

A CRITICAL ANALYSIS OF PRISONERS WITH DISABILITY
AND THE INDIAN PRISON SYSTEM

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ABSTRACT

The jurisprudence has developed around the concept of the rights of the disabled citizen i.e. their special needs should be recognized and they should be treated at par with the other citizen. It is pertinent to mention that prisoners are already considered deviant from society and subjected to inhumane environment, and when talking about prisoners who are disabled, they suffer twice and are doubly disabled in the environment of the Indian prison system. This paper revolves around the concept of disability of prisoners and the treatment given by the Indian prison system. A separate section of the paper has talked about the jurisprudential progress of the rights of the disabled citizen clubbed with the rights of the prisoners, with the help of the case laws. That section has also described disability in length. The laws and International conventions have been mentioned relating to the rights of disabled. A cursory mention is given to the Mulla Committee report on Prison reforms. Two cases have been examined in length which has talked about the undertrial mentally ill prisoners and treatment of undertrial physically challenged person. The paper ends with the conclusion which reflects the opinion of the authors and some suggestions in passing to ensure implementation of the existing laws for the benefit of the disabled prisoners.

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“The most violent element in society is ignorance”- Emma Goldman

INTRODUCTION

Health of prisoners has been a topic which is gaining popularity not only in India but also across the globe. For a person to be considered healthy, he has to be physiologically and psychologically fit. Due to its overt nature, physical health is given a lot of importance, however, mental health has always been locked inside the cupboard and is seldom considered an illness. For a normal individual, taking care of his/her health is relatively easier than prisoners, who endure harsh living conditions and in the absence of adequate medical facilities. Prisoners spend their lives in Jails, away from their normal course of life as they leave behind their marriage, families, jobs, communities, heterosexual contact, religious activities and other important social activities. This exposes them to a pathetic moral environment for days, months or even years. In an ideal world, prisons are supposed to be a safe place where the prisoners are confined and are supposed to offer community service to become better individuals. However, prisoners are kept in constant fear, they are assaulted, beaten, treated with no dignity, raped, brutalised and subjected to other such brutalities. Jails are also over-crowded and pretty shabbily managed by prison authorities. A report released by the National Human Rights Commission says that India has the capacity to hold 2,48,439 prisoners however, the actual prisoners living in jail is close to 3,58,177². It cannot be denied that physical environment shapes the mental health and circumstances in prisons are no mental health friendly. The limited availability of sunlight, poor health care facilities, bland food in terms of hygiene and nutrition, confining shelters and elongated isolation makes the prisoners more prone to mental health issues. A report of a study focused on the effect of the environment

²Prison Population in India, India 60, <https://india60.com/stats/prisoners>.
<http://india60.com/states/prisoners>. (Last visited on November 02, 2017)

on the mental health of prisoners concluded that the prison environment has contributed to poor mental health, anxiety, frustration and anger in almost all circumstances³. The issue is not just limited to the mental disability but also to the physical. Convicted felon with disabilities are more prone to enter the phase of mental frustration due to limits in their physical activities. This paper will be addressing both mental and physical disability of the prisoners with respect to the conditions in the prison.

DESCRIBING DISABILITY

It has been established earlier in the introduction part that how unnoticed the concept of disability goes when it comes to the prisoners. However, it is pertinent to mention that the legislature of India has been proactive in making laws in favour of the disabled citizens. Following are the legislations which deals with the concept of disability-

- The Constitution of India, 1950
- Persons with Disability Act, 1995
- Mental Health Act, 1987
- The Rehabilitation Council of India Act, 1992
- The Prisoners Act, 1900
- The Code of Criminal Procedure, 1974 etc.

The case law jurisprudence has also developed over a period of time which has acknowledged the rights of the disabled persons. The Court in the case of *Chandan Kumar v. State of West Bengal*⁴ recognised the rights of the inmates who were mentally challenged and they were being kept chained in the hospitals. Also, in the case of *National Federation of Blind v. UPSC*⁵ the Court recognised the

³Nurse J, Woodcock P, Ormsby J. Influence of environmental factors on mental health within prisons: Focus group study. *BMJ* 2003;327:480-5

⁴(2010)3CALLT482(HC).

⁵AIR 1993 SC 1916.

rights of the blind people are allowed them to appear for the exams for administrative service and other allied services. The idea behind mentioning these cases is the fact that the Indian judicial system had started treated the disabled people at par with the people who do not suffer from any disabilities. The case of *Charles Sobraj v. Superintendent Central Jail Tihar*⁶ had established that all the rights which are enjoyed by the free citizen, are available to the prisoners except the rights which are naturally lost by virtue of being in confinement. Clubbing everything together, prisoners retain all the rights viz. disabled prisoners have all the rights which are provided to the disabled citizen of the country.

The most important legislation which describes disability is the Persons with Disability Act, 1995. It has an exhaustive list of describing disability⁷ however, disability is more than mere physical or mental constrains mentioned there. Disability is described as a restriction of activity or any sort of disadvantage suffered by the people who have sensory, mental or physical impairments, due to the way a society is organised. This essentially means that people with disabilities cannot perform on equal terms with others in the mainstream society. It will not be wrong to say that people who have some or the other sort of disability are at a very disadvantageous position as they are not only looked down upon by the society but most of the times they are even disowned by their own families. A survey by the World Health Organisation has found that one out of every ten person suffers from some or the other form of disability and India holds one fifth of the total disabled persons in the world⁸.

The World Health Organisation has described disability as an umbrella term which covers participation restriction, impairments and limitation on activities.

⁶AIR 1978 SC 1514.

⁷ Section 2, Disability Act, No.1 , Acts of Parliament , 1995(India).

⁸ *Towards a new disability policy*, Info Change India,[http://www.infochangeindia.org /disabilities](http://www.infochangeindia.org/disabilities).

Which is further elaborated in the following manner- Restriction on participation is where the individual faces problems in being involved in life situations, Impairments is more related to problems associated with bodily functions or bodily structure and limitation on activities are the problems encountered in executing any task or any action.⁹ Therefore, it will not be wrong to say that disability is just a health problem, it is a very complex phenomenon which reflects the relationship of an individual with his own features as well as with the features of his surrounding environment and society. It was also mentioned by the World Health Organisation that people who have any kind of disability are more prone to not get proper access to the proper health services or in many cases the rehabilitation services. It was important to highlight disability because the prisoners in the first place are already disabled due to the social exclusion and adding on it, the prisoners who suffer from physical or mental disability are doubly disabled.

CATEGORIES OF DISABLED IN PRISON

The fact that disability is not just a sort of physical deformity and is a concept much beyond this has already been established in the above mentioned paragraphs. This section will talk about different vulnerable sections of prisoners who are disabled in some way or the other and the mechanism for their release.

The first category is of the mentally ill prisoners. This section of the prisoners are most vulnerable to the human rights violations as they are in most cases not in the position to understand what is happening with them. The government has mandated that the prisoners who are mentally ill should be sent to a facility which is specially set in order to provide a quality treatment to such prisoners. The legal provisions who are considered while dealing with mentally ill prisoners are-

⁹*Health topic- disability*, World Health Organisation, <http://www.who.int/topics/disabilities/en/>.

Prisoners Act, 1900 (Section 30) and the Indian Mental Health Act, 1987. The prisoners who are declared as insane during the treatment are sent to the hospitals designed to treat mental illness and those who are not certified as insane are put back to the Central Jails¹⁰.

The second category is a broad category which includes persons with physical disability. The physical disability may be caused due to age which makes the elderly prisoners as a main category of the disabled prisoners. In this case, the power vests with the Inspector General who can put up a recommendation of premature release of any elderly convict under Article 161¹¹. This provision allows for a premature release of aged convicts who suffer from some incurable disease, serious infirmity and that person is no longer in the capacity to commit any further crimes, and no social purpose can be served by keeping him in Jail.

Another category in physically disabled are the prisoners who are terminally ill. In this situation too, the Inspector General has the power to release the prisoner who is suffering from a disease which can turn fatal in nature if the prisoner continues to live in jail. He may also be released if there are sufficient reasons to believe that he might be cured and there exists some reasonable chance of recovery. It is pertinent to mention that the prisoner may be released even when there is no chance of recovery¹².

The last category is for prisoners who get sick during the period of imprisonment. The procedure which has to be followed says that when any prisoner gets sick

¹⁰What are the role of jails in treating mentally ill?, npr.org,15 September 2013, 6:57 PM at ET, available at <https://www.npr.org/2013/09/15/222822452/what-is-the-role-of-jails-in-treating-the-mentally-ill>.

¹¹INDIA CONST., Art. 161.

¹²Abhinav Garg, *HC's patient hearing for terminally-ill jail inmates*, Times of India, 10 November 2010,12:51AM,<https://timesofindia.indiatimes.com/city/delhi/HCs-patient-hearing-for-terminally-ill-jail-inmates/articleshow/6897813.cms>.

during his time in jail, he has to inform about the sickness to the Officer in charge and then it will be the duty of the officer to make arrangements so that prisoner can visit the medical officer and be examined. All the discharges and admissions in the prison hospital is duly recorded in the records mentioned in prison hospital as well as on the ticket of the prisoner. It is the duty of the medical officer to give guidelines after the discharge of a patient that whether he is in a condition to perform the duties assigned to him in the prison.

THE DISABLED PRISONERS- LAWS IN SUPPORT

It is an established jurisprudence that Article 21 of the Constitution guarantees the Right to Dignity and also the Right against Degrading Punishments to all the human being irrespective of race, religion, sex, caste, status et cetera. Therefore, the prisoners also come under its ambit and the offence which they have committed becomes immaterial¹³. However, it is also an established fact these standards exists on papers and are not used in reality. Especially the prisoners suffering from certain kind of disability which may be physical or mental in nature, have to suffer a lot in the prison environment and they are not treated with respect and dignity.

The first case to throw light on the matter of mental state of prisoners was the case of *Mrs.Veena Sethi v. State of Bihar*¹⁴ in year year 1983. This was a case where prisoners suffering from mental illness were detained in jail for more than twenty-five years. The Court was of the opinion that these people have been in this illegal custody for so long and there is no body to take care of them. They were also not in the position to be released as there was nobody to take their responsibility and they were not in the position to survive outside on their own. However, this case

¹³*T.V. Vatheeswaran v. State of Tamil Nadu*, AIR 1983 SC 361.

¹⁴AIR 1983 SC 339.

was way back when there was not enough consciousness about the rights of the disabled persons. Now we are in a time when jurisprudence has developed so much in this matter that both civil and political rights of persons with disabilities are acknowledged.

International Conventions dealing with the rights of persons with disabilities- India is a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). This convention has a special clause which deals with the persons with disability who are in relation to the state custody. This is described under Article 15(1)¹⁵ of the convention. Another supplementary Article in the convention puts an obligation on the part of the State to protect the persons with disabilities from the inhumane, cruel, degrading punishment and treatment¹⁶.

The concept of equality does not mean equal treatment for all but it includes unequal treatment for the unequals. This is the basic concept of equality which highlights the special treatment which is required by the persons with disabilities. These people are vulnerable and denying them the basic support clearly violates the undertaking mentioned in the UNCRPD. The person with disabilities require special needs and proper assistance, denying those basic amenities outrightly violates the provision which says that they should not be subject to cruel, inhumane and degrading treatment. As discussed earlier, the prisoners with disabilities are doubly disabled, they do require special assistance and support for their daily activities and putting such a prisoner in solitary confinement and that too without any assistance is a gross violation of the human rights and stripping him off his dignity. This is a gross misconduct and clear mocking of the Rights enshrined in the Constitution of India under Article 21. It is difficult for a prisoner

¹⁵United Nations Convention on the Rights of Persons with Disabilities, art.15 (1), 13 DECEMBER 2006, document A/AC.265.2006/L.7 and Corr.1.

¹⁶*Supra* at 14, art. 15(2).

with disability to maintain his personal hygiene and environment, and not providing assistance is an outright opposite of what is mentioned in Article 17 of the UNCRPD¹⁷.

MULLA COMMITTEE- PRISON REFORMS

The Mulla Committee was formed around 1980 which focus on bringing about the reforms in the prison system. Officially known as the All India Prison Reforms Committee, this committee focused on improving the existing prison system in respect of administrative, medical facilities, hygiene et cetera¹⁸. The Committee in the report found that the toilets in the jails are in pathetic conditions with no flush type toilets. Moreover, there were many States like Haryana and Uttar Pradesh where there was a fifty percent shortage of such toilets. This is the situation for normal toilets which even disabled have to use. The major finding of the Committee with respect to health care system was regarding the treatment of sick prisoners. It was a shocking finding that no mandate was sent for social workers, psychiatrists, or the prison medical officers. Also, in more than 9 States and all the union territories, no post of a Medical Officer was created which was mandated to look after the health care of people detained in prisons and the correctional homes. This was a very big setback and shows the state of apathy towards health care facilities in prison.

SEMINAR ON HEALTH CARE FOR PEOPLE IN DETENTION

The International Committee of Red Cross(hereinafter as ICRC) conducted a seminar on health care for people in detention in the year 2013. The seminar was

¹⁷*Supra* at 16, art. 17.

¹⁸L C Amarnathan, Director-General, Bureau of Police Research and Development, *IMPLEMENTATION OF THE RECOMMENDATIONS OF ALL-INDIA COMMITTEE ON JAIL REFORM (1980-83) VOLUME 1*, http://webcache.googleusercontent.com/search?q=cache:http://mha.nic.in/sites/upload_files/mha/files/Advpol-261110.pdf&gws_rd=cr&dcr=0&ei=3cc3Wo2SCo_q8AWQvL2wCg.

conducted in Srinagar and Jammu which was led by Dr.Raed Abu Rabi, who happen to be the head of the Health in Detention Unit of the ICRC¹⁹. The seminar discussed many issues related to health of the people who were in detention. One of the issues which came up was that, why is it important to address the health care of people in detention? It was found that most of the countries do not really understand the concept of health care in detention- it will not be wrong to say that it is poorly classified, very poorly defined and very very poorly understood. There is no awareness amongst the authorities about the same, no specialised training programmes or education and in some cases there is an attached social stigma to working in the prison. These factors amalgamate to make the issue alarming. It was also highlighted that many prisons do have problems of poor hygiene, overcrowding, and also they become a hub of communicable diseases. Despite this, when the question comes about reducing the budget of the prisons, the health care facility is the one which is targeted to adjust the budget.

Another major issue came up regarding the medical needs of the prisoners as against the restrictive and confined environment of the prisons due to high level of security. A major conflict of perspective emerges in this issue as doctors look at the person suffering as patients however, the prison authorities look at them as prisoners. In an ideal world, security and medical ethics should go hand in hand and have mutual respect for each other but the situation in prisons is different as the prisoners are considered not as a part of the society but excluded from it. It was said by the doctor that health is a right for all the humans irrespective of any status. Health care is not a gift which is given to the detainees but it is a matter of right for them. Balancing security and health has to be done in a planned manner where the medical practitioner is kept under close scrutiny of the security officers

¹⁹*India: Medics and prison authorities discuss health care for those in detention*, International Committee of the Red Cross, November 25, 2013, <https://www.icrc.org/eng/resources/documents/interview/2013/11-25-india-health-detention.htm>.

or establishment of a well-equipped health care management system inside the prison itself. Special training should be provided for doctors working in prisons and they should be ardent followers of the medical ethics. The first step towards this is to see the prisoner as a patient and care for nothing else but the health of the patient. The doctors should be trained to deal with prisoners and not fall in any sort of trap which the prisoners may use to run away from the prison. These doctors do need special training to abide by the prison rules as well as maintain the efficient healthcare system in the prison.

POLICY FOR TERMINALLY ILL PATIENTS

The issue of non-stringent laws and policies regarding health care system in prisons is not a new subject for us. The High Court of Delhi did a laudable job by taking a suo moto cognizance in the case of *Court on its own motion v. State NCT of Delhi*²⁰ regarding the issue of prisoners who are terminally ill all over the Indian prisons. The Court in this case asked the Union to formulate stringent policies regarding the treatment and other ancillary needs of such patients. Pursuant to this order, the Joint Secretary to Government of India sent a letter to all the prison authorities of all the States and Union territories of India, formulating the advisory on such policy. This section of the term paper aims to describe the policy for terminally ill patients (hereinafter as TIPs) in prisons of India²¹.

The first step is to determine the scope of what terminal illness is. Terminal illness is described as a state of a person where he/she suffers from an illness which is active and progressive and that there is a fair chance that this illness cannot be cured at all or treated in an adequate manner also, this illness

²⁰Writ Petition (CrI) no. 201/2009.

²¹Dr. Nirmaljeet Singh Kalsi, Joint Secretary to the Govt. of India, *Advisory on the policy for the treatment of terminally ill prisoners/inmates*, mha.nic.in, August 13, 2010, available at http://mha.nic.in/sites/upload_files/mha/files/Advpol-261110.pdf.

reasonably results in the death of the person who is suffering from it. There are many definitions by many healthcare institutions but the common factor in all is the fact that such kind of disease is incurable and is likely to cause death of the patient or put the patient in a position of unconscious state from which there is no scope of recovery. There are many diseases which qualifies as the terminal diseases such as AIDS, cancer et cetera. It is pertinent to mention that the administration of the prisons is a State Entry under the seventh Schedule of the Indian Constitution therefore, the respective States are a primary stakeholder in maintaining the prison system and are responsible for following the Prisons Act, 1894 and other miscellaneous Prison rules adopted from time to time. The advisory mentioned that it is the duty of the State Government and the Administration of the Union Territories to formulate relevant policies for the TIPs in order to ensure that those prisoners get full respect and are treat with utmost dignity and their basic human rights are respected. It is pertinent that such policies should adequately address the special medical attention required by the TIPs and also considers the aspect of security and safety of the community as a whole. Such policy is expected to be clear and coherent with respect to the guidelines related to parole, release, medical visits on compassionate grounds and also promote healthy interactions with the families and close relatives of such TIPs. The Union set out the guidelines which are to be implemented by the State Government and the Administration of the Union Territories in the prisons under their jurisdiction. Those guidelines include-State Level Medical Board and a District Level Medical Board be constituted to identify all the TIPs in the country's jails. Not just the identification but a coherent report on such inmates be prepared by the Medical Board in accordance with the guidelines by Medical Council of India. The TIPs are more prone to slipping into mental illness by thinking about their impending deaths. This makes them more vulnerable and more in need for spiritual support and psychological counseling. It is the duty of the Medical Board so formed to identify such special needs and prove the TIPs

with the same. Also, the TIPs should be shifted to the prisons where there is maximum medical care facility available so that they can be treated properly. Another major guideline was regarding proper legal representation of these TIPs. It so happens in most of the cases that prisoners who are terminally ill are abandoned by their family members. Those vulnerable prisoners must be given proper legal counseling so that they have a representation at every stage of judicial process right from custody to conviction. These legal representatives will be responsible for making them aware of their rights which includes timely bail, parole or seeking for suspension of sentences on compassionate grounds et cetera.

RE: ILLEGAL DETENTION OF MACHAL LALUNG²²

The Indian Express newspaper published a news item on 14th October 2005 which stated that a person called Machal Lalung who hails from Assam has been kept as an undertrial prisoner for as long as thirty-eight years in a psychiatric hospital despite being declared totally fit by the Hospital in the year of 1967. The Court after witnessing this news passed many orders including the one to release Me. Lalung as soon as possible. The Court also directed the High Court Registries to collect all the information regarding the undertrial prisoners who are being kept in the mental asylums. As one can expect, the report from the High Courts revealed the true conditions of the prisoners and many cases came to light where the undertrial prisoners have been rotting for many years inside the asylum without anyone caring about them. The reports revealed that the hospitals do not maintain periodic reports of the undertrials as to whether they have become fit to face the trial for the offences they were charged with. It is also pertinent to mention that many prisoners have been there for long period of time which has surpassed the maximum punishment for offence for which they were charged.

²² WRIT PETITION (CRL.) NO. 18 of 2006 and WRIT PETITION (CRL.) NO(s). 296 OF 2005.

Chapter 25 of the Code of Criminal Procedure deals with the accused people who suffer from mental illness. Talking about Section 328, it states that when a Magistrate believes that the person who is accused is of unsound mind, the Magistrate will make an inquiry about the unsoundness of the person and that accused be examined by the Civil Surgeon and then be dealt in accordance with the provisions mentioned in section 330. The Court elaborated various provisions of various legislations including Prisons Act and came to the conclusion that few general guidelines be issued for the undertial mentally ill accused so that they do not rot in the jail for long periods. The guidelines are as follows-

- When a person who is of unsound mind, gets detained in any psychiatric home under the provisions mentioned Section 330(2)²³, the reports under the Section 39²⁴ must be given to the Magistrate periodically. It will be the duty of the Magistrate to call for those reports if they do not reach on time. The prisoners who come under the category of Section 30(1) of the Prisoners Act, 1900, the procedures which are given under the sub sections (2) and (3) should be followed which should be read parallel to Section 40 of the Mental Health Act.
- In cases where the prisoners who are undertrial has been kept in jail for the period exceeding the maximum jail term for the offence, the prisoner should be released and the case be closed.
- In the cases where the undertrials who have not been charged with the offences which holds the punishment life imprisonment or death penalty, have completed five years or more as inpatients, they should be released in accordance with Section 330(1) of the Code of Criminal Procedure.

²³Code of Criminal Procedure Act, 1973 , No.2 , Acts of Parliament, 1974 (India).

²⁴The Mental Health Act, 1987 , No. 14, Acts of Parliament, 1987 (India).

- In the cases where the undertrials are charged with the offences which holds the punishment as death penalty or life imprisonment, periodic check up of those inmates be done and reports be sent to Magistrate and the trial should begin as soon as the accused is deemed fit.

THE STORY OF PROFESSOR SAIBABA

The treatment of detainee while in custody opens up a major question regarding how the standards be different in case the detainee requires constant support and assistance due to physical impairments so that his treatment is considered to be cruel, inhumane, degrading and against the right to dignity guaranteed by the Constitution. This is the case about Professor G N Saibaba who is an English teacher in one of the Colleges called Ram Lal Nanad College of Delhi University. Professor started his usual day however, he was mid-way abducted by the Maharashtra police on 9th of May 2014²⁵. The special thing about the professor is that he is ninety percent paralysed from down the waist and is totally wheel chair bound. I happened to read the interview of Professor Saibaba and found out how he was treated while in custody. Professor was charged for being an active member of a banned organisation namely Communist Party of India- Maoist. He was kept in custody for fourteen months in the Nagpur Central Jail and was treated inhumanely²⁶. He was denied the necessary assistance and the life saving medicines despite the Court orders.

The professor was asked in the interview that whether the Jail officials were brutal or the cops? He answered in affirmative for both and said that there was no physical violence committed on him however, there was a lot of mental torture owing to his disabled condition. The authorities of the prison created such kind of

²⁵KalpanaKannabiran, *The rights of prisoners with disabilities*, The Hindu, May 20, 2014, 2:27 IST, <http://www.thehindu.com/opinion/op-ed/The-rights-of-prisoners-with-disabilities/article11640717.ece>.

²⁶*Id* at 24.

environment which made it impossible for the professor to go to the toilet. He was provided with no assistance despite knowing that his physical condition made him dependent on others. It was a clear violation of his rights as he was not allowed to talk to anyone for almost twenty days. However, the other inmates were kind enough to help him in whatever way they could. Professor has been an activist, protecting the rights of the adivasis and he was helped by the adivasi boys who were his fellow inmates²⁷. There were few guards who would allow the adivasi boys to help the professor however, the Jailor and other officials were totally against providing the Professor with any assistance and tortured him this way.

The next question which was asked was whether the prison officials treated the professor with respect? He told that the officials would talk to him in a decent manner however, they were pressurized not to give him any assistance and not to implement the Court orders to shift him from the solitary *anda* cell to normal barracks²⁸. The authorities cited security reasons and never really took the professor to the Court. The Jail premise was also not wheelchair friendly and the Court proceedings was done through video conferencing but Professor could not even reach the place where conference was set up through wheelchair. The authorities had to pick him up and transport him to the video conferencing place. It will not be wrong to say that the rights of persons with disability were violated at every stage. Not just the prison authorities but the Judge too spoke and said that the professor's demand of taking him to the Court is not practically feasible as the courtroom is on the second floor and no facility is there to carry him. This is all said by a Judge while there is explicit provision in the statute that the courtroom must be on the accessible floor. The Jail authorities time and again violated the Court orders and the only time Professor was taken out of the Jail in the span of

²⁷Jyoti Punwani, *Torture is a daily routine*, Rediff, December 25, 2014, 8:11 IST, <http://www.rediff.com/news/interview/shocking-how-india-treats-a-90-disabled-indian/20150716.htm>.

²⁸*Id* at 26.

fourteen months was once when he had to be taken to a doctor.²⁹ During this whole time professor was not treated as a person with special needs, but was looked at as a terrorist. When he was sent for medical examination, even the doctors were pressurized to give false report and not the actual medical condition. The prison authorities created a situation of terror in the hospital and made it impossible for the doctors to give a proper unbiased treatment.

These hardships were faced by a disabled detainee who was educated enough to know about his rights. It is hard to imagine the plight of those detainees who are disabled and are not even aware of the rights that they have.

CONCLUSION

If we talk about a stringent framework of law which describes the rights of people with disabilities, it is yet a dream in India. Especially in cases of prisoners who are doubly disabled, it becomes an important question as to how to ensure equality and a life with dignity to them. The lack of awareness, State apathy towards the subject, poor implementation of the guidelines adds more to it. However, the path of justice can still be walked by taking shelter under Article 14 which ensures equality to all and Article 21 which assure a right to life with dignity. The first step towards acknowledging the needs of such patient would be to adopt the standards mentioned in UNCRPD. And also provisions should be made easy and quick where the prisoners with disability who have a high support need may be selectively released on compassionate grounds. There are many rules, rights and laws for people with disabilities however, the problem lies in the corrupt practices of the Jail authorities and other stakeholders. From the perspective of a doctor, a patient is just a sick body however, the prison authorities never see the detainee as a sick person but always as a wrongdoer who does not possess any rights. Given the number of uneducated people who are kept

²⁹*Id* at 27.

behind the bar, they are not even aware of their own rights. Awareness must be raised amongst these inmates about the rights that they possess and strict implementation should be done of all the existing rules. Another way to ensure proper treatment of disabled prisons is to implement strict punishment for the officials who involve in corrupt practices and strip the detainees off their dignity and respect.