Digitalised Land Registration System in Karnataka:
Implementation of Urban Property Ownership Records (UPOR)

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FUNCTIONAL ARCHITECTURE OF INTEGRATION PROCESS IN RESPECT OF URBAN PROPERTY RECORDS PROJECT, KARNATAKA

Background

The process of rapid urbanization in Indian cities has shaped economic growth and massive migration from rural areas to urban centres throughout 1990s to 2000. Therefore, cities have become major centres of industrial development and have contributed to boom in construction and service sector industries. The expansion of these sectors has created enormous job and investment opportunities and urban sprawl. By 2025, 50 per cent of Karnataka's population (40 million) is expected to live in urban areas. The smooth functioning of an economic system requires an accurate and efficient maintenance of the existing land record system, in order to carry out any land related transactions. The increased urbanization process has created complex land transactions. In the light of a manifold increase in disposable incomes, the property transactions also have increased substantially as evidenced by a spurt in the number of property registrations especially in metropolitan cities in the recent years. Some of the problems associated with urban land transactions include - an unnatural increase in the demand for urban property, creation of fake documents, 'benami' and fraudulent land transactions, coupled with insufficient checks/control at various official levels for monitoring irregularities taking place - all these serve to increase public insecurity. A study conducted by Mckinsey in India showed that India loses 1.3 percent of its potential growth due to poorly maintained land records. Much of the registration process in India does not result in valid ownership titles. Hence, more than 70 per cent of legal disputes are land based.

Though the constitution of India guarantees right to property as a fundamental right, later with 44th constitutional amendment in 1978, the right to property was reduced to the status of legal right and is no longer a fundamental right with constitutional remedies. In Karnataka, land use is regulated by Karnataka Land Reforms Act of 1964 and Indian Registration Act of 1908. While these acts envisage the compulsory registration of sale of land, they do not provide for registration of title, but only result in a deed of transaction. Moreover in the absence of authentic property documents, there is a misconception among the urban citizens that the municipal 'Khata' is the legal property document indicating the title status. This apart, most of them do not register their property transactions with the authorities concerned for many years unless it is a sale or partition of their properties. Most people are not aware that both the sale deed and 'Khata' are not considered legally valid neither do they guarantee title/ownership of a property. These documents serve merely as proxies for absence of title. A sub-registrar authenticates only transactions, not titles. The state is unable to protect land rights of its citizens which are threatened by large scale encroachments, court litigation and land mafia. Therefore, there is a lacuna in existing legal framework concerning ownership of land. Though the central government then sponsored the Computerisation of Land Records (CoLR) scheme to tackle the recurring problems owing to inadequate land records system in 1988, but was never implemented. Again in 2008-09, an attempt was made by launching the ambitious National Land Records Modernisation Programme but was not implemented. Hence, the need for a system of state guarantee of land title or property which can ensure and protect local land rights is very important. Therefore, the need for computerized process of land title registration system introduced in Karnataka for urban centres cannot be overlooked.

The overall objective of the study was to set the framework for a sustainable expansion of UPOR in issuing Property Cards (PCs) for all the eligible urban property owners and to enable the Revenue Department to monitor progress and detect problems immediately. To do so, the study reviewed UPOR implementation with specific reference to issues affecting the system, costs compared to benefits accrued, typology of legal situations and their economic implications, cost sharing and private sector intervention in making profits and explore options for effectiveness, to understand human resource capacity and needs assessment.

The success of property cards was to depend critically on the ability of PCs to respond to demand from a wide range of stakeholders and achieve broad coverage, establish the PC as the de facto standard based by making it respond to demands from various sets of stakeholders, effective delivery of PCs, and needed regulations to support proper implementation of UPOR project.

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Methodology

The study is largely based on data from field visits, secondary sources, and data received from the Department of Survey, Settlement and Land Records across the UPOR projects in the five pilot study cities. As a first step, detailed discussions were held with Department officials to understand the processes and issues encountered. Further discussions were held using semi-structured survey instruments with other stakeholders from the Legal experts, Banks, Service Providers, Technical Service Provider, NGOs, and CBOs which further enabled identification of issues in the process. We had focus group discussions with the public regarding the PR cards and captured their perceptions. The study could not cover the perceptions of citizens as distribution of PR cards was given only to a small section of people in Mysore and Shimoga and the process was not complete.

The Need for Computerised Land Registration System in Urban Centres

The Revenue Department-Government of Karnataka (GoK), as per the Karnataka Land Revenue (KLR) Act of 1964, and 1966, (KLR Rules) has been mandated to prepare, maintain and preserve spatial and non-spatial data relating to ownership of land for urban properties in urban areas of Karnataka. KLR Act contains detailed provisions for survey, title enquiry, appeals as well as roles and responsibilities of officers. As part of its responsibility and obligation to citizens and the government, and as per mandate under KLR Act, Revenue Department of the state of Karnataka, has taken up the task of creating Urban Property Ownership Records (UPOR), a comprehensive framework for the creation and management of urban property records was introduced in December 2009. As a pilot project, UPOR was introduced in 4 cities of Karnatka, namely Mysore, Hubli-Dharwar, Bellary and Shimoga. This project is being implemented on Public Private Partnership (PPP) model. Service Providers have been chosen through tendering process to implement this project. The project got the approval and funding under the 12th Finance Commission committee.

Main Objectives of UPOR

It is a process of confirming the presumptive property title and providing a conclusive property title of all urban properties" as mandated under the Land Revenue Act and 1964 and Rules 1966. The project aims to create a comprehensive database, both spatial and non-spatial, of all properties of urban centres in Karnataka.

A 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 the following: (i) Land Parcels, (ii) Structures / Buildings (iii) 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.

Task of Creating UPOR

The task of creating and maintaining the property records for urban areas involves 4 distinct steps. The first three tasks are performed by service providers (SP), and fourth by Technical Service Providers (TSP).

1. Creation of Property records inclusive of (i) survey and mapping of all properties in the cities, and (ii) verification of ownership claims.

2. Continuous management and maintenance of property records includes (a) creation of property records for new extensions of cities (b) Documenting changes in property records in the context of new constructions, (c) Updating changes in land use and mutation of property records in case of sale/partition

3. Operation and Maintenance of service delivery channels to Bangalore one centres to delivery various property record related services to citizens. These service centres are established by the Survey Department.

4. Creation of IT infrastructure to enable storage of property records and delivery of various property record related services like (i) Title Enquiry; (ii) Certifying Transactions and (iii) Changes in property records. The IT infrastructure comprises (a) Software application; (b) Various COTS software products; (c) Servers, Storage and other IT hardware.

The UPOR project is intended to capture the complete details of both spatial and non-spatial properties. Spatial data covers both the building and land on which the building stands. Particular details of spatial data include (i) fixing coordinates of the boundary points of a certain land plot (ii) area of the land and (iii) building details like the actual built area, the number of floors and the rights on the property in relation to ownership, mortgage, lease, easement, and the property history of transactions. Services would be certified through PKI[3] mechanism and biometrics details by the authorized signatories, while different sets of data received from different government and urban development agencies will be used as reference data. The department of SSLR, in partnership with private agencies, will implement UPOR for the creation of spatial data, and IT infrastructure, using modern spatial technologies like GPS (Global Positioning System), ICT for data management and MIS (Management Information Systems) reports and GIS (Geographical Information Systems) tools for mapping and delivery of services.
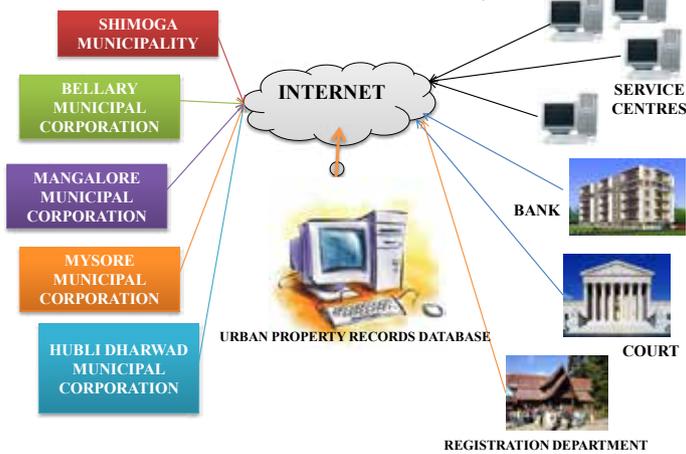
Flow Chart I: UPOR Second Stage UPOR- Implementation Process
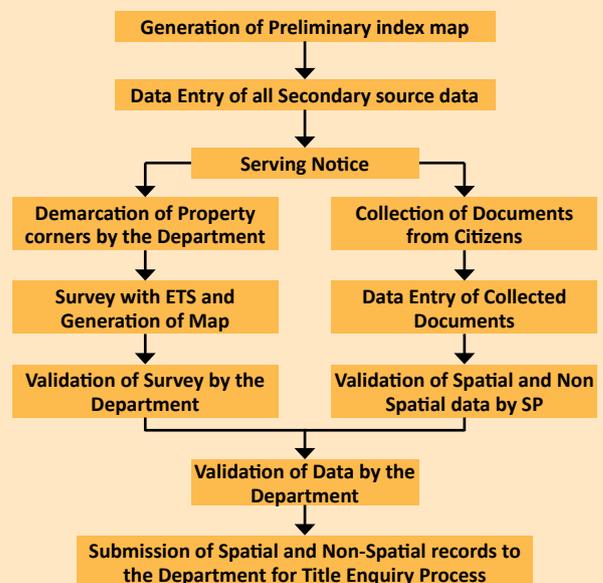
Source: UPOR Office, Mysore

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3   A public key infrastructure is a set of roles, policies, and procedures needed to create, manage, distribute, use, store, and revoke digital certificates and manage public-key encryption.

FUNCTIONAL ARCHITECTURE OF INTEGRATION PROCESS IN RESPECT OF URBAN PROPERTY RECORDS PROJECT, KARNATAKA

SHIMOGA MUNICIPALITY

BELLARY MUNICIPAL CORPORATION

MANGALORE MUNICIPAL CORPORATION

MYSORE MUNICIPAL CORPORATION

HUBLI DHARWAD MUNICIPAL CORPORATION

INTERNET

SERVICE CENTRES

BANK

COURT

REGISTRATION DEPARTMENT

URBAN PROPERTY RECORDS DATABASE

Expected Citizen Services

With the computerisation of property records through UPOR project, SSLR aims to protect the confidentiality of property ownership details which could be shared only by property owners. Further, SSLR is expected to deliver UPOR project services through 1-3 citizen service centres in every city. Channels of service delivery or the integration process are developed by UPOR project for improving convenience to citizens and also facilitating efficient service delivery.

Though there are many constraints during the implementation of UPOR project-operational, management, demand related, networking and so on, there have been genuine attempts at resolving them across levels.

Key Findings

Many operational difficulties were encountered in the field -

- There are several constraints in the process of integrating the City Corporation initiated GIS and UPOR mapping. Multiple agencies fixing coordinates is a major concern, like road transport authorities embarking on road widening, and many other developmental agencies fixing coordinates invariably clash with UPOR survey projections.

- Issues in document collection - (i) lack of documents (ii) insufficient documents. Insufficiency of property documents are seen in urban areas where the properties are sold as plots without conversion or in the case of ancestral properties. For instance in Gramthana properties in Hubli-Dharwad, Mysore, Shimoga and Bellary. B Khatas[4] have been issued for tax collection purpose and owners enjoy all the benefits associated with infrastructure facilities without having a valid title to properties.

- Process delays as documents are not collected in stipulated time. Mismatch or non- matching of area with that of official records is an issue.

- Citizens not convinced about the objectives of UPOR, hence, reluctance to share documents.

- Conversion of agricultural land to non-agricultural purposes without approval from the concerned authorities creates problems in tracing the actual owners in addition to establishing their ownership rights.

- Problems associated with the sale deed issued by KIADB and KSSIDC to obtain titles.

- Slums constitute one of the major portions of settlements in urban

areas. At present, under the UPOR project these areas have been marked and individual level titling process is yet to commence.

Policy Options for Improved UPOR

Digitalisation of urban land records by UPOR project in five cities of Karnataka is expected to provide highly innovative solutions to the existing disintegrated land management practices and appear to support urban land reforms, thereby promote effective land governance. Besides, impact of urban land reforms and its spillover effects on urban economy and contribute for poverty reduction. Methodologically, implementation of UPOR in Karnataka could provide valuable insights into the magnitude and scale of ambiguity involved in land management and governance practices in urban centres.

Computerisation of land records is corollary to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, that lays down the norms for land acquisition and compensation. Therefore, a centrally sponsored scheme-Digital India Land Records Modernization Programme (DILRMP) has been launched and is a part of the Digital India initiative that was changed into a Central Sector Scheme in April 1st 2016, is seeking to create a system that will help to move towards conclusive titling. Between 2009 and 2016, about Rs 946 crore was sanctioned by the central government under NLRMP, of which Rs 412 crore was released. By March 2016, nearly 31 states/UT have completed the task of computerizing their land records. While 30 states/UTs have finished computerization of property registration and 7 states have digitally signed RORs (including the state of Karnataka). Further 5 states have completed the task of linking digital records with Aadhaar numbers. Karnataka is pioneer to revamp its land administration system through the implementation of UPOR to promote fair, efficient and transparent services to foster a transition to sustainable development. Management and operational efficiency are the two important critical areas for the successful implementation of UPOR project especially for realising its specified targets. Some of the areas those needs immediate attention are the following:

Addressing Management and Organizational Issues

Institutional synergy related to the urban land management is a complex issue that needs to be addressed. Institutional networking and coordination for improving overall performance of the UPOR project should be the top most policy priority. Some of the key areas those needed to address on immediate footing are - (i) Inter-departmental coordination; and (ii) Development of a regular monitoring mechanism. The need for staff strength cannot be ignored so that the benefits of the project flow to the intended beneficiaries.

Further, there is a need for detailed framework for the UPOR project which shall help in identification and address all the issues related to the complexity of digitalized land registration process involving various departments of the government. Proper selection and the optimal utilization of the personnel is the need of the hour. Selection of skilled personnel is imperative for the implementation of technical related jobs like UPOR. Further a Technical Scrutiny Committee (TSC) must be constituted and strengthened to ensure well-trained and experienced project personnel. In order to ensure that problems are referred to the department and redressed soon, a 'separate cell' may be opened and,

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4 B Khata-which is considered as temporary arrangement for purposes of collection of taxes by the City Municipal Corporation (CMC) and indicates that the property is on revenue land. It is a mere document/ a register maintained by City Municipal Corporation to collect taxes from residents who are using civic amenities like roads and drains. But city municipal corporation is not responsible for property transactions based on B-Khata which is not considered as a valid proof of title or Khata extract.

it may be staffed with knowledgeable, experienced and well-qualified personnel.

Better Financial Management

Addressing cost sharing during unforeseen situations is important to work out finer details of costs and sharing of costs during the time of overruns. A tentative review reveals that with the present cost structure and the existing pricing proposals UPOR will not be a feasible project. To make it operationally viable, either the cost factors are to be rationalised so that the overall cost involved is reduced substantially or the pricing of PR cards is to be based on the actual cost involved. From the implementation angle, it is just not possible to sell PR cards at higher rates unless they are subsidised by the authorities concerned. Therefore, the other alternative is to reduce the cost of UPOR process by simplifying the various steps involved. At the same time unless the possession of PR card is made mandatory the response from the people may continue to be lukewarm as citizens appear to be still under the impression that the registration of deeds is a better form of proof of ownership.

Promoting better Awareness

To ease out Title Enquiry Process (TEP), extensive awareness campaigns may be held to elicit the opinion of the people and find out what they would like to see in the new system. There should be open discussions on the potential benefits of UPOR's citizen-friendly and problem-solving approach. Such grassroots level publicity would help to enlist the support of the people from all sections of society. The potential benefits of the project should be informed to the public in detail as an informed public could contribute to an increased compliance rate.

Legal and Regulatory Framework needed

It is to be noted that the present legislations lack required provision to make PR cards mandatory for all land related transactions. Amendments to the Karnataka Land Revenue Act should be brought in to make PR cards mandatory for all land transactions. (i) The judiciary stipulates that the property ownership before the court of law is always subject to proof. Legally, there are many exceptional circumstances under which the registration of properties is almost impossible. For instance, oral partition does not require registration; similarly, in Muslim community, oral gifts are permitted while the recording of it is not mandatory. In order to address such exceptional circumstances, there is a need for introducing an amendment to accommodate them. An amendment to the Registration Act should be brought in to avoid the registration of property by more than one person. (ii) The present Act does not contain a provision of empowering the Sub-Registrar to probe a title deed. Before the registration of property, they should trace the title. Hence an amendment should be brought in to the Registration Act prohibiting the multiple registration of a single property. (iii) A common regulatory and legal framework applicable to land development activities should be developed. In addition, clear spatial information pertaining to urban properties should also be developed and integrated into the regulatory framework. (iii) It would be is essential to associate the legal fraternity right from the early steps in the project, so that the authentication of the records and usage of property cards is facilitated.

Improving Operational Efficiency

Amendments to the Karnataka Land Revenue Act (1964) should be brought in to make PR cards mandatory for all land transactions. An amendment to the Registration Act should be brought in to avoid the registration of property by more than one person prohibiting the multiple registration of a single property. A policy decision should be taken on whether to regularize properties through 'Akrama Sakrama' to expedite the property titling process. Clear spatial information pertaining to urban properties should be developed and integrated into the regulatory framework. Online workflow procedures and programs may be introduced, as this will make it easy and transparent system for individuals to readily avail the services. The department must arrive at the cost of each PRC to work out the actual realisation of the revenue to the investors as per the cost sharing pattern. New technology and instruments, such as the Mobile Lidar may be made available. These will ensure greater accuracy and also save time and cost, in the process.

Often the lack of a proper coordination between different agencies and not so appropriate policies has impaired its ability in terms of handling urban land related disputes. Therefore, it is recommended that the creation of a special land tribunal for resolving disputes/objections related to UPOR process may be done on priority. Finally, before issuing draft PR cards to owners, it would be important to do a cross verification before authenticating the information pertaining to owners. This could avoid objections from the owners besides saving costs incurred on re-printing and redistribution of PR cards.

Conclusion

With the implementation of UPOR in Karnataka, properties mapped, registered and digitalized are expected to revamp urban planning. It will eliminate not only conflicting land titles but also issues related to the rehabilitation and compensation of land involving huge infrastructure projects in the state. An appropriate institutional and structural revision should be taken on timely manner. Further, the contribution of UPOR both methodological and governance would be of great relevance to land management in India. Digital land records would promote transparency making it impossible for the people to evade property tax and availability of land records could empower the government to realize its urban development mission of industrialization and smart cities programme.

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