



Land and Sustainable Development Goals

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Background

Land features as both an explicit and implicit parameter within the Sustainable Development Goal (SDG) framework. It appears prominently as part of SDG 1: ‘Removing poverty in all forms’, via ensuring equal rights to economic resources including control over land and other forms of property, especially for the poor and vulnerable (Target 1.4). Secure and equal access to land for small-scale food producers, particularly women, indigenous peoples, family farmers, pastoralists and fishers (Target 2.3) is expected to lead towards SDG 2: ‘ending hunger and achieving food security’. Goal 5, which talks about ‘achieving gender equality’, mentions as targets, reforms to provide women access to ownership and control over land and other forms of property (Target 5a).

Significantly, land also forms an implicit part of Goal 11, which aims at ‘making cities and human settlements inclusive, safe, resilient and sustainable’. The targets for Goal 11 include ensuring access to affordable housing, enhancing sustainable urbanisation, providing access to green and public spaces, and sustainable transport systems, among others. All of these are possible only when there is a land governance system that is accessible, equitable, resource efficient and sustainable.

In terms of method, the inclusion of land in the SDGs¹ marks a departure from the Millennium Development Goals (MDGs), which referred to land or property only with respect to improvements in the lives of ‘slum’ dwellers as a target under the then larger MDG of ‘Ensuring Environmental Sustainability’ (Goal 7). The inclusion of land-based parameters, whether explicit or implicit, may indicate recognition and acknowledgement of underlying structural conditions—of which land relations form a significant part—while addressing critical issues of poverty, hunger and sustainability (Besley & Burgess, 1998). This is important in both urban and rural areas, even as specific contexts for rural and urban India vary.

Related to this is the role of land governance and of institutions, especially in the government, which have historically existed to govern, manage and regulate questions of ownership and use of land amid changing realities—transitions within the rural, peri-urban as well as the urban. The particular political economy and political ecology makes land and property relations a very difficult issue to manage effectively, while at the same time being indispensable towards making any progress in attaining the SDGs mentioned above. Some of these structural issues in India are discussed briefly below.

Land Reforms, Land Records and Increasing Access

¹ Goal 15 aims at halting and reversing land degradation. However, the physical aspects of land quality have not been included in the scope of this commentary.

After India's independence in 1947, the emphasis on land rights and equitable access led to land reform legislation that sought to establish more egalitarian relations between people and land resources. This was attempted through tenancy reforms, abolition of intermediaries, land ceiling regulation and consolidation of disparate holdings (IIHS, 2014a). In reality, however, these achieved only partial success (Bardhan, 1970), if any. From the 1970s onwards, the emphasis shifted towards economic growth, which gained further momentum in the post-liberalisation era when land-based speculation became a veritable reality in urban areas. Therefore, effective access to property rights has to be seen in light of market, planning and regulatory failures with respect to land. This has been particularly difficult to disentangle.

Land records, through improved, transparent and more accessible systems, including technology improvements, provide a crucial window towards questions of distribution as well as growth. This is a low hanging fruit, if there is political will and effective alignment of incentives for the administration to ensure better land records. Inescapable, however, are the deeper questions accompanying the systemic recording of land, and the associated shift from presumptive to conclusive systems. These pertain to what constitutes the details of the records, whether larger tenurial claims are covered, whether security of land-based assets, especially among the marginalised, is part of the objective of such modernisation. In this respect, steps like improving access to land, security of tenure and equitable land rights for women, poor and vulnerable citizens are pitted against questions of ease of doing business, getting the title of records clear for future acquisition, and so on. This is an important point of debate and dialogue for rural, peri-urban as well as urban lands.

One of the indicators of the SDG framework is the 'proportion of total adult population with secure tenure rights to land, with legally recognised documentation and who perceive their rights to land as secure, by sex and by type of tenure' (IAEG-SDGI, 2016). In India, an equivalent of this is the Socio Economic Caste Census 2011, which concluded that as much as 56 per cent of rural households in India reported themselves as landless. To achieve disaggregated data is a difficult task, as most states in India have layered tenurial rights, often customary in nature and not recognised by the 'flattened' systems of computerised land records, which generally capture only ownership and possession (that, too, not in a comprehensive manner).² The information being recorded has a bearing on what is considered worth recording.

² For example, in Himachal Pradesh, there are hereditary customary rights recorded via *wajib-ul-arz* (including *riwaz-e-aabpashi*, which records irrigation rights, *naksha-bartan*, which records rights to forest produce, *naksha girhat*, which records rights to flour mills), etc., which do not find a way into the digital record of rights available online (IIHS, 2014b).

Access to Land: Caste

Historically, caste has been an axis of oppression and exclusion from access to land (Srinivas, 1986). Tenurial security through ownership rights is a concern among the 'lower' castes (Mearns, 1999). It has been noticed, largely, that 'lesser' tenants usually belong to the 'lower' castes (Narula, 1999; Teltumbde, 2005)—a major concern of the land reform agenda (Sethi, 2006). This exclusion further extends to the usage of common property resources (Thorat, 2010, p. 6). Village commons, which are often crucial for the sustenance of landless and vulnerable households, are increasingly getting depleted. Exploitative economic relations lead to situations of debt and poverty (Narula, 1999, p. 28). The SDGs highlight the importance of access to land, housing and common property resources. Yet the structural problem can be seen even in conventional land survey and settlement operations, which discriminate against socially disempowered groups (Mearns & Sinha, 1998).

The targets mentioned under the SDGs need to be seen in the urban context as well. A 2003 survey by the National Sample Survey Organisation (NSSO) estimated that landlessness in urban areas is around five times higher than that in rural areas. Access to land or property is crucial for the poor, vulnerable and women in urban areas, probably with a higher intensity than rural areas. Similarly, caste impacts access to urban land as well. This is visible across informal settlements, such as 'slums', where large populations of Dalits reside (Narayana, 2012). Further, the relative socio-economic conditions of Dalits are much worse in slums (Antony & Maheshwaran, 2001; Siri, 1999). Grave income inequalities also plague vulnerable groups, thereby threatening their access to the market (Ghosh, 2016). The institutional complexity of governing urban land, and the political economy around speculation and rising land values, makes urban land administration more crucial as well as more difficult.

Access to Land: Gender

Gender is another axis of exclusion from land rights, leading to women's vulnerability and exploitation. Inadequate rights and unequal access to and ownership of land further marginalise and disempower women. Their economic dependence on men and an almost asset-less position (UN Women & RDI, 2015), rooted in property relations, also contribute to gender inequality.

The SDG indicators to measure women's access to land and property include:

- a) 'proportion of total agricultural population with ownership or secure rights over agricultural land, by sex;
- b) share of women among owners or rights-bearers of agricultural land, by type of tenure and
- c) proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control' (IAEG-SDGI, 2016).

In India, while women have legal rights to land, the prevalence of patriarchy as well as customary and personal laws hinder their full realisation (World Bank, 2009, p. 127). While studies have examined the impact of gender on land rights, accurate numbers on women's property ownership and tenure security are not yet available (Swaminathan, 2014)—a neglect of recording that does not adequately reflect gender. Moreover, being a patriarchal society, there is a resistance any institutional innovation that seeks to empower women. For instance, despite the lowering of land registration fees to encourage women's ownership of land, men continue to retain decision-making powers. The practice of daughters signing off their land inheritance rights is common. Therefore, the need of the hour is not just better legislation, enforcement of regulations and effective implementation (Swedish International Development Cooperation Agency, n.d.) but also women-oriented and women-managed institutional mechanisms, awareness building and improving women's de facto control over land resources (World Bank, 2016).

Accessibility of land and property in urban India

Ensuring affordability of land and property is vital in providing adequate access to essential resources in urban India. By acknowledging the importance of promoting 'sustainable cities' (SDG 11), the question of affordability could pivot the implementation of better policies. As observed by the UN-Habitat, 'the manner in which land develops—whether formally or informally—determines the ways that cities develop and the way that the cities are inhabited by residents, stitching into the urban fabric trends of integration or segregation, harmony or chaos, and disenfranchisement or participation' (UN-Habitat, 2011a).

At present, urban India is characterised by steadily increasing land and property values and speculation in real estate. It is estimated that a person earning the equivalent of the national average income would have to work for 100 years to buy an 800 sq. ft house at the prevailing average rates across metros in India, and up to 580 years for a property in Mumbai at the highest market rate. For real estate housing markets in Hong Kong, London, Paris and Tokyo, this inequality gap is an average of 62–67 years. As such, a very limited proportion of India's population can access the sales market (Chakravorty, 2013, cited by IIHS, 2014a). It is therefore becoming increasingly 'difficult for the vast majority of urban residents to obtain and retain adequate and affordable land and housing' (UN-Habitat, 2011b). In light of such developments, some basic issues need to be considered.

First, the policy discourse on affordable housing in urban areas currently dominates the broader discussion on affordable land. There is a need to expand this discourse and address land affordability as a larger concept within policy discussions, as it not only has a crucial impact on affordable housing but has implications on future spatial development (e.g., infrastructure and environment, service provisioning, etc.).

Second, the actual physical availability of land within urban areas requires consideration, as this gives rise to questions of expansion and the opening up of the existing stock of available land in order to promote affordability and greater access to land and property. Dysfunctional land markets, combined with planning failures,³ and accompanied by the urban sprawl within the larger political economy of land governance, has created a situation where there is increasing pressure on the limited available land, large-scale regulatory difficulties in resolving land use issues, as well as threatening long-term ecological sustainability. The intensity of land use, by whom and in what manner remains an important indicator. For example, the ratio of the land consumption rate to the population growth rate is one of the SDG indicators to measure the sustainable development of cities.

Third, and related to the second issue, is the significance of the manner in which ‘ownership and control over land’ is regulated, recognised and recorded. Particular rights (ranging from ownership to leasehold, formal to informal) and their allied claims are closely linked to affordable and accessible land and property. Such rights and claims will have to be suitably negotiated by involving various political stakeholders and actors. The need to record these claims to land through systemic improvements in land records remains a pressing one.

Interestingly, under the Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act of 2013, the definition of ‘affected family’ includes not only landowners but also those whose primary livelihoods stand affected, including agricultural labourers, tenants, usufruct right holders, sharecroppers, artisans and also urban dwellers living for the last three years, whose primary livelihoods are affected by the acquisition of land. The act also provides that if land is acquired for the purposes of urbanisation, developed land will be reserved for and offered to project affected families (Goswami, 2016).

Access to Secure Tenure

There exists substantial research on the typology/continuum of tenure status⁴ and the need for tenure security in an urban environment, without insistence on formal legal tenure (Mahadevia, 2010; Durand-Lasserve & Royston, 2002). One of the indicators for the Affordable Housing target under SDG 11 is the proportion of urban population living in ‘slums’, informal settlements or inadequate housing. This is often the result of the (un)availability and (in)accessibility of land and housing in urban areas. Land under registered freehold may be

³ Such as inadequate housing, the coming up of unauthorised colonies, non-implementation of development plans.

⁴ For example, Payne, Piaskowy and Kuritz for USAID (2014) classify the urban tenure continuum as starting from ‘pavement dwellers to squatter tenant, squatter owner, tenant in unauthorised subdivision, owner in unauthorised sub-division, legal owner of unauthorised construction, tenant with contract, lease-holder, upto free-holders’. UN-Habitat (2008) describes the continuum from informal land rights to formal land rights, as ‘perceived tenure, customary, occupancy, anti-evictions, adverse possession, group tenure, leases and registered freehold’.

available only to those with full-time stable employment with a reasonable income, and this accounts for only 30 per cent of land in most developing countries (GLTN, 2012, cited by Payne, Piaskowy & Kuritz, 2014). Hence there is the need for a broader understanding of land rights and tenure, and the associated questions of regulation and legality.

Some of the suggested reforms are delinking tenure from access to services, widening the rights associated with existing tenure systems without necessarily stressing on formal titles, and the use of a more inclusive and participatory system, such as the Social Tenure Domain Model (Payne, Piaskowy & Kuritz, 2014). Changes such as these require political will as well as the reconfiguration of legislative, institutional and procedural details. Land records are also implicated in this.

SDGs and the way forward

The Government of India has had conclusive titling on its agenda since 2008, when the Digital India Land Records Modernisation Programme (DILRMP, earlier NLRMP) was introduced. It is largely acknowledged within policy circles that 'pure' conclusive titling may not be possible in India, keeping in view the diversity and complexity of existing tenurial arrangements, institutional structures as well as the political economy around real estate, land markets, land rights and associated reforms. There is a growing debate on how to define conclusive titling in the Indian context, and how to identify the incremental steps needed to achieve it. It is challenging to negotiate the course between customary/occupation rights and legal title. But this journey will determine how effective India is in its realisation of the SDGs, especially in the ones being discussed here. The SDGs provide an opportunity and an international platform to realign the objectives and scope of land policy in the country, keeping in view the targets of increasing access to land and secure tenure, especially for vulnerable sections, and to achieve the sustainable development of cities via the increased recognition of structural issues associated with land management in urban areas.

It is imperative to frame country-level and state-level action plans towards achieving the SDGs, both at policy level and operational level, in discussion with multiple stakeholders. Implementing the action points and monitoring their progress is another crucial constraint. The lack of baseline data, which could have been used to monitor progress over time, highlights the poor state of land records as well as the absence of a comprehensive information system which could feed back into the policymaking process.

Records that reflect the on-ground relations between land and people are crucial to monitor any progress in an area. These records should make it possible to track the following details with regard to each land parcel, on real-time basis:

- a) ownership (by gender, SC/ST, poverty line status),
- b) possession (by a range of stakeholders, and across gender, SC/ST, poverty line status),

- c) extent (vis-à-vis textual records and spatial records),
- d) classification (nature and current use of the land: agriculture, residential, industrial, public spaces, forest, water bodies, grazing), and
- e) encumbrances (planning/development permissions, taxation, mortgage, disputes).

Attempts to secure detailed and accurate records are riddled with difficulties, which pertain to both the law and to mindsets. Large systemic measures have to be accompanied by small, incremental steps that respond to on-ground requirements and realities, keeping the local tenurial context in mind. These could be as small as recording the on-ground situation, and gradually creating a real-time land information system. At an operational scale this would be possible only via institutional streamlining of functions, coordination between various departments and functionaries, and framing of relevant protocols along the way.

While the rural–urban dichotomy discourse has gradually acknowledged the rural–urban continuum, institutions in each jurisdiction often continue to function in disparate ways when it comes to land governance. The Revenue Department, responsible for maintaining land records, is often perceived as a rural institution and stops updating the records whenever a peri-urban land parcel is put to non-agricultural use. Similarly, urban institutions such as municipalities, planning bodies and development authorities are not linked to the Revenue Department and continue to work in silos (IIHS, 2015). An ideal continuum of land governance would involve coordinated functioning and information-bridges between these institutions.

Urban Land as an Economic Resource: Land-based Financing

The Committee on Roadmap for Fiscal Consolidation (Kelkar, Rajaram & Misra, 2012) suggested the monetisation of unutilised and underutilised land resources for financing urban infrastructure. The Sustainable Development Solutions Network (SDSN) stakeholders' guide for SDGs in cities (Kanuri, Revi & Kuhle, 2016) suggests asset monetisation of public lands (ibid. p. 49), value capture (ibid. p. 50) and land readjustment (ibid. p. 78) as financing mechanisms for local governments. Similarly, Habitat III: India National Report (2016) advocates land pooling and readjustment as more inclusive mechanisms for urban development (ibid. p. 48), and suggests the utilisation of unused or underused government land in cities (ibid. p. 52), keeping half of it earmarked for low-income groups.

The African Centre for Cities (ACC, 2015) lists different formats of Land-based Financing (LBF) practised in Sub-Saharan Africa, including sale of development rights, land sale, land acquisition and resale, impact fees and development charges, property tax, property tax surcharges and betterment levies or taxes, which are also relevant to the Indian context. Appreciated for its successful implementation in cities such as Hong Kong and Singapore, large-scale LBF in India has been used primarily at a project level scale, especially around infrastructure development and corridor projects. Some prominent examples include the

Bangalore–Mysore Infrastructure Corridor, Greater Noida Expressway, metro projects and Andhra Pradesh Capital Region Development. There are also the usual practices of town planning schemes, sale of development rights, land conversion charges and betterment taxes and levies (ICRIER, 2014). LBF, coupled with the sustainable and efficient use of land, is being perceived as the solution to the infrastructure woes of urban India.

However, the pitfall of this idea is that LBF may take place at the cost of the perceived land rights of people occupying a particular piece of land, often through land acquisition or even coercion (e.g., in Amaravati; Ramachandraiah, 2016). A major part of informal settlements in Indian cities is located on government/public land.⁵ Without sensitivity to access-related issues, the same ‘unused’ or ‘underused’ government land could be offered for asset monetisation. Often ‘slum’ dwellers do not have credible and sufficient property rights or tenure security, resulting in their eviction and rehabilitation in far-flung corners of the city. For example, Somvanshi (2015) reports that the Delhi Urban Shelter Improvement Board plans to free 197 hectares of land encroached by ‘slums’ in Delhi, and thereby raise ₹14.5 crore. This would cover around 40 per cent of the cost of constructing 1.5 lakh dwelling units for these ‘slum’ dwellers. The plan could have made financial sense, except that these ‘slums’ occupy less than 3 per cent of the city’s area (while accommodating 30 per cent of its population), and the new dwelling units are often kilometres away from any livelihood opportunities.

It has also not been established that the gains of LBF are equitable across the city. Having conducted a cost–benefit estimate, ACC (2015) has concluded that LBF largely bypasses the poor. Subsidising city infrastructure (e.g., for high-income-group housing schemes, in view of anticipated revenue streams via various other developments) does not really cross-subsidise infrastructure for the poor, and only depletes the city resources which could have been used for poorer residents.

If LBF is indeed the way ahead, the current state of land and property records in urban areas is not adequate. Urban records are often non-existent or outdated and fail to reflect the on-ground situation. The backlog of pending disputes restricts a large section of landholdings from the active market. It is of critical importance that urban land records reflect on-ground tenure complexities instead of only ownership of land. While ensuring the legal sanctity of such an inclusive, real-time updated land information system is an institutional challenge, real-time updation could lead to a better understanding of ‘unused/underused land’ and an inclusive definition of affected persons, while also enabling a more informed social impact assessment.

The discourse on creating secure property rights and tenure (for the poor and marginalised in caste, class or gender terms) or making optimal use of land for public purposes to create

⁵ For example, out of 675 jhuggi jhopri clusters notified by the Delhi Urban Shelter Improvement Board, only six are on private land.

sustainable cities requires addressing complexities of various types, whether in rural or in urban areas. For example, rights available to the rural poor or marginalised are often customary and the move towards formal titling represents a threat to these rights (and has often meant disentanglement, as literature from many countries shows). In an urban context, such customary rights are often non-existent and the effort to confer them can result in conflict with owners in the formal domain (the state or private parties) or with the law that prescribes land use.

Conclusion

Most contemporary views on the route to poverty alleviation implicitly accept the existence of a market economy framework. This leads, logically, to an emphasis on land as private property with clear title that lends itself to the ease of carrying out transactions of various kinds in relation to land. However, in the context of customary or non-existent records, such a focus on conclusive titling as a means of facilitating 'ease of doing business' could possibly yield results that run contrary to the aim of ensuring equal rights or secure tenure. At the same time, the lack of a proper, detailed database complicates and increases disputes and conflict and achieves the opposite of making transactions easier.

The dilemma between adopting a 'rights' approach and 'market' approach is not an easy one to negotiate, especially with the primacy granted by their respective proponents to the legal changes required to confer such rights, and to conclusive titling for strengthening land markets. A possible middle ground would involve making sure that these records are detailed and offer an accurate depiction of the on-ground position, including customary rights and tenure, which is not the case at present. This could enable positive action in favour of the poor/marginalised and also ensure that transaction costs are factored in when contemplating any 'business' transaction in relation to such land.

The emphasis on land in the realisation of SDGs needs to be viewed in such light. Acknowledging the challenges on the ground is an important step towards affirming the centrality of land and property relations in addressing deeper structural inequities.

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