

The Contemporary Approach and Transformation of Land Records: In the world of Digitization

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Abstract

Acquisition of piece of land and ownership of it transformed whole course of human civilization once upon a time. This transformation has guided ages of human existence in all spheres of his life. The invention of land records and its progressive history demonstrates the same transformation. The new era of digitalization has also not been immune from these waves of transformation. And hence, there is a need to overview the efforts of digitization and modernization of land records in order to assess its successes and failures and to transmute the failures into achievements for betterment of human rights.

The journey of the present research paper starts with introduction of meaning and various types of the land records. Then peeping through the historical background of the land records in India, the paper shows the dynamics of change in the maintenance of land records in India since its inception. Then the paper proceeds further with understanding the role played by modernization and digitization of land records in India. Then the present paper considers the various mechanisms implemented across various states to achieve digitalization and modernization of land records. All the foregoing aspects are studied in order to assess the efforts of digitization and modernization of land records in India.

Having considered the various initiatives of digitization and modernization of land records in India, the paper continues its journey through the evaluation of challenges faced by the central and state authorities and tries to locate the reasons behind them. Having understood the challenges posed and problems faced, the paper tries to put forth some solutions and suggestions in order to find a way to meet those challenges and to mitigate the negative impact of the problems.

Hopes the journey of this paper will help the reader to have a short but useful insight into role played by digitalization and modernization of land records in India.

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Introduction

Land is a remarkable asset due to its immobility and its value being closely tied to its location. Furthermore, as the population continues to grow, the demand for land consistently rises while its availability remains limited. The access to land or land rights has far-reaching implications on various aspects of life, including livelihoods, industrial development, and socio-economic progress. It has been observed that individuals who possess extensive land rights tend to enjoy greater prosperity compared to those who are landless, primarily because they have improved access to markets and various economic opportunities that arise from their land ownership.²

Access to land ownership is typically established through possession of a land title, which serves as a definitive document indicating ownership of land or immovable property. The possession of a clear land title is crucial as it safeguards the rights of the title holder from any competing claims made by others regarding the property. In India, the determination of land ownership relies on multiple records, including registered sale deeds, property tax documents, government survey records, and other relevant documents. These records collectively contribute to establishing and validating land ownership in the country.³ However, these documents are not a government-guaranteed title to the property, but only a record of the transfer of property. During such transactions, the onus of checking past ownership records of a property is on the buyer. Therefore, land ownership in India, as determined by such sale deeds, is presumptive in nature, and subject to challenge.⁴

Land Records

One of the key challenges faced by governance mechanisms today is the effective management of land records and ensuring the availability of readily accessible land information. The term "Land Records" encompasses a wide range of records, such as the register of lands, Records of Rights (RoRs), tenancy and crop inspection registers, mutation registers, and registers for disputed cases. Additionally, land records can also incorporate geological information pertaining to the land's shape, size, and soil type, as well as economic details concerning

² "Why land tenure is important", FAO Corporate Document Repository, <http://www.fao.org/docrep/005/y4307/y4307e04.htm>.

³ Policy, Analytical Reports, Land Records and Titles in India, PRS India, <https://prsindia.org/policy/analytical-reports/land-records-and-titles-india>

⁴ Prachee Mishra & Roopal Suhag, Land Records & Titles in India, PRS India, September 2017, https://prsindia.org/files/policy/policy_analytical_reports/Land%20Records%20and%20Titles%20in%20India.pdf

revenue to the government. This land revenue played a significant role as a primary source of government income. However, the rental payments that were to be made by tenant cultivators were not regulated and were subject to the discretion of the landlords. This lack of regulation enabled landlords to generate profits by charging rents that exceeded the required amount to be paid as revenue. In essence, the absence of rent control allowed landlords to exploit their position by imposing excessive rents on the tenants, leading to their financial benefit.⁷

With the primary focus of landlords being the maximization of rent collection, a system of land records was established and upheld to facilitate this process. These land records served as essential sources of information for land revenue assessment, including details such as the property's area and the individual in possession of the property. Following India's independence, the zamindari system was abolished, but land ownership continued to be determined through a combination of these records. The responsibility for land administration was transferred to the states, and the manual collection and maintenance of these records became the duty of respective revenue departments.

While land is primarily a subject under the jurisdiction of the State, the establishment of a National Land Reforms Policy is viewed as crucial in providing a policy framework that guides the actions of the Central Government, State Governments, and Panchayati Raj Institutions (PRIs) in the current context. This policy framework aims to introduce accountability at each level of governance. The Constitutional arrangements have entrusted the Union Government with the responsibility of ensuring the promotion of economic and social justice in the States. Land reforms continue to serve as a means of achieving distributive justice for marginalized sections of society and are thus aligned with the principles outlined in the Preamble to the Constitution⁸.

B. Mechanisms adopted for Maintenance -

The existing system of land records has remained largely unchanged since the pre-independence era, inheriting characteristics from the zamindari system. These land records traditionally focused on determining the current possessor of the land rather than explicitly identifying the owner. Consequently, the ownership of land is established based on the individual or entity presently in possession of the land. This determination of possession is

⁷ Ibid

⁸ Report of Committee on State Agrarian Relations and the Unfinished Task in Land Reforms, Ministry of Rural Development, Pg. 13, <https://dolr.gov.in/sites/default/files/Committee%20R-report.pdf>

established by tracing the sequence of past transactions related to the land or property in question.⁹

The transfer of land or property between a buyer and seller is recorded through a sale deed, which needs to be registered according to the current legal framework. Therefore, such registration of land refers to the registration of the transaction, and not the land title¹⁰. Such registration does not guarantee the title by the government. This implies that even bonafide property transactions may not always guarantee ownership as an earlier transfer of the title could be challenged.

At present, land can be transferred between parties through various means such as sale, purchase, gift, inheritance, mortgage, and tenancy. The Transfer of Property Act, 1882 stipulates that the right, title, or interest in an immovable property or land can only be transferred through a registered instrument. The Registration Act, 1908 serves as the primary legislation governing the registration of documents related to land. As a result, all sale deeds concerning land or immovable property transfers are currently registered under the Registration Act, 1908.

However, it is important to note that not all transactions require mandatory registration under the Registration Act, 1908. These exceptions include land acquisition by the government, court decrees, land orders, heirship partitions, and property leases for durations less than one year. Due to the exemption of heirship partitions from registration, many property divisions remain unrecorded, leading to uncertainties regarding the true possession of the property. This often results in legal disputes arising among the heirs regarding rightful ownership¹¹.

Land administration essentially involves recording, processing and dissemination of information about the ownership, value, and use of land. The system of land records management varies across states, depending on factors such as historical evolution and local traditions¹².

⁹ Policy, Analytical Reports, Land Records and Titles in India, PRS India, <https://prsindia.org/policy/analytical-reports/land-records-and-titles-india>

¹⁰ Cabinet note, National Land Records Modernization Program 2008, <http://nlrportal.nic.in/sharedDoc/doc/NLRMP-cabinetnote.pdf>.

¹¹ Prachee Mishra & Rupal Sahag, Land Records & Titles in India, PRS India, September 2017, https://prsindia.org/files/policy/policy_analytical_reports/Land%20Records%20and%20Titles%20in%20India.pdf, pg.no.7

¹² *Ibid* at 8

Today, land ownership can be determined through a set of documents. These include:

- a. The record of rights (RoR) is the primary record that shows how rights on land are derived for the land owner, and records the property's transactions from time to time. The structure of the document and the information it provides differs across states. Typically, it provides –
 - (i) names of all persons who have acquired some rights with regard to the land,
 - (ii) the nature and limits of their rights, and
 - (iii) the rent or revenue to be paid by them. These rights could be ownership, long-term lease-holds, or tenancy related. The RoR may also capture information regarding loans taken by the occupant, details on the rights of the owner or occupant of the land, and any community or government rights on the land.
- b. The registered sale deed to prove that the property has been sold from one person to the other, and the taxes on the sale have been paid.
- c. Spatial land records encompass specific information about a property that is visually represented on a map. These records include details such as land boundaries, plot area, connectivity with roads, presence of water bodies, information about the surrounding areas, land use classification (agricultural, residential, commercial, etc.), and the topography of the land. To ensure accuracy, the property-level sketch needs to be updated whenever a new entry is made in the Records of Rights (RoR) document.
- d. The process of updating these spatial land records is typically carried out through periodic surveys conducted by the Survey and Settlement department. These surveys are undertaken to gather the necessary data and make any necessary modifications or additions to the spatial land records. This ensures that the land records remain up-to-date and reflect the most current information regarding the property¹³.
- e. Property tax receipts.

Typically, the information mentioned above is documented and maintained primarily across three departments-

¹³ Ibid at 8



Thus, Land records are a combination of three types of data records:

- Textual (RoR),
- Spatial (maps), and
- Transaction details (sale deeds).

Three different state departments are responsible for each of this data on land records. In the presence of multiple agencies responsible for registration and maintenance of records, it is difficult to ensure that survey maps, textual data, and registration records match with each other and are updated. In addition, citizens have to approach several agencies to get complete information on land records. Most of these departments work in silos, and updating of records by any one of them makes the records of the others outdated¹⁴. Hence, all these poorly maintained systems of maintaining land records gave rise to the following evils in the whole system of governance-

- It led to increase in the litigation tied up with land which is prolonged in India for minimum 20 years and has adverse impact on future development of land as well.
- Land is often used as collateral for obtaining loans by farmers. It has been observed that disputed or unclear land titles inhibit supply of capital and credit for agriculture.⁴ Small

¹⁴ Ibid at 10

and marginal farmers, who account for more than half of the total land holdings, and may not hold formal land titles, are unable to access institutionalised credit¹⁵.

- c. With the shift of economy from being agrarian based to manufacturing and service based, the development of infrastructure is necessitated. However, several of the new infrastructure projects are witnessing delays, with land related issues often being a key factor¹⁶. These delays occur due to poor maintenance of land records.
- d. Inadequate land records have a detrimental impact on future property transactions. The lack of updated and consolidated data across various departments makes it challenging and burdensome to access accurate land records. To ascertain ownership claims on a particular property, one must navigate through several years of documents, including manual records. This process is not only inefficient but also leads to significant time delays in verifying property ownership¹⁷.
- e. Uncertain land titles and outdated land records create an environment where property transactions can occur opaquely. The Standing Committee on Finance (2015), while studying the Benami Transactions Prohibition (Amendment) Bill, 2015, highlighted that the generation of black money through benami transactions could be prevented and eradicated by digitizing land records and ensuring their regular updates. This implies that by implementing digital systems for land records and ensuring timely updates, the transparency and accountability in property transactions can be significantly enhanced, thus reducing the scope for illicit activities such as benami transactions and the generation of black money¹⁸.

C. Modernization & Digitization of Land Records-

- D. Over the past three decades, the central government has undertaken several initiatives to enhance the quality and accessibility of land records through the implementation of various schemes. One such scheme, initiated in approximately 1988-89, was the Computerisation of Land Records scheme, which aimed to computerize land records across the country. Concurrently, other schemes such as the Strengthening of Revenue Administration and the Updating of Land Records schemes were introduced to improve land records management and administration.

¹⁵ Ibid

¹⁶ Ibid at 4

¹⁷ Policy, Analytical Reports, Land Records and Titles in India, PRS India, <https://prsindia.org/policy/analytical-reports/land-records-and-titles-india>

¹⁸ Ibid at 5

- E. In 2008, these individual schemes were consolidated into a centrally sponsored program known as the National Land Records Modernization Programme (NLRMP). The NLRMP sought to streamline and modernize land records by integrating technology, improving data accuracy, and enhancing the overall efficiency of land administration processes. Through this unified program, the central government aimed to achieve comprehensive modernization of land records at a national level¹⁹.
- F. The National Land Records Modernization Programme (NLRMP) has been renamed as the Digital India Land Records Modernization Programme (DILRMP) and is now a component of the broader Digital India initiative. In April 2016, the scheme was converted into a Central Sector Scheme, leading to its implementation by the central government with full funding from the centre.

During the period from 2009 to 2016, the central government sanctioned approximately Rs 946 crore for the NLRMP, of which Rs 412 crore was released for implementation. These funds were allocated to support the modernization and digitization of land records, aiming to improve their quality, accessibility, and management across the country. The repositioning of the scheme as part of Digital India signifies the government's commitment to leveraging technology and digitization to enhance land records and streamline land administration processes²⁰.

The major components of NLRMP/DILRMP are the following:

Computerization of all existing land records including mutations (or transfers)

Digitization of maps and integration of textual and spatial data

Survey/re-survey & updating of all survey & settlement records including creation of original cadastral records (record of the area, ownership and value of land) wherever necessary

Computerization of registration and its integration with the land records management system

Development of Geospatial Information System (GIS) and capacity building

¹⁹ *Ibid* at 11

²⁰ *Ibid* at 11

DILRMP is currently being implemented in all states, but with differential progress. The following chart will clearly state the current progress statistics²¹.

Sr. No.	Component	Completed (Equal to or above 95 %)	Ongoing (Above 0% & below 95 %)	Not started (Equal to or below 0%)
1	Computerization of Land Records (CLR)	20 States/UT's: Andaman & Nicobar Islands, Andhra Pradesh, Bihar, Chandigarh, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, West Bengal	14 States/UTs: Assam, Chhattisgarh, Haryana, Jammu & Kashmir, Ladakh, Manipur, Mizoram, Nagaland, NCT Of Delhi, Puducherry, Rajasthan, Sikkim, The Andhra & Nagar Haveli & Daman & Diu, Uttarakhand	2 States/UTs: Arunachal Pradesh, Meghalaya
2	Digitization of Cadastral Maps	19 States/UTs: Bihar, Chhattisgarh, Goa, Gujarat, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Manipur, Mizoram, Nagaland, NCT Of Delhi, Odisha, Puducherry, Sikkim,	14 States/UTs: Andaman & Nicobar Islands, Andhra Pradesh, Assam, Haryana, Himachal Pradesh, Jammu & Kashmir, Maharashtra, Punjab, Rajasthan, Telangana, The	4 States/UTs: Arunachal Pradesh, Chandigarh, Ladakh, Meghalaya

²¹ Physical Progress of all States / UTs in Various Components, Digital India Land Records Modernization Programme (DILRMP-MIS 2.0), <https://dilrmp.gov.in/ocastp/rpt/PhysicalProgress.html>,

		Tamil Nadu, Tripura, West Bengal	Dadra & Nagar Haveli & Daman & Diu, Uttarakhand, Uttar Pradesh, Andaman & Nicobar Islands	
3	Integration of Cadastral Maps with RoRs	5 States/UTs: Bihar, Goa, Odisha, Tripura, West Bengal	22 States/UTs: Andaman & Nicobar Islands, Andhra Pradesh, Assam, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, NCT OF Delhi, Rajasthan, Tamil Nadu, Telangana, The Dadra & Nagar Haveli & Daman & Diu, Uttarakhand, Uttar Pradesh, Andaman & Nicobar Islands	10 States/ UTs: Arunachal Pradesh, Chandigarh, Haryana, Karnataka, Kerala, Ladakh, Meghalaya, Puducherry, Punjab, Sikkim

4	Computerization of Property Registration (CPR)	24 States/UTs: Andaman & Nicobar Islands, Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, NCT of Delhi, Odisha, Puducherry, Punjab, Rajasthan, Telangana, Tripura, Uttar Pradesh	9 States/UTs: Ladakh, Manipur, Meghalaya, Mizoram, Sikkim, Tamil Nadu, The Dadra and Nagar Haveli and Daman and Diu, Uttarakhand, West Bengal	3 States/UTs: Arunachal Pradesh, Lakshadweep, Nagaland
5	Integration of Land Records and Property Registration	17 States/UTs: Andhra Pradesh, Assam, Bihar, Chandigarh, Goa, Gujarat, Haryana, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, NCT of Delhi, Odisha, Rajasthan, Telangana, Tripura	13 States/UTs: Andaman & Nicobar Islands, Chhattisgarh, Himachal Pradesh, Karnataka, Ladakh, Mizoram, Punjab, Sikkim, Tamil Nadu, The Dadra & Nagar Haveli & Daman and Diu, Uttarakhand, Uttar Pradesh, West Bengal	

Computerization of Land Records (Record of Rights)- 6,18,856 Revenue Villages / 6,56,669 Total Villages- Current Statistics are as follows²².



These statistics reveal that the progress of the digitization of the land records is commendable. Most of the types of the records are modernized and digitalized.

This central government's scheme seeks to create a system that will help move towards conclusive titling. Guaranteed Conclusive title systems have been developed and adopted in countries such as Australia, New Zealand, United Kingdom, and Singapore²³. The conclusive title system is based on four basic principles²⁴.

- a. A unified platform for land records is envisioned, encompassing a single window system that facilitates the maintenance and updates of textual records, maps, survey, and settlement operations, as well as the registration of immovable property. The cadastral records reflect all the significant and factual details of the property titles. The record of title is a true depiction of the ownership status, mutation is automatic following registration, and the reference to past records is not necessary.
- b. Title insurance entails the government providing an assurance of the correctness of the title and offering compensation to the title holder in the event of any losses resulting from title defects.

Way Forward

Though the statistics look appealing and satisfying, the reality on the ground is way different. The digital access to everyone in every corner of India is not yet established. There are so many parts of India where a simple internet connection does not work. When the Government is

²² Ministry of Rural Development, Government of India, <https://airmp.gov.in/faqs/common/dashboard.html>

²³ Policy, Analytical Reports, Land Records and Titles in India, PRS India, <https://prsindia.org/policy/analytical-reports/land-records-and-titles-india>

²⁴ Prachee Mishra & Roopal Sahng, Land Records & Titles in India, PRS India, September 2017, https://prsindia.org/files/policy/policy_analytical_reports/Land%20Records%20and%20Titles%20in%20India.pdf, pg. no 11

digitizing the records, the access to such records must also be ensured. Most of the rural India requires this access but they are the only ones who are deprived of simple internet connectivity. This digital divide needs to be addressed on priority basis as one of the pre requisite component to achieve success of the digitization policy.

Secondly, many a times, sign and seal of the revenue authorities is demanded by judicial authorities to admit the digital land records as a piece of evidence in any judicial or quasi-judicial trials. This issue needs to be resolved at policy and legislative level so that the basic purpose of digitization gets achieved.

Thirdly, while conclusive titling has been suggested as the solution to solve the problem around land records in India, several steps need to be completed before the government starts giving out guaranteed land titles. These steps include:

- a. amending laws across centre and states.
- b. administrative changes at the state level that streamline the collection and maintenance of land data, and
- c. ensuring that all data is regularly updated and easily accessible (on a digital platform)²⁵.

DLRMP has so far been focusing on the last aspect of digitising and updating of records. Further, the programme's progress has been slow. Processes such as surveys and re-surveys, which would help update the spatial records have been going on at a slow pace due to the huge volume of records.²⁶ Though the records are modernized and digitalized, their synchronization through multiple departments remains unattended in each and every state. There is no single window access system for citizens to have all comprehensive land records of land possessed or owned by them. The system of digitalization must not only concentrate upon the preservation and modernization of land records. It must also focus upon the easy accessibility and timely availability of those digitalized land records to the needy person. Then only the modernization and digitization of land records will achieve its social purpose.

Law demands a piece of paper as evidence and this piece of paper decides the fate of many rural and urban land owners and possessors. The aim of the digitalization policy is commendable and it is the need of the hour; However, its success can be really achieved when the needy citizens of India can easily access the digitalized records and the law will recognize

²⁵ Ibid at 14

²⁶ Ibid at 14

this digital piece of paper to decide the fate of land owners and possessors across India on uniform basis.

