

System labeled me terrorist: Story of an undertrial

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The following is a speech presented at a seminar organized at Tata Institute of Social Sciences (TISS), the person who wrote this was made accused in a terror-related case. As a result of this accusation he lost his job, currently he is out on bail. He chose to remain anonymous for his safety.
– *TwoCircles.net editor*

I got very happy when I was invited for the conference. I felt happy, not because I received this invitation but with the feeling that there still exist some courageous people in the country who organize such events even in such a critical and sensitive environment that is prevailing in the country since 22 months when scholars, academicians, poets, scientists, actors and even students are labeled ‘anti-national’ because of their different ideologies. I felt happy that at least some people have not bowed down to the pressure tactics of the government but boldly thought of strengthening the society by organizing such conferences with an aim to study the problems in the system in order to correct it. I call such people to be ‘courageous’ because not only did they organize this event but also remembered a person like me - who is already labeled ‘terrorist’ and had to spend few years behind bars under UAPA charges until the high court granted bail.

However, I feel sorry that I am not able to gather courage of your degree to physically present before you and share my experience. But I would be guilty, if I cannot even pass my experience and thoughts to you that might help in the process of removing lacunae from the existing biased system and in building equitable and just society.

Before I begin, let me tell everyone that whatever I shall speak here today it will be up and above the religion and it shall be applicable to everybody in India irrespective of their belief, creed and caste. I shall try to tell you people my sufferings in brief, although, it is very difficult to sum it up in few minutes. I shall first speak about the bad experiences I had first from police, then the judiciary and finally the prison authorities.

Police

I had never interacted with police in my life, except when I was called for police verification for issuance of a passport. This was well before my arrest. I used to lead a simple and peaceful life without any kind of disturbance. I had never fought with anybody and never had I abused anyone. But my life changed, when I was detained by police. Within minutes they started to use filthy and very abusive language. I could not hear those words ...they used abusive language against my mother, my sister...they even invoked the almighty that I prayed with filthy words... This was their first technique and I fell prey to it. I got ready to do anything to stop them using abusive language with me....they asked me to keep quiet and not to complain to anybody and to sign wherever they asked me to sign....that’s it...they did this for 30 minutes. I accepted to keep quiet to make them shut their filthy mouth. I did not know this would cost me and my family a long incarceration and suffering respectively.

They beat me only in the first meeting, silenced me and thereafter booked me in some UAPA cases, labeled me as a terrorist and kept me under police custody for over a month. They had achieved what they wanted...my implication in cases along with some other accused to close the pending cases...and this is the reason that they did not beat me in month long police custody, never investigated nor questioned me but prepared their own investigation papers.

Judiciary

This is how a family that had never seen police machinery's functioning became an easy victim to it. People like me fear more from filthy language than beatings. Then came the role of judiciary... I never expected any justice from the court, except that after more than four years I was released on bail. During initial hearings, I used to see the judge as a senior policeman who wore black dress. This was because, the Judge would listen to police and would rely upon their submission as if it was a universal truth. The Judge never suspected their submission and so easily granted them custody of 14 days twice, as if he is granting custody for 14 hours.

I got more bitter experiences one after the other from the Judge. He allowed me to meet only one member of the family that too only for 5 minutes and in the full presence of police. This meant, if I chose to meet mother then I will not be allowed to meet my father or my wife who had come to talk to me for the first time after detention travelling all along 700 KM from hometown.

On next hearing date, I saw no one from my family, may be because they were not aware about that hearing date but relatives of other accused yelled at me to inform that my wife has given birth to first baby. On knowing this news, I requested the court to allow me to make phone call to my wife and the judge allowed. But the prosecution asked who will pay the bill of phone call. The judge smiled and said cannot help. There were number of such instances when I was left with anguish and haplessness but had no resort than to weep and keep patience.

Similarly, during bail arguments, the Judge would get easily influenced by the prosecution and would not question its submission and rather would say to my lawyer that allegation is very strong of waging war against nation. Fortunately, my bail was heard after four years before another judge who suspected police theory against me and rejected point wise their allegations against me and granted bail.

Prison

All along this, there was a totally different world inside prison. On the very first day, when I was lodged in Arthur road jail, I cried but there were no one except some Muslim people who were offering prayers, who talked some words of courage. But these people also left me alone after listening to the allegations against me, some left because they thought I am indeed involved... whereas some left because they did not want to be seen with the person under those allegation fearing radical prisoners thrashing of such alleged terror accused on their entry to prison.

I experienced that the prison authority regard prisoners to be third class citizens even though charges leveled against many of them were yet to be proven. They would treat every prisoner as if he has committed a crime...there was no difference between 'allegation' and 'conviction' for prison

authority except that they immediately transferred convicted prisoners to other central prisons in the state.

I found out that there were completely different rules for prison authority when it came to gangsters and businessmen who would give them regular money. These wealthy prisoners would give gifts and money to all the jail officials including DIG and Superintendent.

Superintendent would ask prisoners to remove their slippers outside his cabin saying it is a rule that prisoners cannot stand before Superintendent wearing footwear. When I was asked to remove my shoes, I told him that British used to consider Indians as degradable human beings and hence they might have made such rule but after Independence of our country such rules should be abrogated. Following such arguments, he allowed me to come in with my shoes on, but he did not change the rule and other prisoners were made to remove their footwear whenever they went to meet him.

I never got a feeling that Indian prisons are meant for reformation of prisoners but believed and realized it to be a chamber of torture. The prisoners are regarded as inhuman...guards would never respect them, but would use bad language with them. Some prisoners are lodged in high security cells where human contacts are minimum and sun light is limited. They are lodged there and considered to be dangerous prisoners, although many of them are falsely implicated and never had criminal background.

Some are even lodged under solitary confinement. They are locked in a room of 10x15 sq. feet for 24 hours. For prison officials allegations leveled against prisoners by police is the ONLY criteria to decide how cruel that prisoner is... no matter how good he behaves in the prison. Prisoners would be hated for the crime they are booked for.

Most days, I would spend my time in the company of law books. Seeing me with the books, many prisoners approached me... they were desperate for legal help. They had no lawyers, no family members to help. Most of their applications were written by co- inmates like me. I came across several persons booked under very simple cases of IPC. Just because they had no legal help, they ended up in the prison for years. Prisoners in need of lawyers would wait for months to be taken to the court to tell the judge he has no legal representation. He would seek help from other accused and keep an application ready to ensure he doesn't lose that one chance.

Only finally when some judges would take notice and offer to release them on personal bond, would these persons be released. This, too, was possible only if the accused were produced before the court. Lack of police escorts and production through Video conference made it impossible for the courts to even realize the difficulties of the prisoners. Seldom did judges make prison visit. This too, they when they did was with prison authorities around them. Most of us were scared to speak up. Only when the judges asked us questions, we spoke. That too with lot of hesitation.

In addition to this, one more thing I would like to mention here. And it is that after the change of government at the centre, I read in a newspaper that right wing accused Swami Assemanand, Swami Dayanad Pande, Rakesh dhawde, Chaturvedi were given parole by court even though trial against them is pending. They were never granted bail in last 6 years before change of government. Though, I am of the view that they should be given parole, I also feel that accused in other cases too be

granted such parole. But, when I see that only these particular accused are granted parole, it leaves me disgruntled. There are many more things that I can tell, but better than that I wish to emphasize on the corrections that can help the people who are made to suffer for the crimes they never did. These are some of the suggestions that I think should be of great help, if implemented:

1. Accountability of police force should be increased and legal action should be taken against Investigation officer and his team when accused is acquitted by court. This will restrict police from falsely implicating accused in any cases.
2. As judicial system in India is very slow and accused have to wait long time to prove their innocence, provision for default grant of bail after a particular time period should be made irrespective of charges against accused, unless trial is delayed due to his acts.
3. Conjugal rights should be given to the prisoners after spending particular time in prison. This is because if accused is married then his wife has to suffer for the acts of his husband. This is also important because at times when accused has to serve some years in prison without trial then that disturbs his family life and his wife opts for another marriage.
4. Our courts require years in reaching to logical conclusion in some cases. Therefore some time should be bound beyond which if trial is not finished accused may be liable for grant of furlough. This is because it has been observed that some trials such as 1993 bomb blasts took 16 years for judgement and accused were not granted bail due to stringent sections of TADA but after their sentencing in 2006 started to get furlough. If accused can get furlough after conviction then why not before his conviction if trial is delayed.
5. Judges should be little liberal and should not be influenced by police submission while hearing bail applications. It is observed that prosecution sites 'case is very serious' when they don't have credible evidences against accused and thereby put Judge into pressure. Judges should be pro accuse while listening bail considering the long time it takes in completing trial. Judge should also consider suffering of family of accused while listening bail applications.
6. Judges should ensure they take note if the accused has a lawyer. In cases where legal aid lawyers are appointed, the judges should make it a point to note if the lawyer was present and send the report to the legal aid authorities.
7. Along with the courts, jails should also be held responsible for providing lawyers. Every time a superintendent went around the jail on supervision, he should be accompanied by a legal aid lawyer, who took down notes of who is in need of a lawyer.
8. When in prison, accuse finds solace in worship therefore prisoners should be allowed to worship their religion without disturbing others. I found that prisons do not allow fruits and eateries sent by NGOs to Muslim prisoners in Ramadhan to break their fast. What is wrong in that? Prison authority should use that month in reforming prisoners by asking NGOs to send good orators who would deliver good lectures to these prisoners on the occasion of any festival while distributing eateries to them. Prison authority can do a security check and can use festivals to integrate prisoners and to help them in correcting their mistakes.

9. An intermittent training of prison guards should be made compulsory in handling prisoners that should include soft talking with prisoners, discussion on freedom movements, etc.

I suppose if these ideas are implemented then it shall help in reformation of prisoners.

Thank you very much for giving me a chance to speak before you. Thank you very much and have a nice time. May God bless the seekers of truth and those who strive for welfare of others.

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Human Rights Law Network (HRLN) in collaboration with Tata Institute of Social Sciences (TISS), Commonwealth Human Rights Initiative (CHRI), International Bridges of Justice India (IBJ) and Multiple Action Research Group (MARG) organized a two day National Consultation on Prisoners' Rights, Legal Aid & Prison Reforms in Mumbai in TISS on March 19th and 20th, 2016.

The focus of this consultation was to review current practices of prisoners' rights, legal aid and prison reforms and propose specific suggestions in order to accelerate the process of reform and build a network for implementation of those specific recommendations in order to move forward on to the next stage.

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