Physical Environment (PE): Brief 3

Making home-based work environments safer, healthier and productive. Experiences and insights from MHT's work.

PE3

Secure land and property rights for women home-based workers

CONTEXT

Land tenure and property rights are relationships between individuals, land, and property. Land tenure is indicative of people's level of security in using the land. It defines the mode in which land tenure is held or owned and "rights that individuals and communities have with regard to land, namely the right to occupy, to use, to develop, to inherit, and to transfer" (Payne, 2000).
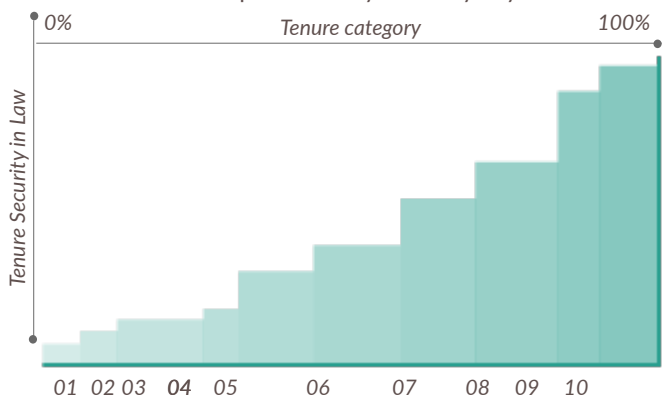
Viewing "Rights to Land and Property" as a bundle of rights that include land use, development, access to basic services, the right to inherit, transfer and sell, and access to formal financial channels have emerged as the dominant way of thinking about property rights in the legal paradigm. A "bundle of property rights" implies that individuals or groups may have one or more property right(s) in various combinations (Jain

et al., 2016). Some may enjoy full rights to use and transfer of land while others have limited rights.

Low-income communities in cities are frequently and systematically disenfranchised through a lack of access to property rights. They do not enjoy rights to their land and are often characterized as "informal" or illegal. In the context of property rights as a "bundle of rights", it is important to recognize that formality is not a binary condition, i.e. a household can either be formal or informal. Rather there is a continuum of conditions between a 100% formal household on one end and a 100% informal household on the other end. Living conditions along this continuum differ significantly, as do perceptions among occupants of security and subsequent willingness to invest in their homes.

Groups on the lower end of the continuum, such as pavement dwellers and unregularized squatter settlements, are the most vulnerable, living in precarious conditions and facing multiple deprivations and a constant threat of eviction. Even where the risk of eviction is low, having insecure tenure impacts the ability of communities to access government schemes and subsidies, formal loans from banks, and basic infrastructure services like electricity, water, and sanitation. For home-based workers, this means not being able to invest in improving and upgrading their houses.
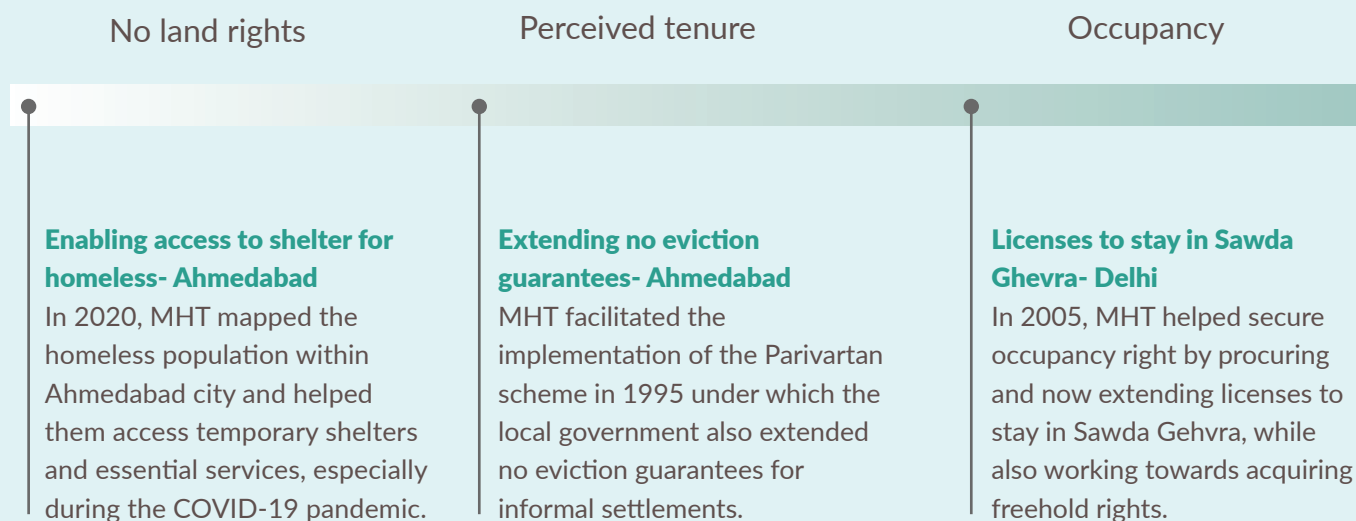
In India, a majority of residents in informal settlements are "owner-occupiers" (individuals who are in the possession and occupy a dwelling unit, in contrast with "renters" who pay rent and are typically temporary residents). In this context, there has been a considerable debate on what forms of tenure security should be extended to "occupiers" to help them improve living conditions and leverage their homes as productive assets. The "absolutist" approach calls for providing fully legal land titles that are marketable and mortgageable in the formal market. The "gradualist" approach recognizes the complexities and practical obstacles to providing legal tenure and argues for measures like no-eviction guarantees, occupancy certificates that support incremental progress and provide many benefits of tenure regularization.

Tenure Continuum as presented by Geoffrey Payne

01 Pavement Dweller
02 Squatter tenant
03 Squatter "owner"- un-regularized
04 Tenant in un-authorized sub-division

05 Squatter owner- regularized
06 Owner- unauthorized subdivision
07 Legal owner- unauthorized construction
08 Tenant with contract
09 Lease-holder
10 Free-holder

Box 1

Mahila Housing SEWA Trust (MHT)'s interventions for different groups on the tenure security continuum

MHT has helped low-income residents at various stages along the tenure security continuum to move closer to formal land rights. They practice a "gradualist" approach of progressive tenure security which can provide the benefits of tenure regularization with much less time and administrative efforts (Mahila Housing Trust, 2015).

Informal land rights

No land rights   Perceived tenure   Occupancy

Enabling access to shelter for homeless- Ahmedabad
In 2020, MHT mapped the homeless population within Ahmedabad city and helped them access temporary shelters and essential services, especially during the COVID-19 pandemic.

Extending no eviction guarantees- Ahmedabad
MHT facilitated the implementation of the Parivartan scheme in 1995 under which the local government also extended no eviction guarantees for informal settlements.

Licenses to stay in Sawda Ghevra- Delhi
In 2005, MHT helped secure occupancy right by procuring and now extending licenses to stay in Sawda Gehvra, while also working towards acquiring freehold rights.

Given the complexity of urban land tenure and property rights and the limited capacity of governments to meet the increasing challenge, no single approach to tenure security can meet the diverse and changing needs of large urban populations (Payne, 1996).
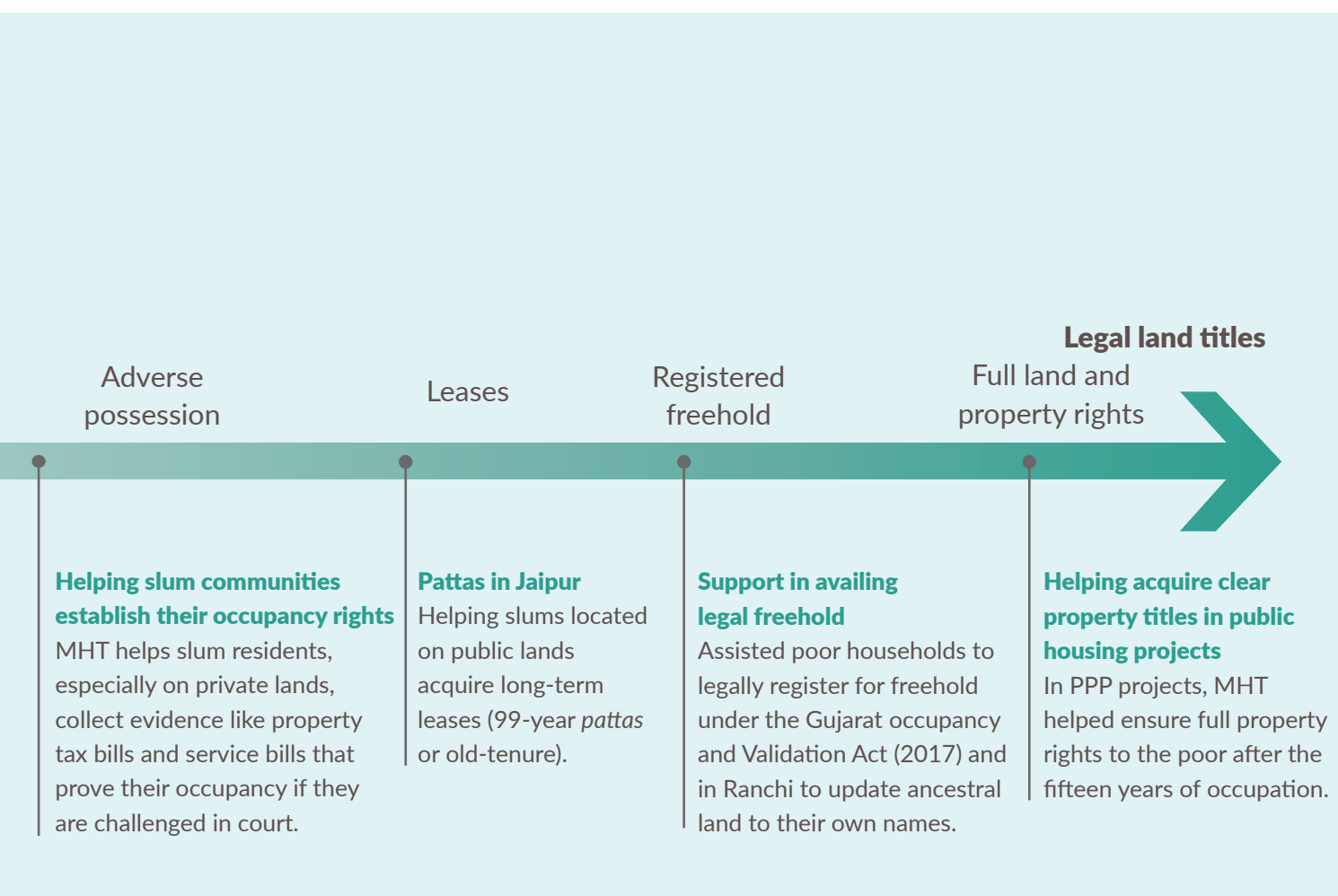
MHT'S APPROACH

MHT recognizes that full tenure regularization in informal settlements is a long and expensive legal process. They adopt the pragmatic gradualist approach in aiding the slum residents to address their most pressing needs, while also pursuing formal property and land titles as a long-term goal. MHT's grassroots experience has demonstrated that helping the poor gradually move up the tenure continuum can offer substantial benefits in terms of physical, social, and economic upliftment.

Aiding progress along tenure security continuum

MHT acknowledges that the land tenure rights within informal housing are a continuum of rights, which is central to influencing policies benefiting low-income communities. This continuum provides various levels of security for landholders that fall between no land rights to complete legal land rights (Payne, 2000). The rationale behind the continuum as an initiative to drive land tenure policy is that tenure forms other than ownership may be better suited to local circumstances at a particular time (UN Habitat, 2016). While slum communities will greatly benefit from a clear legal title to their name, making it a prerequisite to upgrading physical conditions and improving housing in informal communities excludes the majority of the households from accessing government services and subsidies. There is a range of progressive tenure documents such as occupancy permits, non-eviction assurances, licenses property tax receipts, etc. that offer slum residents some degree of security and substantial incentives to invest in house improvements and avail basic infrastructure services. MHT encourages the poor to pursue securing such tenure proofs which can then be used as a means for the creation of assets in their name, subsequently improving their work productivity and earnings. Box 1 illustrates MHT's experience in providing solutions for communities located at various segments in the continuum.

Legal land titles

Adverse possession

Leases

Registered freehold

Full land and property rights

Helping slum communities establish their occupancy rights
MHT helps slum residents, especially on private lands, collect evidence like property tax bills and service bills that prove their occupancy if they are challenged in court.

Pattas in Jaipur
Helping slums located on public lands acquire long-term leases (99-year *pattas* or old-tenure).

Support in availing legal freehold
Assisted poor households to legally register for freehold under the Gujarat occupancy and Validation Act (2017) and in Ranchi to update ancestral land to their own names.

Helping acquire clear property titles in public housing projects
In PPP projects, MHT helped ensure full property rights to the poor after the fifteen years of occupation.

Box 2

Assessing the true gains of granting land tenure to urban poor under the Gujarat Validation of Occupancy and Allotment Act 1976
Ahmedabad, Gujarat

In recent years, several state governments in India have made political populist promises and passed ordinances promising 'land titles' to urban poor residing on Government lands on payment of a nominal fee dependent on the size of the land holding and prevailing government land rates. In 2017, the Government of Gujarat announced the 'Gujarat Validation of Occupancy and Allotment of Certain Lands of Excess Vacant Land Vested in the State Government (Under the Urban Land (Ceiling and Regulation) Act 1976) Act' aimed at validating the occupancy and giving land titles to households settled on the land which was vested with the State Government under the Urban Land (Ceiling and Regulation) Act of 1976. MHT supported residents of ten informal settlements in Ahmedabad to apply for land titles under this Act by hand-holding them through the tedious process spanning over more than an year. MHT also documented the hurdles in program design and implementation to inform future advocacy on advancing land rights of urban poor in cities. MHT's experience suggests that in its current avatar, the Government's titling program does not guarantee a fully illegal land title. The tedious process and conflicts between the Revenue and Urban Development Departments locks the land in an ownership conundrum between the applicants and the government, thus leaving a crucial asset unusable.

Limitations in the Government of Gujarat's land titling policy (on ULC lands)

Long and tedious process
The process may take up to two or three years making it time-consuming and tedious. It calls for multiple follow-ups and requires basic awareness in land records management systems.

Conflicting mandates of different government departments impedes implementation
There is a lack of clarity among different government departments, who then function with different objectives. This creates legal ambiguities and confusion for residents.

Inability of residents to pay large one-time occupancy price
The residents sometimes have to pay as high as INR 2 lakhs (USD 2,698), depending on the measured plot size. Applicants face difficulty in mobilizing such high amounts within a short time window of thirty days.

**Piecemeal approach: Partial land titles, but unauthorized constructions and no improvement in services**
The legal rights are given at the household level, as opposed to plot level, further complicating the tenure regularization process. The overall title of the plot is unclear since the land title is partially in the name of the government and partially in the name of the occupants, thereby preventing the Ahmedabad Municipal Corporation (AMC) from redeveloping through PPP schemes. The title only regularizes the land, with the construction still unauthorized. Roads and infrastructure are still limited, residents can't construct additional floors, and can't avail subsidies for the Beneficiary-led Construction module of PMAY.

Non-tradable title
The title remains non-tradable for fifteen years, which reinforces the informality by inhibiting the ability to mortgage it for loans.
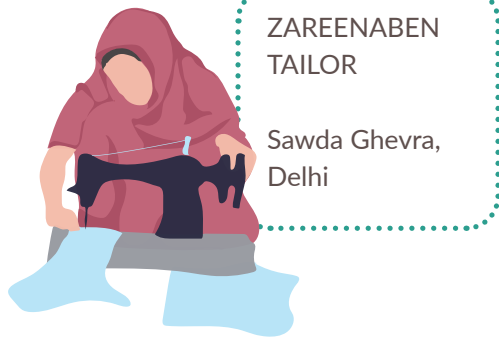
ZAREENABEN TAILOR

Sawda Ghevra, Delhi

"We resettled to Sawda Ghevra in 2006 with a ten year license to stay. MHT helped us get water, electricity and gave us loans to build toilets. In spite of our efforts to build our community from scratch, the fear of eviction lingers. Our license has also expired and we are requesting for its extension. MHT is assisting us to forward our request for a secure tenure through the 2041 Delhi master plan."

Pursuing formal property and land titles for low-income communities

A land/ property ownership title is a valuable asset that gives slum residents equal advantages in the housing market. MHT supports slum residents in securing formal housing by enabling their participation in government-led slum-redevelopment and social housing programs and linking them to other affordable housing options in the open market (Brief CP1). Most government-led housing programs have a "lock-in period" from between seven to fifteen years during which the allottees cannot legally sell or transfer their properties. The allottees are not in full possession of their properties until this period is over. MHT generates awareness among allottees to keep track of these lock-in periods and helps them negotiate the complex procedures of getting the property title in their name once the restriction period is over. MHT also often negotiates with the Government for ensuring better transparency and accountability in the property allotment and registration processes.

Other than enabling formal property titles in housing schemes MHT has been working in several cities to help residents in informal settlements regularize their land titles and obtain legal ownership of their lands.

MHT's experience of getting updated land titles for families in Ranchi is an illustration of the real-time challenges of securing land titles. These families in Ranchi own all necessary documents: ancestral ownership records (*Khatiyan* – last updated in 1908 and 1932) and kinship proofs (*Vanshavali* – genealogical trees authorized by the state). Yet they continue to struggle to secure updated and authorized documents in the name of current owners. Hurdles emerge in multiple sites – in municipal offices, in judicial courts, in the community, within families, on online portals; and in multiple forms from securing revenue documents from dusty offices to dealing with the unavailability of data in state records to being unable to pay bribes to circle officers. With a process dispersed over several state departments, having online interfaces that citizens are unable to navigate to bureaucratic delays and corruption, the case of Ranchi is metaphorical for the work involved in securing clean marketable land titles.

A similar experience of getting titles for a slum in Jadibanagar (Annez et al. 2014) and more recently on State-owned lands in Ahmedabad mirrors the complicated terrain in Ranchi that makes the road to tenure security both long and arduous (Box 2).

VALIBEN SCRAP DEALER

Laxmi Nagar, Ahmedabad

"After moving to the PPP housing, we feel secure. No one can evict us from here. After completing fifteen years of occupying this house, we will also have the title to this property. We will never have to live with the fear of eviction ever again!"

Advancing women's rights to property

The government of India's guidelines on public housing recommends that the subsidized housing units allotted should be in the "name of the female head" or in the "name of the male head of the household and his wife jointly". However, on the ground, the resistance towards women's land and property ownership rights remains strong. In over two decades of active grassroots work, MHT has observed that while women ordinarily are active in voicing their concerns with issues of water, sanitation, and physical environment, they take a backseat or are sidelined by men in the family when it comes to matters of land and property.

Empowering women to assert their rights and have control and a real stake in property assets is central to MHT's work. They conduct training workshops to sensitize women and educate them about their property and inheritance rights. They also train them to read and interpret legal documents. MHT's successful advocacy with the local government in Ahmedabad has also led to a 50% representation of women in the Resident Welfare Associations (RWAs). This key reform is critical to advancing women's voice and participation in decision-making concerning the maintenance and management of public housing complexes (Brief CP1).

Advancing research and knowledge on urban land tenure

Tenure security remains a challenge for many families in India. According to estimates, between 40-50% of urban families live in informal settlements with no legal claim on their land. While many of these families have de facto tenure, they can't unlock the value of their land assets in the formal market. The land also remains frozen in the status quo. Reforming land governance and property rights systems in India is critical not just for the economic and social development of the poor in slums but for the overall functioning of the land and housing markets.

Over the years MHT has partnered with researchers and practitioners working in the field of urban planning, governance, and policy to bring to light the complexities and challenges involved in tenure regularization. They have contributed to important research, case studies, and knowledge material to inform the larger policy landscape and advocate for urban land reform (Table 1). From capturing practical impediments to full regularization to offering lessons
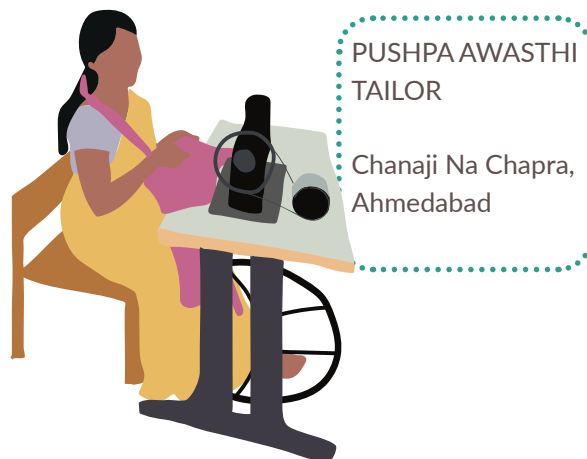
PUSHPA AWASTHI
TAILOR

Chanaji Na Chapra, Ahmedabad

"We lived on government land in the Meghani Nagar, one of the oldest slums in Ahmedabad. We used to hear about evictions of other slums through the news and worried about our eviction, even after investing in our home for more than two decades here. We were relieved to learn about the PPP redevelopment where we would get formal housing units to our names. MHT is assisting us through the transition and also empowering us women to participate in decision-making and have equal property rights. We are encouraged to voice our concerns and work for the community's upliftment."

to formal credit institutions to enter the small loans market for the poor, MHT's research in land tenure offers illuminating insights for actors involved in improving and upgrading informal settlements.

LEARNING AND DIRECTION OF FURTHER ADVOCACY

1) There has been a recent and growing interest among state governments to grant legal titles to slum residents. Many states including Gujarat, Orissa, and Jharkhand have declared complete land rights to be conferred to slum residents, at the location of their residence. However, MHT's experience on the ground in Ahmedabad has demonstrated that such promises are backed by populist intentions that don't translate

Table 1: MHT's contribution to knowledge publications on tenure and property rights

Paper	Authors	Publishing partner
Urbanizing Around Tribal Land (2019)	Bijal BrahmBhatt	India Development Review
Demystifying urban land tenure issues: the curious case of small cities in India: a case study from Odisha (2017)	GIZ	GIZ
What getting land title really means: an anti-commons in Ahmedabad, India? (2014)	Patricia Clarke Annez, Bimal Patel, Bijal BrahmBhatt	The NYU Marron Institute of Urban Management
How to Assess Security of Tenure and Emulate Mortgages for Financing Semi-Formal Homes: Lessons from Mahila Housing SEWA Trust (2014)	Matthias Nohn	WIEGO
More but Different Government for "Slum free" and Livable Cities	Annez, P., Bertaud, A., Bertaud, M., Bhatt, B., Bhatt, C., Patel, B., Phatak, V.	World Bank
Property Rights for Women: A Case for Joint Titles in Agricultural Land and Urban Housing	Jeemol Unni	JSTOR Journal
Land tenure for Slum-free cities	Mahadevia, D., Joshi, R., & Gogoi, T.	Centre for Urban Equity, CEPT University

to effect in reality. The slum residents, even after paying the required fee, cannot access the benefits associated with with a fully legal land tenure. They are still unable to avail loans from formal banks or even access basic infrastructure services. Hence, it is imperative that policy measures are evaluated for the benefits of legal title and secure ownership that is promised, and not merely propped up on populist ideals. Policy endeavors to resolve the tenure issues should be sensitized, tested, and improved to truly benefit the physical habitat of low-income communities.

2) MHT's interventions in availing land rights have illustrated that getting absolute tenure rights is extremely complex, tedious, and expensive. While solutions to the tenure conundrum should be motivated to achieve complete legal rights, there has to be a similar push from grassroots actors to recognize the benefits of climbing up the tenure security continuum. It should not be an either/or situation between the "absolutist" and the "gradualist" approach. The gradualist approach can in fact help the low-income residents to access the benefits of housing and infrastructure services in the intervening time.

MEENA SONI TAILOR

Odhav, Ahmedaabad

"When I moved here, the land was not in our name. Yet, we got all essential services through the Parivartan program. MHT has also helped us with microfinance loans to upgrade our house incrementally to suit our needs. We now have a pucca house with ample space for me to work. We also regularly pay our property taxes."

Moreover, the de-linking of tenure from services like electricity, water, and sanitation should be stressed to ensure that the residents have access to basic hygienic living environments.

3) The land governance system in India is dependent on records and data that are outdated and ill-managed. This has been highlighted through the difficulty arising from transacting in land and property. Digitizing textual and spatial land records and their associated services will help the government bodies to improve their performance. They lay the foundation for more accurate and comprehensive records that can be updated in real-time. Digitizing records will also facilitate the formation of a unified cadastre- a single, clear, and robust database (Patel et al.).

4) Resolving tenure is also part of broader structural issues of land management, with the Department of Urban Planning and the Revenue Department functioning with different interests. There is considerable confusion, inefficiencies, and legal ambiguities between the two departments. It further increases their procedural requirements and its cost, which the citizens have to bear. Urban low-income families disproportionately suffer from the consequences of poor land management. Therefore, there is an urgent need to revamp and modernize the land management system with delineated responsibilities of each department and a unified city-wide cadastral map to become agile to the evolving issues on the ground.

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