



National Centre For Good Governance
An Autonomous Institute of Department of Administrative
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LAND ADMINISTRATION IN INDIA

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Land Administration

The term Land Administration, coined in 1993 by the United Nations Economic Commission for Europe (UNECE) in its [Land Administration Guidelines](#), was defined as:

“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

Institutions, Laws, Procedures, Policies, and Processes, related to:

- Ownership and other rights in land
- Valuation and taxation relating to land
- Land use planning, control of the use of land
- Dissemination of information

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Goals of Effective Land Administration

- All the transactions in the property should be registered
- Process of registration and entry in Record-of Rights should be simple
- Rights should be ascertainable without any ambiguity
- Information on rights in property should be available freely and quickly
- Land should be freely and easily transferable as an economic asset.
- There should be minimal litigation related to property

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Systems of Land Registration

- **Deed Registration System**
 - Transfer of title through a transfer deed
 - Registration of deed for record purposes
 - Registration does not guarantee a good title
- **Registration of Title (Torrens System)**
 - Transfer of title by registration
 - Registration is conclusive proof of title
 - State indemnity against any defect in the register

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International Practices

Deed Registration System

- India, USA, South Africa, Hong Kong, France, Italy, Japan, most of Latin America, and many other countries.

Title Registration System

- Australia, New Zealand, the United Kingdom, Germany, part of Canada, Singapore, Thailand, Malaysia, Ireland and many other countries.

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International 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. – Title Registration
 - Canada- Both Systems are prevalent in different provinces
 - China – Title Registration in the Process of implementation

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Land Registration System in India

- India is defined as a deed registration country.
- It actually has two sub-systems for maintaining records of ownership, viz. Deed Registry and Record-of-Rights
- These are operated by separate authorities under a separate set of laws.
- Record-of-rights is actually a title register, where rights are recorded against individual land plots through a quasi-judicial process. Further, the law recognizes these entries as true until proven otherwise.
- Our deed registration combined with record-of-rights can be called a title registration system.
- Unfortunately, our sub-systems are working independently without utilizing the synergy between each other

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Land Registration System in India (Cont.)

- France, the Netherlands and many other countries have effectively used this synergy to improve their deed registration system.
- With some improvements in the existing system, quality of title records can be upgraded to a very large extent in India.
- If quality of record improves, land disputes will reduce even without a certificate of conclusiveness.
- Ultimately, what matters is the correctness of the record not the certificate of conclusiveness.

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SUB-SYSTEM I

RECORD-OF-RIGHTS

Record of Rights In India

- Introduced by the British about 200 years back, (1822) in United Provinces. The basic system has not changed much since then.
- Main purpose of ROR was to impose land revenue which was 60% of total revenue in 1841. In 1980 it was 2% only. Now the record-of-rights is maintained as service to people.
- It is most comprehensive parcel-wise record of ownership and other rights over a property.
- Maintained under Land Revenue Acts of States which are applicable to both rural and urban areas.

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Record of Rights In India (cont.)

- Contains textual records and cadastral maps
- It is equivalent to cadastre maintained in many European countries like France, the Netherlands, Germany etc.
- Every person is legally bound to report acquisition of right in Land to authorities.
- Change in ROR through a quasi-judicial process
- Entries in record-of-rights are presumed to be true unless proven otherwise.

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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.

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Concept of Presumption of Truth

- Section 51A (9) of the West Bengal Land Reforms Act, 1955

'Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (4) or corrected under section 51B [or section 51BB] shall, subject to any modification by an order on appeal under sub-section (5) be presumed to be correct.

- 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.

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SUB-SYSTEM II

DEED REGISTRATION

Deed Registration In India

- Deeds are registered under the Registration Act 1908
- Registration is Compulsory for most land transactions
- Some Exemptions- Inheritance, family settlement, court decree, government grant etc.
- Transactions made without written deed escape registration
- Title verified through Search of historical records by buyer
- Granter-Grantee Index and Tract-wise Index maintained by the registrar

Process of Registration

- Agreement to sell between the parties
- Payment of consideration
- Handing over possession
- Recording of the transaction in a deed
- Payment of stamp duty
- Registration of deed and payment of registration fee
- Certificate of registration endorsed on the deed as evidence of transaction

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Legal Standing of Registration

- A transaction deed has no effect unless registered
- Registration is evidence of transaction. It is not conclusive proof of transfer of title
- An unregistered deed is not admissible in court as evidence.
- Validity of transaction not examined by Registrar
- Legal principle of '*Nemo dat*' "no one gives what he doesn't have" is applicable.

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Problems with Land Administration in India

- Record of rights does not exist or is not updated in most urban areas
- Existing formats and procedures and procedures of ROR not suitable for urban areas
- No well-defined system of recording ownership of apartments and undivided share of land in such complexes.
- Search of multiple records required to ascertain title of a property
- There is no way to know about any litigation pending in court
- Transactions appear in ROR and registration records after a considerable gap of time.

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Problems with Land Administration in India

- It is very difficult to search records of the Registrar
- The uncertainty on title poses difficulty in sale-purchase of land
- Land disputes dominate civil litigation in India
- A large number of disputes before revenue officers regarding, inheritance, correction of ROR and demarcation of boundaries
- Hereditary rights are a major source of litigation because of complex succession laws.
- Procedure for transfer and entry in Record of Rights are complex, time-consuming, ambiguous and unfriendly

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Is Title Registration a Solution?

- Some experts suggest switching over to Title Registration System will solve our problems.
- Title registration appears good in policy but is difficult to implement
- Since 2008 GOI has this policy but no state has adopted Title Registration till now.
- Many advantages of Title Registration are irrelevant now due to computerization
- It is preferable to improve the existing system.
- France, the Netherlands and the USA have made improvements in deed registration as per their requirements.

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Possible Improvements

Deed Registration System

- Instead of copying a foreign model, improvements should be made to our system
- Remove all exemptions from registration
- Compulsory registration of court decrees
- Compulsory registration of pending litigation
- Reduce time allowed for registration after a transaction
- Description of property in the conveyance deed on the basis of ROR
- Registrar to verify prima facie proof of ownership

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Possible Improvements

- Deed Registration on PPP Model
- Implement Electronic Conveyancing

Record of Rights

- No transfer of share without making new map of the property. Involve private surveyors.
- Online filing of application for mutation
- Incorporation of phone, current address in records. Summons through mail, SMS
- Separate record of ancestral and self-acquired property.

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Possible Improvements(Cont.)

- Record public law restrictions and court orders in Record of Rights
- Prompt disposal of disputes by revenue officers.
- Remove multiple appeals, review and revision.
- Adopt online dispute resolution processes
- New formats of ROR for urban areas.
- Allow landowners to change their profile details like a bank account.
- Computerization of records along with business process re-engineering
- Allow private sector to develop applications for land-related services
- Integration of deed registry and ROR system

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INTERNATIONANL BEST PRACTICES

International Best Practices

- Merger of Cadastre and Registry in the Netherlands
- In Estonia, the e-Land Register system was created. It allows free-of-charge viewing of land registry documents, authorizing another person to view documents and request a service.
- Georgia and Estonia have adopted Blockchain Technology in land registration. Sweden, Ukraine, Brazil and Ghana are actively considering it.
- The Ontario Province in Canada has been successfully running a land registration system on Public-Private Partnership (PPP) model. New South Wales and South Australia states in Australia are also operating very effective and modern land registries e on the PPP model.
- In India about 90% of textual records and 64% of cadastral maps have been digitized.

International Best Practices

- Many countries like the Netherlands, Canada, and Scotland have implemented e-conveyancing.
- National Generic Document Registration System (NGDRS) in India is a generic, scalable, and flexible software that links all stakeholders in the registration process. Many states have adopted it.
- Under SVAMITVA scheme in India, high-resolution maps of residential areas of villages are being made using survey-grade drones along with Continuous Operating Referencing System (CORS).
- Unique Land Parcel Identification Number (ULPIN) being implemented in India is a 14-digit identification number assigned to a land parcel based on the longitude and latitude coordinates of the land parcel.

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International Best Practices

- Switzerland records about 17 Public Law Restrictions (PLR) into the cadastre.
- Civil Resolution Tribunal in British Columbia conducts an end-to-end dispute resolution process for disputes including those related to housing and property. The Smartsettle platform is a private platform in the United States on which disputes including real estate disputes are sought to be settled online.
- In Denmark, chartered surveyors perform most of the work relating to cadastral maps like a survey of changes in the boundaries, demarcating boundaries on the ground, and mediating in case of boundary disputes among neighbours.
- Norway, Sweden, the Netherlands, and Germany are moving towards 3-D cadastre.

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LAND ACQUISITION LAW

Legal Doctrine Behind Land Acquisition

- Eminent domain, also called condemnation or expropriation, is power of the government to take private property for public use without the owner's consent.
- This power is limited by constitutional provisions in most countries, like payment of compensation, following legal procedure etc.

History of Land Acquisition Law

- The Bengal Regulation Act, 1824
- The Act XLII of 1850
- The Act XI of 1857
- The Act XXII of 1863
- The Act X of 1870
- The Land Acquisition Act, 1894

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Laws after 1894

India

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

Bangladesh

- The Acquisition and Requisition of Immovable Property Ordinance, 1982
- The Acquisition and Requisition of Immovable Property Act, 1994
- The Acquisition and Requisition of Immovable Property Act, 2017

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The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

- A clear and precise definition of the term 'public purpose'.
- Preparation of Social Impact report and assessment of this report by independent experts before the final decision on acquisition.
- Consent of landowners in case of acquisition for public-private partnership or private projects is necessary. (70% in PPP projects and 80% in private projects)
- Enhanced compensation. In rural areas, compensation can be increased to up to twice the market value.
- The additional compensation for emotional loss (solatium) increased to 100% of market value

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The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

- Unused land to be returned to landowners within five years from the date of possession.
- Mandatory provision for relief and rehabilitation schemes. Rehabilitation may include allotment of houses, employment, infrastructure at resettlement site etc.
- Multi-crop lands not acquired under normal circumstances. In exceptional circumstances, such lands can be acquired after making provisions for equivalent land for agricultural purposes.
- No acquisition in tribal areas without the consent of their representative bodies

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THANKS
