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## Book Reviews

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**B. K. Agarwal, *Land Registration: Global Practices and Lessons for India*. Pentagon Press LLP, 2019, 174 pp., ₹725, ISBN: 9789386618863 (Hardback).**

### **A Magisterial Work on Land Management**

Allow me to begin with a caveat. The author, B. K. Agarwal (henceforth BK) is a batch mate and a good friend, and all of us in the 1985 batch of the IAS are familiar with the painstaking work and effort he has put into this magisterial work by taking leave of absence from his official duties. What fascinated all of us was that he chose to work on something so fundamental and intrinsic to revenue and registration laws—areas which can be described as the ‘core competence’ of the IAS. For unlike other endeavours or interventions where we have to work in conjunction/collaboration with colleagues from other services or sectors, this is our core work. And we had ignored it for long—not by design, but by default—because many other issues became top priority, and this basic housekeeping task was ignored for several reasons. Thus, school enrolment, mid-day meal, Public Distribution System (PDS), Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Open Defecation Free (ODF), Kisan cards and institutional deliveries drew our attention—for these were monitored at various review meetings but updating land records and reducing litigation were not. Additionally, as land revenue ceased to play an important role as a source for the government budget, the updating of land records for purposes of revenue collection also lost its salience.

However, as land is a ‘finite resource’, but the ‘essential ground’ for most human activity—from agriculture to industry to infrastructure, and the increasing pressure of urbanisation, the management of land has again become centre stage. Whether it is the ease of doing business, or acquiring land for the much needed infra projects, or even ensuring that lands are not left fallow for want of clear titles and/or the reluctance in creating tenancy rights, the contest on the transactions over land has grown manifold as the economic value has suddenly shot up. BK tells us that over one-third of the cases in the lower courts involve disputes over property, and India cannot move on high growth trajectory unless we find a method to resolve these issues.

All over the world, there are two basic systems for registration of land: The first is the deed registration system followed by USA, France, Netherlands and

India. The second is the title registration system (also called the Torrens system after its founding father Sir Robert Richard Torrens) followed by Australia, New Zealand, Germany and England. There are certain overlaps in both. One must bear in mind that across the globe, land registration systems have evolved over time as a response to the needs and requirements of the time. In several cases, what pans out is a hybrid model, incorporating elements from both.

Let us start with the deed registration system, the simplest form of registration, as all it requires is formal enquiries by the competent authority such as identification of parties, signatures, witnesses, deed format and requisite stamp duty. However the onus of authenticity of documents rests with the individuals and not with the registering authority. As such, the chances of litigation and disputes over property are higher, it overlooks the legal validity of the documents in the transactions.

To overcome these disputes, many countries, starting with Australia, opted for title registration wherein the public authority—the state or the municipality as the case may be—guarantees the validity of the title and is liable to pay compensation in case of an error in the title. The three principles involved in this system are: mirror, curtain and insurance. The mirror principle implies that the register accurately reflects all the material facts relating to the title; the curtain principle implies that for ascertaining a title, no investigation beyond the register is required; and the insurance principles requires the state to guarantee the correctness of the register and to compensate the bona fide claimant suffering a loss due to an incorrect entry in the register. However, in practice, there are rights on the ground which may not be mirrored in the register. Moreover state indemnity has its limitations, and in most cases, insurance is a private transaction that has to be paid for.

Although land record and land management are state subjects, the Government of India has been trying to evolve a consensus on this issue. BK's recommendations are quite practical and incremental: these include compulsory registration of all transactions, wills and decrees, a record of all properties under litigation, prompt disposal of disputes by revenue officers, reduction in the gap between public agencies involved with registration, record management and land acquisition and the universal application of Transfer of Property Act to all land transactions.

The Lal Bahadur Shastri National Academy has a B.N. Yugandhar Centre for Rural Studies where these issues have been discussed at some length but more from the point of view of land tenures and socio-economic changes in rural and agrarian economy. This book draws our attention to the fact that land registration and management is the basic building block of the national economy—not just for rural, but also for urban India.

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