

Report On

Dalit Rights Conference On strengthening legal Intervention Strategies.

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Introduction:

The word “Dalit” comes from the Sanskrit root dal- and means “broken, ground-down, downtrodden, or oppressed.” Those previously known as Untouchables, Depressed Classes, and Harijans are today increasingly adopting the term “Dalit” as a name for themselves. “Dalit” refers to one’s caste rather than class; it applies to members of those menial castes which have borne the stigma of “untouchability” because of the extreme impurity and pollution connected with their traditional occupations. Dalits are ‘outcastes’ falling outside the traditional four-fold caste system consisting of the hereditary Brahmin, Kshatriya, Vaishya, and Shudra classes; they are considered impure and polluting and are therefore physically and socially excluded and isolated from the rest of society.¹ The constitution of India provides for important Constitutional safeguards directory as well mandatory for SCs & STs as follows:

- A. Directive Principles of State Policy in Article 46 is a comprehensive article comprising both the developmental and regulatory aspects. It reads as follows:

“The State shall promote with special care the educational and economic interests of the weaker sections, of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”.

- B. Social Safeguards through Article 17. “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law. To give effect to this Article, Parliament made an enactment viz., Untouchability (Offences) Act, 1955. To make the provisions of this Act more

¹ National Campaign on Dalit Human Rights, Dalit Right Situation, Who are Dalits and what is Untouchability?, http://ncdhr.org.in/front/dalits_untouchability, last accessed on 20th January, 2019.

stringent, the Act was amended in 1976 and was also renamed as the Protection of Civil Rights Act, 1955. As provided under the Act, Government of India also notified the Rules, viz., the PCR Rules, 1977, to carry out the provisions of this Act. As cases of atrocities on SCs/STs were not covered under the provisions of PCR Act, 1955, Parliament passed another important Act in 1989 for taking measures to prevent the atrocities. This act known as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, became effective from 30.1.1990. For carrying out the provisions of this Act the Govt. of India have notified the SCs and the STs (Prevention of Atrocities) Rules, 1995 on 31.3.1995.²

C. Article 15(4) empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SC and ST. This provision enables the State to reserve seats for SCs and STs in educational institutions including technical, engineering and medical colleges and in Scientific & Specialised Courses.³

D. Article 330 provides for reservation of seats for SCs/STs in the Lok Sabha.

Whereas, Article 332 provides for reservation of seats for SCs/STs in the State Vidhan Sabhas (Legislative Assemblies).

E. Article 16(4) empowers the State to make “any provision for the reservation in appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State”⁴ and Article 16(4A) provides that “Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the

² Dr. B. R. Ambedkar's Caravan, <https://drambedkarbooks.com/2016/02/28/constitutional-safeguards-for-dalits/>, last accessed on 20th January, 2019.

³ The Constitution of India, 1950, Article 15.

⁴ The Constitution of India, 1950, Article 16(4).

opinion of the State, are not adequately represented in the services under the State”.⁵

F. Article 335 provides that “The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State”. Article 320(4) provides that nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision under Article 16(4) & 16(4A) may be made or the manner in which effect may be given to the provisions of Article 335.

Despite several protections whether the rights of these classes remain protected in essence? This question demands answer. Through this compilation of experiences we have tried to come within reach of the people of these classes and uncover the state of affairs prevailing in their day to day experiences. How far have these rights been experienced in actuality?

Despite several protections granted and guaranteed to the community, there is still a social stigma attached to the class at large. In Surat Corporation, we have reservation in terms of service, for not just the people belonging to the Dalit community but also people of people belonging to other backward classes. It is seen that “when the broom is of gold , it now that people are attracted to it” meaning thereby that as now the posts have been glorified because of the handsome salaries even up to Rupees twenty five thousand per month it is now that people of other communities have considered the option of taking up jobs of cleaning. However, the frame of mind remains to be stuck as if it had never been introduced to concepts of humanity and equality. Despite drawing the same salary, being part of the same work-group and holding the same posts, it is still expected of people belonging to Dalit Community to carry out jobs which are related to cleaning and are made to do on location works. The people of other communities have inter-communication

⁵ The Constitution of India, 1950, Article 16(4A).

amongst themselves through which they have very conveniently deployed the people belonging to the Dalit Community only on to these jobs of cleaning. These are issues which are to be looked upon by the organizations.

The government is actively putting up cleaning missions such as Swatch Bharat Abhiyan but nowhere it is specified that only Dalits have to participate in the said mission. It is the responsibility of every citizen to take part in cleaning the country. When an animal dies on the road, it is expected from a Dalit to come and clean the debris and other waste. On one hand we speak of cleaning the nation and other we expect a class to participate and take responsibility of it. This aspect requires consideration and this thinking needs change. Why should one community bear the burden of cleaning the dirt?

Dalit Rights Conference On strengthening legal Intervention Strategies”

Mr. Jayanti Makadia, the president of ‘Gram Sansodhak’, narrated the ugly incident that took place in Amreli. Mr. Makadia were present there so he has personal knowledge about the incident which he has shared. That the incident is of a place that is about 17 km from District Amreli. There is a village by the name ‘Varasrastal’ and the name of the then Sarpanch was Navindbhai, a Dalit. In villages castes and castism are two very important factors that determine roles to be taken by the people. The village was consisting of two counter-parts in terms of politics. On one side was the friendship of sword between thakors and yanak and on the other was the majority community of the dalits and patidar. In case of disputes between Dalit and patidar, it is the sarpanch that is empowered to resolve disputes in front of the village. There is reservation of seats for sarpanch. A true and tormenting example of Panchayat Raj was seen by the people during this time. Sarpanch has the duty to try hard for getting development in village which was duly being done by Navinji in the village but the darbar of the village restrict the sarpanch and instruct him to do sign only, what to do and what to put above it was their prerogative and work to decide. People claim that with attaining of independence and the enactment of constitution, panchayat raj came to an end, however, we witness this to be prevailing in the roots of the country which grows and sprouts through systems. There are many people who work in panchayat are aware that in village the women are taken because they have reservation and SC, ST were taken because there is an reservations. And in reservation they selected those people who work for them, they give orders and people do exactly what they ask for, only those people were selected for the position of the sarpanch. And once

appointed, if the appointees do different than as asked to be done, they are shown their places in the caste.

Navinbhai being the sarpanch was addressing the village in a meeting and discussing all work of development that were done in that meeting and suddenly in between his talks to the people, some people from the mentality of raja rajwada were not getting their interests sufficed and therefore they went ahead and murdered Navinbhai in front of all people in panchayat.

After the murder, not even a single person from the village was allowed to come near to the dead body till its too late. Later, the brother of the deceased comes near and takes him to the hospital with few villagers. By the time they reach its already too late and the sarpanch has already died. Despite the murder having being committed in front of all the people, no one came forward to tell the truth to the police as a result of which no person was arrested. The next day, police registers the F.I.R and arrests two people and discharges the body for cremation and funeral rites.

The villagers reach the village with the dead body and look for space to bury the dead body however, there is not a single space in the village as the graveyard is occupied by the darbars and Dalits are not allowed to be buried along with the darbars. The dead body was brought and kept in between the village, knowing which the Collector came to visit the site. The collector removed the darbars from the graveyard and let the body buried in the graveyard. The body was finally buried at the end of the road. There is a feudal system and those who head up against them then their head is cut off from their neck.

The matter of the murder of the sarpanch of amreli in that the matter says a lot about the beliefs people carry with them regarding the Dalit community. Is there any community that is assigned to a dead person? Does a person choose to born in a specific community? Then on what basis we are classifying the graveyard to be of the Darbars or the Dalits?

UNA CASE:

According to a report in The Indian Express, seven members of a Dalit family in Gujarat were allegedly beaten by gau raksha (cow protection) activists for skinning a dead cow on Monday. A part of the incident, where the victims were being attacked with iron rods and sticks, was recorded on video and has been widely shared on social media.⁶

The incident occurred around 10 am in July, 2016, when 46-year-old Balu Sarvaiya and other members of his family were skinning a cow carcass in Mota Samadhiyala village, Una taluka. In his statement to the police, Sarvaiya's son Vashram said they had bought the carcass in Bediya village. "The accused came in a white car and asked why we were slaughtering the cow. I told them that the cow was dead and that we were merely removing its skin. But they started abusing us and attacked us with iron pipes, sticks and a knife with which we were removing the skin of the carcass," quoted from Vashram's complaint. Vashram has named six people in his complaint.⁷

After the complaint being lodged, during the course of investigation around 16 people were arrested. The videos and photos from the site of incident went viral on internet splurging into numerous protests and outrage amongst the people of the community.

⁶ Dalit Family Stripped, Beaten As 'Gau Raksha' Vigilantism Continues, The Wire, Politics, 13th July, 2016, <https://thewire.in/politics/dalit-family-stripped-beaten-as-gau-raksha-vigilantism-continues>, last accessed on 21st January, 2019.

⁷ IBID, 6.

Mr.Vashram Sarvaiya explains in the Seminar⁸ how he saw humanity being trashed in front of him when he saw the incident. He explains, *“There was someone lying unconscious and Police had arrived. The police was taking into custody random people from the site, stating reasons such as the ‘Gaw rakshak’ were taking mawa, bidi, cigarette (different types of tobacco) and therefore he was also taken into custody.*

After that, they were brought at a hospital at Ahmedabad and later taken to a hospital in Rajkot. Influential Politicians arrived at the hospital but it was reported that they came for some work and were gone after that. There were many people from the society who witnessed the incident and that how innocent people were harassed but in the war of truth, one receives no support. People feel they are extending their support by taking pictures and uploading them on ‘Facebook’ and ‘Whatsaap’ but do not come forward and depose the truth. We received support from Mr. Jayantibhai Makadia and Advocate Govindbhai. Gohil sir has also extended his support for more than two years and has struggled with us to get justice in the High Court of Gujarat.”

Recently, on 25th April, 2018 Ramesh Sarvaiya and his cousin Ashok Sarvaiya, two of the four youths who were flogged in Una in Gujarat in June 2016, were once again attacked by one of the accused who is presently out on bail. It is reported that Balubhai Sarvaiya and some family members were going from Una to their village Mota Samadhiyala when Kiransinh Balubhai Darbar attacked and threatened Ramesh and Ashok.

“Balubhai, Ashokbhai, Rameshbhai, Vasrambhai and other family members were returning back to Mota Samadhiyala after shopping in Una town. The family is going to convert to Buddhism this Sunday and everyone had gone to Una town to buy the stuff that we need for the conversion ritual. Balubhai, Vasrambhai and others were travelling in a vehicle with all the goods and Ramesh and Ashok were

⁸ HRLN Seminar

on a motorcycle ahead of them. One of the accused, Kiransinh Darbar, who happened to be taking the same route saw Ramesh and attacked him,” as told to The Wire by Jitubhai Sarvaiya, the cousin of Ramesh Sarvaiya and Vasram Sarvaiya.⁹

Govindbhai Parmar, the advocate who is handling the case on behalf of the Sarvaiyas stated that after two years, the hearing of the case is yet to begin but 35 out of 43 accused are out on bail. The prime accused was granted bail by Gujarat high court in 2016 on the condition that he shall not enter limits of Una. In December 2016, the court of Justice A.J. Desai had held that the charge sheet had been filed and that the trial will take time. While giving bail to Shantilal Monpara, president of the Sanatan Charitable Trust and the alleged mastermind of the incident, the court held, “Prima facie it appears that there is no direct or indirect role of the applicant which should establish that he has instigated the assaulters and was in contact with them. It appears that he was not present at any places where the incident has taken place.”¹⁰

Despite Several protests and rallies followed by the government assurances to provide the community with BPL cards, housing plots, five acre agricultural land and government jobs and other benefits, nothing surged till date and the community continues to live in threat of being defiled and harmed by the ‘upper castes’. The threat to this community and caste is not new as there have been incidences from time to time back in the history which have depicted the violence that has been caused in the name of caste.

One such incident dates back to 1999, which shook up the government as well the people in Gujarat, popularly referred to as the Panakhan Incident. The incident took place on 27th November, 1999 in Panakhan, Gujarat. There is a government

⁹ Two Years Later, Una Flogging Incident Victims Attacked Again, The Wire, Caste, 25th April, 2018, <https://thewire.in/caste/una-flogging-incident-victims-attacked-again>, last accessed on 21st January, 2019.

¹⁰ IBID 9.

land in Panakhan where people of this community are considered to have digging as their obligation since birth and it is established that if a person is digging the land then that person belongs to backward classes. The wages that the persons of this community are supposed to get is around Rs.20 for entire day of toiling, however, even that is reduced and only Rs.10 are paid for the task. In Panakhan, there was a practice that if some member of the family dies, the members of the SC and ST community will be sent to give the news to the relatives and of the family.

The incident took place, when around 46 people of this community, belonging to Dahej, a taluka in Gujarat, were toiling in the government land and carrying out their task of digging the government land situated in Panakhan, when the people of the Darbar community dressed in *pagdi*, a type of turban wrapped on their heads, that could prevent them being hurt from being hit on the head, and attacked these 46 people working on the land. These 46 people comprising of men and women were beaten up badly by the attackers for 6 long hours to the extent that it broke the hands and legs of these people. The haploids did not stop here, the attackers, took women to the farm, gang-raped them and had beaten them to the extent that they went unconscious. The case started in 2003 with the help of the leaders in Navsajan and PUC together with the organization. The case went on for two years, and after that many cases have been disposed off and some of which are remaining in those cases the victims have either died or they are not heard as witnesses. In 2004, the cases came to be closed on different pretexts. However, with continuous efforts of this organization, the case of gang-rape and violence against the woman in the Panakhan tragedy came to be re-opened and is finally before the court in Junagadh and is pending disposal. With regard to the other 45 victims whose hands and legs were broken and remain to be broken even today, cases have been closed as they gave it on affidavit to the government that they do not want to proceed with the cases any further. The reason for not proceeding further was threat, financial instability or involvement of influential parties, or some other reason, it is best known to the victims.

Maganbhai: A native of ashwaria village of katyarana taluka of porbandar district describes his experiences as follows:

“My name is maganbhai. The incident took place in our village at the time when Gujarat and Maharashtra weren't separate states and were recognised as one. In about 750 acers, 16 biga were given in the name of ‘harijan sahokari gharod sohakari’ and also some property was inherited by my father on death of his relative and therefore we had 35 biga amongst total five brothers. In that we are poor people, there is a land that is not occupied by us. The said land is inhabited by mayar “hazan marana” and his brother. The said persons came with one JCB and one tractor to pick up the clay at the site of land and at the time of lifting the clay, I had 10 to 12 buffalos in that land for grazing taken there by my son. Nitin(son) was doing 3rd year of college who visited the village at the time of festival. They approached the land with the intention to rob the clay, and in order to stop them my son of 23 age made efforts but couldn't stop them. Therefore he called the mamlatdar. Mamlatdar replies with the question such as ‘which party is this?’ to Nitin.”



Incidentally, Boghabhai came to the place of incident and he further explains that “The date at which the incident happened is 10/09/2015 and the day before the incident the young boy name nitin maganbhai vinjuda that had called the police and informed that he has got message by phone that at ashwaria village of kutyarana taluka, ‘harijan khet uttpadan ashakari mandadi” which was in the name of their ‘vada’, the bidalit people with the help of other were to lift the clay

from their own farm and throw it into the farm of bindalit and make a flood of clay and destroy the farm. At that time the young adult named nitin also called the government officer that the clay were stolen from his farm. The government officer in his replied gave the answer that “which party are there in opposite?”. Subsequently, it was informed that Nitinbhaibwas murdered. In whole case the murder of nitinbhai, the administration system of porbandar district, S.P. of porbandar district, D.S.P. of porbandar district, mamlatdar of porbandar district, collector of porbandar district and all administrative system of porbandar district, everyone were put to questions an to their involvement in the murder of nitinbhai.

On having two similar issues been reported from the same area the High Court passed order that one case must be made. Thereafter, the S.P nd D.S.P of porbandar district, tried to remove the case and stated that they weren't the similar as one case is of robbing clay and one case is of murder. They put the robbing clay case aside and make efforts to do-away with the whole case and remove it. The Hon'ble High Court passed order to carry out in-depth and wholesome investigation of this case. The D.Y.S.P of porbandar district, on 01/01/2018 registered the F.I.R. but after registered the F.I.R, its been more than 9 months but till now nothing is being done. When maganbhai tried to approach qnd meet the S.P, D.S.P and government, he was ridiculed and said that “you the society of dalit use acrocity just for money only.” I deny that we the people of the dalit society approach through atrocity just for money. The money does not take care of the atrocity happening and being faced by us. Just because we belong to a particular caste, can such presumptions be drawn against us? For the dalit it is more torturous that the police instead of taking our complain seriously and trying to reach at the root of the atrocity,choose to show excuses before registering the complain, make us sit whole day in police station and then ultimately they try to close the case.”

Boghabhai explains another incident stating that “There is also an another incident in porbandar district, wherein the 2nd murder was also done after trying to take away the land. The name of the deceased was Ramabhai khimabhai singhrakhya.

The murder took place in sodhana village situated in porbandar District of Gujarat and in a similar fashion it was tried that the case is not taken up and its traces do not reach the courts of law.

In Maganbhai case, he was capable and literate man and to have reached the courts by selling the buffalo, milk produced by it and by spending three to four lakh money to get orders from the high court to direct the DYSP of porbandar to investigate the matter of the clay stolen case and the atrocity case perfectly and it should be investigated from every corner and give the report in 3 months, but today it is 9 months but no report has been submitted by the DYSP of porbandar, neither has any further order passed by the Hon'ble High Court.

Maganbhai stated that Opposite people were go to the supreme court and get orders from the Supreme Court against the order of investigation. There are two incident, in first incident when the attackers came to steal the clay and second when my son, nitin aged 23 was murdered and buried. There are two separate incidents but one case is made.

It is also recorded in order passed by the Hon'ble Justice Sonia Gokani that there are two separate incidents.

Mr. Makadia addresses the issues by pointing out that in the incident of Maganbhai and other matters also was attached there were separate cases but only one case was made which was of murder case. He were also attached along with his son and both occurred at the same time. They didn't have any legal help.

Atrocity case in Saurashtra region:

Mr. Ishwarbhai Vaghela is associated with the 'safai karamchari yojna' which has international network, from last 3 years. In Gujarat the work of cleaning the feces with the hand is especially done by the workers belonging to valmiki caste. That it has been specifically dealt with by the state as well as central legislatures and governments that there is no such specific task assigned to a particular

community. However, the practice continues that it is the people of the dalit community expected to clean the dirt, pick up feces from the road, clean gutters and do all other ancillary work. There have been violence and abuses physical as well as verbal where because of being a Dalit, people of the community are exploited to such an extent that it has made the enjoyment of basic human rights impossible for them.

Mr. Ratilal has another incidence of discrimination to share as stated under :



Mr. Makwana Ratilal is from the village dhudka and expresses his long term friendship between bhanubhai and him from last 20 years, both being social workers. That bhanubhai told Ratilal that about 30 biga property of his uncle, which was a government property, on the matter of splitting of assets came to him. So all documents with regard to the property were given to him from the mamlatdar office and also from the gram panchayat of village to do this work. So he continued with the case since 2012. 7 years have elapsed since the files for change of entries were put. Mamlatdar give the positive report from his end upon which the government also gave positive report and from there matter went to the collector office. Thereafter, positive report from the collector office was received and registration fees of about Rs. 26,232 were given. After that the files were delivered to the branch of maysor, gandhinagar where they remained still for 3 years. Despite the fact that Bhanunhai satisfied them many times that they are poor, they are from dalit caste, this is the only way for them to get food to eat, that there son were become young, they were entitled to this 3p biga property, nothing was heard by the officials. They went to the table of Kaushik Patel at which the file were stopped for

reasons no one could ascertain. From 2015 to 2018, for 3 year the file is lying still in the department in maysor branch. One one occasion being frustrated with the conditions and behaviour of officials, in 2018 bhaubhai went to the maysor branch in gandhinagar and asked for speaking with the official handling the file. He was asked to wait for some time and were given the same old reply. Being dissatisfied, gathered the people that had gone along with him and told the officials that, “if we are not given our property then we shall commit suicide in front of the government office” Together with the other three they make one application, they make the application on stating their intention to commit suicide and the next day be the period of last warning for the officials. Even after the said statement made to the officiala, the police didn't do any investigation. After Seven days from the date of warning, having lost faith in the administration Bhaubhai committed suicide. This has made the situation even worse as now no official is ready to take the file in his hands and rest people continue to suffer.

Induben also known as Jayaben, wife of the deceased states that, after giving several warnings to the government and the officials, they did not bother about the warnings at all. While dieing the last words of her husband were “let not my sacrifice get wasted, Dalits must get their rights in property, all castes should live together and this inequality should be removed from roots”.



Jayaben has resolved to dedicate her life to this cause and do everything possible to bring such compassion between the castes and also fight for the rights of Dalits.



Adv. Gopalbhai, is an practicing advocate in Anand district in Gujarat and is also the advocate of PEC organisation. The incident occurred in Anand district on 01/05/2017 , in bhadaria village of muksad taluka. The five boys of worker Community aged about 25 to 35 year old were present at the site. The sister of Prakash, one of the boys, go for garba and the brothers go along to take care of their sister,so that no one can annoying them. The boys used to sit at the temple. At that time the accused 'sanjay patel' ask them that the reason of sitting there by using them with abusive words and told one of the boys namely prakash that you are not capable of sitting here. In reply, Prakash told him that their sister came there for garba and they sat there to look after her so that no one can annoy their sister. After having such an argument, the boys leave from the temple. After that, aproximatelly after 15 minutes sanjay came back with seven other boys, and attacked Prakash. In order to save Prakash, jayeshbhai,who was an 25 year old boy, stepped into the fight and tried to release Prakash from those boys. Resultantly the attackers started fighting with jayesh and took him aside, lifted him and threw him towards the wall. Because of the injury thus caused, he went unconscious. Seeing this many people gathered, at the site, and seeing jayesh having incurred injuries, they all took jayesh at morsad. A nurse who was present at shradha hospital, after conducting tests on jayesh, asked them that take him to a big hospital. Therefore Jayeshbhai was taken to the hospital at karamsad where appropriate medical facilities were available, but before he could avail himself of those facilities, jayesh lost his life. The matter came before the court of law and four bail applications were preferred by the advocate of the accused before the court and all four are rejected. One bail application was also filed in High Court and that also was rejected. Currently now ,the accused by preferring revision application,

are trying to get bail. In this case, one of the accused is junior and others are major. Statement of around 47 witnesses were recorded . And in this case, I believe that justice will be done and the accused will be punished for the offence done by them and a precedent will be set so that no youth dies death of castism.

Mr. Valjibhai Rathod while describing the Thanghad case, stated how his only hope of life was tarnished to the hands of castism.

He had only one son namely Mahul rathod who was of 16 years of age, may have gone approximately 16 km away from the police station when the policemen fired and murdered him with AK47. He killed three boys in firing. The main accused is named to be Mr. Jadeja and the second accused Shri Krushna Patel who was SP of Jamnagar is also named.



Mr. Govindbhai Parmar further explains as to what happened in Thungad incident. It was the time of mela and some small tiff happened between the bharwad and dalit community, upon which the dalit went to the police station to register the FIR but police didn't take the FIR because they were all dalit people. After that they moved out and at about 16 kms from the police station, PSI jadeja, started firing. The police later alleged that the said PSI was already transferred and claimed alibi but on investigation 3 FIR were lodged, each for the three boys. The investigation was carried out by one officer which was unsatisfactory and therefore the investigation was transferred to CID and in 2012 chargesheet has also been filed. I am concerned about the status of atrocity cases pending in Gujarat, some of them are even 20 years old. A concrete solution has to be arrived for prevention of such activities and early disposal of pending cases. As

the case gets old people tend to forget the incident and it loses its footing before the court.

Advocate Parmar also stated the problems that come in atrocity cases, one of which is when the FIR is written applicable sections are not mentioned in the FIR and thereafter that it becomes difficult to carry out the investigation, moreover, the investigation is done by DYSP but it seems that in most cases the investigation were done only to help the accused so when case goes to the court the accused gets the benefit of doubt. In a case where a dalit boy was burnt alive in front of the entire village, FIR was reported, chargesheet was filed and the accused were arrested. The sessions court did not allow their bail application, subsequently their revision application was also rejected. Later, in the High Court of Gujarat their application for grant of bail came to be granted.



Advocate Colin Gonsalves inquired as to why no appeal to such order was preferred, replying to which Advocate Parmar said that these are very poor people and they cannot afford the fees charged in the Supreme Court. A detailed deliberation upon



the issues related to such cases is required amongst the advocates. What lacunae are there to be taken care of so that the accused in such cases do not evade the process of law through bail. Mr. Jayantibhai Makadia ensured that for the dalits of Gujarat he will extend legal as well as financial support through HLRN as an organisation and stand in full support to the community.

Adv. Colin Gonsalves explains the audience “Police is not our friend and don’t expect that he will work for us. Police is our enemy and not our friend. The only

thing to expect is to give him the paper and get the sign from him because he will do that only, understand it. If he signs that too is a big deal for us because then we will submit it to the Court. Thus don't expect anything from the Police. Also don't get sad that the Police are not helping us because that is what our training is about that the Police will only sign the paper and is the enemy of ours and not our friend. And if he signs and submits that this person should not get bail then get that document and submit it in High Court, Supreme Court because that is the way the Police works they will give it in writing that this person should not get bail but when you submit that paper in the Court then the Police will say even if you give its okay. So all of this is only the cunningness of the Police and nothing else, so don't get upset about this. The Police won't help us but don't worry we should know how to keep the enemy under our nose and this is the way to do that. If you go to the Supreme Court with the application it will ask, 'What did the Public Prosecutor say? You say that the Public Prosecutor said no to the bail, see on page number so and so'. This is how you have to work. Thus don't depend upon anyone, not on the Judge, not on the Police and not on the Public Prosecutor, only depend upon yourself and do the work and the work we do should be fast."

Issues such as proper recording of FIR, availability of financial support, availability of legal support and other related issues are required to be dealt with by the Apex court in atrocity matters.

While discussing remedial measures Adv. Koshti (from the panel) drew the attention of Advocate Colin Gonsalves stating that "the Police and the Government has taken this into their habit of not paying attention to these cases. Thus, I want to direct Colin Sir's attention to the fact that what happens in Police Stations is that if you just give an application of the complaint that doesn't amount to FIR in law and therefore you have to go the court to get an direction of FIR. Recently also, a man in Bhavnagar complained to the SP of Bhavnagar and the Police did not take any action for an year and that man was murdered in August 2018. This is the common working of Gujarat Police that they don't want to register FIR's and want

to show low crime rates of Gujarat. This is their modus operandi. This practice of the Police affects the downtrodden and poor people of this State.”

Adv. Colin Gonsalves further enlightens that before 2013 not registering FIRs was not a criminal offence but after 2013 not registering FIR has become a criminal offence. “So the way it happens is that you go once and they don’t register your FIR you go again and they still don’t register it then write to the SP, Registered AD Post. I went to this Police officer on this particular date then to another officer on another date, both of the time they refused to take down my complaints. Now, according to this particular section you register an FIR against this particular office also. And they will have to do it, as it is a criminal offence if they will not register, understand this. We don’t do this, all we do is go and just talk and then get upset. Don’t talk to the enemy, only talk to them as a formality. Go there and ask, Sir you won’t listen, right? You won’t be able to do it, right? No problem, just sign this, just sign my complaint as you won’t do anything. Get the sign and go again next week, and get the sign on the complaint again and say that you came twice but still you didn’t listen and do anything. Now tell him to register the FIR if he still doesn’t do that write through Registered Post to the SP and then the matter will go to the High Court. Don’t just talk, do all of the things on paper and get it done officially. As this matter of FIR is quite prevalent every where and now we have to take this into our control. The Police has pressurized us for years now it is our time to pressurize the Police and that too through the hands of the Law. And don’t take this lightly. The judge might tell you to withdraw the application, he might even say that you will be fined, withdraw it. But don’t withdraw your application as this is not a small thing, it is your right to get the FIR registered and thus even take to the Supreme Court if the case comes to it.”



Mr. Himanshu Banker, an audience member stated that there was requirement of more lawyers taking up such cases and responsibilities which today are very few in number.

Advocate Gonsalves replied stating that HRLN is a small organization, although it is big on the national level, but in Gujarat it is still small one. Thus it cannot do anything on its own. But efforts are being made to work with other organisations to get more support the cause. There is HDRC, PEC many other organizations, individual lawyers, all of them will work together. This is not the work of one particular organization and we will work together. It is impossible to afford a Senior Lawyer, and such dreams we won't show or see and don't go down that road. He will once ask 1 lakh, then 2-3 lakh rupees, we don't want to give such money. We all know that there are organizations in Gujarat who can give such money, but we are not that organization; we don't have that much money. There are people who have sympathy for victims and such people will work with us. Talking about Audio Visual evidence, it is highly recommended and need of the hour to have recording of the FIR by such means so that actual circumstances can be matter of record and later no scope of perjury remains.”



On the issue of availability of legal support **Adv. Shreeji Bhavsar informed the audience that** “in ordinary criminal law and in our SC/ST Act there is a specific provision of Special Public Prosecutor, thus in every important matter that you feel that the PP or APP is overly burdened you can go to the government and can

ask it to give you a Special Public Prosecutor. And it is not like that that you have to accept any lawyer given to you, no you can select any lawyer on your own. Now you have to decide which lawyer is smart and can also sympathize with us. Also that the fees of the SPP will be paid by the government, it doesn't has any monthly salary but fees per hearing, and the government will pay the fees of that private lawyer. We have network in 33 districts but not every time a lawyer will be present, but you can select a good lawyer from that area and hire it as a SPP, and after they are assigned a lot of difference is seen, your case gets a kick start and lot

of help.” adding to this **Adv. Colin Gonsalves said** “This is really important. The government only will start the riot and a government lawyer will then represent you so even if you get the slightest of the doubt, file an application, in the beginning only as Shreeji said, file an application that I know particular lawyer, he has close ties to the community and make him the Special Public Prosecutor. Even senior lawyers can be appointed as Special Public Prosecutor. All of the cases that we have discussed are of utmost importance.”

Adv. Shreeji Bhavsar further informed that “Then whichever lawyer you want to hire as Special Public Prosecutor, along with the application form you also have to submit a consent lawyer of the advocate you want. So you should first meet with the lawyer you want to get appointed and tell him about the case, then ask him to give his consent letter, in that letter the mention of fees and everything is done by the lawyer. When you submit this to the government, the government will ask two things, if the client will pay the SPP’s fees or the government can take the burden of the fees. We have to opt for the government paying the fees of the prosecutor. So PP or APP will come but SPP will come for your case exclusively and it also has powers, so this is very important and the minimum eligibility of the lawyer should be 10 years, so this you have to take care of. Meet the lawyer first, get his consent, it is not like you will ask for any famous or senior lawyer and they will appoint him, you will have to ask the lawyer first. It is sometimes good for the lawyer as well as they take good matters for benefitting their career report. I myself have been few times a SPP in certain matters as it is good for the career report as well.”

Advocate Gonsalves stated that “Don’t complain now, the time to complain is over and nothing happens by complaining. What we have to do and what way we have to find is important. We know that no accused has come out yet and we know he is going to close the case so what should we do, we should immediately change the PP that this PP is not working. Go to the High Court that please make a CBI team for investigating this, go to the Supreme Court, change the investigating agency completely, useless investigating agency. So this meeting is not for complaining but

for finding out the next move and finding solutions.” and encouraged the audience. While extending support Adv. Shreeji Bhavsar said that he can help with ascertaining who can be the accused and what crime can he be charged with.



Adv. Shauqat Ali Sayyed shared his experience as he is following the Pankhan case since 1999. “The case is closed from 2004, and in 2007 and 2008 I wrote an application to the court that the witness are tired and why is the case not moving ahead then the court replied that you go to the HC. So we wrote a letter to the HC as well, now there were a lot of advocates with us but

we wrote the letter through the victim directly that we need to conduct this case at its earliest. But our application is still pending as of today. And the case papers are so much and all of the judges read it and as the testimonies are such that the punishment is likely to be imposed but as the people are of high influence are involved the case doesn't move ahead. After 2008, we again approached the court in 2011, but today even in 2018 the case has not been heard.” Advocate Colin Gonsalves inquired whether they preferred a petition or not.

To which it was replied by Adv. Shauqat Ali Sayyed that he had filed an application stating that his matter was not being heard.

Adv. Colin Gonsalves suggested him to file a petition : Do one thing, file a writ petition. Adv. Colin Gonsalves advised that “File a writ petition, it is a simple matter, give full details like the list of offences that this happened in this particular year. File the petition and we will see and finish the case at its earliest, seeking direction to Trial Court to complete the case in one month.”

Mr. Vaghela explained the plight of the victims and practical difficulties faced by them, “140 people, have completed evidence sir. Now, I’ve been working for 25 years

and I know none of this has been proved in any of the courts in a criminal case. Why? Because the police doesn't know that if they have to file a FIR what all sections are to be used, secondly, the victims don't know that where he should go for it. Also the accused has get bail and the lawyer does not inform the victim about what is happening.

One of the audience members while explaining the plight further told the panel that whenever there is a job of manure scavenging no one comes ahead and takes responsibility. Today, 44% people live in cities and cities being developed have drainage system and gutters where waste gets collected every now and then. It is not that because of some people gutters get jammed, but it is a job to clean those gutters is only of the people from the Valmiki Samaj. Even in cities like Surat the tribal people do it. As per recent reports, in Gujarat 140 people died in Gutters. Something should be done about this. People should not consider the efforts of Valmiki Samaj as their obligation. Further, "It's Valmiki Samaj, you must know Valmiki Samaj they are the lowest in the caste system. Tribal people don't drink our



water, Sehva people also don't drink our water. People of Valmiki Samaj are protesting till date only for jobs and employment opportunities. 'We want jobs, we want pensions.' Now our Valmiki Samaj went from Maupur to Delhi to give their application and letters to officers concerned. Finally they saw hope, when the Supreme Court gave its judgment on 27/03/2014 holding that 67 people are entitled to compensation of Rs. 10 lakhs who died while cleaning gutters.

Mr.Vaghela pointed out that the report with regard to such deaths was also sent to NHRC by the Gujarat government. The Supreme Court said that everyone had to get the money, but even as on today 62 families have still not received the money and now all those people who have died their widowed wife are now we are trying

and fighting for same. When a person is punished under sec 304 of the IPC then it is the offender that gets imprisoned for 10 years but in the case of Valmiki Samaj people are suffering who do the job of manure scavenging. In Ahmedabad, Gujarat, they are working at more than 200 places and today also people are dying in gutters. “I requested the NGO people that it’s okay if you don’t give us money but at least give us mental peace. We are not talking about the money but mental peace should be there. “ Today our Valmiki people are not that connected with us because we are not doing the job of giving them employment but we do the work of getting them employed.”

Advocate Gonsalves also informed the audience that casualties occurring due to sewer jobs while discussing 2014 judgment , “as to what are their rights, what should be done, what kind of uniform should be given, what kind of oxygen mask for breathing should be given before going down, what compensation should be given, what medical treatment should be given because when you go inside the sewer gas comes out of it they get in your eyes and ruin your eyes, ruin your lungs people above the age of 40 are not even in the state to stand. This is a kind of slavery.”



Mr.Vaghela added that “today 6000 people are suffering in Gujarat because of the sewer job with big or small diseases, we have a survey and reports for this.

Mr. Vaghela knows that two people who died in Ujha, FIR was filed by Vasudev and compromise happened and after that none of us got to know about it and in 2005 two people died and the compensation of Rs. 10 Lakhs wasn’t given because the deceased corporator is of Valmiki Samaj. We are not angry, we are sad.”

One of the Moderator added to the discussion that “We have to learn that law is there to help the victims. There are many problems in Gujarat but the procedure about which Colin sir is talking, tells us what we can do in every situation and we are responsible and we are also supposed to take on the spot quick action. The

procedure is necessary to understand. A lot of people here are not very familiar with the legal procedures necessary to take actions and have never worked with such procedures we are going to work on these things in the two days, we will focus on matters of land atrocities, victims of abuse, etc and in all these cases we'll look into all the different categories. Everyone knows the situation and everyone is fully aware of the history and that is why we will look into what to do, how we can move forward while staying together. How we can use our knowledge and think about it." One of the audience members told what happened to him when he tried to approach the government. **Sanjay from audience states that** "there is person who is the member of the Social Justice Ministry in Centre and I talked to him about how even if one person gets arrested/punished then the situation in the nearby areas will become such that no one will do the same conduct but he told me that, "Sanjay please don't talk about this topic, you just take the matters of Rs. 40,000 and get surveys done in the country and get the money for those people." This shows how no one takes the matter seriously in the ministry and government.

Prita Jha (PEC) shared her story of grievance , "I am talking on behalf of my college committee, we were established in 2012, before that our work was based on the 2002 violence and now we work on anything which will be called unconstitutional violence be it against women or people belonging to Dalit society or custodial violence. Our main area of work is child sexual abuse, whereby we help the victims of child sexual abuse by fighting for them in courts pro bono. We have had 3 or 4 cases that have been related to Dalit atrocities, where wither the compensation is stayed or its not made available. This is my experience with my cases, yours seems different. We think that we need to talk a bit about compensation also because there are different laws for compensation. The general thing is section 357A that wherever there is any FIR filed you have the right to compensation. It was Rs. 3 Lakhs and now it will increase. Even if there is a case of motor vehicle accident you have a right to compensation if FIR if filed and it is not

necessary that there is any accused, even when there isn't an accused you have a right to compensation as per section 357A."

Usman Bhai shares his experience on custodial death, stating that the incident happened in a tribal area near Rajasthan border. Police got the information that some people are chopping cows or bulls and based on this information they reached the location as informed. The police filed the complaint stating that 5 people were present there out of which 4 people ran away and one of the 4 people who ran away is a muslim person, they arrested a Dalit man first and later arrested a tribal man and then attacked him so much that he died and told his partner to give them Rs. 4 Lakhs to save his life else they would hit them but he couldn't arrange 4 lakhs and therefore he was also attacked. The FIR was filed in December 2017 but no arrests have happened and no chargesheet is made. We met the Police Commissioner and along with him we met the victims and talked to them. I have been with them like it is my own case, they don't want the money they want their father which sadly cannot happen, and we want justice. We gave an application, went to the court to get their papers. I was with them at the time of their witness statements were being recorded and the benefit on being with them was that even they felt like someone is with them, police is also conscious and I know that the government employees are more alert than we are and I can guarantee and say they have more to fear than us because they want their salary and increment but we don't want anything. The statements were written properly and the situation came to this that the accused ran to the High Court and made preparations for bail application in the High Court. Before the High Court it so happened that my colleague took up the matter and the victim was given Rs. 412,500 compensation by the government and at least because of this compensation he won't have to do compromise because of money and we are standing with them to back them, if any victim gets these two things then I can guarantee that they won't compromise." Adding to this, **Prita Jha (PEC) said that** "This case is very interesting as initially the High Court had ordered the grant of Rs.5 Lakhs for grant

of anticipatory bail. After the said order, another application was preferred stating that the police officers don't have that kind of money and the amount to be given by the officers should be reduced. As much as we know their arrest was done and the charge sheet was with the highest authority, it's being checked with RTI that where has it stopped, anticipatory bail is given and it has been ordered that the wife should be given a job under the government scheme, the entire scheme is written in the order but the issue is that without the involvement of an NGO progress isn't seen in such cases and because of going to High Court some benefits have been obtained and things have improved."

Dayabhai Chauhan from Palanpur shared his experience, that "firstly when an atrocity case is made, the Dalit person goes and files complaint after that police takes the other party's wrong complaint, cross complaint, etc. I have experienced this. My son was attacked in May. On 5th May my child was attacked so I filed complaint and the first register number 46/18 under IPC sections 395,324,354,337,323,294 and 506(2) and under the provisions of atrocity act the complaint was registered but they didn't add IPC section 307 so I met the Investigation officer but even he didn't listen to me, so I met the DSP and gave him an application and got signed and went to the Superintendent of Police (SP) still no one heard me. After all this, with the help of HRLN I went to the High Court, where someone told me to go to the 'stahni police', so I would like to tell this that the stahni police doesn't have the power to listen to atrocity matters. On 10th I gave the police an application again, after giving this application on 18th, I got a reply from police in return in which it was written that 307 is not given, but the doctor's certificate says that 307 should be given as it's a stab injury, stomach and chest. My child had to go through lung operation twice, doctor has written this to me thrice that at any time my son can die too, still the police says that 307 cannot be there. When we went to the court, it was asked to go to the police and the police asked us to go to the court, our dilemma is where do we go?" Dayabhai Chauhan requested Advocate Colin Gonsalves to take this matter to the Supreme Court.

Rape of Dalit women in Haryana



Adv. Sneha Mukherjee shared a heinous crime story of Haryana. she stated that some of the very common issues are that almost only half of the rape cases are actually reported to the authorities and taken to the court. In most of the cases, the victim's family is not able to go to the police or court, there is so much pressure that these issues are not moved outside the house. Advocate Manisha, a colleague goes to the houses and meets the families when a case like this happens, like it was said by one of the speaker before that it is very much necessary for the victim family to know that we are with them because the fear exists at a huge level. One of the reasons for fear in Haryana is that the castes like the jatts and gujjars have spread their fear among the Dalits, second thing is that the Dalit families don't own a lot of lands there, so they work in the shops or lands of the Jatts and the Gujjars and are scared that if they take any legal action their entire family will be affected and its one direst effect is compromise. "We are monitoring cases for the past two years, more than 200 cases have occurred of gang rape and murder or just gang rape all of these are of Dalit girls where compromise has happened. FIR hasn't been filed, we know that the cases have occurred we have gone and met the families also but FIR wasn't filed, where FIR was made no chargesheet, no investigation, even when investigation happened and the matter went to the court, court made compromise happen. So somewhere the problem is even that the pressure is not just from the side of the accused and his family but from the police and judiciary. The lower judiciary is also pressurizing. This pressure is not of money but it is because of the cast dynamics because these member of the judiciary and police also mostly belong to the Jatts and Gujjar castes. The pressure is so much that the victims feel that they can either fight the case further or save their family. The fear of Social Boycott is at such an extent that the victims back out their cases. The reason why we were monitoring these cases is because it is very necessary to take these cases to the court. These crimes are not reported even it is such a serious crime, no one talks

about it. one or two cases every year are highlighted by the media in those cases you'll see the investigation happening because they have already been highlighted in media and parallel media trials are going on but what about those cases which are simultaneously going on in the entirety of Haryana and we are aware of those cases and we are going but no actions are taken." She added "Recently, a 14 year old girl was gang raped, she was impregnated and to avoid the pregnancy she ate some medicine for causing abortion but it affected her health adversely so much so that it wasn't sure whether she will survive or not. After that because, there is so much pressure on her from the village, she doesn't wants to live there, therefore, taking the matter to the police and court and punishing the accused is a very hard and far scenario here. So whenever we meet our lawyers to regularly talk about the issues they usually tell us that now the family has become hostile and nothing can happen now. In most of the cases we get it's the same thing, family has become hostile, victim has become hostile, so the case is dismissed. We want our lawyers and all the families to know that they shouldn't compromise. Pressure will be there but evidence is also present and if the trial is conducted properly the accused will get punished and if the accused will be punished there will be an impact too. We try to tell our lawyers that if compromise is happening then we shouldn't let the family do it we should make them understand, we also tell our lawyers that just because compromise is happening the case shouldn't stop, this is criminal matter and in a criminal matter even when compromise happens, the case continues." Recently, "in Hissar which is a major district of Haryana where we get to see a lot of cases happening reported in media, where a sessions court judge has made ordered convictions in compromise cases on the basis of the evidence and statements made before the compromise and even fined the family members of the victim questioning on how could they compromise. We are trying really hard to stop this popular compromise culture of Haryana. We also need to sensitize judges that in these cases compromise doesn't mean end of case. Victim families need to know that in compromise cases if they do it, it is bad for them too as they can be punished too."



Adv. Manisha shared a heinous incident of Haryana where the rapist got 40 years imprisonment. The culprit belongs to dominant cast, who abducted a six year old girl from her house in Village, raped her and murdered her as well. We protested strongly and also acquired media help for same. There have been many cases of rape and murder in

Haryana in the month of January, 2018. The challenge is very big challenge as no one raises their voice. One more difficulty that arises is that because of such incidences, parents consider not sending their children to school, colleges or offices. “They are in constant threat that if they (dalit women) will go to school than school teacher will rape them. In 2012, tremendous number of cases were reported every now and then that a dalit girl was going to school was rape by the teacher. The girl were dropping out from school after getting pregnant. The people are dreaded by the idea of a girl being educated can make changes in two family's so they want to end their education by making barriers. By creating fear, the girls are not opting to study further even if they want to.

One of the friend of Advocate Manisha told her the story, “that in last November a dalit girl was gang raped while going to school after which she was pregnant. She was afraid of informing about her pregnancy because earlier in a similar situation, a girl was killed in her village. She attempted several suicides and seven months passed. She took some medicine to abort the child and ultimately the child died. Her condition worsened and it was after that, she informed her parents who took her to the hospital. The hospital did not admit the girl even in such a situation and at around 12:00 pm the parents of girl along with her went to police station. While they were there, the girl was again raped and in that situation she went in to trauma (mental shock). She was a 10th class girl and she was good in drawing with great intelligence but now she is in tramua when we meet the victim in hospital, and talk with administration and police. The girl(victim) went into shock and was not able to speak.”

The problem is prevailing in the entire Dalit Community. The police also has made statements such as 'Dalit women are characterless'. How can one make such a statement about the women of a community bluntly blaming it on their caste. We need to raise our voices for these girls who are suffering every minute. These incidents are soul shaking.

One of the Audience Member shares her views child sexual abuses in Gujarat as she has been working on child abuse since 2002. "I have seen compromise culture and I feel very angry at seeing such compromise culture because it's our biggest enemy. I am very much confuse because 90% cases of child abuse and raped are done by our neighbors and the one whom we know like relatives so it's very difficult to go against them. We give courage people to fight against them but it's very difficult for them to go against to their relatives. Also, there are instances of consensual sex being made the case of rape because the boy belongs to dalit caste and the girl belongs to upper caste. Where the family of upper cast girl sue the boy wrongly for rape.

One of another Audience member shared his experience , stating that



“Patriarchy is attached to it because when any atrocities occur with male dalit, all dalit get organized and then protest on a large scale like in una and thangarh case but when it comes to dalit women they are not allowed to stand up and raise their voices. When we post such incidents of rape on facebook or social media or regarding any torture against dalit women, we found that the family members used to get angry and tell us to stop posting because their reputation is violated. Therefore it is important to make them aware of their rights and grow above their age old thinking of suppressing the wrong for reputation.”

Advocate Sneha Mukherjee added that the conditions even after implementing strict laws has not changed. She stated that every month around 300 cases of sexual violence are registered in Delhi within total 10 districts. The number is huge. Fast track courts are established in every district and lawyers are provided to victim who work pro bono. Counselors are to be provided to the victim and medical check up is also required to be done to know internal injuries and seriousness of the medical condition of the victim.

Adv. Shreeji Bhavsar while talking about the Mirchpur case, expressed his views and stated that the dalit friends are frustrated and hopeless because they have been fighting cases and adversities of the system to get their due rights. We are living within a constitutional set up governed by a written constitution where our rights are granted and obligations have been ascertained. We are living in the welfare state where Baba Ambedkar has raised his voice for the community.

“I will now share a case which is now a landmark case because in the history of India, it was for the first time that 35 people belong to dominant caste got punished for Scheduled castes and tribes act of atrocities and among 30 people, 15 were given lifetime imprisonment. This incident took place in Mirchpur, a village in Haryana district in Haryana.”

“I saw a very bizarre practice of keeping shoes over the head of the dalit persons. I was shocked and could not understand why such educated people have such practices which are 5000 years old still prevalent amongst them. Smallest of things have created rage amongst the people making it absolutely threatening for the people of the dalit community to live there peacefully.”

One such incident was when a dalit man in order to avoid a dog barking at him threw a stone on it which went into the house of an upper cast person. The owner came out and declared that he is going to teach the dalit man a lesson. The dalit man never wanted to throw the stone into his house but because he was a dalit his plea went unheard. Thereafter, all dominant cast went to valmiki society and no one was there to stop them. They started burning the house and they were dancing with nude women and throwing stone. In these riots 20 houses were burnt and 20 were smashed i.e. total 40 houses were destroyed. In one of the houses lived a father and daughter, and daughter was handicapped but without any mercy they burnt her and her father alive. More than 125 families ran away from the village. A kind man gave this farm house back veranda land to them for staying. The situation worsened and police was not registering the complaint. Later they registered their complaint but started releasing the main culprits. Thereafter, when the matter came to HRNL the matter was taken up to the Supreme Court and the Hon'ble Supreme Court gave directions to provide grain and utensils to the victims. We expressed to the court that the lower court will delay the process tremendously as the matter will go on for 20 more years and it is important to address the issue immediately. Also, because there were influential casts and people involved we requested the court to provide us with protection other than the Haryana police protection. The court directed CRPF protection. The court ordered in favour of the dalits and 35 culprits were punished for their acts. Out of 35, 15 people were even punished with lifetime imprisonment. This has brought a ray of hope and the people of this community have now felt that they will not go unheard. Their issues will be addressed."

BHIMA KOREGAON

Priyadarshi Telang shared the incident from history, when Sambhaji Maharaj, son of Shivaji was killed and cut into pieces. It was Gopal Gaekwad, who belonged to Mahar Caste, was earlier known as Gopal Mahar, collected his pieces

and buried him. It was because of this reason that the tomb of Gopal Gaekwad was made adjacent to the tomb of Sambhaji Maharaj in village called Vaduputru, Maharashtra. People have today brought this act of service of Gopal Gaekwad towards Sambhaji Maharaj under the arena of casteism. They tried to destroy the Samadhi of Gopal Gaekwad since 2005. There used to be a plank there which mentioned that Gopal Gaekwad established this Samadhi but it was removed in 2009, also the pillar of Bhima Koregaon, the victory pillar which symbolized the war of 1818 against the Britishers and contained the names of the people of there, it also got removed and a new plank was kept. The police intervened and Dalit organizations, Ambedkar organization tried to explain it to the police as to why it happened. They decided not to bring it to public. A Peace Committee was formed. The next day people tried to register complaints, in Shikhrapur Police station, 22 FIR were registered in which Atrocity Act was mentioned, in 3 of the FIR Milind was mentioned and in two of them Manohar Bhide is mentioned. After 3 days, national parties declared a Bandh. More than 2000 people were taken into custody and a lot of boys were charged under section 307 and this was not limited to Pune and Mumbai but was prevalent in whole of Maharashtra, places such as Vashi Jalgaon Nasik, and many districts like these in which school going boys were also taken into custody. Caste violence and racial riot happened in Maharashtra. Series of investigations were carried out and FIRs were also filed. This incident happened in Bhudrup and if the panchayat of Bhudrup would have taken this decision of declaring Bandh, we would have understood but when Bhima Koregaon's panchayat took the decision that on one particular day all shops will be closed and whoever opens their shops will be socially boycotted, it was not within our understanding. Whosoever belonging to Ambedkar Union or Dalit community, who opened the shops were beaten up the next day. A man's entire shop was ruined 2 to 3 lakhs rupees were also stolen. There is this man who works with 'Samrat Newspaper' as an editor, he told me that he can't go back because there is still a lot of risk to his life. The jurisdiction of judicial commission might be limited but this impression shouldn't go that these people are involved in the creation of riots. At a large

extent, fundamentalist organizations were also involved in it.” Seeking solutions she asked “Can we work with the given affidavits and can we prepare on the cross examinations?”.

CASE OF DELTA MEGHWAL:

AIDMAM (TARACHAND,RAJASTHAN HRLN):

“Delta Meghwal was a girl, from Sudol village of Rajasthan which is near Pakistan border. In fact she was the first girl who came to study to school from such a long distance. She was very talented. When we talked to his father, he showed us her pictures from childhood where I was totally shocked that a girl so small, was giving speech on 15th August in her school, it was the same the girl which did not know the name of his house members properly. Her painting is still preserved in Rajasthan parliament office. Such a creative and intelligent girl was brutally raped and killed by someone in the educational institute. It was very serious matter so when we got the news of these matter our people from HRLN and our friends in Rajasthan reached Nauka village where one Jain institute whose teacher had raped the child, school principal and warden of that hostel was trying to suppress the matter so that other people do not know about it. As the matter come to our notice we decide to go there and found that the police was trying to suppressed the evidence but as we reached there in time and started confronting police officer. We called the investigation officer there and while talking to him we found out that police officer does not even know about Atrocities Act and POSCO Act.

SAHARANPUR CASE ON ATROCITIES

Adv. Shreeji Bhavsar shared the saharanpur case that happened very recently. The dispute began on May 5,2017 when Dalits objected to a procession carried out by Thakurs and Rajputs to commemorate 16th century king Maharana Pratap. The ensuing clashes killed one Thakur youth. Hours later, around 50 Dalit houses were torched. The district has 40% Muslim population, and 22% Dalits. Experts say this makes it more susceptible to both caste and communal violence. There had been an incidence of trouble between the Dalit and Thakur Rajput communities on 20 April 2017 when the Dalits were celebrating the birth

anniversary of B. R. Ambedkar. On 5 May 2017, a group of Rajputs entered into dalit colony when they were on their way to a garlanding ceremony in honour of Maharana Pratap in spite of denial by administration to enter this colony and on this occasion the violence escalated, resulting in death of one rajput, several injuries and the burning of as many as 25 Dalit houses. The Dalits claimed that the 20-25 strong Rajput group was an unauthorised procession. Security forces were subsequently deployed to monitor the locality. The main accused in the Saharanpur violence and Bhim Army founder was arrested from Himachal Pradesh. The Uttar Pradesh police constituted special investigation team to investigate the matter. Chandrashekar came to limelight when he protested on the Jantar Mantar, New Delhi for Dalit rights against the violence of Saharanpur. The Dalit leader Mewani said, "When the procession was being taken out, preventive measures should have been taken by the police and the administration. But nothing of the sort was done. And now Dalits are being targeted and are being hunted down. It is evident that CM Yogi and PM Modi want to replace the Constitution with Manusmriti."¹¹

Mani Lal, a member of the Bhim Army, a group of youth behind the Dalit protests said that they have more reasons to worry as "police sided with the Thakurs and would implicate Dalits in false cases."

Thakurs were always dominant as a caste in the area which also have Jatav Dalits in good numbers," said Dalit activist Ram Kumar. "Dalits fear that violence may erupt again any time. Thakurs will try to assert their dominance. They have already spread the word that a Jatav has killed a Thakur. No Dalit would dare to live here in future," said Virendra Kumar, a resident of the village who works with a construction firm.

"Only women, who could manage to escape the wrath on that day are living in these ransacked houses. Most of the men have fled to safer places due to the fear," said

¹¹ Agarwal. "Modi, Yogi want to replace Constitution with Manusmriti: Dalit leader". The Times of India. Retrieved 22 May 2017, last accessed on 21st January, 2019.

Nafe Singh at the house of his relatives Dal Singh and Kamla Devi, both of whom are undergoing treatment along with their four-year-old son Badal.

One of the villagers namely Ratan, who is 55 years old, one of the eyewitnesses recalled how “a mob of over a 1000 youths on two-wheelers armed with swords and rods wreaked havoc and vandalised everything that came in their way till the row of Thakur houses started”. All this, he alleged, in broad day light and amidst police presence.

SOCIAL BOYCOTT AND HIJARAT CASES OF GUJURAT

Ranjanben, a social worker from Anand district stated that “our main work is that we have formed organization of Muslim OBC and Dalit community so we work for their rights. We have 10 centres and from these we have one in our Khambhat district in village called Pilav in that village there are 80 families of Dalit community of which 31 families belong to Wankar community. The land was divided and Patidars as well as the Dalits were given their share of land. Dispute arose between the two as the Dalits wanted to create statue of Dr. B.R. Ambedkar and the Patidars wanted to create the statue of Sardar Patel. The dalits were socially boycotted as they raised their voices. In village social boycott has become such a thing that if dalit community raise their voice for something whole village decide to social boycott them and decide to not give them food milk and necessities. Last week I was in village called Suigaam located in very remote areas, where many coworkers like Jayantibhai Makadiya and Deven bhai are running a campaign which is called ‘land acquisition’ to make the people aware about their land rights and fight for them in cases of discrimination.

BHESAN (JUNAGADH) MID-DAY MEAL SCHEME

Miraben from Junagadh shares details with regard to the mid-day meal scheme: “I work in Behsan taluka and I want to share a case with you which is about mid day meal of Vandri taluka. In pandya village, there was sanchalika whose name was Prabhaben Vaida and she is working for 10 years and is also

working in mid day meal. The principal was Kalubhai Thakur he did not give the key of kitchen room to this lady so she complained to Collector but as she was not given the key of room for 8 days she went to the head of the village who was of Vanag community. The principal wanted to remove the sanchaluka and therefore she did not give the keys. The lady was then attacked and later she was transferred. The principal did not attack the lady but took the side of attackers. Police arrested 3 people as the video of the incident went viral. But no outcome came and the case is still pending.

“Further, mid day meal which is also called as madhayam bhojan we have found that in village and from our experience we have kids from our community sit apart from others and after the meal they have to wash their utensils and have to clean the toilets. These types of acts come under atrocities and also covered under untouchability. About 2 days ago in Khambhat district, there is a village called Jahaj where a dalit youth was owning cows, buffalo and horses. The Rajput community people saw him riding the horse and felt that he was dalit so how he can go on horse while that time some of his cows were grazing in the land which belonged to rajput. Being agitated the rajput boy tried to hit the dalit boy but the dalit boy being stronger hit him back. The rajput boy called people in the village and called other people of his community and then attacked the dalit boy. The case is still going on. Similar violences have been reported against Dalit people for reasons such as riding motorcycles, keeping moustaches etc.”

SOCIAL BOYCOTT AND "HIJARAT" CASES OF GUJRAT

Kaushik Parmar shared incidences of gujarat: “There are about 138 cases filed in gujarat for social boycott there are about 138 cases where dalit had done izzarat and there boycott is still going on.”

Social boycott is a very frequent phenomenon when it comes to outcasting Dalit from a vicinity. Such incidents come within the purview of Atrocities act. One such

incident happened in becharji District of Gujarat where, there live three Dalit families who have been boycotted. They aren't allowed to fetch water from the common well. A separate tank is installed in which water is filled by upper caste people and the Dalits are allowed to take water from there. In order to provide themselves with basic necessities of day to day living, the Dalits have to walk a distance of about 4 kms. Similarly, in patan district, there is a village called maniyari, somewhere in year 2015, Dalits were beaten up by the people of other caste people after that they were socially boycotted and they have to move from one place to another to find shelter. The Gujarat National Human Rights Commission was approached but they refused to take the complaint. Social boycott cases have been reported where dalit women who have raised their voices in cases of rape. They aren't provided with electricity, water facilities and also necessary facilities to live their usual course of life. Something has to be done about it.”

Use Of Law and PILs to Combat Discrimination and Repression.

Adv. Colin Gonsalves enlightened the audience regarding use of public interest litigations to combat discrimination and repression: “I wanted to talk about PIL, in the morning also I said a lot of things so I would not like to touch them and rather talk about PIL in context with Social Boycott and Untouchability. It is our weakness that we don't file more cases in High Court. In Maharashtra people are aware, in Delhi people are more aware, almost 1000 cases go to the High Court but in Gujarat it is less. There are cases in Magistrate Court and Sessions but not in High Court. Now Untouchability is under Article 17 of the Constitution, it is prohibited under the Constitution. It is the constitutional right, a constitutional prohibition, and just not in Gujarat but on the whole country there are untouchability practices. If you go and look at the records there are nation-wide cases of untouchability but so less go in high courts. If you go look in Rajasthan hardly a few cases are there, in Up its exceptionally low, one or two cases even in the record for 10 years the cases are low. It happens daily but the cases are hardly any. Take a look at social boycott, clear cut case of untouchability, you can't get milk

can't get food products, Can't go from this road, can't take water from pond or from hand pump. Clear cut untouchability. You won't get a job; it is unconstitutional but no case is being reported. What are the provision under SC ST Act, community fine, we suffered this much loss, we were removed from our job, we used to earn this much and we suffered monthly loss of 6 lakh, community fine. Go to the high court and say it is unconstitutional to socially boycott it is against the law so punish the rowdy people of this village. Tell the court to send a commissioner, not any local one but from the court, a registrar to check if social boycott is there and after that order a community fine of 10 lakh per month. You can even get them arrested and can also demand something more. It is important to do this, as a testing field to see whether the law works for us and if we can use it as a weapon. In UP we filed a case, where it was not allowed to enter the pond. We went to the High court saying it is our right to go to the pond and also to take water from the hand pump and they can't stop us. We claimed that is untouchability and the court gave the order to let us go. So our community went and in protest we took water from the hand pump, we had to install protection but we continued to march and protest and bathe in the pond. It is not allowed to enter a temple, go and file a case. It is not allowed to sit on a chair in a Panchayat meeting, go to the High Court and take a direction that in every Panchayat meeting all these rowdy people who sit on the chair, it is also a right of a Dalit to sit on it. Another thing I noticed that in schools you are compelled to sit behind, one is given a broken glass and a broken plate. A study of DHR I looked at, I saw that the dropout rate is 60%, and why, because the teacher and the principal abuse the children by calling him by slang language and telling him to clean the toilet and the room. Why do we not file cases? We have such a powerful weapon, this constitution. If the High Court doesn't give the order, go to the Supreme Court, do you think they will handle such things? Sir, the children are forced to clean the toilet, sir. There is no need for an argument; the order will be given right after listening to this. That no Dalit kid shall not stay behind, he shall not receive broken things and should be treated as an equal and no one should call him by his caste name. You will get this order very easily. So about untouchability,

friends it is important to file these cases. See this Times of India report of Bechar village; you can't give water to Dalits. So how to find the PIL, it is easier than a criminal case and ten times easier than a civil case. This is a constitutional remedy, a common sense remedy. PIL, you need only one petitioner, it can even be a retired teacher. On the first page, you have to write who are you; you have to tell your identity as the judge would like to know who has filed the complaint, so you say you are this person from this village and a retired teacher, that's it. After then write what happened, that on this particular date this particular event happened and on this date this happened and that is what there is in a PIL. If you have any particular news report you can attach it, even if you didn't have any evidence no problem, affidavits are also evidence in HC and SC, you have taken an oath and after that you wrote the affidavit it is an evidence, there is no need that there is a tape recording, there is no need to have a tape recording of social boycott or evidence of social boycott that is under CPC, it is enough that you took an oath and filed an affidavit that this is happening in my village and that too for a long time, it can also happen that you get signatures of people from the village and can make them sign a letter, that's also enough. Anyone can write this, right what is happening in my village, any one can write about it. And after you have written it, in the end you have to write what are your demands, that you should punish him, file an FIR against him, you can get an order for community fine and give compensation for our loss, 5 lakh or 9 lakh per month. Rehabilitate us under SC/ST Act, food supply should be like this, medical supply should be like this and if kids are thrown out from the school give us compensation. It is very simple but friends we need to take the decision that in Gujarat we need to take 5-6 examples and file 5-6 PILs and 6 different HC lawyers who are famous we will get them to fight this case and ask them to fight it from the heart with all possible means. If it fails go to the Supreme Court. We have so many examples. Exodus, migration, what can be worse than this social crime. That you socially boycotted us and we had to leave our village. Can't we file a PIL for this, can't we get compensation for this, can't we get rehabilitation, can't we go to court to stop this? Sir, this is social boycott, please stop

this otherwise we will have to leave this place. And community fine is the strongest weapon you will have because when there will be 5 or 10 lakh fine on community they will understand the punishment for committing such atrocities. So there should be a fight back, a fight in court. Otherwise such rowdy people will think that they can continue to exploit us, they can force us to leave and this people won't do a thing and they will continue to do this because they think no one can do anything to them. No one goes to the court, they don't even know what can happen in court, there are cases of atrocities in court but very less cases of untouchability are there. You were forced to step down from a horse. You go to the court, they will think it is a simple and trivial matter but no it is not, it is a very symbolic matter, it is an important right, it is a pride like right. Go to the court that we were forced to step down, we are not allowed, claim that this is untouchability under Article 17."

He further added that "It is very inexpensive to file for PIL. How much money it would take you to fight the case if the lawyer won't take any money for you, so only the court fees remain and that is only 100rs in Gujarat High Court. You only need a lawyer who won't take any fees as it is the lawyer's cost that is only expensive. And the typing, it is at the maximum of Rs.1000-3000, and if you can find a friend you can get it for free as well. And after that in how much days the matter lists on the board, answer is the next day. So you spend 100rs, give the money to the registry and the next day your matter comes before the judge. So it is fast, it is inexpensive and it is a very effective remedy. So the problem is there are too less cases like this. So the judge might feel what are these cases, as he has never seen such before, he might feel this not a matter for High Court But we will have to teach the judges about these matters he even might want to dismiss it, but no problem. But this careless attitude of our community in terms of litigation, we will never withdraw such cases now, and if 10-15 cases like these go to supreme court from different courts then high court will understand this is an important matter. This judiciary is a battlefield, like you struggle and fight in the courts, the same way judiciary is also a battlefield. If we leave this battlefield we will become very weak. The constitution

has given us this power but we don't use this. It is a very strong and sharp power but if we don't use this its power will remain useless and get weak. So my friends at the end of this session I would like to say for all of the session, for the session on atrocity on untouchability that PIL is a very important weapon for our community's upliftment. In the morning session we took the decision to form a committee to file for case like these. We have lawyers in trial and magistrate court but less in high courts. It is not that the lawyers are weak but just they are less in number. So after increasing the numbers and training we will file PIL on SC ST, atrocity and untouchability. So it is our effort that in the coming years that we will form a group of lawyers who will file for cases like this. I have talked to some people and it is our thinking that there should be a legal aid center. With the collaboration from everyone, a legal aid center where there are five six rooms and when people know people will start coming. It is not that the lawyers will sit behind table and think that people will come to them. No the lawyer will have to enter the society. So, a lawyer and a social activist, not one a lawyer and an activist together, so before I stated practicing law I was an activist, wherever there is a strike I will go there shout slogans, in the morning after the shifts changes, we would shout slogans, some rowdiness, some fights with management. I would sleep in front of the factory; we would lock down the factory by not working. I got arrested, then came out then again got arrested then got beaten up. All of this is bound to happen, if you want young lawyers to learn, tell them that the first thing is to not learn the law, the degree you have please put it aside for some time. First go and fight with the movement like in Bhima Koregaon. The recent struggle in Gujarat there was the fantastic struggle, the whole country started to focus on Gujarat, the struggle of Una became famous. The lawyers should go and fight with the movement for a year. After that what will happen what they will be able to look through the eyes of the Dalits, he has not seen such things being a middle class person, and he can't understand what torture and what exploitation is. We will take young lawyers and we will give direction to passionate and warm blooded young lawyers. See you have so much of enthusiasm so go in that direction. He will never leave us because he

won't get another place where he will be able to use his anger. Because everyone that is there with us is angry people who will fight so he will remain with us. We need to find such good lawyer or a law student and with our people and with Alice's people we will open a center jointly because Gujarat has become a center, a center to fight and also a very big center. Find people who want to take cases such as these. And if in the middle there is no lawyer and there is a clear cut case of untouchability, no doubt that you will lose the case, no doubt that in the SC you will lose the case, as people have told me that the situation of social boycott is very serious, so please try one two cases in the Supreme Court. And please remember that SC is not ne court it is 15 courts, from 1-15 and 2 judge sit in one court and there are 32 judges like this. If one judge dismisses it the other judge might admit. So don't get saddened that you lost this case, it might happen that the other judge might admit it saying it to be a very important case, if one judge dismisses it the other might say this is the most important case. So the purpose of this meeting was that the legal aid center that is there, please visit it, as the contribution of everyone is required. We will not touch bad cases then the reputation builds. The judge will understand that this person always rings the cases of poor people, of trafficking, bonded labor unorganized labor. Only do the cases of poor people. The judge will also then start sympathizing with you, not all judges are there who sympathize but at least 40% judges are there like this. They will start sympathizing with your legal aid organization, he will start helping you. If the other judge dismisses the case, he will tell that judge to please admit the case, as the judge is also a human being, he also reads newspaper, he knows what and how the injustice is happening but he just doesn't get cases. So many nudges have told me that we are not getting good judges, we want to do this and that but we are not getting good cases. Our job is to put cases on the table, 50% will get dismissed and the other 50% will succeed, and it is a big thing, 50% success is a good thing. So only take the cases, the issues of poor people and after this meeting I have got more enthusiasm and I believe something will happen, in the coming days things will happen. We will have to work from our side and you will have to also contribute and I believe we can do this in Gujarat."



Prita Jha(PEC): I want to add two things, about the road ahead and strategies we want to adopt. We can look forward to media advocacy as a tool, we can bring all the things that are happening to the media, and then through the help of the media we can file for PIL. Also the PIL is easy to file but difficult to close as they can run in court for a long time so we have to be ready for it.



One of the Audience Member added that “They think that in order to get money the atrocity case has been filed and due to it we have lost as well. Rape cases have been filed but they don’t accept that we want to resolve it and in the 2-3 cases as of now as well we are asking for direction in the court.”

Another Audience member added that, “I am from Tapi district, firstly I would like to thank Mukesh Bhai that he called us here and I hope that when this seminar happens next time he calls us again. We have learned a lot in this training, I got to learn a lot from the Una case and from the situation of women in Haryana. I got a nice experience. Thank you!”

A woman from the Audience member stated that, “I come from Sangadh taluka, district Tapi. I specifically didn’t know what did Jay Bhim mean? I got to know because of Mukeshbhai, as to what Jay Bhim means, I also got to know

details which I didn't know about the recent Una case, and also about the position of women and the torture faced by woman in Haryana."



Another audience member stated that how this seminar added value to her knowledge by saying that, "My name is Chaudhary Rekhaben Vijaybhai, Malwi taluka from Legal Protection and Human Rights Centre, Somgadh. We work in 3 districts and provide legal aid in the 3 districts. We are 8 brothers and sisters from Shakti Somgadh, they are from their respective talukas and work as a administrator in the legal offices. Here I learned a lot about the injustice and exploitation faced by Dalits and further about how a lot of the cases that were pending and how we can bring a solution to it and can get the order quickly and the lawyers themselves came ahead and said that we will help fight these cases."



Audience Member: "I am from Surat district. I am from Legal Aid Human Rights Organization. I have worked with the organization for the last 10 years. We go to the villages and help them legal aid and communicate with them and help them in cases like these. The things I learned yesterday were of great help to me. I read

about the Una incident in the newspaper and I was thinking only that what I will do and what will happen in this case. But yesterday my sisters who came and discussed about this then I felt while they were discussing it I felt that it was their case but if it had happened with someone I know or with me then what would I have done. Yesterday I learned so much and was curious about how much more I will learn. Moreover if such kinds of seminar happens again and then I can learn more and more from experts and felt that then I can do more to help the society, I felt this strength because of this conference. And if such kinds of seminars happen again and again, then as one person is not able to clap on his own, but if all communities get together and bring the case out in public then it will help us advance other cases as well.”



Audience Member: “We need to work so that the experts from minorities should come ahead and it also encourages the 2nd 3rd line of leaders. Otherwise we our whole life will keep thinking that we have our leader and will get dependent on them, but it is important to realize how much of leadership and initiatives I can handle.”



Audience Member: “First of all I am grateful to the HDRC Director and I am thankful to the HDRC team for organizing this seminar to bring awareness among people. India got its freedom on 15th August 1947 but till date the Dalits of the country are not free. And I am grateful for the efforts this organization has given to bring awareness regarding the movement regarding Dalit rights and freedom.

Friends, yesterday we learnt many thing specially 2 things should be taken note of. Someone from the Valmiki Society raised the question that when Valmiki Society faces injustice then no other Dalit worker stands with them. Now we talk about differences but the internal differences we have, we should end that as well. As Valmiki are also our brothers, they are also Dalits. We are great Dalits, with this feeling we should work together.

Second thing, yesterday I saw that only 5-10% women were present, right. Now if you want to make any movement a success. After this any seminar takes place 50% women should always be there. Because if women get aware then they will ask their husbands to go out and join the movement because I also came today despite being ill because my wife dragged me out. So to pull men out of their house can be done best by women who themselves are aware and that is why 50% participation of women should always be there.”



Audience Memeber: “I got to learn a lot in this seminar. If such kind of seminars take place in Taluka and Zilla level then the lawyers in the Dalit community who are at the Taluka and Zilla level can learn as well and can help people in the area so the problems that they are facing can reduce to certain extent.”



Mukesh Lakum (moderator) said that “We have talked a lot about ideologies, and yesterday we did a lot of discussion on it and now what do we have to do now we have to think it at a personal level as well. We move forward, now we have made some changes in today’s sessions. Now the session with us about Caste Violations and Atrocities.”



One of the Audience Member(male) pointed out that, “The Rohit Vemula incident that happened is not the first incident of such matter, but in HCU Hyderabad Centre University more than 20 students have committed suicide before also and in the past 10 years 9 of those Dalit students were in applied science, physics, etc. So, we have to see that this is not the first incident in HCU. Like when the Nirbhaya incident happened the Nirbhaya Act was made but after the Rohit Vemula incident even after a lot of protests for a Rohit Act nothing has happened because of the humorous perspective through which our parliamentarians view the Dalit people.”

Moderator, Dr. Mukesh Lakum assenting to the audience member said that, “The words that you have just spoken are very true. Direct or indirect

discrimination both are present either when you enrol for Higher education or at PHD level, the discrimination starts then like what guide should be allotted to you the guide also doesn't tell you that you have to study this paper, this book and this is the conference, "Yes this is correct, be with me" he won't tell you anything "Mukesh you have done a really good work, yes this is correct write this" and then when the time for viva comes then both the director and the other person are like we don't want his viva, so we go to the director's cabin we tell him that if his viva doesn't happen then either you won't be here or we'll go to jail, and after all this they took his viva. So all of this is natural, but like what you said that whether the organization and structure that we have made can support this to what extent. We need to form an Ambedkar Union in Colleges. This is probably not there in Gujrat University or any university it is not present so because of that also students have to go through a lot of trouble and the maximum amount of discrimination is present in higher education with females and males."

Person from the audience (female): "I think you have put forward a very valid point. You have presented the comparison between Gujrat and Andra Pradesh, if you look into both the states then Gujrat's Dalit population is half of Andra Pradesh's. The movements in both the states are quite assertive and like you talked about HCU I have personally been there and have addressed students there. The Ambedkar student union is very

active, but when you look in Gujrat the student association isn't very active especially when looking into the SC community youth. So this is an opportunity for us to learn that both have similarities but the differences among the two out of which what can we learn like the last few patterns of violence are not present in Andra Pradesh. Be it incidents of Una or Thangad these things if we understand then there is a slight difference. The one other difference between Gujrat and Andra Pradesh is that in Andra Pradesh they have a '*yogini pratha*' '*devdasi pratha*' in



which Dalit girls are given to yellama devi temple where they are raped, this is a very patriarchal and casteism is added to it. When we look into the matters of casteism we need to understand this that the matters of casteism are different in AP then that of Gujrat. When it comes to atrocities then they might have a larger number but when you look into government figures then in national figures Gujrat is 4th. The numbers in Andhra Pradesh don't show that the cruelty in Andhra Pradesh is as much as in Gujrat, the system there is hiding these things. This something to learn that when we talk about Dalit right movements so in this we have an opportunity that we can combine the civil society, organisations and movements of both the states and make a bigger movement. Your studies shouldn't be limited to colleges or institutions, we should inspire others from our research so that more such practices in our education institution, according to me, is very necessary."

Audience Member who was present at the incident of Rohit Vemula shared that, "When this Rohit Vemula incident occurred I was there and I witnessed how the students took to the Rohit Vemula movement and made national and international awareness and how people worked for the Una incident in Gujrat I would like to see an analysis of both. So during the Rohit Vemula incident students there no matter how different they were and how different their ideologies were they all came together and a joint action committee was formed and all the common agendas were discussed together there that's why they took it to national and international level. Secondly there is the Una incident so in the Una incident we all know what and how it happened so if there is the concept of political benefit or any other benefit then it is a different thing, but if we are fighting for a common goal if there is a committee then we would have been able to do things better."



Moderator(Dr. Mukesh Lakum) invited Bhushan Oza to share his views, “Since a lot of years for the protection of human rights, against community riots a lot of struggles, supports and movements have happened. I would like to request BhushanBhai Oza to discussion on our next session which is strategies of litigation.”

Bhushan Oza (Advocate from Gujarat High Court) said that, “A lot of times this question of strategy has been coming up in one way or another. So this fight and activity of ours for the rights and equality of Dalits is very connected to this question because if there is no strategy then this fight of ours will get success very late or with a lot of struggle that is why it is very necessary to make a proper legal strategy. Yesterday, Govindbhai showed us how and where we face the problems in various stages like during FIR, the moment you register the FIR problems starts when a Dalit woman or man goes so in taking their complaint first of all police doesn't take interest. They are treated like they don't have any rights to be in the police station or as if they are the criminals or accused. So what are we supposed to do when the police says no for filing your FIR, we discussed this yesterday a little bit but I would like to take this question a little forward. Like yesterday Colin said, go talk to the DSP give it in writing and ask him to sign it for this police can say no and not do it. If we look at law clearly then section 4 brings out that if the police is not Dalit or tribal then we can claim atrocity against him and this we have in the Banaskata case very clearly Dayabhai is present here he knows, a lot of hardship was present, we fought against Patel's a lot of fighting happened violence was present but despite that the police wasn't registering the FIR. So with attachment of medical report we filed a petition and the judge also D.M. Patel who is currently in Jharkhand, a HC judge, I'll speak his name. So his attitude towards Dalits was not at all sentimental but he still had to at least give the notice. When the notice came then before the second date could come the FIR was registered. So this is question of strategy, section 4 should be used more when the police or the higher

authority doesn't take the complaint. When the question of investigation comes, I have mostly seen that the lower officer like PSI, PI are given the job of investigation which is against the law. So we need to be aware about this that who is the Investigation officer and how is he conducting the investigation and monitoring should be done on that. I have this suggestion that all the knowledgeable people like the advocates amongst us should make a committee for monitoring all this. We should start this monitoring when the investigation starts that what has happened and what is happening we can also use RTI for this and in this way we become like a supervisory body in the legal matter and the police will have to become answerable to us and this new technique should be evolved by us. Strategically I think monitoring is very necessary and nowadays because of emails and fax we can easily monitor. In previous cases we have seen that we have to approach the court after the investigation but with this we can go during the investigation as preventive or when the intention is wrong we can approach the court and tell them to look closely into the matters. Manjulaben is also here she has seen this in a lot of stages and Govindbhai also told us yesterday and if like this we can control monitor or supervise the investigation then it will have a lot of effect according to me. Secondly, Article 17, under the Constitution this a very important provision for untouchability but at least I can say that in Gujrat it is used very less, in Maharashtra is used more, it is used in other states also but in Gujrat it has been used very less. All sort of untouchability like not letting them enter the temple or not allowing to take water all this is covered under article 17 somehow. It is a violation of constitutional rights, you can directly approach the High Court and file a PIL. Apart from this there is the question of boycott, in boycott situations also article 17 is violated so we can file a writ on the basis of this also. People will get an office from where they will be able to do things and this will be a very effective weapon for us and we should do this. We should also this one this which as per my thinking there should be an interactive committee with the police and home department for the issue of torture done to Dalits and tribal people, a small but interactive committee to repeatedly put pressure on them. One side court case and

on the other this monitoring and when all of this is simultaneous then the pressure building from our side will also be a lot and due to this strategically our chances of success will increase this is my thinking, you all also have a lot of experience and you will also have a lot of suggestions and ideas due to your experience which we would like to know. If you all also have any queries or question we would like to listen and discuss them too.”

Adv. Subodh from HRLN Ahmedabad raised his query, “Sir you said that if untouchability is practiced somewhere we can file PIL but I have this question which I am confused about that if there is an individual case can we then also file a PIL? Because if it is individual then will the constitutional bench overlooking the PIL matters be taking this case?”

Bhushan Oza (Adv. Guj. HC) answered that, “Look so in this, there is a violation of constitutional right so a writ can definitely be filed. Writ Petition can definitely be filed as there is a violation of constitutional right and it is not necessary that it is special criminal or special civil and this way we can go to Gujrat HC and after this if there are two/three incidents like this from different districts than PIL can also happen.”

Govindbhai asked further that, “I would like to ask this that, on the other side it is being said that there is misuse of atrocity so can we file a PIL in the HC for this? Because in reality there is no implementation of this.”

Bhushan Oza (Adv. Guj. HC) replied by saying, “This point raised by Govindbhai is very correct and we all know about it but in this PIL also has limitations that I should be telling you, when we go for a PIL the High Court says that okay public interest in present common cause is there but if the case is not on merits, judge has decided court has decided and on the right which you have for appeal and revision exercise that by PIL. Now we see a pattern, like Govindbhai told us that there is a mindset in judiciary that there is misuse of the powers and rights and misinterpretation is present against this we can try to go in the court, Colin told this to me yesterday that don't be scared of rejection if the High Court won't entertain it don't worry come to the Supreme Court. But we should

understand the limitations of PIL and then only move forward, we shouldn't expect much from the HC in a PIL where because of a mindset and due to the problem of implementation we can establish a pattern by evidence under the belief of repeated misuse rights are not given and a pattern of investigation is not followed then we can definitely go for a PIL and there are chances of success also."

Govindbhai further pointed out other problems and asked, "Now the problem in atrocity cases is this that the investigation that happens is not proper, so as the proper investigation is not conducted by the police and we go to the court requesting for a proper investigation then the court says that complainant has no rights, so how will we get justice? Because proper investigation didn't happen and court has rejected all our applications. This has happened in a lot of cases in Gujrat that the investigation is not proper and the application for proper investigation is rejected in courts."

Replying to his query Bhushan Oza (Adv. Guj. HC) said, "That is a legal right and can necessarily be challenged and now it is such that the victim or the complainant they can like it was discussed a bit yesterday that special public prosecutor of our choice, we can say that the special public prosecutor whom the complainant trust please chose him and the government will give his money, we don't have to give it. So this one thing we can surely do and secondly we as complainant can give application to both the Public Prosecutor and the Court that this is the mistake and it should have happened like this. Don't care if they reject it, just do it cause after this HC will come. We have to consistently give in writing for our rights."



Audience Member asked his query, "I am from Banaskata, most of the atrocities in Banaskata are related to land. Currently in Banaskata we are fighting the fight for casteism protest and that also is

a case of land related atrocity. Is there any provision that relates to land atrocity through which we can fight and get people their lands like there is Land Ceiling Act, cemetery land and the land which now being made for which 40/55 requests we have given to the collector for which we are fighting, day before yesterday .here atrocity has happened now a month ago and because of this a huge issue will be left so what can we do for this?"



Audience Member further added, “Basically what we are talking about atrocity since yesterday we are talking about how atrocities are happening in Gujrat, in Delhi, a lot of people have a lot of experience. In the end it all comes to that like this man said that atrocities don’t even happen maybe you said something like this. When everyone heard Bhushanbhai they asked him a lot of questions, so Bhushanbhai is a very senior lawyer and is also my mentor but he also probably won’t have every legal solution for things that we can do at local level. Bhushanbhai practices in High Court, I practice in District Courts so here at local level also we can do a lot of things like this man told that the police comes with their own men so the solution of this is not in police station the take your own men. On local level also there are a lot of issues like Govindbhai told us that he told us that the investigation is not being conducted properly, it’s true that they us, this is also true that we have advocates like Bhushanbhai and Colin sir and we have support but I would like to say that we also do parallel investigation, police is doing it but us as an NGO or as an organisation can do parallel investigation and present it before the court that this investigation has not been conducted properly, am I right Bhushanbhai? So the judge will also believe that we are not shooting arrows in the sky and we actually have some basis for our argument and even they have a pressure that these people will go to the HC and we will have unnecessary problem. Secondly, yesterday Colin sir talked about this that atrocities are happening but we

are not complaining anywhere, provisions are present under article 17 and under SC/ST Act but the ratio of complaint is very less. So we can start a complaint campaign, the part of it being successful or not is different but these atrocities are not being recorded anywhere. So, we are result oriented but somewhere we get frustrated that what will happen, this is our situation but those who are very poor and come from villages they also have the same situation. We get a result or not but it is very necessary that there is a complaint for every atrocity whether it is done by the lawyer or victim the complaint is necessary so that the data will be collected and on the basis of this we can go and talk to the government or we can also keep this data in PIL and get a favourable response. I would like to tell 2-4 more things like we aren't working as stakeholders, if we talk about police, then we should do a seminar for all the SC/ST personnels in the police so that we can sensitise them and then ask favours. Secondly, every district has a police advisory committee, and this committee has a lot of role in the filing of FIR, so you should check who are the people in this committee some might be MLA or leader but that advisory committee has no caste based proportion so in that committee SC/ST, women members should be appointed if we work for that we can get help as we will have a man of our own and they can tell the police to file the FIRs. Thirdly, Samajik Nyaay Samiti at the level of gram panchayat the Chairman of Samajik Nyaay Samiti has no idea, so we need to work for this. Samajik Nyaay Samiti's Chairman doesn't even get a chair, I have visited their office a lot of time, it is just like a garage, forget about the chairman, police department has a SC/ST cell, it's in every district, SC/ST cell doesn't even have landlines available. The system that exists for our rights we need to fix that system first and the persons who are sitting in the system are to be sensitised and supported by us so in return they will support us."

Bhushanbhai Oza (Adv. Guj. HC): "The cells don't have landline phones so did you give any request for it?"

Man from the audience: "Yes, we have. It's not just about the phone, internally we can deactivate the entire system also."



Woman from the audience: “Evictions are happening a lot, like recently for bullet train also eviction is happening and even for metro evictions happened but in all this we have good relations with the stakeholders we know what is happening and for a long time we have seen that process is not followed and there also human rights violation is present but it is never highlighted mostly slum area migrant workers are evicted. In this legally we are scared to take further actions as they don’t even get notice sometimes. Recently for bullet train, in one day 50 families were evicted so where will these people go, and the way they are kept, you might have seen, they don’t have any dignity left. So this is also gong to happen in the future, so can we plan something strategically for this? Because we don’t know how to legally approach this is an important thing. Secondly, I have to correct a perception, in 2002 when the riots happened we filed a PIL in the High Court but it was rejected since then this is a general belief in Gujrat that if you file a PIL in HC it will be rejected. A lot of people are scared because of this and don’t file PILs, I don’t know how much truth is in this statement but if we’ll know more about it, we can make strategies accordingly.”

Bhushan Oza (Adv. Guj. HC): “About this I would like to say something in a very clear way, that firstly the thing about urban slums we who work for them have to know about the two schemes of the Ahmedabad Municipal Corporation one in 2010 and second in 2013. We have study them and see that where are they getting violated and against that if we do a writ we can be successful. Second thing is that, before this also JNNURN wasn’t there and then also we could file a writ and save

slums on the basis of right to life, fundamental rights, so they are also our strong argument in court, so we can use this also if we don't get anything, but now we are getting a lot of things like I told that we have JNNURN, 2010 Ahmedabad Municipal Corporation scheme for rehabilitation and after that the 2013 scheme if we look in detail into them then we'll see that a lot of violations are happening like how to do their biometric about that also proper rules and circulars are present so we can use that. Thirdly, about the PIL, these days there is very weird situation for PILs if the PIL gets rejected we can go to the Supreme Court, so they don't reject. These a notice comes , notice came and now the matter is pending in the HC, later on hearing also doesn't happen and matter of priority also doesn't come out. So strategically we thought that let's try once more that 102/120 number comes and more 40 cases are never touched despite being priority. So we made a new strategy of putting a new application for urgency that pass an order on this, interim order that it's urgent. Like river in Palanpur floods occur there during monsoon because of the construction happening around the river and there are a lot of evidence for it, the collector has said that we have kept all this on record but they say they'll use it with main matter, use it fast, short but it won't be used. Intentionally they don't. Secondly if you want to see how much interest the HC has on PIL then look at this one thing that PIL only has one day in a week in the HC, Wednesdays, only one day in the HC PILs are heard so you get how much they are interested in hearing PILs. A judge at a dinner told the Chief Justice that, "Now people think that Gujarat High Court does not have PIL jurisdiction" he said this sarcastically but he said to him on his face. Yesterday I talked to Colin that there are certain pending cases where application is made, evidence is present, can we take these cases to the Supreme Court? But Colin said that only 3 months are left for the tenure of the Chief Justice, just finish these 3 months."



Another audience member: “Whatever sir has said (referring to Bhusha Oza) I have been inspired because the tough process with which we work has just been expressed by sir. We need to be ‘messiahs’ for the victims in villages as we are the educated people who owe it to them. We need to take villages

with us as it is very important. We need to create situations which helps the atrocity situations come out in the open.”

ADV BHUSHAN OZA



“We are people of organisation and organisation is very big strength for the dalit community. As we can see and from yesterday talk we have one ray of hope and we have to go forward with it.”

Legal Aid



Adv. Archana HRLN: the people of the community require legal help with regard to filing of an FIR, bail applications and advices on their matter. We provide them with such help on legal points and provide legal aid to our community.

One of our initiative at HRLN is protecting prisoners right.

Adv. Subodh at HRLN added that, “in many cases people come with issues stating that when we go to the government, the government promises to take care

of the matter and on the instance of the government, we withdraw the case. Later, it is found that the government does not do anything about the matter and our case is also withdrawn so we become helpless.” **Another important concern is that,** “I myself have lived in Sabarmati central jail and food quality is not like what should be there.”

Adv. Archana from HRLN added that, “They can promise anything and no action will be taken I myself researching on these thing. Promise is given in written by government. There is one case here person name was bhanubhai he had committed Suicide after that there was lot of agitation all over Gujarat and that time government had compromised. So I am expecting that if we do agitation we should press over demand in written or tell government to register it in writing.”

On being asked by audience member regarding issues relating to harassment and redressal, Adv. Archana from HRLN replied saying, “There are commission where you can complain about it and if they refuse to listen then PIL can filed.”

Manure Scavenging



Manjula Pradeep while explaining manual scavenging said that, “manual scavenging means manav mal. We can see it from two view first its a caste based work and second it is forcefully telling people to do work and its is

below dignified level. First petition was filed in 1993 in Ranpur, where 95%women are doing work in these field and their husbands also tell them to work. Unaware of their rights they used to do all such work. One man protested this and filed a PIL in 1993 and it was held that such work is violative of rights. Petitions relating to similar issues have been filed in Supreme Court in 2004, by various NGOs, and

concepts such as dignified labour were carved out. In Gujarat, if we see, we are in minority 6.5 percent overall and if we talk about valmiki community their population is very much less there population we can count in lakhs. We need to work on this.”

Diveshbhai added that, “We have recently surveyed about the death in sewer jobs in 11 states. My concern is that the generation which is to come should not be exposed to such work. As per data of Ministry of Social Justice, in 2013 over 323 death occurred and it was recently reported in Times of India that every 5 days there is death taking place. This tempted us to do research and as per our research of 4 months we found out that a total 40 deaths were identified by us and if we count death rate then every day 2 deaths occurred at these places.”

Moderator added that, “You will be totally shocked when you will hear about the death rate of the people who are working in pot hole or sewage. If we’re are talking about Hindutvadita organization these many soldiers attain martyrdom in wars but according to us there are more number of death of people doing manual scavenging than soliders who attain martyrdom in Kashmir.”

Jitendra Rathod pointed out what could be done ahead, “I want to talk about 2 thing first is sweeping occupation in that occupation they clean road etc so safety and technology should come in that occupation.

Some questions that arise within the people of the community are that, “Why should we do this work if it is not dignified?”

One of the speakers raised question as to contract labour. “they do manual sewage work, so no data is available regarding the situation so if they died then BMC can conveniently say that the deceased is not our worker. In this situation, as

contract base workers are not permanent and then how can we make BMC liable so they take responsibility?

Mr. Vaghela said that, “in Vatva buishwar there was boy belonging to thakur community who died in sewage and again the same problem was encountered. The police was not ready to file FIR and only after Kishore bhai came, the registered the FIR.”



Audience Member asked what should be done in case of death on site? which section of atrocities will apply and how much compensate will be paid? He also inquired of any government schemes related to death of family members.

Audience Member: “It is not written anywhere that dalit has to do the cleaning work when animals have died.”

Mr. Jitendra Rathod informed that How organization will properly implement the section in case of death is there in this pamphlet.

A lot of policies such as Dr. Ambedkar Awas Yojna and others have been passed by the government to give Dalits rights equal to the other upper castes of the society, but we see that in essence there policies are not implemented and the dalits continue to face the difficulties that they have been since ages.





Manjula Pradeep added that, “we need to build strategy to fight atrocities cases as otherwise it is very easy for the government to not consider them on one or other trivial grounds. Cases of untouchability, sexual violence, and social boycott are very frequent. Deaths while cleaning gutters etc. are issues which require dire consideration and attention. Only with the help of proper strategy we will be able to fight such cases.

Alice Morris : “The way forward which we already discussed about strategy or regarding legal strategy or campaigning. I will try to explain the summery in short time in this today. on first day we have discussed atrocities happened in una , we have discussed with our lawyer two points, first the biggest problem is not registering FIR and secondly is cases are not proceedings forward or stuck in local level or PIL are not accepted. We have also discussed about non registration of FIR and what to do about it. Also we have discussed about approaching the High Court with petitions when FIRs are not registered. If appropriate relief is not obtained from the High Court then we must approach the Supreme Court. Implementation of act itself act like safety equipment which district committee should be setting up is to be watched and if it is not done then date has to be collected and circulated amongst different organizations which ultimately can come together to collect data so we can file PIL under atrocities act.”

Further, Adv. Alice Morris summed up the seminar as, “Many suggestions have come from group and individuals regarding the road to be taken ahead. We need to have a legal unit in Gujarat to handle PIL matters and see that maximum numbers of claims are addressed. Also, helpline is to be made.

Panel Member: “Many analysis have done and many inputs have come along with suggestions and how to face all litigation process and how to address, there are 2 or 3 process which are discuss highly and many have involved and participate we are thinking to take that at micro level which we are thinking for next face how to take it from top to bottom on ground level particularly I have planned, there are many different groups like there are many groups working of manual sewage by joining all the group we can form a concrete strategically plan work for further way of specially group meeting is require we will do it in coming time secondly we have friends from different district we have to take responsibility on basis of regional levels or community level today there is need to build paralegal body or to field charges we are already there in coming time this process will come through our level, so we have to make efforts to carry forward secondly from ground to border level we are talking to built mechanism those organization who is working at national, district, taluka even in Parliament we will joint this mechanism to use in changing policy and we got many recommendation so we can put all recommendations in front of government at state and central level. By this mechanism we can develop atrocities tracking monitoring system.”



Audience Member: “I am not from legal field, my subject is sociology of organization. There are many NGOs are there in Gujarat and many of them do different works therefore, if all these organizations come together for one cause in common then we can achieve our goals.”



Audience Member: “it is very important that the lawyers that take up such cases are serious about them and do not take it leniently. They are not paid much as in other cases and this is one of the reasons because of which there can be lack on the part of the lawyer.”

Moderator: “HDRC, HRLN and Other organization can do this program in Saurashtra in the coming months because many friends which are sitting here belong to Junagadh. I had a word with Alice regarding the problem in tribes related to land atrocities and forests act being violated. Therefore, we want HRLN who is working with other organization should do same session like this and spread awareness.”



Audience Member: “In Dahod, Panchmahal, and Dang seasonal migration is happening specially children and women are being exploited and keeping that in mind there should be seminar for 2 days there as well.”



Adv. Khairunnisha Pasta added her opinions on the discussion, “For legal cell and justice related cases, we have to start legal cell as we are working from HRLN OFFICE for developing further strategy. We have spoken to Alice Ma’am regarding possibilities of working with other organization and secondly we have many publication which are in English and therefore we are trying to translate them into Gujarati for maximum circulation. Many new topics are there on which research is

being carried out such as dalit or valmiki issue in Gujarat. We can get even small pamphlets published in order to spread awareness regarding same.

Adv. Alice Morris agreeing to Adv. Khairunnisha Pasta, said that, “all suggestions that have been put up during the course of seminar will be deliberated upon and we will consider each suggestion and try to come out with practical strategies to overcome the difficulties faced by the people of the community and work in unity to get justice for them.”

Thank you all for success **“Dalit Rights Conference On strengthening legal Intervention Strategies”** seminar

HRLN, HDRC IN Collaboration with Jan sahas , Mansuki, Sanchaya Nele, Peace and Equality Cell, Initiative for social Justice and Humanity, WAYNE foundation , NCDHR-NDMJ, Saurashtra Dalit Sanghathan, Gujarat Dalit Sanghathan , Banashkatha Dalit Sanghathan, Adivasi Sarvangi Vikas ,Sangh, Anyoday Vikas Shikhsan Centre, Manav Garima, Jampath , Viklap , Shakti -LAHRC, Sahyog Songadh , SXSSS-Ahmedabad , Navsarjan –Surat.