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reflect settled conclusions of the NAC

Presentation in the NAC on
“Modernization of Land Records and
Computerization of the Registration
Process” by the Ministry of Rural
Development

(22nd August 2006)

NATURE OF LAND RECORDS IN INDIA

- *Village level land records prepared by revenue departments in States and maintained in accordance with their land revenue acts: with*
- * a permanent/ semi-permanent component covering
 - -land revenue demand (where this tax is still being collected),
 - -ownership (including government, local body and common land),
 - -cultivation status (including fallow, waste and forest land, land meant for building construction and the actual cultivator),
 - -nature of land (including irrigation, soil and other relevant particulars) &
- * a seasonal component relating to crop grown
- *annual reconciliation through detailed local inspection supervised by taluk and subdivisional officers.*
- *The extent to which these procedures have been followed differs from State to State and even among regions within States.*

CURRENT CONDITION OF LAND RECORDS ADMINISTRATION

-Enormous confusion at village level due to:

- *frequent induction of revenue department officers for emergency tasks like calamity relief,
- *reduction of land revenue to an insignificant State resource due to failure to take up resurvey and settlement operations and raise tax rates and
- *mounting arrears of unreconciled mutation slips for incorporation into revenue records due to acute shortage of surveyors

-Adverse effects on rural residents who seek access to valid certificates of ownership or cultivation for statutory and commercial transactions:

- *Lack of transparency encouraging
 - rentseeking
 - arbitrary behaviour by officials
 - increased transaction time and costs for farmers when they apply for crop loans twice a year for agricultural operations or wish to make investments in land development, transfer land rights (for short or long periods), convert land to non-agricultural use etc.

ONGOING INITIATIVES-COMPUTERISING LAND RECORDS

- Since 1988-89, for *better governance & administrative efficiency*
- Central grants to States for providing
- instantaneously from the computer on demand
- copies of one village record: the record of rights, tenancy and cultivation (RTC or RoR) maintained in villages, sought by farmers annually to obtain short term crop loans and temporary or permanent transfer of farm land rights.
- So far, 3495/4536 tehsils or blocks in 582/593 districts covered,
- computerized RoRs given on demand in Gujarat, Goa, Karnataka, Maharashtra, Rajasthan, Tamilnadu, Uttar Pradesh, Uttaranchal and West Bengal.
- in Goa, Gujarat, Karnataka, Tamilnadu, Uttar Pradesh, Uttaranchal and West Bengal manual RoRs have been replaced by electronic RoRs.

SHORTFALLS OF CLR SCHEME

- Long tortuous implementation due to:
 - *low prioritization of the program &
 - *systemic factors which favour concealment of land ownership and cultivation status and obstruct rapid transition to a transparent accessible format.
 - *focus of the program so far only on providing on demand copies of one critical village record
 - *no action to link up village records or
 - *automatise annual reconciliation processes or
 - *connect computerized RoRs directly with crop lending cooperative institutions to eliminate transaction costs for farmers.

Scheme for strengthening revenue administration & updating land records

-From 1987-88,

-matching Central grant to States for

*purchase of modern survey & digitisation equipment,

*construction & furnishing of training institutes, revenue offices & record rooms &

*purchase of equipment related to computerisation & maintenance of land records.

-However,

*funds often used to build edifices and

*no long term plan to achieve specific outcomes.

REGISTRATION OF LAND TITLE

-Permanent or temporary transfer of land rights done through:

- *sale,
- *inheritance,
- *mortgage,
- *partition,
- *tenancy etc.

-Under Entry 63 of List II of the Constitution, States fix rates of stamp duty on documents relating to transfer of such land rights:

- *enacting own legislation or
- *adopting the pre-independence law-the Indian Stamp Act-with appropriate modifications.

STAMP DUTY & REGISTRATION FEE

-Two types of levies raised by States on transfer of land rights:

*stamp duty-

**computed on *ad valorem* (based on the value of the transaction- proportionate or slabwise) and

**specific basis (fixed fee per transaction)

Unlike other taxes, it is collected before the transaction takes place by agencies which sell stamps, which are then affixed to the documents used to formalize the transaction.

-As stamp duty is a tax, no *quid pro quo* service is expected from government in return, but

-high rates of State stamp duty drive taxpayers to invent ingenious ways of tax avoidance.

-Recently, States themselves and the Ministry of Urban Development have reduced stamp duty rates as part of the urban reform strategy resulting in substantial reduction in duty rates and evasion

IMPLICATIONS OF REGISTRATION

-indicated in Part X of the Registration Act:

- *Registered document has greater evidentiary value than oral transaction.
- *Compulsorily registrable documents cannot be taken as evidence or as conferring a right without registration. (deterrent which induces persons to register documents and consequently pay stamp duty)
- *Preservation of the document and
- *Making it available for public scrutiny on payment of a fee.
- *Registration authorities often issue encumbrance certificates recording (as indicated by reference to documents preserved by them) legal encumbrances on identified pieces of property (the specific service offered by government in return for registration fee).

STATE LEVIES-REGISTRATION FEE

- The registration process is the mechanism used to detect stamp duty evasion.*
- Regulated by Central legislation under Entry 6 of the concurrent list (List III of Schedule VII) of the Constitution (The Registration Act of 1908 applied with Statelevel amendments)
- Registration duty not a tax but a fee: paid in return for specific services rendered by the State (a *quid pro quo* between the citizen and the government agency and the registration cost cannot be higher than the cost of rendering the service.)
- Hence, registration fee charged by States is much lower than stamp duty.
- Fees are a flat rate or a low percentage of the stamp duty.
- Registration mandatory only for certain types of documents relating to transfer of land rights

NEED FOR CONCLUSIVE TITLE-TORRENS SYSTEM

- Registering department does not
 - *confirm validity of the transaction or
 - *rights of those registering the document to enter into the transaction nor
 - **suo moto* alert interested parties or those registering the document about existing legal rights to the property.
- Hence, it is essential to guarantee conclusive title (even title insurance)-the Torrens system to reassure those who register property transactions of their unencumbered title to properties indicated in the documents.

ONGOING PROGRAMS FOR IMPROVING REGISTRATION

- States have taken the initiative to computerise different areas of the registration process using:
 - *budgetary resources or
 - *outsourcing some processes to private agencies, who have been authorised to collect user charges.
- Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Tamilnadu, Uttar Pradesh & Uttaranchal have made progress in different degrees in computerising registration of immovable property transactions
- The Department of Information Technology also has some small pilot projects

FORMULATION OF A FRESH PROJECT

- NAC recommendations studies by DoLR
- CoS chaired by Cabinet Secretary met on 9/8/2005 & directed DoLR to formulate the fresh project in consultation with States
- Committee headed by Secretary (RD) evaluated modern technology options for survey/resurvey with inputs from NIC, SoI & NRSA in consultation with States

*Ground survey using GPS & ETS

*Aerial photography plus GPS & ETS

*High resolution satellite imagery plus GPS & ET

Subject of registration allotted to DoLR

FORMULATION OF THE FRESH PROJECT

- Indepth consultations held with States and UTs

*meeting with Revenue Secretaries-September 2005

*conference of Revenue Secretaries-June 2006

*video-conferencing with States & UTs-July 2006

Broad consensus of States & UTs secured on objectives & components of the project & long term goal of moving to conclusive titles

CoS met again on 27/7/2006, reviewed action taken & approved outline of project to be posed to EFC

ELEMENTS OF PROPOSED MODERNISED LAND RECORDS MANAGEMENT

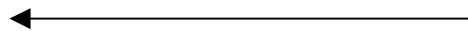
Village Record of Rights
(Rights, Tenancy & Cultivation)

Registration of change
in title



Provide survey map
of holding, to scale

Record title changes
in RoR



EXPECTED OUTCOMES-I

I. Set up a secure structure which

a) produces

-on demand

-with minimum possibility of rent seeking

*legally accepted record of

**farm land title,

**physical condition &

**cultivation status

*& map (to scale)

&

EXPECTED OUTCOMES-II

- b) provides
 - with minimum possibility of rent seeking
 - *facility for transferring title to immovable property
 - *quick recording of changes in title by automatic generation of mutation notices to all interested parties
 - *knowledge of title changes in immovable property & encumbrances
 - *value of property for taxation purposes-automatic generation of guidance value to compute stamp duty & payment of duty without stamp paper
 - *guarantee of conclusive title to immovable property
- II. Increase efficiency of back end land record updation, provide for automatised real time reconciliation & efficient administration
- III. Set up MIS & data bank for understanding land & immovable property market & policy formulation

PROCESSES REQUIRED TO ATTAIN OUTCOMES

- Authenticated computerised RoR should be made available on demand to land owner, interested parties & credit institutions

- Calls for:

*updation & validation of land records

*adoption of uniform standard land data codes

Solutions possible for data dissemination:

-put it on web

-interlink through LAN or WAN in secure environment

-Easiest method for authentication on demand without corruption to be identified by DIT/NIC

-Program should be developed & implemented for regular automatised reconciliation of village records

PROCESSES REQUIRED TO ATTAIN OUTCOMES

- Village maps & survey number subdivisions should be updated after resurvey where required, digitized & integrated with word data
- *Update without resurvey as far as possible:*
- *where resurvey essential, best technique for quick, accurate resurvey to be identified consulting NRSA, Survey of India, DST, NIC etc.*
- as considered by the committee on computerisation of land records of MoRD of April 2005 choice of technical option may also be left to States*
- Secretary (Department of Space) has recommended use of satellite data @ Rs. 1000/sq.km. (total cost Rs. 200-300 crs.) & hybrid photogrammetry with DGPS for resurvey @ Rs. 10000/sq.km.(rural)/Rs.30000/sq.km./ urban*

ESSENTIAL ELEMENTS OF COMPUTERISED REGISTRATION PROCESS

Computerised generation of guidance values

Elimination of stamp paper & endorsement by banks of payment of stamp duty & registration fee with connectivity to registration offices & treasury

Automatisation of the registration process:

-connectivity needed with village RoRs to read details of existing title & interests

-recording of registered title in permanent record of the registration office

Computerised scanning of registered document & immediate release to parties

Computerised issue of record of titles & encumbrances to users

Old title legacy documents must be digitised and preserved for encumbrance certification

Old records have to be computerised up to a determined period

INTEGRATION OF REGISTRATION & VILLAGE RECORDS

- Title changes can for the moment be ported on computerised village records only after going through a process of calling publicly for objections;
- When registration itself becomes a process of obtaining conclusive proof of title, changes in title through registration can be ported online on village records
- At present, notices can be issued online from land records office for title changes effected by registration
- Applications for change in title in land records to be traced online

Secure connectivity necessary between registration office & land records office &

Common code for linking up both sets of documents

SERVICE LEVELS TARGETED

SERVICES	DELIVERY TIME
• Copy of RoR & map to scale	15 minutes
E RoR	Online
Statistical reports	30 minutes
Data at banks	Online
Encumbrance certificate	15 minutes
Valuation details	Online
Stamp duty payment	through bank
Registered deed	30 minutes
Issue of mutation notice	30 minutes

OFFERING CONCLUSIVE TITLE TO LAND

- Study processes adopted in some developed & developing countries for shifting to new system
- Prepare statutory changes for offering conclusive title
- Identify methods for giving widespread publicity to ensure that all interested parties are enabled to put forward claims & these are disposed of where necessary in a quasi-judicial forum
- Adopt title determination processes as soon as records are updated, survey completed as required, digitized maps are tied up with authenticated RoR data & processes put in place for continuing maintenance of data & maps

ELEMENTS OF PROPOSED MODERNISATION SCHEME

- Combine two existing schemes of the Department of Land Records & drop the provision for buildings, as this can be met on the nonPlan side through Finance Commission grants
- Provide assistance to States to:
 - 1) Computerise land records
 - 2) Complete survey & digitisation of land records &
 - 3) Computerise registration
 - 4) Then arrange for automatic issue of notices to start the mutation process in RoRs to record changes effected by registration

The ultimate goal is to provide conclusive title

ACTIVITIES AND AGENTS

- At the Central level, undertake codification, standardisation & development of security protocols & backup mechanisms using NIC
- Determine networking methods among revenue offices, credit institutions, private kiosks (with privacy & access control) using NIC
- Build up national data bank using NIC
- Arrange for training (DoLR)

LEGAL REQUIREMENTS

- Undertake consultancies for developing the statute for establishing conclusive title
- Obtain statutory changes in Central registration act
- Induce changes in State stamp acts to abandon stamp paper etc.
- Induce adoption of a modern Land Revenue Act in States where required

PROCESSES PROPOSED FOR ADMINISTERING SCHEME

- In view of the variety of laws & procedures in States, differing requirements & different stages in computerisation, projects have to be customised as needed & developed by States, using an appropriate mixture of private & public sector players
- DoLR will develop a common template of outcomes for State projects & a minimum list of requirements to be fulfilled by them
- State projects should propose the time frame, phased fund requirement & processes for achieving fixed outcomes
- State projects will be approved with reference to the template by a committee in MoRD on which DIT (NIC), NRSA, Survey of India etc. will also be represented
- State projects & progress in implementation will be monitored by a committee in MoRD headed by Secretary (RD) with DIT (NIC), NRSA, Survey of India etc. as members

SPECIFIC TASKS FOR DIT/NIC

- Indicate & facilitate application of best method for issue of authenticated copy of RoR on demand without scope for corruption
- Identify best technique for quick, accurate resurvey; the report of the committee on computerisation of land records of MoRD of April 2005 has to be considered
- Advise & facilitate connecting registered documents with village RoRs
- Standardise codes & develop & enforce system security; details worked out in committee's report
- Develop common data bank using State data & put it to use for everybody; details worked out in committee's report

TIME FRAME & FUNDING

Rs. 150 crs. are available annually under the 2 existing schemes of DoLR; additional requirement for XIth Plan being finalised

Cabinet clearance for the CMLR scheme is targeted for end October

Projects of some States could be cleared before the end of the current financial year

By the end of the Eleventh Plan, some States should be able to offer conclusive title during the registration process in some regions

THANK YOU