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Land Administration

Global Practices & Indian Systems

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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

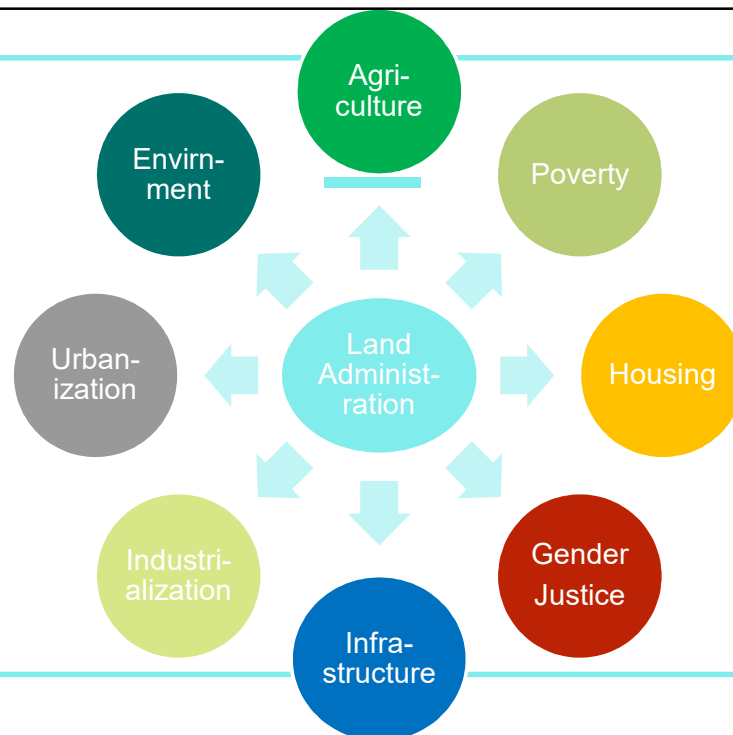
Land Administration General Concepts

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

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

- 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

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

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

- 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

Divisions of Land Administration Systems

Cadastre

- ❖ Started by Napoleon in Europe in 19th 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.

23

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.

24

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

13

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

- 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

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

- 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

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.)

- 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.)

- 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

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!

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