

Land Governance: Policy Reforms and Regional Initiatives

Edited by

C. Sridhar

Dr. Varunendra Vikram Singh

Snehasis Mishra



**B.N. Yugandhar Centre for Rural Studies (BNYCRS)
Lal Bahadur Shastri National Academy of Administration,
Mussoorie-248 179**

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National Academy of Administration

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Concept of the Workshop ||||

In recent times governance of Land is perceived as a vital issue in development research, practice and policy by the government of India. It basically focusses in three directions of rational development of land i.e. livelihood, governance and sustainability. In India land governance is a key determinant of economic development which defines social equity, justice and property rights and their governance. Land governance is a central instrument that has a great impact in India on political power, economic production, and social relationships. At present following factors have made land governance more challenging globally as well as in India:

- Conversion of land for various reasons.
- Large-scale land acquisition.
- Peasant's struggles for land and rampant land grabs.
- Women's struggle for land rights.

In India land is a state subject and a plethora of laws and agencies are involved in governing land. In India the basic structure of land governance was laid by the colonial government which for the collection of land revenue evolved a robust system of survey, records, settlement and tenure. Later on, in independent India land administration was a neglected area of governance since land revenue gradually became nominal source of revenue for the government and it impacted in the face of the emerging challenges.

Under the 'ease of doing business' and 'make in India' approach the state of land governance in India is now perceived as an important means for economic and infrastructure development. Land needs to be understood in a regional perspective for making land governance inclusive to India's accelerated development. The land-laws, having inborn legacies, remain complex with conflicting and confusing interpretations. They have not been

actual operative in familiarizing the emerging challenges and changing situations with adopting benefits of technology. At the same time land governance being dispensed differently by the states in response to shifting requirements have triggered practices, innovations, good practices and also potentials of cross learning and sharing.

Therefore, land governance in India is fronting engagements of multi-stakeholder players which make it inclusive and more sustainable. Necessity of cooperative edges, data sharing, productive deliberations, cross-state and inter-disciplinary discussions around land governance will crossway the privileges, practices, technologies and legal-issues. These increasing issues needs to be addressed in the workshop.

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- Land Rights and Women's Land Rights – Dr. Dimple Tresa Abraham & Ms. Neetha N.
- Land Governance: Policy Reforms and Regional Initiatives – Shri A. Muthu Kumar, IAS
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Welcome Address – C. Sridhar¹, IAS



I welcome all the participants and faculties of LBSNAA. I also welcome Ms. Arti Ahuja, Joint Director of LBSNAA and introduced her to all the participants. The workshop has representations from various states of the country such as Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Jharkhand, Madhya Pradesh, Karnataka, Maharashtra, Himachal Pradesh, Rajasthan, West Bengal and Odisha. The workshop has also representations from state cadre as well as personnel from academic and research institutes. Centre for Rural Studies mainly focuses on studies of land, land rights, poverties and gender issues.

This workshop is being organized in collaboration with Department of Land Resources (DoLR), Ministry of Rural Development. On land governance is a key to law and order & development. The government structures created in the British era has continued even after post-independence period without much modification. Tenancy system doesn't have legal status in many parts of the country. There are issues of institutional gaps between the rural and urban land management and a lot needs to be done in terms of strengthening the revenue administration across the country. There have been systematic efforts in terms of land record updation and management and one of the key challenges in land governance is huge vacancy of manpower across the country in the revenue departments.

I wish that the two day workshop would come out success with some kind of productive and fruitful deliberations which will help us share the best practices and study issues and challenges arising in various parts of the country in terms of land governance.

¹Centre Director, B. N. Yugandhar Centre for Rural Studies, LBSNAA, Mussoorie

Inaugural Address – Ms. Arti Ahuja², IAS



It is my privilege to welcome all the participants to the LBSNAA. I hope that DoLR who is funding this training is going to get relevant recommendations from this workshop. In the context of land governance, there is a book titled ‘Sapiens’. It talks about us as a

human race. The human race started when the settled agriculture came the attachment to land started and thought of the communal property as our own and that attachment still continues. This attachment is not only for emotional purposes but also for economic purposes, because over a period of time the demand and the supply is fairly restricted.

In post-independence, there have been many reforms seen by many states in the form of redistributive justice. Land been distributed to the marginalized sections and to the poor. I want to share my experience as a sub-collector in Bihar. At that time Red Flag Revolution was going on in Bihar and people would gather together under the left parties and plant red flags in fields that were owned by landholders but cultivated by tenants. State machinery tried to suppress such kind of forceful encroachment of private lands. It was an expression of people’s desire to own land that they have been cultivating since longer period of time.

There is another book of ‘Hernando de Soto. He was an economist and found that just because people do not have access to land there is so much that is denied to them in terms of getting credit, in terms of getting social recognition, etc.

So, a satisfaction of having a piece of paper which shows that this land is yours is very vital. It has been seen in recent days that credit to farmers, credit to small businesses has been simplified yet the importance of land as a primary asset remains.

² Joint Director, LBSNAA, Mussoorie

In respect of land governance, it is important to discuss the rights of tribal, women and poor people. It is pertinent to discuss the implementation plans to provide them the equal share and making guidelines simple for the common person.

At the end, I would like to compliment the Centre Director and CRS team for organizing this workshop.

Technical Session – I
Tenancy Reforms and Land Titling
Chairperson: Shri Deepak Sanan, IAS (Retd.)

Speaker 1: Shri A. Muthu Kumar³



Visions of the government are protection of land owners, optimum utilization of government land for various projects/ schemes and less land acquisition with better compensation and rehabilitation and increase in revenue collection.

Few action plans of the government are implementation of Acts and guidelines under the guidance of CNT, SPT; providing services as per right to service guarantee Act schedule; bringing more services under Right to Service Guarantee Act; transfer of land for various Central and State Government projects as per minimum requirement and availability; updation of land bank; introduction of land pass book system; online mutation of land; integration of registration with revenue offices; online availability of cadastral map; land distribution to all landless persons; online availability of forms and societies registration of documents and modern record rooms. Jharkhand has devised an App named ‘Vardha’ for the citizens so that they received the land details.

CNT and SPT Act brought to stop uprisings of tribal revolt and also the need was felt to codify customary laws. These tenancy laws give extraordinary power to Deputy Commissioners. These are listed in the Ninth Schedule of the Constitution, so the act is beyond judicial review. It can only be repealed by the Parliament; the state government can only make amendments to it. Amendments by state government also require presidential assent. The important provisions of these two acts are Sections

³Director (Land Acquisition, Land Records & IG Registration), Government of Jharkhand, Project Building, Dhurwa, Ranchi

46,47,48,49,240,241,242 (CNT act). section 20 of SPT act, is a non-transferability clause which lays down the provision as “No transfer by a raiyat of his right in his holding or any portion thereof, by sale, gift, mortgage, will, lease or any other contract or agreement, express or implied shall be valid”. The amendments were proposed under “21(B) of CNT & 13(A) of SPT act laying that notwithstanding anything contained in the act for the time being in force, State Government shall frame rules to regulate the non-agriculture use of land in such geographical areas and for such uses as notified from time to time by the State Government.” Proposed amendment in this Section 49 of the CNT Act seeks transfer of tribal land also for other purposes such as Road, Canal, Railway, Cable, Transmission, Water Pipes and other service utility as pipelines, schools, colleges, University, Panchayat Building, Hospital, Anganwadi or any public purposes/project or activity which the State Government may add.

Several issues relating to Jharkhand Policy Matrix are, firstly, rural land records are not updated regularly, presumptive and lack spatial synchronization. Secondly, urban land records are incomplete and not spatially referenced. Thirdly, high level of housing is in violation with urban regulations and tenancy laws regulation. Fourthly, records are not updated automatically and not all transactions are registered. Fifthly, Legal and administrative opportunities to enhance women’s access to land are not used sufficiently. Sixthly, Effectiveness of public land redistribution for eligible poor and the actual possession for granted public land needs strengthening.

Speaker 2: Shri Arindam Mani

Achievements of Land Governance in West Bengal and Challenges Ahead



Major Achievements of Land Governance in West Bengal in relation to Computerization of Land Records and Maps, Inter-connectivity among service locations, Establishment of Modern Record Rooms and Data Centres, Computerization of

Registration and Integration with Land Records.

As far as status of Computerization of Land Records are concerned out of 42,136 revenue villages land records of 41,841 villages are digitized. Presently 36.70 million RoR of 46.54 million Land parcels is digitally available to citizens. Computerized Land records of 345 BL&LRO offices are co-located under e-Bhuchitra where database is in SDC.

Out of 68428 cadastral maps digitally available to citizens 67159 sheets are digitized and are available to the citizens. West Bengal recorded highest number of e-transactions in land records project between 1st April, 2017 and 31st December, 2017.

All BL&LRO Offices and all Registration Offices are provided with a two way connectivity – (A) MPLS – VPN connectivity and (B) West Bengal State Wide Area Network (WBSWAN) connectivity. One BL&LRO Office could not be provided with connectivity because of internet shadow zone. All 256 Registration Offices in the State are computerized. e-Bhuchitra is web based application running on secured VPN network. The database of computerized Land Records is centralized and secured at SDC. All BL&LRO offices are integrated with registration

⁴ Additional Director of Surveys, Survey Building, Alipore, DLR&S Office, 35 Gopal Nagar Road, Kolkata, West Bengal

offices for auto-generated mutation. Registration is being done through a web based centralized system called e-Nathikaran.

Live data of land records of 345 collocated locations are available for public viewing; Plot maps are available for information; live status of Mutation cases can be seen; there is a download option for mutation notices; now searching of Mutation cases through Registered Deed No. is easy.

In case of e-DSS (e-Delivery Service System), the citizens can avail the services of e-Bhuchitra for online filing of mutation cases & conversion cases, depositing process fee online, and finally getting e-delivery of digitally signed copy of record of rights through www.banglarbhumigov.in. e-DSS will also offer the service of online application filing and getting e-delivery of digitally signed ROR & Plot Information copy through www.banglarbhumigov.in. OTP based authentication both through SMS and e-mail has been incorporated in e-DSS for validation of the rightful applicant. Services of online delivery of digitally signed copy of ROR and plot information to common citizen through e-district portal of government of West Bengal has been successfully rolled out throughout the State. Live display of the Revenue Court Case details against concerned Plots and RORs in 'banglarbhumigov.in' has been successfully achieved.

provision of displaying of Mortgage details on the affected plots by the concerned Banking authority imposing restriction on mutation of the mortgaged plots as mandated by SLBC, Provision for linkage of Municipal Holdings with Land Records falling under their jurisdiction as per guideline of Ease of Doing Business (EoDB), Integration of scanned legacy records with e-Bhuchitra, Geo-referencing of Digitized cadastral maps, are some of the important future plans of West Bengal government.

In West Bengal, Modern Record Room have facilities of an operational area with computers/servers, storage area network, printers, scanners, online UPS, IP camera, access control system, thumb scanners, router rack, electrical fittings etc. A public

services area for waiting/reception, a storage area with compactors/storage devices for physical storage of RS and LR records and Maps. As far as current status is concerned, out of 346 BL&LRO offices, 297 Modern Record Rooms are completed and 20 MRRs are under construction.

He focused his presentation on a motto named as “NIJO-GRIHA NIJO-BHUMI” i.e. My Home My Land. NGNB was launched on 18th October 2011. The scheme is aimed at providing all landless and homeless rural families 3 cottahs (approx 5 decimal) of land per family by issuing patta on vested land or through purchase. Total number of 2,20,992 beneficiaries have received NGNB patta till January 2018. The NGNB beneficiaries are provided convergence services of all important development schemes like MGNREGS, TSC, IAY, RGVY etc. Landless agricultural labourers, rural artisans, and fishermen are Target groups under NGNB. Priorities are given for women headed and ST, SC, OBC, minority households. More than 83% land titles are in the name of women, either joint or single title. So, there is an increased sense of safety and security for women.

Under Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, 94 Forest Villages were converted into Revenue villages. Certificates issued by the district level committee as per FRA will be treated as conclusive proof of title of an individual over the land. As per section 4(4) of the FRA 2006, the title is heritable, but not transferable. This is noted in the RoR.

These are three new factors that have occurred recently. There are various kinds of land disputes both on private and public property, only on private property, only on common property and only on government land. A very interesting data has been provided by Land Watch and the details my young friend will tell in the next session and in his report it collected data of about 273 conflicts and the number of conflicts has risen to 700 and the startling fact is that $\frac{3}{4}$ th of the conflict are on common land and this is because the community land is a subject of land grab, what the government

does that they think whatever is controlled by them is completely free from encumbrance but people have customary rights over these lands and it is because of that very large number of conflicts arise. POSCO case in Odisha is a classical example where the people used land for various purposes and they also had documents, but the government denied their plea and said to give the land to the companies and a startling fact that has come forward is that this entire thing is concentrated in central and eastern tribal concentrated areas in India, 40% of the conflicts are related to the forest alone and nearly one and a half times more conflicts are in scheduled areas and tribal areas. Tribal areas have become the major victims of land dispute because they are in naxalite area and are also located where there is a lot of common land and they are also among the largest community to be displaced from land that's why the social dynamics impacts politics, growth and economy. I will come to two last points the resolution of disputes, a number of simple things which can be done one is simplification of law, I was discussing yesterday with someone here that even a reasonable literate person cannot feel comfortable reading a law and integration of law is required, integration of courts and integration of agency is required. Second is which I find and was discussing with Sudhansu is that DMs and collectors are disinclined to do revenue work because court work requires sitting, reading, application of mind and then trying to interpret it while development work is easy that is why I find that courts are not attended to and frequent adjournments are given, therefore we need to change this and it will continue to happen as long as revenue work is combined with development because less time is made available for revenue work, there is no pressure with regard to revenue work. I remember Ugandar committee report on tribal land and alienation has used a very sharp language pointing out that our revenue courts dealing with land alienation cases are "kangaroo" courts which explains the poor understanding of laws. Also we need sufficiency of ground staff which has suffered on the account of two reasons one division between planned and non planned expenditure, revenue work was considered non planned expenditure while development work was planned expenditure so development went well, this is the major reason why land records

were not updated because you require huge resources, no states were ready to expend huge resources. Technology can provide tools but it cannot provide standard, no technology can tell you how rules are implemented, so the social and political dynamics behind land will not be mediated but overlooked by technology. I conclude particularly in the context of Land Watch data which has underpinned that social justice is central to resolution of land dispute, not merely disposal of cases. In order to pursue social justice state is central to you, state alone can provide social justice, not only knowledge upgradation but also social sensitization is required. Social support to the rural and poor is required because they are not able to take benefits of laws and empowering the poor and marginalized must be done, the Andhra Pradesh model must be implemented in other states.

Speaker 3: Dr. Dimple Tresa Abraham⁵

Expanding Women's Land Rights: Issues of Policy and Governance



Indian women have been subsumed within households; they have been treated inferior and subordinate to men. Access to education, ownership to property and land curtailed. Women's demand for Rights aroused in mid-19th Century

with women's suffrage movement in Europe and North America - leading to adoption of Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 20th century. World Conference on Agrarian Reform and Rural Development, 1979 called for repeal of Gender Discriminatory laws governing "Rights to inheritance, ownership and control of property".

In India, 6th Five Year Plan recognized women for the first time as economic actors and emphasis on making them economically empowered. Under 9th Five year plan there was a section on "Gender and Land Rights".

Land is an asset whose alienation and dispossession have psychological, social as well economic impact. Historically land distribution was highly unequal and followed inefficient/unjust ownership structures which lead to its concentration in the hands of few. Post-independence, feudal agrarian structures were abolished and many state governments passed land reform laws, which lead to. Some of the land rights available to the women are Sources of land for women primarily are direct government transfers, market (by purchase or lease), and inheritance. To enhance women's land access from all three sources, it is critical to include Land titles to women in all government land transfers, support poor women with credit to purchase or lease in land, raise legal awareness and legal support on women's inheritance rights.

⁵ Research Associate, Centre for Women's Development Studies, 25, Bhai Vir Singh Marg, New Delhi

Women constitute a third of agricultural workforce in India, contribute to production of 55-66% of farm production, but hold only 12.8 per cent of operational holdings. As per the Agricultural Census of 2010-11, Large agrarian states such as MP Rajasthan and UP have lower proportion of women operating agricultural holdings compared to Meghalaya and Lakshadweep. This is primarily due to state specific amendments the Hindu Succession Act 1956, which made daughters as coparceners, and allowed inheritance of agricultural land.

Increasing Feminization of Agriculture, Rising Female headed Households, well-being of Widows and Elderly Women, Overall well-being of the Family, Income from Non-Farm Activities, Reduced Gender based Violence, are importance of Land Rights for Women.

Women's land rights are important for both livelihood security and gender justice, but there are extremely strong arguments against women's land rights. Strong Cultural Barriers such as practice of Dowry, unequal and plurality of laws, lack of awareness of changing of laws, relinquish inheritance rights, awareness on aspects of Land Sale.

One of the major International Policy Initiative is 2012 FAO Voluntary Guideline which has 'gender quality' as one of its core principles. It States that governments should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.

There are several National Policy Initiatives as 9th Plan which provides for adequate legal mechanisms for protecting rights of women on land. Through 10th Plan, Hindu Succession Act amended by deleting major gender discriminatory clauses making women's inheritance rights in agricultural land equal to that of men. Now all daughters, including married ones same rights as sons to reside in or seek partition of the parental dwelling house Delhi in 2002 and Gujarat in 2004, introduced scheme in which women have been given incentive either by giving concession or exemption in registration charges/ registration duty, if the property was purchased by them. Under PMAY all dwelling units are to be registered in Joint Ownership with wife as primary owner.

For a Policy Change in MGNREGA, a gender specific clause should be inserted (as is the case in PMAY houses) with respect to individual land works with regard to land ownership. This may be reservation of HALF or 50% of all works on individual land to be on women owned land. And within this reservation, that is of the 50% about 20% could be on land owned by single woman/disabled women while remaining 30% could be women having joint ownership. Given the scale of MGNREGA a 50% reservation of category B works on land owned by women could have huge impact on expanding women's land ownership in the country. The implementation of 50% reservation of category B MGNREGA works on land owned by women would be challenging requiring political will, substantial co-operation & collaboration with land administration, governance structures.

for all those who are making their wives co-owners of land for availing MGNREGA works, the registration fee should be waived off. There should be increased women's representation within land administration institutions such as panchayat office, titling and land registration offices. They should be able to champion the rights of women and influence men towards including their spouses' name as joint holders.

expanding women's land rights, particularly ownership rights is a challenge, tackling socio-cultural norms through direct and indirect methods, political will and collaboration from different departments, ministries, role of land administration, land governance and justice systems will be fundamental. In land poor households (marginal & small farmer HH) women's land ownership could be expanded via policy tweaking of MGNREGA (that could improve joint ownership by the couple – will improve women's marital property rights) – Here ZERO fees for re-registration, are important policy recommendations.

Legislations towards legalizing land leasing and innovations from the land administration and governance systems towards ensuring benefits from government is received by tenant cultivators can create equitable land access rights to landless and land poor women.

Speaker 4: Shri Vinod Kumar Agarwal, IAS (Retd.)⁶
Policy Reforms: A case for Guaranteed Title



The committee headed by D.C. Wadhawa had suggested the methods and ways to modernize land record management system in India. Wadhawa committee submitted its report suggesting adopting torrens system. It is also called guaranteed title system.

On his recommendations A. P. Govt. supported Appu Committee. This committee gave a suggestion that we are not yet ready to adopt torrens system in India. We have to move towards it gradually and the first step would be to do the computerization of land records. Alternate objective of NLRMP is to achieve torrens system. The Torrens Land Title Registration System provides a sure method for determining and assuring title to land. The Torrens System operates on the principle of “title by registration” rather than “registration of title.” A buyer can only receive a title if it is first registered, rather than buying a piece of land and then register it later.

In the registry, each piece of land is identified by a unique number and title. Each title has a description of the exact dimensions of the land and its boundaries. A title shows the names of the registered owners and any legal interests that have been applied against the title and which consequently affect ownership. Also, the registry is open to and may be fully searched by the general public.

The key feature of the Torrens System is that it captures all interests in a property, including transfers, mortgages, leases, easements, covenants, resumptions and other rights in a title register. The interests, once registered, are guaranteed correct by

⁶Shri Vinod Kumar Agrawal, IAS (Retd.), 139, Road No. 17, Prashashan Nagar, Jubilee Hills, Hyderabad

the state. In other words, the register is conclusive evidence of ownership. This is also known as “Indefeasibility of Title”.

The torrens system works on three principles: curtain principle, mirror principle and the insurance or indemnified principle. A sound system of land registration is underpinned by three principles: the insurance principle; the curtain principle, and; the mirror principle. The insurance principle refers to the guarantee secured by the State that any loss incurred by a registered land resulting from reliance on the conclusiveness of the land Registry by a land purchaser will be compensated through a statutory indemnity system. The curtain principle, on the other hand, is the concept that land registration may allow certain equitable interests attached to the land hidden from a purchaser's view. This ‘curtain,’ however, does not affect the validity of any transaction on the registered land so long as the details of the registration reflects the validity of the title. Finally, there is the mirror principle. The mirror principle refers to the idea that the due registration of a land title must reflect all the important and significant details that a purchaser must know before buying the land. These details refer to the identity of the “owner, the nature of his ownership, any limitations on his ownership and any rights enjoyed by other persons over the land that are adverse to the owner.”

The Torrens System has been designed to obviate the need for a chain of title and the necessity of tracing the vendor's title through a series of documents. Each parcel of land is identified by reference to a numbered deposited plan. Each lot of land is the subject of a separate folio in the register. The folio records the dimensions of the land and its boundaries, the names of the registered proprietors, and any legal interests that affect title to the land.

In India, whether somebody has a title or not is the subjective opinion of the person who is seeking a title. So it is a presumptive and not conclusive title. So, whoever is interested in title, has to make his own investigation about the real ownership. There is no

official record where one can certify the title. In Indian legal system, he said that there is no law through which the title of any property can be established conclusively. It is a biggest defect in the system which creates an uncertainty about the title. The result of uncertainty is that India is losing 1.3% of GDP.

The reason for slow growth of ease of doing business is that we take so much time in registering a property. The process of making investigation, going for registration, going for mutation and then finalizing the record takes lot of time. This all is only because India does not have a system of conclusive title.

Further, the registration law in our country is outdated and there is a need for major amendment. Our registration is only a deed registration system. It is not a title registration system. Unless we change this system by bringing a new registration act we cannot have conclusive deed of title.

So, there is an urgent need to adopt this system because it not only increases the accessibility of records but it increases the transparency in maintaining the records.

Technical Session – II
Urban Land Governance
Chairperson: Shri Vinod Kumar Agrawal, IAS (Retd.)

Speaker 1: Shri Deepak Sanan, IAS (Retd.)⁷
Improving Property Records: Regional Initiatives and Implications for Central Policy



The impact assessment of the DILRMP undertaken by NCAER, NIPFP and IGIDR. The impact assessment comprised various components. This presentation condenses key conclusions with reference to the subject of this presentation.

In Himachal Pradesh, as far as Computerization of Land Records is concerned, in terms of textual records, RoRs are digitized in 97.6 % of villages, all are freely available on the web in legally usable form. All digitized RoR are linked to registration process to make an immediate note of a transaction. In terms of Spatial Record, there is a rapid pace of digitizing cadastral maps and linking to textual record. Extensive network of service delivery centres making available copies of the record in real time.

There is a little co-relation between financial progress under DILRMP and the achievements in Himachal Pradesh and Maharashtra. It shows state priority may either not match DILRMP or the latter may fail to support state effort and initiative due to its own rigidities. There should be an assessment of record in terms of accuracy, comprehensiveness and real time updation.

Some of the findings of the study are considerable variation with random plot sampling on all parameters: Digitization of core

⁷Shri Vinod Kumar Agrawal, IAS (Retd.), 139, Road No. 17, Prashashan Nagar, Jubilee Hills, Hyderabad

records per se does not lead to a better record and other actions are required and states need to focus on them also. Variation on ownership can be reduced by speeding up mutation on occurrence of sale or succession event. Variation in possession can be reduced by reducing instances of joint ownership. Variation in use can be reduced by using real time information from satellite maps. Variation in extent or area can be reduced by judicious use of information in digitized spatial record. Variation in encumbrance related data can be reduced by integrating more data sets with the land record.

Underutilization of disbursed funds and inability to get a better record is a problem of scheme design. Incentivize states to focus on creation of better land record system and ensure improved delivery of services. It is essential to increase flexibility and reward performance.

Speaker 2: Samartharam N. R.⁸

Reforming & Governing Urban Property Record Management in India: A Case-study of Karnataka (e-AASTHI)



Land is important aspect of mankind, Involves both Agriculture & non-Agriculture lands. DILRMP has successfully managed Agriculture land & integration with stakeholders. Non-agricultural land management needs impetus, Agricultural

land records management are comprehensive & well established. Humans attach huge sentiments to land.

In Karnataka, demand register extracts used in the sub register office for performing transactions were different from what was prescribed in the Karnataka Municipal Act 1964. There were instances wherein fake demand register extract required to complete the registration formality were created by middlemen in sub registrar's office itself. Non availability of standard system to take properties in the property record management system resulted in mushrooming of illegal layouts in peri-urban areas. It seems there exists no system in the country wherein urban property records used for residential, commercial and industrial purposes are scrupulously maintained. There seems to be a big lacuna when it comes to maintenance of apartment details which is the need of the hour in most of the urban agglomerations. There is neither uniformity nor a standard procedure in maintenance of urban property records unlike agricultural land records.

The main reasons for the above raised issues are Non uniformity in acts & rules, dependency on pre independence surveys, lapses in estimating and providing non-agricultural land departments are not able to cope up with pace of urbanization.

⁸Technical Director, National Informatics Centre, Karnataka State Unit, 6th Floor, Mini Tower, Dr. Ambedkar Veedhi, Bengaluru, Karnataka

Few Initiatives by Karnataka Government are Urban Property Ownership Records (UPOR) in Shimoga, Mysore & Mangalore; Karnataka Municipal Reforms Project (KMRP) in Hassan.

That Controlling property transaction is best way to streamline property record management. Well-designed IT systems can help in reducing human discretion and automate the processes. Streamlining property record management and establishing electronic integration with registration will stop / reduce mushrooming of illegal layouts. Controlling illegal layouts helps systematic expansion of the urban areas with scope for providing required infrastructure. To avoid legacy data entry, demand driven approach was adopted (Incremental model).

There are several benefits of e-AASTHI to different stakeholders such as complete elimination of illegal properties getting into records. Preparation of fake documents were stopped; accountability has been ensured for department officials; there has been reduction in property disputes. As far as benefits to the citizens are concerned, requests from citizens are acknowledged and tracked. They have now easy access to their records through web interface. Elimination of fake documents ensure that buyers are not cheated. Citizens have easy access to loan due to authenticity of the document.

Among other stakeholders, Registration department is provided with all information about the property at the time of registration so that verification of documents is not a challenge anymore. Impersonation during registration is completely avoided as property documents are issued with photo of the owner printed in property document. Banks and Financial institutions can advance comfortably as legally created properties and illegally created properties can be clearly distinguished easily. All the accepting authorities can verify the document on web and also can depend on paper document to large extent as documents are digitally signed and bar coded.

Several Challenges faced during e-Aasthi deployment & implementation such as ULB officials were new to property record management system. Due to No standard and uniform procedure, regional disparity in procedure were adopted. SROs are not in a position to verify Fake documents. Processes are not put in place to automatically bring new properties into property records database thereby bringing them into tax net.

For better urban land records management, there is an urgent need for uniform model act to govern properties in urban areas. There is a need to fix responsibility either to Revenue department or Urban Development department for maintenance. Inter-operability between Agriculture & Non-Agriculture land records management system is very important. It is advisable to have common system across the country. Capacity building is needed to acquaint with latest technologies.

Speaker 3: Dr. Debolina Kundu⁹

Land Governance Reforms in Urban India under JNNURM



India has 377 million urban population (2011), 31% of total population. It is 2nd largest urban community in the world and will add another 400 million people by 2050. Urbanisation rate is low when compared to countries like China (54%), Mexico (79%) and

Brazil (85%). There has been an increment to the existing urban land, the highest in the last decade. Correspondingly, the density has also consistently increased in urban areas.

The challenges as to land governance in India are textual records are often of low quality and limited coverage, Land records are of presumptive rather than conclusive value, spatial records are virtually non-existent in urban and often outdated in rural areas, high fees and inconclusive nature of records reduce incentives for registering transfers, weak land records contribute to private disputes, overlapping responsibilities among departments result in confusion and gaps, lack of a cadastral base-map increases cost of planning and last but not the least, Innovative policies are needed to improve slums often do not recognize tenure.

Archaic rent control laws were biased in favor of the tenant. Rent control laws were initially enacted as temporary Acts and a short-term measure was there to overcome transient. Continuation of such Acts over a long period without amending provisions has had various adverse consequences like distortions in rental housing market and have negative impact on local finances.

There are several objectives of the reform such as balancing the interests of landlords and tenants, simplification of Legal and

⁹Additional Secretary, Department of Administrative Reforms & Public Grievances, New Delhi-01

Procedural Framework for Conversion of Land from Agricultural Land to Non-Agricultural Purposes.

JNNURM required the rates of stamp duty to be brought down to 5 percent or less, within the Mission period. It expected reduction in the rate would help develop a healthy real estate market, provide fillip to the growth of the economy, and reduce the size of the black money. It also expects that reduction in stamp duty rates will lead to an increase in revenues both for the states as well as the ULBs.

JNNURM envisaged it to be a four-step exercise:

- 1) Fixing of the “guidance values”
- 2) Statutory backing to guidance values
- 3) Reduction and gradual elimination of stamp duty remissions
- 4) Widening the scope of the definition of conveyance

As far as reforms under JNNURM is concerned, Tamil Nadu is the only state which has implemented all the seven land related reforms. Chandigarh, Himachal Pradesh, J&K, Karnataka and Gujarat have implemented more than 90% of the reforms. Puducherry, Assam, Uttarakhand, Uttar Pradesh, Rajasthan, Punjab, Chhattisgarh, Delhi, Andhra Pradesh, Goa and Arunachal have complied with 80-90 % of the reforms. Sikkim, West Bengal, Kerala, Odisha, Jharkhand, MP and Maharashtra complied with 70-80% of the reforms. Haryana and Tripura implemented 60-70% of the reforms. Meghalaya, Bihar, Manipur implemented only 50-60% and Nagaland implemented only 36%.

Introduction of property title certification system was found to be the most difficult reform to undertake. 11 states were able to implement it, 3 states implemented it partially, while 16 states were not able to initiate the reform. Rent control reform was undertaken by 21 states. Only 19 states were able to implement all the milestones of reform on stamp duty rationalization. Reform for simplification of legal and procedural framework for conversion of agricultural land for non-agricultural purposes was compiled by 24 states. Among all states, only West Bengal has not repealed ULCRA.

Existence of Urban Property Ownership Record (UPOR) in Karnataka where comprehensive framework for the creation and management of urban property records started on a pilot basis. Another is Bhoomi, an online Delivery of Land Records in Karnataka.

It provides transparency in land records management with better citizen services and takes discretion away from officials at operating levels. Under the project, all the manual Record of Rights (RoR), Tenancy and Crops (RTCs) which prevailed at the time of data entry were digitized.

Bhu Bharati project in Andhra Pradesh aims to provide conclusive titles in accordance with principle of Torrens system (but does not provide government insurance to title).

Computer-aided Administration of Registration Department (CARD) system in Andhra Pradesh is electronic preservation of documents and automation of back-office functions, counter-based/web-based services on issue of certified copies, market value assessment, encumbrances and transparent valuation of the properties.

Rajasthan, earlier passed the Rajasthan Urban Land (Certification of Titles) Bill, 2016. The Bill provides for certification of urban land titles. The Bill establishes the Urban Land Title Certification Authority.

Chhattisgarh Municipal Corporation Amendment Act 2011 and Chhattisgarh Municipalities Amendment Act 2011 provisioned for 15 per cent land reservation for EWS housing and 10 per cent for LIG housing.

With increasing trends of peripheralisation and industry shifting to rural areas land needs to be understood in the perspective of a

rural-urban continuum for making land governance tuned to India's vision towards accelerated development. Reforms related to property title certification which are complex in nature need a clear roadmap with fixed timelines. Central government should also play an important role in areas such as fostering innovation, setting standards (including amendment of national laws) and capacity building.

Speaker 4: Dr. Pradeep Kumar Nayak¹⁰
Towards Urban Titling in India



Land titling is a very new area which talks about giving conclusive title to the owner of the land. It totally denies presumptive title. Simply guaranteeing title in favour of an individual will not serve the purpose. It is very important to give the assurance

that in case of any defect in the title person will be indemnified by the government.

¹⁰ Chief General Manager, OSDMA, Rajiv Bhawan, Bhubaneswar, Odisha

Technical Session – III
Initiatives in Land Governance – I
Chairperson: Dr. Nivedita P. Haran, IAS (Retd.)

Speaker 1: Shri S. Chockalingam, IAS¹¹
Institutions of Land Governance Challenges and Innovation



Land governance is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled.

The focus of land governance should be the wealth creation for the Poor, to achieve Millennium Development Goals (MDGs). It should focus on source of Livelihood for most people and policy should protect their interest. It should also prevent waste of time and resources in legal hassles.

There are several organizational challenges like, Multiplicity of Entities, Survey and Sett-Mapping & Original RoR, maintenance of RoRs, updation of titles, collection of land revenue, transfer & encumbrance of property in registration offices and property tax and planning in local bodies. One of the major organizational challenges is the un integrated functioning of survey, revenue and registration department. Due to this, there is no commonality found between revenue and forest surveys (by Survey of India). Multiple agencies like DDA, MIDC also creates lot of issues as to maintenance of proper records with a single agency.

There are several entities affecting use of land such as railways, national highways, high tension lines, environmental-coastal zone, forest, rivers, streams, airports, defence establishments, ordnance factories and depots, many legislations on land, huge

¹¹ Settlement Commissioner, 3rd Floor, New Admin Building, Opposite Council Hall, Bund Garden Road, Pune, Maharashtra

delays in disposal of cases, rev court vs civil court jurisdiction and efforts of judiciary to take over revenue court. There are also implementation delays like partition survey, lack of survey of abadi, gaothan, urban, no resurvey for decades. No updation of sub-division and missing boundary marks/records. Institutional rules and laws are also major challenges in the path of land governance.

Some possible solutions of abovementioned challenges are to put all departments together, make the format as to show maps & RoRs together. It is time to make major departments to sit under one-roof. Integrate and create a department of land administration.

Some legal solutions are to amend registration act and verify title for the ownership. For dispute resolution there should be a timeline for one year. Increasing number of courts may also help in speedy disposal of disputes on land. It is very important to give legal training to revenue officials.

As far as improvement in the area of survey is concerned, there should be time to time updation of survey manuals. There should be a special drive for sub-division measurement. Geo-referenced maps in lieu of boundary marks should be used. ETS, GPS, training and capacity building is needed.

The Interim goal is integrated land information system and ultimate goal is land titling.

Speaker 2: Shri V. Srinivas, IAS¹²

Improving Justice Delivery Systems in Revenue Courts – The Rajasthan Experience



Land is the summum bonum of rural existence, and agricultural structure is the most important determinant of India's development. As land is the critical income generating asset of rural India, effective administration of land is a vital function of the State.

The critical Land Reforms legislations are the Land Ceiling Act, the Tenancy Act and the Land Revenue Act. The implementation of India's Land Reforms policies is mandated on 2 critical institutions – the Board of Revenue and the District Collector/ Sub-Divisional Officer.

The Board of Revenue is the Chief Controlling Revenue Authority under all enactments in force. Being the Chief Controlling Revenue Authority, it acts as a limb of the State Government exercising powers vested in it under the various enactments.

It is the highest Revenue Court of Appeal, Revision and Reference in Rajasthan having wide powers of general superintendence and control over all subordinate courts.

In 1974, the State Government has delegated its Revisional powers in cases of a non-judicial nature, and not connected with Settlement. The Land Records work has also been entrusted to the Board which is administrative in nature and a very important responsibility.

Rajasthan revenue board is amongst the oldest Boards of Revenue in India. It is the largest in terms of number of members and currently handles 65000 revenue cases. The Rajasthan Taxation

¹² Chairman, Board of Revenue, Government of Rajasthan, Ajmer, Rajasthan

Tribunal was separated from the Board of Revenue in 1984 and was further upgraded as the Rajasthan Tax Board in 1999.

The Rajasthan Board of Revenue Ordinance, 1949 was promulgated under which the Board of Revenue for Rajasthan was constituted. The Ordinance was repealed and the Board of Revenue was created under the Rajasthan Land Revenue Act and governed by Chapter II of the Act of 1956.

The Rajasthan Land Revenue (Qualification and Conditions of Service of Chairman and Members of the Board) Rules 1971 were notified by the State Government to regulate the service conditions of the Chairman and Members of the Board of Revenue.

Role of board of revenue in revenue matters and composition of the board are mentioned under section 4 to 14. Section 8 lays that the Board is the highest revenue court of appeal, revision and reference in Rajasthan. The Board of Revenue exercises 3 kinds of powers (a) Appeal, (b) Revision and (c) Reference. Section 11 discusses the power to refer to a bench. Section 12 describes power to refer question to High Court. It says that if in any case it appears to a Bench that any question as is referred to in Section 11 is of Public Importance and that it is expedient to obtain the opinion of the High Court thereon, the Bench may refer the question to that Court. The most important section is Section 13 which talks about the decision in case of Difference of Opinion. It says, where the members are divided in opinion as to the order to be made in the case, the case shall be referred to another member and made in accordance with the opinion of the majority of the members including such other members who hear it.

To improve the system, the Chairman of BOR used to spend 21 days/ month on the bench with an average of 4 hours a day. He himself visited 16 districts of Rajasthan and interacted with the Revenue Appellate Authorities, the Divisional Commissioners, the District Collectors and the Sub-Divisional Officers. He helped in improving Bench – Bar Coordination and kept regular

interactions with District Bar Associations and Rajasthan Revenue Bar Association.

Some of the transformational changes introduced in the Board of Revenue such as streamlining the work of the registry, placing high emphasis on reference cases of common lands and mandir lands, increasing the disposal of appeals being heard by double benches and implementing the digital rajasva mandal in mission mode and operationalizing the Rajasthan revenue courts grid.

Improved Justice Delivery system necessitates breaking down the various judicial processes to individual actions and ensuring effective action on each one of these processes. The board of revenue has decided 1026 cases in January 2018 as compared to 545 cases decided in August 2017. This doubling of decisions in a short period of time was possible with the streamlining of the work of registry by (a) ensuring the number of completed cases to be listed before the double benches is significantly enhanced (b) intense follow-up on the cause lists of reference cases of common lands and mandir lands. The double benches of the board of revenue have been persuaded to decide an average 5 second appeals/ sitting. The board has heard arguments in several afternoon sittings, sending out the message that if the counsels are ready to argue their cases, the bench will always be available to hear them for speedy justice.

The litigant has to remain the centrality of the journey in revenue courts. Consistency and predictability of sittings and intense commitment to the cause of land reforms have enabled the board of revenue for Rajasthan to help millions of litigants of the state while ushering in radical reforms, transformational changes in governance, enabling the march to new India 2022.

Speaker 3: Dr. C. Ashokvardhan, IAS (Retd.)¹³
Land Disputes Redressal: The Bihar Experience



The Bihar Land Disputes Resolution Act, 2009 was enacted in the light of the following facts and circumstances:

1. Disputes relating to record of rights, boundaries, entries in revenue records, unlawful occupation of raiyati lands and forcible dispossession of allottees and settlees of public lands, generate problems and cause unnecessary harassment to bonafide allottees/settlees, raiyats or occupants.
2. Such disputes in respect of raiyati land or public land allotted in favour of different classes of allottees are unnecessarily occupying major space of Civil Courts and the High Court. The disputes could have otherwise been resolved by the revenue authorities, who may be better equipped to deal with such disputes in view of their continued presence in the field offices and their exposure to revenue administration.
3. In larger public interest, it was considered necessary to provide for an effective and speedy mechanism for resolving such disputes, which give rise to major turbulence if not addressed immediately and effectively.
4. Data analysis showed that land disputes mostly pertain to matters connected with the Record of Rights, partition of Jambandi, forcible dispossession of allottees/raiya, boundary disputes etc., and in this context, the administration of the following Acts is involved:
 - (i) The Bihar Land Reforms Act, 1950
 - (ii) The Bihar Tenancy Act, 1885
 - (iii) The Bihar Privileged Persons Homestead Tenancy Act, 1947
 - (iv) The Bihar Bhoodan Yagya Act, 1954

¹³ Member (Administrative), Bihar Land Tribunal, 11, Off Polo Road, Patna, Bihar

- (v) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961
 - (vi) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.
5. Different forums and procedures have been provided for the resolution of disputes under the Acts referred above and it was considered expedient to provide a uniform and common forum, procedure and mechanism, which could achieve the objective of effective, efficacious and speedy resolution of disputes.

When I was posted as Principal Secretary, Dept. of Revenue & Land Reforms, Government of Bihar from 2008 to 2013. In my field tours, I used to come across a cross-section of people. Once a young widow came up. She was in rags with a small child in her lap. Her in-laws had evicted her from hearth and home. The usual answer to her woes was an advice to approach the Civil Court, because till then Bihar did not have some such forum, where private land disputes could be addressed. Civil Court litigations were, nonetheless, expensive and time-consuming.

During my stint in Santal Parganas (1982) now in Jharkhand. Entries in the Mcpherson's Survey of 1878 were made in the name of Santals. Wood's Survey in 1902 carried forward entries in the names of heirs of the foremost recorded tenants. However, over a period of time, there was a huge influx of non-tribals into Santal Parganas and in the Gantzer's Survey of 1925, tribals' names were struck off the survey records, to be replaced by the non-tribals, hand-in-glove with a corrupt machinery and the ex-intermediaries. Common devices applied were rent-eviction, surrender, abandonment, showing the main tenant as dead, dying heirless, intestate, and also collusive suits. Possession over agricultural lands, nonetheless, remained with the tribals. The ongoing revisional survey machinery hardly made any departure from the last survey records. Non-tribals took agricultural lands in their names, but lived somewhere else in the bazaar area, pursuing trade, business, money lending and politics. In spite of the fact that they were absentee landholders on paper only and in spite of the

fact that factum possession continued with the Santals, down the line- the revisional survey authorities stuck to the aberrations made during Gantzer's survey. It was a sad saga of continuing wrong. Historical injustices were allowed to perpetrate on the right, title and dignity of the resource less tribal.

It was not a cake-walk. We had to identify a competent authority for dispute resolution, which had to be a field functionary in the revenue administration. We had to formulate his jurisdiction, in respect of which Civil Court had to be barred. But after barring the regular Civil Court, we had also to vest the revenue authority with powers of a Civil Court.

Bihar have 09 Divisions, 38 districts and 101 sub-divisions in Bihar. Each sub-division has a Sub-Divisional Officer and a Dy. Collector Land Reforms (D.C.L.R.). The S.D.O. enjoys a slightly higher rank than the D.C.L.R. The B.L.D.R. Act makes the D.C.L.R. a competent authority for purposes of the Act. The Divisional Commissioner is appellate authority (hearing appeals against D.C.L.R.'s orders). Collectors are responsible to exercise control and supervision over D.C.L.R.'s Courts functional under the B.L.D.R. Act.

Here also, in the event of the final publication of Records of Rights, an aggrieved is left with no other option but to approach the Civil Court, which takes its own toll on time and money.

It was in this and similar such background experiences and the bitter tang they left that he ventured to draft the Bihar Land Disputes Resolution Bill.

The competent authority shall have jurisdiction and authority to hear and adjudicate, on an application or complaint or on any application referred to it by a prescribed authority or officer, any issue arising out of following types of disputes:-

- (a) Unauthorized and unlawful dispossession of any settlee or allottee from any land or part thereof, settled with or allotted to him under any Act contained in Schedule-1 to this Act by

issuance of any settlement document/parcha by a Competent Authority;

- (b) Restoration of possession of settled/allotted land in favour of legally entitled settler/allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession;
- (c) Threatened dispossession of a legally entitled settler/allottee;
- (d) Any of the matters enumerated in (a), (b) and (c) above appertaining to raiyati land;
- (e) Partition of land holding;
- (f) Correction of entry made in the Record of Rights including map/survey map;
- (g) Declaration of the rights of a person;
- (h) Boundary disputes;
- (i) Construction of unauthorized structure; and
- (j) Lis pendens transfer.

The competent authority shall not have jurisdiction to review or reopen any finally concluded and adjudicated proceeding under any of the Acts contained in schedule-1. The competent authority shall exercise his authority for resolving the dispute brought before him on the basis of any final order passed by any of the authorities empowered to do so in the acts contained in schedule-1 of this act.

The Competent Authority shall have the same powers in making enquiries under this Act, as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit, in respect of :

- (a) admission of evidence by affidavits;
- (b) to issue summons for ensuring the attendance of any person and examining him on oath;
- (c) compelling the production of documents;
- (d) award of cost;
- (e) to call for any report or order for local enquiry; and
- (f) to issue commission for local enquiry or order examination of witnesses.

For expeditious resolution of disputes, the competent authority shall take all possible steps for expeditious resolution of disputes and shall ensure final adjudication within a maximum period of three months from the date of the institution of the case before him. The Competent Authority shall not allow adjournment to the parties without sufficient cause. Failure to dispose-off within stipulated period without sufficient cause may call for disciplinary action against him.

Speaker 4: Dr. Prashant Kumar Trivedi
Land Governance in Uttar Pradesh: The New Revenue Code of Uttar Pradesh



The ‘Uttar Pradesh Revenue Code 2006’ (hereafter referred to as Code) came into force from 11 February 2016. The Code simultaneously achieves several goals – it consolidates and amends the law relating to land tenures (UP Zamindari Abolition

and Land Reforms Act, 1950) and land revenue (UP Land Revenue Act, 1901) while also ostensibly simplifying the accompanying legal procedures. However, the most critical aspect of this legislative activity that has escaped scrutiny is that it reneges on a number of time-tested, pro-poor provisions of the previous law.

The process of amending the law was set in motion a decade before when the Bill was passed by the UP Assembly in September 2006. But at the time, it could not get presidential assent and remained pending with the central government. In 2007, the Bahujan Samaj Party (BSP) assumed power and the bill was consigned to the back burner. But while it halted the amendments, the BSP missed the opportunity to resuscitate the pro-poor, pro-Dalit provisions of the old law. When the SP was voted back to power in 2012, the amended bill was once again pursued and this time, it received presidential assent. The new Act was notified in November, 2012 and but not implemented because judicial fraternity pointed out some grave flaws in the new law. It was again amended by an ordinance in 2015 and came into force from February 2016.

¹⁴ Associate Professor, Giri Institute of Development Studies, Lucknow, Uttar Pradesh

But despite the potentially far reaching consequences of the amended Act for land tenure system in general and landless peasants belonging mostly to marginalized communities in particular, there is hardly any discussion on these issues. This paper analyses the specific amendments that, it is argued here, constrain poor peasantry's access to land without attempting to present a comprehensive review of the Code.

The UP Zamindari Abolition and Land Reforms Act, 1950 (ZA & LR Act) defines land as 'land held or occupied for purpose of agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming'. But the new Code defines land as 'land held or occupied for purpose connected with agriculture'. This change in the definition opens door for diversion of agricultural land from cultivation to apparently 'purposes connected with agriculture like agro-industry, farm houses etc.

This is a serious blow to attempts towards equi-distribution of land resources especially in the light of the fact that the Ceiling Law has failed to make any dent in land structure of the state. Till 2006, only 3,69,362 acres (1,47,744 hectares) of land was declared surplus and around 1,05,290 hectares was distributed among the landless. As per Agricultural Census-2005-06, the total operated area in Uttar Pradesh stands at around 180 million hectares. The statistics confirm that the ceiling surplus programme has been a spectacular failure as merely 0.58 per cent of total operated area was distributed. To top it, the change in the definition of 'land' will douse any remaining hopes of distribution of the ceiling surplus land.

Successive governments have claimed there is no further scope for ceiling surplus land distribution but even a cursory calculation would prove that a lot can still be achieved towards implementing land ceiling. For the purpose of comprehension, let us assume that uniform ceiling has been implemented all over the state. The government itself claims that more than 80 per cent of the land is irrigated. Let us also assume that operational holding pattern reflects ownership structure as Agricultural Census (2005-06)

data show almost negligible incidence of tenancy in the state. A closer look at the land-holding pattern in the state reveals that there are 78,000 landholdings in the more than 7.5 hectare category covering an area of 8,50,000 hectare. The average size of these holdings is around 11 hectares. Applying a ceiling of 7.5 hectare would amount to more than 2.63 lack hectares of surplus land. And if the ceiling limit is brought down to 4.0 hectare as suggested by agrarian reforms committee , it would amount to as many as 4, 55, 752 holdings covering an area of 27, 97, 866 hectares. In other words, the area qualifying as ceiling surplus land would be more than 9.7 lack hectares. This is as much as nine times higher than the total ceiling surplus land distributed so far!

Section 123 (1) and Section 123 (2) of ZA & LR Act had provided for regularization of possession by house-site-less SC/ST and village artisan households on government and private land respectively held for housing purpose. Section 67-A of the Code makes similar provisions. Besides, provisions were also there to give house-site pattas on gram samaj land in Section 122-C of ZA & LR. Section 63 and Section 64 of U.P. Revenue Code, 2006 provide for allotment of abadi sites. But major game is in the priority list. Even for cases of abadi site allotment under Section 63 and 64 of the Code, priority list is amended. The Code keeps agriculture labour and artisan on par in priority list. People belonging to SC, ST, OBCs and BPL are given the same priority. This means that the sections at the bottom of the rung – agricultural labour and Dalits – do not get the priority they desperately deserve. The new act mentions that priority would be given to those families who are homeless or have insufficient land against needs of their family. However, considering power structure in rural Uttar Pradesh, its impact on Dalits is nor hard to guess.

Similarly, the marginalized sections are further weakened by deletion of provisions that provided for regularization of possession. Section 122 B (4F) of ZA&LR had provided for regularization of possession of SCs, STs and landless agricultural workers on gram samaj agricultural land. The new Code does not have any provision to this effect. The provision relating to

regularization of possession on gaon sabha land was one of the most popular sections of the old act. This is substantiated by the fact that while the BSP had no considered policy with regard to land reforms in spite of the landless forming a majority of the party's core vote, successive BSP governments kept updating cutoff date for regularization of possession. It became almost a tradition that each time Ms. Mayawati was to be sworn in as Chief Minister of the state, the oath-taking ceremony coincided with a fresh cutoff date for regularization of possession. The latest cutoff date for regularization of possession was 13 May 2007, the day the last BSP government took over reins of the state. However, the BSP did absolutely nothing to amend the draft bill in favour of the landless despite a full majority in the UP Assembly during 2007 to 2012.

One the one hand the new act has either closed or narrowed possibilities of land flow to marginalized groups; restriction on outflow of land has been relaxed. UP Revenue Code 2006 section 98 restricts a Scheduled Caste landowner to sell his land located outside area of urban development authorities to a non-SC person without the approval of District collector. Additionally, the seller must be left with at least 1.265 Hectares of land post-sale. Section 99 of the Code completely prohibits Tribal land to be sold to a non-Tribal.

But Section 80 and Section 81 provide for lifting of the above-mentioned restrictions if 'land use' is changed by filing a declaration. A similar provision was in existence in the shape of Section 143 of ZA & LR but the new Code appears to be even more liberalised in lifting restrictions imposed on transfer of such land. This is likely to dispossess a large number of SCs and STs of their land. Several other sections were of immense importance in providing protection to the weaker sections. The new Code has not included any of these provisions.

Finally, he said that the new legislation has far reaching consequences in terms of reversing the impact of whatever little land reforms took place in UP. It disempowers the landless further

in a state where land ownership structures have remained skewed. For instance, the share of Dalits in terms of the number of operational holdings stands at 17.12 per cent and their share in total operated area is merely 10.85 per cent. This is a disproportionately miniscule number as Dalits constitute as much as 21 per cent of the population and a comparatively larger section among them depends on agriculture.

Data from agricultural census also reveals stark inequality between Dalits and non-Dalits in UP. While the average size of land holding for all social groups is 0.83 hectare, for Dalits it is only 0.53 hectare. For non-Dalits, it stands at 0.89 hectare. Absolute landlessness among Dalits in UP may not appear so high but functional landlessness is still very high. Two-third land holdings belonging to Dalits are less than 0.5 hectare. The average size of land holding in this category is only 0.23 hectare. As many as 87 per cent of total Dalit holdings fall in the category of less than 1 hectare.

Unlike previous land legislations aimed at providing ownership to the landless, this Code appears to have focused on making land tenure system of the state more market compatible in terms of liberalizing land usage conversion, easing restrictions on sale of land belonging to SCs and STs and with changed definition of 'land' almost watering down any possibility of implementation of Ceiling Act.

All these changes seem to reflect a new discourse on land reforms which can only be categorized as market-led land reforms.

Technical Session – IV
Initiatives in Land Governance – II
Chairperson – Dr. C. Ashokvardhan, IAS (Retd.)

Speaker 1: Dr. Nivedita P. Haran, IAS (Retd.)¹⁵

Whose Land is it Anyway? How to Surmount Hurdles in Digitisation



Land is the part of the earth's surface that is not covered by water. It is an area of ground in terms of its ownership or use. River-bed, sea-bed, land under all water bodies. Any development project, infrastructure, services, dwelling unit or

agriculture or industry is land-based. Land is a limited asset. But the question always arises before us that Whose Land is it Anyway? Is it of Individual, Corporate, Government, Community, Cooperative, Trust or Group?

Talking on history of land revenue administration, she said, taxes from land are only major source of revenue. Land administration is the prime responsibility of the government which is based on survey and settlements like Zamindari, Ryotwari and Mahalwari Systems. Several doctrines are applied as Doctrine of Public Trust and Doctrine of Eminent Domain. Presumptive Title versus Conclusive Title is the main issue in present time. Conclusive titling system is based on three important principles. They are Mirror Principle, Curtain Principle and Indemnity Principle.

With DILRMP programme, Government of India started with the aim of maintenance of land records to Simplify and modernise land transfer registration. It focuses on Mutation through online data transfer. The purpose is to Bring Registration, Revenue and Survey departments under a common database of digitised textual and spatial records.

¹⁵ President, Ente Bhoomi Trust, Villa 23, IFS Villas, Pocket-6, Builder's Area, Greater Noida, Uttar Pradesh

The Primary Ground Control Point Network is that established by Survey of India throughout the Country and Kerala plans to establish the secondary GCPs and Tertiary CP Networks on its own referring to the PGCPs.

Remaining Operations are as follows:

- Grid sheet data combined to form blocks
- Data cleaning & layer formation
- Integration of attribute (land holder) data
- Ground verification
- Printing of RoR verification sheets
- Distribution to land holders
- Appeals, hearing & finalisation

The Reason to Modernise Land Management System are several Land-related Scams such as Adarsh Cooperative Housing Society, Mumbai; Sita Ram Bhandar, Delhi ; Golf Club Land Grab, Kerala; Wind Energy Park, Palakkad; Pathrakulam, Sri Padmanabhaswamy Temple, Trivendrum; HMT Housing Society, Kochi; Munnar land encroachments and Santhosh Madhavan land in backwaters.

Public lands, that include govt. lands, lands of PSUs, quasi-government agencies, are to be protected by public servants. There are Innumerable laws to ensure this. Yet Land is the most misused, ill-used, abused item. The person who is strongest in society have easy access to land grabbing. Public servants show indifference or connive sometimes for personal gain.

The reasons why we have not gone for complete digitization are too much effort are for departments, especially Survey Department. There is a Vested interest of revenue, survey, all executives, including political. Eco-systems are not conducive, many disrupters, few aware of ground realities and technical solutions.

With a robust land management system litigation will minimize but years delay increases loss to society by geometric progression. As far as achieving goals of sustainable development is concerned, India is losing out on the global narrative.

Speaker 2: Shri Sundar Balakrishna, IFS¹⁶

Can Public e-Services Delivery Bridge the Digital Divide and Enable e-Commerce? Perspectives from Andhra Pradesh, India



Information and communication technologies (ICT), through e-services, has increased incomes, improved health facilities, enhanced access to education and job opportunities enabled B2C services at affordable prices to the underprivileged population

but the benefit from ICT depends on its adoption and access. High income economies show greater penetration of ICT (telephone, mobile, net). Gaps exist in the adoption and access due to location, education, income, and age.

"Digital divide" describes the gap that exists in access and use of ICT. Digital divide exists at different levels, in access to use ICT (measured by the spread of ICT tools, infrastructure, and devices) and ability to use ICT (measured by functional and digital literacy).

India is one of the under performers in providing ICT access to its population. Only 18 people using the internet per 100 population on average. Number of telephone landlines per 100 population ranges from 4 to 44 percent. 70 percent of internet users are from the 7 cities (Mumbai, Delhi, Bangalore, Hyderabad, Chennai, Kolkata, and Pune). Mobile penetration in rural India ranges from 3 to 21 percent (national average of 4.92 percent). In urban India, it averages 43.9 percent.

The Indian state of Andhra Pradesh (AP) was a pioneer in launching citizen-centric services delivery in 1998, and has refined it as "Meeseva". Very few studies have examined the

¹⁶ Director, ESD (Mee-Seva), No. 48-9-2/1 Vishnunagar, Gunadala, Vijaywada, Andhra Pradesh

interactions between government electronic services delivery and the digital divide, even at the country level. This study is more granular, and examines the role of government electronic services delivery in narrowing the digital divide, and fostering trade and commerce in AP.

As per Mee seva fact file, a network of 6500 plus common service centers (CSC) where meeseva (g2c) and business to citizen (b2c) services are offered and a three-tier public private partnership model. Meeseva has earned rupees 10.5 million since 1-10-16 to 30-9-17.

Explaining the meaning of E-Commerce, he said, E-Commerce means buying and selling online, using e-mail and the www (World Wide Web). Besides traditional goods, this includes ordering online content like music and movies. E-Commerce technologies, in the context of Meeseva, include

- Electronic funds transfer
- Internet marketing
- Electronic data transfer
- B2B data exchange
- E-commerce business applications in Meeseva include
- Domestic payment systems, to facilitate cashless payments and utility bills
- Print on demand, as in birth and death certificates, and voter identity cards
- Basic banking services (deposit, withdrawal, and account statements)
- Electronic tickets for bus and train travel
- Top ups for cell phone re-charges
- Digital wallet

E-Commerce has an economic impact. As e-commerce enhances informational access, prices are predicted to drop. E-commerce has led to consolidation in the travel and book industry, and reduced geographical barriers. E-commerce helps creation of more jobs that requires higher technical skills in computing,

logistics, and warehousing. For the consumer, impacts relate to Lower prices, cumbersome procedure in returning goods, and E-commerce businesses are cheaper to run due to low rents, and simplified business processes. India is ranked 131 (out of 167 nations) in the United Nations international telecommunication union ICT index (2016) – low access and usage. The number of e-transactions recorded in the CSC is a measure of digital literacy. A higher number of G2C and B2C transactions indicate a higher level of digital literacy. A normal distribution of population and functional literates and a positive correlation between functional and digital literacy implies a normal distribution of e-transactions.

On 8-11-16, Government of India declared rupees 500 and 1000 bank notes of Mahatma Gandhi series as illegal tender to combat black money. Thus, rupees 15 lakh crores, circulating in the economy as on 8-11-16, in the banned denominations was declared as void. ATMs were not configured for the new series of rupees 500 and 2000 notes, nor were there adequate currencies of lower denominations (rupees 100, 50, 20, 10). To mitigate the currency shortage crisis and revive economic activities, cashless transaction system is under implementation, which include Massive encouragement to mobile currency (like Axis pay) which can be used for interbank transfer of accounts, and pay merchants, with smart and feature phones, Installation of point-of-sale machines at all citizen-commerce interfaces which include mom and pop stores, liquor outlets, small traders, and meeseva centers. Major pos device vendors (paynear, pine labs) were called for an emergency meeting with the CMO. Banks were requested to issue terminal ids within 48 hours of application. Biometric add on to be included in cases of statutory payments. Encouragement for internet online banking Meeseva has narrowed the digital divide in AP by providing several citizen-centric G2C services online, with transparency, speed, and convenience; encouraging service providers to offer innovative B2C services to citizens which creates an ecosystem for firms in the leisure, entertainment, transport, finance and data management space and by rendering kiosk transactions pos- and m-enabled, Meeseva contributes its bit to move towards a less cash society.

Speaker 3: Shri S. Chockalingam, IAS¹⁷
Improving Land Governance, IT and eGov: Technology, Methods, Tools and Innovations



Land governance is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented & the way that conflicting interests in land are reconciled.

The technological challenges in land governance sector are discussed as subsistence of Manual/decentralized databases, Errors in RoR databases, Delayed Updation, No DSS and finally Corruption where several Incidences of bribes are heard for land services.

Several possible e governance solutions to the issues of land governance are, for RoR-Error Free Land Records can be maintained after repeated verification. It is needed to fix responsibility at higher levels. Process of Digital signature of officials and owners should be applied. Maintenance of Manual records should be totally stopped. On updation of RoR records, he said that Mutation should be done Online only. Application should be online. There should be an Online Notice Board for Village records. The competent authority should approve or reject with reasons. There is also a need for case file preservation. Case File preservation. If Linked with SRO, it will be easy to verify and get all details needed for mutation. It should be linked with Link with Birth & Death Registration to get details of immovable property & UID.

In case of RoR dispute resolution, there should be Online Revenue Case System portal. Law Commission Recommendations should

¹⁷ Settlement Commissioner, 3rd Floor, New Admin Building, Opposite Council Hall, Bund Garden Road, Pune, Maharashtra

be followed strictly in terms of all authorities have duty to inform sub-registrar. Land information website should be linked with LR, SR, e-Disnic, Courtnic, etc.

Cadastral Maps should be prepared with the use of imaginary satellites, aerial survey using drone. It should be cost effective. Geo referencing method can be used. Cadastral maps should be highlighted in RoR.

The Ultimate Target should be to eliminate brokers and mediocre in the name citizen services or e services. Let the land owner use the portals by himself without any help. Eliminate human interface and make it fully digital.

Speaker 4: Shri Sanjay Kumar Dora¹⁸

Land Leasing and Land Tenure Reforms: Regional experience of States



On Land Leasing issues, there is a Continuous decline in % share of leased-in area. States have legally prohibited leasing, or Restrictive practices, Land owners' right of resumption is a major issue. Other issues are Conditions for termination of

lease, Tenants right to pre-emptive purchase of leased- in land, Conferment of ownership right on tenants, Heritability of lease and Regulation on rent.

NABARD has done a Study on Hired Land Farming in Kerala (NABARD-KAU, Trissur, 2016) where they found out several issues as to land leasing and reforms. They found that fallow lands are not available for cultivation on hiring basis. There are No uniform terms and conditions for hiring of land. Varying rates are exorbitant and there is unreasonable increase in the rent rate every year.

Several recommendations came as Introduce legal measures allowing safe leasing. Introduce a Rule/Act in line with the Andhra Pradesh Act of Licensed Cultivators (2011). Instructions to Local Self Governments for utilizing the power vested with them for resuming land kept as follows:

- set up land banks.
- entrust the available land with SHGs/JLGs /FPOs of local farmers.
- yearly updating Gram panchayat level data bank and digital mapping of fallow land holdings.

¹⁸ General Manager, National Bank for Agriculture and Rural Development, Bandra Kurla Complex, BKC Road, Bandra East, Mumbai, Maharashtra

Introduction of transparent land leasing law will be a win-win reform for both tenant and land reform. Some Equity & Efficiency principles should be applied as Stop Informal/ Concealed/ Benami tenancy and the exploitative practice, provide access to credit, insurance, subsidy and disaster relief to tenant farmers and Incentive for tenant farmer to make investment in land (capital formation).

Technical Session – V
Group Discussion
Group 1 – Tenancy Tenure and Land Titling
Speaker - Dr. C. Ashokvardhan, IAS (Retd.)



The group discussed, Security of Tenancy and Security of Rent continue to remain the challenge that too in the face of concealed tenancy almost everywhere in the country.

In Kerala, there was conferment of ownership rights on tenants which however could not result in enhanced agricultural productivity due to large scale conversions of paddy lands into coconut lands and to other miscellaneous activities.

In West Bengal, Operation Barga resulted in the recording of 1.4 million bargadars whose tenancy and rents were secured.

The group considered The M.P. Bhumi Swami Evam Bataidar Ke Hiton Ka Sanrakshan Vidheyak drafted in this regard in 2016. It provides for a five year agreement between the landholder and tenant with certain terms and conditions.

The Bill provides that no title or possessory rights will accrue to the sub-tenant. For dispute resolution on these counts, the Civil Court is barred.

Regarding fear psychosis in the landed class concerning loss of ownership – it is basically a social, political and psychological issue with no legal solutions.

A way out in this regard, especially for the most vulnerable sections the Kutumbshree experiment in West Bengal/ SHG experiment in Kerala could be emulated where such groups,

leasing-in lands, are given the benefit of institutional credit by the DRDAs as also insurance cover.

The group also discussed perennial questions of tribal land alienation and restoration especially in the Fifth Schedule Areas in the country. There are loop holes in existing laws making way for regularizations and permission clauses which are apt to be misused. The State Government should initiate the necessary steps to plug the loop holes and extend protective cover to the tribal tenants.

Lamentably, performance in some of the states in the implementation of FR Act, 2006 and PESA is far from satisfactory. These Acts, if implemented in right earnest will go a long way in socio-economic empowerment of the tribal populace.

In several Acts relating to tribal tenancy rights, there are explicit provisions regarding community and group owned lands. Studies should be made as to what extent the group rights have survived the onslaughts of passing times and whether there is an erosion of any sort.

Protective legislation has often tended to foster tribal elites. In what way this phenomenon could be checked in order that benefits percolate to the intended beneficiaries has to be deeply looked into.

In our discussion of the tribal question we often lose sight of Particularly Vulnerable Tribal Groups (PVTGs). Focus needs to be built on their rights and interests as well.

The group expressed concern over the fact that despite the MoRD floating Land Titling Bill, 2010, there are no takers, may be due to various constraints including obsolete land records. While land titling must remain the ultimate objective of land records management, the group feels that currently the focus should be on updating RoRs through surveys and re-surveys by building a focus on mirror principle

Group 2 – Urban & Rural Land Governance: Institutional Architecture

Speaker – Shri Vinod Kumar Agrawal, IAS (Retd.)



Group presented the current scenario of institutional structure for urban & rural land governance. Group presented that currently, there are three departments handling land records i.e. Revenue, survey and registration but due to Lack of coordination and Gaps in information, Citizens are made to run around offices. Revenue department is the main department which does lot of other work e.g. magistracy, census, protocol, calamity administration. 85% of time is wasted in non-revenue work and 15% in revenue work. Revenue department is the protector of government lands and also adjudicator of disputes between government and private interest.

Currently, Most of the states have Revenue Department for Textual record, Survey Department for Graphical record, and Registration Department for Transfer record.

In West Bengal, Department of Land Reforms deals with textual and graphical record while Registration Department deals with Transfer Record.

In Punjab and Haryana, Revenue Department deals with Textual and Registration record while Survey Department deals with Graphical records.

On the other hand, in Jammu and Kashmir power of Registration vests with judiciary.

Urban records are separate in most of the states. So, there is a Need for New Structure. A Single agency is needed which will do all

land related work- Textual record, graphical record and transfer record For all sort of lands, agricultural and non-agricultural, rural and urban etc.

Focused Agency is required which should be Dedicated to only land related works and No other works. Group suggested two alternatives as:

- A. Department of Land Services aiming to Merge registration and Survey departments, Transfer land related work from Revenue department to the new department, Transfer non land related work of Registration department to Revenue/some other department and Transfer urban and village site records also to new department.
- B. Land Authority, A small authority at the state level which should appoint Staff from various departments mainly Registration, Survey and Revenue, Staff on tenure basis who should Performs all the land related work-Textual record, graphical record, transfer record, urban record. The authority can be autonomous/ semi-autonomous or it can be Statutory/ Non-Statutory.

Expand the Scope Under both the models and Bring all information pertaining to land under this agency like Information which is not in public domain, Information in public domain but not accessible, Information on land disputes. Also, remove unnecessary information e.g. cultivation details, soil types etc. GIS information bank for usage by all the govt. departments, non-govt. agencies, citizens. Different layers of information is to be maintained by various agencies e.g. Irrigation department maintains irrigation layer, local body maintains property tax layer.

Group 3 – E-Governance Initiatives in Land Governance

Speaker – Shri Sundar Balakrishna, IFS



Highlighting the importance of E-Governance, group recommended that E-Governance is an important part of land administration and land governance. Most of the states has implemented e-governance schemes to provide real time and transparent

services. Though there is a continuous need to upgrade e-governance system. Land Related services should be freely accessible from Anywhere, Anytime whether from Web or Third Party Centres.

Integrating Textual, spatial and Registration of documents, many states has different degrees of implementation, but it must be done in a time bound manner.

Government must integrate Death and Birth Registers with the land records; so that automatic updating as per succession can be done, mutation will become easier. Other databases must be linked like town and country planning, disaster, court databases. It may be Survey No. or Khasra No. as a Primary Key.

It should facilitate

- Easy access of land details to citizens
- Dynamic updation of land records with minimal human interface
- Should be clearly time and date stamped to prevent unethical access
- Inter linkages with other line departments (T/c PLANNING, Courts, Banks, Registration, Disaster etc.)

Group 4 – Land: Gender, Forest & Common Property Resource

Speaker – Shri Sanjay Kumar Dora



Group recommended that all Land Assignment from Government – ‘Land Assignment’ - Patta in name of Women only. Re-registration should include women’s name in the land title and mutation should be ‘minimal’’. For all compensation in resettlement –in all land acquisitions head of household and spouse – Social audit should include gender audit.

On Women’s Land Rights as to inheritance, group said that the legal rights available to women are confusing. There is a need of Land administration offices in the form of women facilitation centre with legally trained staff.

Make aware of changes in personal laws relating to land rights of women. Authorities may distribute information pamphlets. Customary laws relating to tribal women are sensitive laws and should be given significant importance. Marital property in the form of any land, any House should be in joint name and there should be a concession for registration.

On Common Property Resources, group suggested that The Fringe land adjoining protected area (forest boundary, wild life sanctuary..) should be developed under the leadership of local body, to provide the women with basic needs such as fuel, fodder, minor forest produce, water, solar power, cooking gas (gobar gas plant). Encroachment should be prevented in Use of Common Property Land. These lands should be planted with trees, common water resources depending on local conditions (either restoration of existing/creating new ones).

On Financing matters group suggested that in any government programme, additional subsidy should be given on the house and land on which it is there should be in women's name.

In case of Housing Loan, a lower interest rate for female applicants will be appreciated. In case of Crop loans, interest subsidy given by GoI should be 0.5% more for women. In Crop Insurance – Premium should be lower.

On Calamity Relief, group suggested that For all calamity related relief amount Should be given into the bank account of the woman (if she is head of household), and that of the spouse (if the man is the head of the household). In the case of a joint family, If the previous generation has only a woman and she is widow, relief should be given to her.

Finally group recommended that Women- SHGs Initiatives are needed for mobilizing women in land based and other economic activities. There is also a need for Skill training for women in new livelihood areas. Basic Legal and financial literacy is the requirement for the promotion of women related rights.

List of Papers Submitted

**Land Governance in Uttar Pradesh: The New Revenue
Code of Uttar Pradesh**

Prashant Kumar Trivedi¹⁹

The ‘Uttar Pradesh Revenue Code 2006’ (hereafter referred to as Code) came into force from 11 February 2016. The Code simultaneously achieves several goals – it consolidates and amends the law relating to land tenures (UP Zamindari Abolition and Land Reforms Act, 1950) and land revenue (UP Land Revenue Act, 1901) while also ostensibly simplifying the accompanying legal procedures. However, the most critical aspect of this legislative activity that has escaped scrutiny is that it reneges on a number of time-tested, pro-poor provisions of the previous law.

The process of amending the law was set in motion a decade before when the Bill was passed by the UP Assembly in September 2006. But at the time, it could not get presidential assent and remained pending with the central government. In 2007, the Bahujan Samaj Party (BSP) assumed power and the bill was consigned to the back burner. But while it halted the amendments, the BSP missed the opportunity to resuscitate the pro-poor, pro-Dalit provisions of the old law. When the SP was voted back to power in 2012, the amended bill was once again pursued and this time, it received presidential assent. The new Act was notified in November, 2012 and but not implemented because judicial fraternity pointed out some grave flaws in the new law. It was again amended by an ordinance in 2015 and came into force from February 2016.

But despite the potentially far reaching consequences of the amended Act for land tenure system in general and landless

¹⁹ Associate Professor, Giri Institute of Development Studies, Lucknow, Uttar Pradesh

peasants belonging mostly to marginalized communities in particular, there is hardly any discussion on these issues. This paper analyses the specific amendments that, it is argued here, constrain poor peasantry's access to land without attempting to present a comprehensive review of the Code.

Definition of 'Land'

The UP Zamindari Abolition and Land Reforms Act, 1950 (ZA & LR Act) defines land as 'land held or occupied for purpose of agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming'. But the new Code defines land as 'land held or occupied for purpose connected with agriculture'. This change in the definition opens door for diversion of agricultural land from cultivation to apparently 'purposes connected with agriculture like agro-industry, farm houses etc.

This is a serious blow to attempts towards equi-distribution of land resources especially in the light of the fact that the Ceiling Law has failed to make any dent in land structure of the state. Till 2006, only 3,69,362 acres (1,47,744 hectares) of land was declared surplus and around 1,05,290 hectares was distributed among the landless. As per Agricultural Census-2005-06, the total operated area in Uttar Pradesh stands at around 180 million hectares. The statistics confirm that the ceiling surplus programme has been a spectacular failure as merely 0.58 per cent of total operated area was distributed. To top it, the change in the definition of 'land' will douse any remaining hopes of distribution of the ceiling surplus land.

Successive governments have claimed there is no further scope for ceiling surplus land distribution but even a cursory calculation would prove that a lot can still be achieved towards implementing land ceiling. For the purpose of comprehension, let us assume that uniform ceiling has been implemented all over the state. The government itself claims that more than 80 per cent of the land is irrigated. Let us also assume that operational holding pattern reflects ownership structure as Agricultural Census (2005-06)

data show almost negligible incidence of tenancy in the state. A closer look at the land-holding pattern in the state reveals that there are 78,000 landholdings in the more than 7.5 hectare category covering an area of 8,50,000 hectare. The average size of these holdings is around 11 hectares. Applying a ceiling of 7.5 hectare would amount to more than 2.63 lack hectares of surplus land. And if the ceiling limit is brought down to 4.0 hectare as suggested by agrarian reforms committee , it would amount to as many as 4, 55, 752 holdings covering an area of 27, 97, 866 hectares. In other words, the area qualifying as ceiling surplus land would be more than 9.7 lack hectares. This is as much as nine times higher than the total ceiling surplus land distributed so far!

Homestead Land

Section 123 (1) and Section 123 (2) of ZA & LR Act had provided for regularization of possession by house-site-less SC/ST and village artisan households on government and private land respectively held for housing purpose. Section 67-A of the Code makes similar provisions. Besides, provisions were also there to give house-site pattas on gram samaj land in Section 122-C of ZA & LR. Section 63 and Section 64 of U.P. Revenue Code, 2006 provide for allotment of abadi sites. But major game is in the priority list. Even for cases of abadi site allotment under Section 63 and 64 of the Code, priority list is amended. The Code keeps agriculture labour and artisan on par in priority list. People belonging to SC, ST, OBCs and BPL are given the same priority. This means that the sections at the bottom of the rung – agricultural labour and Dalits – do not get the priority they desperately deserve. The new act mentions that priority would be given to those families who are homeless or have insufficient land against needs of their family. However, considering power structure in rural Uttar Pradesh, its impact on Dalits is nor hard to guess.

²⁰ Committee on State Agrarian Relations and Unfinished Task in Land Reforms, GoI suggested a new set of limits of 5-10 acres (2-4 hectares) in the

Regularization of possession on agricultural land

Similarly, the marginalized sections are further weakened by deletion of provisions that provided for regularization of possession. Section 122 B (4F) of ZA&LR had provided for regularization of possession of SCs, STs and landless agricultural workers on gram samaj agricultural land. The new Code does not have any provision to this effect. The provision relating to regularization of possession on gaon sabha land was one of the most popular sections of the old act. This is substantiated by the fact that while the BSP had no considered policy with regard to land reforms in spite of the landless forming a majority of the party's core vote, successive BSP governments kept updating cutoff date for regularization of possession. It became almost a tradition that each time Ms Mayawati was to be sworn in as Chief Minister of the state, the oath-taking ceremony coincided with a fresh cutoff date for regularization of possession. The latest cutoff date for regularization of possession was 13 May 2007, the day the last BSP government took over reins of the state. However, the BSP did absolutely nothing to amend the draft bill in favour of the landless despite a full majority in the UP Assembly during 2007 to 2012.

Protection against alienation

One the one hand the new act has either closed or narrowed possibilities of land flow to marginalized groups; restriction on outflow of land has been relaxed. UP Revenue Code 2006 section 98 restricts a Scheduled Caste landowner to sell his land located outside area of urban development authorities to a non-SC person without the approval of District collector. Additionally, the seller must be left with at least 1.265 Hectares of land post-sale. Section 99 of the Code completely prohibits Tribal land to be sold to a non-Tribal.

But Section 80 and Section 81 provide for lifting of the above-mentioned restrictions if 'land use' is changed by filing a declaration. A similar provision was in existence in the shape of

Section 143 of ZA & LR but the new Code appears to be even more liberalised in lifting restrictions imposed on transfer of such land. This is likely to dispossess a large number of SCs and STs of their land. Several other sections were of immense importance in providing protection to the weaker sections. The new Code has not included any of these provisions.

Reversal of Land Reforms

The new legislation has far reaching consequences in terms of reversing the impact of whatever little land reforms took place in UP. It disempowers the landless further in a state where land ownership structures have remained skewed. For instance, the share of Dalits in terms of the number of operational holdings stands at 17.12 per cent and their share in total operated area is merely 10.85 per cent. This is a disproportionately miniscule number as Dalits constitute as much as 21 per cent of the population and a comparatively larger section among them depends on agriculture.

Data from agricultural census also reveals stark inequality between Dalits and non-Dalits in UP. While the average size of land holding for all social groups is 0.83 hectare, for Dalits it is only 0.53 hectare. For non-Dalits, it stands at 0.89 hectare. Absolute landlessness among Dalits in UP may not appear so high but functional landlessness is still very high. Two-third land holdings belonging to Dalits are less than 0.5 hectare. The average size of land holding in this category is only 0.23 hectare. As many as 87 per cent of total Dalit holdings fall in the category of less than 1 hectare.

Unlike previous land legislations aimed at providing ownership to the landless, this Code appears to have focused on making land tenure system of the state more market compatible in terms of liberalizing land usage conversion, easing restrictions on sale of land belonging to SCs and STs and with changed definition of 'land' almost watering down any possibility of implementation of Ceiling Act. What is happening is a reversal of land reforms aimed

at 'land to the tiller' (Saxena, 2010). After the repeal of Urban Ceiling Act, builders, colonizers and investors in land property have been acquiring agricultural land on a vast scale. This phenomenon is being scaled up by including more and more villages in municipal areas. ZA & LR Act gave right of utilization of agricultural land to tenure holder in the manner s/he wants. This provision was also misinterpreted by authorities and builders alike and a number of residential colonies have been coming up on the land which was still recorded as agricultural.

All these changes seem to reflect a new discourse on land reforms which can only be categorized as market-led land reforms. This view calls for phasing out or replacing 'traditional' measures of land distribution. As part of *non-traditional* measures, acquisition of ceiling surplus land is dismissed (Hanstead et al, 2008); and provision for loans to the poor for buying land from market is proposed. This discourse focuses and promotes liberalisation of land sale market by doing away with all the restrictions put on changes in land use-from agriculture to non-agriculture and by allowing industrialists or other non-agricultural land users to directly negotiate with land owners for purchase of their land (World Bank, 2007). Experts also call for legitimising leasing of land (Haque, 2003) where it remains illegal till now and eliminating restrictions on land rental and lease term where leasing is legal but these restrictions are in place.

While pursuing these measures, the state totally ignores the reality that that from the Dalit standpoint, land reforms are not just transfer of an economic asset in their favour but also entail a reversal of a discriminatory socio-political structure. Land reforms through market totally sidetrack this cardinal element. Land reform is not just empowerment of the landless and the poor through assured access to the redistributive land and tenurial security but disempowerment of the powerful top landowning households as well (Bandyopadhyay, 2002).

One of the major provisions of the ZA & LR Act that is retained in the new Code is ban on tenancy with few exceptions. This has

happened despite strong advocacy of legalization by experts and international organizations. The argument of legalization of tenancy mainly rests on the premise that by taking cognizance of *de facto* practice, the state would be in a position to intervene to protect interests of the poor. Secondly, tenancy facilitates access of land poor to otherwise inaccessible land. While doing so, a very simple reality is ignored – that persistence of tenancy is only a reflection of unequal land distribution and most of the land legislations were intended to correct this imbalance. So instead of treating a deep ‘malaise’, the state would end up institutionalizing it if tenancy is legalized. As far as intervention of the state is concerned, voices in the media and political circles are already getting louder to eliminate restrictions on terms of tenancy where it is legal. Moreover, with a large body of evidence revealing increasing practices of reverse tenancy, it is hard to claim that legalization would facilitate flow of land from the rich to the poor.

Central Government’s advisory to the State Government on Land Reforms

Following Agra Agreement with Janadesh, in March, 2013, the Ministry of Rural Development issued a detailed advisory to the state government on land reforms. The state government is advised to update irrigation status of land and apply ceiling for irrigated land which has acquired irrigation facilities after the cut-off date while refixing ceiling for irrigated land at 5 acres. The advisory also exhorts the state government to withdraw various types of blanket exemptions given in Ceiling Act to *goshala*, charitable and religious trusts, plantations and stud farms, certain areas, every adult son, educational institutions. It also calls for amendment to the Benami Transactions (Prohibition of the Right to Recovery Act) of 1989 and set up a special Task Force of revenue officials & gram sabha for identification of Benami Transactions and further take appropriate actions to distribute these lands to the eligible landless poor, with priority given to the marginalised women. The advisory emphasizes on amending respective clauses of the new Code to regularize possession of homestead land, provide protection against alienation and insert

‘personal cultivation’ in the code including family labour, residential status and dependence on agriculture for livelihood as preconditions.

The advisory is an exemplary document in paving the way for distribution of land to the landless. If the state government much-touted land reform agenda is to be implemented in its true sense, the market logic of land reforms will have to be shunned in favour of vigorous implementation of the measures described by the central government in its advisory and bringing back all pro-poor provisions of the previous law.

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Reforming & Governing Urban Property Record Management in India – A Case-study of Karnataka

Samartharam N. R.²¹

Abstract

Maintenance and timely updation of land / property records is one of the important responsibilities of state government irrespective of whether it is presumptive or conclusive titling system of land records management. While agricultural land management system in India has reasonably established to large extent, there exists gap in urban non-agricultural land management system. One can attribute many reasons for these lacunae in urban land management system, there is need to evolve standard procedure for record keeping and timely updating of urban land records in the country. A good property record management system is critical for better land use and land use planning. Different systems are prevalent in India for managing urban / non-agricultural land and each of these systems have their own advantages and disadvantages. In most of the cases information available is stale as procedure used caters to the needs of traditional agricultural land management. Lack of systematic process to brining the newly created properties is also one of the reasons for inaccurate urban/ non-agricultural land record system. Government of Karnataka has taken an initiative and has introduced e-Gov solution named e-Aasthi with National Informatics Centre as technical solution provider to manage Urban property records. Introduction of ICT in managing property records will bring much required transparency, user friendliness and authenticity. This case study will focus on the challenges faced in evolving the solution, earlier models tried, road map for achieving good urban property record management system and unique advantages of the e-Aasthi.

Keywords: Urban Property record management, e-Aasthi, e-Governance, non-agricultural properties, urban local bodies.

²¹ Technical Director, National Informatics Centre, Karnataka State Unit, 6th Floor, Mini Tower, Dr. Ambedkar Veedhi, Bengaluru, Karnataka

1.0 Background

Land management is one of the oldest disciplines of the governance and land being very important aspect of mankind keeping huge sentiments humans attach to it. Land management involves managing agricultural and non-agricultural lands. While agricultural land management system in India is quite comprehensive and well established one, non-agricultural land management is the area which needs impetus. Most of the states in India have completed or on the verge of completion of digitization of land records pertaining to agricultural lands under DILRMP programme (erstwhile CLR/ NLRMP). Many states issue record of rights (RoRs) across the counter. Electronic integration with different stakeholders like registration, survey & settlement department, banks and land acquisition has also been achieved in few states. However, there is no standard system for non-agricultural land management in many states.

In most of the southern states in India, non-agricultural properties are not maintained by Revenue department even though the respective Land Revenue Acts provides provision for the same. Normally, once agricultural land is converted for non-agricultural purpose, separate hissa (sub survey number or sub-division number) is assigned and revenue demand is made zero. Literally RoRs of these land parcels will be hanging records as revenue department deletes them from demand, collection and balance (DCB) and nobody will take them into their account. In certain cases where owners want to sell their non-agricultural land, they are using Revenue department RoRs as instrument to transact land. As far as sites and houses are concerned, registration department is depending on the Khatha (Property tax account) issued by the Gram Panchayats or Urban Local Bodies (ULBs)

In the Western part of India covering parts of Karnataka, Maharashtra and Gujarat, there is a concept called City Survey where non-agricultural lands including house sites, houses / buildings are managed under city survey by the Survey and Settlement wing of the Revenue department. In most of the cities

City Survey is not able keep pace with expansion of the city and also not able to maintain the up-to-date records. There has been an attempt to maintain the non-agricultural properties like sites and building as part of Record of rights which is originally meant for maintaining agricultural lands. Due to non-availability of up-to-date and comprehensive city survey records, khatha maintained by ULBs are being used as property record for all the transactions in registration department [Except Gujarat].

Erstwhile Bengal presidency covering states of West Bengal, Orissa, Bihar and Jharkhand has a system called holding number and plot number maintained by Revenue department based on the Municipal survey of 1929. Due to lack of periodic surveys, newly expanded areas of the cities are not taken care as part of these municipal records. These properties do not have holding number and plot numbers which is characteristic of urban non-agricultural properties. To fill this vacuum, these newly created non-agricultural properties are maintained as a part of the Record of Rights used for maintaining agricultural properties. The revenue records along with the Municipal records such as building details etc., maintained by the ULBs are used to transact the properties.

In most of the northern states there have been attempts to maintain the non-agricultural property details as part of agricultural land records with remarks. There are instances wherein multiple owner details recorded in other rights column. Due to non-availability of complete and updated data pertaining to non-agricultural properties like buildings and building sites, records maintained by ULBs for the purpose of tax collection are being used as documents to transact.

None of the above systems scrupulously maintain building and building sites used for residential, commercial and industrial purposes. There seems to be a big lacuna when it comes to maintenance of apartment details which is the need of the hour in most of the urban agglomerations.

It is clear that, agricultural land management system in India is reasonably established to a large extent and standard procedures are in place. Appreciable aspect of the agricultural land record management system in India has a lot of similarity with respect to attributes captured as part of RoRs. Some of the common attributes by which every land parcel is identified by are location details like to which district, taluk (tehsil/mandal/circle), revenue village the land parcel pertains to, survey/land parcel number (Khasra number/Dag number), total area or extents of survey number, owner details are recorded with their extents, remarks are also recorded as part of the respective RoR. The land records maintenance differs from state to state like in some states owner extents are mentioned in terms of absolute value, in other states is percentage of total area of survey number, in some states, the group of owners are having their total extents for the entire group, shares of the extents are recorded. In some States, the RoR also records details such as crops grown season wise, soil type (Dumad/Chahi/black soil/red soil/alluvial soil), and source of irrigation, Rights and liabilities, mortgage details. In some States/UTs, the ROR also records details such as tenancy, land use (barren/cultivable/dry/wet), holding type (size of holding such as large farmers, small or marginal farmers based on the total area of land extents). The ownership details recorded in the RoR also includes name of the owner, identifiers name, caste, address. RoR is called by different names in different States/UTs (Khasra, Khatauni, RTC, Adangal, Pahani, Dag Chitha ,Jamabandi, Nakal).

Irony of the whole urban non-agricultural land management system is that, in Karnataka demand register extracts used in the sub register office for performing transactions were different from what was prescribed in the ***Karnataka Municipal Act 1964***. There were instances wherein fake demand register extract required to complete the registration formality were created by middlemen in sub registrar's office itself. It was astonishing to note that demand register copies which were not prescribed under ***Karnataka Municipal Act 1964*** were being issued from Urban Local Bodies

without maintaining any issue register. All these activities had resulted in mushrooming of illegal layouts in peri-urban areas.

There exists a gap in urban non-agricultural land record management system. As explained earlier most of the states do not have a comprehensive land record management system for non-agricultural lands in urban areas. There is neither uniformity nor a standard procedure in maintenance of these records unlike agricultural land records. Some of the reasons which can be attributed for non-standard procedure for maintenance of the records are as follows:

- Non uniform acts and rules followed across different presidencies in pre independent India and lack of commitment to bring uniformity in post independent India – partly because of land / property records management is part of state list.
- Delay in conducting survey / re-survey and dependency on pre independence surveys conducted during early 1900 by British.
- Successive governments failed to estimate and provide non-agricultural land for housing, infrastructure, industries etc., and keeping growing population in view.
- Land/ property records management system not able to cope up with pace of urbanization [Urbanisation is taking place at a faster rate in India. Population residing in urban areas in India, according to 1901 census, was 11.4%. This count increased to 28.53% according to 2001 census, and crossing 30% as per 2011 census, standing at 31.16%. According to a survey by UN State of the World Population report in 2007, by 2030, 40.76% of country's population is expected to reside in urban areas]¹ due to traditional survey systems which are laborious and lack of skilled manpower in government sector to used latest technologies.
- Land grabbing is lucrative activity in Urban/ peri-urban areas and vested interests resist any reforms/ stream ling of the property record management system.

Lack of Total Land Management system wherein every inch of land is accounted for and there are processes preferably IT processes which will ensure that reduction in agricultural land will get added to non-agricultural land and all the stakeholders on board.

2.0 Introduction

Land is a very important resource which needs to be leveraged to part finances the urban development projects. The urban agglomerations should govern the property record system efficiently, so that it encourages quick development and transaction of land. Property Tax is one of the major fund sources of Urban Local bodies. Collecting tax of all the properties within the purview of its jurisdiction become a challenging task as identifying the new properties or changes taking place on an existing property has become more laborious task. There have been attempts in Karnataka to strengthen property record management system, two important initiatives are

- Urban Property Ownership Records (UPOR) by SSLR (Department of Survey, Settlement & Land Records)
- Hassan pilot under KMRP (Karnataka Municipal Reforms Project) of Urban mapping cell (Urban Development Department).

2.1 Urban Property Ownership Records (UPOR)²

UPOR was started in five cities (Bellary, Mangalore, Hubli-Dharwad, Mysore and Shimoga) of Karnataka under PPP model during the year 2009 with following Objectives

Robust system of Urban Property Ownership Records is to be created for every property which accurately records both the spatial details of the property as well as non-spatial record of rights data for Land Parcels, Structures / Buildings and Roads etc

- Property records will serve as trusted records for all transactions.
- This property record created through this project will evidence property ownership for all regulatory and legal purpose.
- The property record will continue to remain current and accurate forever through the process of mutation. In other words, Records will not become obsolete or inconsistent.
- All property record related transactions and services will be handled through this project.

UPOR was a PPP model project with one Survey Partner (SP) and one Technical Service Provider (TSP). Major role of SP was to conduct survey and was selected for each town. TSP was to provide IT support for the UPOR project and only one TSP was selected for all the towns to avoid the redundancy in IT framework and to have uniformity in the property management system. While government shared burden of building IT infrastructure in state data centre, SP & TSP were to share & sustain on the user charges received from the citizen from selling property cards. However rates of property cards are decided by government and share between SP and TSP was decided through tender process.

Of the five towns where UPOR took off, due to various reasons project was winded up in Bellary within one year and within three years in case of Hubli-Dharwad. As per the department, one of the main reasons was bad quality of work by SP. In Case of Mangalore, re-tendering was done for selecting new SP as old SP was not able to carry out the activities as desired by the department. Project has seen reasonable success in two towns namely Shimoga & Mysore. As far as Shimoga is concerned, Property Card issued through UPOR has been made mandatory for all transactions; in fact there exists electronic integration between Registration system (KAVERI) and UPOR for data exchange in real time. In case of Mysore thou property cards available for many properties, it has not yet been made mandatory for carrying out transactions. One important observation in case of Shimoga is both SP and TSP are sister companies. In the city of

Mangalore, work is in progress and project is back on track after change in the vendor (SP). Many property cards are being generated in Mangalore now; however it has not been made mandatory unlike Shimoga. Following table indicate the progress achieved in three towns as end of September 2017.

Activities	Shimoga	Mysore	Mangalore
Estimated number of properties (RFP)	75,000	1,50,000	1,50,000
No. of properties measured and mapped (as on Shimoga-13.8.11, Mysore-31.7.11, Mangalore-17.2.14)	97,315	3,18,351	1,47,262
No. of Properties for which ownership documents collected	69,875	1,99,201	73,635
No. of Properties for which draft PR card generated	57,428	1,25,678	26,889
No. of Properties for which final PR card issued	32,868	34,824	13,464

Source: Department of Survey, Settlement & Land Records Table 1.0

2.2 Hassan pilot under Karnataka Municipal Reforms Project (KMRP)³

There was an attempt to create property records in Hassan similar to what was being done under UPOR by Urban Development department as Creation of property titles to all urban properties is high on the reform driven Jawaharlal Nehru National Urban Renewal Mission (JNNURM) agenda. Hassan pilot under KMRP was initiated with following objective.

- Detailed and accurate maps at 1:500 with measurements of properties of boundaries and buildings to one cm accuracy for creation of property records for title certification. Project used Total Station and prepared maps at basic scale 1:500 and derived at 1:1,000.
- As part of the project, Total estimated area to be surveyed was about 100 sq km in which 25 sq km is developed and 75 sq km is undeveloped.

However project did not go through, after survey was completed linking property polygons to properties in property tax register was challenge. Major challenge seems to be huge vacant plots found without demarcations especially in undeveloped area and apathy of ULB staff in linking map with property register in developed areas.

3.0 *e-AASTHI* - A Property Management System for Urban Local Bodies

Thou, UPOR saw some success in three of the five towns selected initially in 2009; it could not prove itself to be scalable project. Repeated attempts by SSLR to implement UPOR in Bengaluru failed miserably as department could not finalize the vendors. Either companies were not ready to participate in the tender process or bids submitted were too high compared what department had estimated. Project under KMRP did not see its logical conclusion. The Gap existed in maintenance of urban property records continued even after these two projected were tried. Government of Karnataka along with National Informatics Centre as technical partner wanted to implement via media solution which takes care of following requirements of all stakeholders.

3.1 To Urban Local Body (ULB)

- Better management of property records under their jurisdiction.
- Complete elimination of illegal properties getting into records.
- Good-bye to fake documents.
- Accountability ensured for department officials.
- Reduction in property disputes.

3.2 To Citizen

- Across the counter service for getting documents.
- Requests are acknowledged and can be tracked.

- Easy access to their records through web interface
- Elimination fake documents ensure buyers are not cheated.
- Easy access to loan due to authenticity of the document.

3.3 Other Stakeholders

- Registration department is provided with all information about the property at the time of registration so that verification of documents is not a challenge anymore.
- Impersonation during registration is completely avoided as property documents are issued with photo of the owner printed in property document.
- Banks and Financial institutions can advance comfortably as legally created properties and illegally created properties can be clearly distinguished easily.
- All the accepting authorities can verify the document on web and also can depend on paper document to large extent as documents are digitally signed and bar coded.

As a result of this process, a citizen centric e-Governance project called e-AASTHI [AASTHI means Property in Kannada has been conceptualized, designed and implemented in 213 ULBs across Karnataka.e-AASTHI handles highly sensitive property documents, which is a workflow based application for Property Management System for Urban Local Bodies in Karnataka. e-AASTHI works on incremental model, which avoids legacy data entry which is laborious in nature and also exempts survey activities before implementation. As per the latest reports in e-Aasthi website, as of now e-AASTHI has created 2.5 lakh property records and 3.25 lakh documents have been issued to public on demand basis. Approximately, Rs. 2.25 crore has been collected as service charges.

Transparency in the processes of land/property administration such as registration, transfer, paying taxes, availing credit, getting government lands granted, getting government lands on lease, land acquisition etc., are essential to remove corruption the land

administration. Usage of ICTs to build e-Governance systems will go long way in bringing transparency and thereby reducing corruption and improving quality of property records. The basic characteristics of a well-designed e-Governance system such as audit trail, data integrity, role based access and data security will bring in much required traceability, accountability and reliability required for any land/property administration system. e-Aasthi has been designed to take care of all the requirements mentioned above.

All activities in e-AASTHI are e-Enabled, all inputs for transactions are through electronic interfaces like input screens or consuming XML data received from other stake holders. e-AASTHI software is a workflow based system with digital signature integration along with built in FIFO concepts. Form-3s (Property document) are issued only from the database and no hand written documents are being issued. All the accepting authorities have been informed not to accept hand written Form-3s. Form-3 database has been web enabled so that anybody can view the issued Form-3.

4.0 Challenges faced during e-Aasthi deployment & implementation

According to departmental officials, managing change was big challenge as Urban Local Bodies officials were new to property record management system. Unlike revenue department, Urban development department officials were not familiar with property records management. There was no standard and uniform procedure that was followed while taking properties into demand register and performing mutation process. Urban Local Bodies Officials had to be trained on domain issues as well as in software usage. Karnataka state was formed during state re-organization by bringing areas belonging to five different administrative zones during British rule namely Princely state of Mysore, Bombay-Karnataka, Hyderabad-Karnataka, Madras presidency and Princely state of Coorg. Procedures, Practice and documents used in administration were different in different regions, even after unification, officials were influenced by old practices. An effort

of standardization was not achieved as there was lots of flexibility in the manual system. Adopting uniform and standard procedure all across the state was a challenge as manual systems were designed keeping local needs in mind. In addition to uniformity & standardization issues other challenges faced in Urban Local Bodies are as follows:

- Not in a position to differentiate legally created properties and illegally created properties using existing data – possible only by subjective analysis if documents are provided.
- Fake Form-3s are being created by middlemen in SRO office / Municipalities. No facility to verify the authenticity of form-3 at SRO office (most of the time SROs not interested to verify – excuse given is loss of revenue to state exchequer).
- There was practice of charging double tax for illegally created properties and take into assessment register. Not applied uniformly and there was lack of clarity.
- Handling properties received from peri-municipal limit villages has become problematic and nothing much has been done on that even though khatha registers of erstwhile Grama Panchayats are available with ULBs.
- Processes are not put in place to automatically bring new properties into property records database thereby bringing them into tax net. ULBs are completely dependent on field surveys conducted from time to time or voluntary disclosures which happen rarely.
- There is no standardization in uniquely identifying the property there by leading to fake and fraudulent transaction in SROs.
- Most of the ULBs don't have issue register for issuing Form-3 and sometimes difficult to assess whether Form-3 in question is indeed issued from ULB or not.

5.0 Innovative aspects of e-Aasthi

There are five important innovations in e-AASTHI

- *Paradigm shift from Tax collection system to Property management system*

"Clear title, records of land ownership and boundaries in the growing periphery of cities will dramatically improve the ability for planned urban growth and land transaction efficiency between the buyer and seller." Efficient functioning of land and property markets requires well-organized and updated land / property record management systems which clearly indicate legal ownership of land. e-AASTHI application fills the gaps that were existing in manual system by adding more required parameters such as boundary details, land category, land usage. e-AASTHI application enables Urban Local Bodies to shift from existing tax records to property records with clear title. All this achieved by adopting well defined workflow & approval process



Fig 1.0

- *Integrated Online mutation module*

Online mutation module is one of the core modules in e-AASTHI application. The critical and sensitive activities of ownership change, data updation, approvals etc., are done using online mutation module for all the service requests. Any type of mutation request, after its initial acceptance at the application level is acted upon in the mutation module. Each and every request can be traced & tracked till it reaches logical conclusion. There are about 15 different types of mutations for which the requests are received from the citizens / stakeholders.

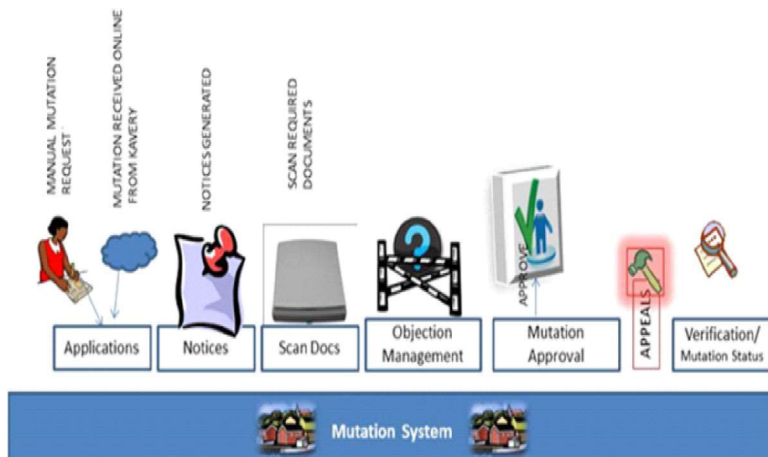


Fig. 2.0

- *PKI Enabled*

e-AASTHI application is PKI (Public Key Infrastructure) enabled application with integration of digital signatures is in place to adhere to IT act 2000. PKI provides the framework that allows it to deploy secured services based on encryption. PKI allows creating the identities and associated trust need for identification and authentication process.

- *Government Process re-engineering*

Process re-engineering has been carried out by urban department to stream line the property record management for properties coming under their jurisdiction of Urban Local Bodies. Following three major activities were accomplished as part of process re-engineering for achieving objectives of e-AASTHI:

- Process re-engineering in Acts and Rules.

Rules under **Karnataka Municipal Act 1964** inserted/ amended with an intention to make Form-3 as document similar to ownership record instead of just tax account. Urban Development department enhanced FORM-3 with all the relevant data pertaining to non-agricultural

properties. As per the amendment, Form-3 register contains all the information which is required for any property/ ownership record. Number of columns in Form-3 was increased from 24 to 43 and it is conspicuously clear that Form-3 derived after Government Process Re-engineering is almost nearer to property / ownership document similar to what was being issued under UPOR without survey component.

- Executive orders banning manual records
Urban Development department issued government order banning manually written Form-3. Registration department was advised to register properties only on the basis of Form-3 issued from e-AASTHI software which has digitally signed bar code of Chief Officer/ Commissioner. All other stakeholders have been informed not to accept manual records issued from Urban Local Body with respect to Form-3

- Workflow based process for generation of property documents and mutation

Workflow process has been defined in e-Aasthi wherein every official in the ULB has been assigned with specific job so that he can be made accountable. Roles and responsibilities have been well-defined in such a way that officials in lower hierarchy would perform activities such as data entry, scanning and uploading of documents, printing of checklists and reports etc., Supervisory role has been given to next level where officials can check the work done by the lower level officer and take decision either to forward for approval or return to lower level with specific remarks. Lower level official can rectify the mistakes highlighted and re-submit the transaction with compliance for the remarks raised by supervisory role. Approving authorities also have been given facility to approve, reject or return to supervisory role official. Officers at ULB level, District level and State level have been provided with facility to verify the activities that are being carried by Chief Officer/Commissioner at ULB level.

- *Mobile app for e-Aasthi*

An e-Aasthi mobile app is available for usage of citizen, ULB staff and other stakeholders who wants verify authenticity of the document issued from e-Aasthi by reading QR bar code printed on the document. Alternatively one can check authenticity of the document by retrieving the document from the website by typing document number. Further mobile app provides for searching & viewing of property documents. Enabling ULB staff to perform certain mutation activities like field inspection, approve and forward features are being developed as part of this mobile app.

- *Mobile/ Tab APP (Android) for conducting field survey (to add new properties)*

Rapid pace of Urbanization is resulting in huge number of new properties getting added to ULBs. To make ULB services citizen friendly, UDD, Govt. of Karnataka has decided to collect the information of the new properties at the field level by the ULB official instead of waiting for citizen come and inform.

Android based Tab app is in place for gathering property details through door-to-door survey / field visit conducted by ULB officials. This app has the features of collecting entire property details along with owner's photo, property GPS coordinates, identification card detail and collecting of supporting documents by taking picture & converting it as PDF. Feature of collecting details for each apartment unit is also part of the mobile app. e-AASTHI App connects to the e-AASTHI database and uploads the data using mobile networks by removing manual intervention of writing data on a paper and re-entry in the application. By deployment of Mobile App. transcription errors completely eliminated, saves time and improves efficiency of officials.

6.0 Comparative Analysis of manual system Vs e-Aasthi with respect to the BPR, Change Management, Outcome/benefit, Change in legal system, rules and regulations

Sl. No.	Activity	Manual System	e-Aasthi
1.	Process workflow	Not clear	Well-defined workflow in place for each and every activity
2.	Clarity with respect to legality of the property	Was not there	One can clearly make out whether property is legally created or not
3.	Mutation process	Lack of well-defined process and standard procedure	Common well-defined procedure all across the state
4.	Scope for fake documents	Lot of scope as documents were manual	No scope as documents can be verified on web and each of them are digitally signed and bar coded.
5.	Legal sanction as property record	Only used as demand register extract	With required amendments to act they have become property records.
6.	Outcome/benefit	Access to records were difficult	Easy access to records
7.	Accountability	No accountability for issuing documents or using them for registration	Accountability completely ensured
8.	Rules/regulations	Lack of clarity	Lot of clarify after BPR & amendments to act and rules
9.	Change Management	Not applicable	Ensured through series of training and capacity building programs
10.	Outcome of BPR	No record about time taken for adding new property to tax net.	Average time taken to generate and add property to tax net and property database is 11 days which is well within the 40 days prescribed under and GSC ACT (Guarantee Services to Citizen Act).

7.0 How to improve the urban land records system

Ultimate aim of any land records management system is to move from presumptive titling to conclusive titling. An automated cadastral survey and land titling system should be developed to enable the land market to function efficiently and to facilitate the extension of institutional financial intermediation. Also, an efficient information system on land registration is essential for efficient land management. This should cover the inventory of publicly-held land and their present and anticipated land use plan for the next 5-10 years. The ULB's need to adopt latest Remote Sensing and GIS techniques extensively for building land and property information system. This will not only enable them to generate financial resources by keeping up to date record in a transparent manner and also streamline the entire process. However lot of ground work needs to be done to reach titling in India. One should focus on building textual records first to know the volume of the work involved. To achieve this there is an immediate need to contemplate on following items:

- Federal government should start deliberations on brining uniform model act to govern properties in urban areas and fix responsibility either to Revenue department or Urban Development department and not both.
- While designing such new system, care should be taken to maintain inter-operability between new system and agricultural land records management system which is prevalent.
- There should be national level centrally sponsored scheme like DILRMP to handle urban property land records system.
- Since urban property record management system is evolving now, it is advisable to have common system across the country which will avoid challenges that are being faced in integrating agricultural land records management system of different states.
- There is need to build capacity in urban Local bodies with respect to latest technologies in surveying aspects so that ULB officials are in a position to check, verify and certify the work done by outsourced agencies.

8.0 Conclusion

e-AASTHI is best example of implementing incremental model of implementation of e-Governance application. e-AASTHI is not only G2C but it is also G2G application. As discussed in earlier sections citizens have been empowered with easy access to their property records within the jurisdiction of Urban Local Body, it has removed uncertainty with respect to obtaining copies of the document. A well-defined workflow based system enables easy tracking of requests and to know the status of requests. It important to note that e-AASTHI also serves the needs of stakeholders such as banks, courts, registration department etc., which substantiates that e- AASTHI is also a G2G application. e-Aasthi is a comprehensive property record management system except that cadastre doesn't exists for it. Once the MIS data of all properties are available in digital form after through certifications from hierarchy of ULBs, building cadastre should not be difficult activity. In fact detailed analysis of UPOR using table 1.0 also shows that document collection and establishing ownership was most challenging job and not measuring and mapping.

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Land Disputes Resolution: Bihar Experience

Dr. C. Ashokvardhan, IAS (Retd.)²²

Background

The Bihar Land Disputes Resolution Act, 2009 was enacted in the light of the following facts and circumstances:

1. Disputes relating to record of rights, boundaries, entries in revenue records, unlawful occupation of raiyati lands and forcible dispossession of allottees and settlees of public lands, generate problems and cause unnecessary harassment to bonafide allottees/settlees, raiyats or occupants.
2. Such disputes in respect of raiyati land or public land allotted in favour of different classes of allottees are unnecessarily occupying major space of Civil Courts and the High Court. The disputes could have otherwise been resolved by the revenue authorities, who may be better equipped to deal with such disputes in view of their continued presence in the field offices and their exposure to revenue administration.
3. In larger public interest, it was considered necessary to provide for an effective and speedy mechanism for resolving such disputes, which give rise to major turbulence if not addressed immediately and effectively.
4. Data analysis showed that land disputes mostly pertain to matters connected with the Record of Rights, partition of Jambandi, forcible dispossession of allottees/raiya, boundary disputes etc., and in this context, the administration of the following Acts is involved.
 - (i) The Bihar Land Reforms Act, 1950
 - (ii) The Bihar Tenancy Act, 1885
 - (iii) The Bihar Privileged Persons Homestead Tenancy Act, 1947

²² Member (Administrative), Bihar Land Tribunal, 11, Off Polo Road, Patna, Bihar case of irrigated land and 10-15 (4-6 hectares) acres for non-irrigated land.

- (iv) The Bihar Bhoodan Yagya Act, 1954
 - (v) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961
 - (vi) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.
5. Different forums and procedures have been provided for the resolution of disputes under the Acts referred above and it was considered expedient to provide a uniform and common forum, procedure and mechanism, which could achieve the objective of effective, efficacious and speedy resolution of disputes.

Land Disputes over Private Lands

I was posted as Principal Secretary, Dept. of Revenue & Land Reforms, Government of Bihar from 2008 to 2013. In my field tours, I used to come across a cross-section of people. Once a young widow came up. She was in rags with a small child in her lap. Her in-laws had evicted her from hearth and home. The usual answer to her woes was an advice to approach the Civil Court, because till then we did not have some such forum, where private land disputes could be addressed. Civil Court litigations were, nonetheless, expensive and time-consuming.

Aberrations in Record of Rights

1. I recall further my experience of aberrations in the preparation of Record of Rights during my stint in Santal Parganas (1982) now in Jharkhand. Entries in the Mcpherson's Survey of 1878 were made in the name of Santals. Wood's Survey in 1902 carried forward entries in the names of heirs of the foremost recorded tenants. However, over a period of time, there was a huge influx of non-tribals into Santal Parganas and in the Gantzer's Survey of 1925, tribals' names were struck off the survey records, to be replaced by the non-tribals, hand-in-glove with a corrupt machinery and the ex-intermediaries. Common devices applied were rent-eviction, surrender, abandonment,

showing the main tenant as dead, dying heirless, intestate, and also collusive suits. Possession over agricultural lands, nonetheless, remained with the tribals. The ongoing revisional survey machinery hardly made any departure from the last survey records. Non-tribals took agricultural lands in their names, but lived somewhere else in the bazaar area, pursuing trade, business, money lending and politics. In spite of the fact that they were absentee landholders on paper only, and in spite of the fact that factum possession continued with the Santals, down the line- the revisional survey authorities stuck to the aberrations made during Gantzer's survey. It was a sad saga of continuing wrong. Historical injustices were allowed to perpetrate on the right, title and dignity of the resourceless tribal.

2. Here also, in the event of the final publication of Records of Rights, an aggrieved is left with no other option but to approach the Civil Court, which takes its own toll on time and money.
3. It was in this and similar such background experiences and the bitter tang they left that I ventured to draft the Bihar Land Disputes Resolution Bill. It was not a cake-walk. We had to identify a competent authority for dispute resolution, which had to be a field functionary in the revenue administration. We had to formulate his jurisdiction, in respect of which Civil Court had to be barred. But after barring the regular Civil Court, we had also to vest the revenue authority with powers of a Civil Court.

The Issue of Finality

1. While delineating jurisdiction of the competent authority, we had also to create in it a common forum of grievance redressal in respect of 06 revenue laws mentioned in the foregoing. How far and to what extent could the competent authority "re-open" or "enter" into a matter, which was pre-decided "finally" by an authority under that particular Act, where the current dispute has cropped up. For instance, under the Ceiling law, a case has attained finality. Can the

competent authority, now being authorised for dispute resolution be empowered to re-start that entire proceeding, in the face of a fresh dispute, or has there to be a bar?

2. Likewise, if our competent authority is restrained from re-entering matters, which are pre-decided, he cannot for instance, interfere with a Record of Rights, howsoever bad, because survey has attained finality under the Bihar Tenancy Act. If such a bar is applied the competent authority will simply be required to swim with fetters tied around it.
3. In view of the above, we adopted a middle path. We fixed jurisdiction with a specified set of subject matter (that generally cause land disputes) and allowed the competent authority to re-visit matters, which might have attained finality under given laws. Beyond the jurisdiction assigned specifically, the competent authority is not empowered to interfere with an established legal edifice, or else, there will be legal anarchy or chaos.
4. It will be pertinent, therefore, to analyse the nature of subjects falling in the jurisdiction of the competent authority under the Bihar Land Disputes Resolution Act, 2009.
5. We have 09 Divisions, 38 districts and 101 sub-divisions in Bihar. Each sub-division has a Sub-Divisional Officer and a Dy. Collector Land Reforms (D.C.L.R.). The S.D.O. enjoys a slightly higher rank than the D.C.L.R. The B.L.D.R. Act makes the D.C.L.R. a competent authority for purposes of the Act. The Divisional Commissioner is appellate authority (hearing appeals against D.C.L.R.'s orders). Collectors are responsible to exercise control and supervision over D.C.L.R.'s Courts functional under the B.L.D.R. Act.

Jurisdiction and Authority to Resolve Disputes

1. The Competent authority shall have jurisdiction and authority to hear and adjudicate, on an application or complaint or on any application referred to it by a Prescribed Authority or officer, any issue arising out of following types of disputes:-

- (a) Unauthorized and unlawful dispossession of any settlee or allottee from any land or part thereof, settled with or allotted to him under any Act contained in Schedule-1 to this Act by issuance of any settlement document/parcha by a Competent Authority;
 - (b) Restoration of possession of settled/allotted land in favour of legally entitled settlee/allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession;
 - (c) Threatened dispossession of a legally entitled settlee/allottee;
 - (d) Any of the matters enumerated in (a), (b) and (c) above appertaining to raiyati land;
 - (e) Partition of land holding;
 - (f) Correction of entry made in the Record of Rights including map/survey map;
 - (g) Declaration of the rights of a person;
 - (h) Boundary disputes;
 - (i) Construction of unauthorized structure; and
 - (j) Lis pendens transfer.
2. The Competent Authority shall not have jurisdiction to review or reopen any finally concluded and adjudicated proceeding under any of the Acts contained in Schedule-1. The Competent Authority shall exercise his authority for resolving the dispute brought before him on the basis of any final order passed by any of the authorities empowered to do so in the Acts contained in Schedule-1 of this Act.
3. The Competent Authority shall not have jurisdiction to adjudicate any fresh rights of allottee/settlee or a raiyat which is not yet determined and is required to be determined in accordance with provisions contained in any of the Acts contained in Schedule-1.

Provided that where rights of allottee/settlee or raiyat are already determined under any of the Acts contained in Schedule-1, the Competent Authority shall have jurisdiction to entertain cases appertaining to matters enumerated in Sub-section (1).

4. Notwithstanding anything contained in sub-section (2) and (3) hereinabove, if no provision is made in any of the Acts contained in Schedule-1 for determination of rights of allottee/settlee or raiyat and claimed right is yet to be determined, it shall be open to the Competent Authority to finally determine such right.
5. The Competent Authority, wherever it appears to him that the case instituted before him involves complex question of adjudication of title, he shall close the proceeding and leave it open to parties to seek remedies before the competent Civil Court.

Competent Authority to have powers of Civil Court

The Competent Authority shall have the same powers in making enquiries under this Act, as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit, in respect of:

- (a) admission of evidence by affidavits;
- (b) to issue summons for ensuring the attendance of any person and examining him on oath;
- (c) compelling the production of documents;
- (d) award of cost;
- (e) to call for any report or order for local enquiry; and
- (f) to issue commission for local enquiry or order examination of witnesses.

State to be a Necessary Party in Certain Cases – Notwithstanding anything contained in any provision in any law for the time being in force, in all cases of civil nature, concerning a land or a portion thereof, and in which one of the parties to the case is an allottee or settlee of public land, the State shall be a necessary party.

Summary Disposal of Proceedings- All proceedings under the Act shall be disposed-off summarily in accordance with the provisions of the Act and Rules framed under the Act.

Protection of Action taken under the Act-

1. No suit, prosecution or other legal proceeding shall be maintained against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any Rules made thereunder.
2. No suits or other legal proceeding shall be maintained against the State for any damage caused, or likely to be caused, or any injury suffered or likely to be suffered by virtue of any provision of the Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Expeditious Resolution of Disputes-

1. The Competent Authority shall take all possible steps for expeditious resolution of disputes and shall ensure final adjudication within a maximum period of three months from the date of the institution of the case before him.
2. The Competent Authority shall not allow adjournment to the parties without sufficient cause.
3. Failure to dispose-off within stipulated period without sufficient cause may call for disciplinary action against him.

Cognizance of Cases Filed under this Act.-

1. No other Court except the Courts mentioned in Schedule-2 shall take cognizance of a case filed under this Act.
2. Any proceeding lying in a court other than the ones mentioned in Schedule-2 of the Act in which the issues raised are the same as the issues in a case under this Act, shall abate.
3. After the abatement of the case under sub-section (2), the case filed under this Act shall be adjudicated and disposed-off in accordance with the provisions of this Act.

Reference to Magistrate- In course of proceeding before the Competent Authority if he is satisfied that any of the parties has committed a criminal act or is likely to create breach of peace, he may refer it to the court of competent Magistrate for proceeding in accordance with provisions contained in the Criminal Procedure Code.

Power of Collector to exercise Superintendence, Supervision and Control over the Competent Authority-

1. The Competent Authority shall submit periodical report, as prescribed in the Rules, every three months to the Collector furnishing informations therein regarding disputes resolved by him.
2. The Collector may call for a report from Competent Authority from time to time relating to final adjudication of cases instituted before him.
3. It shall be open to the Collector to review the functioning of the Competent Authority from time to time and if on review the Collector is satisfied that cases are not being disposed off expeditiously without sufficient cause he shall immediately report the matter to the Government for necessary action.

It is pertinent to point out that the procedure prescribed under the B.L.D.R. Act have an overriding effect.

Notwithstanding anything contained in the following Acts, namely:-

- (i) The Bihar Land Reforms Act, 1950
- (ii) The Bihar Tenancy Act, 1885
- (iii) The Bihar Privileged Persons homestead Tenancy Act, 1947
- (iv) The Bihar Bhoodan Yagna Act, 1954
- (v) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961
- (vi) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956,

the procedure prescribed hereinafter, in this Act, shall be applicable for resolution of any dispute arising out of or under any of the aforesaid Acts to the extent this Act has covered such disputes and has provided forum, procedure and mechanism for their resolution.

Schedule-1 of the B.L.D.R. Act contains the following Acts-

- (i) The Bihar Land Reforms Act, 1950

- (ii) The Bihar Tenancy Act, 1885
- (iii) The Bihar Privileged Persons Homestead Tenancy Act, 1947
- (iv) The Bihar Bhoodan Yagya Act, 1954
- (v) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961
- (vi) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956.

SCHEDULE-2

Sl. No.	Court of Original Jurisdiction	Court of Appeal
1.	2.	3.
1.	Deputy Collector Land Reforms	Commissioner

Land Dispute Resolution in Bihar: Case studies

Case study No. -1

In the court of Deputy Collector Land Reforms, Lakhisarai. Land Dispute Case No. 21 of 2010-11

Shyam Kishore Yadav -----Petitioner

Versus

Aarati Devi and others -----Respondents

The petitioner has prayed for the declaration of right, title and possession over lands described in schedule-1 of his petitioner and effecting delivery of possession to him.

The petitioner submits that the impugned lands came to his son Krishna Kumar vide Settlement Case NO. 01 of 2005-06. The impugned land was recorded in the survey in the name of Gair Mazarua Malik and Jagirdar and sood- bharnedar. The petitioner's son has got a settlement through a settlement Parwana dated 23.11.2007 issued by the Government of Bihar. The settlement also followed delivery of possession.

In the aforesaid Settlement Case No. 01 of 2005-06., the present respondents had submitted before the Circle officer, Pipara that the ex-intermediary had settled the impugned lands with a different person. The C.O. in his lengthy order had disproved the claim. The C.O. had held that in his Return filed at the time of the vesting of the Zamindari the ex-intermediary had not mentioned the settlement as claimed by the Ops. The so called settlee had not acquired right, title or possession over the aforesaid land.

The petitioner submits that the OP has dispossessed him from the impugned lands without any valid reason.

The Ops submitted a rejoinder which was neither attested by the Ops nor submitted in triplicate.

The Ops submitted that an appeal was pending before the Collector, Lakhisarai, against the order passed in settlement case no. 01 of 2005-06. It is further averred that the said settlement order had been cancelled by the Divisional Commissioner.

While perusing the case record it came out to the learned DCLR that in Appeal Case No. 13 of 2006-07, the Divisional Commissioner, Munger at admission stage itself, had remanded the case to the Collector, Lakhisarai. Further, the settlement Parwana issued in favour of Krishna Kumar, the petitioner's sons, had not been annulled. Hence, the DCLR considers that in view of the settlement Parwana, the petitioner was well within his rights to continue in possession. The petitioner alleges that he has been dispossessed. The Ops submit that the land in question had been settled by the ex-intermediary in favour of a different person. The petitioner counters by submitting that the purported Hukumnama of the ex-intermediary was fabricated as on the date of the Hukumnama the signatory was not an ex-intermediary. The learned DCLR also finds that the Ops had not filed a copy of the purported Hukumnama.

In the light of the above and on the basis of settlement Parwana, the learned DCLR declared right, title and possession of the

petitioner over the impugned land and directed the Ops to remove their possession within 30 days, or else, delivery of possession, in favour of the petitioner, will be effected, under the processes of law. This order will hold good till the settlement Parwana issued in favour of the petitioner is not annulled by a competent Court.

Case study No. -2

In the court of Deputy Collector Land Reforms, Forbesganj, Araria.

Land Dispute Case No. 44 of 2010-11

Pratap Narain Singh -----Petitioner

Versus

Karyala Mantri Bhoodan Yajna Samiti, Araria others----- Respondents

This case was filed for declaring right and title of the petitioner over the impugned land bearing a total area of 5.25 acres in plot no. 914, Khata No. 467 and 1.23 acres in plot no. 6584 in Khata No. 1544, located in mauza Shahwajpur. The parties concerned filed written statements and were also heard.

The petitioner submits that the Revisional Survey entry against the impugned land was in the name of one Sadanand Singh. Through Partition Suit No. 28 of 1957 filed in Civil Court, Araria, a compromise deed was filed by all co-parceners and the impugned land came in the share of one Ganga Prasad Singh, who sold the impugned land to the petitioner's mother in 1963 by a registered sale deed. A brother of the petitioner sold a portion of his lands to some other persons. The petitioner filed a pre-emption case in 2010 which was decreed in his favour.

The petitioner came to know that Bhoodan Yajna Parcha had been issued to several persons. No Daan Patra by Sadanand Singh did ever exist nor had the so-called Daan Patra been confirmed. It was further submitted that Sadanand Singh had gifted lands to the Bhoodan Yajna Samiti in Mauza Kharikhan not in Mauza-Sahwajpur (where the impugned lands are situate). No evidence

regarding Daan Patra of impugned lands is maintained in the records of the Forbesganj Anchal. Hence the Parcha issued in favour of respondent Ops is bogus and fabricated.

It was submitted on behalf of the Ops that the case was time-barred. The DCLR did not have power to cancel Bhoodan Parcha under the BLDR Act. The Bhoodan in the instant case took place on 10.07.1953. During the subsequent Revisional Survey operations, the impugned lands were erroneously recorded in the name of Sadanand Singh, since the land had already vested in the Bhoodan Yajna Samiti in 1953. Hence partition title suit no. 28/57 was not maintainable and order passed therein was not obligatory on the Bhoodan Yajna Samiti, which had not been made a party in that case. Further, the donation was confirmed vide confirmation Case No. 561 dated 20.04.1960. The lands are in cultivating possession of the Ops.

The learned DCLR held a spot enquiry on 24.6.2011. The petitioner, Ops and other villagers were present during the enquiry. It came out that the land was in cultivating possession of the respondent Parcha holders. Some persons informed that the Ops were in cultivating possession over impugned lands for one or two years only.

The Mantri of the Bhoodan Yajna Samiti adduced the Daan Patra but could not furnish the confirmation Case NO. 561 dated 20.4.1960.

Having analysed the facts, evidence and circumstances of the case, the DCLR came to the conclusion that the Parcha holders could not substantiate the case. They were found in possession over the impugned lands only for 1-2 years. Moreover, the donor Sadanand Singh's declaration in writing, pertained to Mauza Kharikhan not to Mauza Shahwajpur where the lands in question are situate. Lands stand vested only after confirmation. In the instant case, 'confirmation' could not be proved. Hence, the Parcha issued by the Bhoodan Yajna Samiti was not lawful. Since it was illegal, no questions arose to declare it as such. Neither Sadanand

Singh, donor, donated the lands in question, nor the Parcha was supported by law.

Hence, the right and title of the petitioners over the impugned lands was declared and the Ops were directed to refrain from any interference in the lands in question.

Case study No. -3

In the court of Deputy Collector Land Reforms, Mohania (Kaimur)

Land Dispute Case No. 142 of 2011-12

Sushila Devi -----Petitioner

Versus

Dayashankar Rai-----Respondents

The case of the petitioner is that vide a registered deed of gift from her husband the dispute lands were transferred in her name. Delivery of possession too was effected. The lands have been mutated in her favour and rent receipts are being issued in her name. When, at her initiative, the measurement of the lands vide Measurement Case No. 08 of 2009-10 started, the brother of OP prevented it by saying that a Title Suit No. 267 of 2006 against the petitioner is pending in the Court of Sub-judge-1 in Bhabhua Civil Court. However, the petitioner submits that the said Title Suit has already been dismissed on 23.12.2009.

It is further case of the petitioner that the OP is her husband who tortured her for she being issueless. She moved the Rajya Mahila Ayog which directed the OP to sell 2½ bighas of land make over sale proceeds to the petitioner. The OP did not comply. Rather he dispossessed her from gift lands. The petitioner prays for measurement and demarcation of the land and restoration of possession. A report of Anchal Amin dated 16.6.2009 has been adduced which says the OP wants to deprive the petitioner from the lands which is a source of her livelihood. Hence demarcation was essential, which could not be done without police help.

The learned DCLR heard the case ex-parte. The OP did not turn up. The registered deed of gift proved that the OP had transferred title and possession in favour of the petitioner. The petitioner's possession is further proved by mutation made by the Anchal and rent receipts issued in favour of the petitioner. Bihar Rajya Mahila Ayog's order dated 24.8.2007 indicates that the OP had tortured the petitioner. The title suit pertaining to the lands in question had already been dismissed. The impugned lands were the sole source of livelihood for the petitioner. The OP had unlawfully dispossessed the petitioner from the dispute lands.

Hence, the learned DCLR directed that the dispute lands be demarcated and the petitioner be delivered possession. The Circle officer, Nuaon and officer-in-charge Kudhni were directed to execute the order.

Case Study No.- 4

In the court of the Deputy Collector Land Reforms, Mohania (Kaimur)

Land Dispute Case No.- 212/2011-12

Nirala Tiwary ----- Petitioner

Versus

Kalendra Singh & Ors. ----- Respondents

The case of the petitioner in brief is that he had purchased the dispute land (in the name of his mother) from one Dhananjay Singh on 14.12.2009. The petitioner was in peaceful possession over the same. The vended lands were mutated in the name of the petitioner's mother and rent is being paid. The opp. parties are in no way connected with the lands in question and yet they are obstructing the petitioner in cultivation. The prayer is to direct the opp. parties to refrain from creating obstruction.

The opp. parties have filed rejoinder. They have claimed the dispute lands as their ancestral land. Opp. party no. 1 and 2 have

filed civil partition suit No. 453/ 2009 in the court of sub-Judge-1, Bhabhua, in which the dispute land too is included. The vendor Dhananjay Singh did not fall in the branch of opp. parties and had no right to sell.

The learned D.C.L.R. heard both the parties and perused the documents on record. The petitioner admits that Dhananjay Singh does not fall in the line of the recorded tenant. However, it is wrong to aver that he had no right to sell the dispute land. Dhananjay Singh had purchased it vide sale deed No. 8918 dated 20.09.2008 from the wife of the recorded tenant. Hence, he had a right to sell the land and deliver possession to the petitioner. Mutation made in favour of the petitioner's mother, issue of rent receipts and issue of Land Possession Certificate by Circle Officer, Kudra go on to prove that the petitioner is in peaceful possession over the land. In his local enquiry report sent to the S.D.O., the Circle Officer maintains that the opp. parties have forcibly sown crops in the petitioner's land and are planning to occupy it by force. In Case No. 793 (M) 2011 U/S 107 Cr.P.C. the Police findings also favour the petitioner's possession and the opp. parties' attempts to cultivate the land forcibly.

On a perusal of the registered sale deed No. 8918 dated 22.09.2003 it comes out to the learned D.C.L.R. that the widow of the recorded tenant had sold the impugned lands to Dhananjay Singh, who sold it, in turn, to the petitioner vide Registered Sale Deed No. 10651 dated 14.12.2009. The land had already been transferred to Dhananjay Singh much before the filing of Civil Partition suit bearing number 453/2009 by opp. party no. 1 and 2. Hence, no adverse effect of this partition will fall on the petitioner.

The learned D.C.L.R. finds the petitioner's lawful possession over the impugned lands and also agrees that the opp. parties are creating obstructions in cultivation by the petitioner.

Hence, the opp. parties were directed not to disturb the petitioner's possession till they get a title decree from a competent court. The

learned D.C.L.R. further directed the Circle Officer, Kudra and officer-in-charge Kudra Police Station to ensure effective action as and when the petitioner petitions to them regarding obstructions created by the opp. parties.

Case Study No. 5

In the Court of Deputy Collector Land Reforms, Mohania
(Kaimur)

Land Dispute Case No. 224/2011-12

Nathuni Pal ----- Petitioner

Versus

Mohan Paswan & Ors. ----- Opp. parties

Since the dispute land had been settled by the Government, the learned D.C.L.R. impleaded the Circle Officer, Kudra to represent the State.

The case of the petitioner is that the Chakbandi (Consolidation) Khatian of Chak Khata No. 3, Khak Khhesra No. 35, area 8.06 acres had been prepared in the name of the petitioner and his cousin Kisun Pal. Since his cousins died heirless in course of joint ownership itself, the entire family property devolved on the petitioner. Nevertheless, during the Revisional Survey, the dispute land was erroneously recorded in the name of the Government of Bihar. The Government of Bihar vide Settlement Case No. 4/33/70-71 settled the impugned lands with the father of the opp. parties. When the petitioner's cousin came to know about it, he filed Title Suit No. 81 /75 in the court of Sub-Judge, Sasaram. Since consolidation operations had already started in the mauza concerned, the aforesaid Title Suit abated and was sent to the court of the Consolidation Officer, Kudra for disposal under Section 4 (c) of the Consolidation Act. The Consolidation Officer in Case No. 33/77-78 passed an order on 29.08.1979 in favour of the petitioner and directed cancellation of entry made in favour of the Government of Bihar and making an entry in the name of the petitioner.

The opp. parties submit that they had obtained the dispute land through Settlement Case No. 4/33/70-71.

The learned D.C.L.R. heard both parties. The Circle Officer neither appeared nor filed a written statement.

The possession of the opp. parties was not found entered in the remarks column of the Chak Khatian. A report was called for from the Consolidation Officer, Kudra who vide his letter No. 503 dated 14.07.2012 reported that the Chak Khata No. 3, Khesra No. 35 of the concerning Mauza was recorded in the name of Kishun Pal and Nathuni Pal and that no entry on possession was made in the Remarks column of the khatian.

The learned D.C.L.R. perused a case history of the case in hand. He perused Consolidation Revision Case No. 102/87 in which Dy. Director Consolidation HQ vide his order dated 21.02.1994 confirmed the case of the present petitioner. The impugned lands had been settled by the ex-intermediary with raiyats and there were sale-purchase transactions over the same. The present petitioner was in possession by virtue of a sale deed. The present opp. parties had never come into possession and the Government of Bihar also had never delivered possession. The dispute lands had been purchased by the present petitioners from one Annapurna Devi, who was a jamabandi raiyat. The petitioners have been in continuous possession since the date of purchase. The present petitioner's possession over the dispute land has been found by the Consolidation Officer. The settlement made by the Government of Bihar in favour of the present opp. parties had never been acted upon.

In the light of the above, the learned D.C.L.R. passed an order in favour of the petitioners and directed the opp. parties not to create any disturbance over the lands in question against the petitioners. He also directed the Circle officer, Kudra and Officer-in-Charge, Kudra to prevent the opp. parties from creating any obstruction.

Case Study No. 6

In the Court of the Deputy Collector Land Reforms, Darbhanga
Sadar.

Land Dispute Case No. 18/2012-13

Sitaram Sah ----- Petitioner

Versus

Md. Phool Hasan----- opp. parties

The petitioner submits that he had obtained the dispute land in 1981 through a Bhoodan Parcha and that he has also been paying rent against that. He is also in peaceful possession over the same. He complains that the opp. parties want to forcibly harvest the crops grown on that land. He prays for a delivery of possession over the suit land.

The opp. party contends that the petitioner had never been in possession over the land in question. He contends that the land had never been donated in Bhoodan. No Parcha had been issued against that land. He further asserts that the dispute land came to him vide a registered sale deed dated 17.07.1969 and since then the opp. party is in peaceful possession over the same. The petitioner has never been in possession, a fact which is clear from the petition itself.

The learned D.C.L.R. came to the conclusion that the petitioner had got the lands in question through Bhoodan parcha. Mutation had been made in his favour. The opp. party had not filed any case in a competent court against the grant of the Parcha to the petitioner. No appeal as well has been filed by the opp. party against the mutation order passed in favour of the petitioner. In such a situation the petitioner's petition is accepted. The learned D.C.L.R. directed the Circle Officer, Bahadurpur to ensure delivery of possession to the petitioner. The opp. party would be free to move a competent court for the cancellation of the Parcha or against the order passed by this court.

Case Study No. 7

In the Court of the Deputy Collector Land Reforms, Biraul (Darbhanga).

Land Dispute Case No. 34/2011-12

Mahendra Yadav ----- Petitioner

Versus

Satya Narain Jha ----- opp. parties

This case had been referred to the learned D.C.L.R. by the Circle Officer, Ghanshyampur. The petitioner appeared in the Court, but the opp. parties despite several opportunities, neither appeared nor adduced any written statement or evidence. This goes on to indicate that the opp. party has got nothing to say in this regard. Hence this order was passed on the basis of available evidence.

The petitioner submits that the dispute land came to his grand-father through the Bihar Bhoodan Yajna Committee certificate number 27638-A. He has been paying rent and obtaining rent receipt against jamabandi number 523. The land in question was in his possession since the time of his grand-father and father. However, he has been dispossessed by the opp. party. The petitioner further submits that the report submitted by the Circle Officer shows that the opp. party has forcibly constructed a Mahadeo Temple over the dispute land. The land in question has also been confirmed vide case No. 1067-B dated 29.09.1958. The petitioner prays for a delivery of possession over the vacant portion of the land excluding the temple.

The learned D.C.L.R. comes to the conclusion that the petitioner's grandfather had obtained the impugned land vide Bhoodan Certificate No. 27638/A/1960. Up-to-date rent receipts have been issued vide Jamabandi No. 523. The land has also been "confirmed" vide Case No. 1067/B/dated 29.09.1958. The learned D.C.L.R. confirmed the claim of the petitioner and directed Circle Officer, Ghanshyampur to ensure delivery of possession to the petitioner upon the land obtained by him through Bhoodan Parcha.

Case Study No. 8

In the Court of the Deputy Collector Land Reforms, Khagaria.
Land Dispute Case No. 12/2011-12

Vijay Kumar Tulasyayan ----- Petitioner
Versus
Saroj Soni ----- opp. parties

Both the parties were heard by the learned D.C.L.R. The Circle Officer, Khagaria was directed to get the dispute land measured and submit a report within a fortnight. The opp. party filed an objection against the measurement report. Both parties were heard and it came out that the opp. parties had encroached upon the land in question. 15 days were granted to the opp. party to vacate the encroachment. After the lapse of 15 days, the Circle Officer, Khagaria and Officer-in-Charge, Khagaria P.S. were to demarcate the encroached land and submit a compliance report. The Circle Officer submitted the compliance report and the proceedings of the case were finally closed.

It is worth noting that the plot in question bearing Plot No. 1985 belonged to the petitioner and that the opp. party had illegally occupied a portion of Plot No. 1985. The D.C.L.R. had got the same removed.

Case Study No. 9

In the Court of the Deputy Collector Land Reforms, Gogari (Khagaria).
Land Dispute Case No. 118/2011-12

Sanju Devi ----- Petitioner
Versus
Awadh Kishore Sharma and Ors. ----- Respondents

The petition of the petitioner namely Sanju Devi had been forwarded by S.D.O., Gogari to D.C.L.R., Gogari. The D.C.L.R. issued notices to both parties. The parties turned up and were heard. The learned D.C.L.R. restrained Respondents, under Section 13 (9) of the Bihar Land Disputes Resolution Act, from creating any obstruction on one of the plots in dispute, in apprehension of breach of peace.

The petitioner submits that her husband had purchased some land in Plot No. 378 and 380, had got into possession over the purchased land, got it mutated in his favour and has been paying rent to the Government. The petitioner alleges that the Respondent has grabbed the land in question by force.

Similar allegation has been leveled by the petitioner against some portion of Plot No. 379 and 380, which the petitioner submits, had been purchased by the in-laws of the petitioner. Possession was delivered and mutation made. A family genealogy too has been submitted. The petitioner tried to establish the right of seller to sell. It is alleged that the Respondent is also trying to grab this portion of the land in the plots concerned.

The Respondent submits that he had purchased the impugned land and had got it mutated in his favour. He further submitted that the father-in-law of the petitioner had not acquired the land of his own. Therefore, the purported sale by him to the petitioner was baseless. The petitioner never objected to the mutation done in favour of the Respondent. The vendor of the Respondent was a jamabandi raiyat. The petitioner did not move in appeal against the said jamabandi. The petitioner got a jamabandi in 2009-10, while the respondent got a jamabandi against the same land in 2005.

The learned D.C.L.R. called for a report from Circle Officer, Parbatta. The Circle Officer has recommended the annulment of a couple of jamabandis opened against the impugned land.

The learned D.C.L.R. comes to the finding that the vendor of the respondent had not obtained the consent of other co-parceners in

the sale transaction. Other co-sharers, too, had their shares in the sold land.

The learned D.C.L.R. concluded that the case pertained to partition of joint property and title. Hence, it was beyond the jurisdiction of his court. He also relies on Circle Officer's report that two parallel jamabandis were running against the same land. Hence, it was also a case of jamabandi cancellation.

The D.C.L.R., declared the petitioner's possession over the impugned land and directed the respondent to refrain from creating any hurdles over that. Finally, the D.C.L.R. directed the petitioner and other co-sharers to file a case for apportionment of share and declaration of title in a competent court.

Case Study No. 10

In the Court of the Deputy Collector Land Reforms, Hilsa (Nalanda).

Land Dispute Case No. 23/2012-13

Mos. Geeta Devi ----- Petitioner

Versus

Kameshwar Prasad and Balvindra Prasad ----- Respondents

This petition has been filed by the petitioner for delivering her late husband Kameshwar Mahto's share of land to her. The father-in-law of the petitioner had got three sons. After his death, there was family partition among the three sons. The petitioner's husband came in possession over his share of land. However, after the death of her husband the opp. parties have grabbed her late husbands' share of land. As a result, the petitioner and her children are on starvation point. They have even been evicted from the in laws' home. The petitioner prays for a delivery of possession over her share of land and mutation in her favour.

The respondent submits that the petitioner has failed to furnish complete details of land. Again, in Schedule-1 of the petition, Plot

No.- 400 (area, 13 decimals) has been shown as joint property. But the fact is that the said plot is not the ancestral land of the respondents. In Mauza Akait, only Respondent No. 1 Kameshwar Prasad got 75 Decimals of land in his share. The remaining two brothers Baleshwar Prasad (Petitioner's husband) and Balvindra Prasad opp. party no. 2 got their share in a jointly purchased land. Hence, the petitioner has no share at all in the Mauza Akait land.

The learned D.C.L.R. finds that the averment of the respondent to the effect that the petitioner's husband and his brother Balvindra Prasad have no share in Mauza Akait Land, is wrong. Rent receipt is being issued in favour of opp. party Balvindra Prasad and Kameshwar Mahto. In the light of above, the learned D.C.L.R. directed the Circle Officer to start Jamabandi in the names of the two living sons of Baso Mahto and daughter-in-law (Petitioner).

Case Study No. 11

In the Court of the Deputy Collector Land Reforms, Biraul (Darbhanga).

Land Dispute Case No. 174/2011-12

Ramchandra Yadav ----- Petitioner

Versus

Mahendra Ram and Ors. ----- Respondents

This case pertains to Bhoodan Yajna land. The petitioner submits that the land in question had been purchased by him vide Registered Sale Deed No. 10405 dated 01.07.2011. The seller had full right and title over that land. After the sale, J.B. No. 1779 was created in the name of the vendee. The Revisional Survey has been in favour of the petitioner. The father of the vendor never donated the impugned land in Bhoodan. The opp. parties have no valid papers in favour of their claim nor mutation has been done in their favour. The Bhoodan Parcha issued in the names of the respondent opp. parties is false and fabricated.

The Respondents submit that they have got Bhoodan Parcha issued by the Bhoodan Yajna Committee, Laheriasarai. They

submit that Mahanth Pusushottam Das and Chintamani Mahto were the original land owners who had, during their life time on 17.08.1954, donated the land in question to the Bhoodan Yajna Committee. The donation was confirmed vide Case No. 70 and 80 on 14.05.1958. In the Revisional Survey, the impugned lands were recorded in the names of Chintamani Mahto. The opp. parties filed Title Case No. 556/2005 under section 106, Bihar Tenancy Act, for correction of the aforesaid entry, in the survey court of Darbhanga. The case is still pending. The opp. parties have prayed for rejection of the petitioner's case in the light of the aforesaid documents and opp. parties' possession.

The learned D.C.L.R. concludes that the impugned land is held by the opp. parties by virtue of Bhoodan Parcha, which has been confirmed vide Case No. 70 and 80 on 14.05.1958. The opp. parties' claim was approved. The case of the petitioner was dismissed.

Progress Report

(01.04.2015 to 22.02.2018)

The B.L.D.R. Act became operational from 2010. Earlier data was handled manually. The same are not readily available. Data collection turned electronic since 01.04.2015. A Timeline Report from 01.04.2015 is as follows. The word "timeline" is indicative of statutory time-limit provided in the B.L.D.R. Act for the disposal of the case, which is 90 days from the date of filing.

BLDRA Case Timeline Report as on 22/02/2018 (Cases Pending as on 01/04/2015 and Registered After That)								
Block	CourtName	Total Cases File	Total Cases Disposed	Disposed with in Timeline	Disposed after Timeline	Total Pending Cases	Pending With in Timeline	Cases Expired timeline
Araria	DCLR, Araria	126	110	11	99	16	5	11
Araria	DCLR, Forbesganj	266	182	4	178	84	63	21
Arwal	DCLR, Arwal	96	84	1	83	12	0	12
Aurangabad	DCLR, Aurangabad	104	71	18	53	33	27	6
Aurangabad	DCLR, Daudnagar	34	23	12	11	11	11	0

Banka	DCLR, Banka	127	95	56	39	32	31	1
Begusarai	DCLR, Bakhri	100	98	90	8	2	0	2
Begusarai	DCLR, Balia	5	0	0	0	5	0	5
Begusarai	DCLR, Begusarai	95	83	6	77	12	0	12
Begusarai	DCLR, Manjhaul	30	17	8	9	13	13	0
Begusarai	DCLR, Teghra	85	57	7	50	28	16	12
Bhagalpur	DCLR, Bhagalpur	89	83	2	81	6	5	1
Bhagalpur	DCLR, Kahalgaon	88	56	13	43	32	32	0
Bhagalpur	DCLR, Navgachia	44	18	1	17	26	0	26
Bhojpur	DCLR, Ara	138	117	85	32	21	12	9
Bhojpur	DCLR, Jagdishpur	160	152	44	108	8	8	0
Bhojpur	DCLR, Piro	39	19	0	19	20	1	19
Buxar	DCLR, Buxar	64	45	39	6	19	13	6
Buxar	DCLR, Dumraon	30	26	1	25	4	0	4
Darbhanga	DCLR, Benipur	39	36	20	16	3	3	0
Darbhanga	DCLR, Biraui	318	228	115	113	90	83	7
Darbhanga	DCLR, Darbhanga	188	151	31	120	37	32	5
East Champaran	DCLR, Areraj	129	74	3	71	55	8	47
East Champaran	DCLR, Chakia	21	15	8	7	6	3	3
East Champaran	DCLR, Motihari	12	1	1	0	11	0	11
East Champaran	DCLR, PakriDayal	57	50	40	10	7	7	0
East Champaran	DCLR, Raxaul	165	124	98	26	41	35	6
East Champaran	DCLR, Sikaraha	36	20	5	15	16	11	5
gaya	DCLR, Gaya	289	232	104	128	57	45	12
gaya	DCLR, Neemchak Bathani	85	63	29	34	22	22	0
gaya	DCLR, Sherghati	117	88	26	62	29	19	10
gaya	DCLR, Tikari	209	143	50	93	66	56	10
Gopalganj	DCLR, Gopalganj	60	54	18	36	6	6	0
Gopalganj	DCLR, Hathua	126	121	117	4	5	5	0
Jamui	DCLR, Jamui	101	92	34	58	9	9	0
Jehanabad	DCLR, Jehanabad	24	0	0	0	24	0	24
Kaimur	DCLR, Bhabua	96	86	46	40	10	8	2
Kaimur	DCLR, Mohania	157	132	72	60	25	25	0
Katihar	DCLR, Barsoi	117	76	12	64	41	37	4
Katihar	DCLR, Katihar	188	171	1	170	17	6	11
Katihar	DCLR, Manihari	64	60	56	4	4	4	0
Khagaria	DCLR, Gogari	197	182	2	180	15	6	9

Khagaria	DCLR, Khagaria	46	23	3	20	23	17	6
Kishanganj	DCLR, Kishanganj	135	114	10	104	21	3	18
Lakhisarai	DCLR, Lakhisarai	52	36	1	35	16	4	12
Madhepura	DCLR, Madhepura	16	16	15	1	0	0	0
Madhepura	DCLR, Udakishanganj	11	10	10	0	1	0	1
Madhubani	DCLR, Benipatti	84	62	24	38	22	21	1
Madhubani	DCLR, Jainagar	81	71	10	61	10	0	10
Madhubani	DCLR, Jhanjharpur	86	68	36	32	18	16	2
Madhubani	DCLR, Madhubani	190	36	21	15	154	34	120
Madhubani	DCLR, Phulparas	182	156	106	50	26	21	5
Munger	DCLR, HaveliKharagpur	54	33	1	32	21	16	5
Munger	DCLR, Munger	72	64	4	60	8	6	2
Munger	DCLR, Tarapur	27	13	4	9	14	13	1
Muzaffarpur	DCLR, SubDivisioneast	146	8	5	3	138	0	138
Muzaffarpur	DCLR, SubDivisionwest	58	0	0	0	58	0	58
Nalanda	DCLR, BiharSharif	5	5	5	0	0	0	0
Nalanda	DCLR, Hilsa	64	64	41	23	0	0	0
Nalanda	DCLR, Rajgir	12	0	0	0	12	0	12
Nawada	DCLR, Nawada	148	145	40	105	3	0	3
Nawada	DCLR, Rajauli	149	136	51	85	13	13	0
Patna	DCLR, Barh	8	6	2	4	2	2	0
Patna	DCLR, Danapur	210	173	45	128	37	33	4
Patna	DCLR, Masaurhi	312	253	73	180	59	46	13
Patna	DCLR, Paliganj	155	113	14	99	42	27	15
Patna	DCLR, Patna	141	22	14	8	119	47	72
Patna	DCLR, PatnaCity	40	29	0	29	11	11	0
Purnia	DCLR, Banmankhi	79	49	1	48	30	10	20
Purnia	DCLR, Baysi	101	90	8	82	11	11	0
Purnia	DCLR, Dhamdaha	155	88	1	87	67	44	23
Purnia	DCLR, Purnia	236	186	30	156	50	22	28
Rohtas	DCLR, Bikramganj	3	0	0	0	3	0	3
Rohtas	DCLR, Dehri	40	23	7	16	17	16	1
Rohtas	DCLR, Sasaram	103	55	10	45	48	27	21
Saharsa	DCLR, Saharsa	568	566	46	520	2	2	0
Saharsa	DCLR, SimriBakhtiarpur	205	0	0	0	205	0	205
Samastipur	DCLR, Dalsinghsarai	148	147	22	125	1	0	1

Samastipur	DCLR, Patori	98	93	9	84	5	5	0
Samastipur	DCLR, Rosera	221	200	118	82	21	0	21
Samastipur	DCLR, Samastipur	331	121	110	11	210	46	164
Saran	DCLR, Marhaura	64	48	33	15	16	0	16
Saran	DCLR, Sadar	29	15	6	9	14	10	4
Saran	DCLR, Sonpur	145	82	40	42	63	50	13
Sheikhpura	DCLR, Sheikhpura	4	1	1	0	3	0	3
Sheohar	DCLR, Sheohar	51	47	4	43	4	1	3
Sitamarhi	DCLR, Belsand	7	7	0	7	0	0	0
Sitamarhi	DCLR, Pupri	178	0	0	0	178	0	178
Sitamarhi	DCLR, Sitamarhi	0	0	0	0	0	0	0
Siwan	DCLR, Maharajganj	214	144	82	62	70	53	17
Siwan	DCLR, Siwan	150	150	10	140	0	0	0
Supaul	DCLR, Birpur	63	58	10	48	5	3	2
Supaul	DCLR, Nirmali	88	41	4	37	47	27	20
Supaul	DCLR, Supaul	17	15	4	11	2	2	0
Supaul	DCLR, Tribeniganj	64	40	6	34	24	24	0
Vaishali	DCLR, Hajipur	71	65	15	50	6	0	6
Vaishali	DCLR, Mahnar	5	0	0	0	5	0	5
Vaishali	DCLR, Mahua	170	102	31	71	68	57	11
West Champaran	DCLR, Bagaha	228	164	28	136	64	35	29
West Champaran	DCLR, Bettiah	152	117	15	102	35	28	7
West Champaran	DCLR, Narkatiaganj	83	68	27	41	15	3	12
Total		11070	7973	2499	5474	3097	1473	1624

Land Rights and Women's Land Rights

Dimple Tresa Abraham & Neetha N²³.

Abstract

Land is a basic factor of production, an asset whose alienation and dispossession have psychological, social as well economic impact on the well-being of people and their movement out of poverty. The land administration, land governance and justice systems are fundamental for the protection of people's rights and would determine the nature of pathways women and men can take in these systems to claim their land rights.

Historically land distribution was highly unequal and followed inefficient and unjust ownership structures which lead to its concentration in the hands of few. Post-independence, feudal agrarian structures were abolished and many state governments passed land reform laws, but the most recent National Sample Survey on Land and Livestock Holdings indicate that land ownership remain inequitable with 83 per cent of rural households owning just about 30 per cent of total operational holdings. Inequities and inequality are also marked between gender and caste categories. As this paper is on women's land rights (WLR), the focus of discussion would be exclusively on land rights issues facing women.

Land and property rights are important towards furthering equality of all women, both rural and urban. In the context of urban women, ownership to house/dwelling and other movable

²³ The authors work at the Centre for Women's Development Studies, New Delhi. The primary data quoted in this paper are from a larger study MGNREGA, Asset Creation and Rural Development: A study of selected states commissioned by the National Institute of Rural Development & Panchayati Raj (NIRD&PR) in 2017 on individual land works completed under MGNREGS works. We gratefully acknowledge the funding support from NIRD&PR

and immovable property may be more critical, while for rural women engaged in agriculture on family farms as cultivators/unpaid helpers ownership rights to land, and for the effectively landless women engaged as agricultural wage workers, stable lease/tenure rights to land may help to reduce vulnerabilities. The importance of WLR has been discussed in multiple contexts, rural women and agriculture, poverty alleviation, reduction in gender based violence, well-being and empowerment and so on. Available estimates ambiguously indicate just about 9-13 per cent women in India having land ownership, and therefore is an area where long strides have to be taken towards furthering equality. Expanding women's land rights, particularly ownership rights is a challenge that require tackling of centuries old hereditary customs and sociocultural norms, mobilizing political will and whole hearted support from the executive arm of numerous ministries.

The paper discusses the gender dimensions of land, importance and barriers to land rights, and policy initiatives towards expanding gender concerns, including women's access and ownership of resources. It then discusses MGNREGA asset creation on individual lands, wherein the type and proportion of assets completed on women owned land is examined based on data from a study conducted in the states of Karnataka, Madhya Pradesh and West Bengal. The paper suggests policy changes within MGNREGA for expanding women's land rights.

I. Introduction

Women in India and elsewhere have been subsumed within households, their position inferior and subordinate to men. Their access to education, mobility, ownership to property and land are curtailed which have diminished their bargaining power within households, and limited their roles within communities and excluded them from political and legal institutions. Demand for rights began with women's suffrage movement in Europe and North America during the mid-nineteenth century, and later through widespread women's rights movements across the world including India during the twentieth century. This lead to adoption

of Convention on the Elimination of All forms of Discrimination against Women (CEDAW) which was ratified by India in 1993.

In India, the plight of women came into consciousness for the first time in the social reform movements of the nineteenth century, but gender concerns and the declining status of women was inconclusively brought out in the *Towards Equality report prepared* by the Committee on the Status of Women in India, which was set up by the Government of India in 1974. But women's land rights question surfaced in scattered ways in research (Sharma, 1980) and grass root peasant movements for farmers' rights. These were the Bodhgaya movement in Bihar in 1978 and the Shetkari Sangathana movement in Maharashtra in 1980, in which the question of women's claim to land was raised, and some transfer of land to women happened (Agarwal, 1994). Around this period, that is in 1979 the World Conference on Agrarian Reform and Rural Development (WCAARD), called for the repeal of gender discriminatory laws governing 'rights to inheritance, ownership and control of property', and recommended that measures be adopted to ensure women's equitable access to land and other productive resources (FAO, 1979). Some of the recommendations were adopted in the country review follow-up to WCARRD by the Ministry of Agriculture and Rural Development (CWDS, 1985: 89-94).

The Government of India realizing the extent of gender discrimination, in various spheres of women's lives shifted its approach from 'welfare to 'development' of women during the Sixth Five Year Plan (1982-1987), and recognized women for the first time as economic actors and emphasis was made to make them economically empowered. It was argued that gender based discriminatory practices can be removed only by enabling women to gain equal access to and control over resources and there was changes in the policy framework at various levels. There was also a policy statement that the Government would 'endeavour' to give joint titles to spouses when distributing agricultural land and

²⁴ CEDAW is an international treaty adopted by the UN general assembly in 1979, and signed by India in 1980

home sites (Agarwal, 2003). Consequently in Ninth Five Year (1997-2002) document there was a section on 'Gender and Land Rights' which emphasized the need for land ownership by women. This paper is organized into five broad sections. The first section gives a brief on the distribution of land in the country, the gender dimensions of land, the importance of land rights for women and barriers towards achieving the same. The second section looks into policy initiatives towards expanding gender concerns, including women's access and ownership of resources. In the third Section, MGNREGA asset creation on individual lands is discussed, wherein the type and proportion of assets completed on women owned land is examined based on data from a study conducted in the states of Karnataka, Madhya Pradesh and West Bengal. The next section suggests policy changes within MGNREGA for expanding women's land rights. The Concluding section suggests policy measures towards expanding women's land rights.

1.1 Distribution of Land

A brief on land distribution in the country is discussed in this section. Land is a basic factor of production, an asset whose alienation and dispossession have psychological, social as well economic impact on the well-being of people and their movement out of poverty. Historically land distribution was highly unequal and followed inefficient and unjust ownership structures which lead to its concentration in the hands of few. Post-independence, feudal agrarian structures were abolished and many state governments passed land reform laws, which lead to abolition of intermediaries, abolition or regulation of tenancy and, imposition of ceilings on land holdings and redistribution of ceiling surplus land.

The distribution of land even today is inequitable with 83 per cent of rural households owning just about 30 per cent of total operational holdings (Table 1).

Table 1: Distribution of Households and Area Owned by Category of Households in India (70th NSS Round)

Size/Class of Ownership Holding/ Category of Landholdings	% Households	% Area Owned
Landless (≤ 0.002 ha)	7.41	0.01
Marginal (>0.002 but ≤ 1 ha)	75.42	29.75
Small (>1 ha but ≤ 2 ha)	10.0	23.54
Semi-medium (>2 ha but ≤ 4 ha)	5.01	22.07
Medium (> 4 ha to ≤ 10 ha)	1.93	18.83
Large (>10 ha)	0.24	5.81

Source: NSSO 2015, MoSPI, GoI.

Inequities and inequalities are also marked between gender and caste categories. As this paper is on women's land rights (WLR), the focus of discussion is solely on land rights issues facing women, particularly rural women, for whom land is not only an asset, but basic means for subsistence and market production, a secure base for shelter, and critical for enhancing livelihoods and capabilities. The sources of land for women primarily are: direct government transfers, market (by purchase or lease), and inheritance. To enhance women's land access from all three sources, it is critical to include land titles to women in all government land transfers, support poor women with credit to purchase or lease in land from the market, raise legal awareness and legal support about women's inheritance rights, supportive government schemes, and recording women's inheritance (Agarwal, 1994; Saxena, 2012)

1.1 Gender dimensions of land

Gender disparities in inequalities with respect to land access and ownership is pervasive with women's constitutional rights often jeopardized by cultural and long standing hereditary practices. According to Food and Agriculture Organization (FAO), only in very few countries land is almost equally divided between men and women; these include Latvia and Lithuania where more than 45 per cent of land titles belong to women. In many Asian

countries as well as Western, Central and North African countries, only about 10 per cent or even lesser land holders are women. In Eastern and Southern Africa as well as parts of Latin America, women have better access to land and hold more than 30 per cent of individual land titles (FAO, 2010).

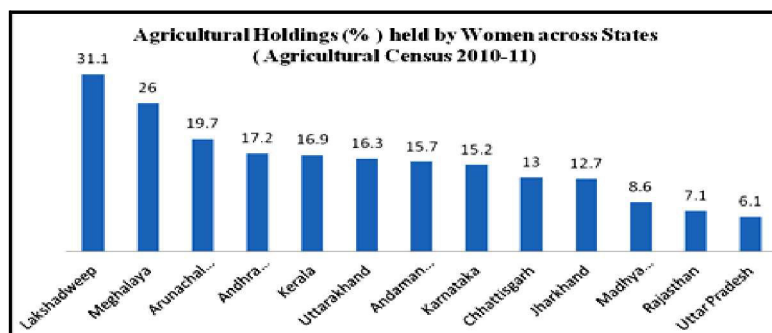


Source: <http://www.fao.org/gender-landrights-database/data-map/statistics/en/>

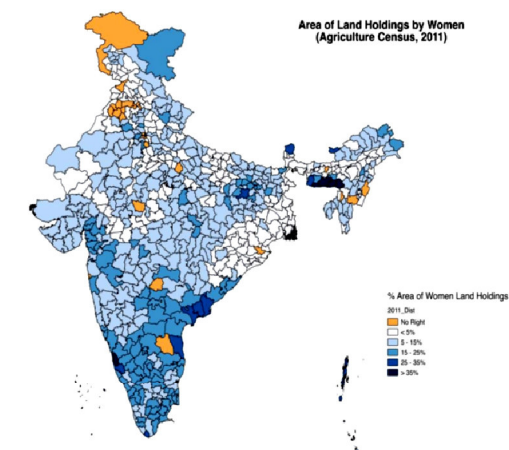
According to the gender and land rights data base of the FAO, women constitute a third of agricultural workforce in India, contribute to production of 55-66 per cent of farm production, but hold only 12.8 per cent of operational holdings. As per the

²⁵ Agricultural Census draws data, related to ownership of land and season-wise area enumeration for crops, from existing system of land records in the country. Such detailed land records (Records of Right, Tenancy and Cropping, called RTC in short) are maintained in about 91% of the operated area of the country. In the remaining 9% area, Census follows an approach of household inquiry with a sample of 20% of villages. The AC collects data on number and area of operational holdings (since seventies) and according to gender of title-holder since 1995-96. An operational holding is the basic unit of enumeration. The holding of the actual cultivator and not the owner is the unit for collection of data. As it is collected on the basis of *de facto* position rather than *de jure* position, there are both advantages and disadvantages in the context of arriving at status of women's land rights. Consideration of operational holdings as the primary unit may miss out women land ownership of 'unmarried/never-married daughter/sister' or 'widow' staying with the family. Data collected in the name of head of household, restricts women land ownership to 'female headed households'. Apart from limitations around the 'head of the households', focus on 'head' also may miss out information on land distributed to women viz. joint pattas given as part of land distribution.

Agricultural Census of 2010-11, the agricultural landholding differ among regions and states, with women in Southern and North Eastern states on an average operating about 15.4 and 14.1 per cent, while those in Northern and Eastern states operating 9.8 and 9.2 per cent of agricultural holdings respectively. Large agrarian states such as Madhya Pradesh (8.6%), Rajasthan (7.1%) and Uttar Pradesh (6.1%) have lower proportion of women operating agricultural holdings, while states such as Meghalaya (26%) and UTs such as Lakshadweep (31.1%) has more women operating agricultural holdings. The Southern states like Andhra Pradesh (17.2%), Karnataka (15.2) and few others exhibit comparatively better situation with respect to women's land rights, owing to their state specific amendments the Hindu Succession Act 1956, which made daughters as coparceners, and allowed inheritance of agricultural land.



Source: Agricultural Census, 2010-11



1.2 Importance of Land Rights for Women

Land and property rights are important towards furthering equality and improving women's status within households and society. In the context of urban women, ownership to house/dwelling and other movable and immovable property may be more critical, while for rural women engaged in agriculture (79 per cent of all rural women workers as per the 2009-10 NSSO EUS survey) on family farms as cultivators/ unpaid helpers ownership rights to land, and for the effectively landless women engaged as agricultural wage workers, stable lease/tenure rights to land may be important. The aspiration for land rights on the part of a woman is contingent on many aspects, an important one being socio-economic class. Women from land owning classes may be interested in gaining inheritance rights, while women from landless and land poor classes may need greater access to cultivable land for longer period of time.

The importance of WLR has been discussed in multiple contexts, rural women and agriculture, poverty alleviation, reduction in gender based violence, well-being and empowerment. A brief discussion on these are given below

1.2.1 Increasing Feminization of Agriculture women's importance in agricultural production both as workers and as farm managers has grown in the last two decades, with men moving on to non-farm jobs both within and outside rural areas. In this context Agarwal (1994) has argued for women's land rights as it has implications on welfare, efficiency and empowerment. Out of all rural female workers, 75 percent are in agriculture (as against the 48 per cent of male workers), working either on family farms, as cultivators or unpaid helpers, or engaged as agriculture wage

²⁶ According to GoI (2015), granting the right of using a piece of land to others, either on rent or free, by the owner without transferring the title is termed as lease of land. Such agreements, even when made orally, were considered as lease contracts. GoI (2015), *NSS Report No. 571: Household Ownership and Operational Holdings in India, Ministry of Statistics and Programme Implementation, National Sample Survey Office, GoI*

workers. Thus women in greater numbers are managing land and livestock and providing subsistence to their family with little male assistance. Hence agricultural productivity is increasingly dependent on the ability of women to function effectively as farmers (Saxena, 2012) for which legal right to land (recognised in revenue records) is critical.

1.2.2 *Rising Female headed Households* Census (2011) classifies 12.8 per cent of India's female population of India as single (widowed, divorced, separated, and older unmarried women). But estimates indicate 20 percent of rural households as de facto female headed, due to widowhood, desertion, or male out-migration (Planning Commission, 2007).

Land becomes a critical resource for women who suffer patriarchal risk and whose household security breaks down due to abandonment, divorce, polygamous relationships, or death. In these circumstances, independent and enforceable property rights alone can enable the woman to build a viable and self-reliant household. Fafchamps and Quisumbing (2002) in rural Ethiopia had found that women's land rights within marriage may also help them to make greater claims on the disposition of assets upon divorce or death of the husband.

1.2.3 *Well-being of widows and elderly women* ownership of land could improve overall welfare not just directly but through better treatment from relatives. Many poor widows and elderly do not receive economic support from children or relatives, and end up living alone (Chen, 1998). Having land may generate enough food for own requirements and as some researchers argue, may motivate the children to take care of the elders (Caldwell et al., 1988).

1.2.4 *Overall well-being of the Family* Land ownership by women enhances women's confidence and ability to demand their rights in government programmes (Agarwal, 1993). Kumar (1978) found that women's control over kitchen gardens ensured better nutrition for children. Studies also indicate that children in rural India may

have better chances to receive education and medical care if the mother had assets (Strauss and Beegle, 1996).

1.2.5 Income from Non-farm Activities Land is necessary for a viable non-farm activity. It expands the non-farm options, increase reservation wages thus improving overall income. Chadha (1993) found that small farmer households were earning many times from rural off-farm self-employment than landless labour households.

1.2.6 Reduced Gender based Violence Studies also indicate that land ownership could improve self-esteem and reduce spousal violence (Choudhry, 2012; Kelkar, 2011).

1.3 Barriers towards Women Realizing Land Rights

Women's land rights are important for both livelihood security and gender justice, but there are extremely strong arguments against women's land rights. Beginning with the question whether rural women themselves want to own land. There are less voices demanding land rights for women, but as Agarwal (2003) questions 'does absence of widespread demand indicate the absence of need?'. Rural women have been deprived of land rights for so long, that they may have got used to the deprivation. As Amartya Sen (2003: 63) states '*the deprived people come to terms with their deprivation because of the sheer necessity of survival, and they may as a result lack the courage to demand any radical change and may limit their desire to what they unambitiously see as feasible*'. The centuries old customary laws and barriers have created walls, and are discussed below.

1.3.1 Strong Cultural Barriers against inheritance Hereditary rights to family name and property is reserved for the male decedents across most socio-cultural and religious denominations in the country. The strong social bias against daughters begins before her birth, and continues throughout with many parents considering all endowments to her a waste with little reciprocal benefit after marriage. There are also strong social taboos about parents turning to their married daughters in the event of economic

crisis, leading to strong resistance against daughters inheriting family land. Thus despite amendments in personal laws with regard to daughters' inheritance, many families choose to ignore rather than act on them. With respect to inheritance by widows, studies indicate that only about half of the widows inherit and their name is jointly entered with that of adult sons who effectively control (Chen, 1998).

1.3.2 Practice of Dowry is common across cultures and states, though prohibited by law. The payment of dowry or bride price is often considered the daughter's share of the family assets and hence accepted justification for why daughters should not inherit equally (RDI, 2009). Even if they had formal rights to inherit a portion of the family land, it is negated by the cultural understanding that the dowry and wedding costs represent her share of the family assets. But it is commonly observed that the daughter, in her marital home do not have right to the dowry (cash, jewellery and other movable assets) paid by her family and in case of demise of the husband or break-up of marriage, does not get it back, and therefore does not provide her economic security. Despite this many studies indicate that women tend to believe that dowry compensate for their land inheritance (Sharma, 2017).

1.3.3 Unequal Laws and Plurality of Laws There are Justifications for protecting patrilineal hereditary rights which are sanctioned by both customary and personal laws (applicable to each religion) nullifying formal laws. If formal laws grant rights to women that they may not have in custom, and if those same formal laws recognize customary laws as valid, then potentially progressive provisions for women may not be implemented in practice (RDI, 2009). Both Muslim and Hindu laws that govern inheritance are unequal and discriminatory and do not treat men and women equally.

1.3.4 Lack of Knowledge about Hereditary Rights and Government transfers

Inheritance is the most common source of land for rural women, but they lack knowledge about laws and changes in laws. Women may not be aware of existing as well as changes in legislations

regarding formal laws with respect to inheritance due to poor literacy and educational attainments. As stated earlier there is also legal plurality with formal laws, personal laws and customary practices governing inheritance. Formal laws give way to customary laws in the case of tribal land matters.

Even in the cases of government land transfers achieved through struggles and petitions women have not been benefitted much. For instance, directives were issued from the West Bengal government in 1992 that land should be allocated to women as individuals or jointly with their husbands. The land reform offices in many places largely ignored these directives, claiming lack of knowledge, or maintaining that *panchayats* should draw up the list of eligible land reform beneficiaries. If the *panchayats did not give the list then* local land reform officials did not follow the directive. In many cases even when a wife's name was included in the document, she had no knowledge (Brown and Chowdhury 2002; Gupta 2002).

1.3.5 Women may relinquish their inheritance rights to be 'Good' daughters and sisters

Customary practices that govern family and social relationships are important for women, who may want to keep the goodwill of her brothers, whose support may be required if her marriage fails. Natal family expects women to not demand land, and they have been called upon to waive inheritance rights for keeping good relations with their kin (Agarwal 1994; Kishwar, 1994; Jaising 1997)

1.3.6 Awareness about Aspects related to Land Sale and Registration process

Women also have significant constraints in accessing government systems due to general lack of awareness, low educational attainments, mobility and inherent inhibition. The ownership rights to a piece of land will be complete only once the documents are in order. After the property is sold or transferred from one person to another, and the sale deed is registered there needs to be a change in the title ownership or completion of mutation. Once

the mutation process is completed, the person will be responsible to pay the property tax charged by the government. Property tax receipts are an important document for accessing input supports and other benefits that a farmer can get from the Ministry of Agriculture.

1.3.7 Lack of Data Available estimates do not give clear idea about land ownership by women, which may be about 9-13 per cent. The estimates are ambiguous because according to the Population Census 2011, the number of women cultivators (main and marginal cultivators) is about 35.9 million, while the Agricultural Census 2010-11, gives operational holdings of women as 17.6 million. Both of these cannot be equated to land ownership. Also, these data sources have information only with regard to agricultural land alone and not to homestead land. Data on homestead land and its ownership by gender is important as 41.63 per cent of households in rural India have only homestead lands. Therefore there is a need to collect land ownership data by gender to get a clear picture. The Digital India Land Records Modernization Programme (DILRMP) is capturing gender disaggregated data, which once completed across states may provide a better picture regarding land ownership by women in India. A study carried out in Odisha, that analysed digitized land records of four districts maintained by the state, indicate women's name in 26.5 per cent of the titles (9.3 per cent women-only, and 16.2 per cent in both the spouses name), which was higher than that quoted in Agriculture Census data (Choudhury et al, 2016).

2. Policy towards Advancing Women's Land and Property Rights

India had committed to remove discrimination against women in all forms, including the legal framework, by suitably modifying

²⁷This process of transferring the ownership or mutation is very important, as only after mutation, the property is recorded in the land revenue department under the new owner's name.

²⁸Homestead is the land around the dwelling unit which may have a variety of fruit and vegetable crops for meeting household requirements.

²⁹The DILRMP

gender biased laws, when it ratified CEDAW in 1993, and later to some of the recommendations in the WCAARD that called for the repeal of gender discriminatory laws governing 'rights to inheritance, ownership and control of property', to ensure women's equitable access to land and other productive resources (FAO, 1979). The country was also part of the consultations that formulated the 2012 FAO *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security* which has 'gender equality' as one of its core principles. According to this, governments should ensure that women and girls have equal tenure rights and access to land, fisheries and forests, independent of their civil and marital status.

Globally importance of 'Equal land rights of Women' has been acknowledged in three of the Sustainable Development Goals (SDG), 1.4, 2.3 & 5a. The SDG 5a Goal 5.a exhorts governments to undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws, and is addressed with indicators, 5.a.1 (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure.

As stated earlier, gender bias and discrimination across spheres drew attention for changes in the policy framework, and corrective measures were introduced. For instance, for the first time, the Ninth Five Year Plan (1997-2002) Document included a section on 'Gender and Land Rights' and emphasized the need for land ownership by women. It was realized that the improved access to land was a key element of the anti-poverty strategy.

³⁰<https://sustainabledevelopment.un.org/content/documents/7891TRANSFORMING%20OUR%20WORLD.pdf>

³¹ SDG Goal 5 - *Achieve Gender Equality and Empower all Women and Girls* has 5.1 to 5.6 and 5.a, 5.b and 5.c available at <https://sustainabledevelopment.un.org/content/documents/11803Official-List-of-Proposed-SDG-Indicators.pdf>

Thereafter, the agenda of Ministry of Rural Development for land reforms in the *Ninth Five Year Plan* included the provision of adequate legal mechanisms for protecting the rights of women on land. This approach was also in consonance with the national policy of ensuring empowerment of women through improved access, control and/or ownership of family/ community assets.

Subsequently, during the Tenth Five Year Plan (2002-07) the Hindu Succession Act (1956) was amended. The Amended Hindu Succession Act (HSA) 2005 by deleting a major gender discriminatory clause – Section 4 (2) of the 1956 HSA – made women's inheritance rights in agricultural land equal to that of men. Second, it made all daughters, including married ones, coparceners in joint family property. Third, the 2005 act by deleting Section 23 of the 1956 HSA gave daughters (including married ones) the same rights as sons to reside in or seek partition of the parental dwelling house. But the amended HSA is more or less silent on women's right to land within marriage.

Redistribution programmes as part of land reforms even in more successful states considered women as non-existent and invisible within the beneficiary household, with the land assigned solely in the name of the husband. Recognising the exclusion of women belatedly, under the eighth Five-Year Plan the Central government directed the states to allot 40 per cent of ceiling surplus land to women, and the rest, jointly, in the names of the husband and the wife (Agarwal 1994: 7).

In states such as Kerala where redistribution was comparatively more successful, rules under the Kerala Land Assignment Act, 1960, pertaining to the assignment of land in municipal and corporation areas, were amended in 1997 to make joint pattas mandatory for married people applying for assignment of land (GO (P) No 764/P1/97/RD in GOK 1997).

In order to incentivize registration of property in women's name or jointly than solely in men's name, during the tenth five year plan (2002-07), several states Delhi in 2002, Gujarat, Himachal

Pradesh, Madhya Pradesh and many others have introduced a scheme in which women have been given incentive either by giving concession or exemption in registration charges/registration duty, if the property was purchased by them.

Another gender transforming policy was brought in with respect to the subsidized housing scheme, the Indira Awas Yojana (IAY/now PMAY), wherein all dwelling units were to be registered in joint ownership of husband and wife, with the wife's name to be registered as the primary owner.

Despite changes in legislations few women own land and property and even fewer effectively control it, due to unchanging socio-cultural bias and customary practices overpowering formal laws. We require both direct and indirect interventions and appropriate policy measures, towards expanding women's land rights. In the next section we discuss the possibility of MGNREGA being a vehicle for furthering women's land rights.

3. MGNREGA Individual Land Works and Women's Land Rights

The Mahatma Gandhi National Rural Employment Guarantee Act 2005 (MGNREGA) guarantees 100 days of employment in a financial year to every rural household. The primary objective of the Act is augmenting wage employment, while its auxiliary objective is strengthening natural resource management through works that address causes of chronic poverty. The list of permissible work under MGNREGA is categorised in to A, B C and D of which category B are individual works undertaken on private lands of vulnerable sections (for households in paragraph 5). The category B works include “provision of irrigation facility, *horticulture plantation and land development facilities* on land owned by households belonging to the Scheduled Castes and the Scheduled Tribes or to *Below Poverty Line families* or to beneficiaries of land reforms or to the beneficiaries under the IAY, *small and marginal farmers (SF/MF) as defined in the Agriculture Debt Waiver and Debt Relief Scheme, 2008*”.

3.1 Progress of Category B Works in India and Select States

Over the years, there has been a progressive increase in share of category B works out of total works. The percentage share of category B works have increased from 17.6% (out of the total 104.62 lakh works) in 2013-14 to 46.8% (out of the total 167.06 lakh works) in 2016-17.

Category B works is divided in to sub categories. The sub categories of works under category B include those taken up for *Improving productivity of lands* (for households specified in paragraph 5) through land development and by providing suitable infrastructure for irrigation including dug wells, farm ponds and other water harvesting structures; *Improving livelihoods through horticulture, sericulture, plantation and farm forestry (S/H/P&FF)*; *Development of fallow or waste lands* to bring under cultivation; creation of infrastructure for *Promotion of livestock* such as poultry, goat, piggery and cattle shelters as well as fodder troughs for cattle; Creation of infrastructure for *promotion of fisheries* such as fish drying yards, storage facilities and promotion of fisheries in seasonal water bodies on public land. In addition to these five sub categories, *construction of houses* is also under category B.

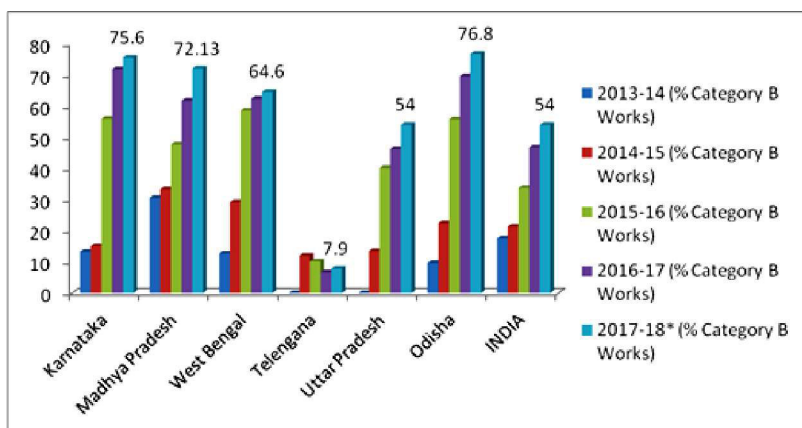
The progress in category B works in six states that account for more than three-fourth of category B works presented in Table below.

Majority of rural households are potential beneficiaries, as the scheme include small and marginal farmers. Therefore the provision of Category B works on private lands has the potential to transform MGNREGS, from a wage employment programme into one that can create sustainable livelihoods.

A study on understanding aspects related to Category B works was undertaken by the Centre for Women's Development Studies (CWDS) with support from NIRDPR. The study involved survey

³² excluded housing and toilet construction

Progress of Category B Works in India and Select States

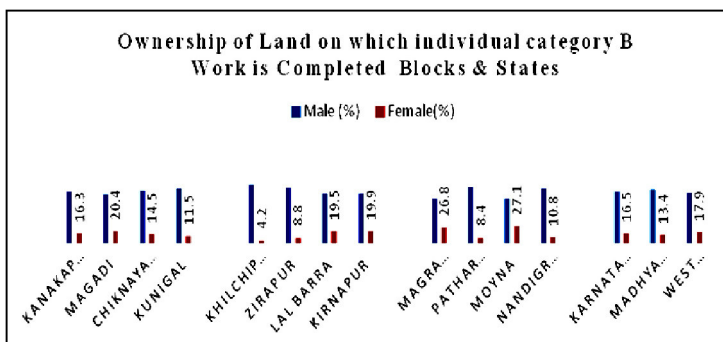


Source: Table in Appendix I Table 1. MGNREGA MIS, MoRD: GoI

of 3128 beneficiary households who had received Category B works during the period 2013-2016. A sample of beneficiaries who had received works that could potentially improve household income was selected from list of works. The study was carried out across twelve blocks in three states, Karnataka, Madhya Pradesh and West Bengal. One of the objectives was to examine beneficiary households across gender, social groups and land holdings. In the following section we will discuss MGNREGA category B works and ownership of the beneficiary land by gender.

3.2 MGNREGA works on Women Owned Land

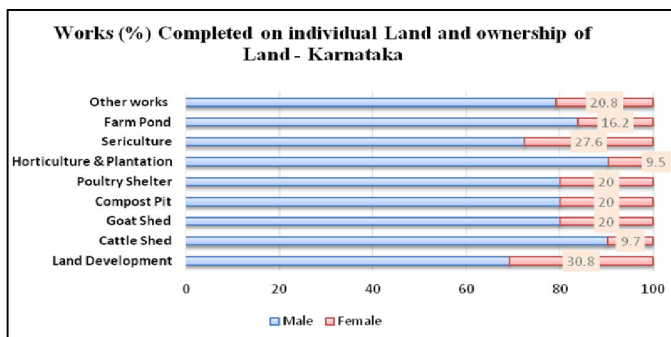
Who got the MGNREGA Category B Works? The gender of household head was examined across beneficiary households indicated 16.6 per cent to be female headed households. As even in female headed households there is a possibility of land not being owned by women, ownership of land on which the work was completed was examined. The land on which the work was completed was in the name of women in 16.7 percent of the 3128 sample households. Across the study states, in Karnataka, MP and West Bengal 16.5, 13.4 and 17.9 per cent works were completed on land owned by women (either jointly or individually).



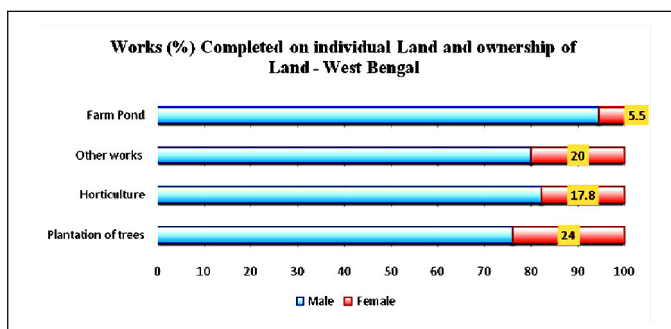
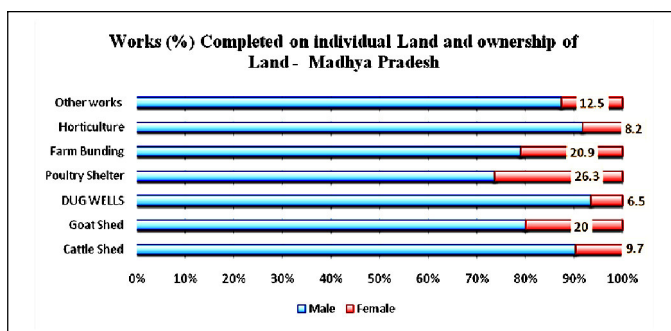
In the illustration above, the variability with respect to ownership of land by gender across study blocks is clear. The blocks of Khilchipur and Zirapur in the Rajgarh district of MP, had only 4.2 and 8.8 per cent of the completed works on land owned by women (jointly/individually). The blocks, also had a number of dugwells and citrus plantation works, sanctioned to eligible beneficiaries, wherein the average estimated costs was in the range of Rs.200, 000 or above.

The specific works completed on land owned by men and women were examined for better clarity on whether there was difference in the type of works received by gender.

If we compare some of the works completed gender-wise across the three study states, it was quite clear that women did not get a justified share of works, in both quantity and also in the works that had higher expenditures.



³³The estimated costs and actual expenditure vary according to works, across states and is illustrated in Table in the appendix



For example, in the case of works such as dug wells in MP, only 6.5 per cent were completed on female owned land (the Census 2011 data indicate 9.8 per cent single women headed households in the state, therefore there is no proportionate representation). Dug wells are very important for the overall wellbeing of families and particularly for reducing the drudgery of women, but they were not getting their 'just' share of the work. Is it because women headed households were land poor that they only got 6.5 per cent of dug wells and 8.2 per cent of works such as citrus plantation works?

In West Bengal, out of the households that had received fruit tree plantation on their homesteads, 24 per cent was on land owned by women (jointly/individually). The higher share may owe to the fact that women were recipients of joint pattas/land titles to homestead plots as part of land re-distribution programme. But it should be noted that while many women received homestead plots here, women's share with respect to agricultural holdings is one of the lowest in the country. Therefore, in the case of farm pond

works which were either re-excavation/new excavation works and required a larger area of land, only 5.5 per cent were on lands owned by women. These works were in Pathar Pratima block and had higher expenditures than fruit tree plantation works.

In Karnataka, overall, 16.5 percent of works were completed on lands singly/jointly owned by women. Within works they had 27.8 per cent share in works such as sericulture, one of the higher expenditure works indicating that women may be in a better position with respect to receiving MGNREGA works than the other two states.

4. Expanding Women's Land Rights through MGNREGA

In the previous section, we had examined MGNREGA category B works and ownership of private land by gender. It is clear that not only more number of works, but even the works that were with higher expenditure were sanctioned and completed on land owned by men. The gender-wise difference may primarily owe to the fact that land is mostly in the name of men, but may also indicate exclusion of women, particularly in works wherein higher expenditures were incurred.

Currently there is no gender related reservation with respect to ownership of land on which the work is completed. Insertion of a gender specific clause (as is the case in PMAY houses) with respect to individual land works regarding land ownership, such as reserving Fifty per cent of all works on individual land to be on women owned land, could be a huge policy push towards expanding women's land rights.

4.1 Policy Changes in MGNREGA

MGNREGA is a landmark legislation that has brought out significant improvement in rural women's lives. It has stipulated 'priority to be given to women in the allocation of work' in such a

³⁴ Since 1992, West Bengal promoted joint titling of land in its land reform programs as a result of petitions from peasant women's organizations (Brown and Chowdhury 2002; Gupta 2002).

way that at least one-third of the beneficiaries shall be women' (Schedule II, Para 6, NREGA guidelines 2008) and that wages will be equal for women and men. This reservation has helped to improve women's participation in MGNREGA wage employment, with 2016-17 witnessing 56 per cent of total MGNREGA employment being availed by women. While there is reservation for women with respect to wage employment, there is none with respect to asset creation on individual lands, except for single women headed households to be one of the prioritized category. Also there are no stipulations or conditions about the ownership of land on which the work is completed.

A gender specific clause should be inserted (as is the case in PMAY houses) with respect to individual land works with regard to land ownership. This may be reservation of HALF or 50 per cent of all works on individual land to be on women owned land. This could be a huge policy push towards expanding women's land rights.

Within this reservation, that is of the 50 per cent about 20 per cent could be on land owned by single woman/disabled women while the remaining 30 per cent could be women having joint (with men) ownership of the land.

Given the scale of MGNREGA a fifty per cent reservation of category B works on land owned by women could have huge impact on expanding women's land ownership in the country. Subsequently this clause may be expanded making it mandatory for all category B works on private lands to be on land that is individually/jointly owned by women.

The implementation of 50 per cent reservation of category B MGNREGA works on land owned by women would be challenging as it would require political will and substantial co-operation and collaboration with land administration and governance structures from state to district and panchayat levels. It may also require support from civil society and other non-governmental organizations to work in communities to educate and enable the process of re-registration of land in joint names.

4.1.1 Awareness Building

Promoting women's right to land through such a reservation will need very careful implementation. Sensitisation of all stakeholders is critical to ensure co-operation. Importantly, it would require substantial co-operation and collaboration of MGNREGA implementing body (state-district-block) with land administration and governance structures from state to district and panchayat levels.

The rural households need to be sensitised through awareness generation campaigns, and content and strategies of communication have to be formulated sensitively so that opposition from men would be minimum. Rather the communication strategies should be able to win the men over, ensuring they understand women's formal rights to household land will only help to improve the overall well-being, such that they take the initiative to get through the registration process. Collaboration with NGOs and various community based organizations, SHG could all help

4.1.2 Zero Registration Fees

Joint-registration may have many difficulties, primarily the processes and fees. Re-registration of various documents is required for inclusion of women's name in the title record in the land registers (khatauni), these processes may be intimidating even for a learned person, and more so for semi-literate and illiterate rural women and men. The re-registration may be costly and may hold back men who want to give joint ownership of the land to their wives. We recommend that for all those who are making their wives co-owners of land for availing MGNREGA works, the registration fee should be waived off.

4.1.3 Land Administration Institutions and Women staff

The actual implementation of making the woman a joint owner, require the husband and wife register their property as co-owners

at the panchayat office. There should be increased women's representation within land administration institutions such as panchayat office, titling and land registration offices. They should be aware and be able to champion the rights of women and influence men towards including their spouses' name as joint holders.

5. Conclusion & Policy Recommendations

Land rights for women are important as it can improve their access to various socio-economic goods, improve health and nutrition, but it cannot substitute attainment in education and improvement in paid work opportunities. Expanding women's land rights, particularly ownership rights is a challenge that require tackling of centuries old hereditary customs and socio-cultural norms, mobilizing political will and whole hearted support from the executive arm of numerous ministries. Here, the role of land administration, land governance and justice systems will be fundamental, and would determine the nature of pathways all people, particularly women and vulnerable groups can take (within recognized and enforceable systems) to claim their land rights.

In the introductory section, we had stated that women's access to land is through inheritance, government transfers and the market. In landed households women may aspire for ownership rights to family land while those from landless and land poor households, aspiration to land ownership may be met only via government

³⁵ This was done by Maharashtra government under the 'Ghar Doghaanche Abhiyan' or 'Home of Two campaign' undertaken by Mahila Arthik Vikas Mahamandal (MAVIM) rural women's empowerment programme, *Tejaswini*. The campaign began in May-June 2013 in Parbhani district, Maharashtra. The government had evolved a policy waiving re-registration fees if the husbands added wives' names to their land and house title deeds or transferred it totally to their wives names. It raised awareness amongst men that such a transfer will ensure the well-being of wife and children in case of unfortunate event and created a cadre of men friends of MAVIM in the village to support women empowerment. <https://mavimindia.org/images/ghar-doghaanche.pdf>

transfers or purchasing collectively. All government transfers (resettlement/reforms) to landless households should be in the name of women or jointly in the name of husband and wife.

For expanding poor women's land rights from the market, group/collective leasing may be the best option. Many interventions in recent years by government and non-governmental organizations, such as the *kudumbashree* in Kerala and the Deccan Development Society in Andhra Pradesh have shown that group leasing of land is the way forward for improving land access for poor women (Abraham, 2017; Agarwal, 2003). Legislations towards legalizing land leasing and innovations from the land administration and governance systems towards ensuring benefits from government is received by tenants, can alone create, stable and equitable land access rights to landless and land poor women.

Enhancement of women's ownership rights to land, particularly hereditary rights, would require a number of sustained measures. These could be continuous sensitization campaigns towards socio-cultural changes, including promoting male 'champions of change' to work in communities (across religious groups, as women's right to land is determined by personal laws) for changing the mind-set regarding inheritance. It is also important that government plays an important role in championing women land rights.

It is well known that poor women's ownership of pucca houses improved with the IAY/PMAY scheme of the government which specified these houses to be given in the name of women. Similarly we believe women's land rights could be positively influenced through MGNREGA by tweaking policy pertaining to category B works.

We have suggested 50 per cent reservation of all works on individual lands to be on women owned land towards expanding

³⁶ Including subsidies if any for farming the land for the period

women's ownership rights to land. Given the scale of MGNREGA this change would be a big policy push and could have a huge impact on expanding women's land ownership in the country. Subsequently this clause may be expanded making it mandatory for all category B works on private lands to be on land that is individually/jointly owned by women.

Appendix -I Table 1

States	2013-14 (% Category B Works)	2014-15 (% Category B Works)	2015-16 (% Category B Works)	2016-17 (% Category B Works)	2017-18* (% Category B Works)
Karnataka	13.3	15.1	56.0	71.9	75.6
MP	30.6	33.4	47.7	61.8	72.13
West Bengal	12.7	29.2	58.6	62.4	64.6
Telangana	0	12.0	10.2	6.7	7.9
Uttar Pradesh	0	13.5	40.2	46.3	54.0
Odisha	9.7	22.5	55.8	69.6	76.8
INDIA	17.6	21.4	33.8	46.8	54.0

Source: MGNREGAMIS

Appendix -I Table 2

Sl. No	Name of the Work (States: KN is Karnataka; MP is Madhya Pradesh & WB is West Bengal)	Estimated Man days	Estimated Cost for unskilled labour (Rs)	Estimated Material Cost (Rs)	Total Estimated Cost (Rs)	Actual Expenditure (Rs)
1	Cattle Shed (KN)	96	18,336	16,656	35,000	34,992
2	Compost Pit (KN)	55	21,307	7,260	29,000	9,570
3	Earthen gully plug (KN)	48	10,000	25,000	35,000	34,510
4	Land Development (KN)	201	30,000	20,000	50,000	34,974
5	Horticulture works (KN)	100	12,394	8,262	21,000	20,400
6	Farm Pond (KN)	60	10,440	24,377	35,000	10,440
7	Poultry Shelter (KN)	100	19,100	18,999	38,000	38,100
8	Cattle Shed (MP)	360	60,000	58,000	1,18,000	57,420
9	Kapildhara/Dugwell -MP	1099	1,81,000	1,13,000	2,94,000	2,55,064
10	Horticulture Work* (MP)	646	1,68,300	68,700	2,37,000	85,178
11	Medh bandhan (MP)	201	29,779	921	31,000	29,652
12	Goat Shelter (MP)	42	8,330	40,670	49,000	47,793
13#	Horticulture work (WB)	100	12,394	8,262	21,000	20,400
14	Excavation of Pond (WB)	228	72,329	66,026	72,329	32,616
15	Re-excavation of Pond (WB)	405	63,571	6,850	70,000	66,124

Source:MGNREGA MIS

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Land Governance Reforms in Urban India: Issues and Regional Initiatives

Debolina Kundu & Pragya Sharma³⁷

Abstract: Land is the most fundamental asset owned and managed by states and cities and is an important resource to generate revenues. India needs a robust system of land record management in order to optimize this resource. The land laws in the country are still archaic. Land governance system in India is conspicuous by the absence of scientific land record management. The changes in recording land details have not been commensurate with the change in the value of land or the number of land transactions. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM), launched in 2005, made the first attempt to reform land governance in the country. Given this background, this paper overviews the achievement of states/cities with regard to the land related reforms under JNNURM and identifies reasons for the differential success of the reforms. The paper also highlights the areas where concerted efforts are needed for full implementation of the reforms and showcases some of the good practices in the concerned areas.

1. Introduction:

India, one of the fastest growing economies in the world, recorded an impressive growth of an average of 8.5 to 9 per cent during the past few Plan periods. Much of this growth is attributed to the robust urban sector performance, which contributed over 50 per cent of the national GDP³⁸. India has 377 million people living in urban areas accounting for only 31 per cent of the population (Census, 2011). The country has witnessed a slowing down of the

³⁷ Associate Professor, National Institute of Urban Affairs, India Habitat Centre, Core 4B, Lodhi Road, New Delhi

³⁸ Current CSO estimates place it at around 52% of the total GDP. According to the *Eleventh Plan* estimates, the urban share of GDP is projected to become 75% by 2021.

rate of growth of urban population during the past two decades. The nineties made a further departure in the growth pattern across states and high urban growth was concentrated in the developed states. This can possibly be attributed to the process of liberalization, which has resulted in a shift of population to urban centers of developed states, which have received a large part of the industrial and infrastructural investment (Sivaramakrishnan et al, 2005). Further, the decentralization policies adopted by the government whereby the responsibility of resource mobilization for infrastructural projects have been given to the urban local bodies (ULBs), may also explain the urban growth in the developed states. Large ULBs, with a strong economic base, particularly those located in the developed states, have had an advantage in this regard which is manifested in their high growth. Further, since the nineties, attempts have been made both by the central as well as state governments to make a few large cities more attractive for international and domestic investments. It has become important to 'sanitise' the cities, improve the quality of services, at least in select localities and improve law and order situation for creating congenial living environment for the entrepreneurial class. Macro policies adopted at state and city level have helped in pushing out the slums and squatters from the better off areas of the city. This has accelerated the process of segmentation and accentuated intra-city disparity (Kundu, 2009).

To counter these exclusionary trends, the Eleventh Five Year Plan was launched with an ambitious 'inclusive agenda' to bring about major improvements in urban governance which sought to make government-funded programmes in critical areas more effective and efficient. The strategy for inclusive growth has been introduced not just in a cosmetic sense, where some elements aimed at inclusion have been added to the conventional strategy for growth. Rather, 'it is a strategy which aims at achieving a particular type of growth process which will meet the objectives of inclusiveness and sustainability'. The Eleventh Plan Document envisages the government strategy to establish the macroeconomic preconditions for rapid growth and support key drivers of this growth. The Plan Document further adds that the

strategy must also include sector-specific policies to ensure that the structure of growth and the institutional environment in which it occurs, achieves 'the objective of inclusiveness in all its many dimensions'.

Urban Renewal, with a focus on inclusive development of urban centres, was one of the thrust areas in the National Common Minimum Programme of the Government and accordingly Jawaharlal Nehru National Urban Renewal Mission (JNNURM) was launched in 2005 with an investment of Rs.50,000.00 crores in the Mission period of seven years beginning 2005-06. The Mission was the single largest initiative of the Government of India for planned urban development that integrates the two pressing needs of urban India: massive investments required for infrastructure development and at the same time reforms those are required to sustain investments. The Mission aimed to encourage reforms and fast-track infrastructure development with a focus on efficiency in urban land governance among other things.

In India, the basic structure of land governance was laid by the colonial government which for the collection of land revenue developed a robust system of survey, records, settlement and tenure. However, after independence, land administration was neglected as an area of governance since land revenue gradually became a nominal source of revenue for the government. However, with globalization, the importance of property tax in local finance was realized. Thus, increasing the coverage ratio and collection efficiency of property tax was one of the reforms under JNNURM.

Bringing about reforms in land governance has assumed further importance under the present government. Under the 'ease of doing business' reforms of the World Bank and 'Make in India' Mission, reforms in land governance and administration is perceived as an important means for economic and infrastructure

³⁹ As per World Bank Doing Business Report, 2018, India ranks at 154th position in registering property out of 190 economies.

development. The Atal Mission for Rejuvenation and Urban Transformation (AMRUT) Mission also aims to streamline land governance by bringing about titling laws and land value capture instruments. With increasing trends of peripheralisation and suburbanization (NIUA, 2017) and industry shifting to rural areas (Ghani, 2012), land needs to be understood in the perspective of a rural-urban continuum for making land governance tuned to India's accelerated development.

The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, in partnership with the World Bank Group, released the Business Reform Action Plan (BRAP) 2017 for implementation by States/UTs. It includes 405 reforms on regulatory processes, policies, practices and procedures spread across 12 reform areas. Registering property; land availability and allotment are land related reforms. Land being a state subject, several states offer innovations and good practices for cross learning. These states have adopted information technology and initiated land reforms even before the launch of the JNNURM.

With the above background which forms the first section of the paper, the second section attempts to overview the pattern of areal expansion of urban India. A detailed analysis of the land related reforms under JNNURM is attempted in the third section. The fourth section documents good practices. The final section concludes with a policy perspective.

2. Trend of Areal Expansion of Urban India

There is an increasing trend towards peripheralisation of the metropolitan regions. The core cities have grown at rates much faster than their peripheries in cities above 5 million population; but for the cities of population ranging from 1-5 million, the peripheralisation is seen to be much stronger. There is evidence of huge sprawls around these cities, with the population in the areas under core cities as a percentage of the total city decreasing from 82.8 per cent in 2001 to 76.7 per cent in 2011. The share of

⁴⁰ pib.nic.in/newsite/PrintRelease.aspx?relid=161017

population in the 5 million plus cities has remained constant over the last two decades (Table 1). The cities in the category of 100,000-1000,000 have registered high peripheral growth. Much of this peripheral growth is attributed to the mushrooming of 2530 new census towns in and around existing cities in the previous decade.

Table 1: Areal Expansion of Urban Centres: 2001 and 2011

Size Class		Core to Total (%)		Annual Exponential Growth Rates 2001-2011		
Metropolitan Cities	UA/ City	2001	2011	Total	Core	Periphery
	>5000,000	65.1	65.4	2.12	2.33	1.73
	1000,000-5000,000	82.8	76.6	3.62	2.85	6.67
	Total	72.7	71.2	2.79	2.59	3.33
Other Class I Cities*	100,000-1000,000	90.2	85.7	2.56	2.04	6.34
All Class I cities	100,000 and above	79.7	76.9	2.70	2.34	3.99

Note: Other Class I Cities* includes all Class I cities excluding metropolitan cities.

Source: Calculations based on Census of India data for various years

Eleven metropolitan cities have within their municipal limits less than 50 per cent of the total city population. All the 7 metropolitan cities of Kerala have very small core city areas (all are less than 45%); while two of them (Malappuram and Kannur) have core city populations less than 10 per cent of the total city population. Kannur has 6 small municipalities, 1 cantonment board and 61 census towns. Malappuram has 4 small municipalities, 1 outgrowth and 37 census towns. Thus, there seems to be a growing peripheralisation, especially in Kerala, with large parts of the urban agglomerations having no large urban local bodies.

⁴¹Coimbatore (Tamil Nadu), Jamshedpur (Jharkhand), Asansol (West Bengal), Kolkata, Thiruvananthapuram, Kollam, Kochi, Kozhikode, Thrissur, Malappuram, Kannur (Kerala)

In other Class I cities, the population of the core city areas as a percentage of the total city population showed a decline of 4.5 percentage points from 90.2 per cent in 2001 to 85.7 per cent in 2011 (Table 1). While the core city demographic growth of the other Class I cities registered an annual exponential growth rate of just 2.04 per cent in the decade 2001–2011, the lowest among all the size classes of urban settlements under consideration — their peripheries registered a growth rate of 6.34 per cent in the same decade, which was second only to the growth rate registered by the peripheries of the cities in the range of 1000,000-5000,000 population, i.e. at 6.67 per cent. Out of the total 416 other Class I cities in India, 28 cities have less than 50 per cent of the total city population within their municipal limits. Of these, 9 were in Kerala, 7 in Tamil Nadu and 4 in West Bengal.

The growth of population in the city peripheries has important implications on the land governance. The city peripheries including the census towns although urban by characteristic are not under city administration. While census towns are settlements that satisfy the Census definition of urban, (population above 5,000, at least 75% of the male main working population engaged in non-agricultural work, and a population density of at least 400 people per sq. km.), the statutory towns are urban areas with a local urban authority. The increase in urban growth in the last decade is attributed to the mushrooming of 2530 new census towns. These census towns could be governed by gram panchayats and be classified as rural areas despite having urban characteristics.

These settlements do not comply with the building bye-laws and result in unplanned urbanization. Conversion of land-use from rural to urban is also ad-hoc.

⁴² Raurkela, Habra, Phusro, Jorhat, Tiruppur, Palakkad, Chalakudy, Shillong, Dhulian, Vellore, Chirkunda, Dankuni, Udthagamandalam, Changanassery, Puducherry, Kumarapalayam, Panaji, Kothamangalam, Ranaghat, Kanhangad, Karur, Sivakasi, Erode, Wadhwani, Kasaragod, Kayamkulam, Kottayam, Cherthala

Table 2: Trend of Areal Expansion (1961-2011): Urban India

Years	Areal Expansion (in Sq.km)		Urban density (persons per sq km)
	Absolute	Percentage	
1961-71	4912.96	12.76	2513
1971-81	8968.39	20.65	3010
1981-91	11441.47	21.84	3380
1991-2001	14367.32	22.51	3659
2001-2011	24052.58	30.76	3688

Source: Census of India, 2011

The above table indicates that in every census decade, there has been an increment to the existing urban land. Correspondingly, the density has also consistently increased in urban areas (Table 2). The housing shortage in urban areas was estimated to be 18 million units in 2012. As the inner cities are already crowded, in several cities, new housing is being provided at the city peripheries. Unclear land titles mean several of these new housing projects getting into land ownership disputes.

Also, scarcity of affordable housing in urban areas drives the urban poor to live in slums. Many cities have unclear land titles where unauthorised colonies grow. Since such colonies are unauthorised, it is difficult for the ULBs to generate property tax from these areas. Also, building byelaws are not applicable in most cases. It is important to bring these areas under the urban administration at the earliest to arrest unplanned urban growth.

3. Land Reforms and JNNURM

In India, land ownership is primarily established through a registered sale deed (a record of the property transaction between the buyer and seller). Other documents used to establish ownership include the record of rights (document with details of

⁴³Government of India. (2012). “Report of the Technical Group on Urban Housing Shortage (2012–2017)”, Ministry of Housing and Urban Poverty Alleviation and National Buildings Organisation.

the property), property tax receipts, and survey documents. However, these documents are not a government guaranteed title

short-term nature of the enactments. Continuation of these acts over a long period without amending such provisions has had various adverse consequences like depletion in supply of rental housing, distortions in rental housing market and negative impact on local finances.

The major provisions of rent laws, which were to be amended, are as follows:

- Control of rents: Under most rent laws, rent is fixed at much below the market or economic rent and there is no provision for its revision over time.
- Obligations of landlords and tenants: The landlord is obliged under law to keep the premises in good condition and pay all taxes relating to the property. The tenant is obliged to pay rent in time, but has no obligation regarding day-to-day maintenance.
- Repossession of the premises by the landlord is permissible only on grounds specified in the law. Main grounds include non-payment of rent; misuse or non-use of premises; requirement of premises by the landlord for repair or for self-use; non-requirement of premises by the tenant; and sub-letting of premises without the permission of the landlord.
- The long judicial process, at times extending over ten to twenty years, denies quick repossession of the property to the landlord.
- Tenancy rights are inheritable under most state (rent) laws. Thus, once a house is let, getting repossession is very difficult.

ii. Repeal of ULCRA

The objective of the Urban Land (Ceiling & Regulation Act), 1976, (ULCRA) was to facilitate the availability and affordability of urban land by increasing its supply in the market and by establishing an efficient land market. The ULCRA provided for imposition of a ceiling on both ownership and possession of vacant land; acquisition of excess vacant land by the state government with powers to dispose of the land for the common good; payment of compensation for the acquisition of the excess land; and granting exceptions in respect of certain specific categories of vacant land.

The ULCRA came into force in 1976 in 64 urban agglomerations spread over 17 states and three union territories (UTs) and covered cities with a population of more than two lakh as per the 1971 Census.

The implementation of the ULCRA in the states and UTs was, however, dismal mainly due to:

- Absence of clarity and too much discretionary powers given to the state governments for granting exemptions.
- Compensation provided for the acquired land was very little, which often led to lengthy litigation disputes. The maximum compensation was Rs.10 per sq. meter and the total compensation could not exceed Rs.2 lakhs per owner. This made landowners reluctant to declare their vacant land as surplus.
- Absence of a mechanism to encourage the entry of the vacant urban land into the land market through appropriate fiscal measures. Land prices in cities reached astronomical heights due to artificial scarcity of land created by ULCRA.

Since the ULCRA has not met its intended objectives, the Government of India decided to repeal the Act with the passing of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Various states subsequently repealed the Act. Repeal of the ULCRA has been included as one of the mandatory reforms under JNNURM. States had to commit to repealing it within a committed time frame. It is envisaged that the repeal of the Act would go a long way in reviving the stagnant housing industry and facilitate construction of dwelling units both in the public and private sector. The only state yet to repeal is West Bengal.

iii. Computerisation of the Process of Registration of Land and Property

The JNNURM *interalia* aims at computerisation of the process of registration of land and property, so as to deliver efficient, reliable, speedy and transparent services to citizens. The states/ cities are therefore required to undertake steps to introduce computerised process of registration to bring in an efficient real estate market

where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers, and in a transparent manner. The real estate market in India is extremely narrow due to the persistence of manual method of property registration, which is extremely cumbersome. One of the many barriers to the efficient functioning of the real estate market has been, and continues to be, the age-old practice of manual system of registration, which results in corruption and delay. The registration system is governed by antiquated procedures, which include the laborious copying and indexing of documents as well as their unscientific space-consuming preservation in ill-maintained backrooms. The laborious procedures and lack of transparency in property valuation have resulted in a flourishing business of brokers and middlemen who exploits citizens selling or buying property.

Although many states have taken steps to introduce computerised process of registration, in a few states, the manual system still persisted. The JNNURM required that computerisation of the process of registration of land and property be adopted by all states and their concerned ULBs within the Mission period.

iv. Simplification of Legal and Procedural Framework for Conversion of Agricultural Land to Non-Agricultural Purposes

In many cases, the process for conversion does not specify clear linkages to the spatial planning process of urban areas. The process is time-consuming even in places where master plans exist. The laws are unclear on the basis for grant of change in land-use in case of absence of approved master plans. In the absence of master plans, conversion and development approvals done on plot by plot basis generally lead to unplanned urban form. Also, large quantum of documentation requirements, mostly associated with proving ownership, while the decision for grant of change in land-use has little to do with ownership but rather depends on the future urban form in that area.

v. Property Title Certification:

The introduction of a formal system of property registration would bring about an efficient new, system for property registration (new technology and new laws/regulations) to clarify and authenticate citizens' property rights and improve security of title to allow banks and housing finance companies to function with confidence. It would bring clear definition of title in subdivided properties and systematic documentation of titles. The recent developments in software technology have much easier and cheaper options to introduce appropriate technology than it was earlier. Developments in other countries have demonstrated the technologies that could be adopted by India. A modern title registration system will provide a service to all property owners in the country that was previously lacking, in a cost-effective and user-friendly manner. The initiation of a title registry will boost business, as it would signal to investors that India is a globalizing country, with a confident economy based on stable land rights.

The objective of the JNNURM reform is to provide certainty of title to land in towns and cities in order to facilitate property transactions encourage investment and improvement, reduce litigations and uncertainty over the ownership of land. The present system of deed registration, whether manually operated or computerised would be replaced with a system of title registration such as has been adopted by many countries by the establishment of a central registry of property, rights and charges.

In rural India, although the number of transactions and value of land are not as high as in urban areas, proper land titling and digitisation of land records may help in bringing an end to the exploitation of farmers. It would provide the farmers access to formal sources of credit, earlier unavailable due to improper property records.

vi. Rationalisation of Stamp Duty

Rationalisation of stamp duty to 5 per cent or less was another mandatory reform of the JNNURM. The JNNURM *inter alia*

aimed at an efficient real estate market where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers, and in a transparent manner. The real estate market in India, as is widely known and acknowledged, is narrow and extremely cumbersome. One of the many barriers to the efficient functioning of the real estate market has been the high rates of stamp duty on conveyance transactions. The JNNURM requires the rates of stamp duty to be brought down to 5 percent or less, within the Mission period. It expects that a reduction in the rate will help develop a healthy real estate market, provide fillip to the growth of the economy, and reduce the size of the black money. It also expects that reduction in stamp duty rates will lead to an increase in revenues both for the states as well as the ULBs.

The JNNURM envisaged it to be a four-step exercise through 1) Fixing of the “guidance values”; 2) Statutory backing to guidance values 3) Reduction and gradual elimination of stamp duty remissions and 4) Widening the scope of the definition of conveyance.

vii. Earmark at least 20-25 percent of developed land in all housing projects

Under JNNURM states /cities, were required to “*Earmark at least 20-25 percent of developed land in all housing projects (developed by public and private agencies) for Economically Weaker Section (EWS) and Lower Income Group (LIG) category with a system of cross subsidisation*”. Of the total housing shortage in a city, a large proportion (nearly 95%) is among the EWS and LIG households. The reform on Earmarking Developed Land (EDL) in all housing projects will reduce housing shortage among EWS and LIG households by increasing supply of land for housing the poor. This reform will ensure that local governments /agencies take active steps to increase supply of land and housing and to make them more affordable for the poor. In the long term, availability of affordable land /housing will discourage squatting by poor on public lands and create slum free cities. It will also sustainably reduce urban poverty by providing legitimate access

to better services and economic opportunities.

EDL reform needs to be jointly implemented by the ULBs and relevant state level institutions such as the Land and Revenue Department, Town and Country Planning Department and other parastatal agencies. For successful implementation of the reform, these State agencies will need to help create a policy environment by enacting appropriate legislative and policy decisions.

- Ownership (Land records, Tenancy Act, Land Ceiling Act and Inheritance laws);
- Use (Town Planning Act, Development Control Regulations – DCRs, including Transfer of Development Rights, Zoning, and Building by laws);
- Acquisition and Assembly (Land Acquisition Act, Plot Reconstitution Technique, Negotiated Land Purchases)
- Transfer and registration (Income Tax Act, capital gains Tax, Stamp Duty, NOC from Land Acquisition officer and under Land Ceiling Act and land supply)
- Disposal wherever public agencies are directly involved in land supply.

⁴⁴ A specific provision for the fixation and annual revision of guidance values is thus essential in the State Stamp Acts.

⁴⁵ The term “conveyance” in a narrow sense, excludes other instruments involving transfer of property, e.g., power of attorney, development agreements, Courts Orders, decrees, etc. For realizing the full benefits of stamp duty reform, it is important to widen the definition of the term “conveyance” so as to widen the tax base, and further reduce the stamp duty rate.

⁴⁶ EWS is officially defined as a household with a family income below INR 2100/; BPL families are those with monthly income INR 2000/ or less. By definition EWS encompasses BPL category however as this segment is large it is important to disaggregate by mentioning BPL as a separate category. LIG is officially defined as household with a monthly income between INR 2100/ and 4500/.

⁴⁷ a Technical Group constituted by Ministry of Housing and Urban Poverty Alleviation, Government of India estimated housing shortage to be around 18.78 million and 95.62 percent of the demand is from EWS (56.18%) and LIG group (39.44%) *Report of the Technical Group (TG-12) on Urban Housing Shortage*, (2012)

By innovatively modifying these legislations many states have been able to create virtual land within their jurisdiction. For example, most Indian cities have conservative FARs as compared to global standard. Increasing FARs with the objective of increasing density of existing settlements creates the possibility of new housing. In Mumbai, new DCRs permitted an increase in FAR from 1.33 to 2.5 under certain conditions. Dharavi Redevelopment Plan, considering the fact that livelihood of large number of people depend on the strategic location of this settlement permits FAR up to 4. In old areas of Nagpur city, to discourage people building dangerously without any specification the permissible FAR was increased to 1.5 for a residential building and 2 for building with mix residential and commercial use. Nagpur is also contemplating permitting additional 50 percent FAR, 1.5 to education, health and charitable buildings.

viii. Property Tax

One of the main objectives of the Constitution 74th Amendment is to make the ULBs efficient units of self-governance. For this the ULBs have to become autonomous and to depend more on their own revenues. Property tax is the single most important tax revenue source available to a ULB. Reform of the property tax systems is one of the mandatory reforms under JNNURM. It emphasize the need for a) proper mapping of properties using a GIS system so that the ULB is able to have a full record of properties in the city and bring them under the tax net b); making the system capable of self-assessment (that is a system which is formula driven and where the property owner can calculate the tax due); and c) improving collections to achieve at least 85% of

⁴⁸Please see discussions by J.H. Ansari in “Urban Land Management-Improving policies and Practices in Developing Countries of Asia”, UMP, UNCHS, 1998.

⁴⁹Most large cities of the world the FAR varies by a ratio of 1 to 20 or even 1 to 50 between the core of the city and residential suburbs. It is fixed between 5 and 15 in the core of most metropolis is and typically decrease to around 0.2 in suburban areas. Geoffrey Pyne, 2004

demand.

In most states, the weaknesses and deficiencies in the current system of property taxation does not allow for full exploitation of the revenue potential of this tax. Property tax is one of the most under exploited tax instruments. To strengthen the financial autonomy of the local body a holistic reform of the property tax system is essential. The present deficiencies occur on account of the present assessment systems as also poor administrative and information systems currently in place.

The achievement of the reforms by the states has been mix. Tamil Nadu is the only state which has implemented all the seven land related reforms in the stipulated timeframe under JNNURM. Chandigarh, Himachal Pradesh, Jammu & Kashmir, Karnataka and Gujarat have implemented more than 90 per cent of the reforms. States including Puducherry, Assam, Uttarakhand, Uttar Pradesh, Rajasthan, Punjab, Chhattisgarh, Delhi, Andhra Pradesh, Goa and Arunachal Pradesh have complied with 80-90 per cent of the reforms. Sikkim, West Bengal, Kerala, Odisha, Jharkhand, Madhya Pradesh and Maharashtra complied with 70-80 per cent of the reforms. Haryana and Tripura implemented 60-70 percent of the land related reforms, while Meghalaya, Bihar, Manipur implemented only 50-60 percent. Nagaland implemented only 36 per cent of the total land related reforms (Annexure 1).

Introduction of property title certification system in ULBs was found to be the most difficult reform to undertake as only 11 states were able to implement it, 3 states implemented it partially, while 16 states were not able to initiate the reform. Other reforms which were difficult to implement were rent control reform and earmarking 25 per cent developed land in all housing projects for EWS/LIG. Only 16 states could earmark the developed land for poor and 21 states could undertake the rent control reforms. Though only 19 states were able to implement all the milestones of reform on stamp duty rationalisation to 5%, but all the other states were able to implement it partially. The reform for simplification of legal and procedural framework for conversion

of agricultural land for non-agricultural purposes was compiled by 24 states, while introduction of computerized process of Registration of land and Property was compiled by 25 states (Annexure 2 and 3). Only West Bengal has not initiated the reform to repeal ULCRA.

4. Documentation of Good Practices

i. Urban Property Ownership Record (UPOR) in Karnataka

In Karnataka, urban mapping existed in 48 urban centres of Karnataka, even though the records were not updated. Across 42 sectors of Belgaum, it had been completed by continuing the system that prevailed during the Bombay Province. The city survey concept was introduced in 6 more districts of Karnataka, between 1969 and 1975. The districts are Bellary, Gulbarga, Kolar Gold Fields (in Kolar district), Mysore, Bangalore and Davangere. As many as 112 villages of Belgaum had been notified for mapping and measurement. Similarly, 137 sq. kms of Bangalore core city had been measured and mapped barring new extensions and fringe areas (Manasi and Smitha, 2013). By 2025, 50 per cent of Karnataka's population (40 million) is expected to live in urban areas. In addition, much of the attention is being drawn to other large cities in Karnataka apart from Bangalore, so that there is less 'Bangalore-centric' development and urgency for a more comprehensive record system was felt.

The Survey, Settlement and Land Records Department (SSLR) introduced Urban Property Ownership Records (UPOR), a comprehensive framework for the creation and management of urban property records in December 2009. Although SSLR maintains urban property records in Bangalore, Mysore and 41 other towns of Karnataka, due to insufficient manpower and financial crunch, the records were not updated, on a regular basis (Manasi and Smitha, 2013). The project was started in 2009 on a

⁵⁰ Reform on Property Tax has not been included here as it was a ULB level reform, while all the other reform were state level reforms.

pilot basis in Dharwad, Bellary, Shimoga, Mangalore and Mysore in Karnataka. The status of the project in the four towns barring Bellary is given below:

The state government is also examining a proposal to make the property card mandatory for sale and purchase of property, home loans and other land related transactions. The government believes that the card will help individuals and organizations in buying and selling land, as records will be accurate and appear both on the map and in the ownership data. The property record created through this project will be evidence of property ownership for all regulatory and legal purposes. Property record over the years is expected to be updated regularly and will, therefore be current and relevant (Manasi and Smitha, 2013).

The task consists of four distinct activities as below:

- a) Initial one time creation of database of property records;
- b) Continuous management and maintenance of property records;
- c) Operations and Maintenance of Service Delivery centers delivering property record related services to citizens established by the Survey Department; and
- d) Creation of IT infrastructure comprising software applications, servers, storage and other IT hardware

ii. Bhoomi – Online Delivery of Land Records in Karnataka

Bhoomi (meaning land) project was introduced in Karnataka in 2000 for online delivery and management of land records in Karnataka. It aims to provide transparency in land records management with better citizen services and takes discretion away from officials at operating levels. Under the project, all the

⁵¹ Urban settlement structure in Karnataka is highly dense with 67 per cent of urban population living in 24 cities (UDP2009: 5).

⁵² The project in Bellary has been put on halt due to non-performance of the service provider and is planned to be retendered.

manual Record of Rights (RoR), Tenancy and Crops (RTCs) which prevailed at the time of data entry were digitised. The Department of Revenue in Karnataka has computerized 20 million records of land ownership of 6.7 million farmers in the state. Previously, farmers had to seek out the Village Accountant to get a copy of Record of Rights, Tenancy and Crops (RTC) – a document needed for many tasks such as obtaining bank loans. The process was cumbersome, time consuming and was not transparent. Land records in the custody of Village Accountant were not open for public scrutiny leaving high scope for manipulations. Bhoomi reduced the discretion of public officials by enabling mutation and data requests to be made online. For a fee of Rs. 15, a printed copy of the RTC can be obtained online at computerized land record kiosks (Bhoomi centers) in 177 taluk offices. This system works with the software called “BHOOMI” designed fully in-house by National Informatics Center, Bangalore.

iii. Bhu Bharati project in Andhra Pradesh

The Andhra Pradesh government started BHU BHARATI, an integrated land information system in May 2006. It aims to provide conclusive Titles in accordance with the curtain and mirror principle of Torrens system (but does not provide government insurance to title), replace deed registration with title registration, integrating all services & creating a single dedicated agency, maintaining records digitally in a central repository that gets auto updated as transactions occur and can be accessed at multiple points and the dematerialization of property transfers.

The project was implemented on a pilot basis in Nizamabad District in 2006. Survey of Agricultural lands has been completed in all the 922 villages. Statutory notices under AP Survey & Boundaries Act were issued and 5765 appeals were received and 1200 have been disposed-off. Survey records pertaining to 908 Villages have been handed over to the Revenue authorities for final check and implementation. Village-site and Urban Survey is to be taken up. Rs. 25.90 crores have been spent on the pilot project. After implementing BHU BHARATHI, the state

government initiated the land titling bill in 2008 but was not implemented.

iv. Computer-aided Administration of Registration Department (CARD) - Andhra Pradesh

The Computer-aided Administration of Registration Department system was designed to facilitate the citizen - Government (G2C) interface. It aimed at transforming services of property registration across the counters in Andhra Pradesh by leveraging the benefits of IT with pre-defined service levels. Under the traditional system, there was lack of transparency in property valuation which resulted in corruption. Antiquated procedures including manual copying and indexing of documents, storage in paper forms and updating register have all been now replaced under CARD. The various features of the CARD system are electronic preservation of documents and automation of back-office functions, counter-based/web-based services on issue of certified copies, market value assessment, encumbrances and transparent valuation of the properties. The impact of the project is visible in increased productivity of employees, increase in number of registrations and thus increased revenue to the department.

v. Property Tax Reforms - Bruhat Bengaluru Mahanagar Palike, Karnataka

In the year 2000, Bangalore initiated the property tax reforms and brought the option of self-assessment system (SAS) of property tax scheme. The objective of the scheme was to get property owners to voluntarily declare their property tax liability and to

⁵³ <https://landrecords.karnataka.gov.in/service0/>

⁵⁴ This agency would be responsible for creating, maintaining and delivering all property related services like survey, subdivision, maintenance of title records, registration of property transfers and maintaining property tax records in rural and urban areas, taking over all functions of Survey Department, immovable property registration functions of Registration department, Land Record maintenance functions of Revenue department, property tax and layout record maintenance functions of local bodies.

make timely payment. Under this SAS system property was assessed on the basis of its location, quality of construction, usage, occupancy and the age of the building. All these physical and usage features of the property were taken together and the annual rental value per square foot per month was determined. About 60 per cent of the property owners adopted this system and paid their property tax in the course of first two months from the date of commencement. The collection of property tax increased by 34 per cent in one year of commencement.

In 2009, Bangalore introduced Unit Area Method of property taxation. The transition to unit area based self-assessment was very successful in Bangalore. The jurisdiction of Bruhat Bangalore Mahanagar Palike (BBMP) has been classified into 6 value zones (A, B, C, D, E and F) based on the published guidance values from the Department of Stamps and Registration. The unit area values were fixed for the properties located in each zone keeping in view ownership of the building (i.e whether the building is self-occupied or tenanted) and also certain characteristics of the building e.g the roof and the floor. Bangalore introduced many other reforms related to property tax. GIS based property tax system was introduced in BBMP in 2012, where the inventories of all the properties within BBMP were developed with the help of satellite images. Online property tax calculation and payment system was initiated, where the tax payers have multiple option of paying tax online. All these initiatives have not only resulted in increase in tax revenue but also raised the credibility of BBMP.

vi. Rajasthan Urban Land (Certification of Titles) Bill, 2016

In April 2016, Rajasthan passed the Rajasthan Urban Land (Certification of Titles) Bill, 2016. The Bill provides for certification of urban land titles. The Bill establishes the Urban Land Title Certification Authority. The residents living in urban areas, which are governed by the municipalities or state

⁵⁵ The Hindu (2011, December 27). Fine tuning of AP-Land –titling bill speeded up.

development authorities, can seek a certificate of ownership of their lands by paying a nominal fee to the state government. The Authority will receive applications, scrutinise documents, verify information and issue the certificate of title. The authority will first issue a provisional certificate for two years, for which the state will not stand guarantee. If there are no objections or dispute arises, the authority will issue a certificate and a map to the owner of other land or property with state guarantee. Currently, it is kept voluntary for the owners to apply for this certificate (Government of Rajasthan, 2016). The state government has kept the application fee of 0.5% of the land rate determined by a district level committee to encourage more people to join this new scheme. The Bill will give a clear title to the owner and will reduce litigations in the courts. Rajasthan has become the first state to introduce such a Bill in the country.

vii. Chhattisgarh Municipal Corporation Amendment Act 2011 - Earmarking of land for poor

Chhattisgarh under section 292-B of Chhattisgarh Municipal Corporation Amendment Act 2011 and section 339-B of Chhattisgarh Municipalities Amendment Act 2011 provisioned for 15 per cent land reservation for EWS housing and 10 per cent for LIG housing in March 2011. As per the provisions of the Act, the developer will have to transfer at least 15 per cent land for EWS housing. The selection of beneficiaries and the determination of the cost would be done as per norms of the state government. Section 339-C prescribes that if the size of the land to be taken for development is less than 1 acre then the developer has a choice of not transferring the 15 per cent land to the authority but he has to deposit a prescribed fee into the "Service to Poor Fund" of the Municipal Council (Chhattisgarh Municipalities, Amendment Act, 2011).

5. Conclusion and Policy Perspective

India has to take concerted efforts to strengthen the land governance. Although JNNURM laid the major guidelines in this

direction, most of the states need handholding to bring efficient land administration in their respective jurisdictions. Reforms related to property title certification, which are complex in nature need a clear roadmap with fixed timelines. The central government should also play an important role in areas such as fostering innovation, setting standards (including amendment of national laws), capacity building and tracking performance in a way that can easily identify good practices, incentivise those and replicate in other states.

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⁵⁶ http://www.business-standard.com/article/economy-policy/rajasthan-becomes-the-first-state-in-india-to-clear-land-title-bill-116040800366_1.html

⁵⁷ One acre is equal to 4046.87 square meters

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Annexures

Annexure 1: State-wise Compliance of Reform

States	Score (70)	Percentage Achievement
Tamil Nadu	70.0	100
Chandigarh	65.0	93
Himachal Pradesh	65.0	93
Jammu and Kashmir	65.0	93
Karnataka	65.0	93
Gujarat	64.0	91
Puducherry	62.5	89
Assam	60.5	86
Uttarakhand	60.0	86
Uttar Pradesh	60.0	86
Rajasthan	60.0	86
Punjab	60.0	86
Chhattisgarh	60.0	86
Delhi	60.0	86

Andhra Pradesh	60.0	86
Goa	58.0	83
Arunachal Pradesh	57.0	81
Sikkim	55.0	79
West Bengal	55.0	79
Kerala	53.0	76
Odisha	50.0	71
Jharkhand	50.0	71
Madhya Pradesh	50.0	71
Maharashtra	50.0	71
Haryana	46.5	66
Tripura	45.0	64
Meghalaya	41.0	59
Bihar	38.5	55
Manipur	37.5	54
Nagaland	25.0	36

Source: Reform Appraisal Reports, JNNURM (2014), Ministry of Urban Development, Government of India

Annexure 2: Level of Compliance of Reform

Reform	Score (300)
Repeal of ULCRA	290
Simplification of Legal and Procedural framework for conversion of agricultural land for non-agricultural purposes	260
Introduction of computerized process of Registration of land and Property	260
Stamp Duty Rationalization to 5%	250
Reform in Rent Control	246
Earmarking 25% developed land in all housing projects for EWS/LIG	220
Introduction of Property Title Certification System in ULBs	122.5

Source: Reform Appraisal Reports, JNNURM (2014), Ministry of Urban Development, Government of India

Annexure 3: Status of Land Related Reforms Implementation under JNNURM

Rent Control Act Reform	
States which achieved	Andhra Pradesh, Arunachal Pradesh, Chandigarh, Chhattisgarh, Delhi, Goa, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Madhya Pradesh, Nagaland, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal
States which did not achieved:	Manipur, Maharashtra, Odisha
States which partially achieved:	Assam, Bihar, Gujarat, Haryana, Kerala, Meghalaya
<i>Milestones yet to cover by states which partially achieved</i>	
<i>Availability of Rent Control Act</i>	
<i>Provision of fixation of Standard Rent</i>	Gujarat
<i>Provision of revising rent periodically</i>	Bihar, Gujarat, Haryana
<i>Balancing obligations of Landlords and Tenants</i>	Assam, Bihar, Gujarat, Haryana, Meghalaya
<i>Establish adjudication system for resolving disputes</i>	Kerala, Haryana, Meghalaya
Stamp Duty Rationalization to 5%	
States which achieved	Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Maharashtra, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand
States which did not achieved:	NIL
States which partially achieved:	Arunachal Pradesh, Bihar, Haryana, Jammu and Kashmir, Kerala, Madhya Pradesh, Manipur, Meghalaya, Nagaland, Tripura, West Bengal
<i>Milestones yet to cover by states which partially achieved the reform</i>	
<i>Reduce stamp duty to 5% (including surcharges)</i>	Bihar, Haryana, Jammu and Kashmir, Kerala, Madhya Pradesh, West Bengal
<i>Preparation of guidance values/Circle rates</i>	Nagaland, Tripura
<i>Annual revision of guidance value</i>	Arunachal Pradesh, Bihar, Manipur, Meghalaya, Nagaland, Tripura
Repeal of ULCRA	
Not Achieved:	West Bengal
Introduction of Property Title Certification System in ULBs	
States which achieved	Arunachal Pradesh, Assam, Chhattisgarh, Gujarat, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Puducherry Tamil Nadu, West Bengal

States which did not achieved:	Bihar, Delhi, Goa, Haryana, Jharkhand, Maharashtra, Manipur, Meghalaya, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh, Uttarakhand
States which partially achieved:	Andhra Pradesh, Chandigarh, Himachal Pradesh
<i>Milestones yet to cover by states which partially achieved the reform</i>	
<i>Arrangement for reflecting property titles in a legal framework</i>	Andhra Pradesh
<i>Arrangement for adjudication for property title dispute</i>	Chandigarh, Himachal Pradesh
<i>Notification of rules for smooth implementation</i>	Andhra Pradesh, Chandigarh, Himachal Pradesh
<i>Setting up administrative system/process</i>	Andhra Pradesh
Simplification of Legal and Procedural framework for conversion of agricultural land for non-agricultural purposes	
States which achieved	Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal
States which did not achieved:	Meghalaya, Nagaland
States which partially achieved:	Haryana, Jharkhand, Manipur, Tripura
<i>Milestones yet to cover by states which partially achieved the reform</i>	
<i>Availability of legal framework for conversion of agricultural land for non - agricultural purposes</i>	Jharkhand
<i>Notification of rules and processes</i>	Haryana, Jharkhand, Manipur, Tripura
<i>Establish adjudication system for resolving disputes</i>	Manipur, Tripura
Introduction of computerized process of Registration of land and Property	
States which achieved	Andhra Pradesh, Assam, Bihar, Chandigarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Maharashtra, Manipur, Meghalaya, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal
States which did not achieved:	Chhattisgarh, Madhya Pradesh, Nagaland
States which partially achieved:	Arunachal Pradesh, Goa
<i>Milestones yet to cover by states which partially achieved the reform</i>	
<i>Computerized registration of land and properties</i>	Arunachal Pradesh
<i>Capturing of photo of seller & buyer</i>	Goa
<i>Creation of database system</i>	Arunachal Pradesh

Earmarking 25% developed land in all housing projects for EWS/LIG	
States which achieved	Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal
States which did not achieved:	Bihar, Kerala, Nagaland
States which partially achieved:	Andhra Pradesh, Arunachal Pradesh, Assam, Jharkhand, Karnataka, Madhya Pradesh, Manipur, Meghalaya, Puducherry, Sikkim, Tripura
<i>Milestones yet to cover by states which partially achieved the reform</i>	
<i>Notify the reservation of land between 20 and 25% in housing projects (Public/Private)</i>	Andhra Pradesh, Assam, Madhya Pradesh, Puducherry
<i>Review and revise Building Bye Laws to reflect to earmarked land to EWS/LIG</i>	Jharkhand, Puducherry
<i>Engaging with state departments for implementing EDL (Earmarking Developed Land)</i>	Andhra Pradesh, Arunachal Pradesh, Assam, Meghalaya,
Property Tax	
States which achieved	Chhattisgarh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu
States which did not achieved:	Nagaland
States which partially achieved:	Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Manipur, Meghalaya, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tripura, Uttar Pradesh, Uttarakhand, West Bengal
Milestone yet to be achieved	
Notification/Amendment of Act on Collection of Property Tax	Kohima (Nagaland), Shimla (Himachal Pradesh) 2 cities
Extending of property tax to all properties	Gangtok (Sikkim), Kohima (Nagaland), Imphal (Manipur), Itanagar (Arunachal Pradesh), Dehradun, Haridwar (Uttarakhand), Chandigarh, Shimla (Himachal Pradesh) 8 cities
Posting of tax details in the public domain & migration to standardized self-assessment system of property taxation on the basis of periodic revisions and review of rates	Gangtok (Sikkim), Shillong (Meghalaya), Kohima (Nagaland), Imphal (Manipur), Itanagar (Arunachal Pradesh), Agartala (Tripura), Dehradun, Haridwar, Nainital (Uttarakhand), Puri (Odisha), Kolkata, Asansol (West Bengal), Shimla (Himachal Pradesh), Jammu, Srinagar (J&K), Jamshedpur, Dhanbad (Jharkhand), Ujjain (Madhya Pradesh), Lucknow, Kanpur, Allahabad, Varanasi, Agra, Ma thura, Meerut (Uttar Pradesh) 25 cities
Setting up non-discretionary method for determination of property tax (unit area method or capital value method)	Kohima (Nagaland), Guwahati (Assam), Imphal (Manipur), Itanagar (Arunachal Pradesh), Dehradun, Haridwar, Nainital (Uttarakhand), Kolkata, Asansol (West Bengal), Jaipur, Ajmer (Rajasthan), Jammu, Srinagar (J&K) 14 cities

Coverage	
25%- 50%	Jaipur, Ajmer (Rajasthan), Shimla (Himachal Pradesh), Amritsar (Punjab), Jamshedpur, Dhanbad (Jharkhand) 7 cities
Above 50% to less than 85%	Agartala (Tripura), Dehradun, Haridwar (Uttarakhand), Bhubaneswar (Odisha), Asansol (West Bengal), Patna (Bihar), Ludhiana (Punjab), Ranchi (Jharkhand), Ujjain (MP), NDMC (Delhi), Tirupati (Andhra Pradesh) 11 cities
85% and Above	Ahmedabad, Surat, Vadodara, Rajkot, Porbandar (Gujarat), Shillong (Meghalaya), Guwahati (Assam), Faridabad (Haryana), Nainital (Uttarakhand), Puri (Odisha), Kolkata (West Bengal), Lucknow, Kanpur, Allahabad, Varanasi, Agra, Mathura, Meerut (Uttar Pradesh), Bodhgaya (Bihar) Kochi, Thiruvananthapuram (Kerala), Puducherry, Chandigarh, Chennai, Coimbatore, Madurai (Tamil Nadu), Bangalore, Mysore (Karnataka), Raipur (Chhattisgarh), Bhopal, Indore, Jabalpur (Madhya Pradesh), Panaji (Goa), Hyderabad, Vijayawada, Visakhapatnam (Andhra Pradesh), Nagpur, Nanded, Nashik, Pune, Greater Mumbai (Maharashtra) 41 cities
Collection Efficiency (90%)	
Above 50% to less than 75%	Agartala (Tripura), Faridabad (Haryana), Dehradun, Haridwar, Nainital (Uttarakhand), Bhubaneswar, Puri (Odisha), Kolkata, Asansol (West Bengal), Jaipur, Ajmer (Rajasthan), Puducherry, Shimla (Himachal Pradesh), Amritsar, Ludhiana (Punjab), Dhanbad (Jharkhand), NDMC (Delhi) 18 cities
Above 75% to less than 90%	Porbandar (Gujarat), Guwahati (Assam), Lucknow, Kanpur, Allahabad, Varanasi, Agra, Mathura, Meerut (Uttar Pradesh), Patna (Bihar), Mysore (Karnataka), Jabalpur, Ujjain (M.P.), Panaji (Goa), Hyderabad (Andhra Pradesh) 15 cities
90% and Above	Shillong (Meghalaya), Kochi, Thiruvananthapuram (Kerala), Chandigarh, Chennai, Coimbatore, Madurai, (Tamil Nadu), Bangalore (Karnataka), Raipur (Chhattisgarh), Bhopal, Indore (Madhya Pradesh), Vijayawada, Visakhapatnam, Tirupati (Andhra Pradesh), Nagpur, Nanded, Nashik, Pune, Greater Mumbai (Maharashtra) 23 cities

Source: Reform Appraisal Reports, JNNURM (2014), Ministry of Urban Development, Government of India

A Note on Land Governance in West Bengal

Arindam Mani⁵⁸

Abstract: *A narration of the achievements of West Bengal in having real time and updated land records and in ensuring the principle of social justice. We are open to the ideas and solutions to the emerging challenges.*

Introduction: The success of West Bengal in improving the land governance in recent years in terms of the outcome indices of Digital India Land Records Modernization Programme may be projected as an exemplary model though it missed the much deserved attention. The major achievements of West Bengal are reflected not only in terms of distributive justice through land reforms and land redistribution, but also in the development of a robust system of citizen-centric services. A brief discussion on the following five major components of Land Governance *Administration* will be helpful for understanding the success of West Bengal in correct perspective.

1. Computerization of Land Records and Maps
2. Interconnectivity among service locations
3. Establishment of Modern Record Rooms and Data Centres under DILRMP
4. Computerization of Registration and Integration with Land Records
5. Implementing Nijo Griho Nijo Bhumi (NGNB) and FRA - 2006 to ensure social and economic justice

1. Computerization of Land Records and Maps:

Out of 42136 Mouzas (revenue villages), Land Records is computerized in 41841 mouzas and all citizen centric services in these mouzas are web-based in all 23 Districts of West Bengal. Computerized Land records of 345 BL&LRO offices are collocated under *e-Bhuchitra* where entire database is in SDC. In

⁵⁸ Additional Director of Surveys, Survey Building, Alipore, DLR&S Office, 35 Gopal Nagar Road, Kolkata, West Bengal

May 2012, Hon'ble Chief Minister, West Bengal, Mamata Banerjee launched the departmental website i.e. www.banglarbhumigov.in to share the digital dividends with the citizens and a huge volume of 36.70 million RoR of 46.54 million Land parcels is made freely available to citizens. Now, the live data of Land records of all 345 collocated service locations are open for public viewing from the website. Over the Counter (OTC) information services and transaction services are provided in core solution mode.

Some special features of *e-Bhuchitra* deserves mention –

- a. *e-Bhuchitra* provides dual authentication for users in the form of Password Protection & Biometric authentication ensures secured access to centralized database at SDC. Further user access is location based ensuring restricted access to database.
- b. It provides queue-management and auto-allotment of cases among users to maintain better transparency.
- c. It is integrated with system-generated SMS-services for the citizens.
- d. The website shows the live status of all mutation cases and there is an option to download the notices of mutation notices.
- e. ***e-DSS (e-Delivery Service System)*** : Under this recent initiative, the citizen can avail the services of e-Bhuchitra for online filing of mutation cases & conversion cases, depositing process fee online, and finally getting e-delivery of digitally signed copy of record of rights through www.banglarbhumigov.in.
- f. e-DSS will also offer the service of online application filing and getting e-delivery of digitally signed ROR & Plot Information copy through www.banglarbhumigov.in.
- g. OTP based authentication both through SMS and e-mail has been incorporated in e-DSS for facilitation of the rightful applicant.
- h. Services of online delivery of digitally signed copy of ROR and plot information to common citizen through e-district portal of GoWB has been successfully rolled out throughout the State.

- i. Live display of the Revenue Court Case details against concerned Plots and RORs in '*banglarbhumii.gov.in*' has been successfully achieved.

Regarding Digitization of Cadastral Maps, West Bengal has witnessed three series of survey-settlement operation generating three series of cadastral maps and records. The first such operation is known as District Survey Settlement Operation during 1889 to 1940. The second operation known as started Revisional Survey Settlement Operation was performed during 1956-1966. The last one started during 1972 under the provisions of the West Bengal Land Reforms Act, 1955. Out of 68428 cadastral maps, 67159 sheets are digitized and are made available to the citizens both in soft and hard copies. The digitized maps are in shape file format and integrated with RoR. All legacy maps of earlier survey-settlement operations are also available in scanned version.

It is no strange that as far as land records project is concerned , West Bengal recorded the highest number of e-transactions between 1st April,2017 and 31st December,2017. (Source: <http://etaal.gov.in/>)

2. Inter-connectivity among service locations and Integration with Registration:

In West Bengal, all BL&LRO Offices and all Registration Offices are provided with a two way connectivity –

(A) MPLS – VPN connectivity and (B) West Bengal State Wide Area Network (WBSWAN) connectivity. (excepting One BL&LRO Office where connectivity could not be provided with connectivity because of internet shadow zone) The MPLS-VPN connectivity acts as primary and WBSWAN act as fall back connectivity. All 256 Registration Offices in the State are computerized and interconnected. Registration is being done through a web based centralized system called e- Nathikaran.

e-Bhuchitra is also web-based application which is running on secured VPN network. The database of computerized Land Records is centralized and secured at SDC. All BL&LRO offices are integrated with registration offices for auto-generated mutation.

Integration has been successfully achieved between land records and property registration for 345 *e-Bhuchitra* locations and 256 *Registration Offices*.

3. Establishment of Modern Record Rooms and Data Centres under DILRMP:

Modern Record Rooms (MRRs) are constructed under the DILRMP. During three initial years of 2013 -16, State Government bore 50% cost of the construction of. Since 2016 -17, its fully Central funded project under DILRMP. All Modern Record Rooms have the facilities of

- a. An operational area with computers/servers, storage area network, printers, scanners, online UPS, IP camera, access control system, thumb scanners, router rack, electrical fittings etc.
- b. A public services area for waiting/reception and
- c. A storage area with compactors/storage devices for physical storage of RS and LR records and Maps.

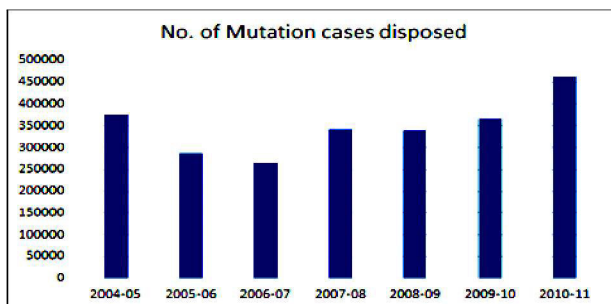
Out of 346 BL&LRO offices of West Bengal, 309 Modern Record Rooms are completed and 5 more MRRs are under construction. The remaining 32 MRRs will be completed within 2018-19.

Data Centre: It is already discussed that the entire land records database is collocated and now hosted at State Data Centre (SDC). Further, all 346 Tehsil Data Centres are established and functioning. The scanned legacy records are now available through these Tehsil Data Centres. The establishment of Modern Records Rooms and Tehsil Data Centres as well as the implementation of the 'The West Bengal Right To Public Services Act, 2013' have a very positive impact on the delivery of citizen

centric services – both information and transaction . The remarkable improvement during 2011-12 to 2017-18 is visible from the following two tables and two graphs easily explain the massive increase in delivery of transaction services like Mutation.

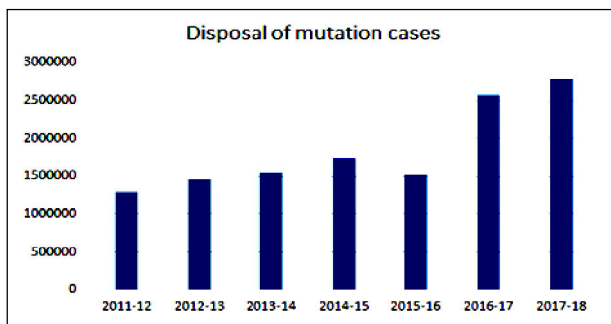
Annual Disposal of Mutation Cases during 2004-05 to 2010-11

No. of Mutation cases disposed	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
	3,77,020	2,87,532	2,66,250	3,42,584	3,40,792	3,66,568	4,62,828



Annual Disposal of Mutation Cases during 2011-12 to 2017-18

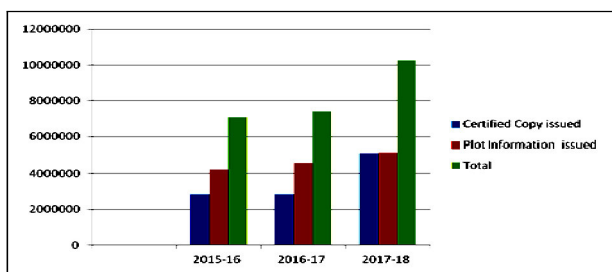
Indicator (s)	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18 (up to 5 th Mar-18)
Disposal of mutation cases	12,82,830	14,64,232	15,41,131	17,38,347	15,11,626	25,67,464	27,92,486



An interesting feature to note is that the annual disposal of mutation cases has far exceeded the annual figures of registration since 2013-14.

An analysis of the two important Information Services brought under 'The West Bengal Right To Public Services Act, 2013'

Year	Certified Copy issued	Plot Information issued	Total
2015-16	2848056	4215815	7063871
2016-17	2820318	4598539	7418857
2017-18	5111601	5142047	10253648



Outcome: Safe preservation of valuable manual land records in Compactors



Pic-2 Biometric access control system installed at MRR of BL&LRO office, Domjur, Howrah for safe record preservation of manual R-o-R under DILRMP.

Pic-3&4 Over the Counter (OTC) service for delivery of certified copies of R-o-R and Plot Information from Modern Record Rooms/ Tehsil Data Centres under DILRMP



of all related system and (c) improving quality of services to citizens. At present in West Bengal the market value of any property (land, building) is determined through this system.

The West Bengal Stamp (Prevention of Under-Valuation of Instruments) Rules 2001 was introduced with effect from 1.3.2001. In the changed scenario of computerization, the process of determination of market value has been changed accordingly and a digitised market value database covering all the plots under the jurisdiction of the registering officer has been installed and interlinked with CORD software. A person desiring to transfer or acquire a property shall have to submit the particulars of the property in the appropriate requisition form. Such particulars are fed in the computer database and the system automatically generates the market value of the property. The digitized market values are periodically revised according to the field situation.

Since the last two years, the application for mutation of land and related notices are being automatically system-generated following Registration for transfer of land. A provision for payment of mutation fees at the time of Registration for transfer of land has been introduced thereby eliminating the chances that someone fails to submit application for mutation of land. All fees and charges can be paid through Government Receipts and Payment Portal (GRIPS) thereby reducing human interface regarding collection of fees /charges.

5. Redistributive Justice in implementing NIJO GRIHO NIJO BHUMI (NGNB) and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006:

The scheme NIJO-GRIHA NIJO-BHUMI (meaning My Home My Land is popularly known as NGNB in West Bengal. NGNB was launched on 18th October 2011 by Hon'ble Chief Minister of West Bengal. The scheme is aimed at providing all landless and homeless rural families 3 cottahs (approx 5 decimal) of land per family by issuing patta on vested land or through purchase. Till

January 2018, a total number of 2,20,992 beneficiaries received NGNB patta. Further, all these NGNB beneficiaries were provided convergence services of all important development schemes like MGNREGS, TSC, IAY, RGVY etc. Convergence helped to provide basic amenities - improving standard of life, housing units, sanitary toilets, internal roads, drinking water, electricity and augmentation of livelihood by utilising the land by women beneficiaries in the cluster like vegetable gardening, animal and bird rearing, and making land fit for use (under MGNREGA convergence). *Landless agricultural labourers, rural artisans, and fishermen are Target groups under NGNB.* What is remarkable is that land titles were handed over to all NGNB beneficiaries and *more than 83% land titles are in the name of women, either joint or single title.* This not only boosted the sense of safety and security in women beneficiaries but also increased their ability and freedom to utilise land. They have effectively utilised a part of allocated land for livelihood activities. The importance of NGNB in terms of social and economic inclusion is reflected in the priority given to women headed and ST, SC, OBC, minority households.

Women at Centre State of NGNB

The Scheduled Tribes & Other Traditional Forest Dwellers Recognition of Forest Rights) Act, 2006 has been successfully implemented in the State to redress the historical injustice committed against forest dwellers and to make forest conservation

more efficient –

1. So far, 94 Forest Villages were converted into Revenue villages and detail survey were completed to frame land records (RoR). The Certificates issued by the District level committee as per FRA is treated as conclusive proof of title of an individual over the land.
2. As per section 4 (4) of the FRA 2006, the title is heritable, but not transferable. This is noted in the RoR. Maximum limit of land being recorded in favour of a beneficiary is 4 hectares as per provisions of FRA.
3. More than 45000 Forest Pattas have been distributed under FRA, 2006.

Emerging Challenges: To conclude the emerging challenges before the land administration is quite categorical to focus on the following directions:

1. The first challenge would be to have a geo-referenced maps i.e. maps showing latitude and longitude of plots. We have been negotiating with different agencies for procuring HRSI towards this end and several Pilot Projects with alternative strategies have been successfully executed. A good team of trained and skilled Officers is



4. The entire legacy data of Revisional Survey and Settlement Operation is available in scanned copies from BL&LRO Offices. All these legacy records will be integrated with *e-Bhuchitra* in near future.
5. The development of a high-speed and stable connectivity is of crucial importance since the entire land records data



A tiny homestead to show the route out of Poverty

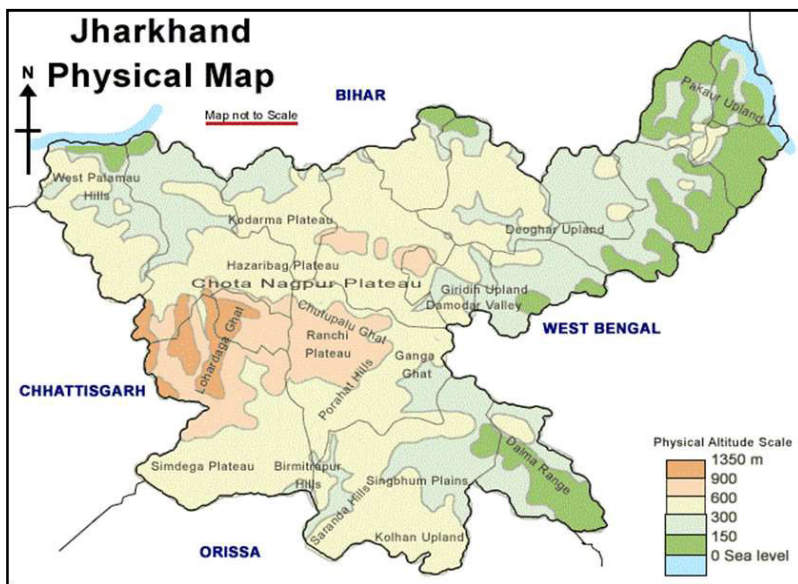


Blooming Mustard – Mustard cultivation by NGNB Beneficiary

being in core solution mode, the delivery of all service system is precariously dependent on internet connections.

Survey and Settlement Operations incorporating Modern Technology in Jharkhand

A. Muthu Kumar, IAS⁵⁹



Traditional Method

Survey and settlement operations under the jurisdiction of Survey and settlement office, Ranchi (it includes the districts of Ranchi, Khunti, Simdega, Lohardaga, Gumla) is conducted under chapter 12 of **Chotanagpur Tenancy Act 1908**.

Apart from the Chotanagpur Tenancy Act 1908 the Survey Settlement Operations are guided by following legal provisions –

- Chotanagpur Tenancy Rules, 1959.
- Bihar Survey Settlement Manual, 1959.
- The Technical Rules of the Settlement Department Bihar, 1959 in three volumes.

⁵⁹ Director (Land Acquisition, Land Records & IG Registration), Government of Jharkhand, Project Building, Dhurwa, Ranchi

As per the above mentioned provisions of law survey operations are traditionally conducted in following 14 stages –

1. **Kistwar** – In revisional survey kistwar involves survey on blue print maps, prepared from the maps of previous survey and internal plotting of fields. Ujrat Amins (employed on contractual basis), chainman, regular amin, inspector kanungo and ASO, peskar, moharrir, draftsman are the functionary required at this stage.
2. **Khanapuri**- involves preparation of family tree numbering of plots, survey of raiyats, preparation of khesara register, entry of disputed/ GM plots on yadast, orders by ASO, kanungo and inspectors, final entry in kheshra register, chainman, regular amin, inspector, kanungo and ASO, peskar, moharrir, draftsman are the functionary required at this stage.
3. **Headquarter Recess**- Maps and records are checked and completed for attestation. Man power involved at this stage is divided in three sections i.e. drawing, area, kheshra and area. In drawing section village boundaries are checked first and the map is compared with kheshra. Touch- up and cleaning is carried out before dispatching for reproduction of ***not-final map*** in Area section. In Khesra section Extraction of area plot by plot, passing total area by BT (Boundry Tarmim) is done. In area section entry of area extracted in the records, preparation of abstract of khatian (Banda Parcha), check of records with orders passed. Chainman, regular amin, inspector, kanungo and ASO, peskar, moharrir, draftsman are the functionary required at this stage.
4. **Attestation (Tasdik), Draft Publication and Work mandated under Section 83 of Chotanagpur Tenancy Act 1908** - Work of tasdik camp includes distribution of Banda parcha, noting BADAR/TANAJA, Bujharat or explaining the entries, passing the orders by ASO in dispute list, tarmim by munsharim in the records, correction and arrangement of records check by peshkar of each tarmim, noting of peshkaribadar in case of discrepancy, certificate by peskar and ASO, confirming the checking of all records. When

abovementioned actions are completed first draft publication is done under S.83 (1) C.N.T. Act. Notices are issued by ASO to file objection on records, if any by the concerned raiyat. Orders are passed after detailed enquiry by ASO under S. 83(1) of C.N.T. Act, Surveyor, kanungo and ASO, peskar, moharrir (DPM), Tarmim Moharrir are the functionary required at this stage.

7. **Work mandated under Section 89 of Chotanagpur Tenancy Act 1908-** S.89 provides the power of revision to the revenue officers on the orders passed by the revenue officer under S. 83 of the Act. Such orders are put in application by way of tarmim, ASO and peskar, Surveyor Amin.
8. **Janch-** This section checks all records right from Khanapuri upto S.89 operations and that henceforth passed orders of concerned revenue officers are implemented on concerned record or not and if any mistake is found then required corrections are made.
9. **Safai -** The safai section ensures the correct and legible writing of khatian in three copies i.e. Collector's copy Maliki copy and raiyati copy.
10. **Muqabala-** This section ensures the comparison of draft records as per the work done in the earlier stages.
11. **Alekh-** The Alekh section prepares the final map incorporating the changes brought about so far during various stages in the original blue print map.
12. **Final Publication-** Thus the finally prepared map and record of right is finally published and made public by notification in official gazette. On the basis of this newly published record of rights the Register –II maintained by the circle officers under the Bihar Tenants Holding (Maintenance of Records Act) 1973.
13. **Rent Fixation-** settlement of fair rent is done finally in accordance with the provisions of S.85 of C.N.T. Act 1908.
14. **Work mandated under Section 87 of Chotanagpur Tenancy Act 1908-** Three month time post Final publication respective claimants in the record of right may file *suits* before

the revenue officer, who has liberty either try it on his own or to transfer it to the civil court of that jurisdiction.

15. Depositing the Record in record room- The final records of the survey are deposited in the District Record Room.

16. Work mandated under Section 90 of Chotanagpur Tenancy Act 1908- Within five years from the final publication corrections may be done of bona fide and material errors in record of right either by Deputy Commissioner or Revenue Officer.

Pilot Project: 875 villages

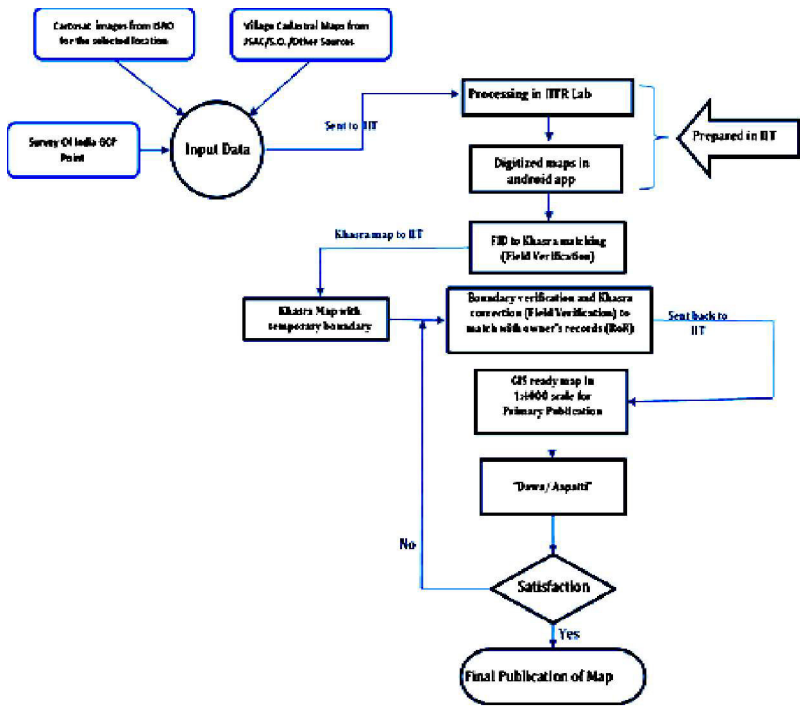
The Government of India through its ambitious Digital Land Record Modernization programme has taken an initiative to use various modern technologies for preparing state of art data of land holdings in the country. The state of Jharkhand has already put in use the modern techniques for streamlining its revenue work through its **Jharbhoomi** portal which provides on stop facility for mutation, online lagan and land measurement. But in absence of proper backend data (like current updated record of rights and GIS ready maps) full-fledged objective of DLRMP may not be achieved. Taking this in view by publishing the Gazette through Notification No.731 dated 6.12.2017 the Government of Jharkhand has adopted the application of modern technology in the ongoing survey operations in 875 villages in and around Ranchi.

With the partnership of IIT Roorkee an agreement was signed to carry out the pilot project.

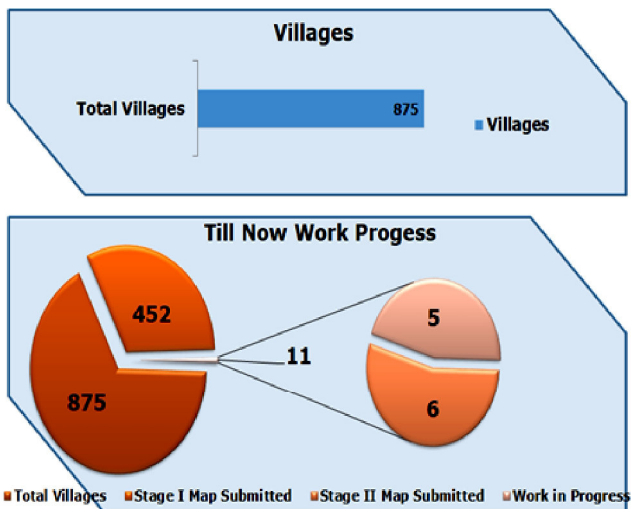
Geo- referenced survey to map physical boundaries of each land holding at cadastral level for the villages under various districts in Jharkhand including collection of necessary data carrying out survey/ resurvey using modern methodology of TS- DGPS- High Resolution Satellite Images and in Particular-

- Collection of necessary survey of India and Forest survey of India/ Forest MIS Maps in digital format existing cadastral maps and land holding details in various prescribed formats (Vector/ Raster maps with layered data), existing cadastral maps and land holding details etc. in various prescribed formats for client.
- Survey/ resurvey and updating of the survey and settlement records (including ground control network and ground truthing) using modern technology options such as high resolution stereo satellite photogrammetric processing with DGPS or Hybrid methodology using aerial photography and ground truthing by TS and DGPS or any other acceptable method as per guidelines of DILRMP.
- Preparation of GIS ready Cadastral maps obtained from survey
- Integration of textual data and spatial data to verify the land holding details.
- Submit the final GIS-ready cadastral maps and holding details in any editable open source format.
- Train the client's field staff in usage and application of the software and hand holding in performing the field survey. Through our association with our consultant during their field work of preparing Stage-I maps we were enlightened in the use of modern techniques nonetheless we got some exposure of limitation of its use in our traditional survey operations. For e.g. - the satellite data which are used for the preparation of final maps takes into account every undulation on the ground (even bunds made by the farmers on their own land for irrigation purposes) thus *polygons* prepared on such maps may not provide actual division of plots on the basis of ownership of the holding. Though during the preparation of Stage-II map ground truthing is done by the consultants but trained revenue staffs may be needed to solve this machine generated error.

Methodology of Survey / Resurvey Work, Jharkhand



Work Completed



Summary:

1	Total assigned villages:	875
2	Digitized/ Physical maps available:	875
3	KML and Android maps available to begin the field survey:	584
4	Field Verification process under progress:	15
5	Field Verification process completed:	8
6	Stage-1 Maps Submitted at Settlement Office:	515
7	Stage-2 Map Submitted at Settlement Office:	6

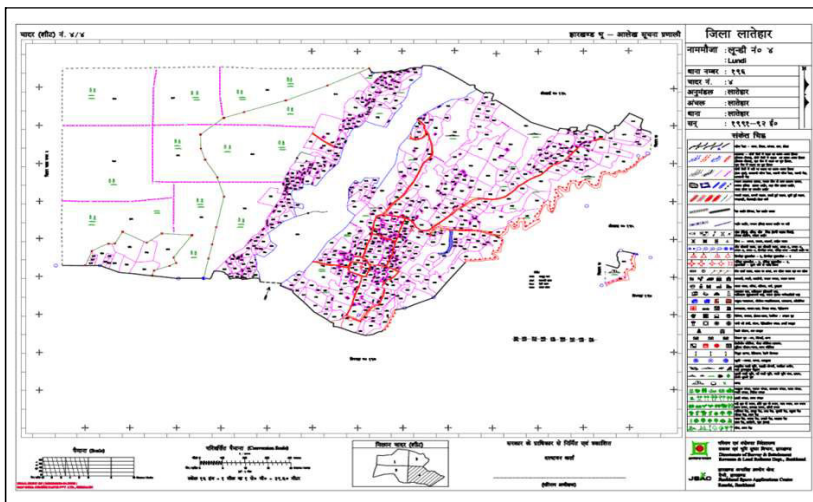
Region	District	Anchal	No of Assigned Village
Rural Villages	Ranchi	Itki	1
		Bundu	19
		Namkum	8
		Tamar	9
	Simdega	Bano	93
		Jaldega	60
		Bansjor	19
		Kolebira	53
		Simdega	1
		Tethaitangar	61
	Khunti	Erkitamari	128
		Khunti	156
		Murhu	133
		Rania	67
		Torpa	67
Urban Villages	Ranchi	Kanke	36
		Ratu	11
		Khijri	23
		Bundu	2
	Gumla	Gumla	5
	Khunti	Khunti	10
		Murhu	1
	Simdega	Simdega	4
Total			967

Digitization of Cadastral Sheets

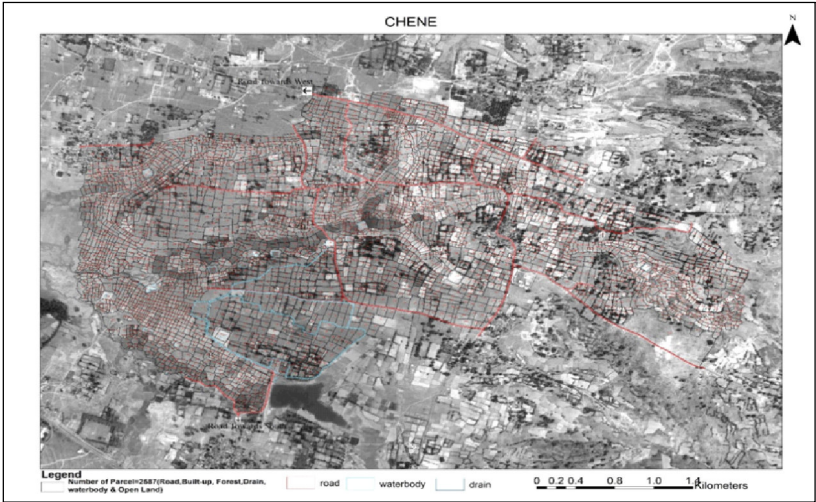
Original Cadastral Sheet



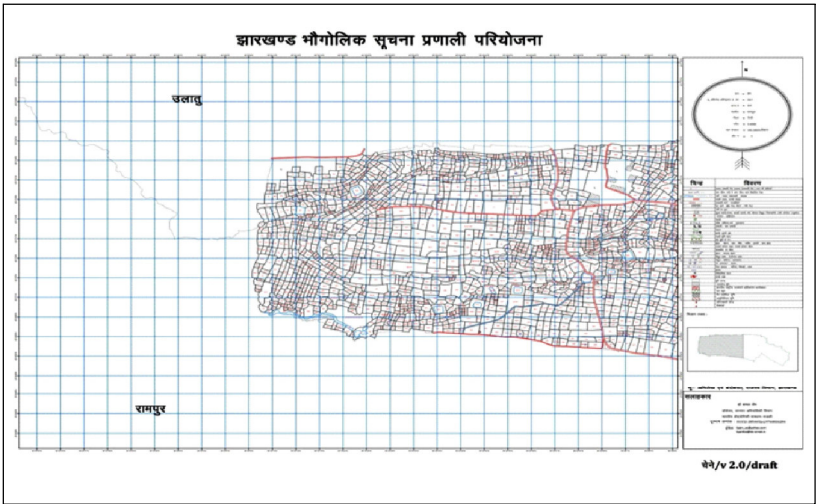
Digitized Cadastral Sheet



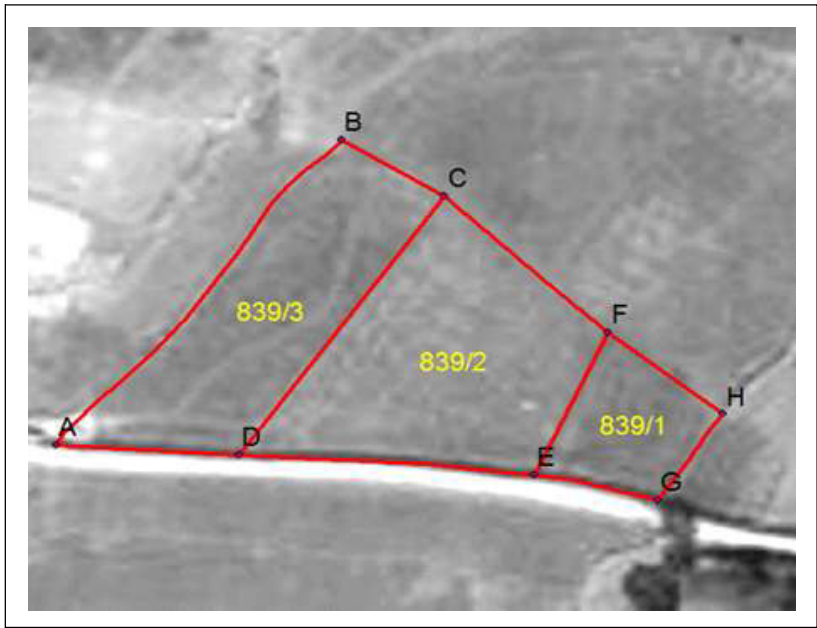
Stage-I
Preparation of Nazri Naksha Map



Stage 2
Sheet 1 of Chene Village



Geodetic Coordinates



Geodetic Coordinates

Point	Longitude	Latitude
A	85.434479	23.288171
B	85.434953	23.288731
C	85.435129	23.288624
D	85.434788	23.288147
E	85.435284	23.288092
F	85.43541	23.288365
G	85.435596	23.288173
H	85.435491	23.288039

The geodetic coordinates refer to the latitude and longitude of each and every plot. Though the work is under progress there have been few areas of concern. For instance after completing stage I when ground truthing happens there is need of extensive manpower which we are lacking at the moment. There are terrain issues which are being tackled on a day to day basis. From the field

experts what we understand that this method is useful for areas which are not densely populated. Aerial photography will be needed to cover areas of dense population to improve the accuracy.

References:

www.jharbhoomi.nic.in

DGPS: Differential Global Positioning System

The B. N. Yugandhar Centre for Rural Studies (BNYCRS) is a Research Centre of Lal Bahadur Shastri National Academy of Administration, Mussoorie. It was set up in the year 1989 by the Ministry of Rural Development, Government of India, with a multifaceted agenda that included among others, the concurrent evaluation of the ever-unfolding ground realities pertaining to the implementation of the Land Reforms and Poverty Alleviation Programmes in India. Sensitizing of the officer trainees of the Indian Administrative Service in the process of evaluating of land reforms and poverty alleviation programmes by exposing them to the ground realities; setting up a forum for regular exchange of views on land reforms and poverty alleviation between academicians, administrators, activists and concerned citizens and creating awareness amongst the public about the various programmes initiated by the government of India through non-governmental organizations are also important objectives of the B. N. Yugandhar Centre for Rural Studies. A large number of books, reports related to land reforms, poverty alleviation programmes, rural socio-economic problems etc. published both externally and internally bear testimony to the excellent quality of the Centre.



B. N. Yugandhar Centre for Rural Studies

Lal Bahadur Shastri

National Academy of Administration

Mussoorie—248 179

EPABX Lines : +91.135.2222000, 2632405, 2632236, 2632489

FAX : 0135-2632350, 2632720

Web : <http://www.lbsnaa.gov.in>