

Revisiting Registration Act >>>

# Protecting Property Rights of People of India



» Protecting Property Rights of People of India

- »1. Original Intentions
- »2. Current Legal Position
- »3. Challenges
- »4. Successful Models
- »5. Recommendations

**Regn Act-Overview** > 2

» Protecting Property Rights of People of India

- »1. Constitutional Right
- »2. Stable Property Market
- »3. Support to Financial system
- »4. Societal Peace
- »5. Good Governance

## Importance

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- » Regulation XXXVI of 1793
- » Its object was *'to give security to the titles and rights of persons purchasing real property'*
- » *to prevent individuals being defrauded by buying, or receiving in gift, or lending money on mortgage, or taking on lease any such property that may have been so previously disposed of or pledged*

## Original Intentions

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## » Legal

- » Registering Deeds, not Titles
- » Sub-Registrar not to ask about Titles

## » Practical

- » Registered document – a title document
- » Slow updation of land records
- » Only record in urban areas especially on verticals.
- » Mortgage by 'deposit of Title Deeds'

## **Current Legal & Practical Positions** ><sup>s</sup>

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## » Fading of 'mirror' principle

- » Land Revenue no longer major source of revenue
- » Exploding population & extreme fragmentation
- » Absence of periodical Land Settlements
- » Absence of proper Land Record System in Urban Areas especially related to Flats (vertical ownerships)
- » encroachments and unauthorized constructions-dilemma in recognizing

## **Challenges** ><sup>s</sup>

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## » Absence & Applicability of 'Curtain' principle

- » Registering deeds not titles
- » Reform legislations prohibiting transfers but not prohibiting registration
- » Striking down of Section 22A
- » Personal Laws affecting 'curtain'-Hindu Succession Act-Right of minor children to question after 18

## Challenges

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## » Torrens System

- » 'act of registration alone should affect or encumber property in any way'
- » 'registration *created* title and that title was indefeasible'
- » Mirror, Curtain, Single Agency, Guarantee and compensation
- » Land description implicit

## Successful Models »<sup>8</sup>



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- » Toronto (Ontario) Model
- » Registry Act, 1795 & Land Titles Act, 1885
- » Land Titles Absolute (LT)
- » Land Registration Reform Act, 1984
- » Land Titles Converted Qualified (LTCQ)
- » Land Titles Plus (LTP)
- » Standardized Forms, Implied Covenants and Standard Charge Terms

## Successful Models ><sup>9</sup>

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- » Consider Qualified Titling, either applied or automatic, in general
- » **Consider Titling for Vertical ownerships- Virgin Titles or not very old**
- » **Titling for Land under Dev. Authorities**
- » Consider **Dematting of Titles**
- » Introduce Standard Forms, implied Covenants and Standard Charge Terms
- » Take up Land Settlement

## Recommendations ><sup>10</sup>

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- » Take Smaller, but significant steps towards land titling
- » For registration, take ownership and property details data from LR database
- » Compulsory pre-measurement for transactions resulting in sub-division
- » Both being implemented in Karnataka

**Recommendations** ><sup>11</sup>

*Thanks*

***Thanks . . .***

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