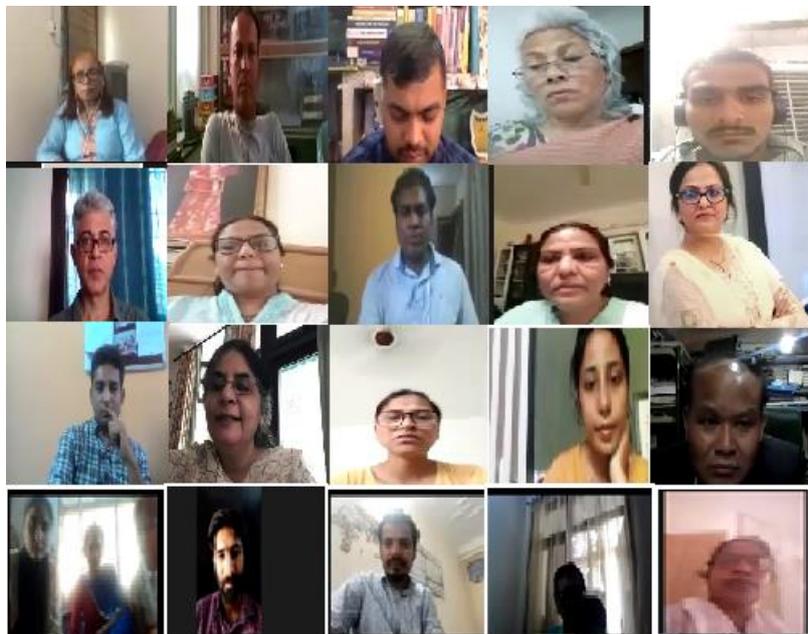


Webinar  
On  
Rights and Challenges faced by Students with Disability,  
Girl Students and Students from Scheduled Caste Community

Date: 28.05.2020

Time: 11.00am to 2.00pm

By:  
Human Rights Law Network (HRLN) &  
Association of Volunteers for Students' Rights, Punjab



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**AGENDA**

<b>Timing</b>	<b>Issue</b>	<b>Speaker/Resource</b>
11.00am to 11.10am	Welcome	Ms. Veena Kumari
11.10am to 11.40	Students with Disabilities; Challenges and Entitlements	Mr. Rajive Ratouri, Special Monitor on Disabilities, NHRC
11:40-12:00	Students with Intellectual and Development Disabilities: Challenges and Entitlements	Ms. Radhika Alkazi, Founder and Managing Director, Aastha, New Delhi
12:00-12:15pm	Landmark Judgments on Intellectual Disabilities	Advocate Rajan Mani
12.15pm to 12.30pm	Students with Disabilities: Experience Sharing	Mr. Dhuru Yadav, Research Scholar, Panjab University, Chandigarh University, Chandigarh

12:30-12:50	Challenges faced by Girl Students	Ms. Sukriti Sharma, Research scholar in Dept. of philosophy IIT Delhi,
12.50pm to 01.00pm	Division within the Scheduled Castes and its impact on Students (Haryana)	Adv. Rajat Kalsan, HRLN, Haryana
1:00 1.30pm	Scheduled Caste Students: Challenges and Entitlements	Adv. Rajesh Kumar, Advocate Convener, AVSR
1.30pm to 2:00pm	General Discussion	
2:00	Vote of thanks	Ms. Veena Kumari, HRLN, Chandigarh

# **Report**

## **Background:**

"Without inclusive and equitable quality education and lifelong opportunities for all, countries will not succeed in breaking the cycle of poverty that is leaving millions of children, youth and adults behind. We will not succeed in mitigating climate change, adapting to the technological revolution, let alone achieve gender equality," Audrey Azoulay, General Director of UNESCO, pronounced this quote on January 24, 2019. It was part of her speech for the International Day of Education.

Since 1948, the Universal Declaration of Human Rights stipulates that all people have the right to access education. But nowadays, many challenges prevent this from being achieved. A global problem, for example, is the exclusion of vulnerable groups from education.

To try to reduce this exclusion, countries have come up with multiple proposals. One of them has been to increase the educational budget explicitly destined to support vulnerable populations. The Observatory of Educational Innovation analyzed what happened after a measure like this has been implemented in countries with different profiles. Most of the cases have been successful and, others had some points to improve.

## **Gaps in access to Education**

Gaps in access to education for vulnerable groups are a common challenge for all countries around the world. The issue is current, relevant and multi-factorial.

Access to education should not be affected by circumstances beyond the control of individuals, such as gender, place of birth, ethnicity, religion, language, income or disability.

Beyond the fundamental importance of universally guaranteeing Human Rights, there is evidence linked to the human capital theory and returns on investment in education that has shown that increased educational attainment is associated with higher personal earnings, reduced poverty and higher growth rates of national income.

Presently COVID 19 has brought unprecedented challenges in India one of which is its impact on school going children and their regular education. While it is promising to see many thought pieces raising the issue and offering meaningful solutions to this issue, it is no surprise that we have yet again failed to recognize the highly excluded category of Children with disabilities (CWDs) from the entire discourse. A staggering 75 % of children with disabilities don't attend schools in India. When combined with other structural inequalities like poverty, caste, gender, religion etc., children with disabilities are more likely than other vulnerable categories to be excluded from education. In the above said background it became important to have a webinar on the educational rights of the students from vulnerable groups while focusing on the challenging situations due to Covid-19.

### **WELCOME:**

The welcome note was delivered by Adv. Veena Kumari on behalf of Human Right Law Network and Association of Volunteers for Student's Rights (AVSR). She shared with the house that today the whole world is passing through a very critical phase due to COVID-19. Unemployment, poverty, hunger, migration, mental ailment, deaths and isolation are some of the challenges before the whole world. She further added that in any calamity whether natural or manmade, always women, poor, children and disable are to suffer most. She also shared with the house that though the Right to Education is one of the Fundamental Rights under Article 21 A, but the same is not happening especially qua the children and the students from marginalized groups and now in the peculiar kind of circumstances it has become a big challenge and it is a reasonable apprehension that due to education being imparted on line the most of the students coming from economical weaker section and disability are to suffer more. She introduced the experts and the

agenda for the day which was subject to modification or addition if the house feels so.

**Students with Intellectual and Development Disabilities: Challenges and Entitlements: Ms. Radhika Alkazi, Founder and Managing Director, Aastha, New Delhi**

Ms. Radhika Alkazi was the first expert for the day. She is the founder member of a renowned NGO, Aastha working inter alia in the slums of Delhi with the children with developmental and intellectual disabilities for the decades. She informed the house that there are different kinds of development disabilities amongst the children. These disabilities could happen before birth, during birth or after birth. In intellectual disability brain does not develop properly, every child needs different kind of support according to hi/her disability. From the centuries we are victim of notion that these children cannot be taught instead of thinking that it is the failure of the system which is not providing according to the needs of these children. It is not the question whether the child can cope or not but the basic question is that whether the system is flexible to address the needs of these children and to include him/her in it. She further added that inclusive education is a system of education and every child getting education deserves that his/her requirements are fully addressed by the system. While mentioning the provisions of the Rights of the persons with Disabilities Act, 2016 she added that the said Act provides for inclusive education and a reasonable accommodation. The communication, the reading material and the curriculum is required to be in the form which can be understood by the children. The children with intellectual disabilities pose a challenge to the system and the system has to see how their fundamental right is transacted.

Ms Alkazi expressed her concern that though the Right to Education came in 2009 but till date number of children especially the children with developmental

and intellectual disability are out of school. To bring them to the schools we have to create a barrier free system, we have to come out of the notion that these children cannot be educated.

Ms Alkazi further added that a large number of government schools are getting closed, Education Rights of the children with the special needs is diminishing and now we have pandemic. She further added that there is a link between poverty and disability. There is a vast migration to the rural areas due to pandemic and the schools in the rural areas with less facilities already are going to be over burdened and consequently right to education to the children especially of the children with developmental disabilities is going to be adversely effected. Further on line teaching cannot address the special needs of the children with development disability Right to education cannot be perceived in isolation rather holistically. It is connected with right to food, and even to get medicine properly for example in case of a child with epilepsy. Certainly we are in grave crisis. We were already legging behind and now we have slipped further. There are challenges before us and we have to strengthen the system so that the needs of every child are addressed holistically and may be this challenge can be converted into an opportunity for over hauling our prevailing system.

**Mr. Rajive Ratouri, Special Monitor on Disabilities, NHRC, Students with Disabilities; Challenges and Entitlements:**

Mr. Rajive was the next speaker. He spoke on the legal entitlements of the students with disabilities. He shared with the house the entitlements and provision as provided in various documents like UNCRPD, Rights of the persons with disability Act, 2016, Right 86th amendment in constitution and Right to Education Act, 2009, Article 21 A and Article 14 of the constitution of India.

While mentioning 86th amendment in the constitution he shared that after this amendment Article 21A has been added and Right to Education has become a fundamental Right. The right to education includes to the children with disabilities also but they are also entitled for certain reasonable adjustments and also to be provided with the facilities according to their needs. Further he added that UNCRPD also provides reasonable accommodation and India has signed and ratified the said convention. There is a provision for inclusive education though it gives option to the child with disability to opt for regular school or special school. Further inclusive education is linked with the provision of special educator in the schools to address the needs of the children with disabilities.

Mr. Rajive further spoke about the access to the children with disabilities qua education in conducive environment which includes barrier free constructions, educational material according to the needs of the students, modification in the curriculum, exemption from mathematical questions, relaxation in age, providing writer, extra time to write the paper, sign language expert, scholarships and safe transportation etc. Mr. Rajive also added that orientation and sensitization of staff in educational institute both teaching and non teaching is also required.

Mr. Rajive further added that when we talk about universalization of education this includes the children with disabilities' also up to the age of 18. But in case of the children with disabilities it needs to be equitable with affirmative action by the state run institutions and the aided institutions. State is required to monitor the enrolment of the children with disabilities and also to monitor the dropout rate which is quite high amongst girl students and students with disabilities.

Mr. Rajive shared with the house that there is lack of schools in rural area and there are no special schools or special educators to address the needs of the children with disabilities in those areas. Safe transportation is not available in rural and urban area and due to this the children with disabilities are not getting their fundamental Right of Education. Article 14 does not provide and protection from discrimination but also affirmative action to make non equals to equals or to provide reasonable accommodation in case of disable students. Being signatory of UNCRPD India is required to monitor the implementation of the provisions provided under the convention and the Right of Persons with Disabilities Act, 2016(RPD Act).

MR. Rajive spoke about the various sections of the RPD Act, 2016 and provisions as provided under various conventions qua the educational entitlements of the disable children. He spoke about the survey which was required to be conducted within two years of the RPD Act but had not happened till date. Mr. Rajive enlightened the house qua educational rights of disable students in higher education and reservation of 5% in government and government aided institutions with certain relaxations.

He shared his apprehension that in the present situation of COVID-19 Educational Rights of the children are going to be adversely effected due to mass migration to the rural area mostly by the financial weaker section, lack of the schools with special educators in rural areas and on line education. He added that the needs of these children are not addressed even in normal day and now it is going to be ignored totally and we need to evolve some mechanism to address this challenge.

Mr. Rajive shared some landmark judgments with the house.

**Mr. Dheeru Yadav, Research Scholar of Centre for Human Rights & Duties at Panjab University Chandigarh**

Mr. Dheeru Yadav, Research Scholar of Centre for Human Rights & Duties at Panjab University Chandigarh and also a Disability Activist, shared his views on the rights of students with disabilities with different aspects such as Legal framework for Students with Disabilities (SWD) like provisions of PWD Act 1995, RPD Act 2016, and various educational policies for the same. Apart from that he discussed social stigma related to SWD and functioning of educational institutional infrastructure for the welfare of SWD. He also shared his thoughts on how the normal human psyche works in relation to person with disability. Besides that, much focused the absence of disability discourse in academia etc.

Mr. Yadav shared with the house about the ignorance of the provisions of legal entitlement of disable student even by the prestigious institutions like JNU. He lamented that despite of the various provisions the status of implementation is very poor. He added that instead of providing facilities to the disable students it come as charity work only. He shared his experience by stating that the disable students are invited not as academicians rather like singing programmers.

Mr. Yadav lamented even the discourse pertaining to the disable student is missing which is pre requisite for sensitization and policy makings.

### **Advocate Rajan Mani:**

Advocate Rajan Mani spoke about the entitlements of disable students with a special focus on the students with intellectual disability. He informed the house that according to RPD Act, 2016 there are 21 disabilities and the intellectual disability has been included in the same which was not earlier. Advocate Rajan Mani further added that the certification in case of intellectual disability is a big challenge since there is no uniformity and consistency in its certification and there are different kind of degrees in this disability like mild, moderate and severe. He enlightened the house by sharing a judgment pertaining to certification passed by the Delhi High Court titled Aman Kumar wherein the

court has ruled the certificate issued in this regard has to be accepted by all institutions.

Advocate Rajan Mani also told about the guidelines issued by the Central Government in 2018 providing inclusive education and Resource Centers. He shared another judgment which provides 3% reservation to the children with disability in the quota for Economical Weaker Section. In private schools. Another judgment mentioned by Advocate Rajan Mani pertained to providing special educators where the special children are studying.

Advocate Rajan Mani enlightened the house by sharing on more landmark judgment which provides 5% reservation in higher education with certain relaxations in the Government and Government Aided Institutions. Advocate Mani shared his concern that though there are number of good judgments but implementation is minimal.

Advocate Rajan Mani told about the case decided by Supreme Court titled a Anmol Bhandari Vs. UOI which provides relaxation to the students with disability on par with the students from Scheduled Caste. He shared about one more good judgment which provide equal distribution of the reserved eat amongst the different disabilities since every disability has its own constraints and cannot compete with another disability.

Another judgment shared by Advocate Rajan Mani is the judgment titled Disable Rights Group vs. UOI which provide guidelines for accessibility though these guidelines are yet to be implemented.

He spoke about one case which could not be allowed in Punjab and Haryana High court pertaining to admission in Government Arts College, Chandigarh and now is pending in Supreme Court where he is providing guidance and support.

Advocate Mani informed the house that the UNCRPD a convention ratified and signed by our country which provides reasonable accommodation, inclusive education, substitute for visually impaired, sign language expert, special educator, different grading system for disable etc.

Advocate Mani satisfied the queries raised by the participant also. One lady social activist asked for certification of one disable whose leg has been amputated during Covid-19. Advocate Mani explained about the guidelines issued by the Centre Government wherein in this kind of situation all the district. Social Welfare officer have been appointed as Nodal officers and they are required to send an appropriate person to the residence of the disable to do whatever is required to be done in that particular situation. He also shared the procedure and website details for this purpose.

Mr. Dheeru Yadav while mentioning about one judgment of 2019 was keen to know that though the judgment provides horizontal reservation to the disable and in the wake of this they should get reservation according to the total eat in the organization and not department wise. Advocate Mani who was familiar with the aid judgment told that he was right but the official are familiar only qua reservation pattern available to the Schedule Case therefore they are doing the same though it is wrong and we need to point out whenever it happens.

On another issue raised by Dheeru Yadav pertaining to non implementation of various guidelines and judgment Advocate Mani observed that Advocacy is required in these kinds of situations and disable community need is to be united to get concrete outcome.

Political representation was also discussed with observation that it is missing and Adv. Mani and Mr. Rajive Ratourti both observed certainly it should happen and can bring some good result in creating discourse and policy making.

**Ms. Sukriti Sharma a Research scholar in Dept. of philosophy, IIT Delhi spoke at length the challenges being faced by Girl Students in historical context as well as in the present scenario.**

Ms. Sukriti observed that the present time infact is a very crucial time to speak on the rights of women students since as we know 4 women students are in jail for protesting against the recent Citizenship Amendment Act, along with many other activists. Safoora Zargar, a pregnant women student who was studying in Jamia is in jail charged falsely under UAPA. Gulfisha is an MBA student, who was granted bail recently, and JNU students Devangana Kalita and Natasha Narwal from Pinjra Tod have been illegally arrested. So today we are talking in a current scenario where the rights of a pregnant Muslim woman student who raised her voice are completely suspended under the draconian UAPA law and our resistance against these false charges against women is unfortunately not strong enough. She further added that one might ask, what is the need for women students to protest against the CAA? Why are university women students especially Muslim students at the forefront in this resistance? She added that our response could be that it is indeed women who have been historically excluded from citizenship in the world, (of course the case of India is different), from the ancient times or in the modern times during the French Revolution for example Women, slaves, foreigners. They were always excluded from the political sphere and hence they have always been at a forefront against these exclusions and they have affirmed the values of equality, liberty and fraternity for all. It is the women who know that citizenship includes some and excludes others, in the ancient time it was women, slaves and foreigners, in the modern times it is refugees, immigrants, and now with the CAA, it would be Muslims. Women have experienced this violent exclusion and hence today these women Safoora, Gulfisha, Devanangana, Natasha and uncountable other women were protesting this exclusion and truly affirming an

unconditional principle of equality. But today it is the paradoxical situation of our country that on one hand we have democracy, a democratic constitution and on the other hand we have a state that want to control and suppress dissent, and undo these democratic principles. While this was at the national level, at the university also we saw that many students protested against fee hike in their university. Some months back , JNU witnessed a massive struggle against Fee hike and the regressive Hostel Manual which among other things would impose curfew timings women hostels, increase the hostel fees two fold, massively increase punitive fines on students, imposes a dress code which were finally taken back to some extent. Around the same time, students in Pondicherry University also protested against fee hike in their university, which is still not resolved. JNU slapped inquiries on these students and Pondicherry University has declined Post Graduate scholarships to students who participated in the fee hike protest and Anti-CAA protests. She added she would like to say, it would be women students who would be at the forefront because they along with Shudras have been historically declined education. In Indian Society both the Shudras and the women were deprived of education. So it would be the women who would be at the forefront of 'education for all', education which is necessary birthright to pursue a life of mind and develop human personality. And yet we see that the rights of students to raise their voice for affordable education are completely suppressed. Hence today when we are talking about Student rights and rights of women students, we are surrounded by this contradictory situation of resistance by women students on one hand and the suppression of their rights and criminalizing them on the other hand by the state and the university. This is the existential challenge before the women students. A sort of a challenge to the autonomous voice of the woman student. The woman student cannot exist without an autonomous voice.

Ms. Sukriti also spoke about the legal framework and the structural challenges women face within the universities. She mentioned the following:

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- UGC(Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015.
- Reservation and Supernumerary seats for women at the IITs
- ‘Deprivation Points Model’ for women students in public universities such as JNU

Ms. Sukriti shared that since she is a student of IIT, she would like to share the challenges being faced by women students therein like the composition of women students: In IIT Delhi, out of 7848 students only 2228 are means only 28% are women and within this we do not know the composition of SC, ST, OBC women. Only 13% (1063) total students are SC students and within this nobody knows how many SC women are. In IIMs also there is somewhat the same situation for women and the highest is in IIM Calcutta at 31%. On the other hand in public universities the composition of women is almost equal to that of men around 4000 men and 4000 women.

Ms. Sukriti shared the reasons for low composition, according to her one of the key reasons of this composition is the nature of JEE itself like lack of coaching facilities, time for preparation, lack of support for women etc. This would get intensified in the case of SC, ST, OBC women and very few of them apply at PG level courses. High fees are another problem. It is only since 2018 that seats are being reserved for women and the number of women at IIT is rising. IITs have recently introduced Supernumerary Seats Scheme, wherein 20% seats are added for women. Almost all women students are coming through this scheme.

But equal number of hostels is not being built for women on a priority basis. Still here one can see a very meritocratic, masculine notion that supernumerary won't eat into the male seats. So it is already clear that general means upper caste man. So in a way 80% is reserved for men and that SC, ST, OBC actually 'eat into the meritorious general category' student. This attitude of reservation is vastly prevalent in IITS and it adversely reflects the pervasive Patriarchal and Brahmanical mindset. In JNU on the other hand in universities the equal number of women male student ratio like JNU, there used to Gender deprivation points and also points for backward regions, affordable fees, hostel facilities. They have now been scrapped and surely it will affect the women coming from backward regions the most.

Inside the campus: Once the women have entered them face even more challenges in the male dominated space. Caste and gender prejudice. Prevalent sexism, massive competition. Women are still seen to be given placements or seats because of their gender and not because of their intelligence or capability. Importantly men and women both from the reserved categories are hardly part of extracurricular activities. No leisure time. After the normal classes there are remedial language classes and then meetings with mentors. More pressure than reforming the education itself. The system itself is heavily biased towards women and reserved category students. Sexism among students: Bois Locker Room Gender and Intelligence. Missing collective autonomy. Because of a lack of a robust feminist movement among these campuses, women would also hold on to some of the anti women notions. Lack of hotels and hostel discriminatory rules.

The major issue of sexual harassment on campus. The Sexual Harassment of the Women at Workplaces Act 2013 mandated the institution of internal complaints committees later on the UGC (Prevention, Prohibition and Redressal) Act, 2015 mandated the institution of ICC in Higher Educational Institutions but the

reality is that very few colleges have instituted these bodies. In Delhi University it was only in 2018. She observed that a few colleges have started holding student elections for ICC. Many provisions such as: include the constitution of an internal complaints committee (ICC) against Sexual Harassment in each college/university with elected student representatives, the dissemination of information on sexual harassment and its redressal mechanisms to all students, abolition of discriminatory rules that restrict the mobility of women students in the name of 'safety', provision of infrastructure such as street lights, safe transport, medical health facilities within campus, construction of women's hostels on a priority basis, gender sensitization workshops etc. No action has been taken for implementation of these provisions and it is only after sustained struggle that some provisions got implemented.

Problem is not just of constituting a legal body but also of accessibility to legal provisions. It also needs to be seen how active it is. At IIT Delhi according to RTI replies on its website ICC received only 3 complaints in the entire year of 2017-2018 and 5 complaints from 2018-2019. So it is not approachable, women students are not aware, or they don't have the confidence. On the other hand in JNU autonomous body GSCASH which was formed after Sexual Harassment at Workplace Act, 2013 was scrapped and a fully admin controlled ICC constituted. It leaked the information of complainants and also given a clean chit to two professors accused of sexual harassment. Main problem: autonomy of women students and autonomous women groups are lacking. Briefly talk about the issue of dropout rate as well as counseling in universities: Not understanding the structural factors but treating it as an individual problem. The 'Me Too' movement in which many women students participated online: The lack of effectiveness of legal mechanisms came forward during the 'Me Too' movement. The structural weaknesses of women and the violence against them which had been forced to disappear from the public discourse for a long time.

Ms Sukritis shared her views on the current scenario:

Now to come to the lockdown imposed due to the corona virus crisis and its impact on women students.

Challenges of online Exams: Accessibility: Survey of over 50,000 Delhi University students, conducted by the Delhi University Teachers' Association (DUTA) found that 85 per cent of respondents do not feel that they are in a position to appear for online Open Book Examinations (OBE) as proposed by the university examination.

Women students' condition during lockdown: domestic violence increased and increased domestic work. In the domestic sphere, there is an expectation that women must be available for housework and service at all times and that they must work selflessly.

One problem: women's situation in the domestic sphere is not publicly visible. Within family increased surveillance. In conclusion, our task would be how to think about these issues and about women's freedom which is currently in an abysmal condition. The need is to strengthen legal mechanism as well as awareness and legal advocacy programmers and build autonomous women bodies which generate consciousness about these legal mechanisms and a social consciousness in society about gender justice.

### **Advocate Rajesh Kumar, Convener, Association of volunteers for students**

Advocate Rajesh Kumar, Convener, Association of volunteers for students spoke about the discrimination faced by the students from Scheduled Caste, guidelines protecting from thee discrimination and Post Metric Scholarship and its status of implementation. He shared with the house that Post Metric Scholarship was drafted by Dr. Ambedkar in 1944 to give financial support to

the students from scheduled Caste to enable them in pushing higher education. It has had been operative in the State of Punjab like other states being a Central Scheme. In this the State are to contribute committed liability around 10% and the remaining fund come from the Central Government. The Student belonging to Scheduled Caste is entitled for fee and maintenance provided their family income from all sources is less than R. 2 lakh 50 thousand. Unfortunately this scheme has become defunct for the last three years across the country since the adequate budget is not being allocated and the student who otherwise eligible are facing financial hardship. There due scholarship has not been disbursed for the last four years. Approximately 2 thousand crore is outstanding against the state only for the students from Punjab and if calculated for the whole country it is around 40 thousand crore. Due to this nonpayment the students are unable to pursue their higher education which may lead to more unemployment. Advocate Rajesh shared a PIL which was filed few years back with the legal help of HRLN and Rs. 900 crore was released for the students within few months. But after that again the government attitude qua students from Scheduled Caste has changed. Advocate Rajesh Kumar shared his concern that now there is ceiling also on the scholarship though the fees have increased in both the Government and Private Institutions and there is increase in number of students.

Advocate Rajesh Kumar observed that there is no transparency pertaining to the amount and the period for which the funds have been released and the pending amount. The government is not taking the issue seriously as it deserves to be taken. Students are not getting their roll numbers, Detail Marks Card even in most cases their original documents have been withheld by the institutions where they have been studying since they are unable to clear the dues standing against them.

Advocate Rajesh hared that this is in violation to Article 21 and 14 and backing out by the state from its commitment. He also spoke about the discrimination

faced by the scheduled caste students. He added that University Grant Commission has issued certain guidelines in this regard. He mentioned about Throat Committee recommendation in the wake of suicides committed by Scheduled Caste students He mentioned that constitution of a special cell i.e. S.C/S.T cell to redress the grievances of the students from these communities is required ass per guideline.

He also shared establishment of equal opportunity cells, remedial coaching classes, video recording of the viva to protect the students from discrimination is also legal entitlement of the students from Scheduled Caste. He added that the guidelines in the simple language and the legal entitlements of the students from scheduled caste need to be put at some conspicuous place in educational institutes.

The meeting was concluded with vote of thanks by Adv Veena Kumari from HRLN.

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47.	Govind Parmar		