

**WEBINAR**  
**ON**  
**SLUM REDEVELOPMENT AND CHALLENGES TO**  
**REHABILITATION**

**Date: 06.06.2020**

**10.00AM – 11.30 AM**

**Schedule for the Webinar**

<b>Timing</b>	<b>Topic</b>	<b>Speaker</b>
5 Min	Welcome Note	Abhijeet
10 Min	Expectations from Participants	Participants
30 Min	SRA Law and Practice	Kranti LC
10 Min	Open House	KaustubhGidh
15 Min	Challenges to the Right to Housing	Niranjan and Aditi
15 Min	Open House	RachitaPadwal
15 Min	Closing Comments	Abhijeet and Kranti

In the wake of Covid 19, a group of lawyers from HRLN began the process of organizing a series of webinars, to begin the collective conversation around emergent issues as well as to discuss strategies for ongoing and future work.

The agenda of the meeting was to discuss the challenges faced by activist and social workers while dealing with housing rights.

### **Adv. Kranti LC**

It shall be my try, in the next few minutes, to give an overview for the questions posed at me. If my narrative does not answer your questions, feel free to ask again. Let's call it housing rights to cover most of your questions. When Abhijit kept asking me about SRA training, I thought it was in connection to builders, that's why SRA is being spoken about. However, your issue is three-fold and I shall cover all the three phases. Some of you have mentioned the Slum Act.

If any activist wants to talk about housing rights, they should look at development plans. In Bombay, development plan (DP) is online. This development plan is an x ray for housing rights for upcoming difficulties. This plan elucidates what further developments are planned for the area one is living in. Whether it's a garden, road, sports complex or something else it will be mentioned in the development plan. With every new development, different rules are attached. There are two kinds of such development.

First is the public development where priorities include road widening, drainage system, making school or hospital etc. For example, road widening and drainage come under MMRDA and they follow a separate scheme.

Second includes private development that focuses on it commercially.

What happens is, there are census, people who come and ask for documents and then decide if you are eligible or not. One has to prove, through documents, that they lived there since a certain date. Some documents include election card, rationing etc. A list

shall be emailed. They also physically verify that you're living there with your family. This eligibility criterion is flexible for builders.

If there's a dispute, there has to be consensus among the people and the builder can hence consider that. Even the government can't refuse. Here the builder is giving from his quota.

As of today, 1st January, 2000 is the cut off for ninety-nine percent projects for a free house. Maharashtra government, in the last few years, has made certain amendments to that and said that if you have lived from 2000-2011, and you have the documents, you have to pay the construction cost which approximately is seven to eleven lakhs.

There is an interesting concept introduced by World Bank if you are in the MUTP project, Metro, Monorail etc., where cutoff is not considered. Some people come to take a survey, and if you are present on that day, you are given a free house. According to us, this is the most enabling policy for most people.

Maharashtra government passed that if you're after 2011, you have to submit an undertaking that you don't have any other house and your transfer details along with a revenue fee with the government. This is applicable to limited projects today.

There were certain developments recently like that tansa pipeline that had an appeal in the Bombay High Court. The court directed the order that 10 meters radius, no one can live. People had to be evacuated. The Tansa pipeline was not marked on the DP. DP is marked for 20 or 30 years. Small evacuations are not on it.

Hence, for a slum program one has two ways: First, a builder comes for the redevelopment of a slum which is essentially SRA and second, PMC, BMC can bring about rehabilitation.

For a slum redevelopment, there are three steps:

First is the existence of the slum,

Second is the scheme that the builder brings,

Third, after the change, there can pop up difficulties like lift not working, high maintenance, leakages etc. For these, there are three different sets of rules and regulations. By and large, if your slum is on a government land, Slum Act is planned in Maharashtra and hence is not applicable to the central government land. Hence, on matters like railways and defence, Slum law is not applicable.

If there is a slum somewhere, the Slum Board is the authority that is present there for cleaning and other purposes. Most people are unaware of this authority. According to Section 4 of the Slum Act, you can request this authority to consider something as a slum as per developmental standards. People can raise objections to it if they want. There is a notification file, with all declared slum areas. There can be appeals saying it was without jurisdiction etc. Now-a-days, such slum declaration processes have stopped. This is because once it is declared as a slum; there is no accountability to the owner. Most of the work is not done as slum has not been declared and cannot affect slum dwellers. According to every different slum, the dynamics are known. The difficulty faced by the slum dwellers is that, unless an eviction notice is given, they need the requisite documents. So, it is always our appeal to activists to help slum dwellers make these documents. Here, the difficulty is that if one wants to make these documents today, the eligibility cut off is very difficult to establish. Here we recommend them to check the electoral roles of 1998 and further as they are enrolled in them.

Perform in situ rehabilitation that occurs with the developer. I will talk about it separately.

But the policy of maximum rehabilitation is that if you can rehabilitate in the same place then it is good. The second is if you rehabilitate them around the area of 2 km from where they reside. If it is not possible within 2 kilometers, then you can rehabilitate people in the same ward. If it is not there, then you will give them rehabilitation in the zone in which they come.

In the context of Bombay, if you cannot rehabilitate even in the zone, then you try to rehabilitate them from north to earth. One of the biggest challenges of this is that if you want to prove that you can do it, then you should apply for RTI and establish it beforehand. If your group is working in housing then you should ask regularly how many PAP's are there ward wise in the city, i.e., Project Affected Persons tenures.

There are two types of tenures in Project Affected Persons, I further will talk about it. Whatever development happens, if the developer comes out with any scheme on any government land or any developer offers any SRA scheme or any authority like MMRDA or SRA does it for 10 percent or whichever percentage is allotted to them via different types of programs of the government. Whatever flats are built, they have a PAP pool or bank in which all the tenements are deposited and as the question of rehabilitation arises with the government, then for that purpose resources are given from this pool. This further spreads out and you have to keep an eye on where it is and then you can move ahead.

Let's say you have 6 flats for PAP's in Raasta Peth and when you have to pick people up from Maghi Peth then you will prefer to adjust them within 2 kilometers or in the same ward or in the same zone and you would not prefer to pick them up from Navi Peth and adjust them in Sinhgad Road, which is not within 2 kilometers or in the same ward or in the same zone. But in order to argue this, you have to be regular and keep asking the Government regarding the current levels they have on that particular date.

Instead of that you can opt for a simpler method, wherein in addition to regularly filing RTI you can argue with the Government at an advocacy level and make them regularly update their website with the number or PAP's/ elements with them, so that the people be able to know about the number of tenements. Because when we were fighting for the atmosphere then this was one of the biggest challenges in our way.

Now that we have taken an order from the court that we have to take 15000 people out from there, but till date nobody has the consolidated data of the places and number of these PAP elements in Bombay.

Furthermore it is a good thing to do some homework because when a notice of demolition or eviction comes it is better to be prepared rather than search for things at the eleventh hour.

One part of rehabilitation was cut off and the other part you people were discussing was the size. In the current scenario, Government of Maharashtra has a policy that every slum dweller will get a tenement of 269 square feet. Although earlier it was 229, but now it has been increased to 269 and the current government announced that it would be giving 400 square feet. But after the announcement, it has not yet received any notification and it is still limited to 269 in Bombay. Height restrictions which you are talking about, I told you that you look at the development plan, with that you have to take your city like Mumbai for now- development control regulations have been constructed.

The newly introduced development plan would be implemented with the help of DCR, 2034. This latest introduction is for Mumbai, similarly you have to look for the latest introductions and plans in Pune and then go through them. Like it was said that there is a building inside the Flood line or there is no space in the middle of the buildings. For which ventilation, sanitation, all these things are talked about. So you will have to look into your DCR's, and see what the provisions are in those DCR.

One of the problems that have become disappointing is that the Slum Rehabilitation Schemes have received key notifications in which to perform Slum Rehabilitation programs a lot of concessions were given. Like if you are normally constructing a building then you have to keep the open space that was reduced for slum rehabilitation. Along with the open spaces, you had to keep green zones or spots, which was reduced for the slum developers.

In the middle of the buildings, you had to place a space of meters that was also reduced for the slum developers. The slum rehabilitation had to be kept about 3 meters away from the drains whereas normally the space was 6 or 9 meters away from the drains in Bombay. So you have to do the comparison and see whether the concession has been given in the rules and then you have to challenge that it is not adequate and that people's health would be affected. Like in Mahul the conditions are not good and then you have to challenge those concessions. Some fellow people have challenged as well, a case of open spaces in Mumbai was recently disposed wherein shrinkage of open spaces was challenged. But the reduced quality of construction work in slum dwelling has not been challenged yet and it needs to be done.

One more challenge is that, in the recent development if your Jhopdas become a part of role binding then the builder who is present there will provide you with a temporary transit accommodation as there is a provision for the same in law.

Later on a notification was released that if they are not able to give the transit accommodation then they have to give the rent of the slum dwellers.

Like recently in Bombay people were being removed from Mahul and via an order of the Bombay High Court the slum dwellers were to be given rent. However, the Maharashtra government is against the same.

Whereas within the purview of the SRA Schemes the developer has to provide the rent and there exist 2 challenges which state that if at all the work of the developer gets stuck then he will disappear and will stop providing the rent as a result the people who have to pay their rents for living in some other place get stuck.

Furthermore people resist this because the builder has no stand of his. Secondly one of the fellow mates had asked a question asking what should be done if the construction of the building gets stuck?

So even if the builder is coming under SRA one must try to be in an agreement which is covered under RERA and the builder must be registered under RERA and the rules of RERA must apply to the registration schemes of the agreement. Till date there is no clarity on this issue that is why slum dwellers cannot go to the court under the provisions of RERA. Whereas, other flat purchasers can go under the provisions of RERA, as those provisions do not apply to the slum dwellers. Furthermore this is a very important aspect on the advocacy levels and if the slum dwellers negotiate with the builders they can also be covered under RERA.

Along with the issue of transit when we talk about negotiation then it is a very important aspect to see who will be doing the redevelopment and once the building is constructed what would be the following provisions and these points shall be covered in the process of negotiation.

In the context of Bombay the current provision is that when a building is constructed the builder creates a corpse for the maintenance and up-kick of the building which includes the security, water tank, pumps and other facilities, as a result of that collected money the stress of the builder is regarding the slum dwellers or as specified by one of you is vertical slum dwellers because in the end you pick them up from roads and place them in buildings but their conditions are still the same like that in slums.

Like in Bombay if you look at such buildings you will notice that they are nothing but another part of slums and the conditions of those buildings is very bad. There are elderly people in those buildings that are afraid to come down because just in case the lift stops working they would have to crawl up those 20 floors and that makes them skip a heart beat as it is not possible for them at such an age. That is the other real big challenge of the situation and there are certain ongoing cases in these matters as well.

I would move towards discussing the point of place of rehabilitation, i.e., where will you rehabilitate them?

Although there exists provisions that they need to be rehabilitated from original distance but that rarely or never happens by and large people are pushed too far and nobody stands up to challenge that. There is one request from all of you that if you are willing to challenge any provisions then at first create some visibility of that matter and make it a campaign so that there is discussion on those topics in public forums and newspapers. Then after this visibility and documentation you move to the court. I suggest this because when we take these issues before the court in isolation then the perspective of the courts regarding that issue might be problematic and may not lead to a favorable outcome and as a result the builder lobby will grow stronger.

If you are declared as 'apatra' (ineligible) then you can file an appeal. There is 1<sup>st</sup> appeal and 2<sup>nd</sup> appeal. 1<sup>st</sup> appeal is made to the department with which you are linked or from where you have received the notice. In the 2<sup>nd</sup> appeal a high level committee is created and you can approach it.

If you want to challenge the eviction notice then you can with 99 percent surety approach the District Court and in certain cases you can even approach the High Court. This is a long topic so we can take a separate session for this topic.

I'll quickly come to slum rehabilitation where the developer is included. With reference to the scheme if in your area there are 10000 huts then the provision is that the owner/possessor of those huts would create a society of their own and then they will make an agreement of redevelopment with the developer. Using that agreement the developer gets a loan under SRA stating the place of development and the consent letter of those slum dwellers is given by him. On these things the Slum development authority grants the builder a letter of intent allowing him to redevelop that area. And then the builder gives money to the slum dwellers and demolishes the entire area and constructs a building there. There are 2 parts of that building, one is the rehabilitation part which mostly exists at the back and the other one is the frontage part which is in the front. Mostly the frontage part is commercially exploited and is offered for free sale, and the money which is generated through it is used in funding the entire project. In addition to this some of the revenue is also submitted with the government and puts some flats under the head of PAP Kota of SRA.

The main reason for issues is when builders create a lot of societies and people start disagreeing with each other and as a result of that disagreement the builders would be benefited as then due to this diversity the process of negotiation would not work. In addition to this when an agreement is made with the builder it is not noted that there is a forwarding clause and in the end the developer in contact with the slum dwellers transfers the development rights taken from the slum dwellers to the main builder and a board of the main builder is placed on the site.

Moving ahead before the issue of LOI there is the process of issuing Annexure 2. This is done in a government office and in this the names of all the slum dwellers exist; whether they are 'patra' (eligible) or not are stated and other documents and details are mentioned herewith.

In order to know the financial capacity of the builder Annexure 4 is issued along with Annexure 2. In that annexure the financial capacity, number of fixed deposits and the number of schemes introduced by the builder, if he is ever blacklisted or not all these information's are clearly stated and an officer assesses it and issues an LOR regarding the financial capacity and expertise of the builder.

The next point of discussion is when the building is constructed and is ready then flats are allotted with the help of a lottery, and here if anyone has any issues with the builder then he can think of the 1st appeal internally. But in many places for the purpose of SRA Schemes 1st appeal is only limited for apatrata (ineligibility). Furthermore in case of any other issue one can approach the high power committee. In case you are not satisfied with the findings of the high powered committee then you can approach the High Court as well. Any issue with the developer can also be dealt with before the city civil court via suits.

At some places Annexure 2 is created beforehand. In 99% cases, among the 1<sup>st</sup> builder, 2<sup>nd</sup> builder and 3<sup>rd</sup> builder, the 1<sup>st</sup> builder gets the society constructed and sometimes it happens that slum dwellers come together by themselves and apply for Annexure 2 as a society and then it is constructed and is stated that there is a request from the housing society and then they go and get the Annexure 2 constructed or sign an MOU with the society developer. What else is done is that the Architect of the society developer applies for Annexure 2. If Annexure 2 is created later then the developer can insert a clause stating that they have already signed with the society, and there can be a case that there are 400 people in the society and only 200 in the Annexure 2.

In reality a lot of slum dwellers are aware that some of them are "patra's" (eligible) and some not, but no one is informed of the same because as and when any one knows that he or she is apatrata then there starts an atmosphere of dissatisfaction and in order to avoid that great control is kept. For the benefit of the slum dwellers the main work of the

activists should be maximum publication of Annexure 2 and it should be established that the society is of everyone and not only of “patra’s” (eligible). If the number of “apatra’s” (ineligible) is huge then the society can be uncivilized and the control mechanism can go in vain and the plan of the developer could fail. Firstly it is to be noted that nobody talks about this and secondly the society is not even aware that it can negotiate with the developer.

As of now the provisions under SRA regarding any area being declared as slum and the process of its rehabilitation includes-

1. Rehabilitation by the government itself, in Maharashtra there are 2-3 institutes to do that job. It can be done by statutory bodies or by the slum rehabilitation body itself or housing boards can do the work and in Maharashtra there is an authority named SSKMP which is also doing this work.
2. As per the provision of law, NGO can come forward and undertake the work.
3. Slum dwellers can generate their own society and can decide to do the work on their own. One very interesting such plan of architect Chandrasekhar was not accepted by the government because it would have eliminated the developer in totality.
4. Private Developers can undertake the work of redevelopment.

Talking of letter of intent, it is provisional and the developer has to satisfy a lot of conditions and if the developer does not fulfill those conditions then one can ask for cancellation of the intent.

There are many angles of our fight; one is as an activist one has to establish transparency and to make the people aware of the information and rights provided by the government. Furthermore we also have to understand that there are certain drawbacks in our policies and in our legal system as well. So we have to fight for that with a lot of advocacy skills to make things fall in the right place.

We are trying to argue it that way, but I can confidently tell you that this will be the court's decision, but one needs to understand that there are seven lakh slum houses in Mumbai, because of this one case overnight the official count would be 1.2 cr. This is why the court will not take this decision but it will be from the government's side.

In my opinion LOI is issued for projects of all kind, just a terminology, for a stage in the project. Even if it is one building, or twenty buildings or there are 20 acres where redevelopment is taking place, for all those purposes we use the term LOI.

As much as I remember I don't have any LOI in my hands, the latest one, issued in 2019, where there is no provision for the timeline that is mentioned in the proposal, which mentions what they will be doing in how much time, we should check that.

To counter that, the impasse of time, because they don't have finances, so in that it is very imp that the society puts a time periods that in how much time will they return, second that if they don't then it I automatically cancelled, third, that every quarter the developer formulates a report with the society about the progress made in the three months. It shouldn't be like after three years you realize that the building isn't going to be completed in another three years. These reports will help you see the progress and understand whether the target will be met or not.

Secondly, in RERA we should include this, which currently isn't.

See, in Maharashtra to get a strip of land, is only for agricultural purposes. Where is a GR for community tree (inaudible) which was extended in 93' which clearly says, that you get land according to the diagram. How much I know in context of Maharashtra you cannot get strips of land in urban areas. In regular law you can do a case of adverse possession, it has been tried before but without a positive outcome. Once you are a society and then there is redevelopment taking place and then you get those houses.

Whenever a person buys a flat, the land isn't his. He is a shareholder in that society. You get flats against the shares. The land belongs to the society.

Look, if they are doing something else in Pune, then it is a different thing. In Mumbai, if the house is theirs it is theirs, the only restriction is that they cannot sell it for the first ten years on ownership (SRA house).

In Mumbai when the land was leased and societies were formed, there are leases for 30 years or 99 years. Please tally this. Next time I am in Pune you can show me the documents. SRA cannot frame different rules in Bombay and Pune, that's not possible.

Yes, the law is made so that people stay where they are supposed to be. Law isn't made to change the society so they won't make it easy. Does anyone else have a question?

The challenge about law is that, this (lifts a book) is just a notification, look at the size of the book and with this is this book, which I spoke about, and this is the 2034 which I spoke about. Like this there are two more books. These are just notifications. Now from this how much you can dilute and send it to the people, I wouldn't say is impossible, but new notifications keep on coming up.

Law is very empty and what make a law are these notifications. Like the law is the skeleton and the notifications are the mass. Our skeletons are similar but our mass is different, that is why you look Abhijit and I look Kranti. But what we can do is, Niranjana, what we can do under this is, we should come out with a simplistic booklet.

I wanted to say one thing, related to Aditi's point, that if you want to use or engage with the law, although we do not have that choice in reality, because if you don't want to do anything or you resist the builder without using the law. He will come with an eviction notice and then you will have to contest it. You will be first to go. So instead of being defensive in a court of law, it is better if you are on the offensive side. If you are staying in the slums, then you can gather people and put forth the condition that there is water, electricity, the roads aren't built properly, we do not have aganwadi, no regular

fumigation, there are disproportional number of toilets. This way you can build the capacity of people and thus it will help them win cases. This way their engagement with the legal system increases. Secondly, if they fight against the developers on some other topic you can again increase the number of people fighting against the developer. So when you are on the offensive side it is very beneficial for you as it will help you reach the next level. So when there are big fights then people aren't dealing with new things, there has a precedent already been laid down hence it is easy for the court to take a stance and they have a certain comfort level.

Look, it is simple builder is doing what the scheme is?

Okay then, send a notice to the builder that here you broke these toilets and build us the other

Send a LOI to SRA that here they aren't building toilets so cancel their LOIs. The scheme is for how many people?

If it is for 700-800 people then why are there 1100 people? You said there are 100 people right?

So there are a total of 2200 people. Have they broken down any houses?

Is he paying their rent?

How many houses has he broken down? He has given those people temporary housing so is he paying the rent for those houses?

Send the complaints to SRA and the matter isn't solved in 15 days then come to us and we will file the petition. If you are writing the letter just get it checked from me

Aditi what we can do is citing the COVID and citing the artificial congestion that is created (inaudible), the situation is worse because of COVID. So we can do something overnight.

See for a legal investigation, the Corporater is immaterial. What matters is have you have written the complaint to a necessary authority. By the way, when were these toilets broken down?

Have they made the building?

Can they make the toilets in the building? Because then, we can ask is that you have made these buildings make us toilets so we can at least use them. Make the ground floor a public toilet.

Mobile toilets are a lot of trouble, because of emptying, filling and other stuff. So make the ground floor the toilet and connect it to the sewage system.

In the letter mention that we have been to several officers regarding this problem but no one has helped us.

Talking to the Corporater is immaterial, because they gain nothing from this. He can't deliver what you want, only place them in front of higher authorities so send a letter to SRA.

To conclude in short our strategy will be that we will make a simple booklet to help you all to tackle the problems, it will be shared with all of you and you should read and give a feedback if you want to add specific things or change anything.