

WOMEN EMPOWERMENT, LAND TENURE SECURITY AND PROPERTY RIGHTS - CASE OF AHMEDABAD

RIDDHI RATNOTTAR, RUTOOL SHARMA

Abstract: Land tenure and property rights are two very essential parameters for people in slums and informal settlements. These parameters help to define 'rights' of urban poor, which in turn have significant role in determining the level at which the slum dwellers are exposed to eviction threat. These rights also influence the decisions related to buying, selling or renting their property. Status of tenure conditions also plays role in their access to basic services. Time and now, research has emphasized the importance of secured rights for attaining social stability and economic growth. India being a patriarchal society, generally land and property rights are male dominated areas. Women access and rights of ownership of the land or property is quite limited. This is specifically true for poor women, both in urban as well as rural areas. Because of lack of tenure or property rights women are dependent on man to protect them, both socially as well as economically. This increases discrimination, further reducing their dignity and limits their decision making power. It also compromises their access to basic rights like food, shelter, economic opportunities, and access to credit, security and other services. Thus, insecure or non-existent rights would expose poor women to vulnerable conditions. The land and property rights regime have changed in India, with basic intention to support women to secure their rights. Purpose of this paper is to document the changing status of women with respect to tenure and property rights. The paper concludes by that though there is an illustrative change in the rights of women, it does not help to establish the positive impact of this change on women's life. For understanding the impact of the change in tenure conditions, a detailed evaluation is necessary. Thus this paper tries to provide broad guidance to policy makers and other stakeholders, and help them protect and strengthen women's rights to land and property.

Keywords: India, Land Tenure, Property Rights, Slums, Women.

Land tenure and property rights: Land tenure is defined as 'the way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land' (United Nations Human Settlements Programme, 2008). In most countries, land tenure is recognized as a legal right. Thus it determines the right to access and use land. Another aspect that determines the level of security is property rights. These parameters are extremely important, as it affects the mechanism governing transfer of property. This in turn establishes the level of security. Secure tenure and property rights are also fundamental to achieving human rights and poverty reduction goals. Another significant benefit is that it promotes to improve the living conditions by investing in house improvement, as well as improves the ability to access public infrastructure. Secure land rights are particularly important in helping to reverse three types of phenomena: gender discrimination; social exclusion of vulnerable groups; and wider social and economic inequalities linked to inequitable and insecure rights to land (ibid).

NSSO's 58th and 69th round gives the distribution of slums by type of ownership of land on which the slums were located (all India and select state/UTs). According to NSSO 58th round, around 35% slums were on private land, which increased to 44% in NSSO 69th round. Results of 69th NSSO round also

demonstrate that the proportion of slums on private land was 30% or more in 9 of the 12 States. These number (slums on private land) are even higher in few states - 60% in Andhra Pradesh and 50-52% in West Bengal, Karnataka and Madhya Pradesh. Also, many slums that are located on private land fall under 'non-notified' slum category. For example, in Karnataka as many as 80% of non-notified slums were found on land that was privately owned. This makes the slum dwellers more vulnerable (Ministry of Statistics & Programme Implementation, 2012). In order to improve the legal status of slums, government generally drafts policies towards legalization of tenure conditions. However, the main concern is that formalization of the land will reduce the broad and variegated set of overlapping claims on land under customary systems to a simple free hold tenure rights, often invested in a single male individual, also ability to access credit by using land as collateral (De Soto, 2000), despite little direct evident that titling leads to an expansion in household borrowing (Durand-Lasserve, 2006).

Important of land tenure / property rights security with respect to women: Adopting a pro-poor developmental or gender neutral human rights approach fails to appreciate the particular needs and concerns of women. Though statistics are generally not complete, it is well recognized that women's access to land, property and housing is grossly

disproportionate to that enjoyed by men (UN-Habitat, 2006). Many factors limit women to access rights to secure tenure and property rights. Majority of these factors arise due to gender biased legal systems, customary tenure conditions, patriarchal approach, religion, societal pressures, and social arrangement.

Studies have found that women who have secure urban tenure in India have higher self-esteem, are better able to participate in local committees and governance structures. Furthermore, providing rental housing is a major livelihood for women in slums (Gilbert, 1999). Other studies have found that secure land and property rights can enhance women's abilities to participate in informal trading and negotiate access to higher income markets in the formal sector. Women land ownership is also associated with stronger bargaining power in the household decision making, with important dimensions such as fertility and spending on children. They also make substantial improvement in their home, as well as other important aspects like food, health and education. However a common criticism of land formalization initiatives is that they will unintentionally strip women of their access to land.

In many Asian countries, the formal law strengthens women's property rights, but social norms limit women's willingness to enforce the law. In India, although women have the same legal rights to own land as men do, less than 10 percent of privately held land is in the name of a woman. One reason for this is dowry, prohibited by formal law, but nonetheless widely practiced. Therefore, although women have formal rights to inherit land, these rights are trumped by the social understanding that women's dowries represent their inheritance (Scalise, 2009).

The condition in India regarding recognizing women's right is shifting. Policies and legislations are being written and enacted to protect women's land rights. For example recent amendments in state-sponsored land programs, which require land / property document(s) to be in the name of both spouses or in the name of the female only (Carmen Diana Deere, 2001). Ownership rights for women are also encouraged by incentives offered by state and local government. Example, if the land is registered jointly or in name of women there is a reduction offered in stamp duty charges (Department of Planning, 2006).

Case studies - Investigating changes in land tenure & property rights regime adopted during slum

redevelopment / rehabilitation programs: There are 712 pockets of slums in Ahmedabad (AMC, 2011). This accounts for around 1.62 lakh dwelling units as slum households and 7.28 lakh slum dwellers. Thus, approximately 25.77 per cent of city's population lives in slum or slum-like conditions. City governance has been proactive in promoting various interventions related to slum redevelopment and rehabilitation, way back since 1990s. Various central and state level schemes / policies / programmes related to slums have also adopted in the city. Basic purposes of these upgradation or redevelopment interventions have been to upgrade improve living condition of slum dwellers. Facilitating access to infrastructure and improving tenure security have been some key criteria behind these intervention strategies.

90:10 Scheme: This scheme was proposed with an objective to improve sanitation in slums. Hence, Municipal Corporation introduced this scheme. Under this scheme, each slum house can construct individual toilet. The scheme also encouraged improvement in sanitary conditions by providing financial subsidy for construction of these toilets. 90% of the construction cost was borne by Municipal Corporation, and remaining (10%) was borne by the slum dwellers. This scheme helped to reduce open defecation in and around slums, thus improving health and sanitation conditions. However the sole purpose of this scheme was to provide individual toilets. The scheme did not target for improvement of tenure conditions within slums. Hence tenure conditions or property rights related matter remained stagnant as there were no changes under this scheme.

Slum networking programme (SNP): Slum Networking Programme is considered to be an integrated approach to upgrade slums. Basic objective of this programme was to provide for all services / facilities necessary for improving the living conditions. This includes provision of basic services like individual water connection, toilets, paving of internal streets, storm water disposal, and streetlights. The strategy adopted was to engage community in the effort and develop a sense of ownership within them. Hence it also included certain community development interventions like establishing neighborhood groups; mobilizing community savings; etc. The financial outlay of the programme was shared by AMC and slum dwellers. However in order to truly involve people to implement and invest in the programme, slum networking programme assured changes in the tenure conditions of these slums.

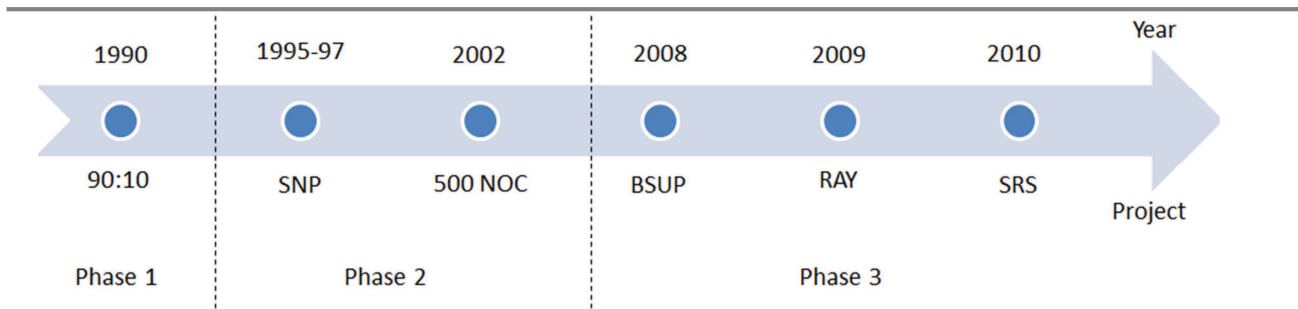


Figure 11 Three phases of development in allotment of property rights

This was done by providing them with 'No Eviction Certificate' for ten years. Thus slum dwellers got an assured tenure for ten years. However this was done for the entire slum and not for each household. Thus even though the tenure condition improved and the eviction threat decreased (for specific period), the property rights regime remained the constant. The slum dwellers were still not in a position to sell or rent their property by legal means.

500 No Objection Certificate (NOC) scheme: This scheme was started in 2002 by AMC. Under this scheme the slum dweller can get a 'No Objection Certificate' from AMC. This certificate allows the household to apply for a legal (individual) sewage and water connection to their house. Slum dweller has to pay Rs. 500 to get NOC. The scheme is to provide for basic services (water supply and sewerage) and hence it does not cover aspects related to improvement in tenure condition or property rights.

Basic Services for Urban Poor (BSUP): This scheme was launched by central government with an intention for integrated development of urban poor. The scheme recognizes importance of tenure security and that it can be of permanent nature. This security may be in form of 'patta' or legal ownership of land. The scheme does not clearly mention about inclusion of women's name in the property related documents. However on reviewing slums of Ahmedabad (where BSUP scheme have been implemented), it was found that AMC has encouraged to formulate property allotment letter in favor of women. The allotment letter that has been issued is either in the name of women or in joint allocation with spouse, with spouse being the second holder. However, it comes with limited property rights. There is a limitation imposed on which does not allow them to rent or sell the property for 10 years. Even the legal title will be available only after completion of 10 years, and on payment of all property / related taxes, loan instalments etc.

Rajiv Awas Yojana (RAY): This is also a centrally sponsored government scheme. Vision of this scheme is to create 'slum free' India in span of 2009 to 2022. Implementing strategy adopted for this scheme is to plan a slum free city on the basis of preventive and curative measures by identifying projects and

preparing a Detailed Project Report which includes strategies for all slums. The scheme requires commitment and willingness to assign property rights to slum dwellers, preferably in the name of the wife or in the name of both wife and husband.

Slum Rehabilitation Scheme (SRS): This is a state sponsored scheme. Main objective is to meet the objective of slum free city by providing for in-situ slum redevelopment of slums. The scheme provides for construction of *pucca* houses with all basic amenities. According to this scheme the beneficiaries will get leasehold rights for the houses allotted to them for first 15 years. After the completion of 15 years, they will be granted ownership rights. However the ownership of land will remain with local body or relevant authority. The scheme also mentions about ownership rights being allotted in joint names of spouses. On review case studies of SRS in Ahmedabad, it was found that AMC has issued allotment letter in the joint name of both the spouse. However the allotment letter issued by developer is in name of women.

Conclusion: Slum redevelopment/ upgradation programmes have seen three phases of development in terms of allotment of property rights or giving tenure security (See figure 2). In phase 1, the only focus of programmes/schemes was to improve slum conditions. However there tenure security and property rights regime did not find place in these programmes / schemes. On reviewing Phase 2 programmes, the important was given to slum improvement. However, SNP also gave 'assured tenure' (for limited period) to these slums. Individual household level property rights were not detailed out in this programme. Hence this phase may be considered as an intermediate phase with respect to tenure security. Phase 3 showed a major push towards recognizing women right to property. This was emphasized by ensuring allotment letter and ownership documents in name of women or jointly with spouse. This is a direct mode of ensuring women's access property and related decisions. However there are three major limitations - 1) rights are given jointly (with husband) and hence it does not guarantee independent decision making; 2) rights are not conferred on immediate basis and are also

conditional; 3) legal format in which the rights have to be conferred are also pre-defined. The women do not have say in definition of these rights. These

benefits are also typically conditional with respect to women attaining ownership status or partial control of land during the titling process.

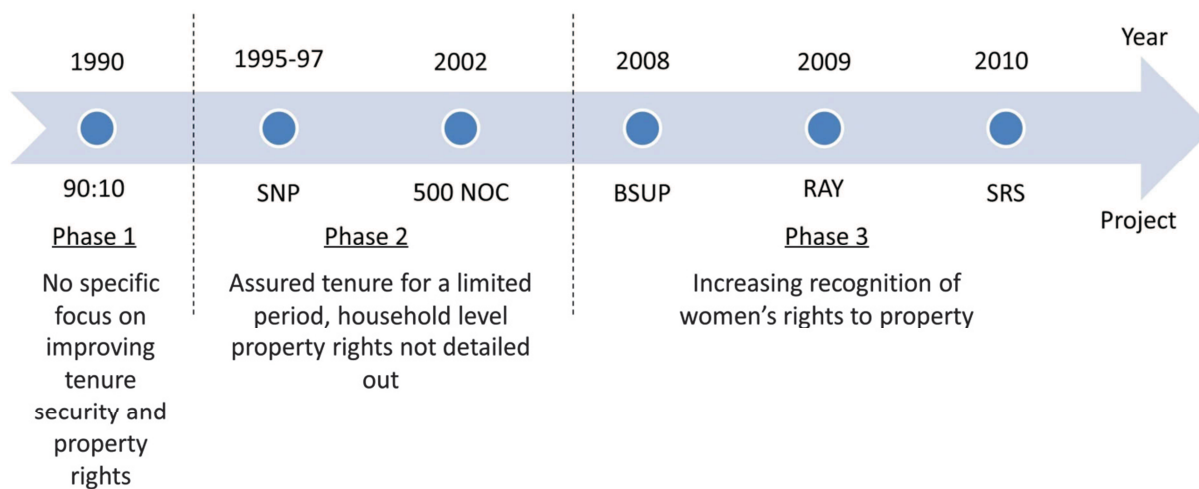


Figure 12 Three phases of development in allotment of property rights

Another aspect associated with this is that the implementation of these schemes. The coverage of these schemes is inadequate. Ahmedabad has around 712 slum pockets. For example, only 12 slum pockets have been identified under SRS. Out of which only five slums have been redeveloped. Other pockets are still under progress. Similarly there are around eighteen pockets identified for BSUP. Under RAY only two slums have been identified. However in none of the two slums, the work has started. So even though the schemes / programmes target to achieve better status for women, the results are not achievable due to very low coverage and slow implementation pace. This also means that allocation of rights to women is limited only to those pockets where the scheme gets implemented. Women living in other slums are still vulnerable due to other absence of property rights. Attaining legal ownership rights also brings in series of other benefits, and gaining security. One of the major outcome is that the women will also attain right to enter formal land / property market. This improves their decision

making power, which is an important dimension from the perspective of household welfare.

It is also quite far from clear about the likely outcome of this benefit i.e. whether the women will be able to attain true ownership rights or not. Short and long term assessment of current property allotment and titling framework being adopted also needs to be carried out. Assessment may try to answer few questions like - whether women are comparatively more secured. Have they been able to access their rights? Do they face any hindrance or problems while accessing these rights, etc.? Also, further improvements are necessary for identifying other measures that would enable women in slums to access land / property rights. Comprehensive land titling programmes need to be formulated. These programmes should be formulated by keeping in mind that both *de jure* and *de facto* gender equality are essential to the enjoyment of right to adequate housing (Elizabeth Daley et al., 2013).

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Riddhi Ratnottar/CEPT University/
Rutool Sharma/Assistant Professor/Faculty of Planning at CEPT
Address/ Faculty of Planning, CEPT University, KL Campus, University Road, Navrangpura, Ahmedabad,
Gujarat - 380009