

District Meeting on Disability Rights

Date – 04.11.2020

Venue – 43/2B, Suhashini Sarani, Kolkata 700025

Report edited by Sandipan Das, Advocate



Schedule of the Meeting



HUMAN RIGHTS LAW NETWORK

Topic: Basic Criminal Law including Disability related Laws.

Sl. No.	Time	Session	Speaker
1.	11- 11.15	Registration	
2.	11.15 -11.30	Introducing HRLN	Aparajita Bose, Aishwarya Adhikari HRLN Kolkata
3.	11.30-12.00	Basics of the RPWD Act	Sabyasachi Chatterjee, Advocate and Rajan Mani Advocate
4.	12.00- 12.30	Scope and way forwarding RPWD Act	Dr. Shambhu Prasad Chakraborty (Prof.)
5.	12.30- 12.40	Rights and entitlement	Ankan Biwas, HRLN
6.	12.40 -01.00	Discrimination in Work Place	Uma Shankar Verma
7.	01.00- 1.30	Litigation	Indrajeet Dey, HRLN, (Advocate)
8.	1.30-2.30	Personal counselling session and interaction along with planning way forward.	Team HRLN

Index

Sl. No.	Particulars	Page No.
1	Introduction	4
2.	Speaker's Session	5-7
3.	Concluding Remarks	8
4.	Annexure A- Participants List	
5.	Annexure –B Pictures	

1. Introduction

Census 2011 pegs the number of persons with disabilities in India at 26.9 million, which is 2.12% of the population. A World Bank study 'People with Disabilities in India: From Commitments to Outcomes (2007)' states that the number of persons with disabilities in India ranges between 55 to 90 million. This wide variation in numbers reinforces the fact that a large section of the community remains invisible, not counted, not certified and consequently outside the social net.

Disability in India has a direct correlation with poverty. Disability leads to poverty and poverty causes disability. Caught in this nexus, persons with disabilities have little or no access to education, vocational training, and livelihood and employment opportunities. Unable to access welfare measures and entitlements, denied social security, treated as recipients of charity and doles, and because of widespread ignorance about their status as rights holders, they stand marginalized and most of their human rights stand violated. Lack of information about laws and their inability to access the justice system completes their marginalization.

Within this paradigm, women with disabilities, persons with intellectual, developmental, multiple and psychosocial disabilities, and indigent persons with disabilities in particular face multiple levels of marginalization and exclusion.

The last decade has brought rights-based advances for the disabled community in India. After the ratification of the UN Convention on Rights of Persons with Disabilities in 2007, the Rights of Persons with Disabilities Act was legislated in December 2016 and the Mental Health Care Act in 2017, raising hopes and aspirations of the community. The Disability Rights Initiative is recognized as the only one of its kind in providing a comprehensive range of socio-legal support services to India's disabled community.

2. Speaker Session

Aparajita Bose and **Aishwarya Adhikari**, HRLN Kolkata introduced the whole team of HRLN and started a brief description about HRLN organization's work for providing Legal Aid to the litigant, our organization do pro bono cases, we support Human Right work which includes Disability Rights. we reach out to the deprived section of the society for giving justice to all. Our founder Dr. Colin Gonsalves by his hard effort and dedication for poor people we have able to be in such a position to do this social activity to upliftment of the society.

Sabyasachi Chatterjee, Advocate, High Court at Calcutta he is very pleased to have the invitation from the HRLN Kolkata, and felt very good to work with the team of the Advocates of HRLN, to serve the people for accessing Justice, he was also very happy to have a book published by HRLN, Rights of a Person with Disabilities 2016. He brings out a common problem in our society about RPWD Act is the awareness of this act/law. Even the Judicial/ Advocates/Police/Administration are not at all fully acquainted. Even in the premises of the High Court at Calcutta, the bathroom is also not available for the disabled persons, which is also infringement of the Rights of the Disabled persons. We used to file cases when we see problem in government job vacancy or post oriented but we face problem on daily basis but we never stand up for such problem as it is lack of social awareness. Human Resource department of the working place is needed to be more sensitive so that the type of problem may not arise. As per Article 14 of our Indian Constitution equality means every one must be in a position that they don't feel they are either discriminated or deprived. But due to so many problems the society itself violets the provision of the Article 14 which is grossly misuse of the constitution. He also describes the Section 3 of the RPWD act stating the equality and non-discrimination so appropriate authority shall ensure appropriate measure so that no disable person is deprived. Article 15 of our constitution itself provides that no one should be discriminate, but to ensure we enacted law to enforce it, but still the society fails to uplift the backward people. He learned appreciating equality from his professor. Local government must identify and eradicate such problems. Law doesn't mean for Court/ case but it deals with life in daily basis. System awareness is very much crucial.

Rajan Mani Advocate he was pleased to be in this webinar and physical meeting he also introduced the Advocates for Public Justice Foundation who works for the people for their legal rights. He also states that the new RPWD Act 2016 has more provisions than the previous Acts it is based on United Nations Convention on the Rights of Persons with Disabilities (**UNCRPD**) the Act itself a mini constitution for the disabled persons. Reservation identification exercise by Central Government / State government to setup an expert committee to select for post for

suitable persons with disability so they can work better. He also describes the Section 34 of the RPWD Act Every appropriate Government shall appoint in every Government establishment, not less than four per cent. Of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. He also describes section 20 of the act and describes the discrimination in employment. The department must adjust and facilitate with the disable persons to work in proper way. He suggested to apply the section 20 when ever it required. He has some remarkable judgements for which he has fight in the court these are some land nark judgement.

1. Ravi Prakash Gupta Case(2010) 7 SCC 626.
2. National Federation for Blind Case (2013) 10 SCC 772
3. Aryan Raj CasevsChandigarh Administration on 8 July, 2020
4. Rajeew Kumar Gupta &Ors vs Union Of India &Ors on 30 June, 2016
5. Indra Sawhney case (1992 (Suppl) 3, SCC 217)

The above cases are landmark judgment was all related to the previous act, but till now no judgement came for the new act. He also advise if anyone is facing problem take up the matter and move to court, court is giving remedies. Even Bombay High Court in a case to set up a expert committee to identify post for mental illness. In a recent matter in Delhi Judicial service notified for reservation for disable person and the person got selected, but during in the medical examination the medical board declared him unfit to join. Delhi High Court directed to give the post of Judge to the selected person. So ending his discussion he inspires everyone to file a case before the court and there are always remedies available.

Dr. Shambhu Prasad Chakraborty (Prof.)of WBNUJS he was very pleased to get the invitation and opportunity from HRLN Kolkata, before going into the topic he shares his some personal problems he was facing from childhood, he has high power specs so he faces many problems for such instances, he also shares a memory while he was in a doctor's chamber a patient was consulting with doctor, but there was no arrangement in the chamber so the conversation can be kept secret, outsider can hear easily. Doctor advice was pathetic to the disable patient and demoralizing for their future planning. HRLN and other organization too look into this matter in a professional group to give training and increase more social awareness. In America when they try to introduce something to the society for social development, they first introduce in the school level. He shared an incident of Helen Keller, that she was rejected to get the admission in Harvard University because at that time there was no place for women to study. Public worker required more training as they are more responsible and during this pandemic time there is some time available for training. He also said how the society has developed from the Magna Carta from 1500 to present time. There are so many laws and books but only these will be not effective and the ultimate goal must be to implement and utilize it for social development. The more PIL file against the Department the more effective is the result. He also says that basically blind

people and the person with spectacles have no differences because when the speck is removed, he becomes visionless. Now a day's technology is so advanced it helps the disabled persons to get some access. More activist/activism required to implement in the grass root level.

Ankani Biswas @ Ankan Biswas HRLN, Advocate he describe how the act evolved from 1955 later modified in 1995 and lastly in 2016. He also states that the new RPWD Act 2016 has more provisions than the previous Acts it is based on United Nations Convention on the Rights of Persons with Disabilities (**UNCRPD**) it provide 21 disabilities from 7 previously. Every person as per Constitution of India deserve equality but they don't get so, the society laugh at them rather than helping them. During in the PSC exam in West Bengal there was a room allotted for disables person but the staff asked a ridiculous question owing to the disabilities. He also shares a information about if a disable person faces any problem he may approach to the office of the Commissioner for the Persons with Disabilities or approach to the Executive Magistrate to file a case for reliefs. He also states there is neutral toilet in many place but there is no specific toilets for disable person which is an offence.

Uma Shankar Vermais a senior employee of India Post having nearly 80 percent disability. He stated that he had been harassed number of times during his long tenure of service by getting assigned to works which are very difficult for him to perform because of his physically challenged state. He was even assigned to do election duties which are very strenuous for disable person like him. Being harassed for so many years and not finding any alternative remedy he was compelled to file a case in The Hon'ble High Court at Calcutta and ultimately he got a remedy. The Hon'ble High Court at Calcutta ordered his higher officials not to assign him any duties which would be difficult for him to perform and further ordered to assign him work which would not involve much traveling.

Indrajeet Dey, Advocate, High Court at Calcutta, HRLN, he states that he has argued and filed in so many cases relating to the disabilities but the victory of the case is not the ultimate goal, and problem starts a new dimension as the concern department has no grievance cell or effective grievance cell so many problem can be solved easily without coming to court which is a lengthy, time consuming and some cost oriented. Many persons with disabilities face problem when they are in probation period because if they raise voice they may face problem so many people use to accept those situation for the sake of their job, which is not at all acceptable and it violate the Constitution and Human Right.

3. Concluding Remarks

At the end of the meeting an inter-active session was open up for the audience. In this inter-active session, the participants who mainly belonged from the Disable community raised various questions which were answered by the speakers of the meeting. There were other participants who came up with legal issues which they had faced and they also cleared doubts.

Annexure- B

Zoom Meeting

Recording

 Aishwarya Adhikari	Sav P	 Shambhu Chakrabarty	Rajan	Siddhartha De
 ANKAN BISWAS	Raja Dey	HLRN Delhi	Galaxy M01	 ANKAN BISWAS
Rajyashree Muk...	Advocate Billes...	Pintu Kumar Karar	Souvick Mukherj...	Jharna acharyya

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Zoom Meeting

Recording

 Aishwarya Adhikari	Sav P	 Rachit Lakhmani	 Siddhartha De	 Shambhu Chakrabarty
Galaxy M01	Suravi Barik	Rajan	Raja Dey	HLRN Delhi
 ANKAN BISWAS	Rajyashree Muk...	Souvick Mukherj...	Jharna acharyya	Pintu Kumar Karar
Advocate Billes...		 Anagad kumar Singh		

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