

LAND ADMINISTRATION IN INDIA AND INTERNATIONAL PRACTICES

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STRUCTURE OF PRESENTATION

- ✘ What consists of Land Administration
- ✘ Law and Procedures for Land Administration in India
- ✘ Problems from the perspective of various stakeholders
- ✘ Practices in some selected countries
- ✘ Way forward for India

ESSENTIALS OF LAND ADMINISTRATION

- ✘ Land Policies
- ✘ Records of Rights or Cadastre
- ✘ System Of Transfer of Title
- ✘ Land Information System

LAND POLICIES

Acts/Rules/Regulations on:

- ✘ Land Reforms & Other Social Objectives
- ✘ Urbanisation, Town Planning and Housing
- ✘ Land Use/Conversion Policies
- ✘ Rent Control Law
- ✘ Industrialization
- ✘ Forest and Environment

RECORD OF RIGHTS IN INDIA

International Federation of Surveyors(FIG) defines Cadastre as:

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.

RECORD OF RIGHTS IN INDIA

- A. **Register of ownership**, possession, area and category of land, tax etc.
- B. **Cadastral map** with a distinct number assigned to each piece of land
- C. **Mutation Register** to record changes in the ownership

REGISTER OF OWNERSHIP

- ✘ Main register called with different names in different states
- ✘ Updated with different periodicity in different states
- ✘ Records ownership, possession, area of land, category, land revenue etc.
- ✘ Presumption of truth attached to the entries

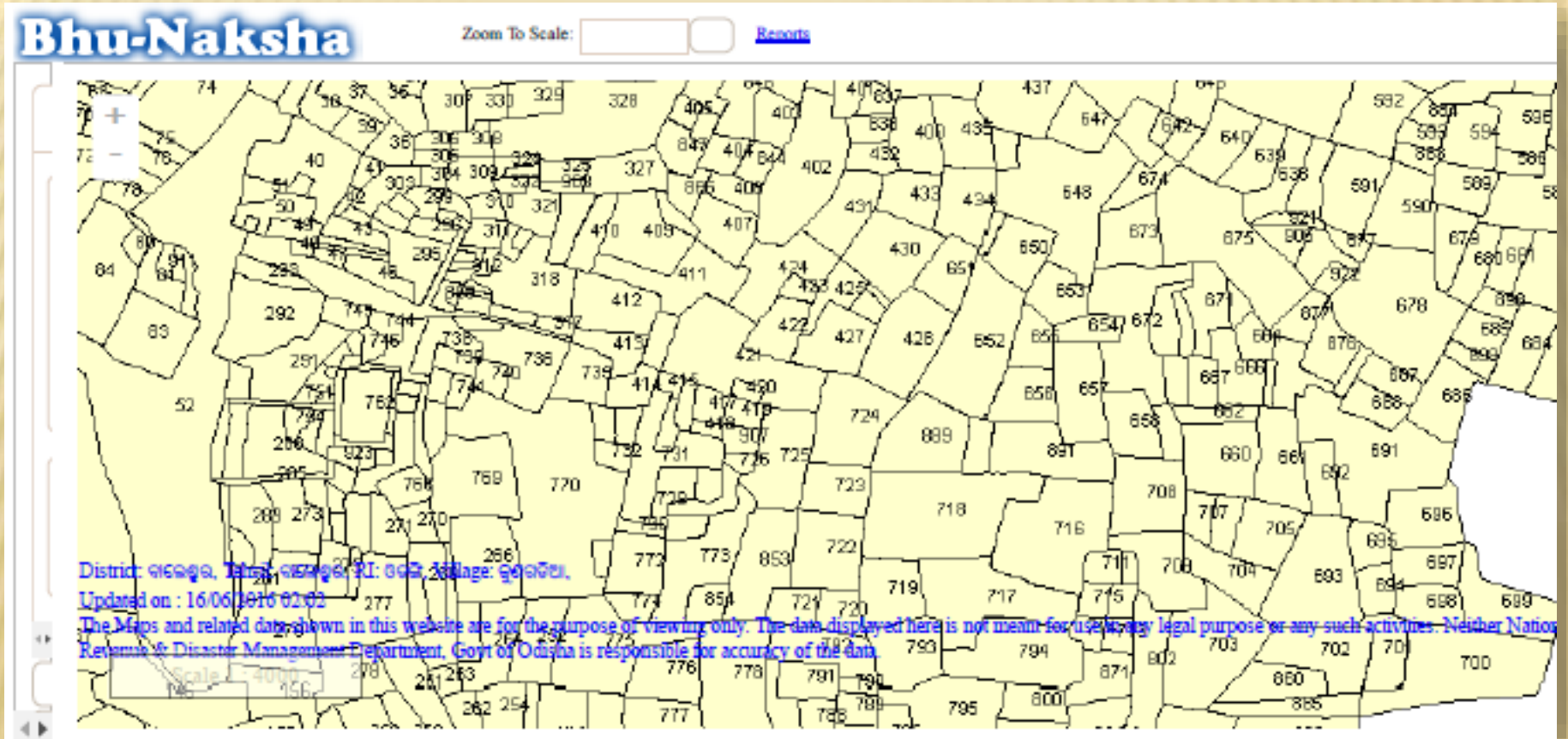
CADASTRAL MAPS

- ✘ **Topographical maps** are made by Survey of India - Largest scale available in public domain 1:25000
- ✘ **Cadastral maps** prepared by revenue departments of state governments mostly on the scale of 1:4000 to 1:500
- ✘ Individual plots shown in cadastral maps with distinct number assigned to every piece of land.
- ✘ These two surveys are mostly not aligned with each other.

TOPOGRAPHICAL MAP



CADASTRAL MAP



MUTATION REGISTER

- ✘ Succession, sale/purchase, court orders etc. cause change in ownership
- ✘ All the changes in the ROR are carried out through this register
- ✘ All the changes are approved by a competent authority after hearing the parties
- ✘ Changes are incorporated in the register of ownership only after approval

MUTATION REGISTER

एतद्गण जगन्मन्दी मूचरदा या आदिती याका इन्काल जिकरी तर्लीम भवतुव हे							इन्दाज जदीर सो वर बावम टिया जावेग							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
संख्या	संख्या	नाम मालिक व	नाम मालिक व	संख्या व नाम	संख्या व नाम	संख्या व नाम	नाम मालिक व	नाम का तकार व	संख्या व नाम	संख्या व नाम	संख्या व नाम	संख्या व नाम	संख्या व नाम	संख्या व नाम
234	15	माली	माली	33	33	33	माली	माली	33	33	33	33	33	33
	42			42	42	42			42	42	42	42	42	42
	15			15	15	15			15	15	15	15	15	15
	165			165	165	165			165	165	165	165	165	165
	44			44	44	44			44	44	44	44	44	44

RECORD OF RIGHTS IN INDIA

- ✘ Introduced by British about 150 years back
- ✘ Main purpose of ROR was to collect land revenue
- ✘ Various Land Laws were enacted for this purpose.
- ✘ Divisional Commissioner, Collector, Tehsildar, Patwari etc. maintain ROR
- ✘ Near similar system in all the states
- ✘ Basic system not changed much since then

LAND LAWS IN STATES

Sr.No.	State	Existing Law	Predecessor Laws
1	Andhra Pradesh	Andhra Pradesh Record of Rights in Land Act, 1971.	Andhra Pradesh (Telangana Area) Land Revenue Act, 1907
2	Bihar	Bihar Land Reforms Act 1950	The Bengal Tenancy Act 1885
3	Delhi	The Delhi Land Revenue Act 1954	1. The Punjab Land Revenue Act 1887 2. The UP Land Revenue Act 1901
4.	Karnataka	The Karnataka Land Revenue Act 1964	The Bombay Land Revenue Code 1879

LAND LAWS IN STATES

Sr.No.	State	Existing Law	Predecessor Laws
5	Maharashtra	The Maharashtra Land Revenue Code, 1966.	The Bombay Land Revenue Code, 1879
6	Punjab	Punjab Land Revenue Act 1887	Punjab Land Revenue Act 1887
7	Uttar Pradesh	UP Land Revenue Code 2006	The UP Land Revenue Act 1901
8	West Bengal	The West Bengal Land Reforms Act 1955	The Bengal Tenancy Act 1885

TRANSFER OF TITLE IN INDIA

Relevant Statutes

- ✘ Registration Act 1908
- ✘ Indian Stamp Act 1899
- ✘ Transfer of Property Act 1882
- ✘ Indian Contract Act 1872
- ✘ Land revenue acts of the states
- ✘ Other Acts relating to Land Reforms etc.

TRANSFER OF TITLE IN INDIA

Process

- ✘ Agreement between the parties
- ✘ Payment of consideration
- ✘ Handing over of possession
- ✘ Recording of transaction in a deed
- ✘ Payment of Stamp Duty
- ✘ Registration of Deed and payment of Registration Fee
- ✘ Change of ownership in Records of Rights

PROBLEMS

- ✘ It is very difficult to search records of the Registrar
- ✘ Records of Rights do not reflect up to date position of ownership
- ✘ Ownership entry in ROR is not a conclusive proof of title
- ✘ Entries in the ROR and registration of deed can be challenged in civil courts

PROBLEMS

- ✘ The uncertainty on title poses difficulty in acquisition of land by developers.
- ✘ In urban areas records are not well maintained. Regular updating is not taking place
- ✘ No well defined system of recording ownership on apartments and undivided share of land in such complex.

SYSTEMS OF TRANSFER OF TITLE

- ✘ Registration of Deeds or Recording System
 - ❖ Transfer of title through a transfer deed
 - ❖ Registration of deed for record purposes
 - ❖ Registration does not guarantee good title

- ✘ Registration of Title (Torrens System)
 - ❖ Transfer of title by registration
 - ❖ Registered title is indefeasible
 - ❖ State indemnity against any defect in title

INTERNATIONAL PRACTICES

Deed Registration System

- ✘ India, Pakistan, USA, South Africa, Hong Kong, France, many other European Countries.

Title Registration System

- ✘ Australia, New Zealand, United Kingdom, Canada, Singapore, Thailand, Malaysia, Ireland.

ENGLAND

- ✘ The English Law of real Property can only be explained by an elaborate historical analysis. It takes a life time to master and when mastered is but lean, wasteful and barren learning.”
----Sir Arthur Underhill a senior conveyancing counsel of the court before the Departmental committee set up in 1919.
- ✘ “ Some of the most remarkable of these laws, viewed by themselves apart from their history, and judged only by the benefits which now result from them appear to me to be absolutely worthless. Others are more than worthless, they are absurd and injurious”.
-----Williams Joshua writer of famous book on English land law ‘Williams on Real Property’ in 1878
- ✘ “...the English law of real property has been adapted to the exigencies of the life of the present day. But this change has been so accomplished that, in point of form, the English law of real property is a disgrace to a country which aspires to be numbered amongst civilized nations”
----Cyprian Williams, while giving evidence before Royal Commission on the Land Transfer Acts in 1909.

ENGLAND

- ✘ Title Registration was first introduced in 1862
- ✘ Before this neither deed nor title registration
- ✘ A new Act in 1875 as Act of 1862 failed
- ✘ Extensive reforms in property law in 1925
- ✘ New Land Registration Act 1925 was effective.
- ✘ Registration was made compulsory
- ✘ Now about 85% land parcels are registered.

AUSTRALIA

- ✘ Torrens System in South Australia in 1858
- ✘ Other states adopted through their own Acts
- ✘ Very successful as it was a new land
- ✘ No general cadastre but parcels were surveyed when transferred
- ✘ State indemnity against defect in title
- ✘ Conveyancing is very simple

THE UNITED STATES

- ✘ Deed Registration system is prevalent since 17th Century
- ✘ Efforts were made to introduce title registration in early 20th century
- ✘ About 20 states enacted title registration laws but this system could not take off
- ✘ A unique system of title insurance is well established there.

GERMANY

- ✘ Ownership rights are registered in 'Grundbuch' (title register)
- ✘ Register is maintained by judicial courts
- ✘ Registrar does not go in validity of deed
- ✘ Transferor must appear in the title register
- ✘ Registration gives presumptive value to title
- ✘ Cadastre is maintained by survey agencies
- ✘ Title is registered with reference to Cadastre

TOWARDS BETTER LAND ADMINISTRATION

- ✘ Instead of copying a foreign model, improvements should be made in our system
- ✘ A transaction should reflect in ROR at the earliest
- ✘ Quick exchange of information between registry and revenue authorities
- ✘ Registration should be with reference to ROR entry
- ✘ Computerization of records along with Business Process Re-engineering

TOWARDS BETTER LAND ADMINISTRATION

- ✘ Urban ROR formats require a relook
- ✘ System of recording strata ownership
- ✘ Online filing of application of registration, mutation etc.
- ✘ Summons through mail, SMS
- ✘ Easy access to landowner of ROR like a bank account

TOWARDS BETTER LAND ADMINISTRATION

- ✘ Private licensed surveyors be allowed to prepare maps of subdivision of land parcel, demarcation of boundaries
- ✘ Multipurpose cadastre usable by all development agencies
- ✘ Registrar and Revenue Department should be service providers for other government agencies and private sector

THANKS

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