

Urgent Medical Attention and bail for student activist, Atiq-ur-Rehman: Citizens

A Statement by Concerned Citizens and Representatives of Civil Liberties' Organizations

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Sept 20, 2022: More than 35 concerned citizens and representatives of civil liberties' organisations in India have sought the urgent intervention of the authorities in Uttar Pradesh to ensure quality health care and medical bail for jailed student leader Atiq-ur-Rehman, struggling with partial paralysis and disorientation after a heart surgery. In a statement, the signatories, who included academics, members of civil liberties and people's organisations, journalists, lawyers, rights activists, student leaders and authors, expressed their unease at the manner in which Atiq-ur-Rehman, allegedly accused in the Hathras conspiracy case, 2020, is being denied timely and appropriate medical treatment and care. Atiq-ur-Rehman's bail application comes up for hearing tomorrow.

The statement points out that the deaths in judicial custody of Fr Stan Swamy, charged in the Bhima Koregaon Conspiracy case and Pandu Narote serving life sentence in Nagpur Jail, were a grim reminder of the fatal neglect of the right to health of those incarcerated. There was enough evidence of the callous indifference of the state to the medical condition of other accused in the Bhima Koregaon case, like Vernon Gonsalves and Gautam Navlakha and of Prof G N Saibaba, also serving a life sentence in Nagpur jail.

The statement pointed out that the treatment of Atiq- Ur Rehman violates both the UN Standard Minimum Rules for the Treatment of Prisoners (Also known as the

Nelson Mandela Rules) as well the right to health for all persons guaranteed under the Constitution. The relevant part of Rule 27 of the Nelson Mandela rules states:

All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

They demanded urgent medical attention to Rehman and said that the State must fulfil their constitutional responsibility to health care, the right to dignity and the right to life itself. The state and its agencies must ensure a prisoner's right to health and comply with provisions of both Article 21 of the Indian Constitution as well as the Nelson Mandela Rules with respect to all prisoners.

Signatories to the statement include V. Suresh (General Secretary), People's Union for Civil Liberties (PUCL), Annie Raja, General Secretary, National Federation of Indian Women (NFIW), Medha Patkar, Narmada Bachao Andolan (NBA) and NAPM, Harsh Mander, Writer and Peace Activist, Fr. Frazer Mascarenhas, S.J.- Academic Administrator, Mihir Desai, Sr. Advocate and PUCL Maharashtra, Henri Tiphagne, People's Watch, Tamil Nadu, Kavita Krishnan, Writer and Marxist Feminist Activist, Apoorvanand, Columnist and Academic, Kavita Srivastava, President, PUCL Rajasthan, Ravi Kiran Jain (President), PUCL, Aakar Patel, Columnist, Brinelle D' Souza, academic and activist, Mumbai, Fr. Cedric Prakash, Writer and Human Rights Worker, Gujarat, Madhuri, Jagrit Adivasi Dalit Sangathan (JADS) and PUCL, Madhya Pradesh, Nandini Sundar, Writer and Academic, Anuradha Talwar, Paschim Banga Khet Majur Samity (PBKMS), West Bengal, Arundhati Dhuru, National Alliance of People's Movements (NAPM), Uttar Pradesh, Prasad Chacko, Social Worker, Gujarat, VS Krishna and Gutta Rohit, Human Rights Forum, Andhra Pradesh, Arvind Narrain, Advocate, President, PUCL Karnataka, Bela Bhatia, Human Rights Lawyer and writer, Meera Sanghamitra, NAPM Telangana and Meha Khanduri, Human Rights Defenders Alert, Lara Jesani, Advocate and PUCL Maharashtra, John D' Souza, Film Maker, Anuradha, Saheli, Delhi and Clifton D' Rozario, All India Lawyers Association for Justice (AILAJ).

The entire statement may be read here:

Ensure that Atiq-Ur Rehman is released on medical bail and provided the best health care! September, 2022:

We, the undersigned civil liberties organizations and individuals concerned about human rights, express our deep unease at the manner in which the jailed 28-year-old student leader Atiq-ur-Rehman, allegedly accused in the Hathras conspiracy case, 2020, is being denied timely and appropriate medical treatment and care, rendering him partially paralysed and disoriented. We fear that any further delay in providing optimum health care to him which is the constitutional responsibility of the state, will result in a deterioration of his condition and cause irreparable damage to him.

The fact that Fr Stan Swamy of the Bhima Koregaon Conspiracy case and Pandu Narote serving life sentence in Nagpur Jail, died while in judicial custody is a grim reminder of what neglect of the right to health in prisons can lead to, namely the very extinguishment of the right to life under the Indian Constitution.

Rehman, the former treasurer of Campus Front of India (CFI), was arrested by Uttar Pradesh (UP) police on Oct 5, 2020, while travelling to Hathras with journalist Siddique Kappan, who was proceeding to cover the heinous gangrape and murder of a Dalit woman.

At the time of his arrest, he was one month from a heart surgery for a serious medical condition. Rehman is a patient of aortic regurgitation, a condition of the heart in which the aortic valve does not close tightly, which may result in some of the blood pumped by the heart to leak backwards.

Post his arrest it was only after repeated petitions before the Court, over a year after his arrest in November of 2021, that he was finally allowed to travel to All India Institute of Medical Sciences (AIIMS) to have the heart surgery. However, post his surgery he was shifted back to jail.

Since his return to jail his health condition has steadily worsened. His wife told a news outlet "He can't move his left side, and he is even struggling to recognize me. He sometimes remembers who I am but then soon forgets again. It's a very scary situation,"

His family alleges that his condition has worsened due to a lack of post-surgery medical care in prison. As per his father-in-law, Shekhawat, "Since it's a serious ailment, there needs to be regular follow-ups with the doctor, maintenance of hygiene in the jail, dietary restrictions that had to be met. None of this was taken care of,"

With respect to his worsening health condition, on Aug 28, 2022, an application was filed before the Special court requesting directions for providing "procedural medical check-up/treatment and further medical advice in AIIMS New Delhi in accordance with the medical advice in the interest of justice". The Special Court directed the jail authorities to do the needful as per the jail manual. Pursuant to the Court's direction, the Lucknow district jail authorities moved Atiq-Ur Rehman to Lucknow's King George's Medical University (KGMU) hospital. On Sept 06, 2022, the special judge of the PMLA court has sought all the latest medical reports and the medical status from the jail. The matter has now been posted for further hearing to Sept 16, 2022.

We would like to state that the treatment of Atiq- Ur Rehman violates both the UN Standard Minimum Rules for the Treatment of Prisoners (Also known as the Nelson Mandela Rules) as well the right to health for all persons guaranteed under the Constitution.

The relevant part of Rule 27 of the Nelson Mandela rules states:

All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

The standards of healthcare prescribed under the United Nations Standard Minimum Rules for Treatment of Prisoners (Nelson Mandela Rules) 2015, must be applicable to all prisoners including Atiq Ur Rehman. These rules were relied upon in the case of *Re: Inhuman conditions in 1382 prisons*, (AIR ONLINE 2017 SC 486), by the Supreme Court to pass directions regarding conditions of prisons, while noting "*These rules provide useful internationally accepted guidelines for implementation by prison administration across the country*". The Supreme Court went on to observe that '...we are clearly of the view that Article 21 of the Constitution cannot be put on the back burner and as mentioned in the Mandela Rules even prisoners are entitled to live a life of dignity.'

We would further like to note that a catena of Supreme Court cases has repeatedly reiterated the point that a prisoner does not lose his right to dignity or more fundamentally his right to life on entering prison.

By denying Atiq-Ur Rehman, the right to an appropriate level of medical care, which has resulted in a deterioration of his health, the prison administration is denying him his constitutional right to health care, dignity and imperiling the most fundamental of rights, the right to life itself.

It is the responsibility of the state and its agencies - the police, the judiciary and the jail authorities - to ensure the safety and security of all those in custody, whether undertrials or convicted prisoners. Their health and wellbeing must be protected and the failure to do so is a clear indication of the failure of the State, as the custodian, to fulfil its constitutional responsibility to its citizens.

The Government of Uttar Pradesh, to take forward the true meaning of Azadi ka Amrit Mahotsav, must implement the post-colonial Nelson Mandela Rules as well as the guarantee of the right to health under Article 21 and treat prisoners as human beings entitled to the full right to dignity and the right to 'prompt access to medical attention' and immediately 'transfer' Atiq- Ur- Rehman to the 'specialized institution' where he underwent the surgery, namely AIMS. That would be in keeping with the requirement of Rule 27 of the Mandela Rules. It would also be in keeping with the mandate of the Indian Constitution and ensure the 'minimum standard' which is his due as an Indian citizen, namely the protection of his right to life under Article 21.

Sadly, the neglect of Atiq Ur Rahman's health by the jail authorities is only emblematic of the neglect of the right to health of all prisoners. In recent times this sad reality of a callous state indifference is seen in the treatment of Vernon Gonsalves, Prof G N Saibaba and Gautam Navalakha.

Vernon Gonsalves was suffering from dengue which was not diagnosed by the jail authorities in time requiring oxygen support in hospital. This denial of appropriate and prompt medical care is also violative of Rule 24 of the Mandela Rules which states:

The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.

Gautam Navalakha still continues to petition the court for a mosquito net to ensure protection from dengue which is prevalent in Taloja Jail. The fact that the authorities have not given him a mosquito net speaks to a level of systematic neglect of the right to health of prisoners. This too is violative of Rule 13 of the Mandela Rules which states:

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all *requirements of health*, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. (*italics supplied*)

The state has the bare minimum and inescapable constitutional responsibility to guarantee adequate and prompt medical assistance to all those it imprisons. The state needs to be reminded again and again that a prisoner's right to movement may be circumscribed, but not the right to health care, the right to dignity and the right to life itself. It is the state's constitutional responsibility to ensure that a prisoner's health does not deteriorate and in fact positively to ensure that a prisoner's right to

health is protected. It must comply with both Article 21 as well as the Nelson Mandela Rules with respect to all prisoners.

Endorsed by:

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