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A Strategy for Improving Land Administration in India

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INTRODUCTION

In India, as in many developing countries, land continues to have enormous economic, social, and symbolic relevance. How access to land can be obtained, and how ownership of land can be documented, are questions essential to the livelihoods of the large majority of the poor, especially in rural and tribal areas. Answers to these questions will determine to what extent India's increasingly scarce natural resources are managed. Moreover, land policy and administration are critical determinants of the transaction costs associated with accessing and transferring land, both for business and residential use. This will affect how easily land can be used as collateral for credit and the development of the financial sector. Land continues to be a major source of government revenue through stamp duties, and is a key element in implementing a wide range of government programs. Land policies and institutions will have a far-reaching impact on the country's ability to sustain high rates of growth, on the degree that economic growth benefits the poor, and on the level and spatial distribution of economic activity.

This importance of land, together with the central institutional role of land administration that dates back to colonial days, implies that land policy has long been the subject of animated debate. There is consensus that land administration—which fell into neglect after independence—is in urgent need of improvement. How to bring about such improvement most effectively, to improve land access and productivity of land use in a sustainable fashion are important questions. The issue is not 'whether' but rather 'how' to do so most effectively and how to sequence policy interventions.

INSTITUTIONAL STRUCTURE AND CHALLENGES

Most of the institutions and processes for administering land in India were adopted from the British at Independence and have been modified only slightly since. The principal purpose of those institutions was to generate tax revenues, and as such they focused on productive rural areas, leaving 'marginal' rural and urban areas outside the system. The distinction was difficult to justify in the first place, but has become even more archaic in three respects.

First, and most importantly, any piece of rural land that had been transacted through sale at any point after 1882 thereby entered the land registry system. This implies that records about the transaction are maintained by both the revenue department and the stamps and registration department. The overlap increases transaction costs and creates the potential for fraud resulting from inconsistent records. While merging the two departments is unlikely, clarifying the legal situation of land records and ensuring back-office integration will be essential.

Second, rural areas near the urban fringe have become increasingly urbanized, with marked increases in land values. This warranted surveys, but survey departments' responsibility to maintain accurate spatial records of land ownership often lapsed, passing *de facto* to municipal corporations that maintain spatial records for strictly tax purposes. Some have done so relatively well, implying that spatial records that were established for tax purposes could, in principle, be used as a basis for ownership records. Other munici-

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pal corporations did not live up to the task, resulting in outdated map products of inferior quality that appear to be one reason for high levels of land-related conflict. Such conflict affected 28 percent of all peri-urban parcels according to one pilot study. Clarifying institutional responsibilities to eliminate the 'spatial data vacuum,' and entrusting one single agency with sufficient capacity to maintain spatial records in rural and urban areas will be important.

Third, revenue lands that were once wastelands and therefore not subject to survey, have increasingly been brought under cultivation. Because they are home to the most marginalized populations, confirming land ownership and extending administration to these areas is critical for poverty reduction as well as for environmental sustainability. Doing so will require clarification of the interface between revenue and forest departments and a broadening of the types of tenure formally recognized to include, for example, forms of communal ownership. The recent passage of the Forest Rights Bill opens up a wide range of opportunities for implementation in this respect.

IMPROVING TEXTUAL LAND RECORDS

Experience with computerization suggests that best practice built on innovative solutions by states that was then scaled up, drew on India's strengths in IT, made extensive use of sub-contracting and public-private partnerships to deal with public sector weaknesses, and focused on broad coverage and quick roll-out. It also points towards a number of remaining challenges in the area of spatial data and policy regarding registration fees and integration of systems.

Computerized land registries and revenue records are now operational in Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, and Tamil Nadu, and reviewing data from these sources yields a number of practical insights on best practices and challenges. These computerized innovations draw on India's comparative strengths in information technology and extensively utilize subcontracting and public-private partnerships to overcome weaknesses in the public sector. Computerization has significantly reduced the scope for the kinds of petty corruption that traditionally characterized access to land records. It has also improved the quality of government service delivery, generating large surpluses from user fees in states where manual records have been abolished, and helping to improve access to credit. Computerization has an effect on villagers' attitudes towards state bureaucracies that may be very important in environments where governance is an issue. A number of states have used computer technology to help integrate revenue records and the registry, and sometimes spatial data. Undertaking surveys before mutation can provide registry officials with access to the database of land records before registering a document. These developments point to important potential for further improvements that should be capitalized upon.

Box 1. Using Land Records to Improve Governance

In many countries, land administration is one of the most corrupt public services, together with the courts and the police. In addition to outright fraud in the allocation and management of public lands, a key reason for this is that users are often required to pay bribes to receive regular services. The sums involved can be large very large. In India, bribes paid annually by users of land administration services are estimated at $700 million (Transparency International, 2006), three-quarters of total public spending on science, technology, and environment. At the same time, modernization can have significant benefits. For example, in Karnataka, computerization of textual records is estimated to have saved users $16 million in bribes (Lobo and Balakrishnan, 2002). Using this as a basis to automate registration and the associated valuation allowed cuts in stamp duty from 14 percent to 8 percent and quadrupled tax revenue from $120 to $480 million.

Source: By Klaus Deininger

private sector surveying is not allowed in most states and heavily circumscribed even where it is permitted. There are many examples of proper regulatory frameworks for private sector surveying, and drawing upon these examples could enable the public sector to concentrate its survey activities on critical areas and to improve service delivery. India's tradition of self-help groups offers considerable—but so far severely underutilized—potential to employ 'barefoot surveyors' to provide a range of land administration services to the poor.

CONCLUSION AND NEXT STEPS

Land administration and policy in India are complex and vary considerably across states. The above experience suggests that they form an integrated system and that trying to separate out different but unconnected 'boxes' –e.g. registry and records or survey or rural-urban- is unlikely to help improve the performance of the system. In this sense, most past efforts have made a promising start but still only solved part of the problem. Policy makers also underestimate the intimate links between land administration and policy, in both directions, at their peril. Although land administration is highly technical, no amount of technical sophistication will neutralize the impact of adverse policies that discourage the use of these very systems. At the same time, land administration provides important tools with which to implement policies. In fact one reason why India has no shortage of bold land policy initiatives for the poor which look very attractive on paper but could not be implemented in practice, is the fact that its land administration system is weak in general and often non-existent or dysfunctional in the areas where the poorest live.

To make progress towards the long term goal of improved land administration and policy in India, a number of immediate steps are recommended. First, expand computerization and integration and use of textual records to ensure full coverage. Second, establish a spatial framework capable of achieving full coverage with reasonable time and resource requirements, at lest in the medium term. Third, pilot ways to improve textual and spatial records for well-defined situations to establish processes that can be scaled up rapidly, improving textual and spatial records. Fourth, allow private sector participation in surveying, focusing government on a regulatory role, reduce stamp duty rates, and explore the scope for replacing them with a land tax. Finally, complement restrictions on tribal alienation with flexible mechanisms providing them with property rights. While this is a tall agenda, the ingenuity demonstrated in computerizing textual records and the ability to draw on pilot initiatives in many states as well as the experience of other countries suggests that a concerted effort to set benchmarks and standards, which can then be scaled up rapidly, has considerable potential to overcome current bottlenecks, create synergies, and bring about significant improvement.

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