



THE TRIAL

LANGUISH

This series has been produced by Project 39A, NLU Delhi and is based on years of research undertaken by the organisation on prison mental health in India.



Are people with mental disabilities or struggles treated with dignity or care inside prisons? What is care in the context of a space designed to punish? Does the criminal justice system have the capacity to absorb their tears, wipe their sweat, hold their hands, see their laughter, or hear their voice? What happens to their lives? What does their journey through the system look like? Sound like?

Languish attempts to represent the invisibilised crisis of mental health in the Indian criminal justice system through fictionalised accounts of real stories of incarceration.



THE TRIAL

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The Trial

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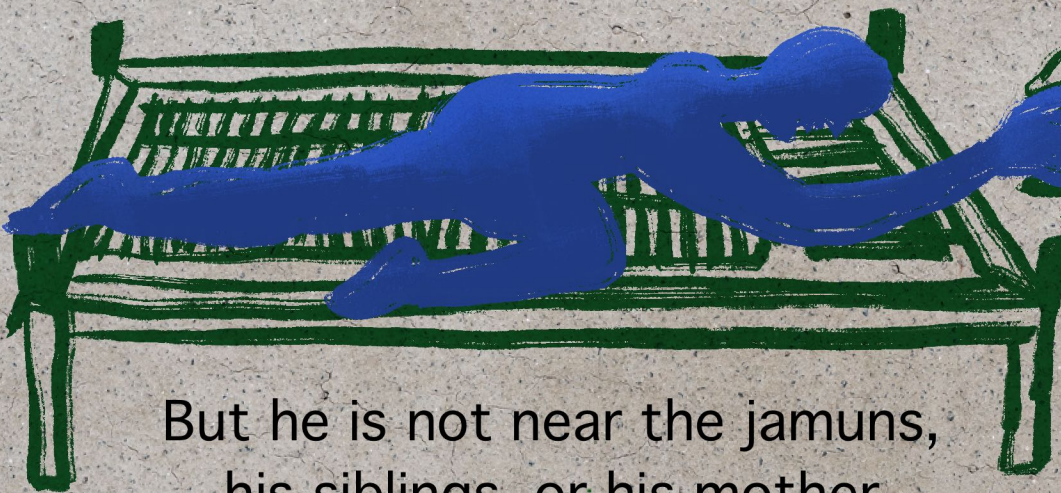


Mangal is 43.

He towers over most, and that was helpful when he wanted to pocket jamuns for his siblings.



His mother hadn't spoken to him since he was 10. Yet, she always served him food he loved. When he slept alone on a jute cot outside their small, thatched home, he dreamed about holding her hand.



But he is not near the jamuns, his siblings, or his mother anymore. He is nowhere.



For half a decade, Mangal has been stuck in the limbo of India's criminal justice system. The trial before the trial. A medical one: the 'fitness to stand' trial. The system is betraying his needs.

"FITNESS TO STAND"

1. 'Fitness to stand' is a legal and medical assessment.

2. Each case could see the constitution of a fitness board* composed of psychologists and psychiatrists that is responsible for ensuring an assessment which will determine the person's ability to stand trial.



3. If found 'unfit', the first route outlined for the person is for them to be sent to family and friends who will take responsibility for the person's treatment.

5. But because of many reasons** this is the least likely.

6. People deemed 'unfit' are typically sent to the least preferable option: **prisons.**



7. They have to then be re-assessed to determine
a) if the criminal trial can proceed, or
b) if it should be entirely discharged



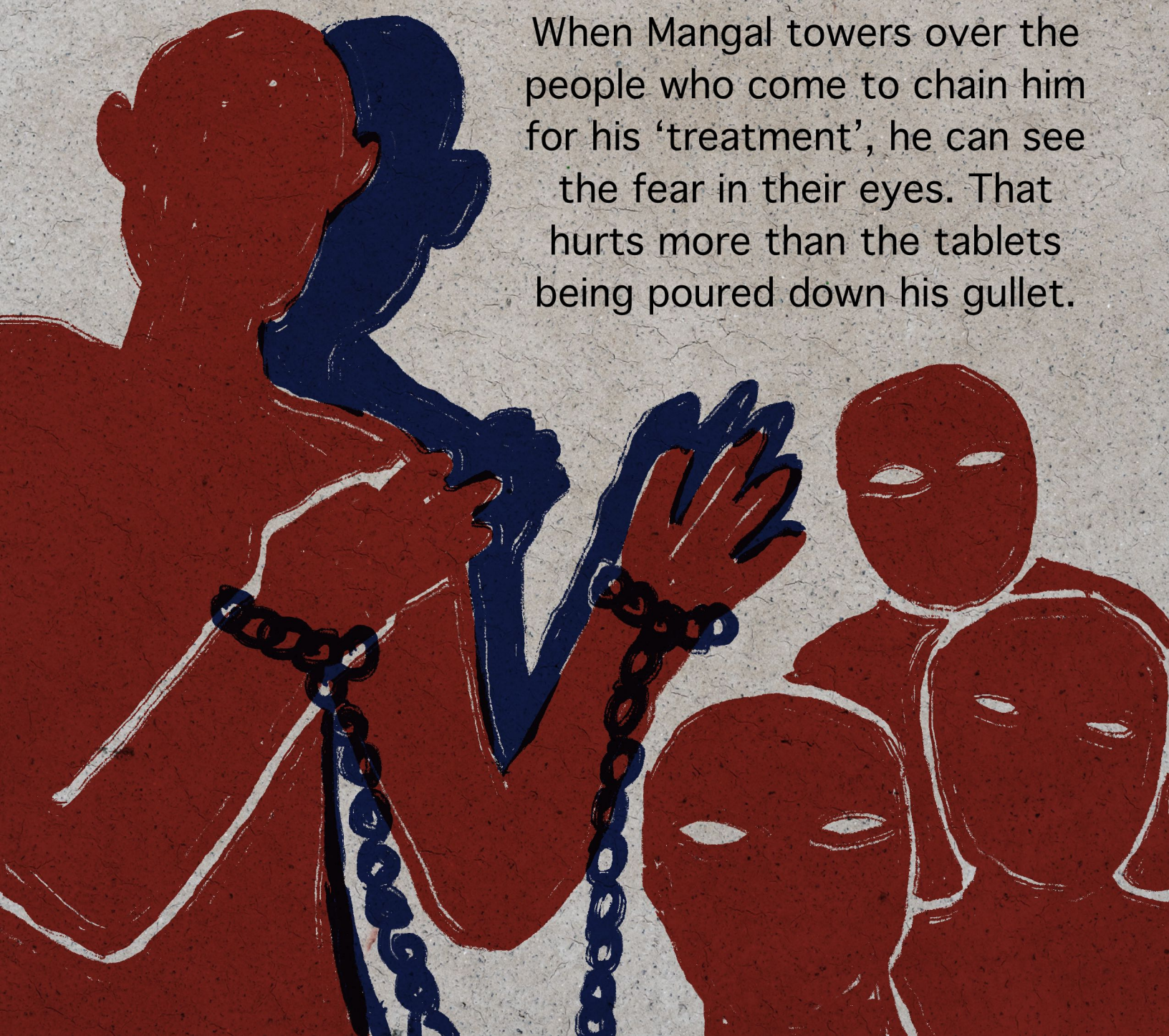
8. Between re-assessments, 'unfit' prisoners are meant to receive appropriate care and treatment, so that were they to reach a point of 'fitness' their criminal trial can resume.***



Mangal's assessment has dragged on for years and years. There is no limit on how many times or across how many years he has to be rinsed through them.



When Mangal towers over the people who come to chain him for his 'treatment', he can see the fear in their eyes. That hurts more than the tablets being poured down his gullet.





For his last fitness report, it was not the same person who had done his earlier evaluations. The psychologist was not informed of Mangal's conditions or treatment history. The examination took just 4 hours. All he wrote,

On the basis of the examination it is unanimously decided that the person is:

- (a) Oriented to time, place, and person: Yes / No
- (b) Attention: Adequate / Inadequate
- (c) Judgement: Poor / Intact
- (d) Able to understand the consequences of actions: Yes / No

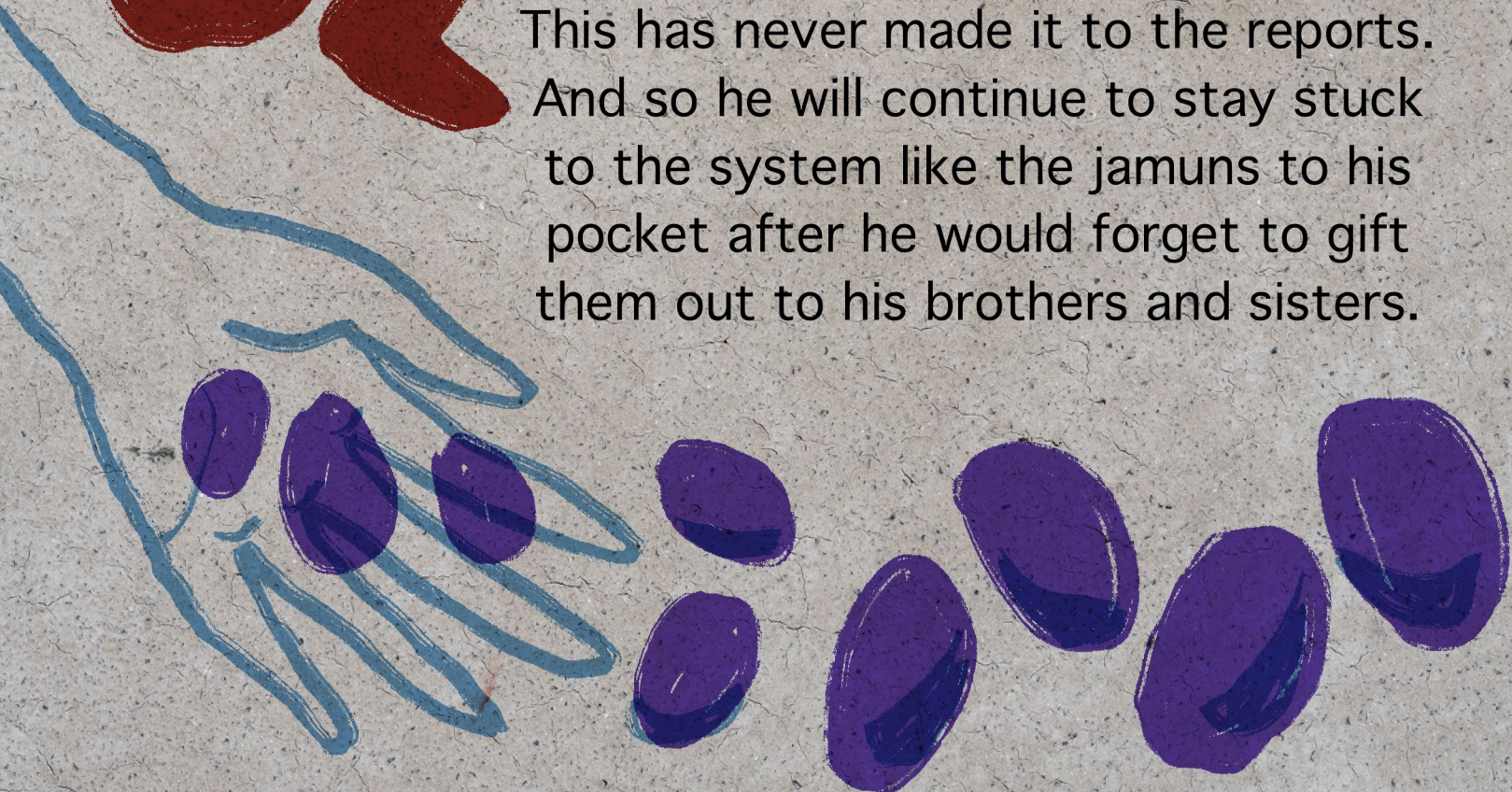
PROVISIONAL
DIAGNOSIS:

Psychosis NOS.

Mangal has been deemed 'unfit' three times. The charge Mangal was arrested for had a maximum sentence of three years. But he continues to remain incarcerated for seven and counting. Without ever being found 'guilty'. The court has postponed his hearing by another 10 months. He has never met his lawyer.



Due to his disability, it is unlikely Mangal will ever be 'fit' to stand trial. This has never made it to the reports. And so he will continue to stay stuck to the system like the jamuns to his pocket after he would forget to gift them out to his brothers and sisters.





Throughout his time in the prison, he has not seen his mother. He thinks she doesn't want to. Perhaps she doesn't want to. Perhaps she can't. The prison is more than a hundred kilometres from his village. Travelling to him and back would take his mother missing two whole day's worth of wages.



Years and months and days and hours and minutes and seconds. Everything blurred and cramped together. Mangal misses his cot, and the jamuns that spilled on it. But for now, he remains nowhere.

Mangal's story is not uncommon.

Notes

*Fitness assessment boards function as an in-between for courts and those being assessed. But there is no mandated fixed time within which they have to complete a report which can often lead to serious delays. There are also no comprehensive guidelines on how an assessment should be carried out, who should be conducting them, what they should contain and how they can even be interpreted by the court. Due to a lack of resources and time, the boards often rely on prison staff or accompanying incarcerated persons to learn about a person's condition. This leads to an over-reliance on others' perceptions rather than a person's experiences.

**Abandonment is a frequent experience for prisoners with serious mental health concerns and/or disabilities. The reasons for this could overlap across a range of reasons from the cost of treatment being too high, or stigma attached by society, the inability or lack of support and capacity for providing full-time care, or other social, economic, and political reasons. And it has real consequences. To be made alone is to possibly be stranded in an already hostile world.

***Many disability thinkers have argued against the 'fitness to stand' trial model. Not solely because of poor functioning, but because of its flawed logic as well. If someone is unable to engage with legal processes, does the 'fault' lie with the person or the process?

SOME QUESTIONS FOR YOU

What do you think a more participatory criminal trial process, including legal representation, looks like for persons with disabilities?

What accommodations can you imagine you would need before entering the criminal justice system and after it?

What kind of community facilities and/or public housing models do you feel can be built with the participation of and to meet the needs of persons with disabilities?

How can we consider other axes of oppression like caste, class, religion, that exist in India when thinking about disability and incarceration?

If you could change one thing about Mangal's story, what would it be?



॥ न्यायस्त्र प्रमाणं स्यात् ॥



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EQUAL JUSTICE
EQUAL OPPORTUNITY

