

The Subdivision and Amalgamation Procedure in Sri Lanka

A Study on the Transition of Land Registration Systems

Lars-Jonas Kaddik & Jona Rydberg 2013

Master of Science in Engineering, Surveying and Land Management

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Both author have together contributed to this thesis

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The Subdivision and Amalgamation Procedure in Sri Lanka

Avstyckning- och Sammanläggningsprocessen i Sri Lanka

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The Subdivision and Amalgamation Procedure in Sri Lanka

Abstract:

Background:

Sri Lanka is currently undergoing the nationwide transition from a deed register system to a title register system. The new legislation is covering the transition between the systems but is insufficient at covering the maintenance of the system. The process and regulations on these matters needs to be adapted for the Sri Lankan: tenure system, administration, banks, professionals and land use pattern. But most important they need to be designed to be a useful tool for the key stakeholder, the landowner.

Method:

Qualitative interviews with landowners in both urban and rural areas were conducted. In addition professionals, officials and other stakeholders in the subdivision and amalgamation procedure were interviewed.

Results:

The personal valuation of land differs between urban and rural areas. The willingness to change the land in rural areas is mostly to subdivide for their children and expand their land, selling the land is not an option. The procedure of changing the land needs to be adapted to prevent illegal subdivision, disputes between neighbours etc. In the urban area people have a more economical view upon their land and are more willing to sell or subdivide if the price is right.

Suggestions:

Some suggestions are made on the procedure of the title programme and on subdivisions and amalgamation. Other suggestions are given on adapting the system to fit the needs of the landowners and benefit the land administration in a larger perspective.

Sammanfattning

Bakgrund:

Sri Lanka genomför för närvarande en nationell övergång från tidigare avtalsregistreringssystem till ett lagfartsregistreringssystem. Den nya lagstiftningen reglerar i huvudsak övergången mellan dessa två system men är inte tillräckligt anpassad för systemets fortsatta förvaltning. Förfaranden och förordningar angående dessa frågor måste anpassas för Sri Lankas markrättighetssystem, administration, banker, branschfolk och markanvändningsmönster. Viktigast är att de måste vara anpassade och användbara för nyckelintressenten, markägaren.

Metod:

Kvalitativa intervjuer med markägare i både stads- och landsbygdsmiljö genomfördes. Intervjuer genomfördes även med offentliga tjänstemän och sakägare inom avstyckning och sammanläggningsprocessen.

Resultat:

De personliga värderingarna skiljde sig mellan stad och landsbygd. Viljan att förändra mark på landsbygden är främst för att avstycka mark till sina barn och i viss mån för att expandera sin mark. Att sälja marken är inte ett alternativ. Förfarandet för att förändra markägandet behöver anpassas för att förhindra samsjedelning, konflikter mellan grannar etc. I det urbana området har invånarna en mer ekonomisk syn på sitt land och är mer villiga att sälja eller avstycka om priset är rätt.

Förslag:

Några förslag ges på lagfartsprogrammets förfarande samt på avstyckning och sammanläggningsprocedurerna. Andra förslag ges på hur systemet kan anpassas för att tillgodose behoven hos markägarna och gynna landets administration i ett större perspektiv.

Foreword

This thesis has been carried out at the Department of Real Estate Science at LTH, Lund University. The thesis concludes our studies of Master of Science in Engineering, Survey and Land Management. The field study was funded by a Minor Field Study Scholarship from the SIDA organization.

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Also a thank you to the people of Sri Lanka that helped us along and always shared a smile for us.

Definitions

- Act** – A legal document including laws of the country.
- Amalgamation** – A cadastral procedure of emerging several parcels into one.
- Amendment** – Additions to previous ordinances or acts.
- Cadastral Map** – A surveyed map that covers all land in the entire country
- Cadastral Plan** – A plan of a subdivision or amalgamation that will be inserted in the cadastral map
- Encroachment** – Illegal or unofficial occupation of land
- Gazette** – Published official document of decisions by a government department
- Grant** – A tenure type for state or temple owned land
- Ordinance** – The previous name for acts
- Paddy or Paddy field** – Rice field
- Parcel** – The smallest unit of land
- Permit** – A type of tenure
- Property** – Land owned by a landowner
- Landholder / Landowner** – In this thesis both means a person in possession of a land parcel
- Reallotment** – A cadastral procedure, which changes boundary between parcels.
- Regulations** – Additional regulation to a specific act.
- Scattering** – When subdivisions lead to an extensive amount of small inadequate parcels
- Subdivision** – A cadastral procedure when a property is parcelled out into two properties
- Survey** – The procedure of measuring and establishing boundaries of a land parcel
- Surveyor** – A professional conductor of surveys
- Tenure** – Rights to hold or own land.

Acronyms

Laws:

LDO – Land Development Ordinance

LG (SP) A – Land grants (Special Provisions) Act

HTIO – Housing and Town Improvement Ordinance

RDO – Registration of Documents Ordinance

RTA – Registration of Title Act

UDAA – Urban Development Authority Act

SA – Survey Act

SLO – State Land Ordinance

Departments:

LTSD – Land Title Settlement Department

RGD – Registrar General's Department

SD – Survey Department

UC – Urban Council

UDA – Urban development Authority

Officials:

GN – Grama Niladhari

LC – Land Commissioner

LS – Licensed Surveyor

RG – Registrar General

SS – Superintendent of Surveys

Banks:

RDB – Rural Development Bank

NSB – National Savings Bank

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1 Introduction

1.1 Background

Sri Lanka is a small island nation located in the Indian Ocean close to the equator with a population of 20 million. The island has a varied elevation and a diverse climate, which makes the vegetation different around the country. Sri Lanka has been under foreign influence for a long time, first colonized by the Portuguese in the 16th century, by the Dutch in the 17th and 18th century and then by the British until independence in 1948. A majority of Sri Lankans are Buddhist but Tamils (especially in the north) and Muslims are also represented as ethnicities. The different ethnicities and the colonial heritage have created a mixture of administrative and cultural aspects. In the late 20th century until 2009 a civil war between the Liberation Tigers of Tamil Eelam (LTTE) and the government raged the country. During this period all development were reduced and since the civil war ended the economy have turned and started to boost.

A large number of the people still live in rural areas with minimal income and most likely the differences in income and the anticipated urbanization will become challenges for the nation.

The countries land administration systems and land rights have taken great influence from the different factors that have affected the island. From the pre-existing kingdoms via religion and colonialism, the institutions and land rights have evolved into today's mixture of elements.

The discourse about the advantages of a title registration system contra other systems is debated amongst scholars throughout the world. The general conclusion seems to be that countries have their own unique culture, which the system needs to be adapted for. Tenure security and a land register are two essential factors in a nation's economy.

In 1863 the British established a deed registration system. The system is still in use and is designed to document the transactions concerning land with no spatial data. The system is currently leading to unclear boundaries, unclear location and time-consuming ownership investigations during transactions, mortgages or subdivisions. In 1998 the government enacted the Registration of Title Act with the all the provisions to make the nationwide transition from deed to title. Initially the transition was assisted and funded as a World Bank Project. After the project was ended, the titling project was continued and funded by the Sri Lankan government. The progress of the project is running slow but is accelerating.

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One part of implementing and maintaining a titling system is the possibility for landowners to change the extent of their land according to their intentions i.e. subdividing or amalgamating land. A well-functioning land market is dependent on the possibility to change parcels into the shape that fits the receivers. Problems that may occur otherwise are illegal subdivisions, inefficient land use, high costs and unsecure tenure for second-hand lease and rents. The subdivision and amalgamation procedures are presently not regulated adequately and regulations are being designed at the moment.

The main objective of the new regulations should be based upon the situation of the landowners, the key stakeholders. In this thesis the landowners perception on how they are willing to change their extent are studied.

Initiation:

We were interested in studying the surveying and cadastral procedure on an international level and doing our thesis abroad. With the help of our supervisor we took contact with Mr. Vipula Abeyratne, Head of the Department of Geodesy at Sabaramaguwa University. He introduced us to the topic of the on-going transition between cadastral systems in Sri Lanka. To fund the fieldwork we applied for a minor field study scholarship at SIDA organization. After being approved for the scholarship we participated in a short course about the issues of doing a research in developing countries. Our initiating work at Lund University consisted of planning, studying international literature and Sri Lanka specific literature. It was difficult to formulate the objective of the study at this stage. Once we arrived at the university in Sri Lanka we got a lot of new information and realized that for doing a qualitative study it was better to narrow the objective to a minor but important part of the transition between cadastral systems: the subdivision and amalgamation procedure. In order to get the best result of the study and with assistance from Mr. Vipula Abeyratne we decided to do qualitative interviews with landowners. The subject lacks available written literature, so in order to understand the system our advisor assisted us in arranging interviews with involved parties in the procedure.

1.2 Purpose of the study

Main objective:

- Research the needs and preferences of private landowner's in Sri Lanka and their perspective towards changes in their land. With the intentions of finding possible improvements to be made on legislation and the procedure of changing the extent of a property.

Secondary objectives:

- To find if the procedure and results of subdivisions or amalgamations are more efficient in the deed- or the title registration system.
- Study how the implementation of the titling programme affects the landowners.

1.3 Research Questions

Main objective questions:

- What kind of land rights and administration are there in Sri Lanka today and what is the historical background?
- How do the landowners experience their land rights and the restrictions in their ownership?
- How do the landowners in Sri Lanka value the land and how is the value distributed, monetarily and sentimentally?
- How is the subdivision and amalgamation procedure designed?
- Which tools would be useful for landowners to change their properties?

Secondary objective questions:

- What are the advantages of the title registration system contra the deed registration system?
- How is the titling programme in Sri Lanka designed and implemented?

1.4 Disposition of work

The thesis work was divided into three phases; literature studies, data collecting and analysis.

The first phase included literature studies and planning of fieldwork, which was mainly done at Lund University. The objectives and research questions were defined and planning was made to achieve the desired outcome of the fieldwork. The first phase extended to a couple of weeks into the fieldwork in Sri Lanka.

Data collecting exclusively took place in Sri Lanka. The fieldwork consisted of interviews with landowners, officials and stakeholders in the subdivision and amalgamation procedure.

The third phase consisted of analysing the gathered data from the fieldwork and connecting it to the literature studies. Suggestions and conclusions were drawn from the analysis. The final parts of the thesis were written at Lund University.

1.5 Choice of method

Literature reviews were based on books, articles, acts and other official documents on the subject. Materials were collected through Internet and provided by our supervisor at Lund University and our advisor in Sri Lanka. Interviews with officials and professionals were used to get more data on the theoretical background. Additional opinions from these interviews were used in the analysis. The method is further described in chapter 5.

A qualitative approach was chosen for this research and the data collecting were mainly made through interviews with landowners. This approach was chosen to get detailed information on what a Sri Lankan landowner values and thinks of his or her land and what problems they may encounter when wanting to change the extent of their land. By interviewing landowners in both a rural- and urban environment the full extent of the regulation of subdivision and amalgamation could be examined. Analysis of the interviews were made with quantitative features and connected to national statistics due to the number of interviews that was collected.

Interviews were conducted during 9 weeks of fieldwork and documented on question forms as well as recorded with voice recorder, which was documented. The landowner questions were made short, simple but open-ended which would not prompt the respondents. The locations of the landowner interviews were discussed and defined with the help of our advisor in Sri Lanka.

1.6 Delimitations

The aim of the subject from start was to examine land-titling programmes internationally and in Sri Lanka. When arriving in the country it became clear that the subject was rather broad and needed to be narrowed, due to lack of information and unfamiliarity with the Sri Lankan system. The objective was narrowed down to a minor, though important, part of the land-titling program, the subdivision and amalgamation procedure.

Encountering another countries law system for the first time and on a short-term, makes it difficult to find and include all involved parties and regulations. Special laws and regulation about e.g. irrigation systems, forestry was intently not included in the thesis.

The two-landowner interview areas were located in neighbouring D.S. areas where the titling project either was completed or under implementation. These two areas is a good representation of where most people live in the country but may not represent the entire country fully.

Most Sinhalese do not speak English and translators had to be present at almost every interview. Language barrier and cultural differences makes it difficult to get a higher understanding of peoples preferences.

1.7 Source of Error

The selection of landowner was meant to be completely random but in both areas a sort of selection was made. In Weligepola the Grama Niladhari provided a list of landowners in the area with different land tenures and in Balangoda a licensed surveyor pointed us to some interesting areas and landowners.

Interviews with certain officials or professionals were in most cases selected by our advisor in Sri Lanka. These interviews would not have been possible without the introduction from him. Unfortunately this makes it possible for the answers to be affected by their relationship. Considering how few of these interviews that were conducted the personal considerations of each respondent can be vital.

The results from the three translators were a bit different and could due to different ways of asking the questions. Designing the question forms was difficult due to the cultural and language differences.

The literature on the Sri Lankan law system and on the subdivision and amalgamation procedures was not easy to find or did not exist in English. This made it more important having good interview responses, which have been used as references.

1.8 Disposition

Chapter 1 – Introduction

Introducing the reader on the subject and the background of the thesis.

Chapter 2 - Theory

The first subchapter presents basic theories of land rights, cadastral and registration systems in a global perspective. Followed by a subchapter with a basic presentation of Sri Lanka as a country. The last subchapter presents the Sri Lankan: land history, tenures, the titling programme and finally the procedure of subdivision and amalgamation.

Chapter 3 – Method

The interview areas are introduced. The question form, which was used during the landowner interviews, is described. The interviewed officials and professionals are presented.

Chapter 4 – Analysis

Collected data from the landowner interviews is presented and analysed under each asked question. Some cases is extracted and featured to give additional information.

The opinions of the interviews with the officials and professionals are categorized and analysed under three categories: Deed vs Title, Bim Saviya implementation and the subdivision and amalgamation procedure.

Chapter 5 – Discussion

The chapter contains a discussion on the analysed material and the theoretical background. It is arranged by the main- and sub research questions.

Chapter 6 - Suggestions

Final chapter features suggestions on some of the encountered problems.

2 Land Administration

2.1 Land Rights

To have land rights is a fundamental mechanism for a nation. Without drafting laws and regulation of who have the rights for a specific piece of land it may lead to problems. Open access to land without any ownership gives no strong incitement for a user to take care of the land and manage its resources in a sustainable way. There are risks that the land may become overused and all resources harvested. (Ostrom 2009)

Not all lands have the same rights for the occupant but are separated in a bundle of different rights. Full ownership can be described as the most completed package, where all the rights from the bundle are in the hands of the possessor. The bundle consists of:

- Access: The right to enter a property.
- Withdrawal: The right to harvest what can be found on a property e.g. wood, right to pasture.
- Management: The right to regulate what can be harvested and the right to make improvements on the property for a better harvest.
- Exclusion: The right to grant access to the property for others.
- Alienation: The right to sell or lease the any of the other rights.

A person with only the right of access to a specific piece of land has no other rights than freedom of movement and viewing. For example, a family visiting a national park and paying a one-day fee have only the right to walk and view the landscape, not to cut down forest or tell others to leave.

If the person would have the right to both access and withdrawal he or she can be called an authorized user. For example a person working as a shepherd can be granted land for pasture purposes only. He or she will then have the right to use the land to have his sheep pasture, but no other rights.

If management is added to the first two rights, the person holding the rights can be called a claimant. Exemplified as if the same shepherd now has rights to put up fences or making irrigation systems to be able to get more grass. He or she then has the rights to make improvements to be able to get the most of his or hers withdrawal rights.

A person with the three mentioned rights and the right to exclude other can be called a proprietor. If the shepherd did not have this fourth right and a bunch of visitors to the nearby national park start parking their caravans on his or her pasture, the vehicles will complicate the ability for the sheep to get enough food.

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With the right to exclude others the proprietor have a better incitement to make improvement for a long-term management.

With the alienation right added to the other four, the person holding the rights can be called owner. There is no requirement that the owner can sell or lease the other rights in an instant, sometimes a council must permit it. If a person has the ability to sell or lease the land he or she will get a good incitement to take better care of the land. (Ostrom 2009)

Not all lands is better managed with private ownership, in some situations it is better for the society if more people can use the land together, called common resource property. Simple examples of common resource property can be a lake for fishing or a forest for collecting timber. Before 1990 the doctrine suggested that the use a common property resource would lead to negative outcomes. A common belief is that a larger group would not be able to have contact and arrange an acceptable level of harvest. A smaller group might be able to discourage freeriding but would not be sustainable in the long run.

Recent researches have shown that some individuals in a common resource property would work and put in effort to find proper rules of how a resource is going to be handled. The user would follow these rules as long as he or she thinks the others would do the same. To make shore the rules are followed by the others some kind of monitoring needs to take place and if someone breaks the rules that person would have to pay the other users. (Ostrom 2009)

From the same research eight design principles could be established to give long-term governance and usage of a common resource:

Clearly defined boundaries (1) are essential for giving the users the knowledge of where and what they can harvest. Proportional equivalence between benefits and costs (2) provides fairness between the users. If one user would be able to withdraw a lot of timber at a low costs, others would become jealous and think the set rules are unfair. If all users are to be satisfied they have to be able to participate in collective choice arrangements (3). Every user has to be involved in changing the rules of the common resource to adapt to local circumstances. If the common resource is to be a long-term resource monitoring (4) is of utter importance. Users watch other users and their level of harvesting, this makes it harder to overuse the resource. If one user is overusing the resource for extra benefit he or she must pay a sanction. This should be a graduated sanction (5) where the fee is higher than what can be benefited from overusing, even if the chances of being caught are slim. These five design rules explain why the resource users may work together.

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With conflict resolution mechanisms (6) the users can quickly and for a low cost settle disputes both between users and between the users and government officials. It is important that there are easy ways to maintain trust between the users. A minimal recognition of rights to organize (7) gives little support and involvement from an external authority, the users must organize and arrange the rules and disputes by themselves. Too much external involvement may interfere and dissolve the common resource arrangement. If a large common resource have different types of uses and types of harvests a nested enterprises (8) gives a more dynamic organization. Some users make decisions on a small level while a larger group governs the entire resource. (Ostrom 2009)

2.2 Cadastral Systems and Land registration

2.2.1 Cadastral system

A cadastral procedure can be described as a public inventory of data for a specific property. The inventory consists of surveying the property boundaries and collecting information of rights that affects the property. The surveyed new boundaries become very accurate and legally fixed. The results are presented on a map and the collected information of rights is put to a register. A unique designation connects the map data to the information in the register. All the information becomes public and available for others to take part of. (Henssen 1995)

Cadastral systems throughout the world are organized to suit the specific purpose of what the country and the law-system requires. The purposes of the systems have changed over time and depend of what is needed. The main purposes are: valuation and taxation, legal matters, assisting management of land and land-use or to for improving sustainable environment. A modern system incorporates all these purposes and has almost become a land management system in itself. (Enemark 2010)

2.2.2 Land registration system

The system provides the necessary information of formalized property rights and contributes with regulations regarding those rights. In the register, new cadastral procedures e.g. tenure type with rights, leases, easements, mortgage are registered and becomes public. (Dale, 1999)

In general the registration systems can be divided into three types: private surveying, the registration of deeds and the registration of titles. In the first type, private conveyance, a land transactions are handled on a private level with documents passed between seller and buyer, often supervised by a lawyer. The State does not participate in the transaction and the documents never get public and put to a register. They are instead either stored by the landowners or at a notary. The system does not provide any information to the state of the transaction and the only regulation the state has is via a framework for the transaction documents. This gives a high risk of fraud and security for errors. (Dale 1999)

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Almost every country has chosen the other two types. The deed and title systems in various countries have registers that typically have the four basic legal principles:

1. The booking principle: If there are changes made on rights of a property, the effect of the changes is not legally effective until it is registered in the land register.
2. The consent principle: The real entitled owner (in the register) must give his consent if before changes are made in his inscribed property.
3. The principle of publicity: The register is open for the public and available for public inspections. The registered documents are to be relatively correct and make a protection for third parties, e.g. banks will be able to use a property as collateral.
4. The principle of specialty: both the owner and the property must be fully investigated before the documents can be inscribed.

(Henssen 1995)

2.2.3 Deed registration system

The basic principle of a deed registration system is that the document of a transaction of land, a deed document, is registered and becomes public in a register. The deed works as the evidence of a transaction, but not that the involved parties were the legally right ones. It is therefore important that the ostensibly owner's ownership can be traced in the deeds system before a transaction. (Henssen 1995)

The deed registration systems minimum requirement of simply registering transfer documents has given room for improvements to the system. Many countries are using the deed system and it has taken many forms. From simple, unorganized deed systems like in parts of US to more improved deeds systems like in South Africa. Improvements as:

- The use of mapping, using clear graphical boundaries around parcels.
- Ensuring that the register is as complete as possible. Purchasers and sellers of land should be able to rely on the information that is kept in register.
- Making registered deeds have a legal advantage over unregistered ones leads to more registration.
- Improved accessibility to the system, making it easy to access and search for deeds.
- Digitalization of deeds and use of computers. A digital register immediately makes it easier to search and find deeds. (Zevenbergen, 2002)
- Standardize surveying and mapping and being realistic on the accuracy of the detail level. Better if cheaper methods are possible to utilize.
- Standardization of documents and forms for landowners, notaries and other stakeholders. (Dale 1999)

2.2.4 Title registration system

The first title registration system was designed to erase the problems of deed systems, being more accurate, secure and to simplify the whole process of transactions with properties (Dale, 1999). In the title registration system it is not the transaction documents itself that makes up the right to e.g. own a piece of land, but the legal effects that it gives. The document gives the rights to a property for the rightful claimant, which gets the title for the property (Henssen 1995).

The title registration system is a parcel-based system where it is easy to see who the owner of a certain property is. If a certain change in rights for a property through a transaction document is presented to the registrar. The registrar will go through the earlier registered documents and make sure that the new transaction is correct to the old documents. When the registrar registers the new document it becomes valid and the title have been moved to the new owner (Zevenbergen 2002).

The title register should have certain conditions to be reliable for the public:

- *The mirror effect*: The register is reflecting the current legal situation. The titled owner is able to trust the register and should not have to find any legal proof from other sources.
- *The curtain principle*: All previous historical events and former transaction are blocked out by the registered title.
- *The insurance or guarantee principle*: The state insures that registered information is true and provides compensation if not. This gives a financial security for title owners and buyers.

(Henssen 1995)

The title systems can be divided into two groups the Torrens and the German style system. The main differences between the two groups are more of technical matters, like how the parcels are described in the cadastral procedure and which government office is responsible for the land register. The world map in image 1 shows which countries have adopted which title system, deed system or a mixture of registration systems (Enemark 2010).

Zevenbergen (2002) have categorized the systems in positive and negative systems. The main difference is that the state guarantees that the title is registered to the rightful claimant and compensates if the register is incorrect. In the negative system there are no guarantee of the title, the state only corrects minor wrongs in the register and does not cover any compensations.

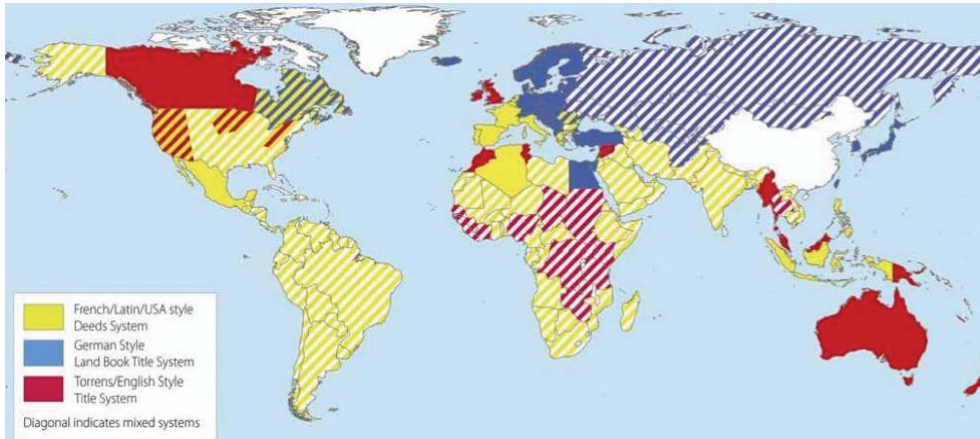


Image 1, World map of registration types, (Enemark 2010)

2.2.5 Deed versus Title

The distinction between the two systems has become greyer. A lot of systems cannot be directly categorized as one of the extremes, but are somewhere in between the two. If comparing an improved deed system with a title system, which has inadequate arrangements of managing, the previous can have more advantages (Zevenbergen 2002).

To compare the classic deed system with the classic title system, the previous one is the cheapest to operate but is not as safe as the other. In the deed register there are no verification of the ownership and the two transacting parties must investigate each other and pay for the transaction cost. As in the title system the state handles the responsibility for accurate information of the register. This leads to a much more comprehensive administration, as seen above, and a higher cost of maintaining it (Deininger and Feder 2008).

In the US deed system a market of title insurance from private companies have emerged due to the lack of security in their register. This solution of the deed system disadvantage took long time and was rather specific for the country and would not be recommended for a developing country. (Deininger and Feder 2008)

If land values are low, there is a better chance that a landowner would register a transaction because his benefit of doing so would be greater than the cost of the registration. Where the land values are higher the title system would be socially optimal whereas the deed system works better on land with lower value.(Arrunda and Garoupa 2003).

According to Zevenbergen the title registration system has strongly been favoured before the deed system in the English literature. This is due to the

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strong opinions of English Anglo-Saxon authors, which bases their ideas on England's history, where private conveyance and secret deed systems were used during the 19th century. These types of informal registration were risky for landowners and state desperately needed a secure system. The state introduced the title system in 1862, which failed, but after introducing the principle of general boundaries, selective compulsory registration, simplifying of the land law etc. it started to work. The system has not managed to cover all the country and in 1998, 25% were still under the old system. Other experts and authors from countries with a German style or a Torrens style systems also claims to have managed to find the best solution and promote their systems (Zevenbergen 2002).

2.3 Securing Land rights with Titling Programmes

“Everyone has the right to own property alone as well as in association with others”, “No one shall be arbitrarily deprived of his property” according to United Nation’s The Universal Declaration of Human Rights article 17. One way of securing these fundamental human rights is to record and legalize the rights in land. In recent years institutionalising have become a central piece in the work of poverty reduction and economic growth. Especially the institutions surrounding property rights have become a centrepiece in the effort for economic development (Acemoglu and Johnson 2005).

The Peruvian economist Hernando de Soto is one of the most influential in the discourse of poverty reduction and economic growth for developing countries. De Soto argues that there is an enormous amount of “dead capital” in the low-income countries locked away in the land. Even a shack on an informal settlement has a capital value and potential. Due to lacking registration and a vast number of “extra-legal” settlements the capital sitting in these assets are not realized. The most prominent way to transform “dead capital” to “live capital” is to use property as collateral in order to obtain loans and thereby realizing the capital. The solution, according to de Soto is to legalize “extra-legal” settlements and businesses as well as to record and register the land. The most prominent outcome of these activities will be economic development. The approach is the problematic part, things like: putting legislation in place, organize the institutions and arrange the management. To obtain the right results it will take a lot of commitment, cost money and take time (de Soto 2000).

De Soto’s approach had a huge impact on the global debate towards the fight against poverty. In many developing and transitional countries different types of property institutions has been, and are being implemented. The main approach on the matter is to enforce some sort of land register (Deininger & Feder 2008).

Land registration and recording is one factor combined with demarcation and survey of land boundaries, adjudication of rights, resolution of conflicts and land management referred to as land administration (United Nations 1996). These factors are often under-established and inefficient in low-income countries and efforts are made to enhance these, often through so called titling programmes (Deininger & Feder 2008).

A land-titling programme is often a co-ordinated approach on some or all the factors under land administration (Ingram & Hong 2008). The main objectives are often to improve tenure security, reduce poverty, improve governance, improve the property market, make the land management sustainable (Mitchell, Clarke and Baxter 2008) and counter gender discrimination (Deininger & Feder 2008).

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In theory there are three main justifications on why the government should intervene in the property field: (1) To establish who has the right to reap the harvest from the land and thereby prevent overuse. (2) To secure tenure and make information available and thereby improving possibilities for investment. Motives for this approach are on one hand that the amount of resources previously spent on defending the property from intrusion can with secure tenure be used on investment. The other motive is that the owner can be sure to reap the long-term production from an investment. Making information available leads to less transaction costs. With an up-to-date register it is possible to level out the asymmetry between buyer and seller or borrower and lender. (3) To have better management over land by reducing externalities and distributing public goods like infrastructure (Deininger & Feder 2008).

There are circumstances that can lead to unsuccessful outcome from a land-titling programme: (1) Corruption and ineffective governance that makes the registration system untrustworthy. (2) The credit system is unable to provide credit as calculated. (3) A too extensive administration system with long lead times that fails to provide a value worth product. (4) If there is no scarcity of available land it can lead to alternative ways to secure tenure (Deininger & Feder 2008).

In reality, as mentioned above, land administration programmes with different approaches has been adapted in a large number of countries. Studies have been made on different outcomes of the titling programmes. Most titling projects are still being implemented so the long-term effects are difficult to evaluate. Results from studies on the matter implies that with proper governance and administration titling projects have a positive outcome on reducing illegal land partitioning and results in higher and more reliable compensation for public takings (Deininger & Feder 2008).

A number of studies have taken place in Buenos Aires, Argentina these studies are of substantial value because they compare the different attitudes between households in the same area with similar economic background where some were given titles and some were not (Durrand-Lasserve 2008). The studies shows that the group that were given titles is more open to market economy values, like seeing money as a way for happiness (Di Tella, Galiani and Schargodsky 2007). The titled group are more likely to invest more in their houses and human capital like education for their children. But difficulties have occurred with using the property as collateral, the banks seem unwilling to lend money to the titleholders. The reasons for this seem to be the expense of evictions and the low value of the properties. Also income of labour seems to be unchanged by comparison (Galiani and Schargodsky 2005). Another worrisome observation is that many of the households seem to be doing informal subdivisions and sales even though they struggled in the first place to get the

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title. The problem according to the authors is that legal transaction costs are too high compared to the value of the property (Galiani and Schargodsky 2011).

De Soto's lead solution in the war against poverty is the ability for informal settlers to obtain title and thereby access the credit-market (De Soto 2000). According to evaluation studies the existence of titles for the low-income population does not lead to the ability to use it as collateral. Often the banks seem unwilling to lend money to people with low income and low value properties. And also the titleholders seem unwilling to risk their house and residence as collateral do to the risk of foreclosure (Deininger and Feder 2008). A study about a land-titling programme in Thailand did find the opposite result. There titled properties were more often used as collateral but Thailand had an already relatively well-functioning property market (Feder and Feeny 1991). In Paraguay and Guatemala only medium and large landowners got increased credit access (Deininger and Feder 2008)

The hypothesis that increased tenure security affects the incentive to invest is mostly accepted. The question seems to be if a title registration programme is the best approach on the matter (Deininger and Feder 2008, Fernandes 2008, Durand-Lasserve 2008).

Edésio Fernandes is critical towards titling projects. His main counter-argument is that title projects are too extensive and rigid, he argues for a more diverse approach towards the objective, economic growth and poverty reduction. The main approach towards property administration in low-income countries is the matter of tenure security and preventing informal settlement in advance. This does not have to be as fixed and costly as the whole title registration apparatus. Fernandes argues about different problems, some mentioned above, with large titling projects: (1) Problems with credit access for poor titled landowners. (2) The difficulty to present legal proof of the right to the untitled land. (3) The willingness to invest is related to the impression of tenure security, which is not the same as a title. (4) The titling programmes have led to more people moving into areas where there are informal settlements. (5) Titles have been given to people where the ownership is disputed and in inadequate areas. (6) It is too expensive for the titleholders to maintain the system once the titles are issued, provoking informal boundaries and subdivision on titled property. (7) The cadastral procedure is too rigorous and precise compared to the situation, making the procedure too expensive on a cost-benefit analysis (Fernandes 2008).

3 Sri Lanka

3.1 Geography and Climate

Sri Lanka is a tropical island that lies nearly 50 km south of its giant neighbour India, see image 2. The island was a part of its neighbouring continent but today only a band of islands and coral reefs remains between the countries. The drop shaped country has a stretch of 65 610 km², which makes it almost the size of the Republic of Ireland. The elevation across the country from the even grasslands to peaks over 2000m in the central highlands. (Landguiden, Geografi 2011)

Its location near the equator, gives the nation a similar climate all year around with an unchanging daylight time. The average temperature in the main city Colombo is 27 C and it gets around 2500 mm of annual rainfall. Instead of temperature drop, two monsoon seasons gives variations to the climate. This happens during the mid-winter and mid-summer months. (Landguiden, Klimat 2011)

Three major climate zones and a vast change in elevation across the country make great variation in nature and cultivation. In southwest lies a climatic wet zone where density of rainforests, agriculture and cities are higher, this is also where the majority of people live. In the dry zone less rainfall makes savannah and grasslands dominate the landscape. (Landsguiden, Klimat 2011)

3.2 The People

The nations population in 2011 was 20 869 000 people with only 15.1% living in the urban areas, mainly around Colombo and the capital Sri Jayawardenapura / Kotte, see image 2. (Landguiden, Befolkning och språk 2011)

74 % of inhabitants have Sinhalese background and are mainly living in the central and south. The Tamils, 18 %, are decedents from south India and divides into Indian Tamils and Sri Lankan Tamils depending on when they came to the island. They mainly live in the northern areas around Jaffna. 7 % are Muslims and does not see themselves as different ethnicities. The Muslims consist mostly of converted Tamils but have a big group called Moors, who are descend from northern Africa. Minor ethnicities are e.g. Malays who came with the Dutch from Java and Burghers descendants from Portuguese and Dutch soldiers and colonizers. The Veddhas are considered being the native Sri Lankans, but only consists of a few hundreds today. (Landguiden, Befolkning och språk 2011)

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The major religious belief is Theravada Buddhism. The second biggest is Hinduism, every sixth person in Sri Lanka is Hindu. The third largest is Islam where every tenth is Muslim. Christianity was brought to the island during the colonial era and is still practised in some local areas around the coasts. (Languiden, Religion 2011)

The official and most used languages are Sinhalese and Tamil. English from the colonial era is still used in the high society and in administration. In religious contexts the languages Pali in Buddhism and Arabic in Islam is used. (Landguiden, Befolkning och språk)



Image 2, Sri Lanka (CIA 2013)

3.3 History

The first known people inhabited Sri Lanka approximately 30 000 years ago, they were the ancestors of the present Veddhas. Since then the Veddha population have declined and the main population today are Sinhalese and Tamil ethnicity which both claim to be the first to settle the island. Research has found that both ethnicities came to Sri Lanka much later, around 400 resp. 200 B.C.E. (Peebles 2006).

Between 200 and 1000 C.E. the Buddhist Sinhalese culture had its peak. The foundation for the prosperity came from the development of an advanced irrigation system for rice paddies. This made it possible to maintain two large crops each year instead of just one (Peebles 2006).

During the 13th century Sri Lanka was repeatedly invaded by southern India and eventually the Kingdom collapsed. The Sinhalese relocate to the south and with the help of India, the Tamils settled a province in the fertile lands in the north (Jaffna peninsula). The island became divided into three kingdoms, the Tamil kingdom in the north and two Sinhalese kingdoms located around today's Kotte and Kandy. (Landguiden, Äldre historia 2012)

In the late 14th century Sri Lanka became of interest for European traders, because of its exotic spices and its strategic position along the sea route to East Asia. After 1498, the Portuguese conquered cities and established fortresses along the southern India coasts and on the west coasts of Sri Lanka. Under the 16th century the Portuguese dominated the trade route around Sri Lanka's coast but never manage to conquer the Sinhalese kingdom around Kandy. (Ludden 2002)

In 1602 the first Dutch expedition arrived to Sri Lanka and made contact with the Sinhalese Kandyan Kingdom. The Sinhalese rule on Sri Lanka was now weak and they would need help get rid of the Portuguese. The Kandyan king signed a treaty with the Dutch in 1638, that together they would depose the Portuguese and afterward the Dutch would leave the island. (Peebles 2006) The Dutch did depose the Portuguese but did not hold the treaty of not leaving, and by 1707 the Dutch ruled the western coastline and the spice export (Ludden 2002). They did not prioritize the inner land because of the risk of losing the coastline to the British and the French fleets (Peebles 2006).

When the European countries were at war in the 18th century, their interest of having fleets and trading in Southeast Asia were low prioritized. When France seized Amsterdam in 1795, the British seized Sri Lanka from the Dutch. (Ludden 2002) Sri Lanka became a British crown colony in 1802 and by 1815 they seized the entire island by conquering the Kandyan Kingdom (Divithure and Tang 2012).

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This changed the islands economic and social system entirely. Earlier most production of rice or crops was meant for domestic sales and to be consumed within the country. The British were more interested on export, which lead to plantations on bigger scale. Large plantation for tea and rubber were set on lands that previously been forests or rice paddies. This led to food scarcity and the previous self-sufficiency was no longer possible. A monetary economy and a new tax system were introduced for the entire island (Landguiden, Äldre historia 2012).

The changes that the British introduced gave birth to a Buddhist nationalistic movement and the idea of an independent Sinhalese ruled nation. The movement grew larger and in early 20th century even the English speaking elite joined in on a political level. During these times the minority ethnicities were worrying about their interests and gave support to the movement if their interests were taken care of (Landguiden, Äldre historia 2012).

In 1948, when the WW2 had ended and the British Military Troops had left the island, Sri Lanka ended being a British colony and became an independent state and also a member of the Commonwealth of Nations (CLGF 2013). The nation was handed over to the right wing oriented United National Party (Languiden, Modern historia 2012). At the time clashes between the ethnicities in the new nation. After the SLFP had won the elections in 1956 they introduced a new act, which stated that Sinhalese would be the only official language (Landguiden, Modern historia 2012). The new act led to more discrimination and violence between the ethnicities (Fonseka 2010).

In 1972, Sri Lanka became a republic and changed its name from the former name Ceylon. In these times discrimination of the Tamils had grown strong and a group of young Tamils in Jaffna formed the most known terrorist group, the LTTE or Tamil tigers (Landguiden, Modern historia 2012). They were fighting for an independent state in the areas around Jaffna. The conflict between the LTTE and the Government of Sri Lanka officially started in 1982 when the LTTE took to guns. The civil war went on for three decades with several of peace talks and cease-fires from different governments. The conflict ended in May 2009 when the leader of the LTTE was shoot down by the government forces. The war has affected the whole country and the relations between Sinhalese and Tamil ethnicities severely. (Fonseka 2010)

3.4 Economy

Sri Lanka is categorized as a lower middle income country by the World Bank. The GDP per person in 2011 was 2824 USD. This is double to its neighbour India but of the 20 million most people are poor. The currency is Sri Lankan Rupee which converts 1 USD = 126.35 LKR on 23 May 2013.

The agriculture is of major importance to the country's economy with three main export crops; tea, rubber and coconuts which takes up 40 % of all agriculture lands. Textile industries and tourism are the second two contributing industries to the nation's economy. The last has increased significantly since the end of the civil war and is believed to be of future importance. The income from the total exports is not enough to cover the expenses from the imports, this means that the country is depending on funds from outside, Sri Lanka already have a significant foreign debt. (Landguiden, Ekonomi 2012)

3.5 Politics

In the republic of Sri Lanka two parties have mainly ruled the government since the independence 1948. The United National Party (UNP) was the first ruling party and has a more market oriented political agenda than the ruling party today, the socialist Sri Lanka Freedom Party (SLFP). SLFP was for a long time dominated by the Bandaranaike family. After the founder of the party Salomon Bandaranaike was killed his wife took over as the first female ruler in the world. The SLFP has a more pragmatic view on the minorities and was elected for the first time while running the controversial question of making Sinhala the only official language of Sri Lanka. Today the party is dominated by the President Mahinda Rajapaksa's family. A strong reason for his support from the Sinhalese majority is the confrontation and annihilation of the LTTE. The UN has found "reliable evidences" of war-crimes committed by both sides at the end of the civil war. Tens of thousands of people were killed in the intense fighting during the last days of the war. The LTTE are accused to use civilians as human shields and that the government forces killed civilians with artillery fire (Landguiden, Politiskt System 2012). In March 2013 the UN voted for a resolution that encouraged the Sri Lankan government to do an independent investigation of the allegations of war-crimes (Landguiden, Kalendarium 2013). In Sri Lanka the climate for journalists are harsh, arrests and disappearances of critical journalists is reported. The major newspapers and television channels are under the influence of the government (Landguiden, Massmedier 2013)

3.6 Administration

The President of the republic is the head of state, head of cabinet and chief commander of the army (Landguiden, Politiskt System 2012). He or she is elected for 6-year terms with can possibly sit for unlimited number of terms. Members of the cabinet are elected by the President, which also is head of the cabinet and elects the Prime Minister. The President has the right to remove the

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parliament and declare a re-election if he or she has troubles to get approval for his or her agenda in the parliament. The people elect the 225 members of the parliament for five-year periods (UNESCAP 1999).

The country is divided into 4 administrative levels Provinces, Districts, Divisional Secretariat Divisions and Grama Niladhari areas with offices and titled officers in the different levels.

The Provincial Council members are elected by the citizens for 5-year terms in each province (UNESCAP 1999). Below in image 3 the Provincial Council is the local authorities: Pradeshiya Shaba (village council), Urban Council or Municipal Council. They are the most local elected political element and are elected by the local citizens for 4-year terms (UNESCAP 1999). On the left side of the organization chart is the local division of government administration where non-elected personal occupies the roles on different administrative levels. The lowest governmental function is the Grama Niladhari, which governs around a few hundred citizens and is posted on a local rural level (MPAHA 2013).

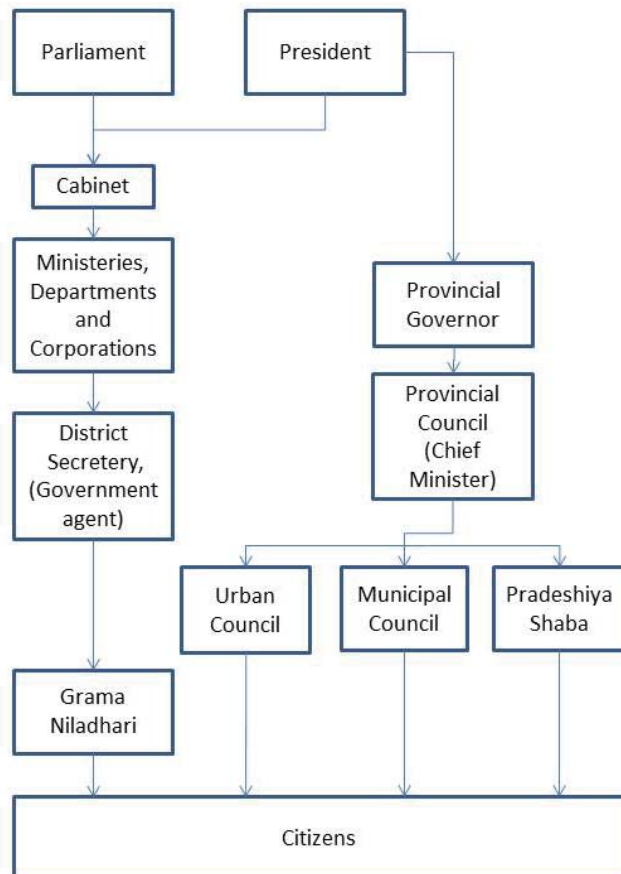


Image 3. Governmental structure. (UNESCAP 1999)

4 Sri Lanka land law and management

4.1 History of land rights

The history of the island affects the land tenure and peoples relationship to land. The history of Sri Lanka is diverse with a long history of colonial inference. One way to describe it is to divide the history with the different authorities that have been in power of the island.

Sinhalese kingdom

Before the first Europeans landed on the island, the kings ruled and owned Sri Lanka. People lived in villages and each landholder was obliged to contribute to the prosperity of the kingdom. A village headman was the contact person between the king and the citizens. Within the village the inhabitants were responsible for allotments (Pangu) often containing both highland and lowland with different agricultural advantages (Divithure and Tang 2012). The kings gave considerable parts of the land called Viharagam or Dewalagam to temples over the decades. These lands were supposed to assure the livelihood of the clerks that lives in the temples. This land was set aside from the king's jurisdiction and the temples had the final judgment over the land. The temples gave permits to farmers to cultivate the land with the counter requirement to perform service or render due to the temple (Marasinghe 1993).

Some early land registers were being held at the time. In this early registers there were some information about the villages, the corresponding land and its possible outcome, mostly for taxation purposes. The register did not contain any maps or other geographical information (Divithure and Tang 2012).

The Portuguese rule

The Portuguese ruled the islands coastlines in the 16th century: they introduced the important quit-rent system. The system is a feudal invention where every land (Pangu) holder pays an annual tax, with compulsory labour, to the village headman. The headman was responsible for collecting the tax from the Pangu holders and thereafter either made some service or paid tax to the Portuguese rulers (Divithure and Tang 2012).

The Portuguese tried to enforce a new land register in Sri Lanka. Their efforts mostly fell short-handed because the rising disorder and opposition from locals towards the end of the Portuguese rule. The expected outcome from the land register was a better way to collect and calculate taxes as well as gaining a better supervision over the village headsmen (Divithure and Tang 2012).

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The Dutch rule

The Dutch ruled parts of the island during the 17th and 18th century. After the Dutch empire conquered and succeeded the Portuguese, they started making changes in the land laws. They handed out grants to the people doing services for them. These were called Accomodessan and were including different rights. One type was when the tenant and grantee was the same person directly paying taxes or doing services for the rulers. Another type was when the grantee was given the right to manage an entire village and its inhabitants. The grant holder contributed to the empire by paying tax or doing services for the rulers.

The Dutch realised that the previous village headsmen had a remaining strong position in the village and were a potential threat to their rule. They arranged for the headsmen and the monasteries, which had retained rights since the Sinhalese kingdom, to have less influence in land rights.

The Dutch introduced a land register where all landholders were included. This also contributed to a more reliable tax collecting system. The Portuguese land register was disregarded and a new system introduced. One register held information about the families, name, caste and occupation, and the other register held information about the land. The Dutch rulers also performed land surveys and produced maps (Divithure and Tang 2012). Another major modification was to introduce the Roman-Dutch Law which still is being practised today (Fonseka 2010).

The British rule

The British ruled on Sri Lanka from 1796 until the independence in 1948. In the beginning they tried to abolish the compulsory labour (headsmen system) but rebellions forced to re-establish the system again. After the conquest of the whole island in 1815 the compulsory labour system was used extensively to create infrastructure in the newly seized lands (Divithure and Tang 2012).

The British gave out land grants on uncultivated land to “deserving” people (Perera et al. 2007). To do this within the jurisdiction a number of laws were enacted (Marasinghe 1993). A committee eventually suggested some radical administration changes throughout the whole island that were gradually implemented: 1) A final abolishment of the headsmen system. 2) The abolishment of the caste system and removal of it from public proceedings (Divithure and Tang 2012). 3) The recently granted land was sold at low-costs, often bought by foreign plantation owners or other aristocracy (Perera et al. 2007).

The crown land encroachment ordinance No 12 of 1840 proclaimed all waste land such as forests, uncultivated or unoccupied land as Crown land (Rubasinghe 2010). In many cases the landholders had difficulties to provide evidence that

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they owned or held the land, which in those cases the land was vested in the State. Because of the schemes of the British 90 % of the land in Sri Lanka became Crown land. In 1982, 82.3 % of the land was still owned by the state (Mapa et al. 2002) Subsequently the British declared the Waste Land Ordinance of 1897 which gave private ownership to people with 30 years of continuous possession of the land, if so claimed (Perera et al. 2007).

As a consequence of the land grabbing from the state and plantation owners, a large group of people in the country became landless. When the food scarcity got worse after the WW1 the government started some actions to give back some of the rights of ownership to sustainable small-scale farmers and give back some of the land development to private initiative. One of these actions was establishment of a Land Commission in 1927, which examines the use of crown lands. The suggestions from the Land Commission ended up in the Land Development Ordinance (LDO) (1935) (Divithure and Tang 2012).

In 1863 a deed registration system was introduced as a way to register land related transactions. The British tried on multiple occasions to introduce a title register but failed to do so except in three urban regions close to Colombo where a title register still is in use. In these regions a survey plan must be produced to register a land transaction.

The British carried out block-surveys and triangulation across the whole country. Boundaries between private parcels were not recorded. 80% of the country's villages were covered by a separate plan called Final Village Plan where geographical details were displayed. These plans were the background for Sri Lanka cadastral surveying system before the new systematic surveying program was introduced with the Registration of Title Act (RTA)(1998) (Divithure and Tang 2012).

After the independence 1948 and onwards

Land tenure and land policies have since the independence most been as consolidating or updating the existing regulations and ordinances. A name change from acts instead of ordinances has been introduced. In the years from 1972 to 1977 a socialist government held the power in Sri Lanka. The ruling parties at that time enacted restrictions on private ownership (Perera et al. 2007).

The Land Reform Act (1972) put ceilings on how much agricultural land one private person can own, 10 hectares for paddy land and 20 hectares for other or mixed land. The state acquired land were sold or rented out in certain political programs like the Land Settlement Ordinance (1923). Another act that also limited the extent of private land ownership was the Ceiling on Housing and Property Law (1973) where private persons, but for some exceptions, where

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restricted from owning more than two houses. This act was in difference with the Land Reform Act (1972) later abolished (COHRE 2007).

Steps have been taken since 1977 towards a more liberal property market. The land policy has changed from governmental ownership towards the use of development planning, even though most land still is owned by the state (Perera et al. 2007). Land Grants (special provisions) Act (LG(SP)A) (1979) was enacted when a more liberal government came into power. The provision of the Act was to provide a grant system for more private investment through granting land to landless people. The land that was granted came under the State's possession from the earlier Land Reform Act (1972). In 2003 an attempt to lift the restrictions provisioned by the grants was attempted with the Land Ownership Bill. The Bill was challenged by the Supreme Court and due to inconsistency with the constitution the Bill was not enacted (COHRE 2007).

4.2 Land rights in Sri Lanka

4.2.1 Introduction

The law in Sri Lanka is complex and the legal system has historically been influenced and affected, as mentioned above, by other countries legal system. The Roman-Dutch Law was introduced by the Dutch and still stipulates the foundation in the countries land laws. Later the British introduced and instituted ordinances, which implemented different land policies according to their Common law. In many cases these ordinance still applies. The rulers since independence have amended or abolished the British legislation. With acts, statutes, enactments and regulations they have added and withdrawn elements from the land law (Fonseka 2010).

Traditional and religious rights are still in affect and influential in the land rights i.e. Buddhist, Hindu and Muslim laws and local traditions (Fonseka 2010). The Sinhalese traditional rights are mainly based on the Kandyan Law emerging from the Kandyan kingdom and the Buddhist society. The traditional right for the Tamils in the north are called Thesawalamai Law and is generally based on the same principles as the law in India. Wherever Muslim people live on the island some of their religious laws apply (Perera et al. 2007). The traditional rights still stipulate some rules considering land and especially inheritance to land in Sri Lanka (Rubasinghe 2010).

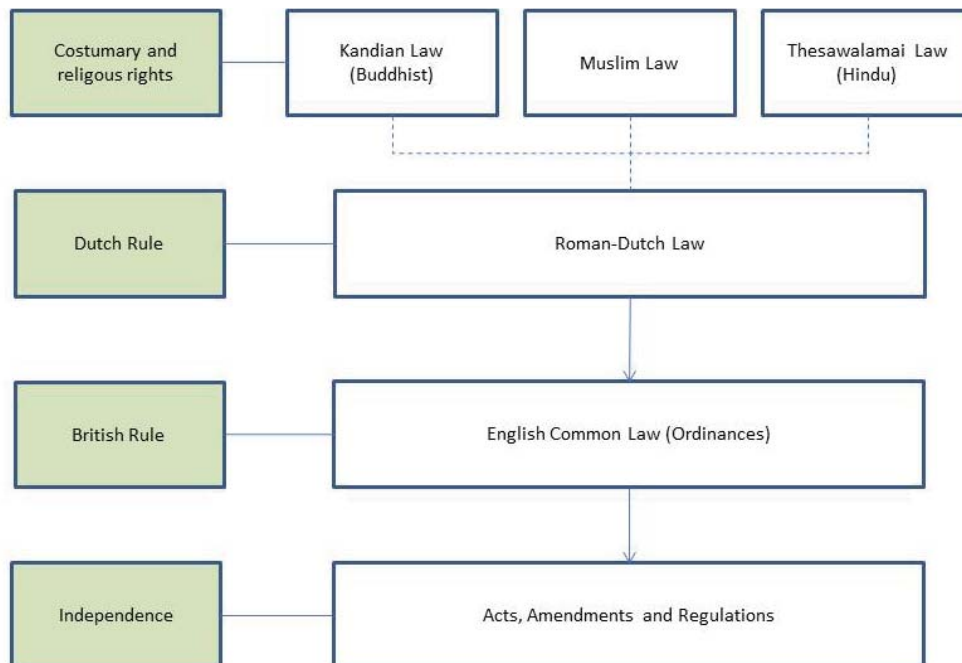


Image 4. Sri Lanka land rights today (Perera et al. 2007)

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Approximately 82 % of all land in Sri Lanka is controlled by the state and the other lands are private owned. Out of the 6.56 million hectares, 2.26 million hectares are used for agricultural purposes. Of these 2.26 million agricultural lands 1.38 million is owned by the state and cultivated under a vast number of tenure arrangements. The other 0.88 million hectares is private owned and mainly distributed in the wet-zone. The net per person availability of land is 0.15 ha (World Bank 2008).

4.2.2 Private ownership

The Sri Lankan legal framework was mainly based on the Roman-Dutch Law (Perera et al. 2007). Its foundation is from the Roman law, which has been transformed to suit the Dutch legal system. The definition of ownership in the Roman-Dutch Law is when the relationship towards a thing is protected by law and the owner has the right to: 1) Possess. 2) Use and enjoy, 3) Alienate (Lee 1946).

Classification of things

In Roman-Dutch law things are divided according to their relationship with persons i.e. if things can be subject to ownership or not. The classifications that are of importance to land law are *Res universitatis* and *Res singulorum* i.e. things owned by companies, villages etc. or things owned by persons. Secondly things are divided according to their nature as corporeal or incorporeal, and movables and immovables. Corporeal things are touchable e.g. houses, land, cars, while incorporeal things consists of rights e.g. inheritance, servitudes or rent. Immovable things are land and houses and the rights derived from those.

Acquisition

There are different ways to acquire ownership over *res singulorum*, the classification which is of most interest within land legislation (Lee 1946).

1. Occupation is a lawful seizing of an un-owned corporeal thing (Lee 1946). In Sri Lanka there is no lawful way to use occupation to acquire immovable property (Rajapakshe 2006a). With the State Land (Recovery of Possession) Act (1887) the state can recover possessions to state land from any unauthorized persons in possession or occupation thereof without having to go to civil court. The unauthorized settlers have little or no rights and a month notice is all that is required before eviction (COHRE 2007).
2. Accession is things associated, physically or intellectually, with something already owned that thereby becomes subject to that person's ownership (Lee 1946). Accession can be subject to immovable property e.g. changes of river bed, growing plants etc. (Rajapakshe 2006a).

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3. Prescription is the acquisition of ownership by long-continued possession (Lee 1946). In Sri Lanka prescription is a way of acquisition of immovable property. If the possession of land uninterrupted exceeds 10 years and has not been accompanied by any counter-performance to the landowner, the possessor can claim full ownership (Rajapakse 2006a). The ordinance that handles prescription is the Prescription Ordinance (1871) (COHRE 2007).
4. In purchase there are three essential elements involved in a contract according to Roman-Dutch Law: A thing to be sold, a price to be agreed and mutual consent of the parties. In Sri Lanka a sale of land needs to be in writing with two witnesses in presence of a licensed Notary Public. The same conditions are valid for mortgaging or agreements regarding the land, except short-term leases, according to the Prevention of Frauds Ordinance (1840) (Rajapakse 2006a). Notary Publics are licensed attorneys at law regulated under the Notaries Ordinance (1907). The Registration of Documents Ordinance (RDO) (1927) stipulates which documents e.g. transfers, donations, grants etc. that can be submitted to the land register (Rajapakse 2006b). A proper registered document is valid against previous documents that have not been registered (Rudasinghe 2006b). The deed system and in cases where the land is subject to RTA (1998) are further examined below.
5. Inheritance. The laws of inheritance in Sri Lanka are complex and differ between ethnicities. The Partition Act (1977) provides provisions to resolve difficult ownership structures, which usually is a result of inheritance.

The Land Acquisition Act (1950) regulates acquisitions of private or granted land by the state for public purposes. Compensation according to the market value of the encroachment is paid to the landowner.

Servitude

In Roman-Dutch Law servitude is a right to do or to refrain from doing something upon a property. The right can be personal (personal servitude) or attached to an immovable property (real servitude) (Lee 1946). The burden of proof lies on the right holder and as evidence a written and registered servitude is superior. Servitudes in Sri Lanka are further divided into two categories, urban and rural. Rural servitudes concerns non-residential land and are always positive i.e. the right must be to do something beyond ordinary rights e.g. usage of a well, usage of a road. In urban servitudes which include all residential properties, rights can also be negative, like a maximum building height. In certain circumstances it is possible to get servitudes by force. If an immovable property has no means of access, a servitude with the right to use the

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neighbouring land to access the main-road can be given by court. To obtain such a right the need must be essential and compensation must be paid to the owner of the encroached land (Rajapakshe 2006a). The compensation is decided by the court¹. When a parcel is sub-divided in the deed system the servitudes follows the land. A real servitude must have a certain location on the land (Rajapakshe 2006a).

Lease and rent

According to Roman-Dutch Law leasing and hiring is an agreement where one part gives the right to use a certain thing during a fixed and limited time for a certain sum of money. Leasing land must be made with some certainty, the object of the agreement must be a lease and some sort of payment must take place. There are extensive regulations regarding the leasing and renting arrangement of land in Sri Lanka according to the Rent Act (1972) (Rajapakshe 2003). The Agrarian Development Act (2000) was enacted to provide security for paddy field tenants: the rights for such a tenant and the size of how much the tenant can hold are provisioned in the act.

4.2.3 Grant & Permits

The Land Development Ordinance (LDO) (1935) was enacted to provide for the systematic development and alienation of state land (COHRE 2007).

LDO permits are issued for cultivation or residence on state owned land. The main purposes for issuing permits have been to legalize encroachment and to expand villages. Today legalizing encroachment is the only valid purpose for giving out permits. Up until 2001 approximately 1.2 million LDO permits had been issued. Even though the provisions were established in 1935, the transformation from permits to grants did not start until 1982. In 2001 the transformations were 1 million grants leaving 200 000 remaining LDO permitted lands (Dharmaratna et al. 2006).

There are certain requirements for receiving a permit, such as having a low income and not owning any land. If some of the requirements are unfulfilled it is possible to cancel the permit and evict the landholders. On permitted LDO lands some of the most important restrictions concerns mortgaging and leasing. These require permission from the Divisional Secretariat office and in the case of mortgaging only is allowed to a set number of lending institutions. Sales and sub-divisions are prohibited and inheritance has specific set of rules (Dharmaratna et al. 2006).

¹ Buddhiseena, H. Bertie. Consultant, former Senior Deputy Survey General and former Project Director for Land titling & Related Services. Interview conducted at: Organization of Professionals Association. 2013-03-09

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When the permit has been converted to a grant there is no way to cancel the grant, and the tenure is equally secure as private ownership, otherwise many of the restrictions still apply. Some differences are that selling is allowed under permission from the land commissioner to a person in the same class (that is farmer, middle-class etc.) and it is easier to mortgage granted land (Dharmaratna et al. 2006).

The LDO grants have been given different names under different governments such as:

- Swarnabhoomi before 1994 (these grants required a survey plan (Marawila 2007))
- Jayabhoomi 1994-2002 (survey plan was not required (Marawila 2007))
- Isurubhoomi 2002-2004 (Wanigaratne 2006)
- Jayabhoomi again (Wanigaratne 2006)
- Today newly granted LDO land is called Ranbima grant¹.

The removal of the survey plan requirement made it easier to issue grants, and therefore most LDO grants today are Jayabhoomi (Dharmaratna et al. 2006). The insecurity from the lack of surveyed boundaries of granted land has led to land disputes (Perera et al. 2007). The Land Commissioner is in charge of the implementation of the Ordinance (COHRE 2007).

The State Land Ordinance (SLO) (1947) gives the state another instrument, similar to the LDO (1935), to give permits and grants for persons to use government land. The President has the supreme authority of these types of grants. Payment according to SLO (1947) should be with a minimal rent or for charitable reasons. There are few regulations surrounding the conditions of the grants and different terms may be set in each case (COHRE 2007). The President has delegated the authority of issuing SLO permits and grants to the Divisional Secretariat office. No summarized data is available on how many SLO grants and permits that have been issued (Dharmaratna et al. 2006).

If a permit is personal, it determines upon the right holders death and every improvement is vested in the state. The SLO grant can be subject to restrictions on sales or other dispositions according to regulations set by the President. The Land Commissioner is in charge of the implementation of the Ordinance (COHRE 2007). The SLO (1947) also stipulates the vesting of state land for road-, forest- and foreshore reservations as well as for other public purposes.

¹ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

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Land Grants (special provisions) act (1979) was enacted to distribute land vested in the state from the acquisitions due to the Land Reform Act to poor and landless people. Requirements on who would get a LG(SP) grant is e.g. a maximum income. 80,000 SLO grants have been given out historically but the issuing has stopped. The restrictions on these grants are very similar to the grants under LDO (Dharmaratna et al. 2006).

During the days of the kingdoms some land was gifted from the king to temples or monasteries for Buddhist worship. These lands are referred to as Viharagam or Devalagam land. The given land was supposed to financially provide for the temple inhabitants. People living within these lands render due or perform services for the temple (Marasinghe 1993). There are two types of tenures on temple land: Paruveni Pangu which is inheritable and Maruveni Pangu which ends on the right holder's death according to section 2, Buddhist Temporalities Ordinance (1905). Managing the temple land is the responsibility of the incumbent (chief resident priest) of the temple (Marasinghe 1993). Paruveni Pangu land can be sold if the chief incumbent is informed (Section 27 Buddhist Temporalities Ordinance). Sales, mortgage and alienation of temple land is, except for some exceptions, prohibited according to section 26, Buddhist Temporalities Ordinance (1905).

4.2.4 Land use restrictions

Attempts to draft a national land use policy for the country have failed on several occasions (COHRE 2007). In 2011 the Land Use Policy Planning Department made suggestions on a land use policy which has not yet been enacted. The suggested main principles are:

- Zoning will be used as the land management tool.
- Utilization will be based on the suitability of the land and will be monitored and managed.
- The state will act as a "trustee" of the land assuring the land use for present and future generations.
- All institutions engaged in land related issues should have an integrated approach to land management (Department of Land Use Policy Planning 2013).

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The Urban Development Authority Act (UDAA) was enacted in 1978. According to the provisions of the UDAA (1978) certain areas are declared as urban areas. The Urban Development Authority (UDA) has the jurisdiction to promote planning according to the UDAA (1978) and regulations. If a development activity is about to take place inside a declared urban area, permission from the UDA is necessary according to UDAA (1978). UDA can in some cases delegate the powers of giving such permissions to the Local Authority¹.

Section 29 in the UDAA (1978) defines what is considered as a development activity e.g. parcelling and subdivision of land or erection or re-erection of structures. These activities require permission from the delegated authority. The regulations for the UDAA is national and consists of restrictions on e.g. minimum backyard size, minimum street width, minimum parcel size to be constructed with a residential house and building norms.

The Town and Housing Improvement Ordinance (THIO) was enacted in 1915. THIO (1915) is closely related to the UDAA (1978) and works as a tool for the government to supervise and plan development in the country. The UDAA (1978) only operates in specially declared areas, while the THIO (1915) applies for the entire country. The ordinance is now out-dated and the regulations are not suited for the technology of today e.g. the AC was not invented when the ordinance was enacted¹. The THIO (1915) stipulates when a permission is needed e.g. for constructing houses or doing major renovations. It also stipulates when the local authority can use the ordinance as a planning device for e.g. provide residential areas or for public purposes according to THIO (1915).

4.2.5 Comparison of tenure types

The Sri Lankan tenure types mentioned above is presented in table 1, divided into the bundle of rights they consist of.

¹ Premathilaka, M.A.N. Chief Public Health Inspector at the Balangoda Urban Council. 2013-04-09. Interview conducted at Balangoda Urban Council

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Table 1, Bundle of rights in different land tenures (Compiled by the authors of this thesis).

	Access	Withdrawal	Management	Exclusion	Alienation
Private ownership	Yes	Yes	Regulated by restrictions in different acts. Permission is needed for e.g. certain constructions or changing land use.	The owner has the right to exclude others. Land can be acquisitioned by the state for public purpose. There is also a possibility to get a servitude by force over a specific parcel	Yes
LDO grants	Yes	Yes	Same as above.	Same as above	Permission is needed to subdivide, selling or mortgaging
LDO permits	Yes, can be cancelled if conditions are not met.	Yes	There are restrictions on land use conditions stating that the permit holder needs to live on or cultivate the land.	Same as above, but can be cancelled	Difficult to mortgage. Forbidden to subdivide or sell
SLO grants	Yes, can be cancelled if conditions are not met.	Yes	Same as above for the grant holder.	Same as above, can be cancelled if conditions are not met	Subdivisions possible if approved
LG(SP) grants	Yes, can be cancelled if conditions are not met.	Yes	There can be conditions on how to use the land with risk of eviction if conditions are not met.	Same as above, can be cancelled	Difficult to mortgage, Permission is needed to sell, subdivision forbidden.
Paraveni Pangu (Viharagam or Dewalagam land)	Yes	Yes	The chief incumbent of the temple stipulates conditions for the land use.	Cannot be cancelled.	Sales are allowed if the chief incumbent is informed. Mortgage is prohibited.

4.3 Deed registered properties

As early as 1863 the deed based cadastral system was introduced in Sri Lanka under the Registration of documents Ordinance (RDO). The system separated the land registration and the cadastre in two separate departments; Registrar Generals Department (RGD) and the Survey Department (SD). Within the deed system there is no coverage of private land information. RGD administers land transactions by registering deeds. Often surveying takes place to verify the extent of land in the transaction, but the information is not kept in any central register. The deed registration is further dealt with in the RDO (1927). The ordinance does not stipulate that any mapping is mandatory, only a description of the land is necessary. Therefore SD does not play an important role in the deed registration system in Sri Lanka. Transactions in land are considered a private matter and the government's role is mostly to collect stamp duty (Divithure and Tang 2013).

Mortgage

If private landowners would like to obtain credit from a bank and mortgage their deed-registered properties, the bank demands a survey plan and a title report from Legal advisors. The survey plan must be surveyed within the last 10 years and the title report explores the ownership 30 years back¹. If the ownership still is unclear a title insurance will be required to obtain credit. Title insurance basically means that an insurance company takes the risk if the ownership is challenged and thereby making the bank willing to use the land as collateral (Gunnasekara 2008).

Drawbacks

In the deed registration system the transaction between parties is recorded. The physical attributes of the object are of lesser importance. The insufficient registration system has led to unclear boundaries, location of properties and fraudulent deeds. This in its turn leads to disputes, insecure tenure, high transaction costs, and difficulties to use the property as collateral. In the country the courts are over-whelmed by these kinds of disputes, which means a lot of pending court decisions are affecting properties. The average settlement of a land case takes around 10 years (Perera 2010).

¹ Udawatta, D.S. Manager at Rural Development Bank Dayawansa. Manager at National Savings Bank. 2013-04-09. Interview conducted at their respective Bank Offices in Balangoda Town.

4.4 Title registered properties

4.4.1 The title certificate:

Each parcel has its own title. The parcel identification number consists of 12 numbers representing the district, village, block and parcel within the block (Divithure & Tang 2013). On the certificate the owner is stated with an off-scale sketch of the parcel extracted from the cadastral map. On the backside of the certificate additional encumbrances are inscribed e.g. grants, servitudes, lease or mortgage¹.

If the claimant of a title certificate is without doubt the rightful owner he or she will receive a first class title. If the ownership to a land parcel is unclear a second-class title could be issued. If the possession of the second-class title has been unchallenged and uninterrupted for ten year the second class title can be transformed to a first class title. If a claim is for a land parcel below the prescribed economic unit co-ownership with neighbouring parcels can be issued according to section 14 RTA (1998). A manager of such co-owned land may be appointed. The manager should distribute the rights of the land amongst the co-owners and also have the right to mortgage the land with the co-owners consent, section 15 RTA (1998). In other cases titled co-ownership is impossible according to section 48 RTA (1998).

Each interest in the land should be registered to be valid according to section 38 RTA (1998). By interest means e.g. servitudes, leases, mortgage, transactions or gifts. A specific form for each of the interests can be found in the Regulations for the RTA (1998) and should be submitted to the Registrar Generals office.

Transactions of a titled property or any claiming any interest in a land parcel must be attested by a Notary Public and signed by two witnesses according to section 43 RTA (1998). The Notary Public should then within seven days forward the forms and the original Title Certificate to the Registrar at RGD, section 45 RTA (1998). If the Registrar finds the forms and documents valid according to the provisions of the RTA (1998) he or she should register it and produce a new title certificate according to the transaction, section 45 RTA (1998).

¹ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

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When mortgaging a titled land parcel, the bank takes possession of the original title certificate and the landowner receives a copy with an inscription of the credit, its value and the interest. The title certificate can be used for different credits in multiple banks. In this case the possession of the certificate should be with the earliest involved bank, but all credits are registered and inscribed in the certificate. In the title system there are no need of either survey plans or title report like in the deed system, even though a title report still seems to be produced in some cases¹.

Granted land is given first class titles if the ownership of the claimant is clear. The land rights according to the LDO (1927) grants does not change because of the assurance of titles. Under the encumbrance list of the title certificate the type of land grant affecting the land is noted. To get title on the early Jayabhoomi grants surveying of boundaries is required².

4.4.2 World Bank project of introducing land titling.

In 1996, Sri Lanka initiated a pilot project on land titling and a dialogue with the donor community. By 1998 the Registration of Title Act was adopted by the government (World Bank 2007). The same year the World Bank initiated the Land Titling and Related Service Project in Sri Lanka. A credit on 5 million USD was given to make sustainable and comprehensive improvements of the land administration system in the country (World Bank 2001).

The main objective of the project was to initiate a large-scale and long-term program that in a 15-25 years period would encompass the whole country. The main-objectives of the program were to: (1) increase tenure security. (2) Improve land market. (3) Give a wider set of possibilities for landholders with a more flexible system. (4) Full cost recovery over long-term, keeping participation in the titling registers value worth. (5) Making the land administration transparent and reliable for all ethnic groups, genders, social classes and political fractions. Overall the objectives of the project were not fulfilled, but some positive results were achieved (World Bank 2007).

The project was subdivided into two components which both gave different results. The first included operational methods, improving; field surveying, time-effectiveness, title issuance etc. The results for this component were within a

¹ Udawatta, D.S. Manager at Rural Development Bank Dayawansa. Manager at National Savings Bank. 2013-04-09. Interview conducted at their respective Bank Offices in Balangoda Town

² Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

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reasonable satisfactory level. The project administration worked close with the Survey Department and improvements in processes were made during the project. The second component focused on the institutional framework and capacity by improving the legal framework, project management, program planning etc. This component had an unsatisfactory result and was not achieved due to many factors. One of the main issues was that different institutions had an unclear hierarchy with poor communication between each other and a low commitment at central government level. (World Bank 2007)

The failure of achieving the second component outcome led to very few titles were issued on disputed land. The operational work did not comprehend with the difficulties that would have been if parcels with disputable ownership relations were titled. (World Bank 2007)

One of the main objectives of the project was to secure tenure, but the landholders receiving a title did already have a strong right to the land. The value of receiving a title for this group may not reach the cost of the titling itself. The group with insecure tenure on the other hand has great value in receiving a title and thereby securing their tenure. (World Bank 2007)

4.4.3 The Bim Saviya Programme

When the World Bank project ended, the title project was continued and funded by the Sri Lankan government under the Ministry of Land and Land Development. The project was given the name Bim Saviya programme which means “Strengthening the Land”. The programme is free of charge for the recipients, the title receivers. The programme has a systematic approach on certifying lands by selecting project areas (Divithure & Tang 2013). The Bim Saviya programme is planned to cover the whole island in 13 years (Registrar Generals department 2011). The current progress can be seen below in Image 5 and in Table 2 the number of registered properties in both register systems.

Table 2, Progress of the programme (RGD 2011)

Year	Deeds registered	Titles registered
2006	925,418	23,374
2007	940,040	39,230
2008	501,647	13,460
2009	748,086	19,306
2010	993,420	76,651
2011	No data	82,838
2012	No data	No data
2013	No data	Goal of 500,000

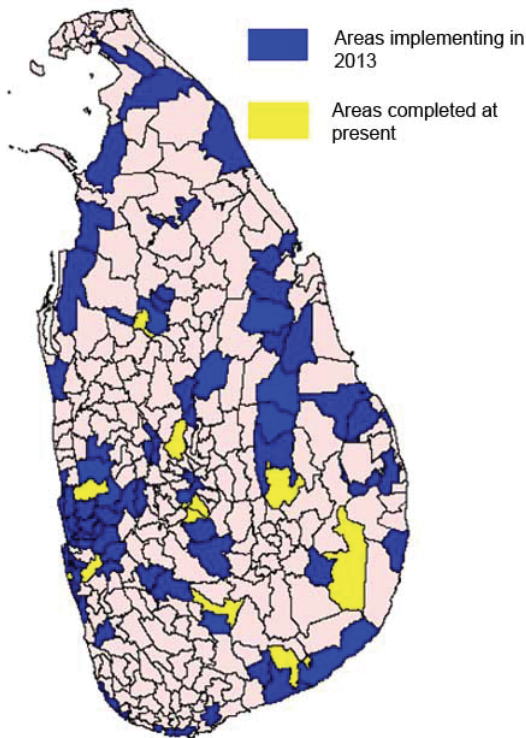


Image 5, Progress of the titling programme (Bim Saviya, Progress 2013)

Objectives and benefits

The main objectives of the Bim Saviya programme are to:

- introduce title registration in place of current deed registration.
- settle or make arrangements to settle the ownership of presently unsettled land.
- establish a Digital Land Information System. (Bim Saviya, Objectives 2011)

The expected outcome from the programme has both direct and indirect benefits. Some of the direct benefits are listed as follow: (1) Ensuring secure free titles. (2) The state assures validity of the title. (3) Making legal advice unnecessary on land transactions. (4) Enhancing transaction time and reducing transaction costs, making mortgaging easier with no need of researching the history about the ownership or producing a survey plan. (5) Making ownership clear of undeveloped land where ownership is unclear and thereby enable land development and easier transactions. (6) Minimizing land disputes. (7) Making land management and administration easier with a nationwide register which provides land related data (Bim Saviya Booklet Undated).

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Some examples of the expected indirect benefits are: (1) Long term reduction of poverty. (2) Reduction of forgeries in land transactions. (3) Increasing the economy for land holders, and there for enhancing the nation's economy. (4) Strengthen the land market (Bim Saviya Booklet Undated).

Organization

There are four departments involved in the Bim Saviya programme:

- Survey Department, doing demarcations and surveys (Divithure & Tang 2013)
- Land Title Settlement Department (recently changed name from land settlement department), determines the land ownership¹.
- Land Commissioner General's Department, involves in state owned lands.
- Registrar General's Department, registers and issues title certificates. (Divithure & Tang 2013)

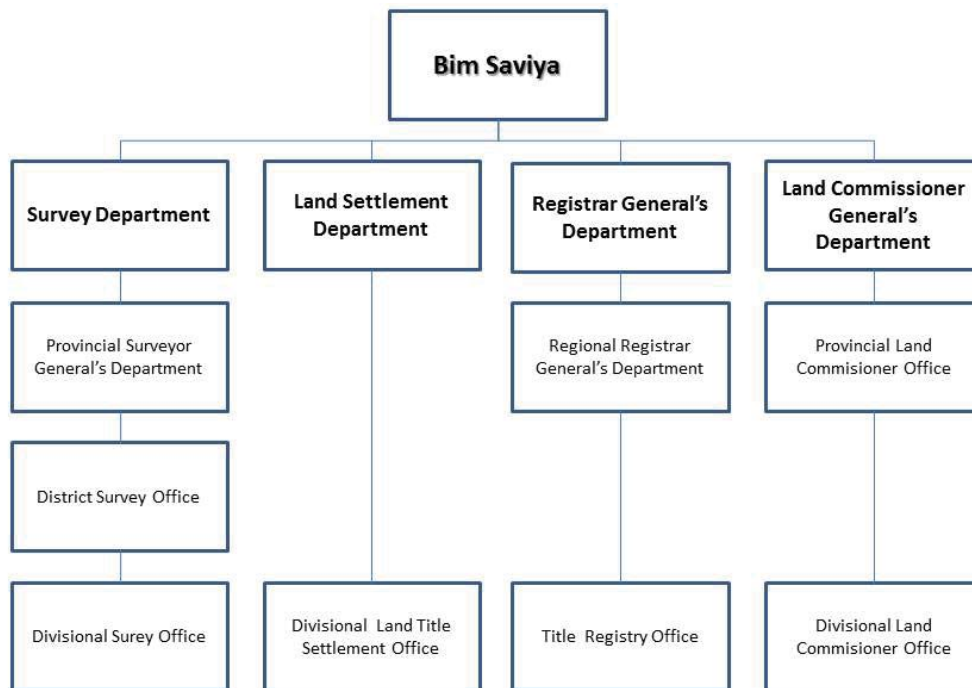


Image 6, Bim Saviya organization chart, (Bim Saviya, About us 2013)

¹ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

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Procedure

The procedure of registering titles through the Bim Saviya Programme can be described differently. The list is produced based upon following sources: 1-5 (Rubasinghe 2010), steps 7-10 from interview with the SS (2013-04-02)¹, steps 11-13 & 15 from interviews with the Assistant Divisional Secretariat official (2013-04-09)² and step 14 from Mr. Buddhiseena (2013-03-09)³.

1. Divisional Secretariat areas are selected according to the master plan for the national program.
2. An awareness and educational program is conducted for the responsible officers and departments.
3. Prior to the field-work a committee of senior officers from the involved departments tries to prevent possible problems in the specific area.
4. The committee decide the order in which specific villages will be processed.
5. An awareness program for the landowners is commenced, which includes meetings and handling out leaflets.
6. A form is handed out to the landowners where they can state their specific claim to the land. The form is submitted via GN to the LTSD.
7. A preliminary investigation with GN, LTSD, SD and landowners is conducted where the basic information for making a cadastral map is collected.
8. A surveyor produces a primitive sketch according to the information and presents it to the SS.
9. The SS orders the surveyor to conduct a full survey of the entire block and the boundaries between parcels, which results in a cadastral map.
10. The SS reviews if the cadastral map is produced according to the regulations and sends it to the Senior SS at the District Office for further reviewing.
11. The LTSD investigates documents and claims and produces a list of names, tenures and claims to the land.
12. The LTSD gazettes all the information for public viewing. Objection and additional claims can at this point be submitted under section 12, RTA (1998).
13. When claims are settled the LTSD gazettes the final information for public viewing according to section 14, RTA (1998) and sends a

¹ Sumedha, Ramindu. Superintendent of Surveys at the Survey Department. 2013-04-02. Interview conducted at the Survey Office in Pallebedda.

² Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

³ Buddhiseena, H. Bertie. Consultant, former Senior Deputy Survey General and former Project Director for Land titling & Related Services. 2013-03-09. Interview conducted at: Organization of Professionals Association.

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document containing parcels and landowners that will receive a title certificate to the Registrar's Generals office.

14. The SD corrects if necessary the changes in the cadastral map according to LTSD final judgement.
15. The Registrar's Generals office produces new title certificates.
16. The landowner submits the old deed documents, which is cancelled and is given the new title certificate.

In the beginning of the programme both the Land Title Settlement Department and the Survey department collected data from the field, at present this is only done by the Survey Department¹.

Additional steps will be executed when there is a land dispute or the ownership is unclear. If the ownership is not settled or the dispute is taken to court the landowners will not receive a title until the ownership is settled (Rubasinghe 2010). A disputed unsettled boundary will be left as a "blind spots" on the cadastral map².

When surveying is conducted on illegally encroached land, the encroachers may receive a grant of the occupied land. The Land Commissioner at the Divisional Secretariat has the responsible for issuing these grants. The granting procedure is complex and involves investigations, meetings and decisions. For temple land a title is given to the chief incumbent. For sharecroppers it is the original owner who gets the title¹.

The cadastral map:

After the complete surveying of a block a cadastral map is produced both in digital format and in printed hard copies. A connected national database consisting of the cadastral map is under development but not yet implemented. The cadastral map has high accuracy, measured with total stations, on the boundary points and is connected to a national survey control system. All the land within the block is surveyed. If there is an unresolved dispute with one boundary, only the outer boundary of the two parcels is surveyed³. If a land parcel is between two blocks two different title certificates will be produced⁴

¹ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

² Buddhiseena, H. Bertie. Consultant, former Senior Deputy Survey General and former Project Director for Land titling & Related Services. 2013-03-09. Interview conducted at: Organization of Professionals Association.

³ Sumedha, Ramindu. Superintendent of Surveys at the Survey Department. 2013-04-02. Interview conducted at the Survey Office in Palledbedda.

⁴ Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayake's residential house.

4.5 Subdivision and amalgamation procedure

If a property owner would like to change the extent of the property, there are three different procedures provided by the licensed surveyors. (1) The subdivision procedure is used if the landowner would like to divide the property into additional parcels for either selling or transferring it to another person. It results in two parcels, which can be of separated ownership. (2) The amalgamation procedure combines several parcels into one parcel. If the landowner has two documented ownerships on two parcels and amalgamate them, he or she will get one document of one parcel. (3) The reallocation procedure changes the boundary between two properties and does not change the ownership of the parcels. It can be seen as a combination of the two previous procedures. Reallocation as a specific procedure is not known or used by none of the interviewed or in the legislation.

Interested parties

The key stakeholder in the subdivision and amalgamation procedure is the person occupying the land. Other directly involved parties and affected by the procedure are right holders e.g. neighbouring properties with servitude rights, banks that has collateral through mortgage or state/temple owned land where the land is granted.

The Ministry of Land and Land Development includes two of the involved departments in subdivision and amalgamation procedures, namely the Survey Department and the Land Commissioner General's Department. These two departments and the Registrar Generals Department under the Ministry of Public Administration and Home Affairs are the three main involved governmental parties whose local offices the landholders come in contact with¹.

The government surveyors are by law only to survey state-owned land and land that is undertaken by the Bim Saviya project according to section 44, Survey Act (2002). Sub-sequent surveys of private land are left for private practising surveyor with an annual license from the Land Survey Council according to section 41 & 44, Survey Act (2002). The licensed surveyor is contracted by the landowner and conducts his or her work according to the agreement with the landowner¹.

The landowner's property is often affected by certain restrictions concerning land use, housing and other land development. The THIO (1915) and UDAA (1978) are laws with restriction of certain development activities and legislates that local authorities can give permits for these. Local authorities can be a Municipality Council, Urban Council or Pradeshiya Shaba and are responsible for

¹ Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayeke's residential house.

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handling of permits. The local authorities are not directly involved in the subdivision or amalgamation procedure but if e.g. a subdivision is done with the purpose of building a house the local authorities has the power to decide if the construction should be allowed. According to the regulations of UDAA (1978) the minimal parcel size for residential purposes are 6 perches, if the parcel is smaller than this the construction will not be allowed¹. If a major development activity, like the development of a new residential area, is performed the local authority is more involved in the subdivision procedure. The plans for this kind of activity will include roads and other common entities which will have to be subdivided accordingly².

When The Urban council are handling out permits for development activities, they requires a cadastral map and will also visit the construction site both at the permission giving and when the construction is completed¹.

4.5.1 Titled registered land

When subdividing a titled property it gives the ability to give away or sell the parcel separately to another person. This recipient of the new parcel can not be the registered owner until all the steps in the procedure (image 6) are completed according to section 47 RTA (1998). A single uncomplicated subdivision in the title system costs around 20 000 LKR according to the licensed surveyors¹.

To do an amalgamation it requires that the land must be transferred and in legal ownership of one person before any of the steps can be initiated. If the parcels are located in different blocks the amalgamation is not possible¹.

If property owner A would like to buy some lands from the property owner B and not the entire property, the procedure would be a reallocation. According to the section 47, RTA (1998) the property owner B would first have to subdivide the requested land and get a new title certificate for this land. Then sell the new parcel to property owner A, who then can amalgamate the new parcel with his old parcel. The practise in reallocation scenarios differs from the legislative framework according to the interviewed licensed surveyors (2013-04-19)¹ and the Superintendent of Surveys (2013-04-19)³. According to them both the subdivision and amalgamation can be done in one procedure without getting a new title in between. The reallocation procedure is not mentioned in the RTA (1998).

¹ Premathilaka, M.A.N. Chief Public Health Inspector at the Balangoda Urban Council. 2013-04-09. Interview conducted at Balangoda Urban Council

² Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayeke's residential house.

³ Sumedha, Ramindu. Superintendent of Surveys at the Survey Department. 2013-04-02. Interview conducted at the Survey Office in Palledbedda.

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Procedure

Both the subdivision and amalgamation procedure for a property with title certificate can be described with the same basic procedural steps. The procedure list below is produced based upon a mixture of following sources: step 1-5 and 7 on the interview with the Licensed Surveyors (2013-04-19)¹, step 2 on the interview with Mr. Buddhisen (2013-03-09)², step 3,5 and 6 from the interview with the Superintendent of Surveys (2013-04-02)³. Steps below can be seen in flowchart in image 7 below.

1. The titled owner contacts a licensed surveyor and explains what he wants to do with the land. The two of them will enter a contract where the LS guarantees the expected outcome.
2. The landowner fills in a special application form, according to the RTA (1998). The form includes all the encumbrances and other particulars of the land. He then sends the form to the Registrar of title. One copy is also given to the LS.
3. The LS visits the the Divisional Survey Office where he presents the application form and fills in a requisition form. The requisition form is a specification of the procedure, which after approval by Superintendent gives permission to proceed the procedure. The LS collects cadastral data and gets new parcel numbers.
4. The LS surveys the land, demarcates the new boundaries and produces a cadastral plan. He also checks what kinds of encumbrances that affects the land and distribute them according to where they are located.
5. The surveyed data is submitted to the Senior Superintendent of Surveys (SS) at the District Office for approval. The SS gives approval if the procedure is done according to regulations regarding surveying and the preparation of the cadastral map.
6. After the SS approval, the cadastral map is update and the documents are delivered to the Registrar of Land Title which registers it according to the RTA (1998).
7. The landowner sends the old title/s to the Registrar of Title which sends back the new title/s.

¹ Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayake's residential house.

² Buddhisen, H. Bertie. Consultant, former Senior Deputy Survey General and former Project Director for Land titling & Related Services. 2013-03-09. Interview conducted at: Organization of Professionals Association.

³ Sumedha, Ramindu. Superintendent of Surveys at the Survey Department. 2013-04-02. Interview conducted at the Survey Office in Palledbedda.

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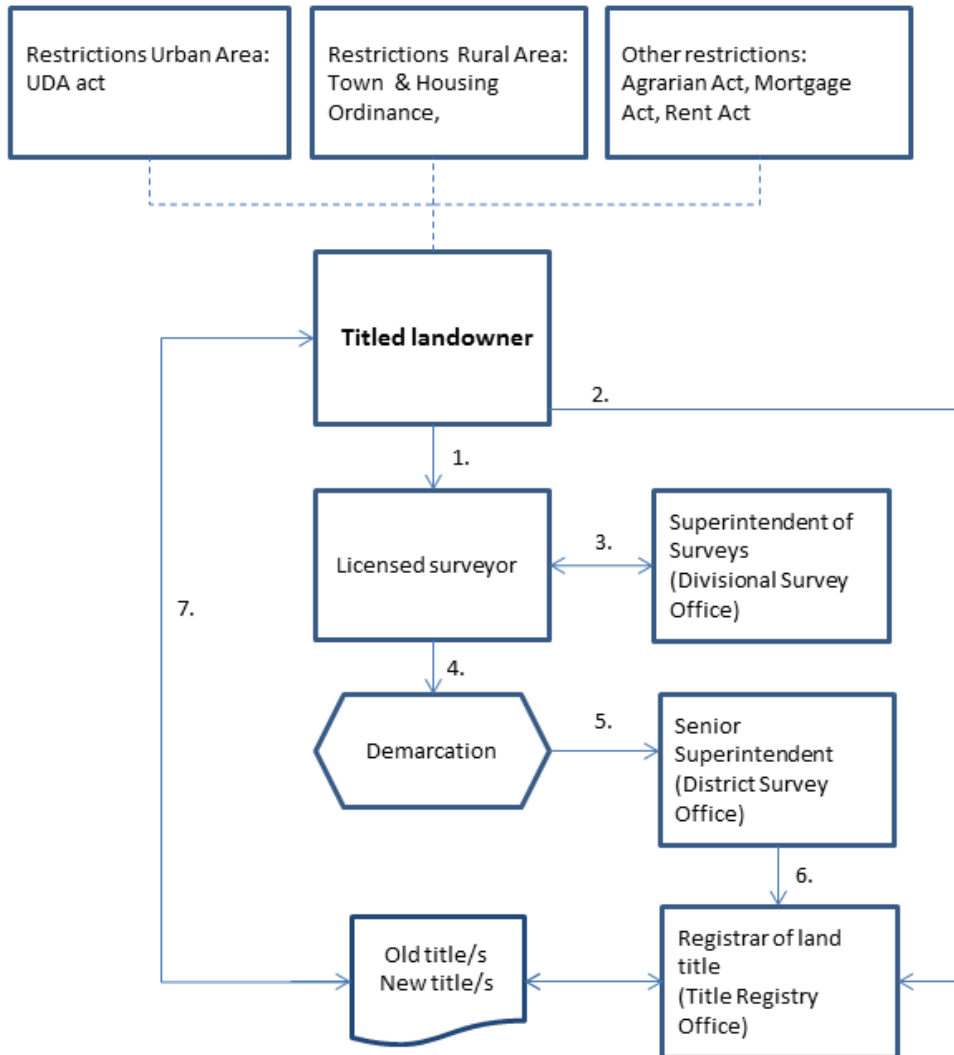


Image 7. Subdivision and Amalgamation procedure on title land (Compiled by authors of this thesis)

Suitability

All activities defined as development activities as mentioned above in the UDAA (1978) or the THIO (1915) requires permission accordingly. But these permissions are not required before the subdivision or amalgamation procedure is initiated or completed.

One section under the RTA (1998) is considering the suitability of the parcel. Section 14 d concerns the restriction of giving title certificates below a minimum economic unit. The size of a minimum economic unit is not mentioned in the act or the regulations.

Right holders

Every encumbrance, on-going court procedure, order or decree affecting the land must be submitted when applying for a subdivision or amalgamation according to section 36 (2) a, RTA (1998).

According to section 36 (6) b, RTA (1998) servitudes must be registered accordingly if they are affected in the procedure.

Mortgage

If the parcel/s that is subject to a subdivision or amalgamation procedure is mortgaged, a bank is then a stakeholder. To be able to complete a subdivision or amalgamation the original title certificate needs to be submitted to the Registrar General's Department according to the RTA (1998). If a titled parcel is mortgaged the loan-giver is in possession of the title certificate. Therefore the participation of the bank is obligatory in the process. If the bank refuses to take part in the procedure the loans needs to be closed before the procedure can be initiated.

4.5.2 Deed registered land

The procedures of subdivision, amalgamation or the combined reallocation in the deed system are similar to ordinary transactions of land. Depending if the deed landowner would like to sell a piece of land or buy from a neighbouring property, the procedure will become a form of subdivision or amalgamation and the counterpart a buyer or a seller. The procedure of a subdivision with surveyed boundaries costs around 5000 LKR for the work of a Licensed Surveyor¹. Neither subdivision nor amalgamation is mentioned in the legal system of the deed registration system, instead division is used RDO (1927).

Procedure

The following list is produced based on the interview with the licensed surveyors (2013-04-19)¹. Steps below can be seen in flowchart in image 8 below.

- 1a Both parties agree on what they want to do with the land and then meet with a Notary Public.
- 2a With supervision of the Notary Public, the parties will produce and sign a deed document with the minimum requirements according to the Prevention of Frauds Ordinance.
- 3a The deed document is sent by the Notary Public to the Registrar of Land which will make a new portfolio for the new parcel. The Registrar confirms the registration to the Notary Public.

Optional:

- 1b If the parties would like to have the land surveyed and get a survey plan they both can initiate this by contacting a licensed surveyor. This is not a requirement for the transfer to be valid but gives a more secure tenure.
- 2b The LS surveys the land, demarcates the new boundaries and produces a survey plan. 3b. The LS sends the survey plan to the Registrar of Land who registers it and files it in the portfolio with the deed document.

¹ Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayake's residential house

The Subdivision and Amalgamation Procedure in Sri Lanka

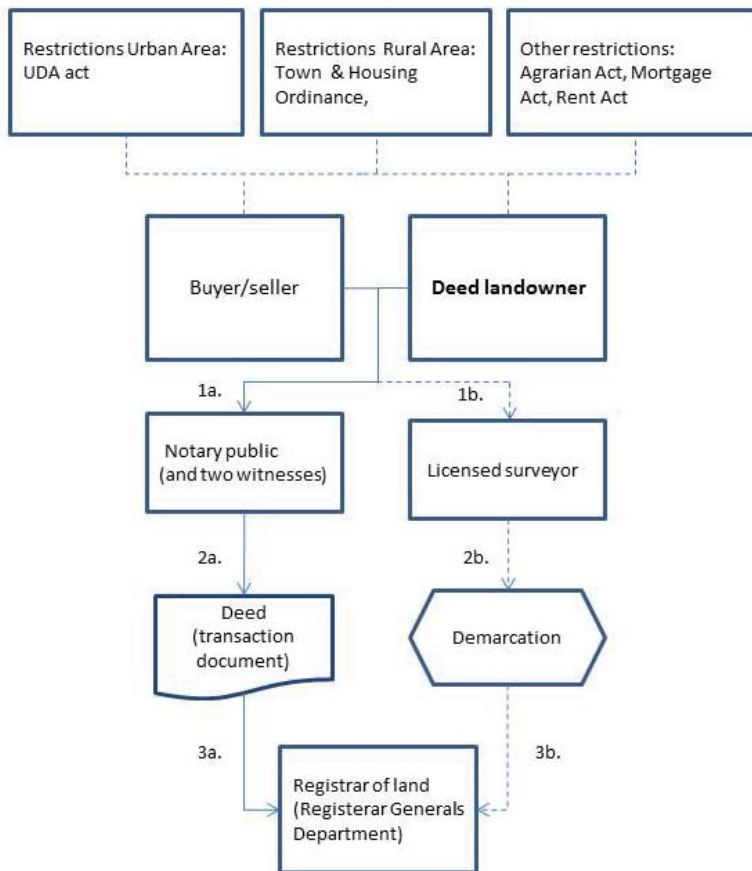


Image 8. Both procedures on deed registered land (Compiled by authors of this thesis)

Suitability

Deed registered land is subject to the same type of restrictions regarding land use and development activities as titled land, UDAA (1978) and THIO (1915). No further suitability judgements are mentioned in the RDO (1927).

Right holders

All rights affecting the land should, to be valid against later registered events, be registered to the RGD. When a deed parcel is altered the Registrar checks old registered rights and approves the registration of the new deeds only if the encumbrances are duly mentioned in the deed RDO (1927).

Mortgage

The banks requires a survey map and a title report in order to mortgage deed registered parcels¹.

¹ Udawatta, D.S. Manager at Rural Development Bank Dayawansa. Manager at National Savings Bank. 2013-04-09. Interview conducted at their respective Bank Offices in Balangoda Town

4.5.3 Granted land

There are multiple grants with different restrictions attached to them. Many consist of restrictions regarding subdivisions and sales. Grants according to the LDO (1935) are most common (COHRE 2007) and therefore the subdivision procedure for LDO grants are examined below.

Procedure

The following list is based on the interviews with the licensed surveyors (2013-04-19)¹ and the interview with the Assisting Divisional Secretary (2013-04-09)². Steps below can be seen in flowchart in image 9 below.

1. To be able to change extent of a granted parcel the holder applies for permission from the Secretariat Division office or the Land Commissioner General's Department.
2. If the requested procedure is according to the conditions in the grant the holder can be given permit. The holder then contacts the local Survey Department Office.
3. The SD sends a government-employed surveyor to survey and demarcate the new boundaries. The new cadastral plan must conform the cadastral map.
4. The cadastral map is update and the documents are delivered to the Registrar of Land Title which registers it according to the RTA.
5. The landowner sends the old title/s to the Registrar of Title which sends back the new title/s.

Suitability

Restrictions on minimum parcel size, land use, type or cultivation etc. are set by the responsible department or authority (COHRE 2007). The minimum parcel size of LDO land is 10 perches³.

¹ Attanayake, M.R.A. and Costa, Jayalath, Licensed Surveyors in the Balangoda region. 2013-04-19. Interview conducted at Mr. Attanayeke's residential house

² Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

³ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

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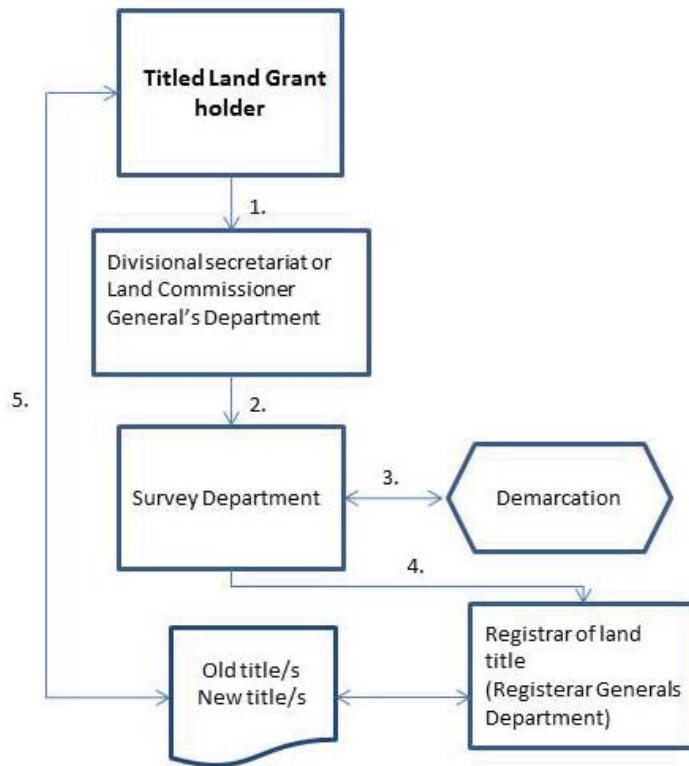


Image 9. Subdivision and Amalgamation procedure on granted land (Compiled by authors of this thesis)

5. Method

5.1 Landowner interviews

The objective of the data collection is to show the preferences of what a landowner thinks about their land and how they value it. A landowner's sentimental or economic view upon his or her land should indicate the willingness to do subdivisions or amalgamations. To understand the different views of urban and rural inhabitants both locations were selected for interviews. The two areas have different conditions and restrictions affecting the subdivision and the amalgamation procedures. 23 interviews were conducted with a translator. Only private residential landowners were selected.

The Bim Saviya program is implemented all over Sri Lanka with the objective to register all land under the title registration system. This is the reason why it was important to find title registered properties in the interviews. The Balangoda D.S. area was one of the first areas where the titling project was initiated and the neighbouring Weligepola D.S. area is now under implementation. Both D.S. areas are located in the Ratnapura District in the Sabaragamuwa Province (image 9 & 10).

11 interviews with rural landowners were made around the village Weligepola, 16 km south of Balangoda Town. They were selected with the assistance of a Grama Niladhari (GN)(the local government personal) in the Weligepola D.S. area. The GN is responsible for the villages inside the two GN areas Gangodagama and Weligepola, and has the most knowledge of the people living there. A number of landowners were selected in order to get different land tenures.

The interviews with the urban landowners were done in three neighbourhoods inside Balangoda Town in the Balangoda D.S. area. Balangoda is situated along one of the high-level road 143 km from the capital. The interview areas were chosen by their characteristics and location outside the town centre but inside the urban zone. The city centre was not selected because the ability to subdivide or amalgamate here is limited due to lack of space and planning zone legislations. The first four interviews were introduced by one of the interviewed licensed surveyors who had good knowledge about the town.

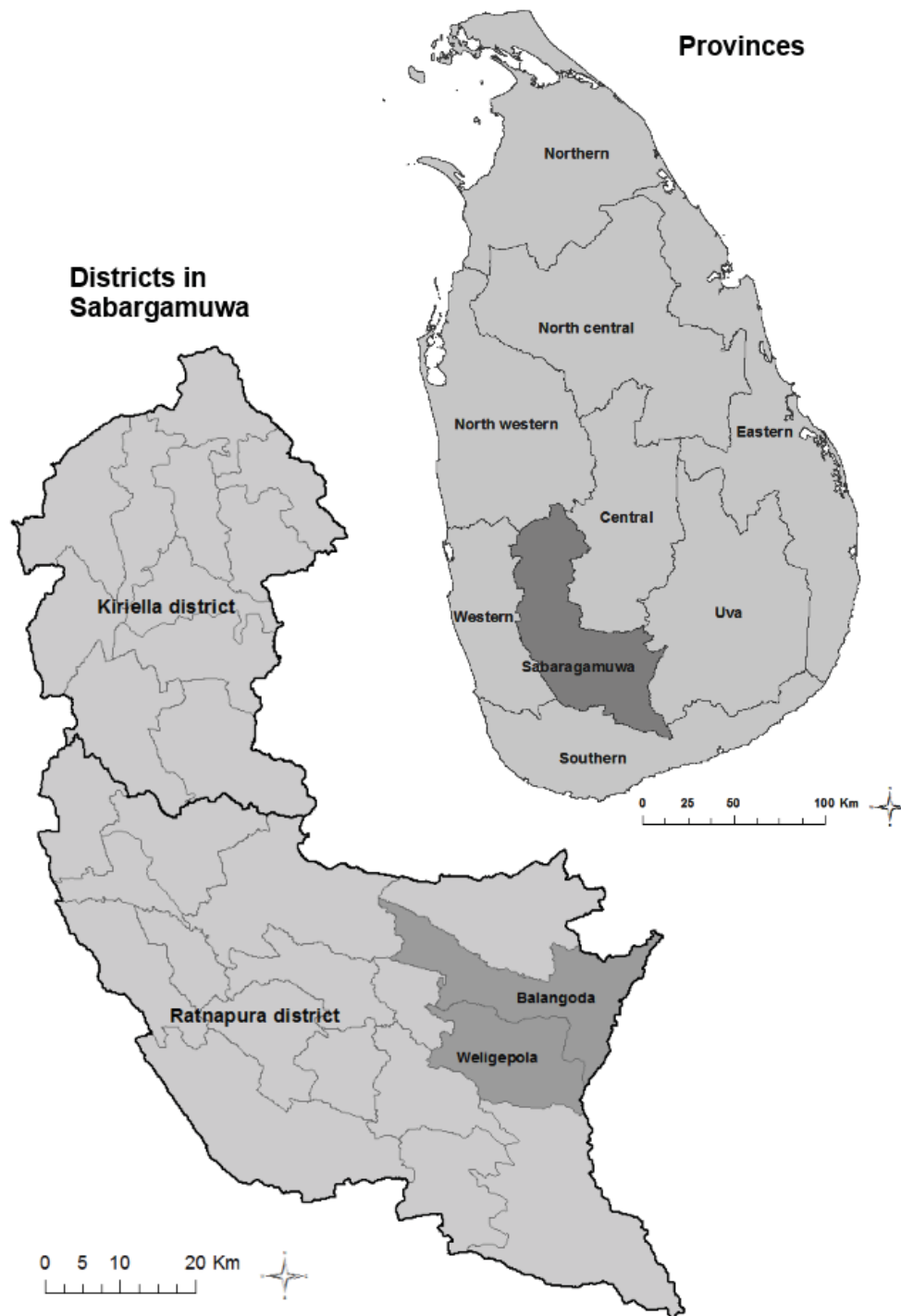


Image 10, Provincial map and Districts in Sabaragamuwa. (GADM 2013)



Image 11, Estimated interview areas inside both D.S. areas. (GADM 2013)

5.2 Question form

A question form was designed to receive comparable answers and was used as a support during the interviews, appendix 1. The questions were prepared to be easy to understand and simple to translate from English to verbal Sinhalese. The questions were composed to make open-ended answers possible from the interviewed landowners. To give an idea to the translators and landowners of what could be an answer, some examples were added to the questions. The same question form was used for both the rural and the urban interviews with the exception of the last question about urban restrictions. In the case when the landowner was not present, the interview was conducted with another family member familiar with the families land possession who answered on the behalf of the landowner.

Area information

Contains information of where the interview is taking place.

Landowner information:

Personal and household information is of importance to understand the background on the answers in the following parts. The background information is also used to set the interviewed landowners in a larger perspective, and compare with other statistics.

Land and Ownership:

The section answers what kind of land the respondent holds at present. The information is needed to get the general view of the land. Land use, size, number of parcels, tenure, source of ownership, renting or leasing arrangements and registration type are all information which are needed for further analysis.

History of the land:

The history of the land is important to know to understand the preferences of the respondents. If the land has been in the family for a longer period it is of interest to see how it correlates with developing sentimental values for the land. Two questions were asked about development or changes of the extent from 20 years back until today. These questions also indicate personal values as well as the tendency to make changes.

Sentimental values:

The first questions are about if the landowner can describe their land and whether there are any specific piece of land that is more valuable. Examples are given for the landowner to understand the meaning of the question. This gives an idea of how personal values are distributed over the land.

One question is about the satisfaction on different land related issues in order to see if there is a willingness to change the current situation. This willingness or unwillingness could help the understanding of how the respondent answers on questions related to selling or changing their extent of land.

A question is asked about well-defined boundaries with the intention of understanding if the land has been surveyed or in other way have sufficient demarcation. The next question is about official boundaries with the purpose of distinguishing the difference between deed registered parcels and title registered parcels. A question is also asked if the landowner has experienced any boundary disputes. If a dispute has taken place the importance of well-defined boundaries should be higher.

Selling the entire property

The landowners view upon selling the land and the assessment of the economic value gives information on the willingness to transform the property into money, this considers both selling and mortgaging the property. With the ambition to make the respondent think outside the box a follow-up question was asked if they would reconsider selling the land if the value increased.

Selling a part of the property

This section contains the most important questions and is deliberately put in the end of the interview to make the landowners prepared and able to consider changing their land.

The questions focus on the willingness to expand the land, selling the land to neighbours or subdividing the land for sale or for giving it away. To distinguish the difference between changing the boundary and subdivisions the question about selling a part to a neighbour is included. The intention with the question is to suggest modifications of the boundary to obtain a more efficient land use.

Additional questions

The awareness of the Bim Saviya program is an additional question to understand if the Bim Saviya project is well known in the project areas. The contribution of the last question in the urban area is to understand the level of awareness landowners have on restrictions when developing land.

5.3 Interviewed officials

Interviews are conducted with professionals involved in the Bim Saviya project and subdivision/amalgamation procedures. The main objective with these interviews is to get a good understanding on how the subdivision and amalgamation procedure is handled and which roles different governmental departments have.

These interviews are needed to get a deeper understanding of how the Sri Lankan property system is structured e.g. tenures forms, technical procedures and the structure and process of Bim Saviya. The technical information is used in chapter 4. Opinions and experiences from the interviewees are separated into the analysis chapter.

Different question forms were made for each interview. In appendix 4, a compiled question form of the common question is presented.

Superintendent of Survey

The Superintendent works at the Survey department office in Palledbedda. He shared his knowledge on the role of the Survey Department both in the Bim Saviya programme and in the subdivision and amalgamation procedure.

Assistant Divisional Secretary and Acting Assistant Land Commissioner

The Assistant Land Commissioner works at the Land Titling Settlement Department in Balangoda. He is positioned as an officer at both the Divisional Secretariat that handles state owned land and the Land Title Settlement Department (LTSD) that handles claims and investigations of ownership in the Bim Saviya programme. The interview answered questions from both the Land Commissioner Department's and Land Title Settlement Department's behalf. The questions mainly concerns: grants and state-owned land, LTSD:s role in subdivisions and Bim Saviya.

Chief Public Health Inspector

The Health Inspector works at the Balangoda Urban Council (UC) and is a part of the council that makes suggestion to the UC committee when development permits are given. The Health Inspector answers on matters concerning suitability judgement for building and properties. Questions about the specifics of the Balangoda UC area are also asked.

Consultant, former Senior Deputy Survey General and former Project Director for Land Titling & Related Services

The consultant is experienced with cadastral systems from various countries, he even has some knowledge about the Swedish system after a visit. He was once involved in the pre-legislative work with the Registration of Title Act. The consultant was a part of the managing group for the World Bank financed Land Titling and Related Services Project. Currently he is involved in drafting regulations for subdivision and amalgamation surveys on titled land. The consultant provides information about the implementation of Bim Saviya and on the subdivision and amalgamation procedure. Some questions also cover the intentions and objectives of the titling project.

Bank Managers

The managers of the National Savings Bank and the Rural Development Bank in Balangoda are interviewed to understand the bank's financial perspective and how mortgaging is handled in the registration systems. Some questions are also asked about the banks role in subdivision and amalgamation procedures.

Licensed Surveyors

Two licensed surveyors active in the Balangoda area is interviewed. Questions about their role in the subdivision and amalgamation procedure and how they regard the procedures from a professional angle is asked. The LS are closely involved with the landowners in the procedure and have a very practical view upon the problems from a landowner perspective. Questions were also asked on how they experience the landowner's perception on the matter.

6. Analysis

6.1 Interview area description

Weligepola

Weligepola village and its surrounding areas lie in an environment of rainforests and uneven terrains. The Location inside the climatic wet-intermediate zone makes the soils fertile and very good for growing of crops. The elevation differs throughout the landscape and gives a variety of land uses e.g. paddies, agriculture forests and roads. The village centre is a minor community with some commercial activity, smaller government offices and some public services like school and hospital. In the areas around Weligepola a few carped rural roads provides access to the lands. Private houses with gardens located along the roads are the most common way of living. In the picture below (image 12) shows a typical landowner with his spouse and children living in a simple house with surrounding rainforest.



Image 12, Weligepola landowner.

The entire Weligepola D.S. area stretches 198 km² (DCS 2009) and does not include any urban areas. In 2011 it had a population of 30 778 evenly spread throughout the D.S. area. This makes the density of the population of 160 inhabitants per sq.km valid for all parts of the area. 99 % of the population have Buddhism as religion (DCS 2012). The people in Weligepola works primarily as farmers, most families are nearly self-sufficient. Some have complemented their income as driver, shopkeeper, teacher etc. There are few factories or commercial employers in the area and people commute to the nearby towns.

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According to the Assistant Land Commissioner (2013-04-09)¹ the land in Weligepola D.S. area is 60 % state owned land, which is less than the average of the country. The entire D.S. area also includes nearly 5000 hectares of temple owned land with Viharagam grants. Close to the Weligepola village and inside the interview area lays the ancient Buddhist temple Keerapaddeniya. It has had a major influence in the society and the use of lands.

Weligepola village

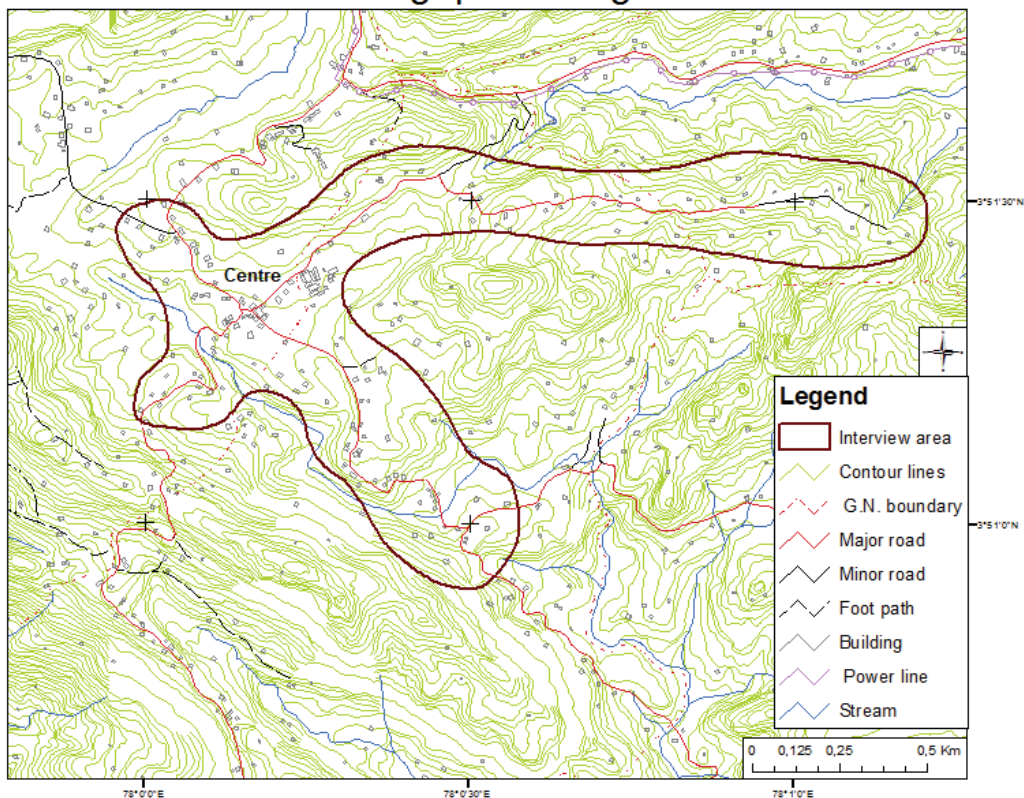


Image 13, Estimated interview areas in Weligepola. (SD 2013)

¹ Jayakody, M.A.P. Assistant Divisional Secretary and Acting Assistant commissioner at the Land Titling Settlement Department in Balangoda. 2013-04-09. Interview conducted at Land Title Settlement Office in Balangoda town.

Balangoda

Balangoda is a small town situated in the wet-intermediate zone on an elevation of 670m above sea level. Its outskirts are covered with rainforest and through the town run the Walawe River. Balangoda is a quite big town in comparison to other towns in the Sabaragamuwa Province. The town centre consists of four to six story buildings and narrow streets. The city central is a hub of commercial businesses and during daytime the streets are packed with people, three-wheelers and cars. Outside of the centre lie residential areas and small industries. Closer to town the houses are built in limited space and there is no extra space between the properties, as can be seen (Image 14) below. In the outskirt of Balangoda town settling and building houses are more common and there is more space for alterations within the land parcels.



Image 14, a Landowner with grandson.

Most people in the town work with some kind of business, small industry worker, farmer or as a government official. Its location makes commuting for people living on the countryside common and almost 40 000 people enters the town every day (Balangoda Urban Council 2013).

The Urban council area inside the Balangoda D.S. area stretches 16.2 sq.km (DCS 2009). Today its permanent population is 23 220 and a density of 1433 inhabitants per sq.km (Balangoda Urban Council 2013). In the whole Balangoda D.S. area the distribution of religion reflects the statistics for the entire country with 78 % Buddhist, 12% Hindu and 8 % Islam. (DCS 2012)

Balangoda Town

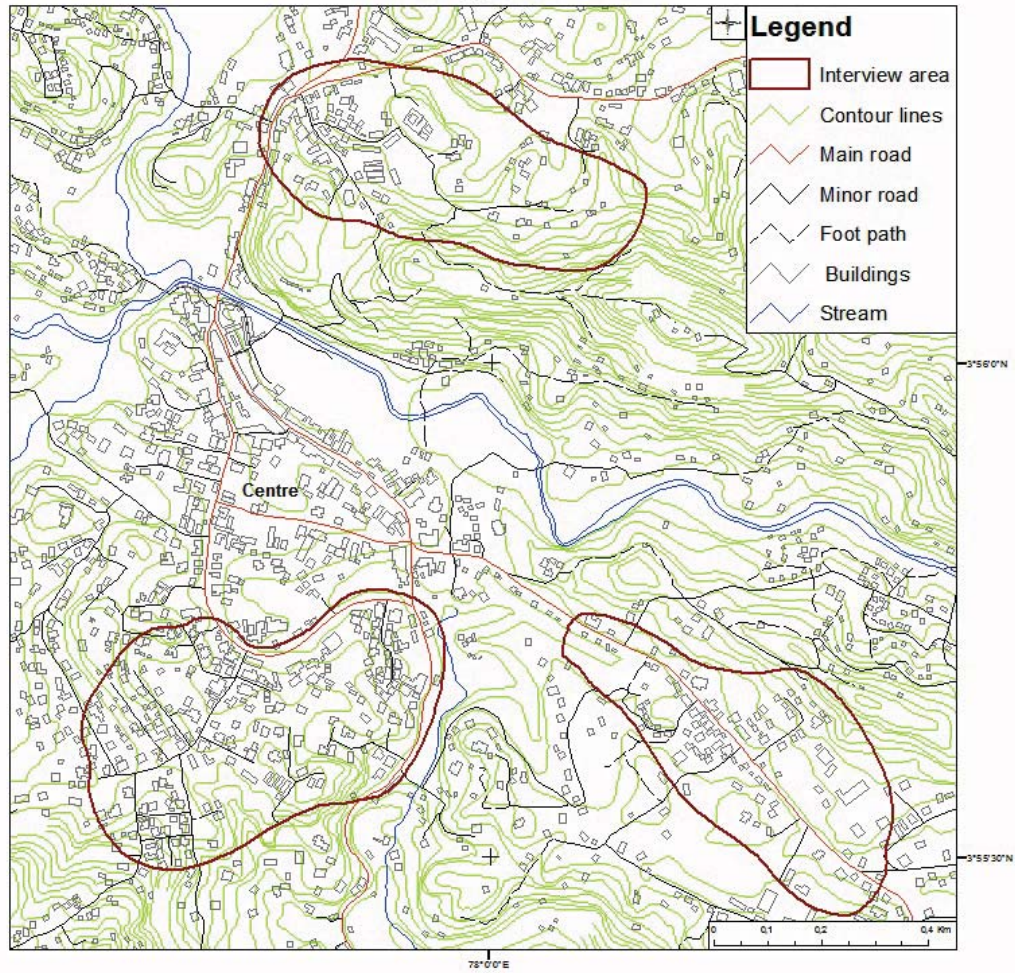


Image 15, Estimated interviews areas in Balangoda. (SD 2013)

6.2 Interview questions

The following questions are extracted and analysed examples from the landowner interviews. The disposition of the analysis follows the question form and is arranged by first rural then urban, see appendix 1-3. To compare both areas respondents groups, percentage is used for graphs due to the uneven amount of interviews, 11 in Weligepola respectively 12 in Balangoda.

Landowner information

Age and gender

8 out of 11 of the respondents in Weligepola were male respectively 9 out of 12 in Balangoda. Both areas are similar to each other with more males than females, but the interviews gave no obvious reason that a son should inherit in prior to a daughter. The respondent groups in both areas have a similar age structure as seen on the average age.

Table 3, Age distribution among respondents.

	Min	Max	Average
Weligepola	40	73	54
Balangoda	25	69	51

Religion

In Weligepola all the interviewed had Buddhism as religion, which represents the distribution of Weligepola D.S. area. The distribution of the interviewed in the urban area was 7 Buddhists, 4 Muslims and 1 Hindu. The Muslim ethnicity is overrepresented in comparison to the statistics of the entire D.S. area but according to interviews more Muslims live in urban areas.

Occupation

In the rural area most of the respondents are working as small-scale farmers and in some cases they are expanding their income with e.g. a small shop at the road or having one family member working for a salary. The occupations in the urban area vary. None of the interviewed respondent work as farmer but some live on properties with house and gardens. Most respondents are employed or have their own business within their land.

Highest completed education

The Sri Lankan school grades can be divided into three groups: Primary and Secondary School (1-5 & 6-9 grade), General Certificate of Education (G.C.E) Ordinary and Advanced Level (10-11 & 12-13 grade) and University.

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As seen in the Diagram 1, more people in the interview group have higher educational level in the urban area than the rural area. This may be explained by the different professions in the urban area, there is a need of higher education to get a job. All respondent had completed Primary School and none had continued up to University level.

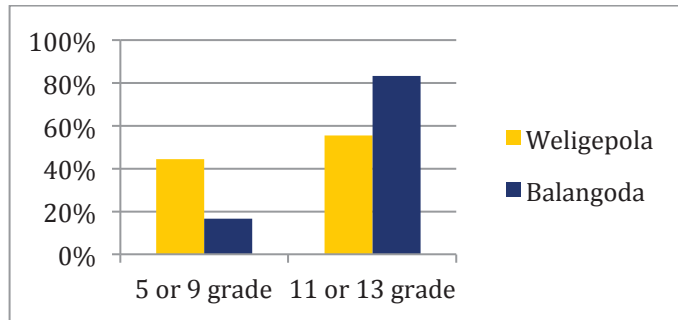


Diagram 1, Completed highest degree

Number of people living in the house

The household size of the interviewed families is similar to the national average. The family structures in both areas were quite similar with two parents living with their children. In some houses the household consists of three generations and in two cases two pensioners is living alone. There are also examples of several households living on the same land but in these cases they have been treated as different households. In these scenarios the household members were counted in the landowner's residential house.

Table 4, Household size, *(DCS 2011)

	Average	Median	Range
Weligepola	4.2	4	2 - 5
Balangoda	4.9	4,5	2 - 12
Rural areas Sri Lanka*	4.0		
Urban areas Sri Lanka*	4.3		

Household monthly income/expenses

Many households could not or would not share their true income. Instead they gave information about their expenditures. As can be seen in the table 5, the average income and the average expenditure are close to each other on a national level. The difference in income/expenditure in the different areas is substantial. Also the variety of incomes differed a lot between rural and urban respondents. People in an urban environment have higher expenditures and a higher technical standard which also means they need higher income. Many of the households in the rural area cultivated their land, producing food both for themselves and for trading. This means that the need of income for buying food

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is less. Some of the interviewed households had very high income compared to the others.

Table 5, Income (expenditure) in Sri Lankan Rupees (LKR), *(DCS 2011)

	Average	Median	Range
Weligepola	21 166	15 000	5 000 – 60 000
Balangoda	81 444	50 000	8 000 – 350 000
Rural areas Sri Lanka*	35 228 (29 423)	23 126	
Urban areas Sri Lanka*	47 783 (44 928)	31 000	

Land and Ownership

How many land parcels do you own?

In Weligepola 10 of the 11 respondents is in possession of at least one parcel with a residential house surrounded by a garden. The gardens have different cultivations e.g. fruit trees, vegetable crops and spice cultivation. Usually someone in the household works at home with the land and other housework. If the landowner owns more than one parcel, the land use of the other parcels where agriculture e.g. paddy fields and coconut plantation.

All landowners in Balangoda occupy at least one parcel for residential purposes. Two respondents also used the land as garden in the same meaning as in Weligepola. One family used the land for firewood distribution and another family used their land for animal breeding even though the land was within a residential urban area. Two of the interviewed landowners own a second parcel consisting of a shop inside the Balangoda town. In two cases the respondents did not actually live on their land but rented a house and constructed another for themselves on their own land. The land use pattern and the number of owned parcels vary in the urban area in comparison to the rural. One respondent is a property agent and owned at the time eight parcels. He and his family bought undeveloped land, constructed houses and lived on the property until they sold.

Table 6, Parcels owned by one landowner.

	1 parcel	2 -3 parcels	4 or more
Weligepola	8	1	2
Balangoda	6	5	1

Land size

The size of the land parcels varies a lot. In the rural area the parcel sizes is generally bigger. In most cases the landowners use their land to gain an economic outcome, in relation to this the landholdings are quite small. Two of the respondents had land in total extending 1 hectare. But the household income for those is still low. In Balangoda the residential parcel size had a shorter

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extent. According to the property agent the optimum parcel size for him to sell is about 500 m². One of the larger parcels belonged to a wealthy family and in another case a large parcel contained of three residential houses.

Table 7, Land size in m² per residential parcel and landowner

	Average	Median	Range
Weligepola	2275	1500	150 -10 000
Balangoda	825	500	325 - 2050

Type of ownership

The legislation in Sri Lanka is designed for single-ownership, which also is seen from the type of ownership of the interviewed. All of the family members still have a strong bond to the land even though they are not the official owners.

Registration type

Both areas have been under the Bim Saviya programme for a while and Balangoda D.S area is supposed to be completed. In spite of this there were a number of different landowners without title certificate. The reasons for this seem to vary and only two in Weligepola respectively three in Balangoda had received a title. Many of the deed-registered landowners are expecting to receive a title certificate because their land has been surveyed under the Bim Saviya. Except private ownership other tenure types encountered in the interviews were: Viharagam, LDO grant (Swarnabhoomi), permit, encroached land, rent and lease.

Source of ownership

Balangoda respondents have more purchased properties than in Weligepola. One of the interviewed received the land as a gift from an elder couple with no kids, in the statistics the source of ownership is counted as inheritance.

One family in Weligepola had illegally occupied a piece of land next to a stream with no tenure security. The encroached residential area is a reserved area as a water buffer zone and not suitable for development. They have been here for 40 years and the encroachment is accepted by the local community. Another family in Weligepola that lived on a deed property had expanded their land with encroachment on the neighbouring state owned land. They received a LDO grant securing the tenure for this encroached land.

In Balangoda one family purchased a piece of state owned land 30 years ago from a private person, but did not receive any documents describing the tenure, they have lived and developed the land with no official right. They explained that the government is reluctant to give them a grant or permit and are expecting bribes in order to give them any official right.

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Table 8, Source of ownership

	Purchase	Inheritance (gift)	Encroachment
Weligepola	4	5 (1)	1
Balangoda	8	4	-

Leasing and renting

Four of the interviewed were in some ways engaged in some renting or leasing activity three in Balangoda and one in Weligepola. This will be further examined below.

History of the Land

For how long has this land been in your family line (relatives)?

Families in the rural area generally had a longer history of possession on their land also correlates with inheritance as seen in Table 9.

Table 9, years of possession.

	<10	10-30	30-50	50-100	>100
Weligepola	1	-	6	-	4
Balangoda	3	3	6	-	-

Have you changed the use of the land within the last 20 years?

(e.g. built a house, cultivated, roads, irrigation)

In Weligepola 10 of 11 respondents respectively 8 of 12 in Balangoda have in some way developed their land in the last 20 years e.g. built a house. On two of these properties the landowner is constructing a residential building that has not yet been finished.

One landowner is constructing a building on his titled property. He ordered building plan from an architecture firm and submitted it to the urban council. They required the building plan plus the old cancelled deed document, but did not ask for the new title. He was surprised that the title did not substitute the deed in this matter.

Have you expanded or reduced the size of your land within the last 20 years?

(e.g. cultivate more land, expand house, selling to neighbour)

About 25 % of the respondents in both areas have in some way changed the extent of their land parcels.

In Weligepola two of the families have done changes in order to give way for a road or a footpath. One respondent cultivated the adjacent state owned property, which later was granted to them by the state. Another family illegally cultivates an adjoining reservation area with coconut trees, which was not counted as extending land in the statistics.

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In the urban area a couple of families have subdivided their land and given it to their children or received it from their parents. There is also one example in Balangoda of subdivision to give way for a road. No examples of amalgamation are found in the interviews. In two cases the landowner had subdivided the original property into three parcels and given the other two to their daughters. Three of the respondent's properties have been subject to acquisitions from the Road Development Authority for road constructions. None of the respondents have gotten any compensation from the encroachment.

Sentimental Values

Are there any particular parts of your property that is more valuable to you or your family? (per examples: inheritance, graves, special trees?)

The answer from every respondent is no. There are no graves, special pieces of land inherited or any special trees that they value more than others.

Are you satisfied with your current: land use, location, extent and rights?

The only respondent that was unsatisfied with his land use had difficulties organizing water and sewerage within his parcel due to regulations from the Urban Council.

The interviewed in Weligepola were satisfied with their location. The location close to the school, village centre and hospital was highlighted as some of the benefits with their location. In Balangoda all respondents were content with the location of their land and many appreciated the benefits with living close to the town centre.

5 of the 11 respondents in Weligepola were unsatisfied with the extent of their land, because it was too small. One respondent wanted to build a second house and was unable to do so. Another respondent wanted to sub-divide to their children but had too small land. Two of the interviewed had taken matters into their own hands and cultivated land outside their parcel. 2 of the 12 urban landowners were unsatisfied with the extent of the parcel. One family needed more land for their family business of animal breeding. Another respondent answered that more land than their future house occupies would be unnecessary.

The respondents from Balangoda were more satisfied with their land rights. This correlates closely with the tenure type. One respondent that owned a deed-registered parcel was unsatisfied with the land rights because he was in a difficult co-ownership situation together with eight other landowners. All the other respondents that were unsatisfied with their land rights have a different tenure than private ownership. One elder couple living on temple land with limited tenure is content with their land rights, even though they are conditioned in their tenure.

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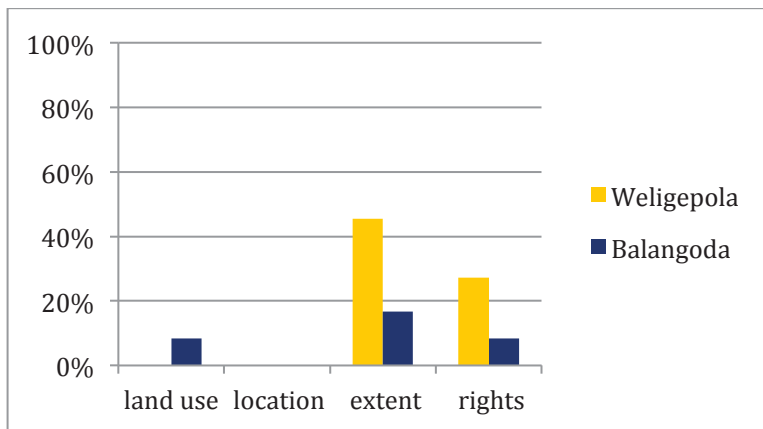


Diagram 2. Percentage of unsatisfied respondents on their land.

Is it important for you to have well defined boundaries of your land?

(Explanation: surveyed and clearly marked boundaries)

The question gave no good and reliable answers. The respondents seemed to have difficulty in understanding the concept of well-defined boundaries.

Are there official boundaries (only for deed)?

The question gave unsatisfactory answers and the respondents did not manage to separate it from the previous question.

Have you had any problem because of unclear boundaries before?

Three respondents in Weligepola and two in Balangoda stated that they had experienced problems due to unclear boundaries. Four of these also added that it is important to have clear and secure boundaries.

Selling the entire property

Would you consider selling your property?

If your property value would be higher, would you reconsider?

Even with the follow up question all the respondents in Weligepola would not consider selling their property. In the rural census they were reluctant to consider their land as a financial asset.

In Balangoda the answers were different, 3 of 12 respondents could consider selling their property. Three would reconsider this option if the proposed price of the land increased. This suggests a different view upon land in an urban environment where the property value generally is higher.

Have you mortgaged your property?

In Weligepola only one respondent had mortgaged his deed-registered parcel for a low value. The loan was discovered when Bim Saviya was surveying their land.

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The mortgage obstructed his immediate obtaining of a title certificate because the involvement of the bank. Three of the respondents in Weligepola have tenures which prevents mortgaging.

Only one family in Balangoda had mortgaged the land for modifying their house. Another respondent had mortgaged but paid off and closed the loan. One of the respondents is working as a property agent in Balangoda and has a different view upon the subject than the other interviewed families. He gave the information that only one person he sold to have been interested in mortgaging, to be able to pay for the property. One of the Muslim respondents explained that credits is against the Muslim tradition and is very rare amongst the Muslim society. One respondent explained that he rather mortgage other things like jewellery than risking the property because he does not have a monthly income. One family with undefined permit had no possibility to use their land as collateral.

Selling a part of the property

Would you like to expand your land parcel/s?

In the rural area most people would like to expand their lands as seen in Diagram 3. The reason for wanting to expand is often to be able to subdivide suitable parcels for their children in the future. The size contra income is not mentioned as a reason for the willingness to expand, but may also be a consideration. A common answer on why they have not already expanded was because the neighbour does not want to sell or that it would be too expensive.

In the urban area people were less inclined to expand their land parcels. The reason for not wanting to expand is that the parcel size is enough for the family. They don't need more land because they mainly use it for residence and are not interested in being self-sufficient.

Two of families felt that the surrounding houses and roads are very close to their property and the possibility of expansion is limited.

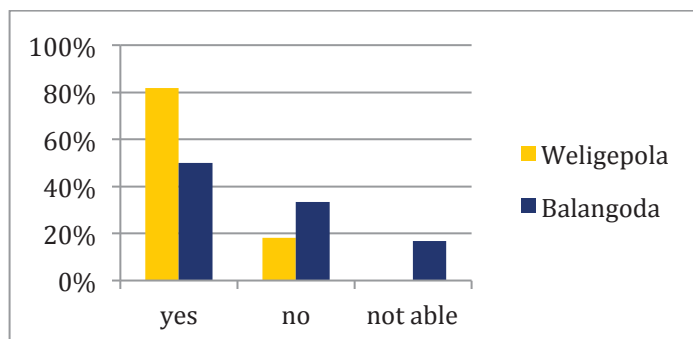


Diagram 3, Respondents that would like to expand their parcel/s

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Are there any parts of your land that you want to sell to a neighbour?

In Weligepola none of the respondents stated that they want to sell any part of their land to neighbours. This correlates with the answers on selling the entire land and the answers on the distribution of sentimental values spread equally over land.

In Balangoda 2 of the 12 respondents states that they could sell land to their neighbours. In these cases the transfer would not be free and they would charge a market price. One is very open-minded towards changing the land for the most economic outcome. The other one did not see the difference between selling the land to a neighbour contra selling to an outsider. Some of the respondents that did not want to sell to a neighbour thought that selling on an open market would give a higher price.

Are there any parts of your land that you would like to subdivide?

In the rural area 5 of the 11 respondents would like to subdivide their land and 2 answered that they are unable to subdivide due to their type of tenure. A common reason for wanting to subdivide is to give some land for their children now or in the future. One landowner is about to subdivide her titled land and give 375 m² to relatives. She does not know how to proceed, but will contact the local LTSD office for guidance.

In Balangoda the respondents were more willing to subdivide, but the reasons vary. In many cases the land parcels have limited free space and the boundaries are stated by the owner. This makes it difficult to subdivide and limits the possibility to give a land parcel to a descendant or sell parts of the land. For this reason two of the respondents answer that they are not able to sell.

Two of the respondents had recently purchased land with the purpose of constructing residential buildings to live in. Both had a plan to subdivide and sell the unused land, which would not be needed for them.

One of the respondents in Balangoda had recently subdivided their land into three parcels, including two smaller parcels for their daughters. The subdivision was done by a LS, according to the deed system. Bim Saviya surveyors had previously surveyed this land as one parcel. It is unclear if they will be given one or three title certificates.

One family made an unofficial change of the boundary after an agreement with their neighbour. The neighbour needed more land to widen a road to be able to enter by bus and gave another piece of land as compensation. When the land was surveyed for the titling programme no attention was given to this agreement and the original boundary was surveyed.

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The respondent that works as a property agent is more acquainted with the subject of subdivision. By his experience the most demanded size of a residential parcel in Balangoda is 500 m², which is why he will change the extent of each parcel too fit the desirable size. He has experience both the deed and the title system and prefers the title system when it comes to transactions. In subdivisions and amalgamations he thinks the deed system is much easier. By comparison he argues that when subdividing a deed registered parcel it costs 6000 LKR and a titled registered parcel costs 20 000 LKR. The procedure is also more time consuming for a titled parcel.

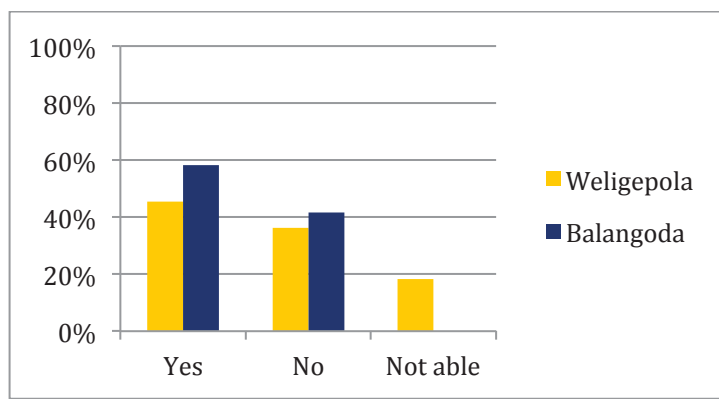


Diagram 4, Willingness to subdivide a part of the property.

Additional questions

Are you aware of the Bim Saviya Programme?

In Weligepola almost every respondent were aware of the Bim Saviya Programme. In many cases the awareness is low, but they knew that they had surveyed their land for the purpose of a title certificate. The differences and benefits with the title certificate were unclear for most people. Four of the respondents are expecting a title certificate in the near future.

Five of the interviewed was unsatisfied with the Programme. Some are unsatisfied because of the lack of information and without notice surveyors survey their boundaries. One respondent feels that the surveyor did not care about the old boundary that was correctly surveyed under the deed system. The surveyor only seemed to define boundaries according to the land use. One family is unsatisfied because they could not get a title certificate due to co-ownership.

Three persons in were satisfied with the Bim Saviya Programme. The first got a fixed boundary that had been illegally altered to their disadvantage. The second got a nice title certificate and the third one because he is expecting to get one single title certificate for both his granted and private land.

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In Balangoda all respondents is aware of the Bim Saviya Programme but on different levels. Most have gotten information about the Programme by talking to neighbours and never heard of the available information leaflet distributed during the awareness programme. Some of the interviewed had strong opinions on how the surveys were executed. One person told the Bim Saviya manager that he did not want a title certificate because the surveyed boundaries under the programme was inadequate. He also told his neighbour to do the same. Three of the urban interviewed are expecting a title certificate in the near future.

*Are you aware of the restrictions regarding what you can do on your property?
(urban area only)*

All respondents in Balangoda are aware that some restrictions concerning e.g. building houses and minimal parcel size are affecting the possibility of developing their land. They seem to know that they need a permit from the Urban Council to be able to do changes.

6.3 Opinions from officials and professionals

The interviewed officials and professionals expressed some shortcomings and advantages concerning: the deed versus title discussion, the Bim Saviya implementation and the procedure concerning subdivisions and amalgamations.

The subdivision and amalgamation procedure

The Superintendent of Surveys emphasized the difference in subdivisions and amalgamations processes between the deed system and the title system, especially the number of steps for subdividing titled land.

Both the Superintendent of surveys and the LS responded that neither the Survey Department nor Licensed Surveyors must regard any restrictions or regulations from other acts than the survey act when doing a subdivision. The result of a subdivision can become a parcel smaller than the minimum requirement set by e.g. the UDAA (1978). The LS added that according to the principles as professionals they have a obligation to inform the clients on potential problems in the subdivision case. The LS should also give advice to the landowners on different approaches to achieve their purpose. There are no provisions in the law for the surveyor not to subdivide or amalgamate the land according to the landowner's proposal. The Survey Act was enacted based on laws that were changed later on, but without reviewing the Survey Act.

The LS have other opinions on the procedure. They have experienced some irregularities when they are gathering information from the Survey Department, before proceeding with the demarcation and production of the cadastral plan. Sometimes this step takes too long and the information handed out from the Survey Department is unstandardized and was in need of transformation. They are blaming the Survey Department of being too rigid and unwilling to adapt to new technology.

One of the Licensed Surveyors had experienced difficulties when a client according to an agreement with his neighbour wanted to shift the boundary between their parcels (a reallotment procedure). To be able to do this he was told that they initially needed to do an amalgamation ending up with one owner, and continue by subdividing the amalgamated parcel and finally register a new owner of the subdivided land. He wanted to do both procedures simultaneously. To be able to do this he needed permission from a Minister at the government.

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The RDB bank managers described the role from the bank in the subdivision procedure with a mortgaged property. As a first step the bank evaluates each new parcel. If the combined value exceeds the value from the old parcel, the credit can be transformed to cover the new parcels. The bank will then take possession of the new parcels title certificates. If bank is not interested in providing mortgage for the new parcels the credit has to be paid before the subdivision procedure can be initiated.

Title versus Deed

The governmental officers are mostly positive towards the title certificate. The Assistant Land Commissioner and the Superintendent of surveys have the same idea about the advantages, e.g. that the title certificate document is standardized, consist of reliable- and important information and that the title certificate has a small format compared to the deed document. The Assistant Land Commissioner also emphasized the lack of survey plans, the difficulty with mortgage and the possibility of frauds as negative aspects with deed registered parcels.

The licensed surveyor understands the benefits with the new title system, but is concerned of the lack of understanding from landowners. According to them some landowners enjoys some of the benefits, such as easier mortgage, easier transactions, and a more reliably demarcated land. But in many cases the person that gets a title already had a secure tenure and demarcated boundaries in the deed system. In those cases transactions of land are prolonged and subdivisions are more expensive and time-consuming than it were in the deed system. According to the Licensed Surveyors very few use their title for mortgage and therefor never draw the benefit on that option. The title system is new for the landholders, which makes them uncertain on how to pursue in developing and managing their land.

The Bank Managers are very positive towards the title certificate. It makes their work a lot easier and faster when mortgaging a titled parcel instead of a deed parcel. They prefer the title system, as there is no need of a title report or title insurance.

Implementation of Bim Saviya

The Assistant Land Commissioner and the Superintendent of Surveys did not criticize the Bim Saviya programme. The Consultant and the Licensed Surveyors on the other hand had a lot of opinions. The Consultant who participated in the making of the RTA did not criticize the legislation but the implementation. Due to his elevated position he had an overview on implementation issues of the programme. He is especially dissatisfied by the low percentage of given title certificates within Bim Saviya surveyed areas. According to him only 40 % of the landowners have been given titles. In his opinion the surveying has been done fairly well, but the investigation from the LTSD has been unsatisfactory. There are provisions to resolve disputes and unclear ownership according to the RTA, but they have not been properly used. The Consultant thinks that the surveyors should have a mandate to take decisions as they meet the landowners and observes the actual situation in the field.

The Licensed Surveyors also had opinions about the implementation of Bim Saviya. They experienced that the landowners did not receive information about the programme and the meaning of the title certificate, which means that they criticize the awareness programmes. They also think that the awareness program focuses on a small geographic area, instead the awareness should be at a divisional or national level.

The Licensed Surveyors emphasised the importance of field research by the LTSD and their investigations of landholder's individual claims. They do not understand the reason for the interruption of this practise.

Four interviewed in Balangoda that were pointed out by one of the Licensed Surveyors exposed some problems with the Bim Saviya programme. One family had subdivided their land after the Bim Saviya surveying, but before they had received the title certificate. How such subdivision should be implemented on the cadastral map is unclear. The difficulty to make changes during this time in between the two systems causes problems due to the long lead times in the programme. In another case the LTSD had mixed up the ownership of two parcels so the landowners received a title for the neighbours land. In order to fix this the land needed to be gazetted once again and the landowners were in the meantime caught in a limbo.

7. Discussion

The following discussion answers the main- and sub questions of the purpose.

7.1 Main objective questions

What kind of land-rights and administration are there in Sri Lanka today and what is the historical background?

A Long history of colonization and foreign influence has led to a jumble of rights and tenures in Sri Lanka. This has left a rigorous administrative structure, which affects the system of land management (Divithure and Tang 2013). The coordination between land administrative units seems to be somewhat insufficient (World Bank 2007). One problem seems to be the communication and involving all stakeholders and administrative units in land related issues. This becomes obvious when new acts or regulations are implemented and some administrative units are unaware of the change and still follow the out-dated legislation.

Most land in Sri Lanka is state owned and there are multiple types of tenure for these lands. Permits and grants are issued for people to use the land with conditions and restrictions. The restrictions may negatively affect the productivity of the land and impair the property market. In many cases there are restrictions on how and when the landholder can sell the land which hampers the possibility to reallocate the resources for the most efficient economic use. Restriction on mortgage is also included in the grants. Credit access is one of the major benefits of receiving titles and if mortgaging is limited the advantages of the titling project will decrease (de Soto 2000).

Private ownership in Sri Lanka is a strong type of tenure and private landowners are in most ways free to dispose their land as they want. Today it is difficult for landowners to understand what they are allowed to do or what they are refrained from with their land. The land use planning is handled by several authorities and government departments, which sets different restrictions on the land use. It seems to be difficult to understand these restrictions and who is responsible for them both for the officials and the landowners.

How do the landowners experience their land rights and the restrictions in their ownership?

The various land tenure types are represented differently in the rural and urban areas. In the rural area it seems to be more common with different kinds of granted land and encroachments. Grants on state land and temple land are more common outside urban zones and are usually granted to people for e.g. using it for agriculture or housing. The encroachments in the rural areas seem to be accepted by the local community as long as the encroacher does not disturb others interest. This is most likely due to the availability of land. In urban areas

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the higher population density and scarcity of land leads to competition and a need of political decisions on the best land use for each area.

The personal value of land seems to be rather similar for all types of tenure. Even so a troubling concern for the landholders with different tenure types than full private ownership is the limitations in the bundle of rights. The troubles mostly concern the security for the future as they want secure ownership for their children. The troubles do not as much seem to concern the restrictions on mortgage, selling or leasing. In many ways the restricted rural landholders seem to have accepted their situation.

Well-defined boundaries are a tool for preventing disputes and in some cases the need of it seems hard to understand for landowners. As long as there are good relationships between the neighbours there is less need of well-defined boundaries. The accuracy of the boundary should be more important in urban areas, where land values are higher and the property market is more movable. Landowners appear to have different levels of awareness of their specific land rights. The awareness seems to be higher in an urban area which may be due to higher education level and more accessibility to information through Internet, newspapers etc.

How do the landowners in Sri Lanka value the land and how is the value distributed, monetarily and sentimentally?

The rural living people tend to have a more sentimental value attached to their land, and land transfers is mostly not any real alternative. The economic asset that the land constitutes does not seem to be a consideration for most rural inhabitants. People tend to value the land as the most important asset to leave behind as inheritance. In some ways the land seems to be of more value than their value as human beings. The sentimental value has a strong connection to the ancestors and a lot of the rural land is inherited. For most rural people the present land size is small considering their occupation as farmers. There seems to be a willingness from most rural people to extend their land size. People's reluctance to sell makes the rural land market slow even though the demand is high.

Men and women in Sri Lanka seem to have quite equal rights but most of the time the chores are separated between the genders. When land is distributed amongst the children gender discrimination seems to be rare, females and males are if possible given a piece of the land.

If people in the rural areas want to change their land possession it is usually for purchasing land or subdividing land for their children. One of the main reasons for titling programmes is to give credit access for the poor. But the rural landowners seem to be reluctant to mortgage their property considering the risk

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of losing everything they have to the banks. Their low income also makes it difficult to pay the interest of a credit. This has also been identified in studies of titling programmes in other countries (Fernando 2008).

85 % of all the people in Sri Lanka are still living in rural areas and the urbanization process is so far limited but is increasing. Even though the people still seem very reluctant to move, eventually the need of a higher income may force people to work and live in the cities. As the urbanization process accelerates the need of a flexible land market will become more important. Efficient tools in land administration considering: transfer, subdivision, mortgage etc. are necessary to enable people to start an urban life. These tools are also of importance for people that stays in the rural areas to enable them to extend their land for a better economic outcome.

In the urban area where the market values are higher, the landowners have another view upon the land and the property market. Urban people have a more economic understanding and can consider selling their land under the right circumstances. Some urban people have similar sentimental values towards their land as people in rural areas. A reason for this may be that some rural land has become semi-urban areas. The inhabitants that lived here for a longer time have similar feelings attached to the land as people have in a more rural location.

How is the subdivision and amalgamation procedure designed?

The subdivision and amalgamation of a deed registered parcel is not well regulated. From the landowners point of view the process is easy, fast and cheap. The result on the other hand may in the long-run lead to land related disputes over undefined boundaries and rights.

From an administrative point of view, the deed system is currently inadequate. The uncertainty of boundaries and encumbrances leads to disputes that may end up in time-consuming court procedures. There are also difficulties to analyse the parcel sizes and the land use from a wider perspective.

Subdivisions and amalgamations according to the Registration of Title Act (RTA) are more defined and regulated than in the deed system. The process is definitely longer and more expensive by comparison. An international comparison indicates that the time-consumption is moderate in Sri Lanka: approximately 2 months is the average time from initiating a procedure until receiving a new title. The price is quadrupled for a simple subdivision from 6000 LKR to 20000 LKR but still it is no more than 158 USD (2013-05-28). On land for sale this may not be considered unreasonable but when a rural family is about to subdivide their land for their children the price may be refraining them from doing it the official way.

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The initiation of a subdivision or amalgamation procedure may in some cases be difficult for an ordinary landowner. A lot of responsibility lies on the contracted licensed surveyor, if this person does not assist the client in a professional way it may be difficult for the landowner to understand how to act correctly e.g. following land use restrictions set by different departments and authorities. Currently the subdivision or amalgamation procedure can be done even disregarding these restrictions. But when an e.g. building permit is neglected the full responsibility will fall on the landowner. These problems for the landowner may lead to unintentional illegal land-use, as the landowner is unaware that he or she is doing wrong. It may also lead to non-action from the landowner as he or she struggles to understand the system.

Some phases in the subdivision and amalgamation procedure are at risk of becoming bottlenecks. One obvious example is when the Senior Superintendent of Surveys (Senior SS) personally is responsible for approving the changes in the cadastral map. If the Senior SS fails to keep up with the pace of incoming errands this phase may delay the entire procedure.

To subdivide a granted land parcel, an approval by the responsible government is required. The approval is based upon reasons and restrictions according to the judgement of the official in charge. Land and grants has different restriction and might be judged in different ways, some grants are not even allowed to be divided. This makes the outcome uncertain for the grant holders and restrains the land market. The minimum parcel size that usually is included in the grant restrictions may on the other hand be positive for the land market in the long-run as it may prevent scattering.

If a titled parcel is mortgaged the participation of the banks are necessary in the procedure. The physical possession of the title certificate by the credit institution makes a subdivision without their participation impossible. This makes the procedure safe from the creditor's point of view.

The subdivision system seems to be inflexible for transactions of subdivided land. There are two alternatives for transferring land with a subdivision procedure. The first alternative is when the buyer pays the seller, either a part of the sum or all of it, who then initiate the procedure. The buyer is then put in a lingo where he has paid for the land but has no influence on the procedure. There are risks for the buyer in this situation, e.g. the possibility that the seller sells the property to two different buyers. The other alternative is that the seller first subdivides the land and then contacts a buyer. If no buyer is found, the owner will end up with an unnecessarily subdivided parcel. If the land is mortgaged the procedure will be even more difficult to solve with the present legislation and practise. In that case the credit has to be cancelled or with consent from the bank made valid for both parcels before the subdivision can be

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initiated. This may delay the transaction further or, without consent from the bank, stop it from taking place.

Reallotment is unrecognised by the Sri Lankan law. RTA states that a new title needs to be handled out for a divided parcel before it can be sold. So if two neighbouring landowners want to change their common border they will first need to amalgamate the parcels (ending up with one owner) and then subdivide it. The process requires more time and will cost more and the temporary transition of ownership to one person leaves the other part in a weak and risky position. According to the officials involved in the subdivisions and amalgamations a joined procedure are practised in reallotment situations, meaning that they are doing the subdivision and amalgamation simultaneously, but not according to the law.

Which tools would be useful for landowners to change their properties?

In a local society where the land use is easier to arrange amongst the society members the need of a rigorous land system is less (Ostrom 2008). In homogenous villages like Weligepola most issues can be resolved within the community. The deed system is more adapted for this situation because it is cheap and fast though the outcome might be uncertain. With the new title system subdivision and other changes in the extent of land will be more expensive and time-consuming. In the rural area this has the risk of leading to unofficial changes of boundaries, especially when it comes to subdivision within the family or changes in the boundary with the closest neighbour. It is important that the new system can handle this kind of situation and prevent unofficial subdivisions that eventually may lead to disputes and impair the property system.

Most people have considered how to leave some land for their children, either the whole land by gift or by will or subdividing the land and transfer it. The RTA makes legal co-ownership difficult, and the subdivision procedure expensive. It seems that the legislation creates difficulties for families when it comes to heritage and distribution amongst the children. This may result in situations like: all land goes to the oldest child creating conflicts among siblings, illegal subdivision with no official rights: like possibilities for sale, mortgaging and other disposal of the land, illegal house construction etc.

None of the interviewed persons has considered using amalgamation. The concept may be difficult for the landowners to comprehend. When they stated that they want to buy land from their neighbor, a reallotment or amalgamation procedure would be used if not the whole parcel is transferred. The unfamiliarity and unwillingness towards the concept of amalgamation may after numerous of subdivisions lead to small parcels and non-optimal land use (scattering).

7.2 Secondary objective questions:

What are the advantages of the title registration system contra the deed registration system?

Overall the title system provides a more manageable land administration. The title system and the establishment of a nationwide property information system will give a lot of positive outcomes e.g. easier mortgage, reliable information in transactions, systematic surveyed boundaries and ultimately a register that covers all land.

A title programme is a huge project, expensive and resource demanding. On a wider perspective the main objectives with a project is to enhance economy and reduce poverty in a long-term. Titles will give the landowners a government guaranteed document proving their rights to the land. If the ownership was unsecure before the programme a title document can mean a great economic and sentimental relief for the receiver. But on the other hand if the rights were secure before the issuing of a title it may not mean any dramatic difference for the landowner. The doctrine seems to be agreeing on, that the single most important factor to make people invest in their land, and thereby increasing productivity, is tenure security (Fernando 2008, de Soto 2000). One question is if a title programme is the most cost-effective approach to enhance the feeling of secure tenure. Other approaches can be lifting restrictions on present tenures or giving private ownership for encroachers on uncultivated land.

The deed system has some major technical shortcomings and it mostly seems like the negative aspects derive from incomplete registration with no spatial data. Institutes, buyers and other stakeholders feel insecurity about the ownership and the extent of a deed registered parcel. The lack of information and spatial data makes the tracing of ownership and boundaries difficult: subdivisions and other activities may not have been registered in a correct way and the non-obligatory requirement of a survey plan makes the boundaries less secure. A title programme should correct these faults but may not be the only way to do it. The systematic surveying of the whole country has the negative aspects that it takes a lot of commitment and that the expenses are fully paid by the government during the implementation period. A systematic approach may lead to difficulties to involve the landowners in the benefits of the registration: they have not asked for titles, and may at the time of the systematic survey have no interest in learning what a title certificate means.

An enhanced deed register system with a compulsory standardized survey plan paid by the parts in a transaction and a register with spatial reference may in the long-run help to receive the same technical objectives as a title programme at a much lower cost. Tenure security is a political and not a technical matter and should be handled accordingly.

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The title programme is based on economic rationale: reducing transaction costs to create an open market which reallocates resources and leads to higher productivity and more efficiency. In a development country where a lot of people are farmers living almost self-sufficient without any financial evaluation of the land, the benefits of mortgaging and entering the land market may be hard to comprehend. It is important that the social values are not lost in the debate on benefits with titles contra deeds and titling programmes (Fernando 2008).

How is the titling programme in Sri Lanka designed and implemented?

The administrative system of Bim Saviya and other land related issues is complex and lacks co-ordination. This was also the main reasons why the World Bank (2007) thought that their part of the programme led to an unsatisfactory outcome.

The tasks given to each department in the Bim Saviya Programme are clearly separated, but in reality they are closely intertwined. The organization structure in Sri Lanka is hierarchal and the communication is mostly from top down. In Bim Saviya the communication on the lowest level between the involved departments seems to be inadequate, especially between the LTSD and the SD. The investigation of ownership is closely related to demarcation but the tasks are handled by two different departments, and there is no coordinator on their level. The only officials that actually go to the field are the surveyors under SD. The field experience may be of importance when the ownership is investigated by the LTSD and therefore the communication between the two departments is essential. It seems like the competence within the departments is limited to their specific field, an understanding of the whole procedure is important to achieve the objectives of the programme.

The concept of the title programme is thoroughly incorporated at the highest level and the implementation has gone far, which means that the country is dedicated to complete the programme. Therefore a different approach like an enhanced deed registration that may be less expansive and lead to a similar outcome will not be considered.

As mentioned above, one of the most important objectives with title programmes is securing tenure. Considering the low percentage of parcels that receives titles it is a risk that this objective will not be met. Land with unclear ownership or boundaries are left untitled and unchanged. For deed owned parcels or granted parcels with clear ownership a transition to title may not be rewarding for the landowner. The transition for those parcels is of a more technical adjustment. According to the RTA there are a number of provisions available to solve land disputes and unclear ownership. At present many of the participants in the program are working under pressure and try cover as much

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land as possible and therefor ignore the problem areas e.g. the surveyors gets paid per surveyed parcels which leads to a sloppy work.

Programmes are undertaken to teach the landowners about the benefits and meaning of the title system. But the awareness of the title system by landowners seems to be limited. A reason for this may be that the only time when the property system is of interest for the landowner is when he or she is about to do an alteration of their property. Another reason may be that if the rights were secure before the issuing of a title certificate the difference may not be significant from the landowner's perspective.

Balangoda is supposed to be a completed area in the Bim Saviya programme. Even so very few of the respondents had received titles and some had not even seen any surveyors on their land. This indicates that the Bim Saviya awareness programme is unnoticed by some of the landowners. It also indicates that the percentage of issued titles is low on surveyed land, which also was mentioned by the Mr. Buddhisenana (2013-03-09)¹.

¹ Buddhisenana, H. Bertie. Consultant, former Senior Deputy Survey General and former Project Director for Land titling & Related Services. 2013-03-09. Interview conducted at: Organization of Professionals Association.

8. Suggestions

8.1 The subdivision and amalgamation procedure

Communication between SD and LS

Today the data exchange between the SD and LS is not standardized and the LS never know how the data on e.g. boundary points will be given. The transition towards a digital cadastral map covering all land makes the need of standardized information even more important. The suggestion is to standardize the data exchange and educate the involved personal on the matter.

Reallotment procedure

The realottment procedure is not described in the RTA (1998). A reallotment procedure can be achieved in a simultaneous amalgamation and subdivision procedure. However according to the RTA (1998) a landowner needs a new title certificate before he or she could subdivide the amalgamated parcels. This makes the situation cumbersome for the LS and the landowners, e.g. time-consuming and expensive. The suggestion is to enable these procedures to be done simultaneously. An alternative is to use the term reallotment in the legislation and develop provisions for the procedure.

Transactions of subdivided land

The title system makes the process of subdivision in transactions complicated. The seller needs to complete the subdivision process before the transaction of ownership can take place. The same problem will occur in a reallotment procedure. If the seller is in urgent need of money and wants to do a fast transaction of the land the present procedure is a barrier. Another problem is if the parcel is mortgaged, the banks may not allow the subdivision and the transaction will not take place. A suggestion to lower the transaction cost is to make it possible to use a valid contract as evidence of ownership for a subdivision application. Then it would be possible for both the seller and the buyer to apply for the subdivision and the buyer may feel more confidence in the transaction process and the new title certificate will just be a final confirmation. Due to the use of contracted licensed surveyors a pre-hand demarcation could be done before the official application of the subdivision. This would make the subdivision clear between the parties.

Scattering and amalgamation incentives

The conclusion from the interviews is that many families want to subdivide their land for their children. The present population growth will cause an increased number of small and inadequate parcels. Subdivisions will get more expensive in the title system and this may cause a decrease in the amount of subdivisions. It may also lead to illegal subdivisions or a parallel ownership structure within the parcel with the risk of becoming without structure and unfair for the involved

parties. A suggestion is to make co-owning land possible. The banks do not accept mortgage on a co-owned parcel in the deed system but the title system facilitates the management of mortgage for a co-owned title. If the co-ownership leads to management issues the available Partition Act (1977) provides provisions to handle such matters. Enabling co-ownership and conditions to amalgamate land should reduce the risk of scattering. An incentive for amalgamation could be that with amalgamation a landowner will be exempt from stamp duty. The incentive for amalgamation needs to be carefully designed so they will not affect poor landowners with small parcels negatively.

Suitability judgement

At present there is insufficient legislation on the suitability of a parcel after the subdivision or amalgamation is done. The surveyor can subdivide a parcel even if a permission to build a house on the parcel would be disapproved. This practise leads to inadequate land use. A suggestion is to demand a description of the purpose of the procedure when applying for a subdivision. If the purpose is to develop the land in any way a prior permission from the authority in charge should be compulsory as part of the procedure. If the purpose of the subdivision does not include any land development a minimum parcel size based on land use may be sufficient as requirement. The responsibility to administer these suggestions could be the Survey Department's, which already is approving the procedure on a technical basis.

8.2 Other suggestions

Location of departments

When implementing new regulations or restrictions all involved parties should be included both in the drafting of the regulations and how their governmental practise will be affected by the changes. At present there are a lot of different departments situated at different locations and levels involved in land related issues. A suggestion is to gather these departments under the same roof which would make the co-ordination and communication a lot easier.

Coordinative land unit

Another way to approach the problem is to have a coordination unit where the landowner can get advice on where he or she must go for permissions and such. All legislation and restrictions should also be available here.

Implementation of Bim Saviya

At present the implementation of Bim Saviya does not fulfil the expectations. A reason for this seems to be that the programme is rushed. To get more accurate results from the surveying and give more titles too difficult or disputed parcels the objectives should be more directed towards quality instead of quantity. The

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incentives for officials involved in the programme should be both qualitative and quantitative to prevent reoccurring mistakes. The lack of communication and coordination in the Bim Saviya Programme is another problem. A suggestion is to make the coordination unit in Bim Saviya more present in the field work. This unit should have more responsibility and understand and handle all the aspects of the procedure. This may need specially trained staff-members that understands the overall objectives of the programme.

Lifting restrictions on granted land

A majority of the land is state owned and a lot of that land is granted or permitted for the country's citizens. These grants are different tenure types, and the rights are subject to the jurisdiction of different authorities. The system is too complex and hard to comprehend for the grantees and the land market. One suggestion is to make all grants equal and the rights clearly defined. This would lead to easier prediction of the system which would benefit all stakeholders in the land market and mostly the landholder. With the transfer towards a system with one well-defined grant an overview of the restrictions of the grant should be done. Only restrictions with a substantial value for the public good should be kept. Such restriction could be minimum parcel size which prevents scattering. Restrictions on sales and mortgage must be revised carefully because the negative aspects of these restrictions are momentous (de Soto 2000). If the landholder is unable to sell or mortgage the land he or she may feel forced to stay on the land even though a reallocation would benefit both the individual and the economy of the country.

9. References

9.1 Books and publications

- Acemoglu Daron and Simon Johnson. 2005. Unbundling Institutions. *Journal of Political Economy*. vol. 113, no. 5, Massachusetts Institute of Technology, USA.
- Arrunada, Benito. Garoupa, Nuno. 2005. The Choice of Titling System in Land. *Journal of Law and Economics*, Vol. 48, No. 2, Page 709-727. The University of Chicago Law School.
- COHRE (Centre of Housing Rights and Evictions). 2007. *An Introduction to Housing and Land Laws in Sri Lanka*. Edited by: Meredith Lewis. Colombo, Sri Lanka and Geneva, Switzerland. [Electronic] Available at: <http://www.cohre.org/news/documents/an-introduction-to-housing-and-land-laws-in-sri-lanka>
- Dale, Peter F. McLaughlin, John D. 1999. *Land Administration*, Oxford: Oxford University Press
- Deininger, Klaus and Feder, Gershon. Land Registration, Economic Development, and Poverty Reduction. In: Ingram, Gregory K & Hong, Yu-hung. *Property Rights and Land Policies*. Cambridge, Massachusetts, USA: Lincoln Institute of Land Policy. Chapter 11. Page 257-291
- de Soto Hernando. 2000. *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*. New York, USA: Basic Books.
- Dharmaratne, D. Gunawardena, A. Marawila, D. Banda R.M.R. Steele, P & Weerackody, C. 2006. How the Current Situation of Land Grants and Permits Impacts on Poor Households, and How Reforms of the Land Development Ordinance Could Benefit the Poor. *Putting Land First? Exploring the Links between Land and Poverty*. Centre for Poverty Analysis (CEPA). Annual Symposium on Poverty Research in Sri Lanka Series No. 5. Kandy, Sri Lanka. Chapter 4. Page 129-182. [Electronic] Available at: http://cepa.lk/symposium2012/images/pdf/past_symposia_links_2005_putting_land_first.pdf
- Di Tella, Rafael. Galiani, Sebastian. Schargodsky, Ernesto. The Formation of Beliefs: Evidence From the Allocation of Land Titles to Squatters, *The Quarterly Journal of Economics*, February 2007, Harvard University, Page 209-241
- Divithure, H. Tang, C. 2013. Evolution of land registration and cadastral survey systems in Sri Lanka, *Survey Review*, Vol. 45 No 330 Page 220-228. DOI: 10.1179/1752270612Y.0000000020

The Subdivision and Amalgamation Procedure in Sri Lanka

Durrand Lasserre, Alain. Commentary on Land Registration, Economic Development, and Poverty Reduction. Ingram, Gregory K & Hong, Yu-hung. *Property Rights and Land Policies*. Cambridge, Massachusetts: Lincoln Institute of Land Policy. Chapter 11. Page 292-295.

Enemark, Lennart. 2010. From Cadastre to Land Governance in Support of the Global Agenda - The Role of Land Professionals and FIG, International Federation of Surveyors (FIG).

Feder, Gershon, Feeny, David. 1991. Land Tenure and Property Rights -Theory and Implications for Development Policy. *The World Bank Economic Review*. vol. 5 No: 1. Page 135 – 153

Fernandes, Edésio. 2008. Looking Beyond Land Titling and Credit Accessibility for the Urban Poor. In: Ingram, Gregory K & Hong, Yu-hung. *Property Rights and Land Policies*. Cambridge, Massachusetts: Lincoln Institute of Land Policy. Chapter 12. Page 296 – 313

Fonseka, Bhavani. 2010. *Landmines and Land Rights in Sri Lanka*. Geneva International Centre for Humanitarian Demining (GICHD). Geneva, Switzerland [Electronic] Available at: www.gichd.org/fileadmin/pdf/ma_development/wk-landrights-oct2010/LMAD-wk-Sri-Lanka-case-study-Nov2010.pdf

Galiani, Sebastian. Schargodsky, Ernesto. 2005. *Property Rights for the Poor- Effects of Land Titling*, Universidad Torcuato Di Tella, Centro de Investigación en Finanzas. Buenos Aires.

Galiani, Sebastian. Schargodsky, Ernesto. 2011. *The Dynamics of Land Titling Regularization and Market Development*, United Nations University- The World Institute for Development Economics Research (WIDER). Helsinki

Gunnasekara, Kirthimala. 2008. *Defective Land Title Insurance in Sri Lanka: A Scheme to Guarantee the Mortgaging of Land*. [Electronic] Available at: www.terrainstitute.org/pdf/Defective%20title%20ins%20final.pdf

Henssen Bo. 1995. *Basic Principles of the Main Cadastral Systems in the World*, International Federation of Surveyors (FIG). Delft.

Ingram, Gregory K & Hong, Yu-hung. Examining Land Policies from a Property Rights Perspective. In: *Property Rights and Land Policies*. Cambridge, Massachusetts: Lincoln Institute of Land Policy. Chapter 1. Page 3-22.

The Subdivision and Amalgamation Procedure in Sri Lanka

Lee, Robert Warden. 1946. *An introduction to Roman-Dutch law*. Fourth edition. Oxford. Oxford Clarendon Press [Electronic] Available at:

<http://archive.org/stream/introductiontoro00leeruoft#page/n5/mode/2up>

Ludden, David. 2002. *India and South Asia: A Short History*. Oxford, England. Oneworld Publications.

Mapa, R.B. Kumaragamage D. Gunarathne W.D.L, Dassanayake A.R. *Land Use in Sri Lanka – Past, Present and Future*, 2002, World Congress of Soil Science (WCSS). Symposium no. 31, Paper no. 974

Marasinghe, L. 1993. Land, Religion and Under-Development - Elements in the Development of a Colonial Economy in Ceylon. *Sri Lanka Journal of International Law*. Vol. 5 Page 65-102.

Marawila, D. 2007. Revitalizing Small-Scale Agriculture: Rental Policies of Alienated State Lands of Sri Lanka. *Sri Lankan Journal of Agricultural Economics*, Vol. 9, Page 23-42. University of Peradeniya. Sri Lanka

Mitchell, David. Clarke, Matthew. Baxter, James. Evaluating land administration projects in developing countries. *Land Use Policy* 25 (2008). Philadelphia. Page 464-473.

Ostrom, Elinor. 2008. Design Principles of Robust Property Rights Institutions: What have we learned? In: Ingram, Gregory K & Hong, Yu-hung. *Property Rights and Land Policies*. Cambridge, Massachusetts, USA: Lincoln Institute of Land Policy. Chapter 2. Page 25-51.

Peebles, Patrick. 2006. *The History of Sri Lanka*. Greenwood Press. Westport, USA

Perera, T.G.U.P. 2010. Implementing Land Registration Systems in Sri Lanka – Being Pragmatic. *Sri Lankan Journal of Real Estate No. 4*. University of Jayewardenepura, Sri Lanka Page 74-96. [Electronic] Available at: <http://journals.sjp.ac.lk/index.php/SLJRE/article/view/114/48>

Perera, Upuli. Takashi, Onishi. Kidokoro, Tetsuo. 2007. *Land Tenure and Development Policies; It's impact on Land Market - The Case of Colombo*, Sri Lanka. Tokyo University. [Electronic] Available at: rdarc.itakura.toyo.ac.jp/webdav/ask/public/ACP2007/upuli.pdf

Rajapakshe, Wijeyadasa. 2003. *The Land Law of Property Volume 3 Actions*, Presidents council, Sri Lanka.

The Subdivision and Amalgamation Procedure in Sri Lanka

Rajapakshe, Wijeyadasa. 2006a. *The Land Law of Property Volume 1 Ownership*. Second edition. Presidents council. Sri Lanka.

Rajapakshe, Wijeyadasa. 2006b. *The Land Law of Property Volume 2 Ownership*. second edition. Presidents council. Sri Lanka.

Rubasinghe, Rathnamali. 2010. *Evaluating Acceptability of Land Titling – A Case Study of Sri Lanka*. Msc thesis. International Institute for Geo-information Science and Earth Observation. Enschede. Netherlands. [Electronic] Available at: http://www.itc.nl/library/papers_2010/msc/la/rubasinghe.pdf

UN (United Nations) 1948. *A Universal Declaration on Human Rights*, General Assembly. A/RES/217(3).

UN (United Nations). 1996. *Land Administration Guidelines- With special reference to countries in transition*. New York and Geneva. United Nations Publication.

UN (United Nations). 2005. *Land Administration in the UNECE Region- Development trends and main principles*. New York and Geneva. United Nations Publication.

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 1999. *Country Reports on Local Government Systems: Sri Lanka*. [Electronic] Available at: www.unescap.org/huset/lgstudy/new-countrypaper/SriLanka/SriLanka.pdf

Wanigaratne, R.D. 2006. A Tentative Exploration of the Links between Land and Poverty through a Rights Based Approach. *Putting Land First? Exploring the Links between Land and Poverty*. Centre for Poverty Analysis (CEPA). Annual Symposium on Poverty Research in Sri Lanka Series No. 5. Kandy, Sri Lanka. Chapter 3. Page 67-128. [Electronic] Available at: http://cepa.lk/symposium2012/images/pdf/past_symposia_links_2005_putting_land_first.pdf

World Bank. 2001. *Project Appraisal Document on a Proposed Credit... for the Land Titling and Related Services Project*. Report No.: 22020 CE. Rural Development Sector Unit - South Asia Region [Electronic] Available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2001/04/27/000094946_01041205325761/Rendered/PDF/multi0page.pdf

World Bank. 2007. *Implementation Completion and Results Report for a Land Titling and Related Services Project*. Report No:ICR0000190. Sustainable

The Subdivision and Amalgamation Procedure in Sri Lanka

Development Unit - South Asia Region [Electronic] Available at: www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/05/03/000020953_20070503140236/Rendered/PDF/ICR0000190.pdf

World Bank. 2008. *Land Reforms Sri Lanka in - A Poverty and Social Impact Analysis (PSIA)* [Electronic] Available at: siteresources.worldbank.org/INTPSIA/Resources/490023-1120841262639/PPP171_WB_SriLanka_Report_30-05-08.pdf

Zevenbergen, Jaap. 2002. *Systems of Land Registration - Aspects and Effects*, Netherlands Geodetic Commission (NCG). Delft.

9.2 Governmental documents

Balangoda Urban Council. 2013. [Retrieved: 2013-05-30]
<http://www.balangoda.uc.gov.lk/en/index.htm>

Bim Saviya. Undated. *Booklet*. [Electronic] Available at:
http://www.bimsaviya.gov.lk/web/downloads/booklet1_E.pdf

DCS (Department of Census and Statistics). 2009. PPD (Population and population density by sectors and D.S. divisions), [Retrieved: 2013-05-30]
<http://www.statistics.gov.lk/statistical%20Hbook/2010/Ratnapura/2.4.pdf>

DCS (Department of Census and Statistics). 2012. *Census of Population and Housing*. Ministry of Finance and Planning, Sri Lanka. ISBN: 978-955-577-791-9. [Electronic] Available at:
http://www.statistics.gov.lk/PopHouSat/PopulationAtla_2012/01_CoverPrefaceAndContents/Pages%20from%20001-DCS_Population_Atlas_of_Sri_Lanka-2012_CD_Version_Final.pdf

Department of Land Use Policy Planning. 2011. *National Land Use Policy of Sri Lanka*. Colombo, Sri Lanka [Electronic] Available at:
www.luppd.gov.lk/LU%20Policy%20new.pdf

RGD (Registrar General's Department). 2011. *Performance Report*

9.3 Laws

Agrarian Development Act No.46 of 2000
Buddhist Temporalities Ordinance No.8 of 1905
Ceiling on Housing and Property Act No. 339 of 1973
Land Settlement Ordinance No.299 of 1931
LDO (Land Development Ordinance) No.41 of 1935
LG(SP)A (Land Grants (Special Provisions) Act) no. 43 of 1979
Notaries Ordinance No.110 of 1907
Partition Act no.21 of 1977
Prescription Ordinance No. 81 of 1871
Prevention of Frauds Ordinance No. 7 of 1840
State Land (Recovery of Possession) Ordinance No. 4 of 1887
RDO (Registration of Documents Ordinance) No.23 of 1927
Rent Act No. 7 of 1972
RTA (Registration of Title Act) No.21 of 1998
SLO (The State Land Ordinance) No.8 of 1947
Survey Act No.17 of 2002
THIO (Town and Housing Improvement Ordinance) No. 268 of 1915.
UDAA (Urban Development Authority Act) No. 48 of 1978

9.4 Internet Sources:

Bim Saviya, Objective. Last Updated 2011-05-23. [Retrieved: 2013-04-05]
http://www.bimsaviya.gov.lk/web/index.php?option=com_content&view=article&id=2&Itemid=11&lang=en

Commonwealth Local Government Forum (CLGF). [Retrieved: 2013-04-25]
<http://www.clgf.org.uk/sri-lanka/>

Landguiden, Befolkning och språk (Sri Lanka). Last updated 2011-02-23, Editor: Pia Daleke [Retrieved: 2013-02-12]
www.landguiden.se/Lander/Asien/SriLanka/Befolkning-Sprak

Landguiden, Ekonomi (Sri Lanka). Last updated 2012-04-12, Editor: Pia Daleke [Retrieved: 2013-02-25] www.landguiden.se/Lander/Asien/SriLanka/Ekonomi

Landguiden, Geografi (Sri Lanka). Last updated 2011-02-01, Editor: Pia Daleke [Retrieved: 2013-02-10] www.landguiden.se/Lander/Asien/SriLanka/Geografi

Landguiden, Kalendarium (Sri Lanka.) Last updated 2013-04-04, Editor: Pia Daleke [Retrieved: 2013-04-10]
www.landguiden.se/Lander/Asien/SriLanka/Aktuell-Politik/Kalendarium

The Subdivision and Amalgamation Procedure in Sri Lanka

Landguiden, Klimat (Sri Lanka). Last updated 2011-02-01, Editor: Pia Daleke [Retrieved: 2013-02-10] www.landguiden.se/Lander/Asien/SriLanka/Klimat

Landguiden, Massmedier (Sri Lanka). Last updated 2013-04-04, Editor: Pia Daleke [Retrieved: 2013-04-10] www.landguiden.se/Lander/Asien/SriLanka/Massmedier

Landguiden, Modern historia (Sri Lanka). Last updated 2012-10-30, Editor: Pia Daleke [Retrieved: 2013-02-16] www.landguiden.se/Lander/Asien/SriLanka/Modern-Historia

Landguiden, Politiskt System (Sri Lanka). Last updated 2012-10-30, Editor: Pia Daleke [Retrieved: 2013-04-10] www.landguiden.se/Lander/Asien/SriLanka/Politiskt-System

Landguiden, Religion (Sri Lanka). Last updated 2011-02-23, Editor: Pia Daleke [Retrieved: 2013-02-12] www.landguiden.se/Lander/Asien/SriLanka/Religion

Landguiden, Äldre historia (Sri Lanka). Last updated 2012-10-30, Editor: Pia Daleke [Retrieved: 2013-02-16] www.landguiden.se/Lander/Asien/SriLanka/Aldre-Historia

Ministry of Public Administration and Home Affairs (MPAHA). Last updated 2013-03-27 Editor: Ranasinghe, Kamal [Retrieved: 2013-04-10] http://www.pubad.gov.lk/web/index.php?option=com_content&view=article&id=82&Itemid=173&lang=en

9.5 Images, Tables and Diagrams

Images

Image 1: Enemark, Lennart. 2010. From Cadastre to Land Governance in Support of the Global Agenda - The Role of Land Professionals and FIG, International Federation of Surveyors (FIG). Page 3.

Image 2: CIA (Central Intelligence Agency) Library Maps. USA. Sri Lanka Physiography 2001 (2013-05-23). Last updated 2012-11-24. <https://www.cia.gov/library/publications/cia-maps-publications/Sri%20Lanka.html>

Image 3: Compiled by authors of this thesis based information from: UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 1999. *Country Reports on Local Government Systems: Sri Lanka*. [Electronic] Available at: www.unescap.org/huset/lgstudy/new-countrypaper/SriLanka/SriLanka.pdf

The Subdivision and Amalgamation Procedure in Sri Lanka

Image 4: Compiled by authors of this thesis based information from: Perera, Upuli. Takashi, Onishi. Kidokoro, Tetsuo. 2007. *Land Tenure and Development Policies; It's impact on Land Market - The Case of Colombo, Sri Lanka.* Tokyo University. [Electronic] Available at:
rdarc.itakura.toyo.ac.jp/webdav/ask/public/ACP2007/upuli.pdf

Image 5: Bim Saviya, Progress. Last Updated 2013-03-14. [Retrieved: 2013-04-05]http://www.bimsaviya.gov.lk/web/index.php?option=com_content&view=article&id=6&Itemid=17&lang=en&limitstart=1

Image 6: Compiled by authors for this thesis based information from: Bim Saviya, About us. Last Updated 2013-03-14. [Retrieved: 2013-04-05]
http://www.bimsaviya.gov.lk/web/index.php?option=com_content&view=article&id=12&Itemid=9&lang=en

Image 7: Compiled by authors of this thesis with information from interviews

Image 8: Compiled by authors of this thesis with information from interviews

Image 9: Compiled by authors of this thesis with information from interviews

Image 10: Compiled by authors of this thesis based on data from: GADM (Global Administrative Areas database). Shape-files of Sri Lanka administration boundaries in Geographical coordinate system WGS84. Retrieved: 2013-05-07. <http://www.gadm.org/country>

Image 11: Compiled by authors of this thesis based on data from: GADM (Global Administrative Areas database). Shape-files of Sri Lanka administration boundaries in Geographical coordinate system WGS84. Retrieved: 2013-05-07. <http://www.gadm.org/country>

Image 12: Picture taken by Lars-Jonas Kaddik

Image 13: Compiled by authors of this thesis based on data from: SD (Survey Department). Based on AutoCAD-files from Survey Department provided from Sabaragamuwa University. Projection information of the projected coordinate system SLD99 was brought from:
<http://www.cage.curtin.edu.au/~will/SLgeodeticdatums6revised1c.pdf>

Image 14: Picture taken by Lars-Jonas Kaddik

Image 15: Compiled by authors of this thesis based on data from: SD (Survey Department). Based on AutoCAD-files from Survey Department provided from Sabaragamuwa University. Projection information of the projected coordinate

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system SLD99 was brought from:

<http://www.cage.curtin.edu.au/~will/SLgeodeticdatums6revised1c.pdf>

Tables

Table 1: Compiled by the authors of this thesis

Table 2: Compiled by authors for this thesis based information from: RGD (Registrar General's Department). 2011. Performance Report

Table 3: Compiled from the information in the land owner interviews (Appendix 2,3)

Table 4: Compiled from the information in the land owner interviews (Appendix 2,3) And data from: DCS (Department of census and Statistics). 2011. Household Income and Expenditure Survey – 2009/10. Colombo [Electronic] Available at: http://www.statistics.gov.lk/HIES/HIES2009_10FinalReportEng.pdf

Table 5: Compiled from the information in the land owner interviews (Appendix 2,3) And DCS (Department of census and Statistics). 2011. Household Income and Expenditure Survey – 2009/10. Colombo [Electronic] Available at: http://www.statistics.gov.lk/HIES/HIES2009_10FinalReportEng.pdf

Table 6: Compiled from the information in the land owner interviews (Appendix 2,3)

Table 7: Compiled from the information in the land owner interviews (Appendix 2,3)

Table 8: Compiled from the information in the land owner interviews (Appendix 2,3)

Table 9: Compiled from the information in the land owner interviews (Appendix 2,3)

Diagrams

All diagram 1-4 are compiled from the information in the land owner interviews (Appendix 2,3)

Registration type	1th Class Title Deed	2nd Clas Title Other
Source of ownership of land	Inheritance Purchase	Gift Grant or permit
Leasing and rentings	Leasing Renting	Leasing out Renting out

4. History of the Land

For how long has this land been in your familyline (relatives)?

Have you changed the use of the land within the last 20 years?

Built a house?

Cultivated?

Other (roads, irrigation etc.)?

Have you expanded or reduced the size of your land within the last 20 years?

If yes, what was the purpose? Per example: Invest and cultivate more land, Building bigger house, selling to neighbour

5. Sentimental Values

Could you describe different parts of your land?

Per example: Type of land, special attributes

Are there any particular parts of your property that is more valuable to you or your family? Per example: inheritance, graves, special trees?

Are you satisfied with your current land:

Land use?

Location?

Extent (size)?

Rights?

Is it important for you to have well defined boundaries of your land?

(explanation: surveyed and clearly marked boundaries)

Are there official boundaries (only for deed registered land)?

Have you had any problems because of unclear boundaries before?

6. Selling the entire property

Would you consider selling your property?

If your property value would be higher, would you reconsider?

Per example: 3 times higher than market price

Have you mortgaged your land? (taken loans, using property as collateral)

7. Selling a part of the property

Would you like to expand your land parcel/s?

(explanation: Buying land from neighbours)

Examples:

Planning to do it

Satisfied with current land

Neighbours does not want to sell or too expensive price

Too complicated and expensive procedure

Are there any parts of your land you would like to sell to a neighbour?

Examples:

Sentimental values: does not want to sell

Neighbour does not want to buy

Too complicated and expensive procedure

Are there any parts of your land you would like to subdivide?

Per example: to give/sell to relatives, selling as a property on the open market

8. Additional question

Are you aware of the Bim Saviya program?

Are you aware of the restriction regarding what you can do on your property?

(urban only)

Example:

Building house

Changing extent

Appendix 2

Interviews Weligepola		Interview 1	Int. 2	Int. 3	Int. 4
1. Identification Information					
Divisional Secretariat Area:		Weligepola	Weli.	Weli.	Weli.
Grama Nilhadri Area:		Gangodagama	Gangod.	Weli.	Weli.
Village:		Weligepola	Weli.	Weli.	Weli.
2. Landowner Information					
Age:		53	50	55	73
Gender:		Female	Female	Male	Male
Occupation:		No answer	Housewife/ Farmer	Merchant/ Farmer	Retired
Religion:		Buddist	Buddist	Buddist	Buddist
Highest Completed Education:		G.C.E (O/L) /S.S.C	No answer	G.C.E (O/L)/S.S.C	Secondary
Number of people living in the house:		5	5	5	2
Household monthly Income/expenses:		15000	12500	40000	15000
3. Land and Ownership					
How many land parcels do you own?		1	1	1 14	1
Land size?		150	4000	1500 24000	1000
Land use?			House & garden	House & garden	House & garden
Residential			Building		
Only building Undeveloped					
Agriculture				Paddy	
Paddy or Cultivated forest			Cultivated forest		
Commercial					
Factory Business					
Type of Ownership		Single owned	Shop Single owned	Single holder	Single holder
Registration type		None	Deed	Viharagam	Vihara.
Source of ownership of land		Encroachment	Inheritance	Inheritance	Inheritance
Are you leasing or leasing out, renting or renting out any land or house?		No	Renting out	No	No
4. History of the Land					
For how long has this Land been in		40	40	Over 100	Over 100

your family? Have you changed the use of the land within the last 20 years?	Built house	Built house Cultivated	Built house	
Have you expanded or reduced the size of your land within the last 20 years?	No	No	No	No
5. Sentimental Values				
Are there any parts of your property that is more valuable to your family?	No	No	-	-
Are you satisfied with your current land:				
Land use?	Yes	Yes	Yes	Yes
Location?	Yes	Yes	Yes	Yes
Extent?	No	Yes	Yes	Yes
Rights?	No	Yes	No	Yes
Is it important for you to have well defined boundaries of your land?	-	-	-	No
Are there official boundaries?	N/A	Yes	Yes	No
Have you had any problems because of unclear boundaries before?	No	Yes	No	No
6. Selling the entire property				
Would you consider selling your property?	No	No	No	No
If your property value would be higher, would you reconsider?	No	No	No	No
Have you mortgaged your property?	N/A	-	N/A	N/A
7. Selling a part of your property				
Would you like to expand your land parcel/s?	Yes	Yes	Yes	No
Are there any parts of your land you would like to sell to a neighbour?	No	No	No	No
Are there any parts of your land you would like to sub-divide?	No	Yes	N/A	N/A
8. Additional questions				
Are you aware of the Bim Saviya program?	No	Yes	Yes	Yes

Remaining 7 interview answers from the rural area.

	Int. 5	Int. 6	Int. 7	Int. 8	Int. 9	Int. 10	Int. 11
1	Weligepola Gangodagama	Weli. Weli.	Weli. Udang- angoda	Weli. Weli.	Weli. Weli.	Weli. Weli.	Weli. Weli.
	Weligepola	Rupahi- gangoda	Polam- bura	Rupah.	Rupah.	Rupah.	Rupah.
2	40 Male Farmer	56 Male Farmer	41 Male Baker	50 Male Contractor	42 Male Farmer	65 Male Pensioner	65 Female Pensioner
	Buddist	Buddist	Buddist	Buddist	Buddist	Buddist	Buddist
	G.C.E (A/L)/H.S.C.	Primary	Secondary	Primary	G.C.E (O/L)/S.S.C	G.C.E (O/L)/S.S.	No answer
	4	5	4	5	4	4	3
	12500 exp	10000	25000	60 000	5000 exp	5000	8000
3	1 3	1	1	1	1 1	1	1
	375 2000	2000	1000	2000	1000 1000	2000	10000
	House & garden	House & garden	House & garden	House & garden	House & garden	House & garden	House & garden
	Paddy			Cultivat ed forest	Cultivated forest		Cultivated forest
			Shop			Shop	
	Single + co- owned	Co- owned	Single owned	Single owned	Single owned + holder	Single owned	Single owned
	1th class title	Deed	Deed	1th class Title	Deed + Swarmab- hoomi	Deed	Deed
	Purchase	Gift	Purchas	Inherit.	Inheritance + Grant	Purchase	Purchase
	No	No	No	No	No	No	No

Appendix 3

Interviews Balangoda	Interview 1	Int. 2	Int. 3	Int. 4
1. Identification Information				
Divisional Secretariat Area:	Balangoda	Balang. Dehiga.	Balang. Dehiga.	Balang. Dehiga.
Grama Nilhadri Area:	Dehigast-halawa			
Village:	Miriswatte	Miris.	Gorakaga hamack	Miris.
2. Landowner Information				
Age:	31	47	69	56
Gender:	Male	Male	Male	Male
Occupation:	Businessman	Businesm. Land sales	Retired shopowne	Shop-owner
Religion:	Islam	Islam	Islam	Islam
Highest Completed Education:	G.C.E (O/L) / S.S.C	Secondary	G.C.E (O/L) / S.S.C	G.C.E (O/L) / S.S.C
Number of people living in the house:	3	6	12	5
Household monthly Income/expenses:	8000 exp	100000	50000	20000
3. Land and Ownership				
How many land parcels do you own?	1	7	2	1
Land size?	425	490	750, 500	1 325
Land use? Residential		3300		100
	Residential	House & garden		
		Only building	Building	
		Undevelope	6 undeve.	1 undeve.
Agriculture		Paddy		
		Cultivated forest		
Commercial		Factory Business		Shop
Type of Ownership	Single owned	Single owned	Single owned	Single owned
Registration type	Deed	1th class title	Deed	Deed
Source of ownership of land	Purchase	Purchase	Purchase	Purchase
Are you leasing or leasing out, renting or renting out any land or house?	No	No	No	Renting

4. History of the Land				
For how long has this Land been in your family?	32	4	35	1
Have you changed the use of the land within the last 20 years?	No	Built house Roads	Building house	No
Have you expanded or reduced the size of your land within the last 20 years?	Yes	No	Yes	No
5. Sentimental Values				
Are there any parts of your property that is more valuable to your family?	No	No	No	No
Are you satisfied with your current land:				
Land use?	Yes	Yes	Yes	No
Location?	Yes	Yes	Yes	Yes
Extent?	Yes	Yes	Yes	No
Rights?	Yes	Yes	Yes	Yes
Is it important for you to have well defined boundaries of your land?	No	Yes	Yes	No answer
Are there official boundaries?	Yes	Yes	Yes	Yes
Have you had any problems because of unclear boundaries before?	No	Yes	No	No
6. Selling the entire property				
Would you consider selling your property?	No	Yes	No	Yes
If your property value would be higher, would you reconsider?	No	-	No	-
Have you mortgaged your property?	No	No	No	No
7. Selling a part of your property				
Would you like to expand your land parcel/s?	Not able	Yes	Not able	Yes
Are there any parts of your land you would like to sell to a neighbour?	No	No	No	Yes
Are there any parts of your land you would like to subdivide?	No	No	Yes	Yes
8. Additional questions				
Are you aware of the Bim Saviya program?	Yes	Yes	Not much	Not much
Are you aware of the restrictions regarding what you can do on your property (only urban)?	Yes	Yes	Yes	Yes

Remaining 8 interview answers from the urban area.

	Int. 5	Int. 6	Int. 7	Int. 8	Int. 9	Int. 10	Int. 11	Int. 12
1	Balang. Balang.	Balang. Balang.	Balang. Balang.	Balang. Balang.	Balang. Balang.	Balang. Kirindi- gala Anada.	Balang. Kirindi. Anadami thgama	Balang. Kirindi. Anada.
2	52 Male Architect	65 Female Retired teacher	50 Male Shop- owner	25 Female House- wife	64 Female Animal breeder	49 Male Fire- wood maker	52 Male Shop- worker	52 Male Seaman
	Buddhis	Buddhis	Buddhis	Buddhist	Buddhist	Hindu	Buddhist	Buddhis
	G.C.E (A/L) / H.S.C	G.C.E (A/L) / H.S.C	G.C.E (A/L) / H.S.C	G.C.E (O/L) / S.S.C	G.C.E (A/L) / H.S.C	Seconda ry	G.C.E (O/L) / S.S.C	G.C.E (A/L) / H.S.C
	4	2	6	3	5	4	5	4
	75000	28000	350000	50000	30000	30000	25000 exp	20000 exp
3	1	1	1	1	1	1	2	1 1
	950	1000	1 2050	410	2700	840	425, 425	500
	Building	House & garden	1250 Building	Undeve.	Building 3 houses	House & gard.	House & garden Building 2 houses	500 Building
	Co- owned	Single owned	Shop Single owned	Singel owned	Animal breeding	Firewoo d maker	Single owned	Single owned
	Deed	1th Class Title Purchase	Deed Purchase	Deed Purchase	Permit Purchase	1th clas Title Inherit.	Deed Purchas	Deed Inherit.
	Renting Out	No	No	Renting	No	No	Renting out	No

Appendix 4

Questions for Official or Professional

Introduction: We are two students from Lunds University in Sweden. Our study is in Land Management and Surveying and we are now doing our MSc thesis in Sri Lanka, supervised by Mr. Vipula Abeyratne, Head of the Department of Surveying and Geodesy, faculty of Geomatics at Sabaragamuwa University. Our subject is on subdivision, re-division and amalgamation (subsequent surveying procedures) after title certificate is given. To research the present situation as well as possible improvements on the system we need to understand the; institutions, regulations, planning devices and the tenure system in Sri Lanka. To address the needs of the essential stakeholders, the landholders, interviews will take place in Weligepola and Balangoda (study areas) in the Ratnapura District.

Name:.....Title:.....

Background

Which kind of work do you do in your profession, and how long have you been doing it?

Can you tell us more about the area you are working in?

- What kind of people lives in this the area and what are the occupations?
- What kind of land use is most common in the area, agricultural, residential/gardens, commercial?
- How big in general are the parcels in the area?
- Is it usual for a landowner to own many parcels?
- Approximately how much land are government owned and how much is private owned?
- Is it mostly deed or title registered land
- When was the transition between the two?

Which register system are you more familiar to work with, deed or title?

Title system

Have you been involved in any subdivision or amalgamation procedure with a titled parcel?

- If yes, did the procedure work as the landowner intended?
- If no, has there been any one applying for such a procedure in the area you think?

Can you describe the procedure on subdivision/amalgamation in the title system:

- The initiative from the landowner
- The surveying from a licensed surveyor
- Updating the cadastral map
- Receiving a new title certificate
- Are there any special legislations concerning this particular area?

How long time does the procedure take?

- How long will it take to complete surveying for a licensed surveyor
- How long will it take for the survey department with the cadastral map?
- How long will it take for the registrar to produce a new title certificate
- Other?

How much does the procedure cost?

- How much will a licensed surveyor charge for their part?
- The survey department for the cadastral map?
- The registrar for a new title certificate?
- Other costs?

From your point of view what do the landowners think about:

- How long it takes for subsequent surveys?
- The cost?
- How to begin the process?
- Do you think it is too complicated?

What would be the positive outcome from the Bim Saviya project from your point of view?

Restrictions on parcels

What kinds of restrictions does a licensed surveyor have to take under consideration when doing subdivision/amalgamation procedure?
In an urban area respectively rural area?

Which restrictions do you follow that is set by the local authority? (Pradeshiya Shaba, Urban Council)

- Town and Housing Development Ordinance?
- Urban Development Authority?
- Survey regulations?
- Others?

Do you think the surveyor should have more power to make the suitability judgement?

Deed system

Have you been involved in any subdivision or amalgamation procedure with a deed parcel?

Can you describe the procedure on subdivision/amalgamation in the deed system:

- The initiative from the landowner
- The surveying from a licensed surveyor / optional?
- Receiving a new title certificate

The cost and time frame compared with the title system?

Granted land

Which of these are the most common in your area and which is the most granted?

Which institutions issues permits or land grants?

Grants often contain restrictions on subdivisions like minimum parcel size etc. Can you describe this?

Is it possible to have co-owners of a granted land? And what is happening when they are given the title certificate?

Are there any national regulations or does each DS have individual regulations?

Do you issue permits or grants to encroachers? If so:

- according to which act or regulations?
- class of the title?

After permit/grant holders are given a title certificate is there any changes in the previous restrictions?

Do you have any part in the rural land planning policy in your area?

Is the policy affecting the restrictions on subdivisions in both private and State owned land?

Are there different grants/permits and restrictions in the said study area?

Mortgage related questions

Can you describe the mortgage system in general:

- If a landowner wants to use the titled registered property as collateral, how must he/she proceed? (Electronic liens, mortgage certificate, possession of title certificate, digital storage)
- Is it possible to use the same title certificate for multiple loans in one bank?
- Who does the property valuation in a mortgage situation?

Have you been involved in any titled or deed (registered) property used as collateral?

Does the bank value title registered properties as better collateral than deed registered properties?

Why is it better as collateral?

Title registered properties

If a landowner wants to change the extent (size) of his/her mortgaged and titled property, how is the interaction with the bank?

If the landowner wants to divide a title registered property? (If a property is divided there is usually more value in the land as two units than as one.)

If the landowner wants to emerge two properties into one title registered property? (if two properties is emerged the value usually decreases.)

Deed registered properties

What kind of information does the bank need to accept a deed registered property as collateral?

What happens if a landowner changes the extent by selling any part of the mortgaged deed registered property? Can the landowner do this?

Have you any experience from title insurance for a deed registered property? (As a way to obtain mortgage for a landowner where the ownership is unclear?)

Grants

Is the bank willing to use granted or permitted land as collateral?

A grant/permit holder can obtain a title certificate with the restrictions in ownership described in the title document. Do you think the bank values a titled grant/permit land more?

Thank you very much!