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Women and Landed Property in Urban India

Negotiating Closed Doors and Windows
of Opportunity

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Abstract

This paper examines land tenure in informal urban settlements in India from a gender perspective through field research conducted in Ahmedabad in collaboration with the Self-Employed Women's Association (SEWA). The author describes the formal and informal tenure arrangements that were in place in these settlements and analyses their implications for women. She proceeds to raise key issues that need consideration in developing a gender-equitable vision of urban land rights, tenure and reform. These include more widely established issues such as tenuous inheritance rights of daughters and the challenges of securing joint property titles for married women as well as emerging issues such as the obstacles faced by slum-dwelling rentees, the largely unsubstantiated fears of gentrification and market eviction associated with tenure security, and the legal and practical challenges of translating the 'right of residence' into the 'right of ownership'. In each case, the author also draws out policy recommendations for redressing the discrepancies in women's ownership of urban land and housing in India.

Keywords: women, landed property, cities, India, South Asia

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Acronyms

AMC	Ahmedabad Municipal Corporation
ASAG	Ahmedabad Study Action Group
CBOs	community-based organizations
GSUSP	Gujarat State Urban Slum Policy
MHT	Mahila Housing Trust
NGOs	non-government organizations
SEWA	Self-Employed Women's Association

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1 Introduction

Women make up half the world's population, perform two-thirds of the world's working hours, receive one-tenth of the world's income and own only one-hundredth of the world's property (Abbott, Wallace and Tyler 2005). While the gap between women's and men's education and income levels is narrowing gradually almost everywhere in the world, the disparity in property ownership remains stark and persistent. Women remain extremely marginalized in property ownership even in countries where they consistently outperform men in educational attainment, as, for example, in countries of the English-speaking Caribbean (Antrobus 2005). Consequently, there is growing recognition within research and policy circles that women are particularly discriminated against in access to land and property (UNDP 1995; UNIFEM 2000; World Bank 2001).

This paper examines land rights and tenure in informal urban settlements¹ in India from a gender perspective. Women's entitlements to agricultural land have been documented in the rural context quite extensively (very notably by Bina Agarwal 1994), but the corresponding land and housing requirements of urban women have received very little attention, not just in development practice and policy formulation but also in academic scholarship.

This research was conducted in Ahmedabad in collaboration with the Self-Employed Women's Association (SEWA), an organization founded in India in 1972 to mobilize informal sector women for better working conditions and social security provisions. Data were collected through focus groups, semi-structured interviews, and library and archival research conducted over a period of seven months from January 2003 to July 2003 in thirteen slums in Ahmedabad. Follow-up fieldwork was conducted in the same slums during the summer of 2007. Of these informal settlements, eight had no public amenities while five had received basic water and sanitation services through a slum upgradation project coordinated by the SEWA Mahila Housing Trust (MHT). Thirteen focus groups were established, with approximately ten women participating in each group. A series of 23 semi-structured interviews was also conducted with staff and leadership from the municipal corporation, development research organizations and NGOs in Ahmedabad.

2 Tenure security in Gujarat: Strategies and interventions

A variety of tools, strategies and techniques for securing land tenure and protection from eviction have evolved in different cities of India in conjunction to domestic and international policy responses. They are devised and applied in different situations, depending largely on the nature and scale of informality or irregularity of the settlement and the existing regulatory framework. The following strategies and interventions feature prominently in the slums of Ahmedabad.

¹ The terms 'informal settlements' and 'slums' are used interchangeably in this paper although the former category may also include squatter settlements, resettlement colonies and urban villages.

2.1 Legal tenure

The extension of land tenure rights over government land, locally known as *patta*, to squatters is undertaken on rare occasions as a welfare measure by state governments. Only one slum in this study had individual formal land titles from the government of Gujarat. Residents of Keshav Nagar were squatting illegally on the pavements of Ahmedabad in the early 1990s when they were offered land at a highly subsidized rate through a government land redistribution programme. While current development approaches endorsed by state and central governments give preference to *in situ* regularization over relocation, none of the other slums in the study have been granted tenure rights either *in situ* or in alternative locations.

A number of states (Andhra Pradesh, Madhya Pradesh, Orissa, Rajasthan, and Maharashtra) have opted for tenure regularization as a state-wide policy across urban areas, while other states (West Bengal and Tamil Nadu) developed city-specific or programme-specific approaches (Banerjee 2002). At the time of this research, Gujarat was in the process of adopting the Gujarat State Urban Slum Policy (GSUSP). SEWA and MHT had been invited to serve on the steering committee for its formulation along with other stakeholders such as slum dwellers, community-based organizations (CBOs), other NGOs, civil servants, and elected representatives. The steering committee strongly recommended supporting the granting of *in situ* tenure rights to established slums, forcefully arguing about the legal superiority of full tenure over other options. Other significant land- and gender-related policy recommendations in the draft include:

- extension of eligibility for upgrading all slums other than those situated on public streets, riverbanks, hazardous and environmentally sensitive areas, and on plots urgently needed by municipalities for providing essential services;
- regularization of sales transactions made without a valid deed of sale, such as those written on plain paper or on stamp paper of small monetary denomination;
- transfer of formal sale titles and deeds to slum dwellers at 33 per cent of the market value of the land;
- implementation of joint land titles in the names of women and men;
- provisions for more affordable group tenure, collective tenure and cooperative tenure for slum residents; and
- 33 per cent representation for women in cooperative societies and residents' associations.

These recommendations are timely and relevant for women. Prior to the formulation of the GSUSP, rural and urban land reform policies in Gujarat had been based on the principle of redistributive justice and efficiency. The reform complemented practices such as land to the tiller², fixation of ceilings³ and prevention of fragmentation, but gender inequalities were not taken into account.

² Under this practice, land is titled solely in the name of the person, almost always a man, who assumes responsibility for tilling it.

³ Under ceiling schemes, the state typically reallocates surplus land from those owning more than a specified ceiling for the landless.

The recommendations suggested by the GSUSP are definitely a step in the right direction because they provide a strong legal basis to rectify women's inability to own and control landed property. However, these legal and policy reforms do little to challenge the underlying social norms that inhibit women's access to land. Public education to improve awareness of the non-negotiable nature of women's needs and entitlements for landed resources is just as crucial as policy reform. Other authors argue that legislation cannot be the sole focus for social change because the benefit from favourable laws and policies can be appreciated only in the context of other means of socioeconomic empowerment (Parasher 1992; Rosen 1978). Reviewing property rights of low- and middle-income women in New Delhi, Basu (1999) emphasizes that the mere encoding of laws cannot effect substantial change in cultural practices unless there is a concerted state effort to achieve widespread *legal* literacy that explains the benefits of greater equity and addresses the fears of dismantling customary privileges.

2.2 Guarantee of non-eviction

Among the slums of the study, a verbal ten-year guarantee of non-eviction from the municipal corporation was the most common form of tenure security. Once land ownership had been established and it was ascertained that the land was not earmarked for other projects or in an environmentally sensitive location, the area was deemed suitable for upgradation and continued occupation for ten years. All the case-study slums had either received non-eviction guarantees or were in the process of receiving them at the time the research was conducted. Designating an area as a 'slum' under the Slum Act also provides a certain degree of protection against eviction in Gujarat. It entitles slums to access to basic subsidized services under the Environmental Improvement of Urban Slums Scheme of 1972, and to resettlement if displacement is unavoidable. Since any party can file public interest litigation under Indian law, court rulings and stay orders prohibiting displacement without alternative accommodation often have a similar effect as guarantees of non-eviction or of continued occupation since replacement sites are difficult to set up in land-scarce urban areas. Two of the slums in the study that were located on municipal land and had secured ten-year non-eviction guarantees had previously been threatened with displacement. Residents were surprisingly nonchalant about the notices and their perceptions of security of tenure seemed unaffected. They mentioned the ability of political leaders to secure multiple stay orders on eviction notices, and the eventual willingness of the municipal corporation to include the slums in the upgradation project, as evidence of their security of tenure.

Several officers in the town development department of the Ahmedabad Municipal Corporation (AMC) were asked why non-eviction guarantees were issued for ten years only. They explained that it was largely a result of 'trying to keep all parties happy'. The AMC frequently relied on loans from organizations like the World Bank to undertake upgradation activities. Most funders were unwilling to extend loans for the provision of services like water and sanitation without some form of *de facto* or *de jure* tenure security. The majority of Ahmedabad slums were on privately owned land, and most private owners were reluctant to relinquish their claims to land without adequate financial compensation. Thus it was considered strategic and cost-effective to negotiate a limited term non-eviction guarantee as a proxy for tenure security while pro-poor urban land policy instruments, like the GSUSP, were being formulated. The same logic

applied to land owned by the state and central governments although slum upgradation in these cases was frequently justified in terms of public health.

At the persuasion of the NGOs involved in slum upgradation, various documents and bills (such as water and land tax) resulting from the verbal non-eviction guarantee, were issued to female household heads even when a man was present. It is unprecedented for slum-dwelling women to have any official recognition or documentation in their names, and most women perceived these to be empowering and symbolic representation of their right to reside in their homes and their communities. Since women perform a disproportionate share of family and household maintenance activities, they also benefit from the services and infrastructure being introduced by the upgrading of their environment, even if the home lacks legal tenure. However, a non-eviction guarantee stops short of the formal titling of land, and is best perceived as one step on the continuum to full legal tenure instead of being a long-term solution.

2.3 Other strategies and conditions leading to tenure security

In addition to legal land rights and non-displacement guarantees, there are other factors that contribute to the perception of security—or insecurity—of land tenure among slum residents. These are described below.

Availability of documents related to land and housing

Mechanisms of sale, purchase, rent, transfer of land and property are highly informal within squatter settlements. Legal documents attested by a public notary are rare and most transactions take place with promissory notes or statements written on 10-20 rupee stamp paper in the presence of four witnesses. Because legally notarized documents were considered expensive and unavailable to slum dwellers, the existence of any kind of quasi-legal documentation that asserts claim to legitimate residence instilled a sense of security.

While the general assumption is that slum dwellers have encroached on the land they occupy, findings indicate that almost all residents had paid significant sums of money—ranging between Rs 3,000-30,000 (US\$75-750)—for plots either to the legal owners or to the original squatters. The original encroachers had, in many cases, become *de facto* slum lords, ‘selling’ municipality or government-owned land to current residents, many of whom were unaware that they had ‘bought’ land from someone other than the rightful legal owner. Durand-Lasserve and Royston (2002) emphasize that contrary to common belief, access to slums is rarely free. An entry fee is generally paid to an intermediary, or to the person or group who exerts control over the settlement.

It was not surprising that the vast majority of slum women are not mentioned on the promissory notes confirming land ownership. But the fact that almost 40 per cent of the men had no form of title to the land and house they occupied was unforeseen. It was common for property to remain in the name of the grandfather (who could be deceased or living) or father of the male household head. High transaction costs were cited as the primary reason for not transferring property to the current owners. This may explain why many of the slum-dwelling male household heads are not named in ownership documents, but it also draws attention to the observation (Cooper 1997; Jackson 2003) that precarious land access affects a greater number of men than would appear if all men are aggregated together as the inevitable beneficiaries of patrilineal inheritance. It can

also mean that the marginalized position of women with regard to landed property ownership was not necessarily caused by the desire to subjugate women but may well have been the outcome of rivalry between different groups of men, or of the inability of certain male groups to acquire control over landed property.

Availability of other legal documents

Ration cards⁴ and election cards were available to residents in all the squatter locations covered by the study. In addition, municipal land and water tax receipts were issued in the upgraded slums, as were electricity bills by the Ahmedabad Electric Company. There was a general assumption among male and female slum residents alike that the possession of these legal and quasi-legal documents was tantamount to government sanction of their occupancy and protection from eviction: 'We have ration cards and election cards. Why should we be scared?', was a common response to queries about tenure security.

Awareness among slum residents was generally low of the fact that these documents represented only user charges and at best strengthened their right to residence but were in no way an indication of ownership status. Surprisingly, however, recognition was much higher among men and women in the five upgraded slums that had received non-eviction guarantees than among the eight slums which were yet to be upgraded. This is discussed in detail in the next section.

In addition to land tax documents and water bills, women greatly valued their voter registration and ration cards. Women typically perceived themselves as having very few opportunities to acquire resources or to express opinions unmediated by men, and many recognized that possession of these personalized documents afforded them the opportunity to negotiate a degree of space and independence for themselves. Voting for a different candidate than their husbands or buying rice or flour at the government-approved subsidized rate with their own income even when their husbands contributed nothing to the household finances were two examples of women expressing agency without the explicit approval or support of their partners. While such findings do not directly assert female claim to property, they are not inconsequential in that they demonstrate the ability of women to protect their interests and to exercise their rights even when cultural stereotypes frequently depict them as being incapable of thought or action independent from their husbands, fathers or sons.

Listing or designation of slums

A citywide listing or designation of slums was undertaken in 1976 under the aegis of a nationwide survey initiated by the Indira Gandhi government. The slums identified in the survey were provided with basic public services as well as a guarantee of relocation if circumstances necessitated eviction. Photo identification cards (called 'photo-passes') were issued to the heads of families residing in slums during that time. While the residents of all case-study slums were aware of the value of the passes, less than half of the families had obtained them. Many families had lost their photo-passes in fires or floods that regularly ravaged low-lying areas. Other families had been away during the survey and thus had missed out on the opportunity to secure a photo-pass.

⁴ Ration cards are issued by state governments to low-income individuals and families to entitle holders to purchase rice, flour, sugar and other essentials at subsidized prices.

Many of the slums had expanded significantly since the 1970s and most newcomers lacked sufficient identification to assert their right to residence or to relocation in the event of eviction. However, the level of insecurity over tenure among new migrants in the settled slums was surprisingly low, since most considered the designation of the whole area as a slum in the 1976 survey as adequate proxy for individual security of tenure.

The listing of slums was conducted long before issues of gender disadvantage and inequality acquired any real currency beyond tokenism. Women were classified as household heads only if there were no adult males. Widowed women were frequently listed under adult sons, even when these sons lived separately, or did not support their mothers in any way. Married women living with their husbands were subsumed under the husband's name. Many women, who had since been divorced, separated or abandoned by their husbands but continued to live in the same slums, were also without photo-passes. The survey, conducted over 30 years ago, reinforced the dominant patriarchal attitude that women should rely on men to negotiate access to landed resources. It would be safe to conclude that while it may not have intended to disadvantage women, it did not empower them either.

Political patronage

Frequently, patronage from local leaders led to assurances of non-eviction and at times, also to the provision of basic public services. In addition to support from local politicians, there is a growing and influential lobby against eviction as well as media and judiciary support for the rights of squatters as citizens. In Ahmedabad, NGOs such as Ahmedabad Study Action Group (ASAG) and *Disha* have repeatedly confronted the municipal corporation and the state government on eviction and tenure matters. In several cases, this has prevented potential evictions or demolitions and coerced the government into considering less disruptive ways of addressing land conflicts. As a result, a new trend of dialogue and intervention has also emerged and there is greater willingness among the different stakeholders to work together to find solutions to land-related conflicts than there was during the 1970s or 1980s.

On the grassroots level, slum dwellers have devised their own mechanisms to ensure security of tenure. Information networks with junior officials in the municipal bureaucracy provided slum populations with advance warning of impending evictions or demolition. This would give residents time to seek the support of local political leaders to act on their behalf in securing stay orders from the court, as well as organizing protests, demonstrations, and other visible newsworthy events to derail displacement plans. Slum residents are politically savvy enough to recognize the importance of inviting local politicians and the press to cultural and sports events to their slums. For example, Barotvas, one slum area in this study, has a tradition of celebrating *Navratri* (a Hindu festival) in a grand way. People from all over Ahmedabad and other parts of Gujarat attend the dancing and the festivities. 'Even Mallika Sarabhai (a renowned classical dancer) and Narendra Modi (the chief minister of Gujarat) have come to celebrate *Navratri* with us', gushed one proud resident. In addition to being major cultural events within the slums, such celebrations are excellent vehicles to publicize *de facto* regularization and entitlement to public services.

While support from local political leaders and their interventions on behalf of slum residents frequently strengthened tenure security, it was also observed that many

interviewees constantly deferred to their leaders, agreeing with their opinions and ideas when these leaders were present in group meetings, but often expressing contradictory viewpoints in their absence. In one instance, a local leader spent a considerable amount of time informing the author how he had served the slum dwellers over the years amidst what was thought to be agreement from residents. During a subsequent meeting with mostly female residents, the author was told that the local leader was ‘more talk than anything’ and that his level of commitment to the slum was usually relative to how close it was to election time. According to the women, they continued to vote for him because in the absence of other leadership, even his half-hearted attempts at pressurizing the government for land documents or for infrastructure like water stands and street lights were more than they had been able to secure on their own. Similar findings have been reported by other authors: Sharma (2002) notes that Muslim women in Dharavi, a large slum in Mumbai, the site of direct clashes between Hindus and Muslims in 1992, said that they would vote for the rabidly right-wing Hindu legislator because he was the only elected official who had taken the trouble to build toilets in their neighbourhood. Such findings support the view that although political patronage can frequently serve as a means to strengthen tenure security and to secure basic services, it can also impose other less obvious restrictions and costs onto slum residents.

Relying on political patronage to ensure security of tenure has strong, gendered implications. In many situations, power relations in slums are seriously corrupt and men’s greater access to power gives them a significant advantage over women in delivering bribes and mobilizing unfair leverage—be it in acquiring an illegal electricity connection, receiving a ration card or seeking political protection in pursuing illegal economic activities like bootlegging and drug dealing. This dependence on informal processes further undermines women’s access to authority since it increases their dependence on men and male links to informal or illegal power structures.

Construction of religious structures

Building a religious structure, a temple, church or mosque, in a prominent location is a fairly common practice even in slums where the quality of housing is extremely poor. According to slum residents, in addition to these structures being places of worship, they also serve as community halls and provide shelter from inclement weather for those who could not afford to secure their homes against the elements. Many interviewees spoke of taking shelter in a temple or mosque after the 2001 earthquake and during annual floods. While these are plausible reasons even in impoverished communities for pooling together scarce resources to construct such buildings, they also serve the strategic purpose of enhancing security of tenure. The recent rise of Hindu fundamentalism across India, and in Gujarat in particular, has occurred amidst widespread but frequently denied allegations of pro-Hindu bias within the various tiers of government. With the threat of communal violence looming large in cities like Ahmedabad, a religious structure within the community equips slum populations with an informal but potent defence mechanism. Since municipal authorities would want to avoid the negative publicity of tearing down a temple or a mosque during politically turbulent times, areas surrounding such structures also secure a form of *de facto* immunity from displacement.

While women benefited as much as men from the security of having a religious building in their community, this study suggests that they were less likely to take advantage of its use as a gathering place because of social restrictions on female mobility and public

interaction. The ideology of female seclusion in many parts of India restricts contact with men through territorial gendering of public and private space. Indeed, in many of the case-study slums, women were expected to avoid places where men congregate. Consequently, women frequently preferred to meet as a group in each other's homes or courtyards. Men, on the other hand, seemed to feel more entitled and comfortable in these temple surroundings, playing cards, drinking tea, and socializing. The slum headman informed the author that as an educated 'westernized' woman, it would be appropriate for her to hold a male focus group at the community site, but that women of the community might prefer to meet more 'privately' where they could talk openly without violating the norms of female seclusion. There were similar encounters in other communities. This motivates the author to emphasize that informal mechanisms that strengthen tenure security and the right to residence frequently marginalize women with additional hurdles, conveniently founded on culture and tradition, that need to be overcome *en route* to any real access to resources.

3 Developing a gendered vision of land tenure: key issues

Urban researchers are increasingly asserting that access to 'house and land' is a key determinant of women's empowerment in urban areas (Tinker and Summerfield, 1999). Other authors like Mearns (1999) describe how women are excluded from holding title to land either through legal or cultural means, and that this lack of access and control is a key determinant of women's economic status. Although men and women in India enjoy the same legal rights with regard to property ownership, many cultural traditions deny women the right to property inheritance or management. Since the struggle for women's property rights requires legal, institutional, and cultural transformation, tenure reform without explicit concern for women can disadvantage them even further. The next section outlines some key issues that must be addressed in order to develop a gendered vision on land rights, reform and tenure in urban areas.⁵

3.1 Knowledge of land issues and perceptions of security

Much of the literature suggests that the negotiation of *de jure* as well as *de facto* land rights and tenure remains primarily a male enterprise in both the urban and the rural context in India (Basu 1999; Roy 2003). Similar findings are reported by authors working in Africa and Latin America: Whitehead and Tsikata (2003) note that women in sub-Saharan Africa have too little political voice in decisionmaking with regard to land issues, not only within formal law and government but also within local level management systems and civil society. Men in slums are generally better informed on land tenure matters and are more involved in the politics of negotiating informal tenure security, an observation confirmed by our findings. However, noteworthy differences were observed among slum women in their awareness of land tenure and relevant issues, their knowledge depending on participation in CBOs and other collectives as well as their exposure to the efforts of organizations like SEWA.

⁵ Although the author believes that it is one of the major reasons for women's disenfranchisement from landed property, she will not discuss women's inheritance rights in any detail in this paper. Inheritance issues are covered extensively by authors like Agarwal (1994), Basu (1999) and Basu and Rajan (2006).

Focus groups conducted among the women of both the non-upgraded and upgraded slums revealed very interesting differences in their knowledge of ownership rights and perceptions of security of tenure. Less than 5 per cent of women from the non-upgraded slums were able to report accurately on the ownership of the land they occupied or to recall previous eviction or relocation attempts. By contrast, almost half the women in the upgraded slums were able to indicate correctly whether their slums were located on private, municipal or government land. Women from the upgraded slums were also better informed about recent land-related negotiations between slum communities, NGOs, politicians, and the municipal corporation. Among the women of the non-upgraded slums—many of which lacked the slum networking infrastructure and/or a verbal non-eviction guarantee from the municipality—perceptions of land tenure security were much higher than in the upgraded slums, where the municipality had invested significant amounts in improvements and had issued the 10-year guarantee. All the slums in the study had been settled for at least a decade; consequently, insecurity over land tenure and eviction was generally low. However, women in the upgraded slums expressed greater concern over their future claims to the land than their counterparts in the non-upgraded slums. Investments to upgrade housing and housing infrastructure exacerbated the anxieties of the upgraded slum residents.

In the absence of standardized legal documents verifying ownership, slum dwellers were very conscientious to preserve all forms of quasi-legal documentation that confirmed their entitlement to landed assets. However, participants from the upgraded slums had a much clearer understanding of the fact that while documents like ration cards or electricity bills enhanced their right of residence, they were not legal proof of ownership of property. Similarly, while residents of all the case-study slums were appreciative of the non-eviction guarantees from the AMC, interviewees from the upgraded slums expressed greater anxiety about the future once the 10-year term had expired, wondering if the government might grant them full tenure rights in the form of *pattas* (formal land titles). Since present policy interventions appear to support guarantees of non-eviction, in combination with investment in water and sanitation infrastructure, as a point on the continuum towards the granting of full tenure rights, such expectations among women in upgraded slums represent high levels of awareness about current practices of governments and attitudes towards slums.

These findings also confirm the value of SEWA's initiatives for functional literacy and consciousness-awareness not only in promoting an understanding of women's rights and entitlements to property and infrastructural services, but also for impressing upon women themselves that arranging security of tenure is significant for the overall improvement of the quality of their lives. Educating women about their rights and entitlements is a crucial issue; a major stumbling block for even the most enlightened pro-women land reform policy is the lack of appropriate dissemination at a grassroots level. Policy 'in theory' and policy 'in practice' are two entirely different issues. Women cannot exercise their rights if they are not aware of them.

3.2 Gentrification and market evictions

During interviews with AMC bureaucrats, it was suggested that granting full legal rights to slum dwellers and providing essential services at the household level would contribute to gentrification. Plots and houses would be sold to higher-income groups, leaving the targeted population groups no better off than they were before. The findings

from this study provide very little indication of this happening. In 2003 and 2004, only three families⁶ moved out of the upgraded slums under study. But in the face of skyrocketing land values, there is, of course, no guarantee that slum dwellers will not be forced off their plots by powerful corporate interests needing serviced urban land. This has certainly happened in many urban areas. While many poor communities may find it difficult to resist corporate financial incentives or pressure tactics, our findings, at least partially, dispel the widespread assumption of government functionaries that the poor are accustomed to living, working, and raising their families in squalid environments and would thus not fully appreciate the benefits of tenure security or the availability of essential services. Women in both types of slum areas were more interested in secure tenure of landed assets and the opportunity to raise their children in hygienic environments than in gaining financial reward from the sale of property.

The primary intention of this study was not to explore whether women's participation and leadership in CBOs and other collective bodies would deliver more sustainable gains for the poor with regard to landed property, but evidence from slum upgradation programmes in other Indian cities suggests that this is the case. In Visakhapatnam, for example, there has been substantial gentrification and 'downward raiding' through the sale of plots to higher-income families in well-located areas along national highways. The initial enthusiasm of building a home on tenure-secured land caused many to incur large, high-interest debts, often from informal lenders, that resulted in numerous distress sales. However, Banerjee (2002) notes that the turnover of plots is significantly lower in well-organized neighbourhoods where women dominate local committees.

The women in this study indicated that owning a well-serviced home on secure land had significantly influenced their self-image and attitude towards the future. Several participants stressed that the prestige, security, stability, and convenience of owning a home made it almost ludicrous to consider selling it for profit if the alternative meant going back to paying rent or living without services. Focus group participants, who had been tenants for extended periods, mentioned not having to pay rent or deal with the mental anxiety of eviction threats as the biggest benefits of home ownership: according to a 2007 SEWA survey covering 285 women in the upgraded slums, 97 per cent reported an improvement in mental and emotional wellbeing as a result of the amenities, while 87 per cent reported social status improvements.

The status and self-esteem associated with home ownership, availability of water and sanitation services and tenure security are also reflected in the widespread desire of the study participants to rename their communities. Slums and other informal settlements in India are often derogatorily referred to as *chali* (shack) or *zhopadpatti* (hovel), but several of the upgraded slums had been renamed formally in response to popular demand. Interviewees stated on several occasions that living in *Indira Nagar* (Indira City) or *Nehru Nagar* (Nehru City) instead of *Talavadi na chhapra* (the slum on the lake) or *City Mill ni chali* (the city mill's shack) enhanced the image of their community as well as their perception of their place in society. Despite the significant contribution of slum communities to the urban economy, they exist on the fringes of society and occupy the lowest rungs of socioeconomic hierarchies. The transition—physical, mental and spiritual—from eking out an existence in areas considered to be an eyesore or a

⁶ One family moved to another upgraded slum and two were able to purchase property in low-income housing societies.

hotbed of urban crime, disease and disrepair to living in low-income housing societies with basic amenities had a strong dignifying effect on slum residents. The effect on women was particularly strong since they perform the bulk of family and household maintenance activities. While the residents of upgraded slums were understandably happy about the rise in the market value of their property after the provision of amenities, neither gender expressed any interest in selling unless they could afford to relocate to another location with comparable or better facilities.

3.3 Tenants and informal renting in slums

Improved security of tenure and the provision of basic services can at times have a negative impact on the rental sector in slums. This is a major problem for which no satisfactory answers have yet been found (Moser and Peake 1987; UN-Habitat 2003). Housing produced informally or illegally is often used for rental purposes. A combination of the insecurity of the settlement and non-compliance with basic health and safety standards makes it possible to provide shelter to low-income households at affordable rates. Tenure security also raises concerns about the link between tenure upgrading and market eviction. Tenants are almost always in the line of fire in such situations. Administrative measures like the Rent Control Acts, aimed at improving or controlling the low-income rental sector, have been tried without much success in Mumbai and Delhi, and have instead generated housing shortages, discouraged private investment in improving or maintaining the quality of housing, and restricted the option to rent for the very populations they were enacted to serve (UN-Habitat 2003).

Informal rental arrangements comprise a significant form of shelter for slum dwellers in this study, representing approximately 25 per cent of all randomly selected families. Of this group, approximately 30 per cent are households where women were the primary or sole breadwinners. While researchers like Chant (1997) astutely emphasize that female headship is not always a proxy for poverty, female-headed households in this study had fewer income-earning opportunities than male-headed households and were generally poorer. Given their low incomes, their choice of housing was more limited. The literature on slums and other informal and irregular settlements suggests that arrangements of informal renting, subletting, sharing, or lodging with a family are ranked the lowest in the residential hierarchy and were largely occupied by women and women-headed households (Volbeda 1989; Yapi-Diahou 1995). This is borne out in both types of slum settlements where women, especially with young children and without a male breadwinner, repeatedly indicated greater difficulty in securing rental accommodations. Some landlords openly declared reservations about renting to women because of speculations regarding the economic security of female-headed households.

Findings from this study indicate that infrastructure provision, shelter improvement, and tenure security definitely increased land and housing values and rents of slum properties. According to tenants, landlords increased rent by a few hundred rupees for a one-room house in three of the five upgraded slums almost immediately once the prospects of infrastructure upgradation were made public. While women receive considerable benefit from the availability of basic services, it is also possible that titled tenure and amenities like water and sanitation make rents prohibitively expensive for them, thereby sharpening the status distinctions between owners and rentees and ironically reinforcing the dependencies such interventions were designed to erase.

Knowledge of informal landlords (or landladies) and tenants and the kinds of programmes that might benefit them are rare, and aid programmes for rental tenure remain a neglected element of development assistance. The limited research on 'landlordism' predictably includes no analysis of gender (see, for example, Kumar 1996). Informal renting in slums is a double-edged sword for women. Women and women-headed households are adversely and disproportionately affected by increases in rents due to their positional vulnerability in society. Simultaneously, findings from this research and from others such as De Soto (2000) and Gilbert (1999) support the view that providing rental housing is a major livelihood and sometimes the only form of social security available to women in slums. A landlady in a slum is little better off, and often does not have better tenure security, than the tenant. Most lived close by or in another part of the house and were engaged in the same or similar economic activities as the renter. Although it would be unwise to generalize, it would seem that the caricature of the exploitative landlord or landlady may be as much a part of middle-class mythology as the assumption that slums are home to indolent criminals who make no positive contribution towards the functioning of the city.

3.4 Landed property titles for urban women

Regardless of their social class and economic status, very few women in India own landed property. For example, only one staff member at the SEWA Housing Trust held joint title with her husband to their home. Most staff members were from middle-class backgrounds and although all of them contributed income to the household kitty, none had ever questioned why they lacked joint titles to the houses they lived in.

A large number of the research participants had moved to Gujarat as young brides from the states of Rajasthan, Maharashtra and Uttar Pradesh. Very few could afford to visit their families and any claims they might have had to parental or ancestral property were cancelled by the inaccessibility to their natal families. There is clear evidence of male bias in land distribution through government schemes. In *Keshav Nagar*, the only slum in the study with full legal tenure, both male and female residents had contributed money and labour towards the acquisition of their plots, but the land revenue officials gave clear preference to male household heads in issuing property titles. There were no joint titles for married couples, and the only two women in the community who received independent titles did so because there was no male household head in their families. Given the low availability of land for distribution and the tradition of limited female inheritance, securing joint titles to land and landed assets would appear to present a practical solution, despite the counter-argument that the wife already has a legal, albeit rarely exercised, right to parental property.

The majority of women participating in the research were married, yet very few held joint titles to land and landed assets. In many cases, the property remained in the name of the father-in-law or brother-in-law; in some cases, even the husband lacked title. Women do have the option of independently purchasing land on the market, but the scarcity of resources as well as their poor access to credit and other financial services mean that they are rarely able to do so. Under these circumstances, joint land titles should not be seen as an alternative to inheritance, but as rectification of the reality that Indian women in general are property-less. Most study participants recognized the value of joint titles, yet a few indicated that they trusted their husbands or sons to take care of them and did not see the need to be named on ownership documents. The prominent

advantage cited by those who did perceive the need for joint titles was that of security. Several participants stressed that their claim to land and other productive assets would make it difficult for family members to expel them from their homes. The sale of land would also not be possible without their consent.

As with agricultural land, SEWA Bank has tried to advocate for the inclusion of women's names in titles to urban land and housing. Although SEWA Bank provides loans for the outright purchase of land and homes, women frequently prefer to borrow money for repairs, upgradation, and deliverance from mortgage payments. While it is relatively simple to provide women with independent or joint titles to newly purchased property, there are several legal and financial obstacles with regard to previously owned land and houses.

Joint titles are problematic even in the normal urban context without the slum situations where land ownership verified by standard deeds of sale is rare. In the rural context, joint titles become valid if the person named in the title has no objection to another name being added on. Given the stronghold of patriarchy in India and the widespread resistance to female inheritance of property, acquiring joint titles for women on a mass scale is a significant challenge even in rural areas where legal mechanisms exist to effect such change. In contrast, in the urban setting, no provision exists for the inclusion of a woman's name in the title of property belonging to her husband, and inserting a new name in the title document constitutes a sale or transfer of property for which a new sales deed needs to be drawn up. Under the Bombay Stamp Act of 1958, any transfer of property is liable to a stamp duty worth 10 per cent of the value of the property (Unni 1999). Stamp duty on property transactions has been justified on the grounds that without the practice, there would be large-scale illegal or *benami* (nameless) transfers of property among the middle- and upper-income groups to avoid wealth, property, and gift taxes.

In addition to formal transaction costs (registration fees, stamp duties and surcharges), it was commonplace for people to incur under-the-table costs (bribes) to expedite transactions and *baksheesh* (informal gratuities) to informal land evaluators. Mearns (1999) estimates that land transaction costs, including both formal and informal expenses, could amount to one-third of the total value of the transaction. These costs are onerous for all, but are especially prohibitive for the urban poor, and may explain why even educated middle-class women do not attempt to secure joint titles despite their contribution to the upkeep of family property. The costs are certainly too high for low-income women in the informal sector. None of the participants in this study considered spending such a sum, even if they had it, when there were so many other, more pressing, family needs. The risk of losing land or property through encroachment or non-transparent recordkeeping is considerably higher when landholders lack clear title to their land. Dealing with bureaucracy related to property acquisition and transfers is especially formidable for women already burdened with illiteracy, overwork, seclusion, lack of political voice and sexist cultural norms.

In order to gain access to property within existing patriarchal structures, there is a need for women's organizations like SEWA to strongly advocate joint titles for women at the national and state level. As a result of academic scholarship and the activities of women's groups, agricultural land is now widely understood to be a productive asset for rural women. A similar, equally convincing, argument can be made for urban women. Women's organizations should also petition land revenue departments for an exemption

from stamp duty or a considerable reduction in the costs related to property transfers for low-income women. This would facilitate the ability of low-income women to secure joint titles with their husbands.

Efforts to optimize women's access to joint titles through a reduction in the formal transaction costs must be complemented by the efforts of the land administration and revenue agencies to improve the transparency of recordkeeping and land management operations so that corruption is reduced and informal costs of land transaction are minimized. The multiple land management institutions and departments (municipal corporations, revenue departments, town development departments, estate departments) and their frequently nebulous roles and responsibilities significantly contribute to confusion and delays in property acquisition and transfer. The 74th Amendment Act of the Constitution of India facilitated the transfer of power from state legislatures to municipalities in such functional areas as urban planning, regulation of land use, economic and social development planning, provision of civic infrastructure, slum improvement, and urban poverty alleviation. However, this decentralization, although well-intended, was not matched with the resources required to operationalize it. Consequently, the lack of skilled human resource capacity is a serious obstacle to the realization of decentralization and gender equity objectives. Bribery is widespread in municipal corporations and revenue agencies, where incentives and promotion opportunities are not performance-related. If corruption is to be reduced, reform of management and incentive structures of municipal bodies in combination with the countervailing influence of a strong vigilant civil society is crucial.

3.5 'Right of residence' and 'right of ownership'

A wide range of legal, cultural, economic, political and ideological factors influence women's ability to own and control urban property. This complexity seems to reinforce the observation that urban land tenure in South Asia is best understood as a multifaceted social and political process rather than as a system of laws and rules: the process bears greater resemblance to a continuum with many intermediate goals rather than a dichotomy of what is legal or illegal, formal or informal. Similarly, in urban areas, concretization of a woman's right of residence may serve as an intermediary step *en route* to the final goal: the right of independent or joint ownership. While the right of ownership can be established only through a sales deed on secure land, the right of residence can be strengthened through various mechanisms. Since land ownership is still unavailable to an overwhelming majority of the slum population, and the concept of joint titles to urban land and housing is only just beginning to gain currency, organizations like SEWA have developed alternative channels to strengthen women's right to residence and to secure a stake in landed property in case of disputes and separation, legal or otherwise. Renana Jhabvala, the current President of SEWA Bharat (India), sums up the organization's strategy as follows:

Since there is no concept of standard ownership for poor women living in slums, we attempt to empower them with whatever means available to us. It's usually more of a matter of putting women's names on different documents such as promissory notes, electricity bills, and house and land tax. In the slums, the best we are assured of by way of tenure security at the moment is a ten-year guarantee of non-eviction. We have to work within

this framework while advocating for the appropriate policy instruments and legislation.

There was very little male resistance to SEWA's recommendation for land tax documents and electricity bills to be issued in the names of women. While this may have prematurely led to the conclusion that gender relations are more egalitarian among the lower-income groups, or that such ego issues are more prevalent in middle-class households, the male stance of no objection may be a reflection of the considerable deprivation of basic necessities that affects both genders in these communities, rather than being a question of gender equality. Indeed, as one male resident put it—since he had never experienced the luxury of having electricity, it would not bother him if the related bills were issued in the name of a stray cat on the street as long as the promised service was delivered. Similar findings are recorded by other authors. Agarwal (2003), for example, reports very little male resistance in Andhra Pradesh to wives farming land leased or purchased collectively by women's groups since it was a 'win-win' situation for everyone. While the gains from secured services like electricity or profits from women's farming efforts may not be challenged by men, it is possible that land redistribution within families could be contested since males stand to lose their traditional control over the resource. Therefore, for women to gain access to landed resources at par with men, it is as important to work with men as it is to work with women.

User charge documents for electricity and water are almost universally perceived as empowering to women. They can also be used in a court of law to apply for the female right of residence in the event of divorce or separation, but cannot be used to establish the right to ownership. Securing joint title to urban land and housing is a practical approach to improving women's entitlements, and can be especially empowering in conjunction with credit and other financial services as well as appropriate social security interventions that allow women to procure independent landed assets. In the context of slum communities, provisions for more affordable group tenure, collective tenure and cooperative tenure with equitable representation between men and women may also be explored as alternatives to individual or joint ownership.

4 Conclusion

This study emphasizes the importance of granting full legal tenure to residents of upgraded slums. While it is generally assumed that unequal land access is an outcome of unequal gender relations, our findings suggest that marginalization of low-income urban women in the ownership of landed assets may also be the result of rivalry between different groups of men, or the inability of certain male groups to acquire control over landed property. If full legal land tenure continues to remain out of reach for slum populations, it will increase their reliance on informal processes, such as political alliances and bribes to government officials, to ensure tenure security. This will further undermine women's access to and control over landed property, as it increases their dependence on men's networks of informal power. While slum communities have relied upon these methods out of necessity to ensure tenure security, this study asserts that these strategies are, at best, perceived as phases on the continuum towards full legal tenure, not long-term solutions. This is especially true for women's needs and priorities.

Enhancing women's ability to secure independent titles to urban land and housing is a long-term goal for organizations like SEWA. Joint titles are a step in the right direction, although the obstacles, as detailed in this paper, are quite significant. Overall, policy initiatives in women's education, reform of the judiciary and governance, public awareness campaigns, equality in resettlement schemes and land allocation processes as well as equal access to credit and technological inputs are valuable in ensuring that land rights have the potential to transcend gender relations.

References

- Abbott, P., C. Wallace, and M. Tyler (2005). *An Introduction to Sociology: Feminist Perspectives*. London and New York: Routledge.
- Agarwal, B. (1994). *A Field of One's Own: Gender and Land Rights in South Asia*. New York: Cambridge University Press.
- Agarwal, B. (2003). 'Gender and Land Rights Revisited: Exploring New Prospects via the State, Family and Market'. *Journal of Agrarian Change*, 3 (1): 184-224.
- Antrobus, P. (2005). 'Critiquing the MDGs from a Caribbean Perspective'. *Gender & Development*, 31 (1): 94-104.
- Banerjee, B. (2002). 'Security of Tenure in Indian Cities'. In A. Durand-Lasserve and L. Royston (eds), *Holding Their Ground: Secure Tenure for the Urban Poor in Developing Countries*. London: Earthscan Publications Limited, 37-58.
- Basu, S. (1999). *She Comes to Take Her Rights: Indian Women, Property and Propriety*. New Delhi: Kali for Women.
- Basu, S., and R. S. Rajan (eds) (2006). *Issues in Contemporary Indian Feminism: Dowry and Inheritance*. London and New York: Zed Books.
- Chant, S. (1997). *Women Headed Households: Diversity and Dynamics in the Developing World*. London: Macmillan.
- Cooper, B. (1997). *Marriage in Maradi: Gender and Culture in a Hausa Society 1900-1989*. Oxford: James Currey.
- Doss, C., C. Grown, and C. D. Deere (2008). 'Gender and Asset Ownership: A Guide to Collecting Individual-Level Data'. WB Policy Research Working Paper 4704. Washington, DC: World Bank.
- Durand-Lasserve, A., and L. Royston (eds) (2002). *Holding Their Ground: Secure Tenure for the Urban Poor in Developing Countries*. London: Earthscan Publications Limited.
- Gilbert, A. G. (1999). 'A Home Is Forever? Residential Mobility and Home Ownership in Self-Help Settlements'. *Environment and Planning A*, 31: 1073-91.
- Jackson, C. (2003). 'Gender Analysis of Land: Beyond Land Rights for Women?'. *Journal of Agrarian Change*, 3 (4): 453-80.
- Kumar, S. (1996). 'Landlordism in Third World Urban Low-income Settlements: Case for Further Research'. *Urban Studies*, 33 (4-5): 753-82.

- Mearns, R. (1999). 'Access to Land in Rural India: Policy Issues and Options'. World Bank discussion paper. Available at www.econpapers.repec.org/paper/wbkwbrwps/2123.htm.
- Moser, C., and L. Peake (1987). *Women, Human Settlements and Housing*. London and New York: Tavistock Publications.
- Parasher, A. (1992). *Women and Family Law in India: Uniform Civil Code and Gender Equality*. New Delhi: Sage Publications.
- Rosen, L. (1978). 'Law and Social Change in the New Nations'. *Comparative Studies in Society and History*, 20 (1): 3-28.
- Roy, A. (2003). *City Requiem, Calcutta: Gender and the Politics of Poverty*. Minneapolis: University of Minnesota Press.
- Sharma, K. (2002). 'Surviving Violence, Making Peace: Women in Communal Conflict in Mumbai'. In K. Kapadia (ed.), *The Violence of Development: The Politics of Identity, Gender and Social Inequalities in India*. New Delhi: Kali for Women, 183-206.
- Tinker, I., and G. Summerfield (1999). *Women's Rights to House and Land: China, Laos, Vietnam*. Boulder, Colorado: Lynne Rienner Publishers.
- UNDP (1995). *Human Development Report 1995*. Oxford: Oxford University Press.
- UN-Habitat (2003). *The Challenge of Slums*. London and Sterling, VA: Earthscan Publications Ltd.
- UNIFEM (2000). *Progress of the World's Women*. New York: UNIFEM.
- Unni, J. (1999). 'Property Rights for Women: Case for Joint Titles to Agricultural Land and Urban Housing'. *Economic and Political Weekly*, 34 (21): 1281-6.
- Volbeda, S. (1989). 'Housing and Survival Strategies of Women in Metropolitan Slum Areas in Brazil'. *Habitat International*, 13 (3): 157-71.
- Whitehead, A., and D. Tsikata (2003). 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Return to the Customary'. *Journal of Agrarian Change*, 3 (1): 67-112.
- World Bank (2001). *Engendering Development*. Washington, DC: World Bank.
- Yapi-Diahou, A. (1995). 'The Informal Housing Sector in Abidjan, Ivory Coast'. *Environment and Urbanization*, 7 (2): 11-29.