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Government of India

Ministry of Housing  
and Urban Poverty Alleviation



# STATE OF THE URBAN POOR REPORT 2015

Gender and Urban Poverty



OXFORD



Ministry of Housing and Urban Poverty Alleviation

# State of the Urban Poor Report 2015

## Gender and Urban Poverty

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## Women's Rights to Adequate Housing, Land, and Property in Urban India

*Shivani Chaudhry*

As urbanization, largely exclusionary in nature, continues to accelerate at an unprecedented rate across the world, so does urban poverty. According to the World Bank's 2011 estimates (UN-Habitat 2014), over 90 per cent of urban growth is occurring in the 'developing' world, adding an estimated 70 million new residents to urban areas each year. During the next two decades, the urban population of the world's two poorest regions—South Asia and Sub-Saharan Africa—is expected to double. Of the estimated 1.3 billion people living in absolute poverty around the world, 70 per cent are women and girls; this number continues to rise, contributing to a global phenomenon of the 'feminization of poverty'. Approximately a quarter of the world's urban population lives in 'slums' or inadequate urban settlements. Women constitute a large percentage of the urban poor, and suffer the impacts of poverty differentially and disproportionately.

Despite strong international and national legal provisions protecting gender equality and women's human rights, women across the world, including in India, continue to suffer daily violations of their human rights. Among women, certain categories of women face the

worst marginalization and discrimination. These groups of women include homeless and landless women, indigenous women, women of Scheduled Castes (SCs) and Scheduled Tribes (STs), women of sexual and religious minorities, single women, including single mothers, migrant women, women with disabilities, mental illness, and HIV or AIDS, and women living in poverty, among others.

Women's human rights to adequate housing, land, property, and other resources are critical in the realization of gender equality for women and in reducing poverty at both the national and international level. The human rights to adequate housing and land are recognized in national and international law and policy. Women, however, face systematic violations of these rights, as gender plays a major role in accessing housing, land, and property, in both rural and urban areas. Over one billion urban women in the global south or approximately 80 per cent of urban women lack the ability to fully exercise rights to housing and land, and as a result, lack formal land titles and saving accounts. The World Economic Forum (2014) Global Gender Gap Index ranked India 114 of

142 countries, on the basis of how women fared against men in economic participation, educational attainment, and health.

Factors such as rapid industrialization, land grabbing, forced evictions and displacement, failed land and agrarian reforms, distress migration, exclusionary urbanization, increasing homelessness and landlessness, and the absence of affordable and public housing for low income groups are contributing to a severe crisis of housing and land in India. And it is women and girls who find themselves confronted with the worst forms of housing and land insecurity.

The inequality of urbanization has resulted not just in the deprivation of the majority, but also in the Indian city transforming into a site of gender-discrimination, where the politics of space and participation continue to deny women the full realization of their human rights. Issues of persistent violence against women in the private and public sphere; low ownership of housing, property, land, and other resources by women; the absence of legal security of tenure for women; the lack of access to basic services such as water, sanitation, and electricity for low-income women; inadequate public transport facilities; unsafe public spaces; and the lack of participation of women in urban planning, all serve to violate women's human rights, including their equal 'right to the city'. These issues have further repercussions for women through the gendered division of labour and the feminization of poverty.

Poverty, thus, needs to be addressed through a gendered and intersectional lens, and so does urbanization.

Despite policy measures aimed at encouraging women's access to and ownership of land and housing, including through amendments in inheritance laws, in India only 12 per cent of landowners are women. Violations of women's right to adequate housing, land, property, and inheritance are rooted not only in unjust models of growth and planning, but also in structures of gender-based oppression that need to be challenged and eliminated. Violations of these human rights also result in the infringement of a range of women's rights, including their human rights to health, work or livelihood, security of the person and home, food, water, education, information, and participation.

This chapter attempts to highlight the importance of these rights for women, identifies some of the obstacles and challenges affecting the realization of women's human

rights to adequate housing, land, and property in urban India, and proposes recommendations aimed at ensuring the protection of women's rights. It is only through the implementation of the 'indivisibility of human rights' approach in law and policy that the intersectional and structural nature of discrimination against women—including with regard to their access, use, and ownership of housing, land, and property—can be addressed.

## BACKGROUND

The Census of India 2011 revealed that 31 per cent of the Indian population or about 380 million people live in urban areas; this number is estimated to increase to about 600 million by the year 2030. By 2026, 40 per cent of the Indian population will live in urban areas. The urban poor constitute 97 million people, about one-fourth of the urban population.

According to the Slum Census 2011, 66 per cent of statutory towns in India have 'slums'.<sup>1</sup> A 'slum' for the purpose of the census has been defined as 'residential areas where dwellings are unfit for human habitation by reasons of dilapidation, overcrowding, faulty arrangements and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light, or sanitation facilities or any combination of these factors which are detrimental to safety and health'.

In absolute numbers, China has the highest number of people living in 'slums' followed by India (UN-Habitat 2012). A total of 13.75 million households or one-fifth of Indian households live in 'slums' or urban settlements in grossly inadequate, overcrowded conditions without access to tap water, sanitation, security of tenure, and electricity. Organizations working on issues of urban poverty and housing, however, believe that the actual number is much more. The impacts of inadequate housing conditions and the absence of basic services affect women most severely, and adversely impact their human rights to water, sanitation, food, security, privacy, and livelihood or work.

For the first time, the Census of India 2011 collected information on 'female-headed households' in the country. In 2011, India had 27 million female-headed households. They constitute 12 per cent of urban households and 10.4 per cent of rural households. With the growing feminization of poverty and rising migration, and the increase in the number of single mothers and single

women living on their own, this percentage is likely to increase, especially in urban areas.

Across India, women are discriminated against with regard to their rights to own, access, use, and control land, housing, and property. Whether through social control measures, absence of adequate laws and education, or through patriarchal practices, women seldom enjoy the full realization of their human rights.

As Table 5.1 demonstrates, a large proportion of female-headed households live in 'no exclusive room' and in 'one room' dwelling units compared to male-headed households. The household sizes in case of female-headed households also tend to be smaller than those of male-headed households. Nationally, the proportion of households possessing different assets also is lower in case of female-headed households in comparison to male-headed households.

TABLE 5.1 Nature of Census Houses

Type of Census Houses	Female-headed Households (%)	Male-headed Households (%)
Permanent	60.5	62.1
Semi-permanent	26.2	25.0
Temporary	12.4	12.0
Serviceable	7.6	7.2
Non-serviceable	4.8	4.8
Any other	0.9	1.0

Source: Census of India, 2011.

The Food and Agricultural Organization (FAO) of the United Nations (UN) in its online database on gender and land rights, cited the disparities that exist between men and women in owning property as one of the major causes for social and gender inequalities in India (FAO n.d.).

The need to focus on women's rights to adequate housing, land, property, and inheritance is urgent, especially since urban poverty, discrimination, and violence against women are intensifying across India. Women suffer from the impacts of urbanization and poverty differently, and thus need special attention in the legal, policy, and financial response of the state.

## HUMAN RIGHTS TO ADEQUATE HOUSING AND LAND

As established by international law, housing is not merely an entitlement but a human right. The most significant

instrument on the human right to adequate housing is Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR 1966). It affirms:

The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions.

The UN Special Rapporteur on adequate housing defined the right to adequate housing as, 'the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity'.<sup>2</sup>

Women's (and girls') right to adequate housing, as an inalienable, integral, and indivisible part of all human rights, has also been recognized, implicitly and explicitly in several international and regional human rights instruments. These include the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Rights of the Child, and the Convention on the Protection of Rights of Persons with Disabilities. The Istanbul Declaration and the Habitat Agenda adopted at the second United Nations Conference on Human Settlements in 1996, commit governments to provide legal security of tenure and equal access to land to all people, including women and those living in poverty. Other UN guidelines and conference outcome documents that protect women's rights to adequate housing, land, property, and inheritance, include, inter alia: the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women; Commission on the Status of Women resolution 42/1; the Commission on Human Rights resolution on women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing,<sup>3</sup> and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.<sup>4</sup>

The UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 on the right to housing (1991) identified seven elements that determine 'adequacy' of housing: (a) legal security of tenure, including legal protection against forced evictions; (b) availability of services, materials, facilities, and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.<sup>5</sup> At the

international level, this is the single most authoritative legal interpretation of the human right to adequate housing. This list of elements has been further expanded and is elaborated in the 'Questionnaire on Women and Housing'<sup>6</sup> developed by the Special Rapporteur to also include: freedom from dispossession, damage, and destruction; access to information; participation; resettlement, restitution, and compensation; *non-refoulement* and return; privacy and security; access to remedies; education and empowerment; and, freedom from violence.

The human right to adequate housing has been recognized both generally and specifically for different groups of people, given their differing levels of vulnerability on account of their economic, social, cultural, ethnic, religious, or physical status. For housing to be adequate, it also requires homestead, sources of livelihood and survival such as agricultural land, common property resources, natural resources for subsistence, basic civic infrastructure and facilities concerning health, education, water and food, and a clean and healthy environment.

The human right to adequate housing is inextricably linked with other human rights (Box 5.1), such as the rights to health; security of the person and home; land; livelihood or work; information; participation; freedom of movement and to choose one's residence; a safe and healthy environment; non-discrimination and gender equality; and, the right not to be arbitrarily deprived of property. In particular, the right to land is an integral component and is considered essential for the full realization of the human right to adequate housing. At the international level too, there is a growing recognition and acknowledgement of the normative, moral, and legal basis for the establishment of an independent right to land, which is both a collective and an individual right.

Though India has ratified several international human rights instruments and is also bound by the Constitu-

tion and national case law, the human rights to adequate housing and land still elude a large number of Indians, especially women and marginalized groups. Gender continues to be a significant basis of discrimination in housing, property, and land rights in India. The inability to access, use, and control land, housing, and property constitutes a violation of a range of women's human rights and contributes significantly to women's increasing poverty.

### WOMEN FACING MULTIPLE LEVELS OF DISCRIMINATION

While women do not constitute a homogeneous group, they do have shared experiences and face similar vulnerabilities. Although the extent of discrimination may differ, women irrespective of class, economic status, marital status, ability, and age, experience inequality in all spheres, especially with regard to the realization of their human rights, including their rights to adequate housing, land, property, and inheritance. There are certain groups of women, however, who experience severe and multiple levels of discrimination.

Women experience discrimination on account not just of their gender but also on the basis of their class, caste, marital status, religion, economic status, sexual orientation, and age. Thus, several factors intersect to oppress the same woman. In particular, women of STs and SCs, women of economically weaker sections and low income groups, abandoned women, older women, widows, and single women, including unmarried women and single mothers, are among the most marginalized in India, especially with regard to their housing and land rights.

This intersectionality, resulting in multiple levels of discrimination, has led to women's rights to adequate housing, land, property, and inheritance being severely violated. This chapter, in particular, focuses on the

#### BOX 5.1 Gender Dimension of Housing Rights

[...] there is a gender dimension to every human rights violation and this is especially true in respect of housing rights violations. Access to and control over land, property and housing are determinative of women's overall living conditions and are necessary to the development of sustainable human settlements in the world today. These entitlements are essential for women's economic and physical security and to the struggle for equality in gender relations.

Source: Report of the UN Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Miloon Kothari, E/CN.4/2001/51.

special needs and concerns of women living in poverty in urban India.

### IMPORTANCE OF HOUSING, LAND, AND PROPERTY RIGHTS FOR WOMEN

Since adequate housing and land are human rights, women must, therefore, be entitled to them at both the *de jure* (legal) and *de facto* (real) level. A legal right to land, housing, and property implies that a woman's right to access, use, dwell, manage, control, and sell land, housing, and property is protected and enforceable under law. It could be in the form of a lease, rental agreement, mortgage or ownership title—collective, joint, or individual. It should be understood as the right to enjoy one's house, land, and other property and possessions without interference and discrimination.<sup>7</sup> It also implies the concurrent rights not to be forcibly evicted and to security and safety. A legal right, is a necessary but not always sufficient condition because it may not necessarily translate into the right to access and use. Social, cultural, and religious factors may often deny women with legal rights the ability to access, control, and use their land, housing, and property. On the other hand, some women may have usufruct rights over land, property, or housing without legal rights. It is, therefore, important to ensure the guarantee of both *de jure* and *de facto* rights, in order for women to be able to enjoy the full realization of their housing, land, property, and inheritance rights. Legal, institutional, administrative, and social systems must work collaboratively to protect these rights. This is particularly important for women because of the following reasons.

#### 1. Realization of other human rights

Women's rights to adequate housing and land are an essential component of safety and security, and are integral to the realization of other human rights for women, including the rights to health, livelihood or work, water, food, education, and basic services such as sanitation, electricity, transport, and healthcare. When women live in adequate housing conditions and have land rights, they are able to enjoy the realization of related human rights. Conversely, the violation of their housing, land, and property rights results in the denial of other human rights.

#### 2. Equality and empowerment

Women's rights to housing, land, and property are a critical prerequisite for gender equality. Several studies across the world have documented that when women own housing and land, it results in increased intra-household bargaining and decision-making power. It also enhances their economic status within the family, community, and society. Housing provides a place of residence and self-employment; it may also be a source of rental income. Land for women is important for livelihood and economic sustenance; it is also the basis for housing security for women. A study in Mumbai demonstrated that secure housing could increase women's weekly earnings from home-based businesses by 35 per cent (the Rockefeller Foundation 2014).

#### 3. Reduced levels of domestic violence

The link between housing and violence against women has been well established through empirical data and studies around the world, including by the UN. Legal rights to women over land, housing, and property not only empowers them and protects their livelihoods, but also helps in reducing their risk of domestic violence.

The absence of adequate housing can make women more vulnerable to various forms of violence and, conversely, violence against women can lead to the violation of women's rights to adequate housing. The Special Rapporteurs on adequate housing have presented a series of reports on women and housing to the UN Commission on Human Rights and the UN Human Rights Council.<sup>8</sup> The reports highlight that the widespread prevalence of gender-based violence is a central thread in the fabric of human rights violations faced by women, including violations of their human rights to adequate housing and land.

Secure housing, especially if it is in the name of women, provides safe shelter and protection from homelessness after divorce, widowhood, serious illness, including mental illness, loss of employment, or other emergencies.

The association between women's ownership of property and their experience of domestic violence reveals that property ownership, specifically ownership of housing, serves to protect them from the experience of domestic violence. A study conducted in Kerala showed

that women possessing rights over property faced lower incidence of both physical as well as psychological violence as compared to women who possessed neither land nor house. Among women who owned neither land nor a house, the incidence of spousal physical violence was 49 per cent and that of psychological violence was 84 per cent. In contrast, of the women who owned both housing and land, 7 per cent reported physical violence and 16 per cent reported psychological violence (Panda and Agarwal 2005). A similar study conducted in West Bengal, shows that property ownership plays a protective role against violence. Among women who did not own any property, 57 per cent experienced some form of violence, compared to 35 per cent of women who owned property. Thus, with property ownership, there was a drop in the overall violence reported. This is also true across particular forms of violence. While 40 per cent of women with no property reported physical violence, the figure dropped to 15 per cent for those who did. Similarly, 50 per cent of non-propertied women reported psychological violence while for those with property, the figure was 28 per cent (Gupta 2006). De facto and de jure rights for women over adequate housing, land, and property, thus also help in reducing their risk of marital violence and thereby acting as a crucial preventive tool.

#### 4. Improved health, education, and social well-being

There is a direct correlation between housing and health, especially for women. The structure, location, facilities, environment, and uses of human shelter have a strong impact on the state of physical, mental, and social well-being (WHO 1989).

Secure rights for women over housing, land, and property have been proven to result in improved health and education of their families, as it is estimated that women reinvest three times as much income as men on family welfare. Benefits of women's property ownership also include reduced anxiety about abandonment and physical security, and thereby better mental health of women.

#### 5. Improved housing and social infrastructure

When women have security of tenure over land and housing, they tend to invest more in their homes. Property

rights for women, including the rights to access, manage, and control housing and land, also result in better urban living conditions and improved equality and sustainability in cities.

The above evidence from around the world thus proves the need for ensuring that women's rights to adequate housing, land, property, and inheritance are guaranteed and upheld by the state.

### OBSTACLES TO THE REALIZATION OF WOMEN'S RIGHTS TO ADEQUATE HOUSING, LAND, AND PROPERTY IN URBAN INDIA

Women can gain access to housing and land in many ways: via inheritance, through the state, or through the market. At each level, however, a combination of social, political, and legal factors intersect to discriminate against women and impede the realization of their rights.

#### 1. Political Obstacles

- a) Promotion of a neo-liberal paradigm of economic growth and urbanization

The governments, at both the central and state levels, seem to be convinced that the creation of 'world class cities' not 'inclusive cities' is vital for the nation's economic growth. The obsession of the Indian state with creating these 'world class cities' through infrastructure development has resulted in highly discriminated urban spaces characterized by increasing inequality, poverty, homelessness, and gender-based violence (Box 5.2). As the majority of urban India grapples with the perils of precarious housing, water scarcity, insecurity, unemployment, malnourishment, and poor health, the government's resounding focus on infrastructure development and creation of 'smart cities' needs to be re-evaluated.

The prevalent neo-liberal paradigm of urbanization, being promoted in India, focuses on the simultaneous creation of enclaves of exclusive development for the wealthier residents of cities and ghettos of subsistence for the economically weaker sections. This is done under the insidious agenda of creating 'slum free cities' and is reflected in the rising occurrence of forced evictions and demolitions of low-income settlements, with alarming impunity and illegality. It is also visible

in the rampant conversion of public land to private use with the collusion of the state; the deployment of legal tools to sanction unlawful state actions; the adoption of prejudicial vocabulary in policy that declares residents of low-income settlements as 'encroachers' and 'squatters'; and, a complete failure to incorporate the working classes and urban poor into city planning processes.

This model of economic growth and urbanization has also promoted the privatization of basic services and housing, and fuelled real estate speculation that has made housing unaffordable for the majority while perpetuating inequality, exclusion, and discrimination. The impact of these policies is most severely felt by women, who bear a disproportionate burden because of their multiple roles and responsibilities within the family, society, and economy.

#### b) Absence of affordable adequate housing

One of the most glaring failures of urban development in India is the absence of public and low-cost housing in cities and towns. It results in a large percentage of the urban poor being forced to live in grossly inadequate conditions in informal settlements or 'slums'. According to Census 2011, in cities with a population of more than one million, nearly 40 per cent live in 'slums' while the metropolitan cities of Mumbai, Delhi, Chennai,

Hyderabad, and Kolkata account for more than 50 per cent of total 'slum' households in the country.

The Report of the Technical Group on Urban Housing Shortage (2012–17) stated that the national urban housing shortage at the end of 2012 was 18.78 million houses. Ninety-five per cent of this shortage (17.96 million dwelling units) is for Economically Weaker Sections (EWS) and Low Income Groups (LIG) (Ministry of Housing and Urban Poverty Alleviation 2011). A recent 'White Paper on Indian Housing Industry', by the research and consultancy firm RNCOS, projects that the shortage of urban housing is expected to grow at a compound annual growth rate of 6.6 per cent for 10 years, and will increase to 34 million units by 2022. The Task Force on Rental Housing has underscored rental housing as the only sustainable option for EWS or LIG. According to the report, the rental housing market in India forms about 30 per cent of all dwellings in urban India.

Most residents of informal settlements do not have legal security of tenure over their homes. This affects women significantly, also making them more vulnerable to forced evictions and insecurity. The absence of basic services such as water, sanitation, electricity also greatly impacts women, especially their health, security, privacy, and livelihoods (Box 5.3).

... Women and children are more likely than adult males to be exposed to health hazards in the domestic environment, mainly because they spend more time in the home and their activities involve greater exposure to whatever safety deficiencies and health hazards are present (WHO 1989).

#### BOX 5.2 Economic Growth and Violence Against Women

India has embarked on a journey of aggressive economic growth and this path is viewed as the route to simultaneously addressing its human development challenges. Despite the inclusion of beneficial provisions for women and children in the Five Year Plan, the impact of economic development policies on women is resulting in forced evictions, landlessness, threats to livelihoods, environmental degradation, and the violation of bodily integrity rights, among other violations. The adverse consequence of resulting migration to urban areas is reflected in the living and work conditions of many of these women and children, for example living in slums or on the streets, engaging in scavenging activities and in sex work etc.

*Source:* Statement of Rashida Manjoo, UN Special Rapporteur on Violence against Women, its Causes and Consequences, 1 May 2013, New Delhi.

Safe drinking water and sanitation were established as human rights by the UN in 2003. Yet Census 2011 data shows that about 35 per cent of the slum population does not have access to 'treated' tap water from a municipal corporation. More than 25 per cent of the residents use water from handpumps, tubewells, or some other undefined sources. Only 47 per cent of households have a source of water within the premises of their homes, while 36 per cent of households have to fetch water from a source located within 100 metres in urban areas and 17 per cent still fetch drinking water from a source located more than 100 metres away. According to Census 2011, in Delhi 0.24 million households use community facilities and 0.11 million households still use open spaces for defecation. Fifty-two per cent of children living in

**BOX 5.3** Absence of Sanitation and Violence  
Against Women

Nearly half a billion Indians, or 48 per cent of the population, lack access to basic sanitation, and defecate in the open. In Delhi, Meerut, Indore, and Nagpur, between one-third and one-half of poor households practice open defecation. Several studies have shown that women without toilets at home are vulnerable to sexual violence when travelling to and from public facilities or open fields. Women living in urban settlements of Delhi reported specific incidents of girls under the age of 10 'being raped while on their way to use a public toilet' to researchers of a 2011 study by WaterAid and DFID-funded Sanitation and Hygiene Applied Research for Equity. Women in one settlement said when they went out in the open to defecate, local boys stared at them, made threats, threw bricks, and stabbed them. Others said they faced 'lewd remarks, physical gestures and rape when they relieved themselves in the bushes.'

Source: BBC News India (2014).

"slums" and unauthorized colonies defecate in the open' (Department of Planning, Government of National Capital Territory [NCT] of Delhi 2013: Chapter 5).

The absence of affordable housing results in most families being forced to live in overcrowded conditions either on the streets, in shelters, or in one room tenements. This greatly violates women's and girls' rights to privacy. This also makes it difficult for women to engage in physical relationships and impacts their sexual and reproductive rights.

Political will, at both the centre and state, to invest in adequate low-cost and public housing continues to be absent.

- c) Forced evictions, displacement, and the failure of resettlement

Forced evictions and demolition of informal settlements and slums, often accompanied with violence, are rapidly intensifying and increasing across urban India. Many of these are carried out under the guise of 'urban renewal' and 'city beautification' and the mission of governments to create 'world class cities' and 'slum free cities', which instead of improving housing conditions are actually resulting in the obliteration of slums and banishing of the poor from urban spaces.

The UN Committee on Economic, Social and Cultural Rights, in its General Comment 7,<sup>9</sup> stated that women are particularly vulnerable to forced eviction given the statutory and other forms of discrimination they experience in relation to property rights (including home ownership) or rights of access to property or accommodation, as well as women's particular vulnerability to acts of violence and sexual abuse when they are rendered homeless.

As asserted by the former UN Special Rapporteur of adequate housing, in addition to facing eviction in situations such as urban slum clearances, armed conflict, and large-scale development projects, women are also vulnerable to forced evictions specifically because of the gender discrimination they face as women.<sup>10</sup> Women and children suffer disproportionately from the impacts of forced evictions and destruction of their homes. In the aftermath of a forced eviction, girls generally drop out of school and women often lose livelihoods as well as social security nets and community support systems. In the absence of adequate rehabilitation, thousands are rendered homeless and forced to eke out an existence on the streets. This greatly increases vulnerability of women and girls to violence, sexual abuse, and often trafficking. In several instances, an increase in early marriage of girls has been reported among displaced families, as parents fear for the safety of their daughters in the absence of secure housing.

The former UN Special Rapporteur on violence against women reaffirmed that forced relocation and forced eviction from home and land have a disproportionately severe impact on women, including when these are committed by spouses or in-laws.<sup>11</sup>

The lack of legal security of tenure and titles in the name of women, also makes women more prone to evictions. If housing was secure and in their names, they would be protected against demolitions and evictions.

The majority of families evicted by the state are considered 'ineligible' for resettlement on grounds of the inability to furnish requisite documents, most of which, ironically, are lost during the process of demolition of their homes. In the few instances where resettlement is provided, the sites are located on the outskirts of cities, and do not provide access to basic services such as water, sanitation, electricity, and transport (Box 5.4). Relocation to distant sites also results in most women losing their livelihoods and facing increased impoverishment and vulnerability.

**BOX 5.4 Impacts of Failed Resettlement on Women**

A comprehensive study of living conditions in three large resettlement sites in Delhi, Chennai, and Mumbai reveals multiple violations of human rights of women. In Kannagi Nagar, Chennai—one of the largest resettlement sites in India—after relocation, many girl children have been forced to drop out of school on grounds of fear and insecurity. The flats do not have internal water supply connections. Hence, women are forced to collect water from handpumps outside their homes and climb one to three floors with a minimum of six water pots, on a daily basis. The nearest government hospital where women can avail of maternity care and other healthcare services is located over 10 kilometres from the site. In the absence of adequate transport facilities, this has resulted in several women being forced to deliver babies on the roadside, en route to hospital. Similar incidents have been reported at the resettlement site of Savda Ghevra, Delhi. Women in these resettlement sites feel very unsafe and experience acts of violence against them on a regular basis.

*Source.* Adapted from Housing and Land Rights Network (2014).

**d) Increasing homelessness**

Homelessness constitutes the worst violation of the human right to adequate housing, and homeless women are among the most marginalized, ignored, and discriminated in the country.

The absence of affordable housing along with a rise in forced evictions and demolitions of homes are contributing to an increase in homelessness across large cities as well as smaller towns in India. In most cases, poverty, unemployment, substance abuse, family breakdown, and unaffordability of housing drives many women and girls to the streets. Another reason that induces homelessness among women is domestic violence. The majority of women and girls abandon their homes to escape domestic abuse and violence by their husband, husband's family, or their own maternal family. However, homelessness makes them more vulnerable to violence and brutality. Single mothers suffer the most, as they not only have to protect themselves but also shield their children from social evils such as child trafficking and child labour.

The Census of India defines 'houseless people' as persons who are not living in 'census houses'. The latter refers to 'a structure with roof'. The United Nations

Statistical Division (2008) groups homeless persons into two categories:

- (a) Primary homelessness (or rooflessness): This category includes people living in streets or without a shelter or living quarters;
- (b) Secondary homelessness: This category may include people with no place of usual residence who move frequently between various types of accommodation; and people usually resident in long-term 'transitional' shelters or similar arrangements for the homeless. This category also includes persons living in private dwellings but reporting 'no usual address' on their census form.

The homeless population also include those sleeping in homeless shelters, homes, and institutions because they have no place of their own. According to the Census 2011, India has more than 1.7 million homeless persons; 938,384 of them live in urban areas (Ministry of Home Affairs 2011). Independent estimates, however, place the total number of homeless persons in India at about 2.5 million.

Women who do not have access to secure housing and are forced to live on the streets, face harsh climatic conditions and also experience the most severe kinds of abuse and gender-based violence ranging from verbal, physical, and sexual abuse to economic and social exploitation by the police, employers, local goons, and even passers-by (Box 5.5).

Essential services such as toilets, bathrooms, and potable water are not easily accessible to the homeless. Each service that a homeless person requires has to be paid for, and that too in cash. Inability to pay coupled

**BOX 5.5 Testimony of a Homeless Woman**

As my family lives in an open area, there is a constant fear of kidnapping, sexual assault, and rape of young girls and homeless women in the area. I suffer from mental tension due to insecurity for my young daughters. I spend sleepless nights ensuring that my children are safe. Like me, many homeless mothers spend nights watching over children.

—*Testimony of a homeless woman at a Public Hearing on Violence against Homeless Women in Delhi*

*Source:* Shahri Adhikar Manch: Begharon Ke Saath (2014).

with the lack of access to secure toilets and bathing areas often means that the homeless must relieve themselves in the open, bathe less frequently or in the open or behind plastic sheets, and access unclean water through public taps and leaking pipelines. This is most difficult for women, rendering them vulnerable to multiple forms of violence, abuse, and ill health (Chaudhry, Joseph, and Singh 2014).

A major violation faced by homeless women is that of their human right to health and affordable healthcare. Homeless women suffer from several diseases and illnesses as a result of inadequate living conditions and extreme weather conditions. They are vulnerable to excess heat, rain, and cold, and often have insufficient clothes and blankets during winter months. Homeless women have a difficult time accessing healthcare, including maternal healthcare. Many pregnant homeless women are denied admission in hospitals, even at the time of delivery, as they cannot afford to pay the medical fees. In 2010, a homeless woman died while giving birth, on the street in Delhi. Malnutrition is a common problem among homeless women, especially among pregnant and lactating women. Research studies also indicate a direct correlation in increase in mental health and psychiatric disorders among homeless women, especially those who are abandoned.<sup>12</sup>

State response to the needs of homeless women in India is grossly inadequate; the majority of homeless women are left to fend for themselves and suffer a daily onslaught of their human rights in silence. Police brutality and anti-vagrancy laws that criminalize the homeless further add to the violation of their rights. In India, for instance, the Bombay Prevention of Begging Act, 1959 is routinely used to criminalize and arrest the homeless. Women who are arrested under the act are often separated from their children, who are left on the streets to fend for themselves or taken to child welfare homes. The 'home' for women in Delhi is located in Nirmal Chhaya, in the complex of Tihar Jail. The living conditions are deplorable, with no hygiene, sanitation, or adequate food (Chaudhry et al. 2014).

#### e) Inequitable land use and planning

Across urban India, land use planning is extremely inequitable and favours a development paradigm aimed at benefiting the upper classes and elite residents of cities. A

United Nations Development Programme note prepared in 2003 stated that 95 per cent of legal urban space was used and kept for the benefit of the most privileged 5 per cent of the city population. According to UN-Habitat, poor people occupy just 5 per cent of all urbanized world land. However, despite their presence and significant contribution to the city's economy, the urban poor and working population are largely ignored and unacknowledged in the formulation of land use and city plans and processes. On the contrary, to the extent that they are planned, cities are largely configured and redefined in accordance with the political influences of real estate capital, with large-scale infrastructure designed to fit the needs of economic activity, and in keeping with the demands and preferences of middle and upper-income groups (Martine 2011).

Often, inferior quality land in cities is developed by the working poor and made inhabitable and productive, as a result of which its value increases. State and private forces then work, often in collusion, to develop schemes and 'projects' to demolish the settlements on that land and/or to evict the residents. The rhetoric of 'encroachment' and increasingly 'resettlement' is used to usurp this high value land occupied by low income groups, to move them to the margins of cities, and to 'gentrify' and then use the vacated land for profitable enterprises favouring the city's affluent population. This is evident across India and severely impacts women's rights to adequate housing, land, property, security, and livelihood.

The special needs of women are not factored into planning processes, neither are women consulted in the development of city and master plans. Housing and settlement planning is not gendered and city spaces are increasingly becoming more and more unsafe for women. The failure to address the human rights of women in land distribution, housing development, transportation, and urban planning results in increasing discrimination and violence against women in urban India.

#### f) Failure to address linkages between rural and urban issues

A major lapse in the government's approach to poverty reduction in India has been the failure to address the interlinkages between urban and rural issues, and to understand that strategies need to be developed on a continuum rather than in isolation. Distress migration from

rural to urban areas has historically played a key role in the rapid growth of cities. Displacement, agrarian crises, landlessness, and homelessness contribute to families losing all means of subsistence in rural areas and moving in search of livelihoods to urban centres. The exclusion of women from land and property in rural areas, in particular, has pushed many into the slums of urban areas, contributing to the rise in female-headed households among the urban poor.<sup>13</sup> The increasing conversion of rural land to urban use and the reclassification of rural localities into urban centres, is another reason why the interdependence of rural and urban growth and development, needs to be acknowledged. It is also important in addressing the land and housing needs of the poor, especially of women.

g) Lack of disaggregated data

There is an acute paucity of gender disaggregated data in India. The Census of India collects data on ownership status of houses (National Sample Survey Office and National Family Health Survey do not collect data on this variable), but the response is given as 'owned or rented or other'. There is no information collected on the nature of tenancy or ownership: whether it is single or joint and whether women have any ownership/access rights. Given the importance of housing and land for women, information on the status of women's property ownership and rental housing needs to be collected. While the Census of India has attempted to count the nation's homeless population, the exercise has not been carried out properly; neither has it attempted to document the number of homeless women. In the absence of accurate data, policies cannot be effective in addressing structural issues and developing durable solutions.

h) Other factors

These include the lack of equal access to credit and finance for women; the lack of adequate budgetary allocations for promoting women's housing, land, and property rights; low priority to gender equality in state programmes; gender insensitivity within the government, including the bureaucracy; and lack of political will.

## 2. Legal Obstacles

a) Absence of progressive laws and gaps in implementation

There is an absence of sufficient progressive laws that protect women's human rights to adequate housing and land; minimize forced evictions; and, promote rights-based rehabilitation in India. The lack of protective legal, policy, and administrative provisions and their interpretation increase women's vulnerability to finding themselves in inadequate and insecure housing and living conditions.

Where laws, policies, schemes, and government orders protecting women's rights to adequate housing, land, property, and inheritance exist, implementation is weak and continues to be influenced by patriarchal, social, institutional, and political structures. Several state and central government housing and resettlement schemes mandate joint titles for women and men over housing. However, like government orders, these policy prescriptions are not legally enforceable and thus continue to be violated. Despite provisions available in international and domestic law, women continue to be treated unfairly with regard to their rights to housing, land, property, and inheritance.

For example, despite the fact that India's Protection of Women from Domestic Violence Act, 2005 contains a provision securing women's rights to remain in their place of domicile, lack of implementation of the act continues to result in victims of domestic violence being thrown out of their homes or being forced to leave situations of violence. Similarly, the Hindu Succession Amendment Act (HSAA) 2005, which guarantees equal coparcenary rights to daughters, is not necessarily implemented due to familial biases in favour of sons and other patriarchal norms. The HSAA allows women to reside in their parental home as a right and not on sufferance. While this amendment resulted from a long struggle of women's rights and housing rights movements and organizations, women have not been able to ensure its successful implementation across the country.

According to a study by Landesa (2013), the burden of dealing with the administrative and quasi-legal processes to claim inheritance rights combined with the social backlash appears to be a major obstacle for most women. The study also found that administrative processes related to mutation and partition of land are largely insensitive to women's constraints.

The Government of India has also failed to adequately implement international law, UN guidelines, declarations, and concluding observations and general recom-

recommendations of treaty bodies and of Special Procedures. Several treaty bodies have made recommendations on women's housing and land rights in India. These include the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of All Forms of Discrimination against Women, and the Committee on the Rights of the Child. The UN Special Rapporteurs on human rights defenders and violence against women, on their missions to India, have also spoken about these issues and made recommendations to the government.

b) Lack of participation of women in law and policy-making

Women's participation in the political sphere and in law and policymaking is still limited. This results in several gender-insensitive laws, policies, and schemes being developed across the country. The failure to include women's voices also promotes the persistence of discriminatory practices against them as well as the creation of inequitable cities that are unsafe for women and do not provide safety and security for them, not just with regard to housing and land ownership, access, and use but also to public spaces, public transport, sources of livelihood, healthcare, playgrounds, crèches, and social support structures.

c) Lack of access to remedy

Across India, women continue to be denied their equal right to remedy. It includes the fundamental right to constitutional remedy as well as the right to timely legal aid. The Special Rapporteur on Violence against Women, on her mission to India noted that, '[a]lso repeatedly raised was the concern that legal aid, a right guaranteed in article 39A of the Constitution, was not equally granted to women in practice, and in particular to poor and marginalized women.'<sup>14</sup>

The reasons for women's denial of their right to remedy include the following:

- Lack of adequate information and access to legal aid;
- complicated court procedures;
- sexual harassment of women in courts;
- illiteracy among women;
- lack of awareness of legal rights and women's rights;
- absence of sensitive judges;
- delay in getting justice; and

- male dominance with regard to decision-making, including decisions related to legal aid and redress.

3. Social Obstacles

a) Patriarchy and patrilineal systems of inheritance

One of the greatest obstacles to the realization of women's rights is patriarchy in India. Patriarchy is deeply ingrained everywhere, including at all levels of governance, and requires a sustained socialization campaign to change people's mindset. Even where laws and policies protecting women's rights exist, implementation is thwarted by patriarchal norms and practices, especially within the family and workplace. This also results in socio-cultural pressures on women to not demand or give up their rights to male members of the household. Very often this results in the tendency to register titles, leases, including rental agreements, land, property, and housing in men's names. Patrilineal inheritance norms within families often fail to recognize or accept legal provisions which grant women equal rights. Even where daughters are legal inheritors or own property, strong marital pressures result in the transfer of this property to brothers before marriage or to husbands through dowry after marriage. For instance, the Hindu Succession Amendment Act, 2005 is not implemented because of the strong resistance from male family members, and the tendency to perpetuate traditional practices of transferring property to sons, not daughters. Even when women receive land in inheritance, it is invariably much less than an equal share. In the few matriarchal societies in India, too, inheritance is largely patrilineal.

b) Discriminatory religious customs

In a country with multiple religions, customs, and cultural norms and practices, women tend to face discrimination from various sources. The persistence of certain social traditions also deny women their rights to inheritance as well as to their natal and marital homes. Different religious laws treat women differently.<sup>15</sup> For instance, under Muslim personal law, the principle governing women's right to property is that a woman's share is half that of a man. While the *Shariat* allows Muslim women to inherit agricultural property as full owners, the Muslim Personal Law (Shariat) Application Act, 1937, as applicable in India, explicitly excludes agricultural land from its purview. Certain customs such as branding

women as 'witches', force women to leave their homes or result in their being evicted by their families and treated as outcasts, thereby depriving them of their right to life, which includes housing.

c) Lack of economic independence

One of the factors that inhibits women's ability to question inequitable decision-making structures and make independent choices is their economic reliance on the family or partner or spouse. For instance, even where joint ownership or registration of housing or land is a policy requirement and titles exist in the names of both women and men, the lack of economic independence often prevents women from demanding their rightful share and exercising their equal rights. Economic dependence coupled with the absence of adequate support facilities and housing options, also prevents many women from leaving situations of domestic violence.

d) Marital status

Women often lose rights to land and housing when there is a change in their marital status, including marriage, separation, divorce, or death of a spouse or partner. Women affected by widowhood and old age are particularly susceptible to losing security of tenure over land and housing. Single women are often denied housing and face growing vulnerability, especially when it comes to control over resources or property. Security concerns may influence women to opt for rental dwellings annexed to landlord-occupied housing. Penny Vera-Sanso (2006) notes that single women or female heads of household, in southern Indian cities found it difficult to get rental accommodation in the face of aspersions about the sexual propriety of women without male 'guardians'.

e) Gender-based violence

While secure rights over land, housing, and property act as a means to deter and prevent violence against women, the act of violence—physical and psychological—impedes the realization of women's rights to adequate housing, land, property, and inheritance.

Just as inadequate housing leads to the risk of violence, a situation of domestic violence can lead to a woman being deprived of housing. Also, a woman may remain

in an insecure home to avoid being out on the streets and to protect herself and her children from the hardships of a homeless life. The former UN Special Rapporteur on violence against women recognized that women's poverty, together with a lack of alternative housing options, make it difficult for women to leave violent family situations.<sup>16</sup>

On average, violence makes up at least 25 to 30 per cent of urban crime, and women, especially in developing countries, are twice as likely to be victims of violent aggression (including domestic violence) as men (UN-Habitat 2006: 144). Urban women living in poverty face specific risks of gender-based violence, including those arising from inadequate living conditions such as overcrowding, congestion, lack of privacy and access to sanitation, water, and electricity. According to the United Nations Population Fund, women may be at a greater risk of gender-based violence in urban areas 'because of the breakdown in cultural mores that govern relations between the sexes and the lower likelihood that neighbours would intervene' (UNFPA 2007: 23).

#### 4. Recommendations

A range of measures, including legal and policy interventions, are required to enable women to own, manage, access, and control housing, property, land, and resources in urban India. The links between women's human rights to work, food, health, adequate housing, land, and security are critical and need to be recognized in law and policy as well. Since the struggle for women's property rights requires political, legal, institutional, social, and cultural transformation, innovative reforms are required through the promotion of alternative approaches.

a) Recommendations at the political level

i. Human rights-based urban reform incorporating the 'right to the city' approach

The prevalent paradigm of urbanization in India needs to be revisited and modified, and should incorporate the 'right to the city' approach. The movement for the 'right to the city' has developed as a response of social groups and organizations, in an attempt to ensure better access to and opportunities for everyone living in cities. Social movements and organizations from across the world organized to develop a *World Charter on the Right to the*

*City*<sup>17</sup> also supported by UNESCO and UN-Habitat, among other agencies. It defines the 'right to the city' as:

The equitable usufruct of cities within the principles of sustainability, democracy, equity, and social justice. It is the collective right of the inhabitants of cities, in particular of the vulnerable and marginalized groups, that confers upon them legitimacy of action and organization, based on their uses and customs, with the objective to achieve full exercise of the right to free self-determination and an adequate standard of living.

The right to the city consolidates the struggle for the realization of multiple human rights—work, adequate housing, health, education, food, water, land, social security, information, participation, and a clean and healthy environment. Since human rights are indivisible, implementing the right to the city across India, will promote social justice and reduce poverty, especially for women.

Urban land use planning and distribution must be grounded in the principle of the 'social function of land and property', which implies that all sections of society are able to benefit from it. This principle would ensure more equitable and sustainable land use in urban areas, especially for women.

In order to ensure gender-based urban development, city resources must be equitably shared among men and women. Mainstreaming the gender agenda into urban development will also require gender-based reforms and the institution of specific measures that will eliminate gender biases in urban policies (Kothari and Chaudhry 2015). The Government of India needs to focus on the creation of inclusive cities first, rather than on building 'smart cities,' which do not specify any indicators for gender equality.

#### ii. Investment in adequate low-cost housing

The government must invest in low-cost and public housing schemes for the urban poor with special incentives for women, including single women and women-headed households, to access housing, including rental housing. State-provided housing—including under the central government's new 'Housing for All by 2022' scheme—must meet UN standards of adequacy regarding security of tenure, access to essential services, location, accessibility, affordability, habitability, and cultural appropriateness. Housing should provide safety, privacy, security, and freedom from violence for women and girls. It should also ensure access to schools, sources of

livelihood, crèches and playgrounds for children, and community support systems for women. Access to affordable rental housing is also central to addressing women's homelessness and insecurity.

#### iii. Legal security of tenure

Legal security of tenure, which provides protection against forced evictions, must be provided by the government to women living in informal settlements as well as in resettlement sites. All titles whether in the form of long-term leases or ownership deeds over existing housing and land, or new allotment of land and property should be in the name of the adult woman or women of the household (Box 5.6). Tenure options should be discussed with women and should provide for more affordable group tenure and cooperative ownership over housing, land, and other property resources. Titles to marital property should be in the names of both the man and woman. At the time of marriage, the wife's name should be added to all property owned by her husband.

#### iv. In situ upgrading and moratorium on evictions

The government should invest in upgrading areas where people live rather than relocate them to remote sites that isolate them from jobs, schools, community networks, and healthcare. Upgrading processes must be inclusionary and must involve women in order to incorporate their needs, suggestions, and concerns in housing design and settlement planning. The state must work to ensure that forced evictions are prevented, and that police and government officials do not use force or violence against

#### BOX 5.6 Guiding Principles on Security of Tenure for the Urban Poor

6. States must strengthen and protect women's security of tenure, regardless of age, marital, civil or social status, and independent of their relationships with male household or community members...

61. .... States should adopt legislative and administrative measures to prohibit and eliminate discrimination against women in this respect by, inter alia, landlords, public housing providers, and credit institutions.

Source: Report of the UN Special Rapporteur on adequate housing 'Guiding Principles on Security of Tenure for the Urban Poor', Raquel Rolnik, A/HRC/25/54, 2013.

women under any circumstances. The recent announcement of the Government of NCT of Delhi to stop all evictions should be emulated as a policy precedent across India. The arbitrary 'cut-off' date established by state governments to determine 'eligibility' of the urban poor to access entitlements must also be abolished, as it disproportionately discriminates against low income women. The government should also ensure that implementation of the land acquisition act does not adversely impact the urban poor.

v. Shelters for homeless women

While the goal of the government must be the provision of affordable adequate housing for all Indians, the first humanitarian step on the 'continuum of housing', is to provide adequate shelters for homeless women, where they are able to live with dignity. Permanent, twenty-four-hour, year-round shelters and hostels for women need to be urgently set up in all the cities and towns. Separate shelters should be created for single women, for women with children, for women with mental illness and disabilities, and for women with families. There is an urgent need for long-stay homes with adequate facilities for treatment and rehabilitation, including for women escaping situations of domestic violence. All shelters should be based on human rights standards of adequate housing and should be set up close to sources of women's livelihood and work.

vi. Checks on privatization and real estate speculation

The state must intervene to check against indiscriminate real estate speculation on land and housing, which results in unnaturally high prices that further impede low income women from accessing housing and land. Controls also need to be exercised to prevent privatization of housing and essential services such as water, electricity, and sanitation services to ensure that women are not excluded from accessing them.

vii. Gender budgeting

Adequate budgetary allocations need to be made to promote the realization of women's rights to adequate housing, land, property, and inheritance across India.

This would include the need for resources to invest in sustained legal and human rights education and awareness campaign.

viii. Gender-disaggregated data

In order to develop adequate legal, policy, and programmatic responses, the governments at both the state and central level, need to ensure the collection of gender disaggregated data, especially on housing, land, and property ownership. Data on homelessness and other dimensions of poverty also needs to be disaggregated on the basis of gender, in order to understand local realities and to ensure that policy response is more accurate and effective in providing durable solutions.

ix. Women's equal participation

Efforts must be taken to ensure that women are adequately represented at all levels of decision-making and urban planning. Adequate reservation of seats for women in urban local bodies, state legislatures, national human rights institutions, the judiciary, and parliament should be implemented by law.

x. Improved inter-ministerial coordination

Promoting gender equality must be the goal of all human rights institutions and ministries of the government. In order to ensure improved legal and policy response for the realization of women's human rights, there needs to be better coordination between the various line ministries including the Ministry of Urban Development, Ministry of Housing and Urban Poverty Alleviation, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Social Justice and Empowerment, Ministry of Health and Family Welfare, Ministry of Commerce and Industry, Ministry of Rural Development, and Ministry of Agriculture, Cooperation, and Farmers Welfare. All national human rights institutions, including the National Human Rights Commission, National Commission for Women, National Commission for Minorities, National Commission for Scheduled Tribes, National Commission for Scheduled Castes, and National Commission for Protection of Child Rights, should work more closely together, including with relevant ministries.

## b) Recommendations at the legal level

## i. Human rights-based legislation and legal reforms

Urgent measures need to be taken to introduce national human rights-based legislation that guarantees the human right to adequate housing and land, including security of tenure, for women, in accordance with India's international human rights commitments. Laws related to resettlement and rehabilitation, land, disasters, and homelessness, also should have specific provisions to protect women's rights. These should include special protections for women who are even more vulnerable to housing and land rights violations, including survivors of domestic violence, widows, female-headed households, displaced women, homeless and landless women, minorities, single women, and women belonging to SCs and STs. Government orders and policies that include provisions for women's ownership of housing and property should also be incorporated into relevant laws.

Experience and empirical evidence from several countries corroborates the fact that joint titles over property for women are not necessarily effective in ensuring women's access, use, and control of housing and land, or in the realization of their human rights. It is, therefore, important to develop legal provisions that mandate registration of housing or land or property or lease agreements, deeds, and titles in the name of women—either individually or collectively. A first step could be through establishing women's claims to residence by including women's names in documents such as electricity and water bills, and housing tax. When property is on the name of woman, special incentives should be provided, including tax breaks and lower registration fees.

National laws should be developed in accordance with international laws, guidelines and resolutions, including the UN Basic Principles and Guidelines on Development-based Evictions and Displacement, which contain strong provisions for protection of women's housing and land rights.

## ii. Implementation of national law and policy

Where progressive provisions in policy and law protect women's rights, efforts must be made to ensure their implementation. This includes the need for widespread education and awareness on laws such as the Hindu

**BOX 5.7** Some Positive Elements of the HSAA, 2005 Relevant to Urban Women

- Includes daughters, including married daughters, as equal coparceners in joint family property.
- Gives all daughters (married and single) the right to reside in or seek partition of the family dwelling house.
- Permits widows who have remarried to inherit property of the deceased husband.

*Source:* Hindu Succession (Amendment) Act, 2005.

Succession (Amendment) Act, 2005 (Box 5.7) and the Prevention of Women from Domestic Violence Act, 2005, as well as state government orders mandating registration of property in women's names.

## iii. Implementation of international law and policy

The government, at both the centre and state, must ensure the implementation of international laws, guidelines, resolutions, recommendations of UN treaty bodies and Special Procedures, and recommendations of the Universal Periodic Review, which uphold women's rights. Mechanisms should be established to monitor progress in meeting India's international legal commitments, and the government should report regularly to treaty bodies as per its requirements. It should also encourage visits of UN Special Procedures to strengthen the realization of human rights for all within the country.

## iv. Gender appraisal of laws and policies

The centre and state governments should carry out a 'gender appraisal' of all laws or policies to remove any gender discriminatory provisions in them and to harmonize them with the Constitution of India and international law. States should also undertake a review of the Prevention of Women from Domestic Violence Act, 2005 and the Hindu Succession (Amendment) Act, 2005 to assess whether women have benefited from and been able to use the provisions protecting their rights.

## v. Uniform civil code

It is important to insist on the development of a uniform civil code in India that recognizes, protects, and fulfils the

**BOX 5.8** Relevant Recommendations on Gender Equality made by the UN Human Rights Council to the Government of India at its Universal Periodic Review, May 2012

- Continue incorporating the gender perspective in programmes and development plans with positive measures for the effective promotion and protection of women's rights.
- Re-double efforts on ensuring gender equality and take measures to prevent gender discrimination.
- Continue following up on steps taken to eliminate discrimination against women, including through raising awareness and continuous strengthening of the relevant legal and institutional frameworks.
- Re-examine the budgets and social laws taking into account gender issues.
- Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the SCs, STs, and minorities are well achieved.

rights of women of all religions (Box 5.8) to property and inheritance. With the existence of three different laws in the country for women of different religious groups, achieving gender equality is a challenge. It is also much more difficult to check against discrimination within religious laws and mores.

vi. Legal training

Rigorous legal training and education on international, national, and local laws and policies protecting women's rights need to be provided at multiple levels, including among the judiciary, lawyers, police, urban planners, non-government organizations (NGOs), bureaucrats, elected government officials, and staff of local municipalities and land registration agencies.

vii. Adequate legal aid

Women should have equal access to avenues of legal redress and aid for violations of their right to adequate housing.<sup>18</sup> This includes access to lawyers, public institutions, grievance redress mechanisms, and other para-legal services.

c) Recommendations at the social and cultural level

i. Human rights education

There is a need to move from soft 'gender-sensitization' programmes to more targeted interventions aimed at promoting gender equality. This requires a shift in the way women's issues are portrayed and women's rights are spoken about in India, especially within key ministries,

departments, and commissions. Land and housing first need to be recognized as human rights by the state, and then awareness and education material, modules, and multimedia campaigns need to be developed. The state needs to work with different actors to promote intensive human rights education on women's rights at multiple levels: with law and policymakers, government officials, the judiciary, local communities, residents of urban settlements, civil society representatives, law enforcement agencies including the police, national, and state human rights institutions, judicial academies, schools, and universities.

Special efforts need to be undertaken to launch creative campaigns to challenge and dismantle patriarchy as well as anti-women customary laws, traditions, and practices. Education and socialization interventions need to be planned with boys and girls from a young age. The state should undertake legal literacy missions and also work with radio and television. State legal authority services, as part of their mandate, should be encouraged to publish material on women's rights to adequate housing, law, property, and inheritance, and engage in awareness and advocacy efforts.

The promotion and practice of patriarchy needs not just widespread social censure, but the state also needs to take punitive measures against perpetrators of such actions against women.

ii. Working with religious organizations

Since religious, cultural, and customary norms and practices are some of the greatest obstacles to the realization of women's rights to adequate housing, land, property,

and inheritance in India, it is important to engage with influential heads of different religious groups to promote gender equality within their various conglomerations, and to encourage them to work with other actors to bring about law and policy changes aimed at protecting women's human rights.

iii. Synergy between women's rights groups and others

Women's rights groups in India need to work more closely with other organizations to campaign for women's housing and land rights, especially for marginalized women. Women's organizations in India have aligned themselves strategically and actively around issues such as dowry and the elimination of domestic violence against women than around advocacy for housing, land, and property rights. Consequently, mobilization on the issue of women's housing, land, and property rights has been limited, except for the campaign to amend the Hindu Succession Act. Important lessons can be learnt from the success of this campaign that worked with women's rights groups, housing, and land rights organizations, human rights activists, the government, Members of Parliament, lawyers, and the Prime Minister's Office (Agarwal 2005).

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The issue of women's rights to adequate housing, land, and property, especially for women living in poverty, is one of prime importance in India. It lies at the crux of achieving better health, safety, security, and freedom from violence against women. It, therefore, needs to be a priority in policy and law formulation and implementation. The state does not have a paucity of funds or resources at its disposal. What is required is a strong political will coupled with a commitment to protecting and fulfilling the human rights of women. With a holistic approach and a strategic long-term plan of action that is monitored and assessed with concrete human rights indicators, the state can bring about considerable progress in improving housing and living conditions of women in urban India.

As urbanization continues to accelerate and as private investment flows into cities, the government instead of focusing overwhelmingly on developing 'smart cities'

and favouring land transfers to the rich, should direct its energy towards building inclusive and equitable cities where women's rights are protected. It should work on meeting its constitutional and international legal obligations, which would lead to safer, better, and more equitable cities for all. It is only when the women of India, especially the most marginalized women, are able to attain the full realization of their human rights—including their rights to adequate housing, land, property, and inheritance—that India will truly grow and develop as a nation.

## NOTES

1. In this chapter, the term 'urban settlements' has been preferred over the use of the term 'slums'.
2. Report of the Special Rapporteur on adequate housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Miloon Kothari, E/CN.4/2006/41, 2006.
3. 'Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing', Commission on Human Rights Resolution 2005/25, E/CN.4/RES/2005/25.
4. Basic Principles and Guidelines on Development-based Displacement and Evictions, A/HRC/4/18, 2007.
5. General Comment No. 4 of the Committee on Economic, Social and Cultural Rights on the 'right to adequate housing' (Sixth Session, Document No. E/1992/23).
6. Available at <http://www.ohchr.org/EN/Issues/Housing/Pages/WomenAndHousing.aspx> (last accessed 4 May 2015).
7. Section C.1.1 (Brookings-Bern Project on Internal Displacement 2011).
8. For reports of the UN Special Rapporteurs on women and housing, see <http://www.ohchr.org/EN/Issues/Housing/Pages/WomenAndHousing.aspx> (last accessed 1 May 2015).
9. General Comment No. 4 of the Committee on Economic, Social and Cultural Rights on 'Forced evictions', (Sixteenth Session, 1997, Document No. E/1998/22).
10. Report of the UN Special Rapporteur on adequate housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Miloon Kothari, E/CN.4/2004/48, 2004.
11. Report of the UN Special Rapporteur on violence against women, Radhika Coomaraswamy, E/CN.4/2000/68/Add.5, 2000.
12. See 'Housing, Health, and Mental Health' at [http://www.cmha.ca/public\\_policy/housing-health-mental-health/#.VheQrvmqqko](http://www.cmha.ca/public_policy/housing-health-mental-health/#.VheQrvmqqko) (last accessed 9 October 2015).

13. Women Watch, Factsheet, Gender Equality and Sustainable Urbanisation. Available at <http://www.un.org/womenwatch/feature/urban/factsheet.html> (last accessed 5 May 2015).
14. Report of the UN Special Rapporteur on Violence against women, its causes and consequences, Rashida Manjoo, Mission to India, April 2014, A/HRC/26/38/Add.1.
15. The Hindu Succession Act, 1956 (and its Amendment in 2005) deals with the property rights of Hindu, Buddhist, Jain, and Sikh women while the Indian Succession Act, 1925, deals with the rights of Christian, Parsi, and Jewish women in India. This chapter does not discuss inheritance laws as the focus is on marginalized and poor urban women, the majority of who come from families that do not own property.
16. See E/CN.4/2000/68/Add.5.
17. *World Charter on the Right to the City*, May 2005. Available at <http://www.urbanreinventors.net/3/wsf.pdf> (last accessed 6 October 2015).
18. Report of the Special Rapporteur on adequate housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Miloon Kothari, E/CN.4/2006/118, 2006.

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