

**Azim Premji University, Bangalore**  
Workshop on  
**Land Governance and Development**  
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## **Land Administration**

### **Global Practices & Indian Systems**

**B. K. Agarwal**

<https://www.bk-agarwal.com/>

<https://www.linkedin.com/in/bkagarwal/>

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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
- ❖ State of Land Administration in India
- ❖ International Best Practices
- ❖ Towards Better Land Administration

# Land Administration General Concepts

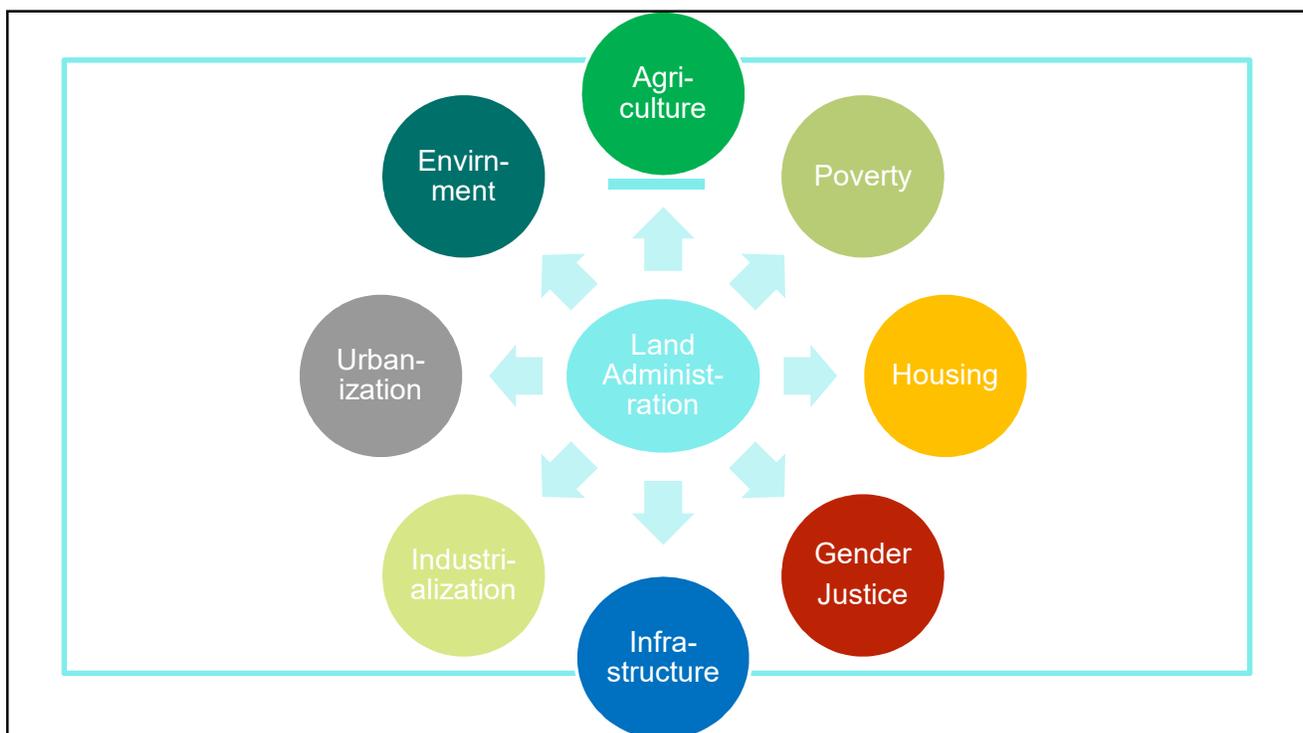
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## Land Administration

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
- Determination of land rights
- Determination of other attributes like value and use of land parcels
- Providing access to information on land rights and other attributes of land
- Enabling efficient functioning of land markets.



# Land Administration & Gender Justice

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## Gender Justice

- Equal rights to Hindu women to inherit self-acquired property of parents
- Exclusion of women from coparcenary of ancestral property
- Inclusion of women in coparcenary after 2005 amendment
- Inheritance of tenancy as per local laws in states which exclude women

## Gender Justice

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- Inheritance as per discriminatory customary laws in Scheduled Tribes under HSA 1956
- A Muslim daughter inherits only half of that by a son.
- Siblings of a Muslim person leaving behind only daughters, get a share of his property.
- Despite constitutional provisions women are discriminated against under land laws.

## Land Administration & Agriculture

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## Land Reforms

- Raiyatwadi and Mahalwadi system areas more developed than Zamindari system areas
- Post-independence land reforms for equitable distribution of land and efficiency in agriculture
- Only 4% of land transferred due to poor implementation
- All intended objectives were not achieved

## Land Reforms (Cont.)

- 15 million informal tenants on 10 million hectares of land
- About 26.72 million hectares of land is left fallow across India.
- The Niti Ayog has drafted a Model Agricultural Land Leasing Act, 2016.
- Very few states have done anything to improve this situation

# Land Administration & Sustainable Development Goals

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## Land Administration & SDG

**Many goals of SDGs involve Land Administration.**

- SDG 1- No poverty- Target 4- All men and women will have equal rights to ownership and control over land.
- SDG 2- Zero hunger-Target 3- secure and equal access to land for small-scale food producers, women, indigenous peoples etc.

## Land Administration & SDG

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- Goal 5-Gender equity- reforms to provide women equal rights and access to ownership and control over land.
- SDG 11- Inclusive and sustainable cities and human settlements
- Goal 15- Sustainable management of forests, combat desertification, reverse land degradation and halt biodiversity loss

## Global Practices in Land Administration

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## Divisions of Land Administration Systems

### Cadastre

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

### Land Register

- ❖ Started after industrialization
- ❖ More emphasis on recording transactions and rights in land
- ❖ Legal sanctity of recordings
- ❖ Spatial description may be based on cadastre

## Cadastre

### Definition of Cadastre by International Federation of Surveyors (FIG)

A cadastre is normally a **parcel-based** and up-to-date **land information system** containing a **record of interests in land** (i.e. rights, restrictions and responsibilities). It usually includes a **geometric description** of land parcels linked to other records describing the nature of the interests, and **ownership or control of those interests**, and often the **value of the parcel** and its improvements. It may be established for **fiscal purposes** (e.g. valuation and equitable taxation), **legal purposes** (conveyancing), to assist in **the management of land and land use** (e.g. for planning and other administrative purposes), and enables sustainable development and environmental protection.

## Land Register

### Deed Registration System

- Parcel-wise ownership Record not maintained
- Transfer of title through a transfer deed between parties
- Registration of deed with government authority for record purposes only
- Registration is an evidence of transaction but does not guarantee a good title

## Land Register

### Registration of Title, Conclusive Title System, 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

- ❑ 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 System in India

## 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.

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## 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 Indian Succession Act 1925
- The Civil Procedure Code 1908
- The Limitation Act 1963
- Land Acquisition Act (RFCTLARRA 2013)
- Forest & Environment Laws

## State Laws Related to Land Administration

- Land Revenue Acts
- Land Reforms Acts
- Laws Restricting Transfer Of Land
- Consolidation of Land Holdings Acts
- Ceiling on Land Holdings Acts
- Laws Related to Common Lands
- Restriction on Use of Land
- Town Planning Laws

## Record of Rights- Cadastre

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

### 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	Khatiyan

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## Registration In India

- Introduced in India in India in 1793
- Compulsory Registration
- Exemptions- Inheritance, family settlement, court decree, 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

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- 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.

## State of Land Administration in India

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## Goals of Good Land Administration

- Equitable ownership of land among society
- All rights and transactions in land are recorded
- 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

## State of Land Administration in India

- No organic link between Land Registry and ROR
- No Record of rights in most urban areas
- Search of multiple records to ascertain title
- No way to know civil litigation relating to a land
- Public Law Restrictions are not recorded anywhere

## State of Land Administration in India

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- Complex processes for registration, entry in ROR
- Two-third of cases in civil courts relate to land
- Pendency of disputes before revenue officers.
- Very little changes in old laws and procedures
- Digitization did not result in better services to people

## International Best Practices

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## International Best Practices

- Title Insurance in the USA
- Merger of Cadastre and Land Registry in the Netherlands
- Protection to person buying property in good faith in the Netherlands (1992)
- Introduction of 'Real Estate File' in France in 1955
- The e-Land Register system in Estonia.

## International Best Practices (Cont.)

- E-conveyancing in the Netherlands, Canada, Scotland and many countries.
- Recording of Public Law Restrictions (PLR) into the cadastre in Switzerland.
- Online resolution of disputes related to housing and property by Civil Resolution Tribunal in British Columbia.

## International Best Practices (Cont.)

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- Online resolution of property disputes through Smartsettle platform in the United States.
- Empanelment of chartered surveyors in Denmark for services relating to cadastral maps.
- 3-D cadastre in Norway, Sweden, the Netherlands, Canada, Australia and Germany

## International Best Practices (cont.)

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- Land registration through Blockchain Technology in Georgia and Estonia. Under active consideration in Sweden, Ukraine, Brazil and Ghana.
- Land registration on Public-Private Partnership (PPP) model in Ontario Province of Canada, New South Wales and South Australia of Australia.

# Towards Better Land Administration

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## Towards Better Land Administration

- Extensive review of archaic laws and procedures
- Digitization with Business Process Re-engineering
- Creation of updated ROR for urban areas
- Integration of deed registry and ROR systems
- Incorporation of phone, email, current address, Adhar in records.
- Easy access to ROR, like bank accounts and rights to update information

## Towards Better Land administration

- Summons through email, SMS, Whatsapp
- Deed Registration on PPP Model.
- Land-related services through private sector
- Implement Electronic Conveyancing
- Online Mutations
- Online Dispute Resolution

**Come out of colonial laws and mindset**

**Thanks!**

Website: [bk-agarwal.com](http://bk-agarwal.com)  
Email: [brijkumaragarwal@gmail.com](mailto:brijkumaragarwal@gmail.com)  
LinkedIn Page: [linkedin.com/in/bkagarwal](https://www.linkedin.com/in/bkagarwal)