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J' Accuse...!

(I Accuse)

“... those who failed to secure land rights for the citizens of India”

D. C. Wadhwa

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“You must also be aware that there are frequent land disputes and often they assume such violent proportions that the real issues are pushed into the background. And a lot of litigation continues for years, ruining the people. The source of these conflicts are the land records which are not kept properly. The only method to avoid this is to keep our land records in the villages properly so that people know about their ownership and proprietary rights. We want to launch this campaign throughout the country so that in every village proper land records are made available.”

- Mr. P.V. Narasimha Rao
in his first address to the Nation as Prime Minister,
on Independence Day,
from the ramparts of the Red Fort,
New Delhi, August 15, 1991

“Next I had said that the revenue records and the records-of-rights over land in our villages are not maintained properly. The result is that there is protracted litigation which often leads to bloody fights and therefore a programme for their improvement was needed. I am happy to inform you that we have addressed ourselves to this task and a scheme has already been framed. We are going to call a meeting of Revenue Ministers to urge them to complete this job within a specified time frame, may be a year or two.”

- Mr. P.V. Narasimha Rao (former Prime Minister of India)
in his second address to the Nation as Prime Minister,
on Independence Day,
from the ramparts of the Red Fort,
New Delhi, August 15, 1992

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Foreword

This book to which I am now writing this foreword is the product of Professor D. C. Wadhwa's more than twenty year long crusade trying to get a system of maintaining land records implemented nationwide that would have provided indisputable and conclusive titles to lands in India. A Preface was to have been written by Prof Wadhwa, the author of this book, himself. Unfortunately, he left this world before his work was done. In fact, even when he was practically on his deathbed, he continued to work on a large part of this book but could not complete all of it as he would have wished. Hence, I, his research assistant for the past one year, am taking the liberty of writing this foreword, and have also put in my sincerest efforts to complete the few unfinished chapters as directed by Professor Wadhwa. I hope that the learned readers of this book will be understanding and will ignore any errors that may have remained in spite of my best efforts, as I have no experience whatsoever, of writing any book. I have tried my best to keep the content of this Preface and the few remaining chapters as close as possible to what Professor Wadhwa would have wanted them to be. It is a matter of great pride and satisfaction for me to have participated in writing a book authored by Professor Wadhwa and published by the Gokhale Institute of Politics and Economics and I shall always remain grateful for this opportunity.

In the last chapter, that is in Chapter 17 of this book – after describing, in the previous chapters, the failures of the Indian governing system to ensure conclusive titles to land – Professor Wadhwa has pointed an accusing finger at all those powerful persons with the authority to act, who knew about this most urgent, most serious, and yet the most neglected problem of records-of-rights in land in India and yet have done nothing about it in the past twenty years. It is precisely for this reason that the title of this book is 'J'Accuse...! (I Accuse)'. This title has been borrowed from an open letter entitled 'J'Accuse...!' which is French for 'I Accuse', written by a well-known French writer Émile Zola and published in the French newspaper L'Aurore on January 13, 1898. It was addressed to the

then President of France and in it Zola had accused many officials of the highest ranks in the government for their unlawful activities, particularly, for jailing Alfred Dreyfus, a French General Staff. Zola had to escape, after writing this open letter, to England to avoid imprisonment. Professor Wadhwa often joked that he too might have to flee India for writing this book. Sadly, however, no matter how the book is received, there need be no fear of that now.

To give a glimpse of the subject matter of records-of-rights in land and conclusive title to land in India, I give below an extract from Professor Wadhwa's preface to his monograph entitled 'Guaranteeing Title to Land: A Preliminary Study'. The monograph is reproduced in full in chapter six of this book. This monograph was submitted to the Planning Commission in 1989 in the form of a report by Professor Wadhwa as the Chairman of the One-man Committee, appointed by the Planning Commission to study the problems of records-of-rights in land in India:

"IT is an admitted fact that the records-of-rights in land in our country are in a pathetic condition. The importance of preparation and updating of these records was emphasised in the First Five-Year Plan itself. Subsequently, plan after plan regrets were expressed about the sorry state of records-of-rights in land and hopes expressed for improvement, and in the Seventh Five-Year Plan some special financial assistance was provided for the purpose and thereafter in each plan more and more financial assistance have been committed. But no clear indication of the dimension of the task ahead is available.

"In 1987, the Planning Commission set up a One-man Committee¹ to prepare detailed status reports with regard to the records-of-rights in land in all the states of the country and to recommend measures for its improvement.

"In addition to collecting detailed information from the states about the present state of records-of-rights in land, I also started studying the systems of preparation and maintenance of records-of-rights in land in other countries of the world. It was during this study that I came to know about the system of registration of title to land and

1 Office Memorandum No. M- 13043 /8 /85 - RD, dated May 26, 1987, Government of India, Planning Commission

the extent of its prevalence in other countries.

“It is because of my firm belief that the introduction of this system in our country will solve most of our problems with regard to the up-to-date maintenance of records-of-rights in land that I prepared the Preliminary Study and submitted it to the Planning Commission.

“The Preliminary Study is not a treatise on the subject; it is merely a skeleton indicating its principal features. It contains information about the theory and legal aspects of guaranteeing title to land in some of the countries in the world; it does not deal with the question of administrative procedure. If the idea thrown up in this study finds acceptance, its operational aspects will have to be studied in considerable detail before introducing this structural reform in our country.

“The purpose of bringing out the Preliminary Study in the form of a monograph is to create awareness among the citizens about the practice of registration of title to land and its prevalence in other countries.”

The present book is divided into three parts. Part-I entitled ‘Records-of-Rights in Land in India’ gives a brief account of the past and present status of land records in India and their importance. Part-II entitled ‘One-man Committee on Records-of-Rights in Land in India’ is all about the work of the One-man Committee appointed by the Planning Commission in 1987 to study the problems of records-of-rights in land in India. It is also about the unfortunate end the Committee came to in spite of the widespread approval of its report received from eminent scholars of the country.

Part III consists of chapters 11 to 16. Chapter 11, entitled ‘Pilot Project in Maharashtra’ is about the setting up of a commission in 2002 by Mr. Vilasrao Deshmukh, the then Chief Minister of Maharashtra, to start a pilot project, based on the Torrens System, in Pune, Nanded and Latur Districts.

In Chapter 12, entitled ‘Computerisation of Land Records’, Professor Wadhwa has criticised the computerisation of land records by the state governments and the huge amount of public money spent and wasted on computerising those land records which are not up-to-date.

In Chapter 13, entitled 'McKinsey and Company on Land Records', Professor Wadhwa has discussed the report¹, submitted by McKinsey and Company to the Government of India, which emphasises the need for a system to ensure up-to-date records-of-rights in land in India. According to Professor Wadhwa, the solutions proposed in this report by McKinsey are faulty and he has given the reasons for his opinion in detail.

Chapter 14, entitled '150 years ago on Conclusive Title to Land', is focused on the time when the Registration Act was first introduced in the country and is about the efforts made at the time to improve upon the records-of-rights in land in India and move towards the system of giving conclusive title to land.

In Chapter 15, entitled 'Letters to Concerned Persons', all those letters are reproduced which Professor Wadhwa had written, from the year 2002 onwards, to all those persons who could have brought about some change to help improve the system of maintaining records-of-rights in land in India.

Chapter 16, entitled 'Just Do It', is a revised and enlarged version of the Note presented by Professor Wadhwa in an International Seminar on Reforms in Land Policy for Accelerated Growth and Poverty Reduction held on January 5-6, 2006, at New Delhi, organised by the World Bank together with the Ministry of Rural Development, Government of India, and others.

As regards Chapter 17, I have already made my comments above, in the second paragraph of this foreword.

All the chapters in this book, except for a few, have been written in the complete knowledge of Professor Wadhwa. The chapters that I have compiled by myself are largely based on the materials and directions provided to me by Professor Wadhwa. In my understanding, these chapters, namely Chapters 1, 5, 14, and 15 are, conceptually, exactly as Professor Wadhwa wanted them to be. However, I take full responsibility for any technical errors in these chapters, as they could not be submitted to Professor Wadhwa for his final approval.

1 India: The Growth Imperative- Understanding the Barriers to Rapid Growth and Employment Creation, August 2001

Finally, in all humility I must mention that I have limited expertise in the subject matter of this book and I have much to learn. My contribution to this book is only in giving it an aesthetic form and in joining the broken threads and tying up the loose ends of all those materials that have gone into the writing of this book.

This book is an eye opener for those who live in the fond belief that our system of governance would at least not neglect to do something which is so obviously logical and beneficial. But, as the readers of this book will find out, that is exactly what happened in the case of the system proposed herein. Moreover, since Professor Wadhwa wanted to record in a book everything regarding his communication with the government on land records, some of the materials presented in this book might not be of direct use in the literary world, but it does hold value for evidentiary purposes.

On behalf of Professor Wadhwa, I would like to acknowledge all those who have been of help in this book.

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July 20, 2010

