

**Lal Bahadur Shastri National Academy  
of Administration  
Training Programme on  
Land Governance**

## **Acts, Principles and Stakeholders in Land Management and Dispute Resolution**

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### **Overview of Presentation**

- ❖ Land Administration-General Concepts
- ❖ Impact of Land Administration on other Sectors
- ❖ Global Practices in Land Administration
- ❖ Land Administration System in India
- ❖ Towards Better Land Administration

# Land Administration General Concepts

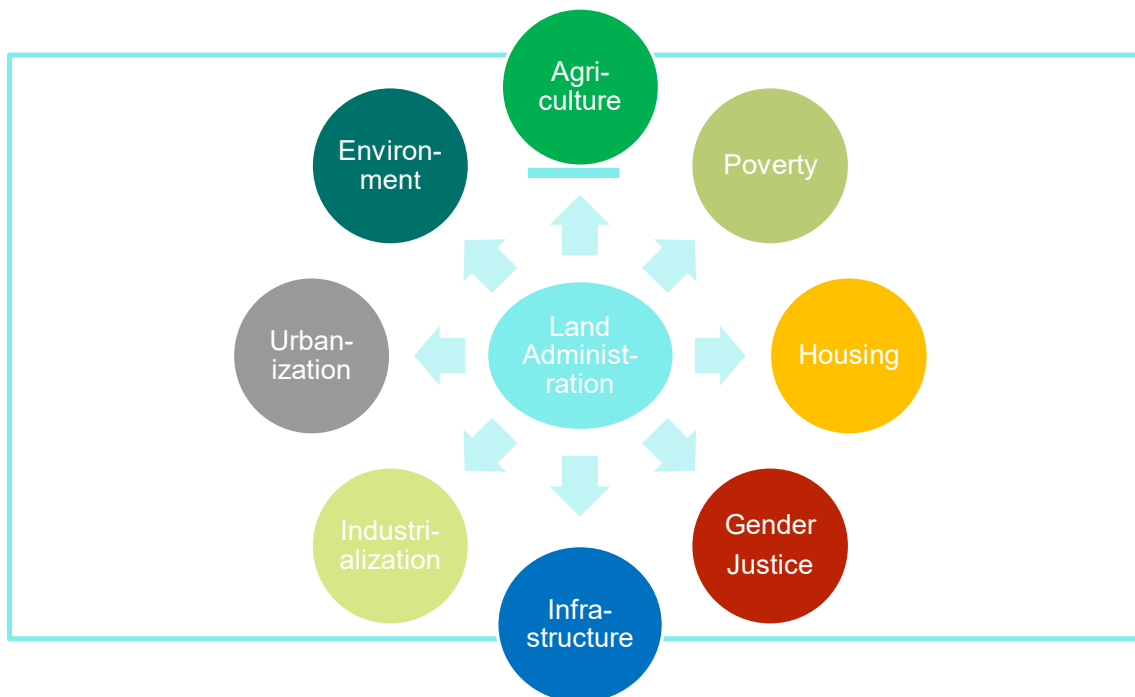
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## Land Administration

As per United Nations Economic Commission for Europe (UNECE) “Land Administration is the **process** of **determining**, **recording** and **disseminating information** about **ownership**, **value** and **use of land** and its associated resources. These processes include the determination (sometimes called ‘**adjudication**’) of land rights and other attributes, **surveying** and describing these, their detailed **documentation**, and the provision of relevant **information** for supporting land markets”

## Land Administration (cont.)

- Survey and description of land parcels
- Recording value, use and other characteristics of land parcels
- Recording ownership and other rights on land
- Enabling transfer of land
- Providing information on the above.
- Dispute Resolution



# Global Practices in Land Administration

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## Components of Land Administration

### Cadastre

- ❖ Started by Napoleon in Europe in 19<sup>th</sup> century
- ❖ Created for tax purposes
- ❖ Covers whole country
- ❖ More emphasis on parcel boundaries, land use, tax etc.
- ❖ Rights are also recorded

### Land Register

- ❖ Started after industrialization
- ❖ Emphasis on recording rights transactions in land
- ❖ Legal sanctity of recordings
- ❖ Spatial description may or may not be there



## Cadastre



A cadastre is a **parcel-based land information system** containing a **record of interests in land**. It includes a **geometric description** of land parcels, **ownership and other interests**, and often the **value of the parcels**. It is established for **fiscal purposes** (e.g. valuation and taxation), **legal purposes** (conveyancing), or to assist in **the management of land** (e.g. for planning and other administrative purposes).

## Global Practices

- ❑ No cadastre in the USA, the UK and Australia
- ❑ Germany, France, the Netherlands and many other countries of Western Europe have well-established cadastre
- ❑ India and many Asian countries maintain cadastre

## Land Register

### Deed Registration System

- Transfer of title through a transfer deed
- Parcel-wise ownership Record not maintained
- Registration of deed with Registrar for record
- Registration is an evidence of transaction but does not guarantee a good title

## Land Register

### Title Registration, Conclusive Title, Torrens System

- Parcel-wise land register is maintained
- Legal validity of transaction is examined by registrar before registration
- Registration is conclusive proof of title
- State compensates for monetary loss to a party due to any defect in the title register

## Global Practices

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- Almost equal following of both systems in the world
- Among top ten economies:
  - The USA, Japan, Italy, France, India, and Brazil- Deed Registration
  - Germany, the U.K., China – Title Registration
  - Canada- Both Systems are prevalent in different provinces

## Land Administration in India

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## Division of Legislative Powers

### Union List

86. Tax on capital value of assets, except on agricultural land

87. Estate duty on property other than agricultural land

### State List

18. Land, rights in land, relation of landlord and tenant, transfer of agricultural land, land improvement and agricultural loans, colonization

### Concurrent List

6. Transfer of property other than agricultural land, registration of deeds and documents

7. Contracts, excluding contracts relating to agricultural land

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## Division of Legislative Powers

### Union List

88. Duties on succession to property other than agricultural land.

### State List

45. Land revenue, maintenance of land records, survey for revenue purposes and records of rights.

47. Duties on succession to agricultural land.

### Concurrent List

41. Custody, management and disposal of evacuee property.



## Central Laws Related to Land Administration

- The Registration Act 1908
- The Transfer of Property Act 1882
- The Specific Relief Act 1963
- The Hindu Succession Act 1956
- The Muslim Personal Law (Shariat) Application Act
- The Indian Succession Act 1925

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## Central Laws Related to Land Administration

- The Waqf Act, 1995
- Land Acquisition Act (RFCTLARRA 2013)
- The Forest (Conservation) Act, 1980
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

## Central Laws Related to Land Administration

- The Indian Contract Act, 1872
- The Indian Stamp Act of 1899
- The Real Estate Regulation & Development Act (RERA) 2016
- Urban Land (Ceiling and Regulation) Act (ULCRA), 1976
- The Limitation Act 1963

## State Laws Related to Land Administration

- Land Revenue Acts
- Survey and settlement laws
- Land Reforms Acts
- Laws Restricting Transfer Of Land of Scheduled Castes and Tribes
- Consolidation of Land Holdings Acts

## State Laws Related to Land Administration

- Ceiling on Land Holdings Acts
- Laws Related to Common Lands
- Restriction on Use of Land
- Ceiling on Land Holdings Acts
- Laws Related to Common Lands
- Restriction on Use of Land

## Record of Rights- Cadastre

- Introduced by the British in 1822
- Created to assess and collect land revenue
- Cadastral Maps showing boundaries of parcels
- Parcel-wise record of ownership and rights
- Maintained under Land Revenue Acts of States.
- A quasi-judicial process to update records
- Entries in the ROR are presumed to be true.

## Concept of Presumption of Truth

**Sec.157 of Maharashtra Land Revenue Code :**

‘An entry in the record of rights, and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.’

## Concept of Presumption of Truth

**Sec. 44 of Punjab Land Revenue Act 1887**

‘An entry made in a record-of-rights **in accordance with the law** for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules there under, shall be **presumed to be true until the contrary is proved** or a new entry is lawfully substituted therefor.’

## Laws for ROR in Various States

Sr.No.	State	Law	Name of Ownership Record
1	Andhra Pradesh	Andhra Pradesh Record of Rights in Land Act, 1971.	Adangal, ROR – Register (1-B)
2	Bihar	Bihar Land Reforms Act 1950	Chalu Khatiyani
3	Delhi	The Delhi Land Revenue Act 1954	Khatoni
4.	Karnataka	The Karnataka Land Revenue Act 1964	RTC Book (Record of Rights, Tenancy and Crops)

## Laws for ROR in States

Sr.No.	State	Existing Law	Name of Ownership Record
5	Maharashtra	The Maharashtra Land Revenue Code, 1966.	Saat-Bara, Village Form 7 & 12
6	Punjab	Punjab Land Revenue Act 1887	Jamabandi
7	Uttar Pradesh	UP Land Revenue Code 2006	Khatauni
8	West Bengal	The West Bengal Land Reforms Act 1955	Khatiyani

## **Record of Rights in Urban Areas**

- Law prescribes record of rights for urban areas similar to rural areas
- In most urban areas record of rights is not made
- Municipal property records are for tax purposes and are no substitute for record of rights
- Most property disputes are due to absence of record of rights in urban area

## **Registration In India**

- Introduced in India in India in 1793
- Compulsory registration of most transactions under Registration Act 1908
- Exemptions- Inheritance, family settlement, court decree, agricultural leases, government grant etc.
- Purchaser Responsible for verification of title
- Granter-Grantee and Tract-wise Indexes
- No efforts to reform more than a century old law

## **Legal Standing of Registration**

- Unregistered transaction is not valid
- Legality of transaction not examined by Registrar
- Registration is 'evidence' but not 'proof' of title
- Any defect in seller's title passes to buyer.

## **Adjudication**

- Record of Rights is prepared and updated through a quasi-judicial process
- Officials are empowered under relevant laws to adjudicate on disputes
- Provision of appeal against order of an official
- Disputes involving intricate questions of title are decided by civil courts.

# Towards Better Land Administration

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## Goals of Good Land Administration

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- Equitable ownership of land in the society
- Reliable records of rights and transactions in land
- Easy access to information on rights in land
- Easy transfer of land as an economic asset.
- Simple Process to update records
- Easy availability of credit against land
- Minimal litigation related to land



## **Towards Better Land Administration**

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- Extensive review of archaic laws and procedures
- No assignment of multiple duties to Land Revenue officials
- Digitization with Business Process Re-engineering
- Digitization for better land-related services
- Online Mutations and other services

## **Towards Better Land Administration**

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- Automatic mutations in undisputed cases
- Creation of updated ROR for urban areas
- Integration of deed registry and record of rights
- Incorporation of phone, email, current address, Aadhar in records.
- Easy access to ROR, like bank accounts and rights to update information

## Towards Better Land Administration

- Use of email, SMS, WhatsApp etc. for information to landowners
- Implement Electronic Conveyancing
- Deed Registration on PPP Model.
- Land-related services through the private sector
- Dispute resolution by Arbitration (ADR)

**Thanks!**

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