such the co-ordination of the Programme had not been executed properly.

Recommendations

- (i) Issue circulars specifying responsibilities and the necessary instructions to draw the attention of the respective Heads of Institutions to the need for building up the co-ordination process.
- (ii) Create and awareness among the Officers about the national importance of the Programme.
- (iii) Strengthen the institutional structure of the Bimsaviya Programme Office, to enable the office to intervene to avoid any obstructions or problems to the buildup of the co-ordination.

Response of the Institution

The Ministry has the information on the progress of the Programme, the prevailing status of the Programme and the information on the expenditure incurred. The distribution of the certificates prepared from the year 2013 to the general public is done by the Department of Land Settlement and as such it is possible for the Department of Land Settlement to maintain the information on the land parcel for which certificates have been issued, the number and the date of the Title

certificate. The work on the maintenance of a common database by collecting all the data on the Programme available with each Department connected to the Programme has already been commenced.

3:4:2 Problems relating to establishment of Regional Offices

Action had been taken to establish a Survey Office and offices of the Department of Land Settlement in two buildings procured on rent from the Private or the State Sector in the selected areas and connect them to the Land Registry Office in the area. In most instances these offices are not adjoining or situated close to each other and it was observed in audit that the landowners visit these offices for their requirements purposelessly.

Implication

As observed in audit that a period of about 02 years had been taken to obtain a certificate under the Bimsaviya Programme in the area where the Bimsaviya Programme had been implemented. The dispatch of cadastral maps of the surveyed lands to the Department of Land Settlement, carrying out investigations on those maps, publication of schedules in the Gazette and dispatch those to the Department of Registrar General and the return of those with deficiencies are involved and as such distances between the offices were observed in audit as a reason for the delays. The general public did not have a proper understanding of the particular offices they should contact under the different stages of the implementation of the Bimsaviya Programme.

Recommendations

Action on the establishment of offices should be taken with the intention of minimizing the difficulties faced by the general public. Places with access facilities to disabled persons should be selected and the costs involved should also be considered.

Response of the Institution

Even though instructions have been issued for the maintenance of the Regional Offices in a single location it had been difficult to find buildings suitable for the purpose. As such it is practically difficult to locate the three Department in one building which could fulfil the needs of all three Department. According to the methodology to be implemented from the year 2013, the general public will be able to obtain the necessary information from the Regional Offices.

3:4:3 Exchange of Information among Institutions

The Regional Offices established by the Department of Land Settlement dispatch the Schedules and the files to the Head Office in terms of Section 14 of the Registration of Title Act, No. 21 of 1998. The Head Office carries out the appropriate examinations and refers those for publication in the Gazette and the printed Gazette is dispatched to the Land Registry for the issue of Title Certificates. The schedules with the defects are again dispatched to the Head Office of the Department of Land Settlement. It was observed that the methodology for the return of those schedules to the Regional Offices takes a long period. The particulars of the certificates (Number, Date, etc.) issued by the Land Registry are not provided to the Department of Land Settlement or the respective Regional Offices. As such it was observed in audit that the Regional Offices which deal with the general public have to face various problems.

Implication

- (i) As the particulars such as the date and other information relating to the dispatch of schedules by the Head Office of the Department of Land Settlement to the Registrar of Lands are not available with the Regional Offices, they are not able to give proper instructions on any enquiries made by the general public.
- (ii) The Programme is not implemented in an effective, efficient and economic manner due to the inadequacy of co-ordination among the institutions implementing the Programme and the deficiencies in the methodology of implementing the Programme.
- (iii) As the Regional Offices of the Department of Land Settlement are not made aware of the Title Certificates prepared by the Office of the Land Register it had not been able to make the general public aware of such information.
- (iv) As the Regional Offices do not provide a simple and easily understandable service to the general public, that situation had an impact on the decrease in the progress of the Programme.

Recommendations

- (i) As the implementation of the Programme under 02 Ministries and 04 Departments is a complex matter, its organizational structure needs to be under the proper control of one institution or a Programme Office.
- (ii) The relevant officers of all institutions should jointly conduct mobile services for the general public for solving their problems.

- (iii) Strengthening of co-ordination among offices.
- (iv) Conduct a nation-wide publicity campaign on the Programme.

Response of the Institution

According to the methodology to be implemented in the year 2013 the general public will be able to obtain the necessary information from the Regional Offices.

3:4:4 Findings on the Contribution of the Department of Surveyor General for the Programme

The function of the Department of Surveyor General in carrying out the land surveys which forms the primary stage of the Programme is of importance and the following observations are made in this connection.

- (a) Instances of new problems arisen in connection with the hitherto problem-free lands due to actions such as not obtaining the consent for boundaries, surveys done in the absence of land owners and survey of disputed boundaries. Instances of loss of previously owned lands, disputes among neighbours leading to breakdown of agricultural work and grant of Title Certificates to those without title were observed.
- (b) On the completion of the issue of Title Certificates, the Survey Office dispatches the amended maps to the Department of Land Settlement and as there is no possibility of amending the Title Certificates already issued. As such the need for care and caution in the action taken in the initial stages was observed.
- (c) The requisite approval for the supervision charges claimed by the Officers of Department of Surveyor General for the supervision of work done by the Licensed Surveyors had not been obtained. Even though the number of land parcels relating to the Title Certificates prepared are less than the number of land parcels surveyed as pointed out in the above paragraphs, that fact had not been considered in the continued deployment of Licensed Surveyors.
- (d) As the Development Plan is not included in the plan relating to the land shown in the Title Certificate, the plans are not being recognized by the Local Authorities. As such difficulties had been caused to the general public.

- (e) Delays in the printing of Title Certificates with plan maps by the Office of the Registrar General were observed due to the dispatch of only certified copies relating to the cadastral plans or the dispatch of only data without the certified copy or without the plans and cadastral plans by the Regional Survey Offices after a delay of about 02 months. Such delays had affected 122 to 1,376 land parcels in 09 regions.

Implication

- (i) The public has lost confidence in the Bimsaviya Programme due to the above difficulties.
- (ii) These problems had been an obstacle in achieving the planned targets.
- (iii) The success of the Programme has been hindered due to lack of a consensus with the Banks and other Government and Local Government institutions.
- (iv) Creation of new problems hitherto not experience by the land owners.

Recommendations

- (i) Action should be taken to inform the land owners and ensure their presence at the surveys as far as possible and obtain their consent for the surveys.
- (ii) Action should be taken to comply with the standards and regulations of the Local Authorities and the requirements of Banks and other institutions.
- (iii) Action in accordance with the professional ethics should be taken by the Survey Officers with a view to minimizing problems.
- (iv) A study of the overall progress of the Bimsaviya Programme should be carried out for the deployment of Licensed Surveyors.
- (v) Prompt action should be taken for the dispatch of maps and other information that should be dispatched to the other institutions and parties.

Response of the Institution

- (a) Even if a general consensus is reached by informing the lands owner prior to the survey of the existing boundaries, problems could arise if any alternations made are noticed. According to the old statutory plans, the land parcels belonging to the State are separately blocked out. In addition the State lands in those statutory plans are superimposed in the preparation of cadastral maps. In such instances certain land parcels in the cadastral maps break in to parts. Similarly in instances where the land owner claims title under several deeds, such land parcels are combined and surveyed if the boundaries cannot be separately identified.

- (b) After the preparation of the cadastral maps, revised surveys are carried out according to the requests made by the Department of Land Settlement. If any technical defects prevailing are established, those are revised after informing the land owner and the Registrar General and with their consent.
- (c) The selection of Licensed Surveyors, assignment of work and payments are made according to a proper methodology.
- (d) The objective of the Title Certificate is the registration of title. As such only the primary data relating to that purpose are included in the cadastral maps. The representations received with regard to the problems arisen due to the non-inclusion of development on the lands in the cadastral maps will be considered, and a methodology for inclusion of those in the cadastral maps in the future is being prepared.
- (e) After the Department of Land Settlement identifies the land parcels for the issue of Title Certificates and publish in the Gazette, the numbered copies boundary plans relating to those land parcels are supplied to the Title Registrar. Nevertheless, the numbered boundary plans for the land parcels which can be considered as fit for issue of Title Certificates are prepared and dispatched to the Title Registrar at the same time in order to avoid delays. If there are any more boundary plans required after the final decisions are published in the Gazette, those will be prepared subsequently and dispatched. There can be a slight delay in such instances.

3:4:5 Findings on the Contribution made to the Programme by the Department of Land Settlement

The following matters were revealed at the examination of contribution to the Programme by the Department of Land Settlement authorized to implement the Bimsaviya Programme.

- (a) Lack of a proper Methodology for Investigations

Different methodologies had been adopted for the investigation of the main activities of the Bimsaviya Programme. In the initial stages, Survey Officers had carried out surveys while the Investigation Officers were conducting investigations. Subsequently, it had been decided that the Survey Officers should conduct investigations and carry out the surveys. Lastly, it had been decided that the Grama Niladharies should carry out the investigations, but a clear methodology has not been determined even by August 2012. The cases subjected to investigations included lapses such not recording the correct names of the owners, recording of incorrect extent of land and not recording the correct

information on the access roads to the lands. As such it was observed that the investigations should be carried out through a formal methodology to avoid the delay in the issue of Title Certificates.

(b) Deficiencies in Investigations

Instances of land problems caused to the land owners who had clear title deeds hitherto resulting from the failure to conduct proper investigations were observed. Other instances such the return of schedules published in terms of Section 14 of the Registration of Title Act, No. 21 of 1998 in the Gazette dispatched to the Registrar of Lands due to the failure to record correctly the particulars of the land owners and the extent of the land and the confusion caused to land owners having clear title deeds due to the failure to carry out investigations properly were also observed. Several such instances revealed at the test checks are given below.

- (i) As the Commissioner General of Title Settlement is not having the power to cancel a Title Certificate issued, injustice had been caused to several parties due to the issue of Title Certificates without conducting proper investigations.
- (ii) Incorrect instructions given to persons by the Investigation Officers.
- (iii) Creation of economic and social problems due to depriving the cultivation lands and access roads to persons resulting from the issue of Title Certificate issued without making proper enquiries.
- (iv) Problems in obtaining loans from financial institutions due to the information in the Title Certificate not being correct.
- (v) As the particulars of the prior registrations had not been checked accurately from the Offices of the Registrar of Lands before the issue of Title Certificate, instead of issuing the Title Certificate to the current owner certificate had been issued to the previous owner.

Implication

- (i) Different problems arising due to the lack of a proper methodology for investigations.
- (ii) Due to the failure to identify potential problems at the initial stages, the possibility of those becoming complex later exists.
- (iii) Possibility of problems arising from the documents prepared on data not confirmed as accurate could have an impact on the success of the Programmes.

Recommendations

- (i) Preparation of acceptable criteria for investigations and apply them in investigations.
- (ii) Issue clear instructions as to how action should be taken on observations made during investigations.
- (iii) Use of an application form prepared with the consent of all participating in the Programme.

Response of the Institution

- (a) The methodologies of implementation have been revised from time to time based on experiences encountered. All methodologies have been revised and a methodology for adoption in the year 2013 has been introduced. According to that, action based on the preliminary information sheet obtained from the Grama Niladhari will be taken and as such problems may not arise in the future.
- (b) In view of the informal nature of Land Registers and information and existence of problems in the information supplied by the general public, in certain instances all problems relating to lands are not revealed.

3:4:6 Findings on the Contribution made to the Programme by the Department of Registrar General

The following observations were made at the examination of the contribution made to the Programme by the Department of Registrar General which performs the functions relating to the registration of titles and issue of Title Certificates on the receipt of the schedules recommended for issue of Title certificates by the Department of Land Settlement.

- (a) The awareness created among the lawyers/notaries in the respective areas to quote reference to the cadastral maps in writing deeds for lands in the cadastral maps for which Title Certificates had not been issued, was inadequate.
- (b) The certificate granted does not have the qualities and attractiveness of a document recognized by the Government (paper, printed letters, size) lacking in durability and inadequacy of the size of the envelope.
- (c) In most instances, the offices are situated in second or third floors of the buildings taken on rent in town areas. As such it is very difficult for the aged or disabled persons reach the offices. Even though it is not so difficult in buildings with electric lifts, in places without such facilities like Homagama it had become a serious problem.

- (d) As a larger number of Title Certificates had not been obtained by the respective land owners, those are being retained as certificates in hand. There was no formal methodology for handover of those certificate to the general public. The information in the Title Certificates printed for issue but not handed over is given below.

	2007	2008	2009	2010	2011	Up to 31 May 2012
Number of Title Certificated prepared (Private)	7,532	4,853	9,569	25,864	82,838	25,053
Number of Title Certificates obtained by Individuals	5,985	3,450	5,242	14,501	25,697	11,103
Difference (Number not distributed)	1,547	1,403	4,327	11,363	57,141	13,950

- (e) The Department of Surveyor General and the Department of Land Settlement had reported the progress of the Bimsaviya Programme under the Bimsaviya Programme Offices level while the Department of Registrar General had reported under its Land Registry Office level instead of under the Bimsaviya Programme Office level. As such reconciliation of such information was difficult.

For example, the registration of the Title Certificates relating to the Moratuwa Bimsaviya Office is done by the Land Registry Office at Delkanda and as such, the progress of the Moratuwa area is reported under the Delkanda Land Registry Office Level. In this case, the Delkanda Office had consolidated the information relating to 06 Divisions such as Kesbewa, Rathmalana, etc. As such it was difficult for reconciliation of information.

Implication

- (i) The establishment of Offices had not been done in a manner to facilitate in general public.
- (ii) Lack of awareness of the general public with regard to the Title Certificates prepared.
- (iii) Attention to the quality of a certificate issued at the State Level had been at a minimum level.
- (iv) Non-issue of the Tittle Certificates prepared to the relevant individuals.

Recommendation

- (i) Consideration of the needs of the general public in the establishment of the Offices.
- (ii) Inclusions of the features such as the development plan to improve the quality of the Title Certificate issued in order to make it more acceptable.
- (iii) Implementation of an appropriate course of action for the distribution of the Title Certificates so far not taken over.

Response of the Institution

- (a) Even though circular instructions were issued to the lawyers and notaries for the use of cadastral maps for the preparation of notarial deed, there are no provisions at present to make it compulsory. It is proposed to discuss this matter with the Committee appointed to identify the necessary amendments the Title Registration Act.
- (b) The Title Certificates are issued in accordance with the Orders in the Notification published in the Gazette No. 1050/10 dated 21 October 1998. A new certificate embodying the features designed for improving its quality has been designed while the new Orders relating thereto have been prepared and sent to the Legal Draftsman.
- (c) Action will be taken in the future to obtain Government buildings or for construction of buildings.
- (d) It was not possible to distribute the Title Certificates due to the lack of eagerness for it among the general public. From the year 2013 the distribution of Title Certificates is being done by the Regional Offices of the Department of Land Settlement.

3:5 Staff Management

The following matters were observed at the audit examination of the manner of contribution made by the staff of each institution connected with the Bimsaviya Programme, to make it a success.

(a) Recruitment of Staff on Contract Basis

The functions of the Department of Land Settlement are the conduct of preliminary investigations and naming the correct persons for the issue of Title Certificates through the publication of final determinations by Notifications published in the Gazette. As this needs permanent officers with professional experience in land matters, such services should have been obtained by recruiting qualified permanent staff. Nevertheless, out of the 30 approved posts in the

Department of Land Settlement only 08 posts had been filled on permanent basis, while 24 posts had been filled with officers recruited on temporary basis. It was observed that some of those officers had left the service after serving a short period in such posts and that retired officers had been appointed to such posts.

(b) Inadequacy of Legal Officers

A formal methodology for solving the land problems arising very often in the implementation of this Programme should be established and the functions of Legal Officers in that connection are very important. Even though the approved number of the post of Assistant Commissioner / Legal Officer of the Department of Land Settlement by the year 1999 had been 07, the number approved by the Department of Management Services in the year 2009 had been only two. As such obtaining the contribution of this service which provides the final determinations in all land problems had become a problem.

Implication

Performance of duties through recruitment on covering up and contract basis instead of proper recruitment of human resources essential for the Programme had resulted in the slow progress of the Programme.

Recommendations

- (i) Improvement of the methodology for the recruitment, training and promotion of human resources. Appointment of permanent officers to special posts to enable assignments of responsibilities and discharge such responsibilities.
- (ii) Implementation of a thorough programme for the evaluation of the performance of each officer which as an essential feature of the process for which an incentive scheme is in operation.

Response of the Institution

- (a) “As the Ministry of Public Administration and Home Affairs is not giving full-time officers for the approved posts (Deputy/ Assistant Commissioner) of the Department of Land Settlement, the Public Service Commission has granted approval for the recruitment of retired officers on contract basis for those posts. These officers are retired officers of Sri Lanka Administration Service and they possess good knowledge and experience in land duties. If full-time officers are made available for approved posts, the recruitment of retired officers on contract basis can be done away with.”

- (b) “Necessary action is being taken to increase the number of Legal Officers after due consideration of the future requirements.”

3:6 Establishment of the Database and its Utilization

3:6:1 Establishment of a Centralized Information System

Even though the collection of the current information on lands is done by several institutions, a methodology for obtaining information on lands directly and easily had not been established. The Ministry of Lands and Land Development had created an e-Land hubs for the purpose of establishing a Centralized Information System and published a newspaper advertisement on 02 December 2011 inviting quotations from recognized institutions in that field. Even though the bid of Rs.5,544,000 submitted by a private institution had been evaluated further action thereon had not been taken even by 30 August 2012, the date of audit.

3:6:2 Creation of Inter - Institutional Coordination through Data System

- (a) Even though the Land Information Centre had been established in the year 2007, problems had arisen in connection with data storage due to the deficiencies in the collection and reporting data by the field officers. Even though the storage of data relating to 459,268 land parcels had been referred for storage in the database as at 31 December 2011 only 368,896 land parcels had entered into the database.
- (b) Inadequacy of the staff deployed for the Land Information Division.
- (c) Even though the Department of Surveyor General has the information on the finalized cadastral maps, a methodology for facilitating the use of those by other institutions had not been built up.

Implication

- (i) As the database had not been properly established, one of the primary objectives of the Programme, the timely retrieval of information by the interested parties, had been deprived of them.
- (ii) The provision allocated for the establishment of the database of the Programme had not been made use of for the purpose.

Recommendations

- (i) The databases established by the Department of Land Settlement, the Department of Surveyor General and the Department of Registrar General at their departmental level should be linked together.
- (ii) Preparation of the background of the cost effective and good management by providing timely information on lands to the general public for their purposes by utilizing the Internet facilities.

Response of the Institution

Reference Paragraph 3.6.1

The information relating to the Programme is computerized in the implementation of the e Landhub and according to the accepted methodology such information can be exchanged among the relevant institutions.

Reference Paragraph 3.6.2

The information on lands collected by the Surveyors through the use of modern technological equipment is entered in the database in accordance with the Survey Regulations. But minor errors occur as the collection of fields data is not automated. A considerable time is taken to rectify such errors and according to the methodology adopted in the years 2011/2012 such errors had been brought to a minimum level. Even though the Department of Surveyor General prepared the database by entering its information adequate and suitable software and technological facilities for linkage with the other institutions have not been received. But these problems will be settled with the implementation of the e-Land hub.

According to the agreement signed with the supplier institution, action is being taken for the establishment of the Land Information System.

The technical staffs required for the Land Information System Division have been recruited and they are being trained at present.

“The proper processing of the information received from the field by the Land Information System Division needs a certain period of time. As a heavy load of data on the approval of plans had been received in a single batch as at 31 December 2011 by the Land Information System Division, the data of 90,302 land parcels remained to be entered into the database. Those data have already been entered into the database as at present.”

3:7 Findings on the Legal Provisions relating to the Bimsaviya Programme

3:7:1 Title Registration Act, No. 21 of 1998

- (a) The Ministry of Lands and Land Settlement had identified a number of deficiencies in this Act. Those deficiencies are as follows.
 - (i) Even though Section 2 of the Act provides for the appointment of a Commissioner of Title Settlement and Deputy and Assistant Commissioners for the performance of the functions of the Act, their responsibilities and functions had not been defined in the Act.
 - (ii) Even though Section 3 of the Act provides for the appointment of a Registrar of Titles, his power and functions had neither been defined nor clearly stated in the Act.
 - (iii) Even though certain provisions in the Notaries Act and the Prevention of Frauds Ordinance are in conflict with the provisions in the Registration of Title Act, in its implementation, the inapplicability of such provisions to the Registration of Title Act had not been stated.
- (b) The Register of Classification of Land Problems at Office Level for the year 2011 of the Homagama Region subjected to a test check revealed that 03 out of the 10 problems identified were problems that should be settled under the Act.
- (c) Even though certain courses of action had been taken since the year 2003 for the amendment of the Act, with suitable amendments to the above deficiencies, the Act had not been amended even up to 07 August 2012.

3:7:2 Failures to take Action in terms of the Act

The following observations are made in this connection.

- (a) According to Section 12 of the Act, the Commissioner of Title Settlement should, immediately after the receipt of the certified copies of cadastral maps, publish a Notification in the Gazette requesting all parties who have a title to lands specifically included in such notice, to submit their claims to him within the specified period.

According to Order No. 4 of the Orders under the Act (Act, No. 21 of 1998) published in the Gazette No. 1050/10 of 21 October 1998, it had been specified that the particulars of such notification should be given publicity in once Sinhala, Tamil and English newspaper, radio, television and media. Nevertheless, the Notifications under Section 12 are published only in the Government Gazette. But it was observed that the use of the Gazette by the general public is at the minimum level.

In view of the lack of proper publicity given to the land owners in the Homagama Region, depriving an opportunity for them to make their claims, the possibility of publication of Title Certificates to the wrong persons in the Gazette was observed in audit.

- (b) The particulars of the persons determined for the grant of Title Certificate under Section 14 of the Act are published in the Gazette. According to Section 14 of the act, any owner not satisfied with such Gazette Notification should file an appeal against the declaration in the District Court having jurisdiction in the area where the land parcel is situated.

According to Order No. 8 of the Orders under the Act published in the Gazette No. 1050/10, a period of 06 months was allowed to file such appeal, while that period had been reduced to one month by a Notification published in the Gazette 1302/16 of 19 August 2003.

As the Gazette Notifications with the original date appearing therein are usually published after a delay exceeding two months, instances of adequate time not allowed to the general public to file appeals were observed in audit.

- (c) An audit examination of the Homagama Region revealed that out of 82,259 land parcels relating to 34 cadastral maps surveyed the issue of Title Certificates had been recommended only for 40 per cent or 33,678 land parcels. According to the Register of Classification of Land Problems at Office Level for the year 2011, out of 10 primary problems arisen, the major problem had been created due to the failure to take action in terms of the Act.

Implication

- (i) As timely action had not been taken for the rectification of the deficiencies in the Act, the effectiveness of the achievement of the targets of the Bimsaviya Programme had decreased.

- (ii) As Title Certificates had been granted only for the freehold title deeds, it had not been possible to settle the overall land problems in Sri Lanka as the Programme has not provided solutions to the lands with problems.

Recommendations

After taking into consideration the matters pointed out by the relevant institutions, attention should be paid to the following recommendations in making amendments to the Act.

- (i) To take action to expedite the proposals made for making amendments to the Act.
- (ii) To include clear definitions and explanations to the Special Sections of the Act.
- (iii) Inclusion of adequate information on the scope and powers of each officer and institutions.
- (iv) Implementation of the awareness programme on all matters relating to the Act for the benefit of all parties.

Response of the Institution

Reference Paragraph 3.7.1(a)

- (i) “The Sections required for the definition of the responsibility and functions of the Commissioner of Title Settlement, Deputy/ Assistant Commissioners have been included in the proposed amendments to the Act.”
- (ii) “The Sections required for the definition of the responsibility and functions of the Registrar of Titles have been included in the amendments to the Act.”
- (iii) The provisions needed for the minimization of conflicts with the provisions of the Notaries Act and the Prevention of Frauds Ordinance have been forwarded to the Legal Draftsman and the regulations have been included in the draft.

Reference Paragraph 3.7.2

In addition to the publication of the Gazette Notification under Section 12 of the Act, in the Gazette, action has been taken for the display in the public places in the relevant areas.

Action will be taken to discuss the problems surfaced in the implementation of the Act at the Special Committee appointed to study the Title Registration Act and to present amendments

4. Overall Conclusion

It is an acceptable fact that the Bimsaviya Programme will be able to prevent to a great extent the numerous land problems faced by the land owners and the unlawful activities committed by various parties in the transfer of lands, through the issue of Title Certificates to the land owners replacing the deeds system that prevailed up to date. The institutional structure and the staff should be organized in a manner to ensure the effective achievement of the objective.

Action should be taken for the expeditious settlement of the prevailing problems in the survey of lands and the conduct of investigations under the Bimsaviya Programme, while the human resources as well as the other resources should be utilized appropriately. The preparation of Title Certificates and hand over to the landowners can be expedited through the establishment of Regional Offices and strengthening the co-ordination among the offices and the control of the participating institutions by one Ministry which should carry out regular supervision of such institutions.

Surveying is done at a satisfactory pace and the issue of Title Certificates as well should be increased side by side. The number of Title Certificates issued to the land owners should increase annually as compared with incentives paid to the officers for the preparation of Title Certificates. The monthly target of lands surveyed for the purposes of the Incentive Scheme for the Officers of the Department of Surveyor General needs determination based on the modern technological equipment and facilities used by them at present. If action is taken to amend the circular to substitute monthly basis for the payment of incentives, the Government could save a substantial amount of money. A considerable amount of money out of the expenditure incurred by the Government on the Programme had been spent for other purposes such as the purchase of equipment and motor vehicles. As such it was observed that the cost per Title Certificate can be reduced largely by incurring only the expenditure essential for the implementation of the Bimsaviya Programme. Utilization of Government funds should be evaluated from time to time while the progresses as well need such evaluation from time to time. The offices in areas where the work is completed should be closed down. Thereafter District Offices should be maintained.

In achieving the success of the Programme attention should be paid to the matters such as the lack of power for the Commissioner General of Title Settlement to cancel certificates issued to wrong parties due to the deficiencies in the implementation of the Programme in the early stages and the problems hither to non-existent caused to the public due to certain weaknesses in the implementation of the Programme.

The work on the land Information System should be expedited by entering all information relating to land parcels and provide easy access to information through the Internet. The delays in the issue of Title Certificates can be reduced to the minimum level by expediting the amendments to the identified deficiencies in the Act. It is essential that the process should be streamlined with a view to achieving the objects of the Government to provide unencumbered title to the lands for all owners of land by the year 2021.