

Prison Law & Disability Rights

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Abstract

In the context of prison administration and disabled persons' rights in India, there lies a significant contrast between what is provided constitutionally and practical realities. The Right to Persons with Disabilities (RPWD) Act, 2016, makes it imperative that states accommodate reasonably and ensure non-discrimination of the disabled. However, the majority of the state prison manuals still lag behind in terms of providing for the rights of disabled individuals housed in prisons. One of the main factual problems associated with disabled persons held in custody is the lack of proper infrastructure. Prisons are generally constructed for able-bodied individuals; therefore, disabled inmates experience difficulties in terms of mobility, especially when it comes to moving around or using the bathroom. Lack of ramps, accessibility features, or even elevators makes disabled inmates' lives very difficult, and they have to seek assistance from other inmates in performing everyday tasks, thus violating their right to dignity, guaranteed by Article 21 of the Indian Constitution.

Further to this point, one should consider the intersection between mental disability and criminal law, which represents an unpleasant factual situation. Indeed, based on numerous findings of different organizations from civil society, as well as observations made by the National Crime Records Bureau (NCRB), there is an unusually high number of individuals suffering from psychosocial disabilities in prisons; however, India's correctional facilities lack specialists dealing with psychiatry issues. The majority of prisoners with intellectual or psychosocial disabilities face segregation or restraints under the pretense of safety and medical isolation. This practice, according to human rights organizations, amounts to torture and worsens the situation of detainees, thus violating the UNCRPD standards, to which India is a party.

From a legal standpoint, even though the judgments of the apex court have stated, for instance, in the case of *Sunil Batra v. Delhi Administration* that basic human rights don't desert a prisoner when he enters the jail gates, a specific jurisprudence catering to the needs of the disabled is practically weak. In the case of *Re: Inhuman Conditions in 1382 Prisons*, the apex court laid emphasis on reforms in general prison administration, but the "accommodation" required by the disabled is hardly attended to in practice. Moreover, medical parole is always denied or delayed because of administrative indifference. Moreover, the lack of statistical records about the number of people with different kinds of disabilities in prison makes it extremely difficult for the government to make specific policies to address the needs of these prisoners. Furthermore, there is also an absence of correctional officers who have skills and knowledge that can enable them to deal with prisoners having auditory, visual or cognitive disabilities. The lack of this kind of personnel contributes to the failure of the prisoners with disabilities to take part in rehabilitation, education, and vocational programs inside prisons. Thus, it becomes apparent that being imprisoned while disabled means suffering not only loss of freedom but the loss of all other human rights as well.

Keywords: Dual Vulnerability (Incarceration and Disability), Prison Rehabilitation, Educational and Vocational Programs, Basic Human Rights, Equitable Healthcare, Deprivation of Liberty

1. Introduction

Neither have prisons been planned for people with disabilities. Nonetheless, in every jurisdiction researched, people with disabilities remain significantly overrepresented among detainees and grossly underserved upon detainment. This paper analyzes the international framework of treaties, domestic laws and judicial precedents that make reasonable accommodation of persons with disabilities an obligation on the state in custody facilities. This paper will assert that there is now a clear-cut right to reasonable accommodation under prison law, based on the UN Convention on the Rights of People with Disabilities, the Nelson Mandela Rules, the ADA, and corresponding domestic frameworks, and that continual disregard amounts not only to administrative negligence, but a human rights violation. This paper will also highlight the critical structural changes that should be adopted in custodial services for effective implementation of this right.

This area where prison laws and disability rights intersect is arguably one of the most understudied aspects of human rights today. Correctional facilities worldwide and especially domestically have been built around an ableist architectural template that makes them inherently discriminating against persons with various types of disabilities. As a result, when a person with a physical, sensory, intellectual, or psychosocial disability enters the penitentiary system, his/her incarceration may very well turn into a gross violation of human rights and move from being a permissible deprivation of his/her freedom to be an intolerable degradation of human dignity. Despite the well-established constitutional rights, including the right to life and personal dignity, guaranteed even to prisoners under Article 21¹ of the Constitution of India, the real situation in the custodial institutions demonstrates the lack of any administrative concern about this important problem. The gap between legislation and its enforcement becomes more acute with regard to the statutory requirement to provide reasonable accommodation and non-discrimination to disabled people laid down in the RPWD Act, 2016², that still fails to be implemented effectively in extremely secure state prisons. This research paper seeks to examine the legal aspects of rights protection of persons with disabilities. In fact, such actions can be viewed as blatant violations not only of local legislation but also of international conventions, such as the UNCRPD and the Nelson Mandela Rules. The claim regarding the necessity of reasonable accommodation in prison based on judicial decisions, comparative analysis of legislations, and statistics concerning the disproportionate representation of people with disabilities in prison proves that reasonable accommodation is an absolute right protected by local legislations and constitutions. This research seeks to support the notion that structural changes are required to move from prison being places of vulnerability to places where the basic human rights are strictly observed.

1.1 Scope and Methodology

The approach to this research is comparative public law, with an analysis of the legal regimes prevailing in four important common law or mixed jurisdiction states the US, the UK, Canada and Australia in relation to international agreements both legally binding and otherwise. The primary data sources will be

¹ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494

² The Rights of Persons with Disabilities Act, 2016, No. 49 of 2016, India Code (2016). Specifically, Section 3 mandates non-discrimination and the provision of reasonable accommodation by the State, and Section 12 emphasizes barrier-free access to justice.

treaties, statutes and cases from the United States Supreme Court, the UK High Court, Court of Appeals, ECHR and related national higher courts³. Secondary data sources will include reports by government departments such as Bureau of Justice Statistics, the UK Ministry of Justice, the Australian Institute of Health and Welfare, and the Correctional Investigator for Canada along with literature by civil liberties organizations like ACLU, Prison Reform Trust and Disability Rights Advocates.

The concept of "disability friendly prisons" is defined in the paper as a correctional institution that:

- eliminates physical and communicative barriers preventing equal participation of the disabled prisoners in the daily activities of the prison;
- offers personal and reasonable accommodation for their functional needs;
- guarantees equal access to programs and services for the disabled prisoners; and
- does not employ any discipline measures negatively affecting prisoners with disabilities.

The term used in the paper reflects the social approach to disability, being based on the CRPD⁴ and corresponding national legislation.

The paper does not address immigration detention, youth custodial institutions, or forensic psychiatric facilities as discrete regimes, although reference is made to their overlap with general prison law where the legal principles are directly applicable.

1.2 The Scale of the Problem: Statistical Context

The reality of the empirical basis for this paper is quite discouraging. People with disabilities do not constitute a small portion of the inmate population but are the majority thereof. According to the statistics compiled by the Bureau of Justice Statistics (BJS) in the U.S., about 40% of inmates incarcerated in state prisons and 29% of those in federal prisons have one form of disability or another.

1. Based on the Equality Act 2010, approximately 32% of the inmates in the UK between ages 21-29 and more than 50% of those over 40 years old qualify as disabled people.
2. Australia's national health statistics indicate that 39% of people entering prisons have some form of disability, including an intellectual disability which occurs at around 15-30%, while in the general population it is only about 18%..
3. 40% US state prisoners reporting at least one disability (BJS, 2021)
4. 39%Australian prison entrants reporting a disability (AIHW, 2024)
5. 50%+UK prisoners over 40 classified as disabled (MoJ data)
6. 6%Canadian female federal prisoners with IQ below 70 (OCI, 2025)

These statistics are an outcome of several structural problems including socioeconomic exclusion, lack of appropriate mental health programs in communities, criminalizing disability behaviors, and inappropriate sentencing based on incapacity issues. Given that so many individuals with disabilities are in custody, prison administration is inevitably disability administration but this issue has not received adequate attention from the legal framework.

The disproportionate inclusion of people with cognitive problems in prisons warrants additional scrutiny because research findings confirm the following: prisoners with intellectual disabilities are less able to comprehend their charges, less competent in the process of discipline, more vulnerable to manipulation from fellow prisoners, and wrongly labeled as resistant because of their disability. The above dynamics

³ See *generally* the respective national reporters and European Court of Human Rights (ECHR) databases for the primary jurisprudence analyzed in this study.

⁴ Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3 [hereinafter CRPD].

work together to make them further disadvantaged throughout various phases of custody including classification, allocation of prison quarters, admission to programs, parole decisions, and release plans.

1.3 Thesis and Structure

The core thesis of this essay is articulated on three grounds. First, there is a legally established right to reasonable accommodation that is protected by international law and the national legal regimes of each of the four jurisdictions analyzed herein. This right is not abstract but is actionable via judicial review, constitutional challenges, and complaint mechanisms under statutes. Second, although the legal regime is clear in this regard, there are instances of systematic non-compliance arising out of lack of resources, insufficient training of prison officials, inflexible architecture, and the invisibility of disabled prisoners to the prison management structure. Third, the solution lies in the application of both remedies.

The rest of the essay will be divided into six more sections. Section II discusses the international legal background, with specific emphasis on the CRPD, The Nelson Mandela Rules, and the Istanbul Protocol. Section III considers the domestic statutes in relation to the jurisdictions of the United States, the United Kingdom, Canada, and Australia. Section IV assesses some key judicial rulings on the legal requirements previously considered. Section V describes the main areas of failure experienced in practice. Section VI evaluates reform proposals and best practices. Section VII ends the discussion by making recommendations to legislators, prison authorities, and legal professionals.

"The existence of a disability shall in no case justify a deprivation of liberty."

UN Convention on the Rights of Persons with Disabilities, Article 14(1)(b) (2006)

Part II

2. International Legal Frameworks

The international laws serve as the basis of the normativity from where the disability requirements in prisons derive from. The three important documents that we can use here include the Convention on the Rights of Persons with Disabilities (CRPD, 2006), the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules, 2015) and the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, revised in 2022). From the above documents, we are able to develop inter-related obligations that must be satisfied by the state parties.

2.1 The UN Convention on the Rights of Persons with Disabilities (CRPD)

The CRPD, adopted by the UN General Assembly on 13 December 2006 and becoming effective on 3 May 2008, is considered the biggest step forward made in international law in terms of disability after the Universal Declaration of Human Rights.[5] As of April 2026, the number of states parties that ratified the CRPD reached 186, thus constituting one of the most ratified UN human rights instruments. The application of the CRPD in the prison environment is straightforward, specific, and rigorous.

The Article 14 - Liberty and Security of Person is vital. Article 14(1)(b) states that "the existence of a disability shall in no case justify a deprivation of liberty," with absolutely no exception made. This implies that it cannot be used as a justification by any State to deprive liberty of anyone simply because he or she has a disability. Most importantly for the purpose of this discussion, Article 14(2) stipulates that persons with disabilities who have been deprived of liberty "are entitled to guarantees in accordance with international human rights law."⁵

⁵ *Id.* at art. 14(1)(b), 14(2).

Indeed, the Committee on the Rights of Persons with Disabilities has adopted an expansive interpretation of Article 14. In its Guidelines on Article 14 (2015), it was stated that States parties shall examine all national laws and policies that authorize depriving of one's liberty because of his/her disability status. They should also undertake necessary measures to guarantee access of such persons to adequate accommodation and assistance when in situations involving deprivation of their liberty.[6]

Furthermore, Article 15—Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment complements Article 14 in the sense that each State is obligated to undertake all legislative, administrative, judicial or any other appropriate measures to protect individuals with disabilities from torture or cruel, inhuman or degrading treatment or punishment on an equal basis as other people.[5] In the prison context, this article can be understood as imposing an obligation on States to prevent exposure of disabled prisoners to conditions of detention that, while not necessarily amounting to torture, would cause them greater pain than that of prisoners who are not disabled under similar conditions. The ECHR case law, analyzed in part IV below, was instrumental in providing practical substance to this norm.

Article 13 - Access to Justice creates another obligation that has direct relevance to disabled prisoners: States must ensure equal access to justice for persons with disabilities, including "procedural and age-appropriate accommodations." [5] The obligations created by this article include the provision that prison disciplinary procedures shall be accessible to prisoners who have cognitive and communicative impairments, including through the provision of Easy Read documentation, the appointment of support people, and modified hearings.

Article 26 - Habilitation and Rehabilitation calls on States to ensure provision of habilitation and rehabilitation services in health, employment, education and social service areas. Systems of prisons that refuse to allow access to offending behavior programs, vocational training or education facilities on grounds of disability clearly breach the spirit and letter of this requirement.

2.2 The Nelson Mandela Rules (2015)

Amended and adopted by the United Nations General Assembly through Resolution 70/175 on 17 December 2015, the United Nations Standard Minimum Rules for the Treatment of Prisoners referred to as the Nelson Mandela Rules in the memory of Nelson Mandela, the former President of South Africa who served a jail term for 27 years, form the benchmark for prison administration throughout the world. The Rules, which do not have the force of treaty law, have been attributed much authority by the courts of individual nations and international supervisory mechanisms and are generally considered to be reflective of customary international law in relation to prison administration.[7]

The second rule makes the first key statement about the importance of individual considerations with regard to prisoners' management, in particular those who are considered more vulnerable. In this connection, disability becomes an example of such consideration.[7]

It should be said that Rule 5(2) becomes a very important provision in the context of this discussion. According to this rule, "prison administrations shall make reasonable accommodation and make adjustments, as needed, to ensure that prisoners with physical, mental, or other disabilities have full and effective access to prison life on an equal basis with others." [7] In this rule, there is a clear reference to the notion of "reasonable accommodation", which comes from the CRPD. That is why, it means that the Mandela Rules are compatible with the contemporary understanding of disability rights and duties towards them.

Moreover, The Rules also deal with solitary confinement directly relevant to prisoners with disabilities. Specifically, under Rule 45, indefinite or prolonged solitary confinement—more than 15 consecutive days—is forbidden and also the use of solitary confinement of those prisoners with mental and physical disabilities who could suffer from this form of punishment.[7] As seen in Part V, the use of solitary confinement is disproportionately applied to those with mental disabilities making this provision highly significant.

Rule 24 requires that health care offered in prisons should be of comparable quality as compared to that found in the wider community. In relation to prisoners with disabilities, this means provision of specialty services for disabled persons, such as occupational therapy, physiotherapy, mental health care, and assistive technology of comparable standards to those obtainable in the community. Rule 25 further provides that all prisoners must be assessed by a health-care professional on admission.

2.3 The Istanbul Protocol (Revised 2022)

The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), originally published in 1999 and later extensively updated in 2022, addresses the issue of the investigation and documentation of torture in custody.[8] The 2022 update, for the first time, included special considerations concerning the investigation of ill-treatment of persons with disabilities.

According to the revised Istanbul Protocol, the investigator must take into account the particular vulnerability of disabled individuals in custody and adapt his methodology as appropriate. Thus, interviewing detainees with cognitive disabilities should take into account low suggestibility, memory problems, and difficulties in communicating. The Istanbul Protocol advocates the use of an intermediary person if required and warns about making negative conclusions from discrepancies in statements made by cognitively challenged detainees.[8]

From a wider perspective, the new Protocol also emphasizes the fact that where circumstances of detention, which are per se non-degrading, might not amount to a breach of the prohibition on ill-treatment of a prisoner, these might be seen as such where the prisoner is affected by the said circumstances in a greater measure on account of his/her disability; this has been termed as "relative harm" and is now being frequently invoked by lawyers.

2.4 Gaps in International Enforcement

The international regime has great normative strength but low institutional power. The lack of enforcement capacity of the Committee on the Rights of Persons with Disabilities extends only to issuing Concluding Observations and, via the Optional Protocol to the CRPD, individual communications. The Subcommittee on Prevention of Torture (SPT) – which carries out preventive visits to places where there is deprivation of liberty under the Optional Protocol to the CAT (OPCAT) – has become increasingly conscious of disability perspectives in its inspection process; its findings are only published with the permission of the relevant state.[6]

It is due to such an enforcement weakness that the achievement of international obligations must rely on domestic enforcement mechanisms: judicial procedures, ombudsmen, independent monitoring bodies, and litigations by civil society groups. This is where the paper turns next.

Instrument	Status	Key Obligations Relevant to Disabled Prisoners
CRPD (2006)	Binding treaty; 186 states parties[5]	Arts. 14–15: Right to liberty & freedom from ill-treatment. Art. 14(2): Reasonable accommodation in detention. Art. 13: Access to justice. Art. 26: Habilitation & rehabilitation.
Nelson Mandela Rules (2015)	Soft law; UNGA Resolution 70/175[7]	Rule 2(2): Individual needs assessment. Rule 5(2): Reasonable accommodation. Rule 24–25: Equivalent healthcare. Rule 45: Prohibition of solitary confinement for disabled prisoners.
Istanbul Protocol (rev. 2022)	Guidance manual; OHCHR[8]	Adapted investigation methodology for disabled detainees; "relative harm" standard for ill-treatment assessment; trained intermediaries for cognitive disabilities.
OPCAT (2002)	Binding treaty (Optional Protocol to CAT)[6]	Preventive visits by SPT and national preventive mechanisms; disability-specific inspection criteria.
Bangkok Rules (2010)	Soft law; UNGA Resolution 65/229	Rules 48–52: Special provisions for women prisoners with disabilities, mental health conditions, and substance dependency.

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