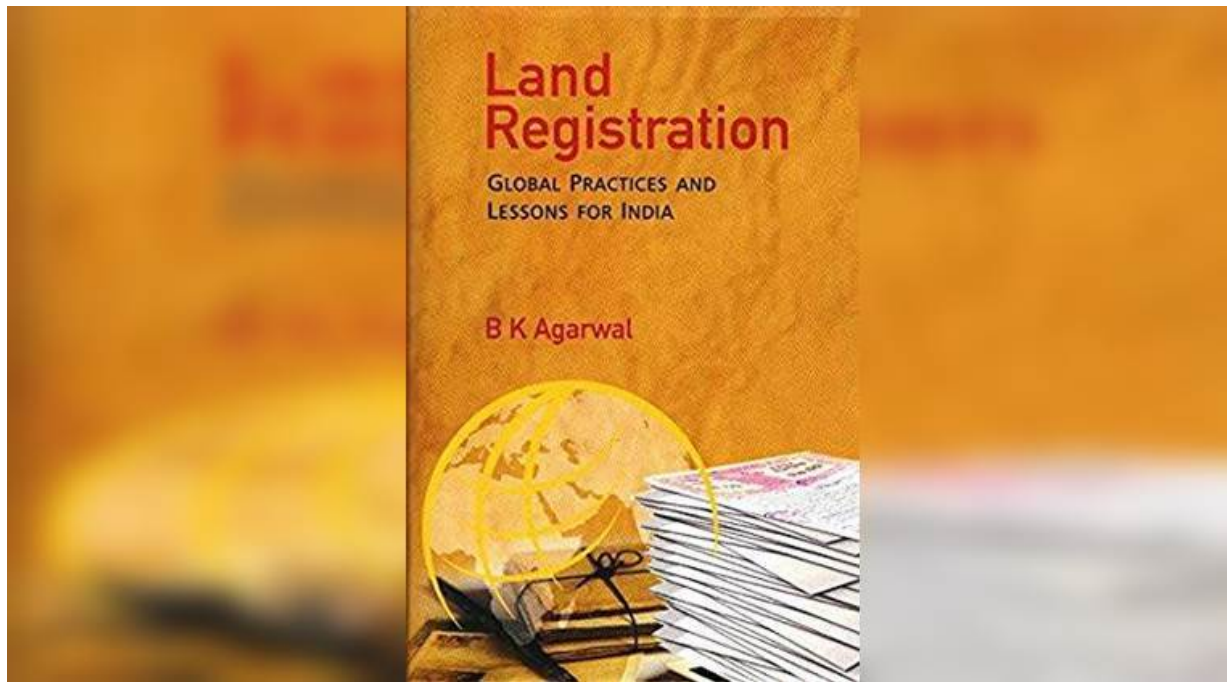


# A bird's-eye view of the land records systems that represent the main models in India

[indianexpress.com/article/lifestyle/books/land-registration-book-review-5838872](https://www.indianexpress.com/article/lifestyle/books/land-registration-book-review-5838872)

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BK Agarwal, who has extensive first-hand knowledge of how the land records system works in India, has departed from conventional wisdom. (Source: Amazon.in)

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All of us use land, rural or urban, for a variety of purposes, but most of us do not fully appreciate the issues of land ownership and all that it entails. Its fair and transparent regulation is at the heart of modern society, and devising a satisfactory mechanism for recording of ownership and occupancy and its consequent regulation is a sovereign function of governments, arising in part out of the imperative of taxation. Colonial administrators took a practical view and adopted the approach of identifying (with the help of the local village community) persons claiming ownership of each parcel of land, resolving in a summary manner any competing claims, and recording a presumptive title for each parcel of land in the land records, primarily for the purpose of determining the landowner's liability to pay land revenue for the land that he cultivated.

The current record of land ownership maintained by the Revenue Department in the various states (even though the record has now been extensively computerised and is available on the internet in most cases) is, therefore, mostly a record based on presumptive title, unrebutted over many generations. Presumptive titles are subject to a conclusive determination of title by a civil court based on evidence. To those who are not familiar with the intricacies of the Indian system of land records, it would seem that the

current system of presumptive titling based on deed registration is unsatisfactory for the purposes of transactions of land because of the uncertainty surrounding the title of ownership, and that “conclusive titling” is the natural way forward as part of any reform. Even to those who are familiar with the system of survey and settlement and the making and updating of the record-of-rights, “conclusive titling” may seem a more satisfactory way of recording rights.

BK Agarwal, who has extensive first-hand knowledge of how the land records system works in India, has departed from conventional wisdom, but after considerable analysis and research of how the systems work in various other countries (the US, France and the Netherlands for deed registration and Australia, England and Germany for title registration) and the implications for India. He points out that title-based systems are easy to implement if there is not much investigation involved at the time of first registration, and that is not the case in India.

He concludes, giving detailed reasons, that at this stage, shifting to a “conclusive title” registration system in India is not advisable, is likely to be a lengthy process and that the benefits would take a long time to be realised. The legal principles relating to title-based registration are quite different for the current deed-based registration. Instead, he advocates improvement in the presumptive-titling based system, including compulsory registration of wills; prima facie inquiry into the title of the transferor at time of transfers and a more exact description of property in the transfer deed.

Agarwal provides a bird’s-eye view of the land records systems in Maharashtra, Karnataka, Punjab and West Bengal, which represent the main models in India (Punjab under the Mahalwari system, West Bengal under the Zamindari system and Maharashtra and Karnataka with their Ryotwari system). It is certainly an easier task to improve the current systems than to switch over to a new system, though the long-term utility of doing so is unquestionable. Those who agree with Agarwal’s conclusions could, for instance, take recourse to current-day technologies like blockchain, and identification systems such as [Aadhaar](#) to get substantial improvements.

Agarwal’s book is a must-read for practitioners, and for policy-makers looking at land record reform as part of larger economic reform. Lack of accurate land records does impede industrialisation, urbanisation and infrastructure creation. Excessive reliance on compulsory land acquisition (which tends to extinguish all previous titles by law) is also symptomatic of the state of the land record as it exists. Title-based records would introduce new legal principles; it would require all properties to be brought onto a title register through an investigative/adjudicatory process. And a dual system of both conclusive and presumptive titling would need to be operated for a long time until the switchover is complete.

The real issues lie in making the transition from presumptive to conclusive titling as painless, fair and transparent as possible. All this calls for a clear and determined leadership (at central as well as state levels) over several decades (yes, decades), during the transition period.

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